


FORM OF ORDER SHEET

Court of _____

Appeal No. 2048/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/10/2023	<p>The appeal of Mr. Umar Khitab received today by registered post through Mr. Muhammad Moïsin Ali Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: _____

مہر خطاب سے واپس لینے کے لئے

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?		
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?		
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
26	Whether copies of comments/reply/rejoinder submitted? On		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: *محسن الحقولین*
 Signature: _____
 Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 2048/2023

Umar Khitab

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

INDEX

S #	Description of Documents	Annexure	Page #
1	Grounds of Appeal alongwith Memo of addresses of the parties	-----	01-07
2	Statement of Allegations + Better Copy	A	08-09
3	Charge Sheet + Better Copy	B	10-11
4	Reply submitted by present Appellant	C	12-13
5	Copy of Impugned order dated 12.06.2023 + Better Copy	D	14-15
6	Copy of Departmental Appeal alongwith postal receipt	E	16-20
7	Copy of Order dated 18.07.2023 passed by Judge ATC, D.I.Khan	F	21-23
8	Vakalatnama	-----	24

Dated: 10/10/2023

Humble Appellant


Umar Khitab
Through Counsel



Muhammad Mohsin Ali
Advocate Supreme Court,
District Bar, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 2048/2023

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Dated: 10/10/2023

Humble Appellant


Umar Khitab
Through Counsel


Muhammad Mohsin Ali
Advocate Supreme Court,
District Bar, D.I.Khan.

98
①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 2018 /2023

Umar Khitab (Ex-Sub Inspector) son of Umar Hayat resident of Korai, presently Basti Ustrana Janoobi, District Dera Ismail Khan.

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home Department, Govt. of K.P.K, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General of Police, C.T.D. HQs Khyber Pakhtunkhwa, Peshawar.
4. Superintendent of Police, C.T.D, Dera Ismail Khan Region, Dera Ismail Khan.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 12.06.2023 ISSUED BY RESPONDENT NO. 4 VIDE WHICH HE AWARDED MAJOR PUNISHMENT TO APPELLANT AND DISMISSED HIM FROM SERVICE.

PRAYER; On acceptance of instant appeal this Honourable Tribunal may be pleased to declare the impugned order dated 12.06.2023 issued by respondent No. 4 as illegal, without

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lawful authority, without jurisdiction, void *ab initio* and ineffective upon the rights of the appellant and is liable to be set aside and to reinstate the appellant to the post of Sub Inspector alongwith all back benefits on the grounds appearing hereinafter;

OR

GRANT any other relief considered just and appropriate under the given circumstances of the case.

Respectfully sheweth;

1. That the brief facts of the case are that the appellant was performing his duties as Sub-Inspector in CTD, D.I.Khan Region.
2. That the appellant was wrongly charged in case FIR No. 272 dated 17.04.2023 U/S 365-A-386-387-148-149 PPC Police Station Cantt, District D.I.Khan. Thereafter, the appellant was suspended from service, and departmental enquiry was initiated.
3. That the statement of allegations and charge sheet were issued to appellant and in defense, the appellant submitted his detail reply. After completion of enquiry, the respondent No. 4 issued the impugned order dated 12.06.2023 and awarded the major punishment of dismissal from service to appellant. Copies of statement of allegations, charge sheet, reply and Impugned order dated 12.06.2023 are enclosed as **Mark-A to D** respectively.
4. That, being aggrieved against the impugned order dated

12.06.2023, the present appellant filed the departmental appeal on 04.07.2023 to Respondent No. 3 through post office, but till date the appeal of the appellant has not been decided. Copy of grounds of appeal alongwith postal receipt is enclosed as **Mark-E** respectively.

Being aggrieved against the impugned order, the appellant is filling the instant appeal, inter alia, on the following grounds;

GROUND:

- A. That during the entire service the appellant performed his duty with full of his professional skills and hard-work.
- B. That the impugned enquiry was not conducted in accordance with law and facts, and the whole proceeding regarding alleged enquiry against the appellant was based on malafide, and no proper opportunity of hearing was given to him. Moreover the finding with regard to the allegations leveled against the appellant are totally incorrect and no convincing evidence available against the appellant, but the inquiry officer wrongly and erroneously considered the same. Thus the impugned findings are not based on proper appreciation of record; hence the same is liable to be set aside.

(4)

- C. That the alleged allegations against the appellant in case FIR No. 272 are totally incorrect, as the appellant was wrongly charged in the said FIR and there was no evidence was collected against the appellant during investigation of the case, hence the Prosecution submitted an application u/s 4-C(II) of KP Prosecution Act, 2005 and the Honourable Judge Anti-Terrorism Court, D.I.Khan vide order dated 18.07.2023 discharged the appellant alongwith co-accused from the case FIR No. 272. Hence, on this score alone the dismissal order was liable to be set aside but the respondent No. 3 did not consider the same. Copy of judgment dated 18.07.2023 is enclosed as **Mark-F**.
- D. That it is a settled principle of law that mere involvement in a criminal case, is no ground to award major penalty. More particularly, when there is no sufficient material available on record which connect the appellant with the commission of offence and the learned trial court also discharged the appellant from the case FIR No. 272. Hence, on this score alone the dismissal order is liable to be set aside.
- E. That the entire inquiry proceeding was not completed in accordance with law and no final show cause notice was issued to appellant prior to the issuance of impugned order dated 12.06.2023. Thus, the impugned order is untenable in the eyes of law.

(5)

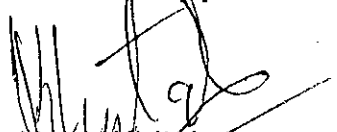
F. That the respondent No. 4 not properly appreciated the material available on record and facts and erroneously awarded the major punishment to appellant and dismissed him from service. Moreover, the respondent No. 3 failed to decide the appeal of the appellant within statutory period, hence the appellant is filing the instant appeal. The impugned order of respondent No. 4 is based on malafide, arbitrary, against the canon of justice, equity and fair play. Thus the same is liable to be set aside.

G. That the grounds of departmental appeal may kindly be considered as integral part of the instant appeal and the counsel for the appellant may kindly be allowed to argue the additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of this appeal this Honourable Tribunal may be pleased to pass orders as prayed for in the heading of this appeal.

Dated: 10/10/2023

Humble Appellant


Umar Khitab
Through Counsel



Muhammad Mohsin Ali
Advocate Supreme Court,
District Bar, D.I.Khan.

(7)

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2023

Umar Khitab

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

AFFIDAVIT

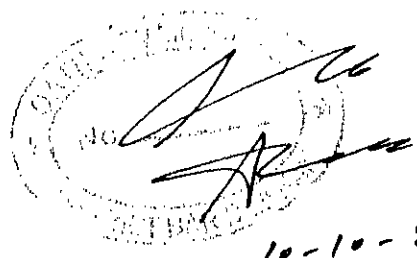
I, the appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Tribunal.



Identified by Counsel



Deponent



10-10-23

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2023

Umar Khitab

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

ADDRESSES OF THE PARTIES

Umar Khitab (Ex-Sub Inspector) son of Umar Hayat resident of Korai, presently Basti Ustrana Janoobi, District Dera Ismail Khan.

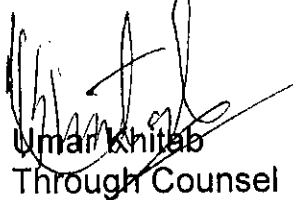
.....APPELLANT

-
1. Govt. of Khyber Pakhtunkhwa through Secretary Home Department, Govt. of K.P.K, Peshawar.
 2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
 3. Additional Inspector General of Police, C.T.D. HQs Khyber Pakhtunkhwa, Peshawar.
 4. Superintendent of Police, C.T.D, Dera Ismail Khan Region, Dera Ismail Khan.

.....RESPONDENTS

Dated: 10/10/2023

Humble Appellant


Umar Khitab
Through Counsel



Muhammad Mohsin Ali
Advocate Supreme Court,
District Bar, D.I.Khan.

8
Annexure "A"

OFFICE OF THE SUPERINTENDENT OF POLICE

Counter Terrorism Department, Dera Ismail Khan Region-I
Phone: (0966) 9280538, Fax: (0966) 9280540
Email: spctddik@gmail.com



No. 130/EC CTD DIK R-I

dated DIKhan the:

18/04/2023

DISCIPLINARY ACTION

I, **FAZAL WAHID, SUPERINTENDENT OF POLICE, CTD DIKHAN REGION-I** as competent authority, under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) am of the opinion that you, Sub Inspector Umar Yhitab No. D/89 rendered yourself liable to be proceeded against departmentally, as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You while posted as MSI CTD DIKhan Region-I, found involved in FI No. 272 dated 17.04.2023 u/s 365A-365-387-148-149 PPC of PS Cantt DIKhan. Being a part of discipline force, this act on your part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations Pureza Hussain Shah, Insp is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

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

(FAZAL WAHID)
Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region I

18/04/2023

No. 121-22/EC CTD,

dated

- 1. Copy of above to:-
The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
- 2. The Accused officer, with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Accused
[Signature]
13

Better COPY

(9)

OFFICE OF THE SUPERINTENDENT OF POLICE

Counter Terrorism Department, Dera Ismail Khan Reg: on-I
Phone: (0966) 9280538, Fax: (0966) 9280540
Email: spctddik@gmail.com

No: 120/EC CTD DIK R-1

Dated DIKhan the : 18/04/2023

DISCIPLINARY ACTION

I, **FAZAL WAHID, SUPERINTENDENT OF POLICE, CTD DIKHAN REGION-1** as competent authority under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) am of the opinion that you Sub Inspector Umar Khitab No.D/89 rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You while posted as MSI CTD DIKhan Region-I found involved in FIR No.272 dated 17.04.2023 U/S 365A-386-37-148-149 PPC of PS Cantt DIKhan. Being a part of disciplines force, this act on your part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. For the purpose of scrutinizing the conduct of said accused the reference to the above allegation **Perves Hussian Shah, Inspector** is appointed enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

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

(FAZAL WAHID)
Superintendent of Police,
Counter Terrorism Department
Dera Ismail Khan Region-I

No.121-22/EC CTD

Dated 18/04/2023

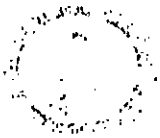
Copy of above to:-

1. The Enquiry Officer for initiating proceedings against the accuse under the provision of Police Rule-1975.
2. The Accused officer, with the directions to appear before the Enquiry Officer on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Approved
[Signature]

10

Anex "B"



OFFICE OF THE SUPERINTENDENT OF POLICE

Counter Terrorism Department, Dera Ismail Khan Region-1

Phone: (0966) 9280538, Fax: (0966) 9280540

Email: spctddik@gmail.com

No. 117 / LC-CID DIK R I

dated DIKhan the:

18/04/2021

CHARGE SHEET

I, FAZAL WAHID, SUPERINTENDENT OF POLICE, CTD DIKHAN REGION I, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you Sub Inspector Umar Khatib No. D/39 rendered yourself liable to be proceeded against departmentally as you have committed the following act/omissions.

You while posted as MSI CTD DIKhan Region-1, found involved in FIR No. 277 dated 27.04.2023 u/s 305A-305-387-148-149 PPC of PS Cantt DIKhan. Being a part of disciplines force, this act on your part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police-Rules 1975 amended-2014.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex parte action shall be taken against you.

4. A statement of allegation is enclosed.

(FAZAL WAHID)

Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region I

Umar Khatib
SI ETD

Attested
S.D
OSR

Better Copy

(11)

OFFICE OF THE SUPERINTENDENT OF POLICE

Counter Terrorism Department, Dera Ismail Khan Reg: on-I
Phone: (0966) 9280538, Fax: (0966) 9280540
Email: spctddik@gmail.com

No: 119/EC CTD DIK R-1

Dated DIKhan the : 18/04/2023

CHARGE SHEET

I, **FAZAL WAHID, SUPERINTENDENT OF POLICE, CTD DIKHAN REGION-1** as competent authority under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) am of the opinion that you Sub Inspector Umar Khitab No.D/89 rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omissions.

You while posted as MSI CTD Dikhan Region-I found involved in FIR No.272 dated 17.04.2023 U/S 365A-386-37-148-149 PPC of PS Cantt DIKhan. Being a part of disciplines force, this act on your part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. By reason of the above, you appear to be guilty of misconduct under Rule.3 of the Rules ibid and have rendered yourself liable to or any of the penalties specified in the Rule.4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period failing which it shall be presumed that you have no defense to put in and ex parte action shall be taken against you.

4. A statement of allegations is enclosed.

ATB signed
[Signature]
[Signature]
082

(FAZAL WAHID)
Superintendent of Police,
Counter Terrorism Department
Dera Ismail Khan Region-I

"C" (12) Annex

بسم الله الرحمن الرحيم

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر 119/EC/CTD مورخہ 18.04.2023 معرض خدمت ہوں کہ میں سال 2020ء سے بطور عمر رٹھانہ سی ٹی ڈی ڈیرہ اسماعیل خان تعینات ہوں۔ مورخہ 17.04.2023 کو تھانہ سی ٹی ڈی ڈیرہ اسماعیل خان اپنے دفتر محرم میں آکر سرکار میں مصروف تھا کہ تھانہ ہذا کے SHO حیدر علی شاہ آئے اور روزنامچہ میں بحوالہ مد نمبر 17 روزنامچہ 17.04.2023 بوقت 19:45 بجے ہمراہ جناب SP/CTD ڈیرہ اسماعیل خان ریجن-اہواری گاڑی سرکاری بنگلہ جناب DPO صاحب ڈیرہ اسماعیل خان اپنی قلمی روانگی کی۔ اس کے کچھ دیر بعد میرے موبائل نمبر 03467850613 پر گل رؤف خان DSP/CTD نے اپنے موبائل نمبر 03459785934 سے کال کی کہ تھانہ ہذا کا رجسٹر حوالات مشتبہگان اٹھا کر فوری طور پر بنگلہ جناب DPO/DIK آجائیں۔ جو میں نے باقاعدہ طور پر تھانہ ہذا کے روزنامچہ میں بحوالہ مد 18 روزنامچہ 17.04.2023 بوقت 20:35 بجے اپنی قلمی روانگی کر کے بذریعہ پرائیویٹ موٹر سائیکل بنگلہ جناب DPO صاحب ڈیرہ چلا گیا۔ بنگلہ DFO کیمپ آفس میں جناب DPO صاحب مدگل رؤف خان DSP/CTD، فضل واحد صاحب SP/CTD، عالمگیر خان DSP/HQs ڈیرہ اور زمین پرائیکٹ شخص جس کے اوپر چار ڈالا ہوا تھا بیٹھا تھا پہلے سے موجود تھے۔ جناب DPO صاحب نے مجھ سے پوچھا کہ آپ کے تھانہ کے رجسٹر حوالات مشتبہگان میں داؤد نامی شخص کا اندراج ہے۔ میں نے جواباً کہا کہ میرے پاس نہ تو داؤد نامی شخص کا رجسٹر حوالات مشتبہگان میں اندراج ہے اور نہ ہی حوالات میں یا تھانہ میں موجود ہے۔ اس کے فوراً بعد DPO صاحب کے حکم پر DSP ہیڈ کوارٹر نے مجھے اور SHO حیدر علی شاہ معہ گن مین فرید اللہ اور نیچے بیٹھے ہوئے شخص جس کا نام بعد میں زاہد الرحمن معلوم ہوا کو تھانہ کینٹ لا کر حوالات میں بند کر دیا اور ہمارے خلاف مسکی محمد یوسف ولد جلیل کی مدعیت میں مقدمہ نمبر 1272 مورخہ 17.04.2023 جرم 365A-386-387-148-149 تپ تھانہ چھاؤنی درج رجسٹر کرایا گیا۔ جو کہ حقیقت پر مائل نہ ہے اور معلوم نہیں کن وجوہات پر ایسا کیوں کیا گیا ہے۔

دوسرے روز مجھ سمیت دیگر ساتھیوں کو بعدالت جوڈیشیل مجسٹریٹ-ڈیرہ اسماعیل خان (10) یوم حراست پولیس کی درخواست کے ساتھ پیش عدالت کیا گیا۔ مگر جج صاحب نے حراست پولیس نام منظور کرتے ہوئے ریٹائرڈ جوڈیشیل پرمجھ سمیت دیگر ساتھیوں کو انٹرل جیل ڈیرہ بھیجے کا حکم صادر فرمایا۔ بعدہ میں معہ دیگر ساتھیوں نے بعدالت ATC اپنی درخواست ضمانت دائر کروائی۔ مدعی مقدمہ اور مغوی نے عدالت میں اپنا بیان ریکارڈ کراتے ہوئے عدالت کو بتایا کہ ان کو ملزمان کی ضمانت پر کوئی اعتراض نہیں ہے۔ مدعی اور مغوی کا عدالتی بیان میری بے گناہی کا منہ بولتا ثبوت ہے۔

اسی طرح عدالت ATC نے مورخہ 09.05.2023 کو میری معہ دیگر ساتھیوں کی ضمانت منظور کرتے ہوئے اپنے حکم ضمانت میں واضح طور پر تحریر کیا کہ ریکارڈ پر موجود موبائل سم ڈیٹا کے مطابق ملزمان، مدعی مقدمہ، مغوی اور مراسلہ تحریر کرنے والے پولیس آفیسر خالد اہا ویدہ ASHO تھانہ کینٹ کی لوکیشن آپس میں میچ نہیں کرتی ہے اور نہ ہی بوقت وقوع ملزمان، مدعی مقدمہ، مغوی اور خالد

Attested
Sub
DSC

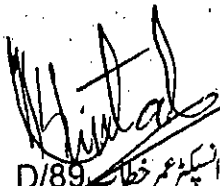
(13)

جاوید ASHO کہنت کی لوکیشن جائے وقوعہ پر یا اس کے آس پاس آتی ہے۔ بلکہ ہر ایک کی لوکیشن بوقت وقوعہ مختلف مقامات کی آتی ہے۔ جو حکم ATC جج صاحب کی فونو کاپی ہمراہ لف قابل ملاحظہ ہے۔ جس سے صاف طور پر یہ بات ظاہر ہوتی ہے کہ FIR متذکرہ حقیقت پر مبنی نہ ہے، اور ہمیں ناجائز طور پر پھنسانے کی کوشش کی گئی ہے۔ موبائل سم ڈیٹا میری بے گناہی کا واضح اور ٹھوس ثبوت ہے۔ ڈیٹا ریکارڈ بطور ثبوت ہمراہ لف ہے۔

عالیجاہ!

حالات، واقعات موبائل سم ڈیٹا میں موجود مختلف مقامات کی لوکیشن سے یہ بات روز روشن کی طرح عیاں ہے کہ مقدمہ نمبر 272 مور نمبر 17.04.2023 جرم 148-149-386-387-365A تپ تھانہ چھاؤنی کا حقیقت سے کوئی واسطہ نہ ہے۔ اور مجھے نام ناجائز طور پر مقدمہ ہذا میں پھنسانے کی کوشش کی گئی ہے۔ استدعا کہ میرے خلاف لگائے گئے الزامات (انکوائری) کو بلا مزید کارروائی داخلہ دفتر فرمائے جانے کا حکم صادر فرمایا جاوے۔

عین ماتحت پروری ہوگی۔

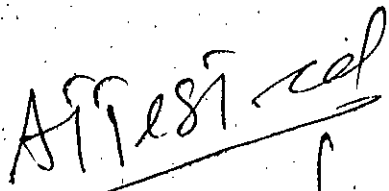
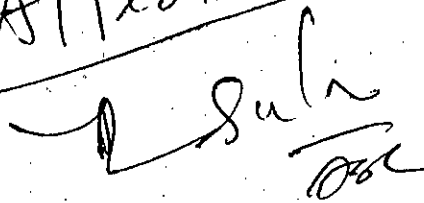


سب انسپکٹر عمر خطاب D/89

حال معطل شدہ تھانہ سی ٹی ڈی ڈیرہ اسماعیل خان



INSIP/CTD

Anex "D" (14)



OFFICE OF THE SUPERINTENDENT OF POLICE

Counter Terrorism Department, Dera Ismail Khan Region-I
Phone: (0966) 9280538, Fax: (0966) 9280540
Email: spctddik@gmail.com

No. 315 /EC CTD

dated DIKhan the:

18 /06/2023

ORDER

This order is aimed to dispose off the departmental proceedings conducted against Sub Inspector Umar Khitab, D/89 of CTD DIKhan Region-I, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office C/S No.119/EC CTD dated 18.04.2023 on the following allegations.

On a charge posted as MSI PS CTD DIKhan Region-I, found involved in FIR No. 272 dated 17.04.2023 u/s 365A, 386-387, 148-149 PPC of PS Cantt DIKhan. Being part of disciplined force, this act on his part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police Rules 1975 amended 2014.

He was placed under suspension and issued charge sheet on the allegation that Enquiry proceedings were entrusted to Mr. Faraz Hussain Shah, Inspector CTD DIKhan under Police Rules 1975 amended 2014. The Enquiry Officer submitted his finding report in which he stated that the defaulter was found guilty of the charges levelled against him in the FIR stated above and recommended to award him appropriate punishment.

The defaulter Sub Inspector was called in before the undersigned to offer any defence, but he could not advance any cogent reason.

Keeping in view of finding report of the Enquiry Officer and conduct of the defaulter Sub Inspector, the undersigned came to the conclusion that the charges levelled against him be a bona fide finding, the shades of doubt.

Therefore, in exercise of powers vested upon undersigned, I, Fazal Wahid, Superintendent of Police, CTD DIKhan Region-I hereby award him major punishment of "Dismissal from service with immediate effect".

Order No. 30 /

Dated: 18 /06/2023

(FAZAL WAHID)
Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region-I

No. 316-19 /EC

Copy of above is submitted to:

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Additional Inspector General of Police, CTD Khyber Pakhtunkhwa Peshawar.
3. The Regional Police Officer, DIKhan Region.
4. All concerned.

Attested for the Purpose of Appeal
 Reference of Order Book & date 30/12/6/23
 Name of Applicant SI Umar Khitab, D/89
 Date of submission of application 03-07-2023
 Appeal time 03-07-2023 to 02-08-2023
 Name of copier HC Khurram Nawaz, 1173

(FAZAL WAHID)
Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region-I

Superintendent of Police
CTD, DIKhan Region-I

Attested
[Signature]
OSK

15

BETTER COPY
OFFICE OF THE SUPERINTENDENT OF POLICE
Counter Terrorism Department Dera Ismail Khan Region-I
Phone: (0966) 9280538, Fax: (0966) 9280540.

Email: spctddik@gmail.com

No.315/ES CTD

Dated D.I.Khan the:

12-06-2023.

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against Sub Inspector Umar Khitab, D/89 of CTD DIKhan Region I, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office: C/S No. 119/EC CTD dated: 18-04-2023 on the following allegations.

He while posted as MSI PS CTD DIKhan Region-I, found involved in FIR No. 272 dated: 17/04/2023 u/s 365-A, 386,387,148,149 PPC of PS Cantt DIKhan. Being part of disciplined force, this act on his part amounts to gross misconduct and punishable under the preview of Khyber Pakhtunkhwa Police Rules 1975 amendment 2014.

He was placed under suspension and issued charge sheet on the allegation ibid. Enquiry proceedings were entrusted to Mr. Pervuez Hussain Shah, Inspector CTD DIKhan under Police Rules-1975 amended 2014. The Enquiry Officer submitted his findings report in which he stated that the defaulter MSI is found guilty of the charges leveled against him in the FIR stated above and recommended to award him appropriate punishment.

The defaulter Sub Inspector was called in before the undersigned to offer anything else his self defense, but he could not advance any cogent reason.

Keeping in view of the findings report of the Enquiry Office and conduct of the defaulter Sub Inspector the undersigned came to the conclusion that the charges leveled against him have been proved beyond the shadow of doubt.

Therefore in exercise of powers vested upon undersigned, I, Fazal Wahid, Superintendent of Police, CTD DIKhan Region-I hereby award him major punishment of "Dismissal from service with immediate effect".

OB No. 30/

Dated: 12/06/2023.

(Fazal Wahid)
Superintendent Of Police,
Counter Terrorism Department,
Dera Ismail Khan, Region-I.

No. 316-19/ES,

Copy of above submitted to:

1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Additional Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
3. The Regional Police Officer, Bannu Region.
4. All concerned.

(Fazal Wahid)
Superintendent Of Police,
Counter Terrorism Department,
Dera Ismail Khan, Region-I.

Approved
Fazal Wahid

Anex "E" (16)

Page 1 of 4

To: **The Worthy Addl. Inspector General of Police,
C.T.D. HQs Khyber Pakhtunkhwa,
Peshawar.**

**Subject: APPEAL UNDER RULE 11 OF THE K.P. POLICE
RULES, 1975, ALONG WITH OTHER ENABLING
PROVISIONS OF LAW, AGAINST THE DISMISSAL
FROM SERVICE ORDER BEARING NO.315/EC CTD
(OB No.30) DATED 12.06.2023, ISSUED BY THE
SUPERINTENDENT OF POLICE COUNTER
TERRORISM DEPARTMENT, D.I.KHAN.**

Yours Excellency,

The appellant has the honour to submit the following few submissions for your good-self kind considerations:

1. That the appellant had been serving as Sub-Inspector (MSI) in the Police Station CTD, D.I.Khan R-1, and was charge sheeted vide letter No.119/EC CTD DIK R-1 dated 18.04.2023 (Flag-A) on the following allegations:

You while posted as MSI CTD D.I.Khan Region-I, found involved in FIR No.272 dated 17.04.2023 under Section 356-A, 388, 387, 148, 149 PPC of PS Cantt. D.I.Khan. Being a part of disciplines force, this act on our part amounts to gross misconduct and punishable under the purview of Khyber Pakhtunkhwa Police Rules, 1975 amended-2014..

2. That the appellant was also issued statement of allegations vide letter No.120/EC CTD DIK R-1 dated 18.04.2023 (Flag-B).
3. That appellant submitted his defence to the Charge Sheet and Statement of allegations (Flag-C).

Appellat
[Signature]

(17)

4. That instead of proceeding ahead with the Inquiry Proceedings for the proof of Charge Sheet and Statement of Allegations, the authority (S.P. CTD D.I.Khan), without issuing any show-cause notice and without affording appellant the opportunity of audience, straight away dismissed the appellant from service with immediate effect vide order bearing No.315/EC CTD (OB No.30) dated 12.06.2023 (**Flag-D**), which is liable to be cancelled and appellant is entitled to be reinstated on the following reasons amongst others:

- i. Because the case registered vide FIR No.272/2023, on the basis whereof, the appellant has been taken to task, appears to be a baseless case that's why the Hon'ble Judge Anti-Terrorism Court D.I.Khan, while discussing the merits of case, admitted the appellant to bail vide order dated 09.05.2023.
- ii. Because the trial in the aforementioned case FIR No.272/2023 is yet to be conducted and the dismissal of appellant without the proof of guilt in the abovesaid FIR, is highly unjust.
- iii. Because, mere involvement of appellant in a false case vide FIR No.272, which is in-fact based on professional jealousy, is no ground to award major penalty to the appellant, more particularly when there is sufficient material available on file which proves innocence of appellant.
- iv. Because there is no iota of evidence which may connect the appellant with the commission of offence and in this regard the bail order dated 09.05.2023 is worth perusal.

Alleged
ASD
PSL

18

- v. Because, an impartial Inquiry through an inquiry officer was a legal and constitutional right of the appellant.
- vi. Because, no fair chance of defence has been afforded to the appellant.
- vii. Because, the "Fair Trial" is the constitutional right of every person, held accused of certain charges; but in this case a fair trial has not been conducted. Thus, legal sanctity cannot be attached to the order in question.
- viii. Because, the authority on one hand decided to proceed with the matter by initiating an inquiry and for that purpose Charge Sheet and Statement of Allegations were issued to appellant. Now the authority was required to let the inquiry be completed but it has wrongly issued the impugned order of dismissal from service.
- ix. Because, no show cause notice has been issued to the appellant prior to the impugned office order.
- x. Because not opportunity of audience has been afforded to the appellant prior to issuance of office order in question.
- xi. Because the impugned office order, without the decision of trial in case FIR No.272/2023 of P.S. Cantt. D.I.Khan is premature.
- xii. That the impugned dismissal from service order is legally incompetent.

Attest
M. S. B. B. B.

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5. It is further submitted that the subject cited office order has been issued in utter disregard of the provisions of K.P. Police Rules, 1975; besides, the laid down procedure has totally been violated as after carrying out proceedings as provided under Rules 5(4) and 6(i), the authority could not revert back to the procedure laid down in Rule 5(3). Moreover, provisions of Rule 5(3)(b) and 5(3)(c) have not been complied with.

In view of the above humble submissions, the appellant beseeches your kind honour to please cancel/set aside the dismissal from service order and appellant may please be reinstated with all back benefits.

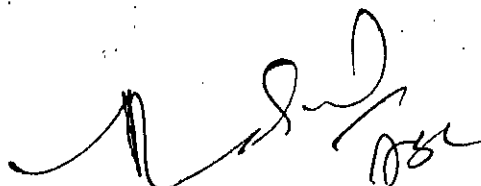
Yours most obedient Servant,

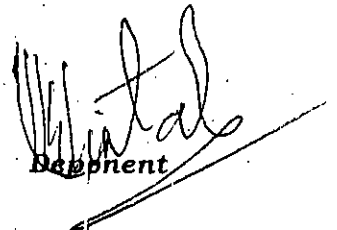
Dt. 04.07.2023


UMAR KHITAB
ex-Sub Inspector D/89
(MSI CTD D.I.Khan R-1)

AFFIDAVIT:

It solemnly affirmed & declared on oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief, and nothing has been deliberately concealed.




Appellant

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No. 82

Mexy Appeal in 1/0
SE Umar Khitab

For Insurance Notices see reverse
RGL105416879
Do not more than
the initial weight prescribed in the
Post Office Guide or on which an
acknowledgment is due.

Received a registered*
addressed to

Date Stamp

Initials of Receiving Officer Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Insured for Rs. (in figures) (in words)

Insurance fee Rs. Ps. Weight Grams
(in words)

Name and
address
of sender

4/7

Affirmed
Rashid
ose

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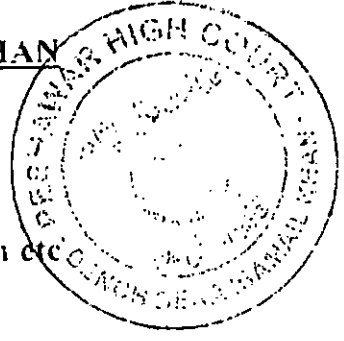
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Anex : "F"

IN THE COURT OF
AJMAL KHAN WAZIR
JUDGE, ANTI-TERRORISM COURT D.I.KHAN

Criminal Case No. 112 of 2023.

The State.....Versus..... Haidar Ali Khan etc



ORDER
18.07.2023

Senior PP for the State present and submitted case file FIR No.272 dated 17.04.2023 registered U/Ss 365A/386/387/148/149 PPC of P.S. Cantt D.I.Khan for the discharge of accused facing trial namely Haidar Ali Khan, Umar Khitab, Farid Ullah and Zahid Ullah Jan and for proceeding u/s 512 Cr.P.C against absconding co-accused Ghulam Farid. Be registered.

Learned PP referred his application u/s 4-C (II) of KP Prosecution Act, 2005, submitted with the challan and prayed for discharge of accused facing trial namely Haidar Ali Khan, Umar Khitab, Farid Ullah and Zahid Ullah Jan due to insufficient evidence.

Perusal of the CDRs available on case file shows that sub-inspector Muhammad Daud was not present even in District D.I.Khan on the date of his alleged abduction i.e. 14.04.2023. Similarly, the presence of complainant, Khalid Ahmad Khan ASHO of PS Cantt and accused facing trial at

JUDGE
ANTI-TERRORISM COURT
D.I.KHAN (Division)

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan
16.9.23

(3)

(22)

The State..... Versus..... Haidar Ali Khan etc

the alleged place and time of report and arrest of accused facing trial etc have not been supported by CDRs of their SIM numbers and Madd No.17 dated 17.04.2023 of P.S CTD prima facie also negates the plea of prosecution as alleged in the FIR.

Moreover, Muhammad Yousef (complainant) and Muhammad Daud (abductee) in the presence of their counsels stated at the bar at the bail stage that they did not want to prosecute the accused and added that they had got no objection on their release on bail/acquittal. The prosecution has also requested for discharge of the accused facing trial on the grounds of insufficient evidence. So, in view of the above, this Court is agreed with the prosecution to discharge the accused facing trial.

Though, the prosecution submitted challan for proceedings u/s 512 Cr.P.C against absconding co-accused namely Ghulam Farid, but the prosecution could not collect any material evidence against him, so in the circumstances, proceedings u/s 512 Cr.P.C against the absconding co-accused would be a futile exercise.

For the aforesaid reasons, the accused facing trial namely Haidar Ali Khan, Umar Khirab, Farid Ullah, Zahid Ullah Jan as well as the absconding co-accused Ghulam Farid (in absentia) are discharged. Accused Haidar Ali

ANTI-DIVISIONAL

JUDGE IN CHARGE
COURT

16.9.23
EXAMINOR
Feshawar High Court Bench,
Dera Ismail Khan

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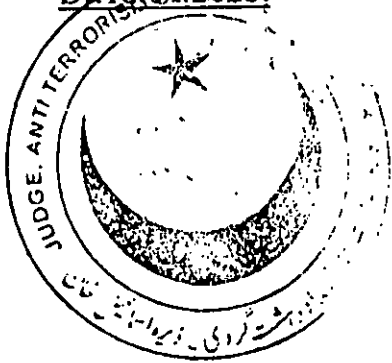
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The State.....Versus..... Haidar Ali Khan etc

Khan, Umar Khitab, Farid Ullah and Zahid Ullah Jan are on bail, their bail bonds stand cancelled and their sureties are absolved from their liabilities under the bail bonds.

File be consigned to the record room of Honourable Peshawar High Court, D.I.Khan Bench.

Announced.
D.I.Khan.
Dt 18.07.2023.

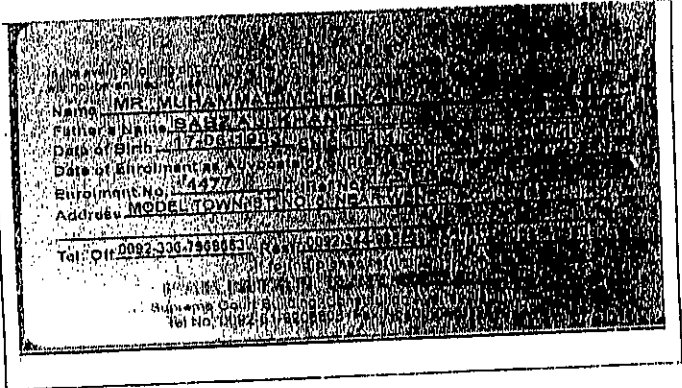
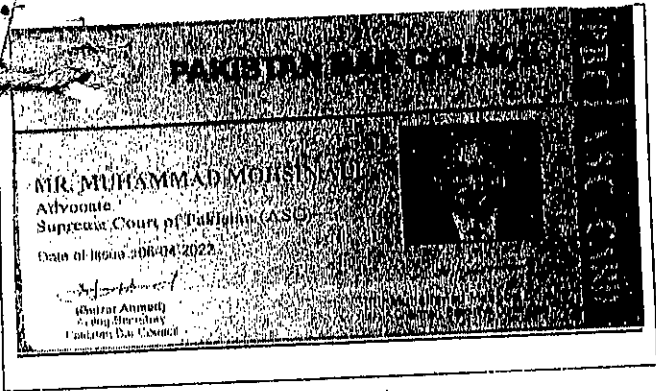


(Handwritten signature)

(Ajmal Khan Wazir)
Judge.
Anti-Terrorism Court, D.I.Khan
JUDGE
ANTI TERRORISM COURT
D I.KHAN (Division)

(Handwritten signature)
16.9.07

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan



VAKALATNAMA

BEFORE THE COURT OF KPK Service Tribunal

Umar Khatab Plaintiff /Appellant /Petitioner/Complainant/ Accused

Vs

Gout KPK Defendant/Respondent/ Complainant/ Accused

KNOW ALL to whom these present shall come that I/We..... do hereby appoint **Muhammad Mohsin Ali Advocate Supreme Court**(herein after called the advocate/s) to be my/our Advocate in the above noted case authorize him:-

1. To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/us.
2. To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.
3. To file and take back documents, to admit and/or deny the documents of opposite party.
4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. To deposit, draw and receive monthly cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.
8. And I/We the undersigned do hereby agree to rectify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and proposes.
9. And I/We undertake that I/We or my/our duly authorized agent would appear in Court on all hearings and will inform the Advocate for appearance when the case is called.
10. And I/We the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case.
11. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain for himself.
12. And I/We the undersigned to hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this.../0...day of .../2023

Accepted

Muhammad Mohsin Ali
Advocate Supreme Court
0336796 9883

Umar Khatab

Muhammad Mohsin Ali