Service Appeal No 1066/2023

VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.

- 3) Additional IG Headquarter KP Peshawar.
- 4) District Police Officer Dir Lower.

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S.#	Description of documents	Annex.	Pages
1.	Para wise comments	-	1-3
2.	Affidavit	-	4
3.	Power of Attorney		5
4.	Copies of bad entries		6-16
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6.	Copy of Finding report	"C"	18
7.	Copy of charge Sheet	"D"	19
8.	Copy of statement of allegation	"E"	20
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((DEPONENT) **DSP** Legal Dir lower

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- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
- 2) Regional Police Officer Malakand at Saidu Sharif, Swat.
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- 5) SP Investigation Dir LowerRespondents.

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS.

- 1) That the service appeal is not maintainable in its present form.
- That the appellant has not come to this honourable Service Tribunal with clean hands.
- 3) That the present Service appeal is badly barred by law and limitation.
- 4) That this honorable Service Tribunal has got no jurisdiction to entertain the present service appeal.
- 5) That the appellant has suppressed the material facts from this honorable service tribunal.

ON FACTS:

- 1. Pertains to record, hence needs no comments.
- 2. Incorrect, the appellants service history is tainted with bad entries (copies of bad entries enclosed as annexure "A").
- Incorrect, the appellant was directly charged in a heinous cognizable offence vide FIR No. 565 dated 25.10.2016 u/s 324/34 PPC Ps Munda by the complainant; hence the department rightly proceeded against the appellant. (Copy of FIR enclosed as annexure "B").
- 4. Incorrect, the appellant was directly charged in the FIR, therefore he was suspended and ordered enquiry against him. The enquiry officer conducted inquiry and recommended that the enquiry proceeding against the appellant be kept pending till the decision of criminal case and also to restore his services. The competent authority agreed with finding of inquiry officer (Copy of finding report is enclosed as annexure "C")

- 2.
- 5. Needs no comments...

A.

6. Incorrect, the appellant was directly charged in the FIR by the complainant; therefore he was suspended and closed to headquarter. The competent authority issued charge sheet and statement of allegations to the appellant and inquiry constituted to scrutinize the conduct of appellant and to dig out the real facts.

The inquiry officer conducted proper inquiry and recommended that the enquiry may be kept pending till the final decision of trial Court. The trial court convicted the appellant for 05 years RI vide judgment dated 28.07.2021. On receipt of the judgment, the competent authority awarded major punishment of removal from service of the appellant vide order dated 13.08.2021. (Copy of charge sheet, statement of allegations, enquiry report and removal order enclosed as annexure "D"-E-F")

- 7. Incorrect, as explained in above para-6.
- 8. Pertains to record, needs no comments.
- Incorrect, the appellant has no cause of action to file the instant appeal and failed to bring a prima facie case to the honourable Tribunal may be dismissed inter alia on the following grounds.

GROUNDS

- A) Incorrect, the order passed by the respondent is legal and based on law/rules.
- B) Incorrect, the provision of Police Rules 1975 (amended) 2014 have been complied properly with the case of appellant while passing orders. Hence orders of respondents are legal, lawful and in accordance with law/rules.
- C) Incorrect, the appellant was directly charged in the FIR and the trial court convicted the appellant for 05 years RI. The competent authority issued order of removal from service in respect of the appellant for the reasons of his involvement in criminal case, as the appellant failed to advance any solid reasons in self defence. He was charged in a heinous criminal case and later on convicted by the competent court; hence actions of the respondents are quite in accordance with norms of natural justice.
- D) Incorrect, proper departmental inquiry was initiated against the delinquent official and during the course of inquiry, it was recommended by the inquiry officer that since the criminal case against the delinquent official is pending before the trial court, let he may be re-instated, for the time being and departmental proceedings may be kept pending till the decision of the criminal case. After the judgment dated

28.07.2021 by the trial court, the delinquent official was recourse to the same inquiry by the competent authority and awarded him major punishment of removal from service vide order dated 13.08.2021.

- E) Incorrect, as already discussed in preceding paras, that the trial court convicted the accused in criminal case registered against him. Proper inquiry has been carried out and the competent authority after scrutiny of record passed the removal order which is based on facts and is in accordance with rules.
- F) As discussed in preceding paras.
- G) The respondents also seek permission of this honorable. Tribunal to rely on additional grounds at the time of arguments/ hearing.

PRAYER:

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

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り Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

Regional Police Officer, Malakand at Saidu Sharif Swat.

Additional Inspector General of Police, Headquarter KP Peshawar.

> District Police Officer, Dir Lower.

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Superintendent of Police, Investigation Dir Lower.

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Regional Police Officer Malakand Region. Saidu Sharif, Swat.

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SUPERINTENDENT OF POLICE INVESTIGATION DIR LOWER

Service Appeal No 1066/2023

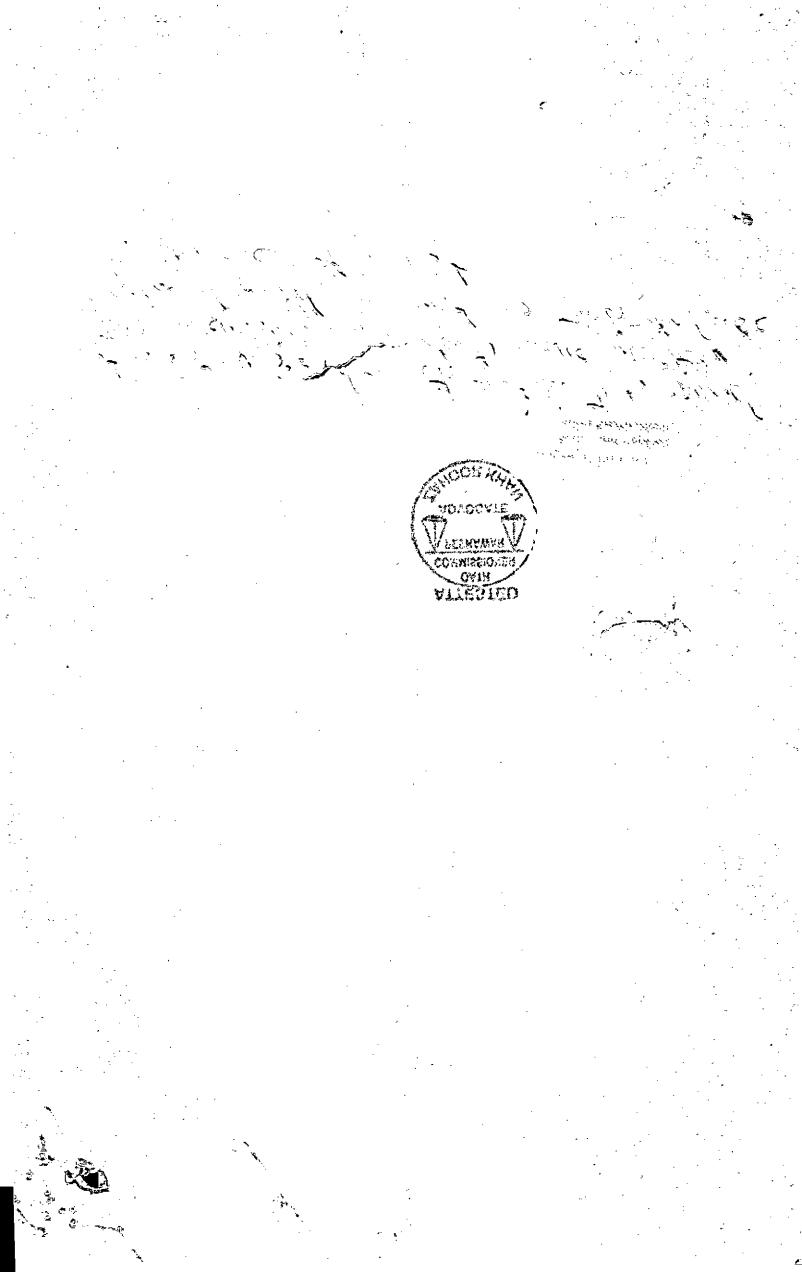
VERSUS.

- 1) Provincial Police Officer, Khyber Pakhtunkhawa Peshawar.
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- 3) Additional IG Headquarter KP Peshawar.
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- 5) SP Investigation Dir LowerRespondents

<u>AFFIDAVIT.</u>

I, Rashid Ahmad DSP Legal Dir Lower, do hereby solemnly affirm on oath, that the contents of accompanying comments on behalf of Respondents is correct to the best of my knowledge and belief. Nothing has been concealed from this honourable Service Tribunal.

(DEPONENŤ) DSP Legal Dir lower. OMMISSIONER PESHAWAD It is further Stated on cath that in Thes appeal The answering respondents have neither been placed ex. part nos Their defense is struck off/Cost



Service Appeal No 1066/2023

VERSUS.

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POWER OF ATTORNEY

Mr. Rashid Ahmad DSP Legal Dir Lower is hereby authorized to appear on our behalf and submit all the relevant documents as required by the Honorable Service Tribunal in the above Service Appeal.

Inspector General of Police; Khyber Pakhtunkhwa Peshawar.

Regional Police Officer, Malakand at Saidu Sharif Swat.

Additional Inspector General of Police, ----

Headquarter KP Peshawar...

District Police Officer, Dir Lower.

Superintendent of Police, Investigation Dir Lower.

Police Officer, Regional

Malakand Region, Saidu Sharit, Swat,

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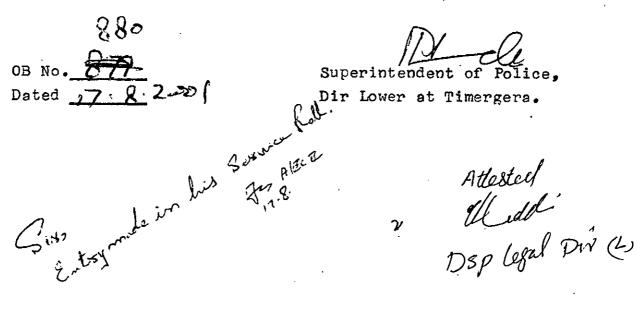
SUPERINTENDENT OF POLICI INVESTIGATION DIR LOWER

ORDER.

Constable Shamsullah No.361 while posted on traffic duty at Bazzar Timergera mis-behaved with Ex-ASI Qadir Jan on 15.7.2001 in the presence of general public and close relatives of the Ex-ASI.On his written complaint an enquiry was conducted through DSP/HQ.The E.O.in his findings submitted that the complainant has forden him without taking any further action against him.The E.O.in his findings further submitted that the Constable has been warned to be careful in future.

I have gone through the application of the complainant, findings of the Enquiry Officer and have reached at the conclusion that being a member of a disciplince force, he has mis-behaved with a notable of the area in the presence of general public in uniform, which is a bad name for the Police Force. Therefore, I, Noorul Huda Khan, Supdt: of Police, Dir Lower at Timergera while exercising the powers vested in me under summary Police proceedings of Police Rules, 1975 award him minor punishment of stoppage of his one next increment with-out cumulative effect.

Order announced.





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منع دير با شين ____ سن با^ن بران شمير مربح لقل مد مرز 48 روزنام م 4 24 ورمز بق 4 وتت 00.81.8 دس وتت سنى الزمان وبر 48 تشى برزمان سمي جد فارع از ديد فرازمان ماسوات نشيل ر رب عير ما فري شمس الله 136 عمنی من وجود بان حامر مذکوره لأكريان یے خارف رہوں میں عثیر جا عزر) درج روز اعجر ى مانى بى مراج حافرى 20 مررض <u>8 م</u> ارت 05.05 وس مقت كنشل سمس التر 361 عير حامز سريد مفتر كوالريد 8 4 روز نام ج ج 4 4 حامز اكر سان عتب مير يحرس بيمارى غامدين وجرعتر جامز الم حطامون اب حاجزا المرسير احاطرى تيماد ب الاستخطالي من مؤكوره می حامزی درج روز نامچ میرکنه نقل عدات تفرض مناسب حکم الشران بالا تحدمت ميں ريال تح جا ملكى جاك ا لمكل بمطابق اجل جنعا من المرابة الا در الم 4 2 4 3 5 0 5 5 5 4 مرفر روجا Alle 1. Tyark Warne Dro Tre 2012 8.07 he.T. Jara. 6.8.07 A Clester !! for warded fil: DSP Legal Div (L) 1091408 07/08707

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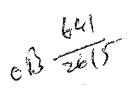
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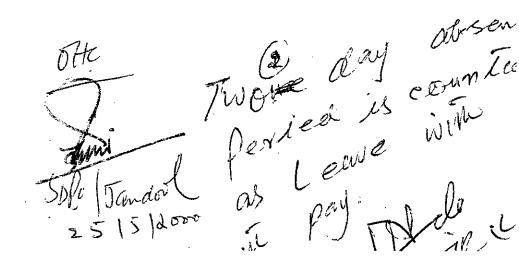
15210-13/EBUS - 2-2.5. 15 08-x-05/EBUS - 2-2.5. 15 a A3 تنظى شتوالله مر 181 دوجى ورت بيون - كند دركر ا الرام بي - 21 من وران الما في دين عاد الجاذالقون 25 mai 2012 & 10/01 + 6 (5-1 -) (2) (3) -در المروي المروي في المرويل المرويل الحليات مالك كو در الم سي - 05 5 الدين لد منطلاتان ع عدوس (الم ولي الم مرتب في فورك المرادي المرادي المراج (12) رندور را مرقی - مراج عراق می اند مراج ارد مراج 256 - 6 CD/ - 2 in Eu 2 361 (1) - DR' مرد المراجرية والمح المراجر المراجري المراجري المراجري المراجري - مراجر المراجري المراجري المراجري المراجري الم المراجري سماري المراجري المراج الحام المسلى وي من المراجر المراجري المراجري المراجري المراجري المراجري المراجري المراجري المراجري المراجري الم من المرف ماداني المرف <u>المراجع المراحين المراحين المراجع المراجع</u> ENCE DR DR Being BGI DR DR Sile Sile ويكوز الدون حرير) تور برار خدر في الدين W2 Q7/x/05 To police line DSp Legal Divis Donitive T. gera. 27-10-05 27, 03 Mar. 1042 Dollach 2.11-2005

100 and 361 , 10 and 1 and 1 and 1 and 1 and 5.2000 and Sito uj & digue شرير رفية بولا م 33 مورغاني 2000 عاضيفاند أر بالاعمام مو مر المعن بما يحى . مين ود غد وز و مو الو . ، ب ور مر الموى كار ماد منه المرك كن مركر م طوی دو روز ای مور تر از از موند مناسب فروز از از الله ی فرت میں مرم مو ی . ما عار مرازمر Jins MIHC PS SBergh. 3-6-2000 SHO SBacqli ps 3-6-2000 Atlestech idd otte DSp legal pives dar peried with one Solo Tandar as Leave Wesewee 661200 rounded 183

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N'3 361, 201, cité print 2:20: 18.10 en ASHO . 10, 28:00 . 28:00 . 19. 10 . 10 . 10 . 10 . 28:00 . 28: وروج موزاد در ۲۵ عند جاجیر شرم ی جبر توان از بانی هدای س لوم آ بندم جرورت شرمامير بوجها يون - آب ماجيراك هاجر کا کی و مے - التی اور لی وز کور کی حاصر کا در ح دور المجرير كر - عن لدت معد هن من سر كار الكرا العرف ما سی خدمت میں ار مال مرتقے - جا بالی a de culter Ab milte/ps.s.Bacyli. SiR Attested 22.15-2000 faywardad. r Medde Jamit DSp legal Div 5H0/PS.5.Bach. 16/200 6 14/2000 Viglor 22.5-2000





A-ما <u>ش</u>ک ما مرزش حديد ساس كالوريد برانا كو 2. عبر مراب فمرك فرور) رج . الله (ب ماط) مريز الجاي رج "م ما مل کو رق طاہ رومی کلا مظور کا کا کا مار دروا و ل : فوعدني فوارش ممر) . 2/12 an 1:12 3/ 3/ 2 المعا معرما En wRR view 1225 in a time the source of fore and the Sil Colorys Elleave Sender former dec (Attested 5000/T. Under 4.12.96 \$ 10m y · DSP legal Div (L) Hojouch 12.18 9K

لوليس بالج بن شمير جرم (15)منع دير با شين؟ سر با شين لتل مد مرز 48 روزنام م 4 مربز 48 ستى بلازمان 26 وروز الله 4 وتر ٥٥، ١٤ دس دست سن الزمان ربرری بیرمامزی بوتریاں سم جلر فارع از در برف مراز ان ماسرائے نظیل شمس الله 186 ت متى بن موجود بائ ما تر مذكوره یے خارف رہوں عثیر جا طرکا درج روز نا مج ى مانى ہے -LO USE 21-مررم بي 6 وتت 06.05 اس مقت كني شمس الركد 361 مير حامز سريد رضت توالد مد 8 4 روز نام مج B 4 حام اكر بان عتكر مير يحرس بيمارى غامدين دجرعثر جام برجها يو ا ما ما مرا المر ميرا ما فرى سياد ب الا تتخط الكرين مى لاكور م می حامزی درج روز نامچ میرکم نقل عدات مفرض مناسب حکم ام ان با لا ت حذمت ميں آر ال ت حاصی جناب عال لقل بمطابق احل یے۔ المع منظم عش الله 186 مدم و 4 2 6 6 من مقد منظر وحط - من طفر الترج منعين مزان سفارش ي طابق - « Mun m.m.l. Tyaka 2 1 2 1 2 1 2 10 7. ho.T 1 278. 6.8.07 6. 8.07 Middie DSP Legal Div (L) MA Attested 108714828 -07/08707

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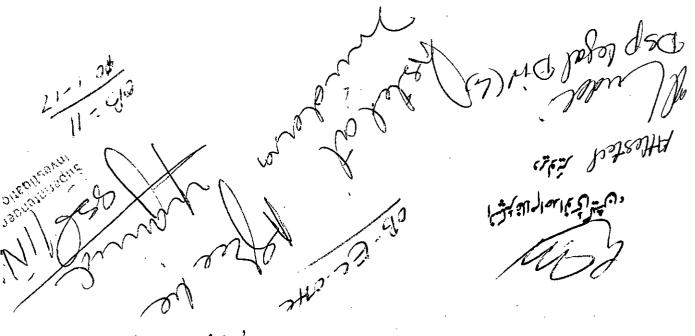
م دستهان شریبه و به مدین ۱۹ ۵۳ و در میشه مورد از به سر مرد دندن ۱۹۹۷ باز از از اساس میگردد. محود شنان شریبه و به موسط ۱۹ ۵۳ و در میشه مورد از به سر مرد دندن ۱۹۹۷ باز از از اساس میگرد از مراس میگرد و به م الميكر جزل وليس موجر مدة دم فروى D 15304-8568514-5 فائيل ابتدابي اطلاعي ريوزي - ٥٥٩٩٩ ما ٢٥ - ٢، ٤٠ ابتلها کی اطلاع نسبت جرم قابل دست اندازی پولیس در ایوب مید وزیر دند. شدا جوو به اندو به انداری N C T ANY ه مزبره - in its / ile (in - in Ent 50565 02.00 = 25 / 016 2 0 July 2 08:15 = 25 / 516 تاريخ دوتت ريورت المت بالنادلة ايمات خال تو محمومي كم المحركة سناسل تام دسکونت اطلاع د بهنده مستنبیت ____ مختسر کیفیت جرم (معددنعه) حال اگر کچیایا کیا: د. 324/31, 11. مر شابالا كما في كالري Kin ما في سرق ورج بائے وقوعہ فاصلہ تمانہ ہے ادر ست . شودش باترا كمسويه نام دسکونت ملزم ى 3 كى كى كى كە كى كە كە کاروائی جوتنیش کے متعاق کی تی اگراطلاع درج کرنے ش توقف ہوا، وہو ہیان کرو جر سرائی کم اس مکرن می سر، سر، برج، حربا ک _1 قماند ب ردائم كاتاريخ دوت ابتداني اطلاع ينجي درج كرو لونت سدينه آييه عشرته متررسه سجالك عبر المسارط الکدر سه کم مند من کا دوجه درول کو روی به در من کرد استر الکار ما ، از در دردان و اس که اطلاع الى) دبية ترمتر شما مي المرتب ورف من ورفا المرجد على من الفرق ادر الان اردان سي المرط ف وقوع بالا آكر متعلية بالالا في حرريان ركور شكرتا مي الروز كورة تمريل تدريم من حربارد المرين -مرولد رمية كان احد كبير المريا المن المن شواني المسوم كرنش مناه مي كالم رسم تعييم المريس رئين لمين مهان (مسی) انتر طد تحسن الرحن (ملام الربی طد خلا - خان سالنان کوسو دام - (ما همزاده ولد مهان (محسی) انتر طد تحسن الرحن (مرابع الربعی) مرابع منام مرا الدر ما مرابع الم الم الم الم الم الم الم الم مسمع المراجع عروج في مدينان شهر الديم ولد مسرار عن ادر اسلام الرف ولد تراجع المعر المسرار - ادار مش از ترجع مروج في مدينان شروات روان الاز المان المراجع المعرف مي كالرق مي مزدر المدر من على المحر علا تسرم مان علاده كان كسان ما يشرد من مراحيم على لذا باكسالا حمرة فدرير ما يس به أبرادر براردم حذ مر بربرا دوادن من المرار المرار الدر المراحة تنازم شروم ما يرد من المان المسري المراد من المرار المرار المرار المرار المرار المرار المرار المرار المرار الم می و می در ارو شاه خاد و سالی تر این سا در در ارسول ، رکور نی می ای از از مان تکن با ای می او ای از ای تکن با ا این سامی او می او شاه خاد و سالی تر این سا در در ارسول ، رکور نی مرا بر ای از انسان تکن با ا تاردایی وب سی می می کندگی بر تا یون میرد و کالسته میرد میزی زمی ته مالار تاردایی می کندگی می کندگی با می کندگی بر تا یون میرد و کالسته میرد میزی زمی ته مالا در سی تو تو در حتی کاریمو ودر تی مارید می از بالا می است می از مینال مند محمد ما ما است مرد من از مالا رتی تر این مارد مایم از من از منار مدرم مالا ما فرس از را منام کام از ما لنرين مدنع ماج ارج من " الراسة محرم بالا مل فرس 11 رينيس كانمي فدم لهدمة مشر هند نسب مرتبة حرم بلاا مال المرين مدن ما الراسة محرم بالا مل فرس مما كات دني رئيد شرم مدر المراسة الشريق المرم الحرب المريض الما حرم ما در تشب مما كات دني رئيد شرم مدر المراسة المسر تر مریک میدان با از مرسم مرا با در انتخاب می میا با مند و میران می میدان مید میراند. تر مریک میدان با از مرسم مرا و را نشخان میا با مند و تر رند مریک میدر کرد. ورسال می مریک در از مزین سی آماره مراسی مرا و دخته میدرسد از در مرا -3--> (~110 ~10 ~10 ~10 ~10 ~10 ~10 ~2.3 3110 - 31- Attested Louloo Deplegal Di

الحلبان からう

ئابد والفرد ما كان الدالمان الموقد والمشكل من المالية ال المالية المالي المالية ال المالية المالي المالية المالي المالية ال المالية مالية المالية الم مالية مالية المالية الم مالية

ت مان شد مدین از مدین کرنو او 23-10-1996 می مید من - وز او می مرد ای سیز او می امور این او می امور این او می ا - در المحمد مید مند - در المحمد مید مند - وز او 2016 می مور ای سیز او می امور این او می المور این او می المور م - در المحمد می می او این او او 23-10-1996 می موجود او می مود ای سیز او می المور می المور می المور می مود او می

ں يتابىد خەتىنىن يۇ ھى يىت لىقىنىڭ رىغابىد خەتىنىنىكى ئى جەبىم بىن ئىلاماندىن يۇلىكى رىتىدىكى كىلى، سىقىر قىلىك بىلەرلىغانىيە جەرى بىلىغان سابىدى يېچىنىكى بىلىغىك سابىد جەلىك بىلىغىنىڭ تېكىڭ ئېك لارىغانا خە بەلىم كەرلىك جەلىك بىڭ ئەنابى بىلىك بىلىك بىلىغىكى بىلىغىكى بىلىغىنى بىلىك بىلىك بىلىك بىلىك بىلىك بىلىك بىلىك رەجى ئابىك بىلىك بىلىك



No._____ /EB/Inv:

Dated: 23, /

12 /2016.

CHARGE SHEET

1. I, YOUNAS JAVED MIRZA, Superintendent of Police, Investigation Dir Lower at Timergara as competent authority and of the opinion that you FC Shams Ullah No. 1950 while posted as DFC Civil-II Timergara directly charge in Case FIR NO. 656 dated 25.10.2016 u/s 324/34-PPC PS Munda.

2. By reason of the above as sufficient materials is placed before the undersigned; therefore it is decided to precede against you in general police proceeding.

3. You are, therefore require to submit your written reply within 07 days of the receipt of this charge sheet to the Enquiry Officer,

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

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

6. A statement of allegation is enclosed.

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Superintendent of Police, Investigation Dir Lower.

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Attested Medde Div (L) DSP Legal Div (L)

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I, YOUNAS JAVED MIR, Superintendent of Police, Investigation Dir Lower at Timergara as compet authority and of the opinion that you FC Shams Ullah No. 1950 while pred as DFC Civil-II Timergara directly charge in Case FIR NO. 656 dated 25.1(016 u/s 324/34-PPC PS Munda, thus you have committed the following acts/dission as defined in Rules 2 (iii) of Police Rules 1975.

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STATEMENT OF ALLEGATIN

I, YOUNAS JAVED MRZA, Superintendent of Police, Investigation Dir Lower, at Timergara as competent authority, and of the opinion that you FC i. Shams Ullah No. 1850 while posted as DFC Civil-II Timergara directly charge in Case FIR NO. 656 dated 25.10.2016 u/s 324/34-PPC PS Munda have rendered yourself liable to be proceeded under rules 5(3) of the Khyber Pakhtunkhwa Rules 1975 for the following misconduct.

Mr. Ghulam Ahad Inspector Headquarter Investigation' Dir Lower is appointed as inquiry officer to scrutinizing the conduct of FC Shams Ullah No. 2: 1850 Police Lines Timergara with reference to the above allegations.

The inquiry officer shall conduct proceeding in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense personal hearing to the accused officer, record its finding and shall finalize the inquiry proceeding within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the

The delinquent official shall join the proceeding on the date, time and accused official.

4 place fixed by the Enquiry officer. $\{\cdot, \cdot\}$

Superintendent of Police, Investigation Dir Lower.

« E » (D

Attested 11nv: A 23/72/16 Copy forwarded for information to the:-Inspector Ghulam Ahad Investigation HQrs: FC Shams Ullah No. 1850. Superinterident o

Police, Investigation Dir/Lower.

MINTENDENT OF POLICE WVESTIGATION DIR LOWER -08 Fax: 0945-9250045 Email: spinvdirlower@gmail.com

ORDER

S.G. Phanen

FC Shams Ullah No.1850 of this investigation was recently re-instated v Regional Police Officer; Malakand at Saidu Sharif. Swat vide order Endst: No.8755-50'E da: 29/07/2021,

The delinquent official was involved in case vide FIR No.565 dated 25-10-20: u/s 324/337F(V)-F(I)/34 PPC Police Station Munda. Proper departmental enquiry was conducte and Inspector Ghulam Ahad Khan was appointed as enquiry officer.

During the course of enquiry the enquiry officer in his finding recommended to keep pending the enquiry till the decision of leaned court. Upon the direction of worthy Regional Police Officer. Malakand at Saidu Sharif. Swat vide Memo No.6560-76/E dated 01/06/2021. the official concerned was dismissed from service vide this office OB No.146 dated 02/06/2021

The case was under trial in court of Additional Session Judge Samarbagh Dir Lower, and on 28/07/2021 the delinquent official was convicted in the above mentioned case for five year imprisonment and Rs. 0.2 million fined.

Therefore I MUSHTAQ AHMAD Superintendent of Police. Investigation Dir Lower in exercise of power vested under (E &D) Rules 1975 with amendment 2014(section 05 clause (05), awarded him major punishment "REMOVED FROM SERVICE" from the date of his conviction awarded by Additional Session Judge Samarbagh Dir Lower i.e. 28.07.2021.

(MUSHTAQ AHMAD) Superintendent of Police, Investigation Dir Lower

OB No. 2-8 Dated. 13 / 08 /2021 /Inv: No.

7 2: 19 - 9 - Anv: dated 1 - 2 Copy forwarded for information to the: /2021

- 1. Regional Police Officer, Malakand at Saidu Sharif, Swat order Endst: No.8755-56/F
- 2. District Police Officer, Dir Lower
- 3. District Police Officer, Dir Upper.
 - 4. Pay Officer, Investigation Dir Lower

5. Establishment Clerk Investigation Dir Lower

Attested Mudd DSP Lesal Dig Lower

TRUE COPY