

18.05.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan,
Assistant Advocate General for the respondents present.

File to come up alongwith connected Service Appeal No.
456/2017, on 16.06.2023 before D.B. Parcha Peshi given to the
parties.



(Muhammad Akbar Khan)
Member (E)



(Salah-ud-Din)
Member (J)

kamranullah


SCANNED
KPSST
PESHAWAR


30th Jan, 2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

File to come up alongwith connected service appeal No. 456/2017 titled "Javed versus Capital City Police Officer Peshawar and others" on 19.04.2023 for arguments before D.B.

SCANNED
KF ST
Peshawar


(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman


19th April, 2023

1. Counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. File to come up alongwith connected service appeal No. 456/2017, on 18.05.2023 for arguments before the D.B. P.P given to the parties.

SCANNED
KF ST
Peshawar


(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman


Fazle Subhan P.S

30.01.2023

Syed Noman Ali Bukhari, Advocate for the appellant present.

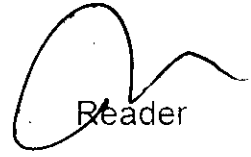
Mr. Muhammad Raziq, Head Constable alongwith Mr. Umair Azam Khan, Additional Advocate General for the respondents present and stated that service appeal of co-accused Javed is fixed for arguments before the D.B comprising of worthy Chairman and Mr. Muhammad Akbar Khan, learned Member (Executive). In order to avoid any contradictory judgment, the appeal in hand is sent to worthy Chairman for further appropriate order. Learned counsel for the parties shall appear before the concerned D.B today at 12:15 P.M.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

30.08.2022

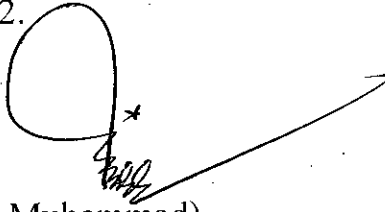
Bench is incomplete, therefore, case is adjourned to 27.10.2022 for the same as before.


Reader

27.10.2022

Learned counsel for the appellant present. Mr. Raziq, H.C alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General 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 before the D.B on 23.11.2022.



(Mian Muhammad)
Member (E)





(Salah-ud-Din)
Member (J)

23rd Nov. 2022

Appellant present in person. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Appellant seeks adjournment due to non-availability of his learned counsel. Last opportunity is granted subject to payment of cost of Rs. 20000/- (Rs. Twenty Thousand only). To come up for arguments on 30.01.2023 before the DB


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

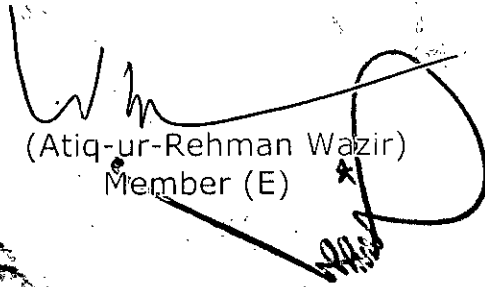
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KPST
Peshawar

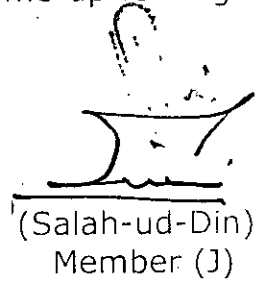
SCANNED
KPST
Peshawar

15.12.2021

Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Connected Service Appeal bearing No. 456/2017 has been adjourned for 17.02.2022, therefore, to come up for arguments before the D.B on 17.02.2022.


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


(Salah-ud-Din)
Member (J)

17-2-22

*Due to Retirement of the Hon.ble Chairman
the case is adjourned to come up for
the same as before on 9-6-22*

Reader

09.06.2022

Appellant in person present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments on 30.08.2022 before the D.B.


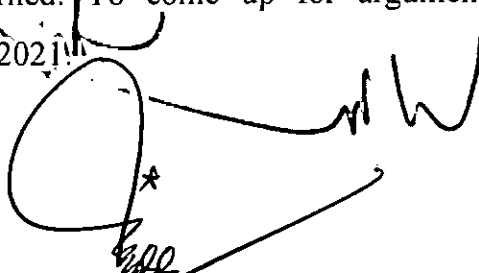

(Fareeha Paul)
Member (E)



(Salah-ud-Din)
Member (J)

26.05.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant sought adjournment on the ground that he is proceeded to august Peshawar High Court, Peshawar for appearance in a case. Adjourned. To come up for arguments before D.B on 06.08.2021.



(Mian Muhammad)
Member (E)

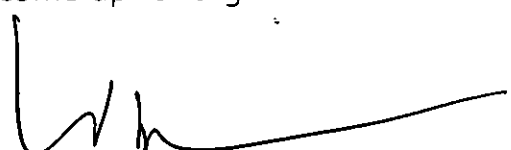

(Salah Ud Din)
Member (J)

06.08.2021

Junior to counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

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

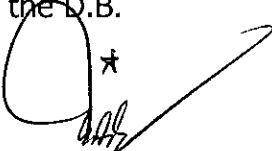

(Atiq-Ur-Rehman Wazir)
Member (E)

(Rozina Rehman)
Member (J)

24.11.2020

Counsel for the appellant and Zara Tajwar, DDA for the respondents present.

Learned counsel states that the criminal case forming basis for penalty against the appellant is yet to conclude. Requests for adjournment. Adjourned to 15.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

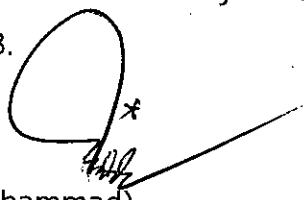
15.02.2021

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel states that criminal case against the appellant has not yet been concluded. He, therefore, requests for adjournment.

Learned AAG seriously objects to the adjournment sought and states that the criminal proceedings and proceedings under the service laws can be conducted independently of each other.


The objection of learned AAG appears to be reasonable. We, therefore, adjourned proceedings not on the ground agitated by learned counsel but due to his request for time to further prepare the brief. Adjourned to 26.05.2021 for hearing before the D.B.



(Mian Muhammad)
Member(E)


Chairman


16.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 16.07.2020 before D.B.



Reader



16.07.2020


Counsel for appellant present.



Mr. Muhammad Jan learned Deputy District Attorney alongwith Muhammad Raziq H.C for respondents present.

Learned counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 03.09.2020 before D.B.



(Attiq ur Rehman)
Member (E)



(Rozina Rehman)
Member (J)

03.09.2020


Mr. Muhammad Jan learned Deputy District Attorney present for respondents.

Appellant is absent however, Mr. Taimur Ali Khan Advocate attended the court on his behalf with a request for adjournment. Last chance is given. To come up for arguments on 24.11.2020 before D.B.


(Attiq ur Rehman)
Member (E)


(Rozina Rehman)
Member (J)

30.12.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up arguments on 19.02.2020 before D.B.

AS
AS

MA

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

AS

19.02.2020

~~Learned counsel for the appellant present. Asst. AG alongwith Mr. M. Raziq, H.C for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments of the respondents on 16.04.2020 before D.B.~~

AS

Member

Member

MA

19.02.2020

Learned counsel for the appellant present. Asst. AG alongwith Mr. M. Raziq, H.C for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned To come up for arguments on 16.04.2020 before D.B.

AS

MA

AS
Member

MA
Member

MA

14.05.2019 Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Raziq H.C for the respondents present. Due to leave of the worthy Chairman the case is adjourned to 25.07.2019 for arguments before D.B.



(Hussain Shah)
Member


25.07.2019 Mr. Taimur Ali Khan, Advocate for appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 21.10.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

21.10.2019 Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present Adjourned. To come up for arguments on 30.12.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak Learned Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.11.2018 before D.B



(Hussain Shah)
Member



(Muhammad Hamid Mughal)
Member

06.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 26.12.2018 before D.B.



Recorder

26.12.2018

Mr. Taimur Ali Advocate junior to Mr. Muhammad Asif Yousafzai, Advocate for appellant and Mr. Muhammad Riaz Painsa Khel, Asstt. AG for the respondents present.

Requests for adjournment due to non-availability of learned senior counsel for the appellant. Adjourned to 26.02.2019 for arguments before the D.B.



Member



Chairman

26.02.2019

Syed Numan Bokhari, Advocate for appellant and Mr. Muhammad Riaz Painsa Khel, Asstt. AG for the respondents present.

Learned counsel for the appellant requests for adjournment due to non-availability of learned senior counsel for the appellant. Adjourned to 14.05.2019 before the D.B.



Member

Chairman

08.01.2018

Counsel for the appellant and Addl : AG for respondents present. Rejoinder on behalf of the appellant submitted which is placed on file. Adjourned. To come up for arguments on 07.3.2018 before D.B.




(Ahmad Hassan)
Member(E)


(M. Hamid Mughal)
Member (J)

07.03.2018

Junior counsel for the appellant and Mr. Riaz Ahmed Painsa Kheil, Assistant AG for the respondents present. Junior counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 08.05.2018 before D.B.


(Muhammad Hamid Mughal)
Member


(Muhammad Amin Khan Kundi)
Member

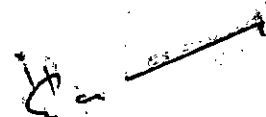
08.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 23.07.2018


READER

23.07.2018

Appellant absent. Learned counsel for the appellant is also absent. However, junior counsel for the appellant present and requested for adjournment. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Adjourned. To come up for arguments on 13.09.2018 before D.B.


Member

11/8/2017

Clerk of counsel for the appellant Mr. Kabirullah Khattak, Assistant AG for the respondents present. Written reply not submitted on behalf of the respondents and learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 20/9/2017 before SB.

MA

[Signature]

[Signature]
(GUL ZEB KHAN)
MEMBER

20.09.2017

Clerk to counsel for the appellant and Addl. AG alongwith Mr. Muhammad Raziq, H.C for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 26.10.2017 before S.B.

[Signature]

[Signature]
(Ahmad Hassan)
Member

26.10.2017

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Aziz Shah, Reader for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for written reply/comments on 08.01.2018 before D.B.

MA

[Signature]
(Muhammad Amin Khan Kundi)
Member

(GUL ZEB KHAN)
MEMBER

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Assistant AG for the respondents present. Written reply not submitted on behalf of the respondents and learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 20/9/2017 before SB.

20/9/2017

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 2006. 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.

Appellant Deposit:
Security & Process Fee

Points urged need consideration. Admit. Subject 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

Counsel for the appellant present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Written reply by respondents not submitted. Learned Assistant AG requested for adjournment. Adjourned. To come up for written reply/comments on 11.08.2017 before S.B.

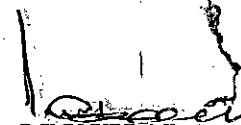


(Muhammad Amin Khan Kundi)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 460/2017

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/05/2017	<p>The appeal of Mr. Asghar Khan presented today by Mr. Muhammad Asif Yousafzai 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 15/5/17</p>
2-	18-5-2017	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-05-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 460 /2017

Asghar Khan

V/S

Police Deptt:

M

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S.no.	Documents	Annexure	Page
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3.	Copy of Statement of allegation	B	6
4.	Copy of reply to charge sheet	C	07-08
4.	Copy of Inquiry report	D	09-11
5.	Copy of Show Cause Notice	E	12
6.	Copy of reply to show cause notice	F	13
7.	Copy of dismissal order	G	14
8.	Copy of Departmental Appeal	H	15
9.	Copy of Rejection Order	I	16
10	Copy of javed reply to charge sheet	J	17-18
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APPELLANT

THROUGH:

M. Asif Yousafzai
M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT),

Taimur Ali Khan
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

S. Noman Ali Bukhri
S. NOMAN ALI BUKHRI
(ADVOCATE PESHAWAR).

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

APPEAL NO. _____/2017

Asghar Khan, Ex-Constable No.5503,
Police Line, Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital City Police officer, Peshawar.
3. The Superintendent of Police Head Quarter, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 20.04.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AGAINST THE ORDER DATED 24.02.2017 WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED UPON APPELLANT.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 20.04.2017 AND 24.02.2017 MAY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed in as Constable in 2006 in the Police Deptt: and completed his due training etc and also has good service record throughout.
2. That charge sheet and statement of allegations were issued to the appellant in which following charges were leveled against the appellant that, "*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.*" The appellant submit detail reply to charge sheet and clarified that accused after discharge from Hospital whispered with HC Javid who was guard commander and then they along with accused went to the restaurant at Town and after taking meal javid took the accused to Karkhano Market and he was waiting for them in Hotel and having no role in the escape of accused being subordinate. **(copies of charge sheet and statement of allegations and reply to charge sheet are attached as Annexure-A,B&C)**
3. That inquiry was conducted against the appellant in which no proper opportunity of defence was provided to the appellant. No statement was recorded in the presence of the appellant nor the appellant has given chance of cross examination of the witnesses, but despite that the inquiry officer held him responsible. **(copy of inquiry report is attached is Annexure-D)**
4. That show cause notice was served to the appellant which was properly replied by the appellant in which he again denied all the allegations and clear the situation about the escape of accused. **(Copy of show cause notice and reply to chow cause notice are attached s Annexure-E&F)**

5. That penalty of dismissal from service was imposed upon the appellant vide order dated 24.02.2014 against which the appellant filed departmental appeal which was also rejected on 20.4.2017 for no good grounds. **(Copies of dismissal order ; departmental appeal and rejection order are attached s Annéxure-G,H&I)**
6. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUNDS:

- A) That the impugned orders dated 20.04.2017 and 24.02.2017 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the inquiry proceeding was not conducted according to the prescribed procedure as the appellant was not provided proper chance of defence, neither any statement of witnesses was recorded in the presence of appellant nor any chance of cross examine of the witnesses was provided to the appellant, which is clear violation of the law, rules and inquiry proceeding.
- C) That in the reply of charge sheet as well as in his statement before the inquiry officer the appellant clarified that accused after discharge from Hospital whispered with HC Javed who was guard commander and then they along with accused went to the restaurant at Town and after taking meal Javed took the accused to Karkhano Market and he was waiting for them in Hotel and having no role in the escape of accused being subordinate. But despite that the inquiry officer held him responsible and was dismissed from service for fault of others.
(Copy of javed reply to charge sheet is attached as Annexure-J)
- D) That HC Javed Khan himself admitted in his reply to charge sheet that the appellant (Asghar Khan) was not present with him when the accused was escape which means that the appellant has no role in the escape of accused and has been punished for no fault on his part.
(Copy of javed reply to charge sheet is attached as Annexure-J)
- E) That the penalty of dismissal from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.

- F) That the appellant has not been treated according to law and rules as no chance of personal hearing was provided to the appellant which means that the appellant has been condemned unheard.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT

Asghar Khan

THROUGH:

M. Asif Yousafzai
M.ASIF YOUSAFZAI

(ADVOCATE SUPREME COURT),

Taimur Ali Khan
TAIMUR ALI KHAN

(ADVOCATE HIGH COURT)

S. Noman Ali Bukhri
&

S. NOMAN ALI BUKHRI

(ADVOCATE PESHAWAR).

A (5)

(12)

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

ATTESTED

B (6)
13

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 have rendered themselves liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"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 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 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. All this amounts to gross misconduct on their parts and against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and _____ SP City _____ is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

PA
All the accused officials to appear before undersigned by 27-12-016

Basem
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

1100 Ms. No. 295 /E/PA, dated Peshawar the 23-12- /2016

1 SP/city is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

ATTESTED

سہارا چم شہید

عالیٰ حضرت سہارا چم شہید سب جو التزام تھے پھر عائد

کیا گیا ہے اسکی ضمانت کی جا تے

① معوضہ 2222 کر تھے لوہی سہارا سے LRU کو لوئی کے لئے

بھجوا دیا گیا اور سب ایسی حاضر تھا جو وہ خانہ گاؤں کا نڈر کو روئے

② مرنے والے کو ملزم حکیم ام سید صاحبہ کا پسر مہدی مہدی۔ متبادل

کی سہارا چم کیا گیا

③ ملزم نے جاوید خان سے لڑائی ہاتھ کی اور ہم یعنی میں

جاوید خان اور ملزم کھانے کے لئے آؤں گے؟

④ کھانے کے بعد شیخ جاوید خان گاؤں کا نڈر نے بیوٹل سب

دستکار کرتے کانہہ کر خود ملزم کو سہارا لے کر کارخانہ جاوید

⑤ تقریباً سب نے گئے اسٹار کے اور وہی جاوید خان آنا تو

سب بیوٹل ہی تھا۔ ملزم ملزم اس کے حق میں لگا

⑥ شیخ جاوید خان / گاؤں کا نڈر سہارا لے کر پورے شہر پر آئے

صباح میں جاوید خان نے کہا کہ ملزم گاؤں سب اسٹار کر کے

⑦ ملک جیب آئے تو وہ تو مدرسہ تھا اور نہ ہی گاڑی

⑧ ہم پھر ادھر ادھر تشریح کرتے رہے مگر کچھ نہ ملے

⑨ اسٹار لوہی نے آئے تو وہی صاحبہ جاوید خان / گاؤں کا نڈر

ہو گیا اور سہارا چم لیا۔ جو ہم کو سہارا چم لیا تھا

⑩ آئے اور سہارا چم لیا۔ جو ہم کو سہارا چم لیا تھا

ATTESTED

بمقامت سیکرٹری جنرل مدینہ منورہ

10 ملزم کی اس طرح فراہم کیے گئے ہیں۔
سہولتوں کے ساتھ ساتھ ملزم کے لیے

کارخانہ فراہم کیا گیا۔ اور حسب پدایت کارخانہ
میں داخل کیا گیا۔

11 دیپ جاوید خان و امین تقریباً 3 گھنٹے بعد آیا۔ تو ملزم کے ساتھ
میں گیا۔

12 میرا مددیت ہی میں 2006 سے شروع
اور تقریباً 10 سال پہلے کہ مددیت میں

ملزم کے قریب میرا کوئی مقرب نہیں ہے
میں اسی روز جن دن ملزم قرار ہوا
اور میں نے پوچھا کہ آیا میرا
میرا اس وقت میرا ہی کی روشنی میں
میں نے کہا کہ میرا ہی

25/03
سید علی حسین
[Signature]

ATTESTED



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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, 10 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 namely 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 state

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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 full 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?

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 u/s 365/376 admitted at LRH Peshawar alongwith FC Asghar No. 5503, Akhtar Ali No. 2980 and Ashfaq No. 4176.

ATTESTED

- (11)
- 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

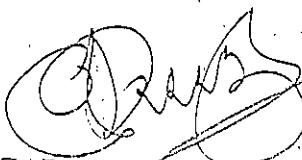
The defense chance was given accordingly but didn't avail.

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 KAUKAB FAROOQ)
SUPERINTENDENT OF POLICE,
CITY, CCP, PESHAWAR

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FINAL SHOW CAUSE NOTICE

(34)

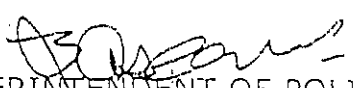
I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, HC Javed No.1803, FC Asghar No.5503, FC Akhtar Ali No.2980 & FC Ashfaq No.4176 the final show cause notice.

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/11/PA, SP/HQrs: dated Peshawar the 09/12 /2017.

Copy to official concerned.

جوہر فائل شوکار ٹولس معروض خدمت میں کہ جس میں سائل نے جو بنیاد
چارچہ پیش کیا اور دیکھو کہ اس کو دیکھا ہے میں اسے نہیں دیکھا
میں مگر سائل اس میں بے گناہ ہے اور سائل کو معلوم نہ تھا اور
سائل کا عمل اس وقت سے سائل کو معلوم نہ تھا اور میں کچھ
نہ سمجھتی تھی اور پھر اس کی وجہ سے یہ ہو گیا ہے سائل کی
دشمنی سے اور یہ سائل سے پہلے بار بار زد ہو رہے ہیں۔ سائل
معاذی اللہ خواہتا ہوں کہ یہ اور معافی دی جائے

گفتہ آج صبح میں نے خدمت میں لایم جو اب فائل
شوکار ٹولس کے بارے میں سائل کو ایک موقع پر
معاذی اللہ کہا اور دیکھو کہ اس فائل کے ساتھ ساتھ
ٹولز میں بھی ہے

العارض
امریکا ایجوکیشنل ایجنسی 5553
پو ایس ایس ایس ایس

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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 gult 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 recommended 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.

EL (42)


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.

ATTESTED

درخت چٹا سی سی پی او ما چٹا لٹا

اپیل
اپیل

اپیل حکم جاریہ ذیل SP/400 کے تحت جوائن نمبر 882

24/7 سے 964-70-70 کیجی رہی ہے
PA/SP

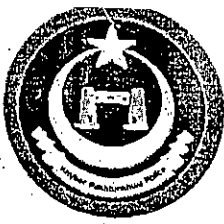
- ① تادم حکم برائے ہی سخت قسم کا حکم
توہ الماف سے تقاضوں کو پورا نہیں کرتا
- ② ہارے حاروت اور گھریلو مسائل کو مدنظر رکھ کر
نظر ثانی کریں
- ③ سیریا ٹیوی ایک فائبر کی طرح تھی جو ایک ڈسین
فوریس میں حکم عدالتی کا سوال ہی پیدا نہیں ہوتا
- ④ تھے کیا علم تھا کہ تھے کہاں بے جایا جا رہے
انگریز حکم کی تعمیل نہ کرتا۔ ردیے
حرف مزید کارروائی میں کما تدر کر سکتا تھا
- ⑤ میں کوئی بددیانتی نہیں کی اور میری کوئی رشتہ
اور نہ ہی حکم کو عدالت کی

میں اپیل پر غور فرما کر تھے حال مختار ہوا ہے
میں غریب ہوں اور ایسی روزگار کی بناء پر
زندگی گزار رہے تھے

سید دعائیس درو

سالقہ کیسٹل انسور 5503
AS

ATTESTED



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

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

ORDER

This order will dispose off departmental appeals preferred by ex-Constable Asghar Khan No. 5503 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 HC Javed No.1803 and constables 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-FC Asghar Khan No. 5503 and HC Javed Khan No.1803 for award of major punishment whereas constable Ashfaq No. 4176 and Akhter 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 HC Javed Khan No. 1803 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) SP
CAPITAL CITY POLICE OFFICER,
20.4 PESHAWAR

No. 711-16 /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.

ATTESTED

جاویر - HC

جوایا پارٹیشن

عنوان: جارحیت

1

تجاویلی مشمولہ جارحیت ٹیٹ جاویر - 58 ماہ لٹیاور
4000

جو انضمام لہجہ پر عائد کیا گیا ہے۔ اسکی تصفیہ جوایا
ذیل میں دیا جا رہا ہے۔

- 1 میرا مدت مدامت سال 1997 تا 1998
- 2 بمرق سبکدوشی تقریباً 17/18 سال مکمل ہو رہے ہیں
- 3 تعلیم یافتہ بیل اور تربیت یافتہ بیل
- 4 میں نے اس دوران سیکشن لائڈ ہاؤس کیا
- 5 میں لہجہ گارد لائڈ ہاؤس امیز کیس 5503 کے

docs 2009

Free

45000/=

35000/=

اور ڈوکنڈہ افسر علی 2980. اشتاق 4176

LRH میں ملزم وزیر دراست / وزیر عدج کے جوہر مجسم

3650	تعمیراتی
176	اس میں ملزم

5 موعہ کو اس ملزم کو LRH سے ڈسپاچ کر دیا گیا

6 کسے افسر علی 2980 اشتاق 4176 ورنوں کسے کو

2012	2016
2012	2016

7 امیز 5503 موعہ 22-12-2016 کو پولیس لائن سے ڈیول برارے گارڈ

8 موعہ 22-12-2016 کو ملزم کو ڈسپاچ کر دیا گیا

9 میں ملزم کو وزیر دراست کے لکھرا امیز کیس سے ڈسپاچ کر دیا گیا

اور اسے بجائے جیل داخل کرنے ملزم کے خواہش پر کانا کھانے کی

عزمتے لائن دے گیا اور لیدر سٹ ننگ کی عزمت سے

کارہانو مارکیٹ کے

AT-TESTED

15) کارخانہ مارکیٹ جاؤنت کسٹن اموں دہر کو بول سے ضرور دیا

اور میں خود امدت م فرارندہ کے پیگے لے دے گا

11) جب کارخانہ میں اڈن بواڈ اور میں اگس کسٹنم جہانگیر آباد میں

2

ملزم آیا۔ تو ٹیکسی میں اترا اور اموں کسٹن سے لے

اسکو بدلنے کے لئے خرید گیا اور ملزم کو ٹیکسی گاڑی میں
تھوڑا

12) جب واپس آیا۔ تو اموں کسٹن بھی میرے ساتھ آیا۔ تو دیکھا کہ

مہ تو ملزم موجود تھا اور وہی ٹیکسی کا ڈرائیور موجود تھا۔

13) ہم دونوں ایک لیدر اصرادھرندش کرتے رہے۔ ملزم نے سورا اور اصرادھر

پولیس لائن آکر لائن انیڈا جانے اترا اور 22 مہیارا زمین مکان زمین سے

وہ ب کو جیلہ واجہا تہاے۔

14) ملزم نے ذرا دیکھا اسکو پتہ چلا کہ میں لگاؤ نہیں۔

15) سبہ رات اوتار میں شہنشاہ کے گدا گیا کسٹنم مدح بہ کسٹنم دونوں کو

گتیار کرتے جس سے پورا اندھیل میں ہی بیوم گتیارا اور کسٹنم بھارت بہ کسٹن
سور رات میں

16) یہ گفتگو کے حادثہ سے۔ کسٹن اموں دہر کو بول سے لے آیا گیا

اسے ملزم کے قرار پورے وقت کسٹن اموں دہر کو بول سے لے آیا گیا۔

میں سادہ سادہ کو دیکھے میرے ہر عملی قبو سے سرزد ہو چکے ہیں

تعمیر کا حوالہ
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19803 مال معطل ہونے لگتا اور
11
سائن حیدر بیضان
Javed

ATTESTED

VAKALAT NAMA

NO. _____/20

IN THE COURT OF 1st Pak Service Tribunal Peshawar

Asghar Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt. (Respondent)
(Defendant)

I/we Asghar Khan

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Asghar Khan
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

Taimur Ali Khan
Eyed. M. Asif Yousafzai

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

Service Appeal No.460/2017

Asghar Khan Ex-Constable No. 5503 CCP, Peshawar.....Appellant.

Versus

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. 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 incorrect. The appellant along with H.C Javid and other two constables were deputed for escort duty of prisoner Syed Ali shah Bukhari charge 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 H.C Javid (guard commander) 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 totally incorrect. In fact proper departmental enquiry was conducted against him by SP/City. 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. The appellant was given full opportunity of cross examination. And also recorded the statement in the presence of the appellant. All codal formalities were fulfilled.

(4) Para No. 4 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.

(5) Para No. 5 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.

(6) The appeal of appellant being devoid of merits may kindly be dismissed on the following grounds.

GROUND:-

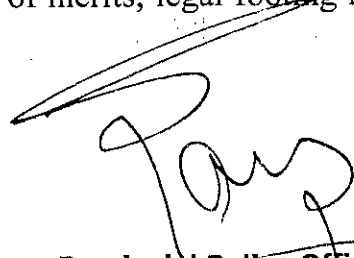
- A. Incorrect. The punishment orders are in accordance with Law/Rules, hence liable to be upheld.
- B. Incorrect. Proper departmental enquiry was conducted against him and the enquiry officer in his enquiry report held responsible both the delinquent officials, hence the competent authority awarded him major punishment of dismissal from service. The appellant was heard in person in Orderly Room on 19.04.2017. He was provided opportunity to defend himself, but he failed to produce any cogent reasons in his favour.
- C. Incorrect. The allegations leveled against him were stand proved. Hence he was awarded major punishment of dismissal from service.
- D. Incorrect. Para already explained in detail in above paras.
- E. Incorrect. The punishment orders are accordance with law and rules, and no provision of law has been violated.
- F. Incorrect. The appellant was treated as per law and rules and was provided full opportunity to defend himself but he failed to satisfy the competent authority. The appellant was called and heard in person in

Orderly Room on 19.04.2017, And after fulfilling all codal formalities he was awarded major punishment of dismissal from service.

G. That respondents also seek permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

PRAYERS:-

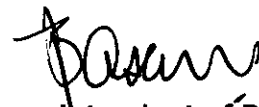
It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer
Peshawar.**



**Superintendent of Police,
HQrs, Peshawar.**

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

Service Appeal No.460/2017


Asghar Khan Ex-Constable No. 5503 CCP, Peshawar.....Appellant.


Versus

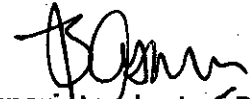
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police HQrs, Peshawar.....Respondents.

AFFIDAVIT

We respondents No. 1 ,2 and 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.**

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

Service Appeal No. 460/2017

Asghar Khan

VS

Police Deptt:

.....
REJOINDER ON BEHALF OF APPELLANT
.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Para-1 of the appeal is admitted correct by the respondent deptt: as service record is already in the custody of the respondent deptt:.
- 2 Incorrect while para-2 of the appeal is correct as mentioned in the main appeal of the appellant.
- 3 Incorrect while para-3 of the appeal is correct as mentioned in the main appeal of the appellant.
- 4 Incorrect while para-4 of the appeal is correct as mentioned in the main appeal of the appellant.
- 5 Incorrect while para-5 of the appeal is correct as mentioned in the main appeal of the appellant. The departmental appeal of the appellant was rejected for no good grounds.
- 6 Incorrect. The appeal of the appellant was may be accepted on following grounds.

GROUND:


- A) Incorrect. While Para-A of the ground of appeal is correct as mentioned in the main appeal of the appellant.

- B) Incorrect. While Para-B of the ground of appeal is correct as mentioned in the main appeal of the appellant..
- C) Incorrect. While Para-C of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While Para-D of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. While Para-E of the ground of appeal is correct as mentioned in the main appeal of the appellant..
- F) Incorrect. While Para-F of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- G) Legal.

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

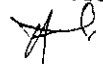
APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

AFFIDAVIT

It is affirmed and declared that the contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.



DEPONENT

ATTESTED

