


FORM OF ORDER SHEET

Court of _____

Appeal No. 1894/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/09/2023	<p>The appeal of Mr. Abdul Rauf presented today by Mr. Muhammad Ismail Alizai Advocate. It is fixed for preliminary hearing before Single touring Bench at D.I.Khan on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

①

BEFORE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1894 /2023

Abdul Rauf, Ex-PC No.9051 / FRP.

Appellant.

Versus

Provl: Police Officer, Khyber Pakhtunkhwa, and others.


Respondents.

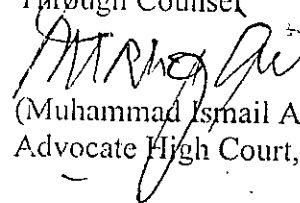
Service Appeal

I N D E X

<u>S.No.</u>	<u>Description of Documents</u>	<u>Annexure</u>	<u>Page(s)</u>
1.	Petition with Grounds of Appeal & affidavit.	--	02 — 05
2.	Copies of Order of SP/FRP. etc	A to A/6	06 — 14
3.	Copy of ^{file} Dep't : Appeal. ^{file} order	B to ^{to}	15 — 16
4.	Copy of judgment.	C ^{to}	17 — 21
5.	Copies of review & Final order of PPO/KP	D D & E/	22 — 23
6.	Vakalat-Nama	--	24 — 25

Dated: 18.09.2023.


(Abdul Rauf) Appellant
Through Counsel


(Muhammad Ismail Alizai)
Advocate High Court, Dikhan.

(2)

2

BEFORE SERVICE TRIBUNAL, KHY:PAKHTUNKHWA,PESHAWAR.
 Service Appeal No:...../2023.

1894

Abdul Rauf s/o Zareef Khan,
 Ex-Police Constable No.9051/FRP,
 Office of SP / FRP / Tank.
 Presently, Village Kiri Marwati,
 Tehsil and District Tank.

(Appellant)

Versus

1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa,
 Central Police Office, Peshawar.
2. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. SP, FRP, *D. J. Khan Range*.

(Respondents)

Note: The addresses given above are sufficient for the purpose of service.

SERVICE APPEAL AGAINST FIRSTLY, ORDER DTD 29.08.2019 WHEREBY THE APPELLANT IS AWARDED MAJOR PUNISHMENT OF REMOVAL FROM SERVICE BY RESPDT: NO. 3, SECONDLY FROM APPELLATE ORDER DTD.09.12.2019 OF RESPONDENT NO.2 WHEREBY DEPARTMENTAL APPEAL WAS REJECTED AND LASTLY FROM FINAL ORDER DATED 28.08.2023 PASSED BY RESPONDENT NO.1 ON REVISION PETITION OF APPELLANT.

Respectfully Sheweth: -

The appellant very humbly submits as under: -

BRIEF FACTS:

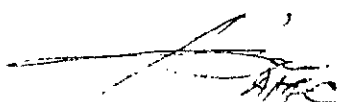
1. That during the year 2011 the petitioner was inducted in Police Department as Constable and posted at FRP, TANK District.
2. That the petitioner had since his induction in Police Department been serving under Respondent No.3 while Respondent No.2 is the appellate authority and Respondent No.1 commands overall authority in respect of the parties, thus all are necessary party to the lis.

[Signature]

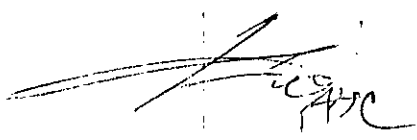
- (3)
3. That the appellant always striven hard to discharge and fulfill the duties and tasks assigned with due diligence and dedication. Service record of the appellant is otherwise unblemished, clean and devoid of any adverse marking since nothing of the sort had ever been conveyed to the appellant in this respect.
 4. That during the year 2019, the appellant was subjected to departmental proceedings on allegation of being involved in a criminal case registered at police station MRS District Kohat and a Show Cause Notice was allegedly issued to the stated effect. The proceedings culminated in award of title mentioned punishment though the appellant having been denied due process and had no opportunity allowed to attend inquiry proceedings and defend himself. Copies of order pertaining award of punishment, charge-sheet, its reply, final show cause notice and its reply are placed herewith at Annex; A to A/.
 5. That as a matter of fact the appellant had never been served any charge-sheet / summary of allegations rather an ex-parte action was taken against him and though the appellant sought grant of copies of relevant records including inquiry report, he was flatly refused yet verbally since the authorities were not ready to even receive an application to the stated effect.
 6. That in consequence thereof the appellant, having been condemned unheard and subjected to departmental action on the above said allegation, though never conveyed to the appellant, the proceedings culminated in award of punishment to the appellant of the kind Removal from Service vide order dated 29.08.2019, as conjointly impugned hereby.
 7. That on gaining knowledge of the award of punishment and aggrieved from the order of the departmental authority the appellant moved an appeal with respondent No.2 duly supported by records including court judgment whereby the appellant was acquitted of the charge and thus seeking reinstatement in service which however, could not find favour with appellate authority and was dismissed / rejected vide order dated 09.12.2019 vide No.11731-37/EC. Copies of Departmental Appeal & Order passed thereon are placed as Annex; B while copy of judgment passed by court is placed at Annex-C respectively. It is however, worth mentioning that the order on award of punishment i.e. Annex-A was never conveyed / communicated within time to the appellant and a copy thereof could only be obtained through personal source where after departmental appeal was preferred without delay thus the departmental appeal was well within time frame of limitation yet knocked out by the appellate authority on technical ground.
 8. That having no other alternative but to knock at the door of KP-Provincial Police Officer i.e final authority in the hierarchy, to seek justice. However, respondent No.1 also did not grant relief to the appellant vide his order dated 28.08.2023. Copy of review petition & order dated 28.8.2023 are placed at Annex-D & E/. Hence the instant appeal on the grounds, inter-alia, as under,

Grounds:

1. That the orders passed by departmental authorities i.e Respdt: No.1 to 3, as impugned hereby, are discriminatory, arbitrary in nature, legally and factually incorrect, ultra-vires, void ab-initio against the rights of the appellant and militate against the principles of natural justice thus are liable to be set-aside and nullified.



2. That the appellant is innocent and has been subjected to the penalty most harsh in nature for no fault on his part. Respondent No.3 failed to regulate the departmental inquiry in accordance with the law & procedures prescribed for the purpose and as such erred at the very outset of the proceedings thus causing grave miscarriage of justice as well as prejudice to the appellant in making his defense.
3. That it is a matter of record that the appellant has been vexed, not once but twice and that too, in clear defiance of the law and principles laid by the superior courts as well as the Tribunals as could be gathered from the facts and circumstances of the case.
4. That the respondents while adjudicating in the matter of departmental proceedings and the departmental appeal & revision, disposed off the entire matter in a slipshod manner through the orders impugned hereby and even failed to decide it in accordance with the principals of natural justice, thus the award of impugned punishment is patently unwarranted, illegal, ultra-vires, nullity in law and apparently motivated for extraneous reasons and thus is neither sustainable nor maintainable in law.
5. That the appellant has sufficient length of service rendered for the department. While adjudicating in the matter the departmental authorities utterly ignored not only the provisions of law on the point but the rights, too, of the appellant including fringe benefits and by imposing the penalty in defiance of law as aforesaid, deprived the entire family of the appellant of its only source of making the two ends meet.
6. That the order passed by respondent No.3 on holding of departmental proceedings including the order on award of punishment as well as the rejection of the departmental appeal and revision, as impugned hereby, have infringed the rights and have caused grave miscarriage of justice to the appellant without any lawful excuse.
7. That while ignoring the rights of the appellant guaranteed by the constitution, the departmental authorities / respondents utterly failed to adopt a proper course & follow due procedure hence erred in disposal of the matter in accordance with the law and rules. The impugned order passed by Respondent No.3 and rejection of departmental appeal by Respondent No.2 besides revision by respondent No.1 on mere technicality thus lack in legal sanction and therefore, either orders are liable to be set aside in the interest of justice.
8. That the petition of appeal / appellant is duly supported by law and rules formulated thereunder, besides the affirmation/ affidavit annexed hereto.
9. That this Hon'ble Tribunal is competent and has ample powers to adjudge the matter under reference/appeal.



10. That the counsel for the appellant may very graciously be allowed to add to the grounds during the course of arguments, if need be.

Prayer:

In view of the fore mentioned submissions, it is very humbly requested that the impugned order dated 29.08.2019 passed by SP/FRP, Tank, besides the order dated 09.12.2019 of Respondent No.2 and final order of respondent No.1 dated 28.08.2023 may, on being declared as illegal, arbitrary, discriminatory, void ab-initio, ineffective and inoperable against the appellant, be very graciously set aside and the appellant may in consequence thereof be very kindly reinstated in service with allowance of all back benefits. Grant of any other relief including costs, as may be deemed appropriate by the Hon'ble Tribunal is solicited, too.

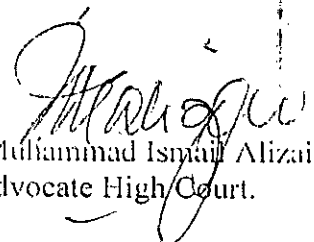
Dated: 18.9.2023

Humble Appellant,



(Abdul Rauf) Appellant,

Through Counsel.

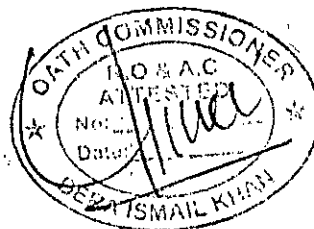


(Muhammad Ismail Alizai)
Advocate High Court.

AFFIDAVIT:

Dated: 18.09.2023.

I, Abdul Rauf, the appellant, hereby solemnly affirm and declare on oath that contents of the petition are true and correct to the best of my knowledge, belief and per the official records. Also, that nothing is willfully kept or concealed from this Hon'ble Tribunal.




Deponent.

ORDER:-

(6)

A

My this order will dispose off departmental enquiry conducted against Constable Abdul Rauf No.9051/FRP under Khyber Pakhtunkhwa Police Disciplinary Rules-1975 (Amended in 2014).

According to daily diary report No.87 dated 24.05.2019 of District Police Lines DIKhan, he remained absent from law full duties with effect from 24.05.2019 to till date without any leave or permission from the competent authority. During his absence he involved in case vide FIR No.815 dated 24.05.2019 U/S 9CCNSA/15AA Police Station MRS District Kohat.

On the basis of above he was placed under suspension and closed to FRP Police Lines DIKhan vide this office order No.915-17/FRP dated 03.06.2019. He was issued charge sheet along with summary of allegation. Zahoor Ud Din DSP/FRP DIKhan Range was nominated as enquiry officer to unearth the actual facts. Charge Sheet along with summary of allegation was sent to Superintendent Central Prison Kohat vide this office memo No.966/FRP dated 17.06.2019 for delivered upon him. He was required to submit the reply of said charge sheet within stipulated period but he failed to do so, his reply received through fax after due date. After completion of all codal formalities the enquiry officer submitted his findings report along with other relevant papers wherein the defaulter Constable was found guilty of the charges leveled against him and recommended for taking Ex parte action. He was issue Final show cause notice on 27.07.2019. He was required to submit the reply of said Final show cause notice within stipulated period but he failed to do so. He reported back his arrival on 06.08.2019 vide daily diary report No.88 dated 06.08.2019 of District Police Lines DIKhan. Complete departmental enquiry papers were marked to Zahoor Ud Din DSP/FRP DIKhan Range with the direction to report by today. Finding report along with Final Show Cause Notice returned by DSP/FRP DIKhan Range wherein he stated that the defaulter constable remained absent from law full duties with effect from 24.05.2019 to 06.08.2019 and 13.08.2019 to 21.08.2019 total (82) days and also recommended him for major punishment i.e Dismissed from Service. He was called in orderly room and heard in person but he failed to convince the undersigned about his innocence.

From perusal of his service record it revealed that he was enlisted as Constable on 08.01.2011, during his service he remained absent from law full duties for (66) days, awarded minor punishment of confinement to quarter guard for 07 days, extra drill for 01 day and "CENSURE" previously.

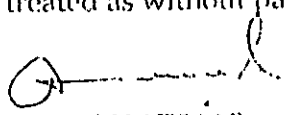
Keeping in view the facts stated above, as well as recommendation of enquiry officer, I MR. AMAN ULLAH KHAN, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Disciplinary Rules-1975 amended-2014 is hereby awarded Constable Abdul Rauf No.9051/FRP major punishment of Removal from service from the date of his absence. His absence period i.e 24.05.2019 to 06.08.2019 and 13.08.2019 to 21.08.2019 total (82) days is treated as without pay.

ORDER ANNOUNCED.

Dated _____/2019.

OB No. 672/FRP

Dated 27/08/2019


(AMAN ULLAH KHAN)
Superintendent of Police,
FRP, DIKhan Range DIKhan.

Copy to:-

1. Pay Officer
2. SRC
3. OASI

7

A/S

No. 919-20 /FRP

dated: 03-06 /2019

CHARGE SHEET

- I. I, Aman Ullah Khan, SP FRP DIKhan as competent authority, am of the opinion that you Constable Abdul Rauf No.9051/FRP of FRP DIKhan Range have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.
- II. You have been directly involved/arrested in case vide FIR No.815 dated 24.05.2019 U/S 9CCNSA/15AA PS MRS District Kohat. It is a gross "Misconduct" on your part as defined in Rule 2 (iii) of Police Rules 1975 and has rendered yourself liable to be proceeded against departmentally.
- III. By reason of the above, you seem to be guilty as sufficient materials is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding.
- IV. You are; therefore, required to submit your written reply within 07 days of the receipt of this charges sheet to the Enquiry Officer.
- V. Your written reply, if any, should reach the Enquiry Officer within specific period, failing which it shall be presumed that you have no defense to offer and in that case ex-parte action shall follow against you.
- VI. Intimate as to whether you desire to be heard in person or not?
- VII. A statement of allegation is enclosed.

(Aman Ullah Khan)
Superintendent of Police, FRP
DIKhan Range DIKha
03/06

DSP. FRP: NO: 30

11-6-19

8

A/2

DISCIPLINARY ACTION

Aman Ullah Khan, SP FRP DIKhan as competent authority, am of the opinion that you Constable Abdul Rauf No.9051/FRP of FRP DIKhan Range of FRP have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

1. You have been directly involved/arrested in case vide FIR No.815 dated 24.05.2019 U/S 9CCNSA/15AA PS MRS District Kohat. It is a gross "Misconduct" on your part as defined in Rule 2 (iii) of Police Rules 1975 and you rendered yourself liable to be proceeded against departmentally.
2. For the purpose of scrutinize the conduct of said Constable with reference to the above allegation, Zahoor Ud Din DSP/FRP DIKhan is appointed as Enquiry Officer.
3. The Enquiry Officer shall conduct proceeding in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record his finding, and make with twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
4. The delinquent official shall join the proceeding on the date, time and place fixed by the officer.

(Aman Ullah Khan)
Superintendent of Police FRP
DIKhan Range DIKhan
C/M/E.

V.
VII.

علائی

حوالہ جارج ... 919 - 920 ... 19

میں کئی بار ... 19

میں اس سے ... 19

میں اس سے ... 19

میں اس سے ... 19

میں اس سے ... 19

عائشہ بیگم

لہذا میں سیدھے مالدارستان کے پوسٹل آفس میں میرے افسوس ندرتاً
 کہ وہ تو حضرت خورشید پوری سے سائل کی ہے۔ اور نہ ہی اسکو
 دوسرے پتوں میں لکھ دینا بالکل صحیح ہے۔ اور نہ ہی اس کے فیس کے
 غور کرنے میں کوئی عیب ہے۔ اور میں سائل کی سروس کے
 بارے میں بھی کوئی اعتراض نہیں کرتی۔ یہ سب باتیں وہ تو
 میں سائل کے صدف سید عزیز کا رولہ اچارج سب سے پہلے
 فرماتے ہیں۔ صاحبان کے پاس ہے۔ مال فروخت کرنے میں
 کدیف و بیارینس انلوائز کی ذرا بھلائی اور قانون کی تعمیل
 کو فریڈلر رکھتے ہیں۔ تاہم فوری طور پر حلقوں کے ساتھ
 سائل آجائے کہ تاہم اس کے افعال میں کوئی عیب نہیں ہے۔

✓

عائشہ بیگم

صدر الزمیر
 ۶۵۹۱
 FRP
 D.K. اولم فور

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A/5

FINAL SHOW CAUSE NOTICE.

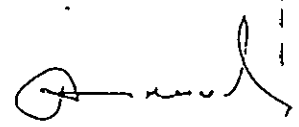
WHEREAS YOU, Constable Abdul Rauf No.9051/FRP found guilty of following misconduct in violation of Khyber Pakhtunkhwa Police Disciplinary Rules 1975 with amendment 2014.

You have been directly involved/arrested in case vide FIR No.815 dated 24.05.2019 U/S 9CCNSA/15AA PS MRS District Kohat. Similarly according to daily diary report No.87 dated 24.05.2019 of District Police Lines DIKhan, you remained absent from law full duties with effect from 24.05.2019 to till date without any leave or permission from the competent authority.

After completion the enquiry the Enquiry Officer submitted his finding in which the charges leveled against you were proved without any shadow of doubt.

As a result thereof, I AMAN ULLAH KHAN, Superintendent of Police, FRP, D.I.Khan Range D.I.Khan as competent authority have tentatively decided to impose upon you the penalty of Major/ Minor punishment Under Section 3 of the said ordinance.

1. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.
2. If no reply to this notice is received within 15-days of its delivery in the normal course of circumstances, 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.


 Superintendent of Police,
 FRP D.I.Khan Range D.I.Khan.
 07/07/19

2/18

مجلس شورای اسلامی - کمیسیون تخصصی - ۱۳۵۷

مجلس شورای اسلامی - کمیسیون تخصصی - ۱۳۵۷

تاریخ: ...

با توجه به درخواست ...

در خصوص ...

در این خصوص ...

در این خصوص ...

در این خصوص ... (۲۱۵)

نہر کے ذرا ہی قدر سے پیرا پیرا لائی ہیں۔ ستروہ کو منشا سے کہ جس نے ہاتھوں میں
 جھانکے جانے اور حضور کا شمار تھا جس کو کئی کئی بار سے اس کے علم پر لکھا
 وہ نہر کا قدر کو کونوں در لکھان شہادہ لکھو کہ اس سے لکھا گیا۔ ستروہ کا حکم
 سویرا رانڈرڈ اور شہرت اس جو الہ سے قطع ہو کر نہر شہادہ سے لکھا گیا
 کہ نہر کے بندوں کے طرز و نام نہر کا ریتا کرنے کا خاصہ فقیرانہ اندویشی اور
 وفاداری اور صورت و نام سے ہم کرتے ہیں کہ یہ نہر کو اس کے ذرا ہی لکھا جو نہر کا حال بندوں
 کو ان لوگوں اور شہادت میں لکھا گیا کہ لکھا گیا کہ نہر کو اس کے ذرا ہی لکھا جو نہر کا حال بندوں
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سے محروم رکھا جا رہا ہے۔

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دیر کے علاوہ وفاداری اور شہادت میں لکھا گیا کہ لکھا گیا کہ نہر کو اس کے ذرا ہی لکھا جو نہر کا حال بندوں
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 لکھو کہ اس کے ذرا ہی لکھا جو نہر کا حال بندوں لکھا گیا کہ لکھا گیا کہ نہر کو اس کے ذرا ہی لکھا جو نہر کا حال بندوں

۱۵/۱۱/۱۹۵۰
 R...

(15)

(15)
B


ORDER

This order will dispose of the departmental appeal preferred by ex-constable Abdul Rauf No. 9051 of FRP Di Khan Range, against the order of SP FRP DI Range, DI Khan issued vide OB No. 679, dated 29.08.2019, wherein he was awarded major punishment of removal from service. The applicant was proceeded against on the allegations that he absented himself from lawful duty with effect from 24.05.2019 till the date of removal from service i.e 29.08.2019 for period of 03 months 05 days, without any leave or prior permission of the competent authority. During his absence he has also found involved in a criminal case vide FIR No. 815, dated 24.05.2019 U/S 9CCNSA/15AA, Police Station MRS, District Kohat.

In this regard, he was placed under suspension and close to FPR Police Line DI Khan vide office order Endst; No. 915-17/FRP, dated 03.06.2019. Proper departmental proceedings were initiated against him as he was issued Charge Sheet and Statement of Allegations and DSP Zahoor Ud Din FRP DI Khan Range was appointed as Enquiry Officer. Charge Sheet alongwith Summary of Allegations was sent to superintendent Central Prison Kohat vide office memo No. 966m dated 17.06.2019 for delivered upon him. He was required to submit reply within stipulated period, but he failed to do so and after expiry of due date his reply was received through fax which was found not considerable. After completion of all codal formalities the Enquiry Officer submitted his finding report alongwith other relevant papers, wherein the delinquent constable was found guilty of the charges leveled against him and recommended him for ex-party action.

Upon the findings of Enquiry Officer, he was issued Final Show Cause Notice on 27.07.2019, but he failed to submit reply of said Final Show Cause Notice. He reported arrival from absence vide daily diary No. 88, dated 06.08.2019. Complete enquiry papers were again marked to Zahoor Ud Din DSP FRP DI Khan Range with the directions to report, wherein the Enquiry Officer found him guilty of the charge leveled against him and recommended for major punishment.

From perusal of his service record, it has been found that he remained absent from lawful duties for 66 days on different occasion previously, to which he was awarded minor punishments of confinement to quarter guard for 07 days, extra drill for 01 day and "Censure".



16

Keeping in view the above narrated facts and other material available on record, he was awarded major punishment of removal from service vide OB No. 679, dated 29.08.2019.

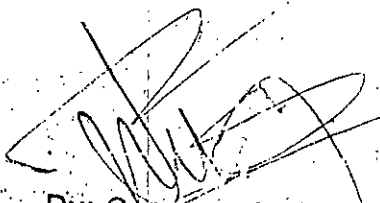
Feeling aggrieved against the impugned order of SP FRP DI Khan Range, DI Khan, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 04.12.2019.

During the course of personal hearing, the applicant failed to present any justification regarding to his prolong absence as well as his involvement in a moral turpitudes nature criminal case.

Keeping in view the above facts his reinstatement in service may impinge upon the over all moral and affect adversely the discipline of the force. Thus there doesn't seem any infirmity in the order passed by the competent authority, therefore no ground exist to interfere in same.

Based on the findings narrated above, I, Malik Muhammad Tariq, PSP Deputy Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected/dismissed being time barred and meritless.

Order Announced:


Dy; Commandant
For Commandant FRP,
Khyber Pakhtunkhwa, Peshawar.

No 1173/22 /EC, dated Peshawar the 6/12 /2019.

Copy of above is forwarded for information and necessary action to the:-

1. SP FRP DI Khan Range, DI Khan. His service record alongwith D-file sent herewith.
2. Ex-constable Abdul Rauf No. 9051 S/O Zareef Khan, Police Station City, Village Kirri Marwati, District Tank.

OS-----19
30.05.2022

Present:

Miss Nomana Malik, APP for State.
Accused on bail,
Nemo for the PWs despite service.

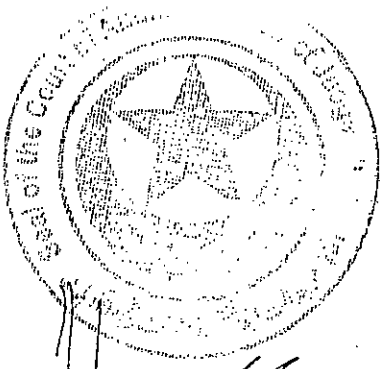
In the absence of PWs, case in hand was scrutinized in detail and it transpired that FSL report brought on file lacks the observance of mandatory protocols, required for the tests of narcotics under Rule-6 of Control of Narcotics Substance (Government Analysis) Rules, 2001. Moreover, there is no mention of names of marginal witnesses of the recovery and the murasila carrier in the DD # 27, alongwith the seizing officer or their return back to the PS alongwith the seizing officer in DD # 48. Hence, notice u/s 265-K Cr.P.C was given to the State through the learned APP attached to this court and she was heard at length.

Accused Abdul Rauf S/o Zarif Khan is facing trial in case FIR # 815 dated 24.05.2019 u/s 9-C CNSA / 15 AA of PS, MRS, Kohat.

The allegations against the accused are that, he was driving a Motorcar bearing Registration # ARZ-701 and from its secret cavities which were made in right side window, local police recovered 02 packets of Heroin, each packet on weightment came out to be 1000 grams, making a total of 2000 grams of Heroin and from its switchboard, local police also recovered one 30-bore pistol without number alongwith fixed magazine containing 06 live rounds of same bore, for which accused failed to produce any valid license/permit on the spot. Hence, this case was registered.

After the submission of challan, the accused was formally charge sheeted on 08.02.2020; thereafter prosecution evidence was summoned and till today no prosecution witness is examined.

Record in the light of arguments shows that prosecution version regarding the departure of police party from the PS for the place of occurrence, the presence of marginal witnesses and murasila carrier alongwith the seizing officer at the time of occurrence is not



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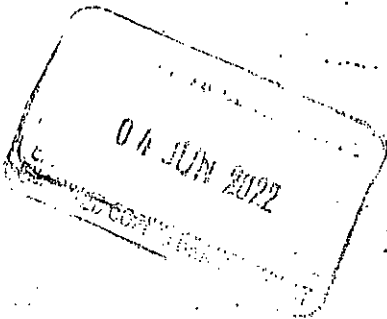
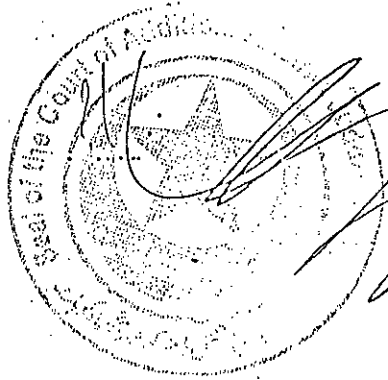
04 JUN 2022

established from DDs // 27 & 48, available on record. The FSL report available on record lacks the observance of mandatory protocols, which were required for the test with the meaning of Rule-6 (ibid), rendering the report which is the foundation of the present case, as unreliable and insufficient for recording conviction. Rule-6 is reproduced below for ready reference:

"Report of result of test or analysis. ---After test or analysis the result thereof together with full protocols of the test applied, shall be signed in quadruplicate and supplied forthwith to the sender as specified in Form-II"

In this connection, august Supreme Court of Pakistan has held in the case of "Qaisar Javed Khan Vs the State" reported in PLD 2020 SC 57(a) that:

---R. 6---Control of Narcotic Substances Act (XXV of 1997), S. 36---Report of Government Analyst---Essential requirements---Report of the Government Analyst must show that the test applied was in accordance with a recognized standard protocol---Any test conducted without a protocol lost its reliability and evidentiary value---To serve the purpose of the Control of Narcotic Substances Act, 1997 and the Control of Narcotic Substances (Government Analysts) Rules, 2001, the report of the Government Analyst must contain three elements, i.e tests applied; the protocols applied to carry out these tests; and, the result of the test(s)---Report of the Government Analyst which did not specify the protocols of the tests applied did not meet the requirements of the law---Such a Report could not be relied upon for the conviction of an accused. [Context of 'protocols' as explained in the judgment reported as (Ikramullah's case 2015 SCMR 1002, Imam Bakhsh's



case 2018 SCMR 2039 and Khair-ul-Bashar's case 2019 SCMR 930) further clarified]

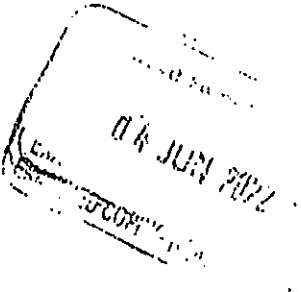
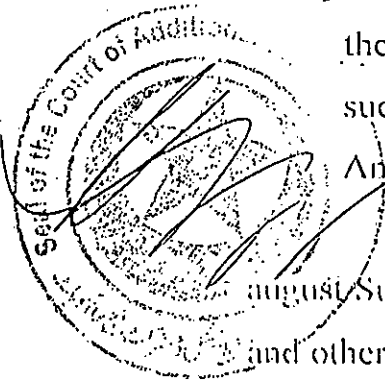
The august Supreme Court has referred to the following dictums of the apex court "2015 SCMC 1002, Imam Bakhsh's case 2018 SCMR 20139 and Khair-ul-Bashar's case 2019 SCMR 930, 2015 SCMR 102, 2018 SCMR 2039 and 2019 SCMR 930"

The august Supreme Court of Pakistan has also held in the case titled "The State through Regional Director ANI Vs Imam Bakhsh and other reported in 2018 SCMR 2039 that the observance of protocols under Rule-6 of ibid is mandatory provision of law, non-observance of which would render the report as in admissible in evidence and thereby, conviction could not sustain on the basis of such report. The relevant citation of the judgment is reproduced below:

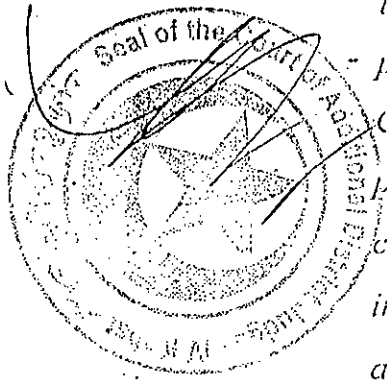
"---Rr. 5 & 6---Control of Narcotic Substances Act (XXV of 1997), S. 9---Possession of narcotics---Reports of Government Analyst---Rule 5 of the Control of Narcotic Substances (Government Analysts) Rules, 2011 was directory while R. 6 was mandatory to the extent that the full protocols ought to be mentioned in the report of the Government Analyst---Non-compliance of R. 6, in such context, would render the report of the Government Analyst inconclusive and unreliable"

In this connection the most celebrated judgment of the august Supreme Court of Pakistan, passed in the case of "Ikram Ullah and others vs The State" reported in 2015 SCMR 1002 is also referred and reproduced below:

"Section 9C & 36---Control of Narcotic Substances (Government Analysis) Rules, 2001, Rr.5 & 6---Recovery of narcotic substance---Reappraisal of evidence---Chemical Examiner Report---Safe custody of narcotics---Proof---Accused persons were convicted and



sentences to imprisonment for life alleging recovery of 48 packets of Charas from their vehicle---Validity---Entire page which was to refer to relevant protocols and tests was not only substantially kept blank but the same had also been scored off by crossing it from top to bottom--- Such was a complete failure of compliance of relevant Rule and such failure reacted against reliability of report produced by prosecution before Trial Court--- Provisions of S.36 of Control of Narcotic Substance Act 1997, required a government Analyst to whom a sample of recovered substance was sent for examination to deliver to the person submitting the sample a signed report in quadruplicate in "the prescribed form"---if report prepared by government analyst was not prepared in prescribed manner then it could not qualify to be called a report in the context of S.36 of Control of Narcotics Substances Act, 1997, so as to be treated as "conclusive" proof of recovery of narcotic substance from accused person---Investigating officer appearing before Trial Court had failed to even mention name of police official who had taken the samples to office of Chemical Examiner---No such police official was produced before Trial Court to depose about safe custody of samples entrusted to him for being deposited in office of Chemical Examiner---Prosecution was not able to establish that after alleged recovery of substance so recovered was either kept in safe custody or that samples were taken from recovered substance had safely been transmitted to office of Chemical Examiner without the same being tampered with or replaced while in transit---Prosecution failed to prove its case against accused persons beyond reasonable doubt---Supreme Court set aside conviction and sentence awarded to



RECORDED
 04 JUN 2022
 JABALPUR

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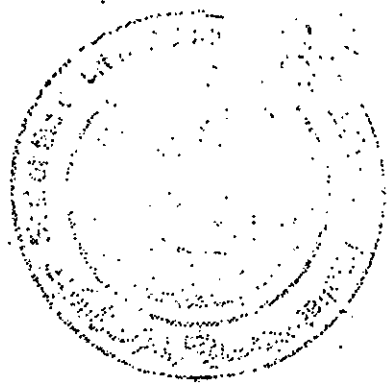
accused persons and they were acquitted of the charges--
-Appeal allowed

It is apparent that neither the report contains the observance of protocols in the manner as provided in the above case-law nor the same has been rendered in quadruplicate, hence the same is held to be inadmissible in evidence and thus the report is a nullity. The mode and manner of the occurrence is also in doubt as the presence of marginal witnesses and the munsifa carrier is also not established on the spot at the time of occurrence, from the evidence available on file.

In the light of above discussion and while following the dictums laid down by the august Supreme Court of Pakistan, mentioned above, it is held that prosecution has failed to prove its case beyond reasonable doubt, particularly due to non-observance of mandatory protocols for the FSI analysis. The case of prosecution is held to be doubtful, therefore, by extending benefit of doubt accused facing trial namely Abdul Rauf is acquitted u/s 265-K Cr.P.C from the charges leveled against him. He is on bail and his sureties are discharged from the liability of bail bonds. Case property, motorcar be returned to its lawful owner while rest of the case property, be disposed of in accordance with the law after the expiry of period of appeal/revision. File be consigned to record room after its completion.

ANNOUNCED

30.05.2022



NADIA SYED
ASJ-IV/JSC, KOHAT

11 JUN 2022

محضوړ جناب والا شتان عزت مآب انسپكټر جنرل آف پوليس KPK پشاور

درخواست رحم بابت بحالي ملازمت از تاريخ وقت Dismissal از سروس بذريعه انټيليت ڈپارټمنټل بورډ سي بي او پشاور

جناب عالی!

گزارش محضوړ انور يه په كه بجه بلاوجه ايك فرضي ڈپارټمنټل انكوآزري كه تحت اپني كواليفائيز سروس سے بسلسله مقدمه علت نمبر 815 مورخه 2019-05-24 جرم (9C/CNSA/15AA) تھانہ MRS ضلع كوهاټ بحوالہ نمبر 679 مورخه 2019-08-29 بحاليه SP ايف آر بي DIK ريج ڈمس كر ديا گيا۔

☆ انتہائی ظلم کی بات تو یہ ہے کہ ڈپارټمنټل پروسيڈنگ ميں ميرے خلاف چارج شيټ کے ديئے جواب کے سلسله ميں ديکھا تھانہ گيا اور ميری بات سننا تو درکنہ محض ايك حاکمانہ آرڈر کے ذريعه بجه ميری 9/10 سالہ كواليفائيز سروس سے محروم كر ديا گيا، اور ميرے كم سن بال بچوں اور اہل و عيال كی طرف توجہ تھانہ نہ رکھی گئی اور نہ ہی مجھے قانونی انصاف اور قدرتی انصاف تھانہ كا فائدہ ديا گيا۔

☆ ميں نے روز اول سے يہ رونا رويا كه ميرے خلاف رجسٽريشن مقدمه محض ايك پري پلاننگ كا ذريعه ہے نہ ميرے تعلق FIR ميں درج گاڑی سے تھانہ اور نہ اس سے کسی برآمدگی وغیرہ كا۔

☆ تفتيشی نقطہ نظر سے بجه جو تفتيش پائل اپنے طور پر MRS تھانہ والوں نے كئے ركھا اس ميں بجه محض FIR كی حد تھانہ ميرے خلاف فرضي چارج لگا ديا اور كوئی شهادت آئے ميں تھانہ كے برابر بجه فائل مقدمه ميں نہ لائی گئی۔

☆ اس سارے نام نہاد عمل كی وجہ سے مجھے عدالت انصاف نے بحوالہ 265K CrPC باعزت طور پر مورخه 30-05-2022 كو ASJ-IV/JSC-Kohat محترمہ ومعظمہ نادیہ سيدج صاحبہ نے بري فرما ديا۔ آرڈر كی فوٹو شيټ كی كاپی تھانہ لف ہے۔ جس ميں مدعي ايسيكوشن اپنے مقدمه كو ثابت كرنے ميں سو فيصد ناکام رہے۔

☆ ليکن محكمہ نے اندھے كے ہاتھ تلوار كے مترادف مجھ پر نايمانہ گزار كر كے بجه اور ميرے اہل خانہ كو حق روزگار سے محروم كر ديا اور ميری ماسوائے عدالت انصاف كے کسی فورم پر كوئی فرياد نہ سنی گئی اور نہ دادرسی كی گئی۔

☆ لہذا ميری انتہائی مودبانہ التماس ہے كه بجائے دوبارہ سروس ريجيوئل كا دروازہ كھلكھانے كے ميری Cause of Dismissal عدالت انصاف كے حكم كی رو سے اپنی موت آب مر چكي ہے۔ لہذا ميری انتہائی مودبانہ التماس ہے كه ميرے حال پر رحم فرماتے ہوئے اپنی سروس پر از تاريخ و دفتر برخاستگی بحوالہ جملہ مرعات كے بحال فرمايا جائے اور ميرے اور ميری افراد خانہ كی دادرسی كی جائسے۔

عين ماتحت پروری ہوگی

مورخه 06-09-2022

الارض

عبدالروف ايکين كاشميريل نمبر 19051 ايف آر بي ولد ظريف خان قوم پيشي سکنہ کڑی مروتی ضلع ٹانک تھانہ صدر ضلع ٹانک

0341-9244950



(23)

E

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

42/19 S-Filed.
30 8 D-File
23 ORDER

1022/KRP
11-07-23

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted Ex-FC Abdul Rauf No. 9051. The petitioner was awarded major punishment of removal from service by SP FRP DI Khan Range vide OB No. 679, dated 29.08.2019 on the allegations that he absented himself from lawful duty w.e.f 24.05.2019 to 29.08.2019 (Total: 03 months & 05 days) without permission. He was also involved in a criminal case vide FIR No. 815, dated 24.05.2019 U/S 9CCNSA/15AA, PS MRS, District Kohat. He was acquitted from the said FIR, by Addl: Session Judge-IV, Kohat by extending benefit of doubt vide court judgment, dated 30.05.2022. Commandant FRP rejected and filed his instant appeal vide Order Endst: No. 11731-32/RC, dated 09.12.2019.

Meeting of Appellate Board was held on 17.08.2023 wherein petitioner was heard in person. Petitioner contended that the FIR was frivolous.

The petition of the petitioner was examined in the Appellate Board meeting. Perusal of the record revealed that the application of the petitioner is time-barred. The Board unanimously decided to file/reject the revision petition on the grounds of time limitation.

Sd/-
AWAL KHAN, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI 2-137-42 /23, dated Peshawar, the 2-8-22 /2023.

Copy of the above is forwarded to the:

- 1. Commandant Frontier Reserve Police, Service Record alongwith D. File of the above-named Ex-FC received vide your office Memo: No. 8331/SI Legal, dated 12.10.2022 is returned herewith for your office record. No. 8354 SI Legal, dated 31/08/2023.
 - 2. SP FRP DI Khan Range. *copy of the above is forwarded to the SP FRP DI Khan Range, DI Khan for information & further necessary action. His service record alongwith D-file sent herewith.*
 - 3. AIG Legal CPO Peshawar.
 - 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
 - 5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
 - 6. Office Supdt: E-IV CPO Peshawar.
- Deputy Commandant FRP.*

SRC for m/actor
7/9

SI Legal FRP
[Signature]
D. J. Candt FRP
(under [Signature])
M. Javed Bhatti LHE
07/09/2023

(DR. ZAHED-U-LEAH) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

17/11/23
11/11/23
10/11/23

24

VAKALATNAMA

MUHAMMAD ISMAIL ALIZAI
 Advocate High Court
 H.C. 12101-05770, S-3
 S.No 1228

MUHAMMAD ISMAIL ALIZAI
 Advocate High Court
 H.C. 12101-05770, S-3
 S.No 1228

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

In Service Appeal ... No — /2023 : Abdul Raza vs PPO etc

I/we, Abdul Raza, Appellant,

hereby appoint Mr. Muhammad Ismail Alizai, Advocate High Court, D.I.Khan, in the above mentioned matter / case and authorize him/them to do all or any of the following acts, in my/our name and on my/our behalf, that is to say,

1. To appear, act and plead for me/us in the above mentioned case in this Court/ tribunal in which the same may be tried or heard or any other proceedings what so ever, ancillary thereto, including appeal, revision etc; on payment of fees separately for each court by me / us,
2. To sign, verify, file, present or withdraw all/any proceedings, petitions, appeals, cross objections and application for compromise or withdrawal, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by him/them and to conduct prosecution or defense of the said case at all its stages,
3. To undertake execution proceedings, deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be conferred to be done for the progress and in the course of prosecution of the said case,
4. To appoint and instruct any other Advocate/ legal practitioner authorizing him to exercise the power and authority conferred upon the advocate whenever he/they may think fit to do so and to sign Power of Attorney on our behalf,

I /we, the undersigned do hereby agree to ratify and confirm all acts done by the advocate or his authorized substitute in the matter as my /our own acts, as if done by me/us to intents and purposes, and I / we undertake that I /we or my/our duly authorized agent shall appear in the court on all hearings and will inform the advocate(s) for appearance when case is called and I/we the undersigned agree hereby not to hold the advocate(s) or his/their substitute responsible if the said case be proceeded ex-parte or dismissed in default in consequence of my/our absence from court when it is called for hearing and for the result of the said case, the adjournment costs whenever ordered by the court shall be of the advocate(s) which he/they may receive and retain himself/themselves. I/we the undersigned do hereby agree that in the event of the whole or part of the fees agreed by me/us to be paid to the advocate(s), if remain unpaid, he/they shall be entitled to withdraw from prosecution of the above said case until the same is paid and fee settled is only for the above said case and above court and I /we agree hereby that once fee is paid, I/we shall not be entitled for refund of the same in any case whatsoever.

IN WITNESS WHEREOF, I /we do hereby set my/our hand to these presents, the contents of which have been read/ read over, explained fully and understood by me/us on this... 18th Day of Sep 2023

Accepted By:

Muhammad Ismail Alizai
 Muhammad Ismail Alizai,
 Advocate High Court.

Thumb Impression / Signature(s) of Executant(s)

Abdul Raza



VAKALATNAMA

AHMAD SHAHBAZ ALIZAI

Advocate
bc-12-3964

Date of issue: February 2016
Valid upto: February 2019




Secretary
KP Bar Council

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

In Service Appeal No. 2023 Abdul Rauf vs PO-KP etc

I/WE, Abdul Rauf Appellant,

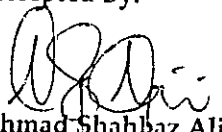
hereby appoint Mr. Ahmad Shahbaz Alizai, Advocate High Court, DIKhan,
in the above mentioned matter / case and authorize him/ them to do all or any of the following acts,
in my/our name and on my/our behalf, that is to say,

1. To appear, act and plead for me/us in the above mentioned case in this Court/ tribunal in which the same may be tried or heard or any other proceedings what so ever, ancillary thereto, including appeal, revision etc; on payment of fees separately for each court by me / us,
2. To sign, verify, file, present or withdraw all/any proceedings, petitions, appeals, cross objections and application for compromise or withdrawal, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by him/ them and to conduct prosecution or defense of the said case at all its stages,
3. To undertake execution proceedings, deposit, draw and receive money; cheques, cash and grant receipts thereof and to do all other acts and things which may be conferred to be done for the progress and in the course of prosecution of the said case,
4. To appoint and instruct any other Advocate/ legal practitioner authorizing him to exercise the power and authority conferred upon the advocate whenever he/they may think fit to do so and to sign Power of Attorney on our behalf,

I /we, the undersigned do hereby agree to ratify and confirm all acts done by the advocate or his authorized substitute in the matter as my /our own acts, as if done by me/us to intents and purposes, and I / we undertake that I /we or my/our duly authorized agent shall appear in the court on all hearings and will inform the advocate(s) for appearance when case is called and I/we the undersigned agree hereby not to hold the advocate(s) or his/their substitute responsible if the said case be proceeded ex-parte or dismissed in default in consequence of my/our absence from court when it is called for hearing and for the result of the said case, the adjournment costs whenever ordered by the court shall be of the advocate(s) which he/they may receive and retain himself/themselves. I/we the undersigned do hereby agree that in the event of the whole or part of the fees agreed by me/us to be paid to the advocate(s), if remain unpaid, he/they shall be entitled to withdraw from prosecution of the above said case until the same is paid and fee settled is only for the above said case and above court and I /we agree hereby that once fee is paid, I/we shall not be entitled for refund of the same in any case whatsoever.

IN WITNESS WHEREOF, I /we do hereby set my/our hand to these presents, the contents of which have been read / read over, explained fully and understood by me/us on this 15 Day of Sep 2023

Accepted By:


Ahmad Shahbaz Alizai,
Advocate High Court.

Thumb Impression / Signature(s) of Executant(s)

