

FORM OF ORDER SHEET

Court of _____

Appeal No. 1962/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/09/2023	<p>The appeal of Mr. Hazrat Bilal resubmitted today by Mr. Shabbir Hussain Gigyani Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>03-10-2023</u> Parcha Peshai is given to the counsel for the appellant.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;">REGISTRAR</p>

The appeal of Mr. Hazrat Bilal son of fanos Khan ex-constable 15137RF Charsaada received today i.e on 26.09.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures of the appeal are not in sequence be annexed serial wise as mentioned in the memo of appeal.

No. 3302 /S.T,

Dt. 27/9 /2023.




REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shabir Hussain Gigyani Adv.
High Court at Peshawar

Respected Sir! The annexed was correct properly.

Thank you.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No: 1962/2023

Hazrat **B**ilal

Versus

Commandant **FRP** etc


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			(41)

Hazrat Bilal (appellant)

Through


Shabbir Hussain Gigyani


Numan Khan Lodhi
Advocates

Office # 206, 2nd Floor, City Gate Tower, Opposite City No.1 School,
G. T. Road, Peshawar

0300-8912921, 0333-9152592

(2)

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

Service Appeal No: 1962/2023

Hazrat Bilal S/O fanos Khan (Ex: Constable 1513 FRP)

R/O Kotak Tehsil Shabqadar Charsadda-----Appellant

Versus

1. Commandant FRP, KP, Peshawar.
2. Deputy Commandant FRP, KP, Peshawar
3. The State through the learned AG KPK, Pesahwar-----Respondents

**APPEAL U/S 4 OF KP TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 25-11-2021 OF THE DEPUTY
COMMANDANT FRP, PESHAWAR, WHEREBY THE
APPELLANT WAS DISMISSED FROM SERVICE AND
ORDER DATED 14-09-2023 OF THE COMMANDANT
FRP, PESAHWAR WHEREBY DEPARTMENTAL APPEAL
OF THE APPELLANT WAS DISMISSED**

PRAYER-IN-APPEAL:

By accepting this appeal, both the impugned orders of the Respondents may graciously be set-aside and the appellant may kindly be re-instated in service with all back benefits alongwith grant of any other remedy deemed fit by this Hon'ble Bench.

Respectively Sheweth:

Facts leading the institution of the instant appeal are;

BRIEF FACTS:

- a) **T**hat, on strength of a false personal motive, the appellant alongwith his farther and two (02) real brothers were falsely implicated in case by his uncle/cousins in case FIR No. 114 dated 09-05-2020 U/S. 302/324/34 PPC at PS Batagram, District Charsadda.

FIR No. 114 is annexed-"A"

3

b) **That**, falsehood of the above referred FIR is evident from report lodged vide DD No., 14 of even date and same PS wherein it is mentioned that deceased of the ibid FIR case was hit with the fringe of his own father.

DD No. 14 is annexed-"B"

c) **That**, the appellant surrendered before the Court of law by preferring his BBA on 22-06-2020 for treatment as per law and after facing a protracted trial for long three (03) years, he was acquitted of the entire charges of the prosecution vide judgment dated 18-07-2023 by the worthy ASJ, Shabqadar (Charsadda).

Judgment dated 18-07-2023 is annexed-"C"

d) **That**, as the appellant was serving as constable No. 1513 under the command of the Respondents, therefore during his confinement at Central Prison, Mardan, he was served through Show Cause Notice dated 23-08-2021 for which he promptly responded and submitted his detail reply wherein he not only confessed his innocence but also requested for postponement of departmental inquiry till the final decision of the trial.

Show Cause notice is annexed-"D"

Reply is annexed-"E"

e) **That**, the Respondent No.2, without taking the appellant on board and affording him the opportunity of personal hearing, issued order of **dismissal from service** vide End No. 2159/63 dated 25-11-2021 and as evident from the impinged order no copy was communicated to the appellant on his postal address or through the Jail authority.

Order dated 25-11-2021 is annexed-"F"

f) **That**, on release from jail, on joining his duty, he was shocked with his dismissal order, hence, he submitted his departmental appeal 07-08-2023 which was dismissed by Respondent No.1 vide order dated 14-09-2023.

Appeal is annexed-"G"

Impugned order dated 14-09-2023 is annexed-"H"

Now, the appellant, being aggrieved of the illegal, un-procedural, beyond the rules & regulation act of the Respondents and of both the impugned orders, begs to seek indulgence of this Hon'ble forum for re-instatement in service with all back benefits inter-alia on the following grounds.

GROUND:

1. **Because**, both the impugned orders as well as the entire proceedings of the Respondents are illegal, without justification, without lawful authority and in utter disregards of law, procedure, rule and regulations, hence, untenable.
2. **Because**, the impugned order of the appellate authority is the result of non-reading and misreading of the record as the appeal was dismissed on sole ground of his nomination in criminal case, however, acquittal judgment has been overlooked.
3. **Because**, the appellant has neither been served with any charge sheet nor summary of allegation and when Show Cause Notice was served upon him he promptly responded, however, as evident from dismissal order, the appellant has neither been informed through his postal address nor through the jail.
4. **Because**, despite of having the knowledge regarding the detention of the appellant in judicial lock-up, astonishingly neither has he been apprised of the impugned action/order nor he was given any opportunity of hearing.
5. **Because**, the appellant was also deprived by the authority/Respondents from his valuable right of hearing in person, confrontation with the allegation, with the so-called inquiry report and cross-examination, rather, all the proceedings were conducted ex-parte, which is in utter disregards to the principles of justice and clear provisions of the Constitution especially Article 10-A which says that;

10-A. Right to fair trial:-

For the determination of his civil rights and obligations or in any criminal charge against him a person shall be entitled to a fair trial and due process.

6. **Because**, the entire act, action and the impugned orders were passed against the principle of natural justice as the appellant has been confronted with major penalty without providing him any opportunity of hearing, which is a clear violation of Principal of Natural Justice and Maxim, "No one should be condemn unheard".
7. **Because**, act and action of the Respondents is against the golden principal of criminal dispensation of justice that on acquittal the accused person has earned double presumption of innocence but the same has not been followed by the Respondents.
8. **Because**, the appellant was vexed twice one in a Court of law and another departmental for a single alleged wrong, which was barred by Article 13 of Constitution of Pakistan, 1973, Section 26 of the General Clauses Act, 1897 and section 403 Cr.P.C. which says that;

13. Protection against double punishment and self incrimination:-

No person--

- (a) shall be prosecuted or punished for the same offence more than once; or
- (b) shall, when accused of an offence, be compelled to be a witness against himself.

26. Provisions as to offences punishable under two or more enactments:-

Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

403. Person once convicted or acquitted not to be tried for same offence :

(1) A person who has once been tried by a Court of Competent Jurisdiction for an offence and convicted or acquitted of such offence shall whiles such conviction or acquittal remains in force, not liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under Section 236, or for which he might have been convicted under Section 237.

9. **Because**, as provided in the Fundamental Rules, (FR-54) any civil servant after his acquittal would be entitled for all benefits and even his period of suspension, abscondence and detention to be treated as spent on duty, as it says that;

F.R. 54:- In case where suspension of Government Servant is held to have been unjustifiable or not wholly justifiable or he is re-instated after being dismissed, removed from service or suspended, the revising or appellate authority may grant him the following pay and allowances for the period of absence:-

- (a) If the Government Servant is honorably acquitted, he may be given the full pay to which he would have been entitled-but for his dismissal, removal or suspension. The period of absence in such cases is treated as spent on duty. For this purpose FR-54 should be treated as absolute and unconditional and no question should be raised as to whether there was a post or not against which he could be adjusted for the period of his absence or he had no longer any lien or any other Government Servant was appointed substantively in his place

10. **Because**, appellant, as in view of law and *ratio decidendi* of the Hon'ble Apex Court on the subject issue, is entitled for re instatement in service along with all back benefits to which he is entitle under the law and procedure as held;

1999-SCMR-2870 (M. Iqbal Zaman...Vs...S.E. Irrigation Bannu)

Article 212 Constitution of Pakistan---Civil Service---Suspension---arrears of pay relating to suspension period---Entitlement---Civil Servant who was involved in murder case and was convicted and sentenced by trial Court was acquitted of murder charge by the High Court in appeal---Civil Servant who after his acquittal was re-instated in service, prayed for arrears of pay relating to his suspension period but his prayer was turned down by authority on ground that Civil Servant was not entitled to arrears as he was not honorably acquitted, but was given benefit of doubt---Validity---Acquittal of Civil Servant, even if based on benefit of doubt, was honorable---Acquittal of Civil Servant even based on benefit of doubt, could not become hurdle in payment of arrears of pay to Civil Servant regarding his suspension period provided he had not been found to be gainfully employed during suspension period.

2007-SCMR-537 (S.E. GEPCO...Vs...Muhammad Yousaf)

S. 4 Service Tribunal Act---Article 212(3) Constitution of Pakistan, 1973---Acquittal on benefit of doubt from criminal charge---Honorable acquittal---Back benefits---entitlement---Civil Servant was taken on duty, after his acquittal from criminal charge and his period of suspension was treated as leave on due basis---Grievances of Civil Servant was that the authorities did not pay him salary for the period---Service tribunal allowed the appeal of Civil Servant and directed the authorities to pay him back benefits---Validity---Civil Servant who was acquitted by extending benefit of doubt would be deemed to have been acquitted honorably---Civil Tribunal has rightly directed the authorities to treat him on duty and give him all financial benefit during the period of his confinement in custody on account of his involvement in criminal case---Lave to appeal was refused.

1998-SCMR-1993 (Govt of NWFP... Vs... Dr. Muhammad Islam)

FR-54, Fundamental Rule---Civil Services---Civil Servant was involved in a case U/S. 302/34 PPC for a murder---No evidence could b brought against the accused Civil Servant on charge of murder, thus, proving that allegation leveled against him were baseless---Acquittal of Civil Servant from a criminal case---Accused Civil Servant in case of acquittal was to be considered to have committed no offence because the competent criminal Court had freed/cleared him from the accusation of charge of crime---Such Civil Servant, therefore, was entitled for grant of arrears of his pay and allowances in respect of the period he remain under suspension on the basis of murder case against him.

11. **Because**, be that as it may, rights of the appellant has not been treated in accordance with law which is in utter violation of Article 4 of the Constitution which says that;

4. Right of individuals to be dealt with in accordance with law, etc:-

(1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

(2) In particular—

(a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;

(b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and (c) no person shall be compelled to do that which the law does not required him to do.

12. **Because**, the impugned orders are neither legal nor speaking one and not sustainable in legal parlance.

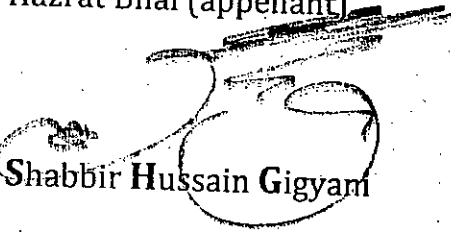
13. **Because**, the petitioner is sole earning hand of his family and apropos to the impugned act & action of the Respondent the entire family has been confronted with miserable life.


14. **Because**, at any rate, act, action and the impugned orders of the Respondents are illegal, have no legal effect in the eye of law, untenable and the appellant is entitled for the relief sought.

PRAYER:


It therefore most humbly prayed that on acceptance of this appeal, this Hon'ble Bench may graciously be pleased to set-aside both the impugned orders of the Respondents and the appellant may kindly be re-instated in service with all back benefits alongwith grant of any other remedy deemed fit by this Hon'ble Bench.

Through

Hazrat Bilal (appellant)

Shabbir Hussain Gigyani


Numan Khan Lodhi

Yawar Hussain


Muhammad Shoab

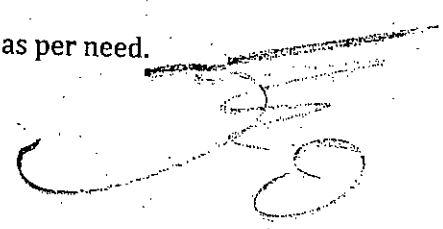
Dated: 25-09-2023

Advocates, Peshawar

NOTE:

➤ Appeal in hand is 1st one on the subject issue.

List of Books:

1. Constitution of Pakistan 1973.
 2. Interpretation of Statute N.S.Bindra.
 3. Police Act 1861.
 4. Police Rules 1934.
 5. Khyber Pakhtunkhwa Police Rules 1975.
 6. Khyber Pakhtunkhwa Service Tribunal Act 1974.
 7. Khyber Pakhtunkhwa government servants (conduct) Rules, 1987.
 8. The General Clauses Act, 1897.
 9. FR & SR
 10. The Code of Criminal Procedure, 1898.
 11. 1998-SCMR-1993
 12. 1999-SCMR-2870
 13. 2002-SCMR-916.
 14. 2007-SCMR-537
 15. Any other book or case law as per need.
- 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No: _____/2023

Hazrat Bilal

Versus

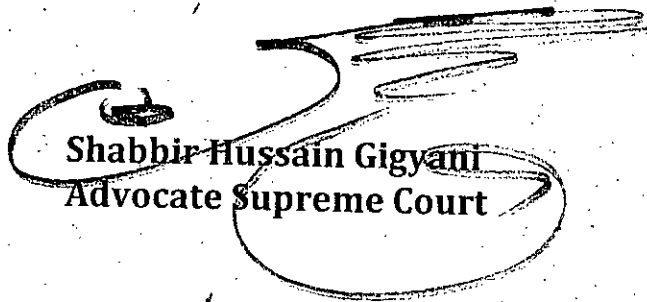
Commandant FRP etc

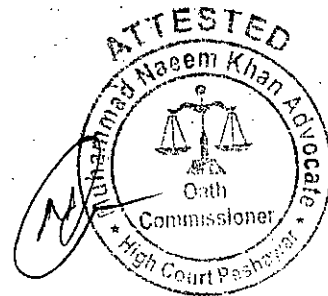
AFFIDAVIT

I, Hazrat Bilal S/O Fanos Khan (Ex: Constable no. 1513) R/O Kotak Shabqadar Charsadda do here by solemnly affirm and declare on oath that the instant bail petition is 1st one and its contents are true and correct to the best of my knowledge and beliefs.

Deponent: HR
CNIC#: 17103-0374981-1
CELL#: 0315-9695045

Identified by:


Shabbir Hussain Gigyani
Advocate Supreme Court



26 SEP 2023

(10)

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

Service Appeal No: ____/2023

Hazrat **B**ilal

Versus

Commandant **FRP** etc

ADDRESSES OF THE PARTIES

Address of the appellant:

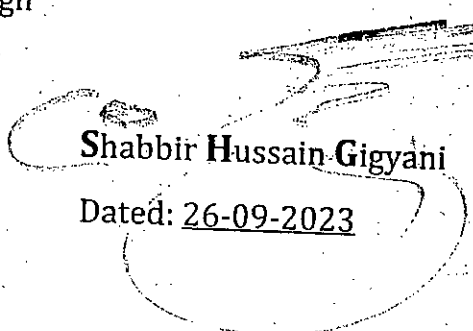
Hazrat Bilal S/O Fanos Khan
R/O Kotak Tehsil Shabqadar Charsadda

Addresses of the Respondents:


1. Commandant FRP, KP, Peshawar.
2. Deputy Commandant FRP, KP, Peshawar
3. The state through the learned Ag KP, Peshawar

Hazrat Bilal (appellant)

Through


Shabbir Hussain Gigyani

Dated: 26-09-2023


Numan Khan Lodhi
Advocate, Peshawar

(11)

A

ابتدائی اطلاع رپورٹ

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

تھانہ بنگرام 114
 ضلع تاریخ 09/05/2020 بوقت 16:30 بجے
 چارسدہ

۱۔	تاریخ وقت رپورٹ 09/05/2020	وقت 17:15 بجے	چاکی گی پرچہ 09/05/2020 وقت 17:25 بجے
۲۔	نام و سکونت اطلاع دہندہ مستغیث	عبدالحمید ولد سعید خان کوٹک ترناب	
۳۔	مختصر کیفیت جرم (مذوقہ) حال اگر کچھ لیا گیا ہو۔	302/324/34 PPC	
۴۔	جائے وقوعہ فاصلہ تھانہ سے اور سمت	اراضیات ازاں مدعی واقع مندیری	
۵۔	نام و سکونت ملزم	1۔ فانوس ولد سعید شاہ 2۔ بلال شاہ 3۔ بیت اللہ 4۔ انعام اللہ پسران فانوس ساکنان جہلم	
۶۔	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	مدعی کی رپورٹ ہر مقدمہ قائم کیا جاتا ہے۔	
۷۔	تھانہ سے روانگی کی تاریخ و وقت	بطور اسپیشل رپورٹ	

ابتدائی اطلاع نیچے درج کرو۔ بوقت صدر بچہ مستغیث خانہ نمبر 2 نے نعلش پسر خود مقتول عارف اللہ جان بھر 25/26 سال سکنتہ کوٹک ترناب بہ امداد رشتہ دارن بسواری سوزکی بحاضری تھانہ لا کر مستغیث رپورٹ کرتا ہے کہ بوقت وقوعہ میں معہ پسر ام مقتول عارف اللہ، امیر اللہ اراضی خود میں آپاشی کر رہے تھے کہ اس دوران برادر ام فانوس خان بمعہ پسران اش بلال شاہ، بیت اللہ، انعام شاہ مسلح بہ اسلحہ آتشین آ کر ہمارے ساتھ مشقت و گریبان ہوئے ہمیں مارا پینا اور بعدہ جملہ کسان نے ہم پر یہ ارادہ قتل فائرنگ کر کے بلال شاہ کی فائرنگ سے پسر ام عارف اللہ سر پر لگ کر موقع پر جاں بحق ہوا جبکہ میں بھی کسی چیز کی وار سے زخمی ہوا اور ملزمان کی فائرنگ سے بال بال بچ گیا ملزمان بعد وقوعہ فرار ہوئے واقعہ ہذا میرے علاوہ پسر ام امیر اللہ کا چشم دید ہے، پسر ام عارف اللہ کی قتل اپنی مجروحیت اور ملزمان کی فائرنگ سے بال بال بچ جانے کا برخلاف ملزمان فانوس خان ولد سعید شاہ اور بلال شاہ، بیت اللہ، انعام شاہ پسران فانوس خان ساکنان جہلم دعویٰ ہوں۔ العبد۔ شاہ خالد ولد دارا شاہ سکنتہ جہلم نے رپورٹ بالا کی تائید و تصدیق کی۔ العبد۔ کارروائی تھانہ حسب گفتہ سائل رپورٹ درج ہو کر پڑھ کر سنایا سمجھایا گیا درست تسلیم کر کے زیر رپورٹ خود جبکہ تائید کنندہ سے تائیدی دستخط لیا گیا۔۔۔۔۔ علاج معالجہ زیر حفاظت کنستبل ساجد 1368 ہسپتال شہدہ رنجوائے جاتے ہیں۔ رپورٹ سے صورت جرم بالا کاپائی جا کر پرچہ جرم بالا چاک کیا جا کر بطور اسپیشل رپورٹ اطلاع دی جاتی ہے پرچہ بطور اسپیشل رپورٹ گزارش ہے۔۔۔

ضلع چارسدہ

نقلمد 14 روز نامہ 09/05/2020

تھانہ بگرام

مد 14 درجگی مراسلہ رضوان خان MM/HC وقت 18:40 مورخہ 09/05/2020 ایک تحریری مراسلہ منجانب

ولی خان ASI کچولٹی ہسپتال فیاض موصول ہو کر بمضمون ذیل ہے تاریخ وقت وقوع 09/05/2020 وقت 16:23 رپورٹ

09/05/2020 وقت 18:00 جائے اراضی ازاں مدعی بیت اللہ واقعہ جاہر منجانب شمال بقاصلہ کچولٹی جرم PPC324/34

بخدمت جناب SHO صاحب تھانہ بگرام حسب اطلاع کچولٹی ہسپتال آیا بمقام کچولٹی ہسپتال شب قدر مجروح بیت اللہ ولد فانوس خان قوم

افغان بھر 20/21 سال ساکن کوئٹہ ترناب پڑی پا کر مجروح درست ہوش و ہواس میں یوں رپورٹ کرتا ہے کہ بوقت وقوع معہ برادر ام

انعام اللہ کے اپنے اراضی بمقام جائے وقوعہ بالا پر موجود تھے اور اراضی کا آبپاشی کر رہے تھے کہ اس دوران مسیان مجید ولد سعید شاہ، عامر،

عارف، نظام پسران مجید ساکنان دہیہ ام جو کہ بچا اور بچا زادگان مسلح بہ اسلحہ آتشین آئے، عامر، عارف، نظام ہم پر بیچوں سے گزرت

شروع کئے جبکہ بچا ام مجید نے ہم پر بہ ارادہ قتل فائرنگ شروع کی جنکی فائرنگ سے میں لگ کر زخمی ہوا جبکہ برادر ام انعام اللہ لڑمان کے

فائرنگ سے بال بال بچ گیا جبکہ بچا مجید کی فائرنگ سے خود ان کا بیٹا عارف بھی لگ کر زخمی ہوا جو بعد میں جاں بحق ہو چکا ہے وجہ عناد یہ ہے

کہ آج وقوعہ سے ایک گھنٹہ قبل مجید وغیرہ نے برادر ام انعام اللہ کو آبپاشی کے تنازعہ پر مارا بیٹھا تھا وقوعہ ہذا میرے علاوہ برادر ام انعام اللہ اور

دیگر موجودگان کا چشم دید ہے میں اپنے مجروحیت اپنے آپ اور برادر ام انعام اللہ پر بہ ارادہ قتل فائرنگ کرنے اور مارنے پینے کا برخلاف ہر

چاروں کسان دعویدار ہوں۔ العبد۔ میں مسماۃ فرزانہ زوجہ فانوس خان قوم افغان بھر 50/51 سال ساکن کوئٹہ ترناب رپورٹ بالائی

تائید کرتی ہوں۔ العبد۔

(15)

IN THE COURT OF JAMAL SHAH MAHSOOD,
ADDITIONAL SESSIONS JUDGE, SHABQADAR
(CHARSADDA)

Case No. 193/SC of 2020

Date of Institution 23.12.2020

Date of Decision 18.07.2023

The State (through complainant Abdul Majeed s/o Said Shah -
resident of Kotak Tarnab)

Vs

- 1) Fanoos Khan (aged 66) s/o Said Shah
- 2) Hazrat Bilal (aged 29) s/o Fanoos Khan
- 3) Bait Ullah (aged 21) s/o Fanoos Khan
- 4) Inam Ullah (aged 20) s/o Fanoos Khan, all residents of Tarnab
(Shabqadar, Charsadda) (Accused)

- FIR Number: 114
- Dated: 09-05-2020
- Under Sections: 302/324/34 PPC
- Police Station (PS): Battagram (Charsadda)

- Sr. PP Muhammad Litaf for State
- Imtiaz ur Rehman Advocate for complainant
- Messrs Shabbir Hussain Gigyani & Associates for defence

JUDGMENT:

1. The above-named four accused have been jointly charged in the instant trial for attempting, while sharing common intention, at the lives of complainant Abdul Majeed and his sons Arif Ullah and Ameer Ullah (complainant party) with firearms, which attempt succeeded to the extent of causing the death of Arif Ullah.

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2. According to FIR (Ex.PA), on 09-05-2020, complainant Abdul Majeed arrived in the local PS in company of his relatives, carrying the dead body of his son Arif Ullah in a vehicle. He made an oral report there at 17:15 hrs, which was registered as FIR at 17:25 hrs. The facts of occurrence, as recorded in this report, are: Abdul Majeed (complainant/PW-08) was present with his sons Arif Ullah (deceased) and Ameer Ullah (PW-09) in their fields situated in Mandizai, watering their lands. Fanoos Khan, Bilal Shah, Bait Ullah and Inam Shah (the accused), who are brother and nephews of the complainant, arrived there carrying firearms. The accused started grappling with complainant party, and gave them beating. All the accused then made firing upon complainant party, with the intention to kill. Firing of accused Bilal Shah hit Arif Ullah in the head, and he died on the spot. The complainant too received injury from something, but made a narrow escape from the firing. The accused ran away after the occurrence. The time of this occurrence was recorded as 16:30 hrs; while the complainant and his son Ameer Ullah were cited as eyewitnesses. This report was signed by the complainant and verified by one Shah Khalid (abandoned PW). Injury sheets and inquest report were prepared. The injured-complainant and the dead body were

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referred to medical help and M.I.R etc. A Special Report was dispatched to senior police officers.

3. It is pertinent to mention here that on the same date, at 18:00 hrs, another report was made by present accused Bait Ullah in local hospital, wherein a different story was narrated in respect of the circumstances which resulted in death of Arif Ullah (deceased). The report of Bait Ullah was registered as Madd No. 14 on same date (EX.D-1). According to this murasila-report, Bait Ullah and his brother Inam Ullah (both accused in instant trial) were present in their field in village Jalhar, and busy in watering their lands. Abdul Majeed (complainant in instant trial) appeared there in company of his sons Amir, Arif and Nizam, carrying firearms. Amir, Arif and Nizam attacked Bait Ullah and his brother with spades, while Majeed started firing at them with the intention to commit murder. Bait Ullah received a firearm injury, while his brother Inam Ullah made a narrow escape. The firing of Majeed also hit his own son Arif, who got injured and died later on. The time of occurrence was noted in this report as 16:23 hrs; and the motive was mentioned as the beating of Inam Ullah by present complainant Majeed etc., one hour prior to the occurrence. Bait Ullah, Inam Ullah and others present on the spot were cited as eyewitnesses of the occurrence. This murasila report was signed by Bait Ullah; and thumb impression of his

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mother Ms. Farzana was obtained on the same as verifier. The report of Bait Ullah was made at local hospital before an ASI, who reduced it into writing as murasila, and dispatched it to the PS for registration of FIR and investigation. The original murasila report of Bait Ullah is available on file, but it was not exhibited by prosecution during trial.

4. The accused nominated in both versions of the case were arrested. All, except Hazrat Bilal, were subsequently released on bail. The prosecution had forwarded two separate sets of challans to the Court for trial. Three separate challans were forwarded for instant trial - one interim dated 20-05-2020, one complete/supplementary dated 05-09-2020, and one complete in cross-version *Madd* no. 14 dated 05-09-2020. The original record of the case has been annexed with challans of FIR version (instant trial No. 193/SC of 2020); while photocopies of record have been annexed with the challans of cross version report made by Bait Ullah (connected trial No. 192/SC of 2020). Both trials proceeded side by side before this court, and both these trials are being decided on the same day.

5. The 04 accused of instant trial were summoned and a joint charge was framed against them on 18-03-2021. They pleaded not guilty and claimed trial.

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6. In order to prove the charge against these 04 accused, the prosecution has examined 13 PWs during instant trial. The gist of their evidence is as follows:

PW-01 is Qaiser Khan Inspector. He deposed that he had submitted interim challan (EX.PW.1/1) and supplementary challan (EX.PW.1/2) against the accused of instant trial.

PW-02 is Shad Mohammad DFC. He deposed that he had conducted proceedings against accused Bilal Shah (Hazrat Bilal), then absconding, u/ss. 204 & 87 CrPC (Ex.PW.2/1 to Ex.PW.2/4).

PW-03 is Dr. Aqeel, a Medical Officer. He deposed that during the relevant days he was posted at THQ Shabqadar. That, on 09-05-2020, he had examined injured Abdul Majeed (complainant), and noted the history as blow to anterior parietal region causing bruise (EX.PW.3/1). He further deposed that, on the same date at 18:40 hrs, he had conducted autopsy on dead body of Arif Ullah aged 25/26 (deceased); and that he had prepared the Post Mortem report in the case. According to his PM report (EX.PM), the dead body had 04 firearm wounds with corresponding exit wounds. The left side of occipital region was also found crushed due to multiple injuries. First firearm entry wound

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was on side of chest below clavicle, second on right side of chest near axilla, third on left upper arm, and the fourth on left deltoid. The cause of death was recorded as injury to main blood vessels in the brain which lead to hypovolaemic shock. The probable duration between injury and death was noted as 10 to 15 minutes, while the same between death and PM examination as 02 hours. He also deposed that he had endorsed the injury sheet (EX.PM/1).

PW-04 is Kabir Khan SI. He deposed that, after recall of BBA of accused Fanoos, Inam Ullah and Hazrat Bilal, he had applied for obtaining their further 07-day police custody, which was allowed for 01-day only (EX.PW.4/1). That he interrogated these accused; that they admitted their guilt; and that they pointed out various spots before him. That he prepared pointation memo (EX.PW.4/2) and recorded statements of PWs and accused. That, vide application EX.PW.4/3, he produced these accused for recording their statements u/s 164/364 CrPC, which they refused to make, and were sent to judicial lock up.

PW-05 is Hayat Ullah ASI, a marginal witness to pointation memo EX.PW.4/2.

PW-06 is Abdus Samad ASI. He deposed as a marginal witness of two recovery memos; i.e., recovery memo EX.PW.6/1, through which the IO had recovered and taken into

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PW-10 is Muzafar Khan SI, the Investigating Officer (IO) of the case.

He deposed in respect of the following proceedings conducted in investigation of the FIR version:

- Proceeding to the spot and preparing site plan (EX.PB), by himself, on the first visit; and making additions in this site plan during second second visit (EX.PB/1), at the instance of complainant Abdul Majeed.
- Preparing recovery memos (EX.PW.6/1 & EX.PW.6/2) through which blood stained earth was taken into possession from the spot of deceased and 06 empties were recovered from point B.
- Arresting accused Bait Ullah through card of arrest EX.PW.10/1, and obtaining his further police custody for 01-day through application EX:10/2.
- Recording police confession of accused Bait Ullah and producing him before court for recording his judicial confession (EX.PW.10/3), which the accused refused to make.
- Sending the 06 empties to FSL (EX.PW.10/4), and placing on file the FSL report thereof (EX.PZ).
- Taking into possession and sealing the last worn clothes of deceased (EX.PW.10/5).

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possession 06 empties of 7.62-bore from point-B sealed in parcel No.2 with monogram MK, and recovery memo EX.PW.6/2 through which the IO recovered blood-stained earth from spot of deceased and sealed it in parcel No.2 with same monogram.

PW-07 is Wahid Gul ASI. He deposed that the complainant had brought dead body of Arif Ullah to the PS in company of his relatives; that the matter was reported to him and he reduced it into writing as FIR (Ex.PA); and that the FIR was signed by complainant, and verified by one Shah Khalid. Further deposed that he had prepared injury sheet (EX.PW.7/1) and inquest report (EX.PW.7/2) of deceased, and the injury sheet (EX.PW.7/3) of complainant - and referred both to medical officer.

PW-08 is complainant Abdul Majeed. He deposed as an eyewitness of the occurrence, and narrated almost the same facts as recorded in the FIR. He further deposed that the site-plan was prepared at his instance; and that additions were made in the site plan on 12-05-2020.

PW-09 is Amir Ullah, a son of complainant. He also deposed as an eye-witness of the occurrence and repeated the story as narrated by PW-08.

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- Taking into possession the blood stained shalwar of Bait Ullah (injured-accused), having cut marks, through recovery memo EX.PW.10/6.
- Sending all the recovered blood stained articles to FSL (EX.PW.10/7), and placing the result thereof on file (EX.PZ/1).
- Issuing cards of arrest of accused Fanoos and Inam Shah, after they appeared before him with interim BBA order (EX.PW.10/3).
- Initiating proceedings against accused Hazrat Bilal, then absconding, u/ss. 204 and 87 CrPC (EX.PW.10/9 & EX.PW.10/10).
- Placing on file the inquest report, injury sheets and PM report.
- Sending information to higher officials of government departments where accused Fanoos, Bilal and deceased Arif had been serving (EX.PW.10/11 to EX.PW.10/13).
- Issuing card of arrest of accused Hazrat Bilal, after the said accused appeared before him with copy of interim BBA (EX.PW.10/14).
- Applying for CDR of accused and complainant party (EX.PW.10/15); and placing the same on file (EX.PW.10/16).

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- Recording statements of PWs and accused u/s 161 CrPC.
- Preparing the list of legal heirs of deceased (EX.PW.10/17).
- Handing over of the case file to SHO for further investigation, after getting transferred out from the PS.

PW-11 is Sajjad 1171. He deposed that he had escorted the dead body of deceased from PS to the mortuary, without letting anyone interfere with it; and that after PM examination he had returned the clothes of deceased to PS and handed them over to the CIO.

PW-12 is Ghulam Sarwar SI. He deposed that he had received the FSL reports in respect of contents of parcels no. 1 to 4.

PW-13 is Arshad MHC. He deposed that he was a marginal witness of recovery memo EX.PW.10/5, through which the garments of deceased were taken into possession by the IO.

7. The defence availed opportunity to cross examine these PWs. After closing of prosecution evidence, separate statements of all 04 accused were recorded u/s 342 CrPC. They denied the prosecution evidence; however, none wished to produce any evidence in defense or to get examined under oath.

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8. Thereafter, the prosecution and the defense were heard. The findings of this Court, in light of the evidence brought on record and the arguments of the parties, are as follows.

9. It must be highlighted at this point that the instant case was one of two cross-versions - in respect of the circumstances which resulted in the death/murder of Arif Ullah (deceased). The Supreme Court of Pakistan had constituted a Larger Bench, in case titled Mst. Sughran Bibi versus The STATE (PLD 2018 Supreme Court 595), in order to give an authoritative pronouncement on the subject of cross-version cases. After discussing all previous precedents on the subject, the Supreme Court, in para no. 27 of the judgment, declared the legal position applicable to such cases. The summary of the legal points declared is: (i) that the FIR was only the first information to local police about commission of a cognizable offence; (ii) that any details regarding the occurrence mentioned in such information report were not to be accepted as the gospel truth by the investigating officer; (iii) that upon registration of FIR, a criminal "case" came into existence and that a case was to be assigned a single number to be carried till final decision of the case; (iv) that, after registration of FIR, it was only the Investigating Officer who could record any other version/s of the same incident, through statements u/s 161 CrPC - and

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separate FIR/case was not to be registered; (v) that the investigating officer was required to discover the actual facts of the case, and not to commit himself to any version forwarded by the parties involved; (vi) that a person nominated as accused in a case could be arrested only when sufficient evidence had been collected by the investigating officer to warrant such arrest; and (vii) that the police report submitted in the case u/s 173 CrPC (challan) was to be based on actual facts discovered during investigation - and not merely on the basis of a version forwarded by any party involved.

10. In the instant case, the investigation agency and the prosecution have contrived a new technique to bypass the directions of the apex Supreme Court of Pakistan. The second version has been registered separately, by giving it different number (a *Madd* number from the Police Station Diary). Two separate sets of challans were prepared and forwarded to the court for trials in the case. No effort was made by the investigating agency to fulfill the legal requirements as highlighted and declared by the apex Supreme Court Pakistan. The prosecution evidence has been examined keeping in view the judgment passed in *Mst. Sughran Bibi* case.

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11. In the instant trial, the prosecution has examined 02 persons as eyewitness, i.e. complainant Abdul Majeed (PW-08) and his son Amir Ullah (PW-09). Their ocular account is the main evidence in instant trial. It is to be determined first that whether these two alleged eyewitnesses are trustworthy and consistent witnesses.

12. The complainant Abdul Majeed (PW-08) had mentioned the spot of occurrence in the FIR as his fields situated in Mandezai. He had also claimed that he was present there at the relevant time with his sons for the purpose of watering his lands. During first spot inspection the IO had prepared site plan EX.PB, according to which the spot inspected was land belonging to one Mumtaz situated in village Kotak Tarnab. No implements used for irrigation of lands were recovered by the IO during first spot inspection conducted on 09-05-2020, neither were any produced by the complainant party during the second spot visit made by IO, in presence of complainant, on 12-05-2020. Thus both, the spot of the occurrence and the presence of alleged eyewitnesses there for the stated purpose of irrigation, remain doubtful.

13. Complainant Abdul Majeed (PW-08) had made a vague statement in his report regarding the weapons allegedly used by the accused and the nature of injury received by him. He had

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stated that the accused had arrived to the spot carrying firearms, without specifying the types of alleged firearms. He had alleged that the accused party had given a beating to the complainant party, but without specifying that whether any weapons or instruments were used by accused for the purpose of this beating. He had alleged that he had received an injury with a blow of something, again without specifying the nature of that thing or the seat and nature of the injury received by him.

14. The perusal of record and evidence would reveal that all these vague elements were improved upon by the prosecution and attempt was made to fill up these deficiencies at convenient stages, and in doubtful manner. It was alleged that all the 04 accused were carrying firearms, and that all had made firing at the complainant party with the intention to kill. According to site plan EX.PB, prepared during first spot visit, the IO had recovered 06 empties of 7.62-bore from point B - attributed to the accused. This site plan had been prepared by IO from his own observations - in absence of any eyewitness. As to how the IO knew the spots of accused during first spot inspection is question that has remained unanswered. The FSL report (EX.PZ) in respect of these 06 empties state that all were fired from a single weapon. No weapon was recovered from any of the accused facing instant trial; and allegation that 04 persons

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had made firing is made doubtful, rather negated, by the FSL report.

15. The MLR of complainant (EX.PW.3/1) is also found to be a suspicious document. It does not mention the time of examination; and no finding has been given by the MO regarding the age of injury of complainant. The weapon, with which injury was allegedly caused to complainant, was introduced as sharp-edged weapon for the first time during instant trial in statements of PW-08 and PW-09. However, the injury of complainant is noted in his MLR as a simple bruise from a blow. A bruise from sharp-edged weapon is unbelievable. Thus it remains doubtful that the complainant had received any injury during the occurrence as alleged by him.

16. The presence of second alleged eyewitness (Amir Ullah/PW-09) with the deceased or with the complainant at the relevant times is likewise found to be doubtful. Amir Ullah is a son of complainant, and a brother of deceased. It was alleged that he too had been beaten by the accused during the occurrence. However, neither any injury on his body was specified, nor was he examined by the MO. Amir Ullah was supposed to have remained with his father and to have helped in shifting the dead body from spot. But he is found to be conspicuously absent at the crucial moments. The report of complainant was verified in

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the PS by one Shah Kháild (abandoned PW), rather than by Amir Ullah. He did not show up at the spot during the first spot inspection, or at the time of subsequent spot inspection - raising further doubts regarding his presence even in the locality at the relevant time. In his statement during trial, he claimed that his father had received injury from a sharp-edged weapon, a fact negated by MLR. It is also admitted by the prosecution that the IO had not recorded any statement of Amir Ullah u/s 161 CrPC. The IO (PW-10) attempted to forward a reason for non-recording of statement of Amir Ullah u/s 161 CrPC; however, this dishonest attempt by IO was checkmated by defence in the following question. The conduct of Amir Ullah, coupled with his contradictory and improved statement recorded during trial, makes him a witness not worthy of reliance.

17. It was alleged in the FIR that deceased Arif Ullah, had received firearm injury on his head. No other injury on the body of deceased had been mentioned either in the FIR or in the statements of alleged eyewitnesses recorded during trial. Even the injury sheet and inquest report of deceased do not clearly specify the location or the number of injuries on the body of deceased. The PM report (EX.PM), however, contradicts the version of FIR and the statements of alleged eyewitnesses. According to the PM report the deceased had 04 firearm

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injuries, on chest, upper arm and shoulder regions - with corresponding exit wounds. The injury on the head of deceased is noted in PM report as "left side of occipital region is crushed due to multiple injuries". The prosecution has failed to bring on record convincing evidence to establish that the injury on the head of deceased was a firearm injury. The complainant had mentioned his own simple bruise in his report, but failed to mention the many critical and fatal wounds on the body of his deceased son. Both the alleged eyewitnesses had claimed that the deceased had received firearm injury in the head only. This aspect of the case makes the presence of alleged eyewitnesses with deceased at the time of occurrence or even at the time of report and PM examination further doubtful.

18. The investigation officer of the case cut a sorry figure as prosecution witness. He admitted that he had investigated both the cross-versions of the case. He could not explain the change of spot of occurrence from fields of complainant Abdul Majeed to the fields on one Muntaz. He admitted that he made no effort to verify the ownership or occupancy status of the spot fields. He first claimed that he did not recover any spade etc. during spot visit or later - a fact negated by the site plan prepared on second spot visit (EX-PB) and by his own subsequent admission that a spade was in fact taken into

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possession on pointation of Bait Ullah during investigation of the cross-version case. His dishonest statement regarding the recording statement of alleged eyewitness Inam Ullah w/s 161 CrPC has already been mentioned above. The overall impact of statement of IO is that he has simply put together hollow formalities of investigation, and accepted whatever the parties of each version had been dictating to him. He has completely shunned his own official obligations as IO, and muddled up all the facts of the case due his irresponsible conduct.

19. The above appraisal of prosecution evidence brings this Court to the conclusion that the evidence against accused facing instant trial is full of doubts and contradictions. Both the alleged eyewitnesses are found to be interested witnesses and untrustworthy of reliance. The investigating agency failed to collect any independent and reliable evidence in the case, in clear disregard of the latest pronouncement of the apex Supreme Court of Pakistan passed in Mst. Sughran Bibi case. The IO and prosecution have blindly toed the line of complainant, and made no effort to unearth the actual facts of the case.

20. Resultantly, all the four accused facing trial (Fanoos Khan, Hazrat Bilal, Bait Ullah and Inam Ullah) are acquitted of the charges leveled against them in the instant case. Accused

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Hazrat Bilal is in custody; he shall be released forthwith, if not required to be detained in any other case. The sureties of other accused are discharged from the liability of their bail bonds.

- 1. The case property shall be kept intact till final disposal of appeal/revision in the case, if any. Thereafter the same may be disposed of according to law.
- 2. Let a copy of this judgment be sent to the office of District Public Prosecutor Charsadda, and this file be consigned to the record room after proper compilation.

Announced
18.07.2023

Jamil Sadiq Malik
Additional Sessions Judge
Shabqadar (Charsadda)

CERTIFICATE:

This judgment consists of 19 pages, and each page is signed.

Jamil Sadiq Malik
ASJ-Shabqadar
(Charsadda)

F. H.
Certified to be true

1200
 Date of conviction: _____
 Name of appellant: _____
 Words: _____
 Fee: ML 7600/2
 Urgent No: _____
 Signature of Copying Agency: _____
 Date of preparation: 03.8.23
 Date of Delivery: 03.8.23

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SHOW CAUSE NOTICE

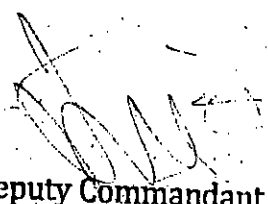
I, Deputy Commandant FRP / K.P.K Peshawar as Competent Authority do hereby serve you Constable Hazrat Bilal No. 1513 of FRP HQrs Peshawar.

(1) You constable Hazrat Bilal No. 1513 of FRP HQrs: being involved in case FIR No.114 u/s 302/34 at PS Battagram District Charsadda dated 09.05.2019 and remained in Judicial Lock Up w.e. from 03.09.2020 till date. You have not been released from Jail after spending almost a year in Jail.

(2) Therefore, I, Deputy Commandant FRP/K.P.K as Competent Authority has tentatively decided to impose upon you Major/Minor penalty.

(3) You are, therefore, required to Show Cause as to why not the aforesaid penalty should not be imposed upon you.

(4) If no reply to this Show Cause Notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in and consequently ex-parte action shall be taken against you.


Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

No. 1461 /PA. Dated 23 10 2021 /2021.



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON MARDAN

Phone/Fax: 0937-843114

Email: mardanjail@gmail.com

No. 11877/ Dated 01/11/2021

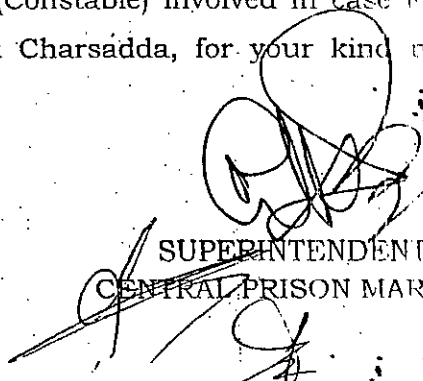
To

The Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa
Peshawar

Subject: REPLY TO THE SHOW-CAUSE NOTICE No.1461/PA DATED
23.08.2021

R/Sir;

Enclosed please find herewith reply to the show-cause notice submitted by Hazrat Bilal s/o Fanoos Khan (Constable) involved in case FIR No. 114, U/S 302/34 of P.S Battagram District Charsadda, for your kind perusal please.


SUPERINTENDENT
CENTRAL PRISON MARDAN

جناب ڈیٹی کمانڈنٹ فرنٹیررز پولیس (FRP) خیبر پختونخواہ پشاور

عنوان: تفصیلی جواب برائے شوکار نوٹس FRP/HQ

جناب عالی!

سال حضرت بلال بیلٹ نمبر 1513 ولدیت فائوس خان رائشی کھیل شہید صلح چارلڈ
ڈیپارٹمنٹ ہذا کے کمانڈنٹ دفتر سے بتاریخ 29/10/2020 کو ایک ملحد شوکار
نوٹس میزان سنٹرل جیل میں موصول ہوا ہے جس میں سائل سے سروکل پیرتہ حاضر ہونے
کے وجوہات کے بارے میں پوچھا گیا ہے۔

وہ وجوہات جسکی وجہ سے سائل غیر حاضر ہے وہ مندرجہ ذیل ہے۔

جناب عالی پچھلے سال رمضان کے مہینے میں ایک تافوشگوار واقعہ 9/5/2020 کو پیش
آیا تھا جس میں میرا ایک چھوٹا بھائی ترخی ہوا تھا اور ایک بچہ آزاد بھائی فوت ہوا تھا۔
اس واقعے میں دونوں فریقین کی طرف سے ایک دوسرے کے خلاف ایف آئی آر FIR

پیش کروائیں گئی تھی

جناب عالی! سال حضرت بلال ولد فائوس خان اپنے بھائیوں میں سب سے بڑا ہے اور
سائل کا والد جماعتی طور پر محذور ہے سائل اپنے گھر کا سربراہ ہے

بسم اللہ تعالیٰ سائل حضرت بلال بیلط نمبر 1513 کو بھی جان لو جو کچھ اس نے واقعہ

کے ایف آئی آر FIR No. 114 تاریخ 5/9/2020 میں نامزد کیا تھا ہے۔

سائل نے ایف آئی آر درج ہونے کے بعد عدالت سے رجوع کر لیا اور BBA

کے ذریعے اس کے بعد BBA کینسل ہوئی اور سائل 3/9/2020 سے پابند سلاسل ہے

اور کس عدالت انڈر ٹرائل ہے اس سارے صورتحال سے سائل نے پہلے بھی اپنے

مذکورہ طور پر آگاہ کیا تھا۔

جناب عالی یہ وہ وجوہات ہے جسکی وجہ سے سائل اپنے سروس سے غیر حاضر ہے

جیسے ہی سائل اس جھوٹے مقدمے سے باعزت لیری ہو گا فوراً اپنے سروس پر

مائل ہو جائے گا۔

ابتداءً آپ صاحبان سے عاجزانہ التماس ہے کہ سائل حضرت بلال بیلط نمبر 1513

کی خلاف کوئی حکمانہ کارروائی نہ کی جائے سائل ہمیشہ دعا گو رہے گا۔ شکریہ!

حضرت بلال بیلط نمبر 1513 ولایت قالوس خان

تاریخ 30/10/2021

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F

O.R.D.E.R.

This order will dispose off the Departmental Inquiry against Constable

No. 1513 of FRP/HQrs: Peshawar.

Brief facts of the case are that Constable Bilal No. 1513 of FRP HQrs Peshawar being involved in case FIR No. 114 U/S 302/34 PS Battagram Distt. Charsadda, dated 09-05-2020. In this regard proper departmental proceedings were initiated against him through DSP FRP HQrs. And as per the recommendations of I.O. his absence period w.e. from 10.05.2020 to 22.06.2020 for the total period of (43) days treated as without pay vide this office order No. 1768-71/PA dated 16.12.2020 and his inquiry was kept pending till the decision of honorable court.

Keeping in view the above, it is worth mentioning here that the CPO Peshawar has directed to all Head of Units along with Regional Police Officers vide memo No. 1519-21/CPO/IAB dated 22.04.2021, that the officials/officers who involved in heinous criminal cases of murder, attempt murder, robbery/theft, drug and kidnapping and their departmental proceedings is still awaited shall be completed without further delay.

In the light of directions of CPO vide above mentioned letter, inquiry against Hazrat Bilal No. 1513 of FRP HQrs is re-initiated as he has been involved in criminal case and behind the bars w.e. from 03.09.2020.

From perusal of criminal case, there is no hope in near future about his release from Jail. He has issued a Final Show Cause Notice through Superintendent Jail Mardan vide this office letter No. 1908/PA dated 25.10.2021 and received his reply from the same jail vide letter No. 11877/WE dated 01.11.2021, but his reply was not found satisfactory.

Keeping in view the findings narrated above, I, Jehan Zeb Khan Barki, Deputy Commandant FRP Khyber Pakhtunkhwa Peshawar being a competent authority is hereby awarded Major punishment of Dismissal from Service to Constable Bilal No. 1513 of FRP HQrs: Peshawar under Police Rules 1975 amended 2014 with immediate effect.

sd-

Deputy Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.

No. 2159-63 /PA dated Peshawar, the 25 / 11 /2021

Copy to the:-

1. Worthy Commandant, FRP Khyber Pakhtunkhwa Peshawar for information please.
2. Accountant /FRP/HQrs: Peshawar.
3. SRC/OASI/FMC FRP HQrs: Peshawar with original Inquiry file

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Date No. 662/2015
Date 7/1/2015

گزارش سے ذیل کے مسائل میں بطور کسٹ
 FBR سے لکھی ہوئی اسٹیل اینڈ ڈیولپمنٹ اینڈ اینڈازاری ڈیولپمنٹ
 کیا و سہ اٹھام دے رہا تھا اور انہوں نے دراصل اسٹیل کو بھی لکھا
 کہ موقع سے دیا کہ اس دوران اسٹیل کو فروغ دینا ہے ۵۶
 ۲۰۱۴ کے جیوٹا ایکٹ کے تحت اور اس سے اسٹیل کو فروغ
 میں لیا اور تین سال میں یہ گزارا اس دوران اسٹیل
 کے خلاف حکم نامہ انکوائری کے تحت اسٹیل کے علم کاروں کے
 کہ اسٹیل کے جرائم کے تحت اسٹیل کو فروغ دینا ہے اسٹیل کو فروغ
 سے اسٹیل کی جو ترقی میں اسٹیل نے کیا ہے اور جیوٹا ایکٹ
 کے تحت اسٹیل کو فروغ دینا ہے اور اسٹیل کو فروغ دینا ہے
 SE Legal FBR
 اسٹیل کے خلاف جو اقدامات چلے گئے ہیں اور اسٹیل
 کے خلاف اسٹیل کے خلاف جو اقدامات چلے گئے ہیں اور اسٹیل
 اسٹیل کے خلاف جو اقدامات چلے گئے ہیں اور اسٹیل
 اسٹیل کے خلاف جو اقدامات چلے گئے ہیں اور اسٹیل

کئی اہم حالات درج ذیل کے ہیں جن سے اسٹیل کو دوبارہ فروغ
 در حال میں اسٹیل کو فروغ دینا ہے اور اسٹیل کو فروغ دینا ہے

دعا کی جاتی ہے
 اہم حالات
 0315 9695045
 0316-9646939
 PHD 15/3/15

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H

ORDER

This order will dispose of the departmental appeal preferred by ex-constable Hazrat Bilal No. 1513 of FRP HQrs; against the order of Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar issued vide Order Endst; No. 2159-63/PA, dated 25.11.2021, wherein he was awarded major punishment of dismissal from service.

Brief facts of the case are that the applicant was found involved in case FIR No. 114, dated 09.05.2020, U/S 302/34 PPC, Police Station Battagram, District Charsadda and also absented himself from lawful duty with effect from 10.05.2020 to 22.06.2020 for total period of 43 days without any leave or prior permission of the competent authority.

In this regard, proper departmental proceedings were initiated against him. After completion of enquiry the Enquiry Officer submitted his findings and in the light of recommendation of Enquiry Officer his enquiry was kept pending till the decision of court vide Order Endst; No. 1768-71/PA, dated 16.12.2020.

In the light of directions of CPO Peshawar vide memo No. 1519-21/CPO/IAB, dated 22.04.2021, that those officers/officials who involved in heinous criminal cases of murder, attempt murder, robbery/theft, drugs and kidnapping and their departmental proceedings is still awaited shall be completed without further delay.

The applicant was behind the bars since 03.09.2020 and there is no hope near in future about his releasing from jail. He was issued Final Show Cause Notice, through Superintendent of Jail Mardan vide office memo No. 1908/PA, dated 25.10.2021, which he replied, vide Jail Superintendent letter No. 11877/WE, dated 01.11.2021, but his reply was found unsatisfactory.

Keeping in view the above narrated facts and other material available on record, he was awarded major punishment of dismissal service vide Order Endst; No. 2159-63/PA, dated 25.11.2021.

Feeling aggrieved against the impugned order of Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 12.09.2023.

During the course of personal hearing, the applicant failed to present any justification regarding to his innocence. Thus the applicant has been found to be an irresponsible person in utter disregard the discipline of the force. Therefore any leniency or complacency would further embolden the accused officer and impinge upon adversely on the overall discipline and conduct of the force. There doesn't seem any infirmity in the order passed by the competent authority, therefore no ground exist to interfere in same.

Based on the findings narrated above, I, **Commandant FRP** Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being badly time barred and meritless.

Order Announced.

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

No. 8982-85 /SI Legal, dated Peshawar the 14/09/2023.

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

1. OASI/SRC/Incharge Fauji Missal FRP HQrs; Peshawar. His Service record alongwith D-file sent herewith.
2. Ex-constable Hazrat Bilal No. 1513 FRP HQrs; S/o Fanos Khan R/o Village Kotak, Police Station Shabqadar, District Charsadda.

ACCESS TO JUSTICE LAW CHAMBER

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POWER OF ATTORNEY

Before The Honorable Service Tribunal KP Peshawar
Hazrat Bilal VERSUS State

Nature of Case Service Appeal On behalf of Appellant

FIR # _____ Dated _____ U/Ss _____ PS _____

I do here by appoint **M/S Shabbir Hussain Gigyani & Associates** (hereinafter called as Advocates), as my counsel in this case with the following terms & conditions:-

- 1- That to sign and verify, pleading & all kind of application including those for notices, appeal, review etc;
 - 2- To withdraw, compromise, refer to arbitration, bind me by oath, receive documents & money and give discharge;
 - 3- To appoint with him another lawyer and generally for me & in my name and on my behalf to do all acts, deeds, matters & things relating to the case in all its stages that I personally could do if this instrument had not been executed.
 - 4- If at any time, the said counsel is unable to attend the court through illness or absence from station, he will make arrangement with some lawyer to appear for him; but he shall not be responsible for any loss caused to me, if his arrangement fails.
 - 5- I will make my own arrangement for attending the court on every hearing, to inform my said counsel, when the case is called. The counsel shall in no way be responsible for any loss caused to me through my failure to so inform him.
 - 6- The fee paid, or agreed to be paid, to the said counsel is for his work in this court alone, the retainer; however shall continue and remain in the court though I will make separate arrangement as to his fees in respect of appeal, revision, review, transfer proceeding and execution of decree or orders.
 - 7- Unless the whole amount of fee is paid, the said counsel is no bound to prosecute my case, nor is he bound to do so (unless specially paid in separate arrangement) at any place other than the court house beyond the usual court hours, on a public holiday or in any other court.
 - 8- Not part of the said counsel's fee is returnable under any circumstances and cost of adjournments payable by the opposite party will be received and retained by him in addition to his fee payable by me.
- I have read the above terms & conditions & the same have been explained to me and I accept them as binding in witness whereof I have set my hand this _____ day of _____ 2023 at _____.

Executants:

(Handwritten signatures in Urdu)
1.
2.
3.
4.

Accepted & Attested, Subject to the terms mentioned above

Shabbir Hussain Gigyani

Farman Ullah Sailab

Muhammad Waqar

Yawar Hussain

Muhammad Shoaib

Numan Khan Lodhi



BC No. 10-6369
CNIC: 17101-0375292-7
Cell#: 0300-8912921, 0333-9152592
Web: www.gigyanilawfirm.com
E-mail: shabbirgigyani@gmail.com

