


30.03.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. The Court time is over therefore, case is adjourned to 20.6.2016 before D.B.


Member
(Executive)


Chairman

20.06.2016

Appellant in person and Mr. Aziz Shah, HC alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard ~~due to~~ learned Member (Judicial) is on leave. To come up for arguments on 28.10.2016.

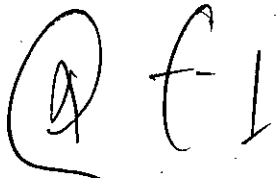

Member

28.10.2016

Counsel for the appellant and Mr. Mohammad Jan, GP for respondents present.

Vide our detailed judgment of to-day in the connected service appeal 1493/13 titled "Kaleemullah-vs- S.P Headquarter, Police Line, Peshawar and others", this appeal is also dismissed as per detailed judgment referred above. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.10.2016


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

12.11.2014

Appellant in person and Assistant Advocate General for respondents present. The Tribunal is incomplete. To come up for rejoinder along with connected appeals on 13.02.2015.



Reader

13.02.2015

Counsel for the appellant and Addl: A.G for respondents present. Rejoinder submitted. The case is assigned to D.B for final hearing/arguments alongwith connected appeals for 25.08.2015.



Chairman.

25.08.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant requested for adjournment. To come up for Arguments alongwith connected appeals on 25-1-2016



Member



Member

25.01.2016

Counsel for the appellant and Addl: AG for respondents present: Due to not availability of D.B, therefore, the case is adjourned to 30/3/16 for arguments.


Chairman

3.

17.01.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant was dismissed from service under Police and Disciplinary Rules -1975 on 20.06.2013, against which he filed departmental appeal which has not been responded within the statutory period of 90 days, hence the present appeal on 24.10.2013. 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, Notice be issued to the respondents for submission of written reply on 08.04.2014.

Appellant Deposited
Security & Process Fee
Rs. 180/- Bank
Receipt is Attached with File.



Member

4.

17.01.2014

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

P



Chairman


5.

8-4-14

The Hon'ble Bench is on tour to sweet.

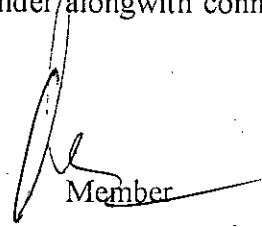
Do come up for further proceeding on

4.7.14


Reader

04.7.2014

Appellant with counsel and Mr.Riaz Ahmad, S.I(legal) on behalf of respondents with AAG present. Written reply received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder alongwith connected appeals on 12.11.2014.



Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1494/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/11/2013	<p>The appeal of Mr. Waseem Javed resubmitted today by Arbab Aziz Ahmad Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	19-11-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>17-1-2014</u>.</p> <p>The appeal of Arbab Aziz Ahmad Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

The appeal of Mr. Waseem Javed F.C No. 3757 received today i.e. on 24.10.2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Addresses of respondent Nos. 1 & 2 are incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal Rules 1974.
- 2- 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 it.
- 3- Annexures of the appeal may be attested.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 6- Copies of FIR and impugned order are illegible which may be replaced by legible/better one.
- 7- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file cover.

No. 1515 /S.T,

Dt. 24/10 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Arbab Aziz Ahmad Khan Adv. Peshawar.

سید

Re Submitted after Completion

11/11/2013

A. Au

ARBAB AZIZ Ahmad

Advocate

Peshawar

BEFORE THE CHAIRMAN SERVICES TRIBUNAL, K.P.K,
PESHAWAR.

Service Appeal No. 1494/2013

Waseem Javed(Appellant)

VERSUS

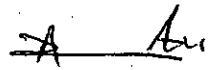
S.P. Headquarter and others.....(Respondents)

I N D E X

S.No	Description of Documents	Date	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of the parties		7
4.	Copy of F.I.R with better copy	A	8-8/A
5.	Copy of Charge Sheet and reply	B & C	9-11
6.	Copy of Final Show Cause notice and reply	D&E	12-14
7.	Copy of order dated 20/06/2013	F	15
8.	Copy of departmental appeal	G	16-18
9.	Wakalat Nama		19


Appellant
Waseem Javed

Through


Arbah Aziz Ahmad
Advocate High Court,
Peshawar.
Cell No. 0333-9139166

Dated: 07/11/2013

①

BEFORE THE CHAIRMAN SERVICES TRIBUNAL, K.P.K,
PESHAWAR.

Service Appeal No. 1494/2013

Waseem Javed DFC No. 3757

S/o Javed Khan R/o Parang, Tehsil and District
Charsadda.....(Appellant)

1516
24-10-13

VERSUS

1. S.P. Headquarter, *Police Line, Peshawar*
 2. C.C.P.O, Peshawar. *Police Line, Peshawar.*
 3. Provincial Police Officer, *Police Line C.P.O Peshawar.*
- Khyber Pakhtunkhwa, Peshawar.....(Respondents)

APPEAL UNDER SECTION 4 OF THE
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE ORDER DATED 20/06/2013 PASSED BY
RESPONDENT NO. 1, WHEREBY THE
APPELLANT HAS BEEN AWARDED THE
PUNISHMENT DISMISSAL FROM SERVICE
WITH IMMEDIATE EFFECT.

Prayer:

re-submitted to ~~407~~
and filed.

On acceptance of this appeal, the impugned order dated 20/06/2013 of the respondent No. 1 may kindly be set aside, and the appellant may kindly be order to the reinstated in service with all back benefits.

[Signature]
11/11/13

Respectfully Sheweth:

1. That the appellant was appointed as Constable in Police Department and serviced at different places unblemished record.
2. That the appellant performance was upto the mark and no chance of complaint is ever given to his seniors.
3. That unfortunately the appellant was falsely implicated in Case F.I.R No. 1057 dated 24/10/2012 u/s 17 (3) Haraba/ 412 PPC at Police Station Pararipura, in which the appellant was arrested and was released on bail by the Hon'ble Peshawar High Court, Peshawar on 25/03/2013 and thereafter the appellant joined his service. Furthermore the case is pending trial before the learned ASJ, Peshawar. (Copy of F.I.R is attached as annexure "A").
4. That formal departmental inquiry was initiated against the appellant when he was in jail, where an inquiry proceedings major punishment was recommended vide inquiry report No. 10/C-S/R dated 10/01/2013. (Copy of Charge Sheet and reply are enclosed as annexure "B" & "C").
5. That thereafter an illegal inquiry was conducted and the appellant was thereafter issued final Show Cause notice which was duly replied. (Copy of Final Show Cause notice and reply are enclosed as annexure "D" & "E").

6. That finally the appellant was awarded the punishment of dismissal from service by respondent No.1 vide order dated 20/06/2013. (Copy of order dated 20/06/2013 is enclosed as annexure "F").
7. That feeling aggrieved from the order dated 20/06/2013, the appellant filed departmental appeal before respondent No. 2, but without any fruitful result. (Copy of departmental appeal is attached as annexure "G").
8. That the appellant has not been found guilty of any offence and have never been convicted upto till now by any Court of law, therefore, the impugned order dated 20/06/2013, is against the law, facts, principles of justice on grounds inter-alia as follows:

GROUND:

- A. That the appellant is a law abiding citizen of Islamic Republic of Pakistan and is totally innocent and implication of appellant in the offence is due to ulterior motives in order to disgrace the appellant in general public.
- B. That there is no direct or indirect/ circumstantial evidence against the appellant, which could connect the appellant in the commission of alleged offence.
- C. That the complainant and eye witnesses of the case who are alleged victims of the alleged offence, appeared before the Hon'ble Peshawar High Court and sworn affidavit regarding the innocence of the appellant, furthermore,

④

categorically stated before Hon'ble Peshawar High Court, that the appellant is innocent and implicated in the case due to misunderstanding.

- D. That the act of the respondents is against the settled principles of law that no person can be punished until proved guilty by the competent Court of law.
- E. That the impugned order is illegal and void ab-initio, liable to be set aside, being passed order misapplication of law.
- F. That the case of the appellant has not been decided by any competent Court of law, and is still awaiting for trial proceeding, thus the dismissal order of the appellant by the authority is illegal and without any force.
- G. That the appellant has not been treated according to law which act of the respondents is against the fundamental rights guaranteed by the Constitution.
- H. That no proper inquiry was conducted to find out the true facts.
- I. That the appellant was not provided the opportunity of personal hearing.
- J. That the appellant has 04 years of service with unblemished service record.

(5)

K. That appellant seeks permission of this august Tribunal to relay on additional grounds at the hearing of titled appeal.

It is, therefore, humbly prayed that on acceptance of this appeal, the impugned order 20/06/2013 may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

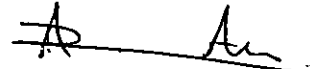
Or

Any other relief which this august Tribunal deems appropriate may kindly be awarded to meet the ends of justice.



Appellant
Waseem Javed

Through



Arbab Aziz Ahmad
Advocate High Court,
Peshawar.

Dated: 07/11/2013

(6)

BEFORE THE CHAIRMAN SERVICES TRIBUNAL, K.P.K,
PESHAWAR.

Service Appeal No. _____/2013

Waseem Javed(Appellant)

VERSUS

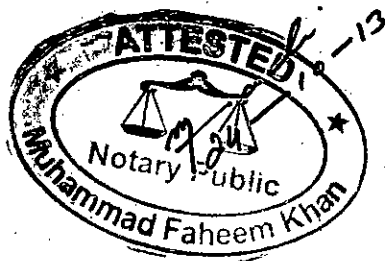
S.P. Headquarter and others.....(Respondents)

AFFIDAVIT

I, **Arbab Aziz Ahmad**, Advocate Peshawar, as per instructions of my client, do hereby solemnly affirm and declare that all the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE



7

BEFORE THE CHAIRMAN SERVICES TRIBUNAL, K.P.K,
PESHAWAR.

Service Appeal No. _____/2013

Waseem Javed(Appellant)

VERSUS

S.P. Headquarter and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Waseem Javed DFC No. 3757
S/o Javed Khan R/o Parang, Tehsil and District Charsadda.

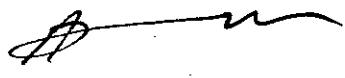
RESPONDENTS:

1. S.P. Headquarter,
2. C.C.P.P, Peshawar.
3. Provincial Police Officer,
4. Khyber Pakhtunkhwa, Peshawar.

Appellant

Through

Dated: 24/10/2013


Arbab Aziz Ahmad
Advocate High Court,
Peshawar.

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ابتدائی اطلاع بخروج کر و
 ری کا نہ ہر شہر کی تعمیر و ترقی کے لئے اہم اور مفید ہے۔
 دوران بحالی کے دوران میں - زمینوں میں
 جی اے ایف کے ذریعہ زمینوں کی خریداری کی جا رہی ہے۔
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 زمینوں کی خریداری کے لئے زمینوں کی خریداری کی جا رہی ہے۔

تاریخ وقت اور پورٹ	15-12-24 وقت 18:15 بجے
نام و کنونٹ وہ بندہ وقت	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ
پتہ تحریر	17 (3) ص 17
ذمہ دار	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ
نام و کنونٹ وہ بندہ وقت	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ
پتہ تحریر	17 (3) ص 17
ذمہ دار	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ
نام و کنونٹ وہ بندہ وقت	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ
پتہ تحریر	17 (3) ص 17
ذمہ دار	افغانی وفد کے ساتھ ساتھ افغانی وفد کے ساتھ ساتھ

1057 نمبر

تاریخ وقت 15:45 سے 24:15 بجے

یہ نہ پھر لیا

مجلس

ACCEPTED
 INVESTED

ابتدائی اطلاع بخروج کر و

(Better copy)

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No. 3221

Wazir Khan (D.F.C.)

Wazir Khan

1. That the appellant is aggrieved by the decision of the court

of

2. That the appellant is aggrieved by the decision of the court
It is therefore respectfully prayed that:

1. That the appellant's appeal may be allowed and the case

may be set aside and the case may be remanded to the court for trial

2. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

3. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

4. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

5. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

6. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

7. That the appellant may be granted such other relief as may be deemed fit by the court

and the costs of the appeal.

8. That the appellant may be granted such other relief as may be deemed fit by the court

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(14)

ORDER

This office order relates to the disposal of formal compartmental enquiry against S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175 & FC Kaleem No.5174 of CCP, Peshawar on the allegations/charges of involvement in a criminal case that:

"On 24.10.2012 they along with Inspector Yousaf Raza of IB Department have been looted three laces Saudi Riyals from one Arshid Ali s/o Mumtaz Ali r/o kas koroona Shamsi Road Mardan at Ring Road near Motor Way Enter Change PS Phari Pura. A case to this effect was registered against them vide FIR No.1057 dated 24.10.2012 u/s 17 (3) Haraba/412 PPC/13-AO/7 ATA PS Phari Pura."

In this connection, they were placed under suspension vide O.B No.4088 dated 14.11.2012. Formal departmental enquiry was initiated. DSP Civil Secretariat & RI Police Lines Peshawar was appointed as Enquiry Officer. They conducted the enquiry proceedings & submitted reports/finding that the accused officials found guilty of the misconduct and tarnished the image of the whole Police Force in the eyes of general public. The E.Os further recommended that major punishment may be awarded to all accused officials vides Enquiry Report No.10/C-S/R dated 10.01.2013.

Upon the finding of E.Os, they were issued final show cause notice and served upon the accused officials through Jail authorities vide letter No.210 dated 15.01.2013 to which they received & replied.

Upon which the opinion of DSP Legal was sought. He opined that the accused officials have committed gross misconduct by looting/snatching a huge amount from innocent citizen. Their act has brought bad name to the Police Department their departmental enquiry if concluded in light of recommendation of Enquiry committee may be disposed off by awarding them major punishment from the date when they committed offence.

In the light of recommendations of E.Os & DSP Legal opinion and other material available on record, it has been proved beyond any shadow of doubt that they are guilty of the charges and not deserve an iota of leniency, as he defaming the image of Police Department in the eyes of general public. Therefore, S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175 & FC Kaleem No.5174 are hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

ATTESTED
[Signature]
ACCEPTED

SR: SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

O.B No. 2216 dated 20-11- /2013
No. 2256-64/PA, dated Peshawar, the 20/11/2013

- Copy forwarded for information & n/action to:
1. The Capital City Police Officer, Peshawar.
 3. The SSP/Operation Peshawar.
 5. DSP/Hqs, Peshawar.
 6. Pay Officer/R.I Police Lines Peshawar.
 7. OASI, CRC & FMC along-with complete departmental file.
 8. Official concerned.

(S)

Annexure "C"

BEFORE THE CHIEF CAPITAL CITY POLICE OFFICER,
PESHAWAR.

Departmental Appeal No. _____ of 2013

Waseem Javed DFC No. 3757 Son of Javed Khan R/o Prang
District Charsadda.

..... Appellant

VERSUS

SR. Superintendent of Police, Head Quarters, Peshawar.
..... Respondents

DEPARTMENTAL APPEAL AGAINST THE
ORDER DATED 20/06/2013 PASSED BY THE
SR. SUPERINTENDENT OF POLICE, HEAD
QUARTERS, PESHAWAR, WHEREBY I HAVE
BEEN DISMISSED FROM SERVICE.

Respected Sir,

The appellant submits as under:

- 1) That appellant was appointed as constable in Police Department dated 11-4-2009, served at different places with unblemished record.
- 2) That the appellant performance was upto the mark and no chance of complaint is ever given to his seniors.

ATTESTED
[Signature]
ACCEPTED

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3) That unfortunately the appellant was falsely implicated in Case FIR No.1057 dated 24/10/2012 U/S 17 (3) Harab/412 PPC at Police Station Paharipura, in which the appellant was arrested and was released on bail by the Hon'ble Peshawar High Court, Peshawar on 25/03/2013 and thereafter the appellant joined his service.

4) That the appellant has not been found guilty of any offence and have never ^{been} convicted up till now by any Court of law, therefore, the impugned order dated 20/06/2013, is against the law, facts, principle of justice on grounds inter-alia as follows:

ATTESTED
A. S. An
ACCEPTED

Grounds:

- a) That the appellant is a law abiding citizen of Islamic Republic of Pakistan and is totally innocent and implication of appellant in the offence is due to ulterior motives in order to disgrace ^{the} appellant in general public.
- b) That there is no direct or indirect/ circumstantial evidence against the appellant, which could connect the appellant in the commission of alleged offence.
- c) That the complainant and eye witnesses of the case who are also alleged victims of the alleged offence, appeared before the Hon'ble Peshawar

High Court and sworn affidavit regarding the innocence of the appellant, ~~and~~ furthermore, categorically stated before Hon'ble Peshawar High Court, that the appellant is innocent and implicated in the case due to misunderstanding.

- d) That the impugned order is illegal and void ab-initio.
- e) That the case of the appellant has not been decided by any competent Court of law, and is still awaiting for trial proceeding, thus the dismissal order of the appellant by the authority is illegal and without any force.

It is, therefore, humbly prayed that on acceptance of this departmental appeal the impugned order may kindly be set aside and the appellant may kindly be reinstated in service with all back benefits.

Dated 26/06/2013

Attested
~~AEK~~
Yours Sincerely, *Accepted*

Waseem Javed
Waseem Javed
DFC No.3757

03028810750

وکالت نامہ

18

بعدالت جناب سروس ٹریبونل ضلع بہاولپور

وسیم جاوید بنام اسپین پی بی ڈی کوٹلیٹر وغیرہ

مخانب اپڈائنٹ دعویٰ یا جرم 13A0/412/17C3) ضرانہ

تھانہ ہارری پورہ ایف آئی آر 1057 تاریخ 24-10-12

باعث تحریر آنکہ مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیرونی وجوہات ہی بمقام سروس

کیلے ارباب عزیز احمد خان ایڈووکیٹ ہائی کورٹ پشاور کو بدیں شرط وکیل مقرر کیا ہے۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارنے جانے مقدمہ وکیل صاحب کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر من مظهر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرف ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ ساعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد ثالثی و راضی نامہ کو فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختارانہ بیوری کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا۔ یا مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہونگے۔ جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا۔ کہ مقدمہ کی بیرونی نہ کریں۔ اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔
مورخہ _____ مضمون مختار نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے۔ اور منظور ہے۔

Attised

Acceptet

by Mr

Arbab AZIZ Ahmad

Advocate

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No.1494/2013.

Waseem Javed Ex-Constable No. 3757.....Appellant.

VERSUS.

- 1- Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2- Capital City Police Officer, Peshawar.
- 3- Superintendent of Police Head quarter,
Peshawar.....Respondents.

Reply for behalf of Respondents 1, 2 and 3.

PRELIMINARY OBJECTIONS.

- 1: That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.

FACTS:-

- 1- Para No. 1 pertains to record, hence needs no comments.
- 2- Para No. 2 is for the appellant to prove.
- 3- Para No.3 pertain to honorable court, hence needs no comments.
- 4- Pertains to record. However the department initiated departmental enquiry. The enquiry officer fulfilled all the codal formalities and was awarded the major punishment of dismissal from service. (Enquiry report is annexed as annexure A).
- 5- Para No. 5 is totally incorrect and baseless. A proper departmental enquiry was conducted by SP Headquarter. The appellant was properly served with show cause notices which were duly replied by the appellant. As the reply of the appellant was not satisfactory, hence, he was awarded major punishment of dismissal from service.
- 6- As a proper enquiry conducted all codal formalities are fulfilled the appellant proved guilty and was awarded major penalty according to law.

- 7- Para No 7 correct to the extent that departmental appeal was filed by the appellant but was rejected\filed after due consideration because the punishment order passed by the competent authority, as per the law and rules. (order annexed as B).
- 8- Para No. 8 is incorrect and baseless. The appellant was found guilty of snatching\looting a huge amount from innocent citizens. A case vide FIR No 1057 dated 24.10.2012 U\S 17(3) Haraba 412 PPC, 13-AO, 7ATA PS Phari Pura was registered against him. A proper enquiry was conducted by SP Headquarter. Further proceeding in criminal court and departmental proceeding are two different proceedings and the appellant found guilty of misconduct. The enquiry officer concluded that the appellant tarnished the image of the police department, thus he was not deserve any leniency. Hence he was awarded major punishment of dismissal from service as per the law and rules.

GROUND:-

- A- Incorrect. The appellant was found guilty of looting three lac Saudi Riyals and an amount of one lac Pakistani rupees from one Mr. Arshad ali s/o Mumtaz ali R/o Kas Koroona Shamsi road Mardan. Hence the punishment awarded was legal and according to law/rules.
- B- Incorrect. Proper enquiry was conducted against the appellant. A case vide FIR No 1057 dated 14.10.2012 U/S 17 (3) Haraba 412 PPC, 13-AO, 7ATA was registered against him. In departmental enquiry appellant was found guilty.
- C- Incorrect. The appellant committed a gross misconduct and he defamed the image of police department in the eyes of general public.
- D- Incorrect. The appellant was proved guilty after conducting a proper enquiry against him.
- E- Incorrect. The order of major punishment was passed by the competent authority after conclusion of a denove enquiry. Hence the order passed by the competent authority is legal and liable to be up held.
- F- Incorrect. Para already replied in preceding paras. However criminal proceedings in court of law and departmental proceedings are different and can go side by side.

- G- Incorrect. The appellant was treated as per the law/rules. No injustice was done to him.
- H- Incorrect. Proper enquiry was conducted by the enquiry officer. After conclusion of the enquiry, he was found guilty and thus was awarded major punishment.
- I- Incorrect. The appellant was served with show cause notice from time to time which he replied. But his reply was not satisfactory, hence he was awarded major punishment.
- J- No comments.
- K- That the respondents also seek permission of this honorable tribunal to raise additional grounds at the time of arguments.

PRAYER.

Keeping in view the above facts, it is therefore prayed that the subject appeal may kindly be dismissed.



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



**Capital City Police Officer,
Peshawar.**



**Superintendent of Police,
HQrs:, Peshawar.**

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

Service Appeal No.1494/2013.

Kaleem Ullah Ex-Constable No.3757.....Appellant.


VERSUS.


1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police H/Q, Peshawar.

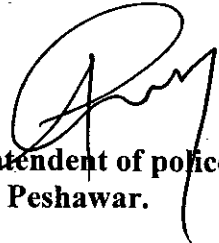
.....Respondents.

AFFIDAVIT.

We respondents 1 to 3 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 Honorable Tribunal.


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


**Capital City Police Officer,
Peshawar.**


**Superintendent of police,H/Q
Peshawar.**

ORDER

This office order relates to the disposal of formal departmental enquiry against S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175 & FC Kaleem No.5174 of CCP, Peshawar on the allegations/charges of involvement in a criminal case that:

"On 24.10.2012 they along with Inspector Yousaf Raza of IB Department have been looted three laces Saudi Riyals from one Arshid Ali s/o Mumtaz Ali r/o kas koroona Shamsi Road Mardan at Ring Road near Motor Way Enter Change PS Phari Pura. A case to this effect was registered against them vide FIR No.1057 dated 24.10.2012 u/s 17 (3) Haraba/412 PPC/13-AO/7 ATA PS Phari Pura."

In this connection, they were placed under suspension vide O.B No.4088 dated 14.11.2012. Formal departmental enquiry was initiated. DSP Civil Secretariat & RI Police Lines Peshawar was appointed as Enquiry Officer. They conducted the enquiry proceedings & submitted reports/finding that the accused officials found guilty of the misconduct and tarnished the image of the whole Police Force in the eyes of general public. The E.Os further recommended that major punishment may be awarded to all accused officials vides Enquiry Report No.10/C-S/R dated 10.01.2013.

Upon the finding of E.Os, they were issued final show cause notice and served upon the accused officials through Jail authorities vide letter No.210 dated 15.01.2013 to which they received & replied.

Upon which the opinion of DSP Legal was sought. He opined that the accused officials have committed gross misconduct by looting/snatching a huge amount from innocent citizen. Their act has brought bad name to the Police Department their departmental enquiry if concluded in light of commendation of Enquiry committee may be disposed off by awarding them major punishment from the date when they committed offence.

In the light of recommendations of E.Os & DSP Legal opinion and other material available on record, it has been proved beyond any shadow of doubt that they are guilty of the charges and not deserve an iota of leniency, as he defaming the image of Police Department in the eyes of general public. Therefore, S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175 & FC Kaleem No.5174 are hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.

E.C.C.
(98)


SR: SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

O.B No. 2216 /dated 20-6- /2013
No. 2256-64PA, dated Peshawar, the 20/6/2013

Copy forwarded for information & n/action to:

1. The Capital City Police Officer, Peshawar.
3. The SSP/Operation Peshawar.
5. DSP/Hqrs, Peshawar.
6. Pay Officer/R.I Police Lines Peshawar.
7. OASI, CRC & FMC along-with complete departmental file.
8. Official concerned.

SP 192 is Forwarded folder/Dispatch order

Handwritten notes and signatures at the bottom of the page, including a signature that appears to be 'S/ASI' and some illegible text.

(53)

ENQUIRY REPORT AGAINST

1-S/ASI NOOR ISLAM NO.1436, 2) DFC WASEEM NO. 3757, 3)
KALEEMULLAH5174 AND 4) SHEHZAD NO.5175.

Sir,

Facts leading to the instant departmental enquiry against the police officers/officials named above are that on 24.10.2012 complainant Arshad Ali s/o Mumtaz Hussain r/o Mardan in accompany with Taimur s/o Abdul Ghafoor and Zubair Shah s/o Amir Mohammad r/o Kass Koroona Mardan came to Police Station Pahari Pura and reported that they deal in money Exchanger. They left Mardan for Peshawar in their Motor Car bearing No.7583/IDJ Corolla Model 1998-99 white colour in order to Change Foreigner Currency into Pakistani Currency, as they crossed Motorway Toll Plaza, they saw a Pick up white colour standing on road side at motor way wherein 07 persons out of some were in Police uniform and some were in plain clothes, signaled them to stop, but they ignored the signal and continued crossing their way to Peshawar. They chased us and signaled us with lights and at last we were intercepted by them near Ring Road in the limits of Police Station Paharipura. They in aggressive mode asked us why they did not comply with the signal to stop and pull down us from our vehicle and took us towards Wapda colony at Nowshera. They searched us and snatched 03 lacs Saudi Riyal, One Lac Pakistani rupees and one Nokia SIM No.0300-5958076 from his (Complainant), 70,000 Saudi Riyal, 7250 UAE Darham, 509 Qatar Riyal and mobile Cell No.0312-8028181 from Taimur and one Mobile Cell No.0301-8303324 from Zubair Shah. Beside they also snatched Motor Car No.7583/IDJ, 30 bore pistol along-with license copy lying in motor car. They threatened us of dire consequences in case of reporting the matter to any and went away. The complainant added that they can identify the accused on appearance. As such on the report of complainant a criminal case vide FIR No.1057 dated 24.10.2012 u/s 17(3)/412/13-AO/ 7-ATA was registered in Police Station Paharipura against unknown accused.

As the case was of serious nature and recovery of stolen property and arrest of accused was a serious challenge for the local police Peshawar, therefore an Investigation Team comprising of the following Police Officers was constituted to trace the real culprits and recover the stolen property:-

- 1- Shafeeullah Khan DSP/Investigation City-II Peshawar
- 2- Sub Inspector Zahid Alam O.I./PS Paharipura.
- 3- Sub Inspector Zakir Khan I.O PS. Paripura.

The Investigation Team was assigned the task of recovery of stolen property and arrest of real accused by the high ups. The Investigation Team started their sincere efforts to work out the task assigned to them. Subsequently after taking painstaking step the Investigation Team succeeded in digging out the

real position of the case and traced the Govt. vehicle bearing No.A-1103 Peshawar which was used in the commission of offence. The Team also arrested accused Shahzad Raheem, Waseem Javaid, Kaleemullah, Noor Islam and Syed Yousaf Raza being suspected in the above criminal case. 02 days Police Custody was granted by the Court of Law for their interrogation. During the course of interrogation the above named accused were disclosed as member of the Police Force. During the course of interrogation following stolen property recovered from the accused as noted against each their name:-

- 1- S/ASI Noor Islam = Rs.747000/- Pakistani currency, 4800 Saudi Riyal, one Kalashnikov No.386564103236 along-with 15 cartridges of 7.62 bore & one 9-MM Pistol No.1193280 along-with 28 cartridges.
- 2-Driver Wasim Javed = 5,50,000/- Pakistani Currency
- 3-FC Kaleemullah = 4,78,000/- Pakistani Currency.
- 4-FC Shehzad Raheem = 19,500 Saudi Riyal and
- 5-IB Insp: Yousaf Raza = 10,000/- Saudi Riyal, 500 Qatar Riyal, 260 Darham UAE, & Rs.29500/-

All the accused were remanded to Central Jail Peshawar on expiry of their custody. The accused during identification parade at Central Jail Peshawar were identified by the complainant to be the same by whom they were intercepted and their amount was looted. All the recovered articles were taken into possession by Police under the law.

As the accused were reported to be members of the Discipline Force and their act was amounted to a gross misconduct on their part, therefore, Summary of Allegation and Charge Sheet were issued to them and an Enquiry Committee consisting of the under-signed was constituted for conducting proper enquiry into the allegation against the defaulters.

To ascertain the factual position of the case, copy of the Charge Sheet & Summary of Allegation was served upon the defaulter officials through Jail Authorities as they were behind the bars at Central Prisons Peshawar with the directions to submit their written reply of the charge sheet within stipulated period.

S/ASI Noor Islam submitted his written reply stating therein that he has falsely been charged in the afore-said mentioned criminal case. He added that the case registered against him is false and concocted one. He denied the allegations leveled against him and requested that the criminal case registered against him is subjudice before the Court therefore, the instant departmental enquiry may be kept pending till the final decision of the court.

Reply of the constable Shehzad Raheem s/o Rahimullah r/o University Town Peshawar was also received. He deposed that he has been falsely

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charged in the above case. He further added that the case registered is frivolous and concocted one. He also requested for keep pending the departmental enquiry till the final order of the court as the case is pending in the court and has not yet been decided.

Similarly reply of the defaulter constable Kaleemullah was also received, which was thoroughly perused. He also narrated that same story as mentioned in the statement of his co-accused mentioned above.

Reply of the defaulter driver constable Waseem No.3757 has not yet been received inspite of the service of charge sheet upon him through Jail Authorities which speaks that he is deliberately avoiding to join proceeding of the departmental enquiry and reluctant to defend himself.

S.I Zahid Alam O.I.I PS Paharipura was summoned and his statement was recorded who in his statement deposed that he was present in Police Station when the matter was reported by the complainant in Police Station. He added that during the course of investigation he arrested the above suspects and on their pointation, stolen property as mentioned above were recovered from their possession. He added that the defaulter officials mentioned above are the real culprits as they were denitrified by the complainant during identification parade.

Similarly S.I Zakir Khan I.O was also summoned and his statement was recorded he also supported the statement of the S.I Zahid Alam Khan. He added all the recovery of stolen property was made in his presence which were taken into custody as per law and he has affixed his signature over the recovery memo.

The under-signed also summoned complainant Arshad Ali and his companion i.e. Taimur and Zubair Shah and their statements were recorded. They in their statements narrated the same story as explained in the above brief back ground of the case. The complainant & Taimur added that they identified the accused, Driver FC Waseem Javaid, FC Kaleemullah, Noor Islam S/ASI & Shahzad Raheem, and Syed Yousaf Raza while Zubair only identified Noor Islam and Shahzad Raheem during identification parade.

The complainant, eye witnesses and other relevant persons were called, they all along-with the under-signed went to the Jail. The accused were given full

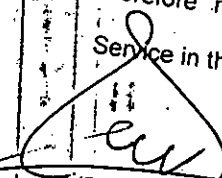
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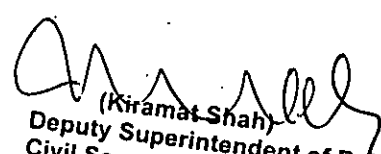
opportunity to cross examine. The procedure was completed in the presence of Jail Authorities.

No 20-E-CB
6-2-2013

To sum up the enquiry proceedings, the under-signed after going through the material available on record have found the defaulter officials guilty of the misconduct. Being member of Discipline Force they, by committing such heinous offence/gross misconduct have tarnished the image of the whole Police Force in the eyes of general public.

In view of the above, it is suggested that retention of such black sheep in the Discipline Force would definitely be pre-judicial to the public safety. They are therefore recommended for award of major punishment of Dismissal from Service in the best interest general public.


(Tayyab Jan)
R.I
Police Lines, Peshawar.
10-1-2013


(Kiramat Shah)
Deputy Superintendent of Police,
Civil Secretariat Peshawar.
10-1-2013

W/SP-AOM

It approved They may issue
final show cause notices
or otherwise. PA
11/1/13

Issue final
show cause
notice.

3/8/5

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FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve you S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175, & FC Kaleem No. 5174 of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in Police Disciplinary Rules 1975 of the said Ordinance.

✓ "It has been reported that you S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175, & FC Kaleem No. 5174 while posted at Police Lines, Peshawar along with Inspector Yousaf Raza of IB department have been looted three laces Saudi Riyals from one Arshid Ali s/o Mumtaz Ali r/o Kas Koroona Shamsi Road Mardan at Ring Road near Motor Way Enter Change PS Phari Pura. A case to this effect was registered against you vide FIR No.1057 dated 24.10.2012 u/s 17(3) Harabā/412 PPC/13-AO/7 ATA PS Phari Pura. This amounts to gross misconduct on your part and is against the discipline of the force."

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Disciplinary Rules 1975 for absence willfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parate action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 1025 /PA, SP/HQrs: dated Peshawar the 16/11 /2013.

Copy to official concerned

allegation

(25)

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority hereby, charge that S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175, & FC Kaleem No. 5174 of Capital City Police Peshawar with the following irregularities.

"It has been reported that you S/ASI Noor Islam No.1436, DFC Waseem No.3757, FC Shehzad No.5175, & FC Kaleem No. 5174 while posted at Police Lines, Peshawar along with Inspector Yousaf Raza of IB department have been looted three ~~lacs~~ Saudi Riyals from one Arshid Ali s/o Mumtaz Ali r/o Kas Korobas Samsi Road Mardan at Ring Road near Motor Way Enter Charge ~~PS Peshawar~~ Pura. A case to this effect was registered against you vide ~~FIR No. 1057~~ dated 24.10.2012 u/s 17(3) Haraba/412 PPC/13-AO/7 ATA ~~PS Peshawar~~ Pura. This amounts to gross misconduct on your part and is 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 you 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.

[Signature]
SUPERINTENDENT OF POLICE,
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INFORMATION REPORT

Various reports have been received from various sources that on 24-10-2012 unknown dacoits in Police uniform and plain clothes have looted one Arshad Ali S/O Mumtaz Ali r/o Kas Koroona Shamsi Road Mardan at Ring Road near Motor Way Enter Change Police Station Pahari Pura and had snatched away about 03 L.accs of Seudi Rivals from his possession. Later on a case U/S 17(3) Haraba was registered on the report of the above mentioned complainant Arshad Ali vide FIR No.1057, dated 24-10-2012 Police Station Pahari Pur against unknown accused. In this connection the local Police conducted raids and arrested Noor Islam ASI Police Lines Peshawar, Waseem Police Driver, Constable Shahzad, Constable Kalim and Yousaf Roza Inspector Intelligence Bureau. They were produced before the court of Sher Aziz Khan Judicial Magistrate for obtaining Police custody on 30-10-12. The Judicial Magistrate has granted two days Police custody in favour of the accused.

C.C.P.O. Sells.
Case be investigated
on said legal findings
& challenged accordingly.
Hold dept Enquiry also.
Mak
P.P.O. WPK
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PA. / SSP Jm.
In dept. proceedings. Jy
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Office of the PPO NWFP Pesh:
(Secret Branch)
By No. S/..... 23378/12
Dated 02-11-2012

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