

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

Service Appeal No. 262/2023

Syed Asim Shah, Ex-Kanungo (BPS-11),
Mohallah pareech khel, Utmanzai, District Charsada.

.....APPELLANT

VERSUS

1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Hazara Division Abbottabad.
3. The Deputy Commissioner Kohistan, District Kohistan.

.....RESPONDENTS

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47
3+47=50

Respondents

Through:

Sd/-
Deputy Commissioner
Kohistan Upper
(Respondent No.3)

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

Service Appeal No. 262/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5595

Dated 25/5/2023

Syed Asim Shah, Ex-Kanungo (BPS-11),
Mohallah pareech khel, Utmanzai, District Charsada.

.....APPELLANT

VERSUS

4. The Senior Member Board of Revenue, Khyber Pakhtunkhwa Peshawar.
5. The Commissioner Hazara Division Abbottabad.
6. The Deputy Commissioner Kohistan, District Kohistan.

.....RESPONDENTS

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3.
PRELIMINARY OBJECTIONS.**

1. The petitioner has got no cause of action & locus standi.
2. The appeal is time barred.
3. The appeal is deficient & not maintainable in its present form.
4. The appellants have not come to this honorable Tribunal with clean hands.
5. The respondents after fulfillment of all codal formalities the appellants removed from service on cogent reasons on the basis of his willful absence repeatedly.

**FACTUAL OBJECTION.
RESPECTFULLY SHEWETH.**

1. Correct.
2. Incorrect. That the appellants were removed from service by the then competent authority vide DC Kohistan order No. 4691-98 dated 21.03.2016 (copy attached as Annex-A). The appellants neither informed this office nor informed by police department regarding FIR No. 501 dated 08.03.2015 under section 302/34 PPC Police Station Charsada (copy of FIR is attached as Annex-B).
It is pertinent to mention here that the office of the Deputy Commissioner Kohistan had no knowledge of the appellants being booked in criminal case and jailed. The DC office has never been informed about his criminal case by any court of law, police or the appellants hereby. He was found absent in 2015 and under E&D Rules 2011 he was proceeded against in the office of DC Kohistan for his absences which resulted in his termination/removal from service after fulfillment of all codal formalities (copy of explanation as Annex-C, copy of Notice as Annex-D, publication notice in newspapers as Annex-F and office order as Annex-A).
3. Incorrect. That the appellants were actually neither under custody of the local police nor in judicial lock up from the date of lodging FIR against him i.e. 17.08.2015 upto 01.10.2020 (5/6 years) which is revealed from the judgment of honorable court that the date of the institution of case is 06.03.2021 (copy of judgment and challan is attached as Annex-E).
4. Partially correct. It is further mentioned here that the institution of case is 06.03.2021 and date of decision is 15.09.2022 (copy already is attached as Annex-E) the appellants remained absconder from the local police as well as from court of law w.e.f 17.08.2015 up to the year 2020-21 (copy of judgment and challan already attached as Annex-E).

Deputy Commissioner
Kohistan

5. Incorrect. The applicant/appellant approached DC office Kohistan through Board of Revenue vide Assistant Secretary (Estt:) Board of Revenue Peshawar letter No. Estt:VII/General file/2021/30324-25 dated 02.11.2022 for reinstatement into his services (copy is attached as Annex-F). The Deputy Commissioner Kohistan informed the Board of Revenue regarding the subject matter that the appellant already been removed from service by the then competent authority on the basis of willful absence from duty after fulfillment of required codal formalities vide DC Kohistan letter No. PF-Asim shah/Estt:/12071-72/DC KH dated 24.11.2022 (copy is attached as Annex-G).

Furthermore, the appellant neither informed DC office nor informed by Local Police regarding lodged FIR No. 501 dated 17.08.2015 under section 302/34 PPC PS Charsada against the accused/appellant.

The appellant submitted an application for reinstatement into services through the office of Board of Revenue vide No. Estt: VII/General file/2021/32955 dated 23.11.2022 (copy attached as Annex-H) which was sent to DC Kohistan. The Deputy Commissioner Kohistan again provided a brief/detailed vide letter No. PF-Asim shah/Estt:/4005/DC KH dated 28.03.2023(copy attached as Annex-I) to Board of Revenue as the appellant was terminated under E&D Rules 2011 due to his willful absence from duties and the DC office Kohistan had no knowledge of the appellant being booked in criminal case and jailed. The DC office Kohistan never been informed about his criminal case by any court of law, police or the appellant hereby.

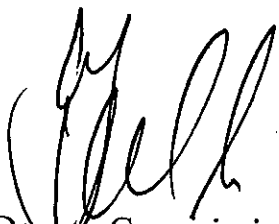

6. Correct. Last letter of the Assistant Secretary (Estt) Board of Revenue bearing letter No. Estt:/VII/General file/2021/4859 dated 21.02.2023 (copy is attached as Annex-J) addressed to Deputy Commissioner Kohistan where which requested to dispose of the case as per FR-54 and reinstate official in the service from the date of his removal from service. The Deputy Commissioner Kohistan again informed vide the quarter concerned that the applicant has not filed any proper appeal against the order of the then Deputy Commissioner Kohistan vide letter No. PF-Asim shah/Estt:/4005/DC KH dated 28.03.2023(copy alongwith its enclosures is already attached as Annex-I). Therefore, the competent authority/DC Kohistan is of the opinion that as his case has already been finalized and closed by the then Deputy Commissioner Kohistan, hence, he cannot be given relief in DC office Kohistan Upper and further added that the accused/appellant was actually not under custody of the local police and nor in judicial lock up from the date of lodging FIR against him from 17.08.2015 to year 2020-21 (5/6 years) which is revealed from the judgment of honorable court that the date of institution of the case is 06.03.2021. Furthermore, the Deputy Commissioner Kohistan also brought into the notice of Board of Revenue that Kohistan District has been tri-furcated and the vacant post of the appellant alongwith other 17 No. of posts are detached from District Kohistan Upper and attached with Deputy Commissioner Kohistan Lower vide DC Kohistan letter No. PF-Asim/Estt/4005/DC KH dated 28.03.2023. (copy alongwith its enclosures already attached as Annex-I).
7. Incorrect. The appeal has no cause of action to file the instead appeal.


GROUND

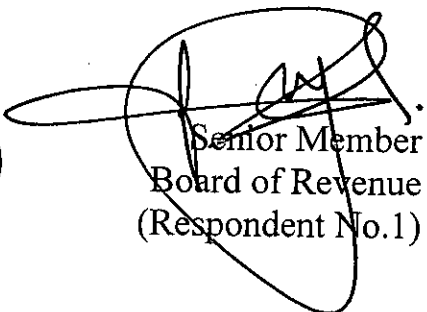
- A. Incorrect. The order is according to law, facts, norms of justice and material on record.
- B. Incorrect. All codal formalities were completed as per Khyber Pakhtunkhwa Govt: Servants (E&D) Rules 2011.
- C. Incorrect. Detail is given in para-2.
- D. Incorrect. All codal formalities were applied as per Khyber Pakhtunkhwa Govt: Servants (E&D) Rules 2011.

- E. Incorrect. Para-2 of the above factual objection is self-explanatory for removal from service.
- F. Incorrect. Para-2 of the above factual objection is self-explanatory for removal from service.
- G. Incorrect. After completion of all codal formalities under Rule-9 of E&D Rules 2011, he was removed from service vide order endorsement No. 4691-98 dated 21.03.2016 after fulfillment all codal formalities and the copy of the order was sent on his home address as well as pasted on the notice board and conspicuous places in the District.
- H. Incorrect. Para-2 of the above factual objection is self-explanatory regarding removal from service.
- I. Incorrect. The respondents also seek permission to advance other grounds and proof at the time of arguments.

In the light of the above facts it is therefore, humbly prayed that the instead Service Appeal may graciously be dismissed with cost in favor of respondents.


Deputy Commissioner
Kohistan Upper.
(Respondent No.3)

Deputy Commissioner
Kohistan


Commissioner
Hazara Division, Abbottabad
(Respondent No.2)


Senior Member
Board of Revenue
(Respondent No.1)

BEFORE THE KYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No: 262/2023

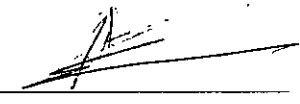
Syed Asim Shah

VERSUS

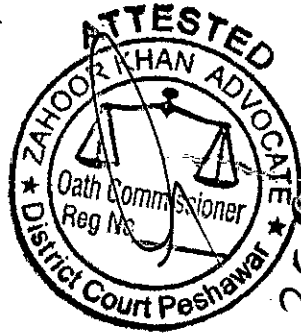
1. SMBR
2. Commissioner Hazara Division Abbottabad.
3. Deputy Commissioner Kohistan Upper.

AFFIDAVIT

I, Abdul Hameed Junior Clerk Deputy Commissioner Kohistan Upper do hereby affirm and declare on oath that the contents of the Parawise Comments is true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Service Tribunal.

Deponent 

Dated 25.05.2023



Annexure - "A"
Annexure - A

(1)
(1)

(76)

OFFICE OF THE
DEPUTY COMMISSIONER
KOHISTAN

No.2/Rev/Estt/ Vol -V 4691-98 DC (KH).

Dated 21 / 03/2016

OFFICE ORDER

Syed Asim Shah Kanungo (BPS.11) of this office absented himself from his official duty w.e.f 21/08/2015 till date. Notices were issued to him on his home address and through Daily Mashriq, Daily Aaj News Papers, published on 12/12/2015 but he did not attend his duty.

Keeping in view the above facts and after fulfilling codal formalities, major penalty (i.e Removal from service) is hereby imposed on the accused official (i.e Mr. Syed Asim Shah, Kanungo), under Rule 9 of E&D Rule 2011 w.e.f 21/08/2015 i.e from the date of his absence.

Deputy Commissioner,
Kohistan

Endst: No. 4691-98/1

Copy forwarded to the:-

1. Senior Member Board of Revenue & Estate Khyber Pakhtunkhwa Peshawar.
2. Commissioner Hazara Division Abbottabad.
3. District Account Officer Kohistan.
4. Assistant Commissioner Dassu.
5. Tehsildar Dassu, Kandia
6. Assistant Accounts/ District Nazir of this office.
7. Mr. Syed Asim Shah s/o Syed Showrin Shah Frige Khail Atmanzai Tehsil Charsada District Charsada
8. Personal File.

Deputy Commissioner,
Kohistan

Attested
Abdul Basit (S/C)

2
Annexure "B"

گورنمنٹ پبلس چارج ہائیڈرآباد نمبر 52286/13 م سٹور نوٹاواک ہزار ہزار جنوری 20.06.2011 (فارم نمبر 10) جی ڈی ایم (پیس)

0333 9321613

فارم نمبر 10

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 152 مجموعہ ضابطہ نمبر 10

ملک
جاری
جاری

جاری
جاری
17 17 وقت 17 وقت 17 وقت 17 وقت
17:10 17:15 17:20 17:25

تاریخ وقت رپورٹ 17 وقت 17:50
چکیڈی پرچہ 15 17 وقت 17:20

نام و سکونت اطلاع دہندہ مستفیض سعید مختور شاہ ولد سعید مختور شاہ لبر 25/26 سال بلا پیرتاج محل اعانہ نئی

نقشہ کیفیت جرم (موافقہ) حال اگر کچھ لیا گیا ہو۔ 34-324

ملقات سے اور مستغمانہ نئی بازار نزد عبدالجلال بخاری شاہ بابا

۲ نیشنل پبلک سروس، حجابہ، عامہ سیران برکت شاہ ساکنان اعانہ نئی پیرتاج محل

پیش کیے گئے ہیں اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کر کے سیدگی خبری عدالت مقدمہ قائم کیا جاتا

سبب ڈاک

ابتدائی اطلاع نئے درج کر کے ہو کر بہ عنوان قتل سے حدود حجابہ
سی ڈی ایم صاحب قمانہ جاریہ سعید مختور شاہ ولد سعید مختور شاہ لبر 25/26 سال ساکن اعانہ نئی محل پیرتاج محل کو برادر اثر
معاذک شاہ نے بحالت حدودیت پولیس حجابہ نئی راکر جو در نسبت ہوئی و خواص میں سے ہوا
رپورٹ کرنا تھا آج بوقت وقوع جائے وقوعہ پر موجود تھا اس دوران حجابہ
حجابہ، حجابہ، عامہ سیران برکت شاہ محل پر اسلم اللہ اراد آئے ہیں جو پیرتاج محل
نقل فائدہ شروع تھی جسکی فائدہ میں سے لگے زخمی ہوا وہ بخداد وقتی نگرانی و وقت
معاذک سے عدالت و ناں پر موجود ناں ہی جنم دہ ہے میں اپنے حدودیت کا دعویٰ
شروع میں حجابہ، حجابہ، عامہ سیران برکت شاہ ساکنان اعانہ نئی محل پیرتاج محل
معاذک شاہ ولد سعید مختور شاہ لبر 18/19 سال نے رپورٹ دادائی تھی
کارروائی پولیس حسب افتر سائل رپورٹ درج باا ہو کر پیرتاج محل سماعتا گیا
تلم کر کے زیر بیان خود انکو ثابت کیا گیا اسی طرح تانہ لکنہ نے بھی تانہ
انکو ثابت کیا جسکی میں لکھا کرتا ہوں حدودیت حجابہ نئی محل پیرتاج محل
معرض عدالت، راج ڈاکٹری زیر حفاظت اجمل 592 خوالہ ڈاکٹر عدنان
صاحب کا گناہوں رپورٹ سے صورت طرح بالا باا جاکر عدالت نئی محل
مقدمہ دست حضرت سعید مختور شاہ 137 ارسال تھا ہے۔ دستخواہنگری لکھی جا
ASD قمانہ جاریہ کارروائی قمانہ آفیسر نے خبری عدالت حجابہ
درج باا ہو کر پیرتاج محل بالا جاکر سماعتا گیا
جو میں لکھنے خوالہ فقیر حال 10 جاریہ ہے جا ز میں پیرتاج محل

Attested
Abdul Hamid (1/1)

Registered

Amirchur - C
Amirchur - C

(3)
(3)

OFFICE OF THE
DEPUTY COMMISSIONER
KOHISTAN-UPPER

71
~~254~~

No. ⁵¹2/Rev/Estt/Vol-V/9155/DC(KH)

Dated Dassu the 11/9/2015.

EXPLANATION.

2/Rev-2/Rev:

You Mr. Syed Asim Shah was posted as Kanungo Tehsil Kandia, vid order No. 2/Rev/Estt/Vol-V/8365-70 dated 02/09/2015, but you failed to join your duty as Kanungo and still absent from official duty.

You hereby called upon to explain your position within seven days of receipt of this explanation, otherwise expart action will be initiated against you under the E&D rules 2011.

Mr. Syed Asim Shah s/o
Syed Shawrin Shah r/o
Frech Khel Atmanzai
Tehsil Charsada District Charsada.

Deputy Commissioner
Kohistan-Upper

Attested
Abdul Hameed (B/C)

✓
رجسٹرڈ

Annex - D
Annex - D

(4) (4)

مورخہ 26-10-2015 10801

(254)

71
B

نوٹس

تم مسی سید عاصم شاہ ولد شاہ ورین شاہ ساکنہ فریج خیل اتمازئی تحصیل ضلع چارسدہ حال گرداور تحصیل داسو ضلع کوہستان اپر مورخہ 21-08-2015 سے تا حال سرکاری ڈپوٹی سے بغیر اطلاع یا بغیر اجازت مجاز اتھارٹی کے مسلسل غیر حاضر ہو۔ بذریعہ جواب طلبی نمبر 5-Rev: Estt: Vol: IV/9088 مورخہ 10-09-2015 جو کہ تمہارے گھر کے پتے پر رجسٹری کردی گئی تھی مگر تا حال تمہاری جانب سے کوئی جواب نہیں ملا اور تم بدستور بغیر اطلاع کے غیر حاضر ہو۔ لہذا نوٹس ہڈ کے ذریعے تم کو آخری بار مطلع کیا جاتا ہے کہ پندرہ (15) یوم کے اندر آپ اپنی سرکاری ڈپوٹی پر حاضر ہوں ورنہ قانون نمبر 9 (E & D) 2011 کے تحت کارروائی عمل میں لائی جا کر یکطرفہ کارروائی کی جائے گی جو کہ آپ کی نوکری سے برخاستگی پر منتج ہو سکتی ہے۔

ڈپٹی کمشنر کوہستان اپر

Attested
Abdul Hameed (D/C)

Annexure - E
Annexure - 12

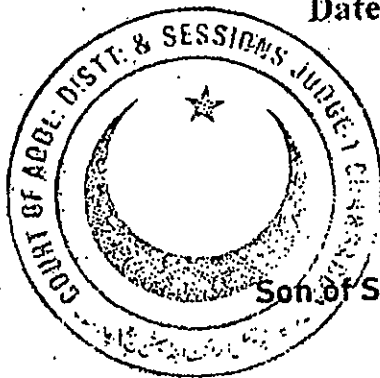
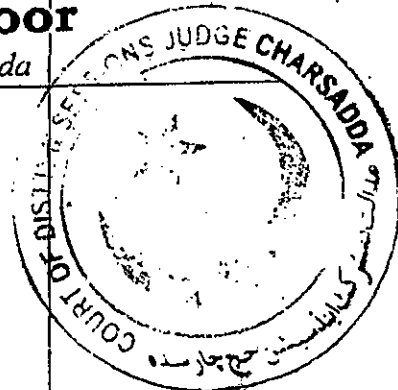
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In the name of Almighty Allah,
The Most Beneficent, The Most Merciful

Before **Muhammad Zahoor**
Additional Sessions Judge-1, Charsadda

Session Case No: 23/SC
Date of Institution: 06/03/2021
Date of Decision: 15/09/2022



THE STATE

Versus

SYED ASIM SHAH

Son of Syed Shorain Shah & SYED MUJAHID SHAH

Son of Barakat Shah

R/O Pareech Khel Utmanzai
Tehsil & District Charsadda

(Accused)

CHARGED

Vide FIR: 501
Dated: 17/08/2015
U/S: 302/34 PPC
P.S : Charsadda

Present:

Mr. Sareer Khan Advocate for accused

Mr. Abdul Ahad Advocate for complainant

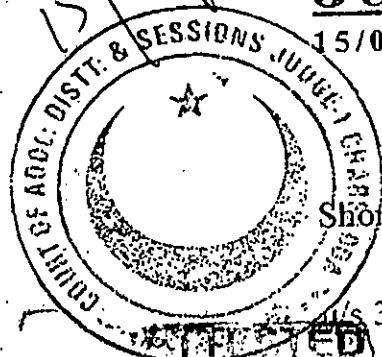
JUDGMENT:

15/09/2022

Syed Asim Shah and Syed Mujahid Shah sons of Syed

Shorain Shah are facing trial in Case FIR No.501, dated 17/08/2015,

U/S 302/34-PPC, P.S Charsadda.



2. Brief facts of the case mentioned in the FIR are that on

11 NOV 2022
Abdul Ahad (S/O)

17/08/2015, complainant/deceased then injured Syed Bakhtawar Shah
Branch
of Distt & Sessions Judge

Additional Sessions Judge-1, Charsadda

reported the matter to the local police at casualty DHQ Hospital, Charsadda that at about 1610 hours, he was present at the place of occurrence, when the accused facing trial alongwith acquitted co-accused Syed. Shorain Shah came and immediately started firing upon him with the intention to kill him, as a result of which, complainant/deceased then injured got hit and injured. Motive for the occurrence as reported by the complainant/ deceased then injured was altercation between the parties.

3. Upon this report, a murasila was drafted and sent to Police Station concerned with the request to register a case against the above named accused. As soon as it was received therein, a case was registered against them under Section 302/34 PPC of Police Station Charsadda dated 17/08/2015. After the completion of investigation, supplementary *challan* was submitted against them.

The accused were summoned by this Court. Copies of necessary documents were delivered to the accused and formal charge was also framed to which the accused pleaded not guilty and opted to face trial. After the receipt of the instant record / *challan* for trial,

11 NOV 2022 prosecution witnesses were summoned because formal charge had



Agency Branch
Distt & Sessions Judge
Charsadda

Abdul Hussain (S/16)

(b) (15) (145)

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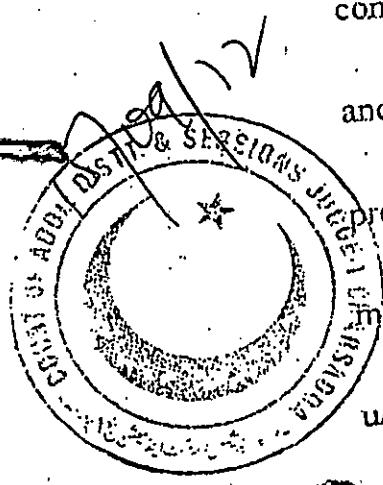
Additional Sessions Judge-1, Charsadda

5. In order to prove its case, the prosecution produced as many as twelve (12) witnesses from PW-01 to PW-12. The gist of the evidentiary stuff with its appraisal and appreciation is given as under:-

(PW.1) Munir Khan Inspector/CIO, on receipt of murasila and copy of FIR, he proceeded to the spot and prepared the site plan Ex. PB at the instance and pointation of the eyewitness. During spot inspection, he recovered and took into possession vide recovery memo already Ex. PW1/1, blood stained earth from the placed of deceased then injured and sealed the same in parcel No.1 (P-1). He vide recovery memo already Ex. PW1/2, took into possession blood stained garments of the deceased then injured consisting of Qamees (P-2), Shalwar (P-3) produced by Wali Khan and sealed the same in parcel No.2. The recovery memos were prepared in presence of marginal witnesses by affixing 3/3 monograms in the name of MK. He recorded the statements of PWs u/s 161 Cr. PC. He drafted application Ex. PW1/3 for FSL analysis of the articles in parcels No.1 and 2 and handed over the same to the Moharrir for sending to the FSL, the result whereof is Ex. PZ and is in

20

[Handwritten scribble]



ATTESTED

11 NOV 2022

Cop. Distt & Sessions Judge, Charsadda. No: 23/SC of 2021

[Handwritten signature]
Attested
Abdul Humaid

(8) (12) (8)

147

Ex. PW1/4. After that he was sent for Target Hurdle and Tactical Course and the rest of investigation was handed over to Khwaja Khan SI.

2

(PW.2) Mir Bahadar retired DFC, was entrusted with warrants issued against the acquitted accused Shorain Shah Bacha and accused facing trial namely Mujahid and Syed Asim Shah. He has done proceedings under Section 204/87 Cr.P.C against all the accused. He recorded the statement of attesting witnesses on the back of the warrant and returned the same un-executed with his reports. The warrants are Ex PW2/1 to Ex PW2/3, his reports thereof as Ex PW2/4 to Ex PW2/6. He certified proclamation notices as Ex PW2/7 to Ex PW2/9 and his report thereof as Ex PW2/10 to Ex PW2/12.

(PW.3) Dr. Iraq Shah, CMO, examined deceased then injured Syed Bakhtawar Shah and found the following:

A firearm entry wound on upper abdomen measuring 1 x 1 cm.

A firearm exit wound on right interior abdomen measuring 3 x 6 cm with gut and abdominal organs out.

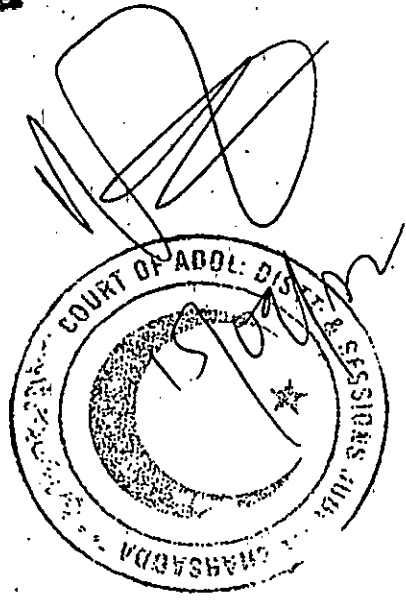
A firearm entry wound on right lower abdomen measuring 1 x 1 cm.

Weapon used: Firearm

[Signature]

11 NOV 2022

Examiner
Copying Agency Branch
Courts of Dist & Sessions Judge



[Handwritten signature]
Abdur Hamid (S/c)

(9) 13
9

148

Nature: Dangerous.

Emergency treatment is given and patient was referred to LRH Peshawar for specialized treatment.

The report is Ex.PW3/1, which is in his hand writing and correctly bears his signature.

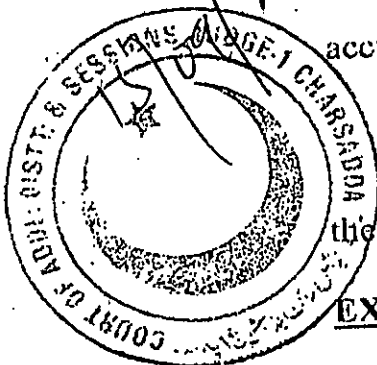
(PW.4) Jehangir Khan SI, correctly incorporated the contents of murasila into FIR Ex PA.

(PW.5) Khwaja Muhammad SI, applied for obtaining warrant u/s 204 Cr.P.C against accused facing trial and other co-accused, vide application Ex.PW5/, which were handed over to the DFC concerned for doing the needful, which returned un-served. Similarly, vide his application Ex.PW5/2 applied for obtaining proclamation notices u/s 87 Cr.P.C which were obtained in triplicate and were handed over to the DFC concerned for doing the needful. To the extent of accused facing trial he conducted the above mentioned proceedings while he also conducted investigation against acquitted accused Syed Shorain Shah.

(PW.6) Dr. Khalid (Rtd), MO, conducted autopsy on the dead body of deceased Bakhtawar Shah and found the following:

EXTERNAL APPEARANCE:

Symptoms observed before death:



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Received dead

Information furnished by Police:

Hospitalized

Mark of ligature on the neck and dissection, etc:

Nil

Condition of subject stout emaciated, decomposed, etc, clothing:

Stout, emaciated, decomposed etc, clothing. An average built young male body wearing gray shalwar, qamees which were blood stained with corresponding firearm defects. PM lividity and rigor mortis started developing.

Wounds, bruises, position, size, nature:-

1. A shot gun entry wound right outer and back of chest 7 x 7 cm in size ; 16 cm below axilla.
2. Multiple (abt-20-20) pellet exit wounds front of whole abdomen and lower chest 0.2 to 0.4 cm in size.
3. FA entry (1 x 1 cm) left outer mid thigh with exit (2 x 2 cm) on left inner mid thigh.

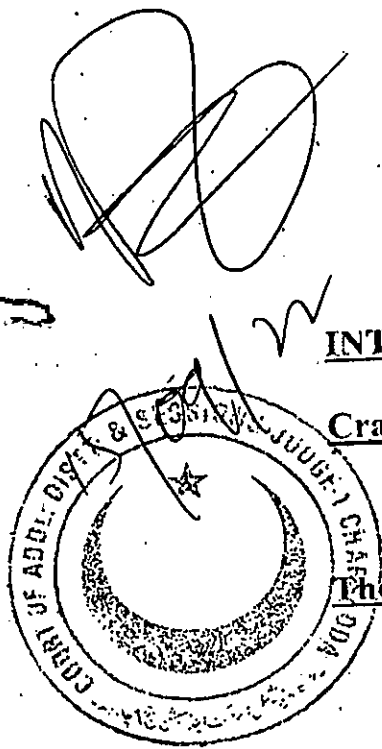
INTERNAL APPEARANCE:

Cranium and Spinal Cord:

Healthy

Thorax:

Except larynx and trachea all the organs of thorax are injured.



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Abdul Hamid
Serving Agency Branch
Court of Distl & Sessions Judge

(11) (11) (11) (190)

Abdomen:

Mouth, pharynx and esophagus, pancreas and bladder are healthy while rest of organs are injured.

Muscles, bones and Joints:

As per injury sheet.

Remarks:

In his opinion the deceased died due to injury to heart, both lungs, liver, stomach, spleen, kidney and intestines due to shot gun injury. PM report, clothes of deceased and dead body handed over to the police.

Probable time between injury and death: Hospitalized.

Injured: 17.08.2015

Died: 17.08.2015

Probable time between death and P.M: 1 to 3-hours.

PM report Ex PM consisting of 06 sheets including pictorial while inquest report Ex PM/1.

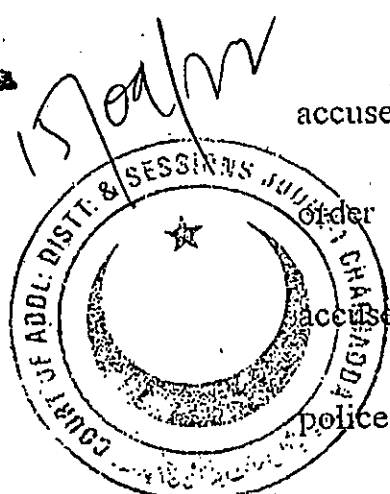
(PW.7) Madad Khan Inspector, has arrested all the accused vide card of arrest Ex PW7/1 after cancellation of interim order dated 01/10/2019. Vide application Ex.PW7/2 produced the accused facing trial before Judicial Magistrate for obtaining their police custody which was accepted and two days custody was granted.

Vide application Ex.PW7/3 applied for further custody which was declined and the accused was sent to judicial lock. He recorded their

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Abdul Hamid
Deputy Agency Branch
Court of Distt & Sessions Judge

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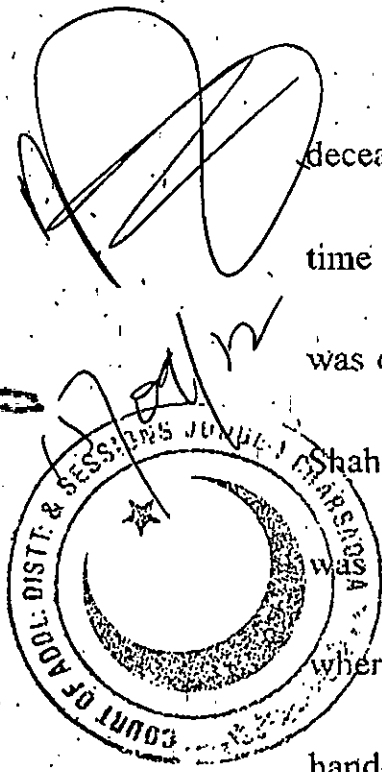
statement u/s 161 Cr.P.C. After completion of investigation the case file was handed over to SHO Noor Haider for submission of challan who submitted the same. The challan is Ex Pk.

(PW.8) Lal Badshah Khan ASI, reduced into writing the report in the shape of murasila Ex PA/1. He prepared the injury sheet of injured Ex PW8/1.

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(PW.9) Kashif Jan, is the marginal witness to the recovery memo Ex PW9/1, vide which the I.O took into possession from the place of deceased then injured some blood earth which is Ex P-1, sealed the same in parcel No.1.

(PW.10) Wali Khan, identified the dead body of the deceased Bakhtawar Shah before the police at LRH Peshawar at the time of preparation of his inquest documents whereon his signature was obtained and similarly he identified the dead body of Bakhtawar Shah before the doctor at the time of post mortem examination. As he accompanied the deceased to the mortuary KMC Peshawar whereafter the post mortem examination clothes of the deceased was handed over to him which he produced to the I.O on the spot. His statement was recorded by the I.O. The I.O took into possession the blood stained garments of the deceased vide recovery memo



Attested & Signed
Abdul Humaid 15/11/22

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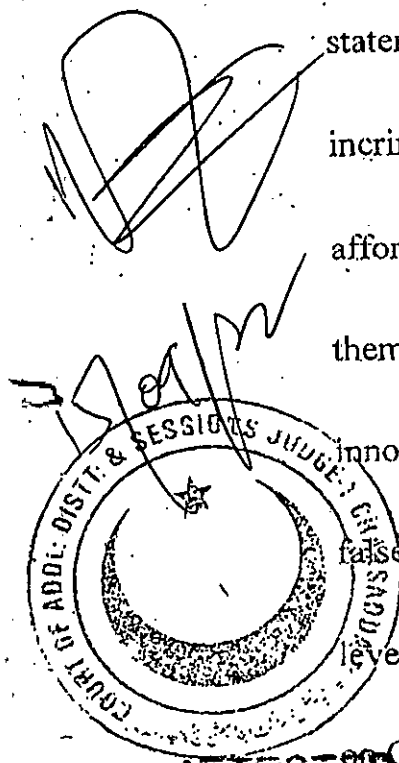
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Ex.PW10/1 in his presence. The garments were consisting upon qameez Ex.P-2/1, shalwar Ex.P-3/1 badami in colour and were blood stained. The I.O sealed the same into parcel No.2 by affixing MK monogram.

(PW.11) Syed Mubarak Shah, reiterated the facts narrated by in the FIR Ex PA.

(PW.12) Tahir Hussain ASI, prepared the inquest report Ex PW12/1 of deceased Bakhtawar Shah and sent his dead body to the mortuary through constable Siraj ul Amin FC No. 5250.

6. Thereafter, the prosecution closed its evidence and statement of accused was recorded U/s 342 Cr.P.C. When all the incriminating evidence has been put to the accused facing trial to afford them an opportunity to explain the circumstances, so put to them, they have not offered a shred of evidence to prove their innocence except by saying that they are innocent and have been falsely implicated. Accused facing trial discarded all the allegations leveled by the prosecution, however, they did not opt to be examined on Oath u/s 342(2) Cr.P.C or to produce defence evidence.



7.

Learned state counsel, assisted by the complainant

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EXAMINING counsel argued that the accused facing trial have been directly charged Copying Agency Branch Court of Distt & Sessions Judge, Charsadda No: 23/SC of 2021

Attested
Abdul Hamid

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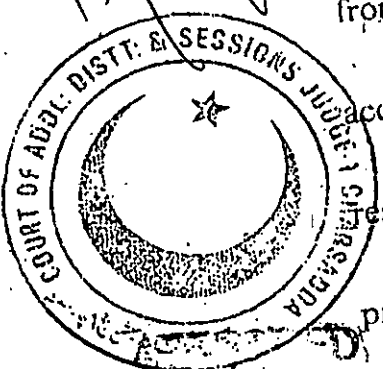
Additional Sessions Judge-I, Charsadda

in the instant case for causing the murder of a person. The incident has been reported with promptitude which rules out the possibilities of consultation, fabrication and false implication. Specific role have been attributed to the accused which further strengthens the case of prosecution. It was further argued that the prosecution has fully succeeded in proving its case against the accused facing trial through cogent, trust-worthy and confidence inspiring evidence by way of strong direct and circumstantial evidence. It was underscored on behalf of the prosecution side that there is complete consistency in the testimonies of the prosecution witnesses and no dent is available in the prosecution evidence which could be considered fatal for prosecution case. No material contradictions or discrepancies could be brought on record during the statements of PWs. They further added that site plan supports the prosecution version as recoveries of blood from the place of deceased and crime empties from the place of accused were made. They contended that positive FSL reports in respect of blood and blood stained garments also favour the prosecution case. A strong motive has been given in the FIR, which is dully corroborated by the witnesses. They argued that the accused

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Examiner

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 Abdul Haseeb

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facing trial soon after the occurrence remained absconder. Lastly, they prayed for awarding capital punishment to the accused facing trial,

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8. On the other hand, learned counsels for the defense argued that the accused facing trial are innocent and have falsely been implicated in the case in hand by the complainant party. Learned defense counsel further argued that the prosecution case is full of dents and doubts which in no way connect the accused facing trial with the commission of the offence. He added further that the prosecution witnesses are not consistent in their depositions on material points and abundance of doubts exists on case record. Further maintained that there is no direct and indirect evidence available with the file which connect the accused facing trial with the commission of offence, as even no recovery or pointation had been made from the accused. He argued that medico-legal report and post mortem report are contradictory to each other. He submitted that the accused facing trial are innocent and they be acquitted from the charges leveled against them.

9. I have heard learned Dy.P.P for the state, assisted by learned counsel for complainant and learned defense counsel for



Attested
Abdul Hamid (JL)

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Examining Agency Branch

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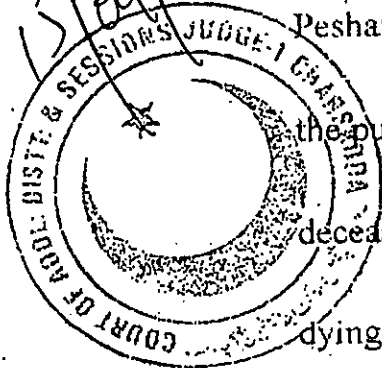
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accused facing trial and explored the record with considerable degree of care.

10. Facts as woven as per contents of FIR are that on 17.08.2015 at 1610 hours, the occurrence took place at Utmanzai Bazaar near Jalal Bukhari Shah Bacha Mazaar, the deceased then injured namely Syed Bakhawar Shah s/o Syed Feroz Shah along with his brother Mubarak Shah, the deceased then injured, who was well oriented, reported the matter that Shorain Shah, Mujahid and Asim armed with weapon, started firing at him with the intention of killing.

11. The story of the prosecution case shows that the star witness in the instant case was the deceased/complainant and this case as per record mainly relies upon his dying declaration. Motive as per contents of FIR is verbal altercation.

12. Taking wisdom from the judgment of the August Peshawar High Court, Peshawar, reported in PLD 2012, Peshawar, for the purpose of guidance as in the instant case dying declaration of the deceased then injured is disputed, which reveals that for believing a dying declaration and convicting a person on its basis, the following essential conditions must be established by the prosecution.



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Abdul Hamid (T/C)

Courts of District & Sessions Judge-I, Charsadda

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A. That the dying person was in full senses, conscious and alert to the surroundings, was fully oriented in space and time and was able to make a coherent speech.

B. That the dying declaration otherwise rings true and is sound in substance to be relied upon.

C. That it is free from promptness given by the outside quarter.

D. That the victim/dying person was in a position to identify his culprits and lastly:

E. That the doctor present at the occasion shall give a fitness certificate about the condition of the dying person.

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13. Keeping in view such parameters, perusal of the available record reveals that in the instant case, the medical report of injured now deceased is silent about his orientation and fitness. The police officer as well as the doctor were duty bound to mention the physical condition, fitness and orientation of the injured now deceased before recording the statement. Report was lodged at 1650 hours on 17.08.2015 while the deceased then injured died at 1810 hours as per

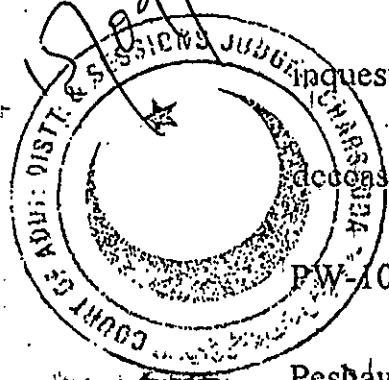
inquest report (Ex.PW12/1). The time of death of the deceased/complainant is 1810 hours, however, was controverted by

PW-10 (Wali Khan) who had identified the dead body at LRH Peshawar. This witness deposed in his cross examination that he had received information of the death of deceased at about 0430 pm or

05:00 pm. If so, the deceased might have died before 04:30/05:00 pm

No: 23/SC of 2021

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Abdul Hameed (NIC)

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EX. ...
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and in such circumstances, recording of his dying declaration at 1650 hours became doubtful.

14. Perusal of medical report of the injured now deceased, however, shows that the doctor had examined him at 04:45 pm, which time falls before the time of report mentioned in the murasila. While on the other hand, PW-8 Lal Bacha ASI stated in his statement that when the injured was brought to the hospital, he first recorded his report and then referred for medical examination.

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15. Taking further guidance from the dictum held in PLD 2015 Peshawar page 143, that the dying declaration is supposed to be recorded in the presence of either the magistrate or two independent witnesses, if the magistrate is not available. As per statement of PW-11 (Syed Mubarak Shah) in the instant case, people from the village had accompanied the injured to the hospital but none from those persons was associated as witness to the alleged dying declaration.

Keeping in view the above stated position with regard to dying declaration, it is held that the same is not proved and therefore, cannot be relied upon.



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Site plan Ex.PB available on record shows that the same

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was prepared by the I.O concerned on the pointation of eye witness.

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Abdul Hamid (S/C)

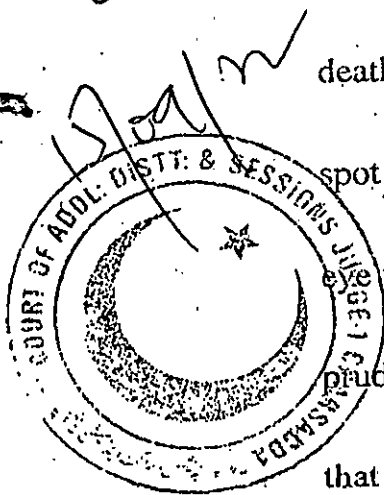
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Mubarak Shah. I.O of the case when appeared before the court for recording his statement deposed that he had prepared the site plan at 1755 hours at the day of occurrence, which means that the same was prepared before the reported time of death of the deceased but on the other hand while perusing the site plan reveals that the I.O has very clearly mentioned at point No.1 as per presence of deceased and this leads to a presumption that either the time of death is incorrectly mentioned and the deceased was died before 1755 hours or that the site plan and rest of the proceedings on the spot were not conducted at the reported time, meaning thereby that in such a situation, the record prepared by the investigation officer is not trustworthy. If it is admitted that deceased died before 1755 hours, it would support the statement of Wali Khan who said that he received information of death at about 04:30 pm or 05:00 pm. If it is presumed that the time of spot inspection is rightly mentioned as 1755 hours, presence of the witness Mubarak Shah is highly doubtful and not appealing to a prudent mind. During the arguments learned defence counsel stated that as per record of the prosecution the deceased then injured was

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Principal
 Agency Branch
 Distt. & Sessions Judge
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brought to the hospital by Mubarak Shah and when he was referred to LRH Peshawar, how it is possible that his real brother would not

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 Abdul Hamid (S/C)

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accompany him particularly when he was reported in danger and in critical condition. This fact highlighted by the learned defence counsel is also meaningful keeping in view the particular culture in this part of the country. It is also clear from the record that there is no evidence of the presence of any other brother or closed relative of the deceased then injured with him and eventually it disputes the presence of Mubarak Shah at the alleged time of spot inspection. Moreso, in site plan the Mazaar of Jalal Bukhari as mentioned in the murasila has also not been shown therein.

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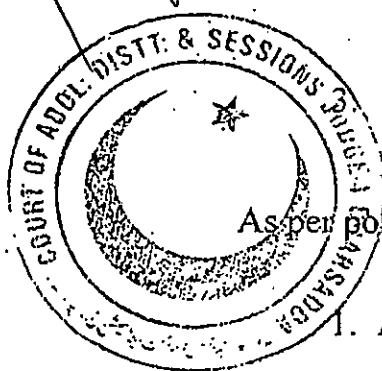
17. Another major contradiction has been noted in the medical reports of the deceased furnished by the doctors, before and after the death. As per medico-legal report Ex.PW3/1:

1. A firearm entry wound on upper abdomen measuring 1x1 cm.
 2. A firearm exit wound on right pictorial abdomen measuring 3/6 cm with gut and abdominal organs out.
- A firearm entry wound on right lower abdomen measuring 1 x 1 cm.

As per post mortem examination report Ex.PM

1. A short gun entry wound right outer and back of chest 7 x 7 cm in size, 16 cm below axilla.

2. Multiple (about 20-20) pellet exit wounds front of whole abdomen and lower chest 0.2 to 0.4 cm in size.



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Abdul Hammed (S) JC

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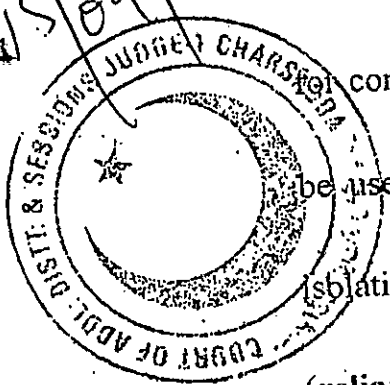
3. Firearm entry wound (1x 1 cm) left outer mid thigh with exit 2 x 2 cm on left inner mid thigh.

18. The numbers, dimensions and sizes of entry in both the reports are quite different from each other which means that either the doctor at DHQ hospital Charsadda had not examined the deceased then injured properly or the post mortem report is not correct. Whichever the case may be, two contradictory reports make further dint in the case of the prosecution which resultantly make the story of prosecution highly suspicious.

19. As far as the point of abscondence of the present accused facing trial is concerned the record reveals that occurrence is of the year 2015 while accused facing trial were arrested on 10.10.2020. It is pertinent to note that abscondence alone could not be a substitute for real evidence. Mere abscondence of an accused would not be enough conviction. Abscondence no doubt is a relevant fact but it cannot be used as a corroborative piece of evidence, it cannot be read in isolation as has to be read along with a substantive piece of evidence (reliance placed on PLD 1980, Supreme Court 201, 1986 SCMR

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823, 2015 YLR 2413 Peshawar),

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Copy of Dist & Sessions Judge Charsadda

No: 23/SC of 2021

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Abdullah Hameed (S/L)

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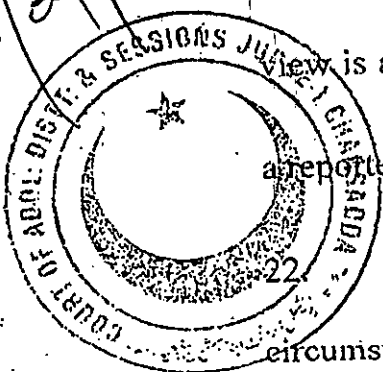
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20. The story woven in the instant prosecution case rotates around meaningful improbabilities and does not ring trustworthy. Motive of the occurrence although being a weak speice of evidence, however, not proved. The accused has undergone examination u/s 342 Cr.P.C wherein they neither opted to produce evidence nor had inclined to take oath in disproof of the allegations terming it false and raised the plea of their innocence. The prosecution is unable to bring forth and confront the accused with any inculpatory evidence.

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21. For the purpose of conviction of accused, the prosecution is duty bound to prove its case beyond any shadow of doubt. As per Apex Courts of Pakistan in a judgment reported in PLD 1995 Supreme Court 1345, even a single suspicious circumstance, creating reasonable doubt, the accused be given the benefit of doubt not as a matter of grace or concession but as a matter of right. This view is also supported by August Peshawar High Court, Peshawar in a reported judgment 2013 YLR 196.



In the light of whatever was held, the facts and circumstances alleged qua the allegations against the present accused facing trial namely Mujahid and Asim bring about a meaningful room for doubts and fill the case of prosecution with many voids. In this backdrop the case against the present accused facing trial is replete

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Abdul Humeed (S/O)

Copy to
Dist. & Sessions
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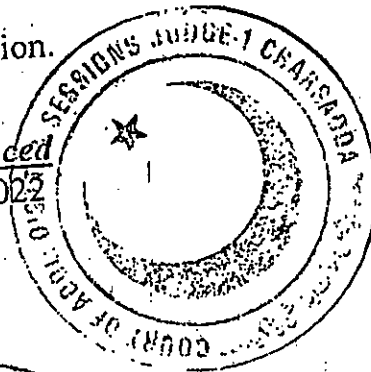
with a host of reasonable doubts and here the prosecution stands unable to substantiate the charge against the accused. In view of the available ocular and circumstantial evidence, since the story narrated in the FIR is not duly corroborated by the evidence produced before the court, resultantly, benefit of doubt is extended to the present accused facing trial namely Mujahid and Asim and they are acquitted from the charges leveled against them. They are on bail, their bail bonds stands cancelled and their sureties are discharged from the liabilities of bail bonds. Case property be kept intact till the expiry of period of appeal/revision, where after, be dealt with in accordance with law.

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23. Pronounced in open court at Charsadda and given under my hand writing and seal of the court on this 15th day of September, 2022:

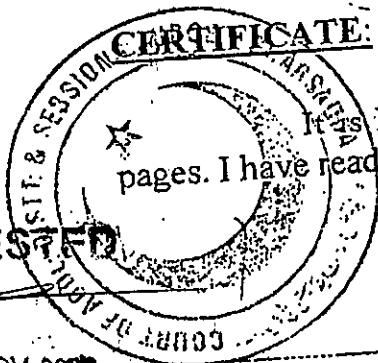
File be consigned to record room after its completion and compilation.

Announced
15/09/2022



Muhammad Zahoor
Additional Sessions Judge-I,
Charsadda

17/09/21



ATTESTED

It is hereby certified that this judgment consists of (19) pages. I have read each page and signed.

Additional Sessions Judge-I,
Charsadda

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No: 23/SC of 2021

Attested
[Signature]

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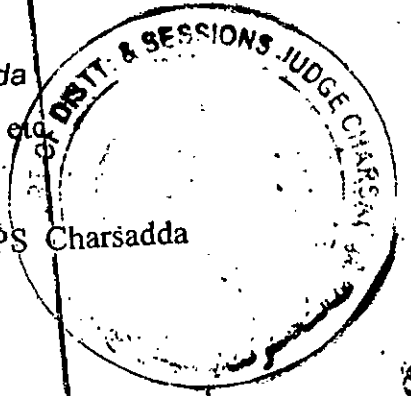
IN THE COURT OF
MUHAMMAD ZAHOR

Additional Sessions Judge-I, Charsadda

State.....Vs.....Syed Asim Shah et al.

Case No. 23/SC of 2021

FIR No.501, Dated 17.08.2015, u/s 302/34 PPC, PS Charsadda



CHARGE

I, **Muhammad Zahoor**, Addl: Sessions Judge-I, Charsadda do hereby charge you accused, namely, (1)-Syed Asim Shah s/o Syed Shorain Shah aged about 34 years, (2)- Syed Mujahid Shah s/o Syed Barakat Shah aged about 59 years, residents of Pareech Khel Utmanzai, Tehsil & District Charsadda, as follows:

That you accused named above along with your acquitted co-accused Syed Shorain Shah, on 17.08.2015 at 16:10 hours, while duly armed with firearms and were present in Utmanzai bazaar near the grave of Jalal Bukhari Shah Bacha situated within the criminal jurisdiction of police station Charsadda, in furtherance of your common intention, have attempted at the life of Syed Bakhtawar Shah by firing at him with murderous intention, as a result of which he sustained injuries and later on, succumbed to his injuries and thus you thereby committed an offence punishable u/s 302/34 PPC and within the cognizance of this court.

And I hereby direct that you be tried by this court on the said charge.

Dated: 27.09.2021

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MUHAMMAD ZAHOR
Addl: Sessions Judge-I,
Charsadda

Note: The charge has been read over and explained to the accused.

Q: Do you understand the meaning of charge?

A: Yes.

Q: Do you plead guilty or claim trial?

A: We do not plead guilty and claim trial.

RO & AC
27.09.2021

Certified u/s 364 Cr. PC

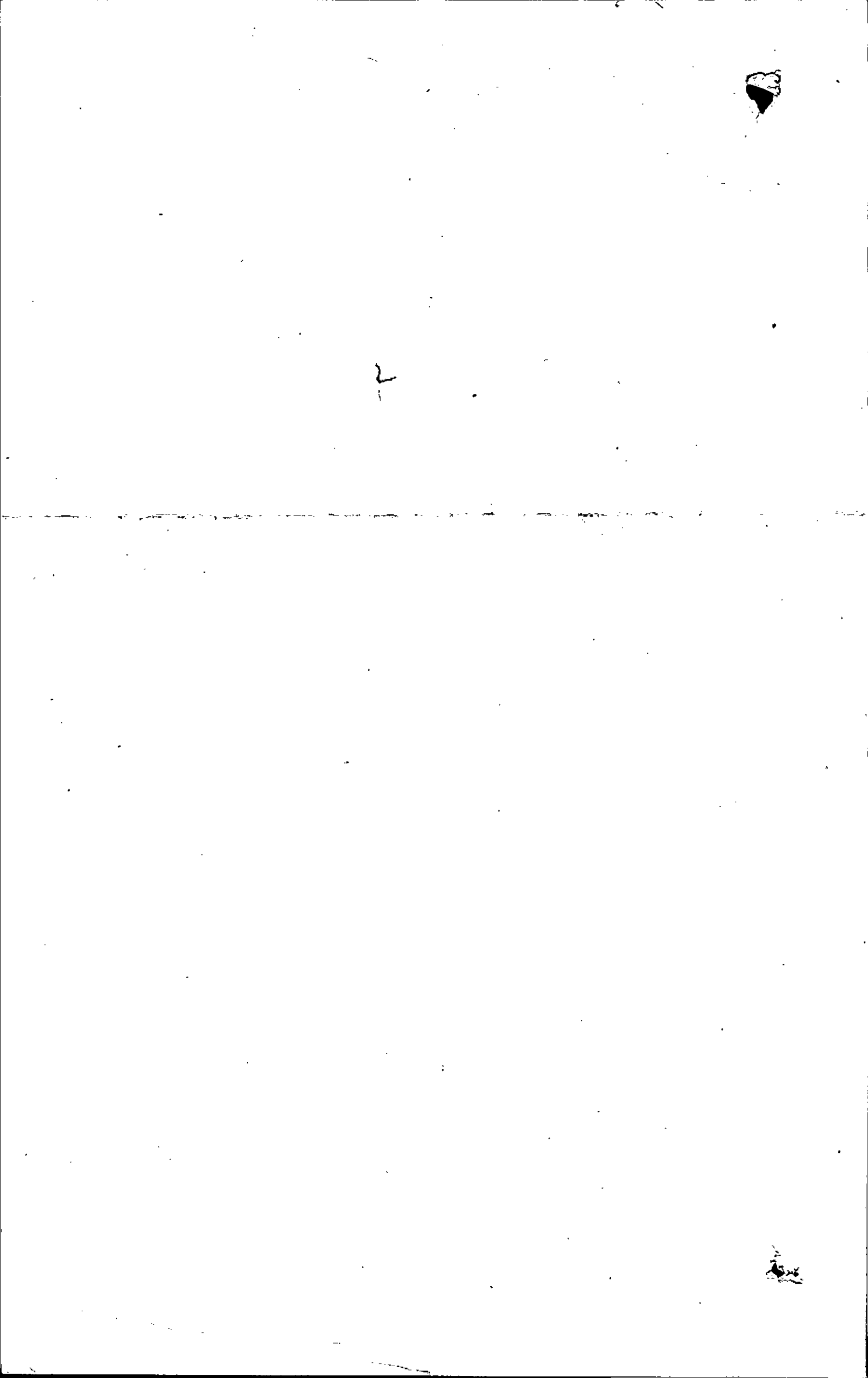
Accused Syed ASim Shah

Syed Mujahid Shah

Addl: Sessions Judge-I,
Charsadda

13 NOV 2021

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16
عدہ الحلالہ
ریورٹ

عبدالرحمان قیصر اور وقت کے ساتھ ساتھ اس کی کاپی کی اور جو فون
 25 کے بیلڈ کے نمٹلی فون ادا دی کہ فون
 محصور شاہ جو حوالہ مقدمہ عا 501 حورم 3
 قیصر 324 کے ساتھ جاری کرہ میں زبرد
 داخل ہسپتال تھا زہنوں کے کتاب سے
 جان بحق ہو گیا ہے تو عدت شرم نہ
 کے 324 کے خانے 302 طابع کی جا
 سن اعدہ الحلالہ درج روزنامہ
 ہو کر سنگھ حوالہ صیطان 10 کیا جائے
 خانہ عالی
 نقل بخالی

CHD
mm
17-8-15

نوٹ: اس کے بعد کی جان لی نہیں گیا جائے گا اور اسے جو کہ وہاں ہی اطلاع کا دستخط بطور تصدیق ہو گا۔ صرف الف یاب سرش روٹیاں سے اس کے
 تمام دستخط غیر یا سب کے یا بالکل تالی یہاں ہونے ہوں لکھتا ہے۔

Attested
/

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FROM: SHIRAZ FIRDOS, JUDICIAL MAGISTRATE-I, CHARSADDA.
TO: THE DISTRICT & SESSIONS JUDGE, CHARSADDA,
SUBJECT: INSTITUTION OF PROCEEDING UNDER SUB SECTION (2) OF SECTION 190 OF THE CODE OF CRIMINAL PROCEEDING 1898.

STATE...S *ajit Singh*

Who had been charged vide FIR No. 501 Dated: 17-8-15 U/S 302-34

PS *[Signature]*

Forwarded herewith the file of the case complete in all respect in compliance with provision of sub section (2) 1990 Cr.P.C.

- Calendar with full particulars of the accused and the complete address of all the witness of the prosecution
- Original first information report (FIR) (Copy)
- Original Mirasija, if any.
- Recovery memo (Numbers of such memos)
- The original files of proceeding u/s 87 and 512 Cr.P.C. and warrant 204 Cr.P.C.
- 6. Site plan/Inspection No. Original one of more (where there are more than one inspection)
- 7. Original Report
 - a. Report of armed expert
 - b. Report of chemical examiner (FSL)
 - c. MVE (Motor Vehicle Examiner) report
 - d. Report of serologist
 - e. Post mortem report
 - f. Medico legal report
 - g. Injury sheet
 - h. Inquest report
- 8. Confessional statement, if any.
- 9. Statement recorded u/s 164 Cr.P.C.
- 10. Plea of FIR statement of witnesses recorded u/s for Cr.P.C and 164 Cr.P.C. Copies of inspection note and copies.
- 11. Police File *3 files*
 - Complete police file
 - Supplementary police file
 - Decided police file

87

Name <i>ajit Singh</i>	arrested on <u>01-10-20</u> (still in custody) OR on bail since <u>03-2-21</u> By <u>ASJ V Ch.</u>
Name <i>ajit Singh</i>	arrested on <u>01-10-20</u> (still in custody) OR on bail since <u>//</u> By <u>//</u>
Name	arrested on _____ (still in custody) OR on bail since _____ By _____
Name	arrested on _____ (still in custody) OR on bail since _____ By _____
Name	arrested on _____ (still in custody) OR on bail since _____ By _____

In this case accused

Who was/were charged but is/are absconding against who for proceedings u/s 87 and warrant u/s 204 Cr.P.C and 512 Cr.P.C have been taken.

SHIRAZ FIRDOS
Judicial Magistrate-I, Charsadda

Attested

Regd:

Amirudin - F

57 29

OFFICE OF THE
DEPUTY COMMISSIONER, KOHISTAN UPPER

Amirudin - F

No.5/R/Estt:iv-II/ 132904/DC (KH)

Dated Dassu the 30/11/2015.

(72)

To

The Director Information,
Khyber Pakhtunkhwa, Peshawar.

Subject: - PUBLICATION OF NOTICE.

Enclosed please find herewith (7) copies of Final notice for publication in News Papers as per Government Policy under intimation to this office.

The bill of publications may be sent to this office after publication for payment. Sufficient funds are available under relevant heads of account.



Deputy Commissioner
Kohistan Upper


Deputy Commissioner
Kohistan Upper

Finds: No & Date Even:

Copy forwarded to the Assistant Accounts of this office for information and necessary action.

Enclosed (03)

Attested 
Abdul Hameed (D/C)

Annexure - F 29

Annexure - F 29

از دفتر ڈپٹی کمشنر کوہستان (اے) داسو

73

نوٹس غیر حاضری

ہرگاہ آپ سید عاصم شاہ قانون کو تحصیل کندیا ضلع کوہستان (اے) (ساکنہ فریج خیل اتما نئے تحصیل ضلع چارسدہ)،
مورخہ 21-08-2015 سے بغیر کسی چھٹی/اجازت مجاز اتھارٹی کے مسلسل اپنی ڈیوٹی سے غیر حاضر ہوئے۔ آپ کو بذریعہ جواب طلبی نمبری
5-Rev: Estt: v-II/9088 مورخہ 10-09-2015 آپ کے گھر کے پتہ پر ارسال کی مگر آپ کی طرف سے ابھی تک کوئی جواب
نہیں ملا۔ آپ کو دوبارہ ایک اور نوٹس نمبری 1081 مورخہ 26-10-2015 آپ کے گھر کے پتہ پر ارسال کیا گیا، جس میں تمہیں (15) یوم بعد
کے اندر حاضری کرنے کو کہا گیا، مگر تم حاضر نہیں ہوئے اور نہ ہی آپ کی طرف سے کوئی تحریری جواب آیا۔
لہذا زبردفعہ 9 خیر پختون خواہ (E&D) Rule 2011 کے تحت آپ کو نوٹس دیا جاتا ہے کہ آپ اندر (15) یوم بعد
از اشاعت نوٹس ہذا اپنی ڈیوٹی پر حاضر ہوں۔ بصورت دیگر آپ کے خلاف ایک طرفہ کارروائی کی جا کر آپ کو ملازمت سے برخاست کر دیا
جائے گا۔

المستتر

راجہ فضل خالق
ڈپٹی کمشنر کوہستان (اے)

Attested

http://www.dailymashriq.com.pk

اللہ ہی کیلئے ہیں شرق و غرب اتران

DAILY MASHRIQ PESHAWAR

پشاور

روزنامہ

سید تاج میر شاہ

مہر کے بی

مسلطہ اشاعت کے 49 سال

پشاور اسلام آباد سیکرٹریٹ شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

جلد 49

بند 29 ستمبر 1437ھ 12 ابر 2015ء 27 مکر 12ء ہے

شمارہ 115

30

30

از دفتر ڈپٹی کمشنر کوہستان (اے) داسو

نوٹس فیرو حاضری

ہر گاہ آپ سید عاصم شاہ قانون گو تحصیل کنڈیا ضلع کوہستان (اے) ساکنہ فریج خیل اتانزے تحصیل و ضلع چارسدہ، مورخہ 21/8/15 سے بغیر کسی چھٹی اجازت مجاز اتھارٹی کے مسلسل اپنی ڈیوٹی سے غیر حاضر ہو۔ آپ کو بذریعہ جواب طلبی نمبری 5-Rev:Estt:v-11/9088 مورخہ 10/9/15 آپ کے گھر کے پتہ پر ارسال کی مگر آپ کی طرف سے ابھی تک کوئی جواب نہیں ملا۔ آپ کو دوبارہ ایک اور نوٹس نمبری 1081 مورخہ 26/10/15 آپ کے گھر کے پتہ پر ارسال کیا گیا جس میں تمہیں 15 یوم کے اندر حاضری کرنے کو کہا گیا، مگر تم حاضر نہیں ہوئے اور نہ ہی آپ کی طرف سے کوئی تحریری جواب آیا۔

لہذا از پر دفعہ 9 فیرو پختونخوا (E&D) Rule. 2011 کے تحت آپ کو نوٹس دیا جاتا ہے کہ آپ اندر 15 یوم بعد از اشاعت نوٹس ہذا اپنی ڈیوٹی پر حاضر ہوں۔ بصورت دیگر آپ کے خلاف کارروائی کی جا کر آپ کو ملازمت سے برخاست کر دیا جائیگا۔

اشتہار: راجہ فضل خالق، ڈپٹی کمشنر کوہستان (اے)

Say No
to Corruption

Info KP Govt @InfoKP Govt
Send K to 3333 NI (P) 5533

مقامی حکومت
کوہستان

Attested

(Signature)

Annexure - F.
Annexure - F.

(31)

75

پشاور ایسٹ اینڈ ویسٹ آئیڈیو گرائی سے ایک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ
روزنامہ
پشاور
پاکستان
عبدالواحد یوسفی
جلد 26 بند 2 ایڈیشن 29-2015-1437-12
صفحہ 332

(31)

از دفتر ڈپٹی کمشنر کوہستان (اپر) داسو

نوٹس غیر حاضری

ہر گاہ آپ سید عاصم شاہ قانون گو تحصیل کنڈیا ضلع کوہستان (اپر) (ساکنہ فریج خیل امتیاز سے تحصیل و ضلع چارسدہ) موآرڈ 21-08-2015 سے بغیر کسی چھٹی/اجازت مجاز اتھارٹی کے مسلسل اپنی ڈیوٹی سے غیر حاضر ہوئے آپ کو بذریعہ جواب طلبی نمبری 5-Rev-Estt:v-II/9088-10-09-2015 محررہ 10-09-2015 آپ کے گھر کے پتہ پر ارسال کی مگر آپ کی طرف سے ابھی تک کوئی جواب نہیں ملا آپ کو دوبارہ ایک اور نوٹس نمبری 1081-10-2015 محررہ 26-10-2015 آپ کے گھر کے پتہ پر ارسال کیا گیا جس میں تمہیں (15) یوم کے اندر حاضری کرنے کو کہا گیا مگر تم حاضر نہیں ہوئے اور نہ ہی آپ کی طرف سے کوئی تحریری جواب آیا۔ لہذا ذریعہ دفعہ 9 خیبر پختونخوا 2011 (E&D) Rule کے تحت آپ کو نوٹس دیا جاتا ہے کہ آپ اندر (15) یوم بعد از اشاعت نوٹس ہذا اپنی ڈیوٹی پر حاضر ہوں بصورت دیگر آپ کے خلاف یکطرفہ کارروائی کی جا کر آپ کو ملازمت سے برخواست کر دیا جائے گا۔

المشرف: **راجہ فضل خالق** (ڈپٹی کمشنر کوہستان (اپر))

INF(P)5533

SAY NO TO CORRUPTION

Also available on www.khyberpakhtunkhwa.gov.pk



Attested

(Signature)



Amoskuri - G
Amoskuri - G

(138) 32 (34)

**OFFICE OF THE
DEPUTY COMMISSIONER
KOHISTAN UPPER**

No.PF-Asim/Estt:/ 12071-72/DC KH
Dated Dassu the 24/11/2022.

0998-407002

FAX 0998-407001

@ dckohistan321@gmail.com

To

The Assistant Secretary,
Govt. of Khyber Pakhtunkhwa,
Board of Revenue, Revenue & Estate Department
Peshawar.

Subject :- **APPLICATION FOR RE-INSTATEMENT IN GOVT. SERVICE**

Memorandum.

Reference your office letter No. Estt:/VII/General File/2021/30324-25 dated 02/11/2022, on the subject cited above.

It is stated that as per official available record of the applicant Mr. Syed Asim Shah Ex-Kanungo office of the undersigned, remained absent w.e.f 21-08-2015 without any prior information/ sanction of any kind of leave from the competent authority.

Due to his willful absence from official duty the then Deputy Commissioner Kohistan, being competent authority, terminates services of the applicant fulfillment of all codal formalities, vide order No.2/Rev:/Estt:/Vol-V/4691-98/DC KH dated 21-03-2016.

Furthermore, the applicant neither informed this office nor informed by Police Department regarding lodged FIR bearing No.501 dated 17-08-2015 under section 302/34PPC Police Station Charsada against the accused. Due to which this office has no concerned regarding criminal proceedings.

Report is submitted for information, please.

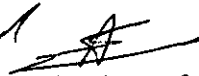

Deputy Commissioner,
Kohistan Upper

%c


Endst: No. & Date Even:

Copy forwarded for information to the Commissioner, Hazara Division, Abbottabad.


Deputy Commissioner
Kohistan Upper

Attested 
Abdul Hameed (D/O) %c

Annexure - 633 (165) 32
33

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
	091-9212726	091-9214208
No. Estt: VII/General File/2021/30324.25		Peshawar Dated the 02/11/2022

To,

Deputy Commissioner,
Kohistan

~~Handwritten signature~~ 4 per Kohistan

SUBJECT: APPLICATION FOR RE-INSTATEMENT IN GOVERNMENT SERVICE

I am directed to refer to subject noted above and to enclose herewith a copy of application submitted by Mr. Syed Asim Shah s/o Shorian Shah Ex- Kanungo alongwith Judgement dated 15.09.2022 passed by Additional Session Judge-I, Charsadda for further for necessary action at your end as per law and rules please.

~~Handwritten signature~~
(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

No. & Date Even.

Copy forwarded to Mr. Syed Asim Shah s/o Shorian Shah Ex- Kanungo District Kohistan for information.

~~Handwritten signature~~
(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

DK.
~~Handwritten signature~~

Dairy No. 1937
DC Office Kolai Pallas
Kohistan 16/11/22

~~Handwritten signature~~
DC K P K
15-11-22

A-12
~~Handwritten signature~~
DC Kohistan
11/12/22

copy of the above already
recorded vide page-1172
also processed vide page-138.

Deputy Commissioner
Diary No. 7457
Dated: 1-12-22
Kohistan

Attested
~~Handwritten signature~~

6667
10/10/2022

(34) (34) (766)

بخدمت جناب سینئر ممبر بورڈ آف ریونیو (SMBR) ریونیو پشاور خیبر پختونخوا

درخواست برآد: بحال (Re-istate) فرمائے سائل

سید عاصم شاہ قانون گو (BPS-11) در ملازمت

جناب عالی!

سائل حسب ذیل عرض فرما ہیں:

- ۱- یہ کہ سائل کے خلاف غلط اور جھوٹ پر مبنی FIR درج ہوا تھا۔ جس میں بروئے چٹھی انگریزی سائل کو (Suspend) فرمایا گیا تھا (نقل چٹھی انگریزی لف ہے)۔
- ۲- یہ کہ سائل نے مقدمہ بالا میں ٹرائل (Face) کیا ہے۔ اور بعد ازاں قلمبندی استغاثہ شہادت عدالت جناب ایڈیشنل سیشن جج صاحب چار سده محمد ظہور خان نے سائل کو باقاعدہ طور پر باعزت بری کیا ہے اور مقدمہ فیصلہ میں عدالت موصوف میں باقاعدہ طور پر یہ امر لایا گیا کہ مقدمہ برخلاف سائل مبنی بردروغ گوئی تھی (مقدمہ نقل لف ہذا ہے)
- ۳- یہ کہ سائل چونکہ عدالت نے موصوف کو بے گناہ ثابت کیا ہے۔ بدیں وجہ سائل اپنے ملازمت کو بحال کرنے کا متمنی ہے۔
- ۴- یہ کہ فیصلہ عدالت حضور سے یہ امر واضح ہو گیا ہے کہ سائل نے (Major Penalty) سرزد نہیں کیا ہے۔ اور سائل بے گناہ جھوٹے مقدمات میں گھسیٹا گیا ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا سائل کو اپنے ملازمت پر بحال فرمانے کے احکامات صادر فرمایا جائے۔

العارض



سید عاصم شاہ ولد سید شورشین شاہ

(قانون گو) (BPS-11)

تاریخ - 10/10/22



تاریخ: 10/10/2022

MAR-2022

11/10


11/10



12/10/22


10/10/22

Attested



Annexure - H

(35) 35 (139)

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.
091-9212726	091-9214208
No. Estt:VII/General File/2021/ 32955	Peshawar Dated the 23/11/2022

To

The Deputy Commissioner,
Upper Kohistan.

SUBJECT: APPLICATION FOR RE-INSTATEMENT IN SERVICE.

Sir,

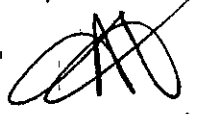
I am directed to refer to this Department letter No. Estt:VII/General File/2021/30324-25 dated 22.11.2022 and to enclose herewith a copy of application submitted by Syed Asim Shah regarding his re-instatement into Government Service.

In a similar nature case of Mr. Abdul Jabbar District Revenue Accountant Battagram the Additional Session Judge – II Model Criminal Trial Court Battagram exonerated him from the charges leveled against him. In light of said order he was re-instated into Government service.

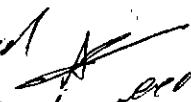
It is therefore requested to re-instate the applicant into Government service as he is acquitted by the Additional Session Judge – I Charsadda please.



(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

A-12

DCCG (1)
28/11/2022

Deputy Commissioner
Diary No: 7384
Dated: 28-11-22
Kohistan

Attested

Abdul Hamid (OIC)

جناب ڈپٹی کمشنر صاحب کوہستان (اپر)

(145)

(36)

جناب عالی! گزارش ہے کہ سائل سید عام شاہ کا آرڈر 30324-25

تاریخ 2022-11-22 کو فوری طور پر منظور کرنے کا حکم دیا ہے

جس کی کاپی لفٹ ہے۔ (Attested)

اس لئے آپ صاحبان میرا فی کر کے سائل

کو دوبارہ اپنی فوری پر فائلز پورے

کا حکم صادر عطا فرمائیں

الطاف

سید عام شاہ سابق سردار

✓ (A)

28/11/2022

عام شاہ ولد سید شوین شاہ

سید احمد شاہ کوہستان

جاری شد

WhatsApp = 0345-9793232

Call = 0325-9396932

0317-9928383

17101-5010804-7

CNIC =

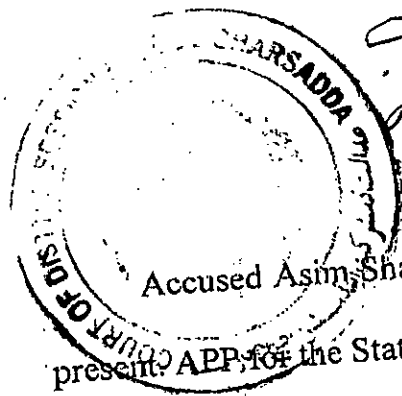
A-12
Dec 11/2022

Deputy Commissioner
Diary No: 7386
Dated: 8-11-22
Kohistan

Attested

بے باق ہے
15/9/22
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ORDER
15.09.2022

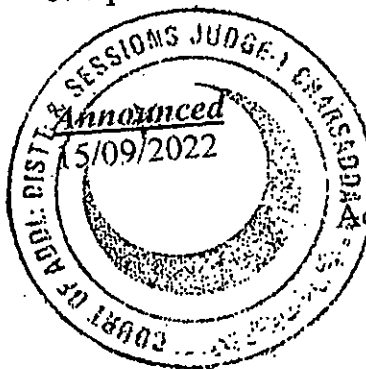


Accused Asim Shah and Mujahid Shah on bail present APP for the State Present.

Vide detailed judgment of today placed on file separately, consists of nineteen (19) pages, it is held that the present accused facing trial namely Mujahid and Asim and they are acquitted from the charges leveled against them. They are on bail; their bail bonds stands cancelled and their sureties are discharged from the liabilities of bail bonds. Case property be kept intact till the expiry of period of appeal/revision, where after, be dealt with in accordance with law.

Pronounced in open court at Charsadda and given under my hand writing and seal of the court on this 15th day of September, 2022.

File be consigned to record room after its completion and compilation.



Muhammad Zahoor
Additional Sessions Judge-I,
Charsadda

ATTESTED

11 NOV 2022

Attested
17/09/22

IN THE COURT OF ADIL ZEB KHAN, ADDITIONAL DISTRICT
& SESSIONS JUDGE-V, CHARSADDA

Order No.7
03.02.2021

- 123
1. Accused/petitioners through Counsel Muhammad Sareer Khan Advocate present. Complainant through Counsel Abdul Ahad Advocate and Muhammad Tufail Advocates present. APP Sardar Ali for the State present. Requisitioned record received from learned Deputy Registrar (J), Peshawar High Court, Peshawar.
 2. Arguments heard and record gone through.
 3. Accused/petitioners Syed Asim Shah S/O Syed Shorain Shah and Syed Mujahid Shah S/O Syed Barakat Shah seek their post arrest bail in case FIR No. 501 dated 17.08.2015 U/S 302/34 PPC registered in Police Station Charsadda.
 4. Brief resume of the case as narrated in the FIR, is that complainant / deceased then injured Syed Bakhtawar Shah reported the matter to the ASI on duty at Casualty District Hospital Charsadda that at about 16:10 hours, he was present at the spot of occurrence, when the accused / petitioners alongwith acquitted accused came and immediately started firing upon him with the intention of killing. As a result of said firing, complainant / deceased then injured got hit and injured. Motive for the occurrence

Attested

as reported by the complainant / deceased then injured was altercation between the parties. Hence, the instant FIR.

5. Learned Counsel for the accused / petitioners argued that no specific role has been attributed to the accused / petitioners and there is contradiction in the medicolegal report and PM report. He further contended that as co-accused namely Syed Shorain Shah has already been acquitted by the Trial Court and accused / petitioners having same and similar role to acquitted accused are entitled for grant of bail. Lastly he argued that as per inquiry report on the day of occurrence accused Asim Shah was at Kohistan while other accused Mujahid Shah was at Sher Pao and from this angle too accused / petitioners are entitled for the concession of bail.

6. While on the other hand the learned Counsel for complainant duly assisted by APP for State argued that accused / petitioners are directly charged in promptly lodged FIR and the occurrence took place at day time so no question of misidentification arises. They further contended that the plea of alibi taken by the accused / petitioners could not be taken into consideration at bail stage and both the accused / petitioners have remained absconders for a considerable length of time i.e. more than five years. They further contended that appeal against acquittal of co-accused is pending before august Peshawar High Court.

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3/2/21

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Peshawar and same has not been decided yet therefore, benefit of the same could not be extended to the accused / petitioners. Lastly they requested for the rejection of instant bail petition.

7. After hearing both the sides and perusal of record this court is of considered view that a general role of firing has been attributed to the accused/petitioners and no specific role has been given to them and from this angle the case calls for further inquiry. Moreover, no incriminating article has been recovered from the possession of both the accused / petitioners including the weapon of offence when even no crime empties have been recovered from the spot which further makes a ground of bail in favour of accused / petitioners. Wisdom in this regard is drawn from 2021 SCMR 63.
8. Similarly, the perusal of medicolegal report and PM report contradicts each other regarding the numbers, dimensions and sizes of entry wounds which further tilts the case towards the bail and not towards the jail.
9. As far the plea of Alibi is concerned same will be seen at the time of trial when same shall be passed through the prism of evidence.
10. Moreover, co-accused namely Syed Shorin Shah having same and identical role to the present accused / petitioners have already been acquitted by learned ASJ-II,

WS

ajehuman

3/2/21

Attested

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MCTC, Charsadda on 09.09.2020 which further makes a good ground of bail in favour of the accused / petitioners. Wisdom in this regard is drawn from 2017 P.Cr.L.J Peshawar note 164, 2018 MLD Peshawar 125 and 2020 YLR Peshawar note 149.

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11. As far as abscondence of the accused / petitioners are concerned it is well settled now that mere abscondence of accused / petitioners would not be sufficient for refusal of bail if otherwise on merits, Case of bail has been made out. Wisdom in this regard is drawn from the case laws referred above.

12. Hence, the instant petition stands accepted and accused/petitioners are allowed to submit their bail bonds in the sum of Rs. 1,50,000/- with two sureties each in the like amount to the satisfaction of Illaqa Judicial Magistrate / MOD Charsadda.

13. File be consigned to the Record Room after completion, whereas, police record be returned to the quarter concerned and similarly, original record be returned to august Peshawar High Court, Peshawar forthwith.

Announced
03.02.2021

Adil Zeb Khan
Adil Zeb Khan
Additional Sessions Judge-V,
Charsadda

Attested
[Signature]



Ammechurno - I

OFFICE OF THE
DEPUTY COMMISSIONER
KOHISTAN UPPER

Ammechurno - I

No. PF-Asim/Estt: 4005/DC (KH)

Dated Dassu the 28/03/2023.

0998-407002



0998-407001



dckohistan321@gmail.com

To

The Assistant Secretary (Estt:)
Govt. of Khyber Pakhtunkhwa,
Board of Revenue, Revenue & Estate
Department, Peshawar.

Subject:- APPLICATION FOR RE-INSTATEMENT IN GOVERNMENT SERVICE.

Please refer to your office letter No. Estt: VII/General File/New/2021/4859 dated 21/02/2023, on the subject cited above.


After detail scrutiny of accused relevant case file it has been come in to the notice of undersigned that the accused has been remained absconder from 17/08/2015 to year 2021 (5/6 years) during this period he neither presented himself in any court of law nor he reported this office regarding his absenteeism due to his continuous absenteeism from official duty the accused has been removed from service after fulfillment of all required codal formalities by the then competent authority/Deputy Commissioner which has nothing to do with his criminal case.

Moreover, the applicant had not filed any appeal against the order of the then Deputy Commissioner. Therefore, this office is of the opinion that as his case has been finalized and closed in this office, hence he cannot be given relief by this office.

It is further added that the accused official was actually not under custody of the local police and nor in judicial lockup from the date of lodging FIR against him i.e 17/08/2015 to year 2021 (5/6 years) which is revealed from the Judgment of honorable court that the date of institution of case is 06-03-2021.

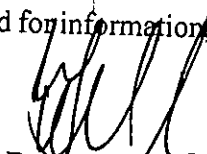
Furthermore, it is brought in to your kind notice that Kohistan District has been trifurcated and the vacant post of accused official along with other 17 Nos of posts are detached from District Kohistan Upper and attached with District Kohistan Lower vide Board of Revenue order bearing Endst: No. 1669-74/SNE/DC/Kohistan (L) dated 10-01-2018(copy attached for ready reference).

It is therefore, suggested that the accused official may be directed to approach the appellate authority under Govt. of Khyber Pakhtunkhwa E&D rules 2011, please.

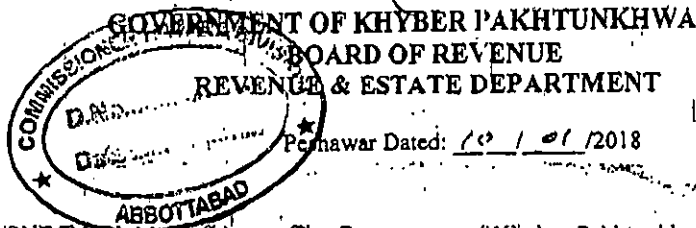

Deputy Commissioner
Kohistan Upper

Endst:No. 4006/1

Copy forwarded to the Commissioner, Hazara Division, Abbottabad for information, please.


Deputy Commissioner
Kohistan Upper

Attested.
Abdul Hameed (S/W)



Perwar Dated: 10/01/2018

ORDER

No. _____ /SNE/DC/Kohistan(L). The Government of Khyber Pakhtunkhwa has been pleased to accord sanction to the creation of 39 number of posts of different categories in Kohistan Lower and 17 number of posts detached from KD7001-District Kohistan Upper and attached with KD7201-District Kohistan Lower with effect from 01-01-2018 as per detail given below, subject to the observance of all codal formalities as required under the rules.

Functional-curr-Code Classification and Particulars of the Scheme		No. of Posts	Amount to be spent during FY 2017-18
A01- Total Employees Related Expenses			
A011	Total Pay	39	3,601,800
A011-1	Total pay of officer	14	2,132,200
A012	Additional Deputy Commissioner (BPS-18)	01	230,000
D495	District Officer (F&P) (BPS-18)	01	182,200
A642	Additional Assistant Commissioner (G) (BPS-17)	01	182,200
A643	Additional Assistant Commissioner (Rev) (BPS-17)	01	182,200
P038	Planning Officer (BPS-17)	01	182,200
S166	Superintendent (BPS-17)	01	182,200
P075	Private Secretary (BPS-17)	01	182,200
T017	Tehsildar (BPS-16)	01	113,400
A057	Assistant (BPS-16)	04	468,800
C082	Computer Operator (BPS-16)	02	226,800
A011-2	Total pay of other staff	25	1,469,600
D091	District Revenue Accountant (BPS-14)	01	91,000
S035	Senior Clerk (BPS-14)	01	91,000
S115	Junior Scale Stenographer (BPS-14)	01	91,000
S139	Sub-Registrar (BPS-14)	01	91,000
K003	Assistant District Kanungo (BPS-11)	01	75,400
K018	Tehsil Office Kanungo (BPS-11)	01	75,400
P17	Patwari (BPS-09)	08	282,500
T085	Tehsil Accountant (BPS-07)	01	68,000
	Generator Operator (BPS-07)	01	65,900
D112	Driver (BPS-05)	05	307,800
M010	Mali (BPS-03)	02	115,300
N005	Naib Qasid (BPS-03)	02	115,300
A012-1	Total Regular Allowances		2,709,500
A01202	House Rent Allowance		562,500
A01203	Conveyance Allowance		699,500
A01217	Medical Allowance		498,000
A0121T	Adhoc Relief Allowance 2013 (2.5%)		175,500
A0122M	Adhoc Relief Allowance 2016 (10%)		327,000
A0122Y	Adhoc Relief Allowance 2017 (10%)		327,000
	Integrated Allowance		1,000
	Washing Allowance		1,000
	Dress Allowance		1,000
GRAND TOTAL			6,311,300

ACR/A-0
2/11

Sub: (E)/B...

26/11

Attested

17 number of posts detached from KD7001-District Kohistan Upper and attached with KD7201-District Kohistan Lower.

S.No	Name of posts with BPS	Number of posts
1	A0237-Assistant Commissioner (BPS-17)	01
2	A057-Assistant (BPS-16)	02
3	C082-Computer Operator (BPS-16)	02
4	J013-Junior Clerk (BPS-11)	04
5	K018-Tehsil Office Kanuhgo (BPS-11)	01
6	P017-Parwari (BPS-09)	02
7	T085-Tehsil Accountant (BPS-07)	01
8	N032-Naib Tehsil Accountant (BPS-05)	01
9	R010-Reader (BPS-05)	01
10	N005-Naib Qasid (BPS-03)	02
TOTAL		17

The expenditure involved will be debitale from the District Account-IV, Deputy Commissioner Kohistan Lower during the financial year 2017-18.

Sd/-
Secretary to Government of Khyber Pakhtunkhwa
Revenue & Estate Department

No. BO(PAC)/FD/1-5/Cmr-Hazara/BE-2017-18

dated:- ___/___/2018

Copy forwarded to :-

1. The Accountant General, Khyber Pakhtunkhwa
2. The District Accounts Officer, Kohistan Lower & Upper.

Sd/-
Budget Officer (Coord/PAC)
Finance Department

No. 669-74 /SNE/DC/Kohistan(L)


Copy forwarded to:-

1. The Commissioner Hazara Division, Abbottabad.
2. The Deputy Commissioner, Kohistan Lower & Upper.
3. The Director Land Records, Khyber Pakhtunkhwa.
4. The Director FMIU, Finance Department.
5. The Budget Officer (Coord/PAC), Finance Department, Khyber Pakhtunkhwa, with reference to his letter No. BO(PAC)/FD/1-5/Cmr-Hazara/BE-2017-18 dated 22-12-2017.
6. The Assistant Secretary (Estt.), Board of Revenue.

Sd/-
Budget & Accounts Officer
Revenue & Estate Department

Attested

Annexure - 'J' (45) (45)

 GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.	
091-9212726	091-9214208
No. Estt: VII/General File/New/2021 / 4859	
Peshawar Dated the 21/02/2023	

To

The Deputy Commissioner,
Kohistan Upper.

SUBJECT: APPLICATION FOR RE-INSTATEMENT IN GOVT. SERVICE.

Sir,

I am directed to refer to your letter No. PF-Asim/Estt./1259/DC(KH) dated 27.01.2023 on the subject noted above and to state that the official was arrested in the criminal case and it was impossible for him to inform the office as he was behind the bar. Therefore, his removal from service on account of absenteeism is not legal. Beside, fundamental rules FR-54 revealed that: -

"Where a Government servant has been dismissed or re-moved is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty.

- a. *If he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal removal: or*
- b. *If otherwise, such portion of such pay and allowances as the revising or appellate authority may prescribe.*

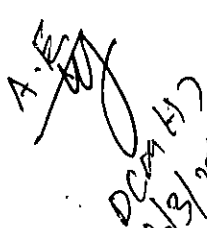
In a case falling under clause (a), the period of absence from duty be treated as a period spent on duty.


In a case falling under clause (b), it will not be treated as a period spent on duty unless the revising appellate authority so directs".

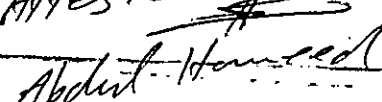
When he was behind the bar and was removed from service on account of absenteeism by Deputy Commissioner Kohistan the question of challenging the said order does not arise. The judgment of Additional Session Judge-1, Charsadda and the order of Deputy Commissioner Kohistan regarding removal of the official has no relevancy with each other as the Deputy Commissioner Kohistan removed him on account of absenteeism while the fact was that he was behind the bar in a criminal case.

Esta Code Chapter No 4, Conduct rules (Dismissal or Removal of government servants) of Government Servant has already been elaborately explained in this Department letter No. Estt:VII/General File/New/2021/35440 dated 19.12.2022 (copy enclosed).


In view of foregoing position, it is therefore requested to dispose off the case as per FR-54 and reinstate the official in the service from the date of his removal from service please.


 Deputy Commissioner
 Diary No: 1245
 Dated: 06/02/2023
 Kohistan


 (NOOR KHAN)
 Assistant Secretary (Estt)
 Board of Revenue

Attested

 Abdul-Hamid

46 46
P-186

	GOVERNMENT OF KHYBER PAKHTUNKHWA, BOARD OF REVENUE, REVENUE & ESTATE DEPARTMENT.
091-9212726	091-9214208
No. Estt: VII/General File/New/2021/35440	Peshawar Dated the 19/12/2022

To
The Deputy Commissioner,
Kohistan Upper.

SUBJECT: APPLICATION FOR RE-INSTATEMENT IN GOVT. SERVICE.

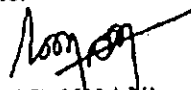
Sir,

I am directed to refer to your letter No. PF-Asim/Estt/12071-72/DC/KII dated 24.11.2022 and to state that ESTA Code Chapter No 4, Conduct rules (Dismissal or Removal of government servants revealed that :-

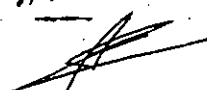
1. *When a Government servant is honourably acquitted in a departmental enquiry or trial in Court, the period of absence from duty on account of the suspension, dismissal or removal from service, has to be treated as period spent on duty. If the acquittal is otherwise than honourable, the period of absence on account of suspension, dismissal or removal will not be treated as period spent on duty unless the revising or appellate authority so directs. In this connection a question has arisen whether an acquittal on technical grounds or caused by lack of evidence should be deemed to be honourable acquittal and whether such acquittal leaves any discretion to decide whether the acquittal was or was not honourable for the purposes of determining the pay and allowances payable to such servant during the said period of absence.*
2. *Government have considered the whole question and it has been decided that for the purposes of pay and other service matters, it is primarily necessary to consider whether or not an acquittal is honourable. When a servant is suspended he does not work for his master and should obviously get no salary for the period during which he has rendered no service. Service Rule, however, make provision for payment of a subsistence allowance during the period so that the servant does not starve. Where the servant might have been falsely involved in the case or inquiry, the State is prepared to compensate him fully, provided he satisfies that he has been honourably acquitted. The burden of proof is on him. In certain cases, it may be difficult for him to discharge this burden as in the case of a discharge on technical grounds where the merits of the case have not been discussed or gone into. It should be borne in mind that payment of salary during the period of suspension is a matter of favour and not a right even though the servant is finally acquitted. It may be noted that by his conduct he contributed to his implication in the case even though he was not guilty of the offence. Therefore, he will not be entitled to salary during the suspension period unless he satisfies Government that the case against him was absolutely false and that he has been honourably acquitted. On the other hand, it will not be presumed in every case of acquittal on technical grounds that the acquittal has not been honourable. Every case should, therefore, be decided on its own facts and circumstances and if the acquittal is held to be honourable the period of absence should be treated as spent on duty.*

Further to mention here that the official was charged in a criminal case therefore he was unable to inform the office. Now the official is acquitted by the Additional Session Judge-1 Charsadda and the charges levelled against him is not proved.

In view of the above it is therefore requested that the official may be re-instated into government service from the date of his termination i.e. 21.03.2016 please.

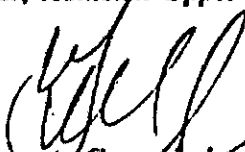
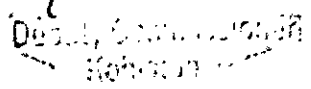

(NOOR KHAN)
Assistant Secretary (Estt)
Board of Revenue

Attested



AUTHORITY LETTER

Mr. Abdul Hameed Junior Clerk of this office is hereby authorised to submit the reply of appeal No.262-A/2023 of Syed Asim Shah V/S Deputy Commissioner, Kohistan Upper etc in the court of Service Tribunal Peshawar on behalf of the undersigned


Deputy Commissioner
Kohistan Upper
25/5/2023.


Attested
