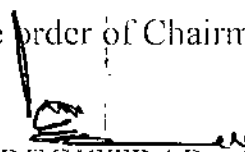


FORM OF ORDER SHEET

Court of _____

Case No. - _____

378 /2023


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/03/2023	<p>The appeal of Mr. Bahar Ali resubmitted today by Mr. Ibne Amin Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Bahar Ali son of Gul Muhammad R/o Ghulam Srwar Khan Kalay Mangah Mardan received today i.e. on 24.02.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Copy of departmental appeal and revision petition are not attached with the appeal which may be placed on it.
- 2- Copy of order dated 14.4.2022 attached with the appeal is illégible which may be replaced by legible/better one.

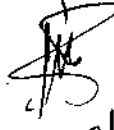
No. 705 /S.T.

Dt. 27/2 /2023


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Ibne Amin Khan Adv.
High Court Peshawar.

*Resubmitted after
Court tribunal compliance*


28/2/23

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 378 /2023

Bahar Ali.....(Appellant)

V E R S U S

District Police Officer (D.P.O.) Mardan.

And others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of the Parties		9
4.	Copy of CNIC	A	10
5.	Copies of F.I.R and Statement u/s 164 Cr.PC	B, C	11-13
6.	Copies of statement of allegations and order dated 24/02/2021	D, E	14-15
7.	Copies of appeal/ representation and order dated 22/04/2021	F, G	16-22
8.	Copies of departmental appeal/ representation and order dated 14/04/2022	H	23-29
9.	Copy of order and judgment dated 30/06/2022	I	30-33
10.	Copies of Appeal and order dated 09/02/2023	J	34-38
11.	Wakalat Nama		39

Appellant

Through

Ibne Amin Khan

Advocate High Court,
At Charsadda.

Cell No. 0344-5900395

Dated: 23/02/2023

(1)

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 378 /2023

Bahar Ali S/o Gul Muhammad R/o Ghulam Sarwar Khan
Kalay, Mangah, P.O. Mangah, District Mardan (Ex-Constable
Police Department).....(Appellant)

V E R S U S

1. District Police Officer (D.P.O.) Mardan.
2. Regional Police Officer, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.....(Respondents)

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICE TRIBUNAL ACT
1974, AGAINST THE DISMISSAL FROM
SERVICE ORDER DATED 09/02/2023
ALONG WITH OTHER ORDERS PASSED BY
RESPONDENTS.**

Respectfully Sheweth:

Facts giving rise to the instant Service Appeal are as
under:

1. That the appellant belongs to a respectable family
and law abiding citizen of District Mardan. (Copy of
CNIC is attached as annexure "A").

(2)

2. That the appellant was appointed as Constable No. 925 by the respondents department on 09/05/2009
3. That after appointment of the appellant, the appellant joined his service and started with zeal and hard working his job.
4. That the appellant regularly attended the office and fulfilled his duties with honesty and having good reputation in his department.
5. That on 24/10/2020 F.I.R No. 481 u/s 279, 320 PPC in Police Station Sardheri, Charsadda was lodged in which the appellant has falsely been enmeshed by the complainant u/s 164 Cr.PC without any source of satisfaction. (Copies of F.I.R and Statement u/s 164 Cr.PC are attached as annexure "B" & "C").
6. That thereafter the respondent No. 1 had issued disciplinary action/ statement of allegations in which the appellant was given major punishment i.e. dismissal from service without any legal norms vide order dated 24/02/2021. (Copies of statement

(3)

of allegations and order dated 24/02/2021 are attached as annexure "D" & "E").

7. That feeling aggrieved the appellant filed departmental appeal/ representation before the respondent No. 2, but the same was dismissed vide order dated 22/04/2021. (Copies of appeal/ representation and order dated 22/04/2021 are attached as annexure "F" & "G").

8. That when the trial was subjudice before the Court of learned JMIC-I, Charsadda with respect of the above mentieiond F.I.R the appellant also filed departmental appeal/ representation before the respondent No. 3, but the same was also dismissed vide order dated 14/04/2022. (Copies of departmental appeal/ representation and order dated 14/04/2022 are attached as annexure "H").

9. That after recording sufficient evidence by the trial the learned JMIC-I, Charsadda acquitted the appellant u/s 249-A Cr.PC vide order and judgment dated 30/06/2022 and hence double presumptions of innocence given to the appellant and that order is

(4)

still intact. (Copy of order and judgment dated 30/06/2022 is attached as annexure "I").

10. That after acquittal from the charges leveled against him the appellant filed departmental representation/ first regular appeal before the respondent No. 3, but the same was dismissed vide order dated 09/02/2023 hence the instant appeal. (Copies of Appeal/RFA and order dated 09/02/2023 are attached as annexure "J").

11. That the appellant having no other adequate, efficacious, alternate remedy, approaches this Hon'ble Tribunal for redressal of his grievances, i.e. reinstatement with back benefits etc, inter alia on the following grounds:

GROUND:

A. That the orders of respondents are patently illegal, unlawful, against law and facts of the case hence needs interference of this Hon'ble Tribunal.

(5)

- B. That the punishment, imposed, is illegal, unlawful, void and of no legal effects.
- C. That it is also established law that upon allegedly involved in a criminal case the respondents department is bound to suspend the accused/appellant/civil servant till the outcome of trial/ conclusion of trial but the act of the respondents is totally against the settle principles of Superior Courts.
- D. That no regular inquiry has been carried and no right of cross-examination has been given to the appellant, hence condemned unheard.
- E. That the competent Court of law after recording of evidence and cross-examination acquitted the appellant u/s 249- A Cr.PC, but this fact was totally ignored by the respondents and passed the impugned orders in very cursory manners.
- F. That fundamental rights which is guaranteed by the Constitution of Islamic Republic of Pakistan 1973 has blatantly violated by the respondents and the

(6)

appellant has been discriminated and has been denied his due rights.

G. That as per precedents of the Superior Courts, it is now well established law that major punishment cannot be imposed without Regular Inquiry.

H. That as per verdict of Supreme Court of Pakistan that when accused acquitted from the charges leveled against him then the concerned department is duty bound to reinstate in service, therefore the appellant is liable to be reinstated in service with all back benefits.

I. That appellant is only source of livelihood of his entire poor family, due to dismissal from service the appellant and his family facing severe financial hurdles.

J. That the major punishment orders are not based on true facts and figures/ rather the same are based on surmises & conjectures.

(7)

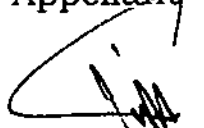
K. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Court.

It is, therefore, humbly requested that on acceptance of this Service Appeal, the impugned orders of respondents along with order dated 09/02/2023 being against the law and rules thus may kindly be declared as illegal, unlawful, void-ab-initio, coram-non-judice and ineffective upon the rights of the appellant and may graciously be set aside, and the appellant be reinstated into service with all back-benefits with such other relief as may deem fit this Hon'ble Tribunal in peculiar circumstances of the case.



Appellant

Through



Ibne Amin Khan
Advocate High Court,
At Charsadda.

Dated: 23/02/2023

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2023

Bahar *Ali*(Appellant)

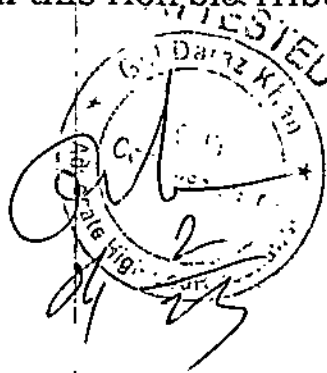
V E R S U S

District Police Officer (D.P.O.) Mardan.

And others.....(Respondents)

AFFIDAVIT

I, Bahar Ali S/o Gul Muhammad R/o Ghulam Sarwar Khan Kalay, Mangah, P.O. Mangah, District Mardan (Ex-Constable Police Department), solemnly affirm and declare on oath, that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



: *Bahar Ali*

DEPONENT

CNIC: 16101-4648941-3

Cell No. 0314-9382071

(4)

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2023

Bahar(Appellant)

V E R S U S

District Police Officer (D.P.O.) Mardan.

And others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

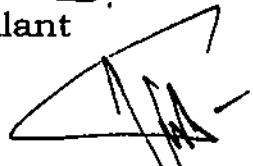
Bahar Ali S/o Gul Muhammad R/o Ghulam Sarwar Khan
Kalay, Mangah, P.O. Mangah, District Mardan (Ex-Constable
Police Department).

RESPONDENTS:

1. District Police Officer (D.P.O.) Mardan.
2. Regional Police Officer, Mardan.
3. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.


Appellant

Through


Ibne Amin Khan
Advocate High Court,
At Charsadda.

Dated: 23/02/2023

Annex "A"

حکومت پاکستان

16101-4648941-3



عقلمان یوسف حسین
10/02/1988

Bar

دستخط

دستخط



U813TL

16101-4648941-3

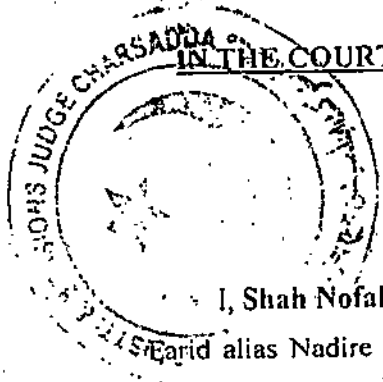


04/06/2028

04/06/2018



12



IN THE COURT OF SHAH NOFAL, JUDICIAL MAGISTRATE-IV, CHARSADDA.

FORMAL CHARGE

State Vs Farid alias Nadir

I, Shah Nofal, Judicial Magistrate-IV, Charsadda do hereby charge you accused namely Farid alias Nadire s/Muhammad Gul r/o Gulshan Abad & Bahar Ali s/o Gul Muhammad r/o Ghulam Sarwar Khan Killi Mangao, as follows.

FIRSTLY: That you accused named above, on 24.10.2020 at 18:00 hours at main Mardan Charsadda road Sardheri Chowk situated within the criminal jurisdiction of Police Station Sardheri, were driving your respective Motorcar and Truck, rashly and negligently, and thus you thereby committed an offence punishable u/s 279-PPC and within the cognizance of this court.

SECONDLY: That on the same date time and place within the limits of Police Station Sardheri, you accused Bahar Ali firstly hit the deceased Nabi Ullah with rashly driving motorcyclic, as a result of which the deceased fell down on the road and the Truck rashly driver by you accused Fida alias Nadir crushed / drove over him, resultantly the deceased then injured Nabi Ullah succumbed to his injuries on the spot and thus you thereby committed an offence punishable u/s 320 and within the cognizance of this court.

And I hereby direct that you be tried by this court for the said offences.

Shah Nofal
Judicial Magistrate-IV,
Charsadda

Note:- The charge has been read over and explained to the accused.

Q1. Have you heard and understood the charge?

A: Yes.

Q2. Do you plead guilty to the charge or claim trial?

A. No. we do not plead guilty and claim trial.

RO & AC
17.11.2021

Fida alias Nadir

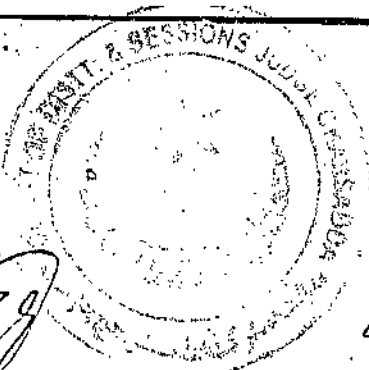
Bahar Ali

ATTESTED

Judicial Magistrate-IV,
Charsadda

18 FEB 2023

Seal of the Court of Shah Nofal, Judicial Magistrate-IV, Charsadda



تکمیل صورتیہ پتوار درختوں کے
موردہ

Statement u/s 164 Cr. PC

13

منگیا بہا فرید علی نوری

Statement of Siraj son of Hameedullah aged about 49/50 years resident of Dheri Sheikhan District Charsadda on oath:

Stated that I am complainant of case FIR No.481 dated 24.10.2020 u/s 279/320 PPC P.S Sardheri in which I charged accused Nadir for the commission of offence. Now I came to know from the witnesses at the spot that my brother was first hit by a motor cycle rider Bahar Ali son of Gul Muhammad r/o Ghulam Sarwar Kaly Manga District Mardan as a result of which he fell down on the ground and the truck driven by one Nadir drove over my brother and as a result of this accident my brother succumbed to this accidental injuries by the negligent and rash driving of both accused Nadir and Bahar Ali named above. Now I charged accused Bahar Ali son of Gul Muhammad named above alongwith accused NADIR for the commission of offence.

سورج

مردان

168/2020

3-15-21

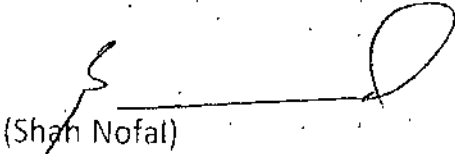
30-6-22

RO&AC dated 31.12.2020



Complainant Siraj

CNIC No.17101-0404692-9


(Shah Nofal)

Judicial Magistrate-IV,
Charsadda MOD
31/12/2020

امام بخش
A
21/03/2022

ATTESTED

18 FEB 2023

Signature of
Secretary
District & Sessions Judge
Charsadda



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

14



Dated 08/1/2021

No. 16 /PA

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Bahar Ali No.925, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, Constable Bahar Ali No.925, while posted at Swat Express Way Mobile-I Shahbaz Garh (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.481 dated 24-10-2020 U/S 279/320 PPC PS Sardheri (Charsadda).

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, Mr. Riaz Khan SDPO Katlang is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Official, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Bahar Ali is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230105 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

No. 706-10 /PA

Dated 25/12/2021

ORDER ON ENQUIRY OF CONSTABLE BAHAR ALI NO.925

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Swat Express Way Mobile-I Shahbaz Garh (now under suspension Police Lines Mardan), was placed under suspension and closed to Police Lines Mardan vide this office OB No.37 dated 06-01-2021, issued vide order/endorsement No.211-14/OSI dated 07-01-2021, on account of charging in a case vide FIR No.481 dated 24-10-2020 U/S 279/320 PPC PS Sardheri (Charsadda) and proceeded against departmentally through Mr. Riaz Khan SDPO/Katlang vide this office Statement of Disciplinary Action/Charge Sheet No.16/PA dated 08-01-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.69/ST dated 08-02-2021, holding responsible the alleged official of misconduct & recommended for appropriate punishment.

Final Order

Constable Bahar Ali was heard in OR on 17.02.2021, but failed to satisfy the undersigned, therefore, Inspector Nusrat Khan IO of the case & alleged official were also heard/thoroughly examined & cross examined on 22.02.2021. From the perusal of enquiry papers & above discussion, the Constable Bahar Ali was given opportunity to clarify his position, to which he failed, hence awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 3/BU

Dated 29/1/2021

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Regional Police Officer Mardan, please.
- 2) The SP/Inv: Charsadda w/r to his office letter No. 05/Inv dated 01.01.2021.
- 3) The DSP/IOs Mardan.

(16)

Annex "F"

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE
MARDAN REGION -1 MARDAN

Subject: **APPEAL AGAINST THE ORDER O.B NO. 388 DATED 24-02-2021 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE".**

Respected Sir,

The appellant submits as under :

- The DPO Mardan had issued charge sheet No. 16/PA Dated 08-01-2021 against the Appellant with the following allegations:-

• " That you Constable Bahar Ali No.925 , while posted at Swat Express Way Mobile-1 Shahbaz Garhi (Now under suspension Police Lines Mardan) , was placed under suspension and closed to Police Lines Mardan vide this office No. OB No.37 dated 06-01-2021, issued vide order/endorsement No.211-14/OSI dated 07-01-2021, on account of charging in a case vide FIR No.481 dated 24-10-2020 U/S 279/320 PPC PS Sardheri (Charsadda)."
(Copy of the charge sheet is enclosed)

- That in the light of above charge sheet a departmental Enquiry against the appellant and Mr.Riaz Khan SDPO Katlang was nominated as enquiry officer.In the response to the charge sheet the appellant produced a detailed and comprehensive reply before the enquiry officer stating therein that the appellant is innocent and is not involved in any criminal case.Unfortunately the version of the appellant was not considered and the EO submitted an enquiry findings vide his office endorsement no.69/ST dated 8-2-21 to the office of dpo Mardan and recommended the appellant for the award of appropriate punishment .In the light of the enquiry findings the DPO Mardan awarded major punishment of dismissal from service to the appellant vide OB NO.388 dated 24-02-21 and hence the present appeal.

Amir Khan
Advocate High Court
Distt. Courts Charsadda

(17)

OB NO.388 dated 24-02-21 and hence the present appeal.
(Copy of enquiry findings + copy of OB No.388 dated 24-2-21 are enclosed)

The FACTS OF CASE FIR NO.481 DATED 24-10-20 U/S 279/320 PPC PS SARDHERI:

- The facts of the case are that on 24-02-20 complainant Siraj s/o Hameed ullah r/o Dheri Sheikhan ,Distt Charsadda reported to SI Fazal Subhan at Casualty Hospital Charsadda to the effect that on the day of occurrence that he was present in his house. Meanwhile he received an information that his brother named Nabiullah has been died in a road accident.On receipt of this information he reached to the DHQ Hospital Charsadda where he found lying the dead body of his brother.It was learnt that at the time of occurrence his brother was present on the spot where a truck no.RIC 5385 Driven by One Nadir Khan was coming on rash speed from Charsadda side collided his brother .Resultantly his brother was injured and died on the spot. The occurrence was witnessed by many people present on the spot. Complainant directly charged the accused Nadir Khan for the commission of offence and on his report this instant case was registered.The dead body of the deceased was handed over to the doctor for examination and the investigation of the case was entrusted to the Inspector Nustrat Khan.
(Copy of FIR Enclosed)

INVESTIGATION OF THE CASE:

During the course of investigation the IO inspected the spot. He prepared the site plan. During the spot inspection the IO recovered one Motor cycle and pistol of 30 bore with 05 rounds from the spot. That according to the IO he was told by the people that the deceased Nabiullah was first hit by the motorcycle and resultantly he fell down on the ground. The truck driver accused Nadir Khan then drove over the injured Nabiullah and as the result of this accident Nabiullah was died.The same day IO recorded the supplementary

Abdullah Amin Khan
Advocate High Court
Distt: Courts Charsadda

(18)

statement of the one Siraj who also charge the unknown driver of the Motor cycle. On 31-12-2020 the statement of the complainant was recorded in the court u/s 164 Cr.PC who charged the alleged motorcycle driver Bahar Ali (appellant) for the offence. Accused Nadir Khan was arrested in the case on the basis of compromise. On 07-01-2021, The appellant obtained BBA in the instant case from the court of ASJ-IV Charsadda which was later on rejected 16-01-21. The appellant obtained later on Post arrest bail from the Judicial Magistrate Charsadda. Though that In the supplementary statement of the complainant Siraj recorded U/S 161 Cr.PC by the Police and U/S 164 CrPC in the court, it has been clearly mentioned that complainant was told by the people present on the spot that the driver of motorcycle namely Bahar Ali (appellant) first collided the deceased but even then the IO had not recorded the statement of a single person allegedly present on the spot in support of the complainant version. This fact is already evident from the case file. During the course of investigation the appellant disclosed before the IO that his brother namely Muhammad Shahid was dealing in the motor cycle bargain the said Muhammad shahid abroad now. The IO simply obtained a copy of the register from the one Lal Badshah (proprietor of Al-Khair Motor cycle bargain Gojar Garhi). In the said copy it has been shown that Muhammad shahid s/o Gul Muhammad r/o Saleem Khan brother of the appellant a motorcycle on installments bearing engine no.2374986, cahsis no.206878. Moreover in the said copy the identity card of the Muhammad Shahid has been clearly mentioned. Unfortunately the IO had made overwriting on the said copy and removed/concealed the name of Muhammad Shahid by placing the name of Bahar Ali instead of Muhammad shahid. By doing this drama the IO succeeded to held the name of accused Bahar Ali and connected the ownership of motorcycle with the appellant. After doing all these illegal mal practices the IO of the case made the accused appellant in the instant case. The statement of the Lal Badshah the owner of the bargain was also not recorded which also clearly shows the malafidity of the IO.

19

GROUNDS OF APPEAL:

- The appellant is innocent and has been falsely implicated in the accident case mentioned in the charge sheet. Infact the appellant was present in his house sanctioned short leave. the io of the case was repeatedly requested to confirm the presence of the appellant from the CDR but his request was thoroughly turned down by the IO.
- The complainant of the case Siraj initially directly charged the accused truck driver Nadir Khan. During the investigation the complainant was tuttedred /compelled by the IO to minclude the name of the appellant as accused.
- The IO obtained a copy of register of bargain shop and made alteration/overwriting in the said copy by showing the name of Bahar Ali appellant as a purchaser and by this act of forgery the IO succeeded to held responsible the appellant as accused for the offence.
- The complainant has clearly mentioned in his statement that he was told by many people present on the spot, that at the time of occurrence that accused Bahahr Ali appellant was driving the motorcycle giving collision to the deceased but not a single statement has been recorded by the IO to support the version of the complainant .All this shows the malafidity of thepart of the IO .
- The appellant being deprived from the fundamental rights and illegal acts of the IO and submitted an application to the DIG Mardan against the OII/ Inspector Nusrat Khan. In the said application the brief facts of threcase were mentioned. The said application was sent to the DPO Charsadda for action under the law. The copies of the same application were also sent to the IGP KPK and PM Pakistan. thye result taken in the light of the said application are still awaited .(Copies of original application are enclosed)
- During the corse of investigation the IO Of the case pressurised /threatened for the withdrawal of such application but the appellant totally denied in this regard. Upon which the IO Became annoyed and implicated the appellant in the instant case.

Abdul Amir Khan
Advocate High Court
Dera Ghokhi



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- It has been mentioned in the case file that a motorcycle and a pistol of 30 bore with 05 rounds were recovered from the spot .The motorcycle was shown to tbe the property of the appellant but regarding the pistol the IO remained silent.which firther shows the malafidity and misconduct of the IO .During investigation the IO also told the appellant that he has shown quite sympathy to the appellant by taking no action regarding the pistol.
- The IO has further approached the appellant family to effect compromise with the complainant party time and again but his request was not attended by the family.
- The investigation of the case has since been completed.Complete challan has been submitted in the court which is pending trial.The fate of the criminal case has yet to be decided by the competent court of law.The competent authority of police deptt was required to keep pending the departmental inquiry till to the final judgment of the court but in the instant case such principles were ignored/ruined and the appellant was awarded major punishment which is against the norms of justice .
-
- The appellant was enlisted in the police deptt 9-5-2009.During the whole period of service the appellant was not dealt departmentally which is evident from the shining service record of the appellant.
-
- The appellant is married with 02 kids and the livelihood of the entire family depends upon the police service of the appellant.
- The Appellant performed his duties efficiently, honestly, with great zeal and never showed any in-efficiency and negligence during his service prior to this before his seniors.
-
-

Keeping in view ,the above facts and circumstances, it is humbly prayed that by the acceptance of this instant appeal the order of the DPO Mardan may kindly be set aside and the appellant be re-instated in service from the date of dismissal, please.

Obaid Amin Khan
Advocate
[Signature]

21

Your's Obediently,

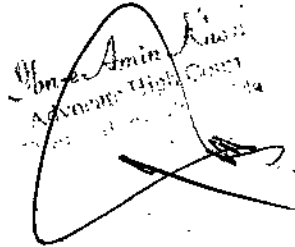


(Ex.Constable BAHAR ALI

District Police Mardan
(Now Dismissed from

No.925)

Dated: 9. March, 2021.
service)



Justice Amin Khan
Advisory High Court

(22) N B 73

1

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Constable Bahar Ali No. 925 of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 388 dated 24.04.2021. The appellant was proceeded against departmentally on the allegations that he while posted at Swat Express Way Mobile-I Shahbaz Garh was found involved in a case FIR No. 481 dated 24.10.2020 u/s 279/320-PPC Police Station Sardheri District Charsadda.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Sub Divisional Police Officer, Katlang, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he recommended the delinquent Officer for appropriate punishment.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the District Police Officer, Mardan on 17.02.2021, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 388 dated 24.02.2021.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 14.04.2021.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations of misconduct against the appellant have been proved beyond any shadow of doubt. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed.

Order Announced.


Regional Police Officer,
Mardan.

No. 2113 /ES, Dated Mardan the 22-4- /2021.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 81/LB dated 22.03.2021. His service record is returned herewith.

(*****)

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ATTESTED

23

Annex "H"

BEFORE THE PROVINCIAL POLICE OFFICER KPK, PESHAWAR

Subject: MERCY PETITION AGAINST THE ORDER OF DPO MARDAN, ISSUED VIDE O.B NO. 388 DATED 24-02-2021, WHERE BY THE PETITIONER HAS BEEN AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE" AND REJECTION OF APPEAL BY DIG MARDAN ISSUED VIDE HIS OFFICE ENDORSEMENT NO.2113/ES DATED 22-04-2021.

Respected Sir,

The petitioner humbly submits as under :

- The DPO Mardan had issued charge sheet No. 16/PA Dated 08-01-2021 against the petitioner with the following allegations:-
" That you Constable Bahar Ali No.925 , while posted at Swat Express Way Mobile-1 Shahbaz Garhi (Now under suspension Police Lines Mardan) , was placed under suspension and closed to Police Lines Mardan vide this office No. OB No.37 dated 06-01-2021, issued vide order/endorsement No.211-14/OSI dated 07-01-2021, on account of charging in a case vide FIR No.481 dated 24-10-2020 U/S 279/320 PPC PS Sardheri (Charsadda)."
(Copy of the charge sheet is enclosed)
- That in the light of above charge sheet, a Departmental Enquiry was held against the petitioner and Mr.Riaz Khan SDPO Katlang was nominated as EO.In response to the charge sheet, the petitioner produced a detailed and comprehensive reply before the EO stating therein that the petitioner is innocent and is not involved in any criminal case.Unfortunately, the version of the petitioner was not considered and the EO submitted an enquiry findings vide his office endorsement no.69/ST dated 08-02-2021 to the office of DPO Mardan and recommended the petitioner for

Abdur Amin Khan
Advocate High Court
Dist: Charsadda

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the award of appropriate punishment .In the light of the enquiry findings, the DPO Mardan awarded major punishment of "dismissal from service" to the petitioner vide OB NO.388 dated 24-02-21. (Copies of enquiry findings + OB No.388 of DPO are enclosed herewith)

- That the petitioner submitted an appeal to the DIG Mardan against the impugned order of DPO Mardan and was heard in person on 14-04-21. However the DIG Mardan vide his office endorsement NO. 2113/ES dated 22-04-2021, rejected the appeal of the petitioner and hence feeling aggrieved, the present Mercy Petition in your Honour. (Copy of appeal & order No.2113/ES of DIG Mardan are enclosed)

• **The FACTS OF CASE FIR NO.481 DATED 24-10-20 U/S 279/320 PPC PS SARDHERI:**

- The facts of the case are that on 24-02-2020, complainant Siraj s/o Hameed ullah r/o Dheri Sheikhan ,Distt Charsadda reported to SI Fazal Subhan at Casualty Hospital Charsadda to the effect that on the day of occurrence that he was present in his house. Meanwhile, he received an information that his brother named "Nabiullah" has been died in a road accident.On receipt of this information he reached to the DHQ Hospital Charsadda where he found lying the dead body of his brother.It was learnt that at the time of occurrence his brother was present on the spot where a truck no.RIC 5385 Driven by One "Nadir Khan" was coming on rash speed from Charsadda side & collided with his brother .Resultantly, his brother was injured and died on the spot. The occurrence was witnessed by many people present on the spot. Complainant directly charged the accused Nadir Khan for the commission of offence and on his report the instant case was registered.The dead body of the deceased was handed over to the doctor for examination and the investigation of ther case was entrusted to the Inspector Nusrat Khan. (Copy of FIR Enclosed)

• **INVESTIGATION OF THE CASE BY THE IO:**

During the course of investigation, the IO inspected the spot. He prepared the site plan. During the spot inspection ,the IO recovered one Motor cycle and pistol of 30 bore with 05 rounds

Shaher Amin
Advocate
Distt: Charsadda

(25)

from the spot. That according to the IO he was told by the people that the deceased Nabiullah was first hit by the motorcycle and resultantly he fell down on the ground. The truck driver accused Nadir Khan then drove over the injured Nabiullah and as the result of this accident Nabiullah was died. The same day, IO recorded the supplementary statement of the one Siraj who also charge the unknown driver of the Motor cycle. On 31-12-2020 the statement of the complainant was recorded in the court u/s 164 Cr.PC who charged the alleged motorcycle driver Bahar Ali (petitioner) for the offence.

Accused Nadir Khan was arrested in the case on the basis of illegal compromise. On 07-01-2021, The petitioner obtained BBA in the instant case from the court of ASJ-IV Charsadda which was later on rejected on 16-01-21. The petitioner obtained later on Post arrest bail from the Judicial Magistrate Charsadda. Though In the supplementary statement of the complainant Siraj recorded U/S 161 Cr.PC by the Police and U/S 164 CrPC in the court, it has been clearly mentioned that complainant was told by the people present on the spot that the driver of motorcycle namely Bahar Ali (petitioner) first collided the deceased but even then the IO had not recorded the statement of a single person allegedly present on the spot in support of the complainant version. This fact is already evident from the case file.

During the course of investigation the petitioner disclosed before the IO that his brother namely "Muhammad Shahid" was dealing in the motor cycle bargain and he is abroad now. The IO simply obtained a copy of the register from the one Lal Badshah (proprietor of Al-Khair Motor cycle bargain Gojar Garhi). In the said copy it has been shown that Muhammad Shahid s/o Gul Muhammad r/o Saleem Khan brother of the petitioner, a motorcycle on installments bearing engine no.2374986, chassis no.206878. Moreover, in the said copy the identity card of the Muhammad Shahid has been clearly mentioned. Unfortunately the IO had made overwriting on the said copy and removed/concealed the name of Muhammad Shahid by placing the name of petitioner/Bahar Ali instead of Muhammad Shahid. By doing this drama, the IO succeeded to held the name of

Abul-e-Amin Khan
Advocate High Court
Dist: Courts

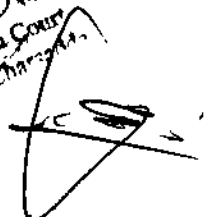
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accused Bahar Ali and connected the ownership of motorcycle with the petitioner .After doing all these illegal malpractices, the IO of the case made the accused/petitioner involved in the instant case.The statement of the Lal Badshah the owner of the bargain was also not recorded which also clearly shows the malafidity of the IO behind the alleged occurrence.

• **COMPREHENSIVE GROUNDS OF MERCY APPEAL:**

- That the petitioner is innocent and has been falsely implicated in the accident case mentioned in the charge sheet.Infact the petitioner was present in his house on sanctioned short leave.The IO of the case was repeatedly requested to confirm the presence of the petitioner from the CDR but his request was thoroughly turned down by the IO and acted like a sterotype.
- The complainant of the case Siraj initially directly charged the accused truck driver Nadir Khan but during the investigation, the complainant was tutored by the IO to include the name of the petitioner as accused.
- The IO obtained a copy of register of bargain shop and made alteration/over-writing in the said copy by showing the name of Bahar Ali/petitioner as a purchaser and by this act of forgery the IO succeeded to held responsible the petitioner as accused for the alleged offence.
- The complainant has clearly mentioned in his statement that he was told by many people present on the spot, that at the time of occurrence that accused Bahahr Ali/petitioner was driving the motorcycle giving collision to the deceased but not a single statement has been recorded by the IO to support the version of the complainant .All this shows the malafidity on the part of the IO .
- The petitioner being deprived from the fundamental rights and illegal acts of the IO and submitted an application to the DIG Mardan against the OII/ Inspector Nusrat Khan.In the said application the brief facts of thre case were mentioned.The said application was sent to the DPO Charsadda for action under the law.The copies of the same application were also sent to the IGP

Shaher Amin Khan
Advocate High Court
Distt: Courts Charsadda



(27)

6. COMPREHENSIVE GROUNDS OF MERCY APPEAL:

- i. That the petitioner is innocent and has been falsely implicated in the accident case mentioned in the charge sheet. Infact the petitioner was present in his house on sanctioned short leave. The IO of the case was repeatedly requested to confirm the presence of the petitioner from the CDR but his request was thoroughly turned down by the IO and acted like a stereotype.
- ii. The complainant of the case Siraj initially directly charged the accused truck driver Nadir Khan but during the investigation, the complainant was tutored by the IO to include the name of the petitioner as accused.
- iii. The IO obtained a copy of register of bargain shop and made alteration/over-writing in the said copy by showing the name of Bahar Ali/petitioner as a purchaser and by this act of forgery the IO succeeded to held responsible the petitioner as accused for the alleged offence.
- iv. The complainant has clearly mentioned in his statement that he was told by many people present on the spot, that at the time of occurrence that accused Bahahr Ali/petitioner was driving the motorcycle giving collision to the deceased but not a single statement has been recorded by the IO to support the version of the complainant. All this shows the malafidity on the part of the IO.
- v. The petitioner being deprived from the fundamental rights and illegal acts of the IO and submitted an application to the DIG Mardan against the OII/ Inspector Nusrat Khan. In the said application the brief facts of thre case were mentioned. The said application was sent to the DPO Charsadda for action under the law. The copies of the same application were also sent to the IGP KPK and PM Pakistan. The result in the light of the said application are still awaited. **(Copies of original application are enclosed)**
- vi. During the course of investigation, the IO Of the case pressurised /threatened for the withdrawal of such application but the petitioner totally denied in this regard. Upon which the IO became annoyed and implicated the petitioner in the instant case.
- vii. It has been mentioned in the case file that a motorcycle and a pistol of 30 bore with 05 rounds were recovered from the spot. The motorcycle was shown to tbe the property of the petitioner but regarding the pistol the IO has remained silent which further shows the malafidity and misconduct of the IO. During investigation the IO also told the petitioner that he has shown quite sympathy to the petitioner by taking no action regarding the pistol. This aspect should be looked into the innocence of the petitioner.
- viii. That DIG Mardan also rejected the appeal of the petitioner without going into the rationale behind the alleged occurrence which is also a gross miscarriage of justice.
- ix. The IO has further approached the appellant family to effect compromise with the complainant party time and again but his request was not attended by the petitioner.
- x. The investigation of the case has since been completed. Complete challan has been submitted in the court which is pending trial. The fate of the criminal case has yet to be decided by the competent court of law. The competent authority of police deptt was required to keep pending the departmental inquiry till to the final judgment of the court but in the instant case such principles were

Advocate High Court
 Distt Courts Charsadda
 Charsadda

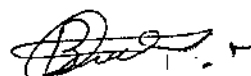
28

- ignored/ruined and the appellatant was awarded major punishment which is against the norms of justice .
- xi. The petitioner was enlisted in the police deptton 09-05-2009. During the whole period of service the petitioner was not dealt departmentally which is evident from the shining service record of the petitioner.
 - xii. The petitioner is married with 02 kids and the livelihood of the entire family depends upon the police service of the petitioner.
 - xiii. The Appellant performed his duties efficiently, honestly, with great zeal and never showed any in-efficiency and negligence during his service prior to this before his seniors.
 - xiv. That the criminal case is under trial and as per Police rules-1975 the petitioner should be re-instated in service till the final adjudication in the criminal case.
 - xv. That petitioner requests in your honour to consider the a/m facts and circumstances to reach the crux of the matter before giving your worthy decision on the instant MERCY PETITION.

PRAYER:

Keeping in view the above facts and circumstances, it is humbly prayed that in the light of instant mercy petition, the impugned order passed by DPO Mardan of awarding major punishment of dismissal from service to the petitioner and rejection of appeal by DIG Mardan may kindly be set aside and the petitioner be re-instated in police service till the final judgment of the Honourable court , please.

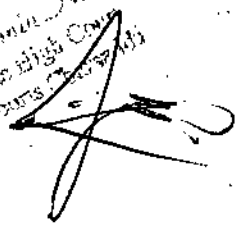
Your's Obediently,



(Ex. Constable BAHAR ALI No.925)
District Police Mardan
(Now Dismissed from service)

Dated: 28 April, 2021.

Advocate Bahar Ali
Advocate Bahar Ali
Dist. Courts Mardan





29
brader

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OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR

ORDER

This order is hereby passed to dispose of Revision Petition cover Rule 11 A of the Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex FC Bahar No. 925. The petitioner was dismissed from service by District Police Officer, Mardan vide OB No. 338, dated 24.07.2020 on the allegations that he while posted at Swat Express Way Mobile-I Shahbaz Gach was found involved in a case vide FIR No. 481, dated 24.10.2020 u/s 279/320 PPC police Station Sardheri Charsadda. His petition was rejected by Regional Police Officer, Mardan vide order Endst. No. 2113/ES, dated 21.04.2022.

Meeting of Appellate Board was held on 29.03.2022 wherein petitioner was heard. The petitioner denied the allegations leveled against him.

Perusal of enquiry papers revealed that the allegations leveled against the petitioner were not proved. Therefore, the Board unanimously decided that his petition is hereby granted.

Sd/
SAHIR AHMED, PSP
Additional Inspector General of Police
HQrs: Khyber Pakhtunkhwa, Peshawar

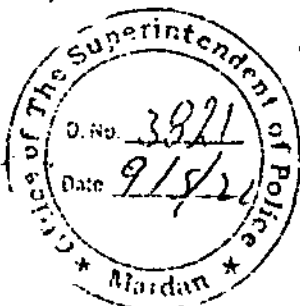
No. SP / 22, dated Peshawar, the 14 / 4 / 2022

Copy of the above is forwarded to the

1. Regional Police Officer, Mardan. One Service Roll and one Form A of the above named Ex FC received vide your office Memo. No. 338/20, dated 24.07.2020, returned herewith for your office record.
2. District Police Officer, Mardan.
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.

ATTESTED

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



11
Sd/ Mardan
27/4/22

29

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

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rules-1975 (amended 2014) submitted by Ex-FC Bahar Ali No. 925. The petitioner was dismissed from service by District Police Officer vide OB No. 388, dated 24.2.2021 on the allegations that he while posted at Swat Express Way Mobile-1 Shahbaz Garh was found involved in a case vide FIR No. 481, dated 24.10.2020 u/s 279/320 PPC, Police Station Sardheri Charsadda. His appeal was rejected by Regional Police Officer, Marddan vide order Endst: No.2113/ES, dated 22.04.2021.

Meeting of Appellate Board was held on 29.03.2022 wherein petitioner was heard in person. Petitioner denied the allegations leveled against him.

Perusal of enquiry papers revealed that the allegations leveled against the petitioner has been proved. Therefore, the Board unanimously decided that his petition is hereby rejected.

Sd/-
SABIR AHMED, PSP
Additional Inspector General of Police
HQrs: Khyber Pakhtunkhwa, Peshawar

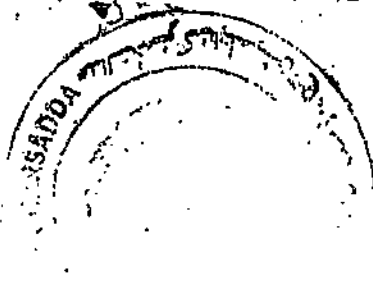
No. S/755-61/22, dated Peshawar, the 14/4/ 2022

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 3336/ES, dated 28.06.2021. is returned herewith for your office record.
2. District Police Officer, Mardan.
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.

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


ATTESTED



94 (30)

Before Learned Magistrate @ HD.

Bahar Ali go Gul Muhammad

go mohalla Saleem Khan
(Permaner)

08/03/2022
D State.

VS

(Respondents)

(43)

Subject: Application u/s 249 A CrPc.

vide case FIR NO 481 dated 24/10/20

of 279/320 CrPc. P's Sancheli

is submitted as under

1) That this case is fixed before this Honorable Court.

2) That this case is based on Conjectures

3) That this case is futile exercise,

4) That the Permaner has not been

charged in the FIR, and no cogent evidence is available on the file.

It is therefore requested that the case may be quashed. Adv

ATTESTED

18 FEB 2023

Registrar
Magistrate Sahib
District Court Sahib

31

Order No. 24
30.06.2022

APP for the State present. Accused in person while complainant along with counsel present.

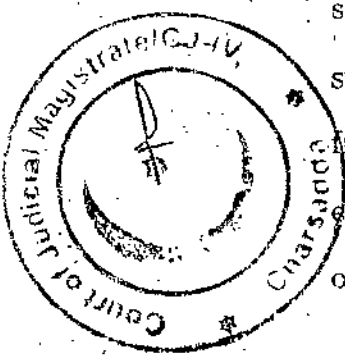
This order is directed to dispose off an application u/s 249-A Cr.P.C moved by the accused for his acquittal in case FIR No. 481 dated 24.10.2020 u/s 279/320 PPC /15AA of Police Station Sardheri District Charsadda.

Brief facts as per FIR are that on 24.10.2020 about 18:00 hours, complainant reported to local police about death of his brother on road accident and charged accused namely Nadir s/o unknown person with contention that his brother (deceased) was present on road at the time of occurrence wherein a truck No. RIC5385 driven by accused Nadir. Due to rash driving deceased was hit by the truck who succumbed injuries and died. At time of occurrence complainant stated that he was present in his home wherein he got the information from the occurrence. The occurrence was witnessed by many people as eyewitnesses. Accused facing trial was charged under the ibid sections of law.

During the course of investigation, complainant who is brother of deceased recorded his statement in court u/s 164 Cr.PC on 31.12.2020, wherein, he charged accused Bahar Ali for commission of offence and name of present accused was added later on, on basis of his statement.

After completion of the investigation the complete challan was submitted for trial on 15.03.2021, wherein, accused were summoned whom appeared before the court and provisions of section 241-A Cr.P.C compiled with and formal charged was framed to which the accused pleaded not guilty and claimed trial. Prosecution was given opportunity to adduce its evidence:

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18 FEB 2022

18 FEB 2022
District Branch
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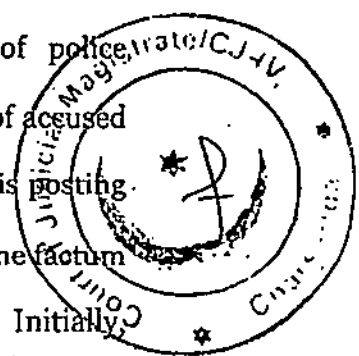
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accused facing trial Farid alias Nadir on 07.02.2022 due to which Farid alias Nadir was acquitted of the charge on basis of compromise vide order No. 08 dated 07.02.2022.

prosecution produced as many as two witnesses, that the statement of PW-1, Mr. Nusrat Ali retired inspector was CIO at time of occurrence posted at PS Sardheri. The investigation was conducted by him. He was cross examined by counsel for accused at length. In his cross examination he admitted that he has not examined any witness of the occurrence while actually the occurrence took on main road during day light. It is mentioned in site plan that some shops were situated at place of occurrence however no shop keeper has been examined by the IO. Accused facing trial is serving of police department however IO has not inquired above duty roster of accused nor any official of police has been examined from place of his posting regarding his duty. The F.I.R / Murasila is also silent about the factum of information and name of informer to the complainant. Initially accused Farid was charge for hitting of deceased by truck and rash driving but from the spot IO recovered a motorcycle and 30 bore pistol on basis of which accused facing trial was charged. Complainant was at his home at time of occurrence due to which he is not witness of the occurrence. Similarly, the verifier of report namely Mujahid is also not eyewitness of the occurrence. No blood stained has been recovered on the spot.

Statement of complainant namely Siraj s/o Hamecdullah was recorded as PW-2. In cross examination he has stated that he has mentions no source of satisfaction in his statement u/s 164 crpc and the said statement is recorded after two months of the occurrence. He

13



ATTESTED

18 FEB 2023

Branch
Judge

33

charge in the F.I.R. the accused facing trial is not directly charged in F.I.R. it is also correct that no eyewitness has been mentioned in the statement u/s 164 crpc. He has not produced any shop keeper of the near by shops for evidence and the site plan has not been prepared on his pointation and the same has also not been verified by him.

Vide order sheet No. 23 dated 22.03.2022 complainant stated at the bar that he has no objection if accused facing trial is acquitted of charge and he is not going to produce any further evidence.

The provisions of 249A crpc are attracted only when the court comes to the conclusion that the charge against accused is groundless or there is no probability of conviction of accused. In present case the case of complainant is based on statement u/s 164 crpc, however, there is no mention of informer or source of satisfaction nor there is mention of any eyewitness of the occurrence. Evidence of PW1 and PW-2 is not sufficient to convict the accused as the same is full of doubts and no authentic and reliable evidence has been produced to connect accused facing trial with commission of offence. Complainant has also expressed no objection if accused facing trail is acquitted of the charge. The available record on file further suggests that there is no probability of conviction of accused hence, further trial of instant case is nothing but waste of time of the court, therefore, application u/s 249A crpc is accepted and accused facing trial is acquitted of the charge. Sureties be discharged. Case property, if any, be disposed off in accordance with law but after the expiry of period of appeal/revision.

(14)

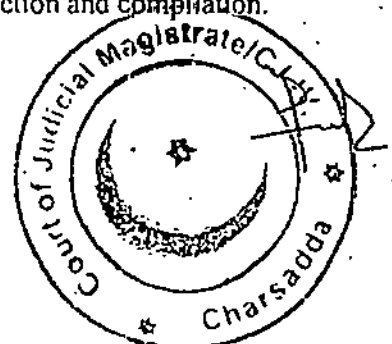
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ATTESTED

18 FEB 2023

File be consigned to RR after its completion and compilation.

Announced:
30.06.2022



Copy of this order to be sent to the court of justice
Date: 18/02/2023

34

"J"

**BEFORE INSPECTOR GENERAL OF POLICE KHYBER
PAKHTUNKHWA PESHAWAR**

Bahar Ali S/O Gul Muhammad R/O Ghulam Sarwar Khan kaly
Tehsil and District Mardan.

(Ex-Constable No. 925 Of District Police Mardan)

.....Petitioner

Subject: Departmental representation /first regular appeal against the order of DPO Mardan Dated: 24-02-2021 OB No. 388 wherein the petitioner was dismissed from his service and the said order was upheld regional police Officer Mardan vide no. 2113 dated 22-04-2021 and also upheld by the worthy IGP vide order no. S755-61 dated 14-04-2022 and all the above mentioned orders are against the law and facts on record because the criminal case wherein the petitioner was charged vide FIR No. 481 dated: 24-10-2020 U/S 279, 320 of P.S Sardheri District Charsadda was under trail and sub-Judice in court during the above mentioned orders Now the petitioner has been acquitted by the learned magistrate Charsadda dated: 30-06-2022 U/S 249 Crpc and hence the petitioner is absolved from all the charges and the petitioner acquittal is made by the competent court on merit hence the petitioner is entitled to be reinstated in his post with all back benefits i-e Salaries etc hence the instant departmental representation / first regular appeal after acquittal submitted as under,

Sir,

1. With due respect submitted with profound and humble veneration that the petitioner is ex-constable vide 925 of District Police Mardan since his appointment till yet the petitioner background is outstanding and the petitioner is patriotic, law abiding citizen and civilized police constable of District Police Mardan.
2. That the case FIR No. 481 Date: 24-10-2020 U/S 279, 320 PS Sardheri of District Charsadda Registered against the accused Farid Khan Alias Nadiry S/O Muhammad Gul R/O Gulshan abad Kohat Presently Kohat road Peshawar was charged and later on the petitioner was also implicated

ATTESTED

(Better Copy)

34

BEFORE INSPECTOR GENERAL OF POLICE KHYBER
PAKHTUNKHWA PESHAWAR

Bahar Ali S/O Gul Muhammad R/O Ghulam Saiwa. Khan Kaly
Tehsil and District Mardan.

(Ex-Constable No. 925 Of District Police Mardan)

Subject:

Petitioner

Departmental representation /first regular appeal again the order of DPO Mardan Dated: 24-02-2021 OB No. 388 wherein the petitioner Was dismissed from his service and the said order was upheld regional police Officer Mardan vide no. 2113 dated 22-04-2021 and also upheld by the worthy IGP vide order no. S755-61 dated 14-04-2021 and all the above mentioned orders are against the law and facts on record because the criminal case wherein the petitioner was charged vide FIR No. 481 dated: 24-10-2020 U/S 279, 320 of P.S Sardheri District Charsadda was under trail and sub-Judice in court during the above mentioned orders Now the petitioner has been acquitted by the learned magistrate Charsadda dated: 30-06-2022 U/S 249 CrPC and hence the petitioner is absolved from all the charges and the petitioner acquittal is made by the competent court on merit hence the petitioner is entailed to be reinstated in his post with all back benefits i-e salaries etc hence the instant departmental representation / first regular appeal after acquittal submitted as under.

Sir,

1. With due respect submitted with profound and humble. veneration that the petitioner is ex-constable vide 925 of District Police Mardan since his appointment till yet the petitioner background is outstanding and the pettioenr .s patriotic, law abiding citizen and civilized police constable of District Police Mardan.
- 2 That the case FIR No. 481 Date 24-10 2020 US 27,009 PS Sardheri of District Charsadda Registered against the accused Farid Khan Alias Nadiry S/O Muhammad Gul R/o Gulshan Abad Kohat Presently Kohat road Peshawar was Charged and later on the petitioner was also implicated.

ATTESTED

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falsely in the above mentioned case due to ulterior motives.

(Copy of FIR is attached)

3. That it is pertinent to be mentioned here that the petitioner is neither charged in the FIR mentioned above nor the cogent reliable and trust worthy evidence are put forward by the complainant for implicating the accused petitioner and on the basis of surmises and conjectures the petitioner enmeshed by the complainant for some ulterior motives after two months and seven days
4. That the petitioner charged by the complainant mala fide after two months and seven days in a statement U/S 164 without disclosing any source of satisfaction and thus the petitioner was entangled by the complainant in the above mentioned case without any cogent and reliable evidence.
5. That the petitioner when came in to knowledge about the mentioned false case the petitioner sought his pre-arrest bail from the court concerned and also submitted application to high ups for impartial investigation in the above mentioned case and the petitioner stated before the investigation officer and court that I am innocent and have concern with the commission of offence.
6. That the petitioner due to the above mentioned case was suspended by DPO Mardan and latter on dismissed from his service in a mechanical manner during the trial of above mentioned case and thus the petitioner was deprived of his service when the matter was sub-judice in the court.

(Order of dismissal is attached)

ATTESTED

7. That the petitioner and his family due to above mentioned dismissal miserably suffered and thus aggrieved, submitted appeal against the dismissal during the trial preceding of the case before the Regional Police Officer Mardan. The appeal was declined during those days when the matter was sub-judice in the court and thus the

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falsely in the above mentioned case due to ulterior motives.

(Copy of FIR is attached)

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(Order of dismissal is attached)

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ATTESTED

petitioner suffered and punished prior to the court decision.

(Order of the Regional Police Officer is attached)

8. That the fair and transparent conduction the trail of the case mentioned above was sub-judice before the court of learned judicial magistrate charsadda and investigation officer statement as Pw1 and the complainant statement as Pw2 were recorded in the court in due course of law and both statement was contradictory not based on reliable and cogent evidence and thus discredited by the court and that period the petitioner assailed the order of respected regional office Mardan before the worthy of IGP Khyber Pakhtunkhwa but the worthy IGP during pendency of the trail declined the submission of petitioner.

9. That the petitioner through counsel submitted application U/S 249A Crpc in the above mentioned case before the learned magistrate Charsadda for the speedy justice during the trail and thus after arguments on both sides the court concerned reached to the conclusion that the case leveled against the petitioner is baseless frivolous without evidence and the evidence available on file is not reliable and based on conjecture and surmises and thus acquitted the petitioner from all charges and the decision was given on merit.

(Attested Copy of the application U/S 249A Crpc and order of acquittal is attached herewith)

10. That any sort of punishment whether corporal or incorporeal prior to the decision of competent court is illegal against the law of fundamentals rights natural justice, fair transparent and manifest justice.

11. That the petitioner once again beseeched through this departmental representation /first regular appeal that the petitioner belong to respectable family sole bread winner of his family and have not committed the offence and also the petitioner career is silent with regard to any misconduct or omission/ commission hence in

ATTESTED

(Better Copy)

petitioner suffered and punished prior to the court decision.

(Order of the Regional Police Officer is attached)

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ATTESTED

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circumstances the petitioner as per fundamental rights is entitled to be reinstated in his post along with all back benefits in the larger interest of law Justice and his family.

It is therefore requested that the petitioner submissions may kindly accepted and the petitioner may kindly be reinstated with all back benefits as the petitioner earned his acquittal from the competent court hence entitled for the reinstatement with all back benefits i-e salaries ,promotion etc in the larger interest of justice.

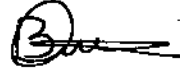
Petitioner 

Dated: 19-07-2022

Bahar Ali S/O Gul Muhammad R/O
Ghulam sarwar Khankaly Mardan Constable
No.925 District Police Mardan
CNIC No.16101-4648941-3
Mobile No.0314-9382071

AFFIDAVIT

I do solemnly affirm that all the contents of this departmental representation / first regular appeal is correct to the best of my knowledge and belief and nothing has been concealed.

Bahar Ali No. 925 

District Mardan

ATTESTED

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(Better Copy)

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Petitioner

Dated: 19-07-2022

Bahar Ali S/O Gul Muhammad
R/O Ghulam Sarwar Khan
Kaly Mardan Constable No.925
District Police Mardan CNIC
No.16101-4648941-3 Mobile
No.0314-9382071

AFFIDAVIT:

I do solemnly affirm that all the contents of this departmental representation / first regular appeal is correct to the best of my knowledge and belief and nothing has been concealed.

Bahar Ali No.925
District Mardan

ATTESTED



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OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Bahar Ali No. 925. The petitioner was dismissed from service by District Police Officer, Mardan vide OB No. 388, dated 24.02.2021 on the allegations that he while posted at Swat Express Way Mobile-1 Shahbaz Garh was found involved in a case vide FIR No. 481, dated 24.10.2020 u/s 279/320 PPC Police Station Sardheri Charsadda. His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 2113/ES, dated 22.04.2021.

Meeting of Appellate Board was held on 19.01.2023 wherein petitioner was heard in person. Petitioner contended that he was acquitted of the charges u/s 249a CrPC by the court of Judicial Magistrate, Charsadda vide judgment dated 30.06.2022.

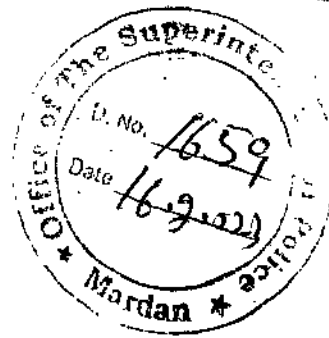
Perusal of enquiry papers reveals that the allegations leveled against the petitioner has been proved. During hearing, petitioner failed to advance any plausible explanation in rebuttal of the charges. The acquittal from the court does not absolve the petitioner from the liability. The Board sees no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-
SABIR AHMED, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 262-63 /23, dated Peshawar, the 9-02-2023.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan: One Service Roll and one Fauji. Missal of the above named Ex-FC received vide your office Memo: No. 5854/ES, dated 01.09.2022 is returned herewith for your office record.
2. District Police Officer, Mardan.
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.



(DR. ZAHID ULLAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

EC/DPO Mardan

For n/action

EC

For n/action

ATTESTED

RPO/Mardan
13/2/23

DPO/Mardan
14-2-23

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ایڈوکیٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر:		سروس سٹر ہونٹ کالور		
رابطہ نمبر:		بعدالت جناب:		

منجانب: ایڈووکیٹ	دعویٰ:
	علت نمبر:
	مورثہ:
	جرم:
	تھانہ:
	باعت تحریر آگے

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

آن مقام ایڈووکیٹ امین علی کو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو

راضی نامہ کرنے و تقررات و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق

زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز

دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی

کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب

مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور ان کا ساختہ پر داخست منظور و قبول ہوگا

دوران مقدمہ میں جو چیز ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے

باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ لیا تاکہ سند رہے

المرقوم: 025-2023-12-30

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Actve