


22.06.2023

Appellant in person present. Muhammad Jan, District Attorney for the respondents present.

Learned Member (Executive) Ms. Fareeha Paul is on leave, therefore, bench is incomplete. To come up for arguments on 16.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
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Peshawar

Nacem Amin

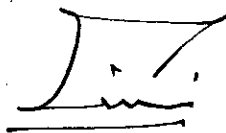

(Salah-ud-Din)
Member (J)

08th Mar, 2023

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

2. Learned AAG on behalf of the respondents did not controvert the contention of the learned counsel for petitioner. Instant application is for restoration of Appeal No.1487/2019 dismissed in default on 08.12.2022 which is well within time. Considering the contention and in the interest of justice, instant service appeal is restored to its original number. To come up for arguments 19.04.2023 before D.B. PP given to the parties.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 8th day of March, 2023.*



(Salah Ud Din)
Member (J)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

19th April, 2023

1. Counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. Advocate General for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Last opportunity granted. To come up for arguments on 22.06.2023 before the D.B. P.P given to the parties.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 729/2022

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.12.2022	<p>The application for restoration of Appeal No. 986/2018 submitted today by Mr. Yasir Saleem Advocate. It is fixed for hearing before Division Bench at Peshawar on <u>8.3.2023</u>. Original file be requisitioned. Notices be issued to applicant and his counsel for the date fixed.</p>

Noted by Court
CP
21/12/23

SCANNED
KPST
Peshawar

By the order of Chairman

[Signature]
REGISTRAR

08th Dec 2022

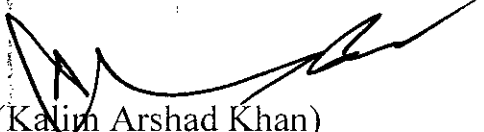
1. Nobody is present on behalf of the appellant. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG for respondents present.

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

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 8th day of December, 2022.*

SCANNED
Peshawar

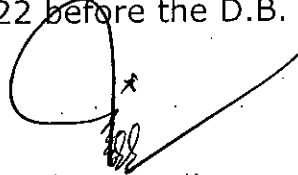

(Fareeha Paul)
Member(E)


(Kalim Arshad Khan)
Chairman

15.09.2022

Appellant alongwith his counsel Mr. Yasir Saleem, Advocate present and submitted fresh Wakalatnama, which is placed on file. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant stated at the bar that he has been newly engaged in the instant appeal and has not gone through the record, therefore, an adjournment may be granted. Adjourned. To come up for arguments on 18.10.2022 before the D.B.



(Mian Muhammad)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

18.10.2022

Junior to counsel for appellant present.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel for appellant is not available today. Adjourned. To come up for arguments on 08.12.2022 before D.B.



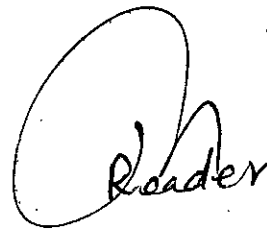
(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

7-02-2022

Due to retirement of
the Honorable Chairman the case
is adjourned to come up for the
same as before on 31-5-2022



Reader


31.05.2022

Junior to counsel for the appellant present.

Muhammad Adeel Butt, learned Additional Advocate
General alongwith Abdul Waheed Superintendent for
respondents present.

Former requested for adjournment as senior counsel is
not available today. Adjourned. To come up for arguments on
20.07.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

20.07.2022

Appellant in person present.

Muhammad Adeel Butt, learned Additional Advocate
General alongwith Abdul Mateen Superintendent for
respondents present.

Former made a request for adjournment as his counsel
has gone to Saudi Arabia for performance of Hajj. Adjourned.
To come up for arguments on 15.09.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

15.07.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional Advocate General for respondents present.

Case was fixed for arguments in pursuance to the direction given on 01.04.2021 however neither comments have been filed nor any request was made for extension of time. Learned A.A.G made request for extension of last chance; granted with direction to furnish reply in office within 10 days. In case the respondents failed to submit comments within further extended stipulated time from today, they shall have to seek extension of time through written application citing sufficient reasons. Otherwise, their right for submission of written reply/comments shall stand ceased. To come up for arguments on 25.11.2021 before D.B.



(Rozina Rehman)
Member (J)

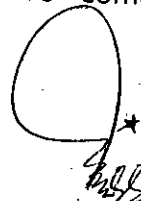


Chairman

25.11.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Abdul Mateen, Supdt for respondents present.

Representative of the respondents submitted written reply/comments which is placed on file. A copy of the same is handed over to the appellant. Adjourned. To come up for arguments on 07.02.2022 before D.B.



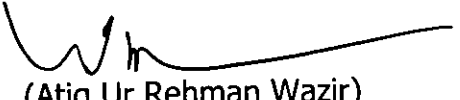
(MIAN MUHAMMAD)
MEMBER (E)



01.04.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Abdul Mateen, Superintendent for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondents requested for time to submit reply/comments despite last chance, therefore, the appeal in hand is posted to D.B for arguments on 15.07.2021.


(Atiq Ur Rehman Wazir)
Member (E)

~~Appellant present with counsel~~

~~Muhammad Azeem Khan learned Additional Advocate General for~~

~~respondents present~~

~~Case was fixed for arguments in pursuance of the direction of the court dated 04/04/2021. The appellant's representative had filed a notice for the hearing on 02/04/2021. The respondent's representative requested for extension of time to file reply. The court directed the respondent to furnish reply in office within 10 days. The appellant's representative to file a copy of the reply within further extension of 10 days from the date of the order. The respondent's representative has filed an application for extension of time to file reply. The court directed for submission of the reply/comments by the respondent on 15/07/2021.~~

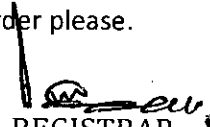
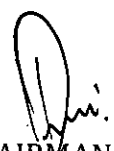


~~(Atiq Ur Rehman Wazir)
Member (E)~~

~~Signature~~

FORM OF ORDER SHEET

Court of _____

Case No.- 1487/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/11/2019	<p>The appeal of Mr. Zabita Khan presented today by Mr. Mukhtiar Ahmad Maneri Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 5/11/19</p>
2-	11/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/12/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
13.12.2019		<p>Appellant in person present and requested for adjournment on the ground that his counsel is not available today due to strike of the bar. Adjourned to 27.01.2020 for preliminary hearing before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
27.01.2020		<p>Appellant absent. Learned counsel for the appellant absent. Due to general strike of the bar, on call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for preliminary hearing on 12.03.2020 before S.B. Appellant be put to notice for the date fixed.</p> <p style="text-align: right;"> Member</p>

SCANNED
Pe

12.03.2020

Appellant with counsel present. Preliminary arguments heard.

The appellant has filed the present service appeal against the order dated 19.06.2019 whereby he was awarded departmental punishment of reversion to lower grade.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 23.04.2020 before S.B.

21/11/2020


Member

23.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.


Reader

20.07.2020

Appellant himself is present and submitted an application for permission to deposit security fee.

Application is accepted. The appellant is allowed to deposit the security and process fee within three working days from today. After the requisite deposit notices be issued to the respondents for submission of reply/comments on 07.09.2020 before S.B.

Appellant Deposited
Security & Process Fee

20/7/20

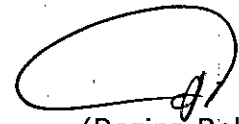
(MUHAMMAD JAMAL KHAN)
MEMBER

22.12.2020

Appellant present in person.

Kabir Ullah Khattak learned Additional Advocate General alongwith Abdul Matin Superintendent for respondents present.

Written reply was not submitted. Representative of respondents seeks time for reply/comments. Opportunity is granted. To come up for written reply/comments on 04.02.2021 before S.B.



(Rozina Rehman)
Member (J)

04.02.2021

Junior to counsel for the appellant and Addl. AG alongwith Abdul Mateen, Superintendent for the respondents present.

Representative of the respondents seeks further time to furnish the requisite reply. Last opportunity is granted to the respondents to furnish the requisite reply/comments on 01.04.2021 before S.B.



Chairman

07.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Abdul Mateen, Superintendent for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments of the respondents. Adjourned to 29.10.2020 on which date the requisite reply/comments shall positively be furnished.




Chairman

29.10.2020

Appellant present in person.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Abdul Mateen Superintendent for respondents present.

Written reply on behalf of respondents was not submitted. Representative of respondents seeks time to furnish written reply/comments; granted. To come up for written reply/comments on 22.12.2020 before S.B.



(Rozina Rehman)
Member (J)

IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No 1487 /2019

Zabita Khan.....Appellant

Versus

District & Sessions Judge, Nowshera

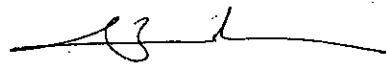
& Another.....Respondents

I N D E X

S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1	Memo of Appeal		1-4
2	Affidavit in support of Appeal		5
3	Addresses of the parties		6
4	Copy of Confessional statement	A	7-11
5	Copies charge sheet / statement of allegations, reply, inquiry report, show cause Notice, reply to show cause notice, statements, other necessary documents	B	12-118
6	Copy of departmental appeal	C	119-120
7	Copy of notification dated 19/06/2019	D	121
8	Wakalatnama.		122

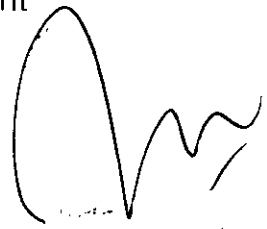
Peshawar.

Dated:- 04-Nov-19



Appellant

Through:



MUKHTAR AHMAD MANERI
Advocate High Court
Office # 24-A, Nasir Mansion,
2-Railway Road, Shoba Bazaar,
Peshawar. Ph: Off: 091-2214385
Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No 1487 /2019

Khyber Pakhtunkhwa
Service Tribunal

Zabita Khan, S/o Khan Muhammad,
R/o Khudrazi, Mohallah Samandar Gari,
presently Reader CJ-VI, District Nowshera

Diary No. 1558

Dated 05/11/2019
Appellant

Versus.

1. District & Session Judge, Nowshera.
2. Registrar, Peshawar High Court, Peshawar.

Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 19/06/2019 WHEREBY MAJOR PENALTY WAS IMPOSED ON THE APPELLANT IN TERMS (I) REVERSION TO LOWER GRADE I.E. DEMOTED FROM THE SCALE OF SENIOR CLARK (BPS-14) TO JUNIOR CLARK (BPS-11), WHICH WILL OPERATE FOR THREE YEARS, (II) DURING THIS PERIOD THE APPELLANT WILL NOT BE ENTITLED FOR ANY INCREMENTS, (III) AND TO POSTPOIE FURTHER INCREMENTS FOR THE PERIOD OF ONE YEAR AFTER RESTORATION AND (IV) AFTER RESTORATION THE APPELLANT WILL BE PLACED ON HIS ONW ORIGINAL SENIORITY AND AGAINST NOT TAKING ANY ACTION OR DECISION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

PRAYER IN APPEAL;

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 19/06/2019 MAY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL SCALE/GRADE WITH ALL DUE INCREMENTS / BENEFITS FOR ALL BACK AND CONSEQUENTIAL PURPOSES.

ANY OTHER RELIEF WHICH HAS NOT SPECIFICALLY BEEN PRAYED FOR BUT IS MORE CONDUCTIVE IN THE FACTS AND CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED IN THE BEST INTEREST OF JUSTICE, EQUITY AND THE LAW.

RESPECTFULLY SHEWETH: -

FACTS: -

1. That the Appellant is law abiding citizen of the Islamic Republic of Pakistan having all the fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973.

Filed to-day

Registrar

05/11/19

2. That the appellant was performing my duties as Reader in the Court of Mr. Fazal Gul, learned Civil Judge-VII/ Judicial Magistrate, Nowshwera. A confessional statement of one lady accused Mst. Tahira Naz was recorded on 24.12.2016 in case FIR No. 826, dated 22.12.2016 U/s: 302, PPC of PS Risalpur.

Copies are attached herewith and marked as Annexure A

3. That after recording of the statement mentioned above, the learned Judicial Magistrate concerned directed the appellant to hand over the original confessional statement to the Superintendent concerned but he (superintendent) told him to hand over the same to the English Clark but the English Clark was on leave, therefore, the confessional statement was handed over to one Muhammad Ibraheem, (Naib Qasid) of English office.
4. That when the case was fixed for evidence the learned JM (Mr. Fazal Gul) asked for original confessional statement as such the appellant brought copy of confessional statement on the margin of which he has obtained signature of the above named Naib Qasid. Since the original confessional statement was missing, therefore explanation was called from him by the learned District Judge. After few days the appellant was directed to produce original confessional statement but an inquiry was set up against the appellant after which a show-cause notice was issued which was duly replied by him and after full-fledged inquiry the appellant was penalized for more than one penalties.

Copies charge sheet / statement of allegations, reply, inquiry report, show cause Notice, reply to show cause notice, statements, other necessary documents are annexed herewith and marked as Annexure B

5. Being aggrieved from the order / notification passed by the Respondent No.1, the appellant preferred a departmental appeal before the concerned quarters i.e. Respondent No. 2 whereby he impugned the order dated 19/06/2019 which was not decided

within statutory period of 90 days and expiry of statutory period of 90 days elapsed as such.

Copy of departmental appeal is attached herewith and marked as Annexure C

- 6. Still aggrieved, the appellant preferred this appeal before this honorable tribunal on inter alia the following grounds;

GR OUNDS :-

- a. That the impugned order dated 19/06/2019 passed by the Honorable District & Session Judge, Nowshera, communicated to the appellant on 16-07-2019 is against law and facts, hence liable to be set aside.
- b. That since an important witness has not been summoned by the learned Investigation officer as such deprived the appellant from cross examination in order to dig out the real facts regarding the issue and also deprived him from fair trial under the law and constitution.
- c. That a very harsh view has taken by the respondent for no fault on his part as such the inquiry procedure is violation of rules and regulations and the same being not commensurating i.e. more than one penalties have been imposed upon the appellant, which yet again is violating of settled principle of law and the judgment of the Superior Court.
- d. That one major and one minor penalty was given in the show cause notice whereas in the impugned order more than one penalties are imposed upon the appellant other than not mentioned in the show cause notice which is against the law.
- e. That in view of the peculiar facts and circumstances of the case the respondents have taken a very harsh view by imposing more than one penalties consequently the appellant is confronted with liabilities and obligations where are not inconsonance with the record.
- f. That the appellant may kindly be allowed to urges other grounds at the time of hearing of this appeal with the kind permission of this Hon'bel tribunal, hence this appeal with the following prayer;

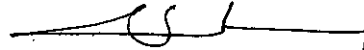
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It is, therefore, respectfully prayed that on acceptance of this appeal, the impugned order dated 19/06/2019 may be set aside and the appellant may be restored to his original scale/grade with all due increments / benefits for all back and consequential purposes.

Any other relief which has not specifically been prayed for but is more conducive in the facts and circumstances of the case may also be granted in the best interest of justice, equity and the law.

Peshawar.

Dated: 04/11/2019



APPELLANT

Through



Mukhtar Ahmad Maneri

Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
FATA Secretariat, Warsak Road, Peshawar.
Ph: 091-5200710. Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No _____/2019

Zabita KhanAppellant

Versus

District & Sessions Judge, Nowshera & Another
.....Respondents

AFFIDAVIT

I, Zabita Khan, S/o Khan Muhammad, R/o Khudrazi, Mohallah Samandar Gari, presently Reader CJ-VI, District Nowshera, do hereby state on solemn affirmation that the contents of affidavit are true and correct to the best of my knowledge and belief.

[Handwritten signature]

Deponent

CNIC: 17201-2224381-5

Cell No: 0315-9897613

Identified by me.

[Handwritten signature]

Mukhtar Ahmad Maneri
Advocate Supreme Court,
Of Pakistan



[Handwritten signature]
5-11-19

6

IN THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Service Appeal No _____/2019

Zabita Khan Appellant

Versus

District & Sessions Judge, Nowshera & Another

..... Respondents

ADDRESSES OF PARTIES

APPELLANT

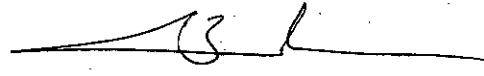
Zabita Khan, S/o Khan Muhammad,
R/o Khudrazi, Mohallah Samandar Gari,
presently Reader CJ-VI, District Nowshera

RESPONDENTS

1. District & Session Judge, Nowshera.
2. Registrar, Peshawar High Court, Peshawar.

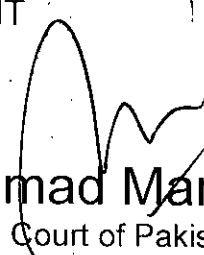
Peshawar.

Dated: 04/11/2019



APPELLANT

Through



Mukhtar Ahmad Maneri
Advocate Supreme Court of Pakistan
Office # 2, 2nd Floor, Juma Khan Plaza, Near
FATA Secretariat, Warsak Road, Peshawar.
Ph: 091-5200710. Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

Annex "A"

IN THE COURT OF FAZAL GUL
JUDICIAL MAGISTRATE/CJ-VII/MOD, NOWSHERA

The State ... Versus ... Mst. Tahira

Case FIR No. 826 Dated: 22.12.16 U/S 302, PPC

Police Station: Risal Pora Record of confession made by accused

Mst. Tahira Naz D/O Smt. Fatima R/O

godan Korona aged 17 1/2 years.

Identification mark: (cut on eye brow (left side))

MEMORANDUM OF ENQUIRY

- Q1: Do you understand that you are not bound to make a confession?
A: yes
- Q2: Do you understand that your statement, is being recorded by a Judicial Magistrate 1st Class and if you make a confession, it may be used as evidence against you?
A: yes
- Q3: How long have you been in Police custody?
A: one day
- Q4: Has the pressure been brought on you to make confession?
A: No
- Q5: Have you been tortured in any way to make confession?
A: NO
- Q6: Has any inducement been given to you to make confession?
A: No
- Q7: Has you been told that you will be made an approver?
A: No
- Q8: Do you understand that after making or not making a statement before me you will not be remanded to police custody, but will be sent to judicial lock up?
A: yes
- Q9: Understanding these facts, are you making a statement before me voluntarily?
A: yes
- Q10: Are you making confession at your own free will and without the compulsion of anybody?
A: yes
- Q11: What are your reasons for wishing to make confession?
A: Because of accused forced attack on my husband
- Q12: May I record your confessional statement?
A: yes
- Q13: Do you want to consult anyone?
A: No

RO & AC
Dated: 24 / 12 / 2016

Accused: _____

(FAZAL GUL)
Civ. Judge-VII/IM/MOD,
Nowshera

ATTESTED
To Be True Copy

(53)

111

IN THE COURT OF FAZAL GUL
JUDICIAL MAGISTRATE/CI-VII/MOD, NOWSHERA

The State ... Versus ... Mst Yehra
Case FIR No. 326 Dated: 23.12.16 U/Ss 302 PPC
Police Station Kawal P.O. Record of confession made by accused
Mst Yehra D/O Shah Faisal - w/o Zahid R/O
godam kasera aged 17/18 years.
Identification mark: Cut on eye brow P-1

میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
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میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
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میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ
میں نے اپنے والدین سے کہا کہ میں نے اپنے والدین کو دیکھا ہے اور وہ

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ATTESTED
To Be True Copy

(Signature)

بیان حیاتہ طالبہ درجہ دہمہ درجہ اولیٰ ثانویہ

(حاری)

نشوونما طالبہ بیاتہ کو اولیٰ ثانویہ -

بیاتہ بیاتہ نے پانچویں درجہ میں داخلہ لیا اور

چھٹی درجہ میں داخلہ لیا اور

بیاتہ بیاتہ

بیاتہ بیاتہ

بیاتہ بیاتہ

Feb 24

بیاتہ بیاتہ

24/12/16

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بیاتہ بیاتہ نے بیاتہ بیاتہ میں داخلہ لیا اور

بیاتہ بیاتہ نے بیاتہ بیاتہ میں داخلہ لیا اور

Feb 24

24/12/16

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302 PPC

302 PPC

826 20 216

CERTIFICATE

Certified that accused Mst. Tahir Naz D/O Shah Faisal w/o Zahir Shah R. Godani Korona, Nowshera mark of identification cut on left eyebrow charged in FIR No.826 dated 22.12.2016 registered U/S 302 PPC PS Risalpur was produced Muhammad Nawaz SI at 1: 45 pm for recording of her confessional statement. Handcuffs of the accused were removed and she was made to sit and given time to think over for 30 minutes. During this time, all the police officials (including N. Court) were directed to leave the Court Room so that the accused should not be under pressure. The accused was made to understand that I am a Magistrate and that she was not bound to make a confession and if she does so, it will be used against her as a piece of evidence. All other legal formalities observed.

I am satisfied that she has made a voluntary confession. I recorded her confessional statement. She gave the statement in (Pashto) which was translated in (Urdu) by me and after completion the same was read over to the accused in Pashto. After that same was thumb impressed by the accused as token of its correctness.

I certify that it contains voluntary, correct and true account of the statement given by the accused.

I started recording confessional statement at 2:20 pm and completed the same by 03:15 pm.

Dated: 24.12.2016

Fazal Gui
(FAZAL GUI)
Civil Judge-VII/JM/MOI
Nowshera

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مع 302

قسط 326 فوراً 22 مارچ 302

بانیہ صاحبہ طاہرہ ناز بیوی مشتاق احمد شاہ ساکن گڑھی کورون
شارون ریلوے سٹیشن ساکن

درخواست نمبر 154/2016

مذکورہ عدالت میں پیشکش کی گئی ہے کہ شاہین بیگم نے اپنے شوہر کے ساتھ ساتھ اپنے بچوں کو بھی قتل کرنے کی کوشش کی ہے۔ اس کے بعد پولیس نے اسے گرفتار کیا ہے۔ اس کے بعد عدالت نے اسے 30 منٹ کے لیے قید کرنے کا حکم دیا ہے۔ اس کے بعد عدالت نے اسے قید کرنے کا حکم دیا ہے۔ اس کے بعد عدالت نے اسے قید کرنے کا حکم دیا ہے۔

(Signature)
DPP 154/2016
24.12.16

(Signature)
57/01/16
12.16
24

ORDER
24.12.2016

Accused produced in custody. Local Police requested for recording her confessional statement. Relevant provisions of law were complied with, whereafter, the accused was asked regarding her intention; in view of the request made by the local police. She was ready to confess her guilt. She was given 30 minutes to ponder over her decision. After the lapse of the stated time, the accused was once again asked regarding her intention, after making her understand the consequences once again. She was still ready to record her confessional statement voluntarily. Accordingly, recorded her confessional statement. The original were of handed over to the Reader of the Court Zanita Khan for safe custody while photocopy of the same was handed over to the IO for placing on record. The accused is transmitted to judicial lockup through Noid Court of this Court to be produced before this Court/MD on 07.01.2017.

(52)

Fd
MOD

Accused: _____

(FAZAL GUL),
Civil Judge-VII/JM/MOD,
Nowshera

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Annex-B¹²


CHARGE SHEET

I, Gohar Rehman, District & Sessions Judge, Nowshera, as competent authority, hereby charge you, Mr. Zabita Khan, Senior Clerk, as follows:

That you, while posted as Reader in the court of Civil Judge-VII/Judicial Magistrate, Nowshera committed the following irregularities:

- (a) As per report submitted by Senior Civil Judge (Admn), Nowshera, the Confessional Statement of accused Mst. Tahira Naz in case FIR No.826 dated 22.12.2016 u/s 302 PPC, PS Risalpur, recorded on 24.12.2016, went missing from your custody, constituting misconduct, inefficiency on your part, as defined by rule 3 (a) & (b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and thus you have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.
3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer.
4. Your written defence, if any, should reach the 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 be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Dated: 28/3 /2019.


Gohar Rehman,
District & Sessions Judge/
Competent Authority,
Nowshera.

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DISCIPLINARY ACTION

I, Gohar Rehman, District & Sessions Judge, Nowshera as competent authority, am of the opinion that Mr. Zabita Khan, Senior clerk has rendered yourself liable to be proceeded against, as you committed the following acts/omissions, within the meaning of rule 3 of Khyber Pakhtunkhwa Government Servants (efficiency and Discipline) Rule, 2011.

STATEMENT OF ALLEGATIONS

- i. As the confessional statement of accused Mst. Tahira Naz was handed over to you (being reader) in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur by the then CJ/JM-VII, Nowshera for safe custody. Which is not available with you, while you were responsible for the said confessional statement.
- ii. There is no proof of the fact that original confessional statement was handed over to Naib Qasid to the office of English Clerk, upon the direction of learned Civil Judge/Judicial Magistrate.
- iii. No explanation is available for the necessity which after a time period of 04 months aroused, for the submission of the confessional statement with English Clerk.
- iv. Record of other confessional statement, maintained by you, reveals that those were handed over to the officials of concerned court (during the trial) when required to those courts.

You were served with notice to explain your position in written to the than District & Sessions Judge, Nowshera as to why disciplinary action should not be initiated against you, under the Khyber Pakhtunkhwa Government servants (efficiency and discipline) Rule, 2011. Nevertheless, the reply submitted on your behalf alleging that the said confessional statement was handed over to the than PN to the office of English clerk and facts finding inquiry conducted by the Senior Civil

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For the purpose of inquiry against you, Zabita Khan (senior clerk) with reference of above allegations. Mr. Shakeel Arshad Civil Judge, Nowshera is appointed for the purpose of inquiry under rule 10(1) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.

The inquiry officer, in accordance with the provisions of the rules Ibid, would provide an opportunity of hearing the accused, record his findings and make recommendation as to punishment or other appropriate action against the accused as early as possible, but not late than 30 days as postulated under rule of sub-rule-II of Khyber Pakhtunkhwa Government servant (efficiency and Discipline) rules, 2011.

The accused official shall be proceeding on the date, time and place fixed by the inquiry officer.

Dated: 28/3/19

Gohar Rehman,
District & Sessions Judge,
Nowshera

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لجراالت جناب ڈسٹرکٹ اینڈ سیشن جج صاحب لوئر

عنوان : جواب بابت اعترافی بیان / اقبال حیرا 24-2-2016

(سرحد نام مسماۃ طاہرہ ناز) 16/2/16

Nasrullah Khan Gandi
District & Sessions Judge
Nowshera

302/34 pp، حیرا 22-12-2016
15AA

جناب عالی
سائل بہائینہ ادب و احترام سے سائلہ عرفیہ کے نام سے
کہ لجراالت جناب قاضی صاحب سول جج ایف، لوئر سیشن میں
ملزمہ طاہرہ ناز کا اعترافی بیان ملا لفظ کیا گیا۔ بعد از
ملاحظہ قائل سے پایا گیا کہ ملزمہ کا اصل اعترافی بیان
2016-05-09 کو بحکم سول جج صاحب لجراالت جناب
سیشن جج صاحب میں الفلش فلرک کے نائب قاضی
(ابراہیم) کو دی گئی ہے۔ اور اعترافی بیان کے کاپی پر
نائب قاضی ابراہیم) کے دستخط ملنے کے لئے ہے
جو کہ قابل ملاحظہ ہے۔ جسکی نقل ہمراہ لگا ہے۔

العارض

آپکا فرمانبردار

شہادت خان
(افلش فلرک / سابقہ ایف)

(22)

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16 بخدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحب نوشہرہ

جواب مابت جواب جلی نمبری PF/DSJ+1/2-435 نوشہرہ مورخہ: 12/02/2019۔

جناب عالی! جواب ذیل میں عرض ہے۔

سائل انتہائی ادب کے ساتھ عرض کرتا ہے کہ سائل ستمبر 2013 سے آفس انگلش کلرک و سپرنٹنڈنٹ آفس میں بطور نائب قاصد ڈیوٹی سرانجام دے رہا تھا۔ مورخہ: 09/05/2017 کو عدالت جناب فضل گل CJ/JM صاحب سے کنفشن شیمنٹ کی کاپی موصول ہوئی چونکہ 09/05/2017 کو انگلش کلرک چھٹی پر تھا (نقل درخواست لف ہے) اس لئے سائل کنفشن شیمنٹ کی کاپی وصول کر کے دستخط کی۔ جناب عالی! عدالت جناب فضل گل CJ/JM صاحب کی عدالت سے جتنے بھی کنفشن شیمنٹ محرر ہذا یا متعلقہ تھانہ کے اہلکار سے دستخط کے ساتھ باقاعدہ اصل کنفشن شیمنٹ وصول شد لکھا گیا ہے جبکہ میں نے جو کنفشن شیمنٹ کی کاپی وصول کی ہے اس پر صرف سائل کا دستخط ثبت ہے اور اصل کا کوئی ذکر نہ ہے جس سے صاف ظاہر ہوتا ہے کہ میں نے نقل کنفشن شیمنٹ وصول کی ہے اور وہ نقل کنفشن شیمنٹ انگلش برانچ کے ریکارڈ میں موجود ہے۔

المرقوم: 14/02/2019

آپ کا فرمانبردار و مخلص

محمد ابراہیم (جوئیئر کلرک)

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محترمت خاتب سیکرٹری جنرل / انکوائری آفیسر صاحب کو شہرہ
عنوان: جواب بہت انکوائری

خاتب عالی

سائل دستاویزی ادب کے ساتھ عرض کرتا ہے کہ سائل ستمبر 2013ء
میں ڈپٹی ڈپٹی ملکر اور سٹیٹ ڈپٹی آفیسر صاحب کی پورنٹیٹ فاکس ڈیوٹی
سراجام دے رہا تھا۔ وزیر 09.5.2017 کو عدالت خاتب مفضل گل
JTM صاحب سے کنفیڈنسیل سٹیٹمنٹ کی کاپی وصول ہوئی چونکہ 5/5/2017
کو ڈپٹی ملکر صحیحی مرتھا (نقل فراہماتہ میں سے فائیل موجود ہے) اس
لیے سائل کنفیڈنسیل سٹیٹمنٹ کی کاپی وصول کر کے دستخط کیا۔

خاتب عالی عدالت خاتب مفضل گل JTM صاحب کی عدالت سے ملنے
بھی کنفیڈنسیل سٹیٹمنٹ فراہم کیا گیا تھا ان کے ایلگور سے دستخط کے ساتھ فراہم
ہوئے کنفیڈنسیل سٹیٹمنٹ وصول شدہ لکھا گیا ہے جبکہ میں نے جو کہ کنفیڈنسیل
کی کاپی وصول کی ہے اس پر صرف سائل کا دستخط ہے اور وہیں کہ
کوئی ذکر ہے جس سے صرف ظاہر ہوتا ہے کہ میں نے نقل کنفیڈنسیل
وصول کی ہے اور نقل کنفیڈنسیل سٹیٹمنٹ فراہم کر کے فراہم ہو گیا۔

المترقوم
11/04/2019

H-3

آپ کا فریڈ ہارڈ کاپ
محمد ارمین (فریڈ ہارڈ کاپ)

12/4/19

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**IN THE COURT OF SYED MURAD ALI SHAH, SENIOR
CIVIL JUDGE (ADMN)/INQUIRY OFFICER, NOWSHERA**

INQUIRY REPORT

Facts finding Inquiry was marked to the undersigned by the Hon'ble District & Sessions Judge, Nowshera vide his order dated 16.02.2019.

Facts forming back ground of this inquiry are that a confessional statement of Mst. Tahira Naz was recorded on date 24.12.2016 by the then learned Judicial Magistrate, Nowshera Mr. Fazal Gul in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur.

During trial of the above mentioned case when the original confessional statement was requisitioned, it was found that original statement is missing and only photocopy is available.

Explanation were called from the then Naib Qasid to the office of English Clerk namely Muhammad Ibrahim, and the then Reader to the Court of the then Civil Judge-VII/MOD, Nowshera namely Zabita Khan.

After submission of the replies of both delinquent officials, inquiry was marked to undersigned, to probe into the matter.

As replies to explanations have already been submitted by delinquent officials therefore, record was requisitioned, they were summoned for recording their statements, which were recorded on date 22.02.2019. Apart from them the statements of Mr. Wajid Shah the then English Clerk and Niaz Karam, Reader of the court of Judicial Magistrate-I, Nowshera were also recorded and placed on

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file, while questions necessary for digging out the real facts, were also put on to Mr. Zabita Khan, and his answers were recorded, while the inquiry was fixed for 23.02.2019, for further proceedings.

On 23.02.2019, necessary questions were put to Mr. Muhammad Ibrahim and his answers were recorded while record of other confessional statements maintained by Mr. Zabita Khan was requisitioned, the photocopies of which are placed on file while the original record was returned to him.

(Procedure for keeping the record of confessional statement is provided under section 164(2) Cr.P.C, wherein any statement or confession recorded, shall then be forwarded to the Magistrate by whom the case is to be inquired or trailed.

In practice, the confessional statement is usually recorded during investigation, therefore, the Magistrate keep the same with reader of the Court for safe custody and the same is produced before trial court at the time of recording evidence. Therefore, it is responsibility of Reader of the Court to maintain proper record of confessional statements.

The reply and the statement of the then Reader Zabita Khan is not supported by the set principles of practice, wherein he alleged that he has submitted the same with the Naib Qasid of the office of English Clerk on the directions of the then Civil Judge/Judicial Magistrate. In General practice confessional statement has never been kept with the English Clerk)

In his statement recorded during inquiry, Zabita Khan alleged that on the directions of the then learned Civil Judge on date

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09.05.2017 he submitted the original confessional statement with the Naib Qasid of the English Clerk.

"بعد از حکم سول جج صاحب فضل گل مورخہ 09/05/2017 کو انگلش کلرک کے افس میں محمد ابراہیم (نائب قاصد) کو اصل اعترافی بیان حوالہ کیا گیا"

This stance is also taken by Zabita Khan in his reply, and in questions which were put to him during inquiry. This assertion of Zabita Khan is not supported by any sort of material on record.

Rather the order dated 24.12.2016 of the then learned Civil Judge/Judicial Magistrate is very much clear, wherein it is categorically mentioned that the original is handed over to the Reader of the Court Zabita Khan for safe custody.

As per order dated 24.12.2016 of the then learned Judicial Magistrate, it was Zabita Khan Reader who was responsible for the safe custody of the said confessional statement.

Mr. Zabita Khan, through out in his reply, statement recorded during inquiry and questions put to him, remained inconsistent, while answering to question No.5 he stated that he kept the confessional statements with him in office file and later on upon the orders of Hon'ble Civil Judge, he handed over the same to concerned Muharrirs.

Furthermore, while answering to question No.4 he alleged that he does not remember that whether any confessional statement was recorded during his service as Reader to the Court of Magistrate. While Answering to question No.2 he gives full details of the confessional statements recorded in his tenure.

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Another important aspect is that what was the necessity of the submission of the confessional statement, after a period of more than four months, in the office of English Clerk. Mr. Zabita Khan could not give any plausible reason for this. His assertion was that he has done so, on the orders of the then learned Civil Judge/Judicial Magistrate. But there is nothing on record which could support this assertion nor Mr. Zabita Khan could produce any proof in this regard. Rather the record maintained by Mr. Zabita Khan shows that other confessional statements which were recorded by Mr. Fazal Gul the then Civil Judge/Judicial Magistrate were kept with Zabita Khan and handed over to concerned officials, with receiving that original statement has been handed over to them, nor any such orders were issued by Mr. Fazal Gul, the then learned Civil Judge/Judicial Magistrate in respect of other confessional statements recorded by him and kept in the custody of Mr. Zabita Khan.

(Important factor in this inquiry is the receipt of the confessional statement at the office of English Clerk. The then Naib Qasid to English Clerk namely Muhammad Ibrahim, in his reply and statement accepted that on 09.05.2017 he received the confessional statement, but his stance is that it was photocopy, while the stance of Mr. Zabita Khan is that he handed over the original confessional statement to Mr. Muhammad Ibrahim.

Mr. Muhammad Ibrahim the then Naib Qasid to the office of English Clerk also remained inconsistent in his reply, Statement and questions put to him during inquiry.

In his reply he alleged that whenever the confessional statements from the Court of Mr. Fazal Gul, Civil Judge-VII/Judicial

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Magistrate were brought by Muharrir concerned or police officials, it has been mentioned that original is received, while there is only his signature upon the confessional statement under inquiry.

While in statement recorded during inquiry he stated that he or the English Clerk never received any confessional statement apart from one under inquiry. While answering to question No.6 put to him during inquiry, he stated that has no proof that he received the photocopy.

As a conclusion of this inquiry, the following facts were emerged.

1. The confessional statement was handed over to Mr. Zabita Khan the then Reader, for safe custody. (Clear from order dated 24.12.2016).
2. Mr. Zabita Khan was responsible for the safe custody of the confessional statement.
3. There is no proof of the fact that confessional statement was handed over to Naib Qasid to the office of English Clerk upon the directions of learned Civil Judge/Judicial Magistrate.
4. No explanation is available for the necessity which after a time period of more than four months aroused, for the submission of confessional statement with English Clerk.
5. Record of other confessional statements, maintained by Mr. Zabita Khan, reveals the receiving by other concerned officials with words "اصل" while no such word "اصل" is mentioned on the confessional statement under inquiry.

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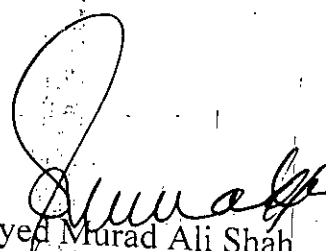
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[Handwritten signature]

6. Both Mr. Zabita Khan and Muhammad Ibrahim remained inconsistent in their replies, statements and questions put to them during inquiry.
7. Mr. Muhammad Ibrahim failed to justify that why he received this confessional statement while no other confessional statement is received by the office of English Clerk.
8. Mr. Muhammad Ibrahim also failed to produce any evidence that he has received the photocopy.
9. However, record of other confessional statements, maintained by Mr. Zabita Khan, reveals that whenever the original confessional statement is handed over to other officials, it is properly mentioned in the received. (record is placed on file).

Report is submitted.

Dated 23.02.2019.


Syed Murad Ali Shah,
Senior Civil Judge (Admn),
Nowshera.

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Answers of Muhammad Ibrahim to the Questions.

Q-1. For a how long period you remain Naib Qasid with English Clerk?

Ans. I remained as Naib Qasid from September 2013 till August 2018.

Q-2. What was your job description and what duties you performed?

Ans. I was class-IV. I used to clean and offices of English Clerk and Superintendent, distribute the letters/orders etc amongst the various Courts/offices. I also used to receive the letters etc on the directions of Superintendent, whenever the English Clerk was on leave.

Q-3. Whether any confessional Statement from any Court was received by the English Clerk in your presence?

Ans. No. In my presence the English Clerk never received any Confessional Statement from any court. Moreover, there is no file in the office of English Clerk wherein the confessional statements were lying.

Q-4. Whether you received any other Confessional Statement from any other Court, during you service as Naib Qasid to English Clerk?

Ans. No.

Q-5. Why you received this Confessional Statement?

Ans. On 09.05.2017 the then Reader to CJ-VII, Nowshera, Mr. Zabita Khan brought copy of the confessional statement to the office of Superintendent. As the English Clerk was on leave, so the Superintendent Sessions Court directed me to receive the said copy. I received the copy of confessional statement on the direction of Superintendent and kept the same in Misc: file.

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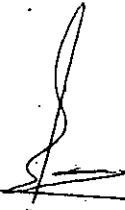


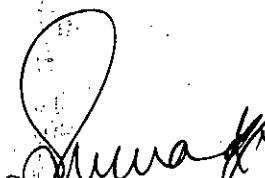

Q-6. As per your reply and statement you received the copy of the confessional statement. Do you have any proof that it was photo copy and not original statement?

Ans. No. I have no other proof except that the photocopy which I received was available in the English Clerk Office. Moreover, the other confessional statements handed by the then Reader Mr. Zabita Khan to any other person, he mentioned overleaf the photocopy retain by him that original is handed over, however, so far as my case is concerned, the reader Mr. Zabita Khan has not mentioned that original is handed over to me. However, it is also evident from the order of the learned CJ-VII, Nowshera dated 24.12.2016 that original confessional statement is handed over to the Reader of the Court Mr. Zabita Khan for safe custody. (copy of the said order is available on file).

R.O.&A.C
Dated 22.02.2019

Muhammad Ibrahim




Syed Murad Ali Shah,
Senior Civil Judge (Admn),
Inquiry Officer/Nowshera.

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Questions put to Zabita Khan and his Answers

Q-1. The Court in which you were performing your duty on 24.12.2016 was Civil Court or Criminal Court?

Ans: The Court in which I was performing my duty as reader on 24.12.2016 was a Civil Court.

Q-2. How many confessional Statements were recorded in your tenor? _____

Ans: In my tenor four confessional statements were recorded, which I have handed over in original, one to Saleem Jan Muharrir, one to Imtiaz Ahmad Reader, one to Jehan Akbar I.O of the said case and one to Muhammad Ibrahim Naib Qasid.

Q-3. Whether you remain attached as Reader to the Court of Judicial Magistrate and for how long time?

Ans: I remained as reader to the Court of learned Senior Civil Judge and Civil Judge Judicial Magistrate where both nature of case i.e Civil and criminal were pending.

Q-4. Whether in that period of service as Reader to the Court of Magistrate how many confessional statements were recorded?

Ans: I do not remember that whether any confessional statement was recorded in those days or not and if recorded, how many these were.

Q-5. What measures you adopted for the safe custody of those confessional statements?

Ans: I kept the confessional statements with me in office file and on the orders of Hon'ble Civil Judge, lateron I handed over the original to the concerned Muharrirs and kept the photo copy with me for record.

Q-6. Why you handed over the confessional statement to English Clerk in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur?

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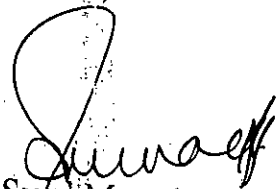
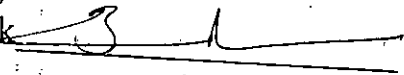
Zabita Khan

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Ans: As I was directed by the Presiding Officer to hand over the said confessional statement in Sessions Court and on the directions of Presiding Officer, I bring the said confessional statement in the office Superintendent and I was directed by the Superintendent to hand the same in the office of English Clerk. So I went to the office of English Clerk where the English Clerk concerned was on leave and therefore, I handed over the said confessional statement to Naib Qasid Muhammad Ibrahim who was posted in the office of English Clerk. He signed on the back of copy of said confessional statement, which I kept with me in my record.

R.O.&A.C
Dated 22.02.2019

Zabita Khan,
English Clerk



Syed Murad Ali Shah,
Senior Civil Judge (Admn)
Inquiry Officer, Nowshera.

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**IN THE COURT OF SHAKEEL ARSHAD CIVIL JUDGE-
VIII/INQUIRY OFFICER, NOWSHERA.**

INQUIRY REPORT

The background of the instant proceeding are such that in case FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur, Mr. Fazal Gul, the then learned Civil Judge-VII/Judicial Magistrate, Nowshera recorded confessional statement of accused Mst. Tahira Naz and keep it in the safe custody of Reader Zabita Khan vide order dated 24.12.2016, however during trial, the original confessional statement was found missing, hence explanations were called from Muhammad Ibrahim (Naib Qasid to the office of English Clerk) & Zabita Khan, the then reader to the court of civil judge-VII, Nowshera, wherein it was mentioned by Ibrahim that he was given photocopy of confessional statement by Zabita Khan, while Zabita Khan stated that he has given the original confessional statement of the lady accused to Ibrahim. In the facts finding inquiry, the accused/official Zabita Khan being custodian was declared as responsible, however regular inquiry proceedings was initiated against the accused/official and vide order, dated 22.03.2019, he was served with charge sheet and statement of allegations by the Honorable District & Sessions Judge, Nowshera/competent authority and the undersigned was appointed as inquiry officer to probe into the matter and submit report within 30 days.

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After receipt of inquiry, the accused/officials and departmental representative were issued notices to appear on 06.04.2019, the

accused appeared and sought time for replies, time was granted with direction to submit the same on 11.04.2019, however due to casual leave of undersigned, they submitted their replies on 12.04.2019, wherein they denied the allegations leveled against them, whereafter both the accused/officials and departmental representative namely, Muhammad Sohail were afforded an opportunity to adduce their respective evidence. The departmental representative neither recorded his statement, nor produced any witness, however he cross-examined both the delinquent officials.

During the facts finding inquiry, relevant record was requisitioned and statement of both the accused officials, Wajid Shah, the then English Clerk & Niaz Karam Reader of the court of learned Judicial Magistrate-I, Nowshera were recorded.

In the instant inquiry, both the accused/officials submitted their replies alongwith supporting documents, however Mr. Muhammad Ibrahim stated that he does not record further evidence and placed reliance upon his already recorded statement. He was cross-examined by the departmental representative as well as other accused/official namely Zabita Khan. Mr. Zabita Khan also recorded his statement and he was cross-examined by the departmental representative as well as Muhammad Ibrahim. In order to dig out the real facts, necessary questions were put upon both the accused/officials and their answers were recorded.

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As statement of almost all the concerned were recorded during facts finding inquiry by the learned Senior Civil Judge(Admn), Nowshera, therefore only the statements of (CW-1) Muhammad Adil Amin Muharrir to the court of Learned District & Sessions Judge, Nowshera, (CW-2) Saeed Ullah English Clerk and (CW-3) Najam ur Rahman Incharge Record Room were recorded, who produced the requisite record.

Findings:-

After perusing the available material on record and statements of the witnesses, I have reached to the following conclusion:

The allegation against the accused/official Zabita Khan is that, he misplaced the original confessional statement of accused Tahira Naz, recorded by the then learned Civil Judge-VII/Judicial Magistrate, Nowshera namely Fazal Gul in case FIR No. 826 dated 22.12.2016 under section 302 PPC, which was handed over to him for safe custody and as Reader, he was responsible for the safe custody of the said confessional statement. In this regard he submitted reply and recorded his statement, wherein he alleged that after recording of the confessional statement of accused Mst. Tahira Naz by the then Learned Civil Judge-VII/Judicial Magistrate, Nowshera namely Fazal Gul, he kept the same in safe custody, but as per verbal direction of learned presiding officer, he produced the said confessional statement before superintendent, District Courts, Nowshera, who told him to submit it in the English Office hence, he handed over the said

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confessional statement to Muhammad Ibrahim, Naib Qasid to the English Office and obtained his signature upon the copy of confessional statement for his own record. He produced the copy of confessional statement as Ex.PB and stated that as Naib Qasid received the original confessional statement, therefore he is responsible. Regarding non mentioning of the word "original" upon the copy of confessional statement, he alleged that as per law, all the official correspondence are received upon receipt and that's why he has taken signature of Muhammad Ibrahim upon the copy of confessional statement, which shows that he handed over the original confessional statement to Muhammad Ibrahim Naib Qasid.

The then Naib Qasid to English Clerk, namely Muhammad Ibrahim, in his reply and statement accepted that on 09.05.2017 he received the confessional statement, but his stance is that it was photocopy, while the stance of Mr. Zabita Khan is that he handed over the original confessional statement to Mr. Muhammad Ibrahim.

The said explanation and justification of the accused/official Zabita Khan are not convincing. In fact he tried his best to shift burden to the Naib Qasid for non-mentioning of the word "photocopy" upon the receipt and by not mentioning the word "Photocopy", the Naib Qasid has committed the offence and he is responsible. Be that it may be the position, then why the accused/official Zabita Khan has mentioned the word "Original" while submitting 03 other confessional statements to other officials.

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This fact has been admitted by him in his cross-examination that he has mentioned the word "Original" while handing over the remaining 03 confessional statements to the concerned officials. He also admitted that apart from the missing confessional statement, he has not submitted any other confessional statement in the English Office.

The provision of section 164 (2) Cr.P.C, provides that any statement or confession recorded, shall then be forwarded to the Magistrate by whom the case is to be inquired or trialed. In practice, the Magistrate after recording the confessional statement, keep the same with reader of the court for safe custody, however after commencement of trial, the confessional statement is produced before the trial court at the time of evidence. Therefore, it is the responsibility of Reader of the court to maintain proper record of the confessional statements. In this regard the order dated 24.12.2016 of the then learned Civil Judge-VII/Judicial Magistrate, Nowshera is very much clear, wherein it is mentioned that original confessional statement is handed over to the Reader of the Court Zabita Khan for safe custody.

The reply and statement of the then Reader Zabita Khan is not supported by the set principles of practice, wherein he alleged that he submitted the same to Naib Qasid of the office of English Clerk on the directions of the then Civil Judge/Judicial Magistrate. The accused/official Zabita Khan failed to produce any oral or documentary evidence to prove the fact that confessional statement

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was handed over to Muhammad Ibrahim Naib Qasid at the direction of learned Civil Judge-VII/Judicial Magistrate, Nowshera. In general practice, confessional statement has never been kept in the English Office and this fact has also been admitted by both the accused/officials as well as Wajid Shah (The then English Clerk).

The placed on file record as maintained by accused/official Mr. Zabita Khan shows that other confessional statements, recorded by Mr. Fazal Gul the then Civil Judge/Judicial Magistrate were kept by Zabita Khan and as per his statement, he handed over the said confessional statements to the concerned officials by taking their signatures regarding receipt of original statement.

Record further suggests that at the time of submission of other two confessional statements, the trial of that cases were commenced, however as per admission of accused/official Zabita Khan, he was unaware about pendency of trial of under inquiry case, hence he submitted the missing confessional statement in the English Office. The said contention of accused/official Zabita Khan is against the record because as per statement of Adil Amin Muharrir (CW-1), the case of missing confession was put in court on 10.04.2017, while the missing confessional statement was submitted on 09.05.2017. If the unawareness of accused/official regarding pendency of the case is considered as correct, then why the accused official did not inquire the same from the prosecution branch.

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During the course of statement, the accused/official was asked that when and in whose presence, he was directed by the concerned Presiding Officer to submit the confessional statement, his reply was that at the time of direction, no one was present. Had the accused/official been directed by the then learned Civil Judge to submit all the confessional statements in the court of learned District & Sessions Judge, Nowshera, then why the confessional statement of accused Adil, recorded by the then learned Civil Judge-VII, Nowshera on 23.04.2017 in Case FIR No. 161 dated 20.04.2017 under section 392/452 PPC at PS Azakhel Nowshera was not submitted in English Office on 09.05.2017, rather it was handed over to Saleem Jan Muharrir on 27.10.2017, who placed on file the said confessional statement and put his signature on the margin of order sheet No. 3 dated 11.10.2017 of learned ADJ-I, Nowshera Ex.CW-3/1, meaning thereby that at the time of submission of missing confessional statement, the confessional statement of accused Adil was lying with the accused/official in safe custody, but he did not submit the same alongwith the missing confessional statement in the English Office, however after lapse of 05 months & 19 days, the accused/official handed over the confessional statement of accused Adil to Saleem Jan Muharrir on 27.10.2017. This aspect of the case shows gross negligence, --misconduct and inefficiency on the part of accused/official Zabita Khan. The accuse/official also failed to justify that what compelled him to submit the copy of missing confessional

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statement in the office of English Clerk and that too after a period of more than four months. In this regard he could not give any plausible reason or justification and the reason furnished by him was himself negated by accused/official Zabita Khan while handing over the confessional statement of accused Adil Khan to Saleem Jan Muharrif after 05 months of the missing confessional statement.

Accused/official Zabita Khan tried to shift his burden upon Muhammad Ibrahim, the then Naib Qasid alleging that the original confessional statement was received by him. Regarding this fact no evidence is available on record. Further, as discussed above, the accused/official whenever submitted the confessional statement to the concerned official, he received acknowledgment as "original received", but in the present case there is no mention of the word "original received". This fact leads to the conclusion that accused/official has handed over photocopy of the relevant confessional statement to Muhammad Ibrahim Naib Qasid, which as per record he submitted the same to the learned trial court, therefore responsibility of misplacing the original confessional statement cannot be placed upon Muhammad Ibrahim Naib Qasid.

So far the case of accused/official Zabita Khan is concerned, in this regard it is held that as per order dated 24.12.2016, accused/official Zabita Khan being Reader was responsible for the safe custody of confessional statement of accused Tahira Naz, but

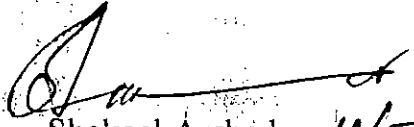
unlike the said order, he submitted the confessional statement in the

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office of English Clerk, despite the fact that Clerk of English Office never received any such confessional statement. He failed to prove his assertion regarding submission of **all** the confessional statements in the English Office on the direction of learned Civil Judge-VII, Nowshera, rather he himself negated his assertion by not submitting the other confessional statement of accused Muhammad Adil on the day of submission of missing confessional statement. There is no proof that accused/official Zabita Khan handed over original confessional statement to the Naib Qasid Muhammad Ibrahim. Similarly he also failed to explain the reason or justification for submission of missing confessional statement after 04 months. The charges against the accused/official Zabita Khan stands proved, hence report is hereby submitted, please.

Dated 11.05.2019.


Shakeel Arshad
Civil Judge-VIII/Inquiry Officer
Nowshera

11/5/19

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SHOW CAUSE

I, (Gohar Rehman District & Sessions Judge Nowshera) as competent authority, under the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Zabita Khan (Senior Clerk), as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide Order, dated 15.01.2019 and

(ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

(a) Inefficient

(b) Misconduct

2. As a result, thereof, I, as competent authority, have tentatively decided to impose upon you the major and minor penalties of under rule 4 of the said rules.

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

4. If no reply to this notice is received after ten days of its delivery, it shall be presumed that you have no defense to put in and, in that case, an ex-parte action shall be taken against you. Further if you accused official wants to submit any additional defense then submit before the Competent Authority in writing, if any, within a period of ten days.

5. A copy of the findings of the inquiry officer is enclosed.

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COMPETENT AUTHORITY

Gohar Rehman
District and Sessions Judge,
Nowshera.

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بیان ضابطہ خان: انگلش کلرک سابقہ ریڈر ڈ سٹرک کورٹس نوشہرہ کا ہوں، بیان کرتا ہوں کہ ما قبل میں نے تحریری بیان، دستاویزات دوران انکوائری مورخہ 22.02.2019 جناب مراد علی شاہ انکوائری آفیسر، ایڈ من جج صاحب نوشہرہ اور مورخہ 12.04.2019 کوشکیل ارشد انکوائری آفیسر صاحب سول جج نوشہرہ کے پاس جمع کیے ہیں۔ انکوائری آفیسر کی ریکمنڈیشن جس پر سائل کو چارج شیٹ جاری کی گئی ہیں جسکی نسبت وضاحت دیل ہے۔

انکوائری رپورٹ جمع شدہ منجانب انکوائری آفیسر یکطرفہ طور جمع شدہ ہے۔ اور مثل انکوائری پر موجود د شواہد، دستاویزات، تحریر بیان، جرح سائل کو یکسر طور پر نظر انداز کیا گیا ہے جبکہ من سائل کی طرف سے جمع شدہ فہرست گواہان میں موجود گواہ کونا تو سمن کیا گیا ہے اور نہ ہی سائل کو پیش کرنے کا موقع دیا گیا ہے۔ بلکہ من سائل کے جواب شو کار نوٹس اور فہرست گواہان کا ذکر بھی رپورٹ میں نہ کیا گیا ہے۔ اور نہ ہی گواہ من سائل کے عقب نوٹس کیا گیا ہے جنکے حکم پر من سائل نے کنفیشنل سٹیٹمنٹ انگلش کلرک کے دفتر میں سپر ٹنڈنٹ صاحب کے کہنے پر جمع کیا تھا۔ جنکا ذکر انکوائری رپورٹ میں موجود ہے مزید یہ کہ من سائل سے اصل کنفیشنل سٹیٹمنٹ نائب قاصد نے وصول کیا تھا۔ فوٹوکاپی پر وصولی رسید بھی ہے جسکا اندراج نائب قاصد نے انورڈ رجسٹر میں کیا ہے نیز سپر ٹنڈنٹ صاحب سیشن کورٹس کے احکام پر ہی یہ اصل کنفیشنل سٹیٹمنٹ جمع کر وائی گئی تھی۔ یہاں پر یہ امر قابل ذکر ہے کہ تمام آفیشل میٹینگر کا گنو بینر سپر ٹنڈنٹ صاحب ہی ہوتا ہے۔ جو کہ اس میٹینگ میں موجود تھے اور احکام منجانب سیشن جج صاحب انکے روبرو ہی صادر شدہ تھے تو اس لئے ہی جب سائل اصل کنفیشنل سٹیٹمنٹ جمع کروانے کیلئے دفتر سپر ٹنڈنٹ صاحب گیا تو انہوں نے انگلش کلرک دفتر میں جمع کرنے کے ذیانی احکام صادر فرمائے تھے۔ اور انہی کے احکام پر نائب قاصد نے اصل کنفیشنل سٹیٹمنٹ وصول کیا تھا۔ جس کو نائب قاصد نے بھی درست تسلیم کیا ہے۔ اگر احکام نہ صادر ہوئے ہوتے۔ اور سائل خود سے ہی کنفیشنل سٹیٹمنٹ جمع کروانے گیا ہوتا تو سپر ٹنڈنٹ صاحب نے انگلش

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کار کی ساتھ جمع کرنے کی ہدایت کوئی دی نہیں تھی؟ اس کو انگریزی
 کار کی ساتھ جمع کرنے کی ہدایت کوئی دی نہیں تھی؟ اس کو انگریزی
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27/05/18

مزید یہ کہ سائل کے علم میں آیا ہے۔ کہ JMI/CJ صاحب کی عدالت سے مورخہ 18/11/83 کو کنفنشل سٹیٹمنٹ سپر ٹنڈنٹ سیشن کورٹس نوشہرہ کو ارسال کی گئی ہے۔ جو کہ دفتر میں موجود ہے۔ نقل لف کی جاتی ہے۔

سائل نے کسی بھی قسم کی ذمہ داری نائب قاصد پر منتقل نہ کی ہے۔ بلکہ اصل حقائق بتائے ہیں۔ ٹیمپرنگ رجسٹر و انورڈ رجسٹر کے ثبوت دیے ہیں۔ اصل رسید وصولی دی ہے۔ ٹیمپرنگ شدہ نمبرز اور دستاویزات پیش کئے ہیں۔ لیکن انکوائری آفیسر نے تمام دستاویزی شہادت کو نظر انداز کیا ہے۔ جبکہ گواہان کو نہ تو خود طلب کیا ہے اور نہ ہی سائل کو پیش کرنے کی ہدایت کی ہے اور الزام عائد کیا ہے کہ سائل نے دستاویزی ثبوت اور زبانی شہادت پیش نہ کی ہے جو کہ سراسر غلط ہے۔ Recommendation بابت مائنر، و مینجر سزا خلاف قانون اور انصاف کے تقاضوں کے منافی ہے۔ سائل نے کوئی غلطی سرزد نہ کی ہے۔

دیگر وصاحب ذیل ہے:

حسب الحکم جناب فضل گل صاحب سول جج دی تھی کہ جملہ اعترافی بیانات جو پڑھے ہیں ان کو عدالت جناب سیشن جج محترم شفیق احمد تنولی صاحب کی عدالت میں جمع کر دوں کہا گیا تھا۔ جس پر میرے پاس صرف ایک ہی بیان مقدمہ علت نمبر متذکرہ بالا ہی موجود تھا سپر ٹنڈنٹ صاحب نوشہرہ کے پاس جمع کروانے کے لئے لے کر گیا۔ تو بوجہ رخصتی اصل کنفنشل سٹیٹمنٹ نائب قاصد محمد ابراہیم کو حوالہ کر کے فوٹو سٹیٹ پر باقاعدہ وصولی کی گئی ہیں۔ اور اصل کنفییشن سٹیٹمنٹ نائب قاصد کو حوالہ کی گئی تھی۔ اس سے قبل اس نوکری کے دوران میں سائل نے کبھی بھی انگلش کلرک کے پاس اعترافی بیان نہ جمع کیا۔ بدیں وجہ بعد ازیں حوالگی اور وصول مذکورہ نائب قاصد ہی اصل اعترافی بیان کا ذمہ دار ہے۔ یہاں پر یہ امر قابل ذکر ہے۔ کہ مذکورہ نائب قاصد نے مجھے اعترافی بیان کے پشت پر وصولی بیان کے نسبت Receiving بھی دی ہے۔ جس سے دوران انکوائری اب منکر ہو رہا ہے۔ جبکہ فوٹو سٹیٹ کے حوالگی For information کی نسبت کبھی بھی Receiving نہیں لی یا دی جاتی ہے۔

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جبکہ مذکورہ نائب قاصد نے انورڈ رجسٹر 2017 میں باقاعدہ طور پر کنفیشن فائل کی وصولی کے بعد مکمل اندراج نمبر 295 مورخہ 05-2017-09 بھی کیا ہے جس کی مکمل نقولات لف کی جاتی ہے۔ رجسٹر میں ٹمپرنگ موجود ہے۔ جبکہ انکوائری آفیسر صاحب نے اپنی Findings میں "اصل" کے لفظ پر زور دیا ہے۔ لیکن اعترافی بیان کے پشت پر اور رجسٹر د میں موجود اندراج میں کہی پر بھی نائب قاصد ابراہیم نے لفظ "نقل" تحریر نہیں کیا ہے۔ اور نہ ہی نائب قاصد انگلش کلرک کے پاس اس بات کی وضاحت موجود ہے۔ کہ انہوں نے ما قبل یا بعد بھی اعترافی بیانات وصول کیے یا نہیں۔ بدیں وجہ بعد ازیں حوالگی اصل فائل اعترافی بیان من سائل کا فائل کے ساتھ کوئی واسطہ نہ رہا۔ اور دوران انکوائری فوٹو کاپی بمعہ اصل Receiving جو کہ سائل کے پاس تھی اور بمعہ دیگر دستاویزات جو کہ وقتاً فوقتاً سائل سے مانگے گئے ہیں انکوائری آفسر کو فراہم کی گئی ہیں۔

من سائل محکمہ حضور میں کم و بیش 24 سال 09 مہینے اور 22 دن اپنی ڈیوٹی انتہائی خوش اسلوبی سے سر انجام دئے ہیں۔ اور جناب سول جج صاحب جوڈیشل مجسٹریٹ فضل گل صاحب کے زبانی ہدایت کے مطابق ہی پہلی دفعہ انگلش کلرک کے پاس اصل اعترافی بیان جمع کیا گیا تھا۔ جس کی باقاعدہ طور پر نائب قاصد محمد ابراہیم خان نے اپنے بیانات مورخہ 2019-02-14 اور مورخہ 2019-02-22 ذکر بھی کیا ہے۔ اور حقائق کو چھپا تے ہوئے "نقل لفظ" کی ایذا کی گئی ہے۔ جبکہ نا تو فوٹو کاپی Receiving اور نا ہی انورڈ رجسٹر میں "نقل" کے لفظ کا اندراج موجود ہے۔ اور نہ ہی ما بعد افسران بالا سے متذکرہ فائل کی وصولی کے بارے میں پوچھا ہے! اور نہ ہی بمطابق بیان محمد ابراہیم متفرق فائل کو عدالت سول جوڈیشل مجسٹریٹ فضل گل صاحب واپس بھجوائی گئی ہے۔ اور نہ ہی مذکورہ نائب قاصد نے اعترافی بیان کی وصولی سے انکار کیا ہے۔ بمطابق قانون جب بھی اصل کاغذات چھٹی دستاویزات وغیرہ سرکاری طور پر کسی بھی اہلکار کو دی جاتی ہے۔ تو اس سے باقاعدہ طور پر رسید حاصل کی جاتی ہے۔ جس کہ من سائل نے فوٹو سیٹیٹ کے کاپی کے پشت پر نائب قاصد سے دستخط حاصل کی ہے۔ اگر نائب قاصد نے اصل کنفیشن وصول نہ کی

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ہوتی تو وصولی رسید اور ہی متعلقہ رجسٹر میں "نقل" لفظ موجود ہوتا لیکن لفظ "نقل" موجود نہ ہے۔ جبکہ احکامات از عدالت جناب سول جج جوڈیشل مجسٹریٹ صاحب کی نسبت فضل گل صاحب سے ہی معلومات کی جا سکتی ہے۔

حسب الحکم جناب سول جج جوڈیشل مجسٹریٹ فضل گل صاحب نوشہرہ زبانی احکامات کے مطابق من سائل نے اعترافی بیان انگلش کلرک کے پاس جمع کیا تھا جبکہ دیگر تمام اعترافی بیانات جو کہ سائل کے پاس تھے حسب ہدایت و ضرورت مجسٹریٹ/سول جج حسب متعلقہ مقدمہ میں متعلقہ عدالت میں جمع کی گئی ہیں۔ چونکہ سول جج فضل گل صاحب کے پاس اس وقت سول کام ہونا تھا۔ اس لیے لیے ان کی ہدایت کے مطابق بیان اعترافی انگلش کلرک صاحب کی رخصتی پر چھٹی دفتر میں نائب قاصد محمد ابراہیم کے حوالہ کیا گیا تھا

بمطابق موجود ریکارڈ بھی آفسر جج صاحب قلمبندی اعترافی بیان کو سائل کے پاس محفوظ فرماتے اور سائل بوقت ضرورت بمطابق احکامات متعلقہ آفسر سول جج صاحب متعلقہ عدالت پیش کرتے تھے۔ جبکہ عبت نمبر 826 مورخہ 22-12-2016 تھانہ رسالپور کے اعترافی بیان کو بھی سائل نے باقاعدہ طور پر "اصل" حالت میں انگلش کلرک کے دفتر میں جمع کیا تھا۔ اور جس کے وجود سے نائب قاصد اب انکاری ہے۔ بلکہ اپنے بیان میں اس امر کی تصدیق کرتا ہے۔ کہ کنفیشن فائل اس نے وصول کی تھی۔ بمطابق حالات و واقعات و ثبوت پیش کردہ دستاویزات من سائل نے احکامات کی بجا آوری اور تکمیل کی ہے۔ اور سائل نے کسی قسم کی غلطی سر برد نہ کی ہے۔ انگلش کلرک کے پاس ریکارڈ اور رجسٹرڈ اور من سائل کے پاس وصول رسید موجود ہے۔ اس لئے کسی بھی طور پر سائل کو ملزم قرار نہ دیا جا سکتا ہے۔

ضابطہ خان



انگلش کلرک/سابقہ ریڈر سول جج VII نوشہرہ

22/05/18

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بیان ضابطہ خان انگلش کلرک سابقہ ریڈر ڈسٹرکٹ کورٹس نوشہرہ۔ برخلاف بیان کرتا ہوں کہ قبل ازیں میں نے اپنا تحریری بیان

وستاویزات دوران انکواری جمع کروایا تھا۔ سائل مورخہ 24-12-2016 کو بعدالت جناب سول جج فضل گل صاحب نوشہرہ

میں بطور ریڈر تعینات رہا ہوں مورخہ 24-12-2016 کو ملزمہ مسماۃ طاہرہ نازعلت نمبر 826 مورخہ 22-12-2016

جرم 302/34PPC تھانہ رسالپور کا اعترافی بیان قلمبند کیا گیا۔ جو کہ بعد از بحکم سول جج صاحب فضل گل مورخہ

09-05-2017 کو انگلش کلرک کے آفس میں محمد ابراہیم (نائب قاصد) کو "اصل" اعترافی بیان حوالہ کیا گیا اور نقل اعترافی

بیان پر نائب قاصد ابراہیم سے دستخط مثبت کیا گیا۔ انگلش کلرک (واجد شاہ) اس دن چھٹی پر تھا چونکہ ہمارے پاس سول مقدمات

کا کام تھا اور اسی دن ہمارے پاس (MOD) تھا۔ اسی بناء پر جج صاحب نے مجھے حکم دیا کہ اصل اعرافی بیان ہذا سپرنٹنڈنٹ

صاحب کے دفتر میں جمع کرے۔

بعد ازیں انکواری آپ صاحب حیثیت کے پاس Disciplinary Action نسبت انکواری پٹ اپ زیر تجویز ہے جس

میں سائل کو Statement of Allegation بھی دی گئی ہیں۔

جس کے نسبت وضاحت ذیل ہے۔

1۔ حسب الحکم عدالت جناب فضل گل صاحب سول جج MOD جج صاحب نے سائل کو ہدایت دی تھی کہ جمعہ اعترافی بیانات

Confession Statement جو بھی پڑھے ہیں ان کو عدالت جناب سیشن جج محترم شفیق تنولی صاحب کے عدالت میں

جمع کر دوں۔ جس پر میرے پاس صرف ایک ہی بیان مقدمہ علت نمبر متذکرہ بالا ہی موجود تھا سپرنٹنڈنٹ صاحب نوشہرہ کے پاس

جمع کروانے کے لئے لے کر گیا مجھے انگلش کلرک کے پاس جمع کروانے کے لئے ہدایت ہوئی جہاں پر میں نے اصل کنفیشن بیان

واجد شاہ جو کہ انگلش کلرک کے پوسٹ پر تھالے کر گیا تو بوجہ رخصتی اصل فائل نائب قاصد محمد ابراہیم کو حوالہ کر کے فوٹو سٹیٹ پر

باقاعدہ وصولی رسید حاصل کی گئی ہیں اور اصل سٹیٹمنٹ کنفیشن نائب قاصد کو حوالہ کی گئی تھی۔ اس سے قبل اس نوکری کے دوران من

سائل نے کبھی بھی انگلش کلرک کے پاس اعترافی بیان نہ جمع کیا۔ بدیں حوالہ بعد ازیں حوالگی اور وصول مذکورہ نائب قاصد ہی

اصل اعترافی بیان کا ذمہ دار ہے۔ یہاں پر یہ امر قابل ذکر ہے۔ کہ مذکورہ نائب قاصد نے مجھے اعترافی بیان کے پشت پر وصولی

بیان کے نسبت Reveiving بھی دی ہے۔ جس سے دوران انکواری اب منکر ہو رہا ہے۔ جبکہ فوٹو سٹیٹ کے حوالگی For

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کی نسبت کبھی بھی Reciving نہیں لی یادی جاتی ہے۔ جبکہ مذکورہ نائب قاصد نے انور ڈرجسٹر 17-2017 میں باقاعدہ طور پر کنفییشن فائل کی وصولی کے بعد مکمل اندراج نمبر 295 مورخہ 09-05-2017 بھی کیا ہے جس کی مکمل نقولات لف کی جاتی ہے۔ جبکہ انکواری آفیسر صاحب نے اپنی Finding میں "اصل" کے لفظ پر زور دیا ہے لیکن اعتراضی بیان کے پشت پر انور ڈرجسٹر میں موجود اندراج میں کہیں پر بھی نائب قاصد براہیم نے لفظ "نقل" تحریر نہیں کیا ہے۔ اور نہ ہی نائب قاصد کے پاس یا انگلش کلرک کے پاس اس بات کی وضاحت موجود ہے کہ انہوں نے ما قبل یا ما بعد بھی اعتراضی بیانات وصول کیے ہیں یا نہیں۔ بدیں وجہ بعد از حوالگی اصل فائل اعتراضی بیان من سائل کا فائل کے ساتھ کوئی واسطہ نہ رہا۔ اور دوران انکواری فوٹو کاپی پر اصل Reciving جو کہ سائل کے پاس تھی و بمعہ دیگر کاغذات جو کہ وقتاً فوقتاً سائل سے مانگے گئے ہیں انکواری آفیسر کو فراہم کی گئی ہے۔

۲۔ من سائل عدالت حضور میں کم و بیش 24 سال 9 مہینے اور تین دن اپنی ڈیوٹی انتہائی خوش اسلوبی اور ایمانداری سے ادا کی ہے اور اس دوران بمطابق احکامات آفسرانج صاحب اپنے فرائض منصبی خوش اسلوبی سے سرانجام دیتے ہیں۔ اور جناب سول جج صاحب جوڈیشل مجسٹریٹ فضل گل کے زبانی ہدایت کے مطابق ہی پہلی دفعہ انگلش کلرک کو اصل اعتراضی بیان جمع کیا گیا تھا۔ جس کی باقاعدہ طور پر نائب قاصد محمد ابراہیم خان نے اپنے بیانات مورخہ 14-02-2019 اور مورخہ 22-02-2019 ذکر بھی کیا ہے۔ اور حقائق کو چھپاتے ہوئے "نقل" لفظ کی ایذا دہی ہے۔ جبکہ ناتو فوٹو کاپی Receiving اور نا ہی انور ڈرجسٹر میں "نقل" کے لفظ کا اندراج موجود ہے۔ اور نہ ہی ما بعد افسران بالا سے متذکرہ فائل کی وصولی کے بارے میں پوچھا ہے۔ اور نہ ہی بمطابق بیان محمد براہیم متفرق فائل کو عدالت سول جوڈیشل مجسٹریٹ فضل گل صاحب واپس بھجوائی گئی ہے۔ اور نہ ہی مذکورہ نائب قاصد نے اعتراضی بیان کی وصولی سے انکار کیا ہے بمطابق قانون جب بھی اصل کاغذات چھٹی دستاویزات وغیرہ سرکاری طور پر کسی بھی اہلکار کو دی جاتی ہے تو اس باقاعدہ طور پر رسید حاصل کی جاتی ہے۔ جو کہ من سائل نے فوٹو سٹیٹ کاپی کے پشت پر نائب قاصد سے دستخط حاصل کی ہے۔ اگر نائب قاصد نے اصل کنفییشن وصول نہ کی ہوتی تو وصولی رسید اور من متعلقہ رجسٹر میں "نقل" لفظ موجود ہوتا لیکن لفظ "نقل" موجود ہی نہ ہے۔ جبکہ احکامات از عدالت جناب سول جوڈیشل مجسٹریٹ صاحب کی نسبت فضل گل صاحب سے ہی معلومات کی جاسکتی ہے۔

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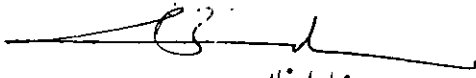
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۳۔ حسب الحکم جناب سول جج جوڈیشل مجسٹریٹ فضل گل صاحب نوشہرہ زبانی احکامات کے مطابق من سائل نے اعتراضی بیان اس کلرک کے پاس جمع کیا تھا جبکہ دیگر تمام اعتراضی بیانات جو کہ سائل کے پاس تھے حسب ہدایت و ضرورت مجسٹریٹ اسول جج صاحب متعلقہ مقدمہ میں متعلقہ عدالت میں جمع کی گئی ہیں۔ چونکہ سول جج فضل گل صاحب کے پاس اس وقت سول کام ہوتا تھا۔ اس کے لئے ان کی ہدایت کے مطابق اعتراضی بیان انگلش کلرک صاحب کی رخصتی برچھٹی دفتر میں نائب قاصد محمد ابراہیم کے حوالہ کیا گیا تھا۔

۴۔ برطابق موجود ریکارڈ بھی آفسر جج صاحب قلمبندی اعتراضی بیان اصل اعتراضی بیان کو سائل کے پاس محفوظ فرماتے اور سائل بوقت ضرورت برطابق احکامات متعلقہ آفسر سول جج صاحب متعلقہ عدالت میں پیش کرتے تھے جبکہ ہلت نمبر 826 مورخہ 22-12-2016 زبردفعہ 34-302 تھانہ رسالپور کے اعتراضی بیان کو بھی سائل نے باقاعدہ طور پر "اصل" حالت میں انگلش کلرک کے دفتر میں جمع کیا تھا۔ اور جس کے وجود سے نائب قاصد اب انکاری ہے بلکہ اپنے بیان میں اس امر کی تصدیق کرتا ہے کہ کنفییشن فائل اس نے وصول کی تھی۔ برطابق حالات واقعات ثبوت پیش کردہ دستاویزات من سائل نے احکامات کی بجا آوری اور تکمیل کی ہے اور سائل نے کسی قسم کی غلطی سرزد نہ کی ہے۔ انگلش کلرک کے پاس ریکارڈ اور رجسٹرڈ اور من سائل کے پاس وصولی رسید موجود ہے اس لئے کسی بھی طور پر سائل کو ملزم قرار نہ دیا جاسکتا ہے۔ یہی میرا بیان ہے۔

(تمام نقولات لف ہے)



ضابطہ خان

(انگلش کلرک سابقہ ریڈرسول جج VII نوشہرہ)

فہرست نقل دستاویزات مشمولہ ہے۔

1-5

1۔ Receiving از نائب قاصد محمد ابراہیم

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2۔ انوڈر رجسٹرڈ

7

3۔ ابتدائی بیان محمد ابراہیم کمپیوٹر آپریٹر

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4۔ بیان محمد ابراہیم

9

5۔ بیان من سائل

فہرست گواہان :-

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46 بیان ضابطہ خان الغلش ملک / سالہ رڈ رول

حلفاً بیان نہ کیا گیا کہ سول سول فور 24/12/2016 کو بعد الٹ جہاز
فصل 101 سول جج، 111 کو شہرہ میں بطور ریڈر احکامات

کھا، مورخہ 24/12/2016 کو طرہ سے صفحہ 826 ناڈ علیہ مورخہ
22/12/2016 عزم 302/34PPC کھانہ، سالیو، کا اعترافی بیان
فصل 101 سول جج صاحبہ مورخہ 9/5/2017

قلمبند بیان کیا کہ جہاز بعد از حکم سول جج صاحبہ
کو الغلش ملک کے آفس میں محمد البر اعظم (نائب قاصد) کو اصل
اعترافی بیان حوالہ دیا گیا اور نقل اعترافی بیان پر نائب قاصد
البر اعظم سے دستخط ثبت کیا گیا۔ الغلش ملک (واجد شاہ) اس

نقل خطی پر کھا چو تک پہنچے پاس سول قیادت کا کام کھا اور
اسی دن پہنچے پاس (M.O.D) کھا 1 سی بناؤ پینج صاحبہ
نے حکم دیا کہ اصل اعترافی بیان پڑھا گیا اور شہادت صاحبہ

کے دفتر میں جمع کرے۔ نقل اعترافی بیان، عکس لے لے
یہی میرا بیان ہے۔

دست در دست
محمد شہزاد
سر سول جج رول

ضابطہ خان الغلش مورخہ

22/12/16

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بیان محمد امجد علی خان جو شریک اسٹینٹ ریٹائرڈ کا قضاہ نکلنے پر
 صرف بیان کیا کہ یہ صبر 2013 سے ریٹائرڈ ہوئے اسٹینٹ آفس میں
 بطور نائب صدر ڈیوٹی سرانجام دینے کے لیے صرف 5/12 کو ریٹائرڈ ہوئے
 تھے۔ اور یہ کہ درخواست میں موجود ہے صرف 5/12 کو ریٹائرڈ
 کیا۔ مقرر کے آگے سے اقبال جرم کے بیان کے باوجود موصول ہوئی ہوگی
 من سائل نے وصول کی اور متصرف خالص نکالی گئی۔ سائل نے یا اٹلنگ
 فلک نے اسے نقل اقبال جرم بیان کے مدعوہ آج تک نہ کوئی نقل بیان اقبال
 جرم یا اعلیٰ بیان اقبال جرم وصول کیا ہے۔ اور نہ ہی کسی صورت
 سے اسے کوئی اسٹیٹ منٹ فلک کے آگے آفس بھی گئی ہے۔ میں نے اسے نقل
 بیان اقبال جرم متصرف صاحبہ کا پیر 01، FIR نمبر 826 صفحہ 12-22
 (؟) 302 PPC کے تحت رسائی اور وصول کی ہے جو کہ حکم سٹیٹ آف صاحب
 کمرز ایجا علیہ کے حینتگی -

سنگ درست رقم کیا۔

صفحہ
22/5
19

محمد امجد علی خان
 شریک ریٹائرڈ

محمد امجد علی خان

22/5/19

(10)

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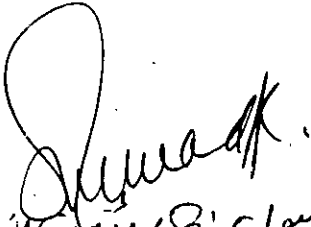
بیان نیاز کنگ شہر صدر / ریڈر عدالت JM-I نوشہرہ -

حلفاً بیان کیا کہ میں تقریباً سال 2016 سے لکھنؤ ریڈر عدالت

جوڈیشل مینسٹریٹ نوشہرہ تقریبات پر۔ جب کہی بعض مدعی کا اصرار بیان
تھیں کہ جانا ہے۔ تو وہ بعض جج صاحبان متعلقہ تفتیشی آفس کو حوالہ
کر دیتے تھے۔ اور بعض جج صاحبان اصل بیان مدارک ریڈر
کو لے کر اسے تصدیق کر لیتے ہیں۔ لیکن 2 تا 3 کوئی بھی
اصل تفتیشی آگنسٹ اس وقت تکھی ہے۔ اور نہ کوئی حوالہ بھی ہے۔

میں نے درست رقم کیا۔

حلف
22/2
15


شہر صدر / ریڈر عدالت نوشہرہ

نیاز کنگ شہر صدر / ریڈر عدالت JM-I نوشہرہ

22.2.4

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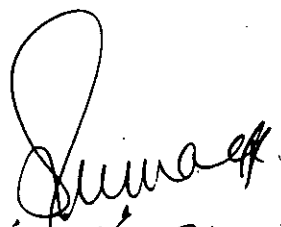
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بیان واجدہ شاہ ریڈر عدالت سٹیٹ سول جی ڈی ٹریبیونل
حلفاً بیان کیا کہ

میں نے یہ سال 2009 سے 2017/15/23 تک
لکھنؤ انٹرنیشنل کورٹ میں تصدیق شدہ ریگولیشن
وقت تصدیق میں میں نے کسی بھی قسم کا اقبال جرم بیان
نہیں کیا اور نہ ہی کسی بھی حالت میں وکیل
کیا ہے۔ کوئی تصدیق شدہ آفت میں اسے کوئی فائل
بابت اقبال جرم بیان نہ ہے۔ صرف 5/9 کو
میں تصدیق پر تھا۔ تصدیق شدہ ریگولیشن
مقررہ فائل میں موجود ہے۔ اور اصل ہے کہ ریگولیشن
فائل پر ہے موجود ہے۔ میں نے نہ کوئی اقبال جرم بیان
نہیں کیا اور نہ ہی وکیل کیا ہے۔ اور نہ ہی
میں نے کوئی تصدیق ہے۔ تصدیق شدہ ریگولیشن


سڈیو سول جی ڈی ٹریبیونل

تصدیق شدہ
2/13
وراج شاہ ریڈر

22/2/19

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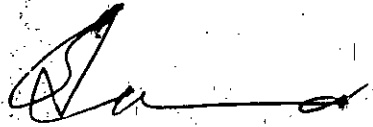
Statement of Muhammad Ibrahim Junior Clerk District &
Session Courts, Nowshera.

Stated that I do not record further evidence and relied upon my
already recorded statement.

Dated: 20.04.2019


R.O & A.C

Muhammad Ibrahim (Junior Clerk)


Shakeel Arshad
Civil Judge-VIII
Nowshera

20/4/19

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Statement of Muhammad Ibrahim.

XX on behalf of Representative. I remained as Naib Qasid in the office of English Clerk i.e. November 2013 to September 2018. In case of leave of English Clerk, Superintendent District & Sessions Judge, Nowshera office was receiving all the incoming letters etc and I was performing as Naib Qasid duty. In English Office, no file for confessional statement is maintaining. It is correct that I signed overleaf of confessional statement copy as receipt, but I have not mentioned copy or original. Self stated that I received copy of confessional statement and the said copy is available in the record of English Office. As no file regarding confessional statement is available in the English Office, I received the confession on the direction of Superintendent

XX on behalf of Zabita Khan. In English Office we are receiving letters of out districts in "Inward Register" and the same direction was also given by Superintendent for entering letters and copies of out district in "Inward Register", however for application regarding stationeries and all Misc letters, we have maintained a general register. I do not know that whether I mentioned the word copy of confessional statement in the "Inward Register" or not? It is correct that I have not mentioned the "Inward Stamp" alongwith number of Inward Register upon the alleged copy of confessional statement, which is Ex.PA. Self stated that most of the letters received in English Office do not bears the "Inword Stamp". It is

Handwritten signature and date: 9/5/19

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Handwritten initials: UB

Handwritten number in a circle: 21

correct that generally the receiving person put signature upon receipt of original documents, self stated that I put signatures upon receipt of copy of letters and other Misc applications. It is correct that the words (confessional statement) on the file cover of alleged confessional statement is in my hand writing. I do not know that my statement was recorded by Senior Civil Judge(Admn), Nowshera after the statement of Zabita Khan.

Court Questions & Answers:-

Q:- Have you brought the receiving of alleged copy of confessional statement in the notice of English Clerk on his arrival after availing leave?

Ans:- I do not remember that whether I brought the receiving of alleged copy of confessional statement in the notice of English Clerk or not?

Q:- Whether you received the alleged copy of confessional statement in an envelope?

Ans:- No, I received the alleged copy of confessional statement in file cover.

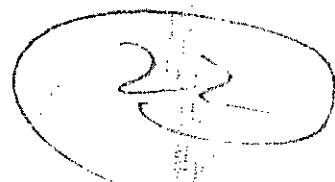
Dated: 3/5 2019

R.O & A.C



Shakeel Arshad
Civil Judge-VIII
Nowshera

3/5/19



Statement of Zabita Khan.

Stated that I remained Reader of the court for 03 years and during that period I received 04 confessional statements which I handed over to the concerned Presiding Officer. Normally the confessional statement remains in the safe custody of Reader, but as per verbal direction of presiding officer namely Fazal Gul, I handed over the confessional statement of accused Tahira Naz in case FIR No. 826 dated 22.12.2016 under section 302 PPC. First I produced the confessional statement before superintendent, who told me to submit it in the English Office, where I handed over original confessional statement to Ibrahim Naib Qasid and obtained his signature upon copy of confessional statement for my own record. The copy of which is Ex.PB. The remaining 03 confessional statements recorded in my tenure as Reader with concerned presiding officer Fazal Gul, I handed over to Imtiaz Reader, Saleem Jan Muharrir and Jan Akbar SI. Regarding leave of English Clerk, I informed the concerned presiding officer, but he told me to handed over to other responsible official/officer.

XX on behalf of Representative. It is correct that generally Ibrahim Naib Qasid received letters on behalf of English Clerk. Now a days I am performing duty as English Clerk and generally we do not take signature of the receiver in the "Inward Register", however we take signature either in the register or upon copy of document/letter of the receiver as taken of receipt. It is correct that I

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have not obtained signature of Ibrahim Naib Qasid in the dispatch register, self stated that I have taken signature of Ibrahim Naib Qasid overleaf of confessional statement.

XX on behalf of Ibrahim. It is correct that confessional statement is very important and I have not entered the same in the dispatch register, self stated that I obtained signature of Ibrahim on the copy of confessional statement, which is my dispatch register. It is correct that I have not submitted the confessional statement alongwith covering letter because I have no concerned with covering letter. It is correct that apart from the missing confessional statement, I have not submitted the remaining 03 confessional statements in English Office. It is correct that I have mentioned the word original while submitting the other confessional statements to the concerned officials. It is also correct that the word original is not mentioned on the receipt of missing confessional statement.

Court Questions & Answers:-

Q:- When and in the presence of whom you were directed by the concerned presiding officer to submit confessional statement?

Ans:- At the time of direction, no one was present.

Q:- Whether the case of accused Mst. Tahira Naz was put in court on the date of submission of confessional statement?

Ans:- At the time of submission of confessional statement, the case FIR No. 826 dated 22.12.2016 was not put in court.

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Q:- Whether the cases of other 03 confessional statements were put in court at the time of submission of original confessional statement?

Ans:- Yes I inquired from the prosecution branch and after satisfaction, I submitted two confessional statements in the concerned courts.

Q:- As per record, the confessional statement of case FIR No. 826 was recorded on 24.12.2016 and the said case was put in court on 10.04.2017, then why you did not submit the said confessional statement in the concerned court?

Ans:- I and the presiding officer was unaware about pendency of case in the trial court, thus as per direction of presiding officer, I submitted the confessional statement in the English Office.

Q:- When you and presiding officer was unaware about pendency of the trial of the said case, then why you submitted the same after lapse of 04 months and 16 days?

Ans:- After attending meeting with Shafiq Ahmad Tanoli, the then learned District & Sessions Judge, Nowshera, my presiding officer Fazal Gul directed me to submit all the confessional statements in the office of Superintendent, hence I submitted the same.

Dated: 03.05.2019

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R.O & A.C
Shakeel Arshad
Civil Judge-VIII
Nowshera
3/5/19
Fazal Gul

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CW-1 Statement of Muhammad Adil Amin Muharrir
District & Sessions Judge, Nowshera.

Stated that as per direction of Inquiry officer, I produced the case file of case FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur. I produced the first two pages of order sheets, formal charge dated 02.05.2017 of accused Muhammad Farooq & Mst. Tahira Naz as Ex.CW-1/1 & Ex.CW-1/2. I also produced abstract of register No. SC of 2017 of serial No. 37 as Ex.CW-1/3 vide which the case FIR No. 826 dated 22.12.2016 under section 302 PPC of accused Tahira Naz was registered on 10.04.2017.

XX Nil opportunity given.

Muhammad Adil Amin

Muhammad Adil Amin (Muharrir)

Dated: 03.05.2019

R.O & A.C

Shakeel Arshad
Shakeel Arshad
Civil Judge-VIII / *Inquiry Officer*
Nowshera

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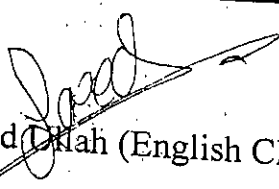
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CW-2 Statement of Saeed Ullah Clerk of English Office.


Stated that as per direction of Inquiry officer, I produced the "Inward Register" of the year 2017 and exhibit the entry at Serial No. 285 dated 05.05.2017 upto Serial No. 295 dated 09.05.2017 as Ex.CW-2/1 consisting of 02 pages. Similarly I also produced the minutes of Judicial Officers and criminal Justice Coordination Committee of May, 2017 as Ex.CW-2/2 & Ex.CW-2/3. Original produced and returned.

XX Nil opportunity given.


Saeed Ullah (English Clerk)

Dated: 03.05.2019

R.O & A.C


Shakeel Arshad
Civil Judge-VIII / Inquiry Officer
Nowshera

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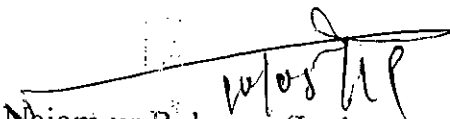
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CW-3 Statement of Najam ur Rahman Incharge Record Room, District Courts, Nowshera.

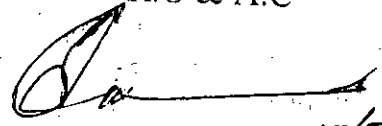
Stated that as per direction of Inquiry officer, I brought the case file of case FIR No. 161 dated 24.04.2017 under section 392/452/411 PPC of PS Azakhel. I produced the first page page of order sheets, formal charge dated 15.11.2017 and confessional statement of accused Muhammad Adil as Ex.CW-3/1 to Ex.CW-3/3 respectively.

XX Nil opportunity given.


Najam ur Rahman (Incharge Record Room)

Dated: 10.05.2019

R.O & A.C


Shakeel Arshad
Civil Judge-VIII/Inquiry Officer
Nowshera
10/5/19

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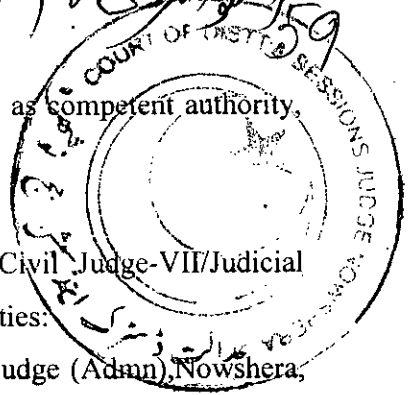
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فہرست ذمہ دار گورنمنٹ ڈسٹرکٹ سیشن جج نو شہرا

CHARGE SHEET

کے نام پر ذمہ دار



I, Gohar Rehman, District & Sessions Judge, Nowshera, as competent authority, hereby charge you, Mr. Zabita Khan, Senior Clerk, as follows:

That you, while posted as Reader in the court of Civil Judge-VII/Judicial Magistrate, Nowshera committed the following irregularities:

(a) As per report submitted by Senior Civil Judge (Admn), Nowshera, the Confessional Statement of accused Mst. Tahira Naz in case FIR No.826 dated 22.12.2016 u/s 302 PPC, PS Risalpur, recorded on 24.12.2016, went missing from your custody, constituting misconduct, inefficiency on your part, as defined by rule 3 (a) & (b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and thus you have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer.

4. Your written defence, if any, should reach the 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 be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

Dated: 28/3 /2019.

Gohar Rehman,
District & Sessions Judge/
Competent Authority,
Nowshera.

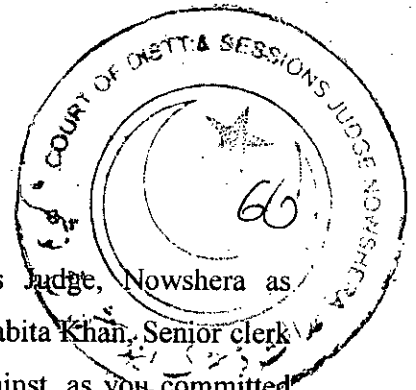
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Branch. D.S.J. Nowshera

24 OCT 2018

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12/4/18
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DISCIPLINARY ACTION



I, Gohar Rehman, District & Sessions Judge, Nowshera as competent authority, am of the opinion that Mr. Zabita Khan, Senior clerk has rendered yourself liable to be proceeded against, as you committed the following acts/omissions, within the meaning of rule 3 of Khyber Pakhtunkhwa Government Servants (efficiency and Discipline) Rule, 2011.

STATEMENT OF ALLEGATIONS

- i. As the confessional statement of accused Mst. Tahira Naz was handed over to you (being reader) in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur by the then CJ/JM-VII, Nowshera for safe custody. Which is not available with you, while you were responsible for the said confessional statement.
- ii. There is no proof of the fact that original confessional statement was handed over to Naib Qasid to the office of English Clerk, upon the direction of learned Civil Judge/Judicial Magistrate.
- iii. No explanation is available for the necessity which after a time period of 04 months aroused, for the submission of the confessional statement with English Clerk.
- iv. Record of other confessional statement, maintained by you, reveals that those were handed over to the officials of concerned court (during the trial) when required to those courts.

You were served with notice to explain your position in written to the than District & Sessions Judge, Nowshera as to why disciplinary action should not be initiated against you, under the Khyber Pukhtunkwa Government servants (efficiency and discipline) Rule, 2011. Nevertheless, the reply submitted on your behalf alleging that the said confessional statement was handed over to the than PN to the office of English clerk and facts finding inquiry, conducted by the Senior Civil

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Examiner Copying Agency
Branch. D.S.J. Nowshera

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24 OCT 2019

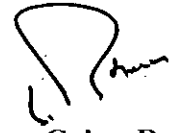
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For the purpose of inquiry against you, Zabita Khan (senior clerk) with reference of above allegations. Mr. Shakeel Arshad Civil Judge, Nowshera is appointed for the purpose of inquiry under rule 10(1) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.

The inquiry officer, in accordance with the provisions of the rules Ibid would provide an opportunity of hearing the accused, record his findings and make recommendation as to punishment or other appropriate action against the accused as early as possible, but not late than 30 days as postulated under rule of sub-rule-II of Khyber Pakhtunkhwa Government servant (efficiency and Discipline) rules, 2011.

The accused official shall be proceeding on the date, time and placed fixed by the inquiry officer.

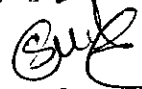
Dated: 28/3/19



Gohar Rehman,
District & Sessions Judge,
Nowshera

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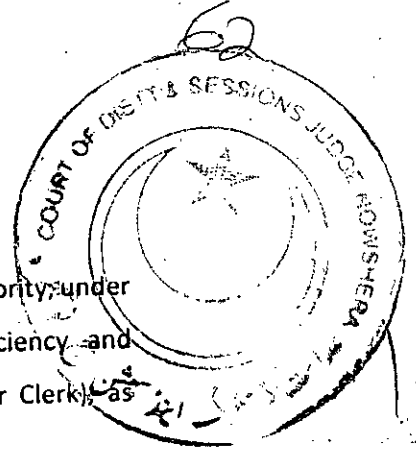


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Branch. D.S.J. Nowshera

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OCT 2019

SHOW CAUSE



I, (Gohar Rehman District & Sessions Judge Nowshera) as competent authority, under the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Zabita Khan (Senior Clerk), as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide Order, dated 15.01.2019 and

(ii) On going through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

(a) Inefficient

(b) Misconduct

2. As a result, thereof, I, as competent authority, have tentatively decided to impose upon you the major and minor penalties of under rule 4 of the said rules.

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

4. If no reply to this notice is received after ten days of its delivery, it shall be presumed that you have no defense to put in and, in that case, an ex-parte action shall be taken against you. Further if you accused official wants to submit any additional defense then submit before the Competent Authority in writing, if any, within a period of ten days.

5. A copy of the findings of the inquiry officer is enclosed.

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Examiner Copying Agency
Branch. D.S.J. Nowshera

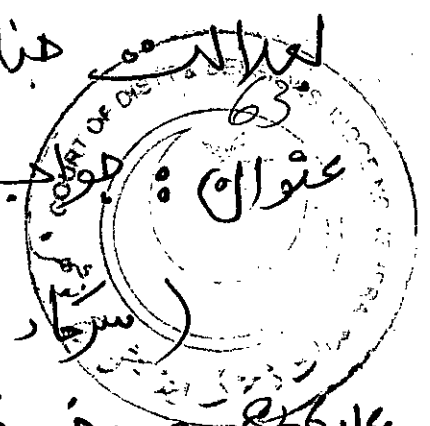
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COMPETENT AUTHORITY

G.R.
Gohar Rehman
District and Sessions Judge,
Nowshera.

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کتاب و سٹرکٹ اینڈ پبلیشرنگ صاحب



بابت اعترافی بیان / اقبال حیرت

نیم مسماۃ طاہرہ ناز

16/2/19

302/34 pp حیرت، 22-12-2016 مورخہ

15AA

Masrullah Khan Ganyal
District & Sessions Judge
Nowshera

کتاب علاء

سائنس بہائیت ادب و احترام کے ساتھ عرض کرتا ہے
کہ بعد ازاں کتاب فقیر صاحب سول جی ایچ، نو شہرہ میں
ملزمہ طاہرہ ناز کا اعترافی بیان ملا نظر کیا گیا۔ بعد از
ملاحظہ فائل سے پایا گیا کہ ملزمہ کا اصل اعترافی بیان
2017-05-09 کو حکم سول جی صاحب بعد ازاں کتاب
پبلیشرنگ میں الفلش فلر کے نائب قاضی
(ابراہیم) کو دی گئی ہے۔ اور اعترافی بیان کے کاپی پر
نائب قاضی ابراہیم کے دستخط کیے گئے ہیں
جنہوں نے فائل ملا نظر ہے۔ جیسی نقل ہمراہ لگا ہے۔

العارض

آپکا فرمانبردار

شاہد خان

(افلش فلر / سابقہ ایڈیٹر)

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Examiner Copying Agency
Branch, D.S.J. Nowshera

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24 OCT 2019

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بخدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحب نوشہرہ

جواب بابت جواب ڈی ایچ پی 435-1/2+PF/DSJ مورخہ: 12/02/2019۔

جناب عالی! جواب ذیل میں عرض ہے۔

سائل انتہائی ادب کے ساتھ عرض کرتا ہے کہ سائل ستمبر 2013 سے آفس انگلش کلرک و سپرنٹنڈنٹ آفس میں بطور نائب قاصد ڈیوٹی سرانجام دے رہا تھا۔ مورخہ: 09/05/2017 کو عدالت جناب فضل گل CJ/JM صاحب سے کنفشن سٹیٹمنٹ کی کاپی موصول ہوئی چونکہ 09/05/2017 کو انگلش کلرک چھٹی پر تھا (نقل درخواست لف ہے) اس لئے سائل کنفشن سٹیٹمنٹ کی کاپی وصول کر کے دستخط کی۔ جناب عالی! عدالت جناب فضل گل CJ/JM صاحب کی عدالت سے جتنے بھی کنفشن سٹیٹمنٹ محرر ہذا یا متعلقہ تھانہ کے اہلکار سے دستخط کے ساتھ باقاعدہ اصل کنفشن سٹیٹمنٹ وصول شد لکھا گیا ہے جبکہ میں نے جو کنفشن سٹیٹمنٹ کی کاپی وصول کی ہے اس پر صرف سائل کا دستخط ثبت ہے اور اصل کا کوئی ذکر نہ ہے جس سے صاف ظاہر ہوتا ہے کہ میں نے نقل کنفشن سٹیٹمنٹ وصول کی ہے اور وہ نقل کنفشن سٹیٹمنٹ انگلش برانچ کے ریکارڈ میں موجود ہے۔

المرقوم: 14/02/2019

آپ کا فرمانبردار و مخلص

محمد ابراہیم (جونیر کلرک)

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Branch, D.S.J. Nowshera

12.4 OCT 2019

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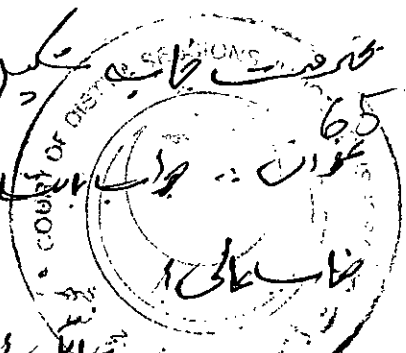
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16/2/19

Masrullah Khan Gaudap
District & Sessions Judge
Nowshera

محکمیت خانہ سیکشن انکوائری / انکوائری آفیسر صاحب کو شہرہ



تعمیراتی امور کے ساتھ عرصہ گزرتے ہوئے کہ سائل ستمبر 2013 سے ڈسٹریکٹ ملنگ و سیرٹیفکیشن آفیسر میں بطور نائب ناظم ڈپٹی سر ایڈم و سہ رہا تھا۔ وزیر 09.5.2017 کو عدالت خانہ مغل ٹی/م صاحب سے کنفیڈنشل سٹیٹمنٹ کی کاپی وصول ہوئی چونکہ 5/9/2017 کو ڈسٹریکٹ ملنگ و سیرٹیفکیشن آفیسر (نقل و حرکت) سے فائیل موجود ہے اس لیے سائل کنفیڈنشل سٹیٹمنٹ کی کاپی وصول کر کے دستخط کیا۔

خانہ عالی عدالت خانہ مغل ٹی/م صاحب کی عدالت سے جتنے بھی کنفیڈنشل سٹیٹمنٹ تحریر کیا گیا ہے ان کے اظہار سے دستخط کے ساتھ ساتھ دوسرے کنفیڈنشل سٹیٹمنٹ وصول شدہ گنجانے کے لیے جبکہ سائل کو کہ کنفیڈنشل سٹیٹمنٹ کی کاپی وصول کی ہے اس پر صرف سائل کا دستخط ہے اور دوسرے کوئی ذکر نہیں ہے جس سے صاف ظاہر ہوتا ہے کہ سائل نے نقل کنفیڈنشل سٹیٹمنٹ وصول کی ہے اور نقل کنفیڈنشل سٹیٹمنٹ آفیسر براؤن کے ریکارڈ میں موجود ہے۔

۱۱-۳

المرقوم 11/04/2019

آپ کا فریڈمانڈر فیض
چوہدری نسیم (فریڈمانڈر)

۱۲/۹/۱۹

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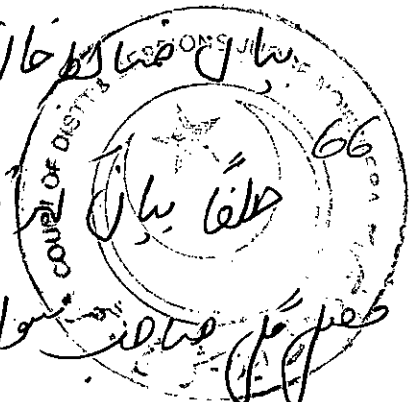
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Examiner Copying Agency
Branch. D.S.J. Nowshera

24 OCT 2019

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بیان ضحاک خان الفلش ملک / سالہ ریڈر / حلف



24¹²/₂₀₁₆ کو بعد از اس وقت
کھنڈر میں صاحب سول جج، ایف۔ ٹی۔ ڈی۔ میں بطور ریڈر تعینات

کھا۔ مورخہ 24¹²/₂₀₁₆ کو طرز سے مسماہ طاہرہ ناز علیہ 826 مورخہ
22¹²/₂₀₁₆ عزم 302/34 PDC کھانہ رسالہ پور کا اعترافی بیان

قلمبند بی بی بی بی کو بعد از جج صاحب قلمی مورخہ 9⁵/₂₀₁₇
کو الفلش ملک کے آفس میں محمد البر اعظم (نائب قاضی) کو اصل

اعترافی بیان حوالہ بی بی بی اور نقل اعترافی بیان پر نائب قاضی
البر اعظم سے دستخط ثبت کیا گیا۔ الفلش ملک (واحد شاہ) آفس

کے دفتر میں جمع کر کے پورے پاس سول مقدمات قائم کھا اور
آسی نقل بنادے پاس (M.O.D) کھا۔ اسی بناء پر جج صاحب

نے جج حکم دیا کہ اصل اعترافی بیان پر سیرٹیفکٹ صادر
کے دفتر میں جمع کر کے نقل اعترافی بیان، گواہ لکھے
یہی میرا بیان ہے۔

دست در دست
محمد مسعود
سید جج ریڈر

ضحاک خان الفلش ملک ریڈر

22/12/16

ATTESTED
Examiner Copying Agency
Branch. D.S.J. Nowshera
24 OCT 2019

(18)

(13)



بیان محمد ابرار علی خان جو ٹیڈر مندر استیٹ ریٹائرڈ کسٹرو حفوظ خانہ میں
 طغی بیان کیا کہ سے اٹھنے مندر سرٹیفکیٹ آرمی میں
 بھگواناٹک قائمہ ڈیوٹی سر اہلج دیہ بھانجا - صفحہ 5/12 و کورٹیشن مندر
 حقیقی سر تھا۔ اور یہی کہ در فوائست مشل موجود ہے۔ صفحہ 5/17 و کورڈر اٹک
 صبا: فضل گل آرمی سے اقبال جم کے بیان کی کاپی موصول ہوئی جو کہ
 من سائل نے وصول کی اور متصرف خلیل تھالی گئی۔ سائل نے با اٹھنے
 فلک نے اسے نقل اقبال جم بیان کے طرہ ذہن تک نہ کوئی نقل بیان اقبال
 جم یا اعل بیان اقبال جم وصول کی ہے۔ اور نہ ہی کسی صورت
 سے ایسی کوئی اسٹیٹ اٹک مندر آرمی بھجی گئی ہے۔ میں نے اسے نقل
 بیان اقبال جم متصرف صبا کاپیہ در، FIR نمبر 826 صفحہ 12/16
 (ج) 302 PPC کھانہ رسالہ اور وصول کی ہے جو کہ بھگواناٹک
 کسٹرو ریٹائرڈ کسٹرو کو پیشگی۔

سنگ دروست لکھ لیا۔

صفحہ
22/2
19

محمد ابرار علی خان
22/2/19

محمد ابرار علی خان
کسٹرو ریٹائرڈ کسٹرو

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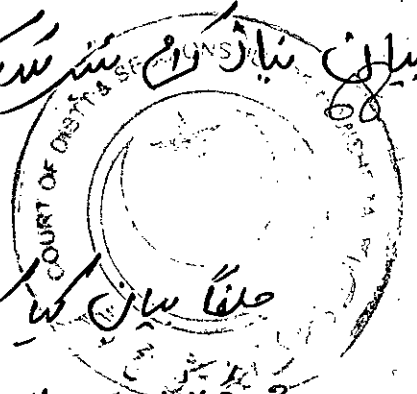
Examiner Copying Agency
Branch. D.S.J. Nowshera

24 OCT 2019

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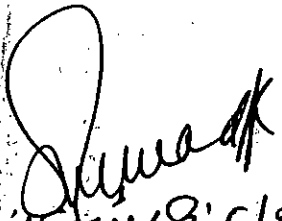
بیان نیاز کے پیش سید ارشد مددگاری TM-I نوٹس -



حلف بیان کیا کہ میں تقریباً سال 2016 سے لکچرار سید ارشد
جوڈیشل سید حبیب نوٹس لکھتا ہوں۔ جب کہ یہی میں مددگار بیان
تھیں کیا جاتا ہے۔ تو وہ بعض وجوہات سے منصفہ گفتنی اعتبار کو حوالہ
کر دیتے تھے۔ اور بعض وجوہات سے اصل بیان سید ارشد
کو لے کر اسے حقوقاً لکھتے ہیں۔ ہم نے 21 تک کوئی بھی
اصل گفتنی گفتنی دینا نہیں ہے۔ اور نہ کوئی کاپی بھی ہے۔

میں نے درجہ دیا

صفحہ
22/19



شیر سول: 19/10/2019 نوٹس

نیاز کے پیش سید ارشد مددگاری TM-I نوٹس

22-2-4

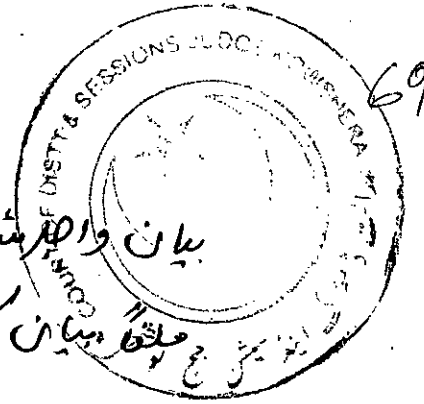
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ATTESTED 24 OCT 2019


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Branch. D.S.J. Nowshera

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بیان واپس پٹانہ ایڈووکیٹ جنرل سید سعید حسین نے
ریاست

میں تقریباً سال 2009 سے 2017/18 تک
ایڈووکیٹ جنرل سید سعید حسین کے اہلیت رکھنے پر
وقت اہلیت میں سے کسی بھی قسم کا اہلیت جرم بیان
نہیں کیا گیا اور نہ ہی اس وقت تک اس میں
کسی بھی قسم کی ترقی ہوئی۔ اس کے باوجود
بابت اہلیت جرم بیان نہ کیا گیا۔ اس کے باوجود
میں اہلیت نہ رکھتا۔ جس کی ترقی اور ترقی
میں ترقی حاصل نہیں ہوئی۔ اور نقل سے
بابت اہلیت جرم بیان نہ کیا گیا۔ اور نہ ہی
اس میں ترقی حاصل ہوئی۔ اور نہ ہی
اس میں ترقی حاصل ہوئی۔ اور نہ ہی

[Handwritten signature]
سید سعید حسین ایڈووکیٹ جنرل

ایڈووکیٹ جنرل
سید سعید حسین
22/10/19
ورثہ ایڈووکیٹ جنرل
[Signature]
22/10/19

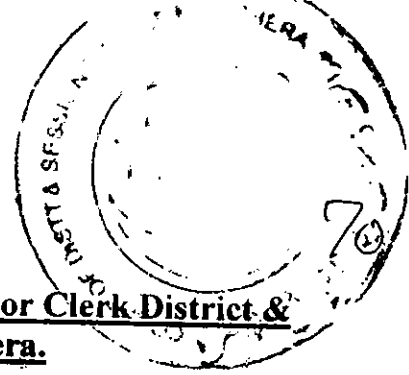
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Branch. D.S.J. Nowshera

24 OCT 2019


(16)




Statement of Muhammad Ibrahim Junior Clerk District & Session Courts, Nowshera.

Stated that I do not record further evidence and relied upon my already recorded statement.


Dated: 20.04.2019


R.O & A.C

Muhammad Ibrahim (Junior Clerk) _____


Shakeel Arshad 20/4/19
Civil Judge-VIII
Nowshera

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Branch, D.S.J. Nowshera

24 OCT 2019

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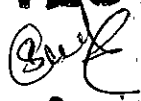
Statement of Muhammad Ibrahim.

XX on behalf of Representative. I remained as Naib Qasid in the office of English Clerk i.e. November 2013 to September 2018. In case of leave of English Clerk, Superintendent District & Sessions Judge, Nowshera office was receiving all the incoming letters etc and I was performing as Naib Qasid duty. In English Office, no file for confessional statement is maintaining. It is correct that I signed overleaf of confessional statement copy as receipt, but I have not mentioned copy or original. Self stated that I received copy of confessional statement and the said copy is available in the record of English Office. As no file regarding confessional statement is available in the English Office, I received the confession on the direction of Superintendent

3/5/19

XX on behalf of Zabita Khan. In English Office we are receiving letters of out districts in "Inward Register" and the same direction was also given by Superintendent for entering letters and copies of out district in "Inward Register", however for application regarding stationeries and all Misc letters, we have maintained a general register. I do not know that whether I mentioned the word copy of confessional statement in the "Inward Register" or not? It is correct that I have not mentioned the "Inward Stamp" alongwith number of Inward Register upon the alleged copy of confessional statement, which is Ex.PA. Self stated that most of the letters received in English Office do not bears the "Inword Stamp". It is

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Branch. D.S.J. Nowshera

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correct that generally the receiving person put signature upon receipt of original documents, self stated that I put signatures upon receipt of copy of letters and other Misc applications. It is correct that the words (confessional statement) on the file cover of alleged confessional statement is in my hand writing. I do not know that my statement was recorded by Senior Civil Judge(Admn), Nowshera after the statement of Zabita Khan.

Court Questions & Answers:-

Q:- Have you brought the receiving of alleged copy of confessional statement in the notice of English Clerk on his arrival after availing leave?

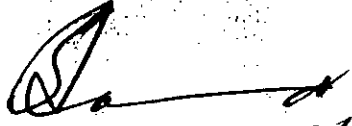
Ans:- I do not remember that whether I brought the receiving of alleged copy of confessional statement in the notice of English Clerk or not?.

Q:- Whether you received the alleged copy of confessional statement in an envelope?


Ans:- No, I received the alleged copy of confessional statement in file cover.

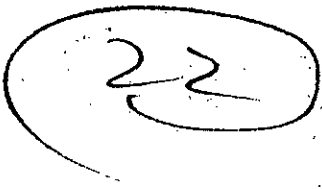
Dated: 3/5 2019

R.O & A.C

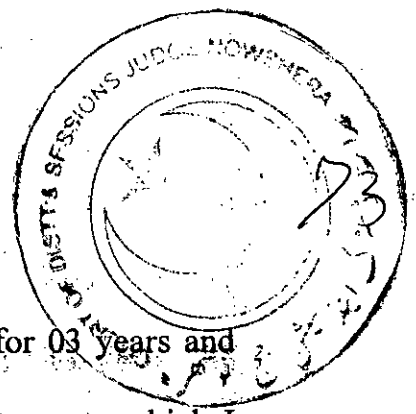

Shakeel Arshad
Civil Judge-VIII
Nowshera
3/5/19

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Branch. D.S.J. Nowshera
24 OCT 2019



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Statement of Zabita Khan.


11/8/19

Stated that I remained Reader of the court for 03 years and during that period I received 04 confessional statements which I handed over to the concerned Presiding Officer. Normally the confessional statement remains in the safe custody of Reader, but as per verbal direction of presiding officer namely Fazal Gul, I handed over the confessional statement of accused Tahira Naz in case FIR No. 826 dated 22.12.2016 under section 302 PPC. First I produced the confessional statement before superintendent, who told me to submit it in the English Office, where I handed over original confessional statement to Ibrahim Naib Qasid and obtained his signature upon copy of confessional statement for my own record. The copy of which is Ex.PB. The remaining 03 confessional statements recorded in my tenure as Reader with concerned presiding officer Fazal Gul, I handed over to Imtiaz Reader, Saleem Jan Muharrir and Jan Akbar SI. Regarding leave of English Clerk, I informed the concerned presiding officer, but he told me to handed over to other responsible official/officer.

XX on behalf of Representative. It is correct that generally Ibrahim Naib Qasid received letters on behalf of English Clerk. Now a days I am performing duty as English Clerk and generally we do not take signature of the receiver in the "Inward Register", however we take signature either in the register or upon copy of document/letter of the receiver as taken of receipt. It is correct that I

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Examiner Copying Agency
Branch, D.S.J. Nowshera

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have not obtained signature of Ibrahim Naib Qasid in the dispatch register, self stated that I have taken signature of Ibrahim Naib Qasid overleaf of confessional statement.

XX on behalf of Ibrahim. It is correct that confessional statement is very important and I have not entered the same in the dispatch register, self stated that I obtained signature of Ibrahim on the copy of confessional statement, which is my dispatch register. It is correct that I have not submitted the confessional statement alongwith covering letter because I have no concerned with covering letter. It is correct that apart from the missing confessional statement, I have not submitted the remaining 03 confessional statements in English Office. It is correct that I have mentioned the word original while submitting the other confessional statements to the concerned officials. It is also correct that the word original is not mentioned on the receipt of missing confessional statement.

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Court Questions & Answers:-

Q:- When and in the presence of whom you were directed by the concerned presiding officer to submit confessional statement?

Ans:- At the time of direction, no one was present.

Q:- Whether the case of accused Mst. Tahira Naz was put in court on the date of submission of confessional statement?

Ans:- At the time of submission of confessional statement, the case FIR No. 826 dated 22.12.2016 was not put in court.

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Branch. D.S.J. Newsprint

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24 OCT 2019

Q:- Whether the cases of other 03 confessional statements were put in court at the time of submission of original confessional statement?

Ans:- Yes I inquired from the prosecution branch and after satisfaction, I submitted two confessional statements in the concerned courts.

Q:- As per record, the confessional statement of case FIR No. 826 was recorded on 24.12.2016 and the said case was put in court on 10.04.2017, then why you did not submit the said confessional statement in the concerned court?

Ans:- I and the presiding officer was unaware about pendency of case in the trial court, thus as per direction of presiding officer, I submitted the confessional statement in the English Office.

Q:- When you and presiding officer was unaware about pendency of the trial of the said case, then why you submitted the same after lapse of 04 months and 16 days?

Ans:- After attending meeting with Shafiq Ahmad Tanoli, the then learned District & Sessions Judge, Nowshera, my presiding officer Fazal Gul directed me to submit all the confessional statements in the office of Superintendent, hence I submitted the same.

Dated: 03.05. 2019

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R.O & A.C

Shakeel Arshad
Civil Judge-VIII
Nowshera
3/5/17
Fazal Gul

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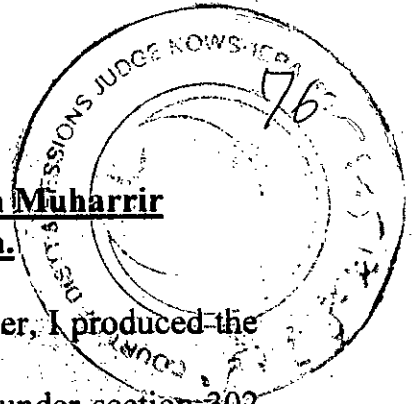
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Branch, D.S.J. Nowshera

24 OCT 2019

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CW-1 **Statement of Muhammad Adil Amin Muharrir**
District & Sessions Judge, Nowshera.



Stated that as per direction of Inquiry officer, I produced the case file of case FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur. I produced the first two pages of order sheets, formal charge dated 02.05.2017 of accused Muhammad Farooq & Mst. Tahira Naz as Ex.CW-1/1 & Ex.CW-1/2. I also produced abstract of register No. SC of 2017 of serial No. 37 as Ex.CW-1/3 vide which the case FIR No. 826 dated 22.12.2016 under section 302 PPC of accused Tahira Naz was registered on 10.04.2017.

XX Nil opportunity given.

Muhammad Adil Amin

Muhammad Adil Amin (Muharrir)

Dated: 03.05.2019

R.O & A.C

Shakeel Arshad
Shakeel Arshad
Civil Judge-VIII / *Inquiry Officer*
Nowshera

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Branch, D.S.J. Nowshera
24 OCT 2019

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CW-2 Statement of Saeed Ullah Clerk of English Office.

Stated that as per direction of Inquiry officer, I produced the "Inward Register" of the year 2017 and exhibit the entry at Serial No. 285 dated 05.05.2017 upto Serial No. 295 dated 09.05.2017 as Ex.CW-2/1 consisting of 02 pages. Similarly I also produced the minutes of Judicial Officers and criminal Justice Coordination Committee of May, 2017 as Ex.CW-2/2 & Ex.CW-2/3. Original produced and returned.

XX Nil opportunity given.

Saeed Ullah (English Clerk)

Dated: 03.05.2019.

R.O & A.C

Shakeel Arshad
Civil Judge-VIII/*Inquiry Officer*
Nowshera

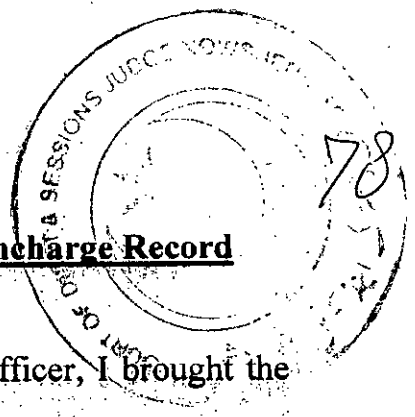
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Branch, D.S.J. Nowshera
24 OCT 2019

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CW-3 **Statement of Najam ur Rahman Incharge Record Room, District Courts, Nowshera.**



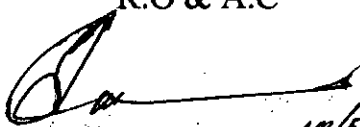
Stated that as per direction of Inquiry officer, I brought the case file of case FIR No. 161 dated 24.04.2017 under section 392/452/411 PPC of PS Azakhel. I produced the first page page of order sheets, formal charge dated 15.11.2017 and confessional statement of accused Muhammad Adil as Ex.CW-3/1 to Ex.CW-3/3 respectively.

XX Nil opportunity given.


Najam ur Rahman (Incharge Record Room)

Dated: 10.05.2019


R.O & A.C


Shakeel Arshad
Civil Judge-VIII/Inquiry Officer
Nowshera

10/5/19

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Branch. D.S.J. Nowshera

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انگلش کلر ک سابقہ ریڈر ڈ سٹرک کورٹس نوشہرہ کا بیان ضابطہ خان: ہوں، بیان کروں گا ہوں کہ ماقبل میں نے تحریری بیان، دستاویزات دوران انکوائری مورخہ 22.02.2019 جناب مراد علی شاہ انکوائری آفیسر، ایڈمن جج صاحب نوشہرہ اور مورخہ 12.04.2019 کوشکیل ارشد انکوائری آفیسر صاحب سول جج نوشہرہ کے پاس جمع کیے ہیں۔ انکوائری آفیسر کی ریکمنڈیشن جس پر سائل کو چارج شیٹ جاری کی گئی ہیں جسکی نسبت وضاحت ذیل ہے۔

انکوائری رپورٹ جمع شدہ منجانب انکوائری آفیسر یکطرفہ طور جمع شدہ ہے۔ اور مثل انکوائری پر موجود د شواہد، دستاویزات، تحریر بیان، جرح سائل کو یکسر طور پر نظر انداز کیا گیا ہے جبکہ من سائل کی طرف سے جمع شدہ فہرست گواہان میں موجود گواہ کونا تو سمن کیا گیا ہے اور نہ ہی سائل کو پیش کرنے کا موقع دیا گیا ہے۔ بلکہ من سائل کے جواب شو کاز نوٹس اور فہرست گواہان کا ذکر بھی رپورٹ میں نہ کیا گیا ہے۔ اور نہ ہی گواہ من سائل کے عقب نوٹس کیا گیا ہے جنکے حکم پر من سائل نے کنفیشنل سٹیٹمنٹ انگلش کلر ک کے دفتر میں سپر ٹنڈنٹ صاحب کے کہنے پر جمع کیا تھا۔ جنکا ذکر انکوائری رپورٹ میں موجود ہے مزید یہ کہ من سائل سے اصل کنفیشنل سٹیٹمنٹ نائب قاصد نے وصول کیا تھا۔ فوٹوکاپی پر وصولی رسید بھی ہے جسکا اندراج نائب قاصد نے انورڈ رجسٹر میں کیا ہے نیز سپر ٹنڈنٹ صاحب سیشن کورٹس کے احکام پر ہی یہ اصل کنفیشنل سٹیٹمنٹ جمع کر وائی گئی تھی۔ یہاں پر یہ امر قابل ذکر ہے کہ تمام آفیشل میٹینگز کا کنوینینس سپر ٹنڈنٹ صاحب ہی ہوتا ہے۔ جو کہ اس میٹینگ میں موجود تھے۔ اور احکام منجانب سیشن جج صاحب انکے رو برو ہی صادر شدہ تھے تو اس لئے ہی جب سائل اصل کنفیشنل سٹیٹمنٹ جمع کروانے کیلئے دفتر سپر ٹنڈنٹ صاحب گیا تو انہوں نے انگلش کلرک دفتر میں جمع کرنے کے ذبانی احکام صادر فرمائے تھے۔ اور انہی کے احکام پر نائب قاصد نے اصل کنفیشنل سٹیٹمنٹ وصول کیا تھا جس کو نائب قاصد نے بھی درست تسلیم کیا ہے۔ اگر احکام نہ صادر ہوئے ہوتے۔ اور سائل خود سے

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کلرک کے ساتھ جمع کر نے کی ہدایت کیوں دی تھی؟ اس امر کو انکوائری آفیسر صاحب نے بالکل ہی نظر انداز کیا ہے۔ سائل کو ضرورت ہی کس بات کی تھی کہ وہ بعیر احکام کے دستاویزات کنفیشنل سٹیٹمنٹ سپرنٹنڈنٹ کے پاس جمع کروانے جاتا۔ سپرنٹنڈنٹ کا بیان بھی نہ لیا گیا ہے۔ وہ بھی ایک ضروری گواہ ہے۔ انکوائری رپورٹ میں (2) 164 ض ف کا ذکر کیا گیا ہے۔ اور سول جج / ایم۔ او۔ ڈی صاحب کے احکام کے مطابق ہی سائل نے اصل کنفیشنل سٹیٹمنٹ جمع کر وانی ہیں۔ اور بعد ازیں انگلش کلرک دفتر ہی اصل کنفیشنل سٹیٹمنٹ کا ذمہ دار ہے۔ انکوائری رپورٹ میں سائل کی جانب سے دستاویزی اور زبانی شہادت نہ پیش کرنے کا تحریر کیا ہے۔ جبکہ اصل میں سائل نے تمام دستاویزات جو کہ سول جج / MOD جج صاحب کے وقت میں قلمبند کئے گئے تھے۔ کی کاپیاں انورڈ رجسٹر اور انورڈ رجسٹر میں موجود ٹمپرنگ اور اسکے مطابق رجسٹر نمبر کی ٹمپرنگ، اور وصولی سرکاری دستاویزات جو انورڈ رجسٹر پر لی گئی ہیں اب زردو بدل "ٹمپرنگ" کی گئی ہیں جمع کئے گئے تھے۔ لیکن انکوائری آفیسر نے ان تمام دستاویزات کو پس پشت ڈالا ہے۔ اور من سائل کے بارہا اسرار پر کہ سول جج / MOD جج صاحب کو بلوایا جائے نہ تو سمن کیا گیا ہے۔ اور نہ ہی من سائل کو پیش کرنے کی ہدایت کی لیکن رپورٹ بر عکس میں ہے۔

مزید یہ کہ سوال نامہ میں آخری سوال تو سائل سے پوچھا ہی نی گیا ہے۔ اور نہ ہی سائل نے کوئی جواب دیا ہے۔ بلکہ آخری سوال اور جواب خود ساختہ ہے۔ جس سے بھی انکار ہے۔ جبکہ میرے بیان میں سوال جواب میں کہی بھی گواہ کو نہ پیش کرنے کا تحریر نہ کیا گیا ہے۔ من سائل کا گواہ سول جج / MOD جج صاحب ہیں جن کو نہ تو انکوائری آفیسر نے طلب کیا ہے۔ نہ ہی سائل کو پیش کرے کی ہدایت ہو نی ہے۔ تو انکوائری رپورٹ میں کس طرح تحریر کر سکتے ہیں۔ کی من سائل نے زبانی شہادت پیش نہ کی ہے۔ جبکہ دستاویزی شہادت کو تو نظر انداز ہی کیا گیا ہے۔ انکوائری رپورٹ میں کنفیشنل سٹیٹمنٹ کا ذکر کیا گیا ہے۔ کہ وہ سائل نے دیگر آفیشل کو دئے ہیں۔ جو کہ درست ہے۔ اور یہ سٹیٹمنٹ سائل حسب الحکم دفتر انگلش کلرک

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مزید یہ کہ سائل کے علم میں آیا ہے۔ کہ JMI/CJ صاحب کی عدالت سے مورخہ ⁰³ 18-12 کو کنفنشل سٹیٹمنٹ سپر ٹنڈنٹ سیشن کورٹس نوشہرہ کو ارسال کی گئی ہے۔ جو کہ دفتر میں موجود ہے۔ نقل لف کی جاتی ہے۔

سائل نے کسی بھی قسم کی ذمہ داری نائب قاصد پر منتقل نہ کی ہے۔ بلکہ اصل حقائق بتائے ہیں۔ ٹیمپرنگ رجسٹر و انورڈ رجسٹر کے ثبوت دیے ہیں۔ اصل رسید وصولی دی ہے۔ ٹیمپرنگ شدہ نمبرز اور دستاویزات پیش کئے ہیں۔ لیکن انکوائری آفیسر نے تمام دستاویزی شہادت کو نظر انداز کیا ہے۔ جبکہ گواہان کو نہ تو خود طلب کیا ہے اور نہ بے سائل کو پیش کرنے کی ہدایت کی ہے اور الزام عائد کیا ہے کہ سائل نے دستاویزی ثبوت اور زبانی شہادت پیش نہ کی ہے جو کہ سراسر غلط ہے۔ Recommendation بابت مانتر، و میجر سزا خلاف قانون اور انصاف کے تقاضوں کے منافی ہے۔ سائل نے کوئی غلطی سرزد نہ کی ہے۔

دیگر صاحب ذیل ہے۔

حسب الحکم جناب فضل گل صاحب سول جج دی تھی کہ جملہ اعترافی بیانات جو پڑھے ہیں ان کو عدالت جناب سیشن جج محترم شفیق احمد تنولی صاحب کی عدالت میں جمع کر دیا گیا تھا۔ جس پر میرے پاس صرف ایک ہی بیان مقدمہ علت نمبر متذکرہ بالا ہی موجود تھا سپر ٹنڈنٹ صاحب نوشہرہ کے پاس جمع کروانے کے لئے لے کر گیا۔ تو بوجہ رخصتی اصل کنفنشل سٹیٹمنٹ نائب قاصد محمد ابراہیم کو حوالہ کر کے فوٹو سٹیٹ پر باقاعدہ وصولی کی گئی ہیں۔ اور اصل کنفیشن سٹیٹمنٹ نائب قاصد کو حوالہ کی گئی تھی۔ اس سے قبل اس نوکری کے دوران من سائل نے کبھی بھی انگلش کلرک کے پاس اعترافی بیان نہ جمع کیا۔ بدین وجہ بعد ازیں حوالگی اور وصول مذکورہ نائب قاصد ہی اصل اعترافی بیان کا ذمہ دار ہے۔ یہاں پر یہ امر قابل ذکر ہے۔ کہ مذکورہ نائب قاصد نے مجھے اعترافی بیان کے پشت پر وصولی بیان کے نسبت Receiving بھی دی ہے۔ جس سے دوران انکوائری اب منکر ہو رہا ہے۔ جبکہ فوٹو سٹیٹ کے حوالگی For information کی نسبت کبھی بھی Receiving نہیں لی یا دی جاتی ہے۔

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جبکہ مذکورہ نائب قاصد نے انورڈ رجسٹر 2017 میں باقاعدہ کنفیشن فائل کی وصولی کے بعد مکمل اندراج نمبر 295 مورخہ 7/09 بھی کیا ہے جس کی مکمل نقولات لف کی جاتی ہے رجسٹر میں موجود ہے۔ جبکہ انکوائری آفیسر صاحب نے اپنی Findings میں کے لفظ پر زور دیا ہے۔ لیکن اعترافی بیان کے پشت پر اور رجسٹر میں موجود اندراج میں کہی پر بھی نائب قاصد ابراہیم نے لفظ "نقل" تحریر نہ کیا ہے۔ اور نہ ہی نائب قاصد انگلش کلرک کے پاس اس بات کی وضاحت موجود ہے۔ کہ انہوں نے ما قبل یا بعد بھی اعترافی بیانات وصول کے یا نہیں۔ بدیں وجہ بعد ازیں حوالگی اصل فائل اعترافی بیان من سائل کا فائل کے ساتھ کوئی واسطہ نہ رہا۔ اور دوران انکوائری فوٹو کاپی بمعہ اصل Receiving جو کہ سائل کے پاس تھی اور بمعہ دیگر دستاویزات جو کہ وقتاً فوقتاً سائل سے مانگے گئے ہیں انکوائری آفسر کو فراہم کی گئی ہیں۔

من سائل محکمہ حضور میں کم و بیش 24 سال 09 مہینے اور 22 دن اپنی ڈیوٹی انتہائی خوش اسلوبی سے سر انجام دئے ہیں۔ اور جناب سول جج صاحب جوڈیشل مجسٹریٹ فضل گل صاحب کے زبانی ہدایت کے مطابق ہی پہلی دفعہ انگلش کلرک کے پاس اصل اعترافی بیان جمع کیا گیا تھا۔ جس کی باقاعدہ طور پر نائب قاصد محمد ابراہیم خان نے اپنے بیانات مورخہ 2019-02-14 اور مورخہ 2019-02-22 ذکر بھی کیا ہے۔ اور حقائق کو چھپا تے ہوئے "نقل لفظ" کی ایذا کی گئی ہے۔ جبکہ نا تو فوٹو کاپی Receiving اور نا ہی انورڈ رجسٹر میں "نقل" کے لفظ کا اندراج موجود ہے۔ اور نہ ہی ما بعد افسران بالا سے متذکرہ فائل کی وصولی کے بارے میں پوچھا ہے۔ اور نہ ہی بمطابق بیان محمد ابراہیم متفرق فائل کو عدالت سول جوڈیشل مجسٹریٹ فضل گل صاحب واپس بھجوائی گئی ہے۔ اور نہ ہی مذکورہ نائب قاصد نے اعترافی بیان کی وصولی سے انکار کیا ہے۔ بمطابق قانون جب بھی اصل کاغذات چھٹی دستاویزات وغیرہ سرکاری طور پر کسی بھی اہلکار کو دی جاتی ہے۔ تو اس سے باقاعدہ طور پر رسید حاصل کی جاتی ہے۔ جو کہ من سائل نے فوٹو سٹیٹ کے کاپی کے پشت پر نائب قاصد نے دستخط حاصل کی ہے۔ اگر نائب قاصد نے اصل کنفیشن وصول نہ کی

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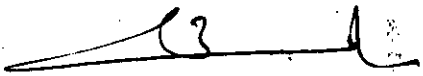
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ہو تی تو وصولی رسید اور ہی متعلقہ رجسٹر میں "نقل" لفظ موجود ہوتا لیکن لفظ "نقل" موجود نہ ہے۔ جبکہ احکامات از عدالت جناب سول جج جوڈیشل مجسٹریٹ صاحب کی نسبت فضل گل صاحب سے ہی معلومات کی جا سکتی ہے۔

حسب الحکم جناب سول جج جوڈیشل مجسٹریٹ فضل گل صاحب نوشہرہ زبانی احکامات کے مطابق من سائل نے اعترافی بیان انگلش کلرک کے پاس جمع کیا تھا جبکہ دیگر تمام اعترافی بیانات جو کہ سائل کے پاس تھے حسب ہدایت و ضرورت مجسٹریٹ/سول جج جسب متعلقہ مقدمہ میں متعلقہ عدالت میں جمع کی گئی ہیں۔ جو نکہ سول جج فضل گل صاحب کے پاس اس وقت سول کام ہو تا تھا۔ اس لیے لیے ان کی ہدایت کے مطابق بیان اعترافی انگلش کلرک صبا جی کی رخصتی پر چھٹی دفتر میں نائب قاصد محمد ابراہیم کے حوالہ کیا گیا تھا

بمطابق موجود ریکارڈ بھی افسر جج صاحب قلمبندی اعترافی بیان کو سائل کے پاس محفوظ فرماتے اور سائل بوقت ضرورت بمطابق احکامات متعلقہ افسر سول جج صاحب متعلقہ عدالت پیش کرتے تھے۔ جبکہ علت نمبر 826 مورخہ 22-12-2016 تھانہ رسالپور کے اعترافی بیان کو بھی سائل نے باقاعدہ طور پر "اصل" حالت میں انگلش کلرک کے دفتر میں جمع کیا تھا۔ اور جس کے وجود سے نائب قاصد اب انکاری ہے۔ بلکہ اپنے بیان میں اس امر کی تصدیق کرتا ہے۔ کہ کنفیشن فائل اس نے وصول کی تھی۔ بمطابق حالات و واقعات و ثبوت پیش کردہ دستاویزات من سائل نے احکامات کی بجا آوری اور تکمیل کی ہے۔ اور سائل نے کسی قسم کی غلطی سر زد نہ کی ہے۔ انگلش کلرک کے پاس ریکارڈ اور رجسٹرڈ اور من سائل کے پاس وصول رسید موجود ہے۔ اس لئے کسی بھی طور پر سائل کو ملزم قرار نہ دیا جا سکتا ہے۔

ضابطہ خان



انگلش کلرک/سابقہ ریڈر سول جج VII نوشہرہ

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بیان ضابطہ خان انگلش کلرک سابقہ ریڈر ڈسٹرکٹ کورٹس نوشہرہ۔ برخلاف بیان کرتا ہوں کہ قبل ازیں میں نے اپنا
 دستاویزات دوران انکوائری جمع کروایا تھا۔ سائل مورخہ 24-12-2016 کو بعدالت جناب سول جج فضل گل صاحب
 میں بطور ریڈر تعینات رہا ہوں مورخہ 24-12-2016 کو ملزمہ مسماۃ طاہرہ نازعلت نمبر 826 مورخہ 22-12-2016
 جرم PPC 302/34 تھا نہ رسالپور کا اعترافی بیان قلمبند کیا گیا۔ جو کہ بعد از بحکم سول جج صاحب فضل گل مورخہ
 09-05-2017 کو انگلش کلرک کے آفس میں محمد ابراہیم (نائب قاصد) کو "اصل" اعترافی بیان حوالہ کیا گیا اور نقل اعترافی
 بیان پر نائب قاصد ابراہیم سے دستخط ثبت کیا گیا۔ انگلش کلرک (واجد شاہ) اس دن چھٹی پر تھا چونکہ ہمارے پاس سول مقدمات
 کا کام تھا اور اسی دن ہمارے پاس (MOD) تھا۔ اسی بناء پر جج صاحب نے مجھے حکم دیا کہ اصل اعرافی بیان ہذا سپرنٹنڈنٹ
 صاحب کے دفتر میں جمع کرے۔

بعد ازیں انکوائری آپ صاحب حیثیت کے پاس Disciplinary Action نسبت انکوائری پٹ اپ زیر تجویز ہے۔ جس
 میں سائل کو Statement of Aliigation بھی دی گئی ہیں۔

جس کے نسبت وضاحت ذیل ہے۔

1۔ حسب الحکم عدالت جناب فضل گل صاحب سول جج MOD جج صاحب نے سائل کو ہدایت دی تھی کہ جمعہ اعترافی بیانات
 Confession Statement جو بھی پڑھے ہیں ان کو عدالت جناب سیشن جج محترم شفیق تنولی صاحب کے عدالت میں
 جمع کر دوں۔ جس پر میرے پاس صرف ایک ہی بیان مقدمہ علت نمبر متذکرہ بالا ہی موجود تھا سپرنٹنڈنٹ صاحب نوشہرہ کے پاس
 جمع کروانے کے لئے لے کر گیا مجھے انگلش کلرک کے پاس جمع کروانے کے لئے ہدایت ہوئی جہاں پر میں نے اصل کنفیشن بیان
 واجد شاہ جو کہ انگلش کلرک کے پوسٹ پر تھا لے کر گیا تو بوجہ رخصتی اصل فائل نائب قاصد محمد ابراہیم کو حوالہ کر کے فوٹو سٹیٹ پر
 باقاعدہ وصولی رسید حاصل کی گئی ہیں اور اصل سٹیٹمنٹ کنفیشن نائب قاصد کو حوالہ کی گئی تھی۔ اس سے قبل اس نوکری کے دوران من
 سائل نے کبھی بھی انگلش کلرک کے پاس اعترافی بیان نہ جمع کیا۔ بدین جو صہ بعد ازیں حوالگی اور وصول مذکورہ نائب قاصد ہی
 اصل اعترافی بیان کا ذمہ دار ہے۔ یہاں پر یہ امر قابل ذکر ہے۔ کہ مذکورہ نائب قاصد نے مجھے اعترافی بیان کے پشت پر وصولی
 بیان کے نسبت Reveiving بھی دی ہے۔ جس سے دوران انکوائری اب منکر ہو رہا ہے۔ جبکہ فوٹو سٹیٹ کے حوالگی For

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 Branch. D.S.J. Nowshera
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12/4/19 (4)

Information کی نسبت کبھی بھی Reciving نہیں لی یادی جاتی ہے۔ جبکہ مذکورہ نائب قاصد نے انور ڈرجسٹر 2017 باقاعدہ طور پر کنفییشن فائل کی وصولی کے بعد مکمل اندراج نمبر 295 مورخہ 09-05-2017 بھی کیا ہے جس کی کلون کاپی لف کی جاتی ہے۔ جبکہ انکوآری آفیسر صاحب نے اپنی Finding میں "اصل" کے لفظ پر زور دیا ہے لیکن اعترافی بیان کے پشت پر انور ڈرجسٹر میں موجود اندراج میں کہیں پر بھی نائب قاصد براہیم نے لفظ "نقل" تحریر نہیں کیا ہے۔ اور نہ ہی نائب قاصد کے پاس یا انگلش کلرک کے پاس اس بات کی وضاحت موجود ہے کہ انہوں نے ماقبل یا مابعد بھی اعترافی بیانات وصول کیے ہیں یا نہیں۔ بدیں وجہ بعد از حوالگی اصل فائل اعترافی بیان من مسائل کا فائل کے ساتھ کوئی واسطہ نہ رہا۔ اور دوران انکوآری نوٹو کاپی بمعدہ اصل Reciving جو کہ مسائل کے پاس تھی و بمعدہ دیگر کاغذات جو کہ وقتاً فوقتاً مسائل سے مانگے گئے ہیں انکوآری آفیسر کو فراہم کی گئی ہے۔

۲۔ من مسائل عدالت حضور میں کم و بیش 24 سال 9 مہینے اور تین دن اپنی ڈیوٹی انتہائی خوش اسلوبی اور ایمانداری سے ادا کی ہے اور اس دوران بمطابق احکامات آفسرانج صاحب اپنے فرائض منصبی خوش اسلوبی سے سرانجام دیئے ہیں۔ اور جناب سول جج صاحب جوڈیشل مجسٹریٹ فضل گل کے زبانی ہدایت کے مطابق ہی پہلی دفعہ انگلش کلرک کو اصل اعترافی بیان جمع کیا گیا تھا۔ جس کی باقاعدہ طور پر نائب قاصد محمد براہیم خان نے اپنے بیانات مورخہ 14-02-2019 اور مورخہ 22-02-2019 ذکر بھی کیا ہے۔ اور حقائق کو چھپاتے ہوئے "نقل" لفظ کی ایذا دگی ہے۔ جبکہ نا تو نوٹو کاپی Receiving اور نا ہی انور ڈرجسٹر میں "نقل" کے لفظ کا اندراج موجود ہے۔ اور نہ ہی مابعد افسران بالا سے متذکرہ فائل کی وصولی کے بارے میں پوچھا ہے۔ اور نہ ہی بمطابق بیان محمد براہیم متفرق فائل کو عدالت سول جوڈیشل مجسٹریٹ فضل گل صاحب واپس بھجوائی گئی ہے۔ اور نہ ہی مذکورہ نائب قاصد نے اعترافی بیان کی وصولی سے انکار کیا ہے بمطابق قانون جب بھی اصل کاغذات چھٹی دستاویزات وغیرہ سرکاری طور پر کسی بھی اہلکار کو دی جاتی ہے تو اس باقاعدہ طور پر رسید حاصل کی جاتی ہے۔ جو کہ من مسائل نے نوٹوٹیکٹ کاپی کے پشت پر نائب قاصد سے دستخط حاصل کی ہے۔ اگر نائب قاصد نے اصل کنفییشن وصول نہ کی ہوتی تو وصولی رسید اور ہی متعلقہ رجسٹر میں "نقل" لفظ موجود ہوتا لیکن لفظ "نقل" موجود ہی نہ ہے۔ جبکہ احکامات از عدالت جناب سول جوڈیشل مجسٹریٹ صاحب کی نسبت فضل گل صاحب سے ہی معلومات کی جاسکتی ہے۔

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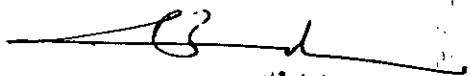
12/4/19

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حسب الحکم جناب سول جج جوڈیشل مجسٹریٹ فضل گل صاحب نوشہرہ زبانی احکامات کے مطابق من سائل نے اعتراضی بیان
 کلرک کے پاس جمع کیا تھا جبکہ دیگر تمام اعتراضی بیانات جو کہ سائل کے پاس تھے حسب ہدایت و ضرورت مجسٹریٹ اسول
 حب متعلقہ مقدمہ میں متعلقہ عدالت میں جمع کی گئی ہیں۔ چونکہ سول جج فضل گل صاحب کے پاس اُس وقت سول کام ہوتا تھا
 اس کے لئے ان کی ہدایت کے مطابق اعتراضی بیان انگلش کلرک صاحب کی رخصتی برچھٹی دفتر میں نائب قاصد محمد ابراہیم کے حوالہ
 کیا گیا تھا۔

۴۔ بمطابق موجود ریکارڈ بھی آفسر جج صاحب قلمبندی اعتراضی بیان اصل اعتراضی بیان کو سائل کے پاس محفوظ فرماتے اور سائل بوقت
 ضرورت بمطابق احکامات متعلقہ افسر سول جج صاحب متعلقہ عدالت میں پیش کرتے تھے جبکہ علت نمبر 826 مورخہ
 22-12-2016 زبردفعہ 34-302 تھانہ رسالپور کے اعتراضی بیان کو بھی سائل نے باقاعدہ طور پر "اصل" حالت میں انگلش
 کلرک کے دفتر میں جمع کیا تھا۔ اور جس کے وجود سے نائب قاصد اب انکاری ہے بلکہ اپنے بیان میں اس امر کی تصدیق کرتا ہے کہ
 کنفییشن فائل اس نے وصول کی تھی۔ بمطابق حالات واقعات ثبوت پیش کردہ دستاویزات من سائل نے احکامات کی بجا آوری
 اور تکمیل کی ہے اور سائل نے کسی قسم کی غلطی سرزد نہ کی ہے۔ انگلش کلرک کے پاس ریکارڈ اور رجسٹرڈ اور من سائل کے پاس وصولی
 رسید موجود ہے اس لئے کسی بھی طور پر سائل کو ملزم قرار نہ دیا جاسکتا ہے۔ یہی میرا بیان ہے۔

(تمام نقولات لفا ہے)




ضابطہ خان

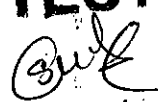
(انگلش کلرک اسابقہ ریڈرسول جج VII نوشہرہ)

فہرست نقل دستاویزات مشمولہ ہے۔

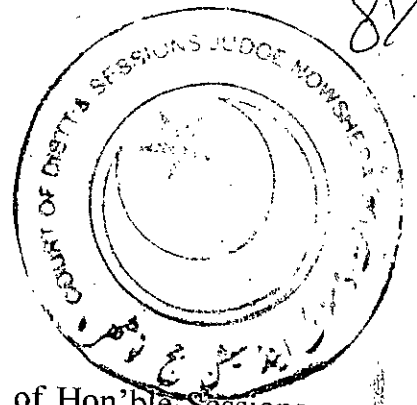
- | | |
|-----|--|
| 1-5 | Receiving از نائب قاصد محمد ابراہیم |
| 6 | انوڈر رجسٹرڈ |
| 7 | ابتدائی بیان محمد ابراہیم کمپیوٹر آپریٹر |
| 8 | بیان محمد ابراہیم |
| 9 | بیان من سائل |
- فہرست گواہان :-

0-3

 12/9/19

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 Branch 4, S.C.I. 2019 Shera

24 OCT 2019



Order
21.02.2019.

File received from the Court of Hon'ble Sessions Judge, Nowshera for facts finding inquiry. It be registered into the relevant register.

Perusal of record shows that explanation of the concerned officials have already been called and their replies are also available on record. Hence original record be requisitioned and notice be issued to the concerned officials for recording their statements on

22/2/19

Murad
Syed Murad Ali Shah,
Senior Civil Judge (Admn),
Nowshera. *Inquiry Officer*

order
22/2/19

Delinquent officials, present, their statements recorded, while questions were also put to Mr. Zabita Khan and his answers are recorded. Statements of Mr. Wasif Mr. Waqid Shah the train English clerk and Mr. Naz Karam Reader of the Court of JMI were also recorded. File to come up for further proceedings on date 23/2/19

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Branch, D.S.J. Nowshera

24 OCT 2019

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2

SCJ Adm/Inquiry
Officer

Order
23/2/19

Delinquent officials present. Today
Certain questions were put to
Mr. Mohammad Ibrahim the then
Nails Dandi to the office of English
Clerk, while record of Confessional
Statements maintained by Mr.
Zabita Khan is also requested
the copies of which are maintained
in inquiry file while original
returned to him.

My detail report of today
consisting of six (06) pages duly
checked, and signed by me, placed
on file.

File is put up before Honble
District & Sessions Judge for
today.

Inayat
Inayat Murad Ali Shah
SCT Admin / Inquiry Officer

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[Signature]
Examiner Copying Agency
Branch. D.S.J. Nowshera

24 OCT 2019

Inquiry file received from the Court of Senior

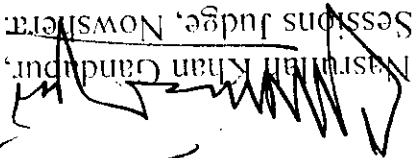
Civil Judge (Admn)/Inquiry Officer, Nowshera. Be

entered into the relevant register. Both the officials

namely Zabta Khan, English Clerk and Muhammad

Ibrahim, ARK be summoned for 09-03-2019.

Nasrullah Khan Candupur,
Sessions Judge, Nowshera.



ORDER-
27/2/2019

Both officials present. Since, the undersigned is

busy in recruitment proceeding, therefore, adjourned.

To come up for further proceeding on

18/3/19

Gohar Rehman,
District Judge, Nowshera.



ORDER-
09/3/2019

Both officials present and heard. To come up for

further perusal and order on

28/3/19

Gohar Rehman,
Sessions Judge, Nowshera.



Examiner Copying Agency
Branch, D.S.J, Nowshera

24 Oct 2019

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Order

28.03.2019.

Both official present.

Inquiry report, along with replies of both the official and other relevant record perused.

Keeping in view in reply of Zabita khan (Senior Clerk) Facts finding inquiry and other record, I am of the humble view that for substantial justice, the matter require, further probe to bring the actual facts to surface. Therefore, being competent authority I do here by initiate inquiry within the meaning of rule 5 Government Servant (efficiency and Discipline) rule, 2011, vide my detail order of today, placed on file against Mr. Zabita khan. (Senior Clerk)

As far as Mr. Mohammad Ibrahim (Junior clerk) is concerned there is no evidence brought before facts funding inquiry, that original confessional statement was handed over to him. Therefore, he is exonerated.

As per my detail order of today file be sent to learned inquiry officers with its all enclosures.

Gohar Rehman,
District & Sessions Judge,
Nowshera.

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Branch. D.S.J. Nowshera


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5

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Order No.01
03.04.2019

The file of instant inquiry consisting of 53 sheets received from the court of Hon'ble District & Sessions Judge, Nowshera. It be registered in the relevant register. Notice be issued to the concerned officials for submission of their reply on 06.04.2019. Departmental representative namely Sohail be also summoned for the date fixed.


Shakeel Arshad
Civil Judge-VIII
Nowshera

D-2
6.4.19

The Delinquent & Head
appeared & sought time
for their reply. Granted
with direction to submit
reply's on 11/4/19 positively

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Examiner Copying Agency
Branch, D.S.J. Nowshera

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24 OCT 2019

(2)

N-R
11/04/19

PO is on leave to
up on 12/04/19

11/04/19
The
2
Present

O-3
12.4.19

The Delinquent Officers
Present: they submitted
replies - they are directed
to record their statement
if they wish to.
Come up on 15/4/19

O-4
15.4.19

The Delinquent Officer
Present, but representative of
DSJ office is not present.
He be summoned for

18/4/19

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[Signature]
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Branch, D.S.J. Newshera

24 OCT 2019

0-5
18.4.19

The Delinquent Officers
present. due to rush of
work, no proceeding
was conducted. To
come up on 20/4/19

0-6
20.4.19

The Delinquent Officer
present, but representative
Sofail is on leave.
adjourned for 20/4/19

0-7
25.4.19

The accused/Delinquent
Officers present representative
also present, but due to rush
of Target Cases, proceeding
was not conducted, adjourned
for 30/4/19

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6 Examiner Copying Agency
Branch: D.S.J. Nowshera

124 OCT 2019

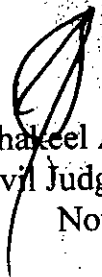
N.R
3.14/19

94
po is a leave to co

up on 03-05-19

Order No.08
03.05.2019

The delinquent officials present. Departmental representative also present. Statement of the Delinquent officials recorded. Similarly statement of Muhammad Adil Amin Muharrir & Saeed Ullah English Clerk also recorded as CW-1 & CW-2. File to come up for further proceedings on 10.05.2019.


Shakeel Arshad
Civil Judge-VIII
Nowshera


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24 OCT 2019

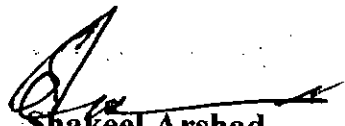
Order---09
10.05.2019

Accused/officials present. Regarding the case of accused Adil, Statement of Najam ur Rahman, Incharge Record Room recorded as (CW-3). To come up for further proceedings on 11.05.2019.

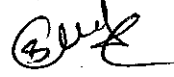

Shakeel Arshad
Civil Judge-VIII
Nowshera

Order---10
11.05.2019

None present on behalf of accused/officials. Vide my detailed report of today consisting of (09) pages duly packed in an envelope alongwith the entire file consisting of (110) pages be put up before the Honorable District & Sessions Judge, Nowshera. Muharrir is directed to do the needful.


Shakeel Arshad
Civil Judge-VIII
Nowshera

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Branch. D.S.J. Nowshera
24 OCT 2019

ORDER
10/5.2019


Inquiry report received from the inquiry officer.

After perusal of inquiry report, record on file and defence of the delinquent official, I am satisfied that inquiry is conducted in accordance with the rules on the subject.

I am further satisfied that charge/ charges against the Mr. Zabita Khan stands proved, therefore final 'Show Cause' notice is issued against him, that why not major penalties under rule 4 of KP Civil Servants (Efficiency & Discipline) rules 2011 be imposed upon him. Further directed that his reply alongwith any further defence in written if any must be submitted within 10 days and also intimate that whether he wants to be heard in person or not. Departmental representative is directed to be present alongwith all the relevant record on date 27-5-2019, copies of inquiry report is also provided to Mr. Zabita Khan.


Gohar Rehman,
District & Sessions Judge,
Nowshera.

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Branch. D.S.J. Nowshera

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24 OCT 2019

ORDER
27/5/2019

Mr. Zabita Khan present. Due to rush of work further proceeding could not be conducted. Case is adjourned. To come up for further proceeding as per preceding order sheet on 15/6/19



Gohar Rehman,
District & Sessions Judge,
Nowshera.

order
15-6-2019

Mr Zabita Khan Present in Person
Personally heard. To come up
for order on 19-6-2019



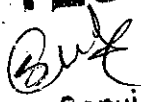
ORDER
19/6/2019

Delinquent official present. Inquiry under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, was ordered against Mr. Zabita Khan (Senior Clerk).



Inquiry report was submitted and perused, wherein the delinquent official was declared guilty.

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Branch, D.S.J. Nowshera

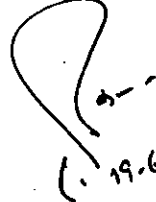
I am in agreement with the inquiry report as the delinquent could not substantiate his plea and could not justify that, what

24 OCT 2019

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necessitated him to submit the confessional statement in the office of English Clerk, inspite of the fact that trial was started.

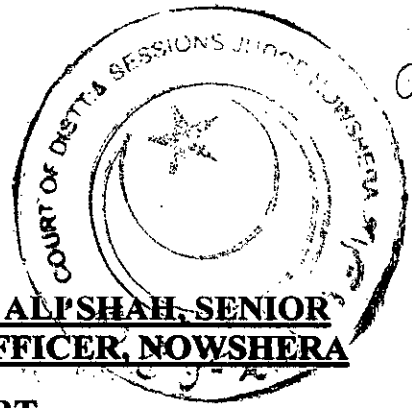
I am of the opinion that accused official is guilty of inefficiency and misconduct, therefore major penalty of reversion to lower grade is imposed vide my order of even date, placed on file, which will operate for a period of three (03) years and delinquent official is not entitle for any increment during this period, while after restoration he will not be entitle for increment for one year, whoever after restoration he will be placed on his own original seniority.


19.6.2011

Gohar Rehman,
District & Sessions Judge,
Nowshera.

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Branch, D.S.J. Nowshera



**IN THE COURT OF SYED MURAD ALP SHAH, SENIOR
CIVIL JUDGE (ADMN/INQUIRY OFFICER, NOWSHERA)**

INQUIRY REPORT

Facts finding Inquiry was marked to the undersigned by the Hon'ble District & Sessions Judge, Nowshera vide his order dated 16.02.2019.

Facts forming back ground of this inquiry are that a confessional statement of Mst. Tahira Naz was recorded on date 24.12.2016 by the then learned Judicial Magistrate, Nowshera Mr. Fazal Gul in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur.

During trial of the above mentioned case when the original confessional statement was requisitioned, it was found that original statement is missing and only photocopy is available.

Explanation were called from the then Naib Qasid to the office of English Clerk namely Muhammad Ibrahim, and the then Reader to the Court of the then Civil Judge-VII/MOD, Nowshera namely Zabita Khan.

After submission of the replies of both delinquent officials, inquiry was marked to undersigned, to probe into the matter.

As replies to explanations have already been submitted by delinquent officials therefore, record was requisitioned, they were summoned for recording their statements, which were recorded on date 22.02.2019. Apart from them the statements of Mr. Wajid Shah the then English Clerk and Niaz Karam, Reader of the court of Judicial Magistrate-I, Nowshera were also recorded and placed on

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file, while questions necessary for digging out the real facts, were also put on to Mr. Zabita Khan, and his answers were recorded, while the inquiry was fixed for 23.02.2019, for further proceedings.

On 23.02.2019, necessary questions were put to Mr. Muhammad Ibrahim and his answers were recorded while record of other confessional statements maintained by Mr. Zabita Khan was requisitioned, the photocopies of which are placed on file while the original record was returned to him.

(Procedure for keeping the record of confessional statement is provided under section 164(2) Cr.P.C, wherein any statement or confession recorded, shall then be forwarded to the Magistrate by whom the case is to be inquired or trailed.

In practice, the confessional statement is usually recorded during investigation, therefore, the Magistrate keep the same with reader of the Court for safe custody and the same is produced before trial court at the time of recording evidence. Therefore, it is responsibility of Reader of the Court to maintain proper record of confessional statements.

The reply and the statement of the then Reader Zabita Khan is not supported by the set principles of practice, wherein he alleged that he has submitted the same with the Naib Qasid of the office of English Clerk on the directions of the then Civil Judge/Judicial Magistrate. In General practice confessional statement has never been kept with the English Clerk)

In his statement recorded during inquiry, Zabita Khan alleged that on the directions of the then learned Civil Judge on date

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09.05.2017 he submitted the original confessional statement with the Naib Qasid of the English Clerk.

"بعد از حکم سول جج صاحب فضل گل مورخہ 09/05/2017 کو انگلش کلرک کے افس میں محمد ابراہیم (نائب قاصد) کو اصل اعترافی بیان حوالہ کیا گیا"

This stance is also taken by Zabita Khan in his reply, and in questions which were put to him during inquiry. This assertion of Zabita Khan is not supported by any sort of material on record.

Rather the order dated 24.12.2016 of the then learned Civil Judge/Judicial Magistrate is very much clear, wherein it is categorically mentioned that the original is handed over to the Reader of the Court Zabita Khan for safe custody.

As per order dated 24.12.2016 of the then learned Judicial Magistrate, it was Zabita Khan Reader who was responsible for the safe custody of the said confessional statement.

Mr. Zabita Khan, through out in his reply, statement recorded during inquiry and questions put to him, remained inconsistent, while answering to question No.5 he stated that he kept the confessional statements with him in office file and later on upon the orders of Hon'ble Civil Judge, he handed over the same to concerned Muharrirs.

Furthermore, while answering to question No.4 he alleged that he does not remember that whether any confessional statement was recorded during his service as Reader to the Court of Magistrate. While Answering to question No.2 he gives full details of the confessional statements recorded in his tenure.

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Another important aspect is that what was the necessity of the submission of the confessional statement, after a period of more than four months, in the office of English Clerk. Mr. Zabita Khan could not give any plausible reason for this. His assertion was that he has done so, on the orders of the then learned Civil Judge/Judicial Magistrate. But there is nothing on record which could support this assertion nor Mr. Zabita Khan could produce any proof in this regard. Rather the record maintained by Mr. Zabita Khan shows that other confessional statements which were recorded by Mr. Fazal Gul the then Civil Judge/Judicial Magistrate were kept with Zabita Khan and handed over to concerned officials, with receiving that original statement has been handed over to them, nor any such orders were issued by Mr. Fazal Gul, the then learned Civil Judge/Judicial Magistrate in respect of other confessional statements recorded by him and kept in the custody of Mr. Zabita Khan.

(Important factor in this inquiry is the receipt of the confessional statement at the office of English Clerk. The then Naib Qasid to English Clerk namely Muhammad Ibrahim, in his reply and statement accepted that on 09.05.2017 he received the confessional statement, but his stance is that it was photocopy, while the stance of Mr. Zabita Khan is that he handed over the original confessional statement to Mr. Muhammad Ibrahim.

Mr. Muhammad Ibrahim the then Naib Qasid to the office of English Clerk also remained inconsistent in his reply, Statement and questions put to him during inquiry.

In his reply he alleged that whenever the confessional statements from the Court of Mr. Fazal Gul, Civil Judge-VII/Judicial

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Magistrate were brought by Muharrir concerned or police officials, it has been mentioned that original is received, while there is only his signature upon the confessional statement under inquiry.

While in statement recorded during inquiry he stated that he or the English Clerk never received any confessional statement apart from one under inquiry. While answering to question No.6 put to him during inquiry, he stated that has no proof that he received the photocopy.

As a conclusion of this inquiry, the following facts were emerged.

1. The confessional statement was handed over to Mr. Zabita Khan the then Reader, for safe custody. (Clear from order dated 24.12.2016).
2. Mr. Zabita Khan was responsible for the safe custody of the confessional statement.
3. There is no proof of the fact that confessional statement was handed over to Naib Qasid to the office of English Clerk upon the directions of learned Civil Judge/Judicial Magistrate.
4. No explanation is available for the necessity which after a time period of more than four months aroused, for the submission of confessional statement with English Clerk.
5. Record of other confessional statements, maintained by Mr. Zabita Khan, reveals the receiving by other concerned officials with words "اصل" while no such word "اصل" is mentioned on the confessional statement under inquiry.

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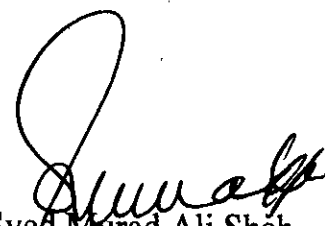
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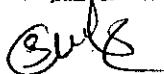
6. Both Mr. Zabita Khan and Muhammad Ibrahim remained inconsistent in their replies, statements and questions put to them during inquiry.
7. Mr. Muhammad Ibrahim failed to justify that why he received this confessional statement while no other confessional statement is received by the office of English Clerk.
8. Mr. Muhammad Ibrahim also failed to produce any evidence that he has received the photocopy.
9. However, record of other confessional statements, maintained by Mr. Zabita Khan, reveals that whenever the original confessional statement is handed over to other officials, it is properly mentioned in the received. (record is placed on file).

Report is submitted.

Dated 23.02.2019.


Syed Murad Ali Shah,
Senior Civil Judge (Admn),
Nowshera.

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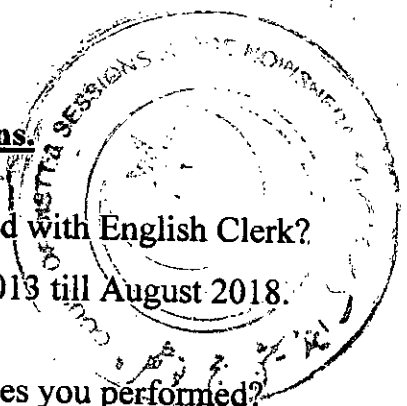
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Answers of Muhammad Ibrahim to the Questions.

Q-1. For a how long period you remain Naib Qasid with English Clerk?

Ans. I remained as Naib Qasid from September 2013 till August 2018.

Q-2. What was your job description and what duties you performed?

Ans. I was class-IV. I used to clean and offices of English Clerk and Superintendent, distribute the letters/orders etc amongst the various Courts/offices. I also used to receive the letters etc on the directions of Superintendent, whenever the English Clerk was on leave.

Q-3. Whether any confessional Statement from any Court was received by the English Clerk in your presence?

Ans. No. In my presence the English Clerk never received any Confessional Statement from any court. Moreover, there is no file in the office of English Clerk wherein the confessional statements were lying.

Q-4. Whether you received any other Confessional Statement from any other Court, during you service as Naib Qasid to English Clerk?

Ans. No.

Q-5. Why you received this Confessional Statement?

Ans. On 09.05.2017 the then Reader to CJ-VII, Nowshera, Mr. Zabita Khan brought copy of the confessional statement to the office of Superintendent. As the English Clerk was on leave, so the Superintendent Sessions Court directed me to receive the said copy. I received the copy of confessional statement on the direction of Superintendent and kept the same in Misc: file.

Muhammad Ibrahim

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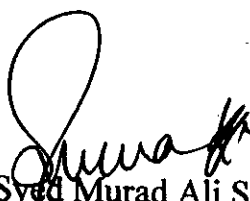
Q-6. As per your reply and statement you received the copy of the confessional statement. Do you have any proof that it was photo copy and not original statement?

Ans. No. I have no other proof except that the photocopy which I received was available in the English Clerk Office. Moreover, the other confessional statements handed by the then Reader Mr. Zabita Khan to any other person, he mentioned overleaf the photocopy retain by him that original is handed over, however, so far as my case is concerned, the reader Mr. Zabita Khan has not mentioned that original is handed over to me. However, it is also evident from the order of the learned CJ-VII, Nowshera dated 24.12.2016 that original confessional statement is handed over to the Reader of the Court Mr. Zabita Khan for safe custody. (copy of the said order is available on file).

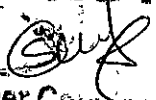
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Dated 22.02.2019

Muhammad Ibrahim




Syed Murad Ali Shah,
Senior Civil Judge (Admn),
Inquiry Officer/Nowshera.

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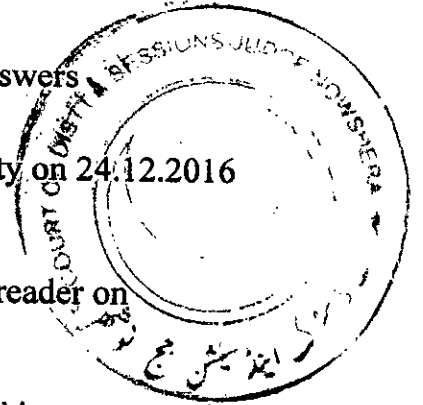
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Questions put to Zabita Khan and his Answers



Q-1. The Court in which you were performing your duty on 24.12.2016 was Civil Court or Criminal Court?

Ans: The Court in which I was performing my duty as reader on 24.12.2016 was a Civil Court.

Q-2. How many confessional Statements were recorded in your tenor?

Ans: In my tenor four confessional statements were recorded, which I have handed over in original, one to Saleem Jan Muharrir, one to Imtiaz Ahmad Reader, one to Jehan Akbar I.O of the said case and one to Muhammad Ibrahim Naib Qasid.

Q-3. Whether you remain attached as Reader to the Court of Judicial Magistrate and for how long time?

Ans: I remained as reader to the Court of learned Senior Civil Judge and Civil Judge Judicial Magistrate where both nature of case i.e Civil and criminal were pending.

Q-4. Whether in that period of service as Reader to the Court of Magistrate how many confessional statements were recorded?

Ans: I do not remember that whether any confessional statement was recorded in those days or not and if recorded, how many these were.

Q-5. What measures you adopted for the safe custody of those confessional statements?

Ans: I kept the confessional statements with me in office file and on the orders of Hon'ble Civil Judge, lateron I handed over the original to the concerned Muharrirs and kept the photo copy with me for record.

Q-6. Why you handed over the confessional statement to English Clerk in case vide FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur?

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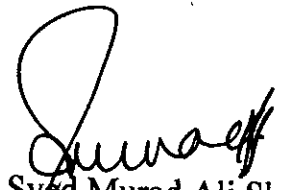
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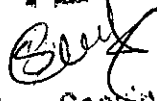
Ans: As I was directed by the Presiding Officer to hand over the said confessional statement in Sessions Court and on the directions of Presiding Officer, I bring the said confessional statement in the office Superintendent and I was directed by the Superintendent to hand the same in the office of English Clerk. So I went to the office of English Clerk where the English Clerk concerned was on leave and therefore, I handed over the said confessional statement to Naib Qasid Muhammad Ibrahim who was posted in the office of English Clerk. He signed on the back of copy of said confessional statement, which I kept with me in my record.

R.O.&.A.C
Dated 22.02.2019

Zabita Khan,
English Clerk 


Syed Murad Ali Shah,
Senior Civil Judge (Admn)
Inquiry Officer, Nowshera.

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DISTRICT & SESSIONS JUDGE NOWSHERA

**IN THE COURT OF SHAKEEL ARSHAD CIVIL JUDGE-
VIII/INQUIRY OFFICER, NOWSHERA**

INQUIRY REPORT

The background of the instant proceeding are such that in case FIR No. 826 dated 22.12.2016 under section 302 PPC of PS Risalpur, Mr. Fazal Gul, the then learned Civil Judge-VII/Judicial Magistrate, Nowshera recorded confessional statement of accused Mst. Tahira Naz and keep it in the safe custody of Reader Zabita Khan vide order dated 24.12.2016, however during trial, the original confessional statement was found missing, hence explanations were called from Muhammad Ibrahim (Naib Qasid to the office of English Clerk) & Zabita Khan, the then reader to the court of civil judge-VII, Nowshera, wherein it was mentioned by Ibrahim that he was given photocopy of confessional statement by Zabita Khan, while Zabita Khan stated that he has given the original confessional statement of the lady accused to Ibrahim. In the facts finding inquiry, the accused/official Zabita Khan being custodian was declared as responsible, however regular inquiry proceedings was initiated against the accused/official and vide order, dated 22.03.2019, he was served with charge sheet and statement of allegations by the Honorable District & Sessions Judge, Nowshera/competent authority and the undersigned was appointed as inquiry officer to probe into the matter and submit report within 30 days.

After receipt of inquiry, the accused/officials and departmental representative were issued notices to appear on 06.04.2019, the

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accused appeared and sought time for replies, time was granted with direction to submit the same on 11.04.2019, however due to casual leave of undersigned, they submitted their replies on 12.04.2019, wherein they denied the allegations leveled against them, whereafter both the accused/officials and departmental representative namely Muhammad Sohail were afforded an opportunity to adduce their respective evidence. The departmental representative neither recorded his statement, nor produced any witness, however he cross-examined both the delinquent officials.

During the facts finding inquiry, relevant record was requisitioned and statement of both the accused officials, Wajid Shah, the then English Clerk & Niaz Karam Reader of the court of learned Judicial Magistrate-I, Nowshera were recorded.

In the instant inquiry, both the accused/officials submitted their replies alongwith supporting documents, however Mr. Muhammad Ibrahim stated that he does not record further evidence and placed reliance upon his already recorded statement. He was cross-examined by the departmental representative as well as other accused/official namely Zabita Khan. Mr. Zabita Khan also recorded his statement and he was cross-examined by the departmental representative as well as Muhammad Ibrahim. In order to dig out the real facts, necessary questions were put upon both the accused/officials and their answers were recorded.

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As statement of almost all the concerned were recorded during facts finding inquiry by the learned Senior Civil Judge(Admn), Nowshera, therefore only the statements of (CW-1) Muhammad Adil Amin Muharrir to the court of Learned District & Sessions Judge, Nowshera, (CW-2) Saeed Ullah English Clerk and (CW-3) Najam ur Rahman Incharge Record Room were recorded, who produced the requisite record.

Findings:-

After perusing the available material on record and statements of the witnesses, I have reached to the following conclusion:

The allegation against the accused/official Zabita Khan is that, he misplaced the original confessional statement of accused Tahira Naz, recorded by the then learned Civil Judge-VII/Judicial Magistrate, Nowshera namely Fazal Gul in case FIR No. 826 dated 22.12.2016 under section 302 PPC, which was handed over to him for safe custody and as Reader, he was responsible for the safe custody of the said confessional statement. In this regard he submitted reply and recorded his statement, wherein he alleged that after recording of the confessional statement of accused Mst. Tahira Naz by the then Learned Civil Judge-VII/Judicial Magistrate, Nowshera namely Fazal Gul, he kept the same in safe custody, but as per verbal direction of learned presiding officer, he produced the said confessional statement before superintendent, District Courts, Nowshera, who told him to submit it in the English Office hence, he handed over the said

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confessional statement to Muhammad Ibrahim, Naib Qasid to the English Office and obtained his signature upon the copy of confessional statement for his own record. He produced the copy of confessional statement as Ex.PB and stated that as Naib Qasid received the original confessional statement, therefore he is responsible. Regarding non mentioning of the word "original" upon the copy of confessional statement, he alleged that as per law, all the official correspondence are received upon receipt and that's why he has taken signature of Muhammad Ibrahim upon the copy of confessional statement, which shows that he handed over the original confessional statement to Muhammad Ibrahim Naib Qasid.

The then Naib Qasid to English Clerk namely Muhammad Ibrahim, in his reply and statement accepted that on 09.05.2017 he received the confessional statement, but his stance is that it was photocopy, while the stance of Mr. Zabita Khan is that he handed over the original confessional statement to Mr. Muhammad Ibrahim.

The said explanation and justification of the accused/official Zabita Khan are not convincing. In fact he tried his best to shift burden to the Naib Qasid for non-mentioning of the word "photocopy" upon the receipt and by not mentioning the word "Photocopy", the Naib Qasid has committed the offence and he is responsible. Be that it may be the position, then why the accused/official Zabita Khan has mentioned the word "Original" while submitting 03 other confessional statements to other officials.

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This fact has been admitted by him in his cross-examination that he has mentioned the word "Original" while handing over the remaining 03 confessional statements to the concerned officials. He also admitted that apart from the missing confessional statement, he has not submitted any other confessional statement in the English Office.

The provision of section 164 (2) Cr.P.C, provides that any statement or confession recorded, shall then be forwarded to the Magistrate by whom the case is to be inquired or trialed. In practice, the Magistrate after recording the confessional statement, keep the same with reader of the court for safe custody, however after commencement of trial, the confessional statement is produced before the trial court at the time of evidence. Therefore, it is the responsibility of Reader of the court to maintain proper record of the confessional statements. In this regard the order dated 24.12.2016 of the then learned Civil Judge-VII/Judicial Magistrate, Nowshera is very much clear, wherein it is mentioned that original confessional statement is handed over to the Reader of the Court Zabita Khan for safe custody.

The reply and statement of the then Reader Zabita Khan is not supported by the set principles of practice, wherein he alleged that he submitted the same to Naib Qasid of the office of English Clerk on the directions of the then Civil Judge/Judicial Magistrate. The accused/official Zabita Khan failed to produce any oral or documentary evidence to prove the fact that confessional statement

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was handed over to Muhammad Ibrahim Naib Qasid at the direction of learned Civil Judge-VII/Judicial Magistrate, Nowshera. In general practice, confessional statement has never been kept in the English Office and this fact has also been admitted by both the accused/officials as well as Wajid Shah (The then English Clerk).

The placed on file record as maintained by accused/official Mr. Zabita Khan shows that other confessional statements, recorded by Mr. Fazal Gul the then Civil Judge/Judicial Magistrate were kept by Zabita Khan and as per his statement, he handed over the said confessional statements to the concerned officials by taking their signatures regarding receipt of original statement.

Record further suggests that at the time of submission of other two confessional statements, the trial of that cases were commenced, however as per admission of accused/official Zabita Khan, he was unaware about pendency of trial of under inquiry case, hence he submitted the missing confessional statement in the English Office. The said contention of accused/official Zabita Khan is against the record because as per statement of Adil Amin Muharrir (CW-1), the case of missing confession was put in court on 10.04.2017, while the missing confessional statement was submitted on 09.05.2017. If the unawareness of accused/official regarding pendency of the case is considered as correct, then why the accused official did not inquire the same from the prosecution branch.

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During the course of statement, the accused/official was asked that when and in whose presence, he was directed by the concerned Presiding Officer to submit the confessional statement, his reply was that at the time of direction, no one was present. Had the accused/official been directed by the then learned Civil Judge to submit all the confessional statements in the court of learned District & Sessions Judge, Nowshera, then why the confessional statement of accused Adil, recorded by the then learned Civil Judge-VII, Nowshera on 23.04.2017 in Case FIR No. 161 dated 20.04.2017 under section 392/452 PPC at PS Azakhel Nowshera was not submitted in English Office on 09.05.2017, rather it was handed over to Saleem Jan Muharrir on 27.10.2017, who placed on file the said confessional statement and put his signature on the margin of order sheet No. 3 dated 11.10.2017 of learned ADJ-I, Nowshera Ex.CW-3/1, meaning thereby that at the time of submission of missing confessional statement, the confessional statement of accused Adil was lying with the accused/official in safe custody, but he did not submit the same alongwith the missing confessional statement in the English Office, however after lapse of 05 months & 19 days, the accused/official handed over the confessional statement of accused Adil to Saleem Jan Muharrir on 27.10.2017. This aspect of the case shows gross negligence, misconduct and inefficiency on the part of accused/official Zabita Khan. The accuse/official also failed to justify that what compelled him to submit the copy of missing confessional

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statement in the office of English Clerk and that too after a period of more than four months. In this regard he could not give any plausible reason or justification and the reason furnished by him was himself negated by accused/official Zabita Khan while handing over the confessional statement of accused Adil Khan to Saleem Jan Muharrir after 05 months of the missing confessional statement.

Accused/official Zabita Khan tried to shift his burden upon Muhammad Ibrahim, the then Naib Qasid alleging that the original confessional statement was received by him. Regarding this fact no evidence is available on record. Further, as discussed above, the accused/official whenever submitted the confessional statement to the concerned official, he received acknowledgment as "original received", but in the present case there is no mention of the word "original received". This fact leads to the conclusion that accused/official has handed over photocopy of the relevant confessional statement to Muhammad Ibrahim Naib Qasid, which as per record he submitted the same to the learned trial court, therefore responsibility of misplacing the original confessional statement cannot be placed upon Muhammad Ibrahim Naib Qasid.

So far the case of accused/official Zabita Khan is concerned, in this regard it is held that as per order dated 24.12.2016, accused/official Zabita Khan being Reader was responsible for the safe custody of confessional statement of accused Tahira Naz, but unlike the said order, he submitted the confessional statement in the

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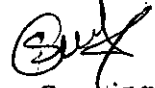
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office of English Clerk, despite the fact that Clerk of English Office never received any such confessional statement. He failed to prove his assertion regarding submission of all the confessional statements in the English Office on the direction of learned Civil Judge-VII, Nowshera, rather he himself negated his assertion by not submitting the other confessional statement of accused Muhammad Adil on the day of submission of missing confessional statement. There is no proof that accused/official Zabita Khan handed over original confessional statement to the Naib Qasid Muhammad Ibrahim. Similarly he also failed to explain the reason or justification for submission of missing confessional statement after 04 months. The charges against the accused/official Zabita Khan stands proved, hence report is hereby submitted, please.

Dated 11.05.2019.


Shakeel Arshad
Civil Judge-VIII/Inquiry Officer
Nowshera
11/5/19

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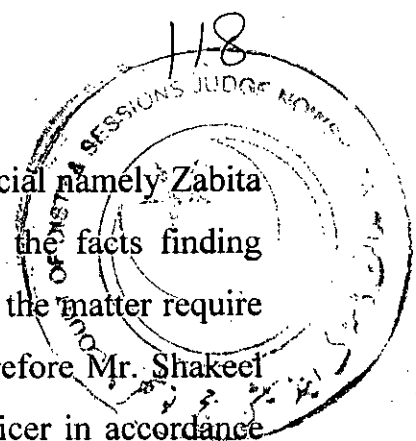

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OFFICE ORDER

Whereas, reply to the explanation submitted by official namely Zabita Khan senior clerk and Muhammad Ibrahim junior clerk, and the facts finding inquiry report submit by Senior Civil Judge (Admn) Nowshera, the matter require further probe to unearth the actual facts and circumstances therefore Mr. Shakeel Arshad Civil Judge, VIII Nowshera is appointed as inquiry officer in accordance with rule 10 (1) (a) of KPK Government Servant (Efficiency and Disciplinary) rules 2011 the learned inquiry officer shall probe the matter explained in charge sheet and statement of allegation (both enclosed here with), within shortest possible time but not more than 30 days as postulated under Rule 11 (7) of ibid rules.



Mr. Sohail attached to account office of DSJ is appointed as the Departmental Representative who shall perform all the duties, articulated in rule 13 of rules ibid.

Accused officials along with reply and the defense (if any) shall appear before the learned inquiry officer within prescribe span of seven 07 days.

Gohar Rehman
District & Sessions Judge,
Nowshera/ Competent authority

1. Copies forwarded to Superintendent Administration for information.
2. Accountant District Judiciary for information.
3. Copy to be placed on person file on of officials.
4. Accused officials by name along with its inquiry (statement allegation in charge sheet)

Gohar Rehman
District & Sessions Judge,
Nowshera/ Competent authority

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Date: 16-07-2019

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Annex-4C

To
Hon
Administrative Judge,
(District Judge), Peshawar High Court,

JB: Departmental Appeal against Order and Notification bearing No. 1494-97, Dated at Nowshera the 19/06/2019 passed by the Honorable District & Session Judge, Nowshera, communicated to me on 15-07-2019.

Respected Sir,

1. That I was performing my duties as Reader in the Court of Mr. Fazal Gul, learned Civil Judge-VII/ Judicial Magistrate, Nowshera. A confessional statement of one lady accused Mst. Tahira Naz was recorded on 24.12.2016 in case FIR No. 826, dated 22.12.2016 U/s: 302, PPC of PS Risalpur.
2. That after recording of the statement mentioned above, the learned Judicial Magistrate concerned directed me to hand over the original confessional statement to the Superintendent concerned but he (superintendent) said to hand over it to English Clark but he (English Clark) was on leave, therefore, the confessional statement was handed over to one Muhammad Ibraheem, (Naib Qasid) of English office.
3. That when the case was fixed for evidence the learned JM (Mr. Fazal Gul) asked for original confessional statement, as such I brought copy of confessional statement on the margin of which I have obtained signature of the above named Naib Qasid. Since the original confessional was missing, therefore explanation was called from him by the learned District Judge. After few days I was directed to produce original confessional statement but the learned authority has set up an inquiry against me after which as show cause notice which was duly replied by me and after full inquiry I was penalized for more than one penalties. (Copies charge sheet / statement of allegations, reply, inquiry report, show cause Notice, reply to show cause notice, statements, other necessary documents are annexed herewith)
4. Being aggrieved from the impugned order/ notification I prefer this appeal before your honor on the following grounds;

2

GROUNDS:-

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- a. That the impugned Notification bearing No. 1494-97, Dated 19/06/2019 passed by the Honorable District & Session Judge, Nowshera, communicated to me on 16-07-2019. is against law and facts, hence liable to be set aside.
- b. That since an important witness has not been summoned by the learned IOs as such deprived me from cross examination in order to dig out the real facts regarding the issue and also deprived me from fair trial under the law and constitution.
- c. That a very harsh view has taken by the learned authority for no fault on my part as the inquiry procedure is violation by not commensurating penalties i.e. more than one penalty has been imposed. I am demoted, deprived from promotion and annual increments for unlimited period.
- d. That one major and one minor penalty was given in the show cause notice whereas in the impugned order more than one penalties are imposed upon me other than not mentioned in the show cause notice which is against the law.
- e. That I may kindly be allowed to raise further grounds at the time of hearing of this appeal, hence this appeal with the following prayer;

It is, therefore, respectfully prayed that on acceptance of this department appeal, the impugned Notification bearing No. 1494-97, Dated at Nowshera: the 19/06/2019 passed by the Honorable District & Session Judge, Nowshera, communicated to me on 16-07-2019 may kindly be cancelled and set aside. I may kindly be posted at my earlier position as English Clerk (BPS-14) and also reinstate my increments

Any other relief deems fit and proper may also be granted.

With kind regards;


Zabita Khan, English Clerk,
District Courts Nowshera.
Mobile: 0315-9879613
CNIC # 17201-2224381-5

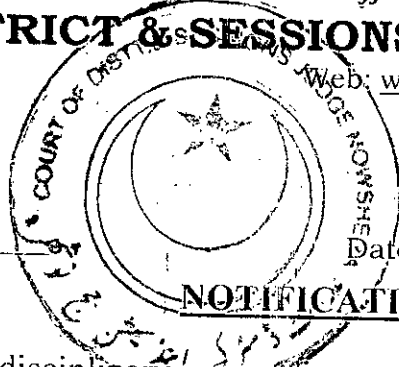
Office of
THE DISTRICT & SESSIONS JUDGE, NOWSHERA

Web: www.districtcourtsnowshera.gov.pk

Email: dsjnowshera@yahoo.com

Ph: +929239220106

Fax: +929239220241



No. _____ Dated at Nowshera the 19/06/2019

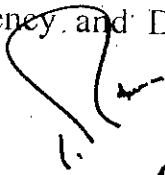
NOTIFICATION

Whereas, disciplinary proceedings were initiated against Mr. Zabita Khan delinquent official under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

And whereas after complying with the entire prescribed proceedings under the rules ibid, and I, being the competent authority under the said Rules impose major penalty under Rule 4(i)(b)i of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 of reversion to lower grade in the following manner.

- i. Delinquent official is demoted from the scale of Senior Clerk (BPS-14) to Junior Clerk (BPS-11), which will operator for three years.
- ii. During this period he will not be entitled for any increments.
- iii. And to postpone further increment for the period of one year, after restoration
- iv. After restoration he will be placed on his own original seniority.

Now therefore, it is notified that the accused official stands demoted to under grade within the charging of Rule 4(1)(b)i of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, with immediate effect.


Gohar Rehman,
District & Sessions Judge,
Nowshera.

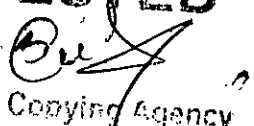
No. 1494-97

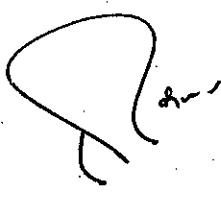
Dated at Nowshera the 19/06/2019

Copy forwarded to:

1. The Worthy Registrar, Peshawar High Court, Peshawar.
2. Senior Civil Judge (Admn), Nowshera.
3. District Accounts Office, Nowshera.
4. Official concerned by name.

ATTESTED


Examiner Copying Agency
Branch. D.S.J. Nowshera



District & Sessions Judge,
Nowshera.

104 NOV 2019

وکالت نامہ

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بعدالت پشاور ہائی کورٹ پشاور

 PESHAWAR HIGH COURT BAR ASSOCIATION PHCBA THIRTY RUPEES	S.No	19131
	BC No	11-1784
	Sign	

مورخہ
مقدمہ
دعویٰ
جرم

محمد اسد

محمد اسد منجانب
بنام

باعث تحرے آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی وجواب وہی وکل کاروائی، متعلقہ
آن مقام لیسٹیا جی۔ کیلئے۔ مختیار احمد میری رہنمائی سے لا رہا ہے۔
مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا
نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو
گائیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء
تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی
کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب
سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل
موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا
ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں
تمام ساختہ پرداخت منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط نشان
انگشت ثبت کر دیا ہے تاکہ سند رہے۔

المرقوم 9 ماہ 10 نومبر 2019ء

وہ ال
کے کہ منظور ہے۔
Account

لیسٹیا جی

بنام



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1487/2019

Zabita Khan.....Appellant

Versus

D&S Judge Nowshera & others Respondents

INDEX

S.#	Description of Documents	Date	Annexure	Pages
1.	Memo of Reply with Affidavit			1-4

Respondents

Dated: ___/02/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWARService Appeal No. 1487 /2019

Zabita Khan.....Appellant

Versus

D&S Judge Nowshera & others Respondents

REPLY ON BEHALF OF RESPONDENTS.

Respectfully Sheweth,

Preliminary objections.

- I. That the appellant has got no cause of action to file the instant appeal because during enquiry proceedings appellant has completely failed to justify his position before the Enquiry Officer hence, rightly been imposed upon the penalties.
- II. That the appellant has concealed material facts from the Hon'ble Tribunal and has not approached the Hon'ble Tribunal with clean hands, therefore, the instant appeal merits outright dismissal.
- III. That the instant appeal is time barred.

Reply to Facts:

1. Needs no reply.
- 2&3. Regarding para No.2&3 it is submitted that initially a Fact Finding Enquiry into the matter was conducted wherein appellant was held responsible, whereafter regular enquiry was conducted under the Khyber Pakhtunkhwa Employees (Efficiency & Discipline) Rules, 2011 wherein he was issued Charge Sheet and Statement of Allegations, which were replied but the reply was not found satisfactory. As appellant being Reader of the Court

has lost the confessional statement of accused Mst Tahira Naz who was arrested in case FIR No.826 dated 22.12.2016 U/S 302 PPC of PS Risalpur, District Nowshera. It would be significant to aver here that as per Section-164(3) Cr.P.C appellant was supposed to forward the confessional statement to the Magistrate by whom the case was to be enquired/trialed because as per practice the same was to keep in safe custody by Reader/appellant but he handed over the same to the Naib Qasid Mr. Muhammad Ibrahim of the English Branch irrespective of the fact that it was not the practice of the Court. It is further added that appellant himself admits that in past appellant has not submitted any confessional statement to the concerned office i.e. English Branch, appellant was rightly imposed upon the penalties by taking a lenient view.

4. Incorrect hence not admitted. The appellant could not produce the original confessional statement, consequently his explanation was called by the competent authority but he failed to justify his position, therefore, after meeting the mandatory legal requirements he was imposed upon the punishment by taking a lenient view. Furthermore, during enquiry proceedings appellant badly failed to produce any oral or documentary evidence in his support rather he shifted the burden to one Naib Qasid Muhammad Ibrahim. The statement of Naib Qasid Muhammad Ibrahim was also recorded wherein he contended that no original confessional statement was handed over to him. Through a regular enquiry appellant was provided enough opportunity to refute the allegation but he failed hence the impugned order was passed.

5&6. Para-5 & 6 of the appeal need no reply.

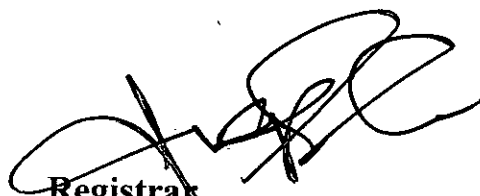
GROUND:

- A. Incorrect. The order dated 19.06.2019 was passed after due compliance of all codal formalities, hence, the same is liable to be upheld.
- B. Incorrect, the Inquiry Officer has examined such oral and documentary evidence and brought the same on file as deemed appropriate in the matter

and the appellant was extended all kind of opportunities to rebut the allegations and defend himself.

- C. Incorrect. The impugned punishment is lenient as compared to the gravity of charge and appellant was punished after following the prescribed procedure as per Khyber Pakhtunkhwa Employees (Efficiency & Discipline) Rules, 2011.
- D. Incorrect. Punishment was proposed tentatively in the Show Cause Notice and after submitting unsatisfactory reply, the punishment order was passed.
- E. Incorrect. The competent authority has taken a very lenient view and impugned punishment was passed which is not harsh, keeping in view the seriousness of the charge leveled against the appellant.
- F. That the Respondents may also be allowed to offer more grounds during the course of arguments.

It is, therefore, humbly prayed that on acceptance of this reply, the appeal of appellant may graciously be dismissed with costs.



**Registrar,
Peshawar High Court,
Peshawar**



**District & Sessions Judge,
Nowshera**

Dated: ___/02/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1487/2019


Zabita Khan.....Appellant

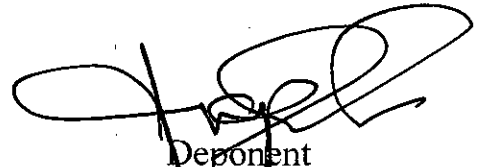
Versus

D&S Judge Nowshera & others Respondents

Counter Affidavit

I, **Khawaja Wajih-ud-Din, Registrar, Peshawar High Court, Peshawar,**
do hereby affirm and declare on oath that the contents of these Reply are
true and correct to the best of my knowledge and nothing has been concealed
from this Hon'ble Court.


 12-04-21


 Deponent
 12/4

POWER OF ATTORNEY

In the Court of K.P. Sule Trainee Pesh

Zinta Khan

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

DR Sam July Nsu

} Defendant
} Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned/ Appellee do hereby nominate and appoint

YASIR SALEEM ADVOCATE HIGH COURT, my true and lawful

attorney, for me in my same and on my behalf to appear at Pesh to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions, An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

YASIR SALEEM

Advocate High Court

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of
 Appeal No. 1487/2019

Zabita Khan (Appellant)

VERSUS

District & Sessions Judge, Nowshera,(Respondents)

REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT

Respectfully Submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the appellant has illegally been awarded penalty, thus he being, aggrieved civil servant, has got the necessary cause action and locus standi to file the instant appeal.
2. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed.
3. Contents incorrect, the appeal is filed well within time.

ON FACTS

1. Contents need no comments.
2. Contents as laid and incorrect. As the matter of fact the appellant was not treated in accordance with law. Material witnesses were not summoned by the Inquiry Officer nor the appellant was given fair chance of being heard. It is pertinent to mention here that the

accused lady was later-on sentenced to imprisonment in the light of the confessional statement.

3. Contents of para 3 of the appeal are true and correct. Reply given to the para is incorrect. The detail rely has already been given in para-2 of this rejoinder.
4. Contents of para 4 are true and correct while reply given to the para is incorrect, as the matter of fact the appellant brought the confessional statement of the accused lady on the margin of which he had obtained signature of Naib Qasid. It is a consistent view of the superior courts that punishment must commensurate to the magnitude of guilt, keeping in view the facts of the case the penalties imposed upon the appellant are harsh and comes under the definition of double jeopardy.
5. No comments.
6. No. 14 of the appeal are correct.

GROUNDS

- A. Para A of the grounds of appeal are true and correct. Reply to the para false and incorrect. No codal formalities were fulfilled before the imposition of penalties.
- B. Para B of the grounds of appeal are true and correct. Reply to the para false and incorrect. The inquiry officer failed to appreciate the facts and evidences available on inquiry file, further, the material witnesses were not summoned by the inquiry officer, hence cannot be said that inquiry proceedings were conducted in accordance with the principles of natural justice. Moreover the appellant was not given right to cross examine those who deposed against him during inquiry proceedings.

C-E. Contents of grounds C-E of the appeal are true and correct. Reply given is false and incorrect. As submitted above it is a consistent view of the superior courts that punishment must commensurate to the magnitude of guilt. The appellant was penalized for the acts and omissions of other person which even otherwise was not proved against him.

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



Appellant.

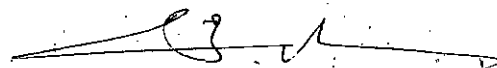
Through



YASIR SALEEM
Advocate High Court

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honorable Tribunal.



Deponent

