


16.08.2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand learned Additional Advocate General for the respondents present.

2. Due to summer vacations D.B is not available, therefore, case is adjourned. To come up for arguments on 03.11.2023 before D.B. P.P given to parties.

SCANNED  
KPST  
Peshawar

\*KaleemUllah\*

  
(Rashida Bano)  
Member (J)

29.11.2022

Due to rush of work. This case has been deleted.  
To come up for the same as before on 20.02.2023.

Cy

20.02.2023

Appellant present in person. Naseer Ud Din Shah, Learned  
Assistant Advocate General for the respondents present.

Mrs. Rozina Rehman, Learned Member (Judicial) is on  
leave, therefore, case is adjourned for the same on 23.05.2023  
before D.B.

(Muhammad Akbar Khan)  
Member (E)

23<sup>rd</sup> May, 2023

SCANNED  
KPST  
Peshawar

1. Appellant in person present. Mr. Muhammad Jan, District  
Attorney for respondents present.
2. Appellant requested for adjournment as his counsel is not  
available today. Adjourned. To come for arguments on  
16.08.2023 before D.B. P.P given to the parties.

(Fareeha Paul)  
Member (E)


(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

01.07.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional AG alongwith Muhammad Raziq, H.C for respondents present.


Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is handed over to the learned counsel of the appellant. To come up for rejoinder/arguments on 01.09.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

01.09.2022

Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

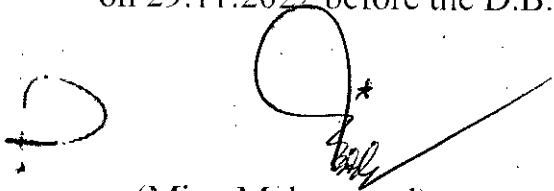
Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 19.10.2022 before the D.B.


  
(Salah-Ud-Din)  
Member(J)

19.10.2022

Appellant alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment being not prepared for arguments today. Adjourned. To come up for arguments on 29.11.2022 before the D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-Ud-Din)  
Member (J)

21.04.2022

Counsel for the appellant present. Preliminary arguments heard.

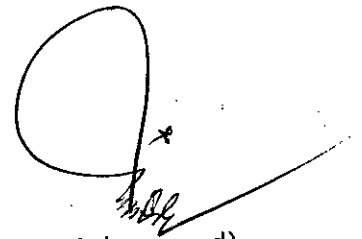
Learned counsel for the appellant contended that the appellant was awarded "major penalty of reduction to lower scale for a period of 01 year. Hence, entry of B-I passed examination in service rolls is available be withdrawn with immediate effect" vide impugned order dated 18.01.2021. On his departmental appeal dated 02.02.2021, appellate order was passed and the said penalty was upheld <sup>kept</sup> /intact vide appellate order dated 01.07.2021 where-after he instituted the service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 on 30.07.2021. It was further argued that no charge sheet or statement of allegations was served on the appellant and no regular enquiry ever conducted against him. The impugned order is therefore, a void order not sustainable in the eyes of law. In support of her arguments, she relied on 2000 SCMR 1743, PLD 1987 Supreme Court 304 and the Khyber Pakhtunkhwa Service Tribunal judgement dated 23.11.2017 in service appeal No. 1014/2012 and dated 13.01.2021 in service appeal No. 1077/2019.

The appeal is admitted to regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on

01.06.2022 before S.B.

Rs-400/-  
Appellant Deposited  
Security & Process Fee

A. J. / i. h.  
21/4/22



(Mian Muhammad)  
Member(E)

1<sup>st</sup> June, 2022

Appellant present in person. Mr. Raziq, HC for respondent present.

Representative for respondents seeks adjournment in order to submit reply/comments. Last chance is given. To come up for reply/comments on 01.07.2022 before S.B.



Chairman

16.12.2021

Miss. Uzma Syed, Advocate present and submitted wakalat nama on behalf of the appellant which is placed on file.

Learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing on 25.01.2022 before S.B.

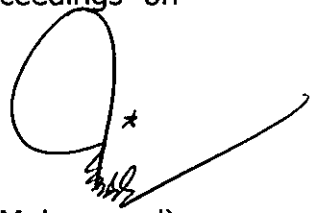


(MIAN MUHAMMAD)  
MEMBER (E)

25.01.2022

Clerk of counsel for the counsel present.

Former requests for adjournment due to general strike of the bar. Adjourned. To come up for further proceedings on 02.03.2022 before S.B.



(Mian Muhammad)  
Member (E)

2-3-2022

Due to retirement of the Hon'ble chairmen the case is adjourned. To come up for the same on 25-3-22



25.03.2022

None is present for the appellant.

Notice be issued to appellant and his counsel for the next date. Case to come up for preliminary hearing on 21.04.2022 before S.B.

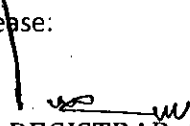

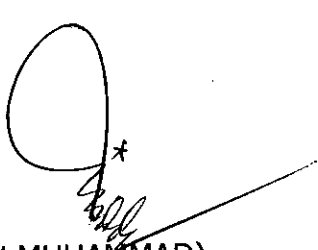


Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No.- 7553 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/10/2021	<p>The appeal of Mr. Imran Khan resubmitted today by Mr. Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please:</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>10/12/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	15.11.21	<p>Appellant in person present and requested for adjournment as his counsel is not available today. Adjourned. To come up for preliminary hearing before the S.B on <u>16.12.2022</u>.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

SCANNED  
KUST  
Peshawar

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 783/2021

Imran Khan

V/S

Police Deptt:

.....  
**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-4a
2.	Copy of impugned order	A	5
3.	Copy of departmental appeal	-B-	06
4.	Copy of rejection order	-C-	07
5.	Vakalat Nama	-----	08

  
APPELLANT  
Imran Khan

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, High Court

1

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7386

Dated 30-7-2021

Muhammad Imran Constable no: 2415  
O/o CCP Peshawar.

.....(Appellant)

**VERSUS**

1. The Capital City Police Officer, Peshawar.
2. The Superintendent of Police, cantt Peshawar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.01.2021 WHEREBY THE PENALTY OF REDUCTION TO LOWER SCALE FOR PERIOD OF ONE YEAR AND ENTRY OF B-1 PASSED EXAMINATION IN SERVICE ROLLS IS AVAILABLE BE WITHDRAWN WAS IMPOSED UPON THE APPELLANT AND AGAINST THE ORDER DATED 01.07.2021 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

Filed to-day  
 Registrar  
 30/7/2021

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 18.01.2021 AND 01.07.2021 MAY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL SCALE AND B-1 PASSED EXAMINATION IN SERVICE ROLLS MAY RESTORED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL





DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant was appointed as Constable in the police Department and the appellant performed his duties with great Zeal and Zest and also has good service record throughout.
2. That on fake allegations the penalty was imposed upon the appellant without issuing charge sheet, regular inquiry and final show cause notice.
3. That on the basis that one sided inquiry, even without final show cause notice, the major penalty of "*reversion from the rank of HC to the rank of Constable*" was imposed upon the appellant vide impugned order dated 18.01.2021 under Police Rule-1975. **Copy of the impugned order is attached as Annexure-A).**
4. That the appellant preferred departmental appeal against the order dated 18.01.2021 which was rejected vide order dated 01.07.2021 for no good grounds. **(Copy of Departmental appeal and rejection order are attached as annexure-B & C).**
5. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 18.01.2021 and 01.07.2021 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That no proper regular inquiry was conducted if any then the appellant was not associated with the inquiry, neither the statement recorded in presence of appellant nor was the chance of cross-examination provided to the appellant and also not provided the inquiry report to the appellant and without final show cause notice the impugned order was passed which is against the law, rules and norms of justice.
- C) That according to Federal Shariyat court Judgment the show cause notice is must before taking any adverse action, non-issuance of show

3

cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.

- D) That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trial denied to the appellant which is also violation of Article 10-A of the constitution.
- E) That in case of the appellant no charge sheet was issued before denovo inquiry which is also violation of Supreme Court judgment Cited as 2008 SCMR 609 wherein clearly stated that *inquiry conducted in absence of charge sheet is void-ab-initio and also violation of this tribunal judgment in appeal no: 905/2016 decided on 20.02.2018.* In Supreme court judgment cited as 2004 SCMR 294, 2008 PLC cs 1107, 2008 PLC cs 1065 wherein clearly state that *the major penalty cannot be imposed on the basis of fact finding inquiry*
- F) That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules.
- G) That proper procedure was provided in **Rule-5 Read with Rules -6** in of **the Police Rules 1975**, which were totally ignored before imposing punishment i.e no proper regular inquiry was conducted if any then the appellant not associated with the inquiry, neither the statement recorded in presence of appellant nor was the chance of cross examination provided to the appellant and also not provided the inquiry report to the appellant, so the impugned order was passed in violation of law and rules and norms of justice.
- H) That no show cause was issued to the appellant before imposing major penalty of reversion to the lower rank and the whole action was taken on one sided inquiry which is the violation of law and rules.
- I) That the sufficient grounds of innocence of the appellant exist as per provision of supreme court judgment cited as NLR 2005 TD supreme Court Page 78" as no one punished for the fault of others. So the impugned order is illegal.
- J) That the penalty of reversion to the lower rank is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.


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- K) That the principles of natural justice have ruthlessly been violated in colorable exercise of the powers which may amount to misuse of the power
- L) That the statement of witness not recorded in the presence of the appellant not opportunity provided to the appellant to cross examined the witness which is against the law and rules.
- M) That the penalty order of the appellant is the violation of basic law and rules as in the penalty order it was not mention the period of reversion to the rank of constable to be effective.
- N) That the appellant was condemned unheard and has not been treated according to law and rules.
- O) That the penalty of reversion to the lower rank is very harsh and not commensurate with the guilt and the appellant is well qualified and trained and being the young police officer deserves lenient future.
- P) That the penalty of reversion to the lower rank is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law
- Q) The appellant was not given final show cause notice which is necessary requirement as per relevant rules and thus the illegal order was passed.
- R) That the appellant has not been treated accordance with law, fair played justice, despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- S) That the opportunity of personal hearing and personal defense was not provided to the appellant.
- T) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

  
APPELLANT  
Imran khan

THROUGH:

  
SYED NOMAN ALI BUKHARI  
ADVOCATE, High Court



(49)

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.

(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT,

A (5)

Better Copy

This office order will dispose off the departmental proceedings against FC Muhammad Imran No. 2415 of CCP Peshawar in the allegations that during scrutinizing by committee constituted vide No. 227-31/PA dated CCPO dated 20/03/2020 to conduct audit of A-1 & B-1 examination of 02 branches i.e OSI & CRC it has been proved that his A-1 examination was found failed but he illegally qualified Lower School Course Hangu vide letter No. 1095-99/PA 03.09.2020.

Under Police Rules 1975 (amended 2014) proper charge sheet alongwith with summary of summary were against him and SDPO Town was appointed as enquiry officer to scrutinize the conduct of FC Muhammad Imran No. 2415. They conducted enquiry proceedings & submitted their that the statement of allegation official as unsatisfactory & found guilty. The enquiry officer further recommended for suitable punishment the defaulter official.

On receipt of the findings the accused officer was called in CR and heard in person. He was cross examined with reference to the allegations leveled against him. He failed to put forth any plausible explanation in rebuttal of the charges leveled against him through he was provided ample opportunity to defend himself.

After having gone through all the available material on record including findings/recommendations of the enquiry officer and service record of the accused officer, I am fully convicted that the charges leveled against the accused officer are correct beyond any reasonable shadow of doubt. Therefore, he is awarded major penalty punishment in reduction to lower scale for a period of 01 year. Hence, entry of B-1 passed examination in service rolls is available be withdrawn with immediate effect:

MUHAMMAD TAHIR SHAH WAZIR  
SUPERINTENDENT OF POLICE  
CANTT: PESHAWAR

No. 160/SP/Cantt: dated Peshawar the 18/01/2021.

Copy for information and necessary action to the:

1. Capital Police Officer, Peshawar.
2. The Sr: Superintendent of Police Operation. Peshawar.
3. The Superintendent of Police Headquarter Peshawar.
4. SDPO Town enquiry officer.
5. Pay Officer.
6. CRC.
7. OASi Branch.
8. Fauji Missal branch with inquiry file for record.
9. Official concerned.

ORDER

A 5

This office order will dispose off the departmental proceedings against FC Muhammad Imran No. 2415 of CCP Peshawar in the allegations that during scrutinizing by committee constituted vide No. 227-31/PA dated CCPO dated 20.03.2020 to conduct audit of A-1 & E-1 examination of 02 branches i.e. OSI & CRC, it has been proved that his A-1 examination was found failed but he illegally qualified Lower School Course in PTC Hangu vide letter No. 1095-99/PA CCPO dated 03.09.2020.

Under Police Rules 1975 (amended 2014) proper charge sheet alongwith summary of allegation, were issued against him and SDPO Town was appointed as enquiry officer to scrutinize the conduct of FC Muhammad Imran No. 2415. They conducted enquiry proceedings & submitted their finding/report that the statement of alleged official as unsatisfactory & found guilty. The enquiry officer further recommended for suitable punishment the defaulter official.

On receipt of the findings, the accused officer was called in OR and heard in person. He was cross examined with reference to the allegations leveled against him. He failed to put forth any plausible explanation in rebuttal of the charges leveled against him though he was provided ample opportunity to defend himself.

After having been gone through all the available material on record including findings/recommendations of the enquiry officer and service record of the accused officer, I am fully convicted that the charges leveled against the accused officer are correct beyond any reasonable shadow of doubt. Therefore, he is awarded the major punishment in reduction to lower scale for a period of 01 year. Hence, entry of B-I passed examination in service rolls is available be withdrawn with immediate effect:

CCP  
O.B No. 160  
Date 16-1-2021

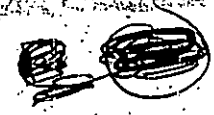
MUHAMMAD TAHIR-U-LLAH  
SUPERINTENDENT OF POLICE,  
SCANT: PESHAWAR

No. 160 /SP/Cantt: dated Peshawar, the 18 / 1 /2021.

Copy for information and necessary action to the:-

1. Capital City Police Officer, Peshawar.
2. The Sr: Superintendent of Police, Operation, Peshawar.
3. The Superintendent of Police Headquarter: Peshawar.
4. SDPO Town enquiry officer.
5. Pay Officer.
6. CRC,
7. OASi branch.
8. Fauji Misal branch with enquiry file for record.
9. Official concerned.

حکومت پنجاب، لاہور، جب پتار



مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115

پتہ - لاہور  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115

مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115

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مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115  
مکتبہ اسلامیہ، لاہور، 115، سٹریٹ 115

115/115

2/2/51



C-7

OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR


ORDER.

This order will dispose of the departmental appeal preferred by Constable Muhammad Imran No. 2415 who was awarded the major punishment of "Reduction in lower scale for a period of 01 year" under PR-1975 by SP/HQ Peshawar vide OB NO. 160, dated 14.01.2021.

2- Short facts leading to the instant appeal are that during scrutinizing by committee constituted vide No. 227-31/PA CCPO dated 20.3.2020 to conduct audit of A-1 & B-1 examination of two branches i.e. OASI & CRC; it has been proved that his A-1 examination was found failed but he illegally qualified lower School Course in PTC Hangu vide letter No. 1095-99/PA CCPO dated 3.9.2020

3- He was issued proper Charge Sheet and Summary of Allegations by SP/Rural Peshawar and SDPO Town was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer after conducting proper enquiry, submitted his findings while recommending the official for punishment. Hence the competent authority awarded him the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant he failed to submit any plausible explanation in his defence. Therefore, his appeal for setting aside the punishment awarded to him by SP/HQrs vide No.160, dated 14-01-2021 in service is hereby rejected/filed.

  
(ABBAS AHSAN) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 2034-38 /PA dated Peshawar the 01/07 /2021  
Copies for information and necessary action to the :-

1. SP/HQ, Peshawar.
2. OSI, CRC with the direction to made necessary entry in his S.Roll.
3. FMC along with Fouji Missal.
4. Official Concern.



VAKALATNAMA

NO. \_\_\_\_\_/2021

IN THE COURT OF KP SERVICE TRIBUNAL PESHAWAR

-----Muhammad Imran.-----

Appellant  
Petitioner  
Plaintiff

VERSUS

-----Police Deptt.-----

Respondent (s)  
Defendants (s)

I/WE ☞ Muhammad Imran.

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE \_\_\_\_\_/20



(CLIENT)

ACCEPTED



**SYED NOMAN ALI BUKHARI  
ADVOCATE HIGH COURT**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

\_\_\_\_\_ 2021

SA.7553/21

Mohammad Imran VS Police Deptt

**Application for early hearing.**

Respectfullay sheweth;

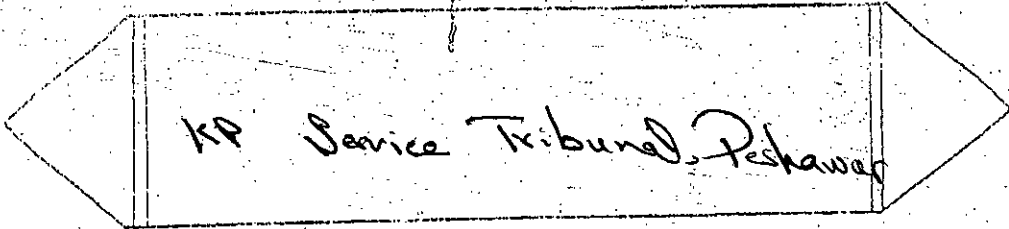
1. That the above noted case is pending adjudication before this Hon'ble Tribunal , at Principal seat at Peshawar on 10/12/2021.
  2. That the case is fixed for preliminary hearing.
  3. That the case need urgent disposal for the end of justice.
- That the case may kindly be fixed as early as possible.

It is therefore requested that the cases may kindly be fixed as early as possible.



Mohammad Imran  
applicant

یعدالت



جیم منجانب  
بنام

موضوع  
مقدمہ  
دعوی  
جرم

### باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے دائرہ سے بیرونی وجوہات دہی دکل کاروائی متعلقہ

آن مقام Peshawar کیلئے خطی سید اجمل

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز

دکل صاحب کا کوئی نام نہ کرنے و تقررات ہ فیصلہ بر خلاف دیئے جواب دہی اور اقبال دعویٰ اور

بہر دست ڈگری کرنے اجراء اور عسولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

و دایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیرونی یا اگر کسی یکطرفہ یا ایٹیل کی برادگی اور منسوخی

نیز دائر کرنے اپیل ٹرانس و نظر ثانی و بیرونی کرنے کا اختیار ہوگا۔ از بعض صورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور دکل یا اختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تکرار کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساخت

پر داخل منظور ذیل ہوگا۔ دوران مقدمہ میں ہر چیز ہر جہاں سے مقدمہ کے سبب سے ہوگا

کوئی تاریخ پیشی مقام دورہ پر ہوا حد سے باہر اور دکل صاحب پابند ہوں گے کہ بیرونی

مذکور کریں۔ لہذا دکل نام لکھ دیا کہ سند ہے۔

الرقومہ 16 ماہ 12 2021

بمقام Peshawar کے لئے منظور ہے۔

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

**Service Appeal No.7553 /2021.**

Constable Muhammad Imran No.2415 of CCP Peshawar..... **Appellant.**

**VERSUS**

Capital City Police Officer Peshawar & others..... **Respondents.**

**REPLY BY RESPONDENTS NO. 1, &2.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of merit.

**REPLY ON FACTS:-**

1. Incorrect. Pertains to record however the performance of the appellant during service is not satisfactory.
2. Incorrect. In fact when it was learnt to the credible source that some constables have unlawfully managed and manipulated to make fake entries of A-1 and B-1 examination in their Service Rolls and connected office record. To dig out facts, an enquiry committee was constituted thorough probe concluded after finding the culprits who had manipulated cheating by making fake entries in their service records. Resultantly, he was issued charge sheet with statement of allegations under KP Police Rules 1975 (amended 2014) and proper departmental enquiry was initiated against him wherein the appellant was found failed in A-I examination however illegally qualified lower college course.
3. Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with Rules ibid and the enquiry officer after conduct of enquiry concluded that he committed misconduct within the meaning of Rules ibid was awarded major of reduction to lower stage of time scale for a period of 01 year.
4. Incorrect. The punishment awarded to the appellant was found justified and lawful, therefore his departmental appeal was rejected having no substance in it beside hit by the law of limitation.
5. That appeal of the appellant being devoid of merit and hit by the law of limitation may be dismissed on the following grounds:-

### REPLY ON GROUNDS:-

- A) Incorrect. The punishment order passed by the competent authority is in accordance with law/rules and liable to be upheld.
- B) Incorrect. Proper departmental enquiry under Rules ibid was conducted against him however he failed to rebut the charges, hence enquiry officer found the appellant guilty of committing misconduct therefore he was awarded appropriate punishment, commensurate to his guilt.
- C) Incorrect. The appellant was treated as per law/rules hence the punishment order is liable to be upheld.
- D) Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and no violation of the Constitution of Pakistan has been done by the replying respondents.
- E) Incorrect. In fact during the audit of A-1 and B-1 examinations record, the appellant was found failed in A-1 examination. In this regard, he was issued charge sheet with statement of allegations and DSP Town was appointed as enquiry officer who after thorough probe into the matter pointed out all sort of illegalities and unlawful entries made in the record. (copy of charge sheet, statement of allegations, enquiry report, are annexure as A,B, C,)
- F) Incorrect. The appellant was treated legally and no violation of Constitution of Pakistan has been committed by the replying respondents as was provided full opportunity of self defence however he failed to defend himself.
- G) Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with law/rules. The enquiry officer after conducting enquiry concluded that the charges leveled against him are proved. The enquiry officer provided full opportunity of defence to the appellant during the course of enquiry however he failed to defend the charges. The enquiry was conducted against him purely on merit.
- H) Incorrect. After fulfilling all the codal formalities he was awarded the punishment as per rules ibid.
- I) Incorrect. A committee was constituted to check the record of OASI and CRC Branches whom after through probe into the matter, revealed that a mischief taken place by finding personnel failed in A-1 and B-1 examinations. The appellant was also found failed in A-1 examination therefore proper departmental enquiries were initiated and all the defaulters were taken to task as per gravity of their misconduct.
- J) Incorrect. Appellant was awarded only the punishment of reduction to lower stage of time scale for a period of 01 year: further cancellation of fake entries of passing A-I & B-I examinations and withdrawal of notification of his lower college course is not sort of punishment as per Rules ibid. the appellant did not avail promotion to the rank of Head Constable hence not reverted to lower rank.

- K) Incorrect. During the audit of A-1 and B-1 examinations, the appellant was found failed in A-1 & B-I examination hence the charges leveled against him were proved and awarded appropriate punishment as per rules ibid.
- L) Incorrect. The appellant was treated as per the spirit of KP Police Rules 1975 (amended 2014) and allegations against him got prove thus the major punishment.
- M) Incorrect. Appellant was awarded only the punishment of reduction to lower stage of time scale for a period of 01 year and not demoted as his rank at the time of departmental proceedings was constable.
- N) Incorrect. The appellant was treated as per law/rules.
- O) Incorrect. The appellant himself is responsible for the situation by committing misconduct, however he was treated judiciously and no violation of his right has been committed by the replying respondents. Further, no demotion of the appellant was made as his substantive rank was and still of constable.
- P) Para already explained in the proceeding paras. Furthermore the appellant was awarded only the punishment of reduction to lower stage of time scale for a period of 01 year, besides cancellation of fake entries and disqualification of his lower course are not penalties. The appellant is not demoted to his lower rank as his substantive rank at the time of departmental proceedings was constable.
- Q) Incorrect. Para already explained in the above paras.
- R) Incorrect. The appellant was treated legally and no violation of his right has been committed by the replying respondents. During the course of enquiry, the appellant was found guilty of misconduct, hence awarded Major penalty commensurate to his guilt of misconduct.
- S) Incorrect. The appellant availed all the opportunities of self defense, but he failed to defend himself.
- T) Respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

Keeping in view the gravity of slackness, willful negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.

Capital City Police Officer,  
Peshawar

Superintendent of Police,  
Cantt: Peshawar

30/6/2022

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

**Service Appeal No.7553 /2021.**

Constable Muhammad Imran No.2415 of CCP Peshawar..... **Appellant.**

**VERSUS**

Capital City Police Officer Peshawar & others..... **Respondents.**

**AFFIDAVIT**

We respondents No. 1 & 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Hon'ble Tribunal.

Capital City Police Officer,  
Peshawar. .

Superintendent of Police,  
Cantt: Peshawar

30/6/2022

**AUTHORITY LETTER**

Mr. Ahmad Jan SI legal of Capital City Police, Peshawar is authorized to pursue the cases pertaining to Capital City Police Officer, Peshawar, in Hon'ble Service Tribunal and submit written reply, statement and affidavit on behalf of undersigned please.

**Capital City Police Officer,  
Peshawar**





**CHARGE SHEET**

I, Superintendent of Police, Cantt., Capital City Police Peshawar, as a competent authority, hereby, charge that **Roidad Khan No. 2471, Kamran 1494, Noor ul Haq No. 791/5343/5729 & Muhammad Imran No. 2415**

Capital City Police Peshawar with the following allegations.

- "That you Roidad Khan No. 2471 has used short way to pass the B-I examination.
- You Kamran No. 1494 did it cutting and over writing in your service rolls in place of A-1 entry.
- You Noor ul Haq No. 791/5343/5729 have made bogus entry in your service roll.
- Muhammad Imran No. 2415 MM PP Nothia failed in A-I examination but he illegally qualified Lower School Course in PTC Hangu.


This amounts to gross misconduct on your part and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

  
**(HASSAN JAHANGIR) PSP**  
SUPERINTENDENT OF POLICE,  
CANTT. PESHAWAR

**DISCIPLINARY ACTION**

I, Superintendent of Police, Cantt:, Capital City Police Peshawar as a  
nt authority, am of the opinion that **Roidad Khan No. 2471, Kamran No.**  
**Noor ul Haq No. 791/5343/5729 & Muhammad Imran No. 2415** has  
red him-self liable to be proceeded against under the provision of Police  
iplinary Rules-1975.

OFFICE OF SDPO  
Town: Capital City Peshawar  
Duty No: 48E  
Date: 19/09/20

**STATEMENT OF ALLEGATION**

- That Roidad Khan No. 2471 has used short way to pass the B-I examination.
- Kamran No. 1494 did it cutting and over writing in his service rolls in place of A-1 entry.
- ✓ Noor ul Haq No. 791/5343/5729 has made bogus entry in his service roll.
- ✓ Muhammad Imran No. 2415 MM PP Nothia failed in A-I examination but he illegally qualified Lower School Course in PTC Hangu.
- This amounts to gross misconduct on their parts and against the discipline of the force.

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SDP Town is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

*(Signature)*  
**(HASSAN JAHANGIR) PSP**  
SUPERINTENDENT OF POLICE,  
CANTT, PESHAWAR

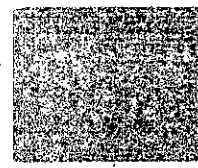
No. 71 /E/PA, dated Peshawar the 18/09 /2020.

1. SDPO Town is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

*PA  
call the  
enquiry officers  
to my office for enquiry on  
proceeding on my  
working day*

*(Signature)*  
OFFICE OF SDPO  
TOWN: CAPITAL CITY PESHAWAR

Town Sub-Division



City Police.

To: - Superintendent of Police,  
Cantt Peshawar.  
From: - Deputy: Superintendent of Police,  
Town Peshawar.  
No. 48-E/PA  
Dated. / 5 / October: 2020

Subject: - **Departmental Inquiry against FC Roidad Khan#2471, FC Kamran#1492, FC Noor Ul Haq#791/5343/5729 & FC Muhammad Imran#2415.**

Memo:

It is submitted that departmental inquiry against Constable FC Roidad Khan#2471, FC Kamran#1492, FC Noor Ul Haq#791/5343/5729 was marked to the undersigned. They following Police officials were issued charge sheeted and summary of allegations vide W/SP-Cant office No. 71-E/PA, dated 18/9/2020. The undersigned was nominated enquiry officer.

**Allegations leveled against the officials.**

1. FC Roidad Khan No.2471 has used short way to pass the A-1 examination.
2. FC Kamran No.1494 did it cutting over writing in his service rolls in place of A-1 entry.
3. FC Noor Ul Haq No.791/5343/5729 has made bogus entry in his service roll.
4. FC Muhammad Imran No.2415 failed in A-1 examination but he illegally qualified lower School Course in PTC Hangu.

During the course of enquiry the above mentioned Constables were called to the office. They were heard in person and their statements were recorded.

**2. Statement of Roided Khan No.2471.**

He stated in his statement that he has given A-1 exam and further he is unaware from bogus entry. He denied the allegations as mentioned in the charge sheet/summary of allegations.

**2. Statement of FC Karmran No.1494.**

He stated in his statement that he is appointed as Constable in the Police department since 2013. He has passed A-1 examination in the year 2017. He further stated that he is appearing in the B-1 examination from last 3-years. He also denied the allegation as levelled against him and mentioned that the concerned offices may be inquired in the matter.

**3. FC Noor Ul Haq No.791/5343/5729.**

He stated that he was doing entry for A-1 exam 2018 in the OASI branch. OASI Branch told him that his A-1 examination is passed. He was surprised that how he can passed the A-1 examination. After that he did admission for B-1 examination. He also showed ignorance from the bogus entry in his service roll.

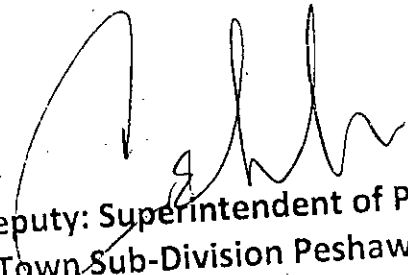
**4. FC Muhammad Imran No.2415.**

He stated that he deposited form for A-1 exam since 2013. He passed the A-1 examination and has given B-1 examination in 2017. He also passed B-1 Course and went to Lower course PTC Hangu. He explained that A-1 passed exam record is not available on the record. He mentioned that concerned office may be inquired in the matter.

From the perusal available record it transpired that, the above mentioned officials were called and heard in person. They were cross examined with reference to the allegations levelled against them. They failed to put forth any plausible explanation in rebuttal of the charges levelled against them though they were provided ample opportunity to defend themselves. However, as per attached record of ETEA, they all were failed but they were passed in the examination of A-1/B-1, and passed entry has been made in their service roll. OASI branch and CRC branch are the custodian of their office record. Senior officers already initiated departmental inquires against the I/C CRC and OASI and they have been awarded minor punishment by the high-ups.

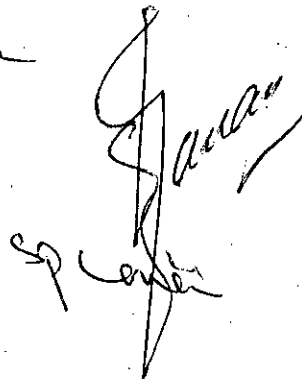
**Recommendation.**

The above mentioned Constables may please be awarded with minor punishment to be careful in future.

  
Deputy: Superintendent of Police,  
Town Sub-Division Peshawar.

PA

Produce Invoice

  
SP Center

For Appellant



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1077/2019

Date of Institution ..... 22.08.2019

Date of Decision ..... 13.01.2021

Waleed Mehmood, Ex-Constable Investigation Branch, District Hangu.

... (Appellant)

P/3  
P/4

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.  
... (Respondents)

Present.

Syed Numan Ali Bukhari,  
Advocate.

For appellant

Mr. Muhammad Rashid,  
Deputy District Attorney,

For respondents.

MR. HAMID FAROOQ DURRANI,  
MR. ATIQ-UR-REHMAN WAZIR,

CHAIRMAN  
MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal has been preferred against the order dated 11.06.2019 passed by respondent No. 3, whereby, major penalty of dismissal from service was awarded to the appellant. The appellant is also aggrieved of order dated 29.07.2019, issued by the respondent No. 2. Through the order his departmental appeal was rejected.

2. The appellant joined the Police Department as Constable on 12.05.2015. It is claimed that he was on bed rest due to fracture in his leg when falsely implicated in FIR No. 380 dated 27.02.2019 u/s 381-A PPC. He was charge

sheeted on the allegation of recovery of two motorcycles from his godown. The appellant submitted reply to the charge sheet and denied the ownership of

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

godown. Final show cause notice was issued to the appellant where after the impugned order dated 11.06.2019 was passed. His departmental appeal also could not find favour and was rejected on 29.07.2019.

3. Learned counsel for the appellant as well as learned Deputy District Attorney, on behalf of the respondents, heard and available record gone through.


4. It was the argument of learned counsel that the allegation against the appellant was based solely on the factum of having been charged in criminal case. On the other hand, he was acquitted under section 249-A Cr.PC on 01.10.2019. Speaking about the illegalities committed by the respondents during the departmental proceedings, it was emphasized that no enquiry report was provided to the appellant alongwith show cause notice. He was of the view that mere allegations could not form basis for penalty also in view of principles of natural justice, which were part of every statute. Learned counsel also contended that the appellant was penalized on the basis of presumptions which was not allowable under the law. In support of his arguments learned counsel referred to judgments reported as PLD 1981-Supreme Court-186, 2007-SCMR-192, 2008-SCMR-1516, 2002-SCMR-579, PLD 2010-695, 1998-SCMR-1993, PLD 2003-Supreme Court-187 and 2002-PLC(C.S) 503. Judgments of this Tribunal in Service Appeals No. 666/2016 and 847/2017 were also relied upon.

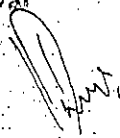
S/C notice  
→  
Natural Justice

P. R. M. Khan

Learned DDA, while attempting to dislodge the arguments from other side, firstly referred to paragraph-2 in the Parawise comments by the respondents. He contended that the stolen motorcycles were duly recovered from the godown of the appellant; therefore, the departmental proceedings were rightly initiated against him. He further argued that the acquittal in criminal proceedings had no bearing upon the merits of departmental proceedings,

ATTESTED

  
Attestor  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



therefore, the acquittal of appellant was to be disregarded in the instant case. He relied on 2007-SCMR-562 and 2006-SCMR-554. Decision in Service Appeal No. 1049/2015 was also referred to by him. It was the argument of learned DDA that all codal formalities were completed by the respondents in conducting proceedings against the appellant. The impugned orders were, therefore, not to be interfered with.

4. We have considered the available record in the light of arguments on behalf of the parties. On the record there is a copy of FIR dated 17.04.2019, wherein, the complainant Ziaul Haq did not charge anyone directly for theft of motorcycle(s). Needless to note, that the FIR was registered after about two months of the occurrence and upon recovery of incriminating articles. It was noted that the recovery was effected from the godown of the appellant. In the said context; it is important to note that no statement of any person from the locality, regarding the ownership of godown, was ever recorded. The respondents also failed to place on record any copy of the recovery memo in that regard. On the record, the appellant categorically denied the ownership/occupation of the godown and stated in his statement that the same was rented out to his uncle namely Wazir Khan son of Nasar Khan who paid the rent thereof. Wazir Khan was not included in the investigation proceedings, which was an act not very normal on the part of respondents.

5. We have also gone through the enquiry report dated 13.05.2019, wherein, interalia, it has been noted that had the appellant been innocent, he should have attempted to complete the trial and awaited the decision on merits. It is useful to iterate that the criminal proceedings/charge against the appellant was dropped u/s 249-A CPC. The view of enquiry officer, noted hereinabove, was based absolutely on conjectures and presumptions. The Enquiry Officer also

**ATTESTED**

*[Signature]*  
 Officer in Charge  
 Service Tribunal  
 Peshawar

*[Signature]*

grudged the exercise of his legal right by the appellant. He, therefore, could not be penalized in the matter by the competent authority.

6. The provision of copy of enquiry report alongwith the show cause notice has not been claimed by the respondents nor the stance of appellant in that regard is denied. Seeking guidance from 1987-SCMR-1562 and PLD-1981 Supreme Court-176, it is not unsafe to hold that the act on the part of respondents was fatal to the validity of orders passed against the appellant. The record is also silent regarding placing of appellant under suspension till the decision of criminal case. Thus the violation of CSR by the respondents is established through the record.

7. We are mindful of the fact that the charge against the appellant was squarely based on contents of FIR. The criminal proceedings ensuing therefrom resulted in acquittal of appellant. In the said manner the substratum of departmental proceedings vanished, therefore, the impugned orders lost validity. The judgments reported as PLD-2003-Supreme Court-187, 2007-SCMR-192 and 2008-SCMR-1516 are respectfully followed in the above context.

8. For what has been discussed above, the appeal in hand is allowed and the appellant is reinstated into service with back benefits. The absence period of appellant, however, shall be treated as leave of the kind due. The parties are, however, left to bear their respective costs. File be consigned to the record room.

*SD/*

(HAMID FAROOQ DURRANI)  
CHAIRMAN

*SD/*

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

**Certified to be true copy**  
*ATIQU-UR-REHMAN WAZIR*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**ANNOUNCED**  
13.01.2021

Date of Presentation of Application 18/01/2021

Number of Words 1600

Copyies 18/-

Urgent 4/5

Total 22/-

Name of Copyiest \_\_\_\_\_

Date of Completion of Copy 18/1/2021

Date of Delivery of Copy 18/1/2021



1 show cause with inquiry report.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT ABBOTTABAD

Service Appeal No. 1014/2012

Date of Institution... 17.09.2012

Date of decision... 23.11.2017

P-2  
- s/c notice  
- inquiry report

Saqib Gul (Ex-No.789 and new No. 599 of Mansehra Police) s/o Gul Muhammad,  
R/O Village Dharyal, Tehsil and District Mansehra.

... (Appellant)

Versus

1) District Police Officer (DPO) Mansehra, Tehsil and District Mansehra and  
another. .... (Respondents)

MR. SHAFQAT IQBAL KHAN SWATI  
Advocate

... For appellant.

MR. KABIR ULLAH KHATTAK  
Additional Advocate General

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel  
for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service vide an order dated 21.04.2012 against which  
he filed departmental appeal on 30.04.2012 which was decided on 16.08.2012. The departmental  
appeal was partially accepted and the dismissal from service was converted into reduction in  
time scale. The charge against the appellant is that he produced fake certificate of Master Degree  
in the department from Hazara University.

### ARGUMENTS

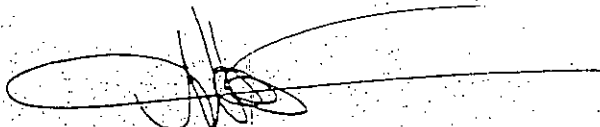
3. The learned counsel for the appellant argued that the appellant had not produced any fake degree. That the final show cause notice alongwith enquiry report has not been issued to the appellant. Leaned counsel for the appellant next contended that the certificate was duly verified in the first place by the concerned university.

4. On the other hand, the learned Addl. AG argued that the appellant was issued charge sheet and statement of allegations. The enquiry officer was appointed who recorded the statements of the concerned witnesses and then he submitted his report to the Authority. The Authority after giving the appellant personal hearing passed the impugned order. That no illegality was committed.

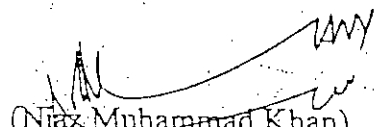
### CONCLUSION.

5. Without discussing the merits of the appeal this Tribunal reaches the conclusion that admittedly final show cause notice alongwith enquiry report was not given to the appellant. To this the learned AAG argued that there was no requirement of final show cause notice alongwith enquiry report under the Khyber Pakhtunkhwa Police Rules 1975. But this Tribunal has already delivered a judgment in appeal bearing no. 1040/2014 entitled "*Gulab Khan-vs- Provincial Police Officer*" decided on 26.09.2017 wherein it has been decided that the issuance of final show cause notice alongwith enquiry report is must under these rules. Reliance is also placed on the famous case of Syed Mir Muhammad Shah delivered by august Supreme Court of Pakistan (PLD 1981-Suprme Court-176) in which it was held that the rules devoid of provision of final show cause notice alongwith enquiry report <sup>were</sup> ~~are~~ not valid rules.

6. In view of the above, this appeal is accepted and the department is at liberty to conduct de-novo proceedings in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

ANNOUNCED  
23.11.2017