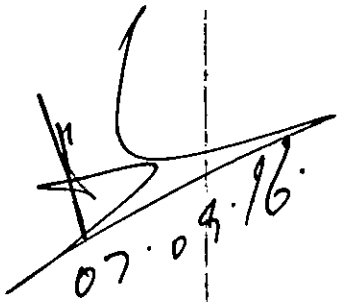


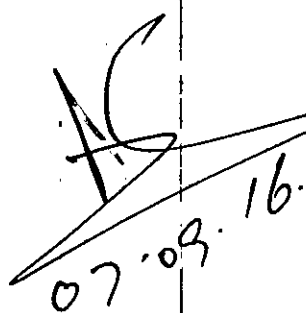
S.No.	Date of Order or proceeding	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	07.09.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> (CAMP COURT SWAT)</p> <p style="text-align: center;">Appeal No. 109/2015</p> <p style="text-align: center;">Bakht Muhammad Khan Versus District Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant with counsel and Mr. Javed Afsar, Inspector (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present.</p> <p>2. Bakht Muhammad Khan, Ex-Head Constable No. 348, District Police, Buner hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned final order dated 12.12.2014 whereby 2 years approved service of the appellant was forfeited with stoppage of 2 increments with accumulative effect.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as MHC at Police Station Nawagai when subjected to enquiry for missing of Rs. 8,000/- in salaries of police personals of Police Station Nawagai for the month of February, 2014 and vide original order dated 03.07.2014 dismissed from service where-against departmental appeal was</p>


07.09.16

preferred wherein the said dismissal order was modified and punishment stated above was awarded to the appellant vide impugned order dated 12.12.2014 and hence the instant service appeal on 12.1.2015.

4. Learned counsel for the appellant has argued that the appellant reported the incident of deficiency of Rs. 8,000/- in salaries of the police personals of Police Station Nawagai to the DPO Buner as the SHO was away from station due to his engagement before the Hon'ble Peshawar High Court, Peshawar. That the appellant has visited the office of Pay Officer and thereafter reported the incident at the District Police Officer (DPO) after consulting the Pay Officer as well as the said SHO. That the deficient amount was paid by the appellant. That the appellant was a complainant and that a person of prudent mind would never agitate a complaint against his own person. That the appellant was poor and not in a position to afford deficiency and was therefore constrained to bring the incident in the notice of his high-ups. That the complainant was not found guilty for misappropriation and was punished for the charge which were not substantiated in the enquiry.

5. Learned counsel for the appellant has placed reliance on reported case 2005-PLC (C.S)224 (Sindh Service Tribunal) wherein punishment awarded to a civil servant approaching higher authorities was considered a "mere irregularity" and punishment awarded to him was converted into that of stoppage of increment for one year without cumulative effect. He also placed reliance on 2012-PLC(C.S) 197 (Federal Service Tribunal) wherein the concerned civil servant had submitted direct

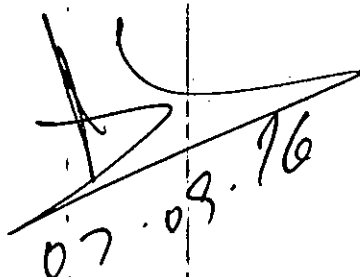

07.09.16.

application to the Inspector General of Police for his transfer who was found guilty of breaking the chain of command. The court has observed that mere sending representation by subordinate directly to his senior officer was not an act which could be treated as "misconduct".

6. Learned Senior Government Pleader has argued that impugned order was quite proper and passed by the appellate authority after taking into account all attending circumstances. That the same was neither harsh nor warrants interference by this Tribunal.

7. We have heard arguments of learned counsel for the parties and perused the record.


8. Perusal of record placed before us would suggest that the incident was that of deficiency in cash ~~for~~ amounting to Rs. 8,000/-, in salaries of police personals of Police Station, Nawagai regarding the month of February, 2015. It is neither evident from the enquiry nor rule or code of conduct was referred to, to ascertain and hold that the appellant was not in a position to bring the said incident in the notice of the District Police Officer, Buner more particularly when he has visited the District Headquarter in official capacity and was present in the vicinity for resolving the issue with pay officer and when the immediate officer of the appellant i.e. SHO Police Station Nawagai was away due to his engagement before the Hon'ble Peshawar High Court, Peshawar. There is no evidence on record to observe that any complaint was submitted either by the SHO concerned or by any other superior officer of the appellant regarding direct approach

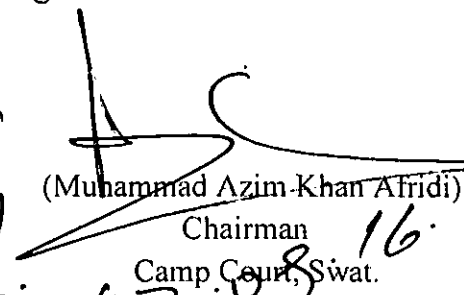

07.09.16

of the appellant in the shape of submitting a proper application before the DPO who was otherwise obliged to take notice of such incident. It was not disputed that the deficient amount complained of by the appellant was paid by the appellant from his own pocket.

9. It is also evident from the record that the said SHO was also subjected to enquiry and awarded major punishment by reducing him in the rank and pay to that of Sub Inspector vide order dated 03.7.2014 which order was set aside by the appellate authority and the said SHO was reinstated to his previous position.

10. Since the case of the appellant neither falls within the ambit of mis-appropriation nor breaking of chain of command by submitting an application to the head of the District Police, as such we are constrained to accept the present appeal and set aside the impugned order dated 12.12.2014 and, as a consequence thereof, restore 2 years service of the appellant to his credit including the 2 increments from the date when the same were taken away from the credit of the appellant. Parties are left to bear their own costs. File be consigned to the record room.


 (Abdul Latif)
 Member



 (Muhammad Azim Khan Afridi)
 Chairman
 Camp Court, Swat.

07.08.16

ANNOUNCED
07.09.2016


07.12.2015

Counsel for the appellant and Mr. Pervaiz Khan,
Inspector (legal) alongwith Assistant A.G for respondents
present. Comments submitted. Cost of Rs.1000/- also paid
and receipt thereof obtained from the learned counsel
for the appellant. The appeal is assigned to D.B for
rejoinder and final hearing for 4.4.2016 at Camp Court
Swat.


Chairman
Camp Court Swat


04.04.2016


Appellant in person and Mr. Hifsan, SI (Legal)
alongwith Mr. Anwarul Haq, GP for the respondents present.
Due to non-availability of D.B arguments could not be heard. To
come up for final hearing before D.B on 07.06.2016 at Camp
Court, Swat.


Chairman
Camp court, Swat.

07.06.2016

Counsel for the appellant and Mr. Muhammad Zubair,
Sr.GP for the respondents present. Appellant has not submitted
rejoinder therefore arguments could not be heard. Directed to submit
rejoinder. To come iup for rejoinder and final hearing on 07.09.2016
before D.B at camp court, Swat.


Member


Chairman
Camp court, Swat.

6.


1.6.2015

Appellant in person and Mr. Anwar-ul-Haq, G.P

for respondents present. Requested for adjournment.

To come up for written reply/comments at camp court

Swat on 3.8.2015.


Chairman
Camp Court Swat

7

3.8.2015

Appellant in person and Mr. Muhammad Zubair, Sr.GP for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 5.10.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

5.10.2015

Appellant with counsel and Mr. Muhammad Saeed, Inspector (legal) alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be paid by the respondents from their own pockets. To come up for written reply/comments and cost on 7.12.2015 before S.B at Camp Court Swat.


Chairman
Camp Court Swat

4.

25.03.2015

Agent of counsel for the appellant present. Requested for adjournment as learned counsel for the appellant is stated sick. Adjourned for preliminary hearing to 16.4.2015 before S.B.


Chairman

5. 16.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that appellant was serving as Additional Moharir at PS Nawagai when vide impugned order dated 03.07.2014 he was dismissed from service regarding which he preferred departmental appeal to RPO on 08.07.2014 which was accepted on 02.09.2014 and the case was remitted to DPO for *de novo* enquiry where-after the case was resubmitted to RPO who vide impugned order dated 12.12.2014 imposed the penalty of forfeiture of approved service for two years and stoppage of two increments with accumulative effect including transfer of the appellant from District Buner to Dir Lower.

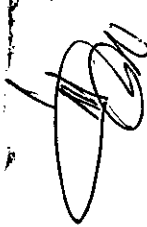
That the appellant was neither responsible for the deficiency in cash amount of salary nor held so by the first enquiry officer.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 01.06.2015 before S.B.

The appeal pertains to the territorial limits of Malakand Division and as such to be heard at camp court Swat.


Chairman

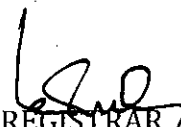

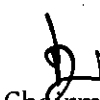
Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 109/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.02.2015	<p>The appeal of Mr. Bakht Muhammad Khan resubmitted today by Mr. Sahibzada Assadullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	23-2-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>25-2-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	25.02.2015	<p>None present. Appeal be relisted and notice be issued to learned counsel for appellant for preliminary hearing before S.B for 25.03.2015.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Bakht Muhammad Khan Ex-Head Constable No. 348 Distt. Buner received to-day i.e. on 12.01.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Index of the appeal may be prepared according to rules.
- 3- Copies of charge sheet, statement of allegations and replies thereto are not attached with the appeal which may be placed on it.
- ④ Copy of dismissal order is not attached with the appeal which may be placed on it.
- 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 6- Annexures of the appeal may be attested.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 37 /S.T,

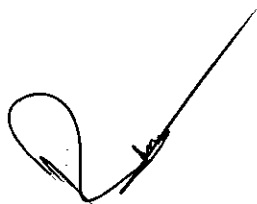
Dt. 12/1/2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Sahibzada Asadullah Adv. Pesh.

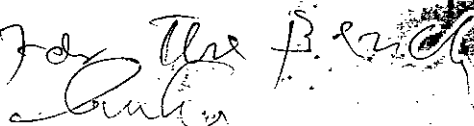
R/sir.

Re submitted offer remission
Phase put up to the court.



39/1/15 AS the appellant was

awarded major punishment
but not dismissal so there
is no dismissal order against
the appellant.

may be placed before the Bench


BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,

PESHAWAR

Service Appeal No. 109 /2015

Bakht Muhammad Khan..... **Appellant**

Versus

I.G.P, KP, Peshawar & others..... **Respondents**

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-7
2.	Affidavit		8
3.	Addresses of the parties		9
4.	Copy of charge sheet	"A"	10-11
5.	Copy of show cause notice	"B"	12
6.	Copy of finding report	"C"	13-14
7.	Copy of order	"C/1" ²	15
8.	Copy of departmental appeal	"D"	16-17
9.	Copy of order dated 02.09.2014 alongwith better copy	"E"	18
10.	Copy of order dated 12.12.2014	"F"	19
11.	Wakalatnama		20

Through

Appellant

Sahibzada Asadullah

Advocate Supreme Court

Dated: 12.01.2015

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 109 /2015

Bakht Muhammad Khan
Ex-Head Constable, No.348, District Bunner. . . . **Appellant**

Versus

A.W.F. Province
Service Tribunal
Diary No. 23
dated 12-1-2015

1. Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer (DIG),
Malakand at Saidu Sharif, Swat.
3. District Police Officer, Bunner. **Respondents**

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT,
1974 AGAINST THE ORDER OF RESPONDENT
NO.3 DATED 03.07.2014, WHEREBY THE
APPELLANT WAS DISMISSED FORM SERVICE
AND ORDER DATED 02.09.2014 WHEREBY
DEPARTMENTAL APPEAL OF THE APPELLANT
WAS DISMISSED AS WELL AS SUBSEQUENT
IMPUGNED ORDER OF RESPONDENT NO.2
DATED 12.12.2014 WHEREBY 2 YEARS
SERVICE OF THE APPELLANT HAS BEEN
FORFEITED WITH STOPPAGE OF TWO
INCREMENTS ALONGWITH TRANSFER TO
DISTRICT DIR.

Filed to-day
12/1/2015
Registrar

Respectfully Sheweth:

1. That the appellant joined Police Department as Constable in the year 06.04.2001 and later on promoted to the Rank of Head Constable. The appellant lastly served in Police Station Nawagai, District Bunner as MHC.

re-submitted to-day
and filed.

13/2/15
Registrar

2. That on 03.03.2014, SHO Nawagai handed cash amount of police salaries to the appellant for distribution, while distributing salaries among police personnel, the appellant found tampered and its seal was broken. The cash bundle composed of notes 1000 Pakistani rupees. The bundle was counted and it was found that Rs.8000/- i.e. 8 notes each valued 1000 were missing/ deficient.
3. That whole process of counting the cash bundle was witnessed by Head Constable Khurshaid Ali No.68, Head Constable Muhammad Rehman and Ajmal Khan ASI. They also witnessed the tampered cash bundles with broken seal and verified the fact of 8000 rupees deficient/ misappropriated.
4. That soon after coming into knowledge the fact of deficiency/ misappropriation in cash amount of salaries, the SHO, Police Station Nawagai Mr. Bakht Zamin and other immediate officers were informed. The then SHO Police Station Nawagai denied any kind of deficiency and misappropriation in the cash amount of salaries.
5. That being a member of poor family, the appellant could not pay the deficient amount from his own

pocket, therefore, approached the DPO Bunner through written application and the matter of deficiency/ misappropriation in amount of salaries was brought into his knowledge.

6. That after being informed the DPO Bunner ordered a fact finding inquiry, was conducted by Inspector Noor Jalil Khan C.O Circle Daggar, Bunner. The Inquiry Officer concluded and found the fact that SHO Police Station Nawagai Mr. Bakht Zamin was solely responsible for deficiency/ misappropriation of amount.
7. That show cause notice and charge sheet were against the then SHO Police Station Nawagai and departmental inquiry was conducted by SDPO Circle Totalai, who concluded that Bakht Zamin the then SHO Police Station Nawagai and the appellant were equally responsible in connection with deficiency in cash amount, whereas recommended appropriate punishment with further recommendation to recover the misappropriated/ deficient amount from Bakht Zamin and then SHO Police Station Nawagai. (Copies of charge sheet, show cause notice and finding report are attached as annexure "A", "B" & "C" respectively).

8. That upon the recommendation of Inquiry Officer, the District Police Officer Bunner awarded major punishment of reduction in rank and pay to S.I Bakht Zamin, whereas the appellant was dismissed from service with immediate effect. (Copy of order is attached as annexure "C/1").
9. That the appellant filed a departmental appeal before the Regional Police Officer, Malakand at Saidu Sharif, Swat (respondent No.2), which was disposed off vide order dated 12.12.2014 and the appellant has been awarded major punishments of forfeiture of approved service for two years, stoppage of two increments with accumulative effect, transferred to Dir Lower District on complaint being instigator and creator of problems for his SHOs and other senior officers. (Copies of departmental appeal and orders are attached as annexure "D", "E" & "F" respectively).
10. That being aggrieved the appellant prefers this appeal on the following grounds amongst others, inter alia;

GRUNDS:

- A. That the order dismissing the appellant from service is illegal, unjust, ultra-vires and void-ab-initio.
- B. That the whole departmental proceedings were against Mr. Bakht Zamin the then SHO Police Station Nawagai on allegations of misappropriation, whereas the appellant brought his misappropriation into the knowledge of immediate and senior officers, nevertheless the appellant was dismissed from service.
- C. That fact finding inquiry was conducted by Mr. Noor Jalil Khan C.O Circle Daggar and found that solely the then SHO Bakht Zamin was responsible for deficiency and misappropriation of amount. Therefore, no reason and rational lies behind the dismissal of the appellant from service.
- D. That departmental proceedings were conducted against Bakht Zamin, whereas no show cause, explanation statement of allegations, grounds of action and charge sheet was issued against the appellant.
- E. That appellant was complainant against the then SHO Police Station Nawagai, his complaint was

proved during fact finding and departmental inquiry and S.I (now ASI) Bakht Zamin was determined as responsible for misappropriation of each amount, then no reason to believe that why the appellant was dismissed from service.

- F. That no evidence and proof has been brought on surface regarding fixation of responsibility of the appellant, neither anyone recorded statement against the appellant nor was there anyone complainant against the appellant. Amount was misappropriated by S.I (now ASI) Bakht Zamin, whereas the appellant was dismissed from service without showing any reason or cause.
- G. That the appellant being a member of poor family could not pay the deficient amount from his own pocket, therefore, brought the matter into the knowledge of immediate and senior officers. The appellant should have not been harshly punished for his complaint against deficiency in amount which was duly proved against S.I (now ASI) Bakht Zamin rather the appellant should have been appreciated.
- H. That the appellant belongs to a poor family and no other source of income is available.

It is, therefore, humbly prayed that on acceptance of this service appeal, the appellant may kindly be re-instated to his post with all back benefits and the impugned order vide O.B.No.69 dated 03.07.2014 passed by respondent No.3 and orders dated 02.09.2014 and 12.12.2014 passed by respondent No.2 may kindly be set aside; **OR**

Any other relief, which this august Tribunal deems appropriate, may kindly be awarded to meet the ends of justice.

M=dr

Appellant

Through



Sahibzada Asadullah
Advocate Supreme Court

Dated: 12.01.2015

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2015

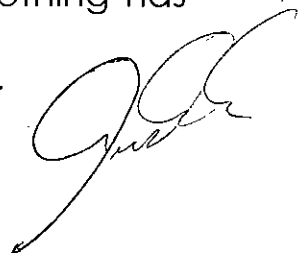
Bakht Muhammad Khan..... **Appellant**

Versus

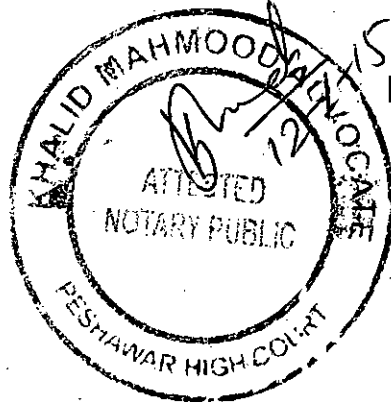
I.G.P, KP, Peshawar & others..... **Respondents**

AFFIDAVIT

I, Sahibzada Asadullah Advocate Supreme Court of Pakistan, as per instructions of my client, 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 kept concealed from this Hon'ble Tribunal.



DEPONENT



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. _____/2015

Bakht Muhammad Khan. **Appellant**

Versus

I.G.P, KP, Peshawar & others. **Respondents**

ADDRESSES OF THE PARTIES

APPELLANT:

Bakht Muhammad Khan
Ex-Head Constable, No.348, District Bunner.

RESPONDENTS:

1. Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer (DIG),
Malakand at Saidu Sharif, Swat.
3. District Police Officer, Bunner.

Through Appellant



Sahibzada Asadullah
Advocate Supreme Court

Dated: 12.01.2015

no: 186-5 AN
14-11-14

Dated _____/2014

Amex: A

10

CHARGE SHEET (Denovo)

1. I, **ASIFI IOBAL MOHMAND** District Police Officer, as competent authority do hereby charge you **HC Bakht Muhammad No. 348** while posted as **MHC PS Nawagai** as follows:

It had been reported against you that you when posted as **MHC** committed the following act/acts.

- i. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February -2014 .
 - ii. That you did not object at the time of receiving, and counting the monthly salary.
 - iii. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
 - iv. That your have broken the proper channel and official trust assigned to you.
 - v. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.
2. By reason of above, you appear to be guilty of mis-conduct and have rendered your-self liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
 3. Therefore, the competent authority has decided to conduct a full-fledged departmental enquiry to probe into the allegations leveled against you .
 4. You are therefore, required to associate with departmental proceedings as and when required by the enquiry officer. For the purpose a separate notice of appearance shall be served against upon you later.
 5. Your written / oral defense, if any, should reach to the Enquiry Officer within the specified Period mentioned in the separate notice. In case failing, it shall be presumed that you have no defense to put-in and an ex-parte action will be followed against you.
 6. You will be at liberty to produce any cogent / substantial evidence in your defense during the enquiry proceedings.
 7. Intimate, as to whether you desire to be heard in person or not?
 8. Statement of allegation is enclosed.

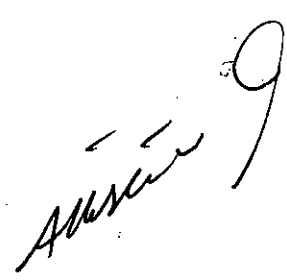

DISTRICT POLICE OFFICER,
BUNER

No. 231 /EC, Dated the Daggar 10-11 /2014.

Copy to :-

1. Office record.
2. Accused Official.


DISTRICT POLICE OFFICER,
BUNER



DISCIPLINARY ACTION (Denovo)

1. I, **ASIF IQBAL MOHMAND** District Police Officer, Buner as competent authority, is of the opinion that you **HC Bakht Muhammad No. 348** when posted as **MHC PS Nawagai** had rendered yourself liable to be proceeded against departmentally as you had committed the following acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

That it has been reported against you that you while posted as MHC PS Nawagai committed the following act/acts.

- i. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February - 2014.
- ii. That you did not object at the time of receiving, and counting the monthly salary.
- iii. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
- iv. That your have broken the proper channel and official trust assigned to you.
- v. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.

- 2. For the purpose of scrutinizing the conduct of said officer with reference to the above allegations the undersigned **SSP Asif Iqbal Mohmand DPO Buner** shall personally conduct the denovo Enquiry Proceedings as an enquiry officer.
- 3. The Enquiry officer will conduct proceedings in accordance with provision of Police Rules 1975 and will provide reasonable opportunity of defense and hearing to the accused officer. Finding will be recorded in a minimum reasonable time for the purpose and conclusion will be made as to whether the allegations leveled against the accused officer have been proved or otherwise.
- 4. The enquiry officer after conclusion of the enquiry proceedings will decide on facts and merits as to whether the accused officer is absolved from charges or any punishment as cited in the above rules be imposed on the accused officer.
- 4. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

**DISTRICT POLICE OFFICER,
BUNER**

12
OFFICE OF THE DISTRICT POLICE OFFICER BUNER

SHOW CAUSE NOTICE (Denovo)

(Under Rule 5 (3) KPK Police Rule 1975)

NO: 318 / E
DT: 30-10-2014

1. That you HC Bakht Muhammad No. 348 while posted as MHC PS Nawagai have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct.
 - i. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February - 2014 .
 - ii. That you did not object at the time of receiving, and counting the monthly salary.
 - iii. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
 - iv. That your have broken the proper channel and official trust assigned to you.
 - v. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.
2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force,
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good Police Officers;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

DISTRICT POLICE OFFICER
BUNER

No. /EC.

Received by _____

Dated: / /2014

Dated: / /2014

9

فائنڈنگ رپورٹ

جناب عالی!

بلسلہ درخواست از اہل بخت محمد محرر تھانہ نوآگئی عرض ہیکہ اُس نے جناب DPO صاحب کو تحریری شکایت کی کہ تنخواہ ملازمین تھانہ نوآگئی بابت ماہ جنوری 2014ء میں مبلغ 2000 روپے کم پا کر اس نے جیب خود سے پوری کی اور اب ماہ فروری کی تنخواہ SHO صاحب نے لا کر وصول کر کے ایک بنڈل کی گنتی کرنے پر بنڈل میں مبلغ 8000 روپے (8 نوٹ) کم پائے گئے۔

مذکورہ کے تحریری بیان پر جناب DPO صاحب نے SP صاحب انوسٹی گیشن کو انکوائری کرنے کا حکم صادر فرمایا۔ SP صاحب انوسٹی گیشن نے انکوائری من سرکل افسر ڈاکٹر کو بغرض انکوائری حوالہ کیا۔

انکوائری شروع کرتے ہوئے پے افسر محمد علی، امریز خان، بخت زمین خان SHO کو طلب کر کے یہ موجودگی بخت محمد محرر جملہ کسان کے بیانات قلمبند کئے گئے۔

پے افسر محمد علی نے اپنے بیان میں کہا۔ کہ وہ 09 تھانوں کے علاوہ پولیس لائن کی رقم بھی تقسیم کرتا ہے۔ مورخہ 03.03.2014 کو تھانہ جات اور پولیس لائن کی تنخواہیں متعلقہ ذمہ دار افراد کے حوالے کی تھی۔ اسی روز محرر تھانہ نوآگئی سے بذریعہ فون اطلاع دی تھی کہ انکی تنخواہ میں پچاس ہزار روپے کی کمی ہے جو اگلے دن اس کے حوالے کی۔

جہاں تک بنڈل میں 8 ہزار روپے کی کمی کا تعلق ہے۔ تو حوالگی سے قبل جملہ بنڈل 1/1 لاکھ روپے کے تھے۔ SHO صاحب نے چیک کر کے وصول کئے تھے۔ اگر وہ بروقت کمی کا نشانہ ہی کرتا تو ضرور پورا کر لیتا۔

پے افسر صاحب نے اپنے بیان میں کمی کا ذمہ دار SHO صاحب کو ٹھہرایا ہے۔ یہ امر قابل ذکر ہے۔ کہ نہ 08 تھانوں کی ملازمین کی تنخواہوں میں کسی کو کم موصول ہوا ہے۔ اور نہ پولیس لائن کے ملازمین کے۔ صرف تھانہ نوآگئی کے تنخواہ میں کمی پائی جاتی ہے۔ ایک بار نہیں بلکہ دوبار۔

جبکہ محرر تھانہ نے اپنے درخواست میں ذکر کیا ہے۔ کہ گزشتہ تنخواہ جو ماہ جنوری کا تھا۔ میں مبلغ 2000 روپے کم پائے تھے۔ اور اب ماہ فروری کے تنخواہ میں 8 ہزار روپے کم نکلے ہیں۔ جو ایک ہیڈ کانسٹیبل کے لئے اتنا رقم جیب سے پورا کرنا قابل برداشت ہے۔ یا تو اس کی کو پورا کرنے کے لئے وہ کوئی دوسرا جرم کریگا۔ یا دیگر ملازمین کی تنخواہوں سے کٹوتی کریگا۔ اگر تھانہ نوآگئی میں یہی سلسلہ جاری رہا۔ تو ایک افسر اور ماتحت کے مابین جیسا کہ پولیس کا زیادہ تر کاروبار اعتبار کے بنیاد پر چلتا ہے ختم ہو گا۔ اور سارا محکمہ بے اعتباری کا شکار ہو گا۔ بخت زمین SHO نے اپنے بیان میں کہا۔ کہ مورخہ 03.03.2014 کو اس نے پے افسر سے ملازمین تھانہ نوآگئی کی تنخواہ بابت ماہ جنوری 2014ء مبلغ سترہ لاکھ چھپن ہزار چار سو روپے (17,56,400) وصول کر کے (بنڈل کی شکل میں) اور وہی رقم لاکر

محمد علی

محرر تھانہ کی حوالے کی۔ اور اگلے دن وہ پشاور ہائی کورٹ چلا گیا۔ اور محرر کے زبانی اسے علم ہوا۔ کہ وہ دفتر DPO صاحب آئے ہیں۔ ایک بنڈل میں مبلغ 8 ہزار روپے کم ہے۔ جبکہ دوسرے بنڈل میں ایک نوٹ کی کمی ہے۔ ایک نوٹ والا بنڈل پے افسر نے بنک میں تبدیل کیا۔ جبکہ آٹھ نوٹ والا بنڈل تبدیل نہیں کیا۔ کیونکہ اس کا سیل پھاڑا ہوا ہے۔

SHO صاحب نے اپنے بیان میں مزید کہا ہے۔ کہ جب محرر نے اسے رقم میں مبلغ -/50000 روپے کی کمی کا بروقت اطلاع کیا تو اس نے فوراً پے افسر صاحب سے رابطہ کر کے کمی کو پورا کیا۔ اگر محرر اسے اسی آٹھ ہزار روپے کا کہتا تو وہ ضرور اس سلسلے میں پے افسر سے رابطہ کرتا اور کمی کو پورا کرتا۔ لیکن اب اس نے تحریری شکایت کی ہے۔ اسلئے وہ ایک دن گزرنے کے بعد کمی کا ذمہ دار نہیں۔

اس کے علاوہ محرر سٹاف میں سے خورشید علی HC/68 ایڈیشنل محرر محمد رحمن HC مدد محرر کے بیانات قلمبند کئے جا کر لف انکواری ہے۔ جو اس بات کی تائید، تصدیق کرتے ہیں۔ کہ محرر تھانہ نے ان کی موجودگی میں ایک لاکھ روپے کے بنڈل گئے تھے۔ اور واقعی ایک بنڈل میں ایک نوٹ ہزار روپے کا جبکہ دوسرے بنڈل میں آٹھ نوٹ ہزار روپے کے کم پائے گئے ہیں۔

اجمل خان ASI متعینہ تھانہ ناوہ گنی کا بیان لیا جا کر شامل فائل ہے۔ مذکورہ بھی بنڈل میں کمی کا تصدیق کرتا ہے۔ SHO صاحب پے افسر صاحب اور محرر سٹاف تھانہ کے بیانات سے میں اس نتیجہ پر پہنچا کہ پے افسر صاحب نے اعتماد کے بنیاد پر سیل شدہ بنڈل بنک منیجر سے حاصل کر کے اعتماد کے بنیاد پر متعلقہ افراد پر تقسیم کرتا ہے۔ جیسا کہ SHO صاحب نے اپنے بیان میں تصدیق کیا کہ اس نے بنڈل کی شکل میں رقم وصول کر کے بنڈل کی شکل میں محرر تھانہ کے حوالے کیا ہے۔ اب محرر تھانہ کی ذمہ داری ہے۔

لیکن بمطابق پولیس رولز 53-14 تھانہ میں SHO اور لائن میں لائن افسر کی ذمہ داری ہے۔ کہ وہ پہلے دن خود تنخواہ کی تقسیم کریگا۔ اور اگلے دن اپنے کسی ذمہ دار فرد کے ذریعے تنخواہ کی تقسیم کو یقینی بنائیگا۔ جبکہ گزٹیڈ افسران صاحبان نگرانی کریگا۔

بمطابق پولیس رولز 5-22 محرر تھانہ درست ریکارڈ رکھنے کا ذمہ دار ہے۔ جب اسے ملا کم۔ تو پورا کہاں سے کریگا۔ جیسا کہ پے افسر صاحب نے اپنے بیان میں کمی کی ذمہ داری SHO صاحب پر عائد کی ہے۔ اور پولیس رولز بھی صحیح تقسیم کرنے کا ذمہ دار SHO ٹھہراتا ہے۔

لہذا مندرجہ بالا حقائق سے SHO بخت زمین خان اس پوری کارروائی میں ذمہ دار ہے۔ لیکن یہ امر بھی قابل ذکر ہے۔ کہ محرر تھانہ اور SHO کا اسی تھانہ میں اکٹار ہنا بھی مشکل ہوگا۔ لہذا استدعا ہے کہ اس سلسلہ میں بھی مناسب حکم صادر فرمائی جائے تاکہ آئندہ وقت میں کوئی ناخوشگوار واقعہ پیش نہ آسکے۔

سر کل افسر ڈگر، بونیر

Handwritten signature

15

Amner C/S

OFFICE OF THE DISTRICT POLICE OFFICER BUNER

GROUNDS OF ACTION (Denovo)

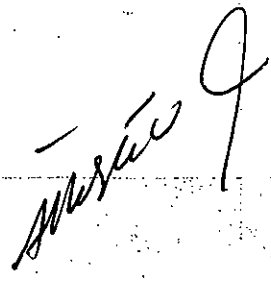
That you HC Bakht Muhammad No. 348 while posted as MHC PS Nawagai committed following misconduct/s:-

- a. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February - 2014 .
- b. That you did not object at the time of receiving, and counting the monthly salary.
- c. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
- d. That your have broken the proper channel and official trust assigned to you.
- e. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.

By reason of above you have been rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules 1975, hence these grounds of action.


DISTRICT POLICE OFFICER
BUNER.

Dated: / /2014



15A

Annex C/2

ORDER

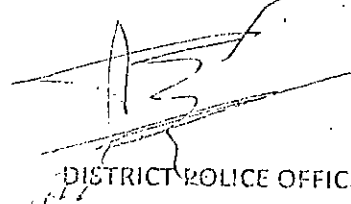
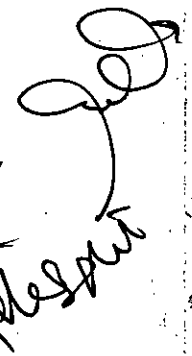
This order will disposed of departmental enquiry conducted by DSP Totalai against SI Bakht Zamin the then SHO PS Nawagai on the written application/ complaint of the then MHC PS Nawagai dated 04.03.2014, regarding the less amount in question of Rs.8000/- during the distribution of monthly salary for the month of February of 2014, with issuing proper charge sheet/ summary of allegation vide this office No.148-149/E, dated 16.04.2014.

On 16.06.2014 the EO submitted finding with the conclusion, that the amount of monthly salary handed over by the SI Bakht Zamin the then SHO PS Nawagai to the complainant the then MHC Bakht Muhammad No.348 and he admitted that he was received the said amount in shape of bundles and he counted the same at the time of receiving as bundle. During the course of enquiry the complainant also disclosed that on the day of distribution of an amount of Rs.50000/- were less and the same was timely brought to the notice of SI Bakht Zamin the then SHO PS Nawagai. In this connection the SHO concerned was contacted to PO Muhammad Ali and the complainant concerned received the said amount of Rs.50000/- from the Account Branch. The remaining amount of Rs.8000/- was not brought to the notice of the then SHO concerned as well as SDPO Totalai and nor any entry made by the concerned MHC Bakht Muhammad No.348 into DD Report and thus the EO recommended both the responsible officers for appropriate punishment.

On 16.06.2014 SI Bakht Zamin the then SHO PS Nawagai and MHC Bakht Muhammad No.348 were heard in person in OR but they have failed to submit any cogent reason in their defense.

Therefore, I Asif Iqbal Mohmand, DPO Buner competent authority go through the facts of enquiry that the SHO and MHC both are responsible officer and a main pillar of the Police station. Their this act is not unforgiveable.

Therefore I agree with the recommendation of EO and award major punishment i.e. dismissal from service to the defaulter HC Bakht Muhammad No.348 the then MHC PS Nawagai under para (4) (b) (iv) of Police Rules 1975 while award major punishment reduction of rank and pay to SI Bakht Zamin the then SHO PS Nawagai under para (4) (b) (i) of Police Rules 1975 on account of their irresponsibility as well as their negligence with immediate effect

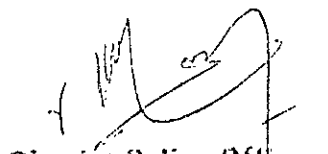

DISTRICT POLICE OFFICER,
BUNER


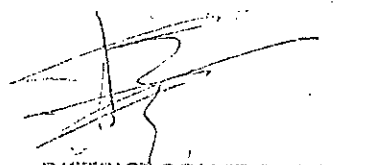
OB No. 69

Dated: 03/07/2014

Copy of the above is submitted to :-

1. The Regional Police Officer, Malakand Region at Saidu Sharif Swat for favour of information, please.
2. The District Accounts Officer, Buner for information.
3. PO Buner.
4. OHC: A Hestede


District Police Officer
Buner


DISTRICT POLICE OFFICER,
BUNER

16

Approved: E

The Regional Police Officer
of Police Malakand Region-III
at Saidu Sharif Swat

**Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER OF DPO BUNER
O.B NO. 69 DATED 03/07/14, WHEREBY THE APPELLANT WAS
DISMISSED FROM SERVICE.**

The appellant respectfully submits as under! ✓

FACTS ✓

1. That the appellant joined police department as constable in the year 6-4-2001 and later on promoted to the rank of Head constable. The appellant lastly served in police station Nawagai district Buner as MHC.
2. That on 03/03/2014, SHO Nawagai handed cash amount of police salaries to the appellant for distribution. While distributing salaries among police personnel, the appellant found Tampered and its seal was broken. The cash bundle composed of notes 1000 Pakistani rupees. The bundle was counted and it was found that 8000/- rupees i.e 8 notes each valued 1000 were missing/deficient.
3. The whole process of counting the cash bundle was witnessed by HC khurshaic Ali No 68, HC Muhammad Rahman and Ajmal khan ASI. They also witnessed the Tampered cash bundles with broken seal and verified the fact of 8000 rupees deficient/misappropriated.
4. That soon after coming into knowledge the fact of deficiency/misappropriation in cash amount of salaries, the SHO P.S Nawagai Mr.Bakht Zamin and other immediate officers were informed. The then SHO P.S Nawagai denied any kind of deficiency and misappropriation in the cash amount of salaries.
5. That being a member of poor family, the appellant couldn't pay the deficient amount from his own pocket, therefore approached the DPO Buner through written application and the matter of deficiency/misappropriation in amount of salaries was brought into his knowledge.
6. That after being informed the DPO Buner ordered a fact finding enquiry, which was conducted by Inspector Noor Jalil khan C.O circle Daggar, Buner. The enquiry officer concluded and found the fact that SHO P.S Nawagai Mr.Bakht Zamin was solely responsible for deficiency/misappropriation of amount. (Finding report enclosed)
7. That show cause notice and charge sheet were against the then SHO P.S Nawagai and departmental enquiry was conducted by SDPO Circle Totalai, who concluded that Bakht Zamin the then SHO P.S Nawagai and the appellant were equally responsible in connection with deficiency in cash amount, whereas recommended appropriate punishment with further recommendation to recover the misappropriated/deficient amount from Bakht Zamin the then SHO P.S Nawagai. (Enquiry report enclosed)
8. That upon the recommendation of enquiry officer, the District Police Officer Buner awarded major punishment of reduction in rank and pay to S.I Bakht Zamin, whereas the appellant was dismissed from service with immediate effect. (Copy of order enclosed)

Approved: 9

The appellant being aggrieved from the order of DPO Buner prefers this departmental appeal before your goodself inter-alia on the following grounds.

GROUNDS

- A. That the order dismissing the appellant from service is illegal, unjust, *ultravires* and void-abinitio
- B. That the whole departmental proceedings were against Mr. Bakht Zamin the then SHO P.S Nawagai on allegations of misappropriation, whereas the appellant brought his misappropriation into the knowledge of immediate and senior officers, nevertheless the appellant was dismissed from service.
- C. That fact finding enquiry was conducted by Mr. Noor Jalil Khan C.O circle Daggar and found that solely the then SHO Bakht Zamin was responsible for deficiency and misappropriation of amount. Therefore no reason and rationale lies behind the dismissal of the appellant from service.
- D. That departmental proceedings were conducted against Bakht Zamin, whereas no show cause, explanation statement of allegations, grounds of action and charge sheet was issued against the appellant.
- E. The appellant was complainant against the then SHO P.S Nawagai, his complaint was proved during fact finding and departmental enquiry and S.I (now ASI) Bakht Zamin was determined as responsible for misappropriation of cash amount, then no reason to believe that why the appellant was dismissed from service.
- F. That no evidence and proof has been brought on surface regarding fixation of responsibility of the appellant. Neither anyone recorded statement against the appellant nor was there anyone complainant against the appellant. Amount was misappropriated by S.I (now ASI) Bakht Zamin, whereas the appellant was dismissed from service without showing any reason or cause.
- G. That the appellant being a member of poor family couldn't pay the deficient amount from his own pocket, therefore brought the matter into the knowledge of immediate and senior officers. The appellant should have not been harshly punished for his complaint against deficiency in amount which was duly proved against S.I (now ASI) Bakht Zamin rather the appellant should have been appreciated.
- H. That the appellant belongs to a poor family and no other source of income is available.

Prayer:-

In view of the above facts, circumstances, and grounds, your goodself is humbly requested to kindly set aside the order of DPO Buner O.B No.69 date 03/07/14 to the extent of dismissal of the appellant and re-instate him in his own previous rank with all back/consequential benefits, please.

Enclosed (5 pages)

NO 5659 IE date 8-7-14

DPO BUNER
Regional Police Officer
Malakand, at Saidu Sharif Swat.

Appellant

Ex-HC Bakht Muhammad

No.348 District Buner

Rid.

Dated 07/07/2014

J

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Amir E

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND
DISTRICT OF AFSARDI SWAT

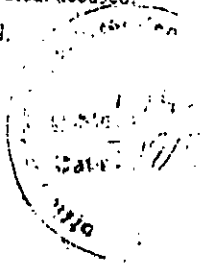
92

This is to dispose of appeal of Assistant Sub-Inspector Bakht Zamin of District Buner for restoration of rank as Sub-Inspector.

Brief facts are that, the above named ASI while posted as SHO Police Station, Buner handed over the monthly salary for the month of February 2014 in shape of IO No. 117/342. After receiving the amount the IO No. 117/342 disclosed to the SHO Police Station Nawagai that the amount of Rs. 8000/- is less in the IO No. 117/342. He has been recovered from IO Branch timely. On 03/07/2014 the then MIIC IO No. 343 also disclosed that an amount of Rs: 8000/- also less in the said salary and made direct complaint against the ASI Bakht Zamin the then SHO Police Station Nawagai. Proper enquiry was conducted by SDPO Circle Totalai against the appellant ASI Bakht Zamin the then SHO Police Station Nawagai and IO Bakht Muhammad No. 348 the then IO IC PC Nawagai and both the delinquent concerned officers were suspended on account of gross negligence and negligence from duty. The appellant was called in order to be heard in person but his reply was found unsatisfactory and the appellant ASI Bakht Zamin the then SDPO Police Station Nawagai awarded punishment of reduction of rank from Sub-Inspector to Assistant Sub-Inspector vide OB No. 69, dated 03/07/2014 on account of misconduct under Section 101. Aggrieved from by the District Police Officer, Buner order the appellant approached District Police Officer, Buner.

He was called in orderly room on 23/8/2014 and was heard. He pleaded that under the order warrants through probe from Bank, Pay Branch up to the order of District Police Officer, Buner is suspended and District Police Officer Buner shall personally conduct Enquiry to fix responsibility on actual accused.

Order announced.



(Signature)
(ABDUSAMMAD NAQI) POP
Regional Police Officer,
Malakand District of Afsardi Swat
Naqi

6837
15-9-2014

Copy for information and necessary action to District Police Officer, Buner with IO No. 117/342 dated 15/07/2014.

(Handwritten signature)

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(Better Copy)

**OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND
REGION, AT SAIDU SHARIF SWAT**

ORDER:

This order will dispose off appeal of Assistant Sub-Inspector Bahkt Zamin of District Buner for restoration of rank of sub-Inspector.

Brief facts are that, the above named ASI while posted Police Station Nawagai District Buner, has handed over monthly salary for the month February 2014 (sek) to MHC Bakht Muhammad No. 348. After receiving the amount the concerned MHC disclosed to ASI Bakht Zamin the then SHO Police station Nawagai that the amount of Rs.8000/- is less in the monthly salary the same has been recovered from PO Branch timely. On the next day the then MHC Bakht Muhammad No. 348 also disclosed that an amount of Rs: 8000/- also less in the said salary and made direct complaint against the ASI Bakht Zamin the then SHO Police Station Nawagai. Proper departmental enquiry was conducted by SDPO Circle Totalai against the appellat ASI Bakht Zamin the then SHO Police Station Nawagai and HC Bkaht Muhammad No. 348 the then MHC PS Nawagai and (sek) his finding recommended both the delinquent concerned officers for punishment on account of being in responsible and negligence from duty. The appellat was called in Orderly Room by District Police Officer, Buner and head in person but his reply was found unsatisfactory and the appellat ASI Bakht Zamin the then SHO Police Station Nawagai awarded punishment of reduction of rank from SUBinspector to Assistant sub-inspector vide OB No. 69, dated 03/07/2014 on account of misconduct under Police Rules 1975. Aggrieved from by the District Police Officer, Buner order the appellat approached (sek) on appeal.

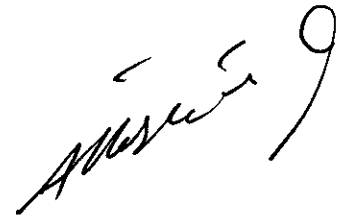
He was called in orderly room on 28/08/2014 and heard in person.he pleaded his innocence, the matter warrants through probe from Bank, pay Branch up to MHC. Hence the order of District Police Officer, Buner is suspended and District Police Officer Buner shall personally conduct denovo enquiry to fix responsibility on actual accused.

Order announced

(ABDULLAH KHAN) PSP
Regional Police Officer,
Malakand Saidu Sharif Swat.

No.6839/E
Dated: 2/9/2014

Copy for information and necessary action to the District Police Officer, Buner with reference to his office Meme No. 14041/E, dated 15/07/2014.



19

Amir F

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION, AT SAIDU SHARIF SWAT

ORDER:

This order will dispose off appeal of HC Bakht Muhammad Khan No. 338 of Buner District for restoration of rank of Sub-Inspector.

Brief facts are that the above named Head Constable of Buner District while posted as MHC Police Station Nawagai was awarded punishment of dismissal from service on account of shorting of rupees 8000/- in the salary of Police Station Staff for the month of February 2014 vide District Police Officer, Buner (B) No. 69 dated 03/07/2014. On his appeal he was called in Orderly Room on 08/08/2014. On perusal of record his punishment order was suspended vide this office Order Endor. No. 255/EC, dated 02/09/2014 and the District Police Officer, Buner was appointed to conduct denovo enquiry and fix responsibility on actual accused. The enquiry officer in his finding held him responsible for the allegation level against him and recommended for upholding of his punishment of dismissal from service.

The appellant was called in Orderly Room on 12/12/2014 and heard him in person. But the appellant did not produce any substantive materials in his defense. However, keeping in view his long service and poor family backgrounds taking a lenient view the order passed by District Police Officer, Buner is annulled and he is awarded the following minor punishments.

1. Forfeiture of approved service for two years.
 2. Stoppage of two increments with accumulative effect.
 3. He is transferred to Dir Lower District on complaint being instigator and creator of problems for his SHO's and other senior Officers.
- Order announced.

Abdullah Khan
 (ABDULLAH KHAN) PSP
 Regional Police Officer,
 Malakand, Saidu Sharif Swat
 "Naqi"

10373-741

12-12-2014

- Copy for information and necessary action to the:-
1. District Police Officer, Buner with reference to his office Memo. No. 255/EC, dated 08/12/2014.
 2. District Police Officer, Dir Lower.

Amir F

19

(Better Copy)

**OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND
REGION, AT SAIDU SHARIF SWAT**

ORDER:

This order will dispose off appeal of HC Bakht Muhammad Khan No. 348 of Buner District for restoration of rank of sub-Inspector.

Brief facts are that the above named Head Constable of Buner District while jointed as MHC Police station Nawagai was awarded punishment of dismissal from service on account of (sik) of rupees 8000/- in the salary of police station staff for the month of February 2014 vide District police officer, Buner B/No.69 dated 03/07/2014. On his appeal he was called in Orderly Room on 2014. On perusal of record his punishment order was suspended vide this office order Endst: No.6939/E, dated 02/09/2014 and the District Police Officer, Buner was appointed to conduct denovo enquiry personally and fixed responsibility on actual accused. The enquiry officer in his finding held him responsible for the allegation level against him and recommended for upholding of his punishment of dismissal from service.

The appellant was called in orderly room on 12/12/2014 and heard him in (sik). But the appellant did not produce any substantive in his defense. However, keeping in (sik) his long servicer and poor family backgrounds taking a lenient views the order passed by District Police Officer, Buner is a (sik) and he is awarded the following minor punishments.

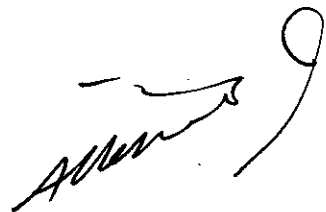
- i. Forfeiture of approved service for two years.
- ii. Stoppage of two increments with accumulative effect.
- iii. He transferred to Dir Lower District on complaint being instigator and creator of problems for his SHOs and other senior Officers.
order announced.

(ABDULLAH KHAN) PSP
Regional Police Officer,
Malakand Saidu Sharif Swat.

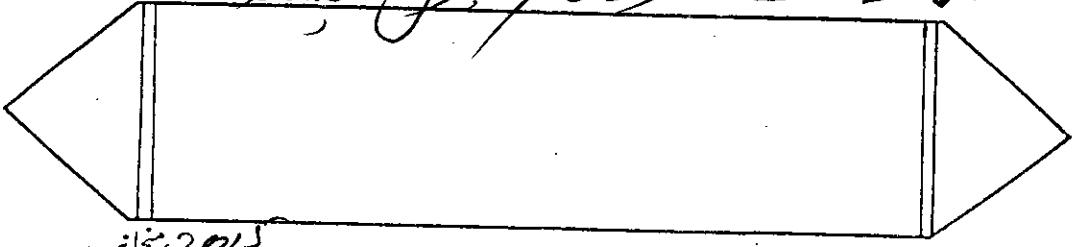
No.10373-74/E
Dated: 12/12/2014

Copy for information and necessary action to the.

1. District Police Officer, Buner with reference to his office Meme No. 25255/EC, dated 08/12/2014.
2. District Police Officer, Dir Lower.



بعدالت سرسہر سوسل بسا



کراچی، پنجاب

محبت محمد بن بنام رگہ وی وی وی

موزخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام سرسہر کیلئے صاحبزادہ سرسہر
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالت ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک درو پیہار 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 اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی 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
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جاندا التوائے مقدمہ کے سبب سے وہ ہوگا۔
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۲۵ ناہ جنوری ۲۰۱۵ء

بمقام کسٹ

کے لئے منظور ہے۔

Schubert & Partner

I have received Rs. 1000/- as
cost from official Respondent.

Shams ul Huda
Advocate.

Attested
07-12-15

Service Appeal No: 109/2015.

Bakht Muhammad Ex- Head Constable No. 348 District Buner
..... Appellant

VERSES

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Malakand Region-III Saidu Sharif Swat
3. The District Police Officer, Buner

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:

Preliminary Objections:

1. That the Service Appeal is time barred.
2. That the appellant is estopped due to his own conduct.

ON FACTS:

1. Correct.
2. Incorrect: The appellant received amount of salaries for distribution from SHO PS Nawagai on 03.03.2014 and after all satisfying himself entered arrival report of SHO in Daily Dairy No. 23 dated 03.03.2014 to the effect that he correctly received the amount from SHO and I/C investigation, whereas he raised objection on next day about deficiency in the amount.
3. Incorrect: During departmental enquiry statements of HC Kharshid Ali, HC Muhammad Rahman and SI Ajmal Khan were recorded and cross examined who denied the fact that deficiency of cash 8000/- rupees occurred on 03.03.2014, they further denied witnessing tampered packets of notes on 03.03.2014.
4. Incorrect: On 03.03.2014 no officer of higher rank was informed by the appellant, whereas he brought the matter into the notice of respondent No. 3 right after one day the receipt of amount. Furthermore, he admitted during enquiry that SDPO Circle Totalai was not informed who was his immediate officer after SHO. The appellant broke channel of command and approached

directly to respondent No. 3 which itself constitutes misconduct on the part of appellant.

5. Correct. The appellant broke channel of command and approached directly to respondent No. 3 instead of bringing the matter into the notice of SDPO Circle Totalai.
6. Correct.
7. Correct.
8. Correct.
9. Incorrect: The appellant preferred departmental appeal before respondent No. 2 who suspended the order of respondent No. 3 and ordered conducting de novo enquiry by respondent No. 3 personally. Respondent No. 3 conducted full-fledged de novo departmental enquiry: statements of relevant officials / officers. After conclusion of departmental enquiry it was proved that the appellant was guilty of missing/misappropriation of deficient amount. The respondent No. 3 (Enquiry Officer) recommended upholding his previous order of dismissal of the appellant, but the respondent No. 2 reduced the punishment of the appellant to
 - i. Forfeiture of two years approved service
 - ii. Stoppage of two annual increments with cumulative effect.
 - iii. Transfer to Dir Lower on complaint being instigator.
10. No comments


ON GROUNDS


- "a" Incorrect: The appellant was dismissed from Service by respondent No. 3 but on departmental appeal, he was re-instated in service by respondent No. 2.
- "b" Incorrect: The appellant was proven guilty during departmental enquiry and dismissed from service, who was afterwards re-instated and his punishment was reduced from major to minor.
- "c" Incorrect: Fact finding and departmental enquiry have no bearing on one another. The appellant was proved guilty during departmental and de novo departmental enquiry.

- "d" Incorrect: The appellant was properly served with charge sheet and statement of allegation and full-fledged de novo departmental enquiry was conducted against him.
- "e" Incorrect: the appellant was proved to have been instigator and problematic. The appellant was dismissed but later on he was re-instated in service by respondent No. 2
- "f" Incorrect: after conclusion of de novo departmental enquiry the appellant was proved guilty.
- "g" Incorrect: The appellants major punishment of dismissal from service was reduced to minor punishment after he was proved guilty.
- "h" Needs no comments


PRAYER:

Hence in view of the detail comments mentioned above, it is most humbly prayed that the appeal of the appellant may graciously be dismissed with costs.


Inspector General of Police
Khyber Pakhtunkhwa Peshawar
(Respondents No. 1)


Regional Police Officer
Malakand Region at Saidu Sharif Swat
(Respondents No. 2)

Regional Police Officer,
Malakand, at Saidu Sharif Swat.


District Police Officer,
Buner
(Respondents No. 3)
Distt; Police Officer.
Buner


(29)

No. _____ /EC,
Dated 10-11-2014

CHARGE SHEET (Denovo)

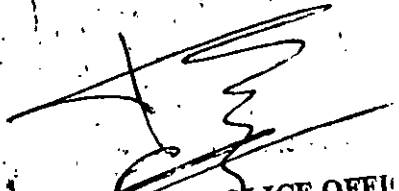
I, **ASIFI IOBAL MOHMAND** District Police Officer, as competent authority do hereby charge you **HC Bakht Muhammad No. 348** while posted as **MHC PS Nawagai** as follows.
It had been reported against you that you when posted as **MHC** committed the following act/acts.

- i. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupees in salaries of Police Personnel of Police Station Nawagai for month of February - 2014.
 - ii. That you did not object at the time of receiving, and counting the monthly salary.
 - iii. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
 - iv. That you have broken the proper channel and official trust assigned to you.
 - v. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.
2. By reason of above, you appear to be guilty of mis-conduct and have rendered your-self liable to all or any of the penalties specified in Rule-4 of the Disciplinary Rules, 1975.
 3. Therefore, the competent authority has decided to conduct a full-fledged departmental enquiry to probe into the allegations leveled against you.
 4. You are therefore, required to associate with departmental proceedings as and when required by the enquiry officer. For the purpose a separate notice of appearance shall be served against you later.
 5. Your written / oral defense, if any, should reach to the Enquiry Officer within the specified period mentioned in the separate notice: In case failing, it shall be presumed that you have defense to put in and an ex-parte action will be followed against you.
 6. You will be at liberty to produce any cogent / substantial evidence in your defense during enquiry proceedings.
 7. Intimate, as to whether you desire to be heard in person or not?
 8. Statement of allegation is enclosed.


DISTRICT POLICE OFFICER
BUNER

No. 23 /EC, Dated the Daggar 10-11 /2014.

- Copy to :-
1. Office record.
 2. Accused Official.


DISTRICT POLICE OFFICER
BUNER

(30)

DISCIPLINARY ACTION (Denovo)

1. ASIF IQBAL MOHMAND District Police Officer, Buner as competent authority, is of the opinion that you HC Bakht Muhammad No. 348 when posted as MHC PS Nawagai had rendered yourself liable to be proceeded against departmentally as you had committed the following acts / omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

That it has been reported against you that you while posted as MHC PS Nawagai committed the following act/acts.

- i. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February 2014.
- ii. That you did not object at the time of receiving, and counting the monthly salary.
- iii. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupces less in amount of salaries for the month of February 2014 from Ex-SHO PS Nawagai Bakht Zamin.
- iv. That you have broken the proper channel and official trust assigned to you.
- v. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.

2. For the purpose of scrutinizing the conduct of said officer with reference to the above allegations the undersigned SSP Asif Iqbal Mohmand DPO Buner shall personally conduct the denovo Enquiry Proceedings as an enquiry officer.

3. The Enquiry officer will conduct proceedings in accordance with provision of Police Rules 1975 and will provide reasonable opportunity of defense and hearing to the accused officer. Finding will be recorded in a minimum reasonable time for the purpose and conclusion will be made as to whether the allegations leveled against the accused officer have been proved or otherwise.

4. The enquiry officer after conclusion of the enquiry proceedings will decide on facts and merits as to whether the accused officer is absolved from charges or any punishment as cited in the above rules be imposed on the accused officer.

4. The accused officer shall join the proceeding on the date, time and place fixed by the Enquiry officer.

**DISTRICT POLICE OFFICER,
BUNER**

OFFICE OF THE DISTRICT POLICE OFFICER BUNER

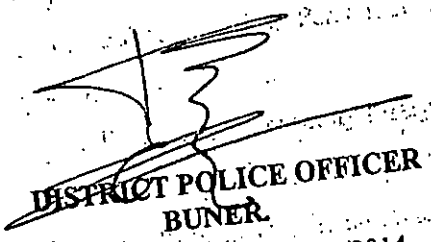
GROUND OF ACTION (Denovo)

23

That you HC Bakht Muhammad No. 348 while posted as MHC PS Nawagai committed following misconduct/s:-

- a. That why did you not timely inform your senior officers regarding misappropriation / missing of 8000/- Rupies in salaries of Police Personnel of Police Station Nawagai for month of February - 2014
- b. That you did not object at the time of receiving, and counting the monthly salary.
- c. Later on after several days you submitted written application before the undersigned alleging that you have received 8000/- Rupees less in amount of salaries for the month of February 2014 from Ex-SHO PS Nawagai Bakht Zamin.
- d. That your have broken the proper channel and official trust assigned to you.
- e. That it is presumed that either you or Ex-SHO Bakht Zamin have misappropriated the aforementioned amount.

By reason of above you have been rendered yourself liable to be proceeded under Khyber Pakhtunkhwa Police Rules 1975, hence these grounds of action.


DISTRICT POLICE OFFICER
BUNER

Dated: / /2014

This denovo Departmental Enquiry against accused officer SI Bakht Zamin Ex-SHO PS Nawagai and accused official Ex-MHC Bakht Mohammad was being conducted in compliance with the orders of Regional Police Officer Malakand Region-III vide his office Orders / Endst: No. 6936/E, and 6939/E, dated 02/09/2014. The Regional Police Officer, suspended this office order OB No. 69 dated 03/07/2014 whereby accused officer SI Bakht Zamin was reduced in rank and HC Bakht Mohammad was dismissed from service and ordered denovo Departmental Enquiry. In compliance with the orders of Regional Police Chief, proceedings for denovo Departmental Enquiry were initiated and fresh show cause notices were issued against both the accused officials, in response whereof they submitted their separate replies. The Enquiry Officer was not satisfied with replies of the aforementioned accused, therefore, fresh statements of allegation and charge sheets were served upon them.

Charges against accused officer SI Bakht Zamin were framed as under:-

- i. That you had been accused that you have misappropriated Rs. 8000/- i.e. the salaries for the month of February-2014 of police personnel of police Station Nawagai.
- ii. That you have broken the official trust assigned to you.
- iii. That you being a senior police officer could not be thought of mistrust on your part.

Charges against accused official HC Bakht Mohammad were framed as under:-

- i. That why did you not timely inform your senior officer regarding misappropriation / missing of 8000/- rupees in salaries of police personnel of police station Nawagai for the month of February-2014.
- ii. That you did not object at the time of receiving and counting the monthly salary.
- iii. Later on after several days you submitted written application before undersigned alleging that you received 8000/- rupees less in amount of salaries for the month of February-2014 from Ex-SHO PS Nawagai Bakht Zamin.
- iv. That you have broken proper channel and official trust assigned to you.
- v. That it is presumed that either you or Ex-SHO Bakht Zamin misappropriated the aforementioned amount.

Charge Sheets against both the accused officials were communicated to them and appropriate opportunity of right to defense was afforded to them.

Statements of both the defaulters ^{CS} were being recorded before the enquiry officer whereafter both of them were cross examined by E.O. They were also heard in person. In addition thereto, statements of the following relevant officials / officers were also being recorded.

1. SI Bahramand Shah the then I/C Investigation PS Nawagai.
2. HC Khurshid Ali the then AMHC PS Nawagai.
3. HC Mohammad Rahman MM PS Nawagai.
4. SI Ajmal Khan posted to Investigation branch PS Nawagai.
5. SC Mohammad Ali (Pay Officer)
6. SC Amriz Khan (Asst: to Pay Officer)
7. Kamran Khan Manager NBP Daggar Branch.
8. Syed Noor Ali Shah Chief Cashier NBP Daggar Branch.

Admittedly SI Bakht Zamin the then SHO PS Nawagai received an amount of Rs. 1779483/- from Pay officer SC Mohammad Ali as salary of preventive staff of PS Nawagai for the month of February-2014 on 03/03/2014. Accused Officer SI Bakht Zamin signed relevant document within the office of Pay Officer to the effect that he received correct amount therefrom as salary of preventive staff of PS Nawagai on 03/03/2014. The said amount was taken to Police Station Nawagai and handed over to accused official MHC Bakht Mohammad for distribution among the police personnel of Police Station Nawagai. Accused official the then MHC PS Nawagai HC Bakht Mohammad received the said amount from accused officer SI Bakht Zamin the then SHO PS Nawagai and counted the same and after all satisfying himself entered arrival report in Daily Diary No. 23, dated 03/3/2014 at 15:15 Hrs: of SHO Bakht Zamin to the effect that he correctly received the amount of salaries from SHO PS Nawagai and I/C Investigation and distribution of salaries is to be commenced.

On next day i.e on 04/03/2014 the then MHC accused official Bakht Mohammad approached the undersigned and reported that 8000/- rupees were deficient in packet of 1 hundred thousand (100000/-). Admittedly on that very day i.e on 04/03/2014 the then SHO PS Nawagai accused officer SI Bakht Zamin had proceeded to the Service Tribunal Peshawar in connection with appearance in his own personal Service Appeal.

Accused officer SI Bakht Zamin stated before the enquiry officer that he correctly received full amount from Pay Officer and 1 packet of Rs. 50000/- was unintentionally left at the office of Pay Officer who was being contacted whereafter that packet was handed over to him on the day of receipt of amount i.e on 03/03/2014, whereas he genuinely and correctly handed over total amount of salaries for the month of February-2014 and the then MHC HC Bakht Mohammad entered the fact in Daily Diary No. 23, dated 03/03/2014. He (Bakht Zamin) further stated that on next day i.e on

04/03/2014 he was not responsible for deficiency / missing of Rs. 8000/- rupees in a packet of 1 hundred thousand. CB

On the other side accused official the then MHC HC Bakht Mohammad PS Nawagai stated before the enquiry officer that on 04/03/2014 he witnessed deficiency / missing of 8000/- rupees within packet during process of distribution of salaries in presence of Bahramand Shah Ex-I/C Investigation PS Nawagai. During cross examination HC Bakht Mohammad admitted the fact that he received amount of salaries correctly, he counted packets instead of notes within each packet. He was asked by the enquiry officer that as per his statement he also received amount of salaries for the month of January-2014 with a deficiency of 2000/- rupees, then why did he not care in counting amount of salaries for the month of February-2014? The accused official HC Bakht Mohammad was speechless. Furthermore HC Bakht Mohammad admitted the fact during cross examination that he did not check seals and tape of packets at the time of receiving amount from accused officer SI Bakht Zamin. He also admitted that he was negligent with reference to not counting and checking the seals of packets. He was asked that did he report the matter to SDPO Circle Totalai? His narration was in negative and admitted that the matter was not brought into the knowledge of SDPO Circle Totalai.

Before the Enquiry Officer, accused officer SI Bakht Zamin stated that several times he received amount in excess of the total amount mistakenly when he was posted as SHO to Police Stations other than PS Nawagai and the amount in excess was timely being returned to the office without any misappropriation. His this contention was endorsed and verified by Pay Officer Mohammad Ali before the enquiry officer.

Khurshid Ali the then AMHC PS Nawagai and Mohammad Rahman the then MM PS Nawagai recorded their statements before the enquiry officer and verified the fact during cross examination that HC Bakht Mohammad the then MHC PS Nawagai received amount of salaries in their presence from the then SHO PS Nawagai SI Bakht Zamin, and the seals / tape of all packets were intact. SI Bahramand Shah stated that HC Bakht Mohammad the then MHC PS Nawagai showed him a packet of 1 hundred thousand rupees and requested for counting on 04/03/2014. The said packet was counted with a deficiency of Rs. 1000/- rupees which was afterwards changed from Bank concerned. He also stated that he doesn't know further. Whereas, Ajaml Khan SI (Investigation) PS Nawagai stated that the packet within which Rs. 8000/- rupees were deficient was handed over to him by the then MHC HC Bakht Mohammad and requested for counting on 04/03/2014 as he had pointed out that at 8000/- rupees were deficient / missing in the said packet. The same was counted by him and in fact at 8000/- rupees were deficient whereas its seal was broken.

(57)

Pay Officer Mohammad Ali stated that he correctly received amount of salaries from Bank and correctly handed over to accused officer SI Bakht Zamin the then SHO PS Nawagai. Further stated that a packet of 1 hundred thousand rupees was brought before him on next day i.e on 04/03/2014 by the then MHC PS Nawagai HC Bakht Mohammad and objected that at 8000/- rupees were deficient therein. The packet was carried to the Bank wherefrom the Bank Cashier returned the same with the remarks that the seal of the packet was broken and the same was not paid to us in this condition, therefore, they were not responsible for deficiency / missing. SC Amriz Khan Assistant to Pay Officer corroborated the statement of Pay Officer Mohammad Ali.

Chief cashier of NBP Daggur Branch contended that 2 packets were produced before him on 04/03/2014 by Pay Officer Mohammad Ali and asked that 1 thousand rupees in 1 packet and 8000/- rupees in other packet were deficient / missing. The seal of 1 packet where 1 thousand rupees were deficient was intact therefore, changed with fulfillment of deficiency, whereas seal of packet where 8000/- rupees were deficient was broken, therefore returned to pay Officer. The Manager NBP Daggur Branch Mr. Kamran Khan stated that total amount of salaries of all Govt: Departments is counted with counting machine a day before and also on the day of payment of salaries amount, whereas representatives of each department are advised to count their amount at the Bank counter. When cash is taken out from Bank's premises then neither Bank nor Bank's staff is responsible for any deficiency and discrepancy. However, the amount of salaries of Police Department is about 4/5 crores in respect of monthly salaries, therefore, representative of Police Department are taken to the chamber of Cashier and the total amount is counted with counting machine as well as manually and then paid to them after they show their full satisfaction in presence of Banks Staff.

In view of the evidence collected, statements recorded and information received, the enquiry officer concludes that accused official HC Bakht Mohammad is solely responsible for misappropriation, missing, embezzlement, maligning his senior officer (Bakht Zamin SI), culpable negligence, break of channel and break of trust. The enquiry officer absolves accused officer SI Bakht Zamin from charges as no proof of his involvement came forth regarding misappropriation of Rs. 8000/- rupees in the amount of salaries for the month of February-2014.

The charges against accused official HC Bakht Mohammad have been proved beyond any shadow of doubt.

The enquiry officer holds accused official HC Bakht Mohammad responsible for the following reasons.

- a. Chief cashier of NBP Daggur Branch correctly handed over total amount of salaries to Pay Officer Mohammad Ali, who correctly handed over

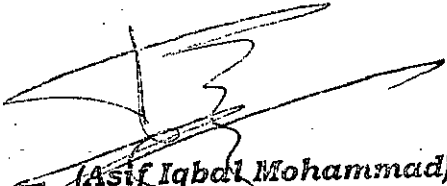
(50)

amount of salaries for the month of February-2014 to SI Bakht Zamin SHO PS Nawagai and admittedly was correctly received by accused official HC Bakht Mohammad.

- b. Accused official HC Bakht Mohammad entered the fact in Daily Diary No. 23, dated 3/03/2014 that he correctly received amount of salaries for the month of February-2014.
- c. Accused official HC Bakht Mohammad admits that he did not check the seals / tape of each packet at the time of receiving amount from SI Bakht Zamin the then SHO PS Nawagai.
- d. Witnesses stated that seals of all packets were healthy and intact on 03/03/2014.
- e. Salaries were distributed among police personnel of PS Nawagai on 03/03/2014 whereas the remaining amount to be distributed was lying in personal custody of accused official HC Bakht Mohammad and deficiency / missing of 8000/- rupees alongwith breaking of seal of deficient packet was pointed out on 04/03/2014 after a dozen and more hours being passed.
- f. Accused official HC Bakht Mohammad pointed out deficiency of Rs. 2000/- rupees in the amount of salaries for the month of January-2014 and admittedly being careless even in counting and checking amount / packets of salaries for the month of February.
- g. Accused official HC Bakht Mohammad admittedly did not bring the issue into the knowledge of SDPO Circle Totalai his immediate officer, whereas directly approached to the office of the undersigned and thereby broken channel of common.
- h. Accused official alleged his SHO for misappropriation without any proof and maligned him. Allegations on immediate senior police officer without any cogent proof is a gross misconduct.
- i. Information have been received that accused official HC Bakht Mohammad conspired to defame and malign SI Bakht Zamin. The act of accused official with reference to allegations against SI Bakht Zamin is based on malice and ill-well.

Keeping in view of the above points and discussion, accused official HC Bakht Mohammad is held responsible for misappropriation / missing of Rs. 8000/- rupees in the amount of salaries for the month of February-2014 whereas SI Bakht Zamin is absolved from charges.

Dated: 04/12/2014


(Asif Iqbal Mohammad)
DISTRICT POLICE OFFICER,
BUNER
(Enquiry Officer)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1508 /ST

Dated 15 / 9 / 2016


To

The D.P.O,
Bunir.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 7.09.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.