


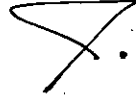
18.05.2023

Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Appellant requested for adjournment. Adjourned. To come up for arguments on 16.06.2023 before D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)  
Member (E)




(Salah-ud-Din)  
Member (J)


SCANNED  
KPST  
POSTAWAR

30<sup>th</sup> Jan, 2023

Appellant in person present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.


Appellant requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court. Last opportunity is granted to argue the case on the next date failing which the case will be decided on the available record without arguments. Adjourned. To come up for arguments on 19.04.2023 before D.B.


  
(Muhammad Akbar Khan)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

19<sup>th</sup> April, 2023 1. Appellant present in person. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Appellant submitted that his learned counsel has been appointed as Additional Advocate General and requested for time to engage new counsel. Last opportunity granted. To come up for arguments on 18.05.2023 before the D.B. P.P given to the parties.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

\*Fazle Subhan P.S\*

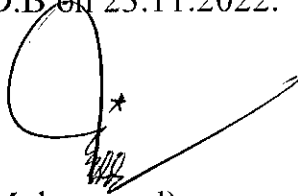
SCANNED  
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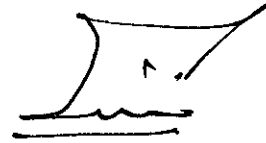
27.10.2022

Clerk of learned counsel for the appellant present. Mr. Raziq, H.C alongwith Mr. Muhammad Riaz Khan Paindakhel, 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 indisposed of today. Adjourned. To come up for arguments before the D.B on 23.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

SCANNED  
KPST  
Peshawar

23<sup>rd</sup> Nov. 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former seeks adjournment in order to further prepare the brief. Last chance is given. To come up for arguments on 30.01.2023 before the D.B.



(Fareeha Paul)  
Member (E)



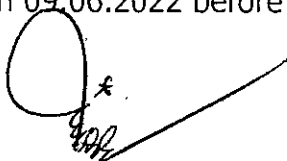
(Kalim Arshad Khan)  
Chairman

SCANNED  
KPST  
Peshawar

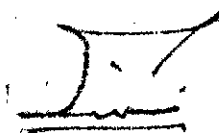
03.06.2022

Learned counsel for the appellant present. Mr. Raziq, H.C alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Representative of the respondents stated at the Bar that similar nature service appeal titled Asghar Shah Versus CCPO, Peshawar is fixed on 09.06.2022, therefore the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 09.06.2022 before D.B.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

09.06.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Adeel Butt, 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 not available today due to strike of lawyers. Adjourned. To come up for arguments on 30.08.2022 before the D.B.



(Fareeha Paul)  
Member (E)



(Salah-ud-Din)  
Member (J)

30.08.2022

Bench is incomplete, therefore, case is adjourned to 27.10.2022 for the same as before.




Reader

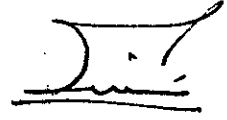
15.12.2021

Ms. Rabia Muzaffar, junior of learned counsel for the appellant present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar and is unable to attend the Tribunal today. Adjourned. To come up for arguments on 17.02.2022 before the D.B.



(Atiq-ur-Rehman Wazir)  
Member (E)



(Salah-ud-Din)  
Member (J)

17-2-22

*Due to Retirement of the Honorable Chairman*

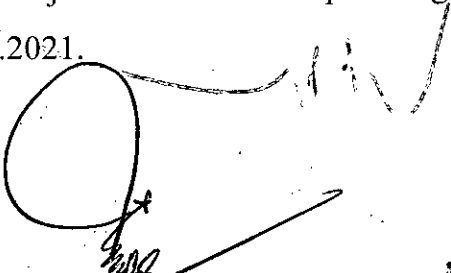
*The case is adjourned on 3-6-22*


*Reader*

26.05.2021

Miss, Rabia Muzaffar, advocate, junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Former sought adjournment on the ground that learned counsel for the appellant is unable to appear before the court due to some domestic problem. The appeal in hand is pending adjudication since the year 2017, however, the same has been adjourned time and again upon the request of learned counsel for the appellant, therefore, last opportunity is given. Adjourned. To come up for arguments before D.B on 06.08.2021.

  
(Mian Muhammad)  
Member (E)

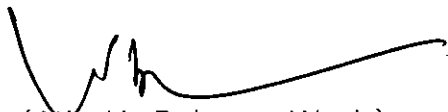
  
(Salah Ud Din)  
Member (J)

06.08.2021

Junior to counsel for appellant present.

Asif Masood Ali Shah learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 15.12.2021 before D.B.

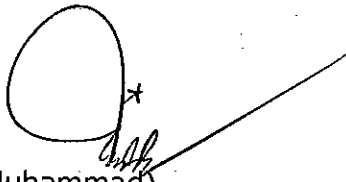
  
(Atiq-Ur-Rehman Wazir)  
Member (E)

(Rozina Rehman)  
Member (J)

22.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 14.12.2020 for hearing before the D.B.



(Mian Muhammad)  
Member

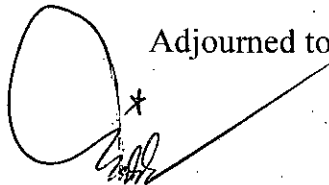
Chairman

14.12.2020

Miss. Rabia Muzaffar, Advocate on behalf of counsel for the appellant present. Addl: AG alongwith Mr. Muhammad Raziq, H.C for respondents present.

Former requests for adjournment due to over occupation of learned counsel before the Peshawar High Court, Peshawar.

Adjourned to 15.02.2021 for arguments before D.B.



(Mian Muhammad)  
Member (E)

Chairman

15.02.2021

Mrs. Rabia Muzaffar Advocate on behalf of learned counsel for the appellant and Asif Masood, DDA for the respondents present.

Former yet again requests for adjournment due to engagement of learned senior counsel before the Honourable High Court today. Record shows that hearing in the instant appeal has been adjourned many a times in past on the request by appellant/counsel. The request of learned counsel is allowed but as a last chance. Adjourned to 26.05.2021 for hearing before the D.B.

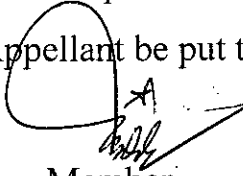


(Mian Muhammad)  
Member(E)

Chairman

11.02.2020

Appellant absent. Learned counsel for the appellant absent. However junior to counsel for the appellant present and seeks adjournment. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourn. To come up for arguments on 25.03.2020 before D.B. Appellant be put to notice for the date fixed.

  
Member

Member

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.

  
Reader

09.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 20.08.2020 before D.B.

  
Reader

20.08.2020

Due to summer vacations, the case is adjourned to 22.10.2020 for the same.

  
Reader



20.06.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment Adjourn. To come up for arguments on 21.08.2019 before D.B.



Member

Member

21.08.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 02.10.2019 for arguments before D.B.



(Hussain Shah)  
Member



(M. Amin Khan Kundi)  
Member

02.10.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. Adjournment requested. Adjourn. To come up for arguments on 09.12.2019 before D.B.

Member



Member

09.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 11.02.2020 before D.B.



Member

Member


15.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 03.01.2019.

  
READER

03.01.2019

Appellant in person present. Mr. Kabirullah Khattak Addl: AG for respondents present. Appellant seeks adjournment. Granted. Case to come up for arguments on 06.03.2019 before D.B.

  
Member

  
Member

06.03.2019

Appellant in person present. Learned counsel for the appellant is absent. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Appellant seeks adjournment as his counsel is not in attendance today. Adjourn. To come up for arguments on 30.04.2019 before D.B.

  
(M. HAMID MUGHAL)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

30.04.2019

Clerk of counsel for the appellant and Mr: Muhammad Jan, Deputy District Attorney for the respondents present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned to 20.06.2019 for arguments before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

16.04.2018


Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted which is placed on file. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.06.2018 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

27.06.2018


Appellant absent. Learned counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 17.08.2018 before D.B.


  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

17.08.2018


Clerk to counsel for the appellant and Mr. Usman Ghani learned District Attorney for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 01.10.2018 before D.B.

  
(Muhammad Amin Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

01.10.2018

Appellant with counsel present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondent present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 15.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member


09.11.2017

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Mr. Aziz Shah, Reader for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Lat opportunity granted. To come up for written reply/comments on 06.12.2017 before S.B.

  
(AHMAD HASSAN)  
MEMBER

06.12.2017


Appellant in person present. Mr Riaz Pinda Khel, Assistant Advocate General Aziz Shah, Reader for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 12.02.2018 before D.B.

  
(Gul Zeb Khan)  
Member (E)

12.02.2018


Appellant in person present. Mr. Riaz Pindakhel, Assistant AG for the respondent present. Counsel for the appellant is not in attendance due to general strike of the bar. To come up for rejoinder and arguments on 16.04.2018 before D.B.

  
Member

  
Chairman


09.08.2017

Appellant in person and Addl:AG alongwith Mr. Abdur Raziq, HC for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 12.09.2017 before S.B.

  
(Ahmad Hassan)  
Member

~~12.09.2017~~

Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Representative of the department is directed to furnish authority letter on or before the next date. Adjourned. To come up for written reply/comments on 24.10.2017 before S.B.

  
(Muhammad Hamid Mughal)  
Member

24.10.2017


Appellant with counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Aziz Shah, Reader for the respondents also present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned. To come up for written reply/comments on 09.11.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

23.05.2017

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that the appellant was appointed as Constable in the Police Department in 1999 and was promoted as Head Constable on 05.08.1991. On 22.12.2016 FIR no. 682 on account of escape of a prisoner from hospital was lodged against the appellant. Thereafter enquiry was conducted and upon conclusion major penalty of dismissal from service was imposed vide order dated 24.02.2017. He preferred departmental appeal which was rejected on 20.04.2017, hence the instant service appeal. Enquiry was not conducted in the mode and manner prescribed in the rules.

Points urged need consideration. Admit subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, there-after notices be issued to the respondents for written reply/comments for 11.07.2017 before S.B.

  
(AHMAD HASSAN)  
Member

11.07.2017

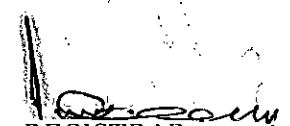

Appellant in person present. Mr. Abdur Raziq, Head Constable alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 09.08.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 456/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/05/2017	<p style="text-align: center;">The appeal of Mr. Javed Presented today by Mr. Fazal Shah Mohmand Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/5/17</p>
2-	12-5-2017	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23-05-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 456 /2017

Javed.....Appellant

**V E R S U S**

CCP & others.....Respondents

**I N D E X**

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-38
2.	Copy of FIR		4
3.	Copy of charge sheet & Reply	A	5-7
4.	Copy of inquiry report	B & C	8-9
5.	Copy of Final Show Cause Notice & reply	D	10-11
6.	Copy of order dated 24-02-2017	E & F	12-
7.	Copy of departmental appeal & Order dated 20-04-2017	G	13-14
8.	Wakalat Nama	H & I	15

Dated:-10-05-2017

Javed KHAN

Appellant

Through

Fazal Shah Mohmand  
Advocate Peshawar.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar. Cell# 0301 8804841



①

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 456 /2017

Javed Ex Head Constable No 1503, Capital City Police Peshawar.  
.....Appellant

**V E R S U S**

1. Capital City Police Officer Peshawar.
2. Superintendent of Police, Headquarters, Peshawar.
3. Provincial Police Officer KPK Peshawar.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974  
AGAINST THE ORDER DATED 20-04-2017 PASSED BY  
RESPONDENT NO 1 WHERE BY DEPARTMENTAL  
APPEAL OF THE APPELLANT FILED AGAINST THE  
ORDER DATED 24-02-2017 OF RESPONDENT NO 2 HAS  
BEEN REJECTED/FILED.**

**PRAYER:-**

On acceptance of this appeal the impugned orders dated 20-04-2017 of respondent No 1 and Order dated 24-02-2017 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

**Respectfully Submitted:-**

1. That the appellant joined the respondent Department as Constable in the year 1999 and with the passage of time was promoted as Head Constable on 05-08-1991 and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his superior officers.
2. That the appellant while posted at Police Lines Peshawar, was deputed along with three Constables for security duty with prisoner namely Syed Ali Shah Bukhari involved in case Under Sections 365-B/376/34PPC, who on 22-12-2016 after being discharged from the hospital escaped from their custody and case FIR No 682 dated 22-12-2016 Under Sections 223/224PPC in Police Station East Cantt was registered against the appellant and one Constable namely Asghar No 5503. (Copy of FIR is enclosed as Annexure A).
3. That the appellant was released on Bail where after charge sheet was issued to the appellant which he replied in detail explaining his position. (Copy of Charge Sheet and reply are enclosed as Annexure B & C).

4. That thereafter an illegal inquiry was conducted wherein proper opportunity of defense was not provided to the appellant. (Copy of inquiry report is enclosed as Annexure D).
5. That thereafter Final Show Cause Notice was issued to the appellant which was also replied by the appellant. (Copy of Final Show Cause Notice and reply are enclosed as Annexure E & F).
6. That finally the appellant was awarded the punishment of dismissal from service by respondent No 2 vide Order dated 24-02-2017. (Copy of order dated 24-02-2017 is enclosed as Annexure G).
7. That the appellant preferred departmental appeal before respondent No 1 which was also rejected/filed vide Order dated 20-04-2017. (Copy of departmental appeal and dated 20-04-2017 are enclosed as Annexure H & I).
8. That the impugned order dated 20-04-2017 of respondent No 1 and Order dated 24-02-2017 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GR OUNDS:-

- A. That the impugned orders are illegal and void abinitio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and the appellant did nothing that amounts to misconduct.
- C. That no proper inquiry was conducted to find out the true facts and circumstances and the appellant was not allowed opportunity of cross examination.
- D. That the impugned order is defective and hence not maintainable in the eyes of law.
- E. That the appellant has been discriminated as other two Constables were awarded the punishment of stoppage of one year annual increment without cumulative effect vide the same order.
- F. That the impugned orders are not speaking orders and thus not tenable in the eyes of law.
- G. That the appellant was not provided opportunity of meaningful personal hearing.

- H. That there is misapplication of law as the appellant has been awarded under Police Rules which is not applicable in case of the appellant.
- I. That the appellant has about 18 years of service with unblemished service record.
- J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.


Any Other relief not specifically asked for and deemed appropriate in the circumstances of the case may also be granted in favor of the appellant.

~~Appellant~~

Dated:-10-05-2017.

Javed ICHAN  
Appellant

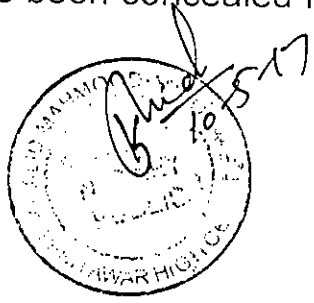
Through

  
Fazal Shah Mohmand  
Advocate, Peshawar

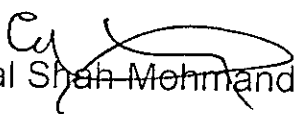
AFFIDAVIT

I, Javed Ex Head Constable No 1803, Capital City Police Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified  
~~DEPONENT~~



Javed ICHAN  
Deponent

  
Fazal Shah Mohmand  
Advocate Peshawar



(S) B  
(S)

**CHARGE SHEET**

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that ✓ HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 of Capital City Police Peshawar with the following irregularities.


"Reportedly, you HC Javed No.1803/guard commander along with FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 while posted at Police Lines were deputed for the security duty with prisoner namely Syed Ali Shah Bukhari involved in case u/s 365-B/376/34-PPC. Being guard commander, HC Javed 1803 has left 02 constables Akhtar Ali No.2980 & Ashfaq No.4176 on his own discretion while only one constable Asghar No.5503 detained for security duty. Due to your negligence & cowardice in the discharge of lawful duty the said prisoner was escaped from their custody. A case to the effect was registered vide FIR No.682 dated 22.12.2016 u/s 223-224 PPC PS East Cantt. All this amounts to gross misconduct on your parts and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

+  
  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

خارجی مشورہ خارج شہ جاریہ کا 59 ماہ النہار  
40:5

پروگرام کے تحت جاریہ کا 59 ماہ النہار  
ذیل میں دیکھا جاتا ہے۔

① میری مدت ملازمت 1999 تا 2000 کے درمیان

بھرتی ہو کر تقریباً 18 سال مکمل ہوئے ہیں

② تعلیمی قابلیت اور تربیت یافتہ ہیں

③ میں نے اس دوران سیکشن کانسٹیبل کا کام کیا

④ میں بطور گارڈ کانسٹیبل 3503 کے

اور ڈاکٹر افتخاری 2980، اشتیاق 4176

LRH میں ملازم ریورسٹ/ریٹائرمنٹ کے تحت

3658  
376

⑤ 22 12/2016 کو ملازم کو LRH سے ریٹائرمنٹ دیا گیا

⑥ ڈاکٹر افتخاری 2980، اشتیاق 4176 اور ڈاکٹر کونڈے کو

دوہم تنہائی سروس 21 12/2016 اور 22 12/2016 کو ریٹائرمنٹ

⑦ 22 12/2016 کو پولیس لائن سے ریٹائرمنٹ کے لئے

⑧ 22 12/2016 کو ملازم کو ریٹائرمنٹ دیا گیا

⑨ میں ملازم کو ریورسٹ/ریٹائرمنٹ کے تحت

اور اسے بجائے جیل داخل کرنے ملازم کی خواہش پر

عزمتی نمائندگی اور ریٹائرمنٹ کے لئے

کارخانہ مارکیٹ کے

A

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10) کارخانہ مارکیٹ جاہت کبیل امیر ۱۹۵۵ کو پول سے چھوڑا  
اور میں فرد اور ملزم فرزندہ شاہنگ سے لے دیا گیا  
11) جب کارخانہ ماڈل بولڈ مارو عین انیس کیم جہانگیر آباد  
ملزم ۱۹۱۰ تو ٹیکسی سے اترا اور امیر ۱۹۵۵ کبیل سے لے  
اسکو بند لے کے لے حیدرگدا اور ملزم کو ٹیکسی گاڑی سے  
چھوڑا۔

12) جب واپس آیا۔ تو امیر کبیل ۱۹۵۵ بھی وہیں ساگر آیا۔ تو دیکھا کہ  
یہ تو ملزم موجود تھا اور وہی ٹیکسی کا ڈرائیور موجود تھا۔

13) ہم دونوں آگے لپے اور ہر ادھر تشریح کرتے رہے۔ گلبرجہ سورا۔ اور آٹھ کار  
پولیس لائن آگے لائن اونیا احسان (سدا اور ۱۹۵۵ میں رازمندان زمین سے  
وہ ب کو جہدہ واقف بتائے۔

14) ملزم بندور تھا اسکو پتھکریا سن لگا لے لیں۔

15) بعد ازاں اس وقت میں شہر میں گوا جہا کیم ملزم درج ہو کر ہم دونوں کو  
گتیا کر کے جس سے پورا اور جس میں ۱۹۵۵ میں گتیا سا اور پھر بھارت میں کر  
سول لائن میں

16) یہ عقیدہ کا ہے کہ سب۔ کبیل امیر ۱۹۵۵ اسی روز دیکھا کے لے لے  
اسے ملزم کے قرار پر وقت کبیل امیر ۱۹۵۵ کے ساتھ میں

یہ سادہ سادہ کو دیکھے ہیں جو علیٰ فیہ سے سرزد میں چکے ہیں

ملانی دھار  
۱۱۱۲۰۱۲  
۱۹۵۳ مال معطل میں لکھا اور  
۱۲۳  
سائن جہاد بیضان  
Javed

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EOs  
Findings

39  
D  
8

at the ...scape he was not with them and furthermore due to  
 ...accused with handcuffs.  
 ...ull opportunity of cross & DWs but didn't avail.  
 ...ch restaurant you stayed?  
 A Taste & Train Restaurant, Town. The owner was known to the accused.  
 \*\* C Were you duly armed?  
 Yes, only me but not the Guard Commander.  
 \*\* CQ How many days accused was in the Hospital?  
 ANS 16 days.

STATEMENT OF FC ASHFAQ-UR-REHMAN NO. 4176 POLICE LINES.

Constable Ashfaq-ur-Rehman No. stated in his statement that he was deputed for guard duty at LRH with guard Commander HC Javed from Police Lines, Peshawar. On 21.12.2016 at about 08:00 hours he started his duty by relieving the Constable Akhtar Ali Shah No. 2980 for shabashi. On 22.12.2016 at about 08:00 hours he finished his duty and handed over the charge to Constable Asghar Ali and he went on Shabashi seeking permission from HC Javed the Guard Commander. The same day 22.12.2016 he received information from Police Lines that the accused has been escaped from the custody of HC Javed.

The Cross & Defense chance was given but didn't avail.

STATEMENT OF CONSTABLE AKHTAR ALI NO. 2980 POLICE LINES PESHWAR.

Constable Akhtar Ali No. 2980 stated that on 20.12.2016 Moharrar Police Lines nominated him for LRH guard duty with HC Javed. The HC Javed advised him through mobile that to bring handcuffs in his name. He received Handcuffs in the name of HC Javid and after getting Arms & Ammunition reached for duty to LRH Bolton Block Room No. 3 wherein the HC Javed tied the accused with handcuffs and deputed him for his surveillance. The next day on 21.12.2016 at about 08:30 hours he handed the charge to FC Ashfaq-ur-Rehman No. 4176 and went for shabashi. On 22.12.2016 the HC Javed called him through his mobile and informed that the accused has been discharged from the Hospital and I shall report back at Police Lines. Upon arrival to the Police Lines he came to know that accused Syed Ali escaped from the lawful custody of HC Javed.

The Cross & Defense chance was given but didn't avail.

STATEMENT OF HC JAVED NO. 1803 GUARD COMMANDER POLICE LINES PESHAWAR.

- i) He stated that he was enlisted on 17.3.1999 as constable in Police Department and has completed almost 18 year of service.
- ii) He is educated and has qualified the section commander course.
- iii) He was deputed as guard commander with the accused involved in case w/s 365/376 admitted at LRH Peshawar alongwith FC Asghar No. 5503, Akhtar Ali No. 2980 and Ashfaq No. 4176.

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 (KAB FAROOQ)  
 SUPERINTENDENT OF POLICE,  
 CITY, CCP, PESHAWAR

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- iv) He relieved the constable Akhtar Ali No. 2980 and Ashfaq No. 4176 for two days Shabashi w.e. from 21.12.2016 to 22.12.2016.
- v) On 22.12.2016 accused got discharged from the Hospital but instead of taking him to the Jail HC Javid alongwith FC Asghar No. 5563 took him to the restaurant of his acquaintant situated at University Town for lunch as he wished so. Later on leaving FC Asghar at the restaurant, HC Javed and accused went to Karkhano Market for shopping. On the way back from Karkhano Market they stopped to pick FC Asghar. This time leaving accused behind in Alto Taxi. On his return accused found missing who made his escape good.
- vi) He and FC Asghar searched for accused but in vain. They returned to Police Lines then and informed the RI, LO and Moharrir about the incident.

\*\* CQ. Was the accused handcuffed?

Ans. No, His right hand was fractured

\*\*CQ. Any such incident has happened in your tenure earlier?

Ans. No, I remained in traffic for a long time.

\*\*CQ. Did you know that your act was against the rules & regulations?

Ans. Yes

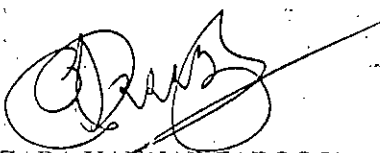
The defense chance was given accordingly but didn't avail.

#### FINDINGS / RECOMMENATION.

The findings of the undersigned are as follows:-

In view of the above circumstances and perusal of statements reveals that HC Javed # 1803 and Constable Asghar # 5503 are fully responsible for the whole episode. Furthermore the guard commander HC Javid act of leaving the accompanying Constable at the restaurant in such a precarious circumstances and going on shopping with accused seems ridiculous. The confessional statements to this effect by the delinquent officer HC Javed and FC Asghar is icing on the cake and speaks of their inefficiency, incompetence and casual attitude towards their duties. They have confessed their guilt beyond any shadow of doubt. Hence both are recommended for Major punishment to set them as an example for others.

Constable Ashfaq-ur-Rehman No. 4176 and Akhtar Ali No. 2980 cannot also be absolved from the responsibility merely on the ground that they were on Shabashi and i.e without in the knowledge of the RI or DSP HQrs. They are also recommended for minor punishment.

  
(SHAHZADA KAAKAB FAROOQ)  
SUPERINTENDENT OF POLICE,  
CITY, CCP, PESHAWAR.

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FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 the final show cause notice.

The Enquiry Officer, SDPO Town, after completion of departmental proceedings, has recommended you for major/minor punishment for you HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 deserve the punishment in the light of the above said enquiry reports.

I, competent authority, have decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
2. If no reply to this notice is received within 7 days of its receipt, in 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.

  
SUPERINTENDENT OF POLICE,  
HEADQUARTERS, PESHAWAR

No. 295/E/14PA, SP/HQrs: dated Peshawar the 09/12 2017.

Copy to official concerned

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مسئلہ شوگانہ معدومہ یوں

حوالہ نام محمد پیر عابد کیا ہے اسکی تفسیر حوالاً ذیل میں دی جاتی ہے

سوال نمبر ۱۲/۵۸ کو مدغم سیر علی بخاری لیسنا ڈیوٹی پیرھے صورت

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

تعمیر کے لئے جاوید لاغیر کنیشن اصلاحی ۵۵۵۳ کو مدغم میں مسائل نے

سوال نمبر ۱۸۵۳/۴۴ حال مسئلہ زینے لفظ اور

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**ORDER.**

This office order relates to the disposal of formal departmental enquiry against HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 of Capital City Police Peshawar on the charges that:

"Reportedly, HC Javed No.1803/guard commander along-with FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 while posted at Police Lines were deputed for the security duty with prisoner namely Syed Ali Shah Bukhari involved in case u/s 365-B/376/34-PPC. Being guard commender, HC Javed 1803 has left 02-constables Akhtar Ali No.2980 & Ashfaq No.4176 on his own discretion while only one constable Asghar No.5503 detained for security duty. Due to their negligence & cowardice in the discharge of lawful duty the said prisoner was escaped from their custody. A case to the effect was registered vide FIR No.682 dated 22.12.2016 u/s 223/224-PPC PS East Cantt: Peshawar.

In this regard, they were placed under suspension & issued charge sheet and ummary of allegations. SP-City was appointed as Enquiry Officer. He conducted the enquiry proceedings and submitted his finding/report that HC Javed No.1803 & FC Asghar No.5503 are fully responsible for the whole episode while FC Ashfaq No.4176 & FC Akhtar Ali No.2980 cannot be absolved from the responsibility merely on the ground that they were on Shahbashi without informing the RI Police Lines & DSP-HQrs. The Enquiry Officer further recommended HC Javed No.1803 & FC Asghar No.5503 for major punishment & FC Ashfaq No.4176 & FC Akhtar No.2980 for minor punishment vides Enquiry Report No.156/PA dated 06.02.2017.

On receiving the findings of E.O, they were issued final show cause which they received and replied. Upon which the opinion of DSP Legal was sought. He opined that " HC Javed No.1803 & FC Asghar No.5503 personally admitted their guilt that they took prisoner to restaurant for taking meal and then to karkhano market for shopping on their own risk having consequences of their said illegal act in mind, which prima-facie prove their furtherance in facilitating the prisoner to escape rather let him free for which they required to be taken to task. Hence the E.O has correctly reocmmended them for major punishment. So far as role of FC Ashfaq No.4176 & FC Akhtar Ali No.2980 is concerned, they were not present in the episode and were availing Shab Baashi on the permission of their incharge, therefore they are able for a lenient view in the instant case.

They were called & heard in person but explanation found unsatisfactory.

In light of the recommendations of E.O & DSP Legal opinion, the undersigned came to conclusion that the act of defaulter officials HC Javed No.1803 & FC Asghar No.5503 are highly objectionable and defaming the image of Police Department in the eyes of general public. They are not deserved for an iota of leniency to retain in the force. Therefore, in exercise of the power vested to me under Police & Disciplinary Rules, 1975, HC Javed No.1803 & FC Asghar No.5503 are awarded the major punishment of dismissal from service with immediate effect while FC Ashfaq No.4176 & FC Akhtar Ali No.2980 are re-instated in service from the date of suspension coupled with awarded the minor punishment of stoppage 01-year annual increment without cumulative effect.

  
**SUPERINTENDENT OF POLICE  
HEADQUARTERS, PESHAWAR**

OB. NO. 882 / Dated 24/2 /2017

No. 964-70 /PA/SP/dated Peshawar the 24/2 /2017

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Office, OASI, CRC & FMC along-with complete departmental file.

فہم سی سی سی او ایف لیڈنگ بورڈ

حصہ اول  
اس میں سے

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اس میں سے حصہ اول

2017

عالمی

یہ اس حکم مندرجہ مندرجہ کے تحت کی جارہی ہے

1) یہ کہ میں گیارہ کی ٹیم کی ڈیڑھ دے رہا تھا

2) یہ کہ ہندسہ چھ کے ساتھ ایسا ہی آگیا ہے کہ میں ذکر آگیا ہے

3) جو ہندسہ نے اس کے ساتھ بنا دیا۔ کس نے اس میں میرا

4) یہ کہ وہی ذاتی مفاد نہیں تھے بلکہ انسانی بھلائی کی بنیاد پر دیکھنے سے یہ انگریزوں سے ملے گا

5) یہ کہ اس کے ساتھ ساتھ اور چھ لاکھ بنادے اس کا اثر میرا تو کم ہوا اور جو کچھ

6) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو

7) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو

8) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو

9) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو

10) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو

11) یہ کہ اس کے ساتھ ساتھ اس میں اتنی بڑی سہولت ہو



OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

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

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ORDER

This order will dispose off departmental appeals preferred by ex-Head constable Javed Khan No. 1803 who was awarded the major punishment of Dismissal from service under Police Rules-1975 by SP/HQrs: Peshawar vide OB No. 882 dated 24.2.2017.

2- Brief facts of the case are that the appellants along with constables Asghar No.5503, Ashfaq No.4176 and Akhter Ali No. 290 were deputed for escort duty of prisoner Syed Ali Shah Bukhari charged in offences u/s 365-B/376/34 PPC from central Jail Peshawar to LRH Peshawar where he was hospitalized for treatment. After necessary treatment the prisoner was discharged from hospital and the appellants instead to deposit him in jail took him to a restaurant for taking meal and afterward to Karkhano market for shopping on their own risk. The prisoner managed to make his escape good from their custody.

3- Proper departmental proceedings were initiated against the appellant and above mentioned constables and Shahzada Kaukab Farooq, SP/City was appointed as E.O, who in his findings found them guilty and recommended the appellant ex-HC Javed Khan No. 1803 and constable Asghar No. 5503 for award of major punishment whereas constable Ashfaq No. 4176 and Akhtar Ali No. 290 for award of minor punishment. On receipt of findings of the E.O, the competent authority issued Final Show Cause Notices to the appellant and above mentioned constables to which they replied. The same was perused and found unsatisfactory as such awarded the above major punishment to the appellant and constable Ashfaq No. 4176 and minor punishment to other constables.

4- The relevant record has been perused and the appellant was also heard in person in O.R on 19.4.2017. He was provided opportunity to defend himself but he miserably failed to produce any cogent reasons in his favour. The allegations stand proved against him. There is no justification to interfere in the order passed by SP-HQRs, Peshawar. His appeal for re-instatement in service is rejected/filed.

(MUHAMMAD TAHIR) PSP  
CAPITAL CITY POLICE OFFICER,  
20/4 PESHAWAR

No. 705-10 /PA dated Peshawar the 20-4-2017

Copies for information and n/a to the:-

- 1/ SP-HQRs, Peshawar
- 2/ PO/OASI/CRC for making necessary entry in their S.Rolls.
- 3/ FMC along with FM.
- 4/ Official concerned.

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وکالت نامہ  
سروس ریزرویشن کیلئے

مخاتب: جاوید خان

مقدمہ فیصلہ ایڈووکیٹ اڈووکیٹ

بیعت تسمیرہ آنکھ

بنام CCF وسمیرہ  
جاوید خان

مقدمہ پندرہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام

کیس فیصلہ شاہ مہمند ایڈووکیٹ، سپریم کورٹ آف پاکستان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی نکل کاروائی کا کامل اختیار ہوگا۔ نیز وہیں صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دعویٰ اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی ڈگری اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یا یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل گمرانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سائنٹ پرواختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہر جائزہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔

لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم: ۱۰ ماہ مئی 2017ء

کے لئے منظور ہے

جاوید خان ایڈووکیٹ

الذی

الذی

Attested & Accepted

Advocate

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNHWA PESHAWAR.**

**Service Appeal No.456/2017**

Javid No. 1803 Ex- Head Constable CCP, Peshawar.....Appellant.

**Versus**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
4. Superintendent of Police HQrs, Peshawar .....Respondents.

**Reply on behalf of Respondents No. 1, 2, &3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.

**FACTS:-**

- 1- Para No.1 pertains to record, hence needs no comments.
- 2- Para No.2 is correct to the extent that appellant along with Three Constable of prisoner, Syed Ali Shah Bukhari charged in offences u/s 365-B/376/34-PPC who was shifted from Central Jail Peshawar to LRH Peshawar where he was hospitalized for treatment after necessary treatment. The prisoner was discharged from hospital and the appellant along with constable Asghar instead to deposit him in Jail took him to a restaurant for taking meal and afterward to Karkhano Market for shopping on their own risk. The prisoner managed to make his escape good from their custody. A case to the effect was registered vide FIR No.682 dated 22.12.2016 u/s 223/224 PPC PS East Cantt: Peshawar. In this regard he was issued Charge Sheet and Summary of Allegations, and SP/City was appointed as enquiry officer. He conducted the enquiry proceedings and submitted his finding/report that HC Javid and FC Asghar are fully responsible for the whole episode. The enquiry officer recommended for major punishment. After receiving of the findings, they were issued final show cause notice which they received and replied. After fulfilling all codal formalities they were awarded major punishment of dismissal from service.
- 3- Para No.3 is correct to the extent that the appellant was issued charge sheet to which he received and replied but his reply was found unsatisfactory.




- 4- Para No.4 is incorrect. In fact proper departmental enquiry was conduct against him by SP/City Peshawar. He conducted the enquiry proceedings and submitted his finding report that HC Javid and FC Asghar are fully responsible for the whole episode, and they personally admitted their guilty that they took prisoner to restaurant for taking meal and then to Karkhano Market. He was given full opportunity to defend himself. The enquiry officer after fulfilling all codal formalities recommended him for major punishment of dismissal from service.( enquiry report is annexed "A").
- 5- Para No. 5 is correct to the extent that he was issued final show cause notice to which he replied. The same was perused and found unsatisfactory. Hence he was awarded major punishment of dismissal from service..
- 6- Para No. 6 is correct to the extent that after fulfilling all codal formalities and recommendation of the Enquiry Officer he was awarded Major Punishment of dismissal from service.
- 7- Para No. 7 is correct to the extent that he filed a departmental appeal, which after due consideration was reject/filed because the charges leveled against him were stand proved.
- 8- Para No. 8 is incorrect. The orders passed by the competent authority are in accordance with law and rules and liable to be upheld.

**GROUNDS:-**

- A- Incorrect. The impugned orders are legal and as per law /rules.
- B- Incorrect. The appellant was treated as per law, rules and the charges leveled against the appellant were fully proved, and they also personally admitted their guilt that they took prisoner to restaurant for taking meal and then the Karkhano Market for shopping on their own risk.
- C- Incorrect. Proper departmental enquiry was conduct against him and Shahzada Kaukab Farooq SP/City was appointed as enquiry officer who in his findings found him guilty and recommended for major punishment. The appellant was given full opportunity of cross examination.
- D- Incorrect. The impugned orders as per the law and rules.
- E- Incorrect. They were not present in the episode and were availing Shabasi on the permission of their Incharge.
- F- Incorrect. The impugned order is per law and rules.
- G- Incorrect. The appellant heard in person in Orderly Room on 19.04.2017. He was provided opportunity to defend himself but he miserably failed to produce any cogent reasons in his favour, and the allegation stand proved against him.
- H- Incorrect. The appellant being a member of a disciplined force was proceeded under police disciplinary rules.
- I- Para is for the appellant to prove.
- J- That respondents also seek permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

**PRAYERS:-**

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer  
Peshawar.

  
Superintendent of Police,  
HQs, Peshawar.

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

**Service Appeal No.456/2017**

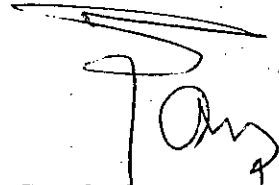
Javid No. 1803 Ex- Head Constable CCP, Peshawar.....Appellant.


**Versus**


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
4. Superintendent of Police HQrs, Peshawar .....Respondents.

**AFFIDAVIT.**

We respondents No. 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.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Superintendent of Police,  
HQrs, Peshawar.

(40)

**OFFICE OF THE  
SUPERINTENDENT OF POLICE  
CITY DIVISION, CCP, PESHAWAR**

No. 156 /PA

Dated Peshawar the

06th Feb: 2017.

To: **The Superintendent of Police,  
Headquarters, Peshawar.**

Subject: **DEPARTMENTAL ENQUIRY.**

Please refer to your office Endst: No. 295/E/PA dated 23.12.2016 pertaining to departmental enquiry against HC Javed No. 1803/Guard commander, FC Asghar No. 5503, FC Akhtar Ali No. 2980 & FC Ashfaq.

**STATEMENT OF ALLEGATION.**

"Reportedly, HC Javed No. 1803/guard commander alongwith FC Asghar No. 5503, FC Akhtar Ali No. 2980 & FC Ashfaq No. 4176 while posted at Police Lines were deputed for security duty with prisoner namcly Syed Ali Shah Bukhari involved in case u/s 365-B/376/34-PPC admitted in Lady reading Hospital. Being guard commander, HC Javed No. 1803 has left 02 Constables Akhtar Ali No. 2980 & Ashfaq No. 4176 on his own discretion while only one constable Asghar No. 5503 was detained for security duty. Due to their negligence and cowardice in the discharge of lawful duty the said prisoner was escaped from their custody. A case to the effect was registered vide FIR No. 682 dated 22.12.2016 u/s 223/224-PPC PS East Cantt: All this amounts to gross misconduct on their part and against the discipline of the force."

**PROCEEDING.**

In this regards statements of the HC Javed No. 1803, Constable Asghar No. 5503, Constable Ashfaq No. 4176 and Constable Akhtar Ali 2980 were recorded which are reproduced below:-

**STATEMENT OF CONSTABLE ASGHAR NO. 5503 POLICE LINES.**

On 22.12.2016 he was nominated for guard duty with admitted accused at LRH. He reported his arrival with HC Javed Khan and on the same day accused Syed Ali Shah Bukhari got discharged from the Hospital. The accused whispered with HC Javed Khan and then they along with accused went to the restaurant at Town. After taking meal HC Javed told him to wait in the restaurant as they are going to Karkhano market for shopping. After about 03 hours HC Javed returned to the restaurant without accused. When he asked about the accused HC Javed told him that he is waiting for us down in the Taxi motorcar but we couldn't find him down there. We searched for him but he made his escape good. The Line Officer brought them to PS East Cantt: and proper case was registered against them and they were challaned to the Honorable Court. He further stated

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that at the time of accused's escape he was not with them and furthermore due to disability he did not tie up the accused with handcuffs.

The officer was given all opportunity of cross & DWs but didn't avail.

\*\*CQ. Which restaurant you stayed?

ANS. Taste & Train Restaurant, Town. The owner was known to the accused.

\*\*CQ. Were you duly armed?

ANS. Yes, only me but not the Guard Commander.

CQ. How many days accused was in the Hospital?

ANS. 16 days.

**STATEMENT OF FC ASHFAQ-UR-REHMAN NO. 4176 POLICE LINES.**

Constable Ashfaq-ur-Rehman No. 4176 stated in his statement that he was deputed for guard duty at LRH with guard Commander HC Javed from Police Lines, Peshawar. On 21.12.2016 at about 08:00 hours he started his duty by relieving the Constable Akhtar Ali Shah No. 2980 for shabashi. On 22.12.2016 at about 08:00 hours he finished his duty and handed over the charge to Constable Asghar Ali and he went on Shabashi seeking permission from HC Javed the Guard Commander. The same day 22.12.2016 he received information from Police Lines that the accused has been escaped from the custody of HC Javed.

The Cross & Defense chance was given but didn't avail.

**STATEMENT OF CONSTABLE AKHTAR ALI NO. 2980 POLICE LINES PESHAWAR.**

Constable Akhtar Ali No. 2980 stated that on 20.12.2016 Moharrar Police Lines nominated him for LRH guard duty with HC Javed. The HC Javed advised him through mobile that to bring handcuffs in his name. He received Handcuffs in the name of HC Javed and after getting Arms & Ammunition reached for duty to LRH Bolton Block Room No. 3 wherein the HC Javed tied the accused with handcuffs and deputed him for his surveillance. The next day on 21.12.2016 at about 08:30 hours he handed the charge to FC Ashfaq-ur-Rehman No. 4176 and went for shabashi. On 22.12.2016 the HC Javed called him through his mobile and informed that the accused has been discharged from the Hospital and I shall report back at Police Lines. Upon arrival to the Police Lines he came to know that accused Syed Ali escaped from the lawful custody of HC Javed.

The Cross & Defense chance was given but didn't avail.

**STATEMENT OF HC JAVED NO. 1803 GUARD COMMANDER POLICE LINES PESHAWAR.**

- i) He stated that he was enlisted on 17.3.1999 as constable in Police Department and has completed almost 18 year of service.
- ii) He is educated and has qualified the section commander course.
- iii) He was deputed as guard commander with the accused involved in case u/s 365/376 admitted at LRH Peshawar alongwith FC Asghar No. 5503, Akhtar Ali No. 2980 and Ashfaq No. 4176.

- (18)
- iv) He relieved the constable Akhtar Ali No. 2980 and Ashfaq No. 4176 for two days Shabashi w.e. from 21.12.2016 to 22.12.2016.
- v) On 22.12.2016 accused got discharged from the Hospital but instead of taking him to the Jail HC Javid alongwith FC Asghar No. 5563 took him to the restaurant of his acquaintant situated at University Town for lunch as he wished so. Later on leaving FC Asghar at the restaurant, HC Javid and accused went to Karkhano Market for shopping. On the way back from Karkhano Market they stopped to pick FC Asghar. This time leaving accused behind in Alto Taxi. On his return accused found missing who made his escape good.
- vi) He and FC Asghar searched for accused but in vain. They returned to Police Lines then and informed the RI, LO and Moharrir about the incident.

\*\* CQ. Was the accused handcuffed?

Ans. No, His right hand was fractured

\*\* CQ. Any such incident has happened in your tenure earlier?

Ans. No, I remained in traffic for a long time.

\*\* CQ. Did you know that your act was against the rules & regulations?

Ans. Yes


The defense chance was given accordingly but didn't avail.

#### FINDINGS / RECOMMENATION.

The findings of the undersigned are as follows:-

In view of the above circumstances and perusal of statements reveals that HC Javed # 1803 and Constable Asghar # 5503 are fully responsible for the whole episode. Furthermore the guard commander HC Javid act of leaving the accompanying Constable at the restaurant in such a precarious circumstances and going on shopping with accused seems ridiculous. The confessional statements to this effect by the delinquent officer HC Javed and FC Asghar is icing on the cake and speaks of their inefficiency, incompetence and casual attitude towards their duties. They have confessed their guilt beyond any shadow of doubt. Hence both are recommended for Major punishment to set them as an example for others.

Constable Ashfaq-ur-Rehman No. 4176 and Akhtar Ali No. 2980 cannot also be absolved from the responsibility merely on the ground that they were on Shabashi and i.e without in the knowledge of the RI or DSP HQrs. They are also recommended for minor punishment.

  
(SHAHZADA KAIKAB FAROOQ)  
SUPERINTENDENT OF POLICE,  
CITY, CCP, PESHAWAR

e/e

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 456/2017

Javed Khan.....**Appellant**

**VERSUS**

CCPO & Others.....**Respondents**

**REPLICATION ON BEHALF OF THE APPELLANT**

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to file instant appeal, which is well within time and the appellant has come to this honorable Tribunal with clean hands. All necessary parties have been impleaded, the appellant is not estopped by his conduct to file instant appeal and the appellant is not estopped by his conduct to file instant appeal.

REPLY TO FACTS/GROUNDS.

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the claim of the appellant is incorrect. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant. Respondents have admitted that the appellant was not afforded opportunity of cross examination and that he has been discriminated. Respondents have also failed to deny the plea of the appellant that the impugned orders are not speaking orders. The

appellant was also not provided copy of inquiry report with final show cause notice which is mandatory.


In the circumstances the appellant is punished without any omission or commission on his part and the appellant could not be punished for the fault of the respondents. The respondents have failed to substantiate their version and bring anything on record in support of their version, as such the appellant has been made escape goat.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:--2018

Appellant


Through

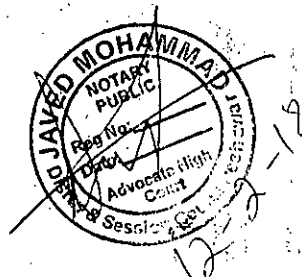
  
FAZAL SHAH MOHMAND  
Advocate Peshawar

### AFFIDAVIT

I, Javed Khan Ex Head Constable No 1803, Capital City Police Peshawar, (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this Replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

  
Fazal Shah Mohmand  
Advocate Peshawar.



DEPONENT