02.01.2023

Clerk of learned counsel for the appellant present. Mr. Amir Ziaf, DSP (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy 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. Adjourned. To come up for arguments on 10.04.2023before the D.B.

SCANNED KPST Peshawar

> (Mian Muhammad) Member (E)

(Salah-Ud-Din) Member (J)

10.04.2023 Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 13.06.2023 before D.B. Parcha Peshi given to the parties.

(Fareena Paul) Member (E)

(Rozina Rehman) Member (J) 21.09.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 10.11.2022 before the D.B.

(Mian Muhammad) Member (Executive)

(Salah-Ud-Din) Member (Judicial)

10.11.2022

Counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.01.2023 before the D.B.

SCANNED MPOT Peshawa-

(Fareeha Paul) Member (E) (Rozina Rehman) Member (J) 8-2-2022

Due to retirement of the Hon-ble

Due to retirement of the Hon-ble

Chairman the case is adjourned to come

Chairman the case is adjourned to come

up for the same as before on 31-05-2022

31.05.2022

Counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 19.07.2022 before D.B.

(Fareeha Paul) Member(E) (Rozina Rehman) Member (J)

19.07.2022

Proper Bench is not available, therefore, case is adjourned to 21.09.2022 for the same as before.

Reader

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

12.10.2021

Counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Reply/comments on behalf of respondents have already been submitted. Learned Additional Advocate General requested for time to further prepare the brief. Adjourned. To come up for arguments on 1 1.2021 before D.B.

(Atiq-Ur-Rehman Wazir) Member (E) (Rozina Rehman) Member (J)

11.11.2021

Appellan: alongwith his counsel Mr. Mir Zaman Safi, Advocate, present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned counsel for the appellant sought adjournment for preparation of arguments. Adjourned. To come up for arguments on 08.02.2022 before the D.B.

(Atiq-Ur-Rehman Wazir)

Member (E)

(Salah-Ud-Din) Member (J) Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to 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 submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 12.10.2021 before the D.B.

ffairman

Apprellant Deposited
Secretiv & Process Fee

SCANNED KPST Peshawar

FORM OF ORDER SHEET

Court of		· · · · · · · · · · · · · · · · · · ·	
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.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/03/2021	The appeal of Mr. Asif Khan presented today by Mr. Mir Zaman Sa Advocate may be entered in the Institution Register and put up to th
<u>!</u> -	Postavar	Worthy Chairman for proper order please. REGISTRAR This case is entrusted to S. Bench for preliminary hearing to be put up there on $09-4-2021$
	09.04.2021	CHAIRMAN Due to demise of the Worthy Chairman, the Tribunal is
		defunct, therefore, case is adjourned to 02.06.2021 for the same as before.
		Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 3666/2021

ASIF KHAN

VS

POLICE DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE	
1	Memo of appeal	•••••	1- 3.	
2	FIR	A	4.	
. 3	Suspension order	В	5.	
4	Judgment/order dated 06.10.2020	C	6- 7.	
5	Compromise deed	D	8.	
6	Inquiry report	E	9- 12.	
7	Impugned order	F .	13.	
8	Departmental appeal	G	14- 15.	
9	Rejection order	Н	16	
. 10	Vakalat nama	•••••	17.	

APPELLANT

THROUGH:

H: W///1) MIR ZAMAN SAFI ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

•	•
Mr. Asif Khan, Ex-Constable No. 853,	,
Headquarter City Traffic Police, Peshawar	APPELLANT

APPEAL NO /2021

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Capital City Police Officer, Peshawar.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRUBUNAL ACT-1974 AGAINST THE IMPUGNED ORDER DATED 29.12.2020 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST THE IMPUGNED APPELLATE ORDER DATED 02.03.2021 WHEREBY DEPARTMENTAL APPEAL OF THE APPELANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 29.12.2020 and 02.03.2021 may vey kindly be set aside and the appellant be re-instated into service with all back benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH: ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was the employee of respondent Department and was performing his duty as Traffic Police Constable No. 853 quiet efficiently up to the entire satisfaction of his superiors.

- 3- That due to the above mentioned criminal charges the appellant was suspended vide order dated 31.08.2020. Copy of the suspension order is attached as annexure.
- 5- That after confirmation of the pre-arrest bail to the appellant from the Court of learned Additional Session Judge, Peshawar the respondent Department conducted fact finding inquiry in the matter and in this regard statements of the local witnesses and police officials have been recorded which clearly shows the innocence of appellant. Copy of the inquiry report is attached as annexure.
- 6- That astonishingly the respondent No.3 issued the impugned order dated 29.12.2020 whereby major penalty of dismissal from service has been imposed on the appellant without waiting till the outcome of trial in the above mentioned criminal case. Copy of the impugned order is attached as annexure.
- 8- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst others.

GROUNDS:

- A-That impugned orders dated 29.12.2020 and 02.03.2021 issued by the respondents are against the law, facts, norms of natural justice and material on record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such violated Article 4 and 25 of the Constitution Of Islamic Republic of Pakistan.
- C- That no charge sheet and statement of allegation has been issued to the appellant before issuing the impugned order dated 29.12.2020.

- D-That no regular inquiry has been conducted before issuing the impugned order dated 29.12.2020 which is necessary as per judgment of Apex Court before taking punitive action against the civil servants.
- E- That no final show cause notice has been served upon the appellant before issuing the impugned order dated 29.12.2020.
- F- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 29.12.2020.
- G- That the appellant has not been cross examined the witnesses on the record which is necessary as per rule and judgment of the Apex Court, therefore the impugned order dated 29.12.2020 is not tenable in the eye of law, hence the same is liable to be set aside.
- H- That the appellant cannot be declared guilty by the respondent department unless declared guilty by the court of law and thus issuing the impugned order dated 29.12.2020 is not tenable and liable to be set aside.
- I- That the appellant seeks permission to advance any other ground and proof at the time of hearing.

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

Dated: 24.03.2021

APPELLANT

ASIF KHAN

THROUGH:

MIR ZAMAN SAFI

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SYED DILDAR HUSSAIN ADVOCATES

BETTER COPY - (G) Sinibselfer

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ORDER

Being involved in criminal case vide FIR No. 810, dated 12.06.2020 U/S 365/147/149/15AA/5Exp PPC, PS Badhaber, Peshawar. Constable Asif Khan No.853 and Constable Azmatullah No.602 are hereby placed under suspension with immediate effect. However, Mr. Zakaullah, acting DSP /Hqrs Traffic Peshawar is nominated as Enquiry Officer to conduct formal Departmental proceedings against the accused officials under the Khyber Pakhtunkhwa Police Rules, 1975.

CHIEF TRAFFIC OFFICER
PESHAWAR

No. 855-59/PA, dated Peshawar the 31/08/2020



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IN THE COURT OF WAJID ALI KHAN ADDITIONAL SESSIONS JUDGE-IX, PESHAWAR.

BBA No. 528 of 2020 BBA No. of 2020 BBA No. 526 of 2020 BBA No. 530 of 2020

Azmat Ullah... vs... The State Nabi Ameen... vs... The State Muhammad Ishaq... vs... The State Mohsin etc... vs... The State

ORDER-05 06/10/2020

Through this single order 04 connected separate BBA petitions are disposed of which are the outcome of one and the same FIR.

Accused/petitioners are present on interim bail alongwith their counsel. APP for the state Mr. Abdul Sattar is present. Complainant Waqar (abductee) is also present in person.

Accused/petitioners Azmat Ullah s/o Hazrat Yousaf, Nabi Ameen s/o Muhammad Zaman, Muhammad Ishaq s/o Muhammad Yousaf, Asif Khan s/o Muhammad Ishaq, Mohsin Khan s/o Muhammad Ishaq, Danish Khan s/o Hazrat Yousaf are seeking confirmation of their pre arrest bail in case FIR No. 810 dated 12/8/2020 u/s 365/147/149/182 PPC /5-Exp/15-AA of PS Badabher, Peshawar.

Today, complainant Waqar Ahmad (abductec) s/o Said Amin appeared before the Court and stated at the bar that he has effected compromise with the accused/ petitioners. His statement in this respect has been recorded wherein he expressed his no objection on grant of bail to the accused/petitioners on the basis of compromise. The compromise/ affidavit is Ex.PA while copy of his father CNIC is Ex PB.

Since the offence is non compoundable, hence delving on the merits of the case, the record shows that there has been around two days delay in lodging of FIR. The motive in the shape of blood feud given in the FIR as well stinks of the malafide of complainant for false implication of the

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0 2 Jan 2021

(Examiner)
Session Court Peshawar

11/86-10-2020

accused/petitioners creating a room for further probe into the guilt of the accused/petitioners.

Hence, in view of the above stated circumstances, no purpose would be served to send the accused/petitioners behind the bars especially when the matter has been amicably patched up between the parties. Although the offence u/s 365PPC is non-compoundable, still it is beneficial and in the interest of parties, therefore, without going into the merits of the case and in order to avoid further friction and litigation between the parties, the ad interim bail already granted to the petitioners is hereby confirmed on existing bonds as per terms and conditions.

Record be returned while file be consigned to record

Announced 06/10/2020

Wajid Ali Khan Addl: Sessions Judge-IX, Peshawar,

No:

Dated of Application

Name of Application

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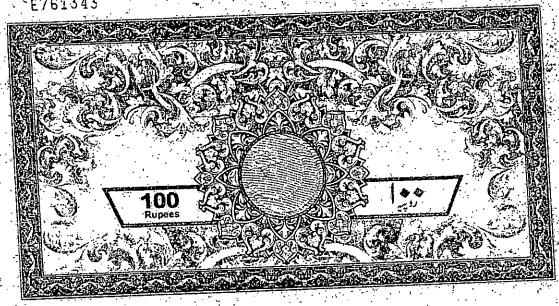
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(Examiner) Copying Agency Session Court Peshawar

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لعدالت جناب ايديشل سيش ج صاحب يشاور معسى عبر مار JY KERL 6-10-2020

منزم الله والمردفعاع م 18 والم 13 عود م <u>80 م 1</u> عمام المركع الم

داهی نام جابین فریقس

صند مسی وقاد الد ودر سدامین سند کردی ملی حیل بدود بیر بشادر بقائی درست حوش وحواس بوا جسیر و نتر غیب بیان نرتا ہوں کہ حق صنعیت ہے مقوم علبت 80 نقان بدُوه بسرمین زیر دفعه 182،147،149،182 مورد 80 12 مورد 12 مورد 2020

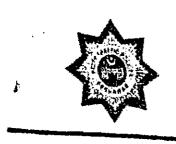
برخواف ملزمان ۵ مسی عجد اسی قی دلو پوست ۵ محس ۵ آهذ بسرال عراسيان والم الله عدد عان و علمت و دالش السران حفرت بوسف سانان گردی علی خیل پشاور مین دیوده درج کیا ملزمان مزاوره بالانے میری بر طرح سے تسلی کی بیے جس پر علی فہ عشران نے سم مابین فریقین میں داخی نام کروایا سے من منغیر نے اپنی ہودی تعلی کے بعد عارمان عراد دہ بالاسے داعی نامہ انر براسے جو کر ملزمان مزاورہ بالا بے آناہ ہیں اور میں صنعبت ملزمان فراورہ بالا کے قلاف سی قسم کی کوئی قانوی جارہ جوئی بنیں کرناچاستا بیوں آور آگر عوالات مرمور کارہ میں منیں کرناچاستا بیوں آور آگر عوالات حفود سانس ال مولوره بالا کی عمانت ABA انفرهم کرتا سے یا بعومیں بری مرتابع مق متعیث کو کوی الاراق مد بھے اور در ہو گا۔

وقار الكو ولوميو آمين كر صنعيت

1730-126352 9-5 من الراموية) سير من 2-9 8352 1-1730-12635

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(Examiner) Session Court Peshawa



ر دفتر دی ایس بی میذکوارفرز،

جناب جيف فرينك آفيس، بشاور بخدمت

ريزر موري 2020. أأري ن نمو

كمانداكوارى برخلاف كنشيل عظمت على نمبر 602 وركستيل آصف خان تمبر 853 عنوان

بجال محل ندا تكوائزى فبرى 59/PA -855 مورفد 31.08.2020 مجاريه CTO ساحب يشاور برخلاف FC عنهت في نبر 602 وكنشيل آمف فان نبر 853 معروض ،ول كه الزام عليه FC عظمت على نمبر 602 اوركنشيبل آصف خال نمبر 853 ء أيش ويك وليس من المازم ب يراتر مع كوكيا كيا ب-

"كروه أيك مجر ما فد مقدمه علمت نمبر 810 مورند 12.08.2020 مجرم Exp مجرم المنافقة منافعة علم 147/149/15 هورند 12.08.2020 مجرم المنافقة المن PPC تراند بدوير على الوث سے"

بخیت مراز منروره کاار فتم کی مرارمیول می دون متنین خلاف ورزی کے دمرے میں آتا ہے۔ بدیل وجد مذکورین مید پہنچ من شیف مداسین کی میشن کی تمیل جو سرہ ایت ہوئی کہ مقرر ہتو اعدے مطابق دفاع میں جواب جمع کریں۔

عدن آزال تنشخ من مف خان 853: نيان كياب كه ين اليئة حجره بين موجود تفار جبكه والمداور بزا بعالى نماز بزيض كيليم مجر ت في دورودسيد من مرين منظ مجرب به كرفائر من شروع ك من فائر من المرتك سے نيخ كى فاطر كمر خود من جاكر بناه ني ـ منت بد ندوروی سود در جانی کو مقب مرد جا گیا۔ وہاں پر بھی فائر تک کی۔ جب ان کے ماتھ کارتوس ختم ہوئے۔ میں گھرت بنت كرية بي يعد وقدير ب والداور به الى اوروير الل مخلسف و قار كواسلى مسيت كرفاركيا تحارجسكي كرفاري كي اطلاح SHO بذرج يد وي المنتوع المنتون المنتوريد موري المنتون وي المنتون المنتون وي المنتون وينتوكر بينة حواله كرم يس اور الدسارب مركز تن نباه تدريط مند من منا ASI واحد خان جوش پيرونگ مويائل پر انچار ن سېد تعاند آسة - جبكه محرر خود SHO ما دسسدورز جا کیاراورونون دست په SHO ساحب بحی آئے اور محرد کور پورث ورث کر ف کا محم دیا۔ لیکن پھرا آگاری ر يدالمين الموالد في في في المواجم تقريباً 107.03 بيج محرخود كيلفاد والشاموسة ...

سين كيا ب ك مورى 2020, 10.07 كومن مائل فريقك لائن يرموجود تقار جسك عرر مان الاوجه و الاربي من القي من مر الون تعلق في منه الدرن محصدية منه كم كما جوامهم .

عرب الده وبيت والم منطق الم المنطق ا <u> بين شان قرار سات باز يود به در نورن و ما اوت سنده تفيت كي خاطر با مرجد المي مسرة مسركا كي تعداد شن او كول</u>

وا نھاد یک ۔ نزد یک ہواتو اسمال کے برخلاف جسکا نام وقار سے لوزس نے بڑے بیٹے اور نہونے بیٹے آصف نے پکرا تھا۔ لعد

مین وال اللیل شاہداد سدشاوسا کن فندہ خیل میں میں میں اس کے بیان کیا ہے کہ روز وقو مدود محلّد مرای کی خیل رشتہ دارول سے ملنے ئى ئىلىدى دۇئالەرىك ئەردىنى دە دېكى بېرچلا ئىلىدە كى كەكافى تىدادىيل كۇك كىلىت در بويىس بىلى تاكى بولىكى بىز دىك جواتو

اسى قى درموجود من سينون يك الاسكومعه كالشكوف دوركريند في حواله بوليس كيا-من وارا المارة ن ولد ناز الله ما كن روم في خل يد هير في الناس بيت كروه روز وقو مد كمر مي كي كام يسل بين بابركي تفار و جل بار میں کہ جاتا ہے ہوئی تھی اور مطرت یوسف کے بیٹے اور جو نے کے ساتھ اُس کے برخلاف و قاریمی کمٹر انتما۔ جو کہ پولیس کو معہ

سن آن اشراز ومد ماست مركن كند مركز مى الحافظ من من المن المن كا كروز وقوعدوه تميتول يش موجود تما كدا وك ك مديد رئيد كي مرية في و و مرفود كيلي روانه موالورو يكها كميد كما تعدة وس والله كافي تعداد من كمر عصي مروك موا ، بررس سے برضاف واسوال نے بکراتھا۔ جہاں پر ولیس بھی موجودتھی۔اوراسحاق بہدر ماتھا کہ ذکورہ نے ہم برحملہ کیا ہے - رنحه فسون در رینز دو به بویس کی موقع برآ صف مجمی موجود تیا تا جم عظمت نبیس تی ب

عن آند و نفن ولد ميد استاري ماكن كي المرهدي . في بيان كياب كدروز وقوعدوه كحر خود يرة رام كررب سن كد فاكر عند ت تامون مداس فرات بدول و مارت والفيت ك خاطر وجر جلا كيا- ديكها كدهار عميد كقريب اسحاق اور بوسف ك رق ف ف ف ن وو مو ف کور اقعام بيتد براري برمعوم بوا كه مذكوره ف اسحاق اور أس كے بيلے پر فائز تک كي كيكن وه رج محت اور كارتوس تر وف بالبراميد بور عدش ويس كا مدم حواله يويس كياشيد

عد من المراجع دون والمراجع والمراجع المراجع ا معدورت رام نو الدريعي كم مجدك ما تحديدة ول والفي كافي تعداد من كفراء عظم جهال براسماق كر برخلاف وقار كولوكول اور من سب ب بن قر الراسي ق في كم مذوروت مماركيا ب- يجود يونيس أني اور وقار معداسي مستغيث واسي ساته

عدا في ما العالم المعالم المع مبات بدائد عدل كين دوي كار و من مم وحدد يه كركر حواله وليس كيار موقع يوا وال كابينا أصف بحي موجود تقايد

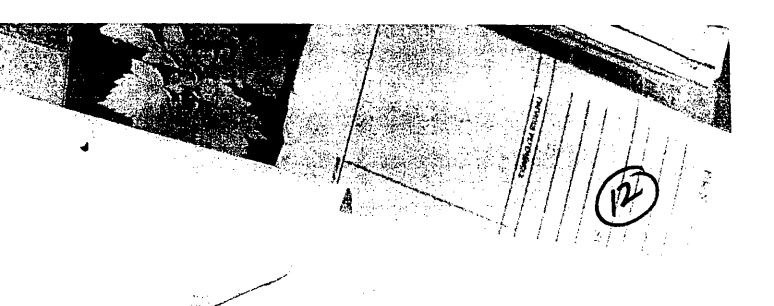
ف بان یا ب کرمقدم فرا می الرام عیاعظمت ادر آصف پر اعویداری بوکر مست علی مان XI-LSA بشاور سے مبوری خانت کر سک مقدمہ مدالت میں ذری ساست ہے جبہمنو مان کی موقع

شعة في <u>المحمد معدم و وفك ما ت</u>كان المساكلة من المساكلة

p - Wills

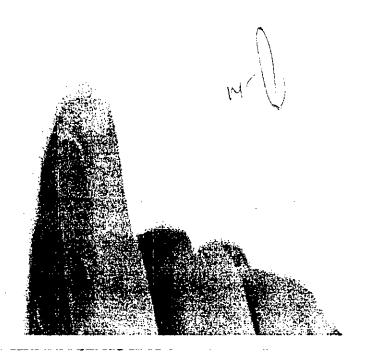
و المرابي كاربورت ورئي ول ہے۔ جس كے بعد خكورہ كو آرام كيلئے چھوڑا كيا تھا۔ FC، 10.07 من من 853 كى بمطابق شابش المن بفته وارشاقى تمى-وابست الماكارول اور ديكر متعلقين كے بيانات ليے جا كر معلوم بايا كيا كه مورند 2020.70.01 كو بند 13 00 بج الالوك جان في تماند بره ميريل ، كوالديد 40ر بورث بمن ل اندراج روز نامي تركر كريك بيان كيا تماد دوران نت سین پرجے وقر مرکزش فی خیل دواند جوااور دیکرا المکارول کو بھی انداد کیلئے طلب کیا۔ موقع پر پینچ کرو یکھا کہ کافی اوگ من ہے۔ ر ب رزادر تھے۔ موتا ہے موتال ولدمجر بوسف سکند ارجی فی خیل نے دوعدد بیندگر بیند اور ایک ضرب کلاشکوف لوڈ شدہ 05 عدد ورة ن المارك بناياك بملدمامان م فريق دوم مى وقارا حمودلد ميدامين ك قصد ليا ب اور يحدوم بعد مم كو كمر ك في جاني یش کم و مول کردسمین و قدر احمد بدق موقع بروقار احمد نے دریافت بر بیان کیا کم میرے پاس مجھنیں تھا۔ میں نماز کیلئے معجد میں اس اور باق كرا الدافتي ك دو م يتحد يوسف معدد ميركسان في جي يكر كركم من بين بندكيا - يجود مر بعد آب يوليس واسف محك -ے دوروں کے دیاراورایک جموع کیت پہلی اسلوآئش کی مے ہوہ یایا گیا۔ جسمیں شک شبہات کے بناء ہر (3)156 ش ف ا و الدام الماردوران الدائرة معلوم بالم كفريق اول محموا حاق وغيرة اورفريق دوتم وقار احمد وغيره ك مايين سالقد ومنتى جي تى ب درقرين محد التحاق وليم باست فاناف مقدمه علت 525 مورى 05.06.2020 يخ م PPC و 149 -427 قفان ﴿ حدِهِ إِنْ يَهَا لِللَّهِ مَدِمَدَ وَكُولِ مَا مِنْ كَاظِرُ مِنْ كَعَرْتِ اوردروغ كُولَى يَرِمَى منصوبِه بنا كرخود ساخته فالرَّبك كي اوروقار احمد وأثما كر جمعت الله المراق كالمتكوف بالمبراوز شده 5 عدد كارتوس اور دو عدد ميند الريند بوليس كوپيش كر كے جموتى ريورث كى جس ير - ١٩٥٥ ما الله مقدم برفنان ملز مان اسحاق ولد محمد يوسف، آسف محسن ولد محمر اسحاق اورعظمت ولد حضرت يوسف وغيره يرورين بر والمقدمة في التي تعليم النيس في المين مين تحرير كما يه كماز مان أصف اورعظمت في عدالت واجد على خان ASJ-IX ست ب نر ، تا بمرقی تی تین کی من بی اور منظمت کا موقع پرموجود موتا تا بت بوتا ہے ای طرح پر تال ر یکار ڈیر پایا میا ر ۴۵، ترس كا دول بر عالى دول دوسر 131.145 مور ند 103.02.2020 درباب رود الطرف اسن چوك فست شفت ه و دن اندود ها ناش سار و محمد فرو سیلیم دو اندکیا می تعامد دو کدالوام ماید کی داوع بنداش موجود کی کو بادی انتظر می تقویت دی ت ب مادان المام من العلمة على من المعلى من العلى من العلم عدد المار من 47 موري 10.07 يونت 06:00 بيا والهاي كالمحق سيد الماري والماري والماري والماري والماري كالمحق سيد عدد ، دوباعي آدري كمر فود تاري قلام جو كالمعتمد في المن المرك موجودي فلا بركرتي سياسي ويكر بيرا ميوييث الحناص سي 711

18 Vido



ر پارٹ فرنش ہے۔

لا ((ذ كا دانندخان) DSP بيذ كوار زرز بنى فرينك يوليس يشاور



ORDER

F-135

This is an order on the departmental enquiry initiated against Constable Asif Khan No.853 for involvement in case FIR No.810, dated 12.08.2020 U/S 365//147//149/15A Exp. PPC, PS Badhaber, district Peshawar. He was charge sheeted and DSP/Hqrs. Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings under the Khyber Pakhtunkhwa Police Rules 1975 and submit his finding.

He submitted his reply to the charge sheet stating therein that he has been falsely implicated in the FIR as on the day of occurrence, he was present at Traffic Lines. The Enquiry Officer recorded statements of all concerned. He also recorded statements of the IO of the case who disclosed that since a cousin of the accused constable namely Azmatullah who also a constable was charged in FIR No.525, dated 05.06.2020 U/S 324/427/149 PPC, PS Badhaber therefore, the accused party planned to cross that case and falsely implicated the opponent party in this case. The IO of the case also stated in his statement that as per opinion of the DPP, the FIR was registered against the accused constable for deceiving the police and falsely implicated his opponents. The Enquiry officer recommended him for suitable punishment as he failed to prove his innocence.

Today on 29.12.2020 he was heard in person but again failed to produce cogent reason in support of his innocence. Keeping in view recommendation of the Enquiry Officer as well as the case file, Constable Asif Khan No.853 is awarded major punishment of Dismissal from Service under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect.

SUPERINTENDENT OF POLICE, HORS.
CITY TRAFFIC POLICE, PESHAWAR.

No.696-99 /PA, Dated Peshawar the 29/D 72020. Copies for information and necessary action to the:

1. Chief Traffic Officer, Peshawar.

2. Accountant

3. OSI

4. SRC (along-with complete enquiry file consisting of _____ pages)

O.B.No. 752

G.(4)

عنوان . اللي براد عافي مادم تاليطا الني يمدم المت المطالدو

چيني ايپ چالمي ادبي اشده سيده بل وخي د بال ستيد

1 ساس میں کے دیلانت ایک شریف اور بامات کاندان میں معلق رائ ہادر تو نوین بی با مداری کرسٹ وہ اشری سے ا اور شن چینور کار باقی و پیدائی و شدو ہے۔

2- سیک دیلانت متمد نویس می بحشیت زینگ تنسنبل بدط بق نب 853 بر قی بوداور اپنی خد مات و گسته نبا سے سرانج موی اور بهی بھی افسران بالا شکایت کا موقع نبیس زیاب

3- یدکه بیلانت کومورخد 2020-80-12 کوستغیث مقدر وقد رولدسید ایین ساکن دیبراست ایس جو سه مقدمه در مستد نمبر 810 مورخد 2020-80-12 زیر دفعه به Exp. 5 Exp. مقدمه در مستد نمبر 810 مورخد 2020-80-12 زیر دفعه به اور مقدمه بالایس موث مزده ن کی خوات بخش در اضی نامه کنفره به وی در بیشا در می بادر می بادر

بارأي ش



6۔ یہ کے اربیع ت ایک فریب بندہ ہے اور اپتلائٹ اپنے کہ انے کا واحد طوع پر تنظیل ہے اور اپلائٹ کے اور اپتلائٹ کے یر بشکل ہور ہا ہے ورآ مدنی کا کوئی ذریعیت ہے اور اپتلائٹ کے ضیف العمر والدین میں جس کا بوجو بھی اپتلائث کے انتخاب ہور ہا ہے۔ اور اپتلائٹ کے انتخاب کی کا کوئی ذریعیت ہے اور اپتلائٹ کے ضیف العمر والدین میں جسمہ اور اپتلائٹ کے انتخاب کی کا کوئی ذریعیت ہے۔

7۔ یہ کہ اس نا امیدی کے حالت میں آپ جناب سے انساف کی توقع رکھتے ہوئے اپیلانٹ کوائی مائز مت پر بھ د کی پڑزورا پیل کرتا ہے۔

لہذااستدعاہے کہ بمنظوری اپل ہذا بیلانٹ کو اپنی ملازمت بربحان اور عطا نیکٹی مرعات کے احکامات جاری فرما ہیں اس امر کے لیے اپیلانٹ دعا گور ہیگا۔ امر قوم:۔ 2021-01-1

ا بيلانث -

أصف خاك

كنسنبل بيك نمبر 853

م کن گرصی ملی خیل بذره بی_نر صیل و شلع بیثاور

قومی شذختی کارونمبر

رالطنمير

Mil



OFFICE OF THE CAPITAL CITY POLICE OFFICER PESHAWAR

Phone No. 091-9210989 Fax No. 091-9212597

<u>ORDER</u>

H-(16)

This order will dispose of departmental appeal preferred by Ex-Constable Asif Khan No.853 who was awarded the major punishment of "Dismissal from Service" under PR-1975 by SP/HQrs City Traffic Peshawar vide No.696-99/PA, dated 29-12-2021.

- 2- He was placed under suspension and proceeded against departmentally for his involvement in a criminal case FIR No.810, dated 12-08-2020 u/s 365/147/149/15 A Exp PPC Police Station Badaber Peshawar.
- He was issued proper Charge Sheet and Summary of Allegations by SP/HQrs City Traffic Peshawar and DSP/HQrs Traffic Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer after conducting proper enquiry submitted his findings that as per investigation of the case and enquiry conducted so far the alleged official is found to be present on the place of occurrence. He has got BBA from the competent court which later on confirmed after compromise between the parties. The enquiry officer further addedted that the accused official being a member of the disciplined force has committed gross misconduct by indulging himself in the aforementioned FIR and recommended for suitable punishment. The competent authority in light of the findings of the enquiry officer awarded him the above major punishment.
- He was heard in person in O.R. and the relevant record along with his explanation perused. IO of the case was also summoned to this office along with case file. The IO has stated that the accused official has been directly charged in the FIR by the accused and has been released from Jail due to compromise with the opponent party. Moreover, there are no evidence or eye witnesses to show his innocense in the case. Therefore his appeal for setting aside the punishment awarded to him by SP/HQrs City Traffic Peshawar vide No.969-99/PA, dated 29-12-2020 is hereby rejected/filed.

(ABBAS AHSAN) PSP CAPITAL CITY POLICE OFFICER, PESHAWAR

Copies for information and n/a to the:-

- 1. CTO Peshawar
- 2. SP/HQrs City Traffic Peshawar along with Fouji Missal, Service Roll and Enquiry File.
- 3. DSP/Cantt City Traffic Peshawar
- 4 Official concerned

•	
Before the Ulyber Paultun Who	IAMA
Rolling Williams	
If the Ulyber fachtur lehe	va Service Tribanal,
	Perhawar
·	OF 2021
,	· ·
Seif Ohan	(APPELLANT) (PLAINTIFF)
- Conf.	(PETITIONER)
	(I LITTIONEN)
<u>VERSUS</u>	<i>5</i>
	-
00	(RESPONDENT)
Palice Deptt:	(DEFENDANT)
I/We Asif Illan	
Do hereby appoint and constitu	
Advocate, Peshawar to appear	
withdraw or refer to arbitratio	
Counsel/Advocate in the above r	
liability for his default and	
engage/appoint any other Advocate	
I/we authorize the said Advocate	
receive on my/our behalf all sum. deposited on my/our account in th	
deposited on my/our account in th	ie above noteu matter.
Dated. / /2021	
	Tigo
	CLIENT
·	ACCEPTED"
	ACCEPTEB MIR ZAMAN SAFI
	ADVOCATE
OFFICE.	

OFFICE:
Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.

Mobile No.0323-9295295

Syed Dildar Hussain Selvocate

BEFORE THE SERVICE TRIBUNAL PESHAWAR KHYBERPAKHTUNKHWA.

Service Appeal No.3866/2021.

Mr. Asif Khan Ex-Constable No. 853 Headquarter City Traffic Police, PeshawarAppellant.

VERSUS

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. The Capital City Police Officer, Peshawar.
- 3. The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.

......Respondents

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(INSPECTOR LEGAL) City Traffic Police,

Peshawar

BEFORE THE SERVICE TRIBUNAL PESHAWAR KHYBERPAKHTUNKHWA.

Service Appeal No.3866/2021.

VERSUS

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. The Capital City Police Officer, Peshawar.
- The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.

.....Respondents

Parawise Reply by Respondents No. 1,2 & 3.

RESPECTFULLY SHEWETH!

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.

2. That the appeal is bad for miss-joinder and non-joinder of necessary parties.

3. That the appellant has not come to this Hon'able Tribunal with clean hands.

4. That the appellant has no cause of action and locus standai to file the appeal.

5. That the appellant is stopped by his own conduct to file the instant appeal.

6. That the appellant has concealed the material facts from this Honorable Tribunal.

FACTS:-

- 1. Correct to the extent that the appellant was employee of Traffic Police but during service his performance was unsatisfactory (bad entries are annexed).
- 2. Incorrect and denied. In fact the appellant while posted in Traffic Unit Peshawar was proceeded departmentally on the charge of his involvement In criminal case vide FIR No. 810 dated 10.07.2020 U/S 365/147/149/5EXP/15-AA/182 PPC at Police Station Badaber.
- 3. Incorrect, Mr. Zaka Ullah DSP/HQrs Traffic was nominated as Enquiry Officer to conduct formal departmental proceedings against the appellant under Khyber Pakhtunkhwa Police Rules 1975 (amended 2014).
- 4. Pertains to record of learned court.
- Incorrect, Enquiry Officer after recording statements of material witnesses and conduct proper departmental enquiry, found the appellant guilty of the said charges.
- 6. Incorrect, appellant was heard in person but he failed to produce

- any cogent reasons in support of his innocence. Thus by keeping in view, the recommendations of the enquiry Officer as well as the case file, appellant was awarded major punishment of dismissal from service under Khyber Pakhtunkhwa Police Rules 1975 which commensurate with the proved charges.
- 7. Incorrect, the appellant was heard in person in Orderly Room and I.O of the criminal case was also summoned to the office alongwith case file. I.O stated that the appellant has been directly charged in the FIR by the accused and there were no evidence or eye witnesses to show his innocence in the said case. Thus departmental appeal was rejected on the said grounds:
- 8. The appeal of appellant being devoid of any merits may kindly be dismissed on the following grounds:

GROUNDS:

- A. Incorrect, the orders of the respondents are based on facts, justice and in accordance with law/rules.
- B. Incorrect, the appellant was treated in accordance with law/rules and the respondents never infringed away provisions of the constitution during the course of departmental probe.
- C. Incorrect, proper charge sheet with summary of allegations was issued to appellant (Annexure attached).
- D. Incorrect, Mr. Zaka Ullah DSP/HQrs Traffic was nominated as Enquiry Officer to conduct departmental proceedings against the accused official under Khyber Pakhtunkhwa Police Rules 1975.
- E. Incorrect, the appellant was heard in person but he failed to produce any cogent reasons in support of his innocence. Keeping in view, the recommendations of Enquiry Officer as well as case file the impugned order dated 29.12.2020 was passed against the appellant, after observing all the legal formalities.
- F. Incorrect, the appellant was heard in person but he failed to produce any cogent reasons in support of his innocence. Keeping in view, the recommendations of Enquiry Officer as well as case file the impugned order dated 29.12.2020 was passed against the appellant.
- G.Incorrect, the appellant has been heard in person and given due opportunity to prove his innocence but he failed to do so, thus the order dated 29.12.2020 was according to the law/rules.
- H. Incorrect, in departmental proceedings conducted by Enquiry Officer (DSP/HQrs) found the appellant guilty of the charges, criminal and departmental proceedings are independent from each other as per rulings of Apex Court.
- 1. That respondent may also be allowed to advance any additional grounds at the time of hearing of the appeal.

PRAYER:-

It is therefore, most humbly prayed that in the light above facts and submission the appeal of appellant being devoid of merits may kindly be dismissed with cost.

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Capital City Police Officer, Peshawar.

Superintendent of Police, HQrs; City Traffic Police, Peshawar

BEFORE THE SERVICE TRIBUNAL PESHAWAR KHYBERPAKHTUNKHWA.

Service Appeal No.3866/2021.

VERSUS

- 1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2. The Capital City Police Officer, Peshawar.
- 3. The Superintendent of Police, HQrs; City Traffic Police, District Peshawar.

.....Respondents

AFFIDAVIT

We respondents 1, 2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

Capital City Police Officer, Peshawar.

Superintendent of Police, HQrs; City Traffic Police, Peshawar

"(Continued) RACTER ROLL OF 15. CENSURES AND PUNISHMENT charge from: 13-02-2018 To 14-02-2018 On is day observe from duty. punishment absence forest - 1. 1000 27-02-2018 Change from 22-05-2018 one day absence P. From duty. Pinishment absence period L. 20.0 pay. OB als. 252 for SSP Traffic late: 29-5-2018 Charge from 19,20, & 21 June 2018 Three days absence from duty. Penishment absence Penied L.W.O B. B No. 337 dete: 12-07-2018 Chargo from: 22 00 one day aprons from duty Princhment one day Q. Guard and one day F-day OB. NO:408 por SSFYXraffic ct. 30 - 8-18 Deshage Col

1. 9 from 29,30 020, two days appear from duit Prinsposer Apreca Penice Cas 1:00 par CB ME--289. CH. 10-07-2020 PESHAWAR. Change firm 08 56 are al clay offered from clary. perialment offsie partied at 1 mo pay Clas 1- 7-2010 PLSTIFF AND THE TOTAL Change from - 17 3 ich con about from chay. Peter horses observed parcel at 1200 perform of old incocion declaretect. 618 NO 4114. POT CHIEF THE TO OFFICER, JUL 185 (hory dans 25/8/2020 - at clant appear for clary principality about perce es just pay and much meanine dedected. 211 7-8-2020 CHIEF TRAFFIC OFFICER.
PESHAWAR. Charge promo 16-18 of day absent from de proubstanced absent period as Lie opo older in continu deducted 611 No 120 POT CHIEF TRAFFIC OF PESHAWAR. Date 77-10

ORDER

Being involved in criminal case vide vide FIR No. 810, dated 12.08.2020 U/S 365/147/149/15AA/5 Exp. PPC PS Badhaber, Peshawar, Constable Asif Klian No.853 and Constable Azmatullah No.602 are hereby placed under suspension with immediate effect. However, Mr. Zakaullah, Acting DSP/HQrs Traffic, Peshawar is nominated as Enquiry Officer to conduct formal departments proceedings against the accused officials under the Khyber Pakhtunkhwa Police Rules 1975.

CHIEF TRAFFIC OFFICER
PESHAWAR

No. \$55-59 /PA, Dated Peshawar the 3//8 /2020. Copies to :-

- 1. The CCPO Peshawar w/r to his office Memo No.9913/SRC, dated 25.08.2020.
- 2. Mr. Zakaullah, Acting DSP/Hqrs. Traffic, Peshawar (Enquiry Officer) along-wicharge sheet and summary of allegation (in duplicate) to initiate department proceedings against the accused officials under Police Rules 1975.
- 3. SP/Hqrs. Traffic, Peshawar.
 - 4. OSI
 - ್ರ್ SRC

Serial No.

15. CENSURES AND PUNISHMENTS — Contd.

Being involved in Criminal Case wich FIR NO. 210. classed . 12-08-2020 U/s 365/147/149 15 AM 15 EXP. PPC PS Budhaber. Perhawar. Constable Asif Ichan No. 853 and Constable Azmatullah No. 602 are hereby Placed under Suspension with immediate etter. However, Mr. Daka ullah: Acting DispHors Traffic . Pashawar is nominalized as inquiry offices to Conduct formal departmental Proceedings against The accused afternets under The Khyber Pakhtunkhwa Police Rules 1975. Vide Chief. Trattie officer Perhawas Oselar No: 855-59/PA, decled 31-08-2020.

mrder -

this is an order on the departmental enquiry initial agrillet Constable Asif Khan No. 853 for involvement in Case FIR No. 810; dated. 12-08-2020 U/S 365 / 147/ 149/ 15A Exp. PPC PS Bordhaber, district Pushowar He was change Shouled and DSP/Hare Traffic was nominated as anguily Officer to Conduct tormal departmental Proceedings Linder the Khyber Pakhtunkhwa Police Vules 1975 and Submit his Finding 11e Submitted his reply to the charge sheet Stating Therein That he has been balsely implicated in the FIR as on The day of occurrence. he was present at Trabbic lines. The conquiry obticer recorded Statement of all concerned - He also recorded Statement of the 10 of the case who disclosed That Since a Cousin of the accused Constable namely Azmatullah who also a constuble was

Serial No.

15. CENSURES AND PUNISHMENTS - Contd.

Charged in FIR No. 525, dated, 05,06,2020 U/ 324/427/149_PPC, PS Badhaber Therebora The. accused Party Planned to Cross that Case and balsely implicated The apponent Party in this Case. The 10:00 The case also stated in his. Statement that as Per Opinion of the DPP. The Fire was registered against the accused Constable box deceiving the Police and takely implicated his apparents. The enquiry addicer recommended him for Suitable Punishment as he failed to Prove his innocence: Today cn. 29-12-2020 has he was heard in Person but again touted to Produce Cagent reason in Support or his innocence. Keoping in view recommendation of . the anguity officer as well as the Case bile, Constable Asit Khan No: 853 is awarded major Punishment of Dismissal Fram Service under the Khyber Pakhtunkhwa Police Jules 1975 with immediate ettert. vide SP. HQRS. Order andst No. 696-99/DA. clatect. 29-12-202. and OB NO: 752; dated: 31-12-2020.

CHEF TRAFFIC OFFICER,
TYPESHAWAR.

di ,

			.
Oder app	al Rejec	lect -	
Appeal rejected	hu CCD	of Pashaus	et tirefo
- Appeal reserved		. can ac	IDA dated
his office order	Encus_Dia	14.37.457	
-02 f03/2021 Capy	concleded		
-confuspourant			Same and the same
والمتحدد وال	Agent to good to		سر مرکز
and the state of t	عسائسي ما يدليني	CHUEF FO	THIC OFFICELY
Company of the State of the Sta	-	FUT CHIEF THE	SHAWAR.
معادرة والمراورة			



- 1. WHEREAS I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary and expedient.
- 2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.
- 3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules I, **WASEEM AHMAD KHALIL**, Chief Traffic Officer, Peshawar hereby charge you Constable Asif Khan No.853 and Constable Azmatullah No.602 under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:
 - i) That you have been involved in criminal case vide FIR No. 810, dated 12.08.2020 U/S 365/147/149/15AA/5 Exp. PPC PS Badhaber, Peshawar.
- 4. By doing this you have committed gross misconduct on your part.
- 5. AND I hereby direct you further under Rule 6 (I) (b) of the said Rules to put-in written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not taken against you and also state whether you desire to be heard in person.
- 6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, exparte action will be taken against you.

(WASEEMAHRIAD KHALIL) CHIEF TRAFFIC OFFICER, PESHAWAR M.

(Competent Authority

City Traffic Police Pestagray

MAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR PROFORMA FOR EARLY HEARING Khyber Pake

Khyber Fakarukhwa Service Tribunal

FORM 'A'

Dary No. 358

Dated 21/06/2022

To be filled by the counsel

Case Number	C.M. N).		/2022				
	In 41	,		_				
	Writ-Po	tition	No. 3	3866/20	021	•		
Case Title	ASIF K	HAN	V	'S	POLICE	DEPARTM	ENT	
Date of	2021							
Institution								
Bench	SB				DB		✓	
Case Status	Fresh				Pending		✓	
Stage	Notice		Mo	tion	· · · · · · · · · · · · · · · ·	Arguments	<u></u>	√
Urgency to be	That the	appe	llant	awarde	ed a harsh	punishment	of disr	nissal
clearly stated	from se	rvice	and a	after di	smissal fr	om service t	the app	ellant
	faced f	nancia	al pro	blems	. The app	ellant has n	o any	other
					* *	t is an only	/ memb	per to
					ole family.		·	
Nature of the	That the appellant awarded a harsh punishment of dismissal							
relief Sought	from service and after dismissal from service the appellant							
		faced financial problems. The appellant has no any other						
	1					t is an only		
•	1				•	, therefore, t		
			_	-	be heard	on an earlie	er date	to the
	meet the		of jus	stice.			.	
Next date of	19.07.2)22						
hearing					<u> </u>			
Alleged target	Next we	ek						
date	5				1			
Counsel for	Petition	er	✓	Resp	ondents	In pe	rson	

Signature of Counsel/party:

7/16/22

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR PROFORMA FOR EARLY HEARING

FORM 'B'

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	п	C	т	П

Early Hearingp/20
In case No. 3866 -p/2021
Asif Khan Vs Police Deptt.
Presented by Mix Zaman Safi on behalf of appelled. Entered in the relevant register.
Put up alongwith main case

REGISTRAR

Last date fixed	31.05.2022
Reason(S) for last adjournment, if any by the Branch Incharge.	Due do left over of-lue Court Proceedings.
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Readers/Assistant Registrar branch	

Assistant Registrar