FORM OF ORDER SHEET

Court of____________________

Appeal No. 2049/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/10/2023	The appeal of Mr. Haider Ali received today by registered post through Mr. Muhammad Mohsin Ali Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on By the order of Chairman REGISTRAR

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: K.P.K. [illegible]

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: [illegible]

Signature: [illegible]

Dated:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 2049/2023

Haider Ali Shah ....APPELLANT

VERSUS

Govt. of K.P.K and others ....RESPONDENTS

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1	Grounds of Appeal alongwith Memo of addresses of the parties	------	01-07
2	Copy of Impugned order dated 12.06.2023 and Reply	A & A-1	08-11
3	Copy of Application dated 28.09.2023	B	12
4	Copy of Departmental Appeal alongwith postal receipt	C	13-17
5	Copy of Order dated 18.07.2023 passed by Judge ATC, D.I.Khan	D	18-20
6	Vakalatnama	-------	21

Dated: 10/10/2023

Humble Appellant

Haider Ali Shah
Through Counsel

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

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

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

Name: [illegible]

Signature: [illegible]

Dated:

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

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Dated: 10 /10/2023

Humble Appellant

Haider Ali Shah
Through Counsel

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

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(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 2049 **/2023**

Haider Ali Shah (Ex-Sub Inspector) son of Saadat Ali Shah resident of Tanchiabad, Sarai Norang, District Lakki Marwat.

..............**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 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 SHO 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. Copy of Impugned order dated 12.06.2023 is enclosed as **Mark-A.** and copy of Reply is as Annex-B.
   (**Note:** The copies of statement of allegations, charge sheet ~~and~~ ~~reply~~ etc are not provided by the office of SP, CTD, D.I.Khan region

despite the fact that the appellant submitted a written application, hence the copies of the said documents are not annexed with the service appeal and the same may kindly be requisitioned from respondents. Copy of application is enclosed as **Mark-B**)

4. That, being aggrieved against the impugned order dated 12.06.2023, the present appellant filled 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-C** respectively.

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

GROUNDS:

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.

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-D**.

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

(5)

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.

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 filling 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

Haider Ali Shah
Through Counsel

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

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. ________/2023

Haider Ali Shah ....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**

OATH COMMISSIONER No.

10-10-23

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. ________/2023

Haider Ali Shah ....APPELLANT

VERSUS

Govt. of K.P.K and others ....RESPONDENTS

ADDRESSES OF THE PARTIES

Haider Ali Shah (Ex-Sub Inspector) son of Saadat Ali Shah resident of Tanchiabad, Sarai Norang, District Lakki Marwat.

...............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

Hiader Ali Shah
Through Counsel

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

Anex. (A) ⑧

Ah
on

OFFICE OF THE SUPERINTENDENT OF POLICE
Counter Terrorism Department, Dera Ismail Khan Region-I
Phone: (0966) 9280538, Fax: (0966) 9280540
Email: [illegible]@gmail.com

No. 310 /EC CTD   dated DIKhan the: 12 /06/2023

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against Sub Inspector Haider Ali [illegible] of CTD DIKhan Region-I, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office C/S No.115/EC CTD dated 18.04.2023 on the following allegations.

He while posted as SHO PS CTD DIKhan Region-I, found involved in FIR No. 2?2 dated 17.04.2023 u/s 365A 328 387 148 149 PPC of PS Cantt DIKhan. Being part of disciplined force, his act [illegible] 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 ibid. Enquiry proceedings were entrusted to [illegible] 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 SI is found guilty of the charges levelled against him in the FIR stated above and recommended to award him [illegible] punishment.

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

Keeping in view of findings report of the Enquiry Officer and conduct of the defaulter Sub Inspector, the undersigned came to the conclusion that the charges levelled against him have been proved [illegible] of truth.

[illegible] undersigned, [illegible] Superintendent of Police, CTD DIKhan [illegible] major punishment of "[illegible]".

[illegible] 24
[illegible] 12.06.[illegible]

[illegible]
Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region-I

No. 311-14 /EC
[illegible]
1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. The Addl: Inspector General of Police, CTD Khyber Pakhtunkhwa Peshawar.
3. The Regional Police Officer, Bannu Region.
4. All concerned.

[illegible]
Superintendent of Police
Counter Terrorism Department
Dera Ismail Khan Region-I

Attested

(9)

BETTER COPY
OFFICE OF THE SUPERINTENDENT OF POLICE
Counter Terrorism Department Dera Ismail Khan Region-I
Phone: (0966) 9280538, Fax: (0966) 9280546.
Email: spctddik@gmail.com

No.310/ES CTD Dated D.I.Khan the: 12-06-2023.

ORDER

This order aimed to disposes-off the departmental proceedings conducted against Sub Inspector Haider Ali Shah, B/19 of CTD DIKhan Region I, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office: C/S No. 115/EC CTD dated: 18-04-2023 on the following allegations.

He while posted as SHO 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. Perveez 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 SI 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 punishment of "Dismissal from service with immediate affect".

OB No. 29/
Dated: 12/06/2023.

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

No. 311-14/ES, S Roll
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.

Attested
OBR

Anex (A1) 10

بسم اللہ الرحمان الرحیم

جناب عالی!

بحوالہ مشمولہ چارج شیٹ نمبر 115/EC/CTD مورخہ 18.04.2023 مجاریہ جناب SP/CTD/DIK معروض خدمت ہوں کہ من سب انسپکٹر پر یہ الزام عائد کیا گیا ہے کہ بحوالہ مقدمہ نمبر 272 مورخہ 17.04.2023 جرم 149-148-387-386-365A ت پ تھانہ چھاؤنی میں ملوث ہو کر بطور ڈسپلن فورس میں رہ کر ضوابط کی خلاف ورزی کی ہے۔

عالیجاہ!

من سب انسپکٹر محکمہ پولیس میں بطور کنسٹیبل بھرتی ہو کر بعدہ بذریعہ پبلک سروس کمیشن بطور ASI بھرتی ہو کر نہایت ہی احسن طریقے سے ڈیوٹی سرانجام دیتے ہوئے سال 2013ء میں بطور سب انسپکٹر ترقیاب ہو کر حسب الحکم افسران بالا ضلع بنوں، ضلع لکی مروت، ڈیرہ اسماعیل خان اور ضلع ٹانک کے مختلف تھانہ جات میں بطور SHO تعینات ہو کر متعدد بار نہایت ہی خطرناک اور انتہائی مطلوب مجرمان اشتہاری کے ساتھ پولیس مقابلہ کر کے اللہ تعالیٰ کے فضل و کرم سے کافی کامیابیاں حاصل کی ہیں۔ انہی خدمات کے صلہ میں حکومت پاکستان نے مجھے صدارتی ایوارڈ PPM سے بھی نوازا ہے۔

علاوہ ازیں موجودہ دہشت گردی کے حالات کے پیش نظر ضلع ڈیرہ اسماعیل خان میں تعیناتی کے دوران متعدد دہشت گردی کے مقدمات میں انتہائی مطلوب کافی تعداد میں دہشت گردوں کو ہلاک اور حسب ضابطہ گرفتار کیے ہیں۔

جناب عالی!

جہاں تک من سب انسپکٹر پر بحوالہ مقدمہ نمبر 272 مورخہ 17.04.2023 جرم 149-148-387-386-365A ت پ تھانہ چھاؤنی کا تعلق ہے تو اندریں سلسلہ میں مودبانہ عرض ہے کہ مورخہ 17.04.2023 کو من سب انسپکٹر تھانہ سی ٹی ڈی میں موجود تھا کہ بوقت 19:40 بجے SP/CTD ڈیرہ اسماعیل خان نے بذریعہ واٹس ایپ کال کی کہ آپ کو جناب DPO صاحب ڈیرہ اسماعیل خان نے بلایا ہے۔ جو میں بوقت 19:45 بجے ہمراہ SP/CTD ڈیرہ اسماعیل خان اور اپنے گن مین کنسٹیبل فرید اللہ نمبر 6526 بسواری گاڑی سرکاری تھانہ سے روانہ ہو کر 20:10 بجے کیمپ آفس بنگلہ جناب DPO صاحب پہنچے (جو اندریں سلسلہ نقل نمبر 17 روزنامچہ 17.04.2023 ہمراہ لف قابل ملاحظہ ہے)۔ ہمارے پہنچنے سے پہلے کیمپ آفس میں ہمراہ DPO صاحب زمین پر ایک شخص جس کے اوپر چادر ڈالا ہوا تھا بیٹھا تھا۔ جس کا بعد میں نام زاہد الرحمن معلوم ہوا۔ اس دوران محرر تھانہ سی ٹی ڈی سب انسپکٹر عمر خطاب بھی حسب طلبی جناب DPO صاحب ہمراہ ریکارڈ تھانہ حاضر آئے۔ تقریباً 21:25 بجے تک میں معہ SP/CTD، سب انسپکٹر عمر خطاب محرر تھانہ سی ٹی ڈی معہ گن مین فرید اللہ موجود تھے کہ اسی دوران عالمگیر خان DSP/HQrs حسب طلبی DPO صاحب بھی حاضر آئے اور DPO صاحب کے حکم پر DSP ہیڈ کوارٹر نے مجھے اور سب انسپکٹر عمر خطاب معہ گن مین فرید اللہ اور نیچے بیٹھے ہوئے شخص کو تھانہ کینٹ لا کر حوالات میں بند کر دیا اور ہمارے خلاف مسمی محمد یوسف ولد جلیل کی مدعیت میں مقدمہ نمبر 272 مورخہ 17.04.2023 جرم 149-148-387-386-365A ت پ تھانہ چھاؤنی درج رجسٹر کرایا گیا۔ جو کہ حقیقت پر مبنی نہ ہے۔ اور معلوم نہیں کن وجوہات پر ایسے کیا گیا ہے۔

دوسرے روز مجھ سمیت دیگر ساتھیوں کو بعدالت جوڈیشل مجسٹریٹ-I ڈیرہ اسماعیل خان (10) یوم حراست پولیس کی درخواست کے ساتھ پیش عدالت کیا گیا۔ مگر جج صاحب نے حراست پولیس نامنظور کرتے ہوئے بر ریمانڈ جوڈیشل پر مجھ سمیت دیگر ساتھیوں کو سنٹرل جیل ڈیرہ بھیجنے کا حکم صادر فرمایا۔

FIR میں لگائے گئے الزامات غلط اور بے بنیاد ہیں کیونکہ FIR میں درج شدہ وقت وقوعہ 20:45 کا ہے اور جائے وقوعہ بند دریائے سندھ نزد

Attested
OSI

(11)

ذبح خانہ تحریر ہے جو کہ DPO کیمپ آفس سے 5/6 کلو میٹر کے فاصلے پر ہے۔ جبکہ من سب انسپکٹر، عمر خطاب SI، کنسٹیبل فرید اللہ TD، SP/ CTD صاحب ہمراہ DPO صاحب بنگلہ پر 21:25 بجے تک موجود رہے تا تو ہم جائے وقوعہ مندرجہ FIR متذکرہ بالا پر موجود تھے اور نہ ہم سے کوئی رقم وغیرہ برآمد ہوئی ہے اور نہ کوئی مغوی بازیاب ہوا ہے۔ میرے موبائل نمبر 03455181513 کا CDR ہمراہ لف ہے۔ اسی طرح ریکوری آفیسر خالد جاوید ASHO تھانہ کینٹ کی لوکیشن (جائے موجودگی) بوقت وقوعہ قصور پر سٹریٹ چٹی مسجد کمشنری بازار ڈیرہ اسماعیل خان تھی۔ (CDR کا پی ہمراہ لف ہے)۔

اسی طرح مدعی مقدمہ یوسف کی موجودگی بوقت وقوعہ مندرجہ FIR جائے وقوعہ پر بیان ہوئی ہے جبکہ مذکورہ کے موبائل نمبر 03454881617 مندرجہ FIR کی لوکیشن بمطابق CDR وارث ٹاؤن ہے۔ جو کہ جائے وقوعہ سے جانب شمال 7/8 کلو میٹر کے فاصلے پر ہے۔

اسی طرح مدعی مقدمہ کی رپورٹ کے مطابق مغوی داؤد کے موبائل فون نمبر 03159344075 کے نمبر سے ان کے موبائل نمبر 03005594436 پر رابطہ کیا جا کر مبلغ -/600000 روپے بطور بھتہ کا مطالبہ کرنے کا ذکر کیا گیا ہے۔ جبکہ CDR کے مطابق 15.04.2023 کو ہر دو موبائل نمبرات کا آپس میں کوئی رابطہ نہیں ہوا ہے۔

اسی طرح 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 جاوید خان ASHO کینٹ کی لوکیشن آپس میں میچ نہیں کرتی ہے اور نہ ہی بوقت وقوعہ ملزمان مدعی مقدمہ، مغوی اور خالد جاوید ASHO تھانہ کینٹ 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 فوٹو 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۔

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 مورخہ 17.04.2023 جرم 149-148-387-386-365A ت پ تھانہ چھاؤنی کا حقیقت سے کوئی واسطہ ہے۔ سراسر غلط اور بے بنیاد ہے اور مجھے ناجائز طور پر مقدمہ ہذا میں پھنسانے کی کوشش کی گئی ہے۔ استدعا کہ میرے خلاف لگائے گئے الزامات (انکوائری) کو بلا مزید کاروائی داخل دفتر فرمائے جانے کا حکم صادر فرمایا جاوے۔

عین ماتحت پروری ہوگی۔

SI سید حیدر علی شاہ B/19
معطل شدہ تھانہ سی ٹی ڈی ڈیرہ اسماعیل خان

Attested

DSP

(12) Anex.(B)

جناب عالی!

گزارش ہے کہ من سائل بحوالہ مقدمہ نمبر272 مورخہ 16.04.2023 جرم 386-365A-387-148-149 ت پ تھانہ کینٹ میں ملوث ہونے کی بناء پر محکمہ پولیس سے ڈسمس کیا گیا تھا جو اب بفضل خدا مورخہ 18.07.2023 عدالت انسداد دہشت گردی ڈیرہ اسماعیل خان میں مقدمہ متذکرہ بالا ڈسچارج ہو چکا ہے۔ محکمانہ اپیل کر چکا ہوں اب سروس ٹربیونل جانا چاہتا ہوں جس کیلئے من سائل کو محکمانہ انکوائری، برخاستگی کی مصدقہ نقول درکار ہیں۔

لہٰذا بذریعہ درخواست استدعا ہے کہ متذکرہ بالا کاغذات نقول عنایت فرمائی جاویں۔

سائل تادم زیست دعا گو رہے

مورخہ: 28.09.2023

العارض

Ex/SI حیدر علی شاہ نمبر 19/B

Ahmed
SDI CTD
29/9/

Attested
ASI

Annex-C

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Anex-(C)

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.310/EC CTD (OB No.29) 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 (SHO) in the Police Station CTD, D.I.Khan R-1, and was charge sheeted vide letter No.115/EC CTD DIK R-1 dated 18.04.2023 **(Flag-A)** on the following allegations:

   You while posted as SHO 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..

Attested

2. That the appellant was also issued statement of allegations vide letter No.116/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)**.

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.310/EC CTD (OB No.29) 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.

Attested

OSL

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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.

Attested

(16)

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

HAIDER ALI
ex-Sub Inspector B/19
(SHO CTD D.I.Khan R-I)

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.

Deponent

Attested

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(17)

AD

No. 81

Mercy Appeal in r/o SI Haider Ali Shah

For Insurance Notices see reverse.

RGL105416878

... of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs.	Ps.
1	30
	56

Received a registered* ______ addressed to ______

Date Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Initials of Receiving Officer

If insured.
Insured for Rs. (in figures) ______ (in words) ______

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

TD

Name and address of sender ______

417-

Attested

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(2) Anex. (D), (18)

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

PESHAWAR HIGH COURT BENCH DERA ISMAIL KHAN

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 abductee 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 [illegible] Khan ASHO of PS Cantt and accused facing trial at

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

ATTESTED
16.9.023
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

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 Khitab, Farid Ullah, Zahid Ullah Jan as well as the absconding co-accused Ghulam Farid (in absentia) are discharged. Accused Haidar Ali

ATTESTED
16.9.023
EXAMINER
Peshawar High Court Bench
Dera Ismail Khan

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.

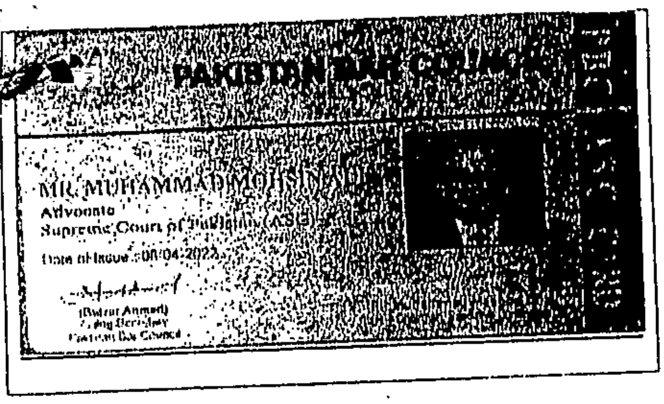
File be consigned to the record room of Honourable Peshawar High Court, D.I.Khan Bench.

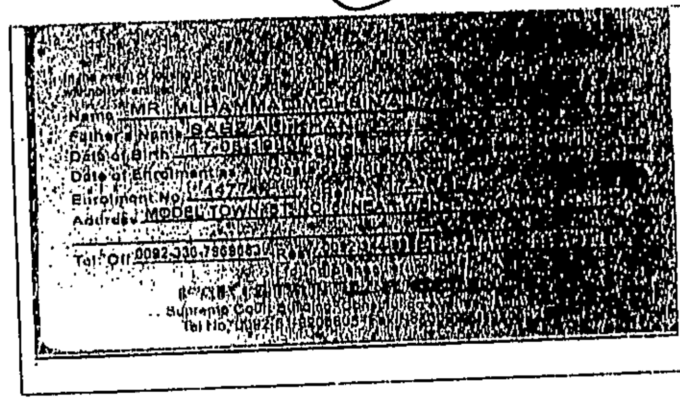
Announced.
D.I.Khan.
Dt.18.07.2023.

JUDGE, ANTI TERRORIST ...

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

ATTESTED
16.9.023
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan





VAKALATNAMA

BEFORE THE COURT OF KPK Service tribunal

........Haider Ali........................Plaintiff /Appellant /Petitioner/Complainant/ Accused

Vs

........Govt KPK................Defendant/Respondent/ Complainant/ Accused

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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 16......day of .... اکتوبر 20

Accepted

Muhammad Mohsin Ali
Advocate Supreme Court
0336 7969883

حیدر علی