

28.12.2022

Due to winter vacation, the case is adjourned to  
06.04.2023 for the same as before.



Reader

04.11.2022

Appellant in person present. Mr. Muhammad Riaz Khan  
Paindakhel, Assistant Advocate General for the respondents  
present.

Appellant requested for adjournment on the ground that his  
counsel is not available today due to strike of lawyers.  
Adjourned. To come up for arguments before the D.B on  
28.12.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

SCANNED  
& T  
Peshawar

27<sup>th</sup> July 2022 Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for respondents present.

Learned counsel for the appellant submitted rejoinder and seek time for arguments. Adjourned. To come up for arguments on 12.10.2022 before the D.B.



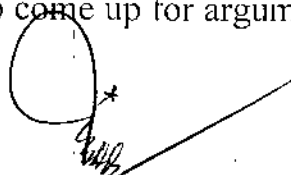
(Salah-Ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

12.10.2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

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 before the D.B on 04.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

Stipulated period passed reply not submitted.

17.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Fayyaz H.C for respondents present. Reply/comments on behalf of respondents submitted through office which are placed on file. To come up for rejoinder if any, and arguments before the D.B on 12.05.2022.

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

12-5-22

Proper DB not available in case  
is adjourned on 27-7-22

if ali  
Rehman

01.06.2021

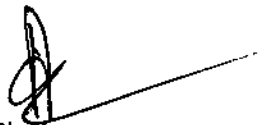
Appellant present in person. Preliminary arguments heard.

17.09

As far as factual position purported in the appeal is concerned, the absence of the appellant was linked with his involvement in criminal case. Whether the departmental rules permits initiation of disciplinary action on account of absence due to nomination of an employee in criminal case, is a point for consideration. The appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 29.09.2021 before the D.B.

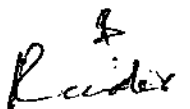
Appellant Deposited Security & Process Fee

11-6-21

  
Chairman

29-9-21

DB is on Tour case to come up  
For the same on Dated. 17-1-22

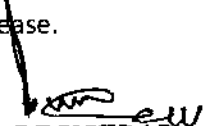
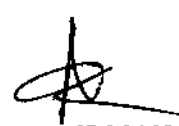
  
Recorder

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 4531 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/04/2021	<p>The appeal of Mr. Aamir Shahzad presented today by Mr. Muhammad Anwar 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>
2-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. 4531 of 2021

Aamir Shahzad .....Appellant

**V E R S U S**

Inspector General Police and others.....Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Grounds of service appeal		1-6
2.	Affidavit		7
3.	Addressees of Parties		8
4.	Copy the order No. S/911/21 dated Peshawar the 04/03/2021	A	9
5.	Copy of departmental Revision	B	10-11
6.	Copy of order bearing No. 13007/ES dated Mardan 16/10/2019	C	12
7.	Copy of departmental appeal	D	13
8.	Copy of Impugned order bearing No. 1604-08/PA, dated Nowshera, the 02/04/2019	E	14
9.	Copies FIR and Bail orders	F	15-19
10.	Wakalat Nama		20

Appellant  
Through  
**Muhammad Anwar**  
**Jahanzeb Shinwari**  
**Inamullah Alizai**  
Advocate, Peshawar  
Cell: 0333-8866902

Date: \_\_\_/\_\_\_/2021

①

**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Aamir Shahzad,  
No. 140 Ex-Constable Police Line, Nowshera  
R/O Mohallah Naso Khail, Inzarmi Qondhab, P.O Inzari, Tehsil and  
District, Nowshera .....Appellant

**V E R S U S**

1. Inspector General of Police KPK, Peshawar
2. DIG/Reginal Police Officer, Mardan
3. District Police Office/DPO, Nowshera, Police Line Nowshera
4. SP/HQRS, Nowsher
5. DSP Legal, Nowshera
6. Enquiry Officer/ASP Cantt: Nowshera  
.....Respondents

**Appeal u/s 4 of the Khyber  
Pakhtunkhwa Service Tribunal Act,  
1974 against the order bearing No.  
S/911/21 dated Peshawar the  
04/03/2021 (copy annexed hereto  
marked "A") passed by worthy IGP,  
Peshawar/respondent No. 1 whereby  
the Revision Petition U/R 11-A of  
KPK Police Rules, 1975 (Amended  
2014) (copy annexed hereto marked  
"B") of the appellant against the order  
under endorsement No. 13007 dated  
16/10/2019 (copy annexed hereto  
marked "C"), whereby appeal dated  
23/08/2019 (Copy annexed hereto**



marked D) against the impugned order under endorsement No. 1604-08/PA, dated Nowshera, the 02/04/2019 (Copy annexed as marked E) has been dismissed/ rejected.

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**Prayer in Appeal:**

On acceptance of this appeal, the impugned orders (Annex-A, C & E) and the major penalty of Dismissal from Service of the appellant may please be set aside, the appellant may please be exonerated of the charges levelled against him and the appellant may please be re-instated in service with all back benefits.

**Respectfully Sheweth:**

1. That the appellant is a law abiding citizen of Pakistan, belonging to a respectable family of Mohallah Naso Khail, Inzarmi Qondhab, P.O Inzari, Tehsil and District, Nowshera.
2. That the appellant, after qualifying the test and interview, was selected as Constable in the police department on 23/12/2015 and took charge of the post.
3. That the appellant has successfully completed departmental training/ Courses.

3

4. That the appellant has more than 3 years' service at his career and during this period no complaint, whatsoever, was made against the appellant.
5. That during his whole service career, the appellant has performed his duties to the entire satisfaction of his superiors and to this effect his ACRs/PERs bear the testimony.
6. That the appellant has falsely been implicated in case FIR No. 191 dated 28/12/2018 U/S 302/34 PPC of PS Nizam Pur, Nowshera: which case is still pending and yet to be decided by the Hon'ble court of law and the appellant has been released on bail. (Copy FIR and bail orders are annexed as annexure F)
7. That the appellant has not been served with charge sheet and statement of allegations.
8. That the appellant has not also been issued final show cause notice which is mandatory.
9. That the worthy DPO, Nowshera vide impugned order (annexure E) has imposed Major Penalty of dismissal from service upon the appellant and the appellant, feeling aggrieved, filed departmental appeal (annexure D) which has been dismissed vide impugned order (annexure C).
10. That feeling aggrieved from the impugned order, the appellant filed a department appeal (Annexure B) before the

④

worthy IGP, KPK, Peshawar which was dismissed/rejected vide impugned order (Annexure A).

11. That the appellant invokes the appellate jurisdiction of this Honourable Tribunal for setting aside the impugned orders through which the appellant has been dismissed from service without any fault on his part, on the following grounds, inter alia:

**GROUNDS:**

- A. That the Major penalty of the appellant from dismissal from his service is against the law, rules and all norms of natural justice, hence not tenable and is liable to be set aside/ struck down.
  - B. That the case FIR No. 191 dated 28/12/2018 U/S 302/34 PPC of PS Nizam Pur, Nowshera on the basis of which departmental proceedings were initiated against the appellant is still pending and the final verdict has yet to be announced by the competent court of law but the appellant has been penalized with major penalty of dismissal from service with immediate effect.
  - C. That the appellant has about 3 years of spotless service at his career but this aspect of the case has not been taken into consideration by the respondents and thus the impugned orders on this score alone are liable to be set-aside.
  - D. That the impugned orders are harsh and thus are not tenable in the eyes of law.
-

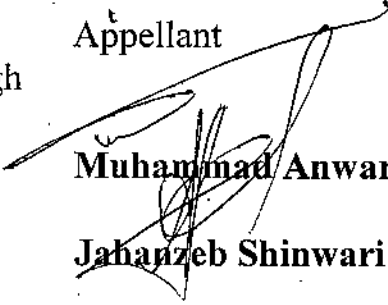
5

- E. That in case of imposing a major penalty, the principle of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and ~~personal hearing was to be provided but neither regular~~ inquiry has been conducted against the appellant, nor any opportunity of defense has been given to the appellant nor any opportunity of personal hearing has been given to the appellant prior to the imposition of major penalty and thus the appellant has been condemned unheard.
- F. That the evidence of the witnesses has not been recorded by the Inquiry Officer in the presence of the appellant and no chance of even examination had been given to the appellant, thus, the appellant has been deprived of his lawful right of cross examination.
- G. That the proceedings against the appellant have been conducted in violation of the principle and procedure laid down to regulate the inquiry proceedings under the provision.
- H. That the period with effect from 28/12/2018 till 02/04/2019 has been treated as leave without pay and yet the appellant has been penalized with major penalty of dismissal from service.
- I. That any other ground, with leave of the Honourable Tribunal, will be raised at the time of final hearing of this appeal and after recording of evidence, if any.
-

8

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned orders of dismissal from service of the appellant may please be set aside and the appellant may please be reinstated in service with all back benefits.

Any other relief, which has not been asked for specifically and the Honourable Tribunal deem appropriate, may also be granted in favour of the appellant.

Appellant  
Through  
  
**Muhammad Anwar**  
**Jahanzeb Shinwari**

Date: \_\_/\_\_/2021

**Inamullah Alizai**  
Advocates High Court,  
Peshawar

7

**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Aamir Shahzad .....Appellant

**VERSUS**

Inspector General Police and others.....Respondents

**AFFIDAVIT**

I, Aamir Shahzad, No. 140 Ex-Constable Police Line, Nowshera R/O Mohallah Naso Khail, Inzarmi Qondhab, P.O Inzari, Tehsil and District, Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

**DEPONENT**

8

**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2021

Aamir Shahzad .....Appellant

**V E R S U S**

Inspector General Police and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Aamir Shahzad,  
No. 140 Ex-Constable Police Line, Nowshera  
R/O Mohallah Naso Khail, Inzarmi Qondhab, P.O Inzari, Tehsil  
and District, Nowshera

**RESPONDENTS:**

1. Inspector General of Police KPK, Peshawar
2. DIG/Reginal Police Officer, Mardan
3. District Police Office/DPO, Nowshera, Police Line Nowshera
4. SP/HQRS, Nowsher
5. DSP Legal, Nowshera
6. Enquiry Officer/ASP Cantt: Nowshera

Appellant

Through

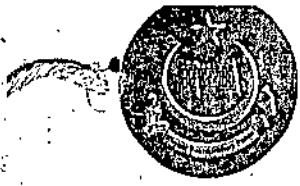
**Muhammad Anwar**

**Jahanzeb Shinwari**

**Inamullah Alizai**

Advocate High Court,  
Peshawar

Date: \_\_/\_\_/2021 .



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. SI/ 911 /21, dated Peshawar the 01/03/2021.

'A'

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Aamir Shahzad No. 140. The petitioner was dismissed from service by District Police Officer, Nowshera vide OB No. 389, dated 02.04.2019 on the allegations that he while posted at Shaheen Squad was involved in case FIR No. 191, dated 28.12.2018 u/ 302/34 PPC PS Nizampur. His appeal was rejected being time barred by Regional Police Officer, Mardan vide order Endst: No. 13007/ES, dated 16.10.2019.

Meeting of Appellate Board was held on 21.01.2021 wherein petitioner was heard in person. Petitioner contended that his case is under trial in the court.

The petitioner was heard and all record perused. His case is under trial in the court. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

**KASHIF ALAM, PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI/ 912-20 /21,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. One Service Roll and one Fauji Missal of the above named Ex-I received vide your office Memo: No. 3915-16/ES, dated 25.06.2020 is returned herewith for your office record.
2. District Police Officer, Nowshera.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

~~(IRFAN ULLAH KHAN) PSP~~  
APC Establishment.  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.



To,

Worthy Inspector General of Police,  
Khyber Pakhtunkhwa.

10

13

Subject: **APPEAL AGAINST THE ORDER VIDE OB NO. 389 DATED 02.04.2019 WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.**

Respected Sir,

1. That the appellant while posted at Shaheen Squad was falsely implicated in a criminal case vide FIR No. 191 dated 28.12.2018 u/s 302/34 ppc Police Station , Nizampur that on account of appellants false involvement in the aforementioned case, enquiry was initiated and the same was entrusted to ASP Nowshera Cantt:.
2. That the enquiry officer has neither associated the appellant with the enquiry proceedings nor summoned for defending himself.
3. That the sole ground for proving the appellant guilty has been mentioned as direct involvement / charge in the aforementioned FIR and the appellant has not been provided even a single opportunity to defend himself rather on the ground of mere absconsion ex-party proceedings has not been fulfilled rather the entire proceedings have been carried out in an arbitrary in whimsical manner.
4. That the competent authority has also not provided right of self defence to the appellant and impugned order of dismissal from service was passed which is in sheer violation of settle principal of audi alteram partem and principal of natural justice.

(11)

5. That the appellant is completely innocent and he has been involved as a complaint party has personal grudges/ill will against the appellant, therefore, he has been falsely involved in the above mentioned case.
6. That the impugned order is extremely harsh and against the canon of natural justice hence, the same warrants interference.
7. That the appellant has approached competent court and managed bail before arrest and there is every likelihood that the same will be confirmed because complainant party has no solid proof to establish my presence.

It is therefore, requested that on acceptance of above submissions, the punishment order whereby the appellant was awarded major punishment of dismissal from service may very kindly be set aside and the appellant be reinstated into service from the date of suspension with all back benefits according to the decision of the Hon'ble Supreme Court of Pakistan.

Yours Obediently

Amir Shehzad  
Ex-Constable  
Belt No. 140  
0313-9601519

12

C

**ORDER.**

This order will dispose-off the departmental appeal preferred by **Ex-Constable Aamir Shahzad No. 140** of Nowshera District against the order of District Police Officer, Nowshera, whereby he was awarded Major punishment of dismissal from service vide OB: No. 389 dated 02.04.2019.

Brief facts of the case are that, the appellant, while posted at Shaheen Squad, involved in case FIR No. 191 dated 28.12.2018 u/s 302/34 PPC PS Nizampur.

On account of which he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Tassarwar Iqbal, the then ASP Cantt Nowshera, who after conducting enquiry submitted his report to District Police Officer, Nowshera, highlighted therein that the delinquent official is directly charged in the said case and is evading from his lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by advancing any evidence in his favor. Since he is absconding and failed to response to charge sheet, therefore suggested ex-parte action against him.

He was served with Final Show Cause Notice through Asmatullah, Nazim village Council, Khan Koi, Nizampur, but he failed to submit his reply within the stipulated period.

In the light of above discussion, the accused Constable was awarded major punishment of dismissal from service with counting his absence period as leave without pay vide District Police Officer, Nowshera OB: No. 389 dated 02.04.2019.

He was called in orderly room held in this office on 08.10.2019 for defending himself but the appellant being directly charged in the above mentioned case went into hiding after the commission of offence. Resultantly he neither bothered to join Investigation nor joined the entire Inquiry proceedings, meaning thereby that had nothing to offer in his defence. Besides the appellant was awarded punishment of dismissal from service vide Order Book No. 389 dated 02.04.2019, while he preferred the instant appeal on 23.08.2019, which is barred by law. Therefore, appeal of the appellant is hereby rejected.

ORDER ANNOUNCED.

ok   
(MUHAMMAD ALI KHAN)PSP  
Regional Police Officer,  
Mardan.

No. 13007/ES,

Dated Mardan the 16/10/2019.

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 6460/PA dated 23.09.2019. His Service Record is returned herewith.

(\*\*\*\*\*)

To,

The Deputy Inspector General of Police,  
Mardan Region-I, Mardan.

(13)

THROUGH PROPER CHANNEL.

Subject:

APPEAL AGAINST THE ORDER VIDE OB NO. 389 DATED 02-04-2019 WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE

Respected Sir,

1. That the appellant while posted at Shaheen Squad was falsely implicated in a criminal case vide FIR No. 191 dated 28-12-2018 u/s 302/34 PPC Police Station, Nizampur that on account of appellants false involvement in the aforementioned case, enquiry was initiated and the same was entrusted to ASP Nowshera Cantt.
2. That the enquiry officer has neither associated the appellant with the enquiry proceedings nor summoned for defending himself.
3. That the sole ground for proving the appellant guilty has been mentioned as direct involvement/charge in the aforementioned FIR and the appellant has not been provided even a single opportunity to defend himself rather on the ground of mere absconion, ex-party proceedings were conducted. It is worthwhile, that the very criteria devised for ex-party proceedings has not been fulfilled rather the entire proceedings have been carried out in an arbitrary in whimsical manner.
4. That the competent authority has also not provided right of self defence to the appellant and impugned order of dismissal from service was passed which is in sheer violation of settle principal of audi alteram partem and principal of natural justice.
5. That the appellant is completely innocent and he has been involved as the complainant party has personal grudges/ill well against the appellant, therefore, he has been falsely involved in the above mentioned case.
6. That the impugned order is extremely harsh and against the canon of natural justice hence, the same warrants interference.
7. That the appellant has approached competent court and managed bail before arrest and there is every likelihood that the same will be confirmed because complainant party has no solid proof to establish my presence.

It is therefore, requested that on acceptance of above submissions, the punishment order whereby the appellant was awarded major punishment of dismissal from service may very kindly be set aside and the appellant be reinstated into service from the date of suspension with all back benefits.

Your's Obediently,

*Amir Shehbaz*  
Amir Shehbaz  
Ex-Constabulary No. 140  
District Nowshera.

23-08-19

ORDER

(19)

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Aamir Shehzad No. 140, under the allegations that he while posted at Shaheen Squad, now suspended Police Lines, involved in case FIR No. 191 dated 28.12.2018 u/s 302/34 PPC PS Nizampur.


On account of which he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Tassarvar Iqbal, ASP Cantt Nowshera, who after conducting enquiry submitted his report to undersigned vide his office Endst: No. 122/St- dated 11.02.2019, highlighted therein that the delinquent official is directly charged in the said case and is evading from lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by affording any available evidence in his favor. Since he is absconding and not responded to charge sheet and suggested ex-parte action against him.

He was served with Final Show Cause Notice through Asmatullah, Nazim village Council, Khan Koi, Nizampur, but he failed to submit his reply within the stipulated time.

In the light of above discussion, Constable Aamir Shehzad No. 140 is hereby awarded major punishment of dismissal from service with counting his absence period as leave without pay with immediate effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975. He is posted in Police Lines for one year.

OB No. 389

Dated 2/4 /2019

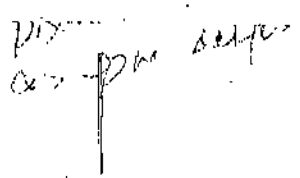
  
District Police Officer,  
Nowshera

No. 1604-08 /PA, dated Nowshera, the 02/04 /2019.

Copy for information and necessary action to the:

1. DSP HQrs Nowshera.
2. Pay Officer.
3. Establishment Clerk.
4. OHC.
5. FMC with its enclosures (14 sheets).





(7)

## ابتدائی اطلاع رپورٹ

15

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ نو جداری

تھانہ نظام پور ضلع نوشہرہ  
 عت نمبر 191 تاریخ 28/12/18 بوقت 13:00

1- تاریخ وقت رپورٹ 28/12/18 وقت 16:30 بجے	چاکیڈگی 28/12/18 وقت 18:30 بجے
2- نام و سکونت اطلاع دہندہ مستغنیث	مسماة صالح حیات دختر لعل بہادر بمر 22/23 سال ساکن شاہین آباد خان کوہی
3- مختصر کیفیت جرم (موافقہ) حال اگر کچھ لیا گیا ہو۔	302/34 PPC
4- جائے وقوعہ فاصلہ تھانہ سے اور سمت	خانہ عید واقع شاہین آباد خان کوہی
5- نام و سکونت ملزم	1- یوسف ولد نبی خان 2- عامر شہزاد 3- عاصم پسران یوسف خان ساکنان شاہین آباد خان کوہی
6- کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بہر رسیدگی تحریری مراسلہ پر مقدمہ درج رجسٹر کیا جاتا ہے۔
7- تھانہ سے روانگی کی تاریخ و وقت	بطور پیش رپورٹ

ابتدائی اطلاع نیچے درج کرو۔ بوقت صدر بچہ ایک تحریری مراسلہ منجانب امین خان ASI بدست کنسٹیبل جواد 1314 موصول ہو کر بہ مضمون ذیل ہے۔

جنڈمٹ جناب SHO صاحب تھانہ نظام پور حسب اطلاع DHQ ہسپتال نوشہرہ کلاں آکر بمقام مردہ خانہ نعش ازاں مقتول وارث خان ولد نبی خان بمر 40/42 سال ساکن شاہین آباد خان کوہی نظام پور پڑی پا کر جس کے ساتھ زوجہ اش مسماة صالح حیات دختر لعل بہادر بمر 22/23 سال ساکن دہیہ ام موجود پا کر بقاعی درست ہوش و حواس میں یوں رپورٹ کرتی ہے کہ آج میں نے خاندان مقتول وارث خان و دیگر اہلخانہ گھر خود میں موجود تھی کہ اس دوران خاندان لکڑیاں توڑ رہا تھا کہ اس دوران مسلمان یوسف ولد نبی خان، عامر شہزاد، پسران یوسف خان ساکنان دہیہ ام آکر خاندان کیساتھ لکڑیوں کے توڑنے پر بحث و تکرار شروع کر کے خاندان پر گزارت شروع کی دوران مار پیٹ خاندان گھر کے چھت پر چڑھ گیا جبکہ میں بھی خاندان کے پیچھے چت پر چڑھ گئی بعد میں مسلمان بالا گھر سے باہر نکل کر اپنے اپنے اسلحہ آتشیں سے خاندان پر بارادہ قتل فائرنگ شروع کی جسکی فائرنگ سے خاندان لگ کر موقع پر جاں بحق ہوا وقوعہ ہذا میرے علاوہ دیگر موجودگان کا چشم دید ہے، وجہ عناد لکڑیوں کی تقسیم پر وقتی تکرار ہے میں خاندان مقتول وارث خان پر بارادہ قتل فائرنگ کرنے اور جاں بحق ہونے کا برخلاف ہر سہ کسان متذکرہ بالا دعویٰ ہوں۔ العبدہ دستخط۔ جبکہ مسی محمد زبیب ولد نبی خان برادر مقتول نے رپورٹ بالا کی تائید کی۔ العبدہ دستخط۔

کارروائی پولیس حسب گفتہ سائلہ رپورٹ حرف بحرف درج بالا ہو کر پڑھ کر سنا یا سمجھائی گی درست تسلیم کر کے زیر رپورٹ خود دستخط ثبت کی جبکہ تائید کنندہ نے تائیدی دستخط ثبت کی جسکی میں تصدیق کرتا ہوں مقتول کے کاغذات مرگ نقشہ ضرر بمطابق زخمت مرتب کر کے حوالہ ان ڈیوٹی CMO صاحب کی گئی۔ مضمون رپورٹ سے صورت جرم بالا کاپی جا کر مراسلہ بغرض قائمی مقدمہ بدست کنسٹیبل جواد ارسال تھانہ ہے مقدمہ درج رجسٹر کر کے حوالہ شعبہ انویسٹی گیشن کیجا دئے دستخط انگریزی امین خان SI انچارج چوکی صابر آباد 28/12/18 کارروائی تھانہ آمدہ مراسلہ حرف بحرف درج بالا ہو کر پڑھ کر مجرم بالا چاک کیا گیا نفل FIR بمعہ مراسلہ بغرض تفتیش عقب ارشاد خان SI/ کیا جاتا ہے SHO صاحب علاقہ گشت پر ہے انکو اور افسران بالا کو بطور پیش رپورٹ اطلاع دی جاتی ہے پڑھ بطور پیش رپورٹ گزارش ہے۔

A/S  
 27/2/2020

ٹیکسٹ نمبر 854 9016 0343 فارم نمبر ۳۳-۱۵ (۱)

اڈیشن نمبر 49 88384 0300

### ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

تاریخ	وقت وقوع	محل وقوع	تاریخ	وقت وقوع	محل وقوع
27	19:12	191	28	17:00	13:00
تاریخ وقوع	وقت وقوع	محل وقوع	تاریخ وقوع	وقت وقوع	محل وقوع
28	16:30	16:30	28	18:30	18:30
سکونت اطلاع دہندہ مستغیث	سماجی صلاحیات دفتر لعل بہادر نمبر 23	23	سکونت اطلاع دہندہ مستغیث	سماجی صلاحیات دفتر لعل بہادر نمبر 23	23
تقی کارڈ نمبر ایوب ایٹیل نمبر	05146 9194 392		تقی کارڈ نمبر ایوب ایٹیل نمبر	05146 9194 392	
مکینیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔			مکینیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔		
محل وقوع فاصلہ تھانہ سے اور سمت			محل وقوع فاصلہ تھانہ سے اور سمت		
سکونت ملزم	۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)		سکونت ملزم	۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)	
تقی کارڈ نمبر ایوب ایٹیل نمبر			تقی کارڈ نمبر ایوب ایٹیل نمبر		
روائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو			روائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو		
تاریخ وقوع			تاریخ وقوع		

ابتدائی اطلاع نیچے درج کرو۔

محل وقوع: ۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)۔

وقت وقوع: ۱۶:۳۰ بجے۔

محل وقوع: ۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)۔

وقت وقوع: ۱۸:۳۰ بجے۔

مکینیت جرم: (معدومہ) حال اگر کچھ لیا گیا ہو۔

محل وقوع فاصلہ تھانہ سے اور سمت: شاہ ناصر سہیل آباد۔

سکونت ملزم: ۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)۔

تقی کارڈ نمبر ایوب ایٹیل نمبر: 05146 9194 392۔

روائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو۔

تاریخ وقوع: 28۔

وقت وقوع: 16:30۔

محل وقوع: 16:30۔

تاریخ وقوع: 28۔

وقت وقوع: 18:30۔

محل وقوع: 18:30۔

مکینیت جرم: (معدومہ) حال اگر کچھ لیا گیا ہو۔

محل وقوع فاصلہ تھانہ سے اور سمت: شاہ ناصر سہیل آباد۔

سکونت ملزم: ۱۱۱ یوسف ولد نسیم خان (شاہ ناصر سہیل آباد)۔

تقی کارڈ نمبر ایوب ایٹیل نمبر: 05146 9194 392۔

روائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو۔

تاریخ وقوع: 28۔

وقت وقوع: 16:30۔

محل وقوع: 16:30۔

تاریخ وقوع: 28۔

وقت وقوع: 18:30۔

محل وقوع: 18:30۔

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(17)

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-VI, NOWSHERA

FIR No. 191 dated 28.12.2018 U/S 302/34 PPC PS NIZAMPUR

Amir Shahzad ... VS ... The State

0-1	20.08.2019	<p>Pre-arrest Bail Petition presented by Mr. Ijaz Ahmad Khan Advocate. Be checked and entered into the relevant register.</p> <p>Accused/petitioner (1) Amir Shahzad s/o Yousaf Khan (2) Asim Shahzad s/o Yousaf Khan, residents of Shaheen Abad Khan Kohi, Nizampur, District Nowshera are present in person. They apprehend their arrest in connection with case FIR No.191 dated 28.12.2018 registered under section 302/34 PPC, Police Station Nizampur, District Nowshera, and contend malafide and false implication. The petition is supported by an affidavit duly attested. In the absence of record, petitioners are admitted to ad-interim pre-arrest bail on furnishing bail bond in the sum of Rs.1,00,000/- with two local and reliable sureties each in the like amount to the satisfaction of this court.</p> <p>Notice be issued to State through prosecution and complainant and record be requisitioned for <u>27/08/19</u>. Meanwhile, petitioners are directed to appear before this court of Bench VI, Nowshera regularly till final disposal of the petition at 08:00 am sharp and to join the investigation, forthwith.</p> <p style="text-align: right;"><i>[Signature]</i> Ghulam Abbas Additional Sessions Judge-VI Nowshera <b>GHULAM ABBAS</b> Additional District Judge, VI Nowshera</p> <p><i>copy forwarded to SHO PS Nizampur for</i> <i>[Signature]</i> Reader</p>
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18

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Qazi Faez Isa  
Mr. Justice Qazi Muhammad Amin Ahmed

**CRIMINAL PETITION NO. 1382 OF 2019**

(Against the order dated 02.12.2019 of the Peshawar High Court, Peshawar passed in Crl. Misc. Bail Application No. 3226-P/2019)

*Amer Shahzad and another.* ... *Petitioners*

**Versus**

*The State through A.G. KPK and another.* ... *Respondents*

For the Petitioners: Mr. Basharatullah Khan, ASC.  
Syed Rifaqat Hussain Shah, AOR.

For State/Respondent No.1: Mr. Anis M. Shahzad, State Counsel  
a/w Raza Khan, SI, PS Nizampur.

Complainant/Respondent No.2: Mst. Salah Hayat, In-person.

Date of Hearing: 31.01.2020.

**ORDER**

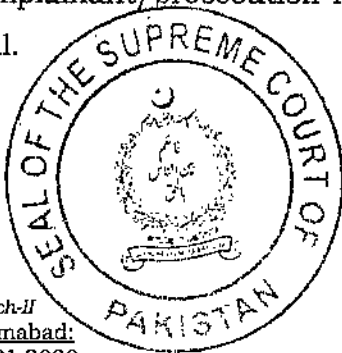
**Qazi Faez Isa, J.** FIR No. 191 was registered at Police Station Nizampur, District Nowshera at 4.30 pm on 28<sup>th</sup> December 2018 under sections 302 and 34 of the Pakistan Penal Code in respect of the murder of Waris Khan who is stated to have been killed at 1 pm earlier the same day. The complainant is the widow of Waris Khan and nominated Waris Khan's brother, namely, Yousaf Khan and his two sons, namely, Amer Shahzad and Asim Shahzad who were stated to be living in the same house where the complainant and her husband resided.

2. The learned counsel for the petitioners by referring to the postmortem report states that there was only one bullet injury on the body of the deceased which was on right thigh and one firearm is stated to have been recovered from Yousaf Khan, who remains in jail. He further states that the postmortem does not reveal any other injury and as such it is a case of one assailant and not three and no evidence has been collected as yet which would connect the present petitioners with the stated crime.

**ATTESTED**  
*[Signature]*  
Court Associate  
Supreme Court of Pakistan  
Islamabad

3. The learned State counsel along-with the complainant have opposed the bail application and state that the petitioners had flown from the crime scene and were arrested on 20<sup>th</sup> August 2019 whereas their father was arrested on 25<sup>th</sup> November 2019, the petitioners have been nominated in the FIR and at this juncture the role of the petitioners cannot be separated from that of their father.

4. We have heard the learned counsel for the petitioners, the learned State counsel and the complainant. The petitioners and the deceased resided in the same place which excludes criminal or house trespass. There is also only one injury on the body of the deceased which is on his right thigh caused by a firearm stated to have been recovered from co-accused Yousaf Khan. These facts taken together make it a case of further inquiry. We, therefore, grant bail to the petitioners in the said FIR subject to furnishing bail bond in the sum of two hundred thousand rupees each (Rs.200,000/-) with one surety each in the like amount to the satisfaction of the trial Court. This petition is converted into an appeal and allowed in the aforesaid terms. It is however clarified that if the petitioners misuse the concession of bail or intimidate the complainant and/or her family, the complainant/prosecution may move the Trial Court for cancelation of their bail.



Bench-II  
Islamabad:  
31.01.2020

Not Approved for Reporting  
(M. Tauseef)

*Handwritten signature and date:*  
03/02/20

*Handwritten initials:* Sd/-J  
SE  
CERTIFIED TRUE COPY  
*Handwritten signature and date:* 31/2/2020  
Court Associate  
Supreme Court of Pakistan  
Islamabad



**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 4531/2021

Aamir Shahzad,

No. 140 Ex-Constable Police Lines, Nowshera

R/O Mohallah Naso Khail, Inzarmi Qondhab, P.O Inzari, Tehsil and District,  
Nowshera.

.....Appellant

**V E R S U S**

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar etc

.....Respondents

**I N D E X**

<b>S.No.</b>	<b>Description of documents</b>	<b>Annexure</b>	<b>Pages.</b>
1.	Reply of Respondents	-	1-3
2.	Affidavit	-	04
4.	Detail of bad entries	A	05
5.	Copy of FIR	B	06-07
6.	Copy of charge sheet and statement of allegation.	C	08-09
7.	Copy of Final Show Cause Notice	D	10
8.	Copy of punishment order, departmental appeal and rejection order.	E	11-13
9.	Copy of mercy petition and rejection order	F	14-16
10.	Copy of daily diary vide No. 27	G	17
11.	Copy of enquiry report	H	18



**Inspector Legal,  
Nowshera**

①

**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 4531/2021

Aamir Shahzad,  
No. 140 Ex-Constable Police Lines, Nowshera  
R/O Mohallah Naso Khail, Inzarni Qondhab, P.O Inzari, Tehsil and District,  
Nowshera.

.....Appellant

**V E R S U S**

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.
4. SP/HQRS, Nowshera.
5. DSP Legal, Nowshera.
6. Enquiry Officer/ASP Nowshera Cant.:

.....Respondents

**REPLY ON BEHALF OF RESPONDENTS**

**Respectfully Sheweth: -**

**PRELIMINARY OBJECTIONS: -**

1. That the appellant has got no cause of action and locus standi.
2. That the appeal is badly barred by law and limitation.
3. That the appellant is estopped by his own conduct to file the instant appeal.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to the Honourable Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.

**Reply on Facts: -**

1. Incorrect. Involvement of appellant in criminal case reflects that he is not a law abiding citizen.
2. Para pertains to enlistment of appellant in Police Department, hence, needs no comments.
3. Pertains to record.
4. Incorrect. During short span of service, appellant earned many bad entries. (Detail of bad entries is annexure "A").
5. Incorrect. Constables and Head Constables are exempted from ACR/PER, in other words they are not required to get their ACR/PER remarked by their officers. Moreover, bad entries record is already annexed.
6. Incorrect. Appellant, alongwith his brother, was directly charged in the FIR by the complainant in FIR No. No. 191 dated 28-12-2018. (Copy of FIR is annexure "B").

- As far as grant of bail is concerned, bail does not mean acquittal or discharge from the charges.
7. Incorrect. Appellant was issued charge sheet alongwith statement of allegations, however, he failed to submit his reply to the same as he was absconder and was declared proclaimed offender. (Copy of charge sheet and statement of allegations is Annexure "C").
  8. Incorrect. Appellant was also issued Final Show Cause Notice. As appellant was proclaimed offender in a criminal case; therefore, the same was served on Asmat Ullah (Nazim of Khan Kohi, Nizampur) so that the same may be served on the appellant. (Copy of Final Show Cause Notice is annexure "D").
  9. Correct to the extent that respondent No. 03 i.e DPO Nowshera, on the recommendation of enquiry officer, awarded major punishment of dismissal from service to the appellant on 02-04-2019. Against the said order, appellant filed departmental appeal before the appellate authority i.e Deputy Inspector General of Police, Mardan Region-I, Mardan which was rejected being badly time barred. (Copy of order 02-04-2019, Departmental appeal dated 23-08-2019 and rejection order on appeal is annexure "E").
  10. Incorrect As per law/rules only one appeal can be filed against order of punishment. So, the appeal moved by appellant before Inspector General of Police, Khyber Pakhtunkhwa, cannot be considered as departmental appeal rather, was a Revision Petition/Mercy Petition, which was also rejected. (Copy mercy petition/departmental appeal to Inspector General of Police, Khyber Pakhtunkhwa and rejection order of mercy petition is annexure "F").
  11. Appeal of the appellant is liable to be dismissed inter-alia on the following grounds: -


**Reply on GROUNDS**


- A. Incorrect. Appellant was awarded major punishment of dismissal from service on the recommendation of enquiry officer as he (appellant) failed to join the enquiry proceedings. Moreover, as per daily diary report No. 27 dated 29-12-2018, Police Lines, Nowshera appellant proceeded on 02 days leave on 27-12-2018, while was charged in the above mentioned criminal case on 28-12-2018. Meaning thereby that prima facie he was involved in the case as on that very day he was on leave. (Copy of daily diary report is annexure "G").
- B. Incorrect. As departmental enquiry was conducted against appellant through the then ASP Nowshera Cantt. Appellant neither joined investigation to prove his innocence nor appeared before enquiry officer to give any evidence in his defense. Hence, enquiry officer recommended him for major punishment of dismissal from service. (Copy of enquiry report is annexure "H").
- C. Incorrect. Service record of the appellant is tainted with bad entries. (Detail already provided).

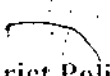
- D. Incorrect. Punishment awarded to the appellant is in consonance with the gravity of misconduct committed by the appellant and the impugned orders are in accordance with law/rules.
- E. Incorrect. Every opportunity of defense was provided to the appellant but he after commission of offence, remained absconder, thus he willfully avoided to join enquiry proceedings.
- F. As explained above.
- G. Incorrect. All proceedings against appellant were conducted after fulfillment of all legal and codal formalities. Detail reply have already been given in para ibid.
- H. Incorrect. Appellant not only absented himself from his lawful duty w.e.f 28-12-2018 till 02-04-2019, but was also charged/involved in a heinous criminal case.
- I. The respondents also seek permission of this Honourable Tribunal to advance additional grounds at the time of arguments.


Prayers


It is, therefore, most humbly prayed that on acceptance of above submissions, the appeal of the appellant may very kindly be dismissed with costs, please.

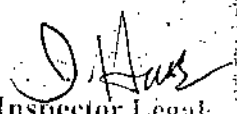
  
 Inspector General of Police,  
 Khyber Pakhtunkhwa,  
 Peshawar.  
 Respondent No.1

  
 Deputy Inspector General of Police,  
 Mardan Region-I, Mardan.  
 Respondent No. 02

  
 District Police Officer,  
 Nowshera.  
 Respondent No.03

  
 Deputy Superintendent of Police,  
 Head Quarters, Nowshera.  
 Respondent No. 04.

  
 Assistant Superintendent of Police,  
 Nowshera Cantt: Circle.  
 Respondent No. 06

  
 Inspector Legal,  
 Nowshera.  
 Respondent No. 05

(4)

**BEFORE THE HONOURABLE, KHYBER PAKHTUNKHWA, SERVICE,**  
**TRIBUNAL PESHAWAR**

Service Appeal No. 4531/2021

Aamir Shahzad,  
No. 140, Ex-Constable Police Lines, Nowshera  
R/O Mohallah Naso Khail, Inzarni Qondhab, P.O Inzari, Tehsil and District,  
Nowshera.

.....Appellant


**V E R S U S**


1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Nowshera.
4. SP/HQRS, Nowshera.
5. DSP Legal, Nowshera.
6. Enquiry Officer/ASP Nowshera Cantt.


.....Respondents


**AFFIDAVIT**


We the respondents No. 1, 2,3,4,5&6 do hereby solemnly affirm and declare on Oath that the contents of reply to the appeal are true and correct to the best of our knowledge and belief and nothing has been concealed from the Honourable tribunal.

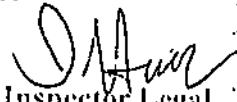
  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
Respondent No.1

  
Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
Respondent No. 02

  
District Police Officer,  
Nowshera.  
Respondent No.03

  
Deputy Superintendent of Police,  
Head Quarters, Nowshera.  
Respondent No. 04.

  
Assistant Superintendent of Police,  
Nowshera Cantt: Circle,  
Respondent No. 06

  
Inspector Legal,  
Nowshera.  
Respondent No. 05



⑤  
Annex A2

Detail of bad entries of ex-Constable Aamir Shahzad no. 140

1. Awarded minor punishment of forfeiture of approved service for two year for his willful absence from polio duty vide OB No. 1442 dated 26-10-2016.
2. Awarded minor punishment of forfeiture of approved service for two year for his willful absence from polio duty vide OB No. 1443 dated 26-10-2016.
3. Awarded minor punishment of censure and absence period of 05 days treated as leave without pay vide OB No. 907 dated 21-06-2017.
4. Awarded minor punishment of censure and absence period of 02 days treated as leave without pay vide OB No. 948 dated 30-06-2017.

\*\_\*\*

ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت قابل دست اندازی پولیس رپورٹ شدہ زبردستی ۱۵۴ مجموعہ ضابطہ فوجداری

نوشہ خلع نظام پور  
تاریخ 28/12/18 بوٹ 13:00

تاریخ وقت رپورٹ	28/12/18 وقت 16:30 بجے
نام و سکونت اطلاع دہندہ مستغیث	چا کیدگی 28/12/18 وقت 18:30 بجے
مختصر کیفیت جرم (مودفہ) حال اگر کچھ لیا گیا ہو۔	302/34 PPC
جانے وقوعہ فاصلہ تھانہ سے اور سمت	خانہ درعیہ واقع شاہین آباد خان کوہی
نام و سکونت ملزم	1- یوسف ولد نبی خان 2- عامر شہزاد 3- عاصم پسران یوسف خان ساکنان شاہین آباد خان کوہی
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بہر سیدگی تحریری مراسلہ پر مقدمہ درج رجسٹر کیا جاتا ہے۔
تھانہ سے روانگی کی تاریخ و وقت	بطور پیش رپورٹ

ابتدائی اطلاع نیچے درج کرو۔ بوٹ صدر بچہ ایک تحریری مراسلہ منجانب امین خان ASI بدست کنسٹیبل جواد 1314 موصول ہو کر

پہنچا ہے۔ بخدمت جناب SHO صاحب تھانہ نظام پور حسب اطلاع DHQ ہسپتال نوشہرہ کلاں آکر بمقام مردہ خانہ نعش ازاں مقتول وارث خان

ولد نبی خان بمر 40/42 سال ساکن شاہین آباد خان کوہی نظام پور پڑی پا کر جس کے ساتھ زوجہ اش مسماہ صاحبہ حیات دختر لعل بہادر بمر 22/23 سال

ساکن دیہہ ام موجود پا کر بتائی درست ہوش و حواس میں یوں رپورٹ کرتی ہے کہ آج میں نندہ خاندان مقتول وارث خان و دیگر اہلخانہ گھر خوش میں موجود تھی کہ اس

دوران خاندان کھڑے پاؤں رہا تھا کہ اس دوران مسیان یوسف ولد نبی خان، عامر شہزاد، پسران یوسف خان ساکنان دیہہ ام آکر خاندان کیساتھ لکڑیوں کے

توڑنے پر بحث و تکرار شروع کر کے خاندان پر گزرت شروع کی دوران مار پیٹ خاندان گھر کے چھت پر چڑھ گیا جبکہ میں بھی خاندان کے پیچھے چت پر چڑھ گئی

بعد میں مسیان بالا گھر سے باہر نکل کر اپنے اپنے اسلحہ آتشیں سے خاندان پر بار بار قتل فائرنگ شروع کی جسکی فائرنگ سے خاندان لگ کر موقع پر جاں بحق ہوا

وقوعہ ہذا میرے علاوہ دیگر موجودگان کا چشم دید ہے، وجہ عناد لکڑیوں کی تقسیم پر تھی تکرار ہے میں خاندان مقتول وارث خان پر بار بار قتل فائرنگ کرنے اور جاں

بحق ہونے کا برخلاف ہر سہ کسان متذکرہ بالا دو دیدار ہوں۔ العبد و دستخط۔ جبکہ مسی محمد زبیب ولد نبی خان برادر مقتول نے رپورٹ بالا کی تائید کی۔ العبد و دستخط۔

کارروائی پولیس حسب گفتہ سائلہ رپورٹ حرف بحرف درج بالا ہو کر پڑھ کر سنایا سمجھائی گی درست تسلیم کر کے زیر رپورٹ خود دستخط ثبت کی جبکہ تائید کنندہ نے

تائیدی دستخط ثبت کی جسکی میں تصدیق کرتا ہوں مقتول کے کاغذات مرگ نقشہ ضرر بر مطابق زخماں مرتب کر کے حوالہ ان ڈیوٹی CMO صاحب کی گئی۔ مضمون

رپورٹ سے صورت جرم بالا کاپی جا کر مراسلہ بغرض قائمی مقدمہ بدست کنسٹیبل جواد ارسال تھانہ ہے مقدمہ درج رجسٹر کر کے حوالہ شعبہ انویسٹی گیشن کیا ورنے

دستخط انگریزی امین خان SI انچارج چوکی صابرا آباد 28/12/18 کارروائی تھانہ آمدہ مراسلہ حرف بحرف درج بالا ہو کر پڑھ کر سنایا سمجھائی گیا مقتول

FIR بعدہ مراسلہ بغرض تفتیش عقب ارشاد خان SI کیا جاتا ہے SHO صاحب علاقہ گشت پر ہے انکو اور افسران بالا کو بطور پیش رپورٹ اطلاع دی جاتی ہے۔

بچہ بطور پیش رپورٹ گزارا ہے۔

AS

27/2/2020



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Amey: C

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17-1-19

**DISCIPLINARY ACTION**

I, **Mansoor Aman, PSP**, District Police Officer, Nowshera as competent authority am of the opinion that **Constable Aamir Shehzad No. 140** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Rules, 1975.

**STATEMENT OF ALLEGATIONS**

Whereas, **Constable Aamir Shehzad No. 140**, while posted at Shaheen Squad, now suspended Police Lines, involved in case FIR No. 191 dated 28.12.2018 u/s 302/34 PPC PS Nizampur, which amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

For the purpose of scrutinizing the conduct of the said accused official with reference to above allegations, **Mr. Tassawar Iqbal, ASP Cantt Nowshera**, is hereby nominated as Enquiry Officer.

The Enquiry Officer shall in accordance with the provision of Police Rules, 1975, provides reasonable opportunity of hearing to the defaulter official, record his findings and make immediate recommendations as to punish or other appropriate action against the defaulter official.

**Constable Aamir Shehzad No. 140** is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

District Police Officer,  
Nowshera.

No. 02 /PA,  
Dated 2/1 /2019.

Asst. Secy. Nowshera  
10/1/19

9

**CHARGE SHEET**

1. I, **Mansoor Aman, PSP** District Police Officer, Nowshera, as competent authority, hereby charge **Constable Amir Shehzad No. 140** as per Statement of Allegations enclosed.
2. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
3. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
4. Your written defense, if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in persons.



**District Police Officer,  
Nowshera.**

10

Amir Shehzad

FINAL SHOW CAUSE NOTICE

Whereas, you Constable Amir Shehzad No. 140 while posted at Shalimar Squad, involved in case FIR No.191 dated 28.12.2018 u/s 302/24 PPC PS Nizampur.

On account of which you were placed under suspension, closed to Police Lines Nowshera & proceeded against departmentally through Mr. Tassawar Iqbal, ASP Cantt. Nowshera who after fulfillment of legal formalities submitted his report to undersigned vide his office letter No. 122/St: dated 11.02.2018, highlighted therein that you are still at large and avoiding from lawful arrest. You neither joined investigation of the case, nor appear before the undersigned to clarify your position and prove your innocence by providing any available evidence in your favor and suggested ex-parte action against you.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975

Hence, I, Mansoor Aman, PSP, District Police Officer Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you

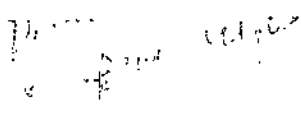
Your reply shall reach this office within 07 days of the receipt of this notice failing which, it will be presumed that you have no defense to offer.

You are at liberty to appear for personal hearing before the undersigned.

  
District Police Officer,  
Nowshera.

No. 61 /PA.  
Dated 26/03/2019.





## ORDER

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Amir Shehzad No. 140, under the allegations that he while posted at Shahcen Squad, now suspended Police Lines, involved in case FIR No. 13 dated 28.12.2018 u/s 302/34 PPC PS Nizampur.

On account of which he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Tassarwar Iqbal, ASP Cantt Nowshera, who after conducting enquiry submitted his report to undersigned vide his office Enclst: No. 122/St dated 11.02.2019, highlighted therein that the delinquent official is directly charged in the said case and is evading from lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by affording any available evidence in his favor. Since he is absconding and not responded to charge sheet and suggested ex-parte action against him.

He was served with Final Show Cause Notice through Asmatullah, Nazim village Council, Khan Koi, Nizampur, but he failed to submit his reply within the stipulated time.

In the light of above discussion, Constable Amir Shehzad No. 140 is hereby awarded ~~with~~ punishment of dismissal from service with counting his absence period as leave without pay with immediate effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975. He is posted in Police Lines for one year.

OB.No. 389

Dated 2/4 /2019

District Police Officer,  
Nowshera

No. 1604-08 /PA, dated Nowshera, the 02/04 /2019.

Copy for information and necessary action to the:

1. DSP HQrs Nowshera.
2. Pay Officer.
3. Establishment Clerk.
4. OHC.
5. FMC with its enclosures (14 sheets).

*Better copy*

ORDER

This order will dispose off a departmental enquiry initiated under Khyber Pakhtunkhwa Police Rules-1975, against Constable Aamir Shehzad No. 140, under the allegations that he while posted at Shaheen Squad, now suspended Police Lines; involved in case FIR No. 191 dated 28.12.2018 u/s 302/34 PPC PS Nizampur.

On account of which he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Tassarwar Iqbal, ASP Cantt Nowshera, who after conducting enquiry submitted his report to undersigned vide his office Endst: No. 122/St: dated 11.02.2019, highlighted therein that the delinquent official is directly charged in the said case and is evading from lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by affording any available evidence in his favor. Since he is absconding and not responded to charge sheet and suggested ex-parte action against him.

He was served with Final Show Cause Notice through Asmatullah, Nazim village Council, Khan Koi, Nizampur, but he failed to submit his reply within the stipulated time.

In the light of above discussion, Constable Aamir Shehzad No. 140 is hereby awarded major punishment of dismissal from service with counting his absence period as leave without pay with immediate effect, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975. He is posted in Police Lines for one year.

OB No. 389

Dated 2/4 /2019

**District Police Officer,  
Nowshera**

No. \_\_\_\_\_/PA, dated Nowshera, the \_\_\_\_\_/2019.

Copy for information and necessary action to the:

1. DSP HQrs Nowshera.
2. Pay Officer.
3. Establishment Clerk.
4. OHC.
5. FMC with its enclosures (14 sheets).



13

140

Annex: E

**ORDER.**

This order will dispose-off the departmental appeal preferred by **Ex-Constable Aamir Shahzad No. 140** of Nowshera District against the order of District Police Officer, Nowshera, whereby he was awarded Major punishment of dismissal from service vide OB: No. 389 dated 02.04.2019.

Brief facts of the case are that, the appellant, while posted at Shaheen Squad, involved in case FIR No. 191 dated 28.12.2018 u/s 302/34 PPC PS Nizampur.

On account of which he was suspended, closed to Police Lines and proceeded against departmentally through Mr. Tassarwar Iqbal, the then ASP Cantt Nowshera, who after conducting enquiry submitted his report to District Police Officer, Nowshera, highlighted therein that the delinquent official is directly charged in the said case and is evading from his lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by advancing any evidence in his favor. Since he is absconding and failed to response to charge sheet, therefore suggested ex-parte action against him.

He was served with Final Show Cause Notice through Asmatullah, Nazim village Council, Khan Koi, Nizampur, but he failed to submit his reply within the stipulated period.

In the light of above discussion, the accused Constable was awarded major punishment of dismissal from service with counting his absence period as leave without pay vide District Police Officer, Nowshera OB: No. 389 dated 02.04.2019.

He was called in orderly room held in this office on **08.10.2019** for defending himself but the appellant being directly charged in the above mentioned case went into hiding after the commission of offence. Resultantly he neither bothered to join Investigation nor joined the entire Inquiry proceedings, meaning thereby that had nothing to offer in his defence. Besides the appellant was awarded punishment of dismissal from service vide Order Book No. 389 dated 02.04.2019, while he preferred the instant appeal on 23.08.2019, which is barred by law. Therefore, appeal of the appellant is hereby rejected.

NO. 1949/PA  
dt 17/10/19

Be/Fmc.  
For action

ORDER ANNOUNCED.

*(Signature)*  
**(MUHAMMAD ALI KHAN)PSP**  
Regional Police Officer,  
Mardan.

No. 13007/ES,

Dated Mardan the 15/10 /2019.

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 6460/PA dated 23.09.2019. His Service Record is returned herewith.  
(\*\*\*\*\*)

To,

Worthy Inspector General of Police,  
Khyber Pakhtunkhwa.

Subject: APPEAL AGAINST THE ORDER VIDE OB NO. 389 DATED 02.04.2019 WHEREBY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE.

Respected Sir,

1. That the appellant while posted at Shaheen Squad was falsely implicated in a criminal case vide FIR No. 191 dated 28.12.2018 u/s 302/34 ppc Police Station, Nizampur that on account of appellants false involvement in the aforementioned case, enquiry was initiated and the same was entrusted to ASP Nowshera Cantt.
2. That the enquiry officer has neither associated the appellant with the enquiry proceedings nor summoned for defending himself.
3. That the sole ground for proving the appellant guilty has been mentioned as direct involvement / charge in the aforementioned FIR and the appellant has not been provided even a single opportunity to defend himself rather on the ground of mere absconsion ex-party proceedings has not been fulfilled rather the entire proceedings have been carried out in an arbitrary in whimsical manner.
4. That the competent authority has also not provided right of self defence to the appellant and impugned order of dismissal from service was passed which is in sheer violation of settle principal of audi alteram partem and principal of natural justice.

(15)

5. That the appellant is completely innocent and he has been involved as a complaint party has personal grudges/ill will against the appellant, therefore, he has been falsely involved in the above mentioned case.
6. That the impugned order is extremely harsh and against the canon of natural justice hence, the same warrants interference.
7. That the appellant has approached competent court and managed bail before arrest and there is every likelihood that the same will be confirmed because complainant party has no solid proof to establish my presence.

It is therefore, requested that on acceptance of above submissions, the punishment order whereby the appellant was awarded major punishment of dismissal from service may very kindly be set aside and the appellant be reinstated into service from the date of suspension with all back benefits according to the decision of the Hon'ble Supreme Court of Pakistan.

Yours Obediently

Amir Shehzad  
Ex-Constable  
Belt No. 140  
0313-9601519



INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

1/21, dated Peshawar the 04/03/2021.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Aamir Shahzad No. 140. The petitioner was dismissed from service by District Police Officer, Nowshera vide OB No. 389, dated 02.04.2019 on the allegations that he while posted at Shaheen Squad was involved in case FIR No. 191, dated 28.12.2018 u/s 302/34 PPC PS Nizampur. His appeal was rejected being time barred by Regional Police Officer, Mardan vide order Endst: No. 13007/ES, dated 16.10.2019.

Meeting of Appellate Board was held on 21.01.2021 wherein petitioner was heard in person. Petitioner contended that his case is under trial in the court.

The petitioner was heard and all record perused. His case is under trial in the court. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

**KASHIF ALAM, PSP**

Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 912-20 /21,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 3915-16/ES, dated 25.06.2020 is returned herewith for your office record.
2. District Police Officer, Nowshera.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

(~~IRFAN ULLAH KHAN~~) PSP  
ADC Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

EC/DPO, NSR  
For n. action

RPO, Mardan

11/3/21

EC/FML  
For n. action

No. 547/PA  
dt 17/03/2021

DPO NSR  
17/3/21

No - 1471/ES  
DR - 17-3-21  
(Encl 5 (2017 Missal))

ریجنل ایجنسی

نمبر 27 - سٹاج 12/018 29  
= x =

27  
ریورٹ  
غرمائوں

بہرہ خان صاحب سے 20:30، 29/12/018  
دینے صبیہ سینیٹر عامر شہزاد 140 شیخ شاہین سکول  
جس کے بچوں میں 57 سٹاج 12/018 27 رخصت (2) بچے  
دیگر خود رونے لگا تھا تو آج لہذا زار نے

سے والی حق نہیں تھا حال حاضر میں آیا۔  
شاہین سکول کے اخراج اور پتہ پراری  
سے دیکھ کر یہاں مذکورہ سینیٹر عامر شہزاد 140  
بچوں کے مقدم عدالت 191 درجہ 12/018 28 فرم 34/302  
تھا، نظام پور میں ملکوت آباد آیا ہے جس میں اس  
سلسلے میں ریورٹ دینے کے لئے نیشنل انسٹیٹیوٹ  
کا خیریت میں ارسال کیا گیا ہے

جانب سے  
ریجنل ایجنسی  
07-01-019

Sir,  
FORWARDED PLs  
RI. PL. NOWSHERA  
07-01-019

RI  
Nadi to be arrested  
as per law if he  
comes to police lines.

DY-1318 - R.P.  
07-01-019



(18) Annex, "A1"

**OFFICE OF THE  
ASSISTANT SUPERINTENDENT OF P  
NOWSHERA CANTT CIRCLE**

Tel No. 0923-9220108, Email: sdponsreantt@gmail.com

2019

**ENQUIRY REPORT CONSTABLE AMIR SHEHZAD NO. 140 ,POLICE LINES NOWSHERA.**

**ALLEGATIONS:**

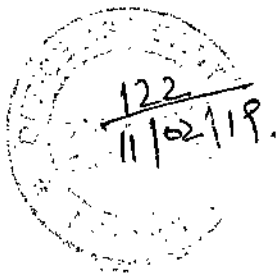
Whereas, Constable Amir Shehzad No. 140, while posted shaheen squad , now suspended police lines Nowshera found involved in case vide FIR No. 191 dated 28.12.2018 u/s 302/34-PPC, PS Nizampur, which amounts to grave misconduct on his part and rendered him liable for Minor/Major punishment under Khyber Pakhtunkhwa Police Rules, 1975.

**PROCEEDINGS**

The delinquent police official was contacted through his cell phone No. 0313-9601519, which was not responding. He is absent from the Shaheen Squad. The official was also searched through local police of PS Nizampur, wherefrom it was confirmed that he is PO on record of police station Nizampur vide FIR No. 191/2018 u/s 302/34-PPC, PS Nizampur. In this regard report of IO of the above case obtained wherein he stated that the presence of Constable Amir Shehzad No. 140 was verified on spot with the help of CDR analyses when he was officially on leave from Police Lines Nowshera. The charged accused have been absconding from lawful arrest and declared POs by the local police. On 09.01.2019, complete challan in the said case has been submitted to court u/s 512 Cr.Pc.

**FINDING:**

The delinquent police official is directly charged in the said case and is evident from the statement of IO that he is absconding from the lawful arrest. He did not join investigation of the case to clarify his position and prove his innocence by affording any available evidence in his favor. Since he is absconding and has not responded to charge sheet, the enquiry is finalized as ex-parte. Therefore, the undersigned is of the view that the Constable Amir Shehzad No. 140 may be dismissed from service, if agreed, for his being involvement in case FIR No. 191 dated 28.12.2018 u/s 302/34-PPC, PS Nizampur.



Assistant Superintendent of Police,  
Nowshera Cantt Circle,

~~ASO~~  
Dismissed  
P

PA  
Dismissed from service  
as per rules.

07/03/19

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

In Re:..

Service Appeal No. 4531/ 2021.

Aamir Shahzad .....Appellant

**V E R S U S**

Inspector General of Police and others.....Respondents

**Rejoinder on behalf on appellant to  
the comments submitted by  
respondents**

**Respectfully Sheweth:**

All preliminarily objections raised by respondents are vexatious, irrelevant, without footing and not supported by a single piece of evidence, hence are not maintainable.

1. The appellant has a cause of action/locus standi.
2. The appeal of the appellant is well within time.
3. The appellant has not be estopped to being the instant appeal
4. That the appeal of the appellant is well maintainable.
5. That the appellant has come to the Hon'ble Tribunal with clean hands.
6. There is no misjoinder and non-joinder of necessary party. All necessary parties have been arrayed as respondents in the appeal.
7. The Hon'ble Tribunal has got the jurisdiction to adjudicate upon the matter.

**Parawise Re-joinder:**

1. Para No. 1 has wrongly been commented upon. The comments of the respondents in are misconceived and misleading whereas para of the appeal of the appellant is correct and evidence based. The status of FIR on the basis of which the impugned department proceedings were initiated against the appellant is nothing more than baseless allegations unless the appellant is convicted after fair trial by the competent court of law. It is settled principal of law that an accused person is presumed to be innocent child of law unless proved guilty,
2. Paras No 2-3 of the comments need no rejoinder, being not commented upon by the respondents . However, para No. 2 and 3 of the appeal are factual and are correct.
3. Para No. 4 of the comments has wrongly been drafted. The para No: 4 of the appeal is very much correct.
4. Para No. 5 of the comments has wrongly been drafted. The para No. 5 of the appeal is very much correct.
5. Para No. 6 of the comments has wrongly been drafted. The para No. 6 of the appeal is very much correct.
6. Para No. 7 of the comments has wrongly been drafted. The para No. 7 of the appeal is correct.
7. Para No. 8 of the comments has wrongly been drafted whereas para of the appeal is correct.
8. Paras No. 9 & 10 of the comments have wrongly been drafted whereas paras of the appeal are correct.



9. Para No. 11 of the comments has wrongly been drafted. The appeal of the appellant may kindly be allowed

**GROUNDS**

- A. Ground A of the comments has wrongly been drafted, whereas Ground A of the appeal is correct.
- B. Ground B of the comments has wrongly been drafted whereas Ground B of the appeal is correct.
- C. Grounds C of the comments has wrongly been commented, whereas ground C of the appeal is correct.
- D. Ground D of the comments has wrongly been commented, whereas ground of the appeal is correct.
- E. Grounds E & F of the grounds have wrongly been commented, whereas grounds of the appeal are correct.
- F. Grounds G & H of the grounds have wrongly been commented, whereas grounds of the appeal are correct.
- G. Ground I Needs no reply.

It is, therefore, most humbly prayed that the appeal of the appellant may please be allowed as per relief mentioned in the appeal.

Appellant

Through

**Muhammad Anwar**

**Jahanzeb Shinwari**

Advocates, Peshawar

Date: \_\_\_/\_\_\_/2022

**AFFIDAVIT**

I do hereby solemnly affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief.

**DEPONENT**