

08.04.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

Written reply on behalf of respondents not submitted. Learned Addl. AG seeks time to furnish written reply. Last opportunity is granted. To come up for written reply/ preliminary hearing before the S.B on 18.05.2022.

[Handwritten signature]
Chairman

18.05.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Zewar Khan, Inspector for the respondents present.

Reply/comments on behalf of respondents submitted which is placed on file. Copy of the same is hand over to junior counsel for the appellant. To come up for rejoinder if any, and arguments on 25.07.2022 before D.B.

[Handwritten signature]

(Mian Muhammad)
Member (E)

SCANNED
KPST
Peshawar

25.7.22

proper DB not available to come up for the same as before on 14.9.22

[Handwritten signature]

MEMORANDUM

NO. 1234

NO. 1234 of 2022 for the purpose of the appeal filed by the appellant against the order of the learned Addl. AG dated 18.05.2022.

It is noted that the learned Addl. AG has granted the appellant a last opportunity to furnish written reply/ preliminary hearing before the S.B on 18.05.2022. It is also noted that the appellant has not submitted any written reply on behalf of the respondents.

18.11.2021

Counsel for the appellant present.

Perusal of the record reveals that no notice has been issued to the respondents in pursuance of order sheet dated 01.10.2021. The office is directed to issue pre-admission notice to respondents immediately and be careful in future. To come up for reply/parawise comments of respondents and preliminary hearing on 03.12.2021 before the S.B.

P

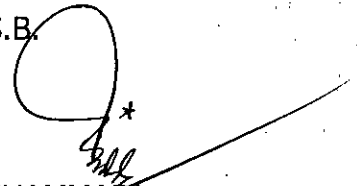


(MIAN MUHAMMAD)
MEMBER (E)

03.12.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Learned AAG, on contact with the respondent-department, stated at the bar that reply in pre-admission notice will be submitted on the next date. Adjourned. To come up for written reply/preliminary hearing on 03.02.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (E)

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 08.04.2022 before S.B for the same.

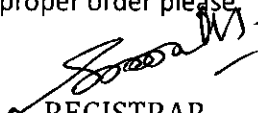
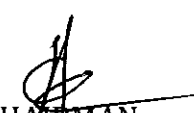

Reader

Form-A

FORM OF ORDER SHEET

Court of _____

Case No.- 7274 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/08/2021	<p>The appeal of Mr. Kamal Muhammad resubmitted today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar. Notice be issued to appellant/counsel for preliminary hearing to be put up there on <u>01/10/21</u>.</p> <p> CHAIRMAN</p>

01.10.2021

Counsel for the appellant present.

Learned counsel for the appellant argued that the appellant is aggrieved of original impugned order dated 11.12.2010 and appellate order dated 29.07.2021. The appellant was nominated in FIR No. 279 dated 10.09.2010 in a criminal case under Section-302/324/148/149 PPC Police Station Gandigar District Dir Upper. The appellant was awarded ten (10) years imprisonment as well as compensation to the legal heirs of the deceased by the Trial Court vide its judgement dated 30.09.2019. The orders of Trial Court were challenged before the Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat in No. Cr.A No.444-M/2019 which set aside orders of trial court and the appellant acquitted of the charges on 20.05.2021. On his acquittal, the appellant preferred departmental appeal on 08.06.2021 which was dismissed on 29.07.2021 on the ground being "badly time barred", hence, the instant service appeal filed in the Service Tribunal on 11.08.2021. It was further contended that the appellant has not been treated as per dictates of law. The requirements under Section-3-A(b) of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 have not been fulfilled and the appellant has been condemned unheard without holding a proper enquiry. So much so that the original impugned order dated 10.09.2010 does not mention the criminal case registered against the appellant under FIR No. 279 dated 10.09.2010 i.e the date of absence from his duty. Since no formal enquiry has been conducted against the appellant and the impugned orders passed against him, are discriminatory, malafide and in violation of principle of natural justice. The same may be set aside and the appellant reinstated in service with all back benefits. As there is a gape of long period of 11 years between the original impugned order and appellate order, Let pre-admission notice be issued to the respondents for an early reply. Adjourned. To come up for further proceedings before the S.B on 18.11.2021.



(MIAN MUHAMMAD)
MEMBER (E)

The appeal of Mr. Kamal Muhammad Ex-Head Constable Police Line District Dir Upper received today i.e. on 11.08.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Departmental appeal having no date be dated.
- 2- Annexure-G of the appeal is illegible which may be replaced by legible/better one.

No. 16/2 /S.T.

Dt. 12/08 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.

Sir
16/8/21

Resubmitted after the complaint

objection No. 1 was Remanded. Page (35)

objection No. 2 was Remanded. Page (36)

K
16/8/21

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: KAMAL MUHAMMAD

V/S

POLICE DEPARTMENT

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: NOOR MOHAMMAD KHATTAK	✓	
2	Whether Counsel/Appellant/Respondent/Deponents 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 paged?	✓	
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: **NOOR MOHAMMAD KHATTAK**

Signature: _____

Dated: 09/08/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2021

KAMAL MUHAMMAD V/S POLICE DEPTT:

INDEX

S.N O	DOCUMENTS	ANNEXUR E	PAGE
1	Memo of appeal	1 - 3
2	Affidavit		4
3	Service book	A	5
4	FIR	B	6-7
5	Impugned order dt: 11-12-2010	C	8
6	Judgment dt: 20-05-2021	D	9-31
7	Release order dt: 25-05-2021	E	32
8	Departmental appeal	F	33-35
9	Appellate order dt: 22-01-2021	G	36
13	Wakalat Nama	37

Dated: 09-08-2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

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

APPEAL NO. 7274 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7435

Dated 11/8/2021

Mr. Kamal Muhammad, Ex-Head Constable,
Police Lines, District Dir Upper.

..... APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- Regional Police Officer, Malakand Region at Saidu Sharif Swat.
- 3- District Police Officer, District Dir Upper.

..... RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 11.12.2010
WHEREBY THE APPELLANT HAS BEEN DISMISSED
FROM SERVICE AND AGAINST THE APPELLATE ORDER
DATED 29.7.2021 WHEREBY DEPARTMENTAL APPEAL
OF THE APPELLANT HAS BEEN REGRETTEED ON NO
GOOD GROUNDS**

PRAYER:

That on acceptance of this appeal the impugned order dated 11.12.2010 & Appellate 29.7.2021 may very kindly be set aside and the appellant may kindly be reinstated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHWETH:

ON FACTS:

1. That appellant is the employee of the respondent Department and was appointed as Constable vide order dated 4.7.1991 after fulfilling all the codal formalities required for the post and started performing his duty with full zeal & zest. Copy of the relevant page of the service Book/missal is attached as annexure **A.**

2. That during service the appellant was promoted to the Rank of Head Constable. That appellant while performing his duty as head constable in the respondent Department an FIR was lodged against the appellant under section 302/324/148/149 PPC vide dated 10.9.2010. Copy of the FIR is attached as annexure **B.**

Filed to-day
Registrar
11/8/2021

Re-submitted to-day
and filed.
Registrar
16/8/21

3. That due the ibid reason the appellant absented himself from duty and as such the respondents inspite of knowing the fact that appellant has been charged in the criminal case has straight away issued the impugned order dated 11.12.2010 whereby the appellant has been dismissed from service w.e.f. the date of absence. Copy of the impugned order is attached as annexure **C.**
4. That vide judgment dated 20.5.2021 the Honourable Peshawar High Court honorably acquitted the appellant from the criminal charge and as such the appellant was released from jail vide dated 25.5.2021. That after acquittal the appellant visited the concerned quarter for arrival but the respondent No.3 handed over the impugned order to the appellant. Copies of the judgment, release order are attached as annexure **D & E.**
5. That the appellant feeling aggrieved from the impugned order dated 11.12.2010 filed Departmental Appeal but the same was rejected by respondent No.2 without assigning any cogent reason vide appellate order dated 29.7.2021. Copy of Department Appeal & Appellate order dated ~~29.7.~~ 2021 is attached as annexure **F & G.**
6. That appellant feeling highly aggrieved by the order dated 11.12.2010 and having no other remedy filed the instant appeal on the following grounds amongst the others.

GROUND:


- A- That impugned order dated 11.12.2010 and 29-0-2021 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned Dismissal order dated 11.12.2010 and thereafter passing the appellate order dated 29-07-2021.
- D- That, the treatment meted out to the appellant clearly based on discrimination and malafide and as such the respondents violated the Principle Of Natural Justice.

- E- That no charge sheet and statement of allegation has been issued to the appellant prior to the issuance of the impugned order dated 11.12.2010.
- F- That neither show cause notice nor chance of personal hearing has been given by the respondents to appellant before issuing the impugned orders dated 11.12.2010 and 29-07-2021.
- G- That no regular inquiry has been conducted in the matter of the appellant which is as per Supreme Court Judgments is necessary in punitive actions against the Civil Servants.
- H- That even otherwise the penalty imposed upon the appellant is very harsh by Dismissing the appellant from service which does not commensurate with the facts and circumstances of the case of the appellant which is not maintainable in the eye of law.
- I- That the appellant had more than 19 years of service at his credit. During his entire service, the appellant was never earlier been charge sheeted for dereliction of duties. The penalty is therefore very harsh and liable to be set aside on this ground also.
- J- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 06-08-2021.

APPELLANT



KAMAL MUHAMMAD

Through:


NOOR MOHAMMAD KHATTAK

&


KAMRAN KHAN
ADVOCATES,
High Court, Peshawar

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

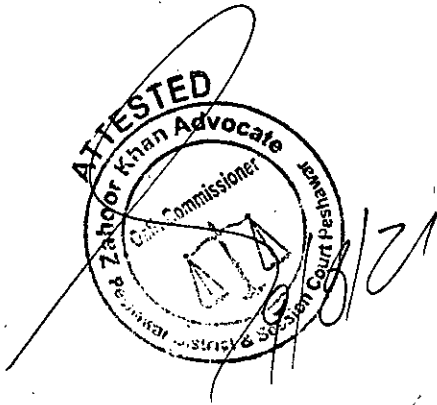
KAMAL MUHAMMAD

VS

POLICE DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



Zahoor Khan
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

Zahoor Khan
CERTIFICATION

CHARACTER ROLL OF

6. APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC.

(continued)

1	2	3	4	5
Appointed, promoted, suspended, reduced, discharged, dismissed, resigned or died	To what grade and pay Appointed, promoted or reduced	Date	No. of District Order	Full Signature of Superintendent of Police
<p>Appointed as Temp. Constable in B.F.S No S (1035-49-1770) with 4-7-91 AN.</p> <p>P.I. as Const. Rs 49/- Rs. 1084 P.M.w.c.f. 1.12.1992 S.P./Dir.</p> <p>P.I. as Const. Rs 49/- Rs. 1133 P.M.w.c.f. 1.12.1993 S.P./Dir.</p> <p>12-7-92 to 16-8-93</p>	<p>OB No 1201 14-7-91</p> <p>4-7-91 to 16-8-93</p>	<p>4-7-91</p>	<p>1201 14-7-91</p>	<p>[Signature]</p> <p>[Signature]</p>

7. TRANSFERS BEYOND THE DISTRICT-

1	2	3	4
Date	From	To	Authority for transfer
<p>12/07/01</p> <p>District Police Officer, Upper Dir</p>	<p>Office of The Accountant General, M.V.P. Roshanwar</p> <p>From Rs/400-66-2390 (B. 5) Rs/532/</p>	<p>To Rs/1015 Office, M.V.P. Roshanwar</p> <p>with next transfer on 1-12-1994</p>	<p>Authority for transfer</p>

A

ANNEXURE B

6

ابتدائی اطلاعی رپورٹ

(1)

(تاریخ) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردہ 154 مجموعہ ضابطہ نو جداری

225

سید حیدر علی

EXPA

تاریخ وقت 10:10 بجے وقت 16:45 بجے

AST-Div

279

تاریخ وقت رپورٹ 10:10 بجے وقت 17:00 بجے یا گیدگی پر 10:10 بجے وقت 19:00 بجے

نام و سکونت اطلاع دہندہ مستفیض مکملہ اللہ ولد دل اور خان قوم میران، محلہ 66 سال ساکن محلہ

مختصر کیفیت جرم (مذکورہ) حال اگر کوئی کیا گیا 322/324/148

جائے وقوعہ قاصد قاصد سے اور دست بندگی زان مستفیض بجنگ و سید خان ای دیمہ جائیداد میں اور دہانہ

نام و سکونت ملزم

کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج ہو سید گئی شہر میران سید اسلم سید دیا گیا

دعا سے روائی کی تاریخ و وقوعہ سے پیشکش رپورٹ

اس وقت ایک شہر میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

میران سید اسلم سید گئی ابتدائی اطلاع پھر درج کروا کر خان سید اسلم سید

ORIGINAL

(7)

سپر دست مرقع پر تہایت سنگین صورت حال کے پیش نظر اور حالات کا دورانیہ
میں قفاؤں کو نقصان دہ فرد صورت حال میں تہایت سنگین
حال دیر سے ہے۔ حالات واقفانہ صورت حال سے
پیشہ سبز ملی 5600 سالہ قفا سے فعلی بن خان قوم جو عراق
میں قفسران نامہ کو قراہی جادی سے مراد مسلم بنور شیشی البورٹ زاروش کے
سورٹ پر قفاں 5600 سالہ قفاں سے مراد مسلم بنور شیشی البورٹ زاروش کے
سورٹ پر قفاں 5600 سالہ قفاں سے مراد مسلم بنور شیشی البورٹ زاروش کے
سورٹ پر قفاں 5600 سالہ قفاں سے مراد مسلم بنور شیشی البورٹ زاروش کے
سورٹ پر قفاں 5600 سالہ قفاں سے مراد مسلم بنور شیشی البورٹ زاروش کے

Dr. Adnan

EXPA

A. 8

ASJ-1-1

28-7-16

11/10/2010
2010

EXPA

ASJ/2010-16
28-7-16

ATTEST

1-10-19

ATTEST

دستخط

عہدہ

نوٹ: اطلاع کے نیچے دہندہ کا دستخط ہوگا۔ یا اس کی مہر نشان لگایا جائے گا اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔
حروف الف یا ب روشانی سے بالمقابل نام ہر ایک ملزم یا مشتہر علی الترتیب واسطے باشندگان علاقہ یا وسط اسیاء یا افغانستان جہاں
موزوں ہو لکھنا چاہیے۔

ORDER.

HC Kamal Muhammad No. 37 while posted as OHC Police Line Dir Upper absented himself with effect from 10.09.2010 till to date with out any leave or prior permission from the high ups. Which is gross misconduct and against the discipline of the force.

He was served with charge Sheet and summary of allegation vide this office Endst: No 24/EB, Dated 14.09.2010. An enquiry committee comprising Mr. Fazal Wahid Khan DSP/Investigation Dir Upper and Mr. Muamber Khan SHO PS Dir was constituted to enquire into the matter. However the defaulter HC did not appear before the said committee for recording his statement up till now. He is absent from his law full duty for a period of 2 months 27 days till now. He was served with Final Show Cause Notice vide this office Letter No. 24 Dated 23.11.2010. It is evident from Final Show Cause Notice and local verification that there is no hope that he will be presented him self in near future. As the enquiry committee recommended him for major punishment i.e Dismissal from service.

Due to his long absence with out leave and permeation and recommendation of enquiry committee. he is hereby **DISMISSED** from service under section 3 (a) (b) of the K.P.K removal from Service (Special Power) Ordinance 2000, from the date of his absence. The Kit / other uniform articles shall immediately be deposited from him in the District Godown.

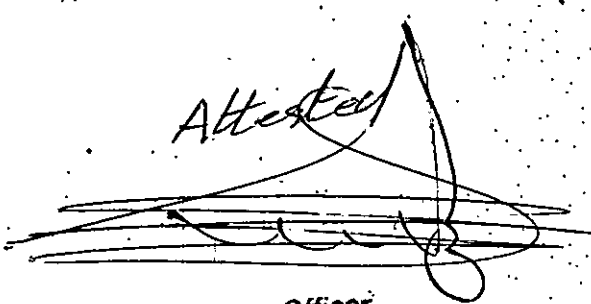
Order announced.


District Police Officer,
Dir Upper

OB No. 1013

Dated. 11/12 2010.

Attested


District Police Officer
Upper Dir

12/07/021

BEFORE THE PESHAWAR HIGH COURT, MINGORA
BENCH/DARUL QAZA AT SWAT

Cr.A. 464-A 2019

Kamal Muhammad S/o Zardol Muhammad R/o Sra Shah, Darora,
 Tehsil & District Dir Upper..... (Appellant)

V E R S U S

1. The State through Additional Advocate General Peshawar High Court Mingora Bench Swat.
2. Ubaid Ullah S/O Dilawar Khan R/O Shaldara Darora, Tehsil & District Dir Upper(Respondents)

GROUND OF APPEAL:

- 1) That the evidence of prosecution has twice been disbelieved, as co-accused to whom same role was attributed were acquitted of the charges leveled against them vide order dated 28.09.2012 and dated 10.03.17.
- 2) Co-accused of the case have already been acquitted on the same set of evidence, which must not be even considered against the appellant.
- 3) That, acquittal of co-accused suggest that the evidence of prosecution is not believable and trustworthy, therefore, the benefit of same should have been extended to the appellant.
- 4) That neither weapon of offence has been recovered from the appellant nor any pointation has been made by appellant.

ATTESTED

Examiner
 Peshawar High Court Bench
 Mingora Darul Qaza, Swat.

FILED TODAY

04 OCT 2019

Additional Registrar

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

Cr.A No.444-M/2019
With M.R No.11-M/2019

*Kamal Muhammad s/o Zardol Muhammad r/o Sra Shah,
Darora, Tehsil & District Dir Upper.*

(Appellant)

Versus

The State and another

(Respondents)

Present:

Mr. Sher Muhammad Khan and
Malak Aurangzeb, Advocates for the Appellant.

Mr. Razauddin Khan, A.A.G for the State.

Mr. Ihsanullah and Muhammad Nabi,
Advocates for the Respondent/ Complainant.

Date of hearing: 20.05.2021

JUDGMENT

ISHTIAQ IBRAHIM, J:- Through this criminal
appeal, appellant Kamal Muhammad has challenged
judgment dated 30.09.2019 rendered by the learned
Additional Sessions Judge, Dir Upper, in case F.I.R
No.279 dated 09.10.2010 registered under
sections 302/324/109/148/149 P.P.C at Police
Station *Gandigar*, District Dir Upper, whereby
he was convicted and sentenced u/s;

1. 302 (b) PPC to death as Ta'zir, with a
fine of Rs.50,000/-. He was also directed
to pay compensation of Rs.500,000/- to
the legal heirs of the deceased within the
meanings of section 544-A Cr.P.C; and



ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.



2. 324 P.P.C to ten (10) years imprisonment; with a fine of Rs.50,000/- or in default to undergo 03 months S.I.

The benefit of section 382-B Cr.P.C was extended to the appellant.



ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

2. On 10.09.2010 at 17:00 hours, complainant Ubaid Ullah (PW-10) at the spot i.e. his *bhaitak/hujra* made a report before Zafar Khan (Rtd) Inspector (PW-5) to the effect that they had a dispute over a barren land with their neighbours Muhammad Zeb etc, regarding which, a case was already pending before the Court. On the eventful day, a bit prior to the occurrence, an altercation had taken place between the parties, though that matter was soon pacified by the elders and parties had gone to their respective houses, however, in the meantime at 16:45 hours, the present appellant Muhammad Kamal alongwith Muhammad Zeb, Said Zeb, Muhtaram Zeb, Awal Zeb, Meher Zeb, Haider Khan and Mukhtiar Khan (acquitted co-accused) came duly armed to the spot *hujra* and started firing at the complainant-party, as a result of which, Alam Zada, Jan Zada and Yousaf hit and died on the spot while Noor Jamal, Fida Muhammad Khan, Naseeb Zada and Sabz Ali Khan sustained firearm injures. Besides the injured persons and complainant (PW-



12

10), the occurrence was also stated to be witnessed by PWs Rahat Shah, Hanif Muhammad (PW-12) and Ikhtiar Khan. This report of the complainant was taken down in shape of *murasila* Ex.PA/1, on the basis whereof, the F.I.R Ex.PA was registered against the above named eight accused.



3. The injury sheets of the injured persons and deceased were prepared. Inquest reports of the deceased were also prepared. The dead bodies of deceased Alam Zada, Jan Zada and Yousaf were examined by Dr. Zahid Khan (PW-7) in the hospital. Later on, injured persons namely Noor Jamal, Fida Muhammad and Sabz Ali Khan also succumbed to their injuries. Accordingly, their inquest reports were prepared and their dead bodies were also examined by the doctor. Injured Sharif Ahmad was medically examined by the doctor (PW-7) vide medico-legal report Ex.PW7/8. Investigating Officer Fazal Rabi Khan Inspector (PW-13) prepared site plan Ex.PB at the instance of the eyewitnesses. During spot inspection, he took into possession blood stained earth from the place of deceased as well as injured persons vide recovery memos Ex.PC and Ex.PC/1. He also took into possession 11

ATTESTED

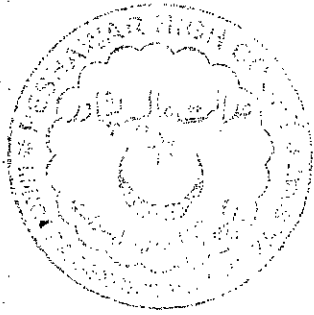
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

Sabz Ali* (DB)

HON'BLE MR. JUSTICE ISHTIAQ IBRAHIM
HON'BLE MR. JUSTICE WIGAR AHMAD

ATTESTED

empties of 7.62 from the place of the present appellant through recovery memo Ex.PC/2. He also recorded statements of the PWs and prepared the lists of legal heirs of the deceased. During the course of investigation, on 15.09.2010, the complainant (PW-10) recorded his supplementary statement u/s 164 Cr.P.C before the concerned Judicial Magistrate, wherein he also charged acquitted co-accused Said Afzal and Ghulam Muhammad for the commission of offence. Since, accused Ghulam Muhammad was charged for commanding the co-accused for commission of the offence, therefore, section 109 P.P.C was also inserted in record of the case through memo Ex.PW4/1. As some of the accused including the present appellant/convict were absconding, therefore, I.O (PW-13) applied to the concerned Court for issuance of proclamation u/s 87 Cr.P.C and warrants u/s 204 Cr.P.C against them through applications Ex.PF and Ex.PF/1, which were accordingly issued.



[Handwritten signature]

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

Initially, three co-accused namely Said Zeb, Saif Afzal and Ghulam Muhammad were arrested. *Challan* against them for trial and against the absconding co-accused including the present

ATTESTED

appellant was submitted for proceedings u/s 512 Cr.P.C. On conclusion of the trial, the above named arrested co-accused were acquitted by the then learned trial Court while the present appellant alongwith co-accused were declared proclaimed offenders vide judgment dated 28.09.2012. Said judgment to the extent of acquittal of co-accused has also been challenged by the complainant-party through connected Criminal Appeals No.201-M/2012 and No.67-M/2021 before this Court.



[Handwritten signature]

Thereafter, co-accused /proclaimed offenders namely Mukhtiar and Muhammad Zeb were also arrested in the case and on completion of their investigation, supplementary *challans* were submitted against them. On conclusion of their trial, they too were acquitted by the then learned trial Court through judgment dated 10.03.2017, where-against the complainant-party has also preferred the connected Cr.A 130-M/2017 before this Court.

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

On 11.05.2017, the present appellant surrendered before the police and thus he was arrested vide his card of arrest Ex.PW3/1. His three days police custody was obtained by the I.O from the concerned Court, during which, he was

[Handwritten signature]
ATTESTED



interrogated and on expiry whereof, he was produced before the learned Judicial Magistrate for recording his confessional statement but on his refusal he was sent to judicial lockup. On completion of investigation, supplementary *challan* (Ex.PW3/4) was submitted against the appellant before the learned trial Court. After the compliance of the provision of section 265-C Cr.P.C, on 09.08.2017, the appellant was charge sheeted, to which, he did not plead guilty and claimed trial. In order to substantiate its allegations against the present appellant, the prosecution produced and examined as many as 13 witnesses followed by the statement of accused u/s 342 Cr.P.C, wherein he neither wished to be examined on oath nor desired to produce evidence in defence.

4. On conclusion of trial, the learned trial Court convicted and sentenced the appellant in the aforesaid manner vide its judgment dated 30.09.2019, hence, this criminal appeal.

5. Arguments heard and record of the case perused with valuable assistance of learned counsel for the parties and learned Additional A.G representing the State.



ATTESTED
- Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

ATTESTED



16

6. The case of prosecution against the appellant is that he alongwith the acquitted and dead co-accused, at the instance of acquitted co-accused Ghulam Muhammad, have done to death six persons besides ineffectively attempting at the lives of the PWs as well as causing injuries to PWs Naseeb Zada and Sharif Ahmad through firing. However, it is evident from the record that eight accused including the present appellant were directly nominated by the complainant (PW-10) for commission of the offence in his initial report Ex.PA/1 while acquitted co-accused (Said Afzal and Ghulam Muhammad) were subsequently nominated by the complainant (PW-10) in his supplementary statement u/s 164 Cr.P.C on 15.09.2010, after 05 days of the occurrence, wherein acquitted co-accused Said Afzal was attributed the role of firing while other acquitted co-accused Ghulam Muhammad was ascribed the role that he has instigated co-accused to fire at the complainant-party. The alleged eyewitnesses i.e. complainant (PW-10) and Hanif Muhammad (PW-12) did not sustain any injury in the incident. Name of injured Sharif Ahmad (PW-11) was also not mentioned by the complainant/eyewitness (PW-10)



[Large handwritten signature]

ATTESTED

Examiner

Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

[Handwritten signature]



17

in the initial report (*murasila* Ex.PA/1) in spite of the fact that on the same day, he was medically examined by Dr. Zahid Khan (PW-7) for sustaining two firearm injuries on his buttock. In the site plan Ex.PB, presence of the present appellant has been shown at point No.10, which is a place outside the spot *bhaitak* of the complainant alongside its window but during his cross examination, the complainant (PW-10) states that said point No.10 is situated inside the spot *bhaitak/hujra*. However, eyewitness Hanif Muhammad (PW-12) in his examination-in-chief specifically states that;

----- کسی کمال خان نے بھینک کے کھڑکی کی طرف سے اور بتایا مہمان
بھینک کے سامنے کے طرف سے اپنے اپنے کلاسکوف سے آندھا احمد خان رنگ
----- کے

The injured Sharif Ahmad (PW-11) states that at the relevant time the complainant was present outside in the veranda of the *hujra* and none of the witnesses were outside the boundary wall of the spot *hujra*. The I.O (PW-13) confirms that the all witnesses, deceased and injured persons have been shown inside the courtyard of the spot *hujra* except point No.10, which is assigned to the present appellant. As per the site plan Ex.PB, the complainant (PW-10) has been shown at point No.1,

ATTESTED

Examiner

Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.



18

which is rooftop of his house whereas the eyewitness Hanif Muhammad (PW-12) has been shown at point No.18, which is next to point No.1, at a distance of one space, on its western side on same rooftop. In front of the said point No.10 (place of presence of the present appellant), on its western side there are a veranda, two rooms and a boundary wall of the spot *hujra* and then points No.1 & 18 (rooftop of the house of complainant) assigned to the complainant (PW-10) and the eyewitness (PW-12) are located. Injured Sharif Ahmad (PW-11) who is brother of the complainant (PW-10) during his cross-examination admits that;

ہمارے مکان کی چھت اور بھٹنگ کے مابین کمرہ عزیز احمد موجود ہے۔

While the eyewitness (PW-12) admits

that:

یوقت وقوع میں شریف وغیرہ کے مکان کی چھت پر تھا۔ یہ درست ہے کہ میں نے اپنے پہلے بیان میں کہا تھا کہ میں اور نور جمال بھٹنگ کے اندر موجود تھے تاہم یوقت وقوع ہم باہر چھت پر تھے۔

For the sake of arguments, as stated by the complainant (PW-10), even if we assume for a while that the roof of the house where the eyewitnesses (PW-10 & PW-12) were present at the relevant time, was below the level of the spot

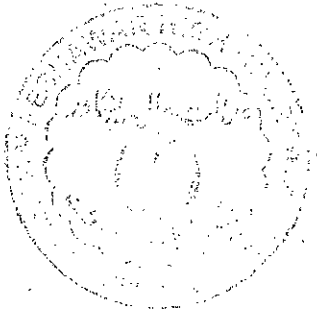


ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

ATTESTED

bhaitak then too keeping in view the location of the window of the spot *bhaitak* at northern side of the presence of the eyewitnesses at a distance of about 23 paces that too behind the constructions admitted by the PWs, the visibility of the present appellant allegedly firing at the deceased and injured by the eyewitnesses is impossible. The eyewitnesses could not offer any plausible and confirmatory explanation during their testimonies to convince the Court qua the alleged presence as well as role of the present appellant in commission of the offence.



[Handwritten signature]

ATTESTED

Examiner

Peshawar High Court Bench
Mingora District, Swat.

7. Adverting to the testimony of injured Sharif Ahmad (PW-11). He has been shown at point No.3, in front of the window inside spot *bhaitak* where he and deceased Noor Jamal were allegedly fired at by present appellant from point No.10, but during his testimony, this injured/witness does not know about the point No.10 (the presence of the appellant). PW-11 states that his brother complainant has initially stated nothing to the police regarding sustaining injuries by him during the incident. He adds that due to number of the injured persons in the incident, the complainant has omitted his name whereas he admits to have been shifted to

[Handwritten signature]



20

the hospital soon after the occurrence. He further states to have given statement against the accused after 22 days of the occurrence. However, the complainant (PW-10) during his cross-examination states to have mentioned the name of injured PW Sharif Ahmad in his initial report but the report negates such assertion of the complainant. The scribe of *murasila* (Ex.PA/1) admits that at the time of reporting the matter, the complainant (PW-10) has not mentioned the name of injured Sharif Ahmad before him. Said late disclosure of the injuries allegedly sustained by PW-11 in the incident has not been successfully explained by the prosecution nowhere on the record. Although, injured Sharif Ahmad (PW-11) states that signs of firing were present in spot *hujra* but admits to have not shown any of such signs to the police. He also does not know as to whether the complainant (PW-10) has shown any such signs to the police or not. Injured (PW-11) denies the presence of the complainant (PW-10) on the rooftop by stating that he was present in veranda of the *hujra*. He could not specify the location of each accused on the spot at the relevant time and states that same has been



ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

[Handwritten signature]

21

18

accurately shown in the site plan Ex.P.B. Thus, it can very safely be inferred that he being unable to show the presence of the appellant on the spot at the relevant time.

8. Nine accused persons including the present appellant have been attributed the role of general firing at the deceased, injured persons and the PWs. Though subsequently, in site plan Ex.P.B., the appellant has been assigned specific role of firing upon deceased Noor Jamal and injured Shari Ahmad (PW-11), but his alleged role could not be established by the prosecution through any credible trustworthy and confidence inspiring evidence rather in peculiar circumstances of the case coupled with the testimonies of the above eyewitnesses of the occurrence, the ambiguity in mind that the occurrence has not taken place in the alleged mode and manner could not be justifiably clarified by the prosecution. It may be noted here that the injured (PW-11) has sustained injuries on his backside, therefore, keeping in mind the admitted position of making indiscriminate firing by 09 persons, sustaining injuries by PW-11 and deceased Noor Jamal due to the alleged firing of the present

ATTESTED
Examiner
Federal High Court Bench
Mogera District - 2011



appellant is not believable in absence of any unimpeachable evidence. The late disclosure of the above referred important events of the occurrence by the prosecution such as ascribing the specific role of firing to the appellant upon injured and deceased Noor Jamal, mentioning of name of injured Sharif Ahmad (PW-11), certain deviations of PWs from their earlier statements given in the trials of the acquitted co-accused and contradictions amongst the statements of the PWs qua exact point of the presence of injured Sharif Ahmad (PW-11) inside the spot *hujra* at the relevant time appear to be dishonest improvements making their entire testimony doubtful on the well-known principle of criminal jurisprudence that improvements once are found unjustified, deliberate and dishonest in testimony of a witness, the same would cast serious doubts upon the veracity of such witness. In this respect, reliance is placed on the case of 'Akhtar Ali and others Vs. The State' (2008 SCMR 6), wherein the apex Court has held that;

“When a witness improves his version to strengthen the prosecution case, his improved statement subsequently made cannot be relied upon as the witness has improved his statement dishonestly, therefore, his credibility becomes doubtful on the well-known principle of



ATTESTED
 Examiner
 Peshawar High Court Bench
 Mingora Dar-ul-Qaza, Swat.

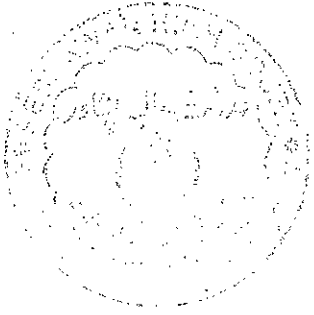
23

23

criminal jurisprudence that improvements once found deliberate and dishonest cast serious doubt on the veracity of such witness."

In view of the testimonies of PWs, it is crystal clear that the occurrence has not taken place in the alleged mode and manner rather it appears that real facts have been concealed by the prosecution.

9. Record is also mute regarding any ill will of present appellant with the complainant-party. In response to a question put by the defence to the complainant (PW-10), he has replied that although with acquitted co-accused Ghulam Muhammad and the present appellant, he had no direct motive but the appellant being close relative of acquitted co-accused Muhammad Zeb etc with whom the complainant was having motive and for sake of that relation, the appellant has participated in the incident. However, as held above, his participation in the crime with alleged role could not be established by the prosecution through any believable source. PWs have also admitted that the appellant was serving in police department and he was residing in a separate village. Moreover, the prosecution could not bring any credible circumstantial evidence on record qua involvement



[Handwritten signature]

ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

ATTESTED
[Handwritten signature]



24

of the appellant in the offence. So, in the circumstances, his false implication in the case on the basis of the *mala fide* in order to avoid his any legal guidance to the co-accused in the matter could not be ruled out. It is pertinent to highlight here that amongst all 10 accused, most of them belong to one and same family besides some were very prominent figures of the family while some accused including the present appellant were serving in police department, therefore, in such circumstances, the exaggeration on part of the prosecution for false implication of innocents persons by throwing a wide net cannot be ruled out. In this regard, reliance is placed on the case of 'Khalil-ur-Rehman and another Vs. The State and another' (2019 YLR 2553, Peshawar), wherein it has been held that;

"The true mode and manner of the occurrence appears to have been suppressed. The charge appears to have been exaggerated and the net has been thrown wide by implicating five persons without assigning any specific role to any of them, possibility of false implication could not be ruled out. In this respect reliance is placed upon the judgment of Hon'ble Supreme Court rendered in Sohni's case (PLD 1965 Supreme Court 111), wherein it was held that;

"Furthermore, according to Doctor Muhammad Yamin Khan out of the 9 injuries found one Maulo deceased 2 were contused wounds, 1 incised wound, 1 was abrasion and the rest were contusions. Death was due to the shock and compression of brain caused by blood clots due to fracture of skull which was caused by injuries Nos. 1 and 2 that were found on

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dargah-Qaza, Swat.

the deceased. Most of the remaining injuries were on the leg of the deceased. In view of the number and nature of injuries one may legitimately ask whether this could possibly have been the result of assault by 6 accused persons or that they could have been easily caused by two or three persons. Viewing all the circumstances we are satisfied that the High Court was right in insisting on some corroboration of the evidence of the eye-witnesses connecting the accused with the crime. As such corroboration was lacking, the High Court was justified in giving the benefit of doubt to the accused persons."

The overall prosecution evidence would give an obvious inference that the prosecution has badly failed to prove its case against the accused beyond reasonable doubt in the alleged mode and manner. It is a cardinal principle criminal justice that the benefit of even a slight doubt is to be extended in favour of the accused. In this regard reliance is placed on the case of 'Fazal Muhammad Vs. Zia ul Haq and another' [2016 PCr.LJ Note 30 (Peshawar)], wherein it has been held by this Court that;

"Prosecution was bound to prove its case beyond any reasonable shadow of doubt; if any reasonable doubt would arise in the prosecution case, benefit of the same must be extended to accused, not as a grace or concession, but as a matter of right. Better to acquit hundred culprits, than convicting one innocent soul. Acquitting by error, would be better than conviction by error."

10. The medical evidence brought by the prosecution through doctors (PW-6 & PW-7) though



ATTESTED

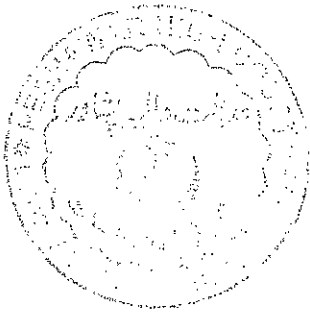
Examiner

Peshawar High Court Bench
Mingora Dargai-Quza, Swat.



26

establishes unnatural death of the deceased and sustaining firearm injuries by the PWs, however, in absence of essential corroboration, the present appellant could not be held responsible for commission of the offence.



[Handwritten signature]

11. In view of the aforesaid contradictions and infirmities in the prosecution evidence, we are of the firm opinion that the prime prosecution witnesses were unable to give testimony in line with the prosecution version. Moreover, owing to the aforesaid strong grounds, false implication of the appellant could not be excluded. Even in view of the above contradictory testimonies of the PWs against the prosecution version particularly the site plan Ex.PB, the alleged role of the appellant is not established on the record through any reliable and independent source.

ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

12. It would also carry importance to highlight here that nine accused including the present appellant were given the same role of general firing at the deceased and injured PWs. The specific role ascribed to the appellant in the site plan Ex.PB could not be established by the prosecution. Earlier two sets of accused have already been

[Handwritten signature]

acquitted by the then learned trial Courts through judgments dated 28.09.2012 and 10.03.2017. One set was consisting upon three co-accused namely Said Zeb, Saif Afzal and Ghulam Muhammad were arrested whereas the other was consisting upon co-accused namely Mukhtiar and Muhammad Zeb. Except acquitted co-accused Ghulam Muhammad, all acquitted co-accused have been assigned same role of firing. During earlier trials of the acquitted co-accused, almost same set of evidence has been produced by the prosecution, which was twice disbelieved by the learned trial Courts. Moreso, during trial of the present appellant the Investigating Officer (PW-4) who had conducted investigation in the case before arrest of the appellant states that:

حاضرہ لٹرم کے خلاف میرا وہی شہادت ہے جو میں نے بری شدہ لٹرم کے
خلاف دیکھا رکھی تھی۔

Nothing new or any incriminating evidence was brought on record during investigation or trial of the present appellant to distinguish his role from that of his already acquitted co-accused in the case. Connected Criminal Appeals No.201-M/2012, 130-M/2017 & 67-M/2021 filed by the complainant-party against acquittal of the co-accused were



ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

(Handwritten signature)



28

dismissed by this Court and the said impugned judgments dated 28.09.2012 & 10.03.2017 of the learned trial Courts were maintained by us today vide our separate judgments in *ibid* criminal appeals. The said co-accused were extended the benefits of doubt and in peculiar circumstances of the case to term the present appellant as guilty of the offence, the prosecution was required to produce a very strong and overwhelming evidence differentiating his role from that of the acquitted co-accused in such an coherent manner, which could not falsify the whole prosecution story/version, however, as a natural phenomenon in particular facts and circumstances of the case, the prime prosecution witnesses were unable to give incriminating testimonies against the present appellant. Brining of dishonest improvements by the PWs during evidence is clearly their unnatural conduct. Therefore, on strength of the available prosecution evidence, only conviction of the present appellant is not sustainable. In this regard, reliance is placed on the case of 'Muhammad Pervaiz Vs. The State and other' (PLD 2019 Supreme Court 592), wherein



ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Uloom, Swat.

ATTESTED

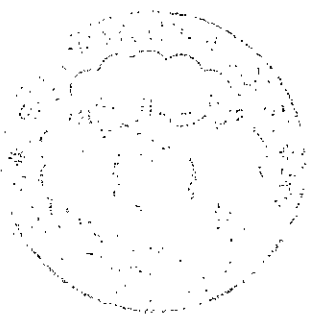
the august Supreme Court of Pakistan has observed that;

“Reappraisal of evidence---Accused and co-accused assigned similar role of strangling the deceased---Same set of evidence forming basis of acquittal of co-accused but conviction of accused---Held, that the evidence of prosecution qua the co-accused was rejected by the Courts below and he was acquitted---Role assigned to the acquitted co-accused was inexorably intertwined with the accused’s alleged participation in the crime, thus, it would be unsafe to maintain the conviction of accused in such circumstances.”

Reliance can also be placed on a very recent judgment rendered by the august Supreme Court of Pakistan in the case of 'Tariq Mehmood Vs. The State' (2021 SCMR 471), wherein it has been held that;

“Reappraisal of evidence---Witness statements/ evidence disbelieved with respect to majority of the co-accused persons, relied upon by the High Court and Trial Court to convict the accused without any independent corroboration---Held, that fractional reliance to maintain solitary conviction of accused on the statements of the witnesses disbelieved qua their own assailants was an option fraught with potential risk or error and as such inconsistent with the principle of safe administration of justice---Appeal was allowed and accused was acquitted of the charge.”

Hence, the evidence recorded by the prosecution witnesses during trial of the present appellant, particularly establishing no potential human error or omission on part of the prosecution,

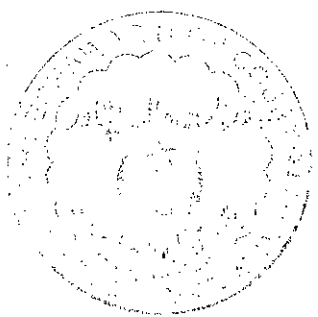


ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.



30

would require same treatment given to the acquitted co-accused. There are a lot of inconsistencies, contradictions and infirmities in the case of the prosecution, however, we do not feel necessary to highlight same here as the aforementioned discussion would be sufficient for just decision of the appeal in hand.



[Handwritten signature]

13. No doubt, after the occurrence, the appellant has absconded for a considerable period, however, it is by now settled that mere absconson is not sufficient for holding an accused guilty unless the same is supported by the other trustworthy, unimpeachable and confidence inspiring evidence, which is missing here in this case. Therefore, on mere absconson, the appellant/accused cannot be convicted. Wisdom in this regard is derived from the case of 'Rohtas Khan Vs. The State' (2010 SCMR 655), wherein the august Supreme Court of Pakistan has held that:

"Abscondence of accused, no doubt, is a relevant fact, but it can be used as a corroborative piece of evidence, which cannot be read in isolation but has to be read alongwith substantive piece of evidence."

14. For what has been discussed above, we have reached to an inescapable conclusion that the

ATTESTED
Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

[Handwritten signature]

learned trial Court has not appreciated the prosecution evidence in its true perspective while awarding conviction to the appellant and as such the impugned judgment of the learned trial Court is not maintainable. Resultantly, this appeal is allowed, the impugned judgment dated 30.09.2019 of the learned trial Court is set aside and the appellant is acquitted of the charges. The Murder Reference No.11-M/2019 is answered in negative. The appellant be released forthwith from jail if not required in any other case.

15. These are the reasons of our short order of the even date.

Announced.
Dt: 20.05.2021

JUDGE
JUDGE

OFFICE
7/6/2021
WR

S.No 07
Name of Applicant Kamran Muhammad
Date of Presentation of Applicant 28-06-2021
Date of Completion of Copies 28-06-2021
No of Copies 23
Urgent Fee 921/-
Fee Charged 921/-
Date of Delivery of Copies 28-06-2021

Certified to be true copy

EXAMINER
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 87 of Qanoon-e-Shahadat Order, 1984

[Handwritten signature]

No. 28 /ASJ/IZQ-II, Dir Upper dated 20/5/ 2021

CRIMINAL APPEAL NO. 444-M/2019 WITH M.R 11-M/2019.

Kamal Muhammad..Vs..the State etc

FIR No. 279 Dated 09.10.2010 U/S 302/324/109/148/149-PPC PS Gandigar

SUPERINTENDENT DISTRICT JAIL TIMERGARA

RELEASE ORDER

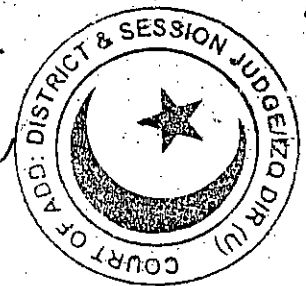
As per order dated 20.05.2021 of the august Peshawar High Court, Mingora Bench Darul Qaza Swat in criminal appeal No. 444-M/2019 WITH M.R 11-M/2019, accused/appellant is acquitted of the charges U/S 302/324/109/148/149-PPC of PS Gandigar and conviction and sentence awarded to the accused/appellant is set aside, copy of aforesaid order is attached.

You are, hereby, directed to set free the appellant/convict Kamal Muhammad S/O Zardol Muhammad R/O Sra Shah Durora, District Dir Upper forthwith from the prison provided that he is not required in any other case.

Given under my hand and the seal of the court this 25th of May 2021.

Additional Sessions Judge-II,
Dir Upper

Duty Judge
AAJ/129/II
Dir Upper



Worthy Regional Police Officer,
Malakand Region At Swat.

Subject:

**DEPARTMENTAL APPEAL AGAINST THE
ORDER DATED 01.12.2010, WHEREBY THE
APPELLANT WAS DISMISSED FROM
SERVICE AND SUCH DISMISSAL ORDER
WAS RECEIVED BY THE APPELLANT AFTER
ACQUITTAL FROM CRIME CASE BY THE
HONOURABLE PESHAWAR HIGH COURT
MINGORA BENCH DARUL QAZA AT SWAT
ON 20.05.2021 .**

RESPECTED SIR;

- 1.** That the appellant was enlisted in police department on **04.07.1991** and since his appointment he performed his duty with great devotion and honesty whatsoever assigned to him and no complaint has been filed against him by his superior regarding his performance.
- 2.** That the appellant has falsely been implicated in the criminal case vide **FIR No.279** dated **10.09.2010 U/S 302/324/148/149/PPC** at Police Station Gandigar and due to criminal case the appellant was compelled to remain absent from his duty. (Copy of FIR dated **10.09.2010** is annexure as A)
- 3.** That the appellant was acquitted by the Honorable Peshawar High Court Mingora Bench Darul Qaza at Swat on **20.05.2021**. In pursuance of the order of the Honorable Peshawar High Court Mingora Bench Darul Qaza at Swat, release order was issued from the court of Honorable Additional Sessions Judge –II Dir Upper on **25.05.2021** which was received to jail authorities on **28.05.2021** and the appellant was set free from the jail on that very day. (Copies of judgment dated **20.05.2021** and order dated **25.05.2021** are attached as annexure B&C).

ATTACHED

That after the acquittal, the appellant went to the department to know the fate of his service, but he was informed that he has been dismissed from service on 01.12.2010 from the date of absence, without communicating charge sheet, show cause notice and without conducting regular inquiry against him and handed over his dismissal order dated 01.12.2010 (copy of dismissal order dated 01.12.2010 is attached as annexure-D)

5. That the appellant wants to file instant departmental appeal against his dismissal order dated 01.12.2010 received by the appellant after acquittal from criminal case on 20.05.2021 on the following grounds.

GROUNDS

- A. That the impugned order dated 01.12.2010 received by appellant on 28.05.2021 after his acquittal from criminal case by the Honorable Peshawar High Court Mingora Bench Darul Qaza at Swat is against the law, facts, norms of justice and materials on record, therefore, not tenable and liable to be set aside.
- B. That the appellant was never associated with the enquiry proceedings before passing the impugned order of dismissal from service which is violation of law and rules and as such the impugned order is liable to be set aside.
- C. That no opportunity of defense was provided to the appellant during enquiry proceedings, which is violation of **Article-10A** of the constitution of Pakistan.
- D. That Show Cause Notice was not issued to the appellant before passing the impugned order, which is against the norms of justice and fair play.
- E. That no Charge Sheet was communicated to the appellant, which is violation of **rule 6-i (a) of Police Rules 1975**.
- F. That even the enquiry report was not provided to the appellant, which is against the norms of justice and fair play.
- G. That the appellant was charged in criminal case and as per **Civil Service Regulations, 194-A**, the appellant should be suspended till the conclusion of criminal case pending against him, but the appellant was dismissed from Service without waiting to conclusion of criminal case pending against him in court which is violation of **CSR, 194-A**.
- H. That the appellant was acquitted in the criminal case pending against him and as per **16-3 of Police Rules 1934** the appellant is entitled for re-instatement as the reasons due to which the appellant was remained absent from duty is vanished and there remain no ground to penalize the appellant.
- I. That the penalty imposed upon the appellant is too very harsh as the appellant has served the department for about **20 years** having unblemished service record, but due

[Handwritten signature]

to false implication in criminal case , he was compelled to remain absent from his duty, therefore, needs to be treated with lenient view.

- J. That the penalty imposed upon the appellant passed in violation of law and rules, therefore, not sustainable and liable to be set aside.
- K. That the appellant has been condemned un-heard and has not been treated according to law and rules.

It is, therefore, most humbly requested that on the acceptance of this departmental appeal, the impugned dismissal order dated 01.12.2010 may kindly be set aside and the appellant may be re-instated into Service with all back and consequential benefits.

Appellant



Kamal Mohammad, Ex-Head Constable
Police Lines, Dir Upper.

Cell No: 0340-9090411
0315-9250411

Date 8.6.2021



OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
SAIDU SHARIF SWAT.

No. 8778 /E, dated Saidu Sharif the 29/07/202

To,

The District Police Officer . Dir Upper.

Subject; APPLICATION

Memorandum:

An application submitted by Ex-Head Constable Kamal Muhammad No .37 of Dir Upper District. Requesting therein for re-instatement in service.

His application was thoroughly perused and found that he was dismissed from service on 11/12/2010 after completing all codal formalities. His application is badly time barred hence request of the applicant cannot be entertained. His application is hereby filed .

REGIONAL POLICE OFFICER
MALAKAND SAIDU SHARIF SWAT



OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND SAIDU SHARIF SWAT.

Ph: 0946-9240381-82 & Fax No. 0946-9240390 Email: digimulakand@yahoo.com

No. 2778 A. dated Saidu Sharif the 29/7/2021

To: The District Police Officer, Dir Upper.

Subject: APPLICATION.

OFFICE OF THE DPO
Dy: 3278
Date 2-8-2021
UPPER DIR

Memorandum:

An application submitted by Ex-Head Constable Kamal Muhammad No. 37 of Dir Upper District, requesting therein for reinstatement in service.

His application was thoroughly perused and found that he was dismissed from service on 11/12/2010 after completing all codal formalities. His application is badly time barred, hence request of the applicant cannot be entertained. His application is hereby filed.

[Signature]
Regional Police Officer,
Malakand, at Saidu Sharif Swat
"Naq"*

OB/EC
For necessary entry
in his s.R. card inform him
accordingly

[Signature]
D/om/c,
29/7

OB No = 534

02 - 08 - 2021.

Allosted to
[Signature]
Abdul Kabeer
KPO BPS-16
Police Dept: Dir (U)
EE/upper
DA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 7274/2021

Kamal Muhammad Ex-Head Constable Police Line, Dir Upper..... Appellant.

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 3) District Police Officer Upper Dir Respondents.

INDEX

S.#	Detail of documents	Annexure	Pages
1.	Para wise comments.	-	1-3
2.	Power of Attorney	-	4
3.	Affidavit.	-	5
4	Copy of bed entries	"A"	6-14
5	Charge Sheet, Statement of allegation Final Show Notice Finding Report, & Dismissal order	"B"	15-19


Inspector Legal
Dir Upper

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 7274/2021.

Kamal Muhammad Ex- Head Constable Police Line, Dir Upper.

..... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Malakand at Saidu Sharif Swat.
3. The District Police Officer, Upper Dir..... (Respondents).

PARA WISE REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth :

Preliminary objections:

1. That the Present service Appeal is not maintainable in its present forum.
2. That the Appellant has not come to this august Tribunal with clean hands.
3. That the Present service Appeal badly barred by law & limitation.
4. That appeal is bad for misjoinder and non-joinder of necessary parties.
5. That the appellant has suppressed and concealed the material facts from this honorable tribunal.

ON FACTS.

- 1) Correct to the extent that the appellant remained employee of respondent department and enlisted as constable in the year 1991 but his service record is full of bad entries followed by committing brutal murder of 03 innocent persons and wounding 04 persons reported vide FIR No.279 dated 10.09.2010 u/s 302/324/148/149/149/PPC Gandigar(Copies of bad entries enclose as annexure..... "A".....)
- 2) Pertains to record hence needs no comments.
- 3) Incorrect, the appellant was issued charge sheet plus statement of allegation and enquiry committee was constituted to scrutinize the conduct of appellant on threadbare angles. The inquiry committee utilizing different source to inform the appellant for joining inquiry proceeding but in vain. The appellant was directly charged in brutal murder registered vide FIR No 279 dated 10.09.2010 u/s 302/324/148/149/149/PPC Gandigar for killing 03 innocent person and injuring 04 person. After commission of offence the appellant gone into hiding for a long period about 07 years. The inquiry committee after proper proceeding submitted the findings report narrating that the appellant intentionally and deliberately avoiding his appearance before inquiry committee and also charged in criminal

case vide FIR No .279 dated 10.09.2010 u/s 302/324/148/149/149/PPC Gandigar recommending for major punishment. The copetent authority on pursuel of findings report issued final show cause notice and is handed over in the appellant house for service upon him but he intentionally not join the proceeding of enquiry. The competent authority on the recommendation of inquiry committee dismissed the appellant from service.(Copy of charge sheet, Statement of allegation, findings report, final show cause notice and dismissal order enclosed as annexure¹⁶ B.....)

- 4) Pertains to judgment of honorable High Court, hence needs no comments.
- 5) Incorrect, the departmental appeal of the appellant found groundless and therefore rejected by the respondents purely on merit, keeping in view the seriousness of the incident.
- 6) The appellant has got no cause of action to file the instant service appeal and the honorable court has got not jurisdiction to entertain the present service appeal

GROUNDS.

- A. Incorrect, the order of respondents are in accordance with law, based on facts and was issued in light of material available on record.
- B. Incorrect, the appellant was treated by the respondent department in accordance with law/rules and no violation of the constitution has been committed by the respondents.
- C. Incorrect, no malafide exist on the part of respondents in process of passing both orders.
- D. Incorrect, no discrimination was done with appellant while treating his case and no violation of the principles of nature justice has been committed by the respondents.
- E. Incorrect, charge sheet plus statement of allegations and final show cause notice have been issued before passing the dismissal order.
- F. Incorrect, charge sheet and final show cause notice have been issued to the appellant but appellant after commission of brutal murder has gone into hiding and intentionally avoiding joining the whole proceeding. Moreover his application filed before respondent No.02 was rejected being badly time barred.
- G. Incorrect, proper inquiry into the matter was conducted in accordance with law/rules as briefly discussed in preceding paras.
- H. Incorrect, the order of dismissal was passed after proper scrutiny of whole record facts and circumstances of the case by applying diligent mind. All the process have been committed after completing codel formalities as envisaged in law/rules
- I. Incorrect, as already discussed in preceding paras, That the appellant was directly charged in brutal of 03 innocent persons

3

wounding 04 persons and absconded for more than 07 years after commission of offence.

- J. The respondent also seeks leave of this honorable service tribunal to rely on additional grounds at the time of arguments/hearing.


Prayer.


It is therefore humbly prayed that on acceptance of this para-wise reply, the service appeal graciously be dismissed with cost.

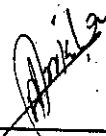
**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**

**Regional Police Officer,
Malakand at Saidu Sharif, Swat.**

**District Police Officer,
Upper Dir.**




Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.



District Police Officer
Dir Upper.

4

BEFORE THE HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 7274/2021.

Kamal Muhammad Ex- Head Constable Police Line, Dir Upper

(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer, Malakand Division At Swat.
3. The District Police Officer, Upper Dir

...(Respondents).


Power of Attorney

We, the undersigned do hereby authorized Zewar Khan Inspector Legal to appear on our behalf before the honorable Court in the cited above case on each and every date.

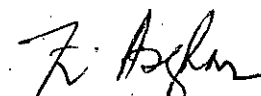
He is also authorized to file para wise comments/ reply, prefer appeal and to submit the relevant documents before the court.

Respondents:


1. Provincial Police Officer,
Khyber Pakhtunkhwa Peshawar.



2. Regional Police Officer,
Malakan at Saidu Sharif Swat


Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.

3. District Police Officer,
Upper Dir.



District Police Officer
Dir Upper.

5

BEFORE THE HYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No: 7274/2021.

Kamal Muhammad Ex- Head Constable Police Line, Dir Upper

(Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer, Malakand Division At Swat.
3. The District Police Officer, Upper Dir

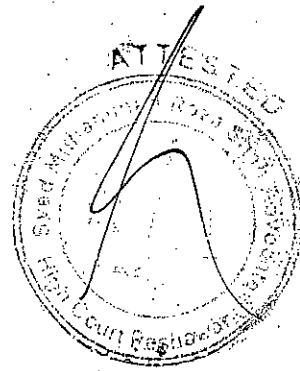
...(Respondents).

Affidavit

I, Zewar Khan, Inspector/Legal do hereby solemnly affirm and declared that the contents of para wise reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable court.



DEPONENT
Zewar Khan Inspector
Legal, Upper Dir.



(6)

Annexure "A"

حکومت پاکستان

تاریخ: 23 جولائی 1993ء

موضوع: 23 جولائی 1993ء کو ہونے والے امتحان کے نتائج

کامیابی کے ساتھ امتحان پاس کیا گیا ہے۔
نتیجہ امتحان: 37 نمبروں پر امتحان پاس کیا گیا ہے۔
اساتذہ کرام کی طرف سے فراہم کردہ جوابات پر مبنی ہے۔
اساتذہ کرام کی طرف سے فراہم کردہ جوابات پر مبنی ہے۔
اساتذہ کرام کی طرف سے فراہم کردہ جوابات پر مبنی ہے۔

محمد رفیق

19/7/93

23

Per *[Signature]*
19/7/93

مہمان عالیہ
37 نمبروں پر امتحان پاس کیا گیا ہے۔
اساتذہ کرام کی طرف سے فراہم کردہ جوابات پر مبنی ہے۔

215
015
013-3-93

[Signature]
S/O/wan
2072153

Approved

[Signature]

مستند

تعداد 38 (موضوع 102)
93

38/102 (موضوع 102) در 22.4.57 در 6 صدها

کتاب شماره 37 DAR این صفتی در 1000

موضوع 1607 صفتی DAR (موضوع 102) در 6 صدها

بازگشت خودی در 37 صدها (موضوع 102) در 6 صدها

گفت در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

بازگشت کتب در 37 صدها (موضوع 102) در 6 صدها

در 37 صدها (موضوع 102) در 6 صدها

جلد دیر

تخلی عدد 13 قدرناخی 29³/₉₃

13 ماهری 1 ماه دوم 29³/₉₃ مدت 29³/₉₃

مقدور اول در 3 قدرناخی 28³/₉₃ 28³/₉₃ ماه اول - 1 ماه دوم - 1 ماه سوم - 1 ماه چهارم - 1 ماه پنجم - 1 ماه ششم - 1 ماه هفتم - 1 ماه هشتم - 1 ماه نهم - 1 ماه دهم - 1 ماه یازدهم - 1 ماه دوازدهم

مهر و پیمانگی - از دستورات جاری در این ماه و در وقت اعتبار

مهر و پیمانگی - از دستورات جاری در این ماه و در وقت اعتبار

صا علیا

مهر و پیمانگی

MHC/line

29-3-93

صا علیا

29³/₉₃ 28³/₉₃ 37³/₉₃

مهر و پیمانگی - از دستورات جاری در این ماه و در وقت اعتبار

مهر و پیمانگی

29-3-93

Approved

329

574/93

10/4/93

10/4/93

(A)

(9)

صالح دین

نمبر 31 روزنامہ 28-3-93

روزنامہ

28-3-93

Ado ہذا 1930ء

31 ریلوے ڈپو میں واقعہ 25-3-93 کو 3/3

درج ذیل تینوں محکمات پر 37 کروڑ روپے کی رقم کی ضرورت ہے۔

عہدہ ایئر چیف کوارٹر ماسٹر جنرل

مدد عالی

نئی دہلی

357378

51

حرف 24 صفر 40 - 45 حروف 18-8
 حرف 25 صفر 45 حروف 17-8
 حرف 26 صفر 45 حروف 17-8
 حرف 27 صفر 45 حروف 17-8
 حرف 28 صفر 45 حروف 17-8
 حرف 29 صفر 45 حروف 17-8

تقریباً
 mm 7. Tgma
 29.8.93

17-8
 18-8
 19-8

18.885

37 حروف 18-8
 45 حروف 17-8
 45 حروف 17-8
 45 حروف 17-8
 45 حروف 17-8
 45 حروف 17-8

963
 963
 963

$\frac{45}{83} = 0.5421687746$
 45 : 83 = 0.5421687746

17 : 83 = 0.2049397602
 17 : 83 = 0.2049397602
 7 : 83 = 0.0843493867
 37 : 83 = 0.4459036145
 45 : 83 = 0.5421687746

17 : 83 = 0.2049397602

17 : 83 = 0.2049397602

17/83

(A)

(12)

کفر ص 31 اندازہ 17 2/94

کفر ص 31

ص 31
 کفر ص 31 اندازہ 17 2/94 وقت 17 45 اس وقت
 کفر ص 31 اندازہ 16 2/94
 کفر ص 31 اندازہ 17 2/94
 کفر ص 31 اندازہ 17 2/94
 کفر ص 31 اندازہ 17 2/94

ص 31
 کفر ص 31 اندازہ 17 2/94

19.2.94

کفر ص 31 اندازہ 17 2/94

کفر ص 31 اندازہ 17 2/94

237494

کفر ص 31 اندازہ 17 2/94

کفر ص 31 اندازہ 17 2/94

کفر ص 31 اندازہ 17 2/94

26/2/94

کفر ص 31 اندازہ 17 2/94

کفر ص 31 اندازہ 17 2/94

املا دیر

تعلیم روزانہ 16²/₉₄

نتیجہ روزانہ 16²/₉₄ دقت 16.45 سے دقت
 روزانہ نتیجہ 16²/₉₄ دقت 16.45 سے دقت
 نتیجہ 37 جو نتیجہ میں عدم وجود ہے اور کورسنگ مندرجہ ذیل
 نتیجہ سرورہ دقت نتیجہ روزانہ اور نتیجہ روزانہ

جناب عالی
 نقل و کاپی اصل ہے

محمد علی
 18.2.66

تقدیر دینا کے لئے 10/9

مدد دینا کے لئے AMHC عدد 10/9 وقت 08:50 بجے
دفعہ 14 کے تحت پولیس لاٹھی
کو استعمال کرنے سے منع ہے۔
اس کے علاوہ پولیس لاٹھی
کو استعمال کرنے سے منع ہے۔
اس کے علاوہ پولیس لاٹھی
کو استعمال کرنے سے منع ہے۔
اس کے علاوہ پولیس لاٹھی
کو استعمال کرنے سے منع ہے۔
اس کے علاوہ پولیس لاٹھی
کو استعمال کرنے سے منع ہے۔

منجانب عالی
نقل سلطان احمد علی
Sheriff
AMHC P. L. S. 10/9
19-09-2010

for forwarded
↓
Lo Div (4)

HC
Police Station
10/9/2010

Signature
10/09/2010
14/9/2010

SHO P. L. S. 10/9/2010

15

Annex "B"

CHARGE SHEET

I, Abdur Rauf, District Police Officer, Dir Upper. As competent authority, hereby charged You Head Constable Kamal Muhammad No.37 as follows:-

You Head Constable Kamal Muhammad No.37 while posted OASI (Police Line) absented yourself with lawful duty w.e.f 10.09.2010 with out prior permission of your superiors.

All there based on your malafied intention, negligence, omission and disinterest in duty which is gross misconduct on your part.

2. By reason of the above. You appear to be guilty of misconduct under section 3 of the NWFP Removal From Service (Special Powers) ordinance 2000 and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.

3. You are therefore, directed to submit your written defence within 07 days of the receipt of this charge sheet to the enquiry officer/committee.

4. Your written defence, if any should reach to the enquiry Committee within the specified period, failing which it should be presumed that you have no defence to offer and in that case the expatriation shall follow against you.

5. Intimate whether you wish to be heard in person.

6. Statement of allegations is enclosed.

(ABDUR RAUF)
District Police Officer,
Dir Upper

NO. 24 /EB. dated Dir Upper the 14-8-2010.
Copy to Head Constable Kamal Muhammad No.37 to submit your reply to the charge sheet within stipulated period.

OSP/d

16

44 B 22

DISCIPLINARY ACTION.

I Abdur Rauf District Police Officer, Dir Upper: As competent authority, am of the opinion that You Head Constable Kamal Muhammad No.37 has rendered himself liable to be proceeded under Section 3 of the NWFP Removal From Service (Special Powers) Ordinance 2000.

STATEMENT OF ALLEGATIONS.

You Head Constable Kamal Muhammad No.37 while posted OASI (Police Line) absented yourself with lawful duty w.e.f 10.09.2010 with out prior permission of your superiors.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under section 5 of the said ordinance.

1. Mr, Fazal Wahid Khan DSP/Investigation.
2. Mr, Muamber Khan SHO PS Dir.

3. The enquiry committee shall in accordance with the provisions of the ordinance, provide reasonable opportunity of hearing to the accused official, record its findings and make within 07 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused official shall join the proceedings on the date time and place fixed by the enquiry committee.

(ABDUR RAUF)
District Police Officer,
Dir Upper

No. 24

/EC, Dated Dir Upper the 14-9-2010.
Copy to:-

1. Mr, Fazal Wahid Khan DSP/Investigation.
2. Mr, Muamber Khan SHO PS Dir.
- 3 Head Constable Kamal Muhammad No.37 to submit your reply to the enquiry committee within stipulated period.

FINAL SHOW CAUSE NOTICE:

I, Abdur Rauf Khan District Police Officer, Dir Upper as competent authority, under the K.P.K Removal from Service (Special Powers) Ordinance 2000, do hereby serve you Head Constable Mohammad Kamal No. 37 as follow.

- 1. i) The consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.
- 2. ii) On going through the findings and recommendation of the enquiry officer, the material on record and other connected papers including your defence before the said committee.

I am satisfied that you have committed the following acts/misconducts specified in section-3 of the said ordinance:-

a. You Head constable Mohammad Kamal No. 37 while posted as OHC Dir Upper absented yourself from lawful duty w.e from 10.9.2010 till now. Hence a show cause notice was issued and departmental proceedings were initiated through an enquiry committee was constituted and enquiry against you has been completed. The committee has recommended you for Major punishment as you badly failed to appear before enquiry committee during departmental process.

You are therefore served with Show Cause Notice as to why you should not be dealt with Major punishment including removal from service under police order 2002.

You are also in liberty to be heard in person.

Your reply to the above final show cause notice should reach in 07 days of the receipt of this office other wise export action will be taken against you.

- 3. You are therefore required to Final Show cause as to way the aforesaid penalty should not be imposed Upton you, and also intimate whether you desire to be heard in person.
- 4. If no reply to this notice is received within fifteen days of its delivery in the normal course of circumstances it shall be presumed that you have nothing to offer and in that case, export action shall follow against you.

Copy of the finding of the enquiry officer is enclosed.

(Abdul Rauf)
District Police Officer,
Dir Upper.

No - 24

dt: 23.11.2010

جانت عالی

مستحق ہونے کی بنا پر اسے تعلق سے ہٹا دیا جائے۔

ڈیوڑھی سرفراز

SHO/PS 23.11.10

SHO/PS 23.11.10

SHO/PS 23.11.10

SHO/PS 23.11.10

SHO/PS 23.11.10


فائدہ سنگ انڈیا سرخلاف قیدگاہ Hc

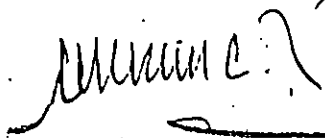
بنا عالی
 سندھ انڈیا سرخلاف قیدگاہ قیدگاہ Hc 37 سلیم غصہ خاں
 از عدہ 9/10/10 تمام بر غیر باغی پاراش میں بنا۔ پاراش میں مذکورہ قیدگاہ
 کے خلاف جاری کیے گئے انڈیا سرخلاف قیدگاہ انڈیا سرخلاف قیدگاہ اور
 ایک دفعہ 10/10/10 قیدگاہ دیر پر مشتمل ہیں۔ سارک ہوئی
 انڈیا سرخلاف قیدگاہ کے مذکورہ قیدگاہ کے عقب میں قیدگاہ کے لئے
 سلیم انڈیا سرخلاف قیدگاہ کے مذکورہ قیدگاہ کے لئے انڈیا سرخلاف قیدگاہ کے لئے
 ہیں ہوئے۔ قیدگاہ قیدگاہ 37 قیدگاہ 279 قیدگاہ 10/9/10 قیدگاہ 302-324
 109/148/149

قائد گڈنگار میں بھی ملزم

مذکورہ کے نسبت ساقی لکیر کھڑو بدلم ہو کر وہ گور خود میں موجود
 ہیں جو تک یہ یعنی امر ہے کہ قیدگاہ قیدگاہ 37 داییں ڈروٹی کر کے تھوڑے
 آنے کا کوئی موقع اور امید نہیں

لہذا انڈیا سرخلاف قیدگاہ کے لئے قیدگاہ Hc قیدگاہ ڈروٹی سے
 غیر حاضر رہنے کی پاراش میں پھر PUNISHMENT دی جائے۔ فائدہ سنگ رپورٹ


 DSP/mv
 Div upper
 Fozal waheed


 SI/SHO, PS DIV
 Muammar Khan

(19)

B


ORDER.

HC Kamal Muhammad No. 37 while posted as OHC Police Line Dir Upper absented himself with effect from 10.09.2010 till to date with out any leave or prior permission from the high ups. Which is gross misconduct and against the discipline of the force.

He was served with charge Sheet and summary of allegation vide this office Endst: No 24/EB, Dated 14.09.2010. An enquiry committee comprising Mr. Fazal Wahid Khan DSP/Investigation Dir Upper and Mr. Muamber Khan SHO PS Dir was constituted to enquire into the matter. However the defaulter HC did not appear before the said committee for recording his statement up till now. He is absent from his law full duty for a period of 2 months 27 days till now. He was served with Final Show Cause Notice vide this office Letter No. 24 Dated 23.11.2010. It is evident from Final Show Cause Notice and local verification that there is no hope that he will be presented him self in near future. As the enquiry committee recommended him for major punishment i.e Dismissal from service.

Due to his long absence with out leave are permeation and recommendation of enquiry committee, he is hereby **DISMISSED** from service under section 3 (a) (b) of the K.P.K removal from Service (Special Power) Ordinance 2000, from the date of his absence. The Kit / other uniform articles shall immediately be deposited from him in the District Godown.

Order announced.


District Police Officer,
Dir Upper

OB No. 1013

Dated. 11/12 2010.