not procedural lapses but glaring illegalities each one was sufficient to vitiate the entire enquiry proceedings. It can be safely inferred that opportunity of fair trial and due process were denied to the appellant as such he was condemned unheard.

As a sequel to above, we deem it proper to set aside the impugned orders dated 23.12.2015 and 03.03.2016 to the extent of reinstatement of the appellant in service and direct the respondent-department to conduct de-novo enquiry strictly in accordance with law and rules. Parties are left to bear their own costs. File be consigned to the record room.

AHMAD HASSAN Member Camp court Swat

(SUBHAN SHER) Chairman

ANNOUNCED 04.09.2018

## ORDER

04.09.2018

Appellant Arif in person alongwith his counsel Mr. Imdadullah, Advocate present. Mr. Khawas Khan, SI alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file in connected service appeal no. 257/2016 entitled "Hameedullah -vs- District Police Officer, Swat and 2 others" this appeal is also disposed off. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

### **ORDER**

04.09.2018

Appellant Arif in person alongwith his counsel Mr. Imdadullah, Advocate present. Mr. Khawas Khan, SI alongwith Mr. Usman Ghani, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file in connected service appeal no. 257/2016 entitled "Hameedullah –vs- District Police Officer, Swat and 2 others" this appeal is also disposed off. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Member

Camp Court Swat

<u>ANNOUNCED</u> 04 09 2018

Chairman

16.08.2018

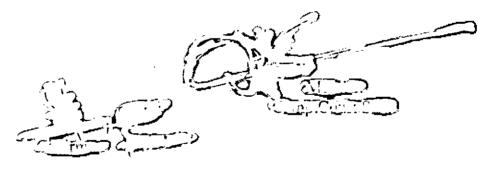
Appellant Arif in person present and submitted application for early hearing. Application is allowed. Case to come up for arguments on 04.09.2018 instead of 03.10.2018 before D.B at camp court Swat.

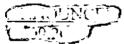
Chairman

(CPDF\_)
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Aide our detailed judgment of today flaced of file incline order twice appeal no. 257/2016 entitled the needlike well is also acceptable labby characteristances, paries for a labby characterist rooms





04.07.2018

Appellant Arif, alongwith his counsel Mr. Imdadullah, Advocate present. Mr. Khawas Khan, S.I (Legal) on behalf of the respondents alongwith Mr. Usman Ghani District Attorney present. Arguments could not be heard that learned District Attorney requested for adjournment that due to misunderstanding, he could not prepare the case for today. Granted but as a last chance. To comeup for arguments on 08.08.2018 before the D.B at camp court, Swat.

Member

Chairman Camp court, Swat

08.08.2018

Appellant in person and Mr. Khawas Si for the respondents present. Due to summer vacation the case is adjourned to 03.10.2018 for the same at camp court Swat.

### 01,02.2018

Clerk of the counsel for appellant and Addl: AG for the respondents present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for arguments on 04.04.2018 before D.B at Camp Court, Swat.

Member

Chairman Camp Court, Swat

04.04.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Khawas Khan, S.I (legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 09.05.2018 before D.B at Camp Court, Swat.

Member

Camp court, Swat

09.05.2018

The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 04.07.2018 before the D.B at camp court, Swat.

08.06.2017

Since the tour programme for the month of June, 2017 to camp court Swat has been cancelled by the Worthy Chairman, therefore, to come up for the same on 02.10.2017 at camp court, Swat. Notices be issued to the parties for the date fixed accordingly.

Registrar

02.10.2017

Counsel for the appellant and Mr. Anwarul Haq, Deputy District Attorney alongwith Khawas Khan, S.I (Legal) for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for final hearing on 07.12.2017 before the D.B at camp court, Swat.

Member

Camp court, Swat

07.12.2017

Counsel for the appellant and Addl. AG alongwith Khawas Khan, S.I (Legal) for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 04.02.2018 before the D.B at camp court, Swat.

Member

Camp court, Swat

07.10.2016

Counsel for the appellant, and Mr. Khawas Khan, SI (Legal) alongwith Mian Amir Qadar, GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 07.02.201;7 at camp court, Swat.

Counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present. Rejoinder submitted. Counsel for the appellant seeks adjournment. To come up for final hearing before

the D.B on 08.02.2017 at camp court, Swat.

Chairman Camp court, Swat

08.02.2017

07.02.2017

THE REPORT OF THE PARTY OF THE

Counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Since counsel for the appellant in connected appeal No. 257/2016 requested for adjournment therefore, the instant appeal is also adjourned to 06.06.2017 for final hearing before the D.B at camp court, Swat.

Member

Camp court, Swat

06.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as constable when dismissed from service vide impugned order dated 23.12.2015 on the allegations of lodging a fake FIR No. 383 dated 20.08.2015 P.S Kanju against him under Sections 5 Explosive Act, 9 BCNSA, 15AA r/w 34 PPC where-against he preferred departmental appeal which was rejected on 02.05.2016 and hence the instant service appeal on 12.05.2016.

That no enquiry was conducted in the manners prescribed and appellant condemned unheard. That the trial of the criminal case is pending before the competent forum and as such the punishment imposed against the appellant was unwarranted.

Points urged need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents for submission of written reply/comments on 04.08.2016 before S.B at camp court, Swat.

Chairman Camp court Swat

04.08.2016

Clerk of counsel for the appellant and Mr. Khawas Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Seeks adjournment. To come up for written reply/comments on 07.10.2016 before S.B at camp court, Swat.

Chaman Camp court, Swat,

## Form- A FORM OF ORDER SHEET

Court of		·	
Case No		499/2016	

Case No	499/2016	
Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate	
. 2	3	
12/05/2016	The appeal of Mr. Arif presented today by Mr. Aziz-Ur	
	Rehman Advocate, may be entered in the Institution registe	
	and put up to the Worthy Chairman for proper order please.	
	REGISTRAR .	
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13-05-2016	preliminary hearing to be put up there on 8,06.2016	
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# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 499 of 2016

Arif Ex-Constable No. 2683, Police Station Kanju, District Swat.

.. Appellant

### **VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

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i	Copy of the Order Dated 02-05-2016	С	10
	Vakalat Nama		11

Appellant Through

Aziz-ur-Rahman

Advocate Swat

Office: Khan Plaza, Gulshone Chowk, Mingora Swat, Cell 0300 907 0671





### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 499 of 2016

Arif Ex-Constable No. 2683, Police Station Kanju, District Swat.

.Appellant

### **VERSUS**

- 1. The Provincial Police Officer Khyber Pakhtunkhwa,
- 2. The Regional Police Officer Malakand Region, Saidu Sharif, District Swat.
- 3. The District Police Officer Swat, Gulkada.

Peshawar.

...<u>Respondents</u>

APPEAL UNDER SECTION 4 OF THE KHYBER **PAKHTUNKHWA** SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER O.B. NO. 216 DATED 23-12-2015 WHEREBY MAJOR **PENALTY** DISMISSAL FROM SERVICE WAS **UPON** THE IMPOSED **APPELLANT** AGAINST THE LAW, RULES, FACTS AND SHARIAH AND WAS NOT SUSTAINABLE UNDER THE LAW, AGAINST WHICH THE APPELLANT PREFERRED DEPARTMENTAL APPEAL TOTHE RESPONDENT NO. 2, WHICH WAS ALSO REJECTED IN VERY SUMMARY AGAINST THE LAW, RULES, FACTS AND SHARIAH VIDE ORDER NO. 4056/E DATED 02-05-2016, RECEIVED ON 09-05-2016, HENCE BOTH THE ORDERS ARE LIABLE TO BE SET ASIDE BEING NOT SUSTAINABLE AND VOID.



### Prayer:

That on acceptance of this appeal both the orders impugned may very kindly be set side and the appellant reinstated back into service with all back/consequential benefits.

### Respectfully Sheweth:

- i. That the appellant joined the Police Department in the year 2008 as constable and since then performed his duties with zeal, honesty and punctuality. To this effect no complaint has ever been made either by the authorities or the public.
- ii. That the appellant was falsely charged in case FIR No. 383 dated 20-08-2015 under sections 5 Exp Act, 9 BCNSA, 15AA and 34 PPC Police Station Kanju and as a result of the same the appellant was dismissed from service.
- iii. That appellant neither was nor is involved in any sort of criminal activity. That the appellant is a law abiding citizen and can never think of such an act for which he has allegedly been charged.
- iv. That appellant is never associated with the enquiry in accordance with the law neither his defence version has been considered.
- v. That on the basis of a farce enquiry the appellant was allegedly found guilty of the criminal act and thus dismissed from service vide impugned order O.B. No. 216 dated 23-12-2015 against the

law, rules, facts and Shariah. Copy of the order dated 23-12-2016 is enclosed as Annexure "A".

- vi. That feeling aggrieved of the said order the appellant preferred departmental appeal to the respondent No. 2, but the same was also rejected vide order No. 4056/E dated 02-05-2016, received on 09-05-2016 in a very summary manner against the law, rules, facts and Shariah and without giving his own reasons, being the appellate authority. Copy of the appeal is enclosed as Annexure "B" and that of the order as Annexure "C", respectively.
- vii. That feeling aggrieved of the both the impugned orders and having no other remedy this Honourable Tribunal is approached on the following grounds.

### Grounds:

- a. That under the law the respondents were required to have conducted full dressed enquiry before the imposition of the major penalty, but the same is not the case as far as the appellant is considered and a farce enquiry has been conducted, thus the appellant has not been treated in accordance with the law.
- b. That the appellant has never been associated with the shame enquiry, neither has he been given the opportunity to defend himself nor his defence version has been considered for no reasons, whatsoever, thus has been condemned as unheard.

- c. That the appellant is bereaved of his Constitutional rights in a very blatant and colourful manner.
- d. That the respondents have used their official authority in a very fanciful and colourful manner, which is against the principles of natural justice and the law emanating from the commands of the Constitution.
- e. That the appellant has never committed any act of commission or omission which may constitute any offence under any law.
- f. That the appellant is not employed anywhere in these times of economic crunch.

It is, therefore, very respectfully prayed that on acceptance of this appeal both the orders impugned may very kindly be set aside and the appellant reinstated into service with all back / consequential benefits.

Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

Appellant

Through Counsels,

Aziz-ur-Rahman

Imdad Ullah Advocates Swat



## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2016

Arif Ex-Constable No. 2683, Police Station Kanju, District Swat.

...<u>Appellant</u>

### **VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

### **AFFIDAVIT**

It is solemnly stated on Oath that all the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed before this Honourable tribunal.

Deponent

Arif

Identified By:

Imdad Ullah

Advocate Swat

MUCZGT A CVOCCIE
OATH COMMISSIONER
Distr: Courts Swat.
Upto 19-12-2018
No: 97 \_\_Date: 14 \_\_S \_\_ 1.5

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_ of 2016

Arif Ex-Constable No. 2683, Police Station Kanju, District Swat.

...<u>Appellant</u>

### **VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

### **ADDRESSES OF THE PARTIES**

### Appellant:

Arif Ex-Constable No. 2683, Police Station Kanju, District Swat.

### Respondents:

- 1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
- 2. The Regional Police Officer Malakand Region, Saidu Sharif, District Swat.
- 3. The District Police Officer Swat, Gulkada.

Appellant
Through Counsel,

Aziz-ur-Rahman
Advocate Swat

#### **ORDER**

This order will dispose off the departmental Constable Arif No. 2683 that he while posted to CP Town Ship Police Station Kanju involved in case vide FIR No.383 dated 20-08-2015 U/S 5 Exp: 9 BCNSA/15AA /34 PPC Police Station Kanju, alongwith Head Constable Hamidullah No.1564 Naib Court Judicial Magistrate, Matta and Gul Shah No.201 Ex-Army of CP Town Ship conducted a drama for registration of a Bogus/Fake case against the innocent citizen namely Mushtaq s/o Kaki Khan r/o Mashkumai, Khwaza Khela, thus he has committed a cognizable offence and turndown the moral of the Police Force.

### Short facts of the case:-

That on 20/08/2015 Constable Arif No.2682 and Constable Gul Shah No.201/Ex-Army got a rent a car from taxi stand Khwaza Khela for Saidu Hospital. That said Officials put apple box in the car. When they reached to Kanju Bazaar, both the Officials ran away and SHO Police Station Kanju restrained the car and the car was search inside the Police Station Kanju, during search an apple box was found wherein pistol, explosion and chars (Hashish) was recovered. Accordingly a vicious case vide FIR No.383 dated 20-08-2015 u/s 5 Exp: 9 BCNSA/15AA /34 PPC Police Station Kanju was registered against the innocent driver namely Mushtaq s/o Kaki Khan r/o Mashkumai, Khwaza Khela

He was issued Charge Sheet alongwith statement of Allegations and Mr. Darvesh Khan, SDPO/Barikot Circle was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry against the delinquent officer and recorded the statements of all concerned officers. He provided ample opportunity to the delinquent Police Officer to defense the charges rendered by him. After conducting proper departmental enquiry, the Enquiry Officer submitted his findings wherein he recommended the delinquent Officer for Major Punishment. He was called in Orderly Room to present plausible defense for the charges rendered by him but he failed to defend the

Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, P.S.P District Police Officer, Swat as a competent authority, am constrained to award him the punishment of Dismissal from Service with

Order announced.

District Police Officer, Swat

O.B. No. 216

Dated 23/12 /2015.

ADVOCATE

عنیت مل ارای السرکو برل (١٥١٥) ملاکد رسی ( راه امر علی او عالی او کی) Annexure B سردابر عرب حر مابل ال روه ، کارزے - اُریک ماہد ملی می منی موک مدت سے رسا بل مرحی دلوقی اندانی فعد ادر «العثالی سے کی ہے ۔ کار مرکم می کس عملات وانشغال کے فدر راستجال کی گئے۔ سازل رور المرافع الد على تعديم على 333 مروم 15-3-20 مر الإنجام 65 Exp ACT, 15AA. 9 BCNUA/34AK) تارط يو ركن على على موات دے والم اور کا مار موال سے مارے روامت کوا کی ۔ (کبر) کے مقلق ور نقالق) مانول جول الحرار المعرب فلام كا كو المسال والوق ما مور فلا مورج على المراك الم راب عمار سے وی افل شہر مراس زد هانی صب الراس ردائیور حکے ای بیار المان مراس کے ادارے کے الطے مانقہ ریخہ کر فوار فیلم اف - اُسی میں مول مطابق میں او گر شاہ کیل موجی ، حرکم بیلم عافر وی اُفل شو۔ می ڈول - 201 sto of 201 old bill of 201 July of 201 - 10 of 15 - 10 of 201 of مواعظر بسے کر بندگنوں عبوالنہ 1564 کے امول زاد عالی حب الرقاع بر مارکان رسی کا کر ر 140 را یہ كالخروك ليج كرم ميس لونيد من في ماي فاي فاي فان بيد لوف كيد ولا مسارة في المرابية حر ملای رای نے دو اور رسی خول میں کا فرقا میں مورا بیرانی عبدالیہ 45 و و المار دو ا دائر کیا کر دال سے طور الامری آب دول کیے کوئی میار نیزی طور وال سے مدے کری ہوائے کوئی میار المری کے دور اللہ اللہ کا کر دول کیا گرام کا اللہ کا کہ دول کیا گرام کا کہ اللہ کا کہ دول کیا کہ اللہ کا کہ دول کیا گرام کا کہ اللہ کا کہ دول کیا گرام کی میں کا کہ دول کی میں کا کہ دول کی میں کہ کہ دول کی میں کہ کہ دول کی میں کہ دول کی میں کر دول کی کردول کی کر دول کی کردول کی کر دول کی کردول کی کردول کر دول کی کردول میں سوریا۔ ہواہ اللہ سرا 8 لاقع میں اللہ میں اللہ میں دران در اللہ سے اللہ اللہ میں دوریا۔ ہواہ میں دوریا۔ ہوا عالمہ کے کارے وقت انجام دفیاتی اعلم جوری الل اللہ عند میں اللہ کر میں عواج کی سے موالہ ہوا۔ مالی جور ماری اللی عالیٰ سے اطاق ، موجوی میں میل فرین باجہ عمری المراب سے المباق اللہ ہی میں اللہ اللہ میں میل درائی ATTESTED under

ADVOCATE

مائل المرسوب مادر گرائے ہے تعلق وقد المرسوب میں المور المور المرسوب مائل المور المور المور المربوب میں المربوب میں المربوب میں المربوب المربو

ATTESTED

Inde ADVOCATE

Annexure ""

### OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION, AT SAIDU SHARIF SWAT

### ORDER:

This order will dispose off appeal of Ex-Constable Arif No. 2683 of Swat District for reinstatement in service.

Brief facts of the case are that Ex-Constable Arif No. 2683 while posted to CP Township Kanju involved in case FIR No. 383 dated 20/08/2015 u/s 5Exp 9 BCNSA/15AA/34 PPC Police Station Kanju, made a drama for registration of a Bogus/fake case against the innocent citizen namely Mushtaq S/O Kaki Khan R/O Mashkumai, Khwaza Khela. That on 20/08/2015 constable Arif No. 2683 alongwith Head Constable Hamidullah No. 1564 and constable Gul Shah No. 201/Ex-Army got rented a Car from Taxi Stand Khwaza Khela for Saidu Hospital. That said officials put apple box in the car. When they reached to Kanju Bazar, the officials ran away and SHO Police Station Kanju restrained the car and search inside the Police Station Kanju, during search an apple box was found wherefrom pistol, explosive and charas (Hashish) were recovered. Accordingly a vicious case vide FIR No. 383 dated 20/08/2015 u/s 5 Exp 9 BCNSA/15AA/34 PPC Police Station Kanju was registered against the innocent driver namely Mushtaq s/o Kaki Khan r/o Mashkumai Khwaza Khela. The delinquent official was the planner of the episode. He has committed a cognizable offence and turndown the moral of the Police Force.

He was issued Charge Sheet alongwith statement of allegations and SDPO Barikot Circle was appointed as Enquiry Officer. The enquiry officer conduct proper departmental enquiry against the delinquent officer and recorded statements of all concerned officers. He provided ample opportunity to the delinquent Police Officer to defend the charges rendered by him. After conducting proper departmental enquiry the enquiry officer submitted his findings wherein he recommended the delinquent officer for Major Punishment. He was called in Orderly Room to present plausible defence for the charges rendered by him but he failed to defend the allegations levelled against him. Being found guilty of the charges the District Police Officer, Swat dismissed him from service vide OB No. 216 dated 23/12/2015.

He was called in Orderly Room on 29/04/2016 and heard him in person. The appellant did not produce any substantial materials in his defence. Therefore, I uphold the order passed by the District Police Officer, Swat, whereby the appellant has been awarded punishment of dismissal from service. The appeal is rejected.

Order announced

(AZAD KHAN) TS:, PSP Regional Police Officer, Malakand, at Saidu Sharif Swat

Dated <u>62 - 65</u> /2015.

Bowles devote Roll + F. Miser.

Copy to the District Police Officer, Swat with reference to his

office Memo: No. 2560/E, dated 07/03/2016. His service records are returned.

ATTESTED

ADVOCATE

ابتزال اطلاعي ركورث التياني المعر الترييخ والمستناء أزى إستريد ورث تعدد يروي ١٥٠٥ كور ضايط في بداري ADVOCATE عن ما عن ما عن ما عند ما عند ما عند الما الما عند الما الما عند الما الما عند الما عند الما ال المنتب المال عدودت ٥٥ الا بالدي المراه عدودت SHOULS ELY SO CETTING THE 5 EXPESUL-Act - 9BCNSA-15AM 34 - 115UCA-12-17 العقامة المعالمة المع مركولم شافلا المدولة فاكالا فالمانا والاخيلم كالمائد المراجع المراع المسل و اكس المحال المعالمة المع الاست و المالي المالية المالي ار مار ی کوی عرب کی وزیر اور کی د کور کا ہے تا یا کہ وی لیسی ڈرا وارج والمرتدب المان على المان المرتدب الم المين عرف الاقتال الله الراسد عالي المراسد ع روسراسفیکی و ها ال عربی از 3/5 و سال سیا جه این مو وی را را ایب برار باری مرفراده الله این این استال روانه قا کرت حس سی سفید ال و المحال الم المراد المركان المالية المالية المراد المركان いっことはいいできない。 الله المالية المالية وطالغوا المالية がしていることにはいいかにはいいというというというにあります。

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سوانه دوراره نافذ آل مازمار) مدرسوار كالم فعدد على 383 فعدام \_ على ما 383 فعام كالم \$ 15AA 34 Sult elidic la milion de all leturo d'interno 1564 il 1564 فلف جو دلسفر عمل لله مسر هر مارن ولد محرجان ساکر وزور ع درای داری داری داری درًا في ما ما كول المال لولس كنسار فنفسر توكر كاون سب كاكو . كذف لفت لاس فلم موات ما عالما كالدفعام عنوان، فرم بالدعومان فدسا مرز الما كواه حسب در لل ولد اصر دا ده سان بالدمره در سخفام ا سار و نفره بعدا مس ما قاعده فلرفال مافذ كر ما على . بروارها دوماره نافرد كالمان منعلق سنفسراً كوكم « ناكمال رين (د ميو جائے میں تفکیل رسادل سے مشکورو کائس situo/Psikans 24-08-015

## BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

			•		*************	(Appellant
Arif Ex Constable	·	. •				· .
Service Appeal No. 499/2016				•		

### **VERSUS**

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- 2. Deputy Inspector General of Police, Malakand Division , Saidu Sharif Swat
- 3. District Police Officer, Swat

 (Respondents)

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District Police Officer, Swat (Respondent No. 03)

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### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

### PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS

### Respectfully Shewith

### **Preliminary Objections:-**

- 1. That the Service Appeal is time barred.
- 2. That the appeal is bad due to misjoinder and non-joinder of necessary parties.
- 3. That the appellant has got no cause of action.
- 4. That the appellant is estopped due to his own conduct.
- 5. That the appellant has concealed material facts from this August Tribunal.

#### **ON FACTS**

- I. Para No. 01 pertains to the Service record of the appellant, therefore needs no comments.
- II. Incorrect. The appellant in collaboration with SHO and 2 other officials planned to implicate an innocent Taxi driver namely Mushtaq, but during investigation it transpired in the said FIR; that the Taxi driver was innocent and the appellant alongwith others were the real culprits, by planted a fake recovery due to personal enmity of one of accused. Therefore the appellant being guilty of misconduct was dismissed from service after proven guilty in Enquiry against him.
- III. Incorrect. The appellant falsely implicated an innocent Taxi driver and committed gross misconduct as well as criminal act, and thereby bringing a bed name for the entire force.
- IV. Incorrec t. Proper departmental was conducted against the appellant. vide copy of charge sheet, statement of allegation Finding Report and Enquiry papers as Annex- "A", "B", "C" and "D" respectively.
- V. Incorrect. The appellant fabricated, conspired and falsely implicated an innocent Taxi driver in a fake criminal case. Therefore he was nominated as principal accused and committed to jail. Departmental enquiry was conducted against him and he was proven guilty of allegations/charges leveled against him.



VI. Correct to the extent that his departmental appeal was turned down by respondent No. 2 being devoid of merits. The rest is denied.

VII. The appellant has hot no cause of action to file instant appeal.

### **ON GROUNDS**

- a. Incorrect. Proper departmental enquiry was conducted against the appellant. He has been treated in accordance with law and rules applicable to him.
- b. Incorrect. The appellant was associated with departmental proceedings. He also submitted his statement to the enquiry officer. The appellant being guilty of misconduct and criminal act couldn't produce any substantive, cogent and material evidence to defend himself.
- Incorrect. No legal or constitutional right of the appellant has been infringed or bereaved.
- d. Incorrect. The appellant has been treated in accordance with law. No principle of natural justice and no provision of constitution have been violated. The appellant was an offender who committed an offence and misconduct.
- e. Incorrect. The appellant committed a criminal offence and gross misconduct who was proven guilty during enquiry.
- f. No comments.

### **PRAYER**

In view of the above comments on facts and grounds it is very humbly prayed that Appeal of the appellant may be dismissed with costs.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar (Respondent No. 01)

Regional Police Officer,

Malakand Region at Saidu Sharif, Swat

(Respondent No. 02) Regional Police Officer, Malakand, at Saidu Sharif Swat.

District Police Officer, Swat (Respondent No. 03)

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 499/2016	
Arif (Ex Constable)	Appellant

### **VERSUS**

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
- 2. Deputy Inspector General of Police, Malakand Region at Saidu Sharif Swat
- 3. District Police Officer, Swat

Respondents

### **AFFIDAVIT**

We the above respondents do hereby solemnly and declare on oath that the contents of the accompanying Para wise comments of the respondents are correct to the best of our knowledge/belief and nothing has been kept secret from this August Tribunal.

Provincial Police Officer,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 01)

Deputy Inspector General of Police, Malakand Division, Saidu Sharif Swat

(Respondent No. 02)

Regional Police Officer, Malakand, at Saidu Sharif Swat.

District Police Officer, Swat (Respondent No. 03)

### BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR



### **VERSUS**

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2. Deputy Inspector General of Police, Malakand Region at Saidu Sharif Swat
- 3. District Police Officer, Swat

Arif (Ex Constable)

Respondents

### **AUTHORITY LETTER**

We the above respondents do hereby authorize Mr. Khawas Khan S.I Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with titled Service Appeal and do whatever is needed.

Provincial Police Officer, Khyber Pakhtonkhwa, Peshawar (Respondent No. 01)

Deputy Inspector General of Police, Malakand Division, Saidu Sharif Swat (Respondent No. 02)

> Regional Police Officer, Malakand, at Saidu Sharif Swat.

District Police Officer, Swat (Respondent No. 03)

### CHARGE SHEET

I Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat. as competent authority, hereby charge you, Constable Arif No.2682 while posted to CP Town Ship Police Station Kanju as follows:-

It has been reported that you committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Arif No.2682 while posted to CP Town Ship Police Station Kanju involved in case vide FIR No.383 dated 20-08-2015 U/S 5 EXP: 9 BCNSA/15AA /34 PPC Police Station Kanju, alongwith Head Constable Hamidullah No.1564 of Naib Court Judicial Magistrate Matta and Gul Sher No.201 Ex-Army of CP Town Ship conducted a drama for registration of a Bogus/Fake case against the innocent citizen namely Habib-ur-Rahman S/O Amir Zada R/O Chinala Bara Durashkhela Matta Swat thus committed a cognizable offence and turndown the moral of the Police Force. Your this act is against the discipline Force of Police Department.

- 2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.
- 3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.
- 4. Your written reply, if any, should reach 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 follow against you.
  - 5. Intimate as to whether you desire to be heard in person or not.

A statement of allegations is enclosed.

District Police Officer, Swat

Dated: 8/9/ /2015.

Sopo. Ravicot

### DISCIPLINARY ACTION

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Anexor B

Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as competent authority, is of the coinion that he Constable Arif No.2682 while posted to CP Town Ship Police Station Kanju have rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

### STATEMENT OF ALLEGATIONS

It has been reported that he while posted to <u>CP Town Ship Police Station Kanju</u> committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

That he Arif No.2682 while posted to CP Town Ship Police Station Kanju involved in case vide FIR No.383 dated 20-08-2015 U/S 5 EXP: 9 BCNSA/15AA /34 PPC Police Station Kanju, alongwith Head Constable Hamidullah No.1564 of Naib Court Judicial Magistrate Matta and Gul Sher No.201 Ex-Army of CP Town Ship conducted a drama for registration of a Bogus/Fake case against the innocent citizen namely Habib-ur-Rahman S/O Amir Zada R/O Chinala Bara Durashkhela Matta Swat thus—you have committed a committed a confidence and turndown the moral of the Police Force. This act is against the discipline Force of Police Department.

- 2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, <a href="SDPO/Barikot Circle">SDPO/Barikot Circle</a>, <a href="Swat">Swat</a> is appointed as Enquiry Officer.
- 3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and nearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.
- 4. The accused officer shall join the proceedings on the date, time and place fixed by the enquiry officer.

District Police Officer, Swat

No. 320 /EB, Dated Gulkada the, 8/9/ 201

Copy of above is forwarded to the:-

- 1. <u>SDPO/Barikot Circle, Swat</u> for initiating proceeding against the accused Officer/ Official namely <u>Constable Arif No.2682</u> under Police Rules, 1975.
- Constable Arif No.2682 CP Town Ship Police Station Kanju.
   With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

از دفتر الیس ڈی پی اوسرکل بریکوٹ.

## (فاعترنگ بورن) اگوائرى پرخلاف كنتيل عارف نبر 2682 متعيد ، CIP اون شي تفائد كانجو حال ١١٥ يوليس لائن كبل

غلامه الزام:

كنظيبل عارف نمبر 2682 برالزام هيكه هيد كنظيل حميد الله نمبر 1564 اوركنظيل كل شرافيبر X إ 201/ كيساته ل كرايك منعوب كي تحت جعلى مقدمه منى الني الآيم كخلاف تقانه كانجويس درج رجير كياب-اس حرك كي بناء يرجناب DPO صاحب سوات نے جارج شیٹ فبری 220/E محررہ 08/09/2015 جاری کرے من DPO پرکل پر یکوٹ کو انگوائیری آفيسرمقرر کيا گيا\_

کنشیل نرگورہ کو دفتر ھذا طلب کر کے بیان لیا جا کر بیانی ھیکہ کنشیل مذکورہ عرصہ ہے C/P ٹاون شپ میں تعینات تھا۔اور C/P ھذا میں میر نے ساتھ ھیڈ کنسٹیل حمیداللہ نمبر 1564 بھی تعینات تھا۔ بروز وقوعہ سے 5/6 اوقبل C/P ھذا ہے ھیڈ سليل ندكوره كاتبادله مو چكاتفا مورخه 20/08/2015 كو بونت 07:00 بج تا 08:00 بج هليد كنسليل حميدالله 1564 نے کنسٹیمل مذکورہ کو بذر پید فون منصوبہ بندی ہے آگاہ کیا تھا۔ لیکن کنسٹیمل مذکورہ کو بیغلم نہیں تھا کہ گاڑی ہیں رکھے ہوئے کاٹن کے اندركيا ب- (فركوره كفيل كاليان الفقائل الماطلب)

اسی طرح بدوران انکوائیری ذیل کسان کو دفتر هذا طلب کر کے بیانات قلمبند کئے گئے ہیں۔

SHO گرسيران تفاند کانجو

محررتها ندامجد غفورتها نبركانجو

هيد لنسليل رحم دادنمبر 634 متعينه تفانه کانجو \_ [~

ئىڭىشلىل جىيداللەنبىر 1564 متعبينه C/P ئىگولى \_1

تُى نثار ولدانوارالحق ساكن اولندرشا نگله حال احمه تنگ ٹاون شپ كانجو

مسمی مشتاق احمد ولد کا کی خان سا کن مشکومُ کی خواز و حیله

مسلی مشتاق احمد ولد کا کی خان ساکن مشکومکی خوازه خیله درج رجسر د کیا گیا تھا۔مورجہ 08/2015 کومقد مہ هذا تیں فضل وھاب CIO تھانہ کا نجو نے پروانہ ور ہارہ نامزدگی ملز مان جاری کر کے جس میں لنسٹیمیل عارف نمبر 2683 کوملزم نامزد كرك محرره 24/08/2015 كوحسب ضابط كرفتاركر كي مورخه 25/08/2015 كوعدالت جوذ يشل مجسريت كبل بيش كر كے جس نے مزم ندكوره لنشيل كوج يوم حراست بوليس مظوركر كے مورخه 27/08/2015 كو جو ديشل مجسريت كو پيش ر كر يح جس نے مذكور النظميل كو ذكر جيل ضلع بونير تصبحوايا كيا۔مورخة209/2015 كوعد الت دار القصّاء فضا كت نه كوره كنشيل كوجيل سے ضانت پر رها كيا گيا۔ بعده كنشيل مذكوره نے 32دن بعد اپن حاضري كي رپورث بحواله مد 17 مورخہ 24/10/2015 کو JIS پولیس لائن شہیر کل درج روز نامچے کی ہے۔

بعداز الکوائري وللمبيدي بيانات وديكر فنير مطويات سي ال تيب بي چا جول كريد كوره المطول نه وقر مركي مفهوبيدي 

الداد عدود مقام شده كاد يودك كل النهاج كل مادش كالمهرى (مقدمها لاتا مال عدال عدال على المرادي المحتب

سَنِيلِ عارف بْر 2682 كو(Major Punishment) دين كي طارش كيا تي

الني وي لي اوسركل ير عوف 015كۇرسال2015

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In Ju Je Y July Slas 5 to clas Smo July The 3 il 13 52 July 2013 July 06/1/3 520 8 7/12 July 2015 on his from piece if with ord where is sin es i Minula He Co mon you Sho End con to see the سے سامع س واقعیت ہے۔ س انکو برزگر فرنگا تھا کر وہ ما The sound to End of in white who fitted to مران س مار کو س و کل ست و این روده - مرد و الرس مرا ترمان مرس می آزار و سربار این ا در این ا در این این این این ا Town Uses (16 has sur by so hand with pring to Similar de sind de la company 1 - 190 9 - 10 1 1 - 15 1 5 W W 1 33.99 1 1000 HCW1/2 0/10 01/1/1/1/2 2218 July 3 2218 July 1 525 muchigation of a PTDC, size, 1000 ( Je 15 my in for the pion of the No ك الرسي الي سالة إلى إلى برسام الشيان كرموم كار را وك كركاء على M306 cm mis 20, die Cip to 2 16 2011 - d'autil July 10 - 60 01/m 2 5 m/10 - 60 1/2/1 - 60 1/2/15 الرائيس، سي برائي الله الله المالية ال مرا الم درالور ندی کا فرید کی فرمای در الور ی Literation int 2- Will see with we we will the 1 m 1 in 1 of de w Ew 1, els ) Les us En 1 out

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ان ازان حرالله م 2504 مال مؤر بولس لائی کال شام ع برحلت بان کیا جم س ج تی شگری میں جنرل ڈیوی پر حسر الگرا س مروماب ليكل كوسيترس ما - اور دفية مراوماب ليال محق كره وسيد ادرخاب العمام يكل كر جائز عن مرون كري في فيت نايشها برون و المراس ا ج نم ماه آئست کی علالتری کی چمالی کی ت قبل انها کی این این این کی در が見しましている。 ははらいしきいりにしいるは ابی سول کردن علاع حالم نیر الزرج کی شرف کی کارون خاورد المراث عن المالا المالي من مل المراث عن المراث المر 1- Ulistant 5 Elob = 45 20 200 19 8 20 2002.00 しずらかしんこいろはいいといいのでしていると 03462545332 6630 Perciria R. 65 840 520 % Co アージベルレントでからいはいましたかったい Web yxyouを記るはってうり、公でいりの、とう Topilo Pet Proc 15 is disigned to some of six of we Miller 5 4 2 200 25101-601-60506 1120 - 120 00 الما المان من الموالية وهي تركز والأفا - اوروهاي سادي المركز والأفا - اوروهاي سادي المركز والأفا - اوروهاي سادي المركز والأفا - المرود من المركز والأفا - المركز والمركز و and the signification of aside in the sale 12 21/2 8 16-16/21 3 - 12ag - 12ag - 12 3 -

(2,4,60)

(12) Anex or D الله على على حسب بحاس دكما - إمراش على الله المراس كا محالة المراس كا من الله المراس على الله المراس كا ا JOHN BECTO BUNGA-15AA سي حرفار بغركا - ادروه ي 78 و مرات سي سي كا سي حق س شن ہم مراست براس مندر کھائی ۔ اِما منا حراست بی اِن اِ داری ۔ عرم 22 وم إدر سل فات مناور ميل المات من جم من مزرو س کنیان ش عاد، ترمارف جی گرنتا کرے آ۔ ایکرش والمرس من المراكز المر PENDE PURSUE ELLE EL UN JO JO LES JUSE 四部の中ででははそりころに、重めらいのかり でからいるというというというというというというしゃ سے حدف ایک ازش کے کت بدان شارکتے یا طرح دین میں عثمال はろりとしてきることとといういこれのとうには के गात मून प्रतिश्व के महिन के महिन के महिन اوركنفلان مَنزر و بعي خان كا نجرك حدو من و في سري (ده رص في عاشكمانيم سے خدو بادارس الات میں۔ حست بیس الم - World State of the will - King will - King will be will be the w لذاعادان الشيعا ميك نيك شرى بلام يم كالحالي كالحل كالم Pir and I want of Bigger of the 9- Cm, C في كناكل حيدالسد 1564

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Wind 20, 45 (000) 2 \$ 1/4 Bilis 540 (16 7.4 m 2.00) plus in the plant is click of cost or fine was proc it shows. عراب المار to the second to q les cole L' les çu tes L' les como cité Cire المواج من من المواج المالي ال 22 of July 8 Nice No. 2 of Je (15 25 of of one Je. 7. 15601- 17792980-9 Je CNIC July 1. C. 

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بیان ازاں امجد عفور محرد تھانہ کا نجو نے بہ دریافت بیان کیا کہ مور خد 2015-20-20 کو جاب 1000 کے جس پر مقد مدعلت 383 کمور خد 2015-08-2015 کھے میں بر مقد مدعلت 383 کمور خد 2015-08-2019 کھے میں بر مقد مدعلت 383 کمور خد 2015-08-2019 کھانہ کا نجو کر مور کہ کا نجو کر دور کی دری اور اور دریارہ نامز و کی طران ماری 5EXP-Sub-Act-9CCNSA-15AA-34-4PHO کے وقت اور اور دریارہ نامز و کی طران ماری کے جن میں (1) کا نظیم بل عادف نمبر 2682 ولد مجمد جان ساکن محلہ اور چر خرکی ورگی مال پولیس چوکی ٹاون شپ (2) کا نشیم بل عادف نمبر 2012 ولد مجمد جان ساکن کو فی تحصیل ورگی صلح ال کیا جا کہ حوال نہ ہو گئی ورگی مال پولیس چوکی ٹاون شپ کو ملزمان نامز و کر کے مور خد 2015-24-08 کر قار کر کے بعدہ مور خد 2015 والوں کو جو ڈیش کر کے بعدہ مور خد 2015 والوں کو جو ڈیش کو المات ڈ کر شلط یو نیم منظور کیا مور خد 2015-20-20 کو ہر دو توں ملزمان کیا کو جو ڈیشل حوالات ڈ کر شلط یو نیر مجمع الکے اور کے مور خد 2015 اور دو توں کو معطل کیا گیا۔ واشی یو نیر مجمع والد ارڈر بک نمبر 141 محردہ 2015 ور توں کو معطل کیا گیا۔ واشی دے کہ بالاکسان کو عد الت دار لقضاء فضا گئے نے جیل سے صاحت پر دہا کر کے 135 کے دور سے کے بالاکسان کو عد الت دار لقضاء فضا گئے نے جیل سے صاحت پر دہا کر کے 135 کو کر دور سے کے بالاکسان کو عد الت دار لقضاء فضا گئے نے جیل سے صاحت پر دہا کر کے 150 کے 150 کو کر دور سے کے بالاکسان کو عد الت دار لقضاء فضا گئے دیا ہے جو کہ در سے ہے۔

MASI-PS-KANJU

06-11-2015

Attested

Dsp. Ret

WATER TO THE W IN PLA 06/ 7015 01/ 80/E July Ancacel 9-12/1/ 2692 Soils with Jan 196 Wills. 201/61/19 201/61/19 30 July 201/61/19 30 و المحيار بران بروام هراز كيا و ان كي دفير J / My / 111 18wy), 27, 313. 沙门型外外 The so do the six of sec 12015 My dob

وبروال سال مع متلوم الوازة صل والم الدريا فت بيان كما كم مين رين داتي گادي رزقم كوري كمير عرام عرام عرام عرام المرادة كو تيكسى سفير بالبر وازه فيلم سے وال عران المران ا مرور مقوم ملنا عارف اور گل شا ن فر عبری گاری کو منگسی سیر فوا زہ ضلے سے سنال سیوسی لف تک بکنگ کرے میلی ریک مرا دور و الرابع كان كى مير سانعى ماندم المانيان من سحد من طبری عار آدا کردیا تقالی مدرسان متذکره من ترایش می شاه فی باریم فین بلایاک ادر عما ر دوست آنے میں اور عمارا پوھے میں تم ساں ہو من من آیا تو بر معلوں مدرو بال بیان کیا مد ع بيمام يشول بعب واره صدر الح آك لو مدم عارف ذ عنی تریان رسے لیدہ کریٹ کا اُن سب ساھ (اکر گاڑی) من وجو ری جب من کا کیر جو ک آینجا کو ملزم عارف اور عرفال على في محوسة بالمراب على على الله على الم من اور ما ک کے وں نوٹیا 3/6 منٹ یک کا بھر ہوک وں الله کادی تعوی کے انسار کرم تھا کہ ایک بوس جوسا فند 2/03/036/10 4 Un the 1360. 1. 21 2 6 12 who SHO of byin 19108 2 20 3 (3) 20 (hi) (3) (3) (1) (1) (4) (4) (4) مین دا س کو بتران که وس نا دو منرس کو داکر مرو ترین 2017/18 Jinh 3 2 2 6 16 Jan 036 0p 2 060 SHOX = 100 0, 0 2 5 ler 川里山山山山山山山山山山山山山山山山山山山山 الی ملوج ری

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( ) Je 2 i L 2 1 0 540 Je 2 i L 3 650 ر الله این کریش کاش بری ہے مل علاسی لیے رکائن سے فیر کالوں رسا و راس کے ما الله ما من ما كون مر مال فالما مام كم الان صى تعام كى اندرك فى قداس وقت ٥٨٥ ما ص سى كما لعنك ١٩٤٠ كى ا ملا ما میں تا گاڑی کی تاریش لینے میں لوجا کم کاڑی وں ساج ول من كر رك سيب كى كريد ( كائن بيرى يط. ٥١٥ ما ص できしかるがん الله المالي الماسي ليد سامل يا لعد ملزمان عارف اور ماسيان تقام من موريق؟ 2 . S. 2 00 te al Cal Cal Cal 2 July 38 July by من منتاق الحد 8/10/015 000 6345-6162476 B. J. Co 15602-2336262-7 63,60

الله المان عن متناق رور ولد كالي طان كما منكومي ورزه فيلم ورز. بديانت بان كا مي رين داقي گاڏي رخم نوري تي تيري م 3394 DSKKSD سئٹ ایر وازہ فیلے سے وال عوں سرونر مقدم ملن عارف اور تقل شا ن خری کا دی کو سکسی سند فوازه في عيم الم سيوسي لف تم لمذكرك ملك ال مراد دورد در ارا به ی بات ی کی میر سابقی مدام مراسای سرر عارج اور کو مشال سرو سرف لے طابع جنب سی رشاد من سی می ماز اور ارد از ای مادر مدمان میدان میدان I by who is in fer our for soil of ادم تما ر دوست آنے می اور عمال لوقعت می کا کا دوست مِن عم بِينًا مِرْول بِمِن وارد فلم اللَّج آئے لو قلام عارف نے ص روی دی جب می کا کو جوگ آ بیجا کو ملام عارف اور in soit ent or the in so of the i die po 0 3/6 w 20 0 16 John 19. C. ie m 2 wy with bit of it is 5 036 Attes. 2/03/03/6/10/ 00 12/0/04/20 2 1 h who sho of by 1082 203 (33) 20 My 100 1562 1562 1 160 LICOLOSHOW W distribution es ils of the solver 101013/10h 3 & 6 16 16 036 5m 2 060 540 x = 1000 00 00 25 Jer とりをしていることがしたしたしたして上がます · (5) 70 de (6)

2082 e ste fruit il متكام جيد لوسك العن سر 8/9/015 0/2 200/ Six 2/5 dist 2 Eins fulling fine of this is in = interpolition job 730 =3 9 2018/05000 6 6 5 WIN BE جے میڈ کی فیدائش نے فون رہے بھالا کہ کم کریں۔ いかりゃい いりじょういっとしょうとい しいこいいとしょうずくこまっての of the who was pleased to who show でのしからいかららいかといるでしたとして 19 The Leving Light citizen يع رس عد ساھ گاؤی سی سفر قوری فی ا Colle de si l'étérais de la composition della co مع مسار عان كسافيوكما جنبر بس دن على الم ه می روش وی کارور می رولون ( عارف روستان) 00/366000000 00 60 CO CO GOTO CO ع المراب Attestell. a place Le de la jaj jan or Ust acut Jonepho à Cur géls 6362 co à de visit DSP-Ret なく シェニト ずりよっと/ことのしけく الرصاصارت فر فر فر فار المان تر المان المراد 132 combres of to plan and in 18/25 to de

المال من والمرب لي من مندو المالي الرقع نواتي مي رسال روانم بوقع م در الله المالية MASSON ONE STONET WING LO Figure Une Toby it in ははまりしてるがきかれていているよう 25 sho e co of his entire being the to كميا قد فعن با ث تى چوادر ده دا كال دو تورد 0° 0366, 3 ister 22 2/2 28 540 2 09 6 212 18 6 7 6 3 6 03 6 21 6 Llen 65 613. 2013 60 10 100 2 Columbia له المرافع الرفر المرافع المرا wo of the of the of the city of en los Elas eins of a Ob for of es, 26836 Ob J 19/11/015 aco 03400843457 1660

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 499 of 2016

Arif Ex-Constable No. 2683.

...Appellant

### VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa and Others.

...Respondents

### REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:

## **Preliminary Objections:**

That all the preliminary objections are incorrect, baseless and against the law, rules and facts, hence the same are denied specifically. Moreover the appellant has got prima facie case in his favour and has approached this Honourable Tribunal well within time with clean hands and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

## On Facts:

- I. Para I of the comments needs no comments.
- II. Para II of the comments as drafted is incorrect, baseless and against the facts. The appellant is made the sole scape goat and made all responsible for the alleged actions. Moreover the SHO has never been made part of the investigation, if any made. The appellant is accused in the case on

mere surmises and whims, hence the para is specifically denied.

- III. Para III of the comments as drafted is incorrect, baseless and based on misstatements and whims and in need of solid proof. The appellant has never committed any act of commission or omission which may constitute any offence under any law, rather he has been made a scape goat, therefore, the para is denied specifically.
- IV. Para IV of the comments a drafted is incorrect and based on misstatements. No proper inquiry in accordance with the law and rules has been conducted and the defence plea of the appellant has not been considered neither has any opportunity of self defence and cross examination been afforded to the appellant, hence the para is denied.
- V. Para V of the comments as drafted is incorrect, against the facts, devoid of merits and in need of solid evidence and the appellant has wrongly been implicated in the case, hence the para is denied.
- VI. Para VI of the comments is denied for the reason that the departmental appeal of the appellant is decided in a mechanical manner and not in the mode and manner provided by the law and rules on the subject.
- VII. Para VII of the comments will be taken at the time of the arguments, however the appellant has got a prima facie case in favour with clear cause

of action upon which this Honourable Tribunal has got the jurisdiction to adjudicate upon.

## On Grounds:

- a. Ground a of the comments as drafted is incorrect, devoid of merits and based on misstatements, a farce inquiry has been conducted with which the appellant has never been associated as required under the law and rules and has been condemned as unheard with a pre-decided outcome in order to favour the blue eyed. Hence the para is denied specifically.
- b. Ground b of the comments as drafted is incorrect, baseless and in need of solid evidence, the appellant has been convicted on the basis of surmises and no solid evidence has been given for the imposition of such a grave penalty. Moreover the appellant was never afforded an impartial opportunity of self defence and has neither been provided the opportunity to rebut the evidence produced against him nor any chance of cross examination, therefore, the para is denied specifically.
- c. Ground c of the comments as drafted is incorrect, baseless and devoid of merits as the appellant has been condemned as unheard, needless to mention the utter and blatant violation of Article 10 A of the constitution, hence the para is denied.
- d. Ground d of the comments as drafted is incorrect, baseless and devoid of merits, hence the same is denied.

- e. Ground e of the comments as drafted is incorrect and baseless and has falsely been implicated without any proof or evidence, hence the para is denied.
- f. Ground f being admission needs no comments.

It is, therefore, very respectfully prayed that on acceptance of this rejoinder the service appeal of the appellant may very kindly be decided as prayed for originally.

Appellant

Through Counsels,

/ Aziz-ur-Rahman

Imdad Ullah Advocates Swat

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 499 of 2016

Arif Ex-Constable No. 2683.

...<u>Appellant</u>

### VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa and Others.

...<u>Respondents</u>

# **AFFIDAVIT**

It is solemnly stated on Oath that all the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has either been misstated or kept concealed before this Honourable Tribunal.

Deponent

Arif

Identified By:

Imdad Ullah

Advocate Swat

1. /

No. Date 9/2/17

# <u>BEFORE THE KHYBER PAKHTUNKHWA</u> <u>SERVICE TRIBUNAL</u>, PESHAWAR

Service Appeal No. 499 of 2016

Arif Ex-Constable No. 2683.

...<u>Appellant</u>

### **VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa and Others.

...<u>Respondents</u>

# REJOINDER ON BEHALF OF THE APPELLANT

Respectfully Sheweth:

# Preliminary Objections:

That all the preliminary objections are incorrect, baseless and against the law, rules and facts, hence the same are denied specifically. Moreover the appellant has got prima facie case in his favour and has approached this Honourable Tribunal well within time with clean hands and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

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- IV. Para IV of the comments a drafted is incorrect and based on misstatements. No proper inquiry in accordance with the law and rules has been conducted and the defence plea of the appellant has not been considered neither has any opportunity of self defence and cross examination been afforded to the appellant, hence the para is denied.

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- V. Para V of the comments as drafted is incorrect, against the facts, devoid of merits and in need of solid evidence and the appellant has wrongly been implicated in the case, hence the para is denied.
- VI. Para VI of the comments is denied for the reason that the departmental appeal of the appellant is decided in a mechanical manner and not in the mode and manner provided by the law and rules on the subject.
- VII. Para VII of the comments will be taken at the time of the arguments, however the appellant has got a prima facie case in favour with clear cause

of action upon which this Honourable Tribunal has got the jurisdiction to adjudicate upon.

# On Grounds:

- a. Ground a of the comments as drafted is incorrect, devoid of merits and based on misstatements, a farce inquiry has been conducted with which the appellant has never been associated as required under the law and rules and has been condemned as unheard with a pre-decided outcome in order to favour the blue eyed. Hence the para is denied specifically.
- b. Ground b of the comments as drafted is incorrect, baseless and in need of solid evidence. the appellant has been convicted on the basis of surmises and no solid evidence has been given for the imposition of such a grave penalty. Moreover the appellant was never afforded an impartial opportunity of self defence and has neither been provided the opportunity to rebut the evidence produced against him nor any chance of cross examination, therefore, the para is denied specifically.
- c. Ground c of the comments as drafted is incorrect, baseless and devoid of merits as the appellant has been condemned as unheard, needless to mention the utter and blatant violation of Article 10 A of the constitution, hence the para is denied.
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# <u>SERVICE TRIBUNAL, PESHAWAR</u>

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