

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 284/2023
Arshad Iqbal
Ex-Constable No.173

..... Appellant

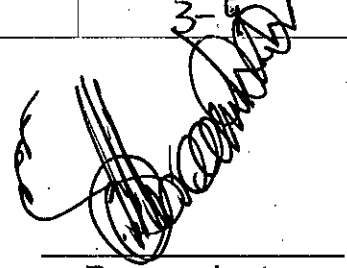
VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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Respondents
Through
Representative

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

Service Appeal No. 284/2023

Arshad Iqbal

Ex-Constable No.173

..... Appellant

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 6979

Inspector General of Police,
Khyber Pakhtunkhwa & others

Dated 11/08/23
..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2 & 3

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appellant is estopped by his own conduct to file the instant appeal.
- iv. That the appeal is bad in eyes of law and not maintainable.
- v. That the appellant has not approached the honorable Tribunal with clean hands.
- vi. That the appeal is barred by law and limitation.

REPLY ON FACTS

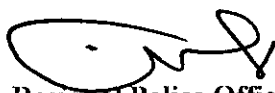
1. Pertains to the record, hence, no comments.
2. Correct to the extent that the appellant was charge sheeted for sharing/ leaking secret official information which amounts to gross misconduct on his part.
3. Pertains to record, hence, no comments.
4. Incorrect, proper enquiry was conducted by SDPO Takht-e-Nasrati into the allegations that the appellant had connections with criminals and he shared secret information with them. During enquiry proceedings, the appellant was provided opportunity of self-defense but he failed to prove his innocence, however, the allegations were proved against him. The enquiry officer found him guilty and thereby recommended him for major punishment.
5. Incorrect, reply already submitted as para 4 above.
6. Incorrect, on receipt of enquiry report from the first enquiry officer, the competent authority assigned the enquiry for review to SP Investigation Karak in order to ensure merit, transparency and justice. The appellant was, therefore, provided another opportunity of defense. However, he failed again to prove his innocence. The enquiry officer fulfilled all codal formalities and there by established all the allegations against appellant. (Copy of the finding report is attached as **Annexure-A**).
7. Correct, hence, no comments.
8. Incorrect, the respondent being competent authority awarded the major punishment of dismissal from service after perusal of available record. Hence the appellant was dealt in accordance with rules / law.
9. The appellant's appeal was rejected by respondent No.2 for being devoid of merits, therefore, awarded penalty which he deserved under the rules / law. The appellant's plea is not maintainable in law and is liable to be dismissed on the following grounds:

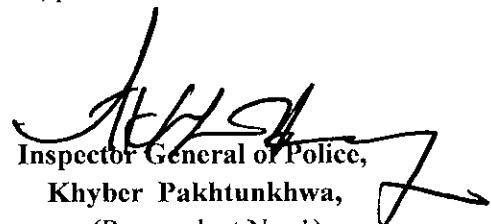
GROUND:

- A. Incorrect, the impugned order was passed in accordance with law and rules. During enquiry, CDR of two suspected Mobile numbers was obtained which showed the appellant's contact with them. He also failed to provide any reasonable ground to the enquiry officer regarding his contact.
- B. Incorrect, proper enquiry was conducted against the appellant who was provided full opportunity of defense but he failed to provide any evidence regarding his innocence. After completion of enquiry in which the appellant was found guilty and was recommended for punishment, the competent authority re-assigned the same for review to SP Investigation Karak in order to ensure merit, transparency and justice. However, again, the appellant failed to prove his innocence. The enquiry officer fulfilled all the requirements of enquiry, established connection of the appellant with the accused and found him guilty on the basis of available record/circumstantial evidence.
- C. Incorrect and misleading as already explained vide above para, for sake of justice and fair play, the competent authority assigned another enquiry officer to review the findings of the first enquiry officer. However, again, the appellant failed to prove himself innocent. Upon the recommendations of the 2nd enquiry officer proving the appellant guilty of the charges, the competent authority issued appellant the Final Show Cause Notice and he was also heard in person. However, the appellant failed to produce any plausible reply regarding allegations against him. Hence, he was awarded major punishment.
- D. Incorrect, the appellant was dealt in accordance with law and rules and for sake of justice and fair play.
- E. Incorrect, the appellant has been proceeded as per procedure and law/rules.
- F. Reply already submitted as para B above.
- G. Pertains to the apex court judgment however, the appellant was heard in person and proper chance of cross question was also given before imposing major punishment (dismissal from service).
- H. Incorrect, the competent authority followed the law/rules before imposition of major punishment of appellant. On the receipt of enquiry report, the competent authority issued appellant the Final Show Cause Notice and he was also heard in person. However, the appellant failed to produce any plausible reply regarding allegations against him. Hence, he was awarded major punishment.
- I. Incorrect, after completion of enquiry in which the appellant was found guilty and was recommended for punishment, the competent authority re-assigned the same for review to SP Investigation Karak in order to ensure merit, transparency and justice. However, again, the appellant failed to prove his innocence. The enquiry officer fulfilled all the requirements of enquiry, established connection of the appellant with the accused and found him guilty on the basis of available record/circumstantial evidence.
- J. Incorrect, charges against the appellant were proved against the appellant during enquiry. The appellant had shared secret official information with criminals and this act of the appellant tarnished the image of discipline Force. Therefore, found guilty of the allegation against him, the competent authority awarded him major punishment of dismissal from service.
- K. Irrelevant as pertains to jurisdiction of the hon'ble Tribunal.
- L. Irrelevant as pertains to jurisdiction of the hon'ble Tribunal.
- M. Incorrect, already explained vide above para.
- N. The respondents may also be allowed to adduce additional grounds at the time of hearing.

Prayer:-

In the light of above facts and circumstances, it is therefore requested that the appeal of the appellant, being devoid of merits, may kindly be dismissed with costs, please.


Regional Police Officer,
Kohat
(Respondent No. 2)


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Karak
(Respondent No. 3)

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

S. Appeal No- 284/2023
Arshad Iqbal
Ex Constable NO. 173, Karak

..... Petitioner

Versus


Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I Waqar Ahmad S/O Izzat Khan R/o District Police Karak do hereby solemnly affirm and declare on oath that the contents of Para wise comments in the titled above Writ Petition are true & correct to the best of my knowledge and belief nothing has been concealed from this honourable court.

It is further stated on oath that in the appeal, the answering respondents have neither been placed Ex-parte nor their defence has been struck off/cost.

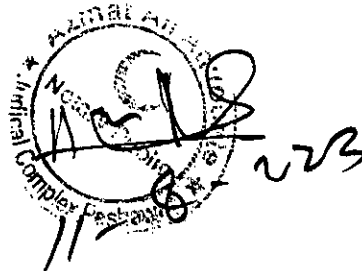

4/08/2023
Deponent

CNIC No 17301-5732688-7

Mobile No 03459117337

ATTESTED

Identified By





OFFICE OF THE SUPERINTENDENT
OF POLICE, INVESTIGATION
WING KARAK

No. 1831 /Inv:

Date 03/08 /2022

To: The District Police Officer, Karak

Subject: REVIEW COMMENTS AGAINST CONSTABLE ARSHAD IQBAL NO. 173

Memo:

Kindly with reference to your good office remarks passed on the subject matter wherein the undersigned was directed to produce review comments / enquiry.

ALLEGATIONS:-

"As per charge sheet vide No. 233/Enq; dated 05.11.2021 allegation against the said constable was leveled that he share / leak police secret information to private individual / criminals which effect the Police performance and also tarnish the image of police in general public".

PROCEEDING:-

Since during the course of review comments: the accused official namely constable Arshad Iqbal No. 173 was summoned heard in person, recorded his statement and cross examined. Similarly statements of Najeeb Ullah HC No. 290 Incharge Police Post Shah Salim as well as FC Umer Sawab No. 807 was recorded and placed on file. Secret information regarding the allegation against the said constable was also obtained.

CONCLUSION:-

During the proceeding it has become very crystal clear that transportation of the accused from Police Post Shah Salim to Police Station Shah Salim has been made through delinquent official Arshad Iqbal No. 173 accompanied by his Incharge HC Najeeb Ullah No. 290 and FC Umer Sawab No. 807 upon directions of their immediate high-ups. So far the allegation pertaining to share / leakage police secret information to private individual / criminals by the alleged accused constable Arshad Iqbal No. 173 is concerned: the available record / circumstantial evidence and secret probe reveals that he is definitely connected to extend every possible help to the accused remained in their custody. The accused in custody also managed phone to his relative in the presence of said constable due to which the said delinquent FC was proceeded departmentally.

FINAL OPINION:-

I am of the view the allegation leveled against constable Arshad Iqbal No. 173 has been proved.

Encl (70)

[Handwritten signature]

[Handwritten signature]

Superintendent of Police,
Investigation Wing Karak

جناب عالی

بحوالہ چارج شیٹ احکام نمبر No.233/Eng مورخہ 05-11-2021ء ہمارے جناب ڈسٹرکٹ پولیس افسر کرک، بر خلاف کنسٹیبل ارشد اقبال نمبر 173 قحانہ شاہ نے بحال پینس این بک ذریعہ جعلی وارنٹ ہو کر زبردستی نے انکوائری کر کے جو کہ ذیل ہے۔

الزامات۔

بحوالہ چارج شیٹ مذکورہ بالا میں کنسٹیبل ارشد اقبال نمبر 173 قحانہ شاہ سلیم، حال پولیس لائن کرک پر یہ الزام ہے، اور بحوالہ چھٹی انگریزی احکام نمبری No 306/PA HQ مورخہ 28-10-21 ہمارے جناب SDPO/HQ صاحب تحصیل سرکل کرک کہ کنسٹیبل مذکورہ جو محکمہ پولیس کرک کے اہم اور خفیہ معلومات جرائم پیشہ من سر وہیا کرتا ہے، کنسٹیبل مذکورہ بالا کے اس فعل سے عوامی حلقہ میں محکمہ پولیس کے وقار کو مجروح کرنے کا سبب بنتا ہے۔

بیانات۔

انکوائری میں فرض سے التزام میں کنسٹیبل ارشد اقبال نمبر 173، زبردستی کو طلبہ پر وہ حاضر ہو کر جس کا تحریری بیان قلمبند کر کے جوائن انکوائری ہذا ہے، جس نے تحریر کیا ہے کہ میرے سبب اور صرف انکوائری پلانٹ کی حفاظت کی ہے، اور انکوائری پلانٹ ایریا کے باہر کسی اور مقام میں ڈیوٹی سرانجام نہیں دی ہے، جس سے کہ پینس لوگوں سے تعلقات رکھنے کا سوال ہی پیدا نہیں ہوتا ہے، اور سن سال کے نام پر وہ عدس موہاں فن ہم ہیں، اس لہذا CDR کا پتہ حاصل کریں، کہ من علوم کنسٹیبل نے کسی مشکوک افراد سے بات کی ہے، اسکے علاوہ میرے کردار سے نجیب اللہ HC ماہی چارج چوکی امجد اللہ شہید شاہوہ پلانٹ شاہوہ کلاڈی ٹیل باغرب واقف ہے، شاید لٹا لٹکی سے من کنسٹیبل کے خلاف الزامات ثابت ہوں۔ بیان لکھ ہے۔

انکوائری ہذا میں کنسٹیبل ارشد اقبال کے تحریری بیان کے علاوہ انچارج سرکل تحت نصرتی DSB ٹاف کا بھی تحریری بیان قلمبند کیا گیا جو لگ انکوائری ہذا ہے، جس کے مطابق وہ ملاقاتی اور ہاشمی سٹج پریک چال چلن بیان ہوا۔

مشاہدات۔

جناب عالی! انکوائری ہذا میں کنسٹیبل ارشد اقبال کے تحریری بیان کے علاوہ انچارج سرکل تحت نصرتی DSB ٹاف کا بھی تحریری بیان قلمبند کیا گیا جو لگ انکوائری ہذا ہے، جس کے مطابق وہ ملاقاتی اور ہاشمی سٹج پریک چال چلن بیان ہوا۔ مزید مذکورہ کنسٹیبل ارشد اقبال کے موہاں فن لہذا CDR کا پتہ حاصل کیا گیا، نامہ اور جزل خود حال باہر ملازمت کا بھی باہر تیش سے مشاہدہ کیا جا کر جو من انکوائری افسر کو تیش ظاہر نہیں ہوئی، کیونکہ وہ بدوران ملازمت کی مقامات پر معزز افسران بالا صاحبان کو شکایتی ہے، اور سب سے بڑی بات یہ ہے کہ ایسے ایسے مقدمہ میں اور انہم واقعات کی باہر کسی غیر متعلقہ فرد یا اس جرم سے جڑے جرائم پیشہ افراد اور عناصر کو معلومات لراہم کرنا جبکہ اس مقام میں ایک گزٹ شدہ افسر کسی ایسی حالت میں خلاف، سینئر پولیس افسران صاحبان کو شکایت تحریر کرتا ہے اور اس الہذا کے خلاف حکمانہ انکوائری شروع کرنے کا بھی استدعا کرتا ہے لہذا اس سے یہ بات ثابت ہوئی کہ کنسٹیبل مذکورہ واقعی ہی اس وقوعہ میں کسی جرائم پیشہ افراد اور عناصر کو معلومات لراہم کرتا رہا۔

تعمیری رائے۔

علیحدہ کارروائی درج بالا ہوئی اور انکوائری ہو کر پایا گیا کہ چارج شیٹ ہذا میں کنسٹیبل ارشد اقبال نمبر 173 کو قصور وار ٹھہرایا جا کر سخت سزا دینے کی استدعا اور سزا کی جاتی ہے۔ انکوائری فائل رپورٹ مرتب ہو کر گزارش ہے۔

Amir
کسٹ

سب ڈویژنل پولیس افسر، تحت نصرتی۔