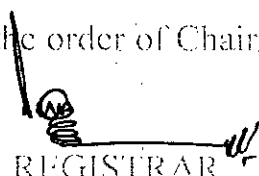


FORM OF ORDER SHEET

Court of _____

Case No. - 1056/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/05/2023	<p>The appeal of Mr. Arshad Khan presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>15-05-23</u>.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1056 /2023

ARSHAD KHAN

V/S

Police Deptt:

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Arshad
APPELLANT
ARSHAD KHAN

THROUGH:

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1056 /2023

Arshad Khan Ex-PASI
I/C Traffic District Bannu.

.....(Appellant)

VERSUS

1. The Inspector General of Police, KP, Peshawar.
2. The Regional Police Officer Bannu region Bannu.
3. The District Police Officer Bannu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 14-02-2023 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE ILLEGALLY WITHOUT LAWFUL AUTHORITY AND WITHOUT JURISDICTION AND AGAINST THE REJECTION ORDER DATED 12-04-2023 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED WITHOUT SHOWING ANY COGENT REASON.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14/02/2023 AND 12-04-2023 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

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1. That the appellant has joined the police department as constable in the year 2006 and absorbed as PASI in the year 2016 against the Shuhadas Quota. The work with full zeal and zest. the appellant has passed Basic Elite Course, Traffic course, 08 promotional courses and earned 17 CC-III and 02 CC-II in recognition of his good performance.
2. That During the entire service, the appellant has not given an iota of chance of complaint to his high-ups but unfortunately, the appellant was served with charge sheet vide DPO Office Endst; No. 445/SRC, dated 22.11.2022, wherein, the so-called charges of contacts with notorious person (Sakhat) coupled with leaking out information to him about the movement of arresting party to avoid his arrest as well as conveying pictures of police officials were leveled. The appellant properly replied to charge sheet and rebutted the allegation with cogent proof. **Copy of charge sheet and reply are attached as annexure- A & B.**
3. That during the inquiry proceeding, the appellant rebutted each and every charges on plausible grounds but inquiry officer based his findings only on collection of CDR of (Sakhat) and also ignored the statement of SHO Town which means that the inquiry officer made his mind to remove the appellant. **Copy of the inquiry report is attached as annexure-C.**
4. That on the basis of that findings, without issuing final show cause notice and also not providing of inquiry report to the appellant the competent authority (DPO Bannu) awarded the impugned punishment vide order dated 14-02-2023 without using independent mind which is discriminatory, against the law and justice. **Copy of impugned order is attached as annexure-D.**
5. That the appellant feeling aggrieved filed departmental appeal against the impugned order which was rejected without showing any cogent reason vide order dated 12.04.2023. Hence the present appeal on the following grounds amongst other. **Copy of departmental appeal and rejection order is attached as annexure-E & F.**

GROUNDS:

(3)

- A. That the appellant the impugned order dated 14/02/2023 and 12/04/2023 is against the law, norms of justices and without lawful authority. Hence liable to be set-aside.
- B. That the inquiry report and show cause was also not provided to the appellant, which is clear violation of Superior Court judgment. That principal is also held in the appeal of the **Waleed Mehmood vs Police Deptt and Zeeshan vs police**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562, without which all the proceedings is nullity in the eyes of law. Reliance was placed on **2018 PLC (CS) 997 and 2019 SCMR 640**.
- C. That no proper and regular inquiry was conducted. Neither any documents or report was provided to appellant for examination nor any statement of witnesses recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- D. That vide impugned order dated 14-02-2023, the penalty of dismissal from service was imposed on the appellant under Police Rules 1975 without using independent mind. The appellant feeling aggrieved filed departmental appeal, which was also rejected on dated 12/4/2023 for no good ground and without applying independent mind. which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291.
- E. That the attitude and conduct of the Department shows that they were bent upon to remove the appellant at any cost.
- F. That there is no chance of self-defense was provide to the appellant and according to Supreme Court judgment mere on the basis of allegation no one should be punished.
- G. That it is the maxim of the law (audi alteram peltrum) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was the fundamental right of the appellant but denied to the appellant. So the impugned order is not tenable in the eye of law.

- H. That the appellant was deprived of his inalienable right of personal hearing and opportunity to cross examine witnesses. The opportunity of offering proper defense was snatched from the appellant. The Hon'able Service Tribunal has been consistently following this yardstick almost in all cases, so departure from the set pattern and that too without any cogent reason in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such inquiry proceeding could not be termed as fair, just and reasonable, as the respondents badly failed to prove that the appellant has leaked certain official information to the criminals. such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640.
- I. That the impugned order is against the articles 2A , 4, and 25 , of the constitution of Pakistan 1973.
- J. That the appellant has remained Incharge DSB and the job of intelligent officer is to collect information from whatever source may be, deemed appropriate to protect the interest of state as well as department. The appellant has explained this fact in his reply to the charge sheet too duly testified by SHO PS Township in his statement, recorded by Enquiry Officer. It was the outcome of information (collected by the appellant as a result of the said contacts) which made ensured the successful action on dated 12.10.2023. If these contacts were not utilized, the nabbing of accused (notorious person Sakhat) could not be ensured. The purpose intent of the appellant behind the call contacts with the accused Sakhat was not to protect him but to was trace his whereabouts as well as arrest him. The appellant could explain in personal hearing (in one to one) that who were trying to protect him as well as paving way for release even his arrest. the appellant have never committed any act or omission with bad or malafide intentions which could be termed as misconduct, albeit the appellant was dismissed from the service. Which is violation of reported judgment cited as 1997 PLC cs 564.
- K. That the report of CDR is limited only to show the time, date and period of dialed, missed and received call and could not certify the nature of conversation and message etc that whether it were made for the interest of department of favoured the accused person. In the case of the appellant, Star witness, SHO PS Township, has affirmed the facts that the appellant has provided valuable information regarding the arrest of notorious person

Sakhat which is sufficient to negate the negative aspects of his contacts with the above accused.

- L. That it was the fundamental right of the appellant to cross examine the person(evidence) who had provided the Call Data Record to Enquiry Officer but this opportunity was not provided, hence the call data record could not be held a gospel truth.
- M. That the appellant has been discriminated because number of police officers/officials contacts were identified with accused Sakhat after taking into custody his mobile phone followed by examining his CDR but only the appellant was made ascapegoat and the others were either absolved from the charges or awarded only minor punishment despite the fact that the appellant contacts with the accused were only for the purpose of his arrest but the good performance of the appellant was rewarded in shape of dismissal.
- N. That the appellant was required to give an opportunity of showing cause of the proposed action which was to be taken by the competent authority but this opportunity was not afforded to the appellant which is mandatory under police rules and other laid down rules. Thus, the appellant was condemned as unheard by violating the due process of law at every stage of the inquiry proceedings.
- O. That according to Federal Shariyat court Judgment cited as ***PLD 1989 FSC 39*** the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- P. That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as ***1997 PLD page 617*** stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as **2017 PLD 173 and 1990 PLC cs 727.**

- Q. That the appellant and his family members have given matchless sacrifices for the department/state by offering precious lives in shape of Shahadat. A person with a prudent mind could not expect of such act from a police officer whose family members have given shahdaths for saving the image of the department. Thus, the appellant having such family background even could not think about saving the skin of suchlike notorious accused.
- R. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

Arshad Khan
APPELLANT
ARSHAD KHAN

THROUGH:

Syed Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT.

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. _____/2023

ARSHAD KHAN

V/S

Police Deptt.

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The Police rules 1975.
3. Any other case law as per need.

Arshad Khan
APPELLANT
ARSHAD KHAN

THROUGH:

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT
PESHAWAR

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

S.A NO. _____/2023

ARSHAD KHAN

V/S

Police Deptt:

AFFIDAVIT

I, ARSHAD KHAN (Appellant), do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT

ARSHAD KHAN

CHARGE SHEET:

I, Dr. MUHAMMAD IQBAL, District Police Officer Bannu, competent authority, hereby charge you, PASI Arshad Khan I/C Traffic for the purpose of departmental enquiry proceedings as follows:

1. That as per technical analysis of cell phone recovered from notorious car driver sakhat it was found that you were in contact with him.
2. You also send pictures of police official in him whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of sakhat, you leaked official information to him to avoid his arrest.
3. Such an act on your part is against service discipline and amounts to gross misconduct in official duty.

1. By reason of the above you appear to be guilty of misconduct under the Police Rules 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No. 77 of August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.

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

3. 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.

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

Dr. MUHAMMAD IQBAL)PSP
District Police officer,
Bannu

A

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Page 9

CHARGE SHEET:

I, Dr. MUHAMMAD IQBAL, District Police Officer, Bannu, as competent authority, hereby charge you, PASI Arshad Khan I/C Traffic for the purpose of departmental enquiry proceedings as follows:

- That as per technical analysis of cell phone recovered from notorious car lifter sakhat it was found that you were in contact with him.
- You also send pictures of police officials to him whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of sakhat, you leaked official information to him to avoid his arrest.
- Such an act on your part is against service discipline and amounts to gross misconduct in official duty.

1. By reason of the above you appear to be guilty of misconduct under the Police Rules 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.

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

3. 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.

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

5. A statement of allegation is enclosed.

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عنوان: جواب بحوالہ چارج شیٹ نمبر SRC/445 مورخہ مورخہ 22.11.2022 عیار یہ جناب ڈسٹرکٹ پولیس آفیسر بنوں

جناب عالی!

معرض خدمت ہوں کہ سن سائل کو جناب ڈسٹرکٹ پولیس آفیسر صاحب نے چارج شیٹ کیا ہے اور آپ جناب Addi: SP صاحب کو میرا کوالٹری آفیسر مقرر کیا ہے۔ مجھے یہ الزامات ہیں کہ

- That as per technical analysis of cell phone recovered from notorious car lifter Sakhat, it was found that you were in contact with him.
- You also end pictures of police officials to him whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of Sakhat, you leaked official information to him to avoid his arrest.
- Such an act on your part is against service discipline and amounts to gross misconduct in official duty.

عالی جاہ!

جہاں تک یہاں الزام ہے یہ بالکل حقیقت پر مبنی ہے اور میرا رابطہ کار انظر سخف کی لوکیشن معلوم کر کے اس کے خلاف کارروائی کرنا مقصود تھی۔ مورخہ 22.10.2022 کی کارروائی بحوالہ مقدمہ نمبر 806 میری ہی انفارمیشن پر ہوئی ہے میں خود وہاں پر موجود تھا اور SHO تھانہ ٹاؤن شیپ کیا تھا مسلسل رابطے میں رہا۔ SHO تھانہ ٹاؤن شیپ حقیقت سے مکمل طور پر آگاہ ہیں۔ جہاں تک دو سر الزام ہے میں خدا کو حاضر و ناظر جان کر خالصاً بیان دیتا ہوں کہ میں نے کسی پولیس اہلکار کی تصویر شیئر نہیں کی ہے اور نہ ہی ایسا کوئی ثبوت بھرتے خلاف موجود ہے۔ اگر میں سرکاری انفارمیشن ایک کرتا تو مورخہ 12.10.2022 کی کارروائی کی انفارمیشن نہ کرتا۔ تاہم آفسران بالا کے سامنے پیش ہو کر نرمالی حقائق بتا سکتا ہوں۔ مجھے ذاتی طور پر بھی سننے کا موقع دیا جائے تاکہ آفسران بالا کو مطمئن کر سکوں اور جرح کا موقع بھی دیا جائے۔ اپنی ساری نوکری ہمیشہ دیا تدارکی اور ایما نڈاری کے ساتھ سر انجام دی ہے اور کبھی بھی آفسران بالا کو شکایت کا موقع نہیں دیا ہے۔ لہذا ایما نڈاری کا روادار کی چارج شیٹ داخل دفتر فرمائی جائے۔

آرشد خان Pasi معینہ انجارج ٹریفک II



OFFICE OF THE
ADDITIONAL SUPERINTENDENT OF POLICE,
BANNU

No. 287

Add:SP

Dated 30/12/2022

(11)

To The District Police Officer,
Bannu

Subject: DEPARTMENTAL PROCEEDINGS AGAINST PASI ARSHAD KHAN I/C TRAFFIC

Memo:

Kindly refer to DPO office endorsement No. 445/SRC, dated 22.11.2022, on the subject noted above.

Respected Sir,

As per your kind order, the enquiry against the above-named police official was completed by the undersigned. Its step-wise detail is as under:

ALLEGATIONS AGAINST PASI ARSHAD KHAN I/C TRAFFIC:

- That as per technical analysis of cell phone recovered from notorious car lifter Sakhat it was found that you were in contact with him.
- You also send pictures of police officials to him whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of Sakhat, you leaked official information to him to avoid his arrest.
- Such an act on your part is against service discipline and amounts to gross misconduct in official duty.

PROCEEDINGS:

For the purpose of scrutinizing the conduct of PASI Arshad Khan with reference to the above allegations, charge sheet and statement of allegations were served upon him; he submitted his written reply. He was heard at length, too. Some questions were also asked from him which he replied and were brought into writing. He was also shown the hard-copy of CDR of notorious car-lifter Sakhat and photos of Khalid Khan ASI (ex-Incharge DSB) sent to Sakhat by the accused Arshad Khan via video call link. ASI Khalid who is now in Canada on visit visa was also contacted through cell-phone and his stance was taken.

FACTS ABOUT SAKHAT:

Sakhim Ullah alias Sakhat S/O Zahir Khan r/o Kam Tarkhoba Asperka PS Domel was the ringleader of interprovincial car-lifter-groups. The KP government has also announced head-money for his killing. He was killed in an encounter vide FIR No. 806, dated 12.10.2022. U/S 302-324-353/15AA/5-EXP-Act/427 PPC. PS Domel. He was a desperate contract killer and was wanted to police in the following 16 cases:

- (12)
1. FIR No. 319/2019 u/s 15-AA PS Dornel
 2. FIR No. 371/2019 u/s 400/401 PS Dornel
 3. FIR No. 621/2019 u/s 411/34 PR PS Dornel
 4. FIR No. 659/2019 u/s 411 PR PS Dornel
 5. FIR No. 614/2021 u/s 15-AA PS Dornel
 6. FIR No. 679/2022 u/s 400/401-M PS Dornel
 7. FIR No. 531/2019 u/s 381-A PS City (Karachi)
 8. FIR No. 615/2019 u/s 468-471 MPS Chertwall
 9. FIR No. 1157/2019 u/s 381-M PS Civil Line (Lahore)
 10. FIR No. 1578/2019 u/s 381 PPC PS City Bannu
 11. FIR No. 100/2022 u/s 381-411 PS Mirakhel (Bannu)
 12. FIR No. 211/2020 u/s 381-A PR PS Miryan (Bannu)
 13. FIR No. 695/2020 u/s 381-A PS Basti Khet (Bannu)
 14. FIR No. 576/2020 u/s 400/401 PR PS Naurang (Lakkarwat)
 15. FIR No. 1034/2020 u/s 381-A PR PS Akora Khattak (Nasirpur)
 16. FIR No. 299/2020 u/s 381-A PS Cantt (Peshawar)

VIDEOS AND PICTURES UNDER QUESTION:

After killing of notorious car-lifter, Sakhat vide case FIR No. 302-324-353/15AA/5-EXP-Act 427 PPC PS Dornel on 12.10.2022, U/S 302-324-353/15AA/5-EXP-Act 427 PPC PS Dornel, the video was sent to lab for technical analysis and inter alia found that PASI Arshad Khan had sent the video of Khalid Khan ASI to Sakhat with sinister intensions and that the attention from his own cell phone bearing SIM No. 0334-8845429. This SIM has been issued in the name of PASI Arshad Khan. Moreover, a WhatsApp chatting from this number with Sakhat has also been proved. The objectionable screen-shot obtained from the cell phone of Sakhat shows the picture of Khalid Khan ASI at the center and that of Sakhat at the upper corner. This screen-shot has been taken from the video call sent to Sakhat by PASI Arshad Khan on 12 October 2022 at 12:02 pm, few hours before the death of Sakhat.

STATEMENT OF PASI ARSHAD KHAN:

جس وقت پراسرار ہوئے ہیں۔ یہ سبھی حقیقت پر مبنی ہے اور میرا رابطہ کار فخر عنت کی نوکیشن معلوم کر کے اس کے خلاف کارروائی
 کی۔ تصدیق مورخہ 12.10.2022 کی کارروائی بحوالہ مقدمہ نمبر 806 میری ہی اطلاع میشن پر ہوئی ہے میں خود وہاں پر
 موجود تھا۔ تو مورخہ 12.10.2022 کو وقت ناوان شپ کے ساتھ مسلسل رابطے میں رہا۔ اس کے بعد اوتقان ناوان شپ حقیقت سے مکمل
 طور پر آگاہ ہوئے۔

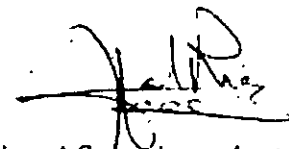
- (14)
6. The claim of PASI Arshad Khan that he had contacted Sakhat to manage his arrest good cannot be relied upon as he had not taken into confidence his high ups neither he had shared valuable information with Worthy DPO who had constituted various teams entrusted with the task of arrest of Sakhat.

Moreover, sending the video pictures of ASI Khalid Khan, a police official, to Sakhat, a notorious PO of 16 cases cannot be linked with good intention as Khalid Khan had been deputed for the arrest of Sakhat.

CONCLUSION:

Keeping the above facts and figures in view, all the allegations leveled against PASI Arshad Khan have been proved in toto with undeniable and irrefutable scientific evidences.

Submitted please.



*Additional Superintendent of Police,
Bannu*

D

(5)

PUNISHMENT ORDER

This order of the undersigned will dispose of the departmental proceedings against accused PASI Arshad Khan, under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014) by issuing charge sheet and statement of allegations to him for committing the following commissions/omissions:-

- That as per technical analysis of cell phone recovered from notorious car lifter Sakhat it was found that PASI Arshad Khan was in contact with the said accused.
- He also send pictures of Police Officials to the accused whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of Sakhat, he leaked official information to him to avoid his arrest.

Charge sheet and statement of allegation were issued to him and Addl/SP, Bannu was appointed as Enquiry Officer to hold a regular departmental enquiry under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014). The Enquiry Officer submitted finding report vide letter No. 287/ASP, dated 30.12.2022 and reported in the light of departmental enquiry proceeding, all the allegations leveled against PASI Arshad Khan have been proved, placed in file.

He was also heard in person dated 13.01.2023 to prove himself innocence but he failed to do so.

Keeping in view of the above, the undersigned meticulously perused all the relevant record, enquiry report and other circumstances of the case come to the conclusion that allegations leveled against the said official have been proved. The undersigned agreed with the findings of the enquiry officer. Hence, I, Dr. Muhammad Iqbal, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014) hereby awarded him Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 183

Dated: 14/10/2023

(Dr. MUHAMMAD IQBAL)PSP
District Police Officer,
Bannu.
Tel: 0928-9270038
Fax :0928-9270045
Email: dprobannu2@gmail.com

No. 895 SRC dated Bannu, the 14/12/2023.

Copy of above for necessary action to:

1. Reader, Pay Officer, SRC, OHC
2. Fauji Misal Clerk along with enquiry file for placing it in the Fauji Misal of the concerned official.

D/

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PUNISHMENT ORDER

This order of the undersigned will dispose of the departmental proceedings against accused PASI Arshad Khan, under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014) by issuing charge sheet and statement of allegations to him for committing the following commissions/omissions:-

➤ That as per technical analysis of cell phone recovered from notorious car lifter Sakhat it was found that PASI Arshad Khan was in contact with the said accused.

➤ He also send pictures of Police Officials to the accused whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of Sakhat, he leaked official information to him to avoid his arrest.

Charge sheet and statement of allegation were issued to him and Addl/SP, Bannu was appointed as Enquiry Officer to hold a regular departmental enquiry under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014). The Enquiry Officer submitted finding report vide letter No. 287/ASP, dated 30.12.2022 and reported in the light of departmental enquiry proceeding, all the allegations leveled against PASI Arshad Khan have been proved, placed at file.

He was also heard in person dated 13.02.2023 to prove himself innocent but he failed to do so.

Keeping in view of the above, the undersigned meticulously perused all the relevant record, enquiry report and other circumstances of the case come to the conclusion that allegations leveled against the said official have been proved. The undersigned agreed with the findings of the enquiry officer. Hence, I, Dr. Muhammad Iqbal, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Govt. of Khyber Pakhtunkhwa Gazette Notification of even No: dated 27th of August 2014) hereby awarded him Major Punishment of "Dismissal from Service" with immediate effect.

Sub: DEPARTMENTAL APPEAL FOR SETTING ASIDE THE PUNISHMENT OF DISMISSA
AWARDED BY DPO BANNU VIDE HIS OFFICE OB NO. 83, DATED 14/02/2023

Respected Sir,

With due respect it is submitted:

- 1 That the appellant had joined the police force as constable in the year 2006 and absorbed as PASI in the year 2016 against the Shuhadas qupta.
- 2 That the appellant has passed basic Elite Course, Traffic course, 8 promotional courses and earned 17 CC-III and 02 CC-II in recognition of his good performance. During the entire service, the appellant has not given an iota of chance of complaint to his high ups but unfortunately, the appellant was served with charge sheet vide DPO Office endst No. 445/SRC, dated 22/11/2022, wherein, the so-called charges of contacts with notorious person (Sakhat) coupled with leaking out information to him about the movement of arresting party to avoid his arrest as well as conveying pictures of police officials were leveled.
- 3 That during the inquiry proceedings, the appellant rebutted each and every charges on plausible grounds but inquiry officer based his findings only on collection of CDR of (Sakhat) and on the basis of that findings, competent authority (DPO Bannu) awarded me the impugned punishment which is discriminatory, against law as well as injustice on the grounds:

GROUND:

- 1 That the appellant has remained Incharge DSB and the job of intelligent officer is to collect information from whatever source may be, deemed appropriate to protect the interest of state as well as department. The appellant had explained this fact in his reply to the charge sheet too duly testified by SHO PS Township in his statement, recorded by Enquiry Officer. It was the outcome of information (collected by the appellant as a result of the said contacts) which made ensured the successful action on dated 12/10/2023. If these contacts were not utilized, the nabbing of accused (notorious person Sakhat) could not be ensured. The purpose /intent of the appellant behind the call contacts with the accused Sakhat was not to protect him but to was trace his whereabouts as well as arrest him. The appellant could explain in personal hearing (in one to one) that who were trying to protect him as well as paving way for his release even after his arrest.
- 2 That the report of CDR is limited only to show the time, date and period of dialed, missed and received calls and could not certify the nature of conversation and

(17)

messages etc that whether it were made for the interest of department or favoured the accused person. In the case of the appellant, star witness, SHO PS Township, has affirmed the facts that the appellant had provided valuable information regarding the arrest of notorious person Sakhat which is sufficient to negate the negative aspects of his contacts with the above accused.

3. That it was the fundamental right of the appellant to cross examine the person (evidence) who had provided the Call Data Record to Enquiry Officer but this opportunity was not provided, hence the call data record could not be held a gospel truth.
4. That the appellant has been discriminated because number of police officers/officials contacts were identified with accused Sakhat after taking into custody his mobile phone followed by examining his CDR but only the appellant was made a scapegoat and the others were either absolved from the charges or awarded only minor punishments despite the fact that the appellant contacts with the accused were only for the purpose of his arrest but sorry to say that the good performance of the appellant was rewarded in shape of dismissal.
5. That the appellant was required to give an opportunity of showing cause of the proposed action which was to be taken by the competent authority but this opportunity was not afforded to the appellant which is mandatory under police rules and other laid down rules Thus, the appellant was condemned as unheard by violating the due process of law at every stage of the inquiry proceedings.
6. That the appellant and his family members have given matchless sacrifices for the department/state by offering precious lives in shape of Shahadat. A person with a prudent mind could not expect of such act from a police officer whose family members have given shahdaths for saving the image of the force. Thus, the appellant having such family background even could not think about saving the skin of such like notorious accused.

In view of the above, it is humbly requested that the impugned order of dismissal may kindly be set aside and the appellant may be reinstated in service with all back benefits for the best interest of justice.

50/23
3-23

Hoping our kind boss will act with kindness.

DPO Bannu

on comments also
submit his service
Record and enquiry
file

Appellant

Arshad Khan

3-3-2023

Ex-Assistant Sub Inspector, Bannu.

R.P.O Bannu Region

313123

To: The Inspector General of Police,
Khyber Pakhtunkhwa Peshawar.

F
Bannu
16

Subject: DEPARTMENTAL APPEAL FOR SETTING ASIDE THE PUNISHMENT OF DISMISSAL
AWARDED BY DPO BANU VIDE HIS OFFICE OB NO. 83 DATED 14.02.2023

Respected Sir,

With due respect it is submitted:

1. That the appellant has joined the police department as constable in the year 2006 and absorbed as PASI in the year 2016 against the Shuhadas Quota.
2. That the appellant has passed Basic Elite Course, Traffic course, 08 promotional courses and earned 17 CC-III and 02 CC-II in recognition of his good performance. During the entire service, the appellant has not given an iota of chance of complaint to his high-ups but unfortunately, the appellant was served with charge sheet vide DPO Office Endst; No. 445/SRC, dated 22.11.2022, wherein, the so-called charges of contacts with notorious person (Sakhat) coupled with leaking out information to his about the movement of arresting party to avoid his arrest as well as conveying pictures of police officials were leveled.
3. That during the inquiry proceeding, the appellant rebutted each and every charges on plausible grounds but inquiry officer based his findings only on collection of CDR of (Sakhat) and on the basis of that findings, competent authority (DPO Bannu) awarded me the impugned punishment which is discriminatory, against law as well as injustice on the grounds:

GROUND:

- i. That the appellant has remained Incharge DSB and the job of intelligent officer is to collect information from whatever source may be, deemed appropriate to protect the interest of state as well as department. The appellant has explained this fact in his reply to the charge sheet too duly testified by SHO PS Township in his statement, recorded by Enquiry Officer. It was the outcome of information (collected by the appellant as a result of the said contacts) which made ensured the successful action on dated 12.10.2023. If these contacts were not utilized, the nabbing of accused (notorious person Sakhat) could not be ensured. The purpose / intent of the appellant behind the call contacts with the accused Sakhat was not to protect him but to was trace his whereabouts as well as arrest him. The appellant could explain in personal hearing (in one to one) that who were trying to protect him as well as paving way for release even his arrest.
- ii. That the report of CDR is limited only to show the time, date and period of dialed, missed and received call and could not certify the nature of conversation and message etc that whether it were made for the interest of department of favoured the accused person. In the case of the appellant, Star witness, SHO PS Township, has affirmed the facts that the appellant has provided valuable information regarding the arrest of notorious person Sakhat which is sufficient to negate the negative aspects of his contacts with the above accused.
- iii. That it was the fundamental right of the appellant to cross examine the person (evidence) who had provided the Call Data Record to Enquiry Officer but this opportunity was not provided, hence the call data record could not be held a gospel truth.

- iv. That the appellant has been discriminated because number of police officers /officials contacts were indetified with accused Sakhat after taking into custody his mobile phone followed by examining his CDR but only the appellant was made a scapegoat and the others were either absolved from the charges or awarded only minor punishment despite the fact that the appellant contacts with the accused were only for the purpose of his arrest but sorry to say that the good performance of the appellant was rewarded in shape of dismissal.
- v. That the appellant was required to give an opportunity of showing cause of the proposed action which was to be taken by the competent authority but this opportunity was not afforded to the appellant which is mandatory under police rules and other laid down rules. Thus, the appellant was condemned as unheard by violating the due process of law at every stage of the inquiry proceedings.
- vi. That the appellant and his family members have given matchless sacrifices for the department/state by offering precious lives in shape of Shahadat. A person with a prudent mind could not expect of such act from a police officer whose family members have given shahdaths for saving the image of the department. Thus, the appellant having such family background even could not think about saving the skin of suchlike notorious accused.

In view of the above, it is humbly requested that the impugned order of dismissal may kindly be set-aside and the appellant may be reinstated in service with all back benefits for the best interest of justice.

Hoping our kind boss will act with kindness.

Appellant

Arshad Khan
Ex-Assistant Sub Inspector, Bannu.

ORDER:

This order will dispose of departmental appeal, preferred by Ex-PASI Arshad Khan of District Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No.183 dated 14.02.2023 for committing the following misconduct:-

- That as per technical analysis of cell phone recovered from notorious car lifter Sakhat, it was found that the appellant was in contact with the said accused.
- The appellant send pictures of Police officials to the accused whom were tasked to trace Sakhat. Beside during all time when teams were after the arrest of Sakhat, the appellant leaked official information to the accused to avoid his arrest.

Comments, service record, punishment order and enquiry file were received from DPO Bannu vide his office letter No.1176 dated 08.03.2023 and perused in detail. As per enquiry file; the appellant was charge sheeted based upon statement of allegations and Addl:SP Bannu was appointed as Enquiry Officer. The E.O conducted inquiry into the allegations and submitted his findings, wherein the E.O concluded that the allegations leveled against the appellant have been proved in toto with undeniable and irrefutable scientific evidences. Therefore, the appellant was recommended by the E.O for award of major punishment. The competent authority (DPO Bannu) with the recommendation of the E.O awarded the appellant major punishment of "Dismissal from Service" vide OB No.183, dated 14.02.2023.

The appellant was heard in person in orderly room held in RPO Office Bannu on 06.04.2023. His service record, enquiry file and other relevant papers were perused which revealed that the appellant had deep relations with Inter Provincial car lifter Sakhim Ullah alias Sakht s/o Zahir Khan r/o Kam Tarkhoba Asperka PS Domel, Bannu evident from his cell phone record. The said car lifter was wanted to local police in 16 cases of car lifting while he was also a proclaimed offender of Punjab Province, Islamabad and Peshawar. He was heading an Inter-Provincial Car Lifting Gang and had neutralized 03 police stations of Bannu and a large number of police officials to make a safe heaven for him in Domel, District Bannu. The delinquent official not only passed information about activities of the team constituted to apprehend Sakhim Ullah alias Sakht but also shared their photos with him. All these were recovered from the cell phone of Sakhim Ullah alias Sakht after he was neutralized in a police encounter on 12.10.2022. The conduct of the delinquent official has not only weakened the police efforts to nab a hardened criminal but also endangered lives of the members of the police team by sharing their photos with the gang leader of the car lifters. This act is not only against the purpose of police but also ignoble.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 183 dated 14.02.2023.

ORDER ANNOUNCED

OB No. 75
Dated: 12/04/2023.

Regional Police Officer,
Bannu Region,
Bannu

No. 1142 /EC, dated Bannu the 12/04/2023

Cc:

DPO-Bannu for necessary action w/r to his office letter No. cited above. Complete Service Roll and enquiry file of Ex-PASI Arshad Khan of District Bannu are sent herewith for record in your office which may be acknowledged, please

2
~~Regional Police Officer,
Bannu Region,
Bannu~~

19

بعدالت

KP Service Tribunal, Rawalpindi

2 منجانب

Arshad Khan

بنام

vs

Police Deptt

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

کیلئے مسید قحمان علی بخاری

آن مقام مبارک

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 ق 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 محتاج 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ 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۔

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ماہ

المرقوم

العبد گواہ العبد