

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Hidayatullah v/s

Govt of KP

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly pagged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Ashraf Ali KTK

Signature: [Signature]

Dated: 26/25

**BEFOR THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Amended Service Appeal No. 3439/2021

In

SERVICE APPEAL No. 3439/2021

Hidayat Ullah
Constable No.881,
Police Force, Kohat.

..... Appellant

Versus

The Regional Police Officer,
Kohat Region Kohat and others

..... Respondents

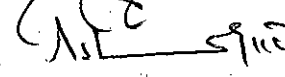
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5.	Copy of judgment of this Hon'ble Tribunal dated 17-01-2022		D	17-20
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Petitioner

Through


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated 6 /06/2023

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**BEFOR THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

AMENDED SERVICE APPEAL NO. 3439/2021

IN

~~SERVICE APPEAL NO. 3139/2021~~

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5951

Dated 13/6/2023

Hidayat Ullah
Constable No.881,
Police Force, Kohat.

..... Appellant

Versus

1. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer,
Kohat Region Kohat.
3. The District Police Officer,
Kohat.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned Final order of the respondent No.1 dated 22-02-2022, impugned order End: No.1600/EC, dated Kohat the 04-02-2021 of respondent No.2, wherein he rejected the departmental appeal of the appellant preferred against the order passed by respondent No.2 vide OB No.823 dated 24-11-2020 of respondent No.3, wherein he awarded minor punishment of censure and the intervening period was treated as unauthorized leave.

Prayer in Appeal:-

2/1

On acceptance of the instant service appeal, this Hon'ble Tribunal may graciously be pleased to:-

- 1. Declare the impugned orders of the respondent No.1 dated 22-02-2022, impugned order of respondent No.2 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.3 vide OB No.823 dated 24-11-2020 as illegal, unlawful and without lawful authority;**
- 2. Set aside all the impugned orders and re-instate the appellant with all back benefits including the counting of intervening period as period on active duty.**
- 3. Any other relief deemed appropriate in the circumstances of the case not specifically asked for may also be graciously granted.**

Respectfully Sheweth,

The concise facts giving rise to the present Service Appeal are as under:-

1. That appellant is the employee of police force, Kohat. He has long service standing at his credit. He has been awarded numerous Commendation Certificates for his extra ordinary and brave services beyond the call of his duty (**Annexure-A**).
2. That appellant was proceeded against departmentally for certain false allegations and was awarded punishment with confinement in quarter guard for fifteen (15) days vide Naqlemad No. 15 dated 10-10-2019 (**Annexure-B**).
3. That it is pertinent to bring into the notice of this Hon'ble Tribunal that appellant was proceeded twice on the same set of allegations and was awarded penalty of (i) Reduction from higher stage to Lower stage in the same time scale of pay for a period of three years vide order dated 26-02-2019 and (ii) Reduction in rank from the substantive rank of LHC to the rank of Foot Constable vide order OB No. 1249 dated 17-10-2019 and that too during confinement period (**Annexure-C**).
4. That being aggrieved from the aforesaid cited orders, appellant filed departmental appeal before respondent No.1 which was not decided within statutory period therefore, appellant filed service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal which has now been decided vide order / judgment dated 17-01-2022 (**Annexure-D**)

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5. That respondent No.2 again forced the appellant to undergo departmental proceedings on the same set of allegations and after slipshod summary proceedings awarded appellant major penalty of dismissal from service vide DPO Kohat Order OB No. 1392 dated 04-11-2019 (**Annexure-E**).
 6. That being aggrieved from the order cited above; appellant submitted departmental appeal before respondent No.1 but the same was also rejected vide order No. 2662 dated 18-02-2020 (**Annexure-F**).
 7. That being aggrieved from the order No. 2662 dated 18-02-2020 of the worthy respondent No.1, appellant preferred revision petition before the worthy Inspector General, Khyber Pakhtunkhwa under rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975.
 8. That respondent No.1 (worthy Inspector General, Khyber Pakhtunkhwa) placed the revision petition before the Revision Board and after examining the facts and circumstances of appellant's case reached to the conclusion that appellant is innocent and the charges leveled against him are totally baseless therefore, appellant was reinstated vide order No. S/3335-3341/20 dated 11-08-2020, however, the competent authority was directed to conduct proper regular inquiry and decide the matter afresh on the basis of denovo proceedings (**Annexure-G**).
 9. That in pursuance of the order of the worthy Addl. Inspector General, Khyber Pakhtunkhwa appellant was reinstated for the purpose of denovo inquiry vide order dated 25-08-2020. Appellant assumed his charge of duties on 27-08-2020.
 10. That the competent authority in pursuance of the afore cited order (worthy DPO, Kohat) initiated denovo proceedings and served the appellant with charge sheet and statement of allegations dated 25-08-2020.
 11. That inquiry was conducted and appellant was proved innocent of the whole of the charges.
 12. That it is pertinent to mention here that the worthy DPO, Kohat being not satisfied with the recommendations of the inquiry officer again appointed another inquiry officer for conducting second inquiry on the same set of allegations.
 13. That appellant was again proved innocent and the whole of the charges were declared by the inquiry officer as baseless and concocted and recommended that appellant be reinstated with all back benefits.
 14. That in spite of the recommendation of both the inquiry officers as discussed above, the worthy DPO, Kohat without serving the appellant with any sort of show cause notice upon

the appellant imposed a minor penalty of censure and warned to be careful in future vide order No. 5905-08 dated 24-11-2020. Appellant was reinstated in service and the intervening period was treated as unauthorized leave without pay (Annexure-H).

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15. That being aggrieved from the aforesaid order appellant preferred departmental appeal before the respondent No.2 (Annexure-I), which was rejected vide order dated 04-02-2021 (Annexure-J).
16. That appellant being aggrieved of the both the impugned orders of respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.2 vide OB No.823 dated 24-11-2020 filed service appeal No.3439/2021(Annexure-K).
17. That appellant had also filed Revision Petition before Respondent No.1 under section 11C of the Police Rule, 1975, which has been decided vide order dated 22-02-2022 (Annexure-L) during the pendency of the service appeal and not communicated to the appellant and the respondent has annexed the same with their reply.

Grounds:

- A. That the penal authority has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Moreover the act of the respondents amounts to exploitations, which is the violation of Article 3 of the Constitution, 1973. Appellant has been subjected to continuous harassment. He was subjected to undergo continuous departmental proceedings on the same subject matter. Appellant was exonerated by two consecutive inquiries from all the charges leveled against him, but the penal authority ignored the recommendations of the inquiry officer and awarded punishment to the extent of Censure and treating the interval period in between the dismissal and reinstatement as leave without pay and whereas vide order dated 22-02-2022 in Revision Petition, the same has been treated as leave of the kind due, if any on his credit, which has caused huge financial loss to the appellant.
- B. That appellant has been subjected to numerous continuous departmental inquiries on the same set of accusation which is against the well known principle of law "Double Jeopardy" and against the spirit and provision of Article 13 of the Constitution of Pakistan, 1973.
- C. That section 16 of the Civil Servant Act, 1973 provide that every civil servant is liable for prescribed disciplinary action in accordance with prescribed procedure. In the instant case


no prescribed procedure has been adopted therefore, the impugned penal order is nullity in the eye of law and liable to be set aside.

- D. That number of departmental inquiries were conducted by the respondents, but prosecution failed to bring an iota of evidence against the appellant to substantiate their baseless accusation/allegations even in spite of the fact that appellant was not associated with inquiry proceedings and even was not confronted with accusation. Final show cause was not served and no inquiry report was provided, which is mandatory in nature and spirit and the denial thereof is the denial of justice, fair play and equity.
- E. That appellant has been condemned unheard being deprived of the right personal hearing.
- F. Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]..... Unless and until prosecution proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].
- G. That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.
- H. That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).
- I. That the penal order is not a speaking order for the reason that no solid and legal grounds have been given by the penal authority in support of his penal order. On this score the impugned order is liable to be set aside.

- 6/1
- J. That as per proviso of section 17 of the Civil Servant Act, 1973, the penal authority while set aside the order of dismissal or removal are under legal obligation to award the delinquent official back benefits for the period a civil servant remained out of service, but the penal authority ignored the mandatory provision of law and not only denied the arrears of pay but also treated the interval period in between the dismissal and re instatement as leave without pay and that too without the support of any legal reason.
- K. That appellant would like to seek the permission of Your Kind Honour for award of personal hearing. Appellant may kindly be granted the opportunity of personal hearing.


Appellant

Through


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated: 6/6/2023

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BEFOR THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SERVICE APPEAL No. _____/2021

Hidayat Ullah
Constable No.881,
Police Force, Kohat..... **Appellant**

Versus

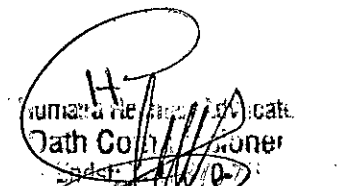
1. The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
2. **The** Regional Police Officer,
Kohat Region Kohat.
3. **The** District Police Officer,
Kohat.

.....**Respondents**

AFFIDAVIT

I, **Hidayat Ullah** Constable No.881, Police Force, Kohat , do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.


Deponent


Oath Commissioner
6-6-23

Anx-A
8

DISTRICT KOHAT POLICE



Attest
[Signature]

Commendation Certificate III
is awarded to

LHC Hidayat Ullah No.881

In recognition of

For his good performance in case FIR No. 358 dated 18-03-2019

u/s 302 PS City with cash reward of Rs. 300/-

O.B. No. 421

Dated 03-04-2019

D. DOWOHAT
District Police Officer
Kohat

~~Attest~~

Attest
[Signature]

19

9

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

LtAC Hidayat Ullah No. 881

In recognition of

Good performance in case FIR NO. 918
dt. 25-12-2017 U/s 506/365/511/34 PPC P. M.R.C

Cash Reward Rs. 500/-

O.B. No. 41

Dated 9.1.18.

Mujib ul
District Police Officer
District Police Officer

ATC 45

101

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

Handwritten signature and notes in the right margin.

LFC Hidayat Ullah No. 881

In recognition of

His performance during Duty

Cash Reward Rs. 300/-

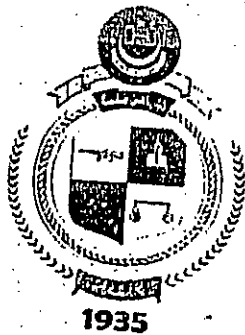
O.B. No. 1126

Dated 12-12-2013

District Police Officer
Kohat

Handwritten signature at the bottom center.

POLICE TRAINING COLLEGE HANGU



Commendation Certificate II

is awarded to

Hadayatullah 881 of Lower Course with Cash Rs. 300/-

in recognition of

His good performance of duty

Dated: 27-08-2012

Order Book No. 714

Commandant
Police Training College Hangu

24

(12) (12)

12

DISTRICT KOHAT POLICE



Commendation Certificate III
is awarded to

[Handwritten signature]

LHC Hidayat Ullah No. 851

In recognition of

His performance during duty

Cash reward Rs. 300/-

O.B No. 1126

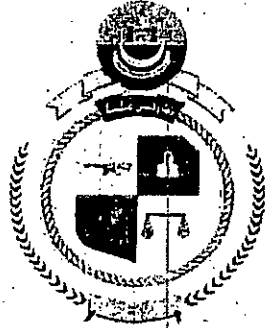
Dated 1-12-19

District Police Officer
Kohat

ACC
AS

13/

POLICE TRAINING COLLEGE HANGU



1935

Commendation Certificate II

is awarded to

Mohiyatullah B.S. of Law Course with Cash Rs. 300

in recognition of

His good performance of duty

Dated: 27-08-2012
Order Book No. 714


Commandant
Police Training College Hangu

Abc
J

[Signature]

پہلے 3 آگے

15 جولائی 3
10/19

14

اند اطلاع ASI/Lo حوالہ 10/19 قندہ 18:30 کے اس وقت
ایئر ٹرینٹا ہدین نے بندرگاہ سرکاری خون اطلاع دی۔ حسب اطلاع
DPO۔ حسب ہدایت (اللہ) کو بندرگاہ کو کمانڈر مجاہد 15/15
کرو۔ اطلاع دینے اور تازہ ہو کر عمل درپیش ہے۔

10/19

تفصیلی اطلاع

AMT - Line - MT

10 - 10 - 19

10 - 10 - 19

Sir
Formor das

[Signature]

ASI/Lo - Line - MT

10 - 10 - 19

ABC
[Signature]

[Signature]



ANX-C

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

ORDER

This order is passed on the departmental enquiry (summary proceedings) against LHC Hidayat Ullah No. 881, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that it has been noticed through reliable source / secret information that LHC Hidayat Ullah No. 881, indulged himself in the following:-

- i. Extra departmental activities.
- ii. Miss-use of his authorities for personal gain.
- iii. Not paying due attention to his legal obligations/ responsibilities.
- iv. Ill-reputed as per source.

The defaulter official was served with Show Cause Notice, to which he submitted reply and found un-satisfactory.

The defaulter official was called in O.R on 25.02.2019 and apprised about his misconduct. He was heard in person, but failed to advance any plausible explanation

I have gone through the record, which transpires that the defaulter official, has earned 16 bad entries in his credit, including punishments awarded to him on the charges of getting illegal gratification and mal-practices. Therefore, on the available record and other source, I am satisfied that the charges leveled against the accused official are established beyond any shadow of doubt. Furthermore, he is also held guilty of charge of submitting anonymous complaints.

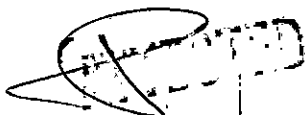
Therefore, in exercise of power conferred upon me under section 5 (2) of KP Police Rules (amendment 2014)1975, the general proceedings are dispensed with a punishment reduction from higher stage to lower stage in the same time scale of pay for the period of 03 years is imposed on accused official LHC Hidayat Ullah No. 881 with immediate effect.

Announced
25.02.2019

DISTRICT POLICE OFFICER,
KOHAT 226/2

OB No. 3000
Date 26.2 /2019

No. 162/PA dated Kohat the 30.2 2019.



Syed Mudasir Pirzada
Advocate High Court
District Courts Kohat
0345-9645854

Good
copies
are attached



16

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

ORDER

This order will dispose of departmental proceedings initiated against LHC Hidayat Ullah No. 881 (hereinafter called **accused official**) of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts of the proceedings are that it was noticed through reliable source that the accused official had links with a notorious criminal gang known as Tapoo gang Nusrat Khel. The information was confront through different source and CDR of the accused official, which was pursued and proved. Therefore the accused official was served with Show Cause Notice under the rules *ibid*. Reply submitted by the accused official received and found unsatisfactory.

No reply
asked &
submitted

The links / involvement of the accused official was also confront through secret probe, which transpires that the accused official contacted the gang and asked to pressurize the Police through different source from restricting to Police legal action against them (Gang) further proved that the accused official being member of a disciplined department supported the criminal gang in narcotics dealing for his personal gang and committed gross professional-misconduct. Therefore, the accused official is stigma on Police department.

Record gone through, which transpires that the accused official is ill-reputed, awarded different kind of punishments, but he does not minds his way and indulged himself in illegal activities. Further, the charge/allegation leveled against him has been established beyond any shadow of doubt.

Being ill-reputed and previous conduct of the accused official, I, Capt. @ Wahid Mehmood, District Police Officer, Kohat in exercise of powers conferred upon me under the rules *ibid*, dispense with general proceedings and a punishment of reversion from the rank of LHC to the substantive rank of Foot Constable is imposed on accused official Hidayat Ullah No. 881 with immediate effect. His seniority be fixed as junior most of Foot Constables of the district Police.

Announced
17.10.2019

DISTRICT POLICE OFFICER,
KOHAT
17/10

OB No. 1294
Dated 17-10-2019

No. 33067-71 /PA dated Kohat the 17-10-2019.

- 1. Copy of above for necessary action to the:-
- 2. Reader/Pay officer/SRC/OHC for necessary action
- 3. R./L.O.
- 3. Accused official

ATC

Anx-D

17

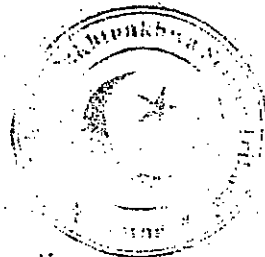
B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 647/2019

Date of Institution ... 17.05.2019

Date of Decision ... 17.01.2022



Hidayat Ullah LHC No. 881 Operation Staff Karak Police Takht-e-Nusrati.
... (Appellant)

VERSUS

Inspector General of Khyber Pakhtunkhwa Police Peshawar and others.
... (Respondents)

Ashraf Ali Khattak,
Advocate ... For Appellant

Muhammad Adeel Butt,
Additional Advocate General ... For respondents

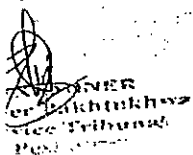
AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):- This single judgment shall dispose of the instant service appeal as well as his connected Service Appeal bearing No. 1405/2020 titled "Hidayat Ullah Versus Inspector General of Khyber Pakhtunkhwa Police Peshawar and others" as common question of law and facts are involved therein.

02. Brief facts of the case are that the appellant has impugned two adverse orders in his separate service appeals. Vide impugned order dated 26-02-2019, punishment of reduction from higher stage to lower stage in the same time scale of pay for the period of three years has been imposed upon the appellant, which was reduced to two years by the appellate authority, whereas in another case, vide impugned order dated 17-10-2019 the penalty of reversion from the rank of

TESTED



REGISTERED

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LHC to the substantive rank of Foot Constable, which was also challenged by the appellant vide his departmental appeal, which was not responded, hence the appellant filed separate service appeals with respect to both the issues with prayers that the impugned orders may be set aside and the appellant may be restored to his old position as before and the order of punishments may be set aside.

03. Learned counsel for the appellant has contended that the allegations leveled against the appellant were never practiced by the appellant and always earned good name for the department; that it is settled principle of natural justice that one should not be condemned unheard but in case of the appellant no inquiry was conducted; that punishment awarded to the appellant of time scale is neither in the list of relevant rules nor in E&D Rules; that the appellant was penalized on the basis of discreet inquiry, which is not supported by any rule or law; that the appellant was not afforded opportunity to be heard in person, hence the appellant was condemned unheard; that nothing has been proved against the appellant and the appellant was penalized on the basis of presumptions:

04. Learned Additional Advocate General for the respondents has contended that on the one hand the appellant had indulged himself in illegal activities, misused his authority for personal gains and was found ill reputed. On the other hand, the appellant was found involved having links with notorious criminal gangs, therefore he was served with showcause notice separately in both cases; that reply of the showcause notices was found un-satisfactory, hence he was awarded with the punishments from time to time but the appellant did not mend his way; that his service record is full of bad entries and he is not willing to abide by law and rule and has always displayed to be a disobedient subordinate.

05. We have heard learned counsel for the parties and have perused the record.

EXAMINED
Member-Punishment
Service Tribunal

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06. Record would suggest the appellant was awarded with major punishment of reduction in time scale for a period of three years, but regular inquiry was dispensed with and the penalty was awarded through summary proceedings, which however is illegal, as major punishment cannot be awarded through summary proceedings. It was also noted that such penalty is not available in the list of penalties in Police Rules, 1975; hence, the penalty so awarded is illegal. The second punishment of reversion from rank of LHC to the substantive ranks of Foot Constable was also awarded to the appellant through summary proceedings, which too was illegal as minor penalty can be imposed in case of summary proceeding but in the instant case, major punishment was awarded through summary proceedings, which too is illegal.


07. Keeping in view the position explained above, the instant appeal as well as the connected service appeal are accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room.

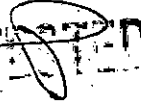
ANNOUNCED
17.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN

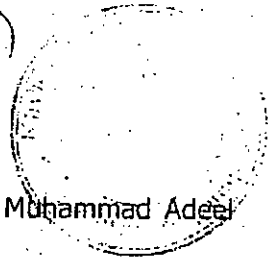

(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be true copy


F. J. DINER
Khyber Pachtunkhwa
Service Tribunal
Peshawar


ATTACHED

Appeal No. 1405/2020



10

ORDER
17.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of service appeal bearing No. 647/2019 titled "Hidayat Ullah Versus Inspector General of Khyber Pakhtunkhwa Police Peshawar and others", the instant appeal is accepted. The impugned order dated 26-02-2019 and 17-10-2019 are set aside. Respondents however are at liberty to proceed the appellant under General Proceedings by providing him appropriate opportunity of defense. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
17.01.2022

(AHMAD SULTAN TAREEN)
CHAIRMAN

(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)

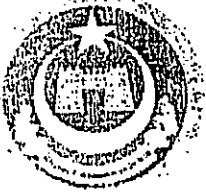
Certified in
the copy
of the
Service Tribunal,
Peshawar

ANNOUNCED

Anx - E

21

(1/5)



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

ORDER

This order is passed on the departmental enquiry (summary proceedings) against Constable Hidayat Ullah No. 881, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that his conduct is mysterious and ill-reputed. It was observed from secret source that he has contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.

ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separately.

iii. He while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.

iv. On perusal of his service record he has ill reputation, and is a stigma on Police department wherein he carrying a fig for, inspite of many violations of good order and discipline, earned worst name to the entire Police department. He is proved an official in police uniform working against the police.

For the above, serious / professional misconduct of the accused official, charge sheet alongwith statement of allegations was served upon the accused official. DSP HQrs Kohat was appointed as enquiry officer to scrutinize the conduct of accused official. The Enquiry officer vide his report established contact of accused official with criminal gang beyond any shadow of doubt and strongly recommended him for Major Punishment. The accused official was held guilty of the charges leveled against him.

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

The accused official was heard in person in Orderly Room held along DSP Hqrs at Police Lines and afforded opportunity of defense but he failed to submit any plausible explanation, have gone through the record, which transpires that the defaulter official has earned numerous bad entries in his credit, including punishments awarded to him on the charges of getting illegal gratification and mal-practices/misconduct. Previously, was charged in the above said allegations but he did not mend his way and awarded punishments. Therefore, on the available record and other source, I am satisfied that the charges leveled against the accused official are established beyond any shadow of doubt.

Atc
A.

(Signature)

22

Therefore, in exercise of powers conferred upon me under the rules I, Capt. @ Wahid Mehmood, District Police Officer, Kohat impose a major punishment of dismissal from service on absent-accused constable Hidayat Ullan No. 881 with immediate effect who is absent vide DD.No.40 dated 27/10/19. Absence period may be treated as leave without pay, Kit etc issued be collected.

Announced
01.11.2019

DISTRICT POLICE OFFICER,
KOHAT

OB No. 1372
Dated 04-11-19

No. 2208-SS /PA dated Kohat the 11 2019.

- Copy of above is submitted for favour of information to the:-
1. Regional Police Officer. Kohat please
 2. ASP Saddar Kohat is hereby directed to proceed as per law against the defaulter constable through SHO Jarma
 3. Reader/Pay officer/SRC/OHC for necessary action.
 4. R./L.O for clearance report.

Attest

DISTRICT POLICE OFFICER,
KOHAT

[Signature]

RECEIVED ... (OHL LAW)

- ① Reversion
- ② Dismissed
- ③

AK

A

ARRESTED

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23

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Hidayat Ullah No. 881 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 1392, dated 04.11.2019 whereby he was awarded major punishment of dismissal from service on the following allegations:-

- i. Conduct of the appellant was mysterious and ill-reputed which was verified from different sources and found indulged in facilitating criminals / notorious narcotics sellers / peddlers.
- ii. Audio recording with contacts and facilitating criminals has been obtained and saved separately.
- iii. During his posting at PS Shakar Dara, he misbehaved with an applicant and insulted him inside PS, video of which was also viral on social media. The same has defamed the image of Police.

He preferred an appeal to the undersigned upon which comments were obtained from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 13.02.2020. During hearing, he did not advance any plausible explanation in his defense to prove his innocence and just forwarded lame excuses.

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

Order Announced
13.02.2020

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

No. 2662 /EC, dated Kohat the 18 /2020.

Copy to District Police Officer, Kohat for information w/r to his office Letter No. 21248, dated 29.11.2019. His Service Roll & Fauji Missal / Enquiry File with Memory Card is returned herewith.

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

[Handwritten Signature]

[Handwritten Signature]



Anx-G

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24

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 3334 /20, dated Peshawar the 11/8/2020.

ORDER

This order is hereby passed to dispose of ~~Revision Petition under Rule 115A~~ of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Hidayat Ullah No. 881. The petitioner was dismissed from service by District Police Officer, Kohat vide OB No. 1392, dated 04.11.2019 on the following allegations:-

- (i) His conduct was mysterious and ill-reputed which was verified from secret source that he had contacts with criminals/notorious narcotics sellers/peddlers, and support/facilitate them in social crimes.
- (ii) Audio recording with contacts and facilitating criminals had been obtained and saved separately.
- (iii) During his posting at PS Shakardara, he misbehaved with an applicant and insulted him inside Police Station which was also viral on social media. The same has defamed the image of Police.
- (iv) On perusal of his service record he has ill reputation, and is a stigma on Police Department wherein he caring a fig for, inspite of may violations of good order and discipline, earned worst name to the entire Police Department.

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 2662/EC, dated 18.02.2020.

Meeting of Appellate Board was held on 21.07.2020 wherein petitioner was heard in person. During hearing petitioner denied the allegations leveled against him.

The Board decided that de-novo enquiry proceeding be conducted and the petitioner is hereby re-instated in service for the purpose of de-novo enquiry. The authority shall conduct proper regular enquiry and decide the matter afresh on the basis of de-novo proceedings.

This order is issued with the approval by the Competent Authority.

Sd/-

DR. ISHTIAQ AHMED, PSP/PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI 3335-3341 /20,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. One Service Roll, one Fauji Missal/Enquiry file and Memory Card of the above named FC received vide your office Memo: No. 4300/EC, dated 01.04.2020 is returned herewith for your office record.
2. District Police Officer, Kohat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(KASHIF ZULFIQAR) PSP
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

25

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.**

No. S/3334/20 dated Peshawar the 11.8.2020.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkwha Police Rule 1975 (Amended 2014) submitted by Ex FC Hidayat Ullah No.881. The petitioner was dismissed from service by District Police Officer, Kohat vide OB No.1392 dated 04.11.2019 on the following allegations:-

- (i) His conduct was mysterious and ill reputed which was verified from secret source that he had contacts with criminals/ notorious narcotics sellers/ peddlers, and support/ facilitate them in social crimes.
- (ii) Audio recording with contacts and facilitating criminals had been obtained and saved separately.
- (iii) During his posting at PS Shakadara, he misbehaved with an applicant and insulted him inside Police Station which was also viral on social media. The same has defamed the image of police.
- (iv) On perusal of his service record he has ill reputation, and is a stigma on police Department wherein he caring a fig for, inspite of may violations of good order and discipline, earned worst name to the entire police Department.

His appeal was rejected by Regional Police Officer, Kohat vide order Endst No.2662/EC, dated 18.02.2020.

Meeting of Appellate Board was held on 21.07.2020 wherein petitioner was heard in person. During hearing petitioner denied the allegations levelled against him.

The board decided that de novo enquiry proceeding be conducted and the petitioner is hereby reinstated in service for the purpose of de novo enquiry. The authority shall conduct proper regulam enquiry and decide the matter afresh on the basis of de novo proceedings.

This order is issued with the approval by the Competent Authority.

Sd/-

Dr. Ishtiaq Ahmed, PSP/ PPM
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/3335-3341/20,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. One service Roll one Fauji Missal/ Enquiry file and Memory Card of the above named FC received vide your office Meo No.4300/FC dated 01.04.2020 is returned herewith for your office record.
2. District Police Officer, Kohat.
3. PSO to IGP/ Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/ HQrs: Khyber Pakhtunkwha Peshawar.
5. PA to DIG/ HQrs, Khyber Pakhtunkwha Peshawar.
6. PA to AIG /Legal, Khyber Pakhtunkwha Peshawar.
7. Office Supdt:E-IV CPO Peshawar

Kashif Zulfiqar (PSP)
AIG/ Establishment
For Insepctor General of Police,
Khyber Pakhtunkwha Peshawar.

RECEIVED



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-9260116 Fax 9260125

No. _____ /PA dated Kohat the 21 / 7 /2020

ORDER

In pursuance of Addl: Inspector General of Police HQrs, Khyber Pakhtunkhwa order No. S/ 3334 /20 dated 11.08.2020. Ex-Constable Hidayat Ullah No. 881 is hereby re-instated in service only for the purpose of *de novo* enquiry.


DISTRICT POLICE OFFICER,
KOHAT

OB No. _____
Dated _____ /2020

No. _____ /PA dated 25 / 8 /2020

Copy of above is submitted to the:-

1. Addl: Inspector General of Police, HQrs Peshawar w/r to his office order No. quoted above, please.
2. Regional Police Officer, Kohat w/r to his office Endst: No. 9108/EC dated 24.08.2020, please.
3. Line Officer/ Reader/ SRC/OHC /Pay Officer for necessary action.


DISTRICT POLICE OFFICER,
KOHAT

AEC




DISTRICT POLICE OFFICER,
KOHAT

Report for duty

27

پولیس لائن

نقل شدہ روزنامہ 26-8-20

مد = 12 حاضریت ملازمت سے یڈایت اللہ 8811 مورخہ 26-8-20

وقت 12:15 بجے درج ہے کہ ایپلیٹ بورڈ GP آفس

CPO لٹا اور نے مورخہ 27-8-20 سے سائل کو ملازمت پر

بحال کرنے اور DENOVO انکوٹری کا حکم صادر کیا ہے

لہذا یہ یڈایت اللہ 8811 بحوالہ لٹر S/3334 مورخہ

27-8-20 دوبارہ ملازمت میں آئے حاضریت کے رپورٹ کرتا

ہوں DENOVO انکوٹری کے درپیش ہے

Six

Forwarded.

جناب عالی

نقل شدہ اصل ہے

APK

MHC p-line

27-8-2020

L.O Kohat
27-8-2020

Att
X

[Signature]



No. 4934-40/PA

Office of the
District Police Officer,
Kohat

Dated: 25-8-/2020

CHARGE SHEET

I JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you Ex-Constable Hidayat Ullah No. 881 (now reinstated for the purpose of denovo enquiry) rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

- i. That you after your re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/ 3334/20 dated 11.08.2020. Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.
- ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.
- iii. You while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.
- iv. On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules *ibid*, and have rendered yourself liable to all or any of the penalties specified in the Rule 04 of the Rules *ibid*.

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

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

DISTRICT POLICE OFFICER,
KOHAT

Atc
★

P



Office of the
District Police Officer,
Kohat

No. 4239-40PA

Dated 25-8-2020

DISCIPLINARY ACTION

1. **JAVED IQBAL, DISTRICT POLICE OFFICER, KOHAT**, as competent authority, am of the opinion that you **Ex-Constable Hidayat Ullah No. 881 (now reinstated for the purpose of denovo enquiry)** have rendered yourself liable to be proceeded against, departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

- i. That you after your re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/ 3334/20 dated 11.08.2020. Your conduct is mysterious and ill-reputed. It was observed from secret source that you have contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.
- ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.
- iii. You while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.
- iv. On perusal of your service record you are ill reputed, a stigma on Police department and earned bad name to the entire department.

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

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

**DISTRICT POLICE OFFICER,
KOHAT**

No. 4239-40 /PA, dated 25-8- /2020.

Copy of above is forwarded to:-

1. **SDPO Saddar, Kohat**- For denovo departmental proceeding against the accused. Under the rules ibid.
2. **Accused Constable**: The accused is directed to appear before the Enquiry officer, on the date, time and place fixed by the enquiry officer, for the purpose of enquiry proceedings.

Att

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بحوالہ چارج شیٹ

بحوالہ چارج شیٹ بھاریہ پنجاب ڈسٹرکٹ پولیس آفیسر مورخہ 25-08-2020 نمبری 4239/40/PA موصولہ
1-09-2020 کی ہدایت معروض ہوں

جناب عالی!

(۱) یہ کہ بحوالہ چارج شیٹ من مسائل پر عائد کئے گئے الزامات غلط بے بنیاد اور متنازع ثبوت ہیں جس میں کوئی حقیقت نہ ہے۔
(۲) یہ کہ من مسائل کا کسی گینگ کیساتھ تعلق نہ ہے اور یہ ہی کسی درج شدہ گینگ کے ساتھ کوئی تعلق یا واسطہ ہے۔ اور نہ ہی کسی گینگ کو جانتا ہوں۔

(۳) یہ کہ من مسائل کا کسی بھی کریمنل کوٹوں کیساتھ کوئی تعلق یا واسطہ نہ ہے اور نہ ہی کسی قسم کا کوئی ثبوت من مسائل کی طرف ریکارڈ پر موجود ہے۔ جس سے یہ ثابت ہوتا ہے کہ من مسائل کو کسی بھی کریمنل یا گینگ سے تعلق ثابت ہوتا ہے۔ جبکہ من مسائل کو ایک سازش کے تحت ملوث کیا گیا ہے۔

(۴) یہ کہ بمطابق چارج شیٹ مذکورہ بالا کے فقرہ نمبر ۳ میں جو الزام عائد کیا گیا ہے۔ غلط اور بے بنیاد ہے جس میں ہر دو چارج شیٹ ہائے کے اجراء سے قبل حسب ضابطہ انکوائری کر کے جناب DPO صاحب کو ہاٹ نے فائل کیا ہے جسکی نقول لف ہے۔ جس میں مسائل بخلاف کسی قسم کا کوئی ثبوت ریکارڈ پر موجود نہ ہے۔

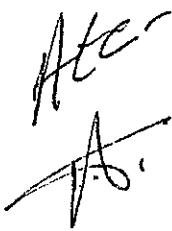
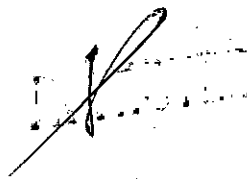
(۵) یہ کہ بمطابق چارج شیٹ کے فقرہ نمبر ۴ میں جو الزام عائد کیا گیا ہے۔ بالکل غلط اور بے بنیاد ہے کیونکہ من مسائل کا 19 سال سروس ہے اور تمام تر سروس جنرل ڈیوٹی کی ہے۔ اور بدوران سروس کسی افسران بالا کو کسی قسم کی شکایت کا موقع نہیں دیا۔ اور بعد از پیش کرنے جملہ ثبوت بابت بے گناہی جناب DPO صاحب کے حضور پیش کئے۔ تو جملہ ثبوت کی بنیاد پر ایک عدورہ چھٹی انگریزی بحوالہ نمبر 21248/29-11-2019 صادر فرما کر جس میں من مسائل کو جناب DPO صاحب نے بحالی کی شکارشات تحریر کی ہے۔ جو کہ من مسائل کی بے گناہی کا قوی ثبوت ہے۔

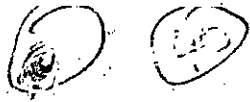
(۶) یہ من مسائل جملہ ثبوت بابت بے گناہی کی مد میں ذاتی شنوائی کا شرف حاصل کرنے کے بعد جملہ پیش کرنا چاہتا ہوں۔ لہذا استدعا کی جاتی ہے کہ من مسائل بخلاف انکوائری کو بشیر مدید کاروائی کے فائل فرمایا جاوے۔

مورخہ: 03/09/20

العارض

مسائل ہدایت اللہ سیٹ نمبر 98/LHC حال متعینہ پولیس لائن کوہاٹ




DISTRICT POLICE OFFICER,
ROHAT



31

سوالہ پروانہ نمبر 7261 جاریہ SDPO صدر سیکرٹری ہجرت و امور مذہبی
20-9-2020

روز بروز ہوں، بے بدینگی و ہمدردی سے اللہ کے حال و حال میں متعلق

لہذا میں معلومات دستیابی کرنے میں کوشش کر رہا ہوں۔

نزدک حلین یا یا کسی قسم کی کرمینل اسٹیشن کیا ہے

تفصیلات نہ پانے کے لئے اس سلسلہ میں علاقہ کے

عسکران حاجی احمد اسحاق، عابد خان، محمد عظیم و دیگر

مذکورہ سبب سے، وہم خان و دیگر ناظم، حاجی اسحاق

مذکورہ کے بیانات مفصل آگے لکھے گئے ہیں۔

جولف ڈیپارٹمنٹ لہذا ہے



Si MRS.
23-09-2020

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f.

Handwritten signature or stamp at the bottom right.

Amx - H

32



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

ORDER

This order is passed on the de-novo enquiry against constable Hidayat Ullah No. 98 under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Brief facts of the case are that he after his re-instatement in service vide W/Addl: IGP HQrs Peshawar Order No. S/ 3334/20 dated 11.08.2020. His conduct is mysterious and ill-reputed. It was observed from secret source that he has contacts with criminals / notorious narcotics sellers / peddlers, and support / facilitate them in social crimes.

- ii. In the above context, audio recording with contacts and facilitating the criminals has been obtained and saved separate.
- iii. He while posted at Police station Shakardara misbehaved with applicant and insulted him inside Police station. In this regard a video was viral on social media which also defamed the image of Police department.
- iv. On perusal of his service record he has ill reputed, a stigma on Police department and earned bad name to the entire department.

He was served with charge sheet & statement of allegations, SDPO Saddar, Kohat was appointed as enquiry officer to proceed against him departmentally. The enquiry report was received but the undersigned was not agreed. Hence SP Operations Kohat was appointed as enquiry officer to probe further into enquiry. The enquiry officer exonerated the accused constable from the charges leveled against him.

The accused official was called in OR and heard in person on 18.11.2020. He submitted a plausible explanation in his defense.

However, in view of the conduct of official I, Javed Iqbal, District Police Officer, Kohat in exercise of the powers conferred upon me, imposed upon him a minor punishment of Censure and warned to be careful in future. He is re-instated in service with immediate effect. The intervening period is treated as un - authorized leave without pay.

DISTRICT POLICE OFFICER,
KOHAT

OB No. 823
Date 23-11-2020

No. 5905-08/PA dated Kohat the 24-11-2020.

- Copy of above is submitted for favor of information to the:-
1. Additional Inspector General of Police HQrs Khyber Pakhtunkhwa, Peshawar w/r to his office Endst: No.S/3335-3341 dated 11.08.2020.
 2. Regional Police Officer, Kohat w/r to his office Endst: No. 9108/EC, dated 24.08.2020.
 3. Reader/SRC/OHC/Pay officer for necessary action.

DISTRICT POLICE OFFICER,

Acc.
X

INTENDED

Anx-I

(15)

33

To

The Regional Police Officer (DIG),
Kohat Region, Kohat.

Subject: DEPARTMENTAL APPEAL AGAINST ORDER No. 5905-08/PA
DATED KOHAT THE 24-11-2020 PASSED BY DISTRICT POLICE
OFFICER, KOHAT.

Respected Sir,

With due respect appellant humbly submits as to the following:

1. That appellant has been serving in the Police Department. He has long service standing at his credit. He has been awarded numerous Commendation Certificates for his extra ordinary and brave services beyond the call of his duty.
2. That appellant was proceeded against departmentally for certain false allegations and was awarded punishment with confinement in quarter guard for fifteen (15) days vide Naqlemad No. 15 dated 10-10-2019.
3. That later on appellant was again proceeded on the same set of allegations and was awarded penalty of reduction in rank from the substantive rank of LHC to the rank of Foot Constable vide order OB No. 1249 dated 17-10-2019.
4. That being aggrieved from the aforesaid cited order, appellant filed departmental appeal before your kind honour which was not decided within statutory period therefore, appellant filed service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal which has been pending adjudication.
5. That the departmental immediate authority again forced the appellant to undergo departmental proceedings on the same set of allegations and after slipshod summary proceedings awarded appellant major penalty of dismissal from service vide DPO Kohat Order OB No. 1392 dated 04-11-2019.
6. That being aggrieved from the order cited above; appellant submitted departmental appeal before this office but the same was also rejected vide order No. 2662 dated 18-02-2020.
7. That being aggrieved from the order of this office (worthy DIG), appellant preferred revision petition before the worthy Inspector

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General, Khyber Pakhtunkhwa under rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975.

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8. That the worthy Inspector General, Khyber Pakhtunkhwa placed the revision petition before the Revision Board and after examining the facts and circumstances of appellant's case reached to the conclusion that appellant is innocent and the charges leveled against him are totally baseless therefore, appellant was reinstated vide order No. S/3335-3341/20 dated 11-08-2020, however, the competent authority was directed to conduct proper regular inquiry and decide the matter afresh on the basis of denovo proceedings.
9. That in pursuance of the order of the worthy Addl. Inspector General, Khyber Pakhtunkhwa appellant was reinstated for the purpose of denovo inquiry vide order dated 25-08-2020. Appellant assumed his charge of duties on 27-08-2020.
10. That the competent authority in pursuance of the afore cited order (worthy DPO, Kohat) initiated denovo proceedings and served the appellant with charge sheet and statement of allegations dated 25-08-2020.
11. That inquiry was conducted and appellant was proved innocent of the whole of the charges.
12. That it is pertinent to mention here that the worthy DPO, Kohat being not satisfied with the recommendations of the inquiry officer again appointed another inquiry officer for conducting second inquiry on the same set of allegations.
13. That appellant was again proved innocent and the whole of the charges were declared by the inquiry officer as baseless and concocted and recommended that appellant be reinstated with all back benefits.
14. That in spite of the recommendation of both the inquiry officers as discussed above, the worthy DPO, Kohat without serving the appellant with any sort of show cause notice upon the appellant, imposed a minor penalty of censure and warned to be careful in future vide order No. 5905-08 dated 24-11-2020. Appellant was reinstated in service and the intervening period was treated as unauthorized leave without pay.
15. That appellant now being aggrieved of the impugned order dated 24-11-2020, preferred the instant departmental appeal inter alia on the following grounds;

A. That the penal authority has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Moreover the act of the respondents amounts to exploitations, which is the violation of Article 3 of the Constitution, 1973. Appellant has been subjected to continuous

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harassment. He was subjected to undergo continuous departmental proceedings on the same subject matter. Appellant was exonerated by two consecutive inquiries from all the charges leveled against him, but the penal authority ignored the recommendations of the inquiry officer and awarded punishment to the extent of Censure and treating the interval period in between the dismissal and re-instatement as leave without pay, which has caused huge financial loss to the appellant.

- B. That appellant has been subjected to numerous continuous departmental inquiries on the same set of accusation which is against the well known principle of law "Double Jeopardy" and against the spirit and provision of Article 13 of the Constitution of Pakistan, 1973.
- C. That section 16 of the Civil Servant Act, 1973 provide that every civil servant is liable for prescribed disciplinary action in accordance with prescribed procedure. In the instant case no prescribed procedure has been adopted therefore, the impugned penal order is nullity in the eyed of law and liable to be set aside.
- D. That the penal order is not a speaking order for the reason that no solid and legal grounds have been given by the penal authority in support of his penal order. On this score the impugned order is liable to be set aside.
- E. That as per proviso of section 17 of the Civil Servant Act, 1973, the penal authority while set aside the order of dismissal or removal are under legal obligation to award the delinquent official back benefits for the period a civil servant remained out of service, but the penal authority ignored the mandatory provision of law and not only denied the arrears of pay but also treated the interval period in between the dismissal and re instatement as leave without pay and that too without the support of any legal reason.
- F. That appellant would like to seek the permission of Your Kind Honour for award of personal hearing. Appellant may kindly be granted the opportunity of personal hearing.

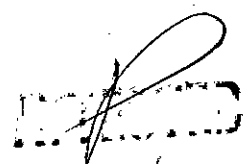
In view of the above explained position and on acceptance of the instant departmental appeal, Your Honour may graciously be pleased to set aside the impugned penal order dated 24-11-2020 of the worthy DPO, Kohat and re-instate the appellant with all back benefits.

Appellant may kindly be granted opportunity of personal hearing.

 15/12/2020
 Hidayat Ullah
 Constable No.881, /98
 Police Force, Kohat.
 Cell#0333-9637449

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POLICE DEPTT:

KOHAT REGION

ORDER

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This order will dispose of a departmental appeal, moved by Constable Hidayat Ullah No. 98 of Operation Staff Kohat against the punishment order, passed by DPO Kohat vide OB No. 823, dated 24.11.2020 whereby he was awarded minor punishment of Censure and the intervening period was treated as unauthorized leave during denove enquiry on the charged mentioned below:-

- i. Conduct of the appellant was mysterious and ill-reputed which was verified from different sources and found indulged in facilitating criminals / notorious narcotics sellers / peddlers.
- ii. Audio recording with contacts and facilitating criminals has been obtained and saved separately.
- iii. During his posting at PS Shakar Dara, he misbehaved with an applicant and insulted him inside PS, video of which was also viral on social media. The same has defamed the image of Police.

Comments were requisitioned from DPO Kohat and his service record was perused. He was also heard in person in Orderly Room, held on 27.01.2021. During hearing, he did not advance any plausible explanation.

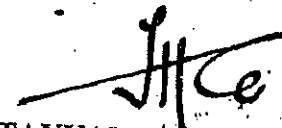
I have gone through the available record and reached to the conclusion that a lenient view has already been taken by the competent authority while passing the impugned order. Therefore, the appeal being devoid of merits is hereby rejected.

Order Announced
27.01.2021


(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

No. 1600 /EC, dated Kohat the 4/2 /2021.

Copy to District Police Officer, Kohat for information and necessary action w/r to his office Memo: No. 18464/LB, dated 30.12.2020. His Service Record & Fauji Missal is returned herewith.


(TAYYAB HAFEEZ) PSP
Region Police Officer,
Kohat Region.

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04/02/2021

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**BEFOR THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL No. 3439 /2021

Hidayat Ullah
Constable No.881,
Police Force, Kohat.

..... Appellant

Versus

1. The Regional Police Officer,
Kohat Region Kohat.
2. The District Police Officer,
Kohat.

..... Respondents

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the impugned Final order of the respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021, wherein he rejected the departmental appeal of the appellant preferred against the order passed by respondent No.2 vide OB No.823 dated 24-11-2020, wherein he awarded minor punishment of censure and the intervening period was treated as unauthorized leave.

Prayer in Appeal:-

On acceptance of the instant service appeal, this Hon'ble Tribunal may graciously be pleased to:-

1. **Declare the impugned order of the respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.2 vide OB No.823 dated 24-11-2020 as illegal, unlawful and without lawful authority;**
2. **Set aside both the impugned orders and re-instate the appellant with all back benefits including the counting of intervening period as period on active duty.**

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3. Any other relief deemed appropriate in the circumstances of the case not specifically asked for may also be graciously granted.

Respectfully Sheweth,

The concise facts giving rise to the present Service Appeal are as under:-

1. That appellant is the employee of police force, Kohat. He has long service standing at his credit. He has been awarded numerous Commendation Certificates for his extra ordinary and brave services beyond the call of his duty (Annexure-A).
2. That appellant was proceeded against departmentally for certain false allegations and was awarded punishment with confinement in quarter guard for fifteen (15) days vide Naqlemad No. 15 dated 10-10-2019 (Annexure-B). (P/15)
3. That later on appellant was again proceeded on the same set of allegations and was awarded penalty of reduction in rank from the substantive rank of LHC to the rank of Foot Constable vide order OB No. 1249 dated 17-10-2019 and that too during confinement period (Annexure-C). (P/15)
4. That being aggrieved from the aforesaid cited order, appellant filed departmental appeal before respondent No.1 which was not decided within statutory period therefore, appellant filed service appeal before the Hon'ble Khyber Pakhtunkhwa Service Tribunal which has been pending adjudication (Annexure-D) (P/17-31) Service Apped # 1405/2020
5. That respondent No.2 again forced the appellant to undergo departmental proceedings on the same set of allegations and after slipshod summary proceedings awarded appellant major penalty of dismissal from service vide DPO Kohat Order OB No. 1392 dated 04-11-2019 (Annexure-E). (P/52-53)

decided on
17/1/2021
accepted d.

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6. That being aggrieved from the order cited above; appellant submitted departmental appeal before respondent No.1 but the same was also rejected vide order No. 2662 dated 18-02-2020 (Annexure-F). /34

7. That being aggrieved from the order No. 2662 dated 18-02-2020 of the worthy respondent No.1, appellant preferred revision petition before the worthy Inspector General, Khyber Pakhtunkhwa under rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975.

8. That respondent No.1 (worthy Inspector General, Khyber Pakhtunkhwa) placed the revision petition before the Revision Board and after examining the facts and circumstances of appellant's case reached to the conclusion that appellant is innocent and the charges leveled against him are totally baseless therefore, appellant was reinstated vide order No. S/3335-3341/20 dated 11-08-2020, however, the competent authority was directed to conduct proper regular inquiry and decide the matter afresh on the basis of denovo proceedings (Annexure-G). (S/3335-41)

Re-instated

9. That in pursuance of the order of the worthy Addl. Inspector General, Khyber Pakhtunkhwa appellant was reinstated for the purpose of denovo inquiry vide order dated 25-08-2020. Appellant assumed his charge of duties on 27-08-2020.

Re-instated for purpose of inquiry

10. That the competent authority in pursuance of the afore cited order (worthy DPO, Kohat) initiated denovo proceedings and served the appellant with charge sheet and statement of allegations dated 25-08-2020.

charge sheet
Summary of
allegations

11. That inquiry was conducted and appellant was proved innocent of the whole of the charges. (inquiry report attached)

12. That it is pertinent to mention here that the worthy DPO, Kohat being not satisfied with the recommendations of the inquiry officer again

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appointed another inquiry officer for conducting second inquiry on the same set of allegations.

13. That appellant was again proved innocent and the whole of the charges were declared by the inquiry officer as baseless and concocted and recommended that appellant be reinstated with all back benefits.

14. That in spite of the recommendation of both the inquiry officers as discussed above, the worthy DPO, Kohat without serving the appellant with any sort of show cause notice upon the appellant imposed a minor penalty of censure and warned to be careful in future vide order No. 5905-08 dated 24-11-2020. Appellant was reinstated in service and the intervening period was treated as unauthorized leave without pay (Annexure-H). (01/42)

impugned order of reinstatement

15. That being aggrieved from the aforesaid order appellant preferred departmental appeal before the respondent No.2 (Annexure-I), which is now been rejected vide order dated 04-02-2021 (Annexure-J). (01/43-45)

01/46

16. That appellant now being aggrieved of the both the impugned orders of respondent No.1 End: No.1600/EC, dated Kohat the 04-02-2021 and impugned order of respondent No.2 vide OB No.823 dated 24-11-2020 files the instant Service Appeal inter alia on the following grounds:

A. That the penal authority has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. Moreover the act of the respondents amounts to exploitations, which is the violation of Article 3 of the Constitution, 1973. Appellant has been subjected to continuous harassment. He was subjected to undergo continuous departmental proceedings on the same subject matter. Appellant was exonerated by two consecutive inquiries from all the charges leveled against him, but the penal authority ignored the recommendations of the inquiry officer and awarded punishment to the extent of Censure

[Signature]
DIRECTOR

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and treating the interval period in between the dismissal and re-instatement as leave without pay, which has caused huge financial loss to the appellant.

- B. That appellant has been subjected to numerous continuous departmental inquiries on the same set of accusation which is against the well known principle of law "Double Jeopardy" and against the spirit and provision of Article 13 of the Constitution of Pakistan, 1973.
- C. That section 16 of the Civil Servant Act, 1973 provide that every civil servant is liable for prescribed disciplinary action in accordance with prescribed procedure. In the instant case no prescribed procedure has been adopted therefore, the impugned penal order is nullity in the eyed of law and liable to be set aside.
- D. That number of departmental inquiries were conducted by the respondents, but prosecution failed to bring an iota of evidence against the appellant to substantiate their baseless accusation/allegations even in spite of the fact that appellant was not associated with inquiry proceedings and even was not confronted with accusation. Final show cause was not served and no inquiry report was provided, which is mandatory in nature and spirit and the denial thereof is the denial of justice, fair play and equity.
- E. That appellant has been condemned unheard being deprived of the right personal hearing.
- F. ✓ Accused is stated to be a favorite child of law and he is presumed to be innocent unless proved otherwise and the benefit of doubt always goes to the accused and not to the prosecution as it is for the prosecution to stand on its own legs by proving all allegations to the hilt against the accused. Mere conjectures and presumption, however strong, could not be made a ground for removal from service of civil servant [1999 PLC (CS) 1332 (FST)]...... Unless and until prosecution

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proves accused guilty beyond any shadow of doubt, he would be considered innocent [1983 PLC (CS) 152 (FST)].

Back benefits

G. That Re-instated employee would be entitled to back benefits as a matter of course unless employer is able to establish by cogent evidence that concerned employee had been gainfully employed elsewhere. In this respect, initial burden would lie upon the employer and not upon the employee to prove that such employee was gainfully employed during period of termination from his service. 2010 TD (Labour) 41.

Back benefit.

H. That Civil servant who was dismissed from service through arbitrary and whimsical action of the government functionaries and re instated through judicial order of Service Tribunal would have every right to recover arrears of salaries by way of back benefits due to them during the period of their dismissal and re instatement. It would be very unjust and harsh to deprive them of back benefits for the period for which they remained out of job without any fault on their part and were not gainfully employed during that period.....Supreme Court allowing their appeal and directing payment of back benefits to the appellant. 2006 T D (SERVICE) 551 (a).

Back benefits.

I. That the penal order is not a speaking order for the reason that no solid and legal grounds have been given by the penal authority in support of his penal order. On this score the impugned order is liable to be set aside.

J. That as per proviso of section 17 of the Civil Servant Act, 1973, the penal authority while set aside the order of dismissal or removal are under legal obligation to award the delinquent official back benefits for the period a civil servant remained out of service, but the penal authority ignored the mandatory provision of law and not only denied the arrears of pay but also treated the interval period in between the dismissal and re instatement as leave without pay and that too without the support of any legal reason.

Back benefits.

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K. That appellant would like to seek the permission of Your Kind Honour for award of personal hearing. Appellant may kindly be granted the opportunity of personal hearing.

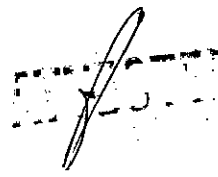


Appellant

Through

Asst → *Adv*
Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

Dated: ___ / ___ / 2021



APPEAL

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

44

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Constable Hidayat Ullah No. 881/98. The applicant was dismissed from service by District Police Officer, Kohat vide OB No.1392, dated 04.11.2019 on the following allegation:-

- (i) His conduct is mysterious and ill-reputed which was verified from secret source that he had contacts with criminals/notorious notorious sellers/peddlers, and support/facilitate them in social crimes.
- (ii) Audio recording with contacts and facilitating criminals had been obtained and saved separately.
- (iii) During his posting at Police Station Shakardara, he misbehaved with an applicant and insulted him inside Police Station which was also viral on social media. The same has defamed the image of Police.
- (iv) On perusal of his service record he has ill reputed, a stigma on Police Department and earned bad name to the entire Department.

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 2662/EC, dated 18.02.2020. His revision petition was discussed in Appellate Board meeting 21.07.2020 wherein the board re-instated him for the purpose of de-novo enquiry. De-novo enquiry was conducted and he was awarded minor punishment of censure and intervening period was treated as un-authorized leave without pay by District Police Officer, Kohat vide OB No.823, dated 23.11.2020.

Meeting of Appellate Board was held on 26.01.2022 wherein petitioner was heard in person. Petitioner contended that he is innocent.

Keeping in view his long service of 20 years, 07 months & 20 days, the Board decided that the intervening period is hereby treated as leave of kind due, if any on his credit.

Sd/-

SABIR AHMED, PSP

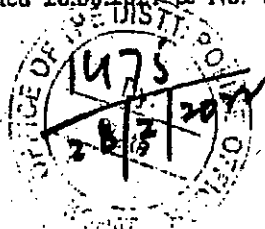
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. 3566/180
25/02/2022

No. SI 281-90/22, dated Peshawar, the 22/02/2022.

Copy of the above is forwarded to the:

- 1. Regional Police Officer, Kohat. One Service Roll and one Fauji Missal of the above named FC received vide your office Memo: No. 13369/EC, dated 26.08.2021 & No. 12272/EC, dated 05.08.2021 is returned herewith for your office record.
- 2. District Police Officer, Kohat.
- 3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
- 4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
- 5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 7. Office Supdt: E-IV CPO Peshawar.



PO Kohat
Recd & F. M. M. P.
Returned herewith
for office record
for to his office
Memo No. 10594/SRA
24.8.21

[Signature]
POLICE
KOHAT

[Signature]
AIG/ESTABLISHMENT
PESHAWAR

District Police Officer
Kohat

[Signature]
02/19/22

(IRFAN TARIQ) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

14.04.2023

Appellant along with his counsel present.

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

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 29.05.2023 before D.B. Parcha Peshi given to the parties.

Mutazem Shah

(Fareeha Paul)
Member (E)

(Rozina Rehman)
Member (J)

29th May, 2023

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

2. When confronted with the situation by the learned District Attorney that the Appellate Board had modified the impugned order and the intervening period was treated as leave of the kind due if any on his credit, the learned counsel wants to make two applications one for amendment in the appeal and another to implead Inspector General of Police, Khyber Pakhtunkhwa as party. He may do so within two days. If applications are moved within two days, both of the same shall be deemed to have been allowed subject to limitation and restrictions/objections of the other side thereby permitting the appellant to file amended appeal within next five days. Copy of the same be handed over to the learned District Attorney/respondents, who are at liberty to file comments/amended comments but a week before the next date. The next date in the matter is 22.08.2023 before D.B for arguments. P.P given to the parties.

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Mutazem Shah

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

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بعدالت جناب سروس ٹریبونل پشاور

B.C : 05-1046
PH : 0332-9931676

2023ء منجانب

مراد اللہ بنام حکومت

موزخہ
مقدمہ
دعویٰ
پریم

باعث تحریر آنکے

مقدمہ بندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کاروائی متعلقہ
آج مقام پشاور کیلئے اعتراف علی حثت / احصول لٹر حور

مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راجسٹی نامہ کرنے سے تقرر ثالثہ فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
بلدورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرنے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائرہ کرنے اپیل گمرانی دفتر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو کسی دہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سائلت
پر واخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ 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 کہ سند ہے۔

Accepted by

الرتوم 6/06/2023

Accepted by
15/11/23
B.C 05-1046
0332-9931676

پشاور