

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

SERVICE APPEAL NO. 1050/2023.

Faisal Ali Shah Sub Inspector No. 273/H Presently Posted at Police Station Bakot,
Abbottabad.

.....Appellant.

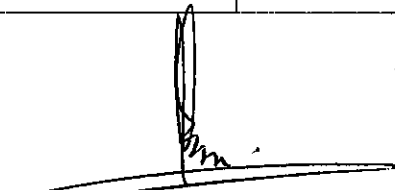
VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

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Dy: Superintendent of Police,
Legal, Abbottabad.

24-10-2023

Camp Court - Abbottabad

①

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

SERVICE APPEAL NO. 1050/2023.

Faisal Ali Shah Sub-Inspector No. 273/H Presently Posted at Police Station Bakot,
Abbottabad.

.....Appellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

Para-wise comments by respondents.

Respectfully Sheweth

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 7937

Dated 26-09-23

PRELIMINARY OBJECTIONS:-

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
4. That the appellant has suppressed material facts from the Hon'ble Tribunal.
5. That the instant Service Appeal is not maintainable for non-joinder/ miss-joinder of unnecessary parties.
6. That the instant Service Appeal is barred by law and limitation.

ON FACTS:-

1. In reply to this para it is submitted that:
 - i. That the appellant while posted as SHO Police Station Nawansher, managed to register bogus case vide FIR No. 139 u/s 15 AA dated 07.03.2021 PS Nawansher against accused Hazrat Gul r/o Kotka Sokari, District Bannu who was also charged in a murder case vide FIR No. 178 PS Cantt: Bannu on the same day. Both the FIRs were registered against same accused in the very faraway district which created doubt. In this connection, preliminary enquiry was conducted by Addl: SP Abbottabad which proved that appellant registered bogus case in order to establish plea of alibi for ulterior motive and illegal gratification.
 - ii. After having been found guilty of misconduct, he was proceeded against departmentally through SP Investigation, Abbottabad and upon his recommendations, the appellant was dismissed from Service vide OB No. 184 dated 10.06.2021 by the Respondent No. 03 legally.

- iii. Subsequently, appellant preferred departmental appeal to respondent No. 02 against the above mentioned order of punishment which was rejected/filed vide his office order No. 18556/PA dated 12.08.2021 accordingly.
 - iv. After exhausting departmental remedies, the appellant filed service appeal No. 7393/2021 before the Honourable Service Tribunal which was accepted vide judgment dated 22.09.2022 and Honourable Tribunal held to conduct the denovo enquiry against the appellant.
2. That denovo enquiry was initiated against him on the direction of Honourable Service Tribunal Camp Court, Abbottabad.
 3. After proper enquiry and fulfilment of all the legal formalities, the enquiry committee submitted its finding report and thereafter Final Showcause Notice was issued explaining all the allegations against appellant. (Copy of finding report of enquiry is attached as Annexure "A").
 4. That the appellant was heard in person and competent authority after taking lenient view of the matter, awarded minor punishment of reduction in pay for 02 years.
 5. That all the legal formalities were fulfilled and all the lacunas pointed out in the order of Honourable Tribunal have been removed.
 6. All the observations pointed out in the judgment of Honourable Service Tribunal have been complied with and appellant was given full chance to defend himself.
 7. The appellant has preferred departmental appeal before the appellate authority which is still pending. The instant appeal is badly time barred.

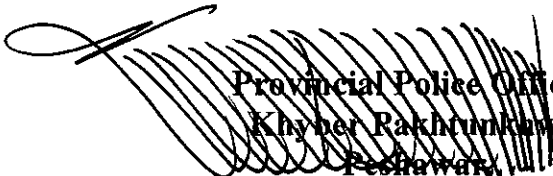
ON GROUNDS:-

- a. Incorrect. The Impugned order is legal, just and according to law.
- b. Incorrect. A proper departmental enquiry was initiated complying all the direction issued by the Service Tribunal in its order dated 22.09.2022.
- c. Incorrect. The appellant was treated according to law.
- d. Incorrect.

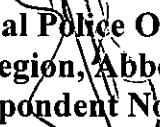
- e. Incorrect. All the directions have been complied with.
- f. Incorrect. The instant appeal is badly time barred.

PRAYER.


In view of above, it is most humbly prayed that the instant Service Appeal does not hold any legal force which may graciously be dismissed with costs.



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar,
(Respondent No.1)



Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No.2)



District Police Officer,
Abbottabad.
(Respondent No. 3)

4

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

SERVICE APPEAL NO. 1050/2023.

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VERSUS

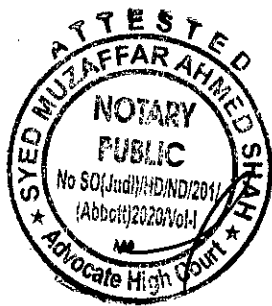
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
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3. District Police Officer, Abbottabad.

.....Respondents.

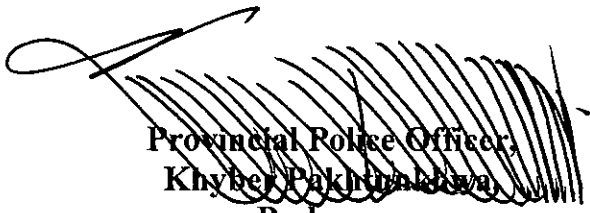
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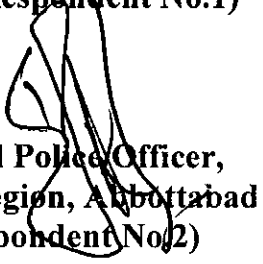
We, do hereby affirm on oath that the contents of written reply are true to the best of our knowledge & belief and nothing has been concealed from the honorable Service Tribunal. It is further stated ~~on~~ on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/ cost.


Submitted please.



25/9/23


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.1)


Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No.2)


District Police Officer,
Abbottabad.
(Respondent No. 3)

ENQUIRY REPORT.

Annexure "A"

5

The denovo enquiry in hand was entrusted vide CPO letter No. 102-6/ CPO.IAB dated 22.11.2022 with the direction to conduct the same in compliance of order of Service Tribunal dated 22.09.2022. Brief facts of the case are that SI Faisal Ali Shah No. 273/H while posted as SHO PS Nawansher was awarded major punishment of Dismissal from Service vide OB No. 184, dated 10.06.2021, on account of registering bogus case. He preferred departmental appeal before the then Regional Police Officer, Hazara Region, Abbottabad which was filed vide his office order No. 18556-57/PA, dated 12.08.2021. He then preferred revision petition before the then Inspector General of Police, Khyber Pakhtunkhwa, Peshawar which was also filed vide his office Memo: No. 774/22, dated 25.09.2022. Consequently, he instituted Service Appeal No. 7393/2021 before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar Camp Court Abbottabad wherein the Honourable Service Tribunal set aside the dismissal order as well as orders passed by both the appellate authorities and directed to reinstate the appellant in service and ordered that detailed de-novo enquiry be conducted, covering the facts/ observations/ points made by the Honourable Service Tribunal which are as follows:-

1. Whether accused namely Hazrat Gul involved in FIR No. 139 of District Abbottabad was the same person who was involved in the murder case at District Bannu on the same day.
2. The Tribunal held that prima facie observations are not sufficient to hold that he was actually Hazrat Gul and not a fake person planted to benefit Hazrat Gul accused in murder case at Bannu.
3. The Service Tribunal held that preliminary as well as departmental enquiries are silent to prove the fact whether Hazrat Gul was actually in Abbottabad at the relevant point of time.
4. The FIR was registered late or murasila for lodging the FIR was drafted late i.e. on 08.03.2021 at 4/5 A.M and not on the date and time mentioned in the FIR itself.

The accused official namely SI Faisal Ali Shah was proceeded against departmentally and charge sheet alongwith statement of allegations issued afresh and was properly served upon him alleging therein that as per preliminary enquiry conducted by Addl: SP Abbottabad vide his office memo: No. 1317/PA dated 01.04.2021 on 07.03.2021 at 19:35 hrs: he while posted as SHO PS Nawansher he registered a fake / bogus case vide Fir No. 139 dated 07.03.2021 u/s 15 AA PS Nawansher whereas on the same day at 17:15 hrs: the same accused namely Hazrat Gul s/o Bahadar Gul r/o Kotkah Sokari Bannu was also charged in murder case vide FIR No. 137 dated 07.03.2021 u/s 302/324/34 PPC, PS Cant: District Bannu, how it is possible that the accused was charged in two FIRs at the same time and date in two very faraway districts. During preliminary enquiry the allegations of preplanning in registering bogus case and

Attested

Superintendent of Police
Legally Abbottabad

ing of illegal gratification / bribe has been proved. All this showed his ill-will in performance of official duties.

The accused official submitted his reply to the charge sheet refuting all the allegations mentioned therein. He was asked to record his statement wherein he stated that his reply may be considered as his statement which is discussed below. Furthermore, during the denovo enquiry proceedings all the relevant witnesses were called before the enquiry committee.

01. STATEMENT OF DELINQUENT OFFICER SI FAISAL ALI SHAH.

The delinquent officer stated in his statement that on 07.03.2021 at 18: 55 hrs: he alongwith Police party was present on routine patrolling near Kund barrier road, meanwhile on seeing Police party a person tried to decamp from the spot. He was apprehended by the Police party and during his body search one 30 bore pistol alongwith 10 cartridges were recovered from his possession.

The accused official produced two private persons as witnesses of recovery but they have not been made witnesses of recovery memo. Hence, production of witnesses at this stage is not found credible and reliable. Therefore, their statements are not taken into consideration.


02. STATEMENT OF LHC NADEEM QADIR MM PS NAWANSHER.

He stated that in his statement that on 07.03.2021 he alongwith Additional Moharir HC Muhammad Niaz was present in the Moharrir Office. SHO ordered him to keep pending the Roznamcha as he has to register a FIR due to which he kept the Roznamcha pending. Next morning on 08.03.2021 at about 4: 30 A.M or 05 A.M while he was sleeping SHO gave him Murasila and directed to make entry of accused and also register the FIR. He brought into the notice of SHO that control room does not write daily progress after 12 O'clock. On this SHO personally informed the control room through his mobile phone that he has to register a FIR u/s 15 AA and asked him to add the said case in morning report. Operator Gulfam posted at Control Room informed the SHO that operator Nazar Shah has been slept, he will brought into his notice and he will add the said case in morning. On the order of SHO, he has chalked the case vide FIR No. 139 dated 07.03.2021 u/s 15-AA KPK PS Nawansher. He was properly cross examined by the accused official.

03. STATEMENT OF MUHAMMAD NIAZ AMHC PS NAWANSHER.

He stated in his statement that on 07.03.2021 while he was present in Moharrir office. At evening time SHO came to Moharrir office and asked him to keep the Roznamcha pending as he has to register a FIR. He remained present in the office of Moharrir office till 12: 00 A.M and after conveying the whole FIRs of date to control Room he went to sleep in his room. The said case was not registered in his presence. He stated that on the next morning on 08.03.2021 he came to know about the registration of FIR. He was cross examined by the accused official.

Attested


V. Superintendent of Police
(Legal) Abbottabad

STATEMENT OF CONSTABLE SHERAZ No. 1132 GD PS NAWANSHER.


He stated in his statement that at the day of occurrence he was present at Charri Phanna Chowk Nawansher on routine patrolling alongwith SHO PS Nawansher, IHC Shahzad Shah, FC Majid No. 351 and FC Zeeshan No.740. Due to an emergency, after obtaining permission from SHO he went to his home.

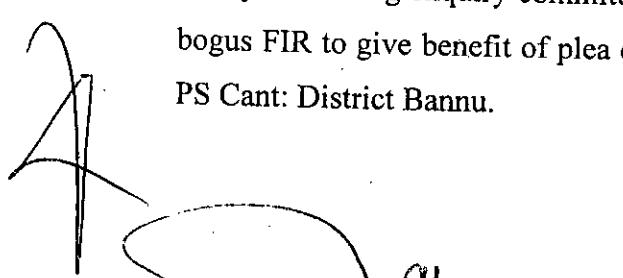
During the enquiry jail authorities of District Abbottabad were requested to provide particulars of Accused Hazrat Gul which vide office Memo: No. 3548/We dated 08.12.2022 were sent stating therein that accused Hazrat Gul was confined by the order of JM-III Abbottabad in District Jail Abbottabad on 08.03.2021 in case vide FIR No. 139 dated 07.03.2021 u/s 15 AA of PS Nawansher, Abbottabad and was transferred to PS Cantt: Bannu by JM-I, Abbottabad vide order No. 231 dated 15.03.2021 on one day transit custody and handed over to SI/OII Furqan of PS Cantt: PS Bannu on 22.03.2021. The superintendent jail sent the order of transit custody, receipt of I.O of PS Bannu and daily diary of District Jail Abbottabad. The accused official kept the Roznamcha pending and later on adjusted the time in the DDs which was his malafide.

RECOMMENDATIONS:-

In the light of enquiry proceedings conducted by the undersigned and statements so recorded, the enquiry committee is of the following view:-

1. Roznamcha was kept pending as stated by both the Moharrirs in their statement till next morning which shows that murasila was drafted in the Police Station. This fact was further verified by the Moharrir that till 00:00 A.M 08.03.2021 no murasila was received by him. Furthermore, witness of recovery memo: Constable Sheraz No. 1132 stated that he was on leave on the relevant day. This has been proved from the stated facts that Murasila was written after 00:00 A.M 08.03.2021.
2. To ascertain/ verify the facts of accused Hazrat Gul, Jail authority was approached. It was verified that same person was arrested by the local Police which was dully verified and later on he was handed over to investigating officer of the case FIR No. 137 dated 07.03.2021 u/s 302/324/34 PPC, PS Cant: District Bannu by the order of Illaqa Magistrate dated 15.03.2021. Hence, actual person was arrested and whole episode was created to establish his plea of **alibie** which is criminal negligence. The murder case was put at stake by the accused official who are not entitled of any mercy. We being enquiry committee found the accused official guilty for registering bogus FIR to give benefit of plea of alibie in case FIR No. 137 u/s 302/324/34 PPC, PS Cant: District Bannu.

Attested

V. Superintendent of Police
Legal Abbottabad


Deputy Superintendent of Police
Legal, Abbottabad.

Add: Superintendent of Police,
Abbottabad.

ed: 09-12-2022

بیان :-

فیصل علی شاہ ای متینہ پولیس لائن ایبٹ آباد

جناب عالی !

حلفاً بیانی ہوں کہ میری چارج شیٹ کا جواب
ہی میرا حقیقی جواب تصور کیا جاوے۔

(Handwritten signature)

فیصل علی شاہ ای متینہ پولیس لائن ATD

13302-0499647-3

0333-5072260

Attested

(Signature)
Superintendent of Police
(Legal) Abbottabad

جس کا جواب انکو دیا گیا ہے۔

سوال :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔

جواب :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔
19:45 بجے صبح 21/12/2022 کو میرا نام درج کیا گیا تھا۔

سوال :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔


جواب :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔

سوال :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔
جواب :- میرا نام ایبٹ آباد پولیس ایسٹیشن پر درج کیا گیا تھا۔


سب سے کثیر رینڈر 1132 ویتھ کنڈر سب سے کثیر خواتین کے لیے
 انوائس میں کچھ ہر روز ویتھ رینڈر اسٹاٹ 1141 مایہ 1351 ڈسٹریکٹ
 740 رینڈر رینڈر 1140 سے کثیر خواتین کے لیے کنڈر ویتھ کارڈ
 کثیر رینڈر سے SHO سے اجازت کے کرکے خود کارڈ کثیر
 اور سے 139 سے 1588 سے لے کر سب سے کثیر رینڈر سے کثیر
 کثیر رینڈر سے - شیراء 1141 اور مایہ رینڈر سے انوائس سے کثیر

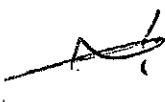
سب سے کثیر رینڈر 1132 ویتھ کنڈر سب سے کثیر خواتین کے لیے

Attested


 Superintendent of Police
 Legal Abbottabad

2. محتاب اس میں سے انوائس - نرادر


 2. محتاب شیراء سے انوائس نرادر


 2. محتاب مایہ رینڈر سے انوائس نرادر

روزنامہ نندگ رشتہ میں ہے۔ اس ورگ سے آگے کوئی اور
روزنامہ میں کچھ نہیں ہے۔

جس سے اس بار میں نے یہ کہہ دیا ہے کہ اس سے پہلے اس
روزنامہ کا رشتہ نہیں تھا۔

والد - روزنامہ نندگ رشتہ میں آگے سے کہہ دیا ہے کہ اس سے پہلے اس
روزنامہ کا رشتہ نہیں تھا۔

بہ صاحبان: شیخ رشید احمد (14C) الزامی

ال - اگر وہ اس میں کچھ لکھتا ہے تو اس سے پہلے اس سے کہہ دیا ہے کہ اس سے پہلے اس
روزنامہ کا رشتہ نہیں تھا۔

والد - FIR 54C الزامی نہیں ہے کہ اس میں کوئی اور
روزنامہ کا رشتہ نہیں تھا۔

والد - محرماتان عورتیں 07 کو بھی لکھی ہیں کہ اس سے پہلے اس سے کہہ دیا ہے کہ اس سے پہلے اس
روزنامہ کا رشتہ نہیں تھا۔

والد - محرماتان عورتیں 07 کو بھی لکھی ہیں کہ اس سے پہلے اس سے کہہ دیا ہے کہ اس سے پہلے اس
روزنامہ کا رشتہ نہیں تھا۔

بہ صاحبان: شیخ رشید احمد (14C) الزامی

مرحوم صاحب شہزاد استاد HC انشا علیہ السلام

سوال: اگر یہ سوال پر غور کیجئے کہ کس قدر شہزاد نے اس کا کوئی نہیں بتایا۔
جواب: میں اپنے بزرگ میں سہرا سہرا کرتا۔ کچھ لفظ بھی میں کہتا ہوں۔
A.R. کا اندازہ ہو گا۔

مرحوم صاحب فقیر صاحب انشا علیہ السلام۔ استاد

No. 3548/UC Dated 08/12/2022

The Additional Superintendent of Police,
Abbottabad.

Subject: - **PARTICULARS OF ACCUSED HAZARAT GUL CHARGD IN CASE FIR
NO. 139 U/S 15AA DATED 07-03-2022 PS NAWANSHER.**

Memo;


Reference your letter No. 3414/PA dated 07-12-2022 on the subject
noted above.

It is stated that the accused namely Hazarat Gul S/O Bahadar Gul
committed to this jail by the order of Judicial Magistrate-III Abbottabad on 08-03-
2021 in case FIR No. 139 dated 07-03-2021 U/S 15AA of P.S Nawansher Abbottabad
and transferred to P.S Cantt Bannu by the order of Learned court of Judicial
Magistrate-I Abbottabad vide No. 231 dated 15-03-2021 for one day custody and
handed over to Mr. Furqan Javed SI/OII of P.S Cantt Bannu on 22-03-2021 please.

Enclosures:

1. Transit custody order
2. Roznamcha report of P.S City Abbottabad

Attested


y. Superintendent of Police
Legal) Abbottabad


SUPERINTENDENT
DISTRICT JAIL ABBOTTABAD

IN THE COURT OF SAJD AMIN, JUDICIAL MAGISTRATE-I, ABBOTTABAD

State Versus: 1. Hazrat Gul S/o Bahadar Gul R/o Sokari, Zabricki
District Bannu.

Case FIR No. 178, Dated: 07.03.2021, U/S 302/324/34 PPC, PS Cantt, District, Bannu.

TRANSIT CUSTODY FOR THE TRANSFER OF ACCUSED SAJD
ABOVE FROM DISTRICT ABBOTTABAD TO DISTRICT BANNU.

ORDER

Dated: 15.03.2021

The local police of PS Cantt, District Bannu, headed by Furqan Javed SI/OH has submitted an application duly marked to this court by the Honorable District & Sessions Judge, Abbottabad for the transfer of the above named accused from District Abbottabad to District Bannu.

DPO Abbottabad vide letter # 1783, dated 15.03.2021 reported that the accused is confined in District Jail and is not wanted/required in any case of District Abbottabad.

Perusal of record shows that the above named accused namely Hazrat Gul S/o Bahadar Gul is required to the local police of PS Cantt, District Bannu in the ibid case, who has been arrested in Abbottabad in case FIR # 139 dated 07.03.2021 u/s 15AA KPK PS Nawansher, Abbottabad and was sent to District Jail Abbottabad on Judicial Remand. Therefore, to facilitate the investigation in the cited case at District Bannu, one day transit custody of the accused namely Hazrat Gul is granted to SI/OH Furqan Javed PS Cantt, District Bannu subject to his pre medical examination in Abbottabad and after the transit custody at Bannu. Safe shifting of the accused will be the responsibility of the said SI/OH namely Furqan Javed. Accused be produced before the court of Illaqa Magistrate/MOJ concerned at Peshawar on dated 16.03.2021 before 02:00 PM. The said SI/OH Furqan Javed would also be responsible to readmit the accused in the Jail/Judicial lockup Abbottabad after completion of investigation in the case pending against him at District Bannu. Copies of ID card as well as service card obtained from SI/OH Furqan Javed. The Jail Superintendent Abbottabad is directed to hand over the above named accused to SI/OH Furqan Javed PS Cantt, District Bannu after making necessary entries in the relevant record at his end. Copy of this order be sent to Superintendent District Jail, Abbottabad for compliance in accordance with law.

Attested

SAJD
SAJD AMIN
Judicial Magistrate-I, Abbottabad

No. 231 / Abbottabad dated the 15/3/21

Copy forwarded to:-

1. The Hon'ble District & Sessions Judge, Abbottabad.
2. The District Police Officer, Abbottabad.
3. The Superintendent, District Jail, Abbottabad for to be done in accordance with law.
4. Office Copy.

Attested

[Signature]
y. Superintendent of Police
Legal) Abbottabad

[Signature]
SAJD AMIN
Judicial Magistrate-I, Abbottabad

21 مئی 2011ء کو 351 کو حکم دیا۔ متعلقہ ماہر سے

① نوٹیفکیشن نمبر ① مدد وارنٹ کے ذریعے دروازے پر

تلاشی کے درست حالات وصول کر کے دستخط کر دیے

تاکے سند درج

SI - INI - COMPT -
Bannu
15-03-11
0333-9742633

قسمان جاوید
SI/OII
P.S Cantt
Bannu

Attested
[Signature]

Attested

[Signature]

Superintendent of Police
Legal Abbottabad

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
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SERVICE APPEAL NO. 1050/2023.

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.....Appellant.

VERSUS

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2. Regional Police Officer, Hazara Region Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

AUTHORITY LETTER.

Mr. Tabish Ali ASI Legal is hereby authorized to file para wise comments before
the Honorable Service Tribunal, on behalf of Respondents.



District Police Officer
District Police Officer
Abbottabad