

10th April, 2023.

1. Nobody is present on behalf of the appellant. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

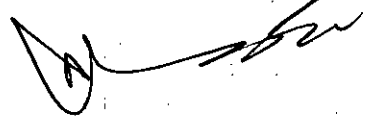
2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default. Consign.

3. *Pronounced in open court at Peshawar and given under our hand and seal of the Tribunal on this 10th day of April, 2023.*

SCANNED
KPST
Peshawar



(Muhammad Akbar Khan)
Member (E)



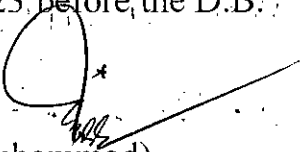
(Kalim Arshad Khan)
Chairman

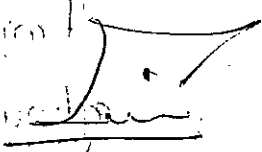
02.01.2023.

Learned counsel for the appellant present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

R Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 10.04.2023, before the D.B.

SCANNED
KOST
PESHAWAR


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

27th May, 2022

Clerk of the counsel present. Mr. Muhammad Adil Butt, Addl. AG for respondents present.

Arguments could not be heard due to general strike of the bar. Adjourned. To come up for arguments on 11.08.2022 before D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

11-8-2022

Proper DB not available the case is
adjourned to 3-11-2022



Reader

3rd Nov. 2022

Assistant to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Request for adjournment was made on behalf of learned counsel for the appellant due to his engagement in Honourable High Court today. Adjourned. To come up for arguments on 02.01.2023 before the D.B.



(Fareeha Paul)
Member (E)




(Kalim Arshad Khan)
Chairman

31.05.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Muhammad Raziq, H.C for the respondents present.

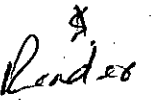
Respondents have furnished reply/comments. Placed on file. The appeal is assigned to D.B for arguments on 28.09.2021.


Chairman

28.9.21

DB is on tour case to come up


For the same on-Dated 1-2-22


Member

01.02.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Raziq, H.C for the respondents present.

Due to paucity of time arguments could not be heard. To come up for arguments on 27.05.2022 before the D.B.

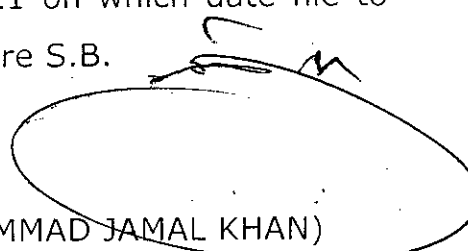

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

26.01.2021

Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.


Neither written reply on behalf of respondent submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 25.03.2021 on which date file to come up for written reply/comments before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

25.03.2021

Junior to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG alongwith Raziq Reader for respondents present.

Reply/comments on behalf of respondents not submitted. Representative of respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 31.05.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

07.10.2020

Counsel for the appellant present.

It is contended that by proceeding against the appellant, the enquiry officer did not observe the mandatory requirement of law. The appellant was never associated with the proceedings nor allowed any opportunity for cross-examining the witnesses appearing before the enquiry officer. It is also the argument of learned counsel that the appellant could not be held liable for the acts on the part of other constables Majid and Luqman.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 08.12.2020 before S.B.

Appellant Deposited
Security & Process Fee
6/11/20



Chairman

07.12.2020

Appellant present through representative.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Representative of respondents is not in attendance, therefore, case is adjourned on the request of learned A.A.G with direction to submit written reply/comments on 26.01.2021 before S.B.




(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9617 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/08/2020 SCANNED KTS Peshawar	<p>The appeal of Mr. Hamayun Khan resubmitted today by Mr. Asad Mahmood 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</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>07/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Hamayun Khan Sub-Inspector Police MR/30 r/o Village Kalu Khan District Swabi received today i.e. on 30.07.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal may be flagged.
- 3- Memorandum of appeal may be got signed by the appellant.
- 4- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules.
- 5- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- ⑦ Print of memorandum of appeal is very dim.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1956 /S.T,

Dt. 03-08 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Asad Mahmood Adv. Pesh.

- 1- Annexures are attested.
- 2- Annexures are flagged.
- 3- Memo of appeal is signed by appellant.
- 4- Index is properly prepared.
5. Required documents are attached.
6. Departmental appeal is attached.
7. New print.
8. Five more copies provided.


25.8.20

BEFORE KPSERVICE TRIBUNAL, PESHAWAR

Appeal No. 9617 /2020

Humayun Khan, Sub-Inspector MR/30

.....APPELLANT


VERSUS

1. The Inspector General of Police, KPK and others.


.....RESPONDENTS

INDEX

S.No	Description	Annexure	Page No.
1.	Memo of Appeal	-----	01 - 04
2.	Charge Report dated 23.01.2020 vide DD No. 17	A	05
3.	Absentee report dated 19.02.2020 vide DD No. 32	B	06
4.	Charge Sheet, Statement of allegations and Reply to charge sheet	C & D	07 - 10
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APPELLANT

Through


Asad Mahmood
Advocate High Court

Taimur Ali Khan
Advocate High Court

BEFORE KHYBER PAKHTUNWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 9617 /2020

Humayun Khan, Sub-Inspector MR:30, R/O Village Kalu Khan,
Tehsil Razar, District Swabi.

.....APPELLANT

V
ERSUS

1. The Inspector General of Police, Police lines, near Opposite CM House, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Police Lines, Secretariat Road, Peshawar, Khyber Pakhtunkhwa.
3. Senior Superintendent of Police, Operations, Police Lines, Secretariat Road, Peshawar, Khyber Pakhtunkhwa.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
ORDERS DATED 8TH APRIL, 2020 AND 1ST JULY, 2020
WHEREBY APPELLANT IS AWARDED A PENALTY OF
"FORFEITURE OF ONE YEAR APPROVED SERVICE"
DESPITE ALLEGED CHARGES STAND NOT PROVED.

Filed to-day

Registrar

30/7/2020 PRAYER:

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED
ORDERS MAY KINDLY BE SET ASIDE AND ONE YEAR
FORFEITED SERVICE MAY ALSO BE RESTORED IN
FAVOUR OF APPELLANT TO MEET THE ENDS OF
JUSTICE.

Respectfully Sheweth,

Appellant humbly submits as under:

1. That appellant joined police force in the year 2009 and has

BEFORE KHYBER PAKHTUNWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 9617 /2020

Hunayun Khan, Sub-Inspector MR/30, R/O Village Kalu Khan, Tehsil
Razar, District Swabi.

.....APPELLANT

V
ERSUS

1. The Inspector General of Police, Police lines, Opposite CM House,
Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Police Lines, Secretariat Road, Peshawar,
Khyber Pakhtunkhwa.
3. Senior Superintendent of Police, Operations, Police Lines, Secretariat Road,
Peshawar, Khyber Pakhtunkhwa.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST ORIGINAL ORDER DATED 8TH APRIL, 2020
WHEREBY APPELLANT IS AWARDED A PENALTY OF
"FORFEITURE OF ONE YEAR APPROVED SERVICE"
AND AGAINST APPELLATE ORDER DATED 1ST JULY,
2020 WHEREBY PENALTY IS UPHOLD BY APPELLATE
AUTHORITY DESPITE BEING EXONERATED FROM
ALLEGED CHARGES.

PRAYER:

ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED
ORDERS DATED 8TH APRIL, 2020 AND 1ST JULY, 2020
MAY KINDLY BE SET ASIDE AND PENALTY OF
"FORFEITURE OF ONE YEAR SERVICE" MAY ALSO BE
RESTORED IN FAVOUR OF APPELLANT TO MEET THE
ENDS OF JUSTICE.

Respectfully Sheweth.

Appellant humbly submits as under:

- 1. That appellant joined police force in the year 2009 and has commendable and unblemished service record at his credit.*
- 2. That appellant while posted as Station House Officer (SHO) at Police Station, Tatarra Peshawar, his two sub-ordinates namely Constable Majid No. 5668 and Constable Luqman No. 2739 were transferred to PS Tatarra and assumed their charges on 23.01.2020 vide DD No. 17(Annexure-A).*
- 3. That the said constables remained absent since 19.02.2020 without prior permission of competent authority and absentee was also raised their-against vide Daily Dairy No. 32 dated 19.02.2020(Annexure-B). Same was also brought into the notice of SP Cantt for necessary action to be taken their-against.*
- 4. That appellant was charge sheeted (Annexure-C) on account of alleged charges:
 - a. The delinquent officer while posted as SHO Tatarra was allegedly involved in corrupt practices and mixed up with criminal/drug peddlers.*
 - b. His gunmen Constable Majid No. 5668 and Constable Luqman No. 2739 used to apprehend bad character/record-holders/suspects on his behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release. They would free the detenues.*
 - c. His performance with regard to working out pending untraced cases, curbing street crimes and narcotics were also unsatisfactory.**
- 5. That all the charges were flatly denied in reply to charge sheet(Annexure-D), hence the enquiry (Annexure-E) was ordered to be conducted against the appellant.*
- 6. That despite appellant was proved not guilty and exonerated from all the alleged charge he was awarded a penalty of "FORFEITURE OF ONE YEAR APPROVED SERVICE" vide*

order dated 8th April, 2020, without any legal justification. (Annexure-F)

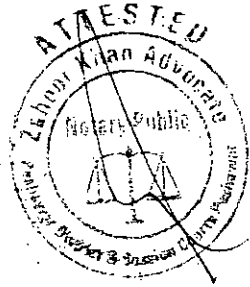
7. That departmental appeal (Annexure-G) was preferred against impugned order dated 8th April, 2020, but same was also rejected and imposed penalty was upheld through order dated 1st July, 2020 (Annexure-H)
8. Feeling aggrieved from impugned orders, appellant prefers this service appeal on the grounds inter alia:

LEGAL GROUNDS:

- A. The impugned orders dated 8th April, 2020 and 1st July, 2020 are passed against the basic spirit of law of evidence and no incriminating material/evidence is available on record to substantiate the alleged charges of corruption or corrupt practices and unsatisfactory performance.
- B. That neither proper procedure under Rule 6 of Police Rules 1975 for conducting enquiry have been adopted nor any incriminating material or cogent evidence is brought on record to connect the alleged charges of UNSATISFACTORY PERFORMANCE.
- C. That the penalty against alleged charges is not legally justified and liable to be set aside for the reasons:
 - i. Principle of vicarious liability can not be invoked unless and until common intention is proved/established. Imposing penalty on appellant for the wrongs committed by his sub-ordinates without proving common intention is illegal in the eyes of law. (2015 PCrLJ 1442)
 - ii. Imposing penalty upon appellant for the wrongs committed by his sub-ordinates is illegal. Conviction on account of charges which is not in knowledge of accused is held illegal. (NCR 2004 Pesh 84)
 - iii. Despite being proved not guilty of the alleged charges, appellant is imposed penalty.

- D. Charge of UNSATISFACTORY PERFORMANCE is subjective and not objective, hence not tenable in the eyes of law. Further charges in the charge sheet are not specific but general in nature.
- E. Respondents without showing cogent evidence to connect the UNSATISFACTORY PERFORMANCE on the part of appellant based on just two months performance at PS Tatara, Peshawar, speaks loudly of malafide on the part of respondents.
- F. Reply to charge sheet along with a list of traced cases was not even taken into consideration before imposing penalty without any legal justification.
- G. Impugned orders are passed without any legal justification; may hamper the prospects of appellant's promotion in future. Hence showing malafide on the part of respondents.

It is, therefore, most humbly prayed that this appeal may kindly be accepted and impugned orders may kindly be set aside and one year forfeited service may kindly be restored in favour of appellant to promote justice.



Through

Appellant
Hu
Humayun Khan
Sub-Inspector
Asad
Asad Mahmood
Advocate High Court

Taimur Ali Khan
Advocate High Court

Dated: 30th July, 2020

AFFIDAVIT

It is solemnly affirm on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

Hu
Deponent -

ANNEX-A

Annex - A

23⁰¹ / 2007
در 17⁰¹ / 11

166

در 17⁰¹ / 11
23⁰¹ / 2007
2007

بشردان لغات 2739
56 68
برگاری دهان چکان براری از 10
به عقد فدا کاروان

6
23/11/07



در فروردین ماه 1920

توان نامه

مجلس شورای

در فروردین 33 روز ششم خاوران
 در وقت استیضاح با عدد 5668
 (توان نامه) 2739
 در وقت استیضاح با عدد 5668
 (توان نامه) 2739
 در وقت استیضاح با عدد 5668
 (توان نامه) 2739
 در وقت استیضاح با عدد 5668
 (توان نامه) 2739

فانسی

مجلس شورای
 تهران
 1920

ANNEXURE - C

07

No. 5681/A
2.3.2020

CHARGE SHEET

Whereas I am satisfied that a formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you SI Hamayun Khan while posted as SHO PS Tatarra District Peshawar.

And whereas, I am of the view that the allegations if established would call for major minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Peshawar hereby charge you SI Hamayun Khan while posted as SHO PS Tatarra District Peshawar under Rule 5 (4) of the Police Rules 1975 on the basis of allegations mentioned in the enclosed statement of allegations.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

necessary action to the:-

Copy of the above along with Summary of Allegations is forwarded for information and dated Peshawar the 28/02/2020.

No. 290 E/PA

SENIOR SUPERINTENDENT OF POLICE
(OPERATIONS) PESHAWAR

1. Enquiry Officer to please conduct enquiry on day-to-day basis without interruption and submit your findings and reports thereof to this office within stipulated period.
2. The accused Officer

STATEMENT OF ALLEGATIONS

I, SSP Operations, Peshawar as competent authority, am of the opinion that you SI Hamayun Khan while posted as SHO PS Tatara District Peshawar have rendered yourself liable to be proceeded against, as you have committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

SP Cantt: Peshawar vide his office memo No. 553/PA dated 26/02/2020 reported that:

- i) You while posted as SHO PS Tatara were allegedly involved in corrupt practices and mixed up with criminal elements/drug peddlers.
- ii) Your gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters/record holders/suspects on your behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release, they would set free the detenues.
- iii) Your performance with regard to working out pending untraced cases, curbing street crimes and narcotics are also remained unsatisfactory.
- iii) All this amounts to gross misconduct on your part and render you liable to be proceeded against departmentally.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP Rural is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR

No. 290 EPA, dated Peshawar the 28/02/2020



CS

ANNEX - D
09

Before the Hon'ble Senior Superintendent of Police (Ops) Peshawar

Through: Proper Channel

Subject: Reply to Charge Sheet / Summary of Allegations vide Endst No. 290/E/PA dated 28.02.2020

Respected Sir,

Kindly refer to the subject charge sheet, at the very outset I respectfully submit that the alleged charges of corruption and corrupt / malpractices, vocalized in the summary of allegations are based on mala-fide and miscommunication. I am ready to swear upon oath that alleged charges bear no authenticity and veracity but based on concoction.

2. It has become very common that when some differences between locals and local police are stirred up or relations between incharge and subordinates become strained, complaints emerged in the shape of anonymous status with serious allegations against police officers, without any solid materials.

3. The alleged charges are replied with para-wisely as under.

- a. The act of corruption or corrupt practices like, receiving money from anti-social elements and bad character people / criminals needs to be legally adjudged in accordance with police rules / other relevant laws and there should be sufficient incriminating materials to substantiate the charges. Needless to say that corruption charge / persistent corruption requires solid materials but here on record, nothing in support is available. **Rules regarding proceedings against Police Officers reported to be corrupt or involved in corrupt practices, attract rules 16.39 r/w 16.16 PR 1934 wherein corruption record is required to be maintained on personal file, character role or fauji-missal and attested copy thereof shall be furnished to the Police Officer concerned, but such record has not been maintained or is not available against me hence the charges do not carry legal footings.**
- b. The constables (not gunmen of the undersigned) Majid No. 5668 and Luqman No. 2739 assumed their charge in PS Tatara on 23.01.2020 vide DD No. 17 while due to their absence from PS, they were marked absent vide PS DD No. 32 dated 19.02.2020 and since 19.02.2020 (copies attached as Annex - A and A / I), they were not present on duty in PS which was already in the knowledge of worthy SP. May be clarified here that both the constables were not the gunmen but assigned general duties of police station and my assistance or collaboration in malpractices with them is based on misrepresentation rather this charge is without any factuality/veracity. **Worth clarifying that request for their transfer/ replacement from PS Tatara was made in writing to the authority.**

c. So far pendency of untraced cases, street crimes or controlling narcotics are concerned, during short span of time of 02 months posting, the undersigned has booked 102 cases of various nature, as is reflecting from FIRs annex - B to B/101 as ready reference. Worth mentioning, that the undersigned successfully traced out famous murder case of the area vide FIR No.78/2020, arrested the culprits and provided every support to the investigation unit of PS Tatara. May be added here that mobile snatchers of the area were also apprehended red-handedly with snatched mobiles and group of mobile buyers on fake currency were arrested with recovery of huge amount of fake currency from them. They were booked accordingly, under the relevant law.

4. It may be added here that on the face of contents of charge sheet, alleged charges being unsubstantiated / non-incriminated, are not worth of consideration because there is no any complainant or report lodger or other substantiating materials / evidence in support of charge, therefore, the charges, leveled against the undersigned seem to be anonymous, proceedings whereof are barred by Provincial Govt, under the following notifications as well other law provisions.

- S & GAD letter No SORII (S&GAD) 5 (29)/ 97-II dated 20.07.1998
- S & GAD letter No SORII (S&GAD) 5 (29)/ 97-II dated 15.11.1999.
- Section 4 Federal Investigation Rules 2002
- Section 4(5) SRO (1)/2015 dated 06.11.2015 (Human Rights Commission)

5. Since, I have joined this August Force, I always performed honestly, dedicatedly and to the entire satisfaction of my superiors. I always acted beyond the call of duty at the risk of my life and never hesitated to culminate the menace of crime from the area, where I remain posted. My clean service career with unblemished record can be verified from my ACRs and from the officers under whom subordination, I remain posted:

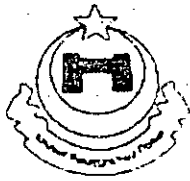
6. I have been suspended on no good ground, violating Rule 16.18 Police Rules 1934 r/w 43 of FR which clearly speaks that un-necessary suspension should be avoided because it not only suffers the assigned work but also amounts to additional penalty, the circumstances, therefore warrants and justifies my release from suspension, as per above stated provision.

In circumstances, the alleged charges bear no authenticity, being without merit and substance, therefore request that the charge sheet may very kindly be filed without further proceedings

Further requests for personal hearing, to explain the circumstances, behind alleged charges.

Sincerely Yours

SI Hamayun Khan
Police Lines Peshawar



To: The SSP Operations, Peshawar

Subject: DEPARTMENTAL ENQUIRY AGAINST SI HAMAYUN EX. SHO TATARA

Memo:

Please refer to your office diary No. 200/E/PA, dated: 20.02.2020.

Allegations:

As per report of SP Cantt vide his office memo: No. 553/PA, dated: 20.02.2020 that:

- a. The delinquent officer while posted as SHO Tatara was allegedly involved in corrupt practices and mixed up with criminal elements/drug peddlers.
- b. His gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters/record holders/suspects on his behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release, they would set free the detainees.
- c. His performance with regard to working out pending untraced cases, curbing street crimes and narcotics were also unsatisfactory.

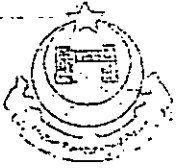
Proceedings:

Charge sheet along with summary of allegations was served upon the delinquent official and all the relevant documents were perused. All delinquents police officials and other Police officers acquainted with facts of inquiry were summoned and cross questioned.

Statement of SI Hamayun Khan:

He stated as under:-

- 1) That the alleged charges of corruption and corrupt/malpractices, vocalized in the summary of allegations are based on malafide and miscommunication. He is ready to swear upon oath that alleged charges bear no authenticity and veracity but based on concoction.
- 2) It has become very common that when some difference between locals and local Police are stirred up or relations between incharge and subordinates become strained, complaints emerged in the shape of anonymous status with serious allegations against Police officers, without any solid materials.
- 3) That para-wise reply regarding alleged charges is as under:-
 - a. The act of corruption or corrupt practices like, receiving money from anti-social elements and bad character/criminals needs to be legally adjudged in accordance with Police Rules/other relevant laws and there should be sufficient incriminating materials to substantiate the charge. Needless to say that corruption charge/persistent corruption requires solid materials but here on record, nothing in support is available. Rules regarding proceedings against Police officers reported to be corrupt or involved in corrupt practices, attract Rules 16.39 r/w 16.16 PR 1934 wherein corruption record is required to be maintained on personal file, character rôle or faujimisal and attested copy thereof shall be furnished to the Police officer concerned, but such record has not been maintained or is not available against him hence, the alleged charges do not carry legal footings.
 - b. The constables (not gunmen) namely Majid and Luqman assumed their charges in PS Tatara on 23.1.2020 vide DD No. 17, while due to their absence from PS, they were marked absent vide PS DD No. 32, dated: 19.02.2020 and since 19.02.2020 (copies attached as Annexure A/A1), they were not present on duty at P.S which was already in the knowledge of worthy SP. May be clarified here that both the constables were not his gunmen but assigned general duties of P.S and his assistance or collaboration in malpractices with them is based on misrepresentation rather this charge is without any factually/veracity. Worth clarifying that request for their transfer/replacement from PS Tatara was made in writing to the authority.



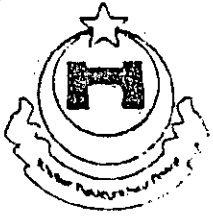
- c. So far efficiency of untraced cases street crimes of controlling narcotics are concerned, during short span of time of 02 months, he has booked 100 cases of various nature, as is reflecting from FIRs annexure "B" to "B99" as ready reference, out of which 41 cases pertain to narcotics trafficking. Worth mentioning that he successfully traced out famous murder case of the area vide FIR No. 76/2020, arrested the culprits and provided every support to the investigation unit of PS Talara. May be added here that on 22.02.2019 to 25.02.2020 respectively group of mobile comprising of 03 members/culprits snatching of the area were also apprehended red-handedly with snatched mobiles and group of mobile buyers on fake currency were arrested with recovery of huge amount of fake currency from them, they were booked accordingly, under the relevant law. Worth mentioning that on the arrest of mobile snatchers, 02 untraced cases of PS Talara were also traced out.
- 4) He stated that it may be added here that on the face of contents of charge sheet, alleged charges being insufficient/sterile/non-nominated, are not worthy of consideration because there is no any complaint report lodged or other substantiating materials/evidence in support of charge, therefore the charges levied against him seem to be anonymous, proceedings whereof are barred by Provincial Govt under the following notifications as well other law provisions:
- S&GAD Letter No. SORH(S&GAD)5(29)/97-II, Dt: 20.7.1999
 - S&GAD Letter No. SORH(S&GAD)5(29)/97-II, Dt: 15.11.1999
 - Section 4 Federal Investigation Rules 2002
 - Section 4 (5) SRO(1)/2015, Dt: 5.11.2015 (Human Right Commission)

Findings/Recommendations:

Brief facts leading to said enquiry are that two Constables Majid No. 5668 and Luqman No. 2739 while posted at PS Talara were found involved in FIR no. 395 u/s 395 A dated 24.02.20 PS Chamkani. Both these Constables were especially transferred to PS Talara on request of delinquent SI Hamayun (Ex - SHO Talara). On further perusal, it was found that both constables were performing their duties at PS Talara in clothes on a private vehicle on direction of delinquent SI Hamayun (Ex - SHO Talara). Number of complaints were pouring against these Constables for arresting criminals and leaving them after taking illegal gratification. Taking notice of these complaints, ASP Hayatabad directed SHO to send them off to quarter guard. However, delinquent SI Hamayun (Ex - SHO Talara) marked their absence vide GO No. 22 dated 19.02.2020 and informed his superiors. And later on 24.02.20, they were arrested by PS Chamkani for extorting money after kidnapping a criminal.

Form perusal of statements, cross examinations of delinquent officers and PS record, first allegation of involvement of delinquent SI Hamayun Khan in corrupt practices and mixing up with criminal elements drug peddlers could not be proved. Increased comparative recovery of narcotics as compared to corresponding months of 2019 and registration of 41 narcotics cases at PS Talara in January and Feb 2020 substantiates to the fact that he is not involved with drug peddlers. Moreover, while perusal of PS record, no complaint surfaced alleging involvement of delinquent SI Hamayun Khan in corrupt practices.

Second allegation on delinquent SI Hamayun was that his gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters / suspects / record holder on his behalf from different places without bringing them on record and after mixing illegal gratification from them in lieu of their release they would set free detainees. As far as, allegation to the extent that both constables were undertaking criminal activities on behalf of delinquent SI Hamayun Khan could not be proved during enquiry. However, it clearly reflects poor supervision of delinquent SI Hamayun Khan over his subordinates and



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OFFICE OF THE
SUPERINTENDENT OF POLICE,
RURAL DIVISION, PESHAWAR
No. 915 /SPR, DT: 11/6 /2020
Email: officespruralpeshawar@gmail.com

his inability to select a professional and honest team which later caused an embarrassment to Police department.

As far as, third allegation of poor performance on part of delinquent SI Hamayun with regards to working out pending untraced cases is concerned, it is proved beyond shadow of doubt. His supervisory officers remained highly unsatisfied with his performance. Moreover, delinquent SI does not earn a good reputation in eyes of superior officers.

Based on aforementioned findings, it is recommended that delinquent SI Hamayu khan may be awarded with minor punishment.

Capt: (R) Najam Ul Hasnain Liaquat (PSP)
SP Rural Division, Peshawar.



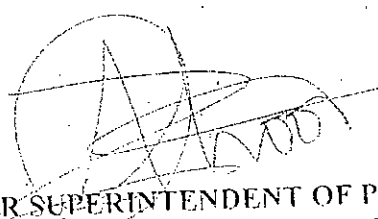
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS,
PESHAWAR

ANNEX - F

14

ORDER

1. SI Hamayun Khan No. MR/30, the then SHO PS Tatara was placed under suspension and proceeded against departmentally on account of his alleged involvement in corrupt practices, nexus with criminals/drug peddlers and poor performance.
2. Charge sheet along with summary of allegations was issued to him and SP Rural was appointed as Inquiry Officer to inquire into the allegations and ascertain the role of accused officer with reference to the allegations framed against him. The Inquiry Officer submitted his findings on 01/04/2020 wherein he mentioned that charges of corruption, nexus with criminals/peddlers could not be proved. However, his supervisory officers remained unsatisfied with his performance. The Inquiry Officer recommended that minor punishment may be awarded to the accused officer.
3. Findings of the enquiry officer were perused. The undersigned being competent do agree with the findings of the enquiry officer. Therefore, SI Hamayun No. MR/30 is hereby awarded the punishment of forfeiture of 01-year approved service.


SENIOR SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

No. 755-61 /PA dated Peshawar, the 03/04/2020.

Copy for information and necessary action to:

1. The Capital City Police Officer, Peshawar w/r to his office endst: No. 138-47/PA dated 27/02/2020 with the request that SI Hamayun No. MR/30 may kindly be re-instated, if approved.
2. EC-I/EC-II/AS/PO
3. Official concerned.
4. FMC along with complete enquiry file for record.

ANNEX-6 (15)

Before the Hon'able Capital City Police Officer, Peshawar

Through: Proper Channel

Subject: Departmental Appeal u/r 11 of Police Rules 1975 (Amended 2014), against the impugned order, Passed by WSSP (Operations) vide Endost No. 755-61/PA dated 08.04.2020.

Sir,

The appellant respectfully prefers this appeal against the impugned order of WSSP (Operations), inter-alia on the following grounds, amongst others, including preliminaries. (Order enclosed as Annexure A).

PRELIMINARIES:

1. The inquiry proceedings have not been conducted in accordance with the prevailed rules, contained u/r 6 of Rules 1975 (Amended 2014), as no proper procedure has been followed by worthy inquiry officer nor he has mentioned / shown cogent grounds to connect the appellant with the alleged charge of unsatisfactory performance.
2. As per rule 6(v) of rule 1975, the inquiry officer had to submit cogent grounds to connect the accused officer/appellant with alleged charge but no ground has so far been brought on record, therefore, the recommendation of the inquiry officer is not tenable.
3. I have been treated discriminately, involving infringement of rights, therefore, the proceedings in principle violates the Pakistan Constitution 1973 and prevailed laws as I have not been associated with the inquiry proceedings nor I have been given the cross opportunity on witnesses or to adduce defense in my protection, therefore, the proceedings are coram non iudice and void abenitio.
4. Worth clarifying that the charge of unsatisfactory performance was not the object and subject of charge sheet/summary of allegations and the worthy inquiry officer of its own held accountable for the alleged charge and recommended minor penalty. Para 3© of reply to charge sheet is self-explanatory, speaks the performance of appellant during short posting to PS Talara which is reproduced as under :

"So far pendency of untraced cases, street crimes or controlling narcotics are concerned, during short span of time of 02 months posting, the undersigned has booked 100 cases of various nature, as is reflecting from FIRs annex - B to B/99 as ready reference, out of which 41 cases pertains to narcotics trafficking. Worth mentioning, that the undersigned successfully traced out famous murder case of the area vide FIR No.78/2020, arrested the culprits and provided every support to the investigation unit of PS Talara. May be added here that on 22.02.2019 and 25.02.2019

respectively group of mobile comprising 03 members/culprits snatching of the area, were also apprehended red-handedly with snatched mobiles and group of mobile buyers on fake currency were arrested with recovery of huge amount of fake currency from them. They were booked accordingly, under the relevant law. Worth mentioning that on the arrest of mobile snatchers, 02 untraced cases of Police Station Tatara were also traced out".

- 5. The finding report of worthy inquiry officer is self-explanatory wherein the main charges of involvement in corrupt practices and nexus with criminals/drug peddlers could not prove which speaks innocence of appellant.
- 6. Even for the sake of arguments, if the finding report / recommendation of inquiry officer is admitted for a while (Which is strongly denied), the punishment in comparison having been awarded to appellant is harsh, arbitrary and contrary to the settled principles and law on the subject.
- 7. Reply to charge sheet is self-explanatory and worth of consideration by this Hon'able forum which is annexed as Annexure B.
- 8. The appellant was not given an opportunity of personal hearing which as per case law, reported in judgment 2005 PLC (CS) 1982 is mandatory hence the impugned order is not maintainable on this score only as the appellant was condemned unheard.

ON FACTS:

- 1. Short facts are that 02 constables namely Majid No. 5668 and Luqman No. 2739, posted to PS Tatara were arrested by PS Chamkani in criminal case on which disciplinary proceedings against the appellant were directed.
- 2. The appellant was issued charge sheet/summary of allegations and inquiry was referred to worthy SP Rural to find out the factuality of the charges and to submit finding report. The worthy inquiry officer did not examine any evidence and submitted finding reports, recommended punishment to the appellant for a charge which was not the subject of charge sheet.
- 3. The appellant was awarded minor penalty of for forfeiture of approved service for one year vide order under subject.

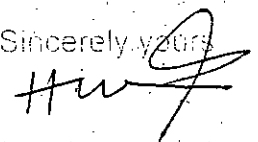
GROUND OF APPEAL:

The impugned order of W/SSP (Operations) is assailable on the following grounds.

1. The inquiry proceedings have not been conducted as per provisions contained under police rules 1975.
2. The alleged charge is not justified and is considerable on the following few stances:-
 - a. Vicarious liability cannot be attracted when strong circumstances showing to be existed (2015 PCrIJ 1384) Principle of vicarious liability cannot be invoked unless and until common intention is proved or established (2015 PCrIJ 1442).
 - b. The principle of natural justices would be violated only when an action is taken against a person without his knowledge (NLR 214 April QTA) I swear that the alleged charge of no good command/unsatisfactory performance bears no authenticity or veracity but basing on malafide. It has been held by Hon'able Court that without knowledge, conviction is illegal and it was set aside (NCR 2004 (Feb P-34 Peshawar).
3. The appellant has spotless service record of ----- years and throughout his carrier he has been awarded, commended and given best postings / blessings. Even in PERs of appellant, the reporting officer has valued the working which was further blessed by the countersigning officer.
4. Since, the appellant has joined this force he performed dedicatedly and to the entire satisfaction of superiors. Always acted beyond the call of duty at the risk of his life, fought against criminals to culminate the menace of crimes from the area, where remained posted. He has an unblemished service record of long service, which clearly speaks sincerity / dedication towards the job as a professional officer.
5. The impugned order shall cause irreparable loss to me and my family hence needs sympathetic consideration.

PRAYER

Above in view, it is humbly prayed that by accepting this appeal, the impugned order dated 08.04.2020 may very kindly be set aside, to meet the ends of justice.

Sincerely yours


Sub Inspector Hamayun Khan (Appellant)
CCP Peshawar



OFFICE OF THE *ANNEX-H*
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

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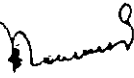
ORDER

This order will dispose of departmental appeal preferred by SI Hamayun Khan No. MR/30 who was awarded the minor punishment of "forfeiture of one year approved service" under Police Rules-1975 by SSP/Operations Peshawar vide No.755-61/PA, dated 08-04-2020.

2- The allegations leveled against him were that he while posted as SHO Police Station Tatura Peshawar was proceeded against departmentally on account of his alleged involvement in corrupt practices, nexus with criminals /drug peddlers and poor performance.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP/Operations Peshawar and SP/Rural Peshawar was appointed as enquiry officer to scrutinize the conduct of the delinquent official. The enquiry officer after conducting proper enquiry submitted his finding that the allegations of corruption and nexus with criminals/drug peddlers could not be proved, however his supervisory officers remained unsatisfied with his performance, recommend him for minor punishment. On receipt of the findings of the Enquiry Officer, the competent authority in light of the recommendation of the enquiry officer awarded him the above minor punishment of forfeiture of one year approved service.

4- He was heard in person in OR. During personal hearing the appellant failed to produced any plausible explanation in his defence. Therefore, his appeal for setting aside the punishment awarded to him by SSP/Operations Peshawar vide No.755-61/PA, dated 08-04-2020 is hereby dismissed/rejected.


(MUHAMMAD ALI KHAN) PSP
CAPITAL CITY POLICE OFFICER
PESHAWAR.

No. 767-75 /PA dated Peshawar the 01/07/2020.

Copies for Information and n/a to the:-

1. SSP/Operations Peshawar.
2. SP/Cantt Peshawar.
3. OS/EC-I/EC-II/AS.
4. Accountant CCP.
5. FMC along with FM
6. Official concerned.

بعدالت

سروس ٹریبونل پشاور

ہمایوں خان صاحب منجانب

بنام

بنام

پبلک سروس

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کا کارروائی متعلقہ

آن مقام پشاور کیلئے اس سروس مجبوراً میڈیکر کیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted

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کے لئے منظور ہے۔

مقام

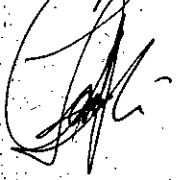
بھائیوں خان
بنام
پولیس

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے میں سرکار کا نام لکھی متعلقہ
آن مقام پشاور کیلئے ٹیمپور علی خان اینڈ وکیٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے و ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھد یا کہ سندر ہے۔

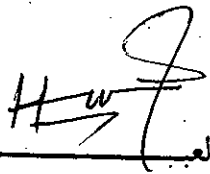
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کے لئے منظور ہے۔

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.9617/2020.

Hamayun Khan SI No. MR/30 CCP Peshawar.....**Appellant.**

VERSUS.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.....**Respondents.**

REPLY BY RESPONDENTS NO. 1, 2, &3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

FACTS:-

- (1) Correct to the extent that the appellant had joined the respondent department in the year 2009, while rest of para is denied on the grounds that he has not a clean service record. Record shows that he was an unwilling and none professional officer, thereby not interested in discharging of his official duties.
- (2) Incorrect. In fact the appellant while posted as SHO Police Station Tatara indulged himself in corrupt practices, nexus with criminals/ drug peddlers and poor performance. In this regard, he was issued charge sheet with statement of allegations and SP/Rural was appointed as enquiry officer. The enquiry officer after conducting proper departmental enquiry submitted his findings report. On receipt of the findings report, the competent authority awarded him the minor punishment of forfeiture of 01 year approved service.(copy of charge sheet, statement of allegations and enquiry report are annexure as A,B & C)
- (3) Incorrect. Actually appellant alongwith constable Majid No.5668 and Constable Luqman No.2739 were posted to PS Tatara. Appellant being SHO of the PS Tatara was competent to exercise his authority and post both the alleged constable on his own wishes. The constables being directly under the command of SHO were issued to carry duty as gunner to SHO, but is worth to clarify that when their involvement in malpractices and allegedly minting/extorting money from the innocent people was surfaced the appellant just to save his skin immediately marked them absent vide

DD No.32 dated 19.02.2020, but his tactic was exposed to high ups and action was taken against them to meet the ends of justice to ensure security of the general public and their property as well, which is the prime duty of the police.

- (4) Correct to the extent that the appellant was issued charge sheet on the charges that:-
- i. You while posted as SHO PS Tatara were allegedly involved in corrupt practices and mixed up with criminal elements/drugs peddlers.
 - ii. Your gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters/record holders/suspects on your behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release, they would set free the detenues.
 - iii. Your performance with regard to working out pending untraced cases, curbing street crimes and narcotics are also remained unsatisfactory.
 - iv. All this amounts to gross misconduct on your part and render you liable to be proceeded against departmentally.
- (5) Incorrect. The appellant submitted his written reply, which was found unsatisfactory. Proper departmental enquiry against the appellant was initiated on the charges. The enquiry officer after conducting proper departmental enquiry submitted his finding report, wherein the appellant was recommended for minor punishment. After fulfilling all codal formalities he was awarded the minor punishment by the competent authority.
- (6) Incorrect. Proper departmental enquiry against the appellant was initiated on the charges, which resulted in award of minor punishment by the competent authority. The punishment order passed by the competent authority on the recommendation of the enquiry officer. The order is just, legal and has been passed in accordance with law/rules.
- (7) Correct to the extent that the appellant filed departmental appeal which was thoroughly processed and an ample opportunity of hearing was provided to appellant, but the appellant failed to rebut the charges, hence his departmental appeal was filed/rejected.
- (8) That appeal of the appellant being devoid of merits may kindly be dismissed on the following grounds.


GROUND:-

- A. Incorrect. The punishment orders are legal and have been passed in accordance with law/rules. Proper departmental enquiry was conducted against him. The enquiry officer after detail probe recommended the appellant for minor punishment, hence the competent authority awarded him the minor punishment of forfeiture of 01 year approved service.

- B. Incorrect. The appellant being a member of a disciplined force proceeded under Police Rules 1975. The appellant was associated with the enquiry proceedings and proper opportunity of defense was provided to him. After fulfilling all the codal formalities he was awarded the minor punishment by the competent authority.
- C. Incorrect. The appellant was treated as per law/rules. The punishment order passed by the competent authority as per law/rules and liable to be upheld.
- D. Incorrect. As explained above. Furthermore, the punishment order passed by the competent authority as per recommendation of the enquiry officer.
- E. Incorrect. Replying respondents being senior members of the disciplined force are duty bound to ensure safety of public and their property as well, for the very reason a close check is kept upon the subordinates to avoid and eradicate misuse of official authority in the discharge of duty. Punishment order passed by the competent authority is based on justifiable and genuine grounds, without any malafide intention.
- F. Incorrect. Reply to the charge sheet was thoroughly examined by the competent authority and found unsatisfactory. After fulfilling all the codal formalities he was awarded the minor punishment.
- G. Incorrect. The punishment orders are just, legal and have been passed by the competent authority as per law/rules without any malafide intension.

PRAYER.

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with cost please.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.

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Senior Superintendent of Police,
Operations, Peshawar.

Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you **SI Hamayun Khan while posted as SHO PS Tatara District Peshawar.**

And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Senior Superintendent of Police, Operations, Peshawar hereby charge you **SI Hamayun Khan while posted as SHO PS Tatara District Peshawar** under Rule 5 (4) of the Police Rules 1975 on the basis of allegations mentioned in the **enclosed** statement of allegations.

I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS) PESHAWAR

No. 290 E/PA dated Peshawar the 28/02/2020.

Copy of the above along with Summary of Allegations is forwarded for information and necessary action to the:-

1. Enquiry Officer to please conduct enquiry on day-to-day basis without interruption and submit your findings and grounds thereof to this office within stipulated period.
2. The accused officer.

trafficking. Worth mentioning, that the
famous murder case of the area vide FIR No.78/2020, arrested the

STATEMENT OF ALLEGATIONS

"B" 1

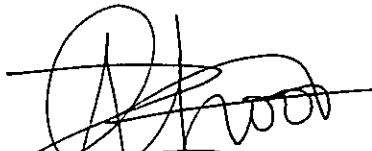
I, SSP/Operations, Peshawar as competent authority, am of the opinion that you **SI Hamayun Khan** while posted as **SHO PS Tatara District Peshawar** have rendered yourself liable to be proceeded against, as you have committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.



SP/Cantt: Peshawar vide his office memo No. 553/PA dated 26/02/2020 reported that:

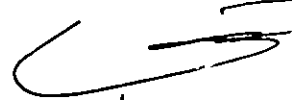
- i) You while posted as SHO PS Tatara were allegedly involved in corrupt practices and mixed up with criminal elements/drug peddlers.
- ii) Your gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters/record holders/suspects on your behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release, they would set free the detainees.
- iii) Your performance with regard to working out pending untraced cases, curbing street crimes and narcotics are also remained unsatisfactory.
- iii) All this amounts to gross misconduct on your part and render you liable to be proceeded against departmentally.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations SP Rural is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.


SENIOR SUPERINTENDENT OF POLICE,
(OPERATIONS), PESHAWAR
 No. 290 E/PA, dated Peshawar the 28/02/2020


 Call him to serve CS


Received

 7/3

famous murder.



OFFICE (C)
SUPERINTENDENT
RURAL DIVISION
No. 915 /SPR,
Email: officesprural@

CE,
AR
020
com

To: The SSP Operations, Peshawar

Subject: **DEPARTMENTAL ENQUIRY AGAINST SI HAMAYUN EX.SHO TATARA**

Memo:

Please refer to your office diary No. 290/E/PA, dated: 28.02.2020.

Allegations:

As per report of SP Cantt vide his office memo: No. 553/PA, dated: 26.02.2020 that:-

- a. The delinquent officer while posted as SHO Tatara was allegedly involved in corrupt practices and mixed up with criminal elements/drug peddlers.
- b. His gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters/record holders/suspects on his behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release, they would set free the detainees.
- c. His performance with regard to working out pending untraced cases, curbing street crimes and narcotics were also unsatisfactory.

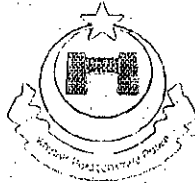
Proceedings:

Charge sheet along-with summary of allegations was served upon the delinquent official and all the relevant documents were perused. All delinquents police officials and other Police officers acquainted with facts of inquiry were summoned and cross questioned.

Statement of Si Hamayun Khan:

He stated as under:-

- 1) That the alleged charges of corruption and corrupt/malpractices, vocalized in the summary of allegations are based on malafide and miscommunication. He is ready to swear upon oath that alleged charges bear no authenticity and veracity but based on concoction.
- 2) It has become very common that when some difference between locals and local Police are stirred up or relations between incharge and subordinates become strained, complaints emerged in the shape of anonymous status with serious allegations against Police officers, without any solid materials.
- 3) That para-wise reply regarding alleged charges is as under:-
 - a. The act of corruption or corrupt practices like, receiving money from anti-social elements and bad character/criminals needs to be legally adjudged in accordance with Police Rules/other relevant laws and there should be sufficient incriminating materials to substantiate the charge. Needless to say that corruption charge/persistent corruption requires solid materials but here on record, nothing in support is available. **Rules regarding proceedings against Police officers reported to be corrupt or involved in corrupt practices, attract Rules 16.39 r/w 16.16 PR 1934 wherein corruption record is required to be maintained on personal file, character rôle or faujimisal and attested copy thereof shall be furnished to the Police officer concerned, but such record has not been maintained or is not available against him hence, the alleged charges do not carry legal footings.**
 - b. The constables (not gunmen) namely Majid and Luqman assumed their charges in PS Tatara on 23.1.2020 vide DD No. 17, while due to their absence from PS, they were marked absent vide PS DD No. 32, dated: 19.02.2020 and since 19.02.2020 (copies attached as Annexure A/A1), they were not present on duty at P.S which was already in the knowledge of worthy SP. May be clarified here that both the constables were not his gunmen but assigned general duties of P.S and his assistance or collaboration in malpractices with them is based on misrepresentation rather this charge is without any factually/veracity. **Worth clarifying that request for their transfer/replacement from PS Tatara was made in writing to the authority.**



OFFICE OF THE
SUPERINTENDENT OF POLICE,
RURAL DIVISION, PESHAWAR
No. 915 /SPR, DT: 1/4 /2020
Email: officesspruralpeshawar@gmail.com

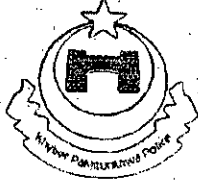
- c. So far pendency of untraced cases, street crimes or controlling narcotics are concerned, **during short span of time of 02 months**, he has booked 100 cases of various nature, **as is reflecting from FIRs annexure "B" to "B99" as ready reference**, out of which **41 cases** pertains to narcotics trafficking. Worth mentioning that he **successfully traced out famous murder case of the area vide FIR No. 78/2020**, arrested the culprits and provided every support to the investigation unit of PS Tatara. May be added here that on 22.02.2019 to 25.02.2020 respectively group of mobile comprising of 03 members/culprits snatching of the are: were also apprehended red-handedly with snatched mobiles and group of mobile buyers on fake currency were arrested with recovery of huge amount of fake currency from them, they were booked accordingly, under the relevant law. Worth mentioning that **on the arrest of mobile snatchers, 02 untraced cases of PS Tatara were also traced out.**
- 4) He stated that it may be added here that on the face of contents of charge sheet, alleged charges being unsubstantiated/non-incriminated, are not worthy of consideration because there is no any complaint or report lodged or other substantiating materials/evidence in support of charge, therefore the charges levelled against him seem to be **anonymous, proceedings whereof are barred by Provincial Govt: under the following notifications as well other law provisions:**
- S&GAD Letter No. SORII (S&GAD)5(29)/97-II, Dt: 20.7.1998
 - S&GAD Letter No. SORII (S&GAD)5(29)/97-II, Dt: 15.11.1999
 - Section 4 Federal Investigation Rules 2002
 - Section 4 (5) SRO(1)/2015, Dt: 6.11.2015 (Human Right Commission)

Findings/Recommendation:

Brief facts leading to said enquiry are that two Constables Majid No. 5668 and Luqman No. 2739 while posted at PS Tatara were found involved in FIR no. 396 u/s 365 A dated 24.02.20 PS Chamkani. Both these Constables were especially transferred to PS Tatara on request of delinquent SI Hamayun (Ex - SHO Tatara). On further perusal, it was found that both constables were performing their duties at PS Tatara in civvies on a private vehicle on direction of delinquent SI Hamayun (Ex - SHO Tatara). Number of complaints were pouring against these Constables for arresting criminals and leaving them after taking illegal gratification. Taking notice of these complaints, ASP Hayatabad directed SHO to send them off to quarter guard. However, delinquent SI Hamayun (Ex - SHO Tatara) marked their absence vide DD No. 32 dated 19.02.2020 and informed his superiors. And later on 24.02.20, they were arrested by PS Chamkani for extorting money after kidnapping a criminal

Form perusal of statements, cross examinations of delinquent officers and PS record, first allegation of involvement of delinquent SI Hamayun Khan in corrupt practices and mixing up with criminal elements / drug peddlers could not be proved. Increased comparative recovery of narcotics as compared to corresponding months of 2019 and registration of 41 narcotics cases at PS tatara in January and Feb 2020 substantiates to the fact that he is not involved with drug peddlers. Moreover, while perusal of PS record, no complaint surfaced alleging involvement of delinquent SI Hamayu Khan in corrupt practices

Second allegation on delinquent SI Hamayun was that his gunmen Majid No. 5668 and Luqman No. 2739 used to apprehend bad characters / suspects / record holder on his behest from different places without bringing them on record and after minting illegal gratification from them in lieu of their release they would set free detainees. As far as, allegation to the extent that both constables were undertaking criminal activities on behest of delinquent SI Hamayun Khan could not be proved during enquiry. However it clearly reflects poor supervision of delinquent SI Hamayun Khan over his subordinates and



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his inability to select a professional and honest team which later caused an embarrassment to Police department.

As far as, third allegation of poor performance on part of delinquent SI Hamayun with regards to working out pending untraced cases is concerned, it is proved beyond shadow of doubt. His supervisory officers remained highly unsatisfied with his performance. Moreover, delinquent SI does not earn a good reputation in eyes of superior officers.

Based on aforementioned findings, it is recommended that delinquent SI Hamayu khan may be awarded with minor punishment.


Capt: (R) Najam Ul Hasnain Liaquat (PSP)
SP Rural Division, Peshawar.