

S.No.	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	19.07.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT ABBOTTABAD</u></p> <p>1. Appeal No. 1422/2013, Bilal Khan, 2. Appeal No. 1445/2013, Tariq and 3. Appeal No. 1514/2013, Amir Khan</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellants and Mr. Muhammad Siddique, Senior Government Pleader alongwith Mr. Shamraiz Khan, Reader for respondents present.</p> <p>2. This judgment will dispose of service appeal No. 1422/2013, titled "Bilal Khan Versus Regional Police Officer, Hazara Division, Abbottabad and another", service appeal No. 1445/2013, titled "Tariq Versus Regional Police officer, Hazara Division, Abbottabad and another" and service appeal No. 1514/2013 titled "Amir Khan Versus Addl. Inspector General of Police, Elite Force, Khyber Pakhtunkhwa Peshawar and another" as identical questions of law and facts are involved in all the three appeals.</p> <p>3. Brief facts of the case of appellants are that the appellants were serving as constables when implicated in a criminal case registered vide FIR No. 1142 dated 24.12.2011 under Sections 377/337-J/355/511/34-PPC at P.S Havalian Abbottabad and after enquiry appellant Bilal Khan</p>

~~19.07.16~~

was dismissed from service vide order bearing Endst. No. 292 dated 11.09.2012. Similarly appellant Tariq was dismissed from service w.e.f. 24.10.2012 vide order bearing Endst No. 351, dated 24.10.2012. Appellant Aamir was dismissed from service vide order bearing Endst. No. 8850-57/EF, dated 05.10.2012 and his period of absence was treated as leave without pay where-against departmental appeals of the appellants were rejected and hence the instant service appeals.

4. Learned counsel for the appellants has argued that appellants were in custody after the registration of the criminal case referred to above and they were acquitted of the said criminal case vide judgment of the Addl. Sessions Judge-VII, Abbottabad dated 25.07.2012. That the observations of the court of competent jurisdiction referred to above were not taken into account during the enquiry proceedings. That the appellants were not associated with the enquiry as they were in custody and confined to judicial lock-up. That no regular enquiry whatsoever was conducted and no opportunity of cross-examining of the witnesses was ever extended to the appellants.

5. Learned Government Pleader has argued that the appellants were associated with the enquiry despite their detention and that the same was conducted in fair and in impartial manners and the penalty awarded to the appellants after considering all aspects of the case of the appellants including their involvement in illicit activities and mis-use and abuse of authority.

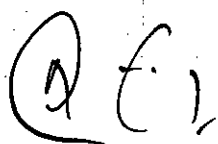
6. We have heard arguments of learned counsel for the parties and perused the record.

19-07-16

7. It is not disputed before us that all the appellants were charged in the said criminal case and were tried by the court of learned Addl. Sessions Judge-VII, Abbottabad and till the pronouncement of judgment they were in custody and were not associated with the enquiry in the mode and manners prescribed by rules as they were not afforded any opportunity of cross-examining the witnesses.

8. Without entering into deep merits of the case we deem it more appropriate to order that a detailed enquiry in the mode and manners prescribed by rules be conducted afresh against the appellants wherein opportunity of hearing including opportunity of defence and cross-examining the witnesses be afforded to appellants were-after the respective competent authority shall decide the cases afresh within a period of 2 months from the date of receipt of this judgment. The appellants are reinstated in service for the purpose of conducting denovo enquiry. Question of back benefits shall be subject to the outcome of denovo enquiry. All the three appeals are disposed of accordingly in the above terms. Parties are left to bear their own costs.

File be consigned to the record room.



(Abdul Latif)
Member



(Muhammad Azim Khan Afridi)

Chairman
Camp Court, A/Abad.

19.07.16

ANNOUNCED

19.07.2016

22.10.2015

Appellant in person and Mr. Shamraiz Khan, Reader along with Mr. Muhammad Fahir Aurangzeb, G.P 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 18.4.2016 at Camp Court A/Abad.


Chairman

Camp Court A/Abad.

18.04.2016

Counsel for the appellant and Mr. Shamraiz Khan, Reader along with Mr. Muhammad Siddique Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for final hearing on 19.07.2016 before D.B at camp court, Abbottabad.



Chairman

Camp court, A/Abad

8 -

19.01.2015

Appellant in person and Mr. Shamraiz-Khan, Reader for respondents alongwith Mr. Muhammad Tahir Aurangzeb, G.P present. Requested for adjournment as the respondents were not in the know of the case. Adjourned for written reply/comments to 15.3.2015 at camp court A/Abad.


Chairman
Camp Court A/Abad

9. 16.3.2015

Counsel for the appellant and Mr. Shamraiz Khan, Reader for respondents alongwith Mr. Muhammad Tahir Aurangzeb, G.P present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 17.6.2015 at camp court A/Abad.


Chairman
Camp Court A/Abad

17.6.2015

Counsel for the appellant and Mr. Shamraiz Khan, Reader alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Learned counsel for the appellant do not want to submit rejoinder. Due to non-availability of D.B, appeal is adjourned for final hearing before D.B to 22.10.2015 at camp court A/Abad.


Chairman
Camp Court A/Abad

Appeal No. 1422/2013
Mr. Bilal Khan.

5. 14.07.2014

Appellant Deposited
Security & Process Fee
Rs. 150/- Bank
Receipt is Attached with File.

15/7/14

Appellant alongwith his counsel 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 original order dated 11.09.2012, he filed departmental appeal on 19.09.2012, which has been rejected on 09.09.2013, hence the present appeal on 07.10.2013. He further contended that the impugned order dated 09.09.2013 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. 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. To come up for written reply/comments on 16.10.2014.

6. 14.07.2014

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

Member

Chairman

7. 16.10.2014

Counsel for the appellant present. Respondents are not present despite their service through registered post. However, Mr. Muhammad Adeel Butt, AAG is present and would be contacting the respondents for written reply/comments alongwith connected appeals at camp court A/Abad on 19.01.2015.


Chairman

4. 19.5.2014

Appellant present in person, and moved application for transfer of the appeal and its fixation at Peshawar for preliminary hearing.

In view of application of the appellant, the appeal is fixed for preliminary hearing before




the learned Primary Bench at Peshawar on 14.7.2014.


Chairman
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1422/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/10/2013	<p>The appeal of Mr. Bilal Khan presented today by Mr. Syed Altaf Hussain Shah 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>
2	30-10-13	<p>This case is entrusted to Touring Bench A/Abad for preliminary hearing to be put up there on <u>14-4-14</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3.	14.4.2014	<p>Appellant with counsel present.</p> <p>The learned counsel for the appellant pointed out that a similar nature case titled 'Amir Khan-vs-DIG Hazara Range etc.' is pending before the tribunal and fixed for preliminary hearing on 19.5.2014. To come up for preliminary hearing alongwith connected appeals at camp court A/Abad on 19.5.2014.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p>

The appeal of Mr. Bilal Khan son of Maqbool-ur-Rehman Ex-Police Constable received today i.e. on 07.10.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of Charge Sheet, Statement of allegations, Show Cause Notice, enquiry report and replies thereto are not attached with the appeal which may be placed on file.
- 2- Annexures of the appeal may be attested.

No. 1414 /S.T,

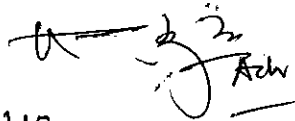
Dt. 7/10 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Syed Altaf Hussain Shah Adv.

Sir,

As regards objection NO I, the appellant has annexed requisite documents except the ^{attested} copy of departmental appeal. The aforementioned copy of ^{drafted} appeal has not so far been supplied by the concerned department and shall be ^{attested} placed on file as soon as it is obtained. However, objection NO 2 as removed as the photo copy already placed on file has been duly attested by the Counsel. Objection NO 2 above has been ~~duly~~ removed and annexures of this appeal have been duly attested. It is therefore, requested that ~~the~~ all the objections having been removed, the instant appeal may kindly be admitted/registered for regular proceedings.


Adv.
22/10/13.

BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA SERVICES
TRIBUNAL, PESHAWAR.

Appeal No. 1422/2013

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra,
Tehsil Havelian, District Abbottabad.

Bilal Khan
...APPELLANT

VERSUS

Regional Police Officer/DIG, Hazara Division, Abbottabad & another

...RESPONDENTS

APPEAL
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*copy of charge sheet is annexed at page 28 -
Reply to charge sheet is annexed at page 29
copy of enquiry report is annexed at page 30
Statement of allegations is annexed at page 31.*

Through:

Bilal Khan
...APPELLANT

Dated: 07/10 /2013

(Signature)
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

DRAFT COMPOSED BY:
ALI COMPOSING, Sher Pao Lawyers Plaza, Kutchery, Abbottabad.

**BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 1422/2013

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra, Tehsil Havelian, District Abbottabad.

Bilal Khan
...APPELLANT

VERSUS

- 1) Regional Police Officer/DIG, Hazara Division, Abbottabad.
- 2) District Police Officer (DPO), Abbottabad.

[Signature]
... 1442
... 07-10-13

...RESPONDENTS

APPEAL U/S 4 OF THE KHYBER PAKHTOONKHUWA SERVICE TRIBUNAL ACT 1974 READ WITH RULE 3(1) OF THE KPK CIVIL SERVANTS (APPEAL) RULES 1986, AGAINST THE ORDER DATED 09.09.2013, VIDE WHICH THE RESPONDENT NO.1, IN EXERCISE OF POWERS OF APPELLATE AUTHORITY, HAS REJECTED THE APPELLANT'S DEPARTMENTAL APPEAL AND UPHELD THE ORDER DATED 11.09.2012 OF RESPONDENT NO.2, WHEREBY THE APPELLANT HAD BEEN PUNISHED WITH MAJOR PENALTY OF DISMISSAL FROM SERVICE.

PRAYER:-

ON ACCEPTANCE OF THE INSTANT APPEAL, THE IMPUGNED ORDERS DATED 09.09.2013 OF RESPONDENT NO.1 { AS ALSO THAT OF RESPONDENT NO.2 DATED 11.09.2012, WHEREBY THE APPELLANT HAS BEEN PUNISHED WITH MAJOR

Co-submitted to
and filed.

[Signature]
... 22/10/13

PENALTY OF DISMISSAL FROM SERVICE, } MAY
GRACIOUSLY BE SET ASIDE WITH FURTHER
DIRECTIONS TO THE RESPONDENT TO REINSTATE
THE APPELLANT WITH ALL RETROSPECTIVE EFFECTS.
OR ANY OTHER RELIEF WHICH THIS HONOURABLE
TRIBUNAL DEEMS PROPER, JUST AND LAWFUL, MAY
GRACIOUSLY BE GRANTED.

Respectfully Sheweth,

FACTS:-

1. That, appellant, after his recruitment as constable in the Police Department in the year 27.07.2007, continued to perform his duties to the best of his abilities till 29.12.2011 when he, alongwith three other constables of the same department posted in Police Lines, Abbottabad, had been implicated in a criminal case vide the FIR No.1142 dated 24.12.2011. *(Copy of the FIR is annexed as Annexure "A")*
2. That, in consequence of the above mentioned FIR, the appellant and his colleagues as mentioned above arrested by the local police and their bail petitions, except that of accused Zohaib Shah, stood rejected upto the Honourable High Court, with the result, the appellant remained in judicial custody till the date of his acquittal vide the judgment/order dated 25.07.2012 of the learned Additional Session

Judge-VII Abbottabad. (*Attested copy of the judgment dated 25.07.2012 is attached as Annexure "B"*)

3. That, no appeal, whatsoever, against the acquittal of the appellant, has ever been filed by the State and thus the same had attained finality.
4. That, while in prison, the appellant had also received a show cause notice contemplating a simultaneous disciplinary action against him. As being in jail, the appellant could not manage to retain copy of the above mentioned notice. However the same being part of the so called departmental inquiry/proceedings, it may be requisitioned by this Honourable Tribunal, because the concerned official is reluctant to deliver the same to the appellant.
5. That, on receipt of the above mentioned show cause notice, the appellant, immediately, within the period specified therein, submitted his detailed reply thereto denying categorically the allegations contained therein as being absolutely false, baseless, unfounded, concocted, based on malafide and result of conspiracy, collusion and personal grudges. For the reason as mentioned in the above Para, copy of the reply could not be retained but the same is available on the record in possession of the department.
6. That, immediately after the appellant's acquittal by the trial Court resulting into his release from the jail, the appellant requested the respondents for his

reinstatement, but was directed to wait till an order to that effect.

7. That, on 11.09.2012 the appellant was shocked to receive the order of respondent NO.2 of the appellant's dismissal from service without giving him an opportunity to participate in an inquiry proceedings or issuance of any show cause notice about intended action against him. ***(Copy of the appellant's dismissal order OBNO.292 dated 11.09.2012 is attached as Annexure "C")***
8. That, being aggrieved against the above mentioned order of his dismissal from service, the appellant approached respondent No.1 by submitting departmental appeal against the above mentioned order dated 11.09.2012. ***(Attested copy of the memo of appeal not being issued by the respondents, photocopy of the same is attached as Annexure "D")***
9. That, after submitting the above mentioned appeal to respondent No.1, the appellant continued to keep his case alive by attending office of respondents and was assured about fruitful results of his appeal.
10. That, the appellant, again, was astonished to know that his above mentioned appeal was rejected while that of another accused namely Zohaib Shah was accepted with the result of his reinstatement in service. ***(Copy of the impugned order dated 09.09.2013 is attached as Annexure "E")***
11. That, appeal of another colleague namely Aamir, facing the similar charges, is still pending disposal before the respondent No.1.

12. That, the impugned orders of respondents being illegal, void, against the established principles of justice and fair play, discriminatory, arbitrary, without jurisdiction, against principles of natural justice, equity and fair play, are liable to be set aside, inter alia, on the following grounds:-

G R O U N D S :-

- a. That, the impugned orders entailing major penalty of dismissal of appellant from service, are non-speaking, so called inquiry report, on the basis of which major punishment has been imposed, if found to have actually been conducted, is arbitrary, against the principles and rules of law and that of natural justice and, as such, are liable to be set aside.
- b. That, while imposing major penalty on the appellant, the respondent authority has not applied due application of mind. The appellant has not been afforded an opportunity to cross examine any witness that would have deposed against him and, thus, the entire proceeding is violative of the recognized principle of law and natural justice.
- c. That, as the so called inquiry was conducted in the absence of the appellant, the respondents were under legal obligation to issue final show cause notice against recommendations of the inquiry officer requiring major penalty to be imposed on the appellant. Having failed to follow,

the law, the impugned orders recorded by the respondents are nullity in the eyes of law and as such are liable to be set aside.

- d. That, statement of the complainant, as recorded during criminal proceedings before the learned trial Court, being absolutely contradictory to and different from his version in the FIR, should have been considered as guideline for the respondents to determine the fate of disciplinary proceedings against the petitioner. Having failed to consider the reasons of the appellant's acquittal, as recorded by the trial Court of competent jurisdiction, and to give due weight to the same, the impugned orders have been passed without any basis in law or the reason and, thus, are liable to be set aside.
- e. That, acquittal of the appellant by criminal Court of competent jurisdiction ought to have been considered by the respondent as a positive proof of his innocence and therefore, the impugned orders of respondents are unjustified and illegal and, as such, liable to be set aside and the appellant to reinstatement with all benefits with retrospective effect.
- f. That, the impugned orders are against the dictum of the Hon'ble Superior Courts which contemplate that until acquittal is proved to have been caused by suppression of evidence or due to some technical flaw, the competent authority is under an obligation to reinstate civil servants. In the instant case the acquittal order of the appellant on

account of having remained unchallenged, had attained finality which ought to have been considered by the respondents as the strongest piece of evidence of the appellant's innocence.

- g. That, the impugned orders of respondents have also not been recorded in accordance with the dictum of Hon'ble Apex Court contemplating that a civil servant in case of his acquittal, was to be considered to have committed no offence and, thus the same are nullity in the eyes of law.
- h. That, dismissal of the appellant from service on the same charge, after he was acquitted by criminal Court, amounted to double jeopardy which was against the spirits of Article 13 of the Constitution, hence the impugned orders being violative of the appellant's fundamental rights, are liable to be set aside and, the appellant, to be reinstated with all benefits.
- i. That, failure of the respondents to supply inquiry reports to the appellant had rendered the impugned orders as being without lawful authority and, thus, the same are untenable in the eyes of law.
- j. That, in view of the contents and reasons recorded in the acquittal order of the trial Court, the major penalty as imposed upon the appellant is inappropriate and out of proportion hence, the same is liable to be set aside.

- k. That, the appellant has been vexed twice on the basis of same charges which is against the spirit of law and therefore, the impugned orders are ineffective and illegal.
- l. That, the appellant has not been treated at par with Zohaib Shah, a co-accused in criminal case and colleague constable of the appellant, subject to the same inquiry proceedings, who despite being equally charged with the same offence, has been exonerated and, in consequence thereof, re-instated in service. The appellant, therefore, having been discriminated in the departmental inquiry, deserves to be re-instated on acceptance of the aforementioned plea of discrimination.
- m. That, the benefit of the evidence that co-accused Zohaib Shah, on the day of alleged occurrence, had gone to Peshawar in connection with his official duty, can not be restricted or given a limited scope, but the same, on the other hand, rendered the entire story of the alleged occurrence as being absolutely false and concocted and thus, the implication of the principle "*Falsus in uno, Falsus in omni bus, is attracted in the circumstances of the case*".
- n. That, the impugned orders awarding and maintaining major punishment to the appellant, are absolutely illegal, unwarranted, arbitrary, based on malafide, the result of extraneous consideration with no nexus with law and principles of justice, having been passed without lawful authority and jurisdiction, against the

dictum of the Hon'ble Apex Court and hence, are liable to beset aside.

- o. That, the respondents have not conducted department proceeding in accordance with the law and rules applicable to a civil servant and instead thereof dealt with the case of departmental inquiry as if the appellant was not a civil servant hence, the impugned orders having basis on a defective and illegal inquiry proceedings, are not maintainable in the eyes of law.

In view of what have been submitted, it is humbly prayed that on acceptance of the instant appeal, the impugned orders of the respondents dated 11.09.2012 and 09.09.2013 may graciously be set aside with further directions to the respondents to re-instate the appellant with all benefits with retrospective effect.

Bidal Khan
...APPELLANT

Through:

Dated: 07/10 /2013

(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

VERIFICATION:-

*Verified that the contents of the instant **Appeal** are true and correct to the best of my knowledge and belief and that nothing material has been suppressed from this Honorable Tribunal.*

Dated: 07/10 /2013

Bidal Khan
...APPELLANT

BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA SERVICES
TRIBUNAL, PESHAWAR.

Appeal No. _____/2013

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra,
Tehsil Havelian, District Abbottabad.

Bilal Khan
...APPELLANT

V E R S U S

Regional Police Officer/DIG, Hazara Division, Abbottabad & another

...RESPONDENTS

APPEAL
AFFIDAVIT

I, Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra, Tehsil Havelian, District Abbottabad **Appellant** do hereby solemnly affirm and declare on Oath that the contents of instant **Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

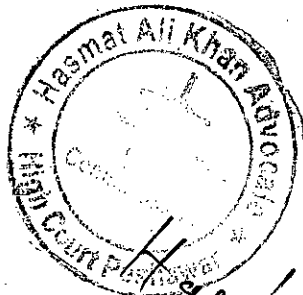
Bilal Khan
DEPONENT

ATTESTED

Dated: 07/10/2013

IDENTIFIED BY:-

(Signature)
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.



Bilal Khan
...APPELLANT

BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA SERVICES
TRIBUNAL, PESHAWAR.

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Tehsil Havelian, District Abbottabad.

Bilal Khan

...APPELLANT

VERSUS

Regional Police Officer/DIG, Hazara Division, Abbottabad & another

...RESPONDENTS

APPEAL
CERTIFICATE

***Certified that no such Appeal has earlier been filed before this
Hon'ble Tribunal.***

Bilal Khan

...APPELLANT

Through:

Dated: 07/10 /2013

(Signature)
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

ATTESTED



(Signature)
7/10/2013

BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA SERVICES
TRIBUNAL, PESHAWAR.

Appeal No. _____/2013

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra,
Tehsil Havelian, District Abbottabad.

Bilal Khan

...APPELLANT

V E R S U S

Regional Police Officer/DIG, Hazara Division, Abbottabad & another

...RESPONDENTS

APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth,

The addresses of the parties are as under;

APPELLANT:

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village
Langra, Tehsil Havelian, District Abbottabad.

RESPONDENTS:

- 1) Regional Police Officer/DIG, Hazara Division, Abbottabad.
- 2) District Police Officer (DPO), Abbottabad.

Bilal Khan

...APPELLANT

Through:

Dated: 07/10 /2013

(Signature)
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

**BEFORE THE HONOURABLE KHYBER PAKHTOONKHUWA SERVICES
TRIBUNAL, PESHAWAR.**

Appeal No. _____/2013

Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra,
Tehsil Havelian, District Abbottabad.

Bilal Khan
...APPELLANT

V E R S U S

Regional Police Officer/DIG, Hazara Division, Abbottabad & another

...RESPONDENTS

APPEAL

**APPLICATION FOR CONDONATION OF DELAY, IF ANY, IN
FILLING THE INSTANT APPEAL.**

Respectfully Sheweth,

1. That, the appellants' criminal trial and simultaneous disciplinary proceeding had a common base and after his acquittal by the learned Trial Court, the appellant was assured that his disciplinary proceeding would also be decided on the basis of the acquittal order of the appellant.
2. That, the appellant on various occasions, had the opportunity to appear before the predecessor of respondent NO.1, who had assured him to consider his case in the light of the above mentioned acquittal order of the appellant.
3. That, predecessor respondent NO.1 was replaced by his successor in August 2013 and has rejected the appellant's appeal without considering the acquittal order of the appellant.
4. That, the dismissal of the appellant from service was a serious matter and therefore, the appellant continued to pursue his departmental appeal with diligence and always kept his cause alive with the assurance to be reinstated.
5. That, it is within the power of this Honorable Tribunal to condone any delay if so caused.

6. That, the appellant, after rejection of his appeal on 09.09.2013, has filed the instant appeal within the prescribed period of limitation. However any delay if appears, was neither within the knowledge of appellant nor is intentional and therefore, is beyond the perception and control of the appellant. Affidavit to this effect is submitted accordingly.

It is, therefore, humbly prayed that on acceptance of foregoing application, any delay if so caused may graciously be condoned and the appeal of the appellant be decided on merits.

Bilal Khan
...APPELLANT

Through:

Dated: 07/10 2013

[Signature]
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

AFFIDAVIT:-

I, Bilal Khan S/o Maqbool-Ur-Rehman, Police Constable (dismissed), R/o Village Langra, Tehsil Havelian, District Abbottabad **Appellant** do hereby solemnly affirm and declare on Oath that the contents of instant **Application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED

DEPONENT

Dated: 07/10 2013



Bilal Khan
...APPELLANT

IDENTIFIED BY:-

[Signature]
(SYED ALTAF HUSSAIN SHAH)
Advocate High Court, Abbottabad.

[Signature]
7/10/2013

مردودہ کا
دوسرا نمبر

12327281

آؤر سہ فرزند کارداران ہو گئے۔ دستخط و تہذیب کا
5450 نمبر ختم ہوا 12 24 کا نمبر ان کے پاس
بعض دیگر کم ہوتے تھے۔ ان کے پاس جو رقم اصل دوسری بار
ان کے کورس تہذیب میں تھی۔ یہ تہذیب ان کے پاس تھی۔

Tawadd
Pasi Is - HVN
24 - 12 - 11

حوالہ
تہذیب

رسا
آؤر سہ فرزند
کارداران
ہو گئے۔

دستخط

عہدہ

یہ نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگا یا جائے گا۔ اور اسے تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف یا ب سرخ روشنائی سے بالفاظ
یا شہر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں، لکھنا چاہئے۔

At final judgment no fee

22

ANX, B 00

P-16

27.6 J.P.

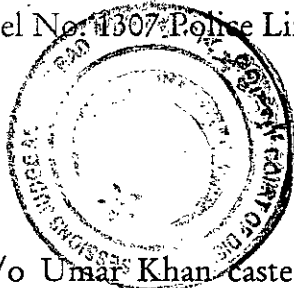
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IN THE COURT OF KHALID KHAN MOHMAND ADDITIONAL
SESSIONS JUDGE-VII, ABBOTTABAD

Criminal trial # 41/VII

Constable Adeel No. 1307 Police Line District, Abbottabad

.....Complainant.



Versus

- 1) Amir s/o Umar Khan caste Pathan r/o Langra Presently constable in Police Deptt: district Abbottabad.
- 2) Tariq s/o Taj caste Awan r/o Basela presently constable in police Deptt: Abbottabad
- 3) Bilal s/o Maqbool ur Rehman caste Pathan r/o Langra presently constable in Police Deptt: District Abbottabad
- 4) Zohaib Shah s/o Zakir Shah caste Syed r/o Toro Sharif Bohi presently constable in police Deptt: district Abbottabad.

.....Accused.

Charged:-

Under sections 377/337-J/355/511/34 PPC with
reference to case FIR # 1142 dated 24.12.2011 of
Police Station Havelian, Abbottabad.

Date of commencement of trial.....17/03/2012. ✓

Date of decision25/07/2012. ✓

Deputy P.P.....Qasim Farooq. ✓

Counsel for complainant.....Zulfiqar Ahmed Advocate.

Counsel for accused.....Atif Jadoon, Masood ur Rehman
Tanoli, Syed Ali Raza Advocates.

JUDGMENT

Accused Amir, Tariq, Bilal and Zohaib Shah are facing trial in this court under section 377/337-J/355/511/34 PPC.

Story of the prosecution in brief as per FIR is that on 24/12/2011 at 22:30 hours Adalat Khan SHO alongwith other police officials were on patrolling duty and received information that a person was lying in injured condition near Muslim Abad Barrier. On such information he proceeded to the

Attested by the
Examiner,
District & Sessions Judge
Abbottabad
17.07.12

25/7/12

statement. They concluded their arguments by maintaining that on the basis of available evidence prosecution has miserably failed to prove the charges against accused facing trial and they deserve acquittal.

Dr. Asad Ali Shah MO RHC Havelian had medically examined complainant Adeel Ahmed and he as PW-1 has stated that on 24.12.2011 at 10:45 PM he examined Adeel Zafar complainant and found the following

ON EXAMINATION

- i) He has slurred speech but conscious
- ii) Foul smell from mouth of alcohol.

Injuries on his person.

WOUND:-

- i) A laceration with bruise over right temple area 1x1 cm size.
- ii) A bruise over left top of skull size 1x2 cm.
- iii) Nasal bridge swelling present. More on left side. Bleeding from nostril present which is clotted (at the time of examination).
- iv) Lacerations on both buttocks near buttock folds.
- v) Redness over posterior aspect of right buttock, of right thigh near buttock (right).
- vi) Abrasion over left knee.

Two swabs:-

- i) External perennial swab obtained sealed and labeled.
- ii) Inner (rectal) swab, obtained sealed and labeled.

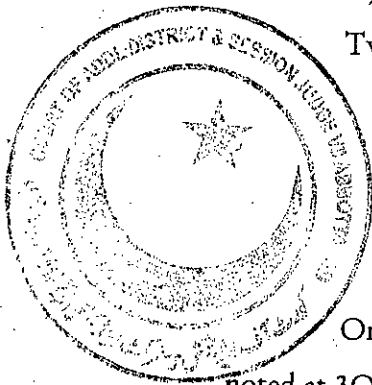
Both handed over to police for FSL for forensic examination of any sperm.

On the physical examination of rectum and perennial area, redness noted at 3O clock. No tear or laceration present.

Ist aid provided, he is referred to DHQ Abbottabad for x ray nasal bone, x ray skull and radiological report.

Duration of Injury:- More than 1 to 2 hours

PW-1 exhibited medical report of Adeel Zafar as EXPM. PW-1 has further deposed that he had also examined accused Amir, Zohaib and Bilal and found them capable of performing sexual intercourse. In this respect the medical reports were exhibited as EXPW1/1 to ExPW1/3 respectively.



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 Examiner
 District & Session Judge
 Abbottabad
 17.09.13

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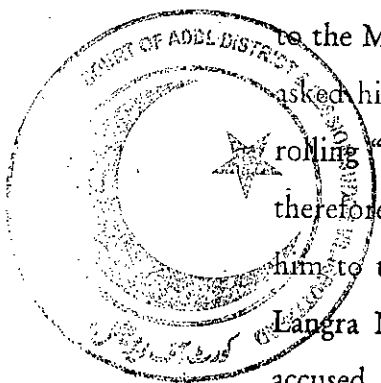
P-19

Khan Gul constable is the marginal witness of recovery memo vide which the IO had taken into possession two sealed phials and he as PW02 has stated that in his presence AMHC PS Havelian handed over the phial and swabs to IO who sealed the same into parcel No.1 and affixed 3 seals on the parcel in the name of AK and put one sample in parcel. IO prepared the recovery memo ExpPW2/1 in his presence which correctly bears his signature as well as signature of co marginal witness.

Liaqat Khan is marginal witness of recovery memo vide which the IO had taken into possession two blood stained stones from the spot. He as PW03 has stated that through recovery memo EXPW3/1 the investigating Officer had taken into possession two blood stained stones in his presence which correctly bears his signature. He has further stated that his statement was recorded by the Police U/s 161 Cr.P.C.

Complainant Adeel Zafar was examined as PW-4 and he has stated that on 24.12.2011 at 08:00 a.m. he came to police line from his house where he was combing his hair. Accused Amir started beating him with his belt at about 8 O clock. He asked him the reason for beating him who replied that he had committed theft of his pistol but he denied the allegation. He offered him to go to the Mosque for taking oath but he denied to do so. Thereafter the said Amir asked him to go to Peer at Havelian who would decide the dispute through a rolling "Kouza". PW-4 stated that Amir was on duty from 08:00am to 02:00pm therefore he remained on duty while accused Tariq, Bilal and Zohaib Shah took him to the Peer at Havelian. They then boarded on a coaster and alighted at Langra Moar. They took him to Bazar Havelian and at about 04PM. Amir accused also joined them. All the accused took alcohol there at Langra Moar Doar and they also forcibly administered alcohol to him. After administering alcohol forcibly to him they directed him to put off shalwar, on his refusal they started beating him. Accused Bilal caught hold of him from his neck while the other accused beat him with kicks and fists. They left him at the place in intoxicated position and thereafter he came to Langra Moar wherefrom he reached Muslim Abad Barrier and told the staff there about the occurrence. The SHO Adalat Khan was on patrolling duty who came to Muslim Abad Barrier where he lodged his report EXPA which correctly bears his signature. At the time of lodging of report he told that all the 4 accused namely Zohaib Shah,

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District of Adil District
17/12/2012

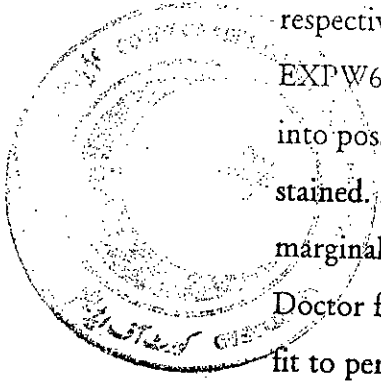
p-20

Tariq, Bilal and Amir committed the occurrence. He was also medically examined through the SHO. He made pointation of the place of occurrence to the IO and on his return he read the FIR and found that the name of accused Zohaib Shah was missing in the FIR, therefore he also got inserted his name in the case through a supplementary statement.

Adalat Khan Inspector/SHO as PW05 has stated that on the day of occurrence he was on routine gusht when he received information that a person had come at Muslim Abad Barrier in injured condition. When he reached at the spot he met the-injured who disclosed his name as constable Adeel No. 1307 and he also reported to him about the occurrence. On his report he drafted Murasila ExPA and read over the same to the complainant who signed the Murasila as token of correctness. He prepared injury sheet EXPW5/1 and handed over to constable Akhtar 396 who escorted the injured/complainant for his medical examination and he handed over the Murasila to constable Tariq for registration of case which correctly bears his signature. After completion of investigation he submitted complete challan EXPB against the accused. Munir

Hussain ASI is the investigation officer in the present case and he as PW-6 has stated that on receipt of FIR he started investigation and formally arrested accused Amir and Tariq and issued their card of arrest EXPW6/1 and ExPW6/2 respectively. On the same day he visited the spot and prepared site plan EXPW6/3 at the pointation of complainant. During the spot inspection he took into possession from the place of occurrence two stones EXP-1 which were blood stained. He prepared recovery memo ExpW3/1 in this respect in the presence of marginal witnesses. He got medically examined accused Amir and Tariq by the Doctor for their potency test vide his application ExPW6/4 and they were found fit to perform sexual intercourse. On 26/12/2011 he produced accused Amir and Tariq before the Magistrate for police custody vide his application EXPW6/5 and EXPW6/6 and two days police custody was granted. He also drafted application for sending the swabs to FSL vide his application EXPW6/7. He recorded supplementary statement of complainant/injured and arrested accused Zohaib Shah and issued his card of arrest EXPW6/8. On 28/12/2011 he produced the accused before the Magistrate for judicial remand vide his application EXPW6/9. He produced the accused before the Doctor for getting him medically examined vide his application ExPW6/10 and he was found fit to perform sexual

25/7/12



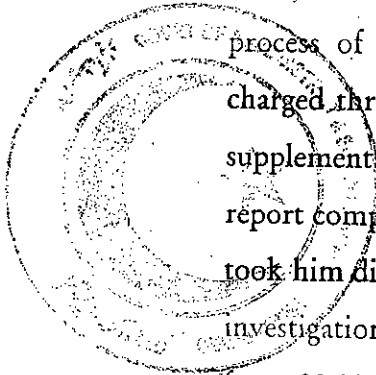
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Session Judge
Abbottabad
17.09.13

P-21

intercourse. After the occurrence accused Bilal absconded and after the search he was arrested on 1.1.2012 and he issued his card of arrest EXPW6/11. He informed the high ups about the arrest of accused as they were police officials vide his application EXPW6/12. He also issued parwana izadgi EXPW6/12 and added section 377/511 PPC. On 2.1.2011 he got examined accused Bilal by the medical officer vide his application EXPW6/13 and he was found fit to perform sexual intercourse. He produced accused Bilal before the court for obtaining police remand vide his application ExPW6/14 and 01 day police custody was granted. On the next day he produced the accused before the court for judicial remand vide his application ExPW6/15. During the course of investigation he also obtained copies of DD maintained in police lines Abbottabad which were placed on the judicial file. He recorded the statements of PWs and accused u/s 161 Cr.P.C. After completion of investigation he sent case file to SHO for submission of complete challan against the accused.

In the present case no motive has been given by complainant Adeel in his report EXPA, however when he recorded his statement as PW-4 he introduced motive in the manner that accused Amir had suspected him to have stolen his pistol and due to such suspicion he not only beat him up on the day of occurrence i.e. 24.12.2011 at 08:00 am in the police line but also asked him to satisfy him regarding his innocence in front of a Peer at Havelian through the process of rolling "Kouza". In his report EXPA/1 complainant Adeel has charged three accused namely Amir, Tariq and Bilal, however later on in his supplementary statement he also implicated accused Zohaib in the case. In the report complainant has specifically informed that accused Amir, Tariq and Bilal took him directly to *Langra Moar Doar* in a Coaster, however when during the investigation it transpired that infact accused Amir was on duty on 24/12/2011 from 08:00 am till 02:00 pm, complainant improved his statement by stating that on the day of occurrence accused Amir was on duty from 08:00 am to 02:00 pm, therefore he remained on duty and instead accused Tariq, Bilal and Zohaib first took him to the Bazar Havelian and at 04:00 p.m accused Amir also joined them where after all the four accused took him to *Langra Moar Doar*. This improvement appears to have been made by complainant PW-4 just to bring his case in line with the facts unearthed during the investigation. It is worth mentioning that the newly introduced motive is against accused Amir

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25/12



17.09.13

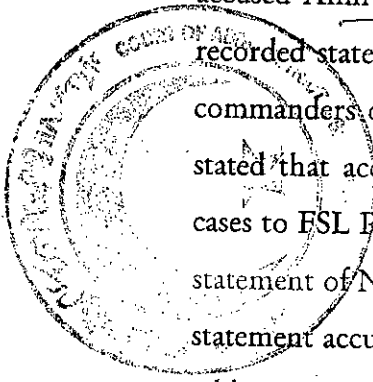
P-22

only, who according to complainant remained on his duty and he was taken by those other three accused against whom there is no motive. In the report EXPA complainant has not informed that the accused had drunk alcohol, however in his statement as PW-4 he improved his version in this respect as well by stating that all the accused took alcohol at "Langra Moar Doar". In his report complainant Adeel has specifically informed that he was forcibly made naked by the accused and they attempted to commit sodomy with him, however on his refusal and hue and cry they beat him up. In his statement as complainant PW-4 did not say any thing in this regard that either he was made naked or that any attempt was made by accused to commit sodomy with him. Similarly report of FSL EXPW6/D-2 is also in the negative in this regard.

Perusal of statement of complainant PW-4 revealed that he has totally changed his version during trial and he has considerably improved his stance. It is worth mentioning that such improvements and changes brought out by complainant PW-4 during trial were meant to bring his case in line with the facts came in lime light during investigation, such dishonest improvements and changes made by complainant PW-4 during trial are wholly unreliable and not worthy of credence. The investigation officer PW-6 has stated in his cross examination that he had investigated this fact that on the day of occurrence accused Amir was on duty in police line from 08:00 am to 02:00 pm and he recorded statements of Muhammad Ali Raza (1209) and Khurshid (849) guard commanders of Police Line in this regard. Similarly the IO PW-6 has further stated that accused Zohaib Shah had taken case property in certain criminal cases to FSL Beshawar on the day of occurrence and in this regard he recorded statement of Nasir No.301 Madad Moharrar PS Bagnotar and according to such statement accused Zohaib proceeded to FSL on 23.12.2011 vide Mad No. 27 by taking case properties in different criminal cases to FSL and he returned the receipt on 25.12.2011 at 12:00 hours. The IO has further disclosed in his cross examination that according to his investigation complainant Adeel is alcoholic and drug addict. Similarly PW-6 has further stated that FSL report EXPW6/D-2 was in the negative.

In these circumstances it is not safe to base conviction of the accused in the present case on the sole testimony of complainant PW-4 who has made dishonest improvements and changes in his statement during the trial as such

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 District & Sessions Judge
 Abbottabad, 15

P-23

improvements and changes made by complainant PW-4 has made the prosecution story doubtful. Here I seek guidance from the following rulings:-

- i) 2010 SCMR 385.
- ii) 2007 SCMR 605.
- iii) 1998 MLD 1366.

For the reasons discussed above I am of the view that prosecution has failed to prove the charges against accused facing trial beyond reasonable doubt and keeping in view the version and stance of complainant in his report and the one introduced during trial, story of prosecution has become doubtful and benefit of such doubt obviously goes to accused, therefore I while extending benefit of doubt, acquit all the accused of the charges leveled against them. Accused Amir, Tariq and Bilal are in custody. They be released forthwith in the present case if not required in any other case /crime, while accused Zohaib Shah is on bail, his bail bonds stands cancelled and sureties discharged from the liabilities of bail bonds. Case property (if any) be kept intact till the expiry of appeal/revision and thereafter be disposed of in accordance with law.

File be consigned to record room after its necessary completion.

Announced
25.07.2012

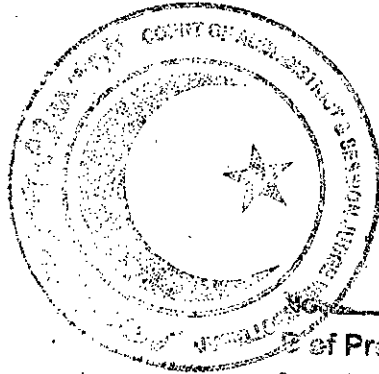
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 District & Sessions Judge
 Abbottabad
 17.09.13

Khalid Khan Mohmand
 Khalid Khan Mohmand
 Addl: Sessions Judge-VII
 Abbottabad.

CERTIFICATE

Certified that this judgment consists of (8) pages and each page has been signed by me after necessary correction.

Announced
25.07.2012



Khalid Khan Mohmand
 Khalid Khan Mohmand
 Addl: Sessions Judge-VII
 Abbottabad.

11889 Date 16/9/13

No of Presentations / Application _____
 No of Clerks _____
 Copying Fee _____
 Urgent Fee _____
 Total _____
 Name of Clerk Asid
 Date of Presentation 17-9-13
 Date of Delivery of Copy 17-09-13

ORDER

Constable Bilal No. 1335 while posted at Police Line Abbotabad involved in case FIR No. 1142 dated 24-12-2011 under section 337 (D) / 355 / 34 (12 Had Zana) PPC PS Havelian.

He was proceeded against departmentally followed by proper departmental enquiry. The Enquiry Officer have gave him full opportunity for self defense but he could not be able to prove his innocence. He was also heard in OR but he fail to submit any cogent reason.

During departmental enquiry process his incrimination in criminal case has been proved.

Therefore, in exercise of powers vested in me under Police Efficiency Rule 1975, he is awarded major punishment of dismissal from service.

[Signature]
District Police Officer,
Abbotabad.

Order announced.

CBN/o - 292
11-9-2012
RESTED
ad. clint
APD. J. Khan

Ad. clint
J. Khan

بھائی خدمت جناب ڈپٹی انسپکٹر جنرل صاحب پولیس - ہزارہ ریجن

ANX 66

25-9

اپنی بنا راضی فیصلہ و حکم جناب ڈسٹرکٹ پولیس آفیسر صاحب
ایبٹ آباد مصدرہ مورخہ 24.12.2012ء 11 بجی رو سے سائل / اپیلنٹ کو
ملازمت حکم پولیس بھلور کانسٹیبل نمبر 1335 سے فارغ کر دیا گیا

جناب بھائی! وجوہات اپیل ذیل عرض ہیں:

① یہ کہ سائل اپیلنٹ و دیگر تین پولیس کانسٹیبلان
کے خلاف ایک بے بنیاد مقدمہ خودداری بزرگیہ عدالت نمبر 1142

زیر دفعات 3/511/355/J-337/377 تپ مورخہ 24.12.2012ء

مقامہ حویلیاں قائم ہو کر زیر سماعت عدالت جناب ایڈووکیٹ

سینشن جج صاحب III ایبٹ آباد حوا۔ نقل FIR لف ہے۔

② یہ کہ مقدمہ مذکور کی بنیاد پر سائل اپیلنٹ

سات ماہ تک بند حوالات رکھ گیا بحوالہ فیصلہ و حکم عدالت

مورخہ 25.7.2012ء سائل / اپیلنٹ اور دیگر ملزمان کو عدالت

نے بریت فرمائی۔ نقل فیصلہ لف ہے۔

③ یہ کہ سائل / اپیلنٹ نے عدالت جاز کے فیصلہ کے

بعد ایک شوکار نوٹس کے جواب کے ہمراہ۔ نقل فیصلہ عدالت

لف کیا مگر اس کے باوجود جناب ڈسٹرکٹ پولیس آفیسر صاحب

نے سائل کو ملازمت سے برطرف کر دیا ہے۔ نقل حکم لف ہے

Advocate
Attest
[Signature]

یہ کہ بری ہونے والے مہزبان میں سے سائل / اپیلینٹ

اور زوہیب شاہ کا نیشنل کی بیک وقت پیشی ہوئی تھی۔
 افسر جاز نے زوہیب شاہ کو ملازمت پر بحال فرمایا جبکہ
 سائل / اپیلینٹ کو ملازمت سے برخواست کر دیا۔

یہ کہ عدالت نے مقدمہ فوجداری کی مکمل سماعت
 سے بعد سائل اور دیگر مہزبان کی بریت فرمائی ہے

یہ کہ مقدمہ فوجداری بے بنیاد اور خلاف حقیقت
 قائم کیا گیا تھا۔ سائل / اپیلینٹ ناکرہ گناہ ہے۔ بیگناہی کے
 باوجود سائل / اپیلینٹ نجات ماہ تک جیل کی اذیت برداشت
 کی ہے۔

اسد عاصیہ بمظہوری اپیل، حکم و فیصلہ زیر اپیل
 منسوخ فرمایا جائے سائل / اپیلینٹ کو مجہ مفاداتِ ملازمت
 رہنور کا نیشنل ملازمت پر بحال فرمایا جاوے۔

المقوم 19/9
 2012

سابقہ کا نیشنل بلال بزر 1335 - پوئیس لائن ایب آباد
 Bilal Khan

Altaf
 Ansari
 22/10/13

ANX, E 66
ORDER

P-27

This is an order on the representation of Ex-Constable Bilal No.1335 of Abbottabad District against the order of major punishment i.e. dismissal from service under Police Disciplinary Rules 1975 passed by the District Police Officer, Abbottabad vide his office OB No.292 dated 11-09-2012.


Facts leading to his punishment are that, while posted at police Line Abbottabad involved himself in case FIR No.1142 dated 24-12-2011 U/S 337-J/355/34 PPC (12 Had Zana) PS Havelian (the victim in the case was a Police Constable) followed by issuance of charge sheet & statement of allegation.

Departmental enquiry was conducted wherein the E.O proved the charges leveled against him. On the recommendation of E.O, the District Police Officer Abbottabad awarded him major punishment of dismissal from service under Police Disciplinary Rules 1975.

After receiving the appeal, the comments of DPO Abbottabad were obtained & the enquiry file, appeal & the comments of the DPO were perused.

Since the allegations, being serious in nature have been established and proved during proper departmental enquiry & the appellant had also failed to prove his innocence during departmental enquiry as well as during his personal hearing before District Police Officer Abbottabad & thus the punishment awarded to him has been found in-commensuration with the gravity of his guilt, therefore, his appeal being devoid of any legal force is hereby rejected.

Order announced.



Regional Police Officer
Hazara Region Abbottabad

No. 827670 PA Dated Abbottabad the

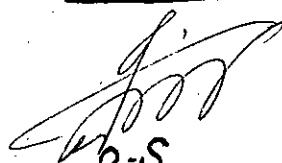
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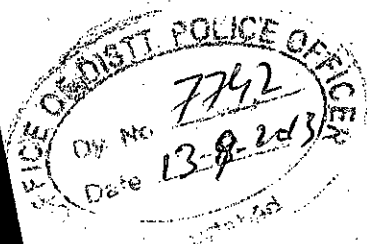
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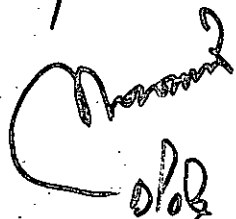
- 1) The District Police Officer, Abbottabad for information. The Service Roll alongwith Fauji Missal containing Enquiry File of the appellant are returned herewith.
- ✓ 2) Appellant concerned through District Police Officer, Abbottabad.
- 3) OS/EA Regional Police Office Abbottabad.


Regional Police Officer
Hazara Region Abbottabad

ATTESTED


6-S



SRE/04e
fu a/9ctas

0/02
12/9/13

8-5AA
HVN

(Signature)

28

CPSI No 96
30-12-2011

CHARGE SHEET

I, Muhammad Karim Khan District Police Officer Abbottabad, as Competent authority, is hereby charge you Constable Bilal No.1335 as follows:-

You Constable Bilal No.1335 while posted at Police Line nvolved in case FIR No.1142 dated 24-12-2011 u/s 337-J/355/34 (12 Had Zana) PPC PS Havelian. This amount to gross misconduct.

By the reasons of above, you appear to be guilty of misconduct under the ~~E&D rules 1973~~ ^{Rs 0-2000}, and have rendered yourself liable for major punishment. You are therefore directed to submit your written defense within seven days of the receipt of the Charge Sheet in the Enquiry Officer/ Committee, as the case may be.

Your written defense, if any should reach the enquiry officer/ Committee with in the specified report, failing which it shall be presumed that you have no defense to put in and in that case ex-prate action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed

(Signature)

District Police Officer,
Abbottabad.

(Signature)
Al Juman
21-10-13

Attested
(Signature)
DSP/ Legal
21-10-13

جواب چارج شیڈ ڈسپلنری اپیل

جناب عالی، منجانب چارج شیڈ ڈسپلنری اپیلڈ فوٹو

میں بطور سنیک پولیس میں ایب آباد لکھناتہ

2312 کو این گارڈ پولی فم ٹی، جے اطلع

2011/11/21 ای سی سی ڈی کو گولی مارا گیا ہے اس

اطلاع پر خود وہیں گیا ہاں سے لہذا میں

جی سی نمبر داری کے برائے چل گیا۔ برائے

جے بی بی فون علم کو، مہر خدفا اس وقت علیہ 1142

24/12/2011 ای سی سی ڈی 355/337-12 فرنا خان، پولیس

درج درج رہا ہے۔ تو 2011/12/30 کو ای سی سی

والیڈا گیا اور خان، پولیس میں پینڈ ہو گیا۔ جہاں سے

جے بی بی نمبر کے جوڈیشل آف ایچو ادا رہا ہے۔ میں

اس وقت میں بے گناہ ہوں جے اس من گوتے بے بنیاد

اور جے بی بی فوٹو میں ملے گیا ہے۔ غیر حاضری

حاشیہ ہے کہ میں خود ہی اجابت گولی لگے تھی وہ سے

21-10-13 ای سی سی ڈی سے ہوئی ہے۔ میرا اس وقت سے

کوئی تعلق واسطہ نہیں ہے۔ جے بی بی فوٹو سے بری الذم وار

رہے چارج شیڈ ڈسپلنری خواتین چارج

Attest
BSP/Keer

بیل بیل 335 ای سی سی ڈی میں حال بند جوڈیشل آف ایچو
Bilal Khan
21-10-13

صبا مال

رنگواران آردان کیش سپهر 1335 حال سپهر جلاله جردن
جیل جوی سپهر سرور کیش - حمزه است - دیکشن شماره کات بنامات
مهندسه

کیش سپهر شماره بالا نه رنج بیان سپهر آردان آردان
2M4 مادد پروگرام کیش - آردان فرخ 23.12 مقرر افند مقرر
کیش - کیش جیا کیش سپهر کیش - کیش افند کیش کیش
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APD
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OB - NO - 292
11 - 9 - 12

DPK/Atch

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DISCIPLINARY ACTION

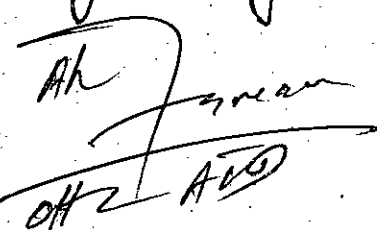
I, Muhammad Karim Khan District Police Officer Abbottabad, as Competent authority charge you Constable Bilal No.1335 from cretin omissions and commission as elaborated below which render you liable to be proceeded against departmentally.


STATEMENT OF THE ALLEGATION

You Constable Bilal No.1335 while posted at Police Line involved in case FIR No.1142 dated 24-12-2011 u/s 337-J/355/34 (12 Had Zana) PPC PS Havelian. This amount to gross misconduct.

For the purpose of scrutinizing the behavior/ conduct of said accused official with reference to the above allegations, ~~DSI Cantt~~ ^{Sattar Insp: Syf-15} is appointed as Enquiry Officer who shall in accordance with the provision of ordinance, provide reasonable opportunity of hearing to the defaulter, record his findings and make within 07 days of the receipt of this order recommendation of the punishment or other appropriate action against the defaulter officials.


District Police Officer,
Abbottabad.


AH Fozan
Offr ACO
21-10-13

Attested

DSP/ Legal
21-10-13

بعدالت صاحب سروسز ٹریڈنگ کمپنی خیر بختون فوارہ شہار

عنوان: بلبل بنام ڈی آئی جی نہارہ

منجانب: بیلکھن بیل و بیلر مقبول الرحمان

نوعیت مقدمہ: سروسز بیل

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

سید الطاف حسن شاہ رٹو وکیل بالی کورٹ اسٹریٹ کمار

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور قبول

ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز و بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراء استجارت ناش بصیغہ مفلسی کے دائر کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

بمقام: المرقوم: 07/10/2013

سید الطاف حسن شاہ

بیلکھن بیل و بیلر مقبول الرحمان

Bilal Khan

Honble Service Tribunal kpk Peshawar

1, Bilal 2, Tariq 3, Amin

Appellants

VS

D/G. Police, Hazara etc. Respdt.

f. Service appeal.

Applicati for fixatn of the above cited case
appeals at Peshawar from Abbottabad.

Respectfully sheweth:

1. That the above cited three appeals are pending before this honorable tribunal and fixed for hearing at Abbottabad on the instant date.
2. That the counsel for the appellant, due to strike, is unable to appear on the instant date and the next date of hearing at Abbottabad would be in Nov, 2014 which is too far.
3. That the appellant would irreparably suffer if the appeal are not heard earlier.

It is therefore prayed that the above cited appeals may graciously be fixed for hearing at Peshawar on the next date.

27-19/5/2014

Bilal Khan etc Appel
through Bilal Khan
Amin Khan

(Signature)

defence, therefore, he was awarded major punishment of dismissal from service vide OB No. 292 dated 11.09.2012.


2. The arrest of the petitioner is justified due to his involvement in a criminal case mentioned above by the concerned I.O after investigation he was sent to judicial lock-up and later on the case was challaned to the court of law against him including other accused.
3. In the above mentioned case against the petitioner, the Police department was not the complainant of the case therefore; the appeal against his acquittal was not filed by the department.
4. Incorrect, the petitioner was issued and served with charge sheet and summary of allegation while he was in jail on judicial remand in the above mentioned case and he accordingly submitted his written reply in this connection, which is available on record therefore, the plea of the petitioner is not tenable.
5. Incorrect, despite of denying the allegation by the petitioner, he was proved guilty for the charges leveled against him in the charge sheet and summary of allegations.
6. Incorrect, the departmental enquiry against the petitioner was under process and on its completion he was awarded major punishment of dismissal from service in accordance with law and rules.
7. Incorrect, the whole proceedings were done in accordance with law and rules and the appellant awarded all the opportunities for which he deserves.
8. The representation preferred by the appellant, to the appellate authority was considered and rejected after fulfilling all the legal procedures.
9. Incorrect, as explained above.
10. As explained above.
11. Incorrect, the departmental appeal of constable Amir was also rejected.
12. The orders of the respondents, being competent authorities and appellate authorities as well, are fully justified in accordance with law and rules.

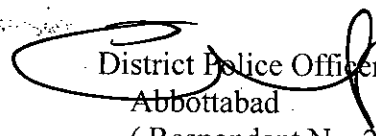
GROUND.

- A. Incorrect, the appellant has been proceeded against departmentally in accordance with law, rules as he involved himself in a criminal case which on technical grounds has failed in the court of law.
- B. Incorrect, the appellant has availed/ afforded all the opportunities during the course of departmental enquiry but he failed to produce any solid evidence in his defence.

- C. Incorrect, as explained above the appellant afforded/ availed all the opportunities for which he was legally entitled.
- D. Incorrect, the criminal case against the appellant has failed on technical grounds in the court therefore, he was proceeded against departmentally which is justified under the rules.
- E. Incorrect, as explained above.
- F. Incorrect, as explained.
- G. Incorrect, as explained in above paras, the criminal charge against the appellant has failed on technical grounds which justify the actions of the respondents.
- H. Incorrect, action following on a judicial acquittal can be taken under the rules when a criminal case has failed on technical grounds.
- I. Incorrect, the order of dismissal from service of the appellant was announced to the appellant therefore, the appellant has attached the same with his appeal before the honourable court.
- J. Incorrect, as explained above.
- K. Incorrect, as explained in above paras.
- L. Incorrect, the complainant has directly charged the appellant in the above mentioned FIR as the accused/ constable Zohaib Shah was not directly charged by the complainant in the said FIR. However, he was also proceeded against departmentally and was awarded punishment of stoppage of 03 increments.
- M. Incorrect, as explained above.
- N. Incorrect, that the order awarding and maintaining major punishment to the appellant are fully justified in the eye of law and rules therefore, the said orders are liable to be maintained.
- O. Incorrect, the departmental enquiry against the appellant was conducted in accordance with law, rules applicable to the appellate being member of a discipline force. Hence fully justified in the eye of law.

It is therefore, requested that the appeal of the appellant being devoid its legal footing may graciously be dismissed with cost.


Regional Police Officer,
Hazara Region, Abbottabad.
(Respondent No. 1)


District Police Officer,
Abbottabad
(Respondent No. 2)

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MASHI HUR
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عوربانہ گزندہ نشیہ -

صاف - صاف :

عمرنگ نقل کاہل یا اجنبی
درستی ایڈیشن
انڈرائی ایڈیشن
منٹورنگ و سول کریمنل
Bilal Khan
21-01-13

یہ سال عدلیہ کی ایڈیشن سے صوفیہ 11-9
2012
ڈسپلینری طور - جہاں منسلک ایڈیشن ریپل
ڈی آر ایف جی میں حیرت پرکے ہاں پیشہ - جو
صوفیہ 09-09 فارزہ فرما گیا ہے -
2013

یہ سال کوہ - نقل عدلیہ کی ایڈیشن میں درکار
جو عدلیہ کے بعد نقل عدلیہ میں ڈی آر ایف جی ہے
غیر ملکی عدلیہ میں عدلیہ کے فراہم فرمایا جاتا ہے

لکھنؤ ریاست میں فقہ ت مذکورہ عدلیہ کے
فراہم فرمایا جاتا ہے -

صوفیہ 10/10
2013

OK

RD

14/10/13

بہ نمان و نہ قبول الہامانائے تکتہ

Bilal Khan

DSP legal.
Please examine as per law
Chamud
14/10/13

Sir,
Copies of charge
Sheet, Statement of
allegations, Show Cause
Notice, enquiry report
and replies thereto
may kindly be ordered
to issue & issued please
10-13

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1205 /ST

Dated 29 / 7 / 2016


To

The Regional Police Officer/D.I.G,
Hazara Division Abbottabad.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 19.7.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.