

27.02.2023

Learned counsel for appellant and Mr. Muhammad Jan, learned District Attorney for respondents present.

Former requested for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 17.05.2023 before D.B. P.P given to the parties.



(Rozina Rehman)
Member (J)




(Kalim Arshad Khan)
Chairman

SCANNED
H. H. ST
Peshawar

09.11.2022


Since 9th November has been declared as Public holiday, case is adjourned to 9.12.2022 for the same as before.


Reader

09th Dec. 2022 Counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General alongwith Sardar Ali Shah, Inspector for the respondents present.

Learned counsel for the appellant states that due to rush of work he could not prepare the brief and seeks adjournment of the matter to 27.02.2023. On the request of learned counsel for the appellant, the matter is adjourned to his desired 27.02.2023 for arguments before the D.B as last chance, failing which the matter will be decided on the basis of available record without the arguments.

SCANNED
PESHAWAR



(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

27th May, 2022

Clerk of the counsel present. Mr. Muhammad Adil Butt, Addl. AG for respondents present.

Arguments could not be heard due to general strike of the bar. Adjourned. To come up for arguments on 01.07.2022 before D.B.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

01.07.2022


Bench is not available, therefore, case is adjourned to 11.10.2022 for the same as before.


Reader

11th Oct., 2022

Appellant present in person. Mr. Kabirullah Khattak, Addl. AG alongwith Shah Jehan S.I (Legal) for the respondents present.

Appellant seeks adjournment due to engagement of his learned counsel before Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 09.11.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman



30-9-21

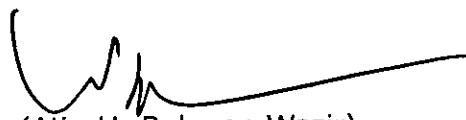
D.B. is on Tour case to come up
for the same on Dated. 1-2-22

R. Radeo

01.02.2022

Counsel for the appellant present. Mr. Muhammad
Kiaz Khan 'Paindakhel,' Asstt. AG for the respondents
present.

Due to paucity of time arguments could not be
heard. To come up for arguments on 25.05.2022 before
the D.B.



(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

25th May, 2022

Mr. Noman Ali Bukhari, Advocate junior to
Muhammad Asif Yousafzai, Advocate present. Mr. Muhammad
Asif Masood Ali Shah, DDA for respondents present.


Junior counsel for the appellant seeks adjournment.
Being an old case of the year 2016, adjourned but as a last
chance. To come up for arguments on 27.05.2022 before D.B.


(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

08.12.2020 Counsel for the appellant and Addl. AG for the respondents present.

Once again a request for adjournment is made by learned counsel for the appellant. Record shows that on previous many occasions such request was made and hearing was adjourned. The request of learned counsel is accepted and hearing is adjourned to 25.02.2021, but as last chance.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

25.02.2021 Due to Pandemic of Covid-19, the case is adjourned to 03.06.2021 for the same.


Reader

03.06.2021 Junior to counsel for appellant present.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Peshawar; granted. To come up for arguments on 30.09.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman


09.04.2020

Due to COVID-19, the case is adjourned to 10.07.2020
for the same as before


Reader

10.07.2020

Due to COVID-19, the case is adjourned to 03.09.2020
for the same.

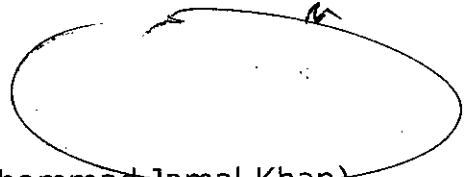

Reader

03.09.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional
Advocate General for the respondents is also present.

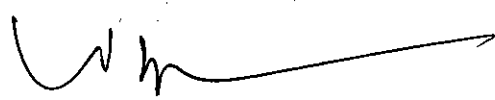
Appellant requested for adjournment on the ground that his
counsel is not available today. Adjourned to 13.10.2020 on which to
come up for arguments before D.B.

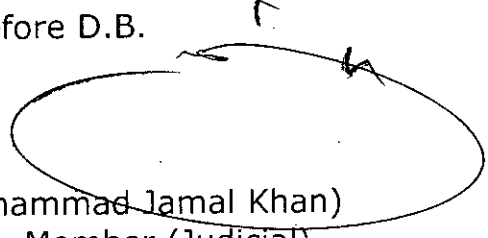
(Mian Muhammad)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

13.10.2020

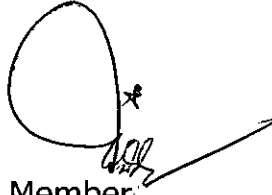
Neither appellant nor his counsel is present. Mr. Kabirullah
Khattak, Additional Advocate General for the respondents is present.
Notice be issued to appellant and his respective counsel for
08.12.2020. File to come up for arguments before D.B.


(Atiq-ur-Rehman Wazir)
Member (Executive)


(Muhammad Jamal Khan)
Member (Judicial)

10.03.2020

Counsel for the appellant present. Addl: AG
alongwith Mr. Sheheryar Khan, ASI for respondents
present. Learned counsel for the appellant seeks
adjournment. Adjourned. To come up for arguments on
10.04.2020 before D.B.



Member




Member

30.10.2019


Mr. Taimur Ali Khan, junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Jehan, S.I for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant has gone to august Supreme Court of Pakistan at Islamabad. Adjourned to 21.11.2019 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

21.12.2019

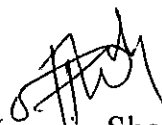
Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Shah Jehan ASI for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.01.2020 before D.B.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.01.2020


Learned counsel for the appellant present. Mr. Kabirullah Khattak Additional Advocate^{General} for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 10.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

02.05.2019

Counsel for the appellant and Addl: AG for respondents present. Arguments could not be heard due to Learned Member (Executive) is on leave. Adjourned to 30.05.2019 before D.B.


(M. Amin Khan Kundi)
Member

30.05.2019

Appellant in person and Mr. Shah Jehan, S.I. (Legal) alongwith Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 17.07.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

17.07.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Shah Jehan, S.I (Legal) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.09.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

17.09.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Kabirullah Khattak learned AAG alongwith Shah Jehan SI present. Representative of the respondent department stated that the appellant is not interested in the present service appeal. Asad Mehmood Advocate Junior to counsel for the appellant present and seeks adjournment. Adjourned by way of last chance. To come up for arguments on 30.10.2019 before D.B. Appellant be put to notice for the date fixed.


Member


Member

19.12.2018

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General ~~SI~~ Rehman SI for the respondents present. Junior to counsel for the appellant requested for adjournment that as senior counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 12.02.2019 before D.B.


(Hussain Shah)
Member


(Muhammad Amin Kundi)
Member

12.02.2019

Appellant absent. Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Jehan, S.I (Legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 15.03.2019 before D.B.


(M. Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

15.03.2019


Junior to counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Shah Jehan SI present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 02.05.2019 before D.B



Member


Member

03.08.2018


Appellant absent. Learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Shah Jehan, S.I (legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.09.2018 before D.B.



(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)

18.09.2018

Mr. Taimur Ali Khan, junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Jehan, S.I (Legal) for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is stated busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 31.10.2018 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

31.10.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 19.12.2018.


READER

04.12.2017


Counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.01.2018 before D.B.



Member
(Executive)


Member
(Judicial)

29.01.2018

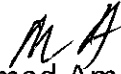
Junior to counsel for the appellant and Mr. Zia Ullah, Learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment on the ground of non availability of learned counsel for the appellant. Adjourned. To come up for arguments on 28.03.2018 before D.B



(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

28.03.2018


Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 28.05.2018 before D.B


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

28.05.2018

Counsel for the appellant and Addl: AG alongwith Mr. Shah Jehan, SI for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 03.07.2018 before D.B.


(Muhammad Hamid Mughal)
Member

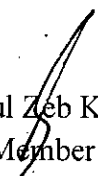
30.03.2017

Counsel for the appellant and Mr. Shah Jehan (ASI) alongwith Addl: AG for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.05.2017.


Chairman

18.05.2017


Counsel for the appellant and Mr. Muhammad Adeel Butt Additional AG for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 12.09.2017 before D.B.

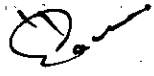

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

12.09.2017

Counsel for the appellant and Addl: AG for the respondents present. Learned Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.12.2017 before D.B.


Member
(Executive)


Member
(Judicial)

1184/2016


26.01.2017

Learned counsel for the appellant argued that the appellant was serving as Constable when dismissed from service vide impugned order dated 05.06.2009 on the basis of involvement in criminal case vide FIR No. 1276 dated 26.09.2008 P.S Charsadda U/Ss 324/24 PPC. That after acquittal on 26.5.2015 he preferred departmental appeal which was partially allowed and the appellant reinstated in service by treating his absence period as leave without pay vide impugned order dated 26.5.2015 and hence the instant service appeal on 19.10.2016.

That in view of acquittal of the appellant read with F.R 54 the appellant is entitled to pay for the period w.e.f. the date of dismissal upto that of reinstatement in service.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days notices be issued to the respondents. To come up for written reply/comments on 01.3.2017 before S.B,

Appellant Deposited
Security & Process Fee


Chairman

01.03.2017

Counsel for the appellant and Addl: AG for the respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 30.03.2017 before S.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER

07.12.2016

Counsel for the appellant present. Learned counsel for the appellant requested for adjournment for preparation. Request accepted. To come up for preliminary hearing on 16.01.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

16.01.2017

Counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 26.01.2017 before S.B.


(AHMAD HASSAN)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 1184/2016

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|------------------------------|---|
| 1 | 2 | 3 |
| 1 | 30/11/2016 SCANNED | The appeal of Mr. Asfandiyar resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR |
| 2- | 1/12/2016 | This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07-12-2016</u> . CHAIRMAN |

The appeal of Mr. Asfandiyar Constable No. 1349 distt. Charsadda received today i.e. on 19.10.2016 is incomplete on the following score which is returned to the counsel for the appellent for completion and resubmission within 15 days.

- 1- Copy of impugned order mentioned in para-3 of the memo of appeal (Annexure-B) is not attached with the appeal which may be placed on it.
- 2- Departmental appeal having no date be dated.
- 3- Annexure-D & F of the appeal are illegible which may be replaced by legible/better one.

No. 1739 /S.T,

Dt. 20 /10/2016

Muhammad
REGISTRAR
for SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir,

Objection Removal. File resubmitted.

7/10/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 1184 /2016

Mr. Asfandiyar

V/S

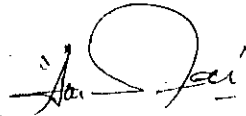
Police Department.

INDEX

| S.No. | Documents | Annexure | Page No. |
|-------|----------------------------------|----------|----------|
| 1. | Memo of Appeal | ----- | 01-04 |
| 2. | Copy of Court Order (09.04.2015) | - A - | 05-09 |
| 3. | Copy of Removal Order | - B - | 10 |
| 4. | Copy of Appeal | - C - | 11 |
| 5. | Copy of Orders | - D - | 12-13 |
| 6. | Copy of Departmental Appeal | - E - | 14 |
| 7. | Copy of Rejection Order | - F - | 15 |
| 8. | Vakalat Nama | ----- | 16 |

APPELLANT

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
PESHAWAR.



(S. NAUMAN BUKHARI)
ADVOATE, PESHAWR.

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Appeal No. _____/2016

Mr. Asfandiyar, Constable, No.1349,
Previous No.107, District Charsadda.

APPELLANT

VERSUS

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

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE RE-INSTATEMENT ORDER DATED 26.05.2015 WHEREBY THE PERIOD OF SERVICE WAS CONSIDERED AS LEAVE WITHOUT PAY AND AGAINST THE REJECTION ORDER DATED 21.06.2016, RECEIVED BY THE APPELLANT ON 23.9.2016 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR GOOD GROUNDS.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 26.05.2015 & AND 21.06.2016 RECEIVED BY THE APPELLANT ON 23.9.2016 MAY BE MODIFIED AND THE RESPONDENT DEPARTMENT MAY BE DIRECTED TO CONVERT THE INTERVENING PERIOD AS LEAVE WITH FULL PAY. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

1. That the appellant joined the Police Department in the year 1998 as Constable and has round about 18 years service at his credit. That the appellant performed his duties with devotion and honesty.
2. That due to lodging of false FIR No.1276 dated 26.09.2008 u/s 324/34 PPC Police Station, Charsadda the appellant was remained absent from service and there after the Honourable Court acquitted the appellant on 09.04.2015. **Copy of acquittal Order is attached as Annexure-A.**
3. That in the year 2009, due to above mentioned criminal case, the DPO, Charsadda removed the appellant from service on 05.06.2009 without any charge sheet, statement of allegations, inquiry and show cause notice. **Copy of Order is attached as Annexure-B.**
4. That after acquittal, the appellant submitted Departmental Appeal to the Dy: Inspector General of Police, Mardan Region-1, Mardan for re-instatement in to service. The appeal was accepted and the appellant was re-instated into services with immediate effect and the intervening period remained out of service treated as leave without pay vide order dated 26.5.2015. **Copies of Appeal and Order dated 26.5.2015 are attached, as Annexure-C and D.**
5. That against the order dated 26.5.2015, wherein the intervening period was treated as EOL with-out pay, the appellant submitted his appeal which was rejected by the Inspector General of Police, K.P. Peshawar vide order dated 21.06.2016 which was received by the appellant on 23.9.2016. **Copies of Appeal and Rejection Order are attached as Annexure-E and F.**
6. That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUNDS:

- A) That the impugned orders dated 26.05.2015 and 21.06.2016 received by the appellant on 23.9.2016 are against the law, rules and norms of justice, therefore, not tenable.
- B) The appellant have not been treated in accordance with law hence the appellant right secured and guaranteed under the law are badly violated.
- C) The appellant is legally entitled to the full pay for the intervening period for which the appellant cannot be deprived under FR-53/54.
- D) That the no charge sheet, statement of allegation were service against the appellant which was required under the rules hence the impugned order is not justifiable.
- E) That no regular enquiry was conducted against the appellant nor the appellant was given a chance of cross examining the record or witnesses against him.
- F) That the absence was not willful rather due to unavoidable circumstances and especially when there remained no grounds of penalty after earning acquittal.
- G) That similar appeal of Tehsinullah was also decided by this august Tribunal in which the period was ordered to be treated s leave with full pay.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed

(4)

Asfandiyar

APPELLANT
Asfandiyar

THROUGH:

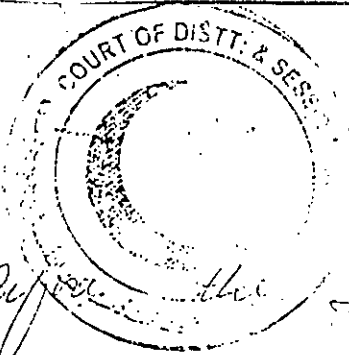
M. Asif Yousafzai

(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
PESHAWAR.

S. Nauman Bukhari

(S. NAUMAN BUKHARI)
ADVOATE, PESHAWR.

(4)



(A)

(5)

Before the Sessions Judge chd.

Asfand yar So Bahadar So Baglo
Korona at Present

Pla-dheer chd.

vs

Filed As
04/4/15

Hati @ Lujman So Hamayun
So Mohalla Mirza Jancho
Respondent

Bail Before Arrest Application

Case FIR NO 1276 dated 26⁹/₀₈
ups 324-34 Pt P3 Shabera Ghafa
Ali chd.

Sw

Submitted to me by

ATTESTED

M

EXAMINER
Copying Agency Branch
Court of Distt & Sessions, Jharkhand

13-4-15

Ar
04/4/15

1. That the Petitioner is charged in the above mentioned case and local Police is open his arrest.

Copy of FIR is attached.

2. That this case is based on mala fide being brought by motivated person.

3. That the Parties have effected compromise and Complainant is no more interested in the Prosecution of this case against Petitioner.

4. That this factor of Humiliation is there, if the Petitioner is given the honours of Police.

5. That this case needs further inquiry.

ATTESTED

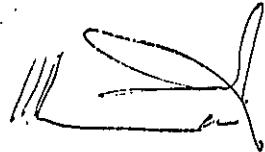
M

EXAMINER
Copying Agency Branch
Court of Dist & Sessions, D.D.

13

It is therefore requested that the
Petitioner may be given INTERIM
bail and after due process has been
completed.

744
15



Filed through
Wasim Khan Adv. 04/4/15

سید علی
رہبر علی
مقامی عدالت
4-4-15

Attested
4/4/15

Deponent:
Abulhasan

Witness

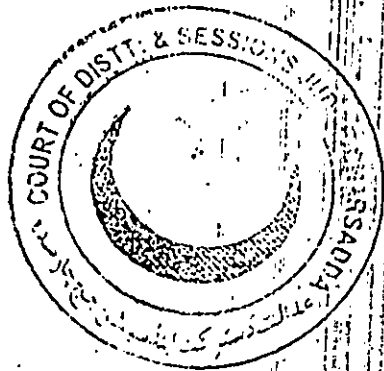
ATTESTED
EXAMINER
Copying Agency Branch
Distt & Sessions Judge

13-4-15

(A) (8)

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Handwritten numbers and dates: 13-4-15, 9-4-2015, 6-4-2015, 9-3-15.



ORDER-2
09.04.2015

Present: Accused/petitioner Asfandiyar on ad-interim pre-arrest bail along with counsel SPP for the State and injured/complainant Mohammad Luqman injured/PW Gulab Gul and PW Tahseen Ullah in person.

Accused/petitioner namely Asfandiyar seeks confirmation of his ad-interim pre-arrest bail granted earlier in connection with case FIR No.1276, dated 26.09.2008 registered U/s 324/34-PPC, PS Prang wherein the complainant charged the accused/petitioner for the commission of the offence.

Today, Mohammad Luqman (injured/complainant) injured/PW Gulab Gul and Tahseen Ullah (PW) appeared before the court and submitted an affidavit in respect of compromise with the accused/petitioner. Their joint statement recorded, wherein, they stated that they have effected compromise with the accused/petitioner and pardoned him unconditionally in the name of Almighty Allah, waived off their rights of Arsh/Daman etc and have got no objection on the confirmation of ad-interim pre-arrest bail of the accused/petitioner as well as his acquittal at trial stage. Affidavit is Ex: P.A.

Hence, keeping in view the section of law which is compoundable and compromise between the parties which seems to be genuine, without force and coercion and in the best interest of both the parties, the instant pre-arrest bail petition stands accepted and ad-interim pre-arrest bail granted.

ATTESTED

EXAMINER

Copying Agency Sindh
Court of Distt & Sessions Judge

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FORM 'A'
FORM OF ORDER SHEET

Court of _____ of _____
Case No. _____

| Serial No. of Order or Proceedings | Date of Order or Proceedings | Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary. |
|------------------------------------|------------------------------|--|
| 1 | 2 | 3 |
| | | <p>earlier to the accused/petitioner, is hereby, confirmed on the existing bonds.</p> <p>This file be consigned to the Record Room, where its record be returned to the quarter concerned.</p> <p><u>Announced</u> 09.04.2015</p> <p style="text-align: right;"><i>(Signature)</i> { Miss Ambargen Navid AD & SJ-V, Charsadda</p> <p style="text-align: center;">ATTESTED <i>(Signature)</i> EXAMINER Copying Agency Branch Court of Distt & Sessions, Judge Charsadda 13-4-15</p> |

B (10)


ORDER

This order will dispose of the departmental enquiry against Constable Asfandiyar No.107 who while posted at Police Station Nisatta, were transferred to PS-Sro, vide this office C.B No.1229 dated 17-9-2008, but he failed to report his arrival there. During the absence period he also involved in case FIR No. 1276. dated 26-9-2008 u/s 324/34-PPC PS Charsadda.

In this allegations he was issued Charge Sheet together with statement of allegation under the NWFP Removal from service (Special-powers) Ordinance 2000. Enquiry committee comprising upon Muhammad-Mukhtiar-Khan, DSP Charsadda & Inspector Murad Ali, the then RI Police Lines Charsadda was constituted for conducting departmental enquiry against him. The enquiry committee after conducting proper departmental enquiry recommended him for major punishment.

The Constable Asfandiyar No.107 was also issued Final Show-Cause Notice but the accused constable did not bother to reply. He also did not appear before the authority to explain his position. A notice of his absence was also got published in daily new paper "Anj" dated 27-04-2009 and he was directed to appear before the authority but he failed to do so.

After going through the enquiry papers, recommendation of the enquiry committee and extreme misconduct in a discipline force by the accused constable, I, Muhammad Riaz Khan, District Police Officer Charsadda being competent authority have reached to the conclusion that the accuse constable in no way is interested in Police service and deliberately avoiding his appearance before the competent authority to join service. I have therefore decided to dismiss him from service from the date of his absence from duty i.e 17-09-2008.


District Police Officer
Charsadda

No. 1229 /EC, dated Charsadda the 17 / 9 / 2009

Copy for information and necessary action to the:-

- 1. Pay Officer/PA
- 2. OHC/EC/EMC

TESTED
A
O.B No 802
DP 5/6/2009

گفت جناب ڈی ایچ اے - سردار سنجے

جناب عالی حکمانہ میں برصغیر برطرفی حکم سٹیٹ
حساب میں غرض ہے۔

1. یہ کہ جناب DPO صحت کارڈ کے
سٹیٹ/ایڈمنسٹری کو جو حکم سٹیٹ کارڈ سروس سے
سرفراز کیا ہے۔

2. یہ کہ سٹیٹ جو حکم مقدمہ فوجداری عدالت - 1276

صفحہ 26⁹ 2008 صبر 324/34 تقریریں پیر کی گئی
کفار پرائیڈ میں عدالتوں کی معلومات کیا گئی۔

3. یہ کہ اس فریقین میں راجی نام ہوا۔ اور اس میں
کامیابی BBA آئین ہوا ہے۔
(تقریریں لکھی گئی)

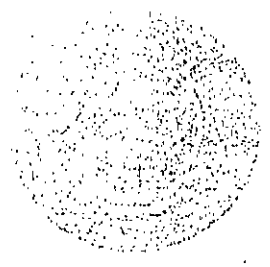
4. یہ کہ اس میں ایسی عدالت پر بحال ہوا ہے جس میں
جوڑا ہے۔

گندہ عافیہ کے ساتھ
دوسرے ایسے حکم سٹیٹ
کو عدالت پر لکھی گئی
سے بحال ہوا ہے۔
اور حکم سٹیٹ میں
میں بحال ہے۔

(F)

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PAGE 01



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHAYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

No. S/10/16, dated Peshawar the 23-06-2016

INSPECTOR GENERAL
No. 3925
Date 23-6-16
Chief Officer

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1974 submitted by Constable Asfandiyar No. 1349. The appellant was dismissed from service by IGP Charzadda on the charges that he was transferred from Police Station Goro District Charzadda but he failed to report his new place of posting. During the period he was also involved in case FIR No. 1279 dated 26.09.2008 u/s 324/34-PPC Police Station Charzadda.

On previous appeal to RPO/Mardan, RPO/Mardan re-instated him in service and the appellant was treated out of service treated as leave without pay by RPO/Mardan vide order Endst: 10/10/15, dated 28.05.2015.

Meeting of Appellate Bench was held on 26.05.2016 wherein appellant was heard in person. Petitioner contended that he was arrested in case FIR No. 1279 dated 26.09.2008 u/s 324/34-PPC Police Station Charzadda.

Perusal of record reveals that petitioner has already been compensated by the Appellate Authority i.e. RPO/Mardan, the Appellate Authority set aside the dismissal from service order and only treated the intervening period as leave without pay. His petition is also time barred. Therefore, his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.

EC

10/10/15
4029-35 No.

(NAJEEK-UR-REHMAN BUGTI)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan Region, Mardan.
2. District Police Officer, Charzadda.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIC/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdr: E.N. CPO Peshawar.
7. Central Registry, CPO.

23/6/16

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHUWA
CENTRAL POLICE OFFICE,
PESHAWAR.**

No.S/4528 /16, dated Peshawar the 21.6.2016.

ORDER.

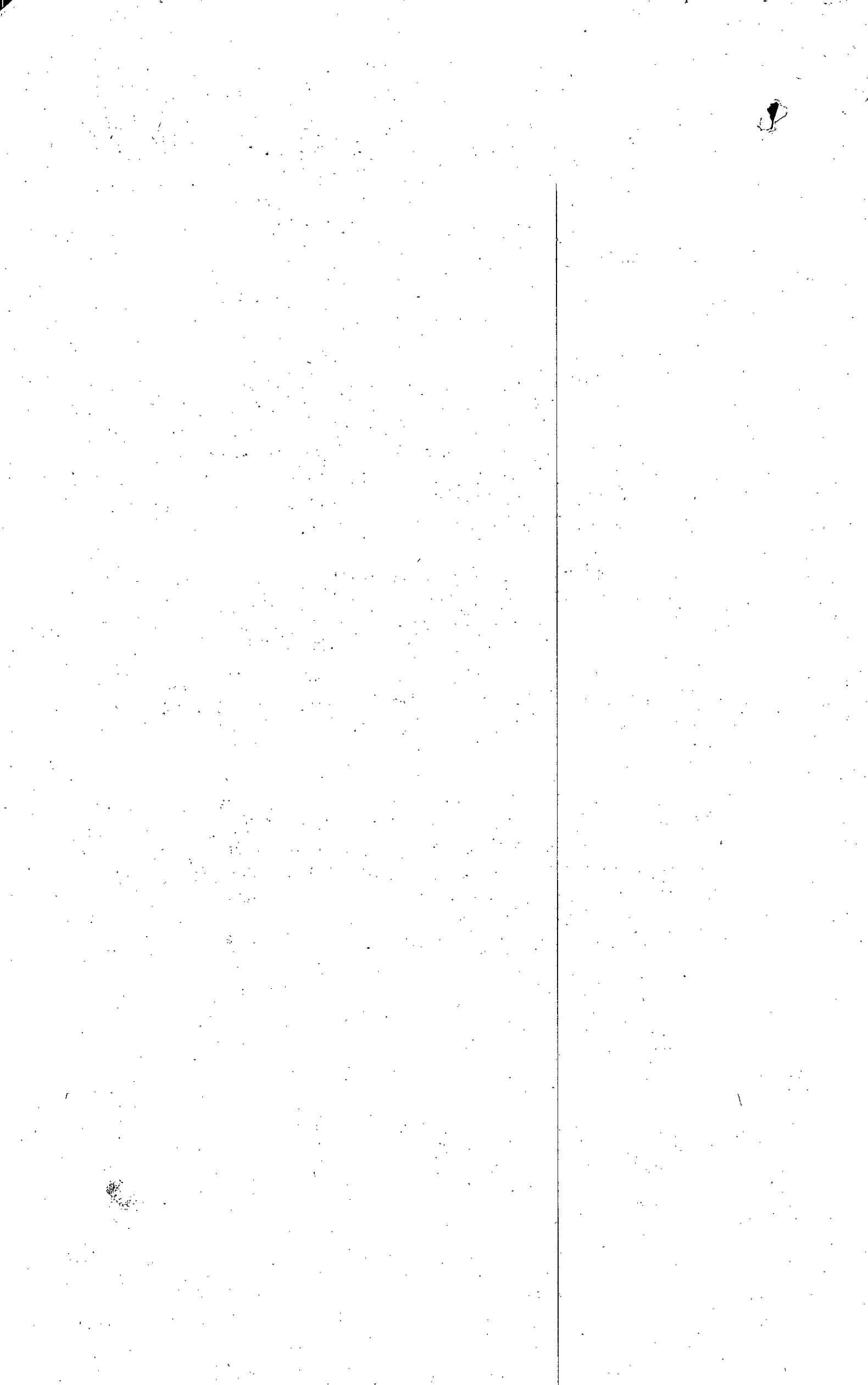
This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Constable Asfandyar No. 1349. The appellant was dismissed from service by DPO Charsadda on the charges that he was transferred from Police Station Sro District Charsadda but he failed to report his new place of posting. During absence he was also involved in case FIR No. 1279 dated 26.09.2008 u/s 324/34-PPC Police Station Charsadda.

He preferred appeal top RPO/Mardan, RPO/Mardan re-instated him in service and the period he remained out of service treated as leave without pay by RPO/Mardan vide order Endst; No. 3143/ES, Dated 26.5.2015.

Meeting of appellate Board was held on 26.5.2016 wherein appellant was heard in person. Petitioner contented that he was arrested in case FIR NO. 1279 dated 26.9.2008 u/s 324/34-PPC Police Station Charsadda.

Perusal; of record revealed that petitioner has already been compensated by the Appellate Authority i.e RPO/Mardan, the Appellate Authority set aside the dismissal from service order band only treated the intervening period as leave without pay. His petition is also time barred. Therefore, his petition is hereby rejected.

This order is issued with the approval by the Competent Authority.



VAKALAT NAMA

NO. _____/20

IN THE COURT OF Ko.Po.k Service Tribunal, Peshawar

Asband Yav (Appellant)
(Petitioner)
(Plaintiff)

VERSUS


Police Deptt (Respondent)
(Defendant)

I/We Asband Yav

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

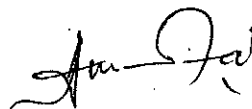
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED



M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1184/2016

Mr. Asfandyar, Constable No. 1349,
Previous No. 107, District Nowshera.

.....Appellant

V E R S U S

1. Provincial Police officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardar..
3. District Police Officer, Charsadda.

.....Respondents

REPLY ON BEHALF OF RESPONDENTS No. 1, 2&3

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is badly time-barred.
3. That the appellant has been estopped by his own conduct to file the appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.

On Facts

1. Para to the extent of enlistment in Police Department pertains to record hence, no comments while rest of the para is not related because length of service and performance of duty with devotion and honesty, do not exonerate a Police official from his ill deeds.
2. Para regarding false FIR is for the appellant to prove, while rest of the para is incorrect, because the appellant while posted at Police Station, Nisata was transferred to Police Station, Sro but he failed to report his arrival for the reasons that he was involved in case vide FIR No. 1276 dated 26-09-2008 u/s 324/34 PPC Police Station, Charsadda.
3. Incorrect. The appellant was issued charge sheet and statement of allegation but due to his involvement in criminal case, he did not receive the same because of absconion hence, he was awarded appropriate punishment.


4. Correct to the extent that the appeal of the appellant was accepted by the appellate authority by taking lenient view and reinstated him in service however, the period he remained out of service was treated as leave without pay because he remained absconder for a prolong period and after affecting compromise he surrendered himself.
5. Para to the extent of rejection of appeal, pertains to record hence, no comments while rest of the para is incorrect, because the appellant in order to conceal the issue of limitation tailored this story of receiving the order of rejection of the date mentioned therein.
6. That the appeal of the appellant is liable to be dismissed on the following grounds.

Grounds


- A. That the orders dated 26-05-2015 and 21-06-2016 are legal, lawful and without any discrimination as the respondent department has no grudges against the appellant, hence, plea of the appellant is not tenable in the eye of law.
- B. Incorrect. The appellant has been treated in accordance with law and his guaranteed rights were not violated as alleged by the appellant.
- C. Incorrect. The appellant if charged falsely was supposed to surrender himself before the local Police and face the trial but in the instant case he willfully and deliberately gone into hiding just to save himself from the agonies of criminal proceedings hence, plea of the appellant is liable to be set at naught.
- D. Para already explained, however, due to certain reasons the appellant has already been treated leniently hence, the order passed by the appellate authority is justifiable.
- E. Incorrect. Para already explained hence, no comments.
- F. Incorrect. The appellant in order to avoid his arrest remained absconder from a prolong period and after affecting compromise his pre-arrest bail was confirmed.
- G. That every case has its own facts and circumstances therefore, plea of the appellant is not plausible.

H. That the respondents also seek permission of this honourable tribunal to raise additional grounds at the time of arguments.


It is, therefore, most humbly prayed that on acceptance of above submissions the appeal of the appellant may very kindly be dismissed with cost.



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
Respondent No. 1



Deputy Inspector General of Police,
Mardan Region-I, Mardan.
Respondent No. 2



District Police Officer,
Charsadda.
Respondent No. 3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1184/2016

Asfandyar

VS

Police Deptt:

REJOINDER ON BEHALF OF THE APPELLANT

PRILIMINARY OBJECTION:

(1-5) All objection raised by the department is incorrect and baseless. Rather the respondent's department estoped to raised objection due to their own conduct.

RESPECTFULLY SHEWETH:

Facts:

1. Para-1 of the appeal is admitted correct by the respondents department as record is already in the custody of the respondent's department. Moreover rest of the contention of the respondents department is incorrect while para-1 of the appeal is correct.
2. Para-2 of the appeal is correct. Moreover, the contention of the appellant is incorrect and misconceived. The FIR was false which is evident from the acquittal of the appellant form criminal case.
3. Incorrect and misconceived. While para-3 of the appeal was correct as mentioned in the main appeal of the appellant. There is any charge sheet are statement of allegation but no communication of such charge sheet and statement of allegation was made to appellant.
4. Incorrect and misconceived. While para-4 of the appeal was correct as mentioned in the main appeal of the appellant.
5. Half para-5 of the appeal is admitted correct by the respondents as mentioned in the main appeal of the appellant. Moreover, rest of the contention of the respondent is incorrect and misconceived.

6. Incorrect. The appellant has good cause of action and appeal of the appellant is liable to be accepted.

GROUNDS:

- A. Incorrect. That the impugned order is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. Incorrect. While para-B of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- C. Incorrect. While para-C of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- D. Incorrect. While para-D of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- E. Incorrect. While para-E of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- F. Incorrect. While para-F of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- G. Incorrect. While para-G of the ground of appeal was correct as mentioned in the main appeal of the appellant.
- H. Legal.

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

APPELLANT

Through:



(M. ASIF YOUSAFZAI)

SYED NOMAN ALI BUKHARI

&

**TAIMUR ALI KHAN
ADVOCATES, PESHAWAR**

AFFIDAVIT

I, do hereby, affirm that the contents of the appeal and rejoinder are true to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.



Deponent