

02nd May, 2023

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation for arguments. Last opportunity is granted. To come up for arguments on 06.06.2023 before the D.B. Parcha Peshi is given to the parties.



(Salah-ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman


SCANNED
KPST
Peshawar


06th Dec, 2022

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

Learned counsel for the appellant produced certified copy of the judgment in Service Appeal No. 1387/2020 handed down by Mr. Salah-ud-Din learned Member (Judicial) and submitted that regarding the same episode the judgment of the Tribunal was passed reinstating one Zaheen Shah, therefore, it is appropriate that this appeal be also heard by a bench in which Mr. Salah-ud-Din Learned Member (Judicial) is a member. To come up for arguments on 03.02.2023 before the bench in which Mr. Salah-ud-Din learned Member (Judicial) is a member.

SCANNED
KFST
Peshawar


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman


03.02.2023

Clerk of learned counsel for the appellant present.
Mr. Arif Saleem, Steno alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 02.05.2023 before the D.B.

SCANNED
KFST
Peshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

23.08.2022

Clerk of learned counsel for the appellant present. Mr. Arif Saleem, Steno alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments on 01.11.2022 before the D.B.



(Rozina Rehman)
Member (Judicial)




(Salah-Ud-Din)
Member (Judicial)


01.11.2022

Appellant alongwith his counsel present. Mr. Arif Saleem, Steno alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for further time for preparation of arguments. Adjourned. To come up for arguments on 06.12.2022 before the D.B.



(Mian Muhammad)
Member (E)

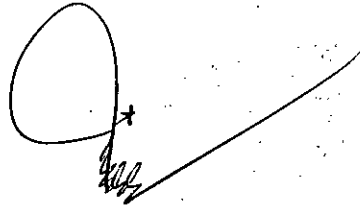


(Salah-Ud-Din)
Member (J)

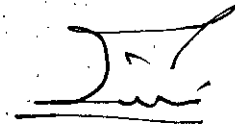
19.11.2021

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is ill today. Adjourned. To come up for arguments before the D.B on 01.03.2022.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

01.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 06.06.2022 for the same as before.



Reader.

6th June, 2022

Proper D.B is not available. Therefore, case is adjourned to 23.08.2022 for the same as before.

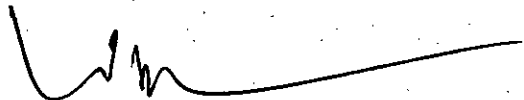


Reader

05.04.2021

Appellant in person present. Mr. Kabirullah Khattak learned Additional Advocate General alongwith Arif Saleem Stenographer for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondent requested for time to submit reply/comments. Granted. To come up for reply/comments on 17.07.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

12.07.2021

Appellant in person and Mr. Kabirullah Khattak, Addl. AG alongwith Arif Saleem Steno for the respondents present.

Written reply/Comments have been submitted. The appeal is entrusted to D.B for arguments on 19.11.2021.


Chairman



29.10.2020

Appellant present in person.

Lawyers are on general strike, therefore, case is adjourned to 13.01.2021 for preliminary hearing, before S.B.



(Rozina Rehman)
Member (J)

13.01.2021

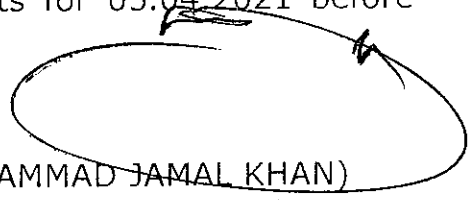
Syed Mudassir Pirzada, Advocate, for appellant is present.

The indictment of the appellant was made due to non-communication of information regarding holding of a musical party in the Police Post Summeri Bala portrayed via internet. Learned counsel for appellant contends that the requisite information regarding commemoration was communicated to incharge chowki but this eminent fact was not brought under consideration although departmental proceedings were conducted sans allegiance to the rules on the subject. On exhausting of departmental remedies he made recourse to this Tribunal.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 05.04.2021 before S.B.

Appellant Deposited
Security & Process Fee

13/1/21






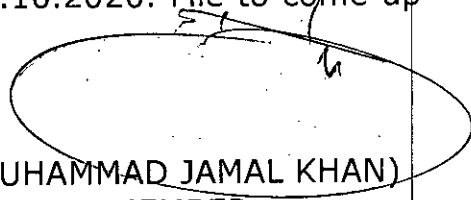
(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 3191 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/04/2020	<p>The appeal of Khan Saleem submitted today by Mr. Syed Mudasir Pirzada, Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 21/4/2020.</p>
2-	29.05.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>29-05-2020</u></p> <p style="text-align: right;"> MEMBER</p>
06.08.2020		<p>Nemo for appellant.</p> <p>Notices shall be issued to appellant/counsel for preliminary hearing on 06.08.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p>Syed Mudasir Pirzada, learned counsel for the appellant is present. He is seeking adjournment for non-preparation of the instant appeal. Adjourned to 29.10.2020. File to come up for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER</p>

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 3091 2020

Khan Saleem Ex-(Police Constable No-97of District Police) Kohat.

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

INDEX

Sr No	Description of Documents	Annexure	Page
1	Memo of Appeal		1-5
2	Affidavit		6
3	Address of the Parties		7
4	Copy of impugned Order dated 29-11-2019 and charge sheet ,FCN along with reply	A	8-14
5	Copy of departmental representation dated 26-12-2019 and Rejection order dated:-27-02-2020	B	15-18
	Wakalatnama		19


Appellant

Through

Date 26/03/2020

Syed Mudasir Pirzada
Advocate High Court
Peshawar
Cell#0345-9645854

1

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Khan Saleem Ex-(Police Constable No-97of District Police) Kohat .

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF KPK POLICE PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 29-11-2020- VIDE OB-NO 1665 IN WHICH THE RESPONDENT NO:-3 DIRECTLY AWARD THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 26-12-2019 BUT THE SAME WAS REJECTED ON 27-02-2020

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts as per impugned order are that the appellant was posted at Summari Bala post and on 06-09-2019 a musical program had arrange to notorious proclaimed offender anwar hayat group at police post summary Bala .(Copy of impugned order along with charge sheet & FCN along with reply is annexed as annexure A)

That a video program was viral in which illegal activities are shown but the appellant did not informed his seniors regarding the illegal program and hide the facts .which shows the inefficiency and gross misconduct on the part of appellant.

That on the basis of above allegation charge sheet and statement of allegations, along with final show cause notice was served and the appellant had duly

2

submitted the reply of the same which was not consider nor enquire the actual crux and blessed with the impugned punishment .

That without considering the defense of the appellant ,the competent authority awarded major punishment of dismissal from service to the appellant vide impugned order mentioned above.

That again an unjust has been done with the appellant by not giving ample opportunity of personal hearing as well as appellant submitted written request that appellant may kindly be heard in person but in vain even the alleged allegations were not properly enquired by so called enquiry officer Just on the basis of enquiry finding report of the enquiry officer appellant held guilty by enquiry officer without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).

1. That the all the proceedings conducted against the appellant are against the police rules on the basis that the appellant had personally informed the Choki Incharge regarding the illegal program but in vain but this fact was not consider by respondent No-3 and blessed with impugned punishment order.
2. That there is nothing is on the record which connect the appellant with the allegation nor proved and the appellant is blessed with impugned punishment which not warranted by law.
3. That nothing has been proved beyond any shadow of doubt that the appellant has committed any misconduct and shows inefficiency in discharge of his lawful duty .
4. That there are numerous good entries in the service record of the appellant which could be verified but this fact has not been taken in consideration while awarding the major punishment which is against to the canon of justice.
5. That an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation nor record the statement of Incharge of Police Post and ex-partly proceedings conducted against the appellant without probing held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).
6. That the when appellant was neither provided an opportunity to cross examine the or to produce defense evidence then enquiry proceedings were accordingly defective. Furthermore the requirements of service rules have not been observed while awarding the impugned punishment.

3

7. That nothing has been proved beyond any shadow of doubt that the appellant has committed any misconduct or tarnished the image of Police department.
8. That there are numerous good entries in the service record having 28 years of service which almost served with respondent No-2 Officer at Kohat which could be verified from quarter concerns but this fact has not been taken in consideration while awarding the impugned major punishment which is against to the canon of justice.
9. That the allegation mentioned in impugned order and other departmental proceedings are in contradiction with each other.
10. That the appellant feeling aggrieved from the impugned order the appellant prefer departmental representation which was not consider and the same was rejected on dated 27-02-2020 issued on 03-03-2020(Copy of representation and rejection order annexed as annexure B)
11. That the appellant dragged unnecessarily into litigation which is clearly mentioned in 2008 SCMR 725.
12. That while awarding the impugned major punishment the enquiry report has not been given to the appellant which is very much necessary as per 1991 PLC CS-706 & PLC 1991 584.
13. That the appellant feeling aggrieve from the impugned order having no alternate remedy except this honourable tribunal on the following grounds inter alia .

Grounds:

- a. That no enquiry has been conducted none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of respondent No-3 as well as the legal branch Kohat.
- c. That the appellant had properly informed the senior as due to the Mohrram all the cell networks were off and no source of electricity was available to immediately informed the seniors as receive information regarding program as well as the appellant is constable and the program

was arranged by other senior officials as well as the Moharrar of the choki and the appellant had properly informed the DSB in charge after the convenience of above mentioned services which could be verify from the DSB In charge and the same fact has also intimated by another official namely Naimat (Ex-constable of police)

- d. That the role of the appellant had not shown in video nor the appellant was deputed on the occasion as the appellant was on roof top duty as per order.
- e. That the appellant was not heard in person nor called in orderly room and falsely mentioned in the impugned order that the appellant was called because the when the expertly proceedings were conducted then how could it possible that the appellant was heard and called for orderly room which does not appeal to a prudent mind .
- f. That it is not ascertainable that what element had promoted the competent authority to award the major punishment to the appellant in hasty manner.
- g. That as per the constitution of Islamic Republic Of Pakistan clearly speaks about the fundamental rights that the fair and transparent enquiry is the right of any employee.
- h. That the punishment is harsh in nature and the appellant is vexed for undone single offence which is against the constitution of Islamic republic of Pakistan 1973.
- i. That no statement of any person nor any official has been recorded which connect the appellant with the guilt .
- j. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
- k. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- l. That the respondent No-3 had not issued the show cause notice to the appellant and the respondent above has acted whimsically and arbitrary, which is apparent from the impugned order.
- m. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- n. That the departmental enquiry was not conducted according to the rules.
- o. That the impugned order is outcome of surmises and conjecture.

5

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of Respondent No-3 dated 29-11-2019 vide O.B No-1665 Kohat may please be set aside for the end of justice and the appellant may please be graciously re-instate in service with all back benefits.

[Handwritten signature]
Appellant

Through

Date 26/03/2020

Syed Mudasir Pirzada
Advocate High Court
Peshawar
Cell#0345-9645854

6

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal _____ 2020

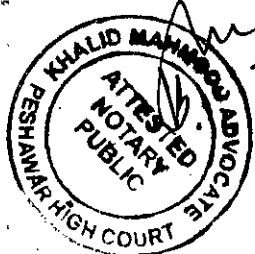
Khan Saleem Ex-(Police Constable No-97of District Police) Kohat
-----Appellant

VS

INSPECTOR GENERAL OF KPK POLICE PESHAWAR & Others
-----Respondents

AFFIDAVIT

I, Khan Saleem Ex-(Police Constable No-97of District Police) Kohat, do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


26-3-2020


DEPONENT

7

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Khan Saleem Ex-(Police Constable No-97of District Police) Kohat

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

ADDRESS OF THE PARTIES

APPELLANT :-

Khan Saleem Ex-(Police Constable No-97of District Police) Kohat .

RESPONDENTS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.

Appellant

Through

Date 26/03/2020

Syed Mudasir Pirzada
Advocate High Court
Peshawar
Cell#0345-9645854



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

Annexure A

P-8

ORDER

This order will dispose of departmental enquiry conducted against Constable Khan Saleem No. 97 of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts arising of the case are that on 06.00.2019 a musical program had arranged to notorious proclaimed offender Anwar Hayat group at Police Post Sumari Bala.

A video of the program was viral in which illegal activities are shown but he did not inform his seniors regarding the illegal program and hide the facts which shows his inefficiency and gross misconduct on his part.

For the above, serious / professional misconduct of the accused official, charge sheet along with statement of allegations was served upon the accused official. SDPO Lachi, Kohat was appointed as enquiry officer to scrutinize the conduct of accused official. The Enquiry officer vide his report established the charge leveled against the defaulter official and recorded statements of the other relevant officials, which they have mentioned about music program inside PP Sumari has committed immoral, illegal and un-Islamic act of arranging music program intentionally inside PP Sumari in Muharram Ul Haram in collaboration with POs with whom he has relations.

In view of the above, the accused official was served with Final Show Cause Notice to which he submitted reply but he did not advance any defense and relied on his reply to the charge sheet.

The accused official was heard in person in Orderly Room held on 26.11.2019 and afforded opportunity of defense but he failed to submit any plausible explanation. This speaks of professional misconduct and shows inefficiency in discharge of his lawful duty.

From the above, I have reached to the conclusion that the accused official being member of a disciplined force had developed relations with notorious PO gang and facilitated the gang, thus held guilty of violation of duty and committed gross professional misconduct. His retention in Police department is most dangerous to the lives of Police personnel and any serious mischief could not be ruled out. The charge leveled against the accused official has been established beyond any shadow of doubt.

ATTESTED

9

Therefore, in exercise of powers conferred upon me under the ibid rules I, Capt. @ Wahid Mehmood, District Police Officer, Kohat impose a major punishment of dismissal from service on accused Constable Khan [Name] with immediate effect. KR etc. [unclear] [unclear].

DISTRICT POLICE OFFICER,
KOHAT 28/11

OB No. 1663
Dated 29-11-2019

No. S1057-60/PA dated Kohat the 29-11-2019.

- 1. Copy of above is submitted for favour of information to the:-
- 2. Regional Police Officer, Kohat please
- 3. Reader/Pay officer/SRC/OHC for necessary action.
- 4. R./L.O for clearance report

DISTRICT POLICE OFFICER,
KOHAT 28/11

ATTESTED



Office of the
District Police Officer,
Kohat

No. 29098-99/P.A.

Dated 08/12/2019

10

CHARGE SHEET.

I, **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Khan Saleem No. 97** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975:

- i. On 06.09.2019 a musical program had arranged to notorious proclaimed offender Anwar Hayat group at Police Post Sumari Bala.
- ii. A video of the program was viral in which illegal activities are shown, but you did not inform your seniors regarding the illegal program and hide the facts, which shows your inefficiency and gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.


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

4. A statement of allegation is enclosed.

DISTRICT POLICE OFFICER,
KOHAT

ATTESTED

Handwritten signature
Saleem

<p>50 روپے</p> <p>44264</p> <p>ایڈوکیٹ:</p> <p>بار کونسل ایسوسی ایشن نمبر:</p> <p>رابطہ نمبر: 9645854-2345</p>	<p>PBA</p> <p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p> <p>بعدالت جناب: KPIK سرورسز سوسائٹی کراچی</p>	
--	---	---

<p>مخائب:</p> <p>APPEALMENT</p>	<p>دعویٰ: سرورسز سوسائٹی</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
<p>خان سیم بنام مہار و عسیرہ</p>	
<p>باعث تحریر آنکہ</p>	

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

آن مقام گنہگار کیلئے مسدود شدہ سروسز کے کوڈ کیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 26/3/2020

العبد العبد واہ شد

مقام: سرورسز سوسائٹی کراچی کے لیے منظور ہے۔

خان سیم بنام مہار و عسیرہ



Office of the
District Police Officer,
Kohat

(11)

No. 29098-99/PA

Dated 08/10/2019

DISCIPLINARY ACTION

I, **CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT** as competent authority, am of the opinion that you **Constable Khan Saleem No: 97** have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. On 06.09.2019 a musical program had arranged to notorious proclaimed offender Anwar Hujat group at Police Post Sumarl Bala.
- ii. A video of the program was viral in which illegal activities are shown, but you did not inform your seniors regarding the illegal program and hide the facts, which shows your inefficiency and gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations **DP I Achi Waleed** is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

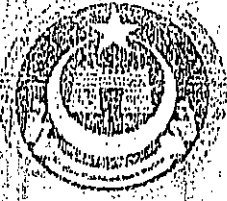
**DISTRICT POLICE OFFICER,
KOHAT**

No. 29098-99/PA, dated 08/10/2019.

1. Copy of above to:-
DP I Achi Waleed The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975

2. The **Accused official**:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

ATTESTED



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No. 44068 /PA dated Kohat the 13/11/2019

FINAL SHOW CAUSE NOTICE

1. I, **Capt. @ Wahid Mehmood, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, **Constable Khan Saleem No. 97** as follow:-

i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 29096-97/PA dated 08.10.2019.

ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

a. On 06.09.2019 a musical program had arranged to notorious proclaimed offender Anwar Hayat group at Police Post Sumari Bala.

b. A video of the program was viral in which illegal activities are shown, but you did not informed your seniors regarding the illegal program and hide the facts, which shows your inefficiency and gross misconduct on your part.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

DISTRICT POLICE OFFICER,
KOHAT

13/11

ATTESTED

جواب چارج شیٹ

بحوالہ چارج شیٹ نمبر 13 جناب ڈائریکٹر پولیس آفیسر کوسٹا، درجہ 10-10-2019-08-10 نمبر 09-09-2009 کی 14 تہ سہ ماہی میں۔

1۔ یہ اطلاع نامہ ایف ڈی ایف کے ذریعہ پیش کی گئی ہے۔ تاہم اسے بنیاد نہیں۔

2۔ یہ کہ سن سائل کا نشیبل ایک ذمہ دار اور ادنیٰ ماتحت الہکارہ۔ اور سن سائل کا نشیبل نے جاتے ہوئے جہاں پر باقاعدہ طور پر سن کا نشیبل نے DSB اچارج جناب ڈیپ ٹیم خان کو اطلاع دی کہ اچارج ہماری ہال ایچ کی I.I.C نے دو سبقتی کام ہو گرام نہ کی ہذا میں شروع کیا تھا۔ اور وہ اس سائل کو سنل اور مجرم جامہ تھیں۔ لہذا افسران بالا کو اطلاع دی جائے۔

3۔ یہ کہ سن کا نشیبل Magazine دوئم پر متویز تھا اور سن کا نشیبل جو کہ ایک ادنیٰ الہکارہ ہے۔ نے کسی قسم کا کوئی Mis-conduct نہیں کیا۔

4۔ یہ کہ جناب DSB اچارج کو طلب کر کے تصدیق کروا سکتے ہیں۔ کہ سائل بالکل بے گناہ ہے۔ اور باقاعدہ اطلاع کی تھی اچارج کو جناب CDR کو اطلاع کروا سکتے ہیں۔

لہذا استدعا ہے کہ حسب ضابطہ چارج شیٹ مذکورہ کو قائل کرنے کے احکامات صادر فرمائیں۔

مورہ 17-10-2019

العارضہ

خان سلیم
پلٹ نمبر 97

0574-8322149

14.10.19 2019/10/14

ATTESTED

جواب فائل شوکا زلوش

14

بذوالہ فائل شوکا زلوش بجا ریہ میجا ماب ڈسٹرکٹ پولیس آفیسر کوھاٹ نمبری PA/44068 مورخہ 13-11-2019 کی بابت معروض ہوں۔

۱۔ یہ کہ جواب ہذا سے قبل من سائل نے ایک عدد جواب بابت شوکا زلوش پر تحریر طور پر جمع کرایا تھا۔

۲۔ یہ کہ بمطابق فائل شوکا زلوش میں من سائل پر ذرا الزامات مانڈیک گئے ہیں تاہم اور بے بنیاد ہیں۔

۳۔ من سائل کا پیشیل ایک ذمہ دار اور ادنیٰ ماتحت الہکار ہے۔ اور من سائل کا پیشیل نے جائے متعینہ جہاں پر باقاعدہ طور پر من کا پیشیل نے DSB انچارج جناب فیم خان کو اطلاع دی کہ انچارج ہماری ہالا چوکی LHC نے مویشی کار پروگرام چوکی ہذا میں شروع کیا تھا۔ اور موبائل سٹیل بوجہ مجرم جام نہیں۔ لہذا انسران ہالا کو اطلاع دی جائے۔

۴۔ من کا پیشیل Magzino نامی متعینہ تھا۔ اور من کا پیشیل نے کہ ایک ادنیٰ الہکار ہے۔ کسی قسم کا کوئی Mis-conduct نہیں کیا۔

۵۔ جناب DSB انچارج کو طلب کر کے تصدیق کروا سکتے ہیں کہ سائل بالکل بے گناہ ہے۔ اور باقاعدہ اطلاع کی تھی انچارج کو جو جناب CDR نکلا کر تلی کروا سکتے ہیں۔

لہذا استدعا ہے کہ حسب مشاہدہ مذکورہ فائل شوکا زلوش کو فائل کرنے کے احکامات صادر فرمائیں۔

العارضہ

خان سلیم بیٹ نمبر 97

مورخہ 18-11-2019

ATTESTED

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

P-15

SUBJECT: APPEAL AGAINST THE IMPUGNED ORDER DATED 29-11-2019 VIDE O.B NO-1665 UPON THE FINDINGS OF ENQUIRY OFFICER THE APPELLANT KHAN SALEEM CONSTABLE No-97 WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT.

Respectfully Sheweth,

With great veneration the instant department appeal is preferred by the appellant on the following grounds:-

Facts:

Briefly facts are that the appellant was posted at Summari Bala post and on 06-09-2019 a musical program had arrange to notorious proclaimed offender anwar hayat group at police post summary Bala .(Copy of impugned order along with charge sheet and other departmental proceedings along with reply is annexed)

That a video program was viral in which illegal activities are shown but the appellant did not informed his seniors regarding the illegal program and hide the facts .which shows the inefficiency and gross misconduct on the part of appellant.

That on the basis above allegation charge sheet and statement of allegations, along with final show cause notice was served and the appellant had duly submitted the reply of the same which was not consider nor enquire the actual crux and blessed with the impugned punishment .

That without considering the defense of the appellant ,the competent authority awarded major punishment of dismissal from service to the appellant vide impugned order mentioned above.

That again an unjust has been done with the appellant by not giving ample opportunity of heard in person nor properly enquired the allegation. Just on the basis of enquiry finding report of the enquiry officer recommend the appellant as guilty by enquiry officer without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).

1. That the all the proceedings conducted against the appellant are against the police rules on the basis that the appellant had personally informed the Choki Incharge regarding the illegal program but in vain but fact was not consider by DPO Kohat and blessed with Impugned punishment order.
2. That there is nothing on record which connects the appellant with the allegation.
3. That nothing has been proved beyond any shadow of doubt that the appellant has committed any misconduct and shows inefficiency in discharge of his lawful duty .


ATTESTED

4. That there are numerous good entries in the service record of the appellant which could be verified but this fact has not been taken in consideration while awarding the major punishment which is against to the canon of justice.
5. That the appellant was neither provided an opportunity to cross examine the witnesses nor to produce defense evidence and the enquiry proceedings accordingly defective. Furthermore the requirements of service rules have not been observed while awarding the impugned punishment.

16

Grounds:

- a. That during enquiry none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are properly enquired by any enquiry officer.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of quarter concern.
- c. That the appellant had properly informed the senior as due to the Mohrram all the cell networks were off and no source of electricity was available to immediately informed the seniors as well as the appellant is constable and the program was arranged by other officials as well as the Moharrar of the chokl and the appellant had properly informed the DSB in charge after the convenience of above mentioned services which could be verify from the DSB In charge as well.
- d. That the role of the appellant had not shown in video nor the appellant was deputed on the occasion as the appellant was on roof top duty as per order.
- e. That no statement of any person nor any official has been recorded which connect the appellant with the guilt .
- f. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.
- g. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- h. That the DPO Kohat has acted whimsically and arbitrary, which is apparent from the impugned order.
- i. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- j. That the departmental enquiry was not conducted according to the rules.
- k. That the impugned order is outcome of surmises and conjecture.

ATTESTED

Pray:

In the view of above circumstances it is humbly prayed that the impugned order of DPO Kohat may please be set aside for the end of justice and the appellant may please be graciously be reinstated in service with all back benefits.

Date: 26/12/2019

(Appellant)

Khan Saleem

Khan Saleem

(Ex-Police Constable)

No.97 Kohat.

17

sw
ATTESTED

18

ORDER.

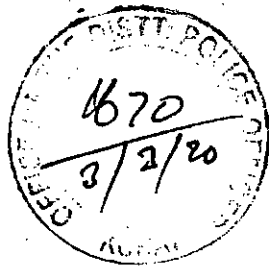
This order will dispose of a departmental appeal, moved by Constable Khan Saleem No. 97 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 1665, dated 29.11.2019 whereby he was awarded major punishment of dismissal from service on the following allegations:-

- i. The appellant while posted at Police Post Sumari Bala arranged a musical program to notorious PO Anwar Hayat group at PP.
- ii. A video of the program was viral in which his presence / illegal activities are shown.
- iii. His illegal act caused embarrassment, damaged the image of Police and proved links / relations with a notorious PO group wanted in numerous heinous crimes including target killing of 04 Police officers.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 27.02.2020. During hearing, he did not advance any plausible explanation in his defense to prove his innocence and just forwarded lame excuses.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the E.O in his findings. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
27.02.2020



[Signature]
(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 325 /EC, dated Kohat the 3/3 /2020.

Copy to District Police Officer, Kohat for information w/r to his office Letter No. 2049/LB, dated 10.02.2019. His Service Roll & Fauji Missal / Enquiry File is returned herewith.

OK/RC
for file action
[Signature]
3/3/20

ATTESTED

[Signature]
(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

<p>قیمت 50 روپے</p> <p>44264</p> <p>ایڈوکیٹ:</p> <p>بار کونسل ایسوسی ایشن نمبر:</p> <p>رابطہ نمبر: 9645854-0345</p>	<p>PBA PESHAWAR BAR ASSOCIATION</p> <p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>	
---	--	---

بعدالت جناب: سر جسٹس مسٹر سید سید محمد کاشمیر

<p>مخاطب: <i>Appellant</i></p>	<p>دعویٰ: سر جسٹس ایچ بیل</p> <p>علت نمبر:</p> <p>مورخہ:</p> <p>جرم:</p> <p>تھانہ:</p>
<p>خان سید بنام 9645854</p>	
<p>باعت تحریر آنکہ</p>	

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

آن مقام کاشمیر کیلئے سر جسٹس مسٹر سید محمد کاشمیر کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 26/3/2020

العواہ شد

مقام کاشمیر سر جسٹس مسٹر سید محمد کاشمیر کے لیے منظور ہے۔

خان سید بنام 9645854
Appellant

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3191/2020
Khan Saleem ex-const: No. 97

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

INDEX

S #	Description of documents	Annexure	pages
1.	Parawise comments	-	1-4
2.	Affidavit	-	05
3.	Copy of FIR regarding target killing of Police officers	A	06
4.	Copy of reply to final show cause notice	B-B1	

Deponent

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3191/2020
Khan Saleem ex-const: No. 97

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action.
- ii. The appellant has got no locus standi.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appeal is bad in eyes of law.
- v. That the appellant is estopped to file the instant appeal for his own act.
- vi. That the appeal liable to be dismissed in limine as, the appellant himself admitted the misconduct in his memorandum of appeal.

Facts:-

The appellant had links with notorious proclaimed offender groups named Anwar Hayat group wanted in numerous criminal cases including target killing of 04 Police officers. The appellant while posted at Sumari Bala Police Post, located at vicinity of PO Anwar Hayat village, had arranged a music programme to notorious criminals at aforesaid Police Post. Thus the appellant had committed a gross professional misconduct, caused embarrassment to the disciplined department, for which departmental proceedings were initiated against him under the charges detailed in the charge sheet with statement of allegations. Hence, he was dealt with departmentally by the competent authority i.e respondent No. 3 under the relevant rules. Copy of FIR regarding target killing of Police officers is **annexure A**.

The allegations framed against the appellant were established by the inquiry officer and he was held guilty of the charges. Therefore, he was served with final show cause notice alongwith relevant documents. The reply to the final show cause notice filed by the appellant was found unsatisfactory as he failed to produce any plausible explanation during personal hearing.

1. Incorrect, the departmental proceedings were conducted against the appellant in accordance with the relevant rules. **The appellant himself admitted the music programme held in the Police Post and shown his presence in it.**
2. Incorrect, sufficient material is available on record, which established the illegal activity of the appellant and his misconduct. **Furthermore, the appellant himself admitted the illegal event in para No. 1 of memorandum of his appeal.**
3. The charges and allegations framed against the appellant were established during course of inquiry and respondent No. 3. On completion of all codal formalities, the appellant was held guilty of the charges / allegations and awarded punishment commensurate to the charges vide a speaking and well-reasoned order.
4. Irrelevant, however, the appellant was proceeded for his gross professional misconduct, which caused embarrassment to entire Police department.
5. Incorrect, a regular inquiry was conducted against the appellant wherein he was associated with the proceedings, served with final show cause notice and heard in person by respondent No. 3.
6. Incorrect, reply is submitted in para No. 5.
7. Incorrect, the charges / allegations framed against the appellant have been established beyond any shadow of doubt.
8. Irrelevant, however, the legal order is passed in accordance with the rules and commensurate to the charges established against him.
9. The departmental appeal of the appellant was devoid of merits and correctly rejected by respondent No. 2.
10. The appellant is estopped to file the instant appeal for his own act and invalidly challenged the legal orders of respondents through unsound grounds.
11. Incorrect, reply is submitted in the above paras.
12. Incorrect, all codal formalities were fulfilled during the departmental proceedings.
13. **The appellant is estopped to file the instant appeal for his own conduct and admission of his guilt in his memorandum of appeal as well.**

Grounds:-


- a. Incorrect, a regular inquiry was conducted against the appellant. Question of examination of public does not arise as the people participated in music programme were notorious / criminals and the appellant alongwith other officials had also participated in illegal activity, which earned bad name to the entire department, caused embarrassment and he was a stigma on a

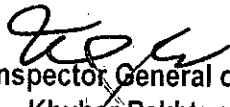
disciplined department. Therefore, the appellant was awarded punishment commensurate to the charges established against him.


- b. Incorrect, the appellant was proceeded with departmentally in accordance with relevant rules, he filed reply to the charge sheet, final show cause notice and appeared for personal hearing before respondent No. 2 & 3.
- c. **The appellant again admitted the illegal activity conducted in Police Post and his presence as well. Thus the appellant does not deny his misconduct.**
- d. The appellant admitted his presence in the illegal activity, which established his intention for arranging the music programme in Police post.
- e. Incorrect, the orders are speaking one and the appellant was heard in person by respondent No. 3 while deciding the departmental proceedings and respondent No. 2 while disposing of his departmental appeal.
- f. The appellant was proceeded for departmentally for his own act and misconduct repeatedly admitted by him in his memorandum of appeal.
- g. Incorrect, the appellant was proceeded with departmentally under the relevant law and no question of his fundamental right under the constitution is arisen.
- h. Incorrect, the appellant is awarded punishment to the charge commensurate against him.
- i. Incorrect, the persons participated in a music programme were notorious criminals to whom the appellant and other officials had a links and with their consent a music programme was arranged in side of Police post.
- j. Incorrect, the appellant is not honest one, in view of his above gross professional misconduct.
- k. Incorrect, the appellant was dealt with departmentally in accordance with the relevant rules and all codal formalities were fulfilled during departmental process.
- l. Incorrect, a final show cause notice was issued to the appellant to which he filed a reply but found unsatisfactory by respondent No. 3. Thus the appellant filed a false statement in this para. Copy and reply to final show cause notice is **annexure B & B-1**.
- m. Incorrect, a legal and speaking orders were passed by the respondent No. 2 & 3.
- n. Incorrect, reply is submitted in the above paras.
- o. Incorrect, reply is submitted in above paras.

Prayer:-

In view of the above, stated facts and reasons, it is prayed that the appeal being devoid of merits may graciously be dismissed with costs.


Dy Inspector General of Police,
Kohat Region, Kohat.
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Kohat
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3191/2020
Khan Saleem ex-const: No. 97

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

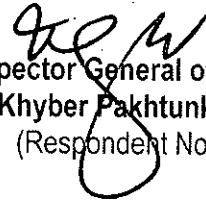
..... Respondents

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



Dy Inspector General of Police,
Kohat Region, Kohat
(Respondent No. 2)



Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)



District Police Officer,
Kohat
(Respondent No. 3)

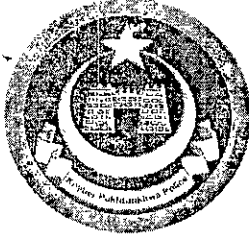
پکاروں تازہ آواز و علم و فن بہ خدمتِ نبویؐ بلکہ تیسری عالمِ عالمِ اللہ جہاں سیرتِ نبویؐ پر
عالمِ تفسیر تفسیر معجزانہ انگیزہ 0340-9851513 سر خط لیا جاتا ہے، یہ خط
سبیلِ رستہ گزشتہ ہے

بہر اہمیت
بہر اہمیت
بہر اہمیت
20
17 03489414852

دستخط

عہدہ

اطلاع کے لیے اطلاع دہندہ کا دستخط ہوگا یا اس کی سر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الفبا یا سیرتِ نبویؐ پر
ایک لکڑی یا مشین پر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں سوزوں ہوں، لکھنا چاہیے۔



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No 44068 /PA dated Kohat the 13 / 11 /2019

FINAL SHOW CAUSE NOTICE

1. I, **Capt. ® Wahid Mehmood, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, **Constable Khan Saleem No. 97** as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 29096-97/PA dated 08.10.2019.
- ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- a. ***On 06.09.2019 a musical program had arranged to notorious proclaimed offender Anwar Hayat group at Police Post Sumari Bala.***
- b. ***A video of the program was viral in which illegal activities are shown, but you did not informed your seniors regarding the illegal program and hide the facts, which shows your inefficiency and gross misconduct on your part.***

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules **ibid.**

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

DISTRICT POLICE OFFICER,
KOHAT

13/11

جواب فائل شوکا زونٹس

جواب فائل شوکا زونٹس بجاریہ منجانب ڈسٹرکٹ پولیس آفیسر کوھاٹ نمبری PA/44067 مورخہ 13-11-2019 کی بابت مسروض ہوں۔

یہ کہ جواب ہذا سے قبل من ساکس نے ایک عدد جواب بابت شوکا زونٹس پر جمع کرایا تھا۔

یہ کہ بمطابق فائل شوکا زونٹس میں من ساکس پر جو الزامات عائد کیے گئے ہیں غلط اور بے بنیاد ہیں۔

من ساکس کا نشیبل ایک ذمہ دار اور ادنیٰ ماتحت الہکار ہے۔ اور من ساکس کا نشیبل نے جائے متعینہ جہاں پر باقاعدہ طور پر من کا نشیبل نے DSB انچارج جناب فہیم خان کو اطلاع دی کہ انچارج ساری بالا چوکی LHC نے موسیقی کا پروگرام چوکی ہذا میں شروع کیا تھا۔ اور سوبائل گنل بوجہ محرم جام تھیں۔ لہذا انفران بالا کو اطلاع دی جائے۔

من کا نشیبل Magzine دو نم پر متعینہ تھا۔ اور من کا نشیبل جو کہ ایک ادنیٰ الہکار ہے نے کسی قسم کا کوئی Mis-conduct نہیں کیا۔

جناب DSB انچارج کو طلب کر کے تصدیق کروا سکتے ہیں کہ ساکس بالکل بے گناہ ہے۔ اور باقاعدہ اطلاع کی تھی انچارج کو جو جناب CDR نکلا کر تسلی کروا سکتے ہیں۔

لہذا استدعا ہے کہ حسب ضابطہ مذکورہ فائل شوکا زونٹس کو فائل کرنے کے احکامات صادر فرمائیں۔

مورخہ 18-11-2019

العارضہ

خان سلیم بیٹ نمبر 97

Galum

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

PROFORMA FOR EARLY HEARING

Form "A"

To be filled by the Counsel/Applicant

Case No.	Service Appeal No. <u>3191</u> /2020			
Case Title	Khan Saleem Vs. IGP, KP & others			
Date of Institution	2020			
Bench	SB		DB	✓
Case Status	Fresh		Pending	✓
Stage	Notice ✓	Reply	Argument	
Urgency to be clearly stated	The matter pertains to the service of the appellant as he has been imposed with a major penalty "removal from service". The appellant being the sole bread and butter earner for his family is suffering at the hands of respondents for no reason as the right of livelihood of appellant is at stake.			
Nature of the relief sought	As per prayer in main service appeal			
Next date of hearing	23.08.2022			
Alleged Target Date	First week of July, 2022			
Counsel for	Appellant	✓	Respondent	In Person

Signature of Counsel/Party

342

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
PROFORMA FOR EARLY HEARING

Form "B"

Inst#

Early Hearing 342 -P/2022

In Service Appeal No. 3191 /2020

Khan Saleem **Vs.** IGP, KP & others

Presented by **Syed Mudassir Pirzada** on behalf of **Appellant**. Entered in the relevant register.

Put up alongwith main case ✓

REGISTRAR

Last date fixed	6/6/2022
Reason(s) for last adjournment, if any by the Branch Incharge.	DB not available
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Reader/ Assistant Registrar Branch	28/7/2022

ASSISTANT REGISTRAR

13/7/22

REGISTRAR

R-quetted
13/7/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M No: _____/2022

IN
Service Appeal No: 3191 /2020



Khan Saleem **APPELLANT**

VERSUS

IGP, Khyber Pakhtunkhwa & Others..... **RESPONDENTS**

APPLICATION FOR EARLY HEARING IN ABOVE TITLED CASE

Respectfully Submitted:

1. That the above mentioned service appeal is pending for adjudication before this tribunal which is fixed for 23/08/2022.
2. That the matter pertains to the service of the appellant as he has been imposed with a major penalty "Removal for Service". The appellant being the sole bread and butter earner for his family is suffering at the hands of respondent for no reason. The appellant right of livelihood is at stake therefore the early fixation is in the interest of justice.
3. That if the above appeal is not fixed early then the appellant may suffer irreparable loss.
4. That as the valuable right of the appellant has been involved in the matter. Therefore early Fixation, is in the interest of justice.

It is, therefore respectfully prayed that on acceptance of this application, the above titled service appeal may kindly be accelerated by fixing it on an earlier dates.

K. Saleem
Applicant / appellant

Through

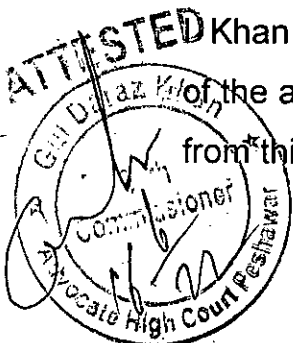
Dated: 16.006.2022

Syed Mudassir Pirzada
Advocate High Court

AFFIDAVIT

Khan Saleem (appellant) do hereby affirmed and declared that the content of the above application are true and correct and nothing has been concealed from this Hon'ble Court.

K. Saleem
Deponent



①

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR



Service Appeal No. 1387/2020

Khyber Pakhtunkhwa
Service Tribunal

Case No. 1510

Date 09/3/2020

Zaheen Shah S/o Rasool Shah , Ex-LHC No. 36

Operation Staff Kohat..... Appellant

Versus

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Regional Police Officer Kohat Region, Kohat.
3. District Police Officer, Kohat
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

..... Respondents -

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 08/11/2019 PASSED BY
RESPONDENT NO. 3 BY WHICH THE APPELLANT HAS BEEN
AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE
AND AGAINST THE ORDER DATED 03/03/2020 PASSED BY
RESPONDENT NO. 2 VIDE WHICH THE DEPARTMENTAL
REPRESENTATION/ APPEAL FILED BY APPELLANT HAS BEEN
REJECTED

PRAYER

On accepting this service appeal, the impugned orders dated
08/11/2019 and order dated 03/03/2020 may graciously be
set aside by declaring it illegal, unlawful, without authority,
based on mala fide, void abinitio and thus not sustainable in
the eyes of law and appellant is entitled for reinstatement in
service with all back benefits of pay and service

ATTESTED

Respectfully Sheweth;

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1. That appellant joined police department and was posted as LHC in
operation staff of Kohat Police and has rendered satisfactory
service in the Department and performed his duties with full zeal
and enthusiasm.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 1387/2020

Date of Institution ... 09.03.2020

Date of Decision ... 09.12.2021

Zaheen Shah S/O Rasool Shah, Ex-LHC No. 36 Operation Staff
Kohat.

... (Appellant)

VERSUS

Provincial Police Officer/Inspector General of Police Khyber
Pakhtunkhwa, Peshawar and three others.

... (Respondents)

MR. SHAHID QAYUM KHATTAK,
Advocate

--- For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

--- For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

CHAIRMAN
MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant while posted as Moharrar in Police Post Sumari Bala was proceeded against on the charges reproduced as below:-

"You LHC Zaheen Shah No. 36 has arranged a musical program for Notorious Proclaimed offender Anwar Hayat group at Police Post Sumari Bala.

ii. A video of the program was viral in which your presence/illegal activities are shown.

iii. Your this illegal act caused embarrassment, damage the image of Police and proved links/relations with a notorious PO

ATTESTED

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

group, wanted to Police in numerous heinous crimes including target killing of 04 Police Officers.

iv. You are previously awarded punishment for illegal/extra departmental activities, but you did not improve yourself."

The appellant submitted reply to the charge sheet. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service vide OB No. 1431 dated 08.11.2019. The appellant challenged the order dated 08.11.2019 through filing of departmental appeal, which was also rejected vide order dated 27.02.2020, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant is quite innocent and disciplinary action was taken against him for ulterior motive; that the appellant has not at all been confronted with the alleged video on the basis of which, departmental proceedings were taken against him; that the date and time on which the alleged musical program was arranged in the Police Post Sumari Bala have not at all been mentioned in the charge sheet or statement of allegations which by itself makes the entire story as doubtful; that as per the alleged inquiry proceedings, the alleged incident occurred on 06.09.2019 at night time, however the Incharge Police Post remained mum and did not report the alleged incident to his high-ups; that no opportunity of cross-examination of the witnesses was provided to the appellant, which has caused prejudice to the appellant; that the inquiry proceedings were conducted in sheer violation of Khyber Pakhtunkhwa Police Rules, 1975 and the appellant has been condemned unheard. In the last he requested that the impugned orders may be set-aside and the appellant may be reinstated into service with all back benefits.

4. Conversely, learned Additional Advocate General for the respondents has contended that the appellant had arranged

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

musical show for proclaimed offenders belonging to Anwar Hayat Group inside Police Post Sumari Bala and had thus committed grave misconduct; that video of the musical program got viral and on inquiry against the appellant; he was found guilty of the charges leveled against him, therefore, he has rightly been dismissed from service; that proper regular inquiry was conducted against the appellant by observing all legal and codal formalities and there exist no legal lacunae in the inquiry proceedings. In the last he requested that the impugned orders may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the alleged incident of arranging of musical program inside premises of Police Post Sumari Bala had occurred on 06.09.2019, however the Incharge as well as other officials did not report the matter to their high-ups. It was after issuing of charge sheet to the appellant on 26.09.2019 that a report was registered vide Mad No. 21 dated 28.09.2019, wherein the SHO Police Station Lachi reported that a video showing the musical program arranged inside the Police Post Sumari Bala has been received. Copy of the aforementioned Mad is available on the record. The inquiry officer has not recorded statement of the concerned SHO to affirm that the footage of the appellant could be seen in the concerned video. Statements of Khan Saleem FC/97, Niamat Khan FC/449 and Sher Zaman Ex/3602 have been recorded by the inquiry officer, however no opportunity has been provided to the appellant to cross-examine the said witnesses. The said witnesses were posted in the concerned police post and were allegedly present in the police post at the time of the alleged musical show, however they did not report the matter to their high-ups. The testimony of the said witnesses thus could not be taken into consideration, particularly when the appellant has not been provided any opportunity to cross-examine them. The inquiry

ATTESTED

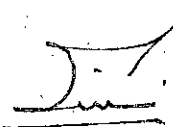
EXAMINER
Hyber Pakhtunkhwa
Service Tribunal

officer has not provided opportunity of cross-examination to the appellant, which fact has created material dent in the inquiry proceedings. Moreover, the appellant has not been confronted with the very video, which was made a ground for taking disciplinary action against the appellant. In view of material available on record, the impugned orders are not sustainable in the eye of law and are liable to be set-aside.

7. In view of the above discussion, the impugned orders are set-aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
09.12.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy

EX-11111111
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 15/11/22
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Name of Applicant _____
Date of Completion of Copy 15/11/22
Date of Delivery of Copy 15/11/22