

31<sup>st</sup> Mar, 2023

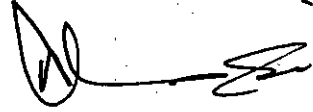
1. Nobody is present on behalf of the appellant. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 31<sup>st</sup> day of March, 2023.*



(Salah Ud Din)  
Member(Judicial)



(Kalim Arshad Khan)  
Chairman


SCANNED  
K. B. T  
Peshawar


30.01.2023

Clerk of learned counsel for the petitioner present. Mr. Umair Azam Khan, Additional Advocate General for the respondents present.

Clerk of learned counsel for the petitioner again sought adjournment on the ground that learned counsel for the petitioner is busy in the august Supreme Court of Pakistan. Several opportunities have been granted to learned counsel for the petitioner for arguments on maintainability of the instant review petition, therefore, last opportunity is given, failing which the review petition will be decided on the available record on 22.03.2023 before the D.B.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)


  
(Salah-ud-Din)  
Member (J)

22.03.2023

Learned counsel for appellant present.

Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.

Learned Member Judicial (Mrs. Rozina Rehman) is on leave, therefore, case is adjourned to 31.03.2023 for arguments before D.B. Parcha Peshi given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

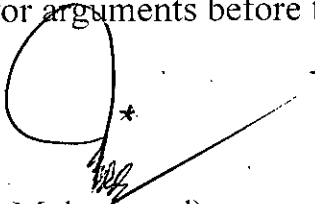
SCANNED  
KPST  
Peshawar

26.10.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz, Inspector alongwith Mr. Muhammad Riaz Khan Pindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 25.11.2022.

SCANNED  
KPST  
Peshawar



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

25.11.2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. Advocate General alongwith Mr. Ayaz, Superintendent for the respondents present.

Learned counsel for the appellant sought adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 31.01.2023 before the D.B.

SCANNED  
KPST  
Peshawar



(Fareeha Paul)  
Member (E)



(Rozina Rehman)  
Member (J)

23<sup>rd</sup> May, 2022

Counsel for the appellant present. Mr. Muhammad Riaz Paindakhel, Asstt. AG for the respondents present.

Counsel for the parties seek adjournment in order to properly assist the Tribunal. The appeal pertains to the year, 2014, therefore, last opportunity is granted. To come up for arguments on 08.06.2022 before the D.B. File of old service appeal alongwith other connected appeals be also requisitioned.



(Fareeha Paul)  
Member (E)



Chairman

08.06.2022

Clerk of learned counsel for the appellant present. Mr. Zewar Khan, Inspector (Legal) alongwith Mr. Riaz Ahmad Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up arguments on 29.08.2022 before the D.B.



(Fareeha Paul)  
Member (E)



(Salah-ud-Din)  
Member (J)

29.08.2022

Bench is incomplete, therefore, case is adjourned to 26.10.2022 for the same as before.



Reader

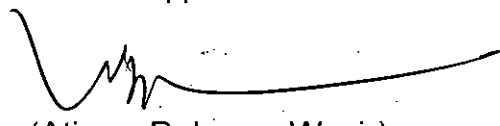
23.11.2021

Ghufranullah Shah Advocate learned counsel for appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General present.

As per record, learned counsel for appellant had requested for adjournment on the preceding date which request was accorded to but with last chance. Today once again, requested for adjournment, however, was directed to argue and arguments were heard at certain length when in the meanwhile he made a request for requisition of old file of Service Appeal No.1491/2014 alongwith other connected service appeals. In this view of the matter, learned counsel for appellant and learned A.A.G are directed to go through the entire record and to assist in respect of maintainability of the review petition on 14.12.2021 before D.B. Office is directed to place on record the file of old service appeal alongwith other connected appeals.

P

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

14-12-21


DB is on Toud case to come up  
For the same on dated 31-1-22

R. S. Rindoo

31.01.2022

Learned counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Former made a request for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 23.05.2022 before the D.B.

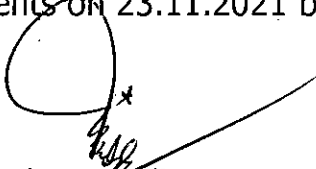
  
(Atiq-Ur-Rehman Wazir)  
Member (E)


  
Chairman

10.11.2021 Ghufranullah Shah Advocate present on behalf of legal heirs of deceased appellant.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General alongwith Lal Bahadur S.I (Legal) for respondents present.

Again, a request for adjournment was made on behalf of appellant. Last chance is given for arguments on the point of maintainability of the instant review petition. To come up for arguments on 23.11.2021 before D.B.


  
(Mian Muhammad)  
Member (E)

  
(Rozina Rehman)  
Member (J)

25.03.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak learned Addl. AG for respondents present.

The Worthy Chairman is on leave, therefore, the case is adjourned to 23.06.2021 for arguments before D.B.



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


23.06.2021

Learned counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Arguments on application for restoration of appeal heard and case file perused. Through instant petition the petitioner has prayed for setting aside order dated 07.10.2020 vide which the appeal of the present petitioner was dismissed due to non prosecution.

Since the instant application has been filed well within time, hence the appeal be restored and be fixed for its previous proceedings on 10.11.2021 before D.B. Notices be issued to the respondents.



(Rozina Rehman)  
Member (J)

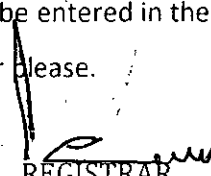

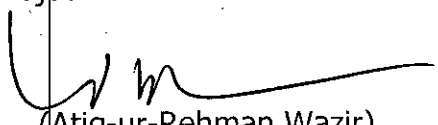



Chairman

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 152 / 2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	<u>16.10.2020</u>	<p>The Restoration Application submitted by Mr. Abdul Jalal Khan through Syed Ghufuran Ullah Shah Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This Execution Petition be put up before DB Bench on <u>13-01-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-	13.01.2021	<p>Counsel for the petitioner present.</p> <p>Notices be issued to respondents for submission of reply to the application as well as arguments thereon.</p> <p>Adjourned to 25.03.2021 before the D.B.</p> <p> (Atiq-ur-Rehman Wazir) Member(E)</p> <p style="text-align: right;"> Chairman</p>



**BEFORE HONORABLE KHYBER PAKHTUNKHUWH SERVICE**  
**TRIBUNAL PESHAWAR**

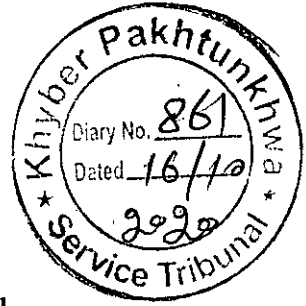
CM No. 152/2020

In

Review Petition No. 409/2018

In Service Appeal No. 491/2014

1



Abdul Jalal Khan (Late) through his wife Mst; Miraj Gul

**VERSUS**

Regional Police Officer Malakand Division at Saido Sharif Swat and others

**PETITION ON BEHALF OF PETITIONER FOR**  
**RESTORATION OF THE ABOVE TITLED REVIEW**  
**PETITION IN SERVICE APPEAL NO 491/2014 BEING**  
**DISMISSED IN DEFAULT ON DATED 07-10-2020**

**RESPECTFULLY SHEWETH:**

That the petitioner submits as under:-

1. That the above titled Review petition No 409/2018 in Service Appeal No 491/2014 was pending before this honorable tribunal but was dismissed in default on 07-10-2020. **(Copy of the Order is annexed)**
2. That on the date fixed, the attorney for the petitioner along with the counsel appeared in the Tribunal and remained awaited for their turn but the bench was busy in hearing of lengthy arguments in some other service appeals.
3. That on the same date, two cases of the counsel of the petitioner were also fixed before the honorable Peshawar High Court, Peshawar and the counsel of the petitioner rushed to the High Court, where he remained busy till 3:45 Pm. Anyhow, the junior Associate of the counsel of the petitioner along with his clerk of the counsel and attorney for the petitioner appeared twice upon the calls of the case but even then the review petition of the petitioner was dismissed in default hence the instant application. **(Copy of the cause list is also annexed)**
4. That non appearance of the counsel of the petitioner was not intentionally but due to the reason mentioned above.

2

5. That the law favours adjudication on merits rather than the technicalities.
6. That there is no bar on acceptance of the instant petition.

It is therefore requested that on acceptance of this petition, the above titled case may kindly be restored for its decision on merit in the interest of justice.



Petitioner

Through



Syed Ghufuran Ullah Shah  
Advocate High Court

22-A Nasir Mansion, Peshawar

3

**BEFORE HONORABLE KHYBER PAKHTUNKHUWH SERVICE**  
**TRIBUNAL PESHAWAR**

CM No. \_\_\_\_\_/2020

In

Review Petition No. 409/2018

In Service Appeal No. 491/2014

Abdul Jalal Khan (Late) through his wife Mst; Miraj Gul  
**VERSUS**  
Regional Police Officer Malakand Division at Saido Sharif Swat and others

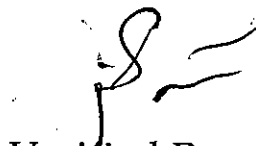
**AFFIDAVIT**

I Mst Miraj Gul Widow of deceased petitioner (Appellant), do hereby solemnly declare and affirm on Oath that all the contents of this petition are true and correct to the best of knowledge and belief and nothing has been concealed from this honorable court.



DEPONENT

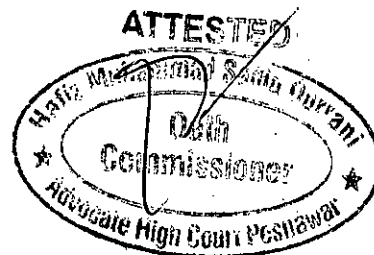
CNIC No. 15202-3744599-1



Verified By:

Syed Ghufuran Ullah Shah  
(Advocate)


16 OCT 2020



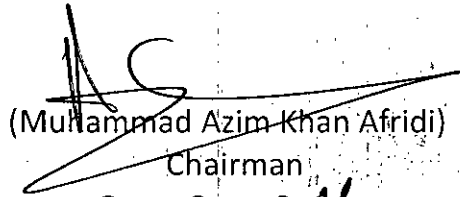
S.No. of proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.05.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>CAMP COURT SWAT.</u></p> <p style="text-align: center;"><u>APPEAL NO.491/2014</u></p> <p style="text-align: center;"><u>(Abdul Jalal Khan-vs-Regional Police Officer Malakand Region at Saidu Sharif Swat and another).</u></p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u> Mr.</p> <p>Abdullah Khan, brother of the appellant and Mr. Muhammad Zubair, Senior Government Pleader for the respondents present.</p> <p>Brother of the appellant Abdul Jalal (deceased) submitted copy of death certificate of the appellant alongwith special power of attorney from the side of Mst. Miraj Gul widow of appellant.</p> <p>Record perused according to which the appellant was compulsorily retired from service vide order dated 24.12.2013.</p> <p>Since the appellant has died and the impugned order of compulsory retirement entitles the appellant and his legal heirs to pensionary benefits as such we do not deem it appropriate to further proceed with appeal after the death of the appellant, which is dismissed accordingly. Parties are however left to bear.</p>

*[Handwritten signature]*  
02.05.16

their own costs. File be consigned to the record room.



(Abdul Latif)  
Member




(Muhammad Azim Khan Afridi)  
Chairman  
Camp Court Swat


02.05.16

ANNOUNCED  
02.05.2016

11.01.2016

Mr. Fayaz Qazi, Advocate on behalf of counsel for the appellant and Mr. Farhad, S.I alongwith Mr. Muhammad Zubair, Sr,GP for respondents present. Informed the Tribunal that the appellant has died. Requested for adjournment so as to furnish application for impleading the legal heirs of the appellant. Adjourned for further proceedings before D.B to 02.05.2016 at Camp Court Swat.

  
Member

  
Chairman  
Camp Court Swat

8.9.2015

Appellant in person and Mr. Muhammad Zubair, Sr.G.P  
for respondents present. Due to non-availability of D.B  
arguments could not be heard. To come up for final hearing  
before D.B on 6.10.2015 at Camp Court Swat.

  
Chairman  
Camp Court Swat


6.10.2015

Appellant in person and Mr. Farhad Khan, S.I (legal) alongwith  
Mr. Muhammad Zubair, Sr.G.P for respondents present. Due to  
non-availability of D.B arguments could not be heard. To come up for  
final hearing before D.B on 4.11.2015 at Camp Court Swat.

  
Chairman  
Camp Court Swat

04.11.2015

Appellant in person and Mr. Rashid Ahmed, Inspector: (legal)  
alongwith Mr. Muhammad Zubair, Sr.GP for respondents present.  
Arguments could not be heard due to non-availability of D.B. To come  
up for final hearing before D.B on 11.1.2016 at Camp Court Swat.

  
Chairman  
Camp Court Swat

12.03.2015

Appellant in person and Mr. Muzaffar Jan, Inspector (legal)

alongwith Addl. A.G for respondents presents Rejoinder submitted. The appeal pertains to territorial limits of Malakant Division. To come for final hearing before D.B at Camp Court Swat on 5.5.2015.

  
Chairman


5.5.2015

Appellant in person and Abdul Jalil, ASI alongwith Mr.Muhammad Zubair, Sr.G.P. for respondents present. Due to non-availability of D.B, arguments could not be heard. To come up for final hearing before D.B on 8.7.2015 at Camp Court Swat.

  
Chairman  
Camp Court Swat

08.07.2015

Appellant in person and Mr.Zarshad Khan, ASI alongwith Mr.Muhammad Zubair, Sr.G.P for respondents present. Arguments could not be heard due to non-availability of D.B. Adjourned for final hearing before D.B to 8.9.2015 at camp court Swat.

  
Chairman  
Camp Court Swat



4.9.2014

Counsel for the appellant and Mr. Muzaffar Khan, Inspector (legal) on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Reply to application for interim relief and written reply have not been received, and representative of the respondents requested for further time on the ground that reply to application for interim relief and written reply have been prepared and got vetted from the office of learned AAG but requires signatures of the concerned authorities. Another chance is given for reply to application for interim relief and written reply/comments on behalf of the respondents and also arguments on application for interim relief on 02.10.2014, instead of 22.9.2014.

  
Chairman

02.10.2014

Appellant with counsel and Mr. Sabar Khan, SI on behalf of respondents with Mr. Muhammad Adeel Butt, AAG present. Written reply/para-wise comments received on behalf of the respondents, but reply to application for interim relief has not been received. A copy of written reply is handed over to the learned counsel for the appellant for rejoinder, while copy of application for interim relief is handed over to the representative of the respondents for reply to application, arguments thereon and rejoinder on 08.12.2015

  
Chairman

08.12.2014

Appellant in person and Mr. Abdul Jaleel Khan, ASI on behalf of respondent No. 2 with Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for rejoinder on 12.03.2015.

  
Reader.

Appeal No. 491/2014.  
Mr. Abdul Jaleel Khan.

3. 10.06.2014

Appellant deposited  
Security & process fee  
Rs 160/- Bank  
receipt is attached  
with file

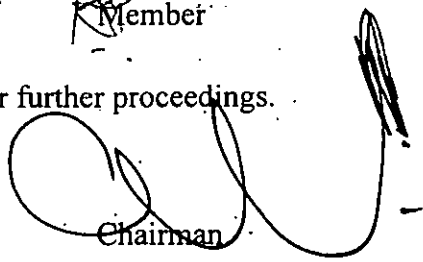
Counsel for the appellant present. Preliminary arguments

heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 24.12.2013, he filed departmental appeal on 30.12.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 03.04.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Counsel for the appellant also filed an application for suspension of the operation of impugned order O.B No.827 dated 24.12.2013. Notice of application should also be issued to the respondents for reply/argument. To come up for written reply/comments on main appeal on 04.09.2014 as well as reply/arguments on application on 03.07.2014.

  
Member

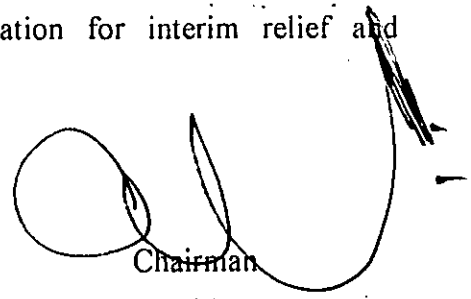
4. 10.06.2014

This case be put before the Final Bench  for further proceedings.

  
Chairman

03.7.2014

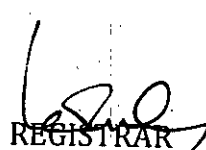
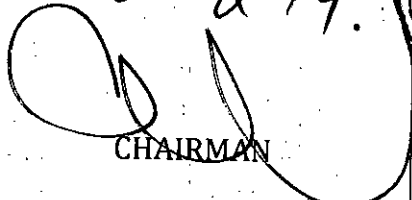
Appellant with counsel present. Respondents are not present despite their service through registered post. However, Mr. Usman Ghani, Sr. GP is present and would be contacting the respondents for written reply, reply to application for interim relief and arguments thereon on 22.9.2014.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 491/2014

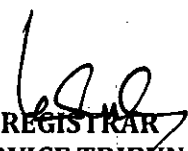
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/04/2014	<p>The appeal of Mr. Abdul Jalal Khan resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-6-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2	15-4-2014	

The appeal of Mr. Abdul Jalal Khan son of Mir Zaman Shah distt. Chitral received today i.e. on 03 .04.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 day.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.

No. 560 /S.T,

Dt. 03/4 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re-submitted after compliance

Ashraf Ali Khattak

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

*Appeal no. 491/2014*

Ex. S.I Abdul Jalal Khan ..... **Appellant**

**V E R S U S**

The Regional Police Officer Malakand & Others..... **Respondents**

**I N D E X**

<b>S.#</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Service Appeal		1-8
2.	Affidavit		9
3.	Copy of Show Action Notice dt:01.11.2013	"A"	10
4.	Copy of Reply dated 09.11.2013	"B"	11
5.	Copy of Order dated 08.11.2013	"C"	12
6.	Copy of Charge sheet & statement of allegations	"D"	13-14
7.	Copy of reply to the charge sheet	"E"	15
8.	Copies of statements of two Hon'ble citizens	"F"	16-17
9.	Copies of statements of Inspectors	"G"	18-19
10.	Copy of finding report	"H"	20
11.	Copy of Final Show Cause Notice	"I"	21
12.	Copy reply to final Show Cause Notice	"J"	22
13.	Copy of impugned order dated:24.12.2013	"K"	23
14.	Copy of Departmental Appeal dt: <del>24</del> <sup>27</sup> .12.2013	"L"	24-25
15.	Wakalatnama		26

*U. U. Khan*

Appellant

Through

*Ashraf Ali Khattak*

**Ashraf Ali Khattak**

*Nawaz Khan Khattak*

**Nawaz Khan Khattak**

&

*Nawabzada*

**Nawabzada**

Advocates High Court

Date: \_\_\_/\_\_\_/2014

(1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

*Appeal no. 491/2014*

Ex. SI Abdul Jalal Khan S/o Mir Zaman Shah R/o  
Village Kari Tehsil and District Chitral.....**Appellant**

**V E R S U S**

**492**  
**03/4/2014**

1. The Regional Police Officer Malakand Region at Saidu Sharif Swat
2. The District Police Officer District Dir Upper  
.....**Respondents**

**Service appeal U/S 4 of the  
Khyber Pakhtunkhwa Service  
Tribunal Act 1974 against the  
order O.B No.827 dated  
24.12.2013 of the Respondent  
No.2 wherein he penalized the  
appellant with major penalty of  
compulsory retirement and  
against which appellant has  
filed department appeal which  
is still pending without  
disposal.**

*3/4/14*

**Respectfully Sheweth:**

re-submitted to  
and filed.

That appellant has been enlisted in the police force Chitral in the year 1978. He has got long

*8/4/14*

standing service with unblemished and clean sheet conducted record and has never been ~~rated~~ <sup>rated</sup> as inefficient and unqualified even the same can be established from the findings of inquiry committee.

2. That at relevant time appellant was serving as ASHO Police Station Gandigar Dir Upper when he was served with show cause notice dated 01.11.2013 by respondent No.2 (Annexure A). Appellant submitted reply on 09.11.2013 (Annexure B) and denied the flimsy accusation which had no factual and legal backing.
3. That it is pertinent to mention here that during the inquiry proceeding appellant was transferred from P.S Gandigar Dir Upper to Chitral District vide order No.10104-10/E dated 08.11.2013 (Annexure C).
4. That vide dated 04.12.2013 appellant was served with charge sheet and statement of allegations (Annexure D) wherein he was charged for corruption and corrupt practices to the following effect.

*"You SI Abdul Jalal while posted in P.S Gandigar in operation wing, some information received from different sources regarding your involvement in corruption, which is gross misconduct on your part as defined in Rule 2 (iii) of Police Disciplinary Rule 1975".*

It is worthy to note that for the purpose of scrutinizing the conduct of appellant with reference to the above allegation an inquiry committee consisting of Mr. Muhammad Ayub SDPO Dir Upper and SI Abdur Rehman Khan SHO P.S Dir Upper were nominated for conducting inquiry against the appellant.

5. That appellant submitted detail reply to the charge sheet and statement of allegation on 06.12.2013 (Annexure E).
6. That the Inquiry Officer as per his inquiry report collected some spy information regarding appellant's conduct with reference to the charge sheet and statement of allegation but could not find in iota of evidence against the appellant with referred subject.



7. That Inquiry Officer as per Inquiry report has also recorded the statement of two Hon'ble citizens namely Gulzali S/o Muhammad Gulab and Mian Jamal ud Din S/o Mian Hazrat Yousaf (Annexure F). Similarly he also recorded the statement of Inspector Farooq Jan and Muhib Ullah S.I/D (Annexure G).
8. That though the Inquiry Committee recorded the statement of the above referred citizens and police personal in the absence and at the back of the appellant but even then they failed to acquire in iota of evidence regarding corruption.
9. That the inquiry committee submitted the inquiry report/finding on 12.12.2013 and exonerated the appellant from all sought of male practices and corruption (Annexure - H)
10. That respondent No.2 vide No.4565/EB, dated 16.12.2013 served the appellant with final show cause notice (Annexure I). Appellant also submitted reply to the final Show Cause (Annexure J) on 17.12.2013.

(S)

11. That the respondent No.2 vide impugned order O.B No.827 dated 24.12.2013 imposed upon the appellant major penalty of compulsory retirement (Annexure ~~K~~) without assigning any reason whatsoever for discarding the findings of the Inquiry Committee.
12. That it is very astonish that the respondent No.2 as per Inquiry Report was left with no other option but to file the inquiry and exonerate the appellant from the charges leveled against him but he issued the impugned order in disregard to the charge sheet and statement of allegation.
13. That being aggrieved from the illegal, unlawful, void penal order of the respondent No.2 dated 24.12.2013 appellant preferred Departmental Appeal (Annexure ~~D~~) before the respondent No.1 which is still pending without disposal, hence the statutory period has elapsed therefore the instant service appeal inter-alia on the following grounds:-

**GROUND S:**

6

- A. That the respondent has not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan 1973. Appellant has been penalized for no fault of his own and Inquiry Committee has also recommended that the Inquiry shall be filed and appellant be exonerated. The inquiry committee has recorded the evidence of independent respectable citizens and police personal wherein appellant has been proved efficient, devoted and qualified, therefore the impugned order is illegal, unlawful and without lawful authority and is liable to be set aside.
- B. That all public powers are in the nature of a trust and public functionaries must act as repository of such trust. In the instant case appellant though an efficient devoted and qualified police officer has been subjected to mental torture without his fault. The authority under the law are duty bound to treat their employees fairly and independently. The authority has abused and misused his

(7)

authority which is not only unlawful but undesirable and unwarranted.

C. That impugned order has been passed with no evidence as well as in disregard with accusation leveled in the charge sheet and statement of allegation vide charge sheet and statement of allegation and the plea taken by the respondent No.2 has no legal and factual footing/ backing. Respondent No.2 has failed to assign any reason in support of his order. The impugned penalty has no legal and factual footing and has no connection whatsoever with charge sheet and statement of allegation. On this score the impugned order is liable to be set aside.

D. That appellant has been serving as Sub Inspector therefore under the Rule respondent No.1 was competent authority to initiate discipline proceeding etc but here in the instant case disciplinary proceedings has been initiated by respondent No.2 who is incompetent authority therefore the impugned order is void and liable to be struck down on this score alone.

8

- E. That the impugned order has been passed in violation of Section 24-A of the General Clauses Act 1897 on this score is well the impugned order is liable to be set aside.
- F. That appellant is jobless since the impugned order therefore entitled to reinstated with all back benefits.
- G. That appellant would like to seek the permission of this Honourable Tribunal to advance some more grounds at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of this service appeal this Honourable Tribunal may graciously be please to set aside the impugned order dated 24.12.2013 and re-instated the appellant with all back benefits.

عبد الجبار خان  
Appellant

Through

*Ashraf Ali*  
**Ashraf Ali Khattak**

*Nawaz Khan*  
**Nawaz Khan Khattak**

&

*Nawabzada*  
**Nawabzada**

**Advocates High Court  
Peshawar**

Date: \_\_/\_\_/2014

(9)

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

Ex. SI Abdul Jalal Khan S/o Mir Zaman Shah R/o  
Village Kari Tehsil and District Chitral.....**Appellant**

**V E R S U S**

The Regional Police Officer Malakand Region at Saidu  
Sharif Swat and another .....**Respondents**

**AFFIDAVIT**

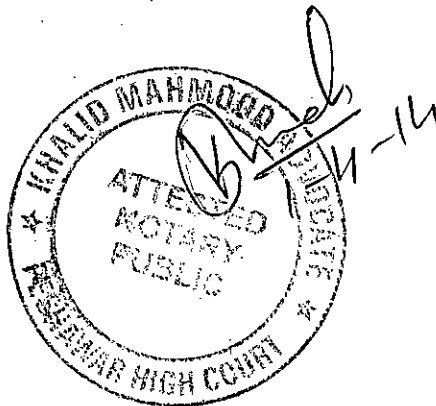
I, Ex. SI Abdul Jalal Khan S/o Mir Zaman Shah  
R/o Village Kari Tehsil and District Chitral, do hereby  
solemnly affirm and declare on oath that the contents  
of the accompanying service appeal are true and  
correct to the best of my knowledge and belief and  
nothing has been concealed from this Hon'ble Tribunal.



Identified by:

D E P O N E N T

*Ashraf*  
**Ashraf Ali Khattak**  
Advocate, Peshawar



Annex A

(10)

**SHOW CAUSE NOTICE**

You SI Abdul Jalal, while posted in PS: Gandigar in Operation wing, some information received from different sources, regarding your involvement in corruption, which shown negligence on your part.

Now, therefore, **I MUHAMMAD JAVED, DISTRICT POLICE OFFICER**, Dir Upper, hereby call on you to explain your position in written in a period of 07 days from receipt of this notice as to why Departmental proceedings under Police Rules 1975, should not be initiated against you.

In case your reply to the above notice is not received within the stipulated period, it shall be presumed that you have no defence to offer departmental proceedings will be initiated against your straight away. You are also at liberty if you wish to be heard in person.

*[Signature]*  
**District Police Officer,**  
**Dir Upper. @**

No. 4083 /EB,  
Dated 1-11- /2013.

SI Abdul Jalal PS: Gandigar.

*Received*  
*[Signature]*  
*SI P. Khan*  
*2/11/2012*

T.C  
*[Signature]*

**Attested**  
*[Signature]*  
**To be true copy**  
**Advocate**

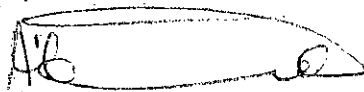
11

Respected Sir,

On the attached Show Cause Notice issued vide your office Endst: No.4083/EB, dated 1.11.2013 it is humbly submitted that I have been promoted as Sub-Inspector in the year 2009 and was posted in District Dir Lower. Later on, I was transferred to this District. During my entire service, I have never been a part of any malpractice. In Police Station Gandigar I was serving as Additional SHO. During my posting, I served with zeal and enthusiasm and so far not a single complaint has been received from any quarter. Farther more I am receiving an attractive salary of Rs.42000/- which is sufficient for me and my spouse as I have no kids. Besides, I have no bank accounts in any Pakistani Bank nor having any kind of bonds. I am only surviving in the available legal means and never used any unfair means for my livelihood.

I belong to a respectable family of Chitral having sufficient agriculture land in chitral which is inherited by forefathers. Keeping in view the above it is humbly submitted that show cause notice may kindly be filed without further action coupled with re-instatement from the date of suspension please.

Yours obediently.



Abdul Jalal Khan,  
SI, Police Lines Dir Upper,  
9.11.2013

**Attested**  
*[Signature]*  
To be true copy  
Advocate

T.C  
*[Signature]*

PM

Reply is not satisfactory  
is the charge sheet +  
and summary of illustration  
these committee a member  
Jani  
21/2/13



(EB)

(12)

3942  
7-11-13

Annex C

**ORDER**

The following transfer / postings amongst Sub-Inspectors are hereby ordered with immediate effect:-

S.No.	Name	From	To
1.	SI Habibullah	Chitral District	Swat District
2.	SI Barkat Shah	Chitral District	Swat District
3.	SI Tajud Din	Chitral District	Shangla District
4.	SI Haidar Ghazi	Chitral District	Shangla District
5.	SI Muhammad Raza Khan	Chitral District	Dir Lower District
6.	SI Salahud Din	Chitral District	Invest: Dir Upper
7.	SI Habibur Rahman	Chitral District	Dir Upper District
8.	SI Muhammad Azam	Chitral District	Dir Upper District
9.	SI Bahadar Khan	Invest: Dir Upper	Chitral District
10.	SI Mir Azam	Buner District	Chitral District
11.	SI Muhammad Ashraf	Shangla District	Chitral District
12.	SI Muhammad Nazir Shah	Dir Lower District	Chitral District
13.	SI Akbar Shah	Swat District	Chitral District
14.	SI Abdul Wahid	Swat District	Chitral District
15.	SI Mansoor Ahmad	Dir Upper District	Chitral District
16.	SI Muhammad Shafi	Dir Upper District	Chitral District
17.	SI Azizud Din	Dir Upper District	Chitral District
18.	SI Afzal Nadir	Dir Upper District	Chitral District
19.	SI Abdul Jalal	Dir Upper District	Chitral District
20.	SI Saeedullah	Shangla District	Chitral District

T.C

*(Signature)*  
**(ABDULLAH KHAN) PSP**  
 Regional Police Officer,  
 Malakand at Saidu Sharif, Swat.  
 \*Naqi M Tazqi\*

No. 10104-10/E,

Dated 8/11/2013.

Copy for information and necessary action to the:-

1. All District Police Officers in Malakand Region.
2. Head of Investment...

**Attested**  
*(Signature)*  
 To be true copy  
 Advocate

Annex 1

13

CHARGE SHEET.

1. MUHAMMAD JAVED DISTRICT POLICE OFFICER, DIR UPPER. As competent authority, hereby charged You SI Abdul Jalal while posted in Operation Wing Police Station Gandigar as follows:-

*You SI Abdul Jalal while posted in PS: Gandigar in Operation Wing, some information received from different sources, regarding your involvement in corruption, which is gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules, 1975.*

2. By reason of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules 1975

3. You are therefore; require to submit your written reply within 07 days of the receipt of this charge sheet to the enquiry committee.

4. Your written reply, if any should reach to the Enquiry Committee within the specified period, failing which it shall be presumed that you have no defence to put in and in that case the ex-parte action shall follow against you.

5. Intimate as to whether you desire to be heard in person or not?

6. Statement of allegation is enclosed.

*Javed*  
(MUHAMMAD JAVED)  
District Police Officer,  
Dir Upper.

No. *4369* /EB, Dated Dir Upper the *4-12*/2013.

Copy to SI Abdul Jalal to submit your reply to the charge sheet with stipulated period.

*T.C.*  
*[Signature]*

**Attested**  
*[Signature]*  
To be true copy  
Advocate

*ans*  
*[Signature]*  
*committee*  
*Javed*  
*21/21*

DISCIPLINARY ACTION.

I, **MUHAMMAD JAVED DISTRICT POLICE OFFICER, DIR UPPER.** As competent authority, is of the opinion that you **SI Abdul Jalal** while posted in Operation Wing Police Station Gandigar have rendered yourself liable to be proceeded against departmentally as you have committed the following acts/ omission as defined in Rule-2 (iii) of Police Rule 1975.

STATEMENT OF ALLEGATION.

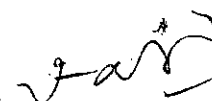
Whereas **SI Abdul Jalal** while posted in **PS: Gandigar** in Operation Wing, some information received from different sources, regarding involvement in corruption, which is gross misconduct on his part as defined in Rules 2 (iii) of Police Disciplinary Rules, 1975.

2. For the purpose of scrutinizing of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted of the said Rules.

- 1. **Mr, Muhammad Ayub SDPO Dir.**
- 2. **SI Abdur Rahman Khan SHO PS: Dir**

3. The Enquiry Committee shall conduct proceeding in accordance with provision of Police Rule 1975 and shall provide reasonable opportunity of defence and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.

4. The accused official shall join the proceeding on the date, time and place fixed by the Enquiry Committee.

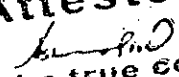
  
**(MUHAMMAD JAVED)**  
 District Police Officer,  
 Dir Upper.


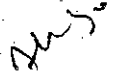
No. 4370-71/EB, Dated Dir Upper the 4-12-2013.

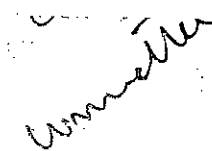
**Copy of the above is forwarded to:-**

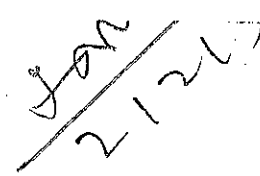
- 1. The Enquiry Officer for initiating proceeding against the acoused official under Police Rule, 1975.
- 2. Concerned defaulter official.

T.C  


**Attested**  
  
**To be true copy**  
**Advocate**



  
2/2/13

حوالہ جاری شدہ نمبر 4369/EB مورخہ 12/13/4 جاری دفتر  
 بلا ماہ دیر یا انٹرویو صورت ہوا ہے اس سائیل 1978  
 تحت کنٹرول پولیس کھربا ہو کر تاحال اپنی واپس دینی حالت  
 امانداری اور خوف خدا کو مد نظر رکھتے ہوئے خوش اسلوبی سے  
 انجام دے رہا ہے اس سال 2009 میں سب ایگریمنٹ پر مدد  
 ہو کر دیر میں اسٹریٹ سٹارٹ اپ ASTA خانہ کسٹریو، بھائی ہری  
 دوران بھائی خانہ کسٹریو میں سے اسے واپس بنانے  
 امانداری سے سر انجام دے رہے ہوئے سائیل کے خلاف بھی  
 بھی کوئی شکایت نہیں ہوئی ہے۔ سائیل اپنی تنخواہ  
 سالانہ 42000 روپے گزارہ کرتے ہوئے سائیل کے اخراجات  
 کسے کافی ہے۔ سائیل اپنی جائزہ کوئی کوئی  
 سر انجام دینے کو بھی غلط رویہ اختیار نہیں کرتا  
 استعمال میں کسی سائیل کے خلاف کوئی  
 کتابچے سے اثبات غلط ہے بنیاد اور من گھڑت  
 میں

اسد علیہ سائیل کے خلاف جاری شدہ  
 مدد دیر کاروائی سائیل کے کاظم صاحب کو  
 فٹو

محمد امجد علی چولیس دیر

6/12/2013

Attested  
 SDO D.M

Attested  
 To be true copy  
 Advocate

نہی حال الدین ولد حیات دفت جوزف دھرم لہور و  
6/1/65

سے گسٹار

بیان کیا جی تہہ گسٹار میں کہا جاتا ہے کہ  
لڑکا اور تازعات کے لیے میں لڑکیوں سے واسطہ  
رہتا ہے۔ عبدالرحمن ASHO تھا کہ گسٹار حال و غیر  
اس تہہ میں ہو گیا ہے کہ ساتھ کوئی حادثہ میں  
ساختا ہوا ہے۔ لڑکوں اور انک اچھا لوگ ہیں اور  
چہ چہ ال سے تعلق ہے۔ لہذا جو عورتیں ہیں  
کئی کئی کوئے عزت میں کہا ہے کہ ہر ادھی ہے  
نہی حال کے الزامات میں گسٹار اور کے بند ہیں  
تہہ یہاں ہے

نہی حال الدین ولد حیات دفت جوزف دھرم لہور و  
سے گسٹار

Attested  
DIP

T.C  
W

Attested  
To be true copy  
Advocate

ان کے ذریعہ مالی طور پر اس ادارے سے احقر سے 30/31 سال

بیان کیا ہے میں نے اس کے بارے میں پتہ نہیں چلا  
حاصلیت میں جو کچھ ہے واضح رہتا ہے۔ عوامی جگہ  
صدرت اور تباہی کے لیے اللہ ایا کرتے ہیں۔ صدر الملک صاحب  
ASTO صدر ایگزیکٹو کارڈ۔ دربارہ کارڈ حکایت۔ مذکورہ  
آئیے اچھا لوگوں کو بتائیے۔ جو کہ حیرت انگیز کامات مذکورہ اور  
میرے قسم کا ادبی ہے۔ فوشن اصدوق کا دست ہے۔  
در عنوان کے ازرانات عدل اور بنیاد میں ہی  
تہہ اسیان ہے۔

ان کے ذریعہ  
میرزا علی محمد صاحب  
9

Attested  
Solo Din

Handwritten signature or mark

Attested  
To be true copy  
Advocate

ان کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے

ان کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے  
 یہ ہے کہ ان کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے  
 اس کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے  
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 اس کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے

*ASHC*  
 فاضل عدالت  
 اس کے بارے میں جاننا ہوتا ہے کہ کیا یہ سچ ہے

Attested  
*SD/DM*

T.C  
*M*

Attested  
 To be true copy  
 Advocate

یہ جان دیکھنا ہے کہ یہ سید کا ہے

Amir Co

میں کثرت از دستاویزات کا احیاء  
 کے لئے یہ تصدیق ہے کہ اس کے بعد اس کے  
 تمام حالات کو پیش کرنے کے ساتھ ساتھ اس کے  
 زمانے سے تسلیم میں کوئی سراسیمہ کاموں  
 کے ساتھ ساتھ اس کے خوش اصدوں اور سب کے اوصاف  
 کے ساتھ ساتھ مذکورہ سے یہ عنوانی کے اثرات  
 میں کوئی صداقت بخا ہے یہ ہیں یہ

اسٹیشن  
 وقت کے لئے

Attested  
 SD/Dim

T-C  
 [Signature]

Attested  
 To be true copy  
 Advocate



## فائنڈنگ رپورٹ

جناب عالی!

معروض خدمت ہوں کہ عبدالجلال SI کے خلاف کاغذات انکوائری کے خاطر دفتر جناب DPO صاحب سے موصول ہو کر حسب الحکم انکوائری شروع کی گئی۔ دوران انکوائری کاغذات موصولہ کا ملاحظہ کر کے پایا گیا کہ عبدالجلال SI جو کہ تھانہ گنڈیگار میں محسبت ASHO اپنی ذیوٹی سرانجام دے رہا تھا کہ بارے میں رپوشن میں ملوث ہونے کے اطلاعات مختلف ذرائع سے افسران بالا کو موصول ہوئے تھے اسی اطلاعات کے پیش نظر جناب DPO صاحب نے مذکورہ SI کے خلاف شوکاژ نوٹس بری 4083/GB مورخہ 1.11.2013 کو ایٹو کر کے ایک ہفتہ کے اندر اندر جواب طلب کی تھی۔ شوکاژ نوٹس کے غیر اطمینان بخش جواب پر جناب DPO صاحب نے مذکورہ SI کے خلاف چارج شیٹ ایٹو کر کے بغرض مذکورہ انکوائری دفتر زبردستی ارسال کی۔

اندریں بارہ انکوائری جاری رکھتے ہوئے مذکورہ SI عبدالجلال کو بذریعہ تحریری پروانہ طلب کر کے بیان قلمبند کیا جو لفظ انکوائری ہذا ہے۔

اپنے بیان میں واضح کیا کہ وہ سال 1978 میں محکمہ پولیس میں محسبت کا نیشنل بھرتی ہو کر تاحال اپنی فرائض منصبی نہایت ایمانداری اور خوف خدا کو مد نظر رکھتے ہوئے اس سلوبی سے سرانجام دے رہا ہوں۔

چند ماہ قبل اس کا تبادلہ پولیس لائن سے محسبت ASHO تھانہ گنڈیگار ہو چکا تھا۔ سائل نے اپنا ذیوٹی نہایت دیانتداری سے سرانجام دی ہے۔ دوران ملازمت مل کے خلاف کبھی بھی کوئی شکایت نہیں ہوئی۔ سائل نے کبھی بھی غلط رویہ اور غیر شائستہ الفاظ استعمال نہیں کی ہے۔ سائل کے خلاف کرپشن کے لگائے گئے الزامات من گھڑت بے بنیاد ہیں۔

اندریں بارہ مذکورہ SI کے سابقہ جائے تعیناتی تھانہ گنڈیگار جا کر خفیہ اور اعلیٰ طور پر معلومات کی گئی کسی بھی فرد نے اسکے کرپشن میں ملوث ہونے کی انکشاف نہ کی اور ان دینے پر آمادہ ہوا۔

تھانہ میں موجودہ SHO انسپکٹر فاروق جان اور محب اللہ SI/D کے بیانات قلمبند کر کے جو لفظ انکوائری ہذا ہیں۔ بالا دو افسران اپنے بیانات میں بیانی ہے کہ مذکورہ ایک فرض شناس افسر ہے اور اسکے خلاف بدعنوانی کے الزامات بے بنیاد اور من گھڑت ہیں۔

اسی طرح دو اور معزز اشخاص کے بیانات قلمبند کئے جن نے بھی مذکورہ کے کرپشن میں ملوث ہونے کی تردید کرتے ہوئے ایک فرض شناس اور شریف النفس پولیس اوردیا۔

دوران انکوائری مذکورہ SI کے خلاف خفیہ اور اعلیٰ طور پر معلومات کر کے کسی بھی شخص نے اسکے بدعنوانی میں ملوث ہونے کے بارے میں لب کشائی نہیں کی اور نہ بیان پر برآمد ہوا۔

لہذا مذکورہ SI کے خلاف لگائے گئے الزامات میں کوئی صداقت نہیں پائی جاتی ہے بدین وجہ انکوائری فائل کرنے کی سفارش کی جاتی ہے۔

جملہ کاغذات انکوائری ہر امر مناسب حکم پیش خدمت ہیں۔

محمد ایوب خان

سب ڈویژنل پولیس افسر

12/12/13

سرکل دیر

عبدالرحمن خان SHO

تھانہ دیر


Attested

To be true copy  
Advocate

13/12/13

**FINAL SHOW CAUSE NOTICE.**

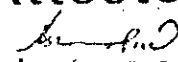
- 9. **WHERE AS**, you SI Abdul Jalal while posted in Operation wing PS: Gandigar committed gross misconduct as defined in Rules 2 (iii) of Police Disciplinary Rules, 1975, resultantly you was given Charge Sheet/Statement of Allegation and Mr, Muhammad Ayub Khan SDPO Dir and SI Abdur Rahman Khan SHO PS: Dir were appointed as enquiry committee to conduct proper departmental enquiry.
- 10. **WHERE AS**, The enquiry Committee finalized the enquiry proceeding given you full opportunities of defence. The enquiry committee held you guilty of the charge leveled against you as per charge sheet. A copy of the finding is enclosed.
- 11. **AND WHERE AS**, On going through the finding and recommendation of enquiry committee. The material placed on record and other connected papers including your defence before the said enquiry committee. I am satisfied you have committed the misconduct and are guilty of the charge leveled against you as per statement of allegation conveyed to you vide this Office Endst: No. 4370-71/EB, Dated , 04.12.2013, which stand proved and render you liable to be awarded punishment under Police Rules 1975.
- 12. **NOW THEREFORE, I MUHAMMAD JAVED DISTRICT POLICE OFFICER DIR UPPER**, as competent authority have tentatively decided to impose upon you, any one or More penalties, including the penalty of Dismissal form service under the said Rule.  
 You are therefore, required to show cause with in seven days of the receipt of this notice, as to why the aforesaid penalty should not be imposed upon you, failing it shall be presumed that you have no defence to offer and ex parte action shall be taken against you. Meanwhile also intimate whethe you desired to be heard in person or otherwise.

  
 District Police Officer,  
 Dir Upper.

No. 4565 /EB, Dated 16/12 2013.

SI Abdul Jalal.


**Attested**  
  
 To be true copy  
 Advocate

Annex. ~~1~~  
J

22

RESPECT SIR.

On the attached final show Casue Notice NO. 4565/EB, Dated 16/12/2013. It is humbly submitted that I have been promoted as Sub- Inspector in the year 2009 and was posted in District Dir Lower. Later on, I was transferred to this District. During my entire service I have never been a part of any malpractice. In police station Gandigar I was serving as Additional SHO. During my posting, I served with zeal and enthusiasm and sofar not a single complaint has been received form any quarter. Further more I am receiving an attractive salary of RS. 42000/- which is sufficient for me and my spouse as I have no kids. Besides, I have no bank accounts in any Pakistani Bank nor having any kind of bonds. I am only surviving in the available legal means and never used any unfair means for my livelihood.

I belong to a respectable family of Chitral having sufficient agriculture land in chitral which is inherited by forefathers. I also appear to your good self in oR for heaing in person.

T-C  
2

**Attested**  
*[Signature]*  
To be true copy  
Advocate

Your Obediently,  
*[Signature]*  
Abdul Jalal Khan.  
SI Police Lines Dir Upper.  
17.12.2013.

PA  
He is an efficient officer.  
His performance for the year  
2013 remains unsatisfactory  
High trial for drink. He is a spo  
an the part police. Member of Maje

Annex. K

(23)

ORDER.

This order is passed on the Departmental Enquiry against SI Abdul Jalal while posted as ASHO PS Gandigar.

Allegations leveled against the above named defaulter SI is that while posted as ASHO PS Gandigar, He is inefficient Police Officer & also according to source reports he is habitual drinker and into use such drugs during service, which stigma on the Police Department. His performance 2013 is unsatisfactory.

In order to initiate proper Departmental Enquiry, Charge Sheet and Statement of allegations were served upon him. Mr. Ayoub Khan SDPO Dir was appointed as Enquiry Officer. The Enquiry Officer in its finding report stated that the defaulter SI is unashamed and recommended to file the Charge Sheet served against him.

On the receipt of the finding report and other connected papers the same was perused, he served Final Show Cause Notice vide this Office Endst: No. 4565/EB Dated 16/12/2013, on the receipt of reply. The above named defaulter Officer was called and heard in person in Orderly Room, but he could not defend himself. The enquiry papers were perused and his guilt has been proved beyond any shadow of doubt.

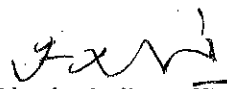
The undersigned disagreed with the Enquiry Officer because the defaulter SI is habitual drinker and into use such drugs during service, which stigma on the Police Department; the Case in hand is fit for dismissal but keeping in view his long service & poor family background, the under signed is taking a lenient step against the defaulter SI Abdul Jalal of this District Police i.e awarded PUNISHMENT COMPULSORY RETIRED with immediate effect. The Kit/other uniform articles shall immediately be deposited from him in the District Godown.

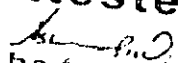
Order announced.

OB No. 827

Dt: 24.12 /2013.

T.C

  
District Police Officer  
Dir Upper.

**Attested**  
  
To be true copy  
Advocate

## خدمت جناب DIG صاحب ملاکنڈہ بمقام سپروٹو شریف سوات

اپیل برخلاف حکم جناب DPO صاحب دیر بالا بحوالہ OB نمبر 827 مورخہ 24/12/2013 جسکی رو سے من سائل / اپیلانٹ عبدالجلال خان SI کوجری ریٹائرمنٹ کی سزا سنائی گئی۔

استدعا۔۔۔ منظور کی اپیل لہذا حکم جناب DPO صاحب دیر بالا منسوخ وکالعدم قرار دیا جا کر سائل کو از مورخہ 24/12/2013 واپس اپنے عہدہ SI پر بحال کرنے کا حکم صادر فرمایا جائے۔

جناب عالی! گزارش حسب ذیل ہے۔

- 1- یہ کہ سائل / اپیلانٹ بمورخہ 07/10/1978 کنسٹیبل محکمہ پولیس ضلع چترال میں بھرتی ہو کر تاحال اپنے فرائض منصبی نہایت ایمانداری سے انجام دیتا رہا ہے اور اس طویل عرصہ کے دوران کبھی بھی سائل کے خلاف نہ تو عوام اور نہ افسران بالا کو کوئی شکایت موصول ہوئی ہے۔
  - 2- یہ کہ سائل کا تبادلہ تقریباً چار سال قبل ضلع چترال سے ضلع دیر لویئر پھر JIT ضلع سوات اور بعدہ ضلع دیر بالا ہو کر کنسٹیبل ASHO تھانہ گنڈیگار تعینات تھا اور مورخہ 08/11/2013 کو سائل کا تبادلہ واپس ضلع چترال کیا گیا۔
  - 3- یہ کہ مورخہ 01/11/2013 کو سائل کے خلاف کرپشن کے بے بنیاد الزامات لگائے جا کر شوکا ز نوٹس جاری ہو کر معطل کیا گیا جس کا جواب سائل نے دیکر جو جناب DPO صاحب نے غیر تسلی بخش قرار دے کر انکو آری کمیٹی بغرض انکو آری مقرر کی۔ نقل شوکا ز نوٹس و جواب لف ہے۔
  - 4- یہ کہ انکو آری کمیٹی نے مفصل انکو آری کر کے پرائیویٹ اشخاص اور سرکاری اہلکاران کے بیانات قلمبند کر کے سائل / اپیلانٹ کو بالکل بے گناہ قرار دیا۔ (نقل فائنڈنگ انکو آری کمیٹی لف ہے)
  - 5- یہ کہ بعدہ بحوالہ نمبر 4565 مورخہ 16/12/2013 سائل کو فائل شوکا ز نوٹس جاری کیا گیا جس میں غلط طور پر تحریر کیا گیا کہ انکو آری کمیٹی نے سائل کو گنہگار قرار دے کر سائل کو سزا دینے کی سفارش کی ہے۔ نقل فائل شوکا ز نوٹس لف ہے۔
  - 6- یہ کہ اسکے بعد سائل / اپیلانٹ خود جناب DPO صاحب کو پیش ہو کر اپنی معروضات پیش کیں۔ جس پر جناب DPO صاحب نے سائل کی کارکردگی کو غیر تسلی بخش قرار دیا۔ نقل درخواست پیشی و حکم DPO صاحب لف ہے۔
  - 7- یہ کہ بمورخہ 24/12/2013 جناب DPO صاحب نے بحوالہ OB نمبر 827 مورخہ 24/12/2013 حکم سزا بیا بی جاری فرمایا جس میں حیرت انگیز طور پر سائل کے خلاف شراب نوشی کلمے الزام میں جبری ریٹائرمنٹ کا حکم صادر فرمایا۔
  - 8- یہ کہ حکم جناب DPO صاحب بوجوہات ذیل قابل بحالی نہ ہے۔
- (1) یہ کہ سائل کے خلاف ابتدائی شوکا ز نوٹس میں کرپشن کے الزامات لگائے گئے ہیں۔ جو بدوران انکو آری غلط ثابت ہوئے ہیں اور اس نسبت فائنڈنگ انکو آری کمیٹی قابل ملاحظہ ہے۔
- (ب) یہ کہ انکو آری کمیٹی کی فائنڈنگ موصول ہونے پر جملہ کارروائی داخل دفتر کرنا قانونی امر تھا مگر جناب DPO صاحب نے فائل شوکا ز نوٹس جاری فرمایا جس میں خلاف حقائق پر تحریر ہے کہ انکو آری کمیٹی نے سائل کو گنہگار قرار دے کر سزا دینے کی سفارش کی ہے۔ بدیں وجہ جملہ کارروائی کے خلاف قانون و ضابطہ ہے اور اس سے واضح طور پر انتقامی کارروائی کی جاتی ہے۔
- (ج) یہ کہ سائل جب DPO صاحب کو پیش ہو کر جملہ حقائق سے آگاہ کیا تو جناب نے سائل کی کارکردگی غیر تسلی بخش بتلائی۔
- (د) یہ کہ حکم جبری ریٹائرمنٹ سائل میں DPO صاحب نے سائل کو شراب نوشی کا عادی ہونا قرار دیا۔ حالانکہ سائل نہ شراب نوشی کا عادی ہے اور نہ ہی قبل ازیں سائل کے خلاف ایسا کوئی الزام لگایا گیا ہے۔ اور اس طرح سائل کے اچھی شہرت کو نقصان پہنچایا ہے۔
- (و) یہ کہ سائل ضلع چترال کے ایک معزز خاندان سے تعلق رکھتا ہے اور سائل کو کوئی بینک بیلنس یا گاڑی وغیرہ ہے اور پردی جا سید او کے علاوہ طویل عرصہ ملازمت میں کوئی جائیداد خریدی ہے حتیٰ کہ اب بھی اپنے ترکہ کے پرانے مکان میں رہائش پذیر ہے۔
- (ر) یہ کہ سائل کے خلاف جملہ کارروائی بدیتی سے اور خلاف قانون و ضابطہ ہے اور بدیں حالات عظیم معترضہ ہرگز قابل بحالی نہ ہے۔

Attested

copy

(25)

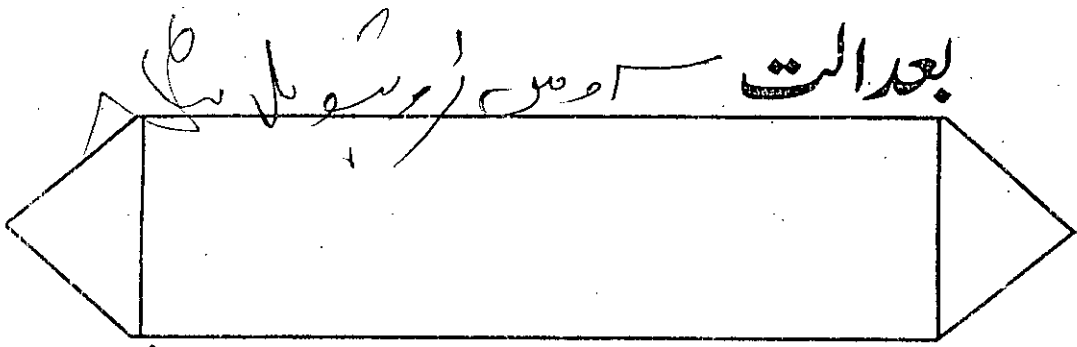
لہذا استدعا ہے کہ منظور کی اپیل طحا حکم جناب DPO صاحب دیر بالا بحوالہ OB نمبر 827 مورخہ 24/12/2013 منسوخ و کالعدم قرار دیا جائے گا۔  
اپیلانٹ اپنے عہدہ پر بحال کرنے اور بمطابق حکم تبادلہ ضلع چترال میں حاضر ہونے کا حکم صادر فرمایا جائے۔

عریفی

سی 301-12-2013  
ساہل اپیلانٹ عبدالجلال خان ولد میر زمان شاہ Ex-SI سکنہ کاری تھانہ و تحصیل چترال ضلع چترال۔

Attested

To be true copy  
Advocate



بعدالت

اس میں زمرہ اول میں

2ء منجانب

عبد الجلال خان بنام R.P.O

مورخہ  
مقدمہ  
دعویٰ  
جرم

### باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام اصلاً کیلئے اصلاً علیٰ حد اور اس کا  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنہ التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

کے لئے منظور ہے۔

Accepted & Accepted

بمقام

*[Handwritten signatures]*

*[Vertical handwritten text on the right margin]*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Misc: Application No...../2014**

**in**

**Service Appeal No.\_\_\_\_\_/2014**

Ex-SI Abdul Jalal Khan S/O Mir Zaman Shah Village Kari  
Tehsil and District Chitral .....Applicant.

**Versus**

The Regional Police Officer Malakand Region at Saidu Sharif  
Swat and others.....Respondents

---

**Application for suspending the operation of the impugned order  
O.B No.827 dated 24-12-2013 of the respondent No.2 till the final  
disposal of the instant appeal.**

---

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be as an integral part of this application, which make out an excellent prima facie case in favour of the appellant.
3. That the balance of convenience also lies in favour of appellant and in case the impugned orders are not suspended the appellant will suffer irreparable loss.



It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned order O.B.No.827 dated 24-12-2013 may graciously be suspended till the final disposal of the appeal.

Through

*[Signature]*  
Applicant

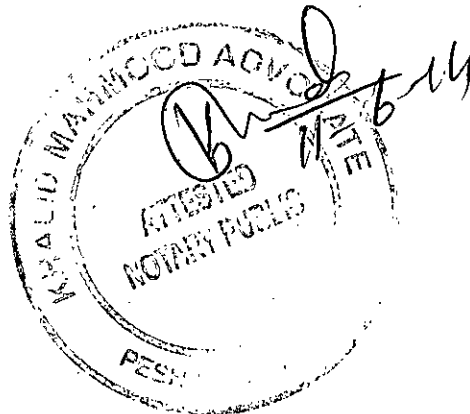
*[Signature]*  
Ashraf Ali Khattak,  
Advocate, Peshawar.

Dated: \_\_\_\_\_ / 06/ 2014

Affidavit

I, Ex-SI Abdul Jalal Khan S/O Mir Zaman Shah Village Kari Tehsil and District Chitral, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*[Signature]*  
Deponent



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

Service Appeal No. 491/14

Ex.SI Abdul Jalal s/o Mir Zamn Shah r/o village Kari Tehsil and District Chitral

.....Appellant.

**Versus**

- 1) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 2) The District Police Officer Dir Upper.

.....Respondents.

**PARA-WISE REPLY ON BEHALF OF RESPONDENTS NO. 01 AND 02.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

- 1) That the present service appeal is not maintainable in its form.
- 2) That the appellant has not come to this Honorable Tribunal with clean hands.
- 3) That the present appeal is badly time barred.
- 4) That the appellant has got no cause of action.
- 5) That the appellant has suppressed the material fact from this Honorable service Tribunal.
- 6) That the instant service appeal is barred by law.

**On Facts.**

- 1) Correct to the extent of enlistment in the service; the rest of the Para Pertains to record.
- 2) Correct to the extent of show cause notice by respondent No. 02 and reply by the appellant. The rest of the Para in incorrect.
- 3) Pertains the record.
- 4) Correct and pertains to record.
- 5) Pertains to record.
- 6) Pertains to record.
- 7) Correct. The inquiry officer recorded the statement of the police official as well the private persons.

- 8) *Incorrect, the appellant having a black record in the Police department which is crystal clear from Service Book or the appellant. The competent Authority heard the appellant in person, but he failed to satisfy him. All the statements have been recorded in presence of the appellant, and all the codal formalities are fulfilled in the inquiry proceedings.*
- 9) *Incorrect, pertains to record.*
- 10) *Pertains to record.*
- 11) *In correct. The respond No. 02 has rightly awarded major punishment to the appellant.*
- 12) *Incorrect. The respondent No. 02 rightly awarded him punishment of Compulsory retirement.*
- 13) *Incorrect. The order to respondent No. 02 is legal and the appellant has not moved any departmental appeal hence the instant appeal is not maintainable and liable to be dismissed.*

**ON GROUNDS.**

- A) *Incorrect. The appellant has been treated in accordance with Law and rules and no violation has been committed regarding constitutional/fundamental rights of the appellant. The punishment awarded to the appellant is correct and the order is legal.*
- B) *First sentence of the Para is correct, while the rest of Para is incorrect. The appellant has been treated in accordance with law and rules.*
- C) *Incorrect. The order is according to law and the charge sheet and statement of allegation are legal.*
- D) *Incorrect. The order is legal and respondent No. 02 is competent authority to initiate disciplinary proceeding against the appellant.*
- E) *Incorrect. The order is legal and no violation of the section 24-A of General Clauses Act 1897 has been committed by the respondents.*
- F) *Incorrect. The impugned order has been passed in accordance law and the appellant is not entitled to be reinstated.*
- G) *The respondents also seek permission of the Honorable Tribunal to advance some more grounds at the time of hearing.*

**PRAYER:**

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

**Respondent No.1**

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

*Makar*  
(

**Respondent No.1**

**District Police Officer,  
Dir Upper .**

*gari*  
**DISTRICT POLICE OFFICER  
DIR UPPER.**

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

Service Appeal No. 491/14

Ex.SI Abdul Jalal s/o Mir Zamn Shah r/o village Kari Tehsil and District Chitral

.....Appellant.

**Versus**


- 1) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 2) The District Police Officer Dir Upper.

.....Respondents.


**AFFIDAVIT**

We the undersigned do hereby solemnly affirm and declare on Oath that the content of the Para-wise reply is true and correct to the best of our knowledge and belief and nothing has been suppressed or concealed from this Honourable Tribunal.

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

  
\_\_\_\_\_

**District Police Officer,  
Dir Upper.**

  
\_\_\_\_\_  
**DISTRICT POLICE OFFICER  
DIR UPPER.**

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

Service Appeal No. 491/14

Ex.SI Abdul Jalal s/o Mir Zamn Shah r/o village Kari Tehsil and District Chitral

.....Appellant.

**Versus**

- 1) Regional Police Officer Malakand at Saidu Sharif, Swat.
- 2) The District Police Officer Dir Upper.

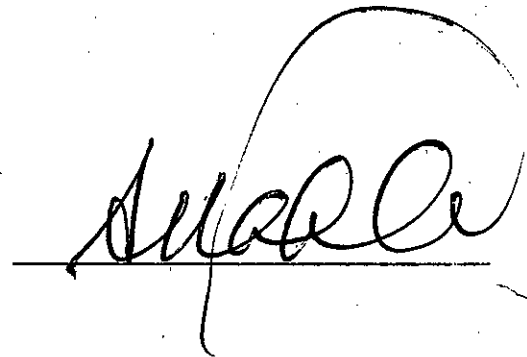
.....Respondents.

**POWER OF ATTORNEY**


We the following responds do hereby authorized Mr. Muzafar Khan SI Legal Timergara Dir Lower to appear on our behalf before the honorable service tribunal Khyber Pakhtunkhwa Peshawar in connection with above service appeal.

He is also authorized to submit all documents required by the tribunal in the above service appeal.

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



**District Police Officer,  
Dir Upper.**



**DISTRICT POLICE OFFICER  
DIR UPPER.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No.491/2014

Ex-SI Abdul Jalal.....Appellant.

Versus

The Regional Police Officer and others ...Respondents.

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**REJOINDER ON BEHALF OF APPELLANT IN  
RESPONSE TO REPLY FILED BY  
RESPONDENTS.**

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Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous as having no factual and legal backing. The answering respondents have failed to explain as why appellant has got no cause of action and locus standi; how the appeal suffers from limitation and laches; how appellant is estopped by his conduct, how the appellant is not an aggrieved person within the meaning of section 4 of the Service Tribunal Act, 1974 and how the appeal is not maintainable; what material facts have been concealed by the appellant and why the appeal is not maintainable; why the appeal liable to be dismissed in limini. No plausible explanation have been provided/submitted by the answering respondents? No specific and due objection regarding the controversial question of fact involved in the instant service appeal has

12.03.15

been raised therefore, appellant is unable to submit proper rejoinder to the preliminary objection raised by the answering respondents.

**Facts:**

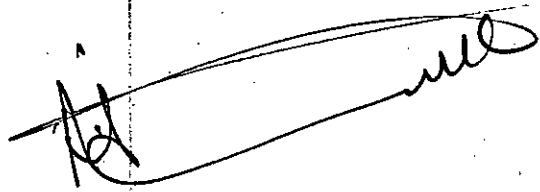
1. That Para No.1 of the appeal has been admitted by the answering respondents as correct.
2. That Para No.2 of the appeal has been partially admitted by the answering respondents in the instant para, whereas partially has been admitted in the subsequent Paras.
3. That Para No.3 to 7 has been admitted by the answering respondents as correct for the reason that answering respondent has not submitted any rebuttal, whereas record support the version of the appellant.
4. That reply to Para No.8 of the appeal by the answering respondents is incorrect, hence denied. Respondents have not submitted any evidence regarding their version/statement. It has been proved that appellant has clean sheeted service record.
5. That no proper answers have been submitted by the answering respondents in reply to Para No.9 to 12 of the appeal by answering respondents.
6. That appellant has properly submitted his departmental appeal as per law and rules.



**Grounds:**

A-G: The replies to grounds A-G of the appeal are mere repetition of the facts, hence no need of further elucidation. Appellant rely on his grounds already submitted in his memo of appeal.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.



**Appellant**

**Through**

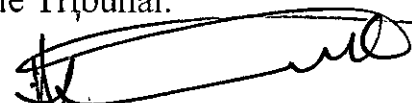


**Ashraf Ali Khattak  
Advocate, Peshawar.**

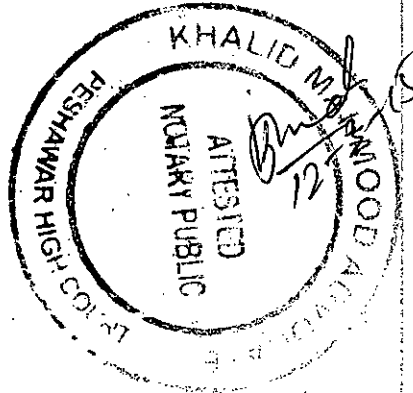
**Dated: \_\_\_\_\_ / 04/ 2003**

**Affidavit**

I, Ex-SI Abdul Jalal S/o Mir Zaman Shah Village Karai Tehsil and District Chitral, do hereby affirm and declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



**Deponent**





P05035793



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

## DEATH CERTIFICATE

CRMS No: D152002-16-0002  
NATURE OF DEATH : NORMAL

FORM No: P005035793

مستوفی کارشته: بانی

1520105883209

درخواست دہندہ کا نام: عبداللہ خان

درخواست دہندہ کا شناختی کارڈ نمبر: 1520105883209

پتہ: گاؤں کاری، تحصیل: چترال، ضلع: چترال

مستوفی کا نام شناختی کارڈ نمبر	والد کا نام شناختی کارڈ نمبر	تاریخ پیدائش	جنس	مذہب	جائے وفات تاریخ	تاریخ دفن	وجہ موت	مدت علاج
عبدالجلال خان 1520121070925	میر زمان شاہ	1-1-1959	مرد	اسلام	کاری 6-12-2015	6-12-2015	غیر طبعی	

APPLICANT NAME: ABDULLAH KHAN

APPLICANT CNIC: 1520105883209

RELATION WITH DECEASED: Brother

ADDRESS : VILLAGE: KARI,

TEHSIL: CHITRAL SUB-, DISTRICT: CHITRAL

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
ABDUL JALAL KHAN 1520121070925	MIR ZAMAN KHAN	1-1-1959	MALE	ISLAM	KARI 6-12-2015	6-12-2015	UN- NATURAL	

 BLOOD RELATION  PERSON CAUSING DISPOSAL OF BODY

NAME : ABDULLAH

CNIC : 1520105883209

GRAVEYARD NAME : KARI

ENTRY DATE : 2-2-2016

ISSUE DATE : -

ADDITIONAL INFORMATION : K

دستخط:  
سیکرٹری چترال

دین (2) ضلع: چترال

 قریبی رشتہ دار  تدفین کنندہ

1520105883209

نام: عبداللہ خان

شناختی کارڈ نمبر:

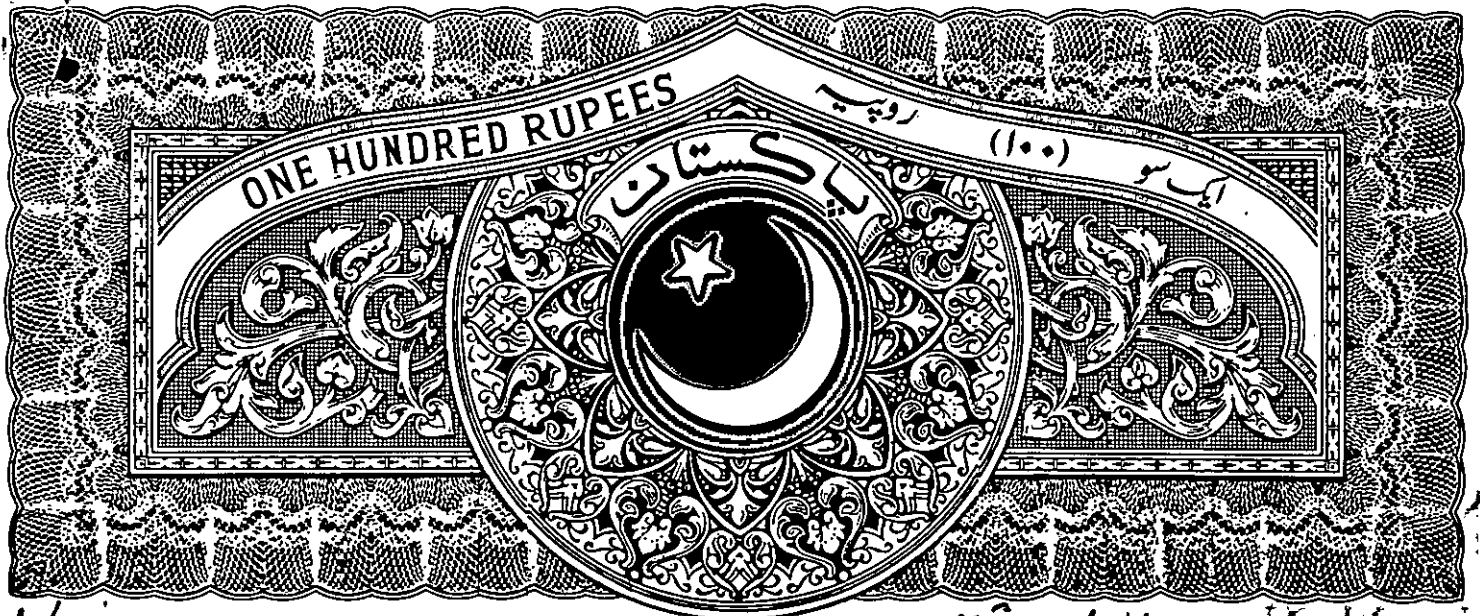
قبرستان کا نام: کاری

2-2-2016

تاریخ اندراج:

تاریخ اجراء:

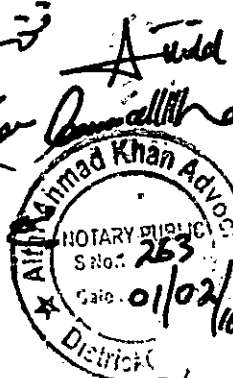
اصنافی معلومات: ک



عبدالت عالم / در افتاء  
قائم نامہ قاضی  
عبد اللہ خان شاہ

مقامہ شہادہ - معراج گاہ بیوہ عبدالملک مرحوم سیدہ کبریٰ کنیت و مع سوال - اختیار دفتر  
اندرت حالت تقاضی یونٹن و عورتش محمد علیہ صبر و ادراک سے بزرگتر و یہ صدارت قرار  
کندتی یون - ایک صدق لغوان عبدالملک خان شاہم ریختل الحکمہ دروز - عدالت قاضی  
سردوش سر بیونل / در افتاء متوار و سوات میں زمین مغرب - منقتر اختیار دفتر ہوج  
فانون لغورت زات از خود آسماننا حاضر عدالت عالیہ یونکر عدالت کی بیرون و شراکتی  
سے تمام ہوج - بنا بر این سے اینہ طیب سے عدالت کی بیرون شراکتی کلتی ای حقیر اختیار  
سخا عبداللہ خان شاہم زامن شاہم سیدہ کمارن لکیر موعہ لاک کو قضاخان قرار  
یون - قضا خان و عورت مایب عیار حاضر عدالت عالیہ یونکر اختیار قاضی  
بشراکت بیون قوررت دنتوار در شراکتی قوررت قاضی کو عدالت کی بیون  
قضا خان و عورت مایب عیار جو بیون قاضی کاروان اینام دیں و بیون قاضی قوررت  
سوزی - شہزادہ قضاخان قاضی شہزادہ بیون قاضی زات و عورت مایب بیون قوررت

نہرا و بیون شراکتی زامن قضاخان شاہم کوررتی یونکر  
عبداللہ خان شاہم  
15201-465235-4  
15201-0588320-9  
قائم نامہ قاضی  
عبداللہ خان شاہم  
15201-442039-1  
قائم نامہ قاضی



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 853 /ST

Dated 20 / 5 / 2016

To


The DPO,  
Dir Lower.

Subject: -

**JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 2 .5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.