

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 852/2015

Date of institution ... 16.07.2015

Date of judgment ... 31.08.2018

Barkat Ali Ex-Constable No. 895, Police Line, Bannu

... (Appellant)

VERSUS

1. Regional Police Officer, Bannu Range Bannu and two others.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER DATED 27.06.2015 PASSED BY
RESPONDENT NO. 1, WHEREBY HE WAS PLEADED FOR NO
INTERFERING WITH THE ORDER OF MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE PASSED BY RESPONDENT NO. 2
VIDE OB. NO. 316 DATED 31.03.2015.

Mr. M. Asif Yousafzai, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for

the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents

present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was dismissed from service vide impugned order dated 31.03.2015 on the allegation that he remained absent from official duty for a period of 43 days and was found involved in corruption and taking illegal gratification by fleecing the general public by giving false pledges of service in Police Department and was also found defaulter of worth of Rupees

Mr. Asif
31.8.2018

30000/- of complainant Khalid Khan and Rs. 270000/- of Javed Khan. The appellant filed departmental appeal which was rejected on 25.06.2015 hence, the present service appeal on 16.07.2015.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that the appellant was dismissed from service vide impugned order dated 31.03.2015 on the aforesaid allegations. It was further contended that the impugned order dated 31.03.2015 was communicated to the appellant on 31.04.2015. It was further contended that the appellant filed departmental appeal on 08.05.2015. It was further contended that the appellant was served one charge sheet on 22.12.2014 regarding his absence for period of 43 days. It was further contended that second charge sheet was served on the appellant on 21.01.2015 wherein the appellant was charge sheeted for illegal gratification from general public by giving false pledges of service in Police Department and defaulter of Rs. 30000/- of complainant Khalid Khan and third charge sheet was issued to the appellant vide order dated 30.02.2015 for illegal gratification from general public by giving false pledges of service in Police Department as well as defaulter of Rs. 270000/- of complainant Javed. It was further contended that in the first charge sheet dated 22.12.2014 there was no allegations of taking illegal gratification from general public by giving false pledges of service in Police Department but the aforesaid allegation was later on mentioned in second charge sheet dated 21.01.2015. It was further contended that if the appellant was involved in illegal gratification from general public than the competent authority was required to mention the same allegation in the first charge sheet dated 22.12.2014 but the competent authority has not mentioned the same allegations in the first charge sheet dated 22.12.2014 but later on just after one month in the second charge sheet dated 21.01.2015 the aforesaid allegation

M. Amira
31.8.2018

was mentioned against the appellant for the reason best known to the competent authority. It was further contended that one inquiry was conducted by Mir Faraz Khan regarding absence of the appellant for a period of 43 days and the appellant was recommended for ^{Mir Faraz Khan} major punishment. Second inquiry was also conducted by Mr. Mir Faraz Khan regarding the taking of illegal gratification from general public by giving false pledges of service in Police Department as well as regarding defaulter of Rs. 30000/- of complainant Khalid Khan and the third inquiry regarding the same allegations i.e taking illegal gratification from general public by giving false pledges of service in Police Department as well as regarding defaulter of Rs. 270000/- of complainant Javed Khan was conducted by DSP Cantt Bannu but no opportunity of cross examination was provided to the appellant. It was further contended that after conducting inquiry the appellant was dismissed from service without providing copy of inquiry report and issuing of show-cause notice therefore, the dismissal order of the appellant from service is illegal and liable to be set-aside and prayed for acceptance of appeal.

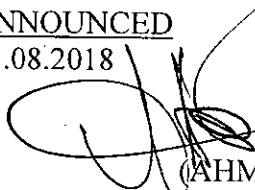
5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that all the codal formalities were completed during inquiry proceedings and the appellant was also provided full opportunity of cross examination. It was further contended that the appeal is also time barred therefore, prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was dismissed from service on the aforesaid allegations. The record further reveals that the appellant was served with different charge sheets on the aforesaid different allegations and two inquiry was conducted by Mir Faraz Khan Inspector regarding absence of appellant and taking illegal gratification from general public by giving false pledges of service in Police Department and defaulter of Rs. 30000/- of Khalid

M. Amin
31.8.2018

khan and the third inquiry was conducted by DSP Cantt Bnnu on the same allegation of taking illegal gratification from general public by giving false pledges of service in Police Department and defaulter of Rs. 27000/- of Javed Khan. The record further reveals that neither proper opportunity of cross examination, personal hearing and defence was provided to the appellant by the inquiry officer, nor copy of inquiry was handed over to the appellant even, show-cause notice was also not issued to the appellant by the competent authority. Therefore, the impugned order is illegal and liable to be set-aside. In this regard reliance is placed on a judgment of Service Appeal No. 1014/2012 decided on 23.12.2017 titled Saqib Gul Versus District Police Officer Mansehra wherein this Tribunal held that issuance of final show-cause alongwith copy of inquiry report is must in Police Rules, 1975 and the appeal was accepted due to non-issuing of show-cause notice. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant in service. The respondent-department is directed to conduct de-novo inquiry in accordance with rules prescribed by law within a period of 90 days from the date of receipt of this judgment. The appellant will also be provided opportunity of cross-examination and defence. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED
31.08.2018


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

31.08.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we partially accept the appeal, set-aside the impugned order and reinstate the appellant in service. The respondent-department is directed to conduct de-novo inquiry in accordance with rules prescribed by law within a period of 90 days from the date of receipt of this judgment. The appellant will also be provided opportunity of cross-examination and defence. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own cost. File be consigned to the record room.

ANNOUNCED

31.08.2018



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

28.06.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned by way of last opportunity. To come up for arguments on 02.08.2018 before D.B.



(Muhammad Amin Kundi)
Member



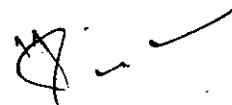
(Muhammad Hamid Mughal)
Member

02.08.2018

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 in attendance. Adjourned. To come up for arguments on 31.08.2018 before D.B.



(Ahmad Hassan)
Member




(Muhammad Hamid Mughal)
Member

15.01.2018


Appellant in person present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Farooq Khan, Inspector for the respondents present. Lawyer community on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned. To come up for arguments on 26.02.2018 before D.B.



(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

26.02.2018

Appellant alongwith his counsel present. Mr. Kabir Ullah Khattak, Addl: AG alongwith Mr. Farooq Khan, Inspector for the respondent present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.04.2018 before D.B.


(Gul Zeb Khan)
Member


(M. Hamid Mughal)
Member

12.04.2018

Appellant in person present. Addl. AG alongwith Muhammad Farooq, Inspector (Legal) for the respondents present. Counsel for the appellant is not in attendance. Appellant seeks adjournment. Granted. To come up for arguments on 28.06.2018 before the D.B.


Member


Chairman

852/15

13.07.2017

Junior to counsel for the appellant and Asstt. AG alongwith Muhammad Farooq, S.I(Legal) for the respondents present. Requested for adjournment as learned senior counsel for the appellant is busy in Peshawar High Court. Adjourned. To come up for arguments on 13.11.2017 before the D.B.

Member

Chairman

13.11.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Farooq Khan, Inspector for the respondents present. Representative of the respondents submitted enquiry record which is placed on file. To come up for final hearing on 12.12.2017 before D.B.

(AHMAD HASSAN)
Member

(Muhammad Hamid Mughal)
Member

12.12.2017


Appellant in person present. Mr. Kabir Ullah Khattak, learned AAG along with Farooq Khan, Inspector for the respondents present and submitted inquiry finding report copy of which handed over to the appellant. Due to general strike of the bar, the arguments could not be heard. To come up for arguments on 15.01.2018 before D.B

(Gul-Zeb Khan)
MEMBER

(Muhammad Hamid Mughal)
MEMBER

06.02.2017

Mr. Taimoor Khan, junior counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Junior counsel for the appellant stated that senior counsel is at Camp Court Swat and requested for adjournment. Adjourned. To come up for arguments on 21.04.2017 before D.B.



(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

21.04.2017

Counsel for the appellant present. Mr. Usman Ghani, Senior Government Pleader for the respondents also present. Complete inquiry record is not available on file. Respondents are directed to produce complete inquiry record including statements on or before the next date of hearing. To come up for complete inquiry record and arguments on 19.05.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

19.05.2017


Appellant in person present Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant requested for adjournment. Adjourned. To come up for arguments on 13.07.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

25.02.2016

Counsel for the appellant and Mr. Mir Faraz, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 16.6.2016.


Member

16.06.2016

Appellant in person and Mr. Asghar Ali, Head Constable alongwith Mr. Usman Ghani, Sr.GP for respondents present. Rejoinder submitted, copy whereof handed over to learned Sr.GP. To come up for arguments on 29.8.16 before D.B.


MEMBER


MEMBER

29.08.2016

Counsel for the appellant and Mr. Muhammad Asghar, H.C alongwith Additional AG for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for final hearing to 01.12.2016 before D.B.


Member


Chairman

01.12.2016

Counsel for the appellant and Mr. Yaqoob Khan, HC alongwith Assistant AG for respondents present. The D.B is incomplete due to relinquishment of charge by Judicial Member. To come up for arguments on 6.2.17.


Member

15.09.2015

Clerk of counsel for the appellant present. Learned counsel for the appellant is not in attendance today. Adjourned to 15-10-15 for preliminary hearing.


Member.

15.10.2015

Since 15.10.2015 has been declared as public holiday on account of 1st Muharram-ul-Haram, therefore, case is adjourned to 28-10-15 for the same.


Reader.

28.10.2015

Counsel for the appellant present and submitted Wakalat Nama. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to three inquiries on the allegations of absence for 42 days and involvement in corrupt practices and illegal gratification and dismissed from service vide single order dated 31.3.2015 against which he preferred departmental appeal on 3.5.2015 which was rejected on 25.6.2015 and hence the instant service appeal on 16.7.2015.

That in the said three inquiries, minor penalty in the inquiry regarding absence from duty was recommended while in the second inquiry conducted on the allegations of corruption and illegal gratification the appellant was exonerated while in the third inquiry on similar allegations the appellant was dismissed from service. That no opportunity of personal hearing was extended to the appellant nor opportunity of cross-examination was afforded and, furthermore, even final show cause notice was not issued to the appellant.

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 25.2.2015 before S.B.

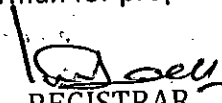


Appellant Deposited
Security & Process Fee




Chairman

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 852/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28.07.2015	<p>The appeal of Mr. Barkat Ali resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR -II</p>
2	31-7-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>04-8-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	04.08.2015	<p>Clerk of counsel for the appellant present. Learned counsel for the appellant is not in attendance. Requested for adjournment. To come up for preliminary hearing on 15.9.2015.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Barkat Ali Ex-Constable No.895 Police Line Bannu received to-day i.e. on 16.07.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of medical prescriptions mentioned in para-3 of the memo of appeal (Annexure-C) are not attached with the appeal which may be placed on it.

No. 1093 /S.T,

Dt. 16/7 /2015

Mutillu
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re-submitted

the objections has been complied with

Ashraf Ali
Ashraf Ali
Khattak
Advocate

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

Service Appeal No. 852/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.

and others.....(Respondents)

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8.	Copy of Charge Sheet No. 18-19 dated 21/01/2015	E	19-20
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Barkat Ali
Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Dated: 16/07/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 852 /2015

M.W.F. Province
Service Tribunal
Slary No 868
Dated 16-7-2015

Barkat Ali Ex-Constable No. 895, Police Line
Bannu.....(Appellant)

VERSUS

1. Regional Police Officer, Bannu Rang Bannu.
2. District Police Officer, Bannu.
3. DSP Cantt, District Bannu.....(Respondents)

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 27/06/2015 PASSED BY
RESPONDENT NO. 1, WHEREBY HE WAS
PLEASED FOR NO INTERFERING WITH THE
ORDER OF MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE PASSED BY
RESPONDENT NO. 2 VIDE OB. NO. 316
DATED 31/03/2015.

PRAYER IN APPEAL:

On acceptance of the instant Service Appeal, the impugned order dated 25/06/2015 passed by respondent No. 1 on the representation/ departmental appeal of the appellant against the order (impugned herein) passed by respondent No. 2 of major punishment in shape of dismissal from service was not interfered be set aside, and the appellant be reinstated on the post with all back benefits.

16/7/15

re-submitted to-day and filed.

28/7/15

Respectfully Sheweth:

2

1. That the appellant was serving as Constable in the respondents department having Belt No. 895 and performed his duties with great zeal and zest till his dismissal from the service on the baseless allegation leveled against him.
2. That the respondent No. 3 firstly charge sheeted the appellant for the reason mentioned in the charge sheet. (Copy attached as annexure "A"). followed by statement of allegation dated 22/12/2014. (Copy attached as annexure "B").
3. That the appellant was directed vide charge sheet to submit his defence within 07 days of the receipt of the charge sheet to the enquiry officer which he responded positively by providing the concern authority his medical prescription. (Copy attached as annexure "C").
4. That, thereafter, an inquiry was conducted, then inquiry finings report was prepared after verifying the record from the hospital concerned and examining the witnesses in this regard and was found correct. Then he was

recommended for minor punishment. (Copy of the inquiry finding report is attached as annexure "D").

5. That thereafter, record inquiry was conducted against him regarding the allegations of he being involved in corruption being illegal gratification by fleering the general public and collecting heap of amount by giving false pledges of service in police department, as well as, the allegation of that he being a defaulter of Rs. 30,000/- of one Khalid Khan S/o Liaq ur Rehman.

6. That all the allegations leveled against him were duly replied in response of charge sheet No. 18-19 be dated 21/01/2015. (Copy of attached as annexure "E"), thereafter without fulfilling the codal formalities an inquiry findings report. (Annexure "F") and final report (Annexure "G") were submitted, where by penalty of major punishment was recommend against him.

7. That similar was the position of allegations/ departmental proceedings No. 3, whereby, he was charge sheeted for taking illegal gratification by and lacking the general public and colleting heap of amount by giving

false pledges of service in police department and he being defaulter of one namely Javed Khan S/o Amal Khan.

8. That on the basis of the recommendations of the so-called inquiries, the respondent No. 2 vide CB No. 316 dated 31/03/2015 No. 4295-98/EC dated Bannu the 31/03/2015 dismissed the appellant from the service and the allegation/ charge sheet about absence of 43 days was treated as without pay. (Copy attached as annexure "H").
9. That being aggrieved of the same, the appellant preferred a department representation/ appeal before the Hon'ble Respondent No. 1 on 08/05/2015 where all the legal and factual matters were discussed briefly. (Copy attached as annexure "I").
10. That respondent No. 1 in a very cursory manner dismissed his representation without giving any reason for the same. (Copy attached as annexure "J").
11. That being aggrieved of the same, the appellant prays the instant Service Appeal, inter-alia in the following amongst others:

GROUNDS:

A. That the appellant was joined the Police Department as constable and after undergoing basic training in the training institution reported back in the district and since then performing the duty with great zeal and zest.

B. That the appellant fell ill and was unable to perform the duty as the doctor has prescribed complete bed rest to the appellant. Being having no adult male member in his house the appellant. Being having informed the superior police officer regarding the illness vide which the appellant was charge sheeted. Reply to the charge sheet was cogent reasons but without substantiating the charges against the accused with solid reasons, the appellant has faced the agony of departmental proceedings.

C. That during the course of inquiry regarding the absence period, the appellant has produced medical prescription from the competent doctor and the same was shown to the inquiry officer during the course of inquiry which were placed on record. The inquiry officer was no other alternative except to the said medical prescription duly

verified from the concerned doctor, however the appellant was recommended for minor penalty by the inquiry officer Mir Faraz Khan Inspector in violation of law and procedure of inquiry because according to law the Government employee who is ill is not only authorized for the drawl of the full pay but also entitled for the expenditure incurred upon the treatment of the Government Servants but in may case my above period of medical leave was treated as without pay by the DPO Bannu ignored the basic principal of service and medical leave.

D. That the DPO Bannu vide disposing the inquiry of absence period has altogether diverted from the principal of procedure of inquiry and not assessed the finding of inquiry officer. Thus the order of DPO regarding treating the absence period as without pay is against the spirit of law.

E. That Government Official is responsible for the deed and mis-deed during the course of service pertaining to the service terms and condition and the officers has got no power to resolve the private issues of the government employee. During disposal of the allegations of debt of

Rs. 30,000/- of one Khalid Khan S/o Laiq Rehman, the inquiry officer has travelled beyond his jurisdiction because the money matter was involved and the complainant Khalid Khan has got the remedy in the Civil Court for the recovery of the same. Regarding the allegations of illegal gratification, no evidence on record is available to suggest that the appellant has obtained any illegal gratification from any person. The inquiry officer has also not produced any such persons from whom the appellant has obtained illegal gratification.

- F. That the appellant is constable in the Police Department and above the constable there are so many immediate officers and how one constable can dare to obtain illegal gratification for any job/ work. If someone is offering such like illegal gratification to any such person he is equally responsible for the guilt because that person is expecting illegal job/ work from someone but no such action has taken against any person which clearly suggest that the allegations is baseless and having no footing but for some ulterior motive the same has been manipulated.

G. That while disposing the second inquiry the DPO Bannu has also passed Omini Bus order against the appellant without giving any reasons. According to the recent ruling of august Supreme Court of Pakistan, any order by the authority pertaining to the major penalty must be based upon reasons. Order regarding agreeing with the findings of the inquiry officer without solid reasons is against the spirit of law and the same has been repeated in this order.

H. That the appellant has performed his duty well according to the required standard and so many persons might be annoyed from the performance of duty of the appellant and they might have managed tabulation for creating problems to the appellant.

I. That it is submitted regarding the allegations of the 3rd departmental proceedings which are also of the nature of the second departmental proceedings and my same contention responded above will be fro the same allegation.

J. That all the inquires conducted by the Inquiry Officers are in violation of law because the inquiry officers are

duty bound to give full opportunity of cross examination to the defaulting officer during the course of inquiry proceeding and examination of PWs but in the case of appellant no such opportunity has been provided to appellant which is against the spirit of law and procedure of inquiry. It has been held in the ruling of service tribunal as well as appellate Court that any other order without giving proper opportunity to the defaulting officer regarding cross examination on the PWs is the nullity in they eyes of law.

K. That the appellant has been deprived from the mandatory provision of giving final show cause notice after finalization of inquiry which is essential for just disposal of departmental proceedings. All this suggest that the inquiry and order of the DPO against the appellant are bad in law and suggest that the authority has decided to remove the appellant from service prior to disposal of departmental proceeding on merit.

L. That the appellant is a poor man having the responsibility of large family and the service is the only bread earning of the appellant. The appellant dismissal

from service will not only ruined the appellant but also the large family of the appellant.

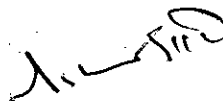
It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned order dated 25/06/2015 passed by respondent No. 1 on the representation/ departmental appeal of the appellant against the order (impugned herein) passed by respondent No. 2 of major punishment in shape of dismissal from service was not interfered be set aside, and the appellant be reinstated on the post with all back benefits.

OR

Any other relief which this august Tribunal deems appropriate may kindly be awarded to meet the ends of justice.


Appellant

Through


Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Dated: 16/07/2015

(18)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.

and others.....(Respondents)

AFFIDAVIT

I, **Ashraf Ali Khattak** Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Ashraf Ali Khattak
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.
and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Barkat Ali Ex-Constable No. 895, Police Line Bannu.

RESPONDENTS:

- 1. Regional Police Officer, Bannu Rang Bannu.
- 2. District Police Officer, Bannu.
- 3. DSP Cantt, District Bannu.

(Signature)

Appellant

Through

(Signature)

Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Dated: 16/07/2015

Amoc- A

(13)

Annexure A.

CHARGE SHEET:

I, ABDUR RASHID, District Police Officer, Bannu, as competent authority, hereby charge you CONSTABLE Barkat Ali No.966EF/895 as follows:-

1. That you while posted to Elite Force KPK, Peshawar, absented yourself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 5286-87/EF dated 17-10-2014.
2. - By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
4. Your written defense, 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 ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

ATTESTED

Abdur Rashid

Amce = B = (14)

Annexure B

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that CONSTABLE Barkat Ali No.966EF/895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

1. That he while posted to Elite Force KPK, Peshawar, absented himself ourself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mir Faraz Khan/Inspector legal is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

Abdur Rashid
(ABDUR RASHID) PSP
District Police Officer,
Bannu.

No. 660-01 P/dl. 22-12-2014
Copies to :-

1. The Enquiry Officer (Inspector legal)
2. The Accused Official.

ATTESTED

Asad

کوالہ = $\frac{08}{2014}$ تا $\frac{06}{2014}$

دس لاکھ روپے

CPANo 22553 کوالہ = $\frac{08}{2014}$ تا $\frac{09}{2014}$
09-08-2014

تین لاکھ روپے

CPANo 25674 کوالہ = $\frac{08}{2014}$ تا $\frac{23}{2014}$

ایک لاکھ روپے

تمام حد لڑہ بالا حد لیکل سے سٹوڈنٹ نمبر اور برائے
حد ظرفیت میں جلی سٹیمپل سے لیکر لکھائی جاسکتی ہے
جو بالکل درست ہیں اور میں واقعی بیمار تھا۔ اب
صحت یابا بدلتے ہوئے یا آغا عہدہ اپنی سرکاری ڈیوٹی
سراجام دے رہے ہوں

اس لیے امتد عیالہ حد لیکل مارٹنڈسٹ
کی درستی میں جاری سٹیمپ داخل کرنا یا جانے
میں ذاتی طور پر مرض و مویش کے لئے کسی سٹیمپ
ہونا چاہتا ہوں

کاپیٹل برلن علی 766EF
295
پیرس میں ہوں

ATTESTED

ASAS

INQUIRY FINDINGS REPORT

Mr. Barkat Ali No.966EF/895 was charge-sheeted on the charges that he while posted to Elite Force KPK, Peshawar absented himself from official duty for a period of 43 days w.e.f 23.01.2014 to 30.01.2014, 04.02.2014 to 07.04.2014, 04.03.2014 to 05.03.2014, 22.05.2014 to 28.05.2014, 28.05.2014 to 04.06.2014, 08.06.2014 to 16.06.2014, 09.08.2014 to 11.08.2014, 23.08.2014 to 30.08.2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No.1528-87/EF dated 17.10.2014.

The undersigned was appointed as Enquiry Officer to scrutinize the conduct of accused with reference to the above allegations.

Charge-sheet with statements of allegations was delivered to accused official and his written reply received and placed on file. In his reply, he stated that he has not willfully absented from duty but was ill. Medical documents containing rest from 23.01.2014 to 30.01.2014, 04.02.2014 to 07.02.2014, 04.03.2014 to 05.03.2014, 22.05.2014 to 28.05.2014, 28.05.2014 to 04.06.2014, 08.06.2014 to 16.06.2014, 09.08.2014 to 11.08.2014 and 23.08.2014 to 30.08.2014 were produced and verified from the Hospital and found to be correct.

The following witnesses were examined in the presence of accused official: -

- ❖ **Naemullah ASI/PC** Platoon No. 83 Elite Force District Bannu stated that accused official has remained in his platoon for about sufficient period. During posting, he remained absent from duty for about 42/43 days on various occasions and absence reports have entered in daily diary of each police stations and the same were submitted to reader DSP/SP Elite Force Bannu for appropriate action. He admitted correct a written report ex-PA and signed by him.
- ❖ **Muharer PS Domel (Abid Ulalh HC)** admitted correct DD report No.19, 11, 22, 26, 10 and 14 regarding the absence of accused official from duty.
- ❖ **Muharers** police stations Bakka Khel, Ghoriwala and Police Line were called time and again for statement but they did not appear.

Statement of accused Barkat Ali was recorded, wherein he narrated the same as already discussed in his reply to charge-sheet.

From the perusal of statements of witnesses and reply of accused official, it reveals that the accused official while serving under the control of Commandant Elite Force, KPK, Peshawar has absented from duty for about 42/43 days. The accused official has taken the plea that he was ill and produced medical rest certificates which was

ATTESTED
V. S. S. S.

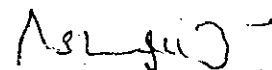
verified from the concerned medical officer and found to be correct. Witness Muhammad Naeem ASI incharge Platoon No.83 Elite Force has also admitted in cross examination that accused official has informed him through phone regarding illness but no certificate or application for medical leave was presented.

In view of the above, it came to light that absence of accused official from duty was not willful but was due to illness. However the only negligence on part of accused official is that he has not moved application for medical leave to the incharge platoon No.83 and produced the medical certificates at this belated stage for which he is recommended for minor punishment and the period of absence about 42/43 days may be treated as kind leave or otherwise.

Submitted please.


(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED



خدمت چاہے ڈیپارٹمنٹ پولیس آفیسر چاہے

19 - چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

2 - چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

3 - چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

4 - چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

5 - چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

چارج شیڈ - - - - -

ATTESSED
1975/10/25

P2

۱۔ یہ ہے کہ صرف علم الزمان بنادنی اور نہ صرف

تصرف علم الزمان کے ساتھ ساتھ علم ہستی اور نہ صرف علم ہستی کے

۲۔ یہ ہے کہ صرف علم الزمان کے ساتھ ساتھ علم ہستی اور نہ صرف علم ہستی کے

۳۔ یہ ہے کہ صرف علم الزمان کے ساتھ ساتھ علم ہستی اور نہ صرف علم ہستی کے

۴۔ یہ ہے کہ صرف علم الزمان کے ساتھ ساتھ علم ہستی اور نہ صرف علم ہستی کے

۱۰-۲-۱۵

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BA

10-2-15

ATTESTED

Handwritten signature

Amx F (21)

Annexure F

INQUIRY FINDINGS REPORT

Constable Barkat Ali No.895 was charge-sheeted on the charges that he was involved in corruption/taking illegal gratification by fleecing the general public and collected heaps of amount by giving false pledges of service in Police department. He was also defaulter of worth rupees 30000/- of complainant Khalid Khan s/o Laiq ur Rehman and also given threats him as evident from the complaint of the complainant.

The Undersigned was appointed as Enquiry Officer for the purposes of scrutinizing the conduct of said accused with reference to the above allegations. Copy of charge-sheet with statement of allegations was delivered to the accused constable on 28.01.2015 and his reply was received on 10.02.2015. As per his reply he stated that he has served in Elite Force for about 7/8 years and transferred to the District Police at about two months ago. He further explained that he has performed duty honestly and never received/demanded illegal gratification from the people. On account of property dispute with his relatives, the applicant Khalid Khan has leveled baseless complaint against him. He denied the charges.

Applicant Mr. Khalid Khan s/o Laiq ur Rehman r/o Fatma Khel, Bannu was summoned time and again for recording his statement but he attended the office of Undersigned on 13.02.2015 and sought time for recording his statement till 23.02.2015.

On 23.02.2015 his statement was recorded in the presence of accused constable Barkat Ali, wherein he admitted correct the contents and signature of his complaint EX: PA. He further explained that as per written declaration, the accused constable has not paid Rupees 54000/- to the applicant Khalid Khan and the accused constable has threatened him with dire consequences and confining him in Hawalat (illegal detention).

Statement of OSI Gul Muhammad DPO Office was recorded. He stated that constable Barkat Ali was transferred from Elite Force KPK Peshawar and serving in District Police Bannu for the last two months. His Fauji-misal (service record etc:) has not received from Elite Force so far, however as per report of Deputy Commandant and SP Elite Force Bannu, he has been kept under observation. Similarly report of Special Branch Bannu reveal that he has been involved in financial corruption and misappropriated a lot of money from the people on the pretext of giving service in Police Department.

Statement of accused constable Barkat Ali was recorded, wherein he relied on his written reply already submitted to the charge-sheet and did not want to produce any defense in his support.

ATTACHED
MAY 2015

In view of the above statements and documentary record, I have reached to conclusion that defaulter constable has misappropriated Rupees 54000/- from the applicant Khalid Khan without any legal justification and also given threaten to him for dire consequences. Further more he has been kept under observation by the Police and Elite High Ups on the grounds that he has allegedly been involved in financial corruption and embezzled amount from the people on the pretext of recruitment in Police Department. The charges leveled against the accused constable are established and he is found guilty.

Submitted for consideration please.



(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED

Aslam

(149)

منجانب: ڈی ایس پی کینٹ ضلع بنوں
بجانب: ڈسٹرکٹ پولیس آفیسر، بنوں

نمبر: 174/1 مورخہ 10312515

فائنل رپورٹ

عنوان: انکوائری برخلاف اڈا کنشیل برکت علی نمبر 895 متعینہ پولیس لائن بنوں

- الزامات:- (1) یہ کہہ رشوت اور غوام کو نوکری کا جھانسدیکر محکمہ پولیس میں بھرتی کرنے کے بہانے پر رقم وصول کرنے میں ملوث ہے۔
(2) یہ کہ درخواست گزار جاوید خان ولد عمل خان سکنہ چارنگلی چوک سے مبلغ 270000/- روپیہ اسی مقصد سے وصول کر چکا ہے۔

☆ انکوائری ہڈا میں کنشیل برکت علی 895، محمد شفیق 3475 متعینہ پولیس لائن اور جاوید خان ولد عمل خان سکنہ بنوں شی چارنگلی چوک کے بیانات قلمبند کئے گئے۔

☆ کنشیل برکت علی 895 نے اپنے بیان میں وضاحت کی کہ عرصہ دو سال قبل اس نے کمپنٹ کنندہ سے مبلغ 170000/- روپیہ لئے تھے۔ اور کمپنٹ کنندہ کو واپس کئے ہیں۔ اور مبلغ 33000/- روپیہ رو برو کنشیل محمد شفیق دئے تھے۔ مزید دریافت کرنے پر بتلایا کہ ابتدائی انکوائری میں اس نے جھوٹا بیان دیا تھا۔ مزید یہ کہ کنشیل نے پہلے بیان میں بتایا کہ اس نے مبلغ 170000/- روپیہ ہود جوگی کنشیل محمد شفیق واپس دیئے ہیں۔ لیکن کنشیل محمد شفیق نے اس کے بیان کی تردید کرتے ہوئے بتایا کہ کنشیل برکت علی 895 نے کل مبلغ 33000/- روپیہ میرے رو برو واپس کئے تھیں۔

☆ کمپنٹ کنندہ جاوید خان نے اپنے بیان میں بتایا کہ کنشیل برکت علی نمبر 895 نے اس سے بغرض بھرتی کرنے جیل کنشیل اور جوہر کلرک مبلغ 270000/- روپیہ لئے تھے۔ اس رقم میں مبلغ 33000/- اور 15000 روپیہ کل ملا کر 48000/- روپیہ واپس کئے ہیں۔ اور بقایا رقم دینے سے صاف انکاری ہے۔

رابعہ انکوائری آفیسر:

☆ کردہ انکوائری، جملہ بیانات، خفیہ پتہ برابری اور سابقہ انکوائری کے ملاحظہ کرنے پر یہ امر عیاں ہے۔ کہ الزام علیہ کنشیل برکت علی نمبر 895 جو سابقہ DSP ہدایت اللہ لاشاری (مرحوم) کے ساتھ بطور گن مین تعینات تھا۔ اور درخواست گزار جاوید خان کا DSP صاحب کے ساتھ دوستانہ تعلقات تھیں۔ اکثر اوقات درخواست گزار کا DSP صاحب کے ساتھ آنا جانا ہوا کرتا تھا۔ کہ اس دوران کنشیل برکت علی نمبر 895 کے ساتھ بھی تعلقات استوار ہوئے۔

☆ کنشیل مذکورہ نے درخواست گزار کو یقین دلایا تھا کہ اس کا سیسب علی نامی سپرنٹنڈنٹ محکمہ جیل خانہ جات کے ساتھ تعلقات ہیں۔ میں محکمہ جیل خانہ جات میں اسکے ذریعے کسان بھرتی کر سکتا ہوں۔ اور اسی لالچ میں درخواست گزار سے رقم وصول کیا تھا۔ بعد وہ کسان بھرتی کرنے میں ناکام ہوا۔ درخواست گزار نے کنشیل مذکورہ سے رقم واپسی کا مطالبہ کیا مگر کنشیل مذکورہ نے مبلغ 33000+15000 کل ملا کر 48000/- روپیہ وقتاً فوقتاً واپس کرنا ثابت کیا ہے۔ جبکہ بقایا رقم تا حال واپس نہیں کیا ہے۔

ATTACHED
ASL/MS

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☆ یہ امر قابل ذکر ہے۔ کہ کنستبل برکت علی نمبر 895 جو استجائی مکار اور چالاک قسم کی آپکار ہے۔ وقتاً فوقتاً بیان تبدیل کرتا رہتا ہے۔ مبلغ 170000/- روپیہ تسلیم کرتا ہے۔ جبکہ درخواست گزار 270000/- روپیہ کا دعویہ ار ہے۔ یہ ایک طرف! لیکن کسی کنستبل کا اس قسم کی لین دین میں شریک ہونا حکمہ پولیس کیلئے ناسور سے کم نہیں ہے۔

۱۔ جملہ خائن کو مد نظر رکھتے ہوئے کنستبل برکت علی نمبر 895 کیلئے Major Punishment سزا کی سفارش کی کرتا ہوں۔ تاکہ آئندہ حکمہ پولیس کے دیگر اہلکاران سے نشان عبرت بن سکے۔ فائنل رپورٹ عرض ہے۔

ڈی ایس پی کینٹ بنوں

30/03/2015

Heard in all three Inquiries -
 Not satisfactory.
 Dismissed from Service with
 Immediate effect. Absence
 period of 43 days converted into with
 out pay. The rest of the
 Anash - d.
 DPO Bannu.

43 -
 Days

ATTESTED
 15/4/15

ORDER:

Annex H (95)

Annexure H

This order of the undersigned will dispose off the departmental proceedings initiated against Barkat Ali Constabulary No. 895, under police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014), who (the accused) had committed various types of misconduct/allegations from time to time and separate departmental proceedings were initiated against him on each misconduct/allegations with the following details,

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS NO.1

That he while posted to Elite Force KPK, Peshawar, absented himself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.

Mr. Mir Faraz Khan, Inspector conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him and recommend the accused for award of minor punishment.

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS.NO.2

That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.

That he was also defaulter of worth Rs.30000/- of complainant Khalid Khan S/O Laiq Ur Rehman and also threatened him as evident from the complaint of the complainant.

Mr. Mir Faraz Khan, Inspector conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him.

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS.NO.3

That he was involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.

That he was also defaulter of worth Rs.270000/- of complainant Javed Khan S/O Amal Khan R/O Char Bijli Chowk Bannu as evident from the complaint.

DSP/Cantt, Bannu conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him and recommended for award of major punishment.

Opportunity of personal hearing was afforded to the accused in each departmental proceedings which was availed by the accused in orderly Room on dated 30-3-2015. During personal hearing, the accused failed to rebut the allegations established against him.

Keeping in view the above I, ABDUR RASHID, DISTRICT POLICE OFFICER, BANNU in exercise of the power vested in me under police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014), hereby dismiss accused Barkat Ali constabulary No. 895 from service and the unauthorized absence of 43 days is treated as without pay.

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

OB No. 316
Dated: 31-03- /2015.
No. 4295-98 /EC dated Bannu, the 31-3 /2015
Copy to:

1. The Regional Police Office, Bannu Region, Bannu for f/o Information.
2. The DSP/HQrs
3. The OASI, (along with complete enquiry files) for N.A.
4. The Pay Officer for doing the needful.

(ABDUR RASHID)PSP
District Police Officer,
Bannu.

AFFECTED
Abdur Rashid

Annex-I

26

Annexure I

The Regional Police officer,
Bannu Range Bannu.

Subject: REPRESENTATION AGAINST THE ORDER OF DPO BANNU VIDE ORDER OB NO. 316 DATED 31/3/15 AND NO. 4295-98 VIDE WHICH THE PETITIONER WAS DISMISSED FROM SERVICE AND THE UNAUTHORIZED ABSENT PERIOD OF 43 DAYS IS TREATED AS WITHOUT PAY. THE DPO HAS DISPOSED OFF THROUGH SINGLE ORDER THREE DEPARTMENTAL PROCEEDINGS AS EVIDENT FROM THE ABOVE ORDER.

Respected Sir,

The petitioner prayed as under:-

1. That the petitioner has joined the police deptt as constable and after undergoing basic training in the training institution reported back in the district and since then performing the duty with great zeal and zest.
2. That the petitioner fell ill and was unable to perform the duty as the doctor has prescribed complete bed rest to the petitioner. Being having no adult male member in his house the petitioner has not informed the superior police officer regarding the illness vide which the petitioner was charge sheeted. Reply to the charge sheet was submitted with cogent reasons but without substantiating the charges against the accused with solid reasons, the petitioner has faced the agony of departmental proceedings.
3. That during the course of inquiry regarding the absence period, the petitioner has produced medical prescription from the competent doctor and the same was shown to the inquiry officer during the course of inquiry which were placed on record. The inquiry officer was no other alternative except to accept the said medical prescription duly verified from the concerned doctor, however the petitioner was recommended for minor penalty by the inquiry officer Mir Faraz Khan Inspector in violation of law and procedure of inquiry. Because according to law the Govt employee who is ill is not only authorized for the drawl of the full pay but also entitled for the expenditure incurred upon the treatment of the Govt: servant but in my case my above period

ATTESTED

Asly

of medical leave was treated as without pay by the DPO Bannu ignoring the basic principal of service and medical leave.

4. That the DPO Bannu vide disposing the inquiry of absence period has altogether diverted from the principal of procedure of inquiry and not assessed the finding of the inquiry officer. Thus the order of DPO regarding treating the absence period as without pay is against the spirit of law.
5. That Govt: official is responsible for the deed and mis-deed during the course of service pertaining to the service terms and condition and the officers has got no power to resolve the private issues of the government employee. During disposal of the allegations of debt of Rs. 30,000/- of one Khalid Khan s/o Laiq Rehman, the inquiry officer has travelled beyond his jurisdiction because the money matter was involved and the complainant Khalid Khan has got the remedy in the Civil Court for the recovery of the same. Regarding the allegation of illegal gratification, no evidence on record is available to suggest that the petitioner has obtained any illegal gratification from any person. The inquiry officer has also not produced any such person from whom the petitioner has obtained illegal gratification.
6. That the petitioner is constable in the police department and above the constable there are so many immediate officers and how one constable can dare to obtain illegal gratification for any job / work. If someone is offering such like illegal gratification to any such person he is equally responsible for the guilt because that person is expecting illegal job/work from someone but no such action has taken against any person which clearly suggest that the allegation is baseless and having no footing but for some ulterior motive the same has been manipulated.
7. That while disposing the second inquiry the DPO Bannu has also passed Omni bus order against the petitioner without giving any reasons. According to the recent ruling of august Supreme court of Pakistan, any order by the authority pertaining to the major penalty must be based upon reasons. Order regarding agreeing with the findings of the inquiry officer without solid reasons is against the spirit of law and the same has been repeated in this order.

ATTESTED

درویش

- 8. That the petitioner has performed his duty well according to the required standard and so many persons might be annoyed from the performance of duty of the petitioner and they might have managed tabulation for creating problems to the petitioner.
- 9. That it is submitted regarding the allegation of the 3rd departmental proceedings which are also of the nature of the second departmental proceedings and my same contention responded above will be for the same allegation.
- 10. That all the inquiries conducted by the Inquiry officers are in violation of law because the inquiry officers are duty bound to give full opportunity of cross examination to the defaulting officer during the course of inquiry proceeding and examination of PWs but in my case no such opportunity has been provided to me which is against the spirit of law and procedure of inquiry. It has been held in the ruling of service tribunal as well as appellate court that any order without giving proper opportunity to the defaulting officer regarding cross examination on the PWs is the naulty in the eyes of law.
- 11. That the petitioner has been deprived from the mandatory provision of giving final show cause notice after finalization of inquiry which is essential for just disposal of departmental proceedings. All this suggest that the inquiry and order of the DPO against the petitioner are bad in law and suggest that the authority has decided to remove me from service prior to disposal of departmental proceeding on merit.
- 12. That I am a poor man having the responsibility of large family and the service is my only bread earning. My dismissal from service will not only ruined me but also my large family.

Keeping in view the above, it is requested that the order of DPO Bannu vide OB No. 316 dated 31/3/15 may be set-aside in all the three departmental proceedings mentioned above and I may be re-instated from service from the date of my dismissal and also my absence period may be treated as leave with pay for the best interest of justice.

No 1085 / EC, dt 08/5/15

DPO Bannu

Fr Comments File Also send

8/Record.

[Signature]

RPO Bannu Region
15

Yours obedient

[Signature]
Barkat Ali

Fr: Constable No. 895

ATTACHED

(SLG)

ORDER.

My this order will dispose off the departmental appeal of Ex: Constable Barkat Ali No. 895 of Bannu District Police against the Major punishment of his dismissal from service under Police Rules-1975, awarded by DPO/Bannu vide OB: No. 316 dated 31.3.2015 on committing the following omissions:-

1. That, he while, posted in Elite Force KPK, Peshawar absented himself from official duty for the of 43-days without any permission of the competent authority as evident from the Dy: Commandant Elite Force, KPK, Peshawar Memo: No. 15286-87/EF dated 17.10.2014.
2. That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department. He was also defaulter of worth Rs. 30000/- of complainant Khalid Khan s/o Laiq-ur-Rehman and also threatened him as evident from the complaint of the complainant.
3. That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department. He was also defaulter of worth Rs. 270000/- of complainant Javed Khan s/o Amal Khan r/o Char Bijli Chowk Bannu as evident from the complaint.

Service Record of the appellant was thoroughly perused and the appellant heard in person in orderly room on 23.6.2015 by the undersigned.

Therefore, I, Muhammad Tahir, PSP, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusing the record and hearing the appellant in orderly room, came to the conclusion that the order of Major punishment of dismissal from service, passed by DPO/Bannu vide OB: No. 316 dated 31.3.2015 cannot be interfered, being one in consonance with law. Hence, appeal is filed.

Order announced.

M. Tahir
(Muhammad Tahir) PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 1474 /EC, dated. 25/06/2015. *25/6/15*

Copy to :-

- The District Police Officer, Bannu for information and n/action w/r-to his office Memo: 8329 dated 15.6.2015.

M. Tahir
(Muhammad Tahir) PSP
Regional Police Officer,
Bannu Region, Bannu.

ATTESTED
M. Tahir

INQUIRY FINDINGS REPORT

Constable Barkat Ali No.895 was charge-sheeted on the charges that he was involved in corruption/taking illegal gratification by fleecing the general public and collected heaps of amount by giving false pledges of service in Police department. He was also defaulter of worth rupees 30000/- of complainant Khalid Khan s/o Laiq ur Rehman and also given threats him as evident from the complaint of the complainant.

The Undersigned was appointed as Enquiry Officer for the purposes of scrutinizing the conduct of said accused with reference to the above allegations. Copy of charge-sheet with statement of allegations was delivered to the accused constable on 28.01.2015 and his reply was received on 10.02.2015. As per his reply he stated that he has served in Elite Force for about 7/8 years and transferred to the District Police at about two months ago. He further explained that he has performed duty honestly and never received/demanded illegal gratification from the people. On account of property dispute with his relatives, the applicant Khalid Khan has leveled baseless complaint against him. He denied the charges.

Applicant Mr. Khalid Khan s/o Laiq ur Rehman r/o Fatma Khel, Bannu was summoned time and again for recording his statement but he attended the office of undersigned on 13.02.2015 and sought time for recording his statement till 23.02.2015.

On 23.02.2015 his statement was recorded in the presence of accused constable Barkat Ali, wherein he admitted correct the contents and signature of his complaint EX: PA. He further explained that as per written declaration, the accused constable has not paid Rupees 54000/- to the applicant Khalid Khan and the accused constable has threatened him with dire consequences and confining him in Hawalat (illegal detention).

Statement of OSI Gul Muhammad DPO Office was recorded. He stated that constable Barkat Ali was transferred from Elite Force KPK Peshawar and serving in District Police Bannu for the last two months. His Fauji-misal (service record etc.) has not received from Elite Force so far, however as per report of Deputy Commandant and SP Elite Force Bannu, he has been kept under observation. Similarly report of Special Branch Bannu reveal that he has been involved in financial corruption and misappropriated a lot of money from the people on the pretext of giving service in Police Department.

Statement of accused constable Barkat Ali was recorded, wherein he relied on his written reply already submitted to the charge-sheet and did not want to produce any defense in his support.

ATTESTED
ASL 9/11/15

34

In view of the above statements and documentary record, I have reached to conclusion that defaulter constable has misappropriated Rupees 54000/- from the applicant Khalid Khan without any legal justification and also given threaten to him for dire consequences. Further more he has been kept under observation by the Police and Elite High Ups on the grounds that he has allegedly been involved in financial corruption and embezzled amount from the people on the pretext of recruitment in Police Department. The charges leveled against the accused constable are established and he is found guilty.

Submitted for consideration please.



(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED

NSL (u)

بعدالت سروس ٹریبونل پشاور



2 منتخب مسائل

برکت علی بنام P.P.5

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے اشرف علی خٹک ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تارج پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

فصلت
مختار
قانونی

2015

ماہ جولائی

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.

and others.....(Respondents)

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Barkat Ali
Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Dated: 16/07/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali Ex-Constable No. 895, Police Line
Bannu.....(Appellant)

VERSUS

- 1. Regional Police Officer, Bannu Rang Bannu.
- 2. District Police Officer, Bannu.
- 3. DSP Cantt, District Bannu.....(Respondents)

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
DATED 27/06/2015 PASSED BY
RESPONDENT NO. 1, WHEREBY HE WAS
PLEASED FOR NO INTERFERING WITH THE
ORDER OF MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE PASSED BY
RESPONDENT NO. 2 VIDE OB. NO. 316
DATED 31/03/2015.

PRAYER IN APPEAL:

On acceptance of the instant Service Appeal, the impugned order dated 25/06/2015 passed by respondent No. 1 on the representation/ departmental appeal of the appellant against the order (impugned herein) passed by respondent No. 2 of major punishment in shape of dismissal from service was not interfered be set aside, and the appellant be reinstated on the post with all back benefits.

Respectfully Sheweth:

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1. That the appellant was serving as Constable in the respondents department having Belt No. 895 and performed his duties with great zeal and zest till his dismissal from the service on the baseless allegation leveled against him.
2. That the respondent No. 3 firstly charge sheeted the appellant for the reason mentioned in the charge sheet. (Copy attached as annexure "A"). followed by statement of allegation dated 22/12/2014. (Copy attached as annexure "B").
3. That the appellant was directed vide charge sheet to submit his defence within 07 days of the receipt of the charge sheet to the enquiry officer which he responded positively by providing the concern authority his medical prescription. (Copy attached as annexure "C").
4. That, thereafter, an inquiry was conducted, then inquiry findings report was prepared after verifying the record from the hospital concerned and examining the witnesses in this regard and was found correct. Then he was

3

recommended for minor punishment. (Copy of the inquiry finding report is attached s annexure "D").

5. That thereafter, record inquiry was conducted against him regarding the allegations of he being involved in corruption being illegal gratification by fleering the general public and collecting heap of amount by giving false pledges of service in police department, as well as, the allegation of that he being a defaulter of Rs. 30,000/- of one Khalid Khan S/o Liaq ur Rehman.
6. That all the allegations leveled against him were duly replied in response of charge sheet No. 18-19 be dated 21/01/2015. (Copy of attached as annexure "E"), thereafter without fulfilling the codal formalities an inquiry findings report. (Annexure "F") and final report (Annexure "G") were submitted, where by penalty of major punishment was recommend against him.
7. That similar was the position of allegations/ departmental proceedings No. 3, whereby, he was charge sheeted for taking illegal gratification by and lacking the general public and colleting heap of amount by giving

(4)

false pledges of service in police department and he being defaulter of one namely Javed Khan S/o Amal Khan.

8. That on the basis of the recommendations of the so-called inquiries, the respondent No. 2 vide CB No. 316 dated 31/03/2015 No. 4295-98/EC dated Bannu the 31/03/2015 dismissed the appellant from the service and the allegation/ charge sheet about absence of 43 days was treated as without pay. (Copy attached as annexure "H").
9. That being aggrieved of the same, the appellant preferred a department representation/ appeal before the Hon'ble Respondent No. 1 on 08/05/2015 where all the legal and factual matters were discussed briefly. (Copy attached as annexure "I").
10. That respondent No. 1 in a very cursory manner dismissed his representation without giving any reason for the same. (Copy attached as annexure "J").
11. That being aggrieved of the same, the appellant prays the instant Service Appeal, inter-alia in the following amongst others:

5

GROUND:

- A. That the appellant was joined the Police Department as constable and after undergoing basic training in the training institution reported back in the district and since then performing the duty with great zeal and zest.

- B. That the appellant fell ill and was unable to perform the duty as the doctor has prescribed complete bed rest to the appellant. Being having no adult male member in his house the appellant. Being having informed the superior police officer regarding the illness vide which the appellant was charge sheeted. Reply to the charge sheet was cogent reasons but without substantiating the charges against the accused with solid reasons, the appellant has faced the agony of departmental proceedings.

- C. That during the course of inquiry regarding the absence period, the appellant has produced medical prescription from the competent doctor and the same was shown to the inquiry officer during the course of inquiry which were placed on record. The inquiry officer was no other alternative except to the said medical prescription duly

6

verified from the concerned doctor, however the appellant was recommended for minor penalty by the inquiry officer Mir Faraz Khan Inspector in violation of law and procedure of inquiry because according to law the Government employee who is ill is not only authorized for the drawl of the full pay but also entitled for the expenditure incurred upon the treatment of the Government Servants but in may case my above period of medical leave was treated as without pay by the DPO Bannu ignored the basic principal of service and medical leave.

- D. That the DPO Bannu vide disposing the inquiry of absence period has altogether diverted from the principal of procedure of inquiry and not assessed the finding of inquiry officer. Thus the order of DPO regarding treating the absence period as without pay is against the spirit of law.
- E. That Government Official is responsible for the deed and mis-deed during the course of service pertaining to the service terms and condition and the officers has got no power to resolve the private issues of the government employee. During disposal of the allegations of debt of

7

Rs. 30,000/- of one Khalid Khan S/o Laiq Rehman, the inquiry officer has travelled beyond his jurisdiction because the money matter was involved and the complainant Khalid Khan has got the remedy in the Civil Court for the recovery of the same. Regarding the allegations of illegal gratification, no evidence on record is available to suggest that the appellant has obtained any illegal gratification from any person. The inquiry officer has also not produced any such persons from whom the appellant has obtained illegal gratification.

F. That the appellant is constable in the Police Department and above the constable there are so many immediate officers and how one constable can dare to obtain illegal gratification for any job/ work. If someone is offering such like illegal gratification to any such person he is equally responsible for the guilt because that person is expecting illegal job/ work from someone but no such action has taken against any person which clearly suggest that the allegations is baseless and having no footing but for some ulterior motive the same has been manipulated.

(10)

from service will not only ruined the appellant but also the large family of the appellant.


It is, therefore, most humbly prayed that on acceptance of the instant Service Appeal, the impugned order dated 25/06/2015 passed by respondent No. 1 on the representation/ departmental appeal of the appellant against the order (impugned herein) passed by respondent No. 2 of major punishment in shape of dismissal from service was not interfered be set aside, and the appellant be reinstated on the post with all back benefits.

OR

Any other relief which this august Tribunal deems appropriate may kindly be awarded to meet the ends of justice.


Appellant

Through


Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Dated: 16/07/2015

duty bound to give full opportunity of cross examination to the defaulting officer during the course of inquiry proceeding and examination of PWs but in the case of appellant no such opportunity has been provided to appellant which is against the spirit of law and procedure of inquiry. It has been held in the ruling of service tribunal as well as appellate Court that any other order without giving proper opportunity to the defaulting officer regarding cross examination on the PWs is the nullity in they eyes of law.

K. That the appellant has been deprived from the mandatory provision of giving final show cause notice after finalization of inquiry which is essential for just disposal of departmental proceedings. All this suggest that the inquiry and order of the DPO against the appellant are bad in law and suggest that the authority has decided to remove the appellant from service prior to disposal of departmental proceeding on merit.

L. That the appellant is a poor man having the responsibility of large family and the service is the only bread earning of the appellant. The appellant dismissal

- G. That while disposing the second inquiry the DPO Bannu has also passed Omini Bus order against the appellant without giving any reasons. According to the recent ruling of august Supreme Court of Pakistan, any order by the authority pertaining to the major penalty must be based upon reasons. Order regarding agreeing with the findings of the inquiry officer without solid reasons is against the spirit of law and the same has been repeated in this order.

- H. That the appellant has performed his duty well according to the required standard and so many persons might be annoyed from the performance of duty of the appellant and they might have managed tabulation for creating problems to the appellant.

- I. That it is submitted regarding the allegations of the 3rd departmental proceedings which are also of the nature of the second departmental proceedings and my same contention responded above will be fro the same allegation.

- J. That all the inquires conducted by the Inquiry Officers are in violation of law because the inquiry officers are

(18)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.

and others.....(Respondents)

AFFIDAVIT

I, **Ashraf Ali Khattak** Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Ashraf Ali Khattak
ADVOCATE

(19)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2015

Barkat Ali(Appellant)

VERSUS

Regional Police Officer, Bannu Rang Bannu.

and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Barkat Ali Ex-Constable No. 895, Police Line Bannu.

RESPONDENTS:

1. Regional Police Officer, Bannu Rang Bannu.
2. District Police Officer, Bannu.
3. DSP Cantt, District Bannu.

BA

Appellant

Through

Ashraf Ali Khattak

Dated: 16/07/2015

Ashraf Ali Khattak
Advocate High Court,
Peshawar.

Amoc- A

(13)

Annexure A.

CHARGE SHEET:

I, ABDUR RASHID, District Police Officer, Bannu, as competent authority, hereby charge you CONSTABLE Barkat Ali No.966EF/895 as follows:-

1. That you while posted to Elite Force KPK, Peshawar, absented yourself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as videit from Deputy Commandant Elite Force, KPK, Peshawar memo No. 5286-87/EF dated 17-10-2014.
2. By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
4. Your written defense, 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 ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

ATTESTED

Abdur Rashid

Amc = B = (14)

Annexure B

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that CONSTABLE Barkat Ali No.966EF/895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

1. That he while posted to Elite Force KPK, Peshawar, absented himself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 23-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.
2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mir Faraz Khan/Inspector legal is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

Abdur Rashid
(ABDUR RASHID) PSP
District Police Officer,
Bannu.

No. 660-61 P/LL 22-12-2014
Copies to :-

1. The Enquiry Officer (Inspector legal)
2. The Accused Official.

ATTESTED
Asad

تاریخ عالی :-

محکمہ اہل چار ح سیدنا سکری آف ایئر سروس

نمبری 61-660 دوسرے 22/12/2014 درود

سوال :-

① بیٹا نے اپنی ڈیوٹی سے غیاضت کی قدر ہے
 کہ یہ بلکہ اسکو یہ بیماری ہے - اور ذہن
 تغیر سے میڈیکل ریسٹ | ایئر چارجڈ ٹول
 آفسر نے منظور کی ہے

2200 = 23/01/2014 تا 30/01/2014
 کوالہ OPD نمبر 2200
 دوسرے 22/01/2014 - ساتھیوں ریسٹ

3576 = 07/21/2014 تا 04/02/2014
 کوالہ OPD نمبر 3576
 04.02.2014
 میاں یوم ریسٹ

OPD NO 6526 = 05/03/2014 تا 04/03/2014
 کوالہ
 04.03.2014
 دو یوم ریسٹ

OPD NO 142969 = 28/05/2014 تا 22/05/2014
 کوالہ
 28/05/2014
 04/06/2014 تا 28/05/2014
 پندرہ یوم ریسٹ

ATTESTED
 (Signature)

CPDN No. 22553 7
09-08-2014
دس لوم چھ راتوں

کوالہ = 16 $\frac{06}{2014}$ تا 08 $\frac{08}{2014}$

CPDN No. 25674 9
23 $\frac{08}{2014}$

کوالہ = 11 $\frac{08}{2014}$ تا 09 $\frac{08}{2014}$

ایک بدوقتہ رپورٹ

تمام حد نذرہ بالا حید کھل سرٹیفکیٹ سمراہ برائے
حد فطرت میں خلیں ہسپتال سے کہ درلق کہ الی جا سکتی ہے
جو بالکل درست ہیں کہ در میں واقع بیمار تھا۔ اب
صحت یا یا بد نے پیر یا کا عدہ اپنی سرکاری ڈیوٹی
سرا انجام دے رکھ سوں

اسلئے ابتدا معاہدہ حید کھل مارٹیفکیٹ
کی درستی میں چارج شیٹ داخل فقہ فرمایا جائے
میں ذاتی طور پر عرض درود میں کے لئے کسی پیش
ہو یا چاہتا ہوں۔
ایک ماہیت

کامپل برلن علی غ 766EF
295
پولیس مدنی ہوں

ATTACHED
As

Annex - D

(17)

Annexure D.

INQUIRY FINDINGS REPORT

Mr. Barkat Ali No.966EF/895 was charge-sheeted on the charges that he while posted to Elite Force KPK, Peshawar absented himself from official duty for a period of 43 days w.e.f 23.01.2014 to 30.01.2014, 04.02.2014 to 07.04.2014, 04.03.2014 to 05.03.2014, 22.05.2014 to 28.05.2014, 28.05.2014 to 04.06.2014, 08.06.2014 to 16.06.2014, 09.08.2014 to 11.08.2014, 23.08.2014 to 30.08.2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No.1528-87/EF dated 17.10.2014.

The undersigned was appointed as Enquiry Officer to scrutinize the conduct of accused with reference to the above allegations.

Charge-sheet with statements of allegations was delivered to accused official and his written reply received and placed on file. In his reply, he stated that he has not willfully absented from duty but was ill. Medical documents containing rest from 23.01.2014 to 30.01.2014, 04.02.2014 to 07.02.2014, 04.03.2014 to 05.03.2014, 22.05.2014 to 28.05.2014, 28.05.2014 to 04.06.2014, 08.06.2014 to 16.06.2014, 09.08.2014 to 11.08.2014 and 23.08.2014 to 30.08.2014 were produced and verified from the Hospital and found to be correct.

The following witnesses were examined in the presence of accused official: -

- ❖ Naeemullah ASI/PC Platoon No. 83 Elite Force District Bannu stated that accused official has remained in his platoon for about sufficient period. During posting, he remained absent from duty for about 42/43 days on various occasions and absence reports have entered in daily diary of each police stations and the same were submitted to reader DSP/SP Elite Force Bannu for appropriate action. He admitted correct a written report ex-PA and signed by him.
- ❖ Muharar PS Domel (Abid Ulalh HC) admitted correct DD report No.19, 11, 22, 26, 10 and 14 regarding the absence of accused official from duty.
- ❖ Muharers police stations Bakka Khel, Ghoriwala and Police Line were called time and again for statement but they did not appear.

Statement of accused Barkat Ali was recorded, wherein he narrated the same as already discussed in his reply to charge-sheet.

From the perusal of statements of witnesses and reply of accused official, it reveals that the accused official while serving under the control of Commandant Elite Force, KPK, Peshawar has absented from duty for about 42/43 days. The accused official has taken the plea that he was ill and produced medical rest certificates which was

ATTESTED
Najam

18

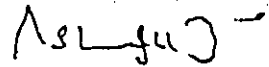
verified from the concerned medical officer and found to be correct. Witness Muhammad Naeem ASI incharge Platoon No.83 Elite Force has also admitted in cross examination that accused official has informed him through phone regarding illness but no certificate or application for medical leave was presented.

In view of the above, it came to light that absence of accused official from duty was not willful but was due to illness. However the only negligence on part of accused official is that he has not moved application for medical leave to the incharge platoon No.83 and produced the medical certificates at this belated stage for which he is recommended for minor punishment and the period of absence about 42/43 days may be treated as kind leave or otherwise.

Submitted please.


(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED



۴ - یہ ہے کہ عہدہ علم الزمان بنیادی اور بنیادی

تعمیراتی ہے۔ اس کے ساتھ ساتھ علم الزمان بنیادی اور بنیادی

۵ - یہ ہے کہ عہدہ علم الزمان بنیادی اور بنیادی

۶ - یہ ہے کہ عہدہ علم الزمان بنیادی اور بنیادی

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BA

10-2-15

ATTESTED
[Signature]

Amx F
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Annexure. F.

INQUIRY FINDINGS REPORT

Constable Barkat Ali No.895 was charge-sheeted on the charges that he was involved in corruption/taking illegal gratification by fleecing the general public and collected heaps of amount by giving false pledges of service in Police department. He was also defaulter of worth rupees 30000/- of complainant Khalid Khan s/o Laiq ur Rehman and also given threats him as evident from the complaint of the complainant.

The Undersigned was appointed as Enquiry Officer for the purposes of scrutinizing the conduct of said accused with reference to the above allegations. Copy of charge-sheet with statement of allegations was delivered to the accused constable on 28.01.2015 and his reply was received on 10.02.2015. As per his reply he stated that he has served in Elite Force for about 7/8 years and transferred to the District Police at about two months ago. He further explained that he has performed duty honestly and never received/demanded illegal gratification from the people. On account of property dispute with his relatives, the applicant Khalid Khan has leveled baseless complaint against him. He denied the charges.

Applicant Mr. Khalid Khan s/o Laiq ur Rehman r/o Fatma Khel, Bannu was summoned time and again for recording his statement but he attended the office of Undersigned on 13.02.2015 and sought time for recording his statement till 23.02.2015.

On 23.02.2015 his statement was recorded in the presence of accused constable Barkat Ali, wherein he admitted correct the contents and signature of his complaint EX: PA. He further explained that as per written declaration, the accused constable has not paid Rupees 54000/- to the applicant Khalid Khan and the accused constable has threatened him with dire consequences and confining him in Hawalat (illegal detention).

Statement of OSI Gul Muhammad DPO Office was recorded. He stated that constable Barkat Ali was transferred from Elite Force KPK Peshawar and serving in District Police Bannu for the last two months. His Fauji-misal (service record etc.) has not received from Elite Force so far, however as per report of Deputy Commandant and SP Elite Force Bannu, he has been kept under observation. Similarly report of Special Branch Bannu reveal that he has been involved in financial corruption and misappropriated a lot of money from the people on the pretext of giving service in Police Department.

Statement of accused constable Barkat Ali was recorded, wherein he relied on his written reply already submitted to the charge-sheet and did not want to produce any defense in his support.

ATTACHED
14/2/2015

(2), (22)

In view of the above statements and documentary record, I have reached to conclusion that defaulter constable has misappropriated Rupees 54000/- from the applicant Khalid Khan without any legal justification and also given threaten to him for dire consequences. Further more he has been kept under observation by the Police and Elite High Ups on the grounds that he has allegedly, been involved in financial corruption and embezzled amount from the people on the pretext of recruitment in Police Department. The charges leveled against the accused constable are established and he is found guilty.

Submitted for consideration please.


(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED

Asif

منجانب: ڈی ایس پی کینٹ ضلع بنوں

بجانب: ڈسٹرکٹ پولیس آفیسر، بنوں

نمبر: 1714/6 مورخہ 26/10/2015

فائنل رپورٹ

عنوان: انکوائری بر خلاف اذان کنشیل برکت علی نمبر 895 متعینہ پولیس لائن بنوں

الزامات:- (1) یہ کردہ رشوت اور غوام کو نوکری کا جھاندر دیکر محکمہ پولیس میں بھرتی کرنے کے بہانے پر رقم وصول کرنے میں ملوث ہے۔

(2) یہ کہ درخواست گزار جاوید خان ولد گل جان سکند چارنگلی چوک سے مبلغ- 270000/- روپیہ اسی مقصد سے وصول کر چکا ہے۔

☆ انکوائری ہذا میں کنشیل برکت علی 895، محمد شفیع 3475 متعینہ پولیس لائن اور جاوید خان ولد گل جان سکند بنوں شی چارنگلی چوک کے بیانات قلمبند کئے گئے۔

☆ کنشیل برکت علی 895 نے اپنے بیان میں وضاحت کی کہ عرصہ دو سال قبل اس نے کمپلٹ کنندہ سے مبلغ- 170000/- روپیہ لئے تھے۔ اور کمپلٹ کنندہ کو واپس کئے ہیں۔ اور مبلغ- 33000/- روپیہ رو برو کنشیل محمد شفیع دئے تھے۔ مزید دریافت کرنے پر بتلایا کہ ابتدائی انکوائری میں اس نے جھوٹا بیان دیا تھا۔ مزید یہ کہ کنشیل نے پہلے بیان میں بتایا کہ اس نے مبلغ- 170000/- روپیہ رو برو کنشیل محمد شفیع واپس دیئے ہیں۔ لیکن کنشیل محمد شفیع نے اس کے بیان کی تردید کرتے ہوئے بتایا کہ کنشیل برکت علی 895 نے کل مبلغ- 33000/- روپیہ میرے رو برو واپس کئے تھے۔

☆ کمپلٹ کنندہ جاوید خان نے اپنے بیان میں بتایا کہ کنشیل برکت علی نمبر 895 نے اس سے بغرض بھرتی کرنے جیل کنشیل اور جو بھر کلرک مبلغ- 270000/- روپیہ لئے تھے۔ اس رقم میں مبلغ- 33000/- اور 15000/- روپیہ کل ملا کر- 48000/- روپیہ واپس کئے ہیں۔ اور بقایا رقم دینے سے صاف انکاری ہے۔

رابطہ انکوائری آفیسر:

☆ کردہ انکوائری، جملہ بیانات، خفیہ پتہ برابری اور سابقہ انکوائری کے ملاحظہ کرنے پر یہ امر عیاں ہے۔ کہ الزام علیہ کنشیل برکت علی نمبر 895 جو سابقہ DSP ہدایت اللہ لاشاری (مرحوم) کیساتھ بطور گن مین تعینات تھا۔ اور درخواست گزار جاوید خان کا DSP صاحب کیساتھ دوستانہ تعلقات تھے۔ اکثر اوقات درخواست گزار کا DSP صاحب کے ساتھ آتا جاتا ہوا کرتا تھا۔ کہ اس دوران کنشیل برکت علی نمبر 895 کیساتھ بھی تعلقات استوار ہوئے۔

☆ کنشیل مذکورہ نے درخواست گزار کو یقین دلایا تھا۔ کہ اس کا سیما علی نامی سپرنٹنڈنٹ محکمہ جیل خانہ جات کیساتھ تعلقات ہیں۔ میں محکمہ جیل خانہ جات میں اسکے ذریعے کسان بھرتی کر سکتا ہوں۔ اور اسی لالچ میں درخواست گزار سے رقم وصول کیا تھا۔ بعد وہ کسان بھرتی کرنے میں ناکام ہوا۔ درخواست گزار نے کنشیل مذکورہ سے رقم واپس کا مطالبہ کیا مگر کنشیل مذکورہ نے مبلغ 33000+15000 کل ملا کر 48000/- روپیہ رقم واپس کرنا ثابت کیا ہے۔ جبکہ بقایا رقم تاحال واپس نہیں کیا ہے۔

ATTACHED
ASL (u)

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یہ امر قابل ذکر ہے۔ کہ کنستبل برکت علی نمبر 895 جو امتحانی کار اور چاناک قسم کی آپکار ہے۔ وقتاً فوقتاً بیان تبدیل کرتا رہتا ہے۔ مبلغ 170000/- روپیہ تسلیم کرتا ہے۔ جبکہ درخواست گزار 270000/- روپیہ کا دعویٰ دار ہے۔ یہ ایک طرف! لیکن کسی کنستبل کا اس قسم کی لین دین میں شریک ہونا محکمہ پولیس کیلئے ناسور سے کم نہیں ہے۔

ذیل جملہ حقائق کو مد نظر رکھتے ہوئے کنستبل برکت علی نمبر 895 کیلئے Major Punishment سزا کی سفارش کی جاتی ہے۔ تاکہ آئندہ محکمہ پولیس کے دیگر اہلکاران سے نشانِ عبرت بن سکے۔
فائل رپورٹ عرض ہے۔

ڈی ایس پی کینٹ بنوں

30/03/2015
Heard in all three inquiries -
Not satisfactory.
Dismissed from service with
immediate effect. Absence
period of 43 days converted into with
out pay. The rest of the
Amash - d.
Dfo Bannu.

43 -
Days

ATTESTED
ASLWUJ

ORDER:

Annexure H

This order of the undersigned will dispose off the departmental proceedings initiated against Barkat Ali Constabulary No. 895, under police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014), who (the accused) had committed various types of misconduct/allegations from time to time and separate departmental proceedings were initiated against him on each misconduct/allegations with the following details,

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS NO.1.

That he while posted to Elite Force KPK, Peshawar, absented himself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.

Mr. Mir Faraz Khan, Inspector conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him and recommend the accused for award of minor punishment.

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS.NO.2

That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.

That he was also defaulter of worth Rs.30000/- of complainant Khalid Khan S/O Laiq Ur Rehman and also threatened him as evident from the complaint of the complainant.

Mr. Mir Faraz Khan, Inspector conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him.

ALLEGATIONS /DEPARTMENTAL PROCEEDINGS.NO.3

That he was involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.

That he was also defaulter of worth Rs.270000/- of complainant Javed Khan S/O Amal Khan R/O Char Bijli Chowk Bannu as evident from the complaint.

DSP/Cantt, Bannu conducted inquiry into the allegations and submitted his findings, wherein, the accused was found guilty of the charges leveled against him and recommended for award of major punishment.

Opportunity of personal hearing was afforded to the accused in each departmental proceedings which was availed by the accused in orderly Room on dated 30-3-2015. During personal hearing, the accused failed to rebut the allegations established against him.

Keeping in view the above I, ABDUR RASHID, DISTRICT POLICE OFFICER, BANNU in exercise of the power vested in me under police rule 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014), hereby dismiss accused Barkat Ali constabulary No. 895 from service and the unauthorized absence of 43 days is treated as without pay.

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

CB No. 316
Dated: 31-03-2015
No. 4295-98 /EC dated Bannu, the 31-3 /2015
Copy to:

1. The Regional Police Office, Bannu Region, Bannu for f/o Information.
2. The DSP/HQrs
3. The OASI, (along with complete enquiry files) for N.A.
4. The Pay Officer for doing the needful.

(ABDUR RASHID)PSP
District Police Officer,
Bannu.

ATTACHED

13/04/15

Anx-I

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Annexure I

To,

The Regional Police officer,
Bannu Range Bannu.

Subject: REPRESENTATION AGAINST THE ORDER OF DPO BANNU VIDE ORDER OB NO. 316 DATED 31/3/15 AND NO. 4295-98 VIDE WHICH THE PETITIONER WAS DISMISSED FROM SERVICE AND THE UNAUTHORIZED ABSENT PERIOD OF 43 DAYS IS TREATED AS WITHOUT PAY. THE DPO HAS DISPOSED OFF THROUGH SINGLE ORDER THREE DEPARTMENTAL PROCEEDINGS AS EVIDENT FROM THE ABOVE ORDER.

Respected Sir,

The petitioner prayed as under:-

1. That the petitioner has joined the police deptt as constable and after undergoing basic training in the training institution reported back in the district and since then performing the duty with great zeal and zest.
2. That the petitioner fell ill and was unable to perform the duty as the doctor has prescribed complete bed rest to the petitioner. Being having no adult male member in his house the petitioner has not informed the superior police officer regarding the illness vide which the petitioner was charge sheeted. Reply to the charge sheet was submitted with cogent reasons but without substantiating the charges against the accused with solid reasons, the petitioner has faced the agony of departmental proceedings.
3. That during the course of inquiry regarding the absence period, the petitioner has produced medical prescription from the competent doctor and the same was shown to the inquiry officer during the course of inquiry which were placed on record. The inquiry officer was no other alternative except to accept the said medical prescription duly verified from the concerned doctor, however the petitioner was recommended for minor penalty by the inquiry officer Mir Faraz Khan Inspector in violation of law and procedure of inquiry because according to law the Govt employee who is ill is not only authorized for the drawl of the full pay but also entitled for the expenditure incurred upon the treatment of the Govt: servant but in my case my above period

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ATTESTED

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of medical leave was treated as without pay by the DPO Bannu ignoring the basic principal of service and medical leave.

4. That the DPO Bannu vide disposing the inquiry of absence period has altogether diverted from the principal of procedure of inquiry and not assessed the finding of the inquiry officer. Thus the order of DPO regarding treating the absence period as without pay is against the spirit of law.
5. That Govt: official is responsible for the deed and mis-deed during the course of service pertaining to the service terms and condition and the officers has got no power to resolve the private issues of the government employee. During disposal of the allegations of debt of Rs. 30,000/- of one Khalid Khan s/o Laiq Rehman, the inquiry officer has travelled beyond his jurisdiction because the money matter was involved and the complainant Khalid Khan has got the remedy in the Civil Court for the recovery of the same. Regarding the allegation of illegal gratification, no evidence on record is available to suggest that the petitioner has obtained any illegal gratification from any person. The inquiry officer has also not produced any such person from whom the petitioner has obtained illegal gratification.
6. That the petitioner is constable in the police department and above the constable there are so many immediate officers and how one constable can dare to obtain illegal gratification for any job / work. If someone is offering such like illegal gratification to any such person he is equally responsible for the guilt because that person is expecting illegal job/work from someone but no such action has taken against any person which clearly suggest that the allegation is baseless and having no footing but for some ulterior motive the same has been manipulated.
7. That while disposing the second inquiry the DPO Bannu has also passed Omni bus order against the petitioner without giving any reasons. According to the recent ruling of august Supreme court of Pakistan, any order by the authority pertaining to the major penalty must be based upon reasons. Order regarding agreeing with the findings of the inquiry officer without solid reasons is against the spirit of law and the same has been repeated in this order.

ATTESTED

دورسہ

- 8. That the petitioner has performed his duty well according to the required standard and so many persons might be annoyed from the performance of duty of the petitioner and they might have managed tabulation for creating problems to the petitioner.
- 9. That it is submitted regarding the allegation of the 3rd departmental proceedings which are also of the nature of the second departmental proceedings and my same contention responded above will be for the same allegation.
- 10. That all the inquiries conducted by the Inquiry officers are in violation of law because the inquiry officers are duty bound to give full opportunity of cross examination to the defaulting officer during the course of inquiry proceeding and examination of PWs but in my case no such opportunity has been provided to me which is against the spirit of law and procedure of inquiry. It has been held in the ruling of service tribunal as well as appellate court that any order without giving proper opportunity to the defaulting officer regarding cross examination on the PWs is the naulty in the eyes of law.
- 11. That the petitioner has been deprived from the mandatory provision of giving final show cause notice after finalization of inquiry which is essential for just disposal of departmental proceedings. All this suggest that the inquiry and order of the DPO against the petitioner are bad in law and suggest that the authority has decided to remove me from service prior to disposal of departmental proceeding on merit.
- 12. That I am a poor man having the responsibility of large family and the service is my only bread earning. My dismissal from service will not only ruined me but also my large family.

Keeping in view the above, it is requested that the order of DPO Bannu vide OB No. 316 dated 31/3/15 may be set-aside in all the three departmental proceedings mentioned above and I may be re-instated from service from the date of my dismissal and also my absence period may be treated as leave with pay for the best interest of justice.

No 1085 / EC, dt 08/5/15

DPO Bannu

For Comments File. Also send

of Record.

RPO Bannu Region
15

Yours obedient

Barkat Ali

Constable No. 895

ATTACHED
(SLAU)

POLICE DEPARTMENT.

BANNU REGION

ORDER.


My this order will dispose off the departmental appeal of Ex: Constable Barkat Ali No. 895 of Bannu District Police against the Major punishment of his dismissal from service under Police Rules-1975, awarded by DPO/Bannu vide OB: No. 316 dated 31.3.2015 on committing the following omissions:-

1. That, he while, posted in Elite Force KPK, Peshawar absented himself from official duty for the of 43-days without any permission of the competent authority as evident from the Dy: Commandant Elite Force, KPK, Peshawar Memo: No. 15285-87/EF dated 17.10.2014.
2. That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department. He was also defaulter of worth Rs. 30000/- of complainant Khalid Khan s/o Laiq-ur-Rehman and also threatened him as evident from the complaint of the complainant.
3. That he was found involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department. He was also defaulter of worth Rs. 270000/- of complainant Javed Khan s/o Amal Khan r/o Char Bijll Chowk Bannu as evident from the complaint.

Service Record of the appellant was thoroughly perused and the appellant heard in person in orderly room on 23.6.2015 by the undersigned.

Therefore, I, Muhammad Tahir, PSP, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusing the record and hearing the appellant in orderly room, came to the conclusion that the order of Major punishment of dismissal from service, passed by DPO/Bannu vide OB; No. 316 dated 31.3.2015 cannot be interfered, being one in consonance with law. Hence, appeal is filed.


Order announced.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 1474 /EC, dated. 25/06/2015. 25/6/15

Copy to :-

- The District Police Officer, Bannu for information and n/action w/r to his office Memo: 8329 dated 15.6.2015.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

ATTESTED
M. Tahir

Amr J (99)

Annexure J

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INQUIRY FINDINGS REPORT

Constable Barkat Ali No.895 was charge-sheeted on the charges that he was involved in corruption/taking illegal gratification by fleecing the general public and collected heaps of amount by giving false pledges of service in Police department. He was also defaulter of worth rupees 30000/- of complainant Khalid Khan s/o Laiq ur Rehman and also given threats him as evident from the complaint of the complainant.

The Undersigned was appointed as Enquiry Officer for the purposes of scrutinizing the conduct of said accused with reference to the above allegations. Copy of charge-sheet with statement of allegations was delivered to the accused constable on 28.01.2015 and his reply was received on 10.02.2015. As per his reply he stated that he has served in Elite Force for about 7/8 years and transferred to the District Police at about two months ago. He further explained that he has performed duty honestly and never received/demanded illegal gratification from the people. On account of property dispute with his relatives, the applicant Khalid Khan has leveled baseless complaint against him. He denied the charges.

Applicant Mr. Khalid Khan s/o Laiq ur Rehman r/o Fatma Khel, Bannu was summoned time and again for recording his statement but he attended the office of undersigned on 13.02.2015 and sought time for recording his statement till 23.02.2015.

On 23.02.2015 his statement was recorded in the presence of accused constable Barkat Ali, wherein he admitted correct the contents and signature of his complaint EX: PA. He further explained that as per written declaration, the accused constable has not paid Rupees 54000/- to the applicant Khalid Khan and the accused constable has threatened him with dire consequences and confining him in Hawalat (illegal detention).

Statement of OSI Gul Muhammad DPO Office was recorded. He stated that constable Barkat Ali was transferred from Elite Force KPK Peshawar and serving in District Police Bannu for the last two months. His Fauji-misal (service record etc.) has not received from Elite Force so far, however as per report of Deputy Commandant and SP Elite Force Bannu, he has been kept under observation. Similarly report of Special Branch Bannu reveal that he has been involved in financial corruption and misappropriated a lot of money from the people on the pretext of giving service in Police Department.

Statement of accused constable Barkat Ali was recorded, wherein he relied on his written reply already submitted to the charge-sheet and did not want to produce any defense in his support.

ATTESTED
15/2/15

39

In view of the above statements and documentary record, I have reached to conclusion that defaulter constable has misappropriated Rupees 54000/- from the applicant Khalid Khan without any legal justification and also given threaten to him for dire consequences. Further more he has been kept under observation by the Police and Elite High Ups on the grounds that he has allegedly been involved in financial corruption and embezzled amount from the people on the pretext of recruitment in Police Department. The charges leveled against the accused constable are established and he is found guilty.

Submitted for consideration please.



(Mir Faraz Khan)
Inspector
Enquiry Officer.

ATTESTED

(Signature)

VAKALAT NAMA

NO. 852 /2015

IN THE COURT OF Service Tribunal Peshawar

Barkat Ali

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Dept.

(Respondent)
(Defendant)

I/we Barkat Ali (Appellant)

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

Barkat Ali

(CLIENT)

ACCEPTED

M. Asif Yousafzai

M. ASIF YOUSAFZAI
Advocate

& Taimur Ali Khan

TAIMUR ALIKHAN

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 KHYBER PAKHTUN KHWA SERVICE TRIBUNAL PESHAWAR
Appeal No. 852/2015.

Barkat Ali Ex-Constable No.895, Police Line Bannu.....

(Appellant)

VERSUS

(1) Regional Police Officer, Bannu Region, Bannu.

(2) District Police Officer, Bannu

(3) DSP Cantt, District Bannu.....

(Respondents)

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the appeal of appellant is badly time-barred.
- 2) That the order of Respondent No.1 is very much legal.
- 3) That the appeal is not maintainable in its present form.
- 4) That the appellant has concealed the actual facts from the Honourable Tribunal.
- 5) That the appeal is bad in law due to non-joinder of necessary parties.
- 6) That the appellant has approached the Honourable Tribunal with unclean hands.
- 7) That the appellant has got no cause of action and locus standi to file the instant appeal.
- 8) That the appellant has been estopped by his own conduct.

OBJECTIONS ON FACTS

- (1) Incorrect. During the short service, the appellant has wilfully absented himself from official duty on many occasions and involved in corruption/taking illegal gratification and a defaulter of a lot of amount of general public. His absence record is annexed as annexure "A".
- (2) Incorrect. Respondent No.2 (then DPO Bannu) has issued charge sheets in three different inquiries. Photo copies enclosed as annexure "B", "C" & "D".
- (3) Pertains to record. The appellant was directed to submit his reply within 07 days to the Enquiry Officer while the Enquiry Officer was directed to complete the inquiry within 17 days by providing all reasonable opportunities to the appellant.
- (4) Pertains to record needs no comments.
- (5) Correct to the extent that on the written complaint of Khalid Khan charge sheet dated 21.01.2015 based on statement of allegation issued to the appellant and inquiry was conducted wherein the charges were established. Photo copy of finding report is enclosed as annexure "E".
- (6) Pertain to record. All the codal formalities were fulfilled during the course of departmental inquiries.
- (7) Correct to the extent that on the written complaint of Javed Khan, a charge sheet dated 20.02.2015 based on statement of allegation

an inquiry through DSP/Cantt was conducted wherein the charges were proved and the appellant was recommended for major punishment. Photo copy of finding report is enclosed as annexure "F".

- (8) Pertain to record. After observing all the codal formalities and providing opportunities to the appellant, OB No.316 dated 31.03.2015 was issued which is based on justice, facts and in accordance with law/rules.
- (9) Pertain to record.
- (10) The departmental appeal of appellant was found unsatisfactory, unreadable and filed by the Respondent No.1.
- (11) The appellant has wrongly challenged the legal and valid order of the respondents through unsound reasons.


OBJECTIONS ON GROUNDS.


- a) Incorrect. The performance of appellant during short service was unsatisfactory as evident from his service record.
- b) Incorrect. The absence of appellant from the official duty was only one charge against him, the remaining charges of corruption and corrupt practices by misappropriating huge amount of public was the serious and major charges for which he was found responsible during departmental probe.
- c) Incorrect. The appellant has not produced the medical documents in time to the competent authority but the same produced at belated stage i.e during the inquiry. Upon this fault he was recommended for minor punishment by the Enquiry Officer.
- d) Incorrect. Beside the absence charges, other serious and major charges of corruption etc were proved against the appellant during inquiry probe and after observing all codal formalities, there was no other alternative except to expel him from service.
- e) Incorrect. In official capacity the appellant has committed gross misconduct by misappropriating huge amount from the public on the pretext of giving job to the people in Govt: departments, which is unwarranted under the rules for a discipline force. The complainants/civilians have appeared before the Enquiry Officer for statements. Photo copies of statements enclosed as annexure "G" & "H".
- f) Incorrect and misconceived. The allegations levelled against the appellant in various charge sheet were found established during the course of inquiries. All the proceedings were conducted in impartial manner and without any malafide.
- g) Incorrect. The orders of the respondents are comprehensive, based on facts and convincing.


- h) Incorrect. The appellant reputation in Elite Force and regular police was completely unsatisfactory. He was found involved in corruption, corrupt practices such as by taking/misappropriating huge amount from the public on the pretext of providing job to the people in Govt. department.
- i) Incorrect. Civilian has complained against the appellant for taking illegal amount on the pretext of providing job in Govt. department which is gross misconduct and unwarranted under the rule.
- j) Incorrect and misconceived. All the opportunities of defense, cross-examination over witness and hearing were provided to the appellant during the departmental probe.
- k) Incorrect. Final Show Cause Notice is not mandatory under police rules 1975. The orders of the respondents are based on facts, justice and in accordance with rule.
- l) The appellant himself has ignored the burden of his family due to his alleged involvement and commission of corrupt and illegal practices which are unwarranted under the rule for a disciplined force.

Prayer:

keeping in view of the above facts and circumstances, it is humbly prayed that the appeal of appellant is devoid of legal force, same may kindly be dismissed with costs.


Regional Police Officer,
Bannu Region, Bannu.
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)


Dy: Superintendent of Police,
Cantt, Bannu.
(Respondent No.3)

BEFORE THE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL PESHAWAR
Appeal No. 852/2015.

Barkat Ali Ex-Constable No.895, Police Line Bannu.....

(Appellant)

VERSUS

(1) Regional Police Officer, Bannu Region, Bannu.

(2) District Police Officer, Bannu

(3) DSP Cantt: District Bannu.....

(Respondents)

COUNTER AFFIDAVIT

We, the respondents (Regional Police Officer, Bannu Region, Bannu, District Police Officer, Bannu and DSP Cantt, Bannu) do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.



Regional Police Officer,
Bannu Region, Bannu.
(Respondent No.1)



District Police Officer,
Bannu.
(Respondent No.2)



Dy: Superintendent of Police,
Cantt, Bannu.
(Respondent No.3)

BEFORE THE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL PESHAWAR
Appeal No. 852/2015.

Barkat Ali Ex-Constable No.895, Police Line Bannu.....

(Appellant)

VERSUS

(1) Regional Police Officer, Bannu Region, Bannu.

(2) District Police Officer, Bannu

(3) DSP Cantt, District Bannu.....


(Respondents)

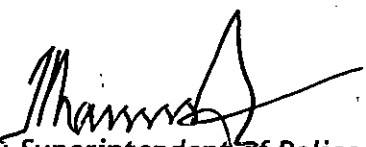
AUTHORITY LETTER.

Mr. Mir Faraz Khan Inspector, incharge Legal Cell, Bannu is hereby authorized to appear before The Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the instant appeal.


Regional Police Officer,
Bannu Region, Bannu.
(Respondent No.1)


District Police Officer,
Bannu.
(Respondent No.2)


Dy. Superintendent of Police,
Cantt, Bannu.
(Respondent No.3)

no. 245/HG

19
Annexure "B"

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that CONSTABLE Barkat Ali No.966EF/895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

➤ That he while posted to Elite Force KPK, Peshawar, absented himself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014; 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mir Faraz Khan/Inspector legal is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.

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

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

No. 660-61/EE dt - 22-12-014
Copies to :-

1. The Enquiry Officer(Inspector legal)
2. The Accused Official.

in duplo

BR

29-12-14

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that CONSTABLE Barkat Ali No.966EF/895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

- That he while posted to Elite Force KPK, Peshawar, absented himself curself from official duty for a period of 43 days w.e.f 23-01-2014 to 30-01-2014, 04-02-2014 to 07-02-2014, 04-03-2014 to 05-03-2014, 22-05-2014 to 28-05-2014, 28-05-2014 to 04-06-2014, 08-06-2014 to 16-06-2014, 09-08-2014 to 11-08-2014, 23-08-2014 to 30-08-2014 without any permission from the competent authority as evident from Deputy Commandant Elite Force, KPK, Peshawar memo No. 15286-87/EF dated 17-10-2014.
- 2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mir Faraz Khan/Inspector legal is appointed as Enquiry Officer.
- 3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.
- 4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

Abdur Rashid
 (ABDUR RASHID) PSP
 District Police Officer,
 Bannu.

No. 660-61132 dt. 22-12-2014
 Copies to :-

- 1. The Enquiry Officer (Inspector legal)
- 2. The Accused Official.

(10)

Amendment "C"

CHARGE SHEET:

I, ABDUR RASHID, District Police Officer, Bannu, as competent authority, hereby charge you Constable Barkat Ali No. 895 as follows:-

- That you are involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.
- That you are also defaulter of worth Rs.30000/- of complainant Khalid Khan S/O Laiq Ur Rehman and also threat him as evident from the complaint of the complainant.

2. By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer:

4. Your written defense, 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 ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

Copy Received

BA mi
28-1-15
برکت علی 895

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

Handwritten notes in Urdu at the bottom left corner.

4.2.015

(11)

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that Constable Barkat Ali No. 895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

- That he is involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.
- That he is also defaulter of worth Rs.30000/- of complainant Khalid Khan S/O Laiq Ur Rehman and also threat him as evident from the complaint of the complainant.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Mir Faraz Khan/Inspector legal is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (17 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

Abdur Rashid
 (ABDUR RASHID) PSP
 District Police Officer,
 Bannu.

No. 18-191EC dt 21-01-2015
 Copies to :-

1. The Enquiry Officer (Inspector legal)
2. The Accused Official.

یہ نوٹیفکیشن کے بارے میں توجہ سے دیکھ لیں اور اس میں درج کیے گئے تمام باتوں پر عمل کریں اور رقم دینے میں تاخیر نہ کریں۔

nc
 dt

CHARGE SHEET:

Annexure "D"

I, ABDUR RASHID, District Police Officer, Bannu, as competent authority, hereby charge you Constable Barkat Ali No. 895 as follows:-

- That you are involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.
 - That you are also defaulter of worth Rs.270000/- of complainant Javed Khan S/O Amal Khan R/O Char Bijli Chowk Bannu as evident from the complaint of the complainant.
2. By reason of the above you appear to be guilty of misconduct under the police Rules 1975 (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
 3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
 4. Your written defense, 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 ex-parte action shall be taken against you.
 5. You are directed to intimate whether you desire to be heard in person.
 6. A statement of allegation is enclosed.

Abdur Rashid
(ABDUR RASHID)PSP
District Police Officer,
Bannu.

BA-11
23-2-15

(72)

(3)

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that Constable Barkat Ali No. 895 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (Amended vide Khyber Pakhtunkhwa gazette Notification, 27 the August 2014).

SUMMARY OF ALLEGATIONS:

- That he is involved in corruption/taking illegal gratification by fleecing the general public and collected heap of amount by giving false pledges of service in police department.
- That he is also defaulter of worth Rs.270000/- of complainant Javed Khan S/O Amal Khan R/O Char Bijli Chowk Bannu as evident from the complaint of the complainant.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations DSP/Cantt is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and finding s within (17 days) after the receipt of this order.

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

(ABDUR RASHID)PSP
District Police Officer,
Bannu.

No. 43-44 IEC dt-20-2-2015
Copies to :-

1. The Enquiry Officer(DSP/Cantt)
2. The Accused Official.

Annexure "E"

INQUIRY FINDINGS REPORT

Constable Barkat Ali No.895 was charge-sheeted on the charges that he was involved in corruption/taking illegal gratification by fleecing the general public and collected heaps of amount by giving false pledges of service in Police department. He was also defaulter of worth rupees 30000/- of complainant Khalid Khan s/o Laiq ur Rehman and also given threats him as evident from the complaint of the complainant.

The Undersigned was appointed as Enquiry Officer for the purposes of scrutinizing the conduct of said accused with reference to the above allegations. Copy of charge-sheet with statement of allegations was delivered to the accused constable on 28.01.2015 and his reply was received on 10.02.2015. As per his reply he stated that he has served in Elite Force for about 7/8 years and transferred to the District Police at about two months ago. He further explained that he has performed duty honestly and never received/demanded illegal gratification from the people. On account of property dispute with his relatives, the applicant Khalid Khan has leveled baseless complaint against him. He denied the charges.

Applicant Mr. Khalid Khan s/o Laiq ur Rehman r/o Fatma Khel, Bannu was summoned time and again for recording his statement but he attended the office of undersigned on 13.02.2015 and sought time for recording his statement till 23.02.2015.

On 23.02.2015 his statement was recorded in the presence of accused constable Barkat Ali, wherein he admitted correct the contents and signature of his complaint EX: PA. He further explained that as per written declaration, the accused constable has not paid Rupees 54000/- to the applicant Khalid Khan and the accused constable has threatened him with dire consequences and confining him in Hawalat (illegal detention).

Statement of OSI Gul Muhammad DPO Office was recorded. He stated that constable Barkat Ali was transferred from Elite Force KPK Peshawar and serving in District Police Bannu for the last two months. His Fauji-misal (service record etc.) has not received from Elite Force so far, however as per report of Deputy Commandant and SP Elite Force Bannu, he has been kept under observation. Similarly report of Special Branch Bannu reveal that he has been involved in financial corruption and misappropriated a lot of money from the people on the pretext of giving service in Police Department.

of accused constable Barkat Ali was recorded, wherein he relied

no. 245/HQ
Dt - 4.2.05

895

Add: Inspector General of Police



(2)

In view of the above statements and documentary record, I have reached to conclusion that defaulter constable has misappropriated Rupees 54000/- from the applicant Khalid Khan without any legal justification and also given threaten to him for dire consequences. Further more he has been kept under observation by the Police and Elite High Ups on the grounds that he has allegedly been involved in financial corruption and embezzled amount from the people on the pretext of recruitment in Police Department. The charges leveled against the accused constable are established and he is found guilty.

Submitted for consideration please.


(Mir Faraz Khan)
Inspector
Enquiry Officer.

63 Annexure: F

منجانب: ڈی ایس پی کینٹ ضلع بنوں

منجانب: ڈسٹرکٹ پولیس آفیسر، بنوں

نمبر: 1714/16 مورخہ 26/10/2015

فائل رپورٹ

عنوان: انکوائری بر خلاف اذالہ کنشیل برکت علی نمبر 895 متعینہ پولیس لائن بنوں

- (1) الزامات:- یہ کہ وہ رشوت اور عوام کو نوکری کا جھانسدہ دیکر محکمہ پولیس میں بھرتی کرنے کے بہانے پر رقم وصول کرنے میں ملوث ہے۔
- (2) یہ کہ درخواست گزار جاوید خان ولد عمل جان سکندہ چارنگلی چوک سے مبلغ 270000/- روپیہ اسی مقصد سے وصول کر چکا ہے۔

☆ انکوائری ہذا میں کنشیل برکت علی 895، محمد شفیق 3475 متعینہ پولیس لائن اور جاوید خان ولد عمل جان سکندہ بنوں شی چارنگلی چوک کے بیانات قلمبند کئے گئے۔

☆ کنشیل برکت علی 895 نے اپنے بیان میں وضاحت کی کہ عرصہ دو سال قبل اس نے کمپنٹ کنندہ سے مبلغ 170000/- روپیہ لئے تھے۔ اور کمپنٹ کنندہ کو واپس کئے ہیں۔ اور مبلغ 33000/- روپیہ برو کنشیل محمد شفیق دئے تھے۔ مزید دریافت کرنے پر بتلایا کہ ابتدائی انکوائری میں اس نے جھوٹا بیان دیا تھا۔ مزید یہ کہ کنشیل نے پہلے بیان میں بتایا کہ اس نے مبلغ 170000/- روپیہ بود جوگی کنشیل محمد شفیق واپس دیئے ہیں۔ لیکن کنشیل محمد شفیق نے اس کے بیان کی تردید کرتے ہوئے بتایا کہ کنشیل برکت علی 895 نے کل مبلغ 33000/- روپیہ میرے رو برو واپس کئے تھے۔

☆ کمپنٹ کنندہ جاوید خان نے اپنے بیان میں بتایا کہ اس نے اس سے بغرض بھرتی کرنے جیل کنشیل اور جوہر کلرک مبلغ 270000/- روپیہ لئے تھے۔ اس رقم میں مبلغ 33000/- اور 15000 روپیہ کل ملا کر 48000/- روپیہ واپس کئے ہیں۔ اور بقیہ رقم دینے سے صاف انکاری ہے۔

رائر انکوائری آفیسر:

☆ کردہ انکوائری، جملہ بیانات، خفیہ پتہ براری اور سابقہ انکوائری کے ملاحظہ کرنے پر یہ امر عیاں ہے کہ الزام علیہ کنشیل برکت علی نمبر 895 جو سابقہ DSP ہدایت اللہ لاشاری (مرحوم) کیساتھ بطور گن مین تعینات تھا۔ اور درخواست گزار جاوید خان کا DSP صاحب کیساتھ دوستانہ تعلقات تھیں۔ اکثر اوقات درخواست گزار کا DSP صاحب کے ساتھ آنا جانا ہوا کرتا تھا۔ کہ اس دوران کنشیل برکت علی نمبر 895 کیساتھ بھی تعلقات استوار ہوئے۔

☆ کنشیل مذکورہ نے درخواست گزار کو یقین دلایا تھا کہ اس کا سیاب علی نامی پرنٹنگ خانہ جات کیساتھ تعلقات ہیں۔ میں محکمہ جیل خانہ جات میں اسکے ذریعے کسان بھرتی کر سکتا ہوں۔ اور اسی لالچ میں درخواست گزار سے رقم وصول کیا تھا۔ بعد وہ کسان بھرتی کرنے میں ناکام ہوا۔ درخواست گزار نے کنشیل مذکورہ سے رقم واپسی کا مطالبہ کیا مگر کنشیل مذکورہ نے مبلغ 33000+15000 کل ملا کر 48000/- روپیہ وقتاً فوقتاً واپس کرنا ثابت کیا ہے۔ جبکہ بقیہ رقم تا حال واپس نہیں کیا ہے۔

14

☆ یہ امر قابل ذکر ہے کہ کنشیل برکت علی نمبر 895 جو انتہائی مکار اور چالاک قسم کی آپکار ہے۔ وقتاً فوقتاً بیان تبدیل کرتا رہتا ہے۔ مبلغ 170000/- روپیہ تسلیم کرتا ہے۔ جبکہ درخواست گزار 270000/- روپیہ کا دعویٰ دار ہے۔ یہ ایک طرف! لیکن کسی کنشیل کا اس قسم کی لین دین میں شریک ہونا محکمہ پولیس کیلئے ناسور سے کم نہیں ہے۔

لہذا جملہ حقائق کو مد نظر رکھتے ہوئے کنشیل برکت علی نمبر 895 کیلئے **Major Punishment** سزا کی سفارش کی جاتا ہے۔ تاکہ آئندہ محکمہ پولیس کے دیگر اہلکاران سے نشان عبرت بن سکے۔
فائل رپورٹ عرض ہے۔

ڈی ایس پی کینٹ بنوں

30/03/2015

Heard in all three inquiries.
Not satisfactory.
Dismissed from service with
immediate effect. Absence
period of (43) forty three
days converted into with
out pay. The rest of the
Anash - d.
DPO Bannu.

43 -
DPO

Armenia "9"

بیان آذان خالد خان ولد لائق اسحاق سکنہ سالستہ خان ناظم ضلع گلاب پور
nic - 11161-1530080-3

طے بیان کیا کہ میں ایک عدد خرید درخواست
برخلاف برکت علی سپاہی حساب ڈسٹریٹ ڈپٹی انسپکٹر صاحب کو دیا تھا۔
درخواست EX-PA میں رقم رکھ لیا۔ جس میں پر سیرا

دستخط صحیح طور پر موجود ہے۔ سپاہی برکت علی نے میرے
ساتھ اقرار نامہ 19/02/14 کو خرید کیا تھا۔ جس میں اس نے

مبلغ 60000 روپے مجھے ادا کرنے کا پابند تھا۔ لیکن اس
نے رقم ادا نہیں کیا۔ اور الٹا مارنے کی دھمکیاں

اور جان سے مارنے اور خواتین میں بند کرنے کی دھمکیاں دی
میں غریب آدمی ہوں۔ اب برکت علی نے صرف مجھے

6000 روپے ادا کئے ہیں۔ اور 54000 روپے بدستور طلب کیا

ہے۔ سیرا اہلی حساب کتاب اس پر خاز خان سکنہ اسمبلی میں لیا
کیا تھا تھا۔ جسکو میں نے رقم 2000 بھجایا تھا۔ لیکن درمیان
میں برکت علی نے مداخلت کرتے مجھ سے چھڑا لیا۔ اور

رقم ادا کرنے کی ذمہ داری قبول کی تھی۔ لیکن کثرتاً 7/8 ماہ گزرے
نے بعد برکت علی نے رقم ادا نہیں کی۔ اور دوبارہ عرض 19/02/14

ناظم قذافی اور عدالت تشکیل نے میرے اور برکت علی کے درمیان
روپے 2000 کو اقرار نامہ خرید لیا۔ جسکی میں فوراً کاپی پیش کرتا ہوں۔

(موتھ دیا گیا)

میں بخوشی خود گواہ درج صبح میں فرما چاہتا ہوں۔

23.02.15

Attested

BA 11

**BEFORE THE KPK, SERVICE TRIBUNAL,
PESHAWAR.**

Service Appeal No. 852/2015

Barkat ALI

VS

Police Deptt:

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Incorrect. While Para-1 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant did not remain absent willfully but due to illness and never involved in illegal gratification nor a defaulter of amount of general public.
- 2 Incorrect. While Para-2 of the appeal is correct as mentioned in the main appeal of the appellant.
- 3 Para-3 is admitted correct by the respondent's department as the appellant record is already in custody of respondent's department.
- 4 No comments endorsed by the respondent's department which mean that respondent's department admitted Para-4 of the appeal as correct. Moreover, appellant record is already in custody of respondent's department.

- 5 In first portion replying respondents admitted correct Para-5 of the appeal while remaining para of the reply is incorrect. Moreover, Khalid Khan complainant gave statement on oath and take back his complaint. **(Copy of statement on oath is attached as Annexure-R).**
- 6 Para-6 is admitted correct by the respondent's department as the appellant record is already in custody of respondent's department. Moreover, no codal formalities were fulfilled during the course of proceedings.
- 7 Para-7 of the reply is missing/not printed hence denied for want of knowledge.
- 8 Para-8 is admitted correct by the respondent's department as the appellant record is already in custody of respondent's department. Moreover, no codal formalities were fulfilled during the course of proceedings.
- 9 Para-9 is admitted correct by the respondent's department as the appellant record is already in custody of respondent's department.
- 10 Incorrect. While Para-10 of the appeal is correct as mentioned in the main appeal of the appellant.
- 11 Incorrect. The appellant has good cause of action and his appeal is liable to be accepting on the following grounds.

GROUND:

- A) Incorrect. While Para-A of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, appellant performing his duty with great zeal and zest.
- B) Incorrect. While Para-B of the appeal is correct as mentioned in the main appeal of

the appellant. Moreover last portion of the reply is not according to the Para-b of the appeal.

- C) Incorrect. While Para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect and not replying according to Para-D of the appeal. While Para-D of the appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. While Para-E of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, no evidence on record available to suggest the appellant having any illegal gratification from any person. The inquiry officer has also not produced any such person from whom the appellant has obtained illegal gratification.
- F) Incorrect. While Para-F of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, allegation leveled against the appellant is baseless and having no footing.
- G) Incorrect. While Para-G of the appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While Para-H of the appeal is correct as mentioned in the main appeal of the appellant.
- I) Incorrect. While Para-I of the appeal is correct as mentioned in the main appeal of the appellant.
- J) Incorrect. The appellant was neither associated with the inquiry proceeding nor provided chance of defense to him.
- K) Incorrect. While Para-K of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, final show cause notice is necessary for the disposal of department proceedings.

L) Incorrect. While Para-L of the appeal is correct as mentioned in the main appeal of the appellant.

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

APPELLANT

Through:

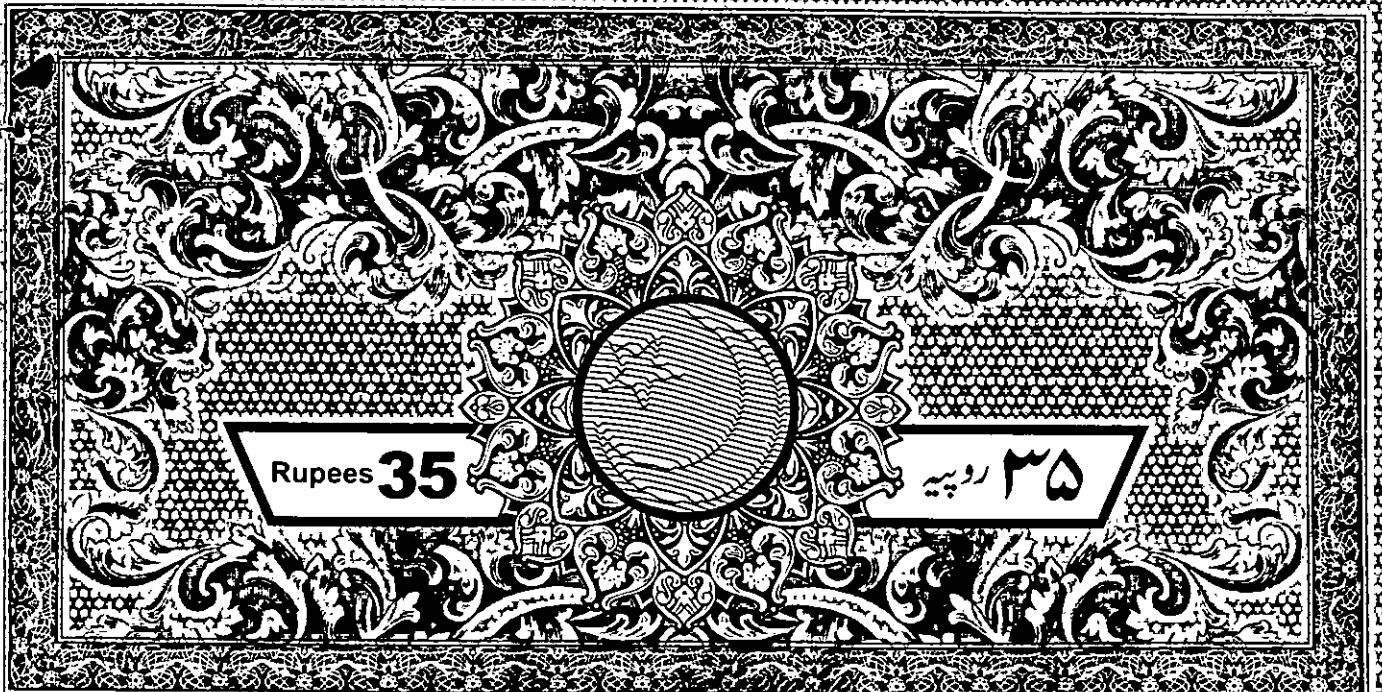
Asif Zai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Hon'able Tribunal.

Asif
DEPONENT





بیان حالی

سند: خاندان ولد لورن الہرحان سند ذائعہ میں ہیں۔ نورا
 بااقرار حال و عیوش و حوس صلینہ اقرار کرنا میں اور کسے میں۔
 کمرہ برت علی سابتہ کینٹن کے ذمہ ہر اسباج ۵۰۰۰ روپے واجب الودا
 تھا جو کہ برت علی سے مسی امیر نواز کی ذمہ داری لی تھی۔ اور رقم برت علی
 نے بروقت ادا نہ کی۔ اس کیلئے میں نے تقریباً ۲۰۰ روپے صاحب بن
 کر فرمایا درخواست دی تھی۔ اور بعد از انقضاء اس کی روزی معا ملہ ہر ۲۰۰ روپے
 برت علی کو نوکری سے برخواست کیا ہے۔ معززین کی مدافعت ہر اس
 برت علی کو صاف کر دیا ہے اور برت علی اپنا حاب کتابا دانت کیا ہے
 اور برت علی کے مدف مزید کاروری کا فرماں نہیں۔ جو کہ اب سے روزگار ہے
 اگر برت علی کو اب نوکری پر بحال کیا جائے۔ تو کوئی اعتراض نہ ہے۔ داد بھی ہر
 جو کہ ہے برت علی سے باہر دت اور صحت ہے بیان حالی سند آخر ہے۔
 D: 14.6.16

خانہ خان - نورا

1111-153080-3

0336-1903316



Attested
 Meherab Khan W
 Oath Commissioner
 Bannu
 15/6/16