FORM OF ORDER SHEET

| | Appear No. 2001/2010 | | | | |
|-------|---------------------------|--|--|--|--|
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge | | | |
| 1. | 2 | | | | |
| 1- | 12/10/2023 | The appeal of Mr. Muhammad Bilal received | | | |
| | | today by registered post through Mr. Rizwan Ullah Khan | | | |
| | | Advocate. It is fixed for preliminary hearing before touring | | | |
| | | Single Bench at D.I.Khan on | | | |
| | · | By the order of Chairman REGISTRAR | | | |

The appeal of Mr. Muhammad Bilal son of Aliah Wabaya Laste Interference Abad Muryali D.I.Khan received today i.e on 02.10/2023 is intermediate on the frife identity which is returned to the counsel for the appellant for completion and recommission with a 15 days.

- Memorandum of appeal is not signed by the appellant.
- 2 Affidavit is not attested by the Oath Commissioner.
- Some documents attached with the appeal are unattested.
- One more copy/set of the appeal along with annex wes i.e. complete to all respect may also be submitted with the appeal.

No. 3349S.T.

Dt. 3/10/2023.

REGISTRAR

SERVICE TRIBUNAL KNYBER PAKHTUNKHWA PESHAWAR.

Mr. Rizwanullah Khan Adv. High Court at D.L.Khan.

objectures 1,2,23,4 converted to the con

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

THE STANDARD CONTRACTOR OF THE PROPERTY OF THE STANDARD OF THE

Case Title: YES CONTENTS SH This Appeal has been presented by: Whether Counsel/Appellant/Respondent/Deponent have signed 2 the requisite documents? Whether appeal is within time? Whether the enactment under which the appeal is 4 mentioned? Whether the enactment under which the appeal is filed is correct? 5 Whether affidavit is appended? 6_ attested by competent affidavit is duly Whether 7 Commissioner? Whether appeal/annexures are properly paged? 8 Whether certificate regarding filing any earlier appeal on the 9 subject, furnished? Whether annexures are legible? 10 Whether annexures are attested? 11 Whether copies of annexures are readable/clear? 12 Whether copy of appeal is delivered to AG/DAG? 13 Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents? Whether numbers of referred cases given are correct? Whether appeal contains cutting/overwriting? 16 Whether list of books has been provided at the end of the appeal? 17 Whether case relate to this court? 18 Whether requisite number of spare copies attached? 19 1 20 Whether complete spare copy is filed in separate file cover? Whether addresses of parties given are complete? 21 Whether index filed? 22 23 Whether index is correct? Whether Security and Process Fee deposited? On 24 Whether In view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has 25 been sent to respondents? On Whether copies of comments/reply/rejoinder submitted? On 26 Whether copies of comments/reply/rejoinder provided to 27

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

opposite party? On

Name:

Signature:

Dated:

CS CamScanner



BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR, CAMP COURT D.I.KHAN

Service Appeal No. 2051 of 2023

Muhammad Bilal **VERSUS** Government of Khyber Pakhtunkhwa

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| . 18 | | :7 | , |
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Dated: 28/09/2023

Your Humble Petitioner

Through Counsel

RizwanUllah Khan Advocate High Court

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR, CAMP COURT D.I.KHAN

Service Appeal No. 2051 of 2023

2/10/23

Muhammad Bilal Son of Allah Wasaya Caste Baloch Resident of Ijaz Abad Muryali, District Dera Ismail Khan (Ex Constable FRP, Belt No.8198).

---- (Petitioner)

VERSUS

- 1. Government of Khyber Pakhtunkhwa, through Home Secretary, 'Civil Secretariat, Peshawar.
- 2. Provincial Police Officer/IGP Khyber Pakhtunkhwa, Central Police Office Peshawar.
- 3. Commandant FRP Khyber Pakhtunkhwa Peshawar.
- 4. Regional Police Officer/DIG, D.I.Khan.
- 5. Superintendent FRP, D.I.Khan

----- (Respondents)

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 07-07-2020 OB NO.467/FRP ISSUED BY RESPONDENT NO.5 REGARDING THE REMOVAL OF PETITIONER FROM SERVICE AS WELL AS AGAINST THE IMPUGNED ORDER DATED 14-09-2023 NO.8988/FRP ISSUED BY

M 07/10/13

RESPONDENT NO.3 REGARDING THE REJECTION OF DEPARTMENTAL APPEAL OF PETITIONER.

PRAYER IN APPEAL

By acceptance of instant appeal Respondents may kindly be directed to reinstate the petitioner with all back benefits from date of removal, by setting aside the impugned orders regarding the removal of petitioner from service. Any other remedy deemed appropriate in the given circumstances may also be granted.

Note: Addresses given above shall suffice the object of service.

Respectfully Sheweth:

Brief facts

1. Appellant was inducted in the Police Department (FRP Range DIKhan) as a constable on 03-01-2011 on regular basis. Since then appellant has been serving and performing his duty with great zeal and honesty. Copy of service card is enclosed as **Annexure A.**

2. That on 18-06-2019 F.I.R No.598 under Section 302, 404, 109, 34 was registered against petitioner in PS Cant on the basis of said false and boughs FIR as well as on the basis of allegation of absentee appellant was suspended from his service by respondent No.5. Copies of daily dairies as well as FIR No.598 are enclosed as **Annexure B.**

an Wil

- 3. That the respondent No.5 initiated departmental inquiry against the appellant on the allegation of FIR No.598 as well as absent from his lawful duties. Respondent No.5 nominated the Zahoorud Din DSP as inquiry officer who conducted the inquiry and given final report with finding that inquiry be kept pending till the decision of the trail court in FIR No.598. Copies of charge sheet, statement of allegation and final report are enclosed as **Annexure C.**
- 4. Then respondent No.5 again appointed the DSP AsadMehmood as inquiry officer to conduct the re-inquiry into the matterwho given final report with the finding that accused was found guilty. Copy of nomination order of Inquiry officer and final report are enclosed as **Annexure D.**
- 5. That on 07-07-2020 respondent No.5 removed the petitioner from his service. Copy of impugned order is enclosed as **Annexure E.**
- 6. That on 20-06-2019 petitioner joined his service after conducting prearrest bail in FIR No.598 and detained in Central Jail DIKhan on 10-08-2019 after dismissal of his BBA. Copies of Mad No.10 and 12 are enclosed as **Annexure F.**
- 7. That from 10-08-2019 to 21-06-2023 appellant remained as under trail prisoner in the Central Jail DIKhan and after facing trail in FIR No.598 appellant was acquitted by ASJ-VI, DIKhan on 21-06-2023. Copy of attest acquittal order dated 21-06-2023 is enclosed as **Annexure G.**

Dum

- 8. That appellant after releasing from Jail tried to join the service because removal order was never communicated to the petitioner. Then after receiving the removal order issued by the respondent No.5 petitioner filed departmental appeal to the respondent No.3 regarding his reinstatement which were rejected the respondent No.3 on 14-09-2023. Copy of appeal as well as the rejection order is enclosed as **Annexure H.**
- 9. That as per legal requirements, the Petitioner has been left with no other option but to agitate his grievances before this Honorable Tribunal inter alia on the following grounds:

Grounds:

- 1. That order passed by the departmental authority impugned hereby or arbitrary, discriminatory, legally and factually incorrect, ultra virus, vide ab initio and militate against the principal of natural justice. Hence liable to be set aside.
- 2. That appellant is innocent and has been subject to penalty for no fault on his part. Respondent No.5 failed to follow the prescribed procedure for inquiry and conducted ex-party proceeding against the appellant. Inquiry officer also failed to regulate the departmental inquiry in accordance with law and procedure described for the purpose and as such erred at the very outset of the proceeding, thus causing grave miscarriage of justice as well prejudice to the appellant in making his defense. Therefore the impugned orders are liable to be set aside.

- 3. That it is the matter of the record that appellant has been vexed in clear defiance of law and principle laid down by superior courts as well as tribunal as could be gathered from the fact and circumstance of the case.
- 4. That respondent No.5 awarded major penalty removal from service to the appellant due to absence of appellant from 17-06-2019 to 20-06-2019 as well as FIR No.598. The absence of the appellant was not wilful but for the facts which were beyond the control of appellant. The absence of appellant was due to the fact that false and illegal FIR No.598 was registered against the appellant on 18-06-2019. Due to threats and fears appellant remained in shock and after obtaining bail before arrest from court of law appellant attended the service on 20-06-2019. Hence absence of the appellant was due to FIR No.598 and was due to threats, fear and insecurity. Therefore the impugned orders against the appellant is illegal and needs to be set aside.
- 5. That the appellant remained in Central Jail as a under trail prisoner and facing trail in false FIR No.598 from 10-08-2019 to 21-06-2023 and learned trail court ASJ-VI, DIKhan acquitted the appellant on 21-06-2023. The allegations of murder were false and appellant was malafidely inducted in the FIR No.598. The departmental inquiry and whole proceeding against the appellant was conducted at the back and in the absence of appellant and appellant was never given any opportunity to defend himself. First inquiry report dated 03-07-2019 was in favor of appellant but respondent No.5 malfidely ordered for re-inquiry on 02-07-2020 which show ill-will, malifidely, personal grudges and discriminatory attitude of respondents. Appellant was never given to cross examine the witness, no opportunity of personal hearing was given to appellant as well

as no final show-cause notice served to the appellant and even not any removal order was communicated to the petitioner. Hence impugned order is liable to be set aside.

- 6. That appellant had sufficient length of service approximately 12 years rendered for the department honestly and efficiently but whole proceeding against the appellant are against the E&D rule, inquiry procedure and service laws. Hence impugned orders are patently unwarranted, illegal, nullity in the eyes of law and liable to be set aside.
- 7. That the council for the appellant may graciously be allowed to raise additional grounds at the time of arguments.

It is, therefore, most humbly prayed on the acceptance of instant appeal Respondents may kindly be directed to re-instate the petitioner with all back benefits from date of removal, by setting aside the impugned orders regarding the removal of petitioner from service.

Any other relief which this Honorable Court deems appropriate in the given circumstances of the case may also be granted to the Petitioner.

Your Humble Petitioner

Muhammad Bilal S/o Allah Wasaya R/o Ijaz Abad Muryali Ex-Constable, FRP 17

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR, CAMP COURT D.I.KHAN

Service Appeal No._____ of 2023

Muhammad Bilal

VERSUS

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Government of Khyber Pakhtunkhwa

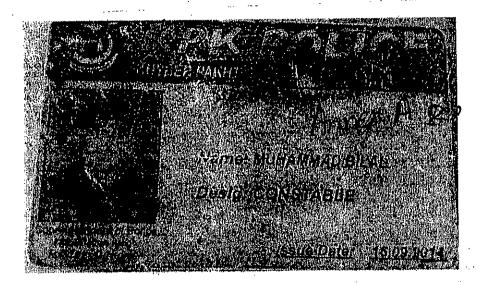
AFFIDAVIT

I, **Muhammad Bilal** Son of Allah WasayaR/o Muryali, Tehsil & District Dera Ismail Khan, the petitioner, do hereby solemnly affirm and declare on oath that contents of above Appeal are true & correct to best my knowledge and that nothing has been concealed from this Honorable Court.

CNIC# 12101-7907963-5

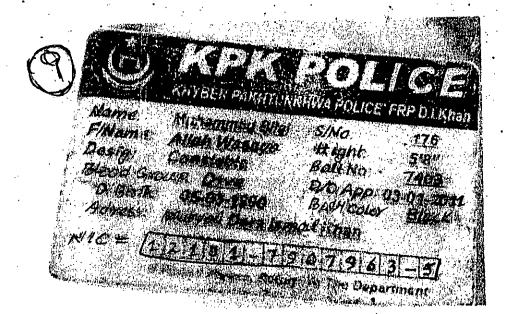
Identified by:

RizwanUllah Khan Advocate High Court



Affesteds 4

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ANXB FRP روالن القارداني رزود اطراعی دلیدت طرمان مال مورف مورد وفیت 16130 مے دسوفت امار کی مردود اطراعی دلیدت طرمان مال مورف ورد مورد مورد مورد مورد مورد الله مارد می الله می درد می درد می درد می درد می كومل لوسورشي كارد صيد كشيل ما في كل 7965 نے در رفعہ مو ما لا المول عبر مع 6 8 6 9 - 9 4 2 0 سے رویائے دی عبد المیالی معالم المیالی معالم المیالی معالم المیالی معالم المیالی ملال 8198 كو د لوثى كلين طلب كراكها - جو "را - الى الناي دُلوك ned cua out estat esplane 17 mis 16/2 ا جاری کا اطلاع بر مذکوره کامتیل خلاف رابورمی نیر حافری e (5 / 36) 17 7 17 decli على في الله الله الله الله Joswarded Ph Si Forwade a 18-6-19 nm. ERP. O.I.

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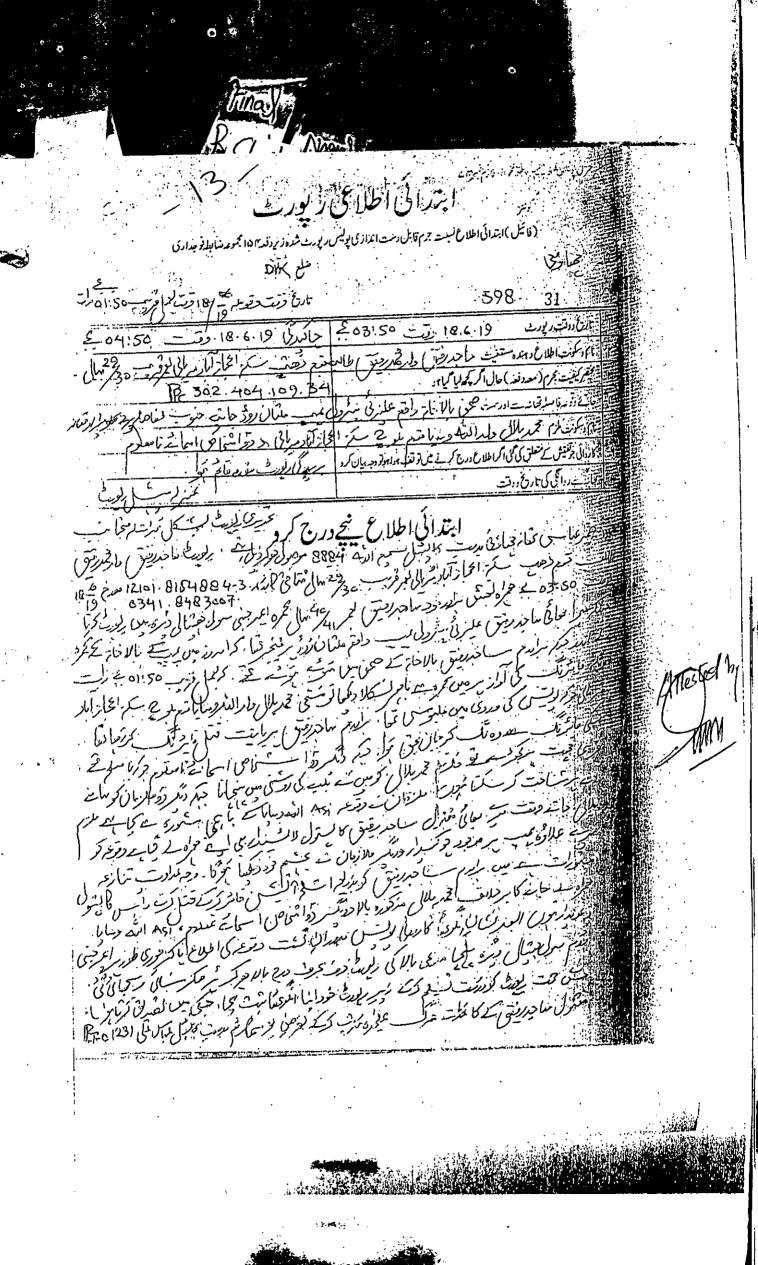
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اطلاع کے نیچاطلاع دہندہ کا دستنظ ہوگا۔ یااس کی مہر یا نشان لگایا جائیگا۔ اورا فسرتح ریکنندہ ابتدائی اطلاع کا دشختہ بطور تصدیق ہوؤ۔ نوٹ سرخ روشنائی سے بالقابل نام پرائیک عزم یامشتہ علی الا نیب واشٹہ باشندگان علاقہ غیریں موسیقی معادمت ن جہال معزم ب

Anx G

997-98_/FRP

dated: 18-06 /2019

CHARGE SHEET

- l, Aman Ullah Khan, SP FRP DIKhan as competent authority, am of the opinion I. that you Constable Muhammad Bilal No.8198/FRP of FRP DIKhan Range have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.
- According to daily diary report No.14 dated 17.06.2019 of FRP Police Lines Π. DIKhan, you remained absent from law full duties with effect from 17.06.2019 to till date without any leave or permission from the competent authority. During absence you have been directly charge in case vide FIR No.598 dated 18.06.2019 U/S 302/404/109/34 PPC Police Station Cantt: DIKhan. It is a gross "Misconduct" on your part as defined in Rule 2 (iii) of Police Rules 1975 and has rendered yourself liable to be proceeded against departmentally.
- By reason of the above, you seem to be guilty as sufficient materials is placed Щ. before the undersigned; therefore it is decided to proceed against you in general police proceeding.
- You are; therefore, required to submit your written reply within 07 days of the IV. receipt of this charges sheet to the Enquiry Officer.
- Your written reply, if any, should reach the Enquiry Officer within specific V. period, failing which it shall be presumed that you have no defense to offer and in that case ex-parte action shall follow against you.
- Intimate as to whether you desire to be heard in person or not?

A statement of allegation is enclosed. VII.

DSP. NUS. BJ exemple 19-6-19

(Aman Ullah Khan) Superintendent of Police, FRP ange DIKha



-15-

DISCIPLINARY ACTION

I, Aman Ullah Khan, SP FRP DIKhan as competent authority, am of the opinion that you Constable Muhammad Bilal No.8198/FRP of FRP DIKhan Range of FRP have committed the following acts/omission as defined in Rule 2 (iii) of Police Rules 1975.

STATEMENT OF ALLEGATION

- 1. According to daily diary report No.14 dated 17.06.2019 of FRP Police Lines

 DIKhan, you remained absent from law full duties with effect from 17.06.2019 to

 till date without any leave or permission from the competent authority. During

 absence you have been directly charge in case vide FIR No.598 dated 18.06.2019

 U/S 302/404/109/34 PPC Police Station Cantt: DIKhan. It is a gross

 "Misconduct" on your part as defined in Rule 2 (iii) of Police Rules 1975 and has

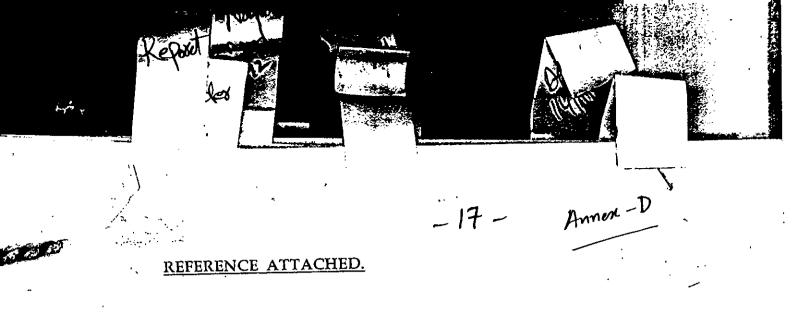
 rendered yourself liable to be proceeded against departmentally.
- 2. For the purpose of scrutinize the conduct of said Constable with reference to the above allegation, Zahoor Ud Din DSP/FRP DIKhan is appointed as Enquiry Officer.
- 3. The Enquiry Officer shall conduct proceeding in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record it is finding and make with twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.
- 4. The delinquent official shall join the proceeding on the date, time and please fixed by the officer.

(Aman Ullah Khan) Superintendent of Police, FRP DIKhan Range DIKhan

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Constable Muhammad Bilal No.8198/FRP was proceeded against departmentally on the charges that according to daily diary report No.14 dated 17.06.2019 FRP Police Lines DIKhan, he remained absent from law full duties with effect from 17.06.2019 to till date without any leave or permission from the competent authority. During absence you have been directly charge in case vide FIR No.598 dated 18.06.2019 U/S 302/404/109/34 PPC Police Station Cantt: DIKhan. Now he reported back his arrival on 20.06.2019 vide daily diary report No.10 dated 20.06.2019 of FRP Police Lines DIKhan, total absence period comes (03) day.

Zahoor Ud Din Khan DSP/FRP DIKhan Range was nominated as enquiry officer, now the finding report of enquiry officer received vides F/A, which is submitted for kind perusal and further order please.

Wisher S.R.C. FR.P. D.I. Khan.

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FRP. Dik والم الم الوأرك برطلاف فيسل في ملال 198 ما ما Dils ما الم Reinguy Up & Sik 8198 Syn Just Supular or De Bor Jose DSP. FRP CO OF FRP -NOSP-ips انواری کا فدانے کا ماریک میں میں فیطالع کی کے مختب فنکورہ کے مزین قبل ازی میم اور ماری میں اور الدال خان w Reingury o, bish 3 e & BUUNG & Copie PR 302-404-109 5-18 20 18 18 18 018 18 018 18 رقعار کست میں مود سر نے براسترل بس ماال میں ہے queld h الوزرى على مي لا ته ہوئے ميں درت ور کر کی جل ماناه كى تختىل منوره كا بىن من شى كى اور دىس وى عى ك رها بول و فراه نون ما دو ج بخسل وركوره كا والدوك في لوس مس الكروع wygo www EUN 32 www J بىنىكى ئىس جۇرەل دىنورىكى كى ئىس اند الله وساما تمسل فذكورہ كے والدكو مار مار كہا كي كم ان قلم بن كسان كوسين كس جوات مام الن فاسان عمد كل ماسك عَنَيْنِ الزَّرْرُ عِنْهِ مَالِا كَي طَرِفَ مِنْ كُونِي كُورُهُ لَكُورُهُ لَكُورُهُ لَكُورُونُوسِ MEXT. P.2. WW W. C. T. P.2.

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امى عرى مقدم معذا كر تغنيى أفسر السيلم سفالي وطل كلاما e posse de a lo pa e www wide UM. السيكر سو الرفن نے حى كسر فيكورہ كو قعوروار المرال موت بيان ك معالى تسر فيدوره ب وتواهان برس کے وہ نمبر جاندار نے اور نہای منزم کنسل wiscing we can plan (wigo is الحی کی ونورٹری عالات واقع سے وسان سے تنہا فاکورہ مان بالله مي كوني فوس شوام بين بين كوسفا . والخواري يورو المعام المرسال المعام المرسال المعام المرسال 16231

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FRE DUKBAN RAGOS

ORDER:-

My this order will dispose off departmental enquiry conducted against Constable Muhammad Bilal No.8198/FRP under Khyber Pakhtunkhwa Police Disciplinary Rules-1975 (Amended in 2014).

According to daily diary report No.14 dated 17.06.2019 of FRP Police Lines DIKhan, he remained absent from law full duties with effect from 17.06.2019 without any leave or permission from the competent authority. During absence he has been directly charge in case FIR No.598 dated 18.06.2019 U/S 302/404/109/34 PPC Police Station Cantt: DIKhan. Now he reported back his arrival on 20.06.2019 vide daily diary report No.10 dated 20.06.2019 of FRP Police Lines DIKhan.

On the basis of above he was suspended vide this office order endsr: No.995-96/FRP dated 19.06.2019. He was issued charge sheet along with summary of allegation. Zahoor ud din DSP/FRP DIKhan Range was nominated as enquiry officer to unearth the actual facts. The enquiry officer submitted his finding report wherein he stated that the enquiry may kept pending till the decision of court. Departmental enquiry along with other connecting papers were again marked to DSP Asad Mehmood of FRP DIKhan Range with the direction to conduct re-enquiry in to the matter. The enquiry officer submitted his finding report wherein the defaulter Constable was found guilty of the charges leveled against him. It is worth mentioned here that after the perusal of his service record it revealed that he was enlisted as Constable on 03.01.2011, during his service he remained absent from law full duties for (33) days, awarded minor punishment of confinement to quarter guard for 02 days, extra drill for 03 days and fine Rs.500/- previously.

Keeping in view the above facts, <u>I MR. NISAR KHAN</u>, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers vested in me under Khyber Pakhtunkhwa Police Disciplinary Rules-1975 amended-2014 is hereby award to him major punishment of Removal from Service with immediate effect.

ORDER ANNOUNCED.

Dated /2020.

OB No. 467 /FRP

Copy to:-

1. Pay Officer

2. SRC

3. OHC

4. OB Clerk

(NISAIMCHAN)

Superintendent of Police, FRP, DIKhan Range DIKhan

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مرينه وا والري مراس / الله ي رو ري مري ما مورخ عراما وي و ما در و الم ردى ساكراس وفي عام مناء الرين كوالم رفي كوالرمون و 30 ساعمد نفزی و گاری کردن واری از اورس کی م كركني مخدس كا 198 كالمانك ون و ورج من الآ مامین سون زری می کیدن فاعلی ملاد کی جس کرموال الني بي ويورون ١١١/١ انوري وي ١١١١/١ انوري وي ١١٠٠٠ النوري المالي النوري الماليك النوري الماليك المالي طور لوسطلع کردیا عوک کوولیول کوولیول کورکے۔ دعیا تھی کے۔ المله مى دايورك دون موزنا في كالحرب كالموري مرث مَرَى مَوْرُقُ مِنْ اللَّهِ مِنْ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّ من المعالمة المعان المع

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IN THE COURT OF MUHAMMAD ILYAS KHAN. ADDITIONAL SESSIONS JUDGE-VI, D.I.KHAN.191/II of 2019 Session Case No.... Date of Original Institution................................. 16.12.2019 Date of Decision......21.06.2023. THE STATE **VERSUS** 1) Muhammad Bilal Son of Allah Wasaya Caste Baloch resident of Ijaz Abad, Muriyali, D.I.Khan. ...(Accused facing trial in custody) 2) Allah Wasaya Son of Muhammad Anwar. 3) Muhammad Imran Son of Haq Nawaz and. 4) Muhammad Asif Son of Allah Nawaz castes Baloch residents of Ijaz Abad Muriyali, D.I.Khan.(Accused facing trial on bail) CHARGE U/S 302/404/34/109 VIDE FIR.NO.598, DATED 18.06.2019 OF PS CANTT, D.I.KHAN. Mr. Tanseer Ali Mehdi APP, for the State. Present:

Mr. Muhammad Ismail Khan Alizai, Advocate, for complainant

Mr. Salf-ur-Rahman Advocate, for defense.

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JUDGMENT

Accused Muhammad Bilal (in custody)

Wasaya, Muhammad Imran and Muhammad Asif (on bail), have faced trial of the charge below:-

Firstly. That on 18.06,2019 at 01.50 night time, you accused Muhammad Bilal in police uniform duly armed with deadly weapon along with your co-accused, at courtyard of upper storey of Alizai Petrol Pump situated at Multan Road, falling within the criminal jurisdiction of Police station Cantt:, D.I.Khan in furtherance of your common intention, committed Qatle-e-Amad of Sajjid Rafique (brother of complainant) by firing at him and you thereby committed an offence punishable under section 302/34 P.P.C and within the cognizance of this court.

Secondly. That you accused named above on the same date and place, in furtherance of common intention, after committing the occurrence while fleeing away dishonestly misappropriated the 30 bore pistol belonging to deceased, and you thereby committed an offence punishable under section 404/34 PPC, and within the cognizance of this Court.

Thirdly. That you accused namely Allah Wasaya, on the same date, time and place, abetted your co-accused Muhammad Bilal for committing Qatl-e-Amd of deceased Sajid Rafique by firing at him you thus thereby committed an offence punishable under section 1997.

PPC and within the cognizance of this Court.

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As per FIR, the complainant Majid Rafique son of Rafique Talib along with dead body of his brother Sajjid Rafique, aged 40/41 years, in an Emergency Room of Civil hospital, D.I.Khan, reported that his brother Sajjid Rafique was a Manager in Alizai Petrol Pump situated at Multan road. On 18.06.2019 he in room while his brother Sajjid Rafique in courtyard of the upper storey of the petrol pump, were sleeping. Meanwhile at 01:50 AM he upon hearing of the firing noise came out of the room and found the accused Muhammad Bilal in a police uniform who was firing at his brother Sajjid Rafique with the intention of his murder which resulted into his death while two unknown accused equipped with firearm were standing on roof. The accused Muhammad Bilal was identified in a bulb light while the other accused can be identified on coming at front. The offence is committed in mutual consultation of ASI Allah Wasaya. The accused Muhammad Bilal after the occurrence has also taken the licensed pistol of the Sajjid Rafique. The occurrence besides him is also witnessed by the Security Guard and other servants at petrol pump. Motive is dispute over women folk.

3. Complete challan was put in court on 16.12.2019 before the Respected Sessions Judge, D.I.Khan. In response of process, the accused Muhammad Bilal produced in custody while accused Muhammad Imran, Muhammad Asif and Allah Wasaya appeared on bail before the court of Respected Sessions Judge, D.I.Khan.

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who after compliance of provision under section 265-C Cr. P.C framed charge against the accused on 21.01.2020 to which they pleaded not guilty and claimed trial. Subsequently, the instant case file was received on transfer by this court on 21.06.2023.

- 4. The prosecution in order to prove guilt against the accused, produced and examined as many as 16 witnesses i.e. Dr. Arif Hayat CMO, DHQ Hosptial, Trauma Centre, D.I.Khan, Muhammad Mushtaq, S.I. CTD, D.I.Khan, Abdul Ghafoor No.395, Muhammad Akhtar OII, Fazal Rahim Khan DSP, Constable Abbas Ali No.1231, Zamir Abbas ASI, Constable Sami Ullah No.8884, Haji Gul HC, Muhammad Ishfaq son of Yaseen, Muhammad Shakeel son of Husain Bakhsh, Muhammad Naeem son of Muhammad Shafi, Muhammad Rafique Talib son of Ghulam Rasool, Kashif Naveed son of Abdul Rasheed, Majid Rafique son of Muhammad Shafique, Muhammad Saif-ur-Rahman Khan DSP as PW-1 to PW-16 respectively.
 - 5. After closure of the prosecution evidence, the accused facing trial were examined under section 342 Cr. P.C on 30.01.2023.
 - 6. Arguments heard and case file perused.
 - 7. It is alleged that the accused facing trial Muhammad Bilal and Allah Wasaya have enmity with the complainant party which emerged when the complainant's brother Muhammad Ismail contracted court marriage with Shazia Amber, daughter of the accused facing trial Allah Wasaya, and the instant case claiming.

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the life of the deceased Sajjid Rafique is the outcome of the enmity.

The deceased Sajjid Rafique was Manager in Alizai Filling 8. Station and as per statement of Muhammad Ishfaq son of Muhammad Yasin, PW-10, filler in the Alizai Petrol Pump, on 18.06.2019 at 01:50 AM when he heard firing he went upstairs and found Sajjid Rafique smeared in blood. However, he did not recognize the assailants due to dark whom he saw after ten minutes of firing. But why would the accused stay at the place of occurrence even after ten minutes of the alleged occurrence. If PW-10 Muhammad Ishfaq who was present in Alizai Petrol pump and could not identify the accused due to dark then how the complainant who is claiming himself to be the eyewitness of the occurrence alleged that he identified the accused facing trial Muhammad Bilal in bulb light. Similarly, the second filler Muhammad Shakeel, PW-11, after hearing noise of the firing went inside a room for his safety and admitted that Muhammad Ishfaq, PW-10, also went inside the room, so Muhammad Shakeel. PW-11, is also not the eyewitness of the occurrence.

9. The complainant Majid Rafique, PW-15, brother of the deceased Sajjid Rafique, was allegedly living with his deceased brother Sajjid Rafique in Alizai Petrol pump and he witnessed the accused facing trial Muhammad Bilal on 18.06.,2019 at 01:50 AM making firing which resulted into the death of his brother Sajjid Rafique. The only direct evidence is of the alleged.

NE CONSTRA

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eyewitness/complainant Majid Rafique, PW-15, who sawe accused facing trial Muhammad Bilal in bulb light. The question is of the complainant's presence in Alizai Petrol pump with his deceased brother Sajjid Rafique on the date and time of the occurrence where his family (wife and children) is admittedly residing in Islamia colony. Although the complainant Majjid Rafique, PW-15, has stressed that due to enmity he was residing with his deceased brother Sajjid Rafique so as to establish his presence on spot at the time of occurrence, but when the complainant's father Muhammad Rafique Talib, appeared in dock he uncovered the truth and admitted that during the days of occurrence his son/complainant Majid Rafique, PW-15, was separately residing with his wife and children in Islamia colony. He further admitted that he along with other legal heirs of the deceased (mother, brothers, sisters, widow and children) is not the eyewitnesses of the occurrence rather they were informed by the filler Shakeel while Muhammad Shakeel, PW-11, though alleged to be present in Alizai petrol pump but has not witnessed the accused facing trial committing the offence. Similarly, Kashif Naveed, PW-14, brother-in-law of the deceased Sajjid Rafique, also admitted that during the days of occurrence the complainant Majid Rafique was residing in Islamia colony with his wife and children.

10. It also does not make any sense that complainant Majjid Rafique, the alleged eyewitness of the occurrence, having

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children less than six years of age, would leave them alone in their place of residence at Islamia colony and would live with his deceased brother Sajjid Rafique in a petrol pump, but this false deposition was brought in his statement just to strengthen the allegation agains the accused facing trial. Moreover, the admissions so made by the PW-13 Muhammad Rafique and Kashif Naveed, father and brother-in-law of the deceased Sajjid Rafique, undoubtedly discarded the presence of the complainant Majid Rafique, PW-15, on spot at the time of alleged occurrence.

- It is also strange that if the accused facing trial Allah Wasaya and Muhammad Bilal had enmity with the complainant party and not only with the deceased Sajjid Rafique then why was the complainant Majjid Rafique, PW-15, was spared by the accused facing trial when he was allegedly present on the spot.
- 12. Besides, initially the complainant Majjid Rafique, PW-15, charged only the accused facing trial Muhammad Bilal but later the co-accused were also charged without their identification parade or other satisfactory source without bringing any evidence on record against them regarding their connectivity with the offence.
 - 13. In the light of above discussion, the prosecution has failed to establish its case against the facing trial Muhammad Bilal son of Allah Wasaya, Allah Wasaya son of Muhammad Anwar, Muhammad Imran son of Haq Nawaz and Muhammad Asif son of Allah Nawaz, beyond any shadow of doubt, they are acquitted

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of the charges levelled against them by extending the benefit

doubt.

Accused Muhammad Bilal son of Allah Wasaya is 14. custody, hence, be set free forthwith, if he is not required in any other case. Release warrant of the accused be issued to the Superintendent, Central Prison, D.I.Khan for the release of the said accused forthwith while accused Allah Wasaya son of Muhammad Anwar, Muhammad Imran son of Haq Nawaz and Muhammad Asif son of Allah Nawaz are on bail, hence, their bail bonds stand cancelled. Their sureties are discharged from the liabilities of the bail bonds.

- Case property, if any, be disposed of according to law, but after the expiry of period of appeal/revision.
- File of this court be consigned to record room after 18. necessary completion and compilation.

nnounced

(MUHAMMAD ILYAS KHAN) Additional Sessions Judge-VI

CERTIFICATE

Additional Sessions Judge-VI Dera Ismail Khan

Certified that this judgment consists upon (08) pages. Each page has been read, corrected where-ever necessary and signed

21,06,2023

(MUHAMMAD ILYAS KHAN) Additional Sessions Judge-VI Dera Ismail Khan.

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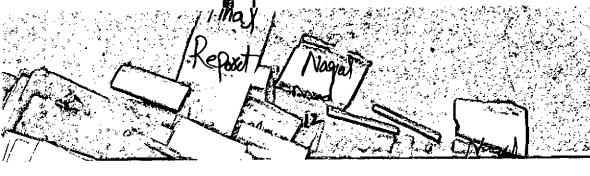
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(Mercipetition)

Attested y

Through Proper Channel

ازاں سابقہ کانشیبل محمد بلال بیلٹ نمبر 8198 منزخ در ۱۱-۲-۱۱



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بخدمت عزت ما ب جناب کمانڈنٹ صاحب FRP خیبر پختونخواہ پشاور جناب عال!

مود باندگزارش ہے کہ من سائل مورجہ 03.01.2011 کو تکمہ پولیس FRPری ڈیرہ اسائیل خان میں بطور کانشیبل بھرتی ہوکرا پنے بہترین فرائض منفہی سرانجام دے رہا تھا۔ جو کہ من سائل کو کو بہ الزام قبل نا جائز طور پر

ىقدمەنمبر 598مورىچە 18.06.2019 جرم 302/404/109/34 ت پ بقانە كىنت مىس نامزد كىيا گىيا ـ بعد ۋ

ا کے طوفانی تھم نامہ نبر 467/FRP مورخہ 07.07.2020 کے ذریعے ملازمت سے برطرف کیا گیا۔ ورین نسبت ساکل حسب ذیل عرض دسمال ہے۔

محترم جناب:

FIR میں من سائل کوغلط طور پر نامز دکیا گیا۔

کونکه FIR کے مندر جات بے بنیا و، جھوٹے اور حقیقت کے منافی ہیں۔

اصل حقائق مجھ بوں ہیں:۔

من سائل اپنے فرائض منفین سرانجام دے رہااور حسب روٹین حسب اجازت شب باشی کے لیے گھر خود گیا تھااور بوقت وقوعہ دوستوں کے ہمراہ شکار پر سو جودتھا جس کی نسبت بیانات حلفی لف قابل ملاحظہ ہیں۔ سن سائل کے خلاف مقدمہ کی طرف ہے دری کردہ FIR کامتن اور مندر جات ذیل بنیا دوں پر جھوٹے ٹابت ہوتے ہیں اور ان کی تر دید ہوتی ہے۔

- 1. مى مقدمە جوخودكورتو عدكاچىم كواد ظا بركرتائى بىلىن CDRاس كى موجودگى جائے وتو عد برنبيس يائى جاتى۔
- 2. رپورٹ کے اندرائ میں توقف بد نیتی پہنی ہے کاس دوران من سائل کومقد مدیس پھنانے کے لیے ملاح مشورہ کیا جاتارہا۔
- 3. پٹرول پہپ میں نصب CCTV کیمرہ جات میں من سائل کی جائے وقو عد کی جانب آمدیا واپسی نہیں یا گئی جات ہے۔ پائی جاتی۔
- 4. مدى مقدمه خود بيانى ب كدو دوقوعه ك 10 منت بعد جائے وقوعه پر پہنچا۔ جبكه استے وقت ميں لمز مان كو اطلابيرول پہنچانا۔ احاطه بغرول پہنچ ميں موجود زميس مونا جا ہے تو اس نے كيے من ساكل كو پہنچانا۔

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مدى مقدمه كے موقف كيمطابق وہ بھائى كى حفاظت كے لياس كے ساتھ موجود تھاان كے پاس اسلمہ بھى موجود تھاان كے پاس اسلم بھى موجود تھاتو دونوں بھائيوں اور سلم پہپ جوكيداركى موجود گى بين ملزم كيے احاطہ پہپ ، پھر كمرہ اور اس كے بعد سير سيوں كور نہى جائے وتو عد (حبيت) پر پہنچا ۔ انہوں نے مزاجمت كيوں نہ كى ؟ نيز

مثل مقدمہ کے مطالعہ سے معلوم ہوتا ہے کہ من سائل کے خلاف تفتیشی انسر کوکوئی ٹھوں شہادت نہیں ملی اور کسی مرحلہ پرمن سائل کی ملزمیت ثابت نہیں ہوتی بلکہ قوعہ میں غلططور پر نا مزدکر نے کی دجہ ہے من سائل کے ملوث ہونے کی نسبت کوئی کڑی نہیں ملتی۔

علاوه ازي

ستم درستم یہ کہ ساکل کوا کی طرف جھوٹے مقدے میں پھنسایا گیاتو دوسری طرف بغیر کسی جوت کے ہم چوں تئم کی انکوائز ک کرے ملازمت ہے برطرف کیا گیا۔

والاشان!

ا کیے طرف ایک جھوٹے مقدمہ کا سامنا تھا اور دوسری طرف سائل کو ملاز مت برطرف کرے سائل کے فائدان کا معاش قبل کیا گیا۔ جس کے فائدان کا معاش قبل کیا گیا۔ جس کے خاندان کے ساتھ زیادتی بلکہ ظلم کیا گیا۔ جس کے نتیج میں من سائل کو بغیر تصور کے طویل عرصہ تک جیل کا سامنا کرنا پڑا۔ جو Socially/Morally ہر لحاظ ہے کی صورت جا نزنہیں۔ ایک الزام کی نسبت دوسر اکمیں دیتا بقیناً انصاف کے اُصولوں کے منافی ہے۔ فیصلہ عدالت:۔

من سائل چونکہ ہے گناہ تھا۔اور معزز عدالت ہے انساف کی امید پرکیس کا سامنا کیا اور بدعی کی طرف ہے تا گئے اگرا مات کے جواب میں یا قابلی تر دیو جوت پیش کیے۔ جن ہے من سائل لگایا گیا الزام جوتا فابت ہوا۔ معزز عدالت کی طرف ہے وسیع پیانے تھیں اور ٹرائل کے بعد عدالت کی طرف ہے من سائل پر لگائے گئے الزامات جھوٹے، بے بنیا واور مشکوک گروانے گئے اور بفضل خدا تعالی من سائل کی ہے گناہی فابت ہوئی اور معزز عدالت نے تھائی اور انساف کے تناضوں کو مدنظر رکھتے ہوئے محترم جناب اید پشنل سیشن فابت ہوئی اور معزز عدالت نے تھائی اور انساف کے تناضوں کو مدنظر رکھتے ہوئے محترم جناب اید پشنل سیشن فی ماحب نبر 6 نے بحوالہ آرڈر نبر 166 مور خد 21.06.2023 من سائل کو

"باعزت يرى" كرنے كا حكامات ما ور فرمائے ۔ (كا في آر وُر تدالت لف ب)

Affastaly

Report / Nagar

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5. مرعی مقدمہ کے موقف کیمطابق وہ بھائی کی تفاظت کے لیے اس کے ساتھ موجود تھاان کے پاس اسلحہ بھی موجود تھا ان کے پاس اسلحہ بھی موجود تھا تو دونوں بھائیوں اور سلح پہپ جو کیدار کی موجود گی میں ملزم کیسے احاطہ پہپ ، پھر کمرہ اور اس کے بعد ٹیر جیوں کے ذریعے جائے وقو عہ (حیوت) پر پہنچا۔ انہوں نے مزاحمت کیوں نہ کی؟

میرز

مثل مقدمہ کے مطالعہ ہے معلوم ہوتا ہے کہ من سائل کے خلاف تفتیش انسر کوکوئی مفوی شہادت نہیں ملی اور کسی مرحلہ پرمن سائل کی ملزمیت تا بت نہیں ہوتی بلکہ قوعہ میں غلططور پر نا مزد کرنے کی وجہ ہے من سائل کے ملوث ہونے کی نسبت کوئی کڑی نہیں ملتی۔

علاوه از یس

ستم درستم ید کسائل کوا کی طرف جھو نے مقد سے میں بھنسایا گیا تو دوسری طرف بغیر کسی ثبوت ہے ہم چوں تنظم کا تکوائر کی کر کے ملاز مت سے برطرف کیا گیا۔

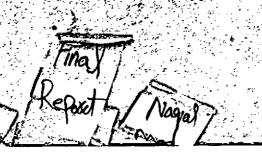
والانتان!

ایک طرف ایک جھوٹے مقدمہ کا سمامنا تھا اور دوسری طرف سائل کو طاز مت برطرف کرے سائل کے فائدان کا معاش قبل کیا جس کی وجہ سے سائل اور سائل کے فائدان کے ساتھ زیادتی بلکظم کیا گیا۔ جس کے نتیج بیس من سائل کو بغیر تصور کے طویل عرصہ تک جیل کا سامنا کرنا پڑا۔ جو Socially/Morally ہر لحاظ ہے کی صورت جا بڑبیں۔ ایک الزام کی نسبت دوسر اکیس دینا بھیٹا انصاف کے اُصولوں کے منافی ہے۔ فیصلہ عدالت:۔

"باعزت برى "كرنے كا حكامات صاور فرمائے۔ (كالي) أر أورعد الت لف ب

Affestal 1.

Affect Jan



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اليجاهن

من سائل ایک اونی ترین ماتحت ہے۔ انتہائی غریب اور عزت دار اور شہری گھر انے کافر دہے۔ سائل کاسروس ریکارڈ بے داغ ہے۔ ایک ناکر دہ گناہ میں طویل عرصہ تک قید و بند کی صعوبتیں برداشت کرچکائے۔

یا میں میں میں ویا ہے۔ ملازمت سے برطر فی کی وجہ سے گھریلوضرور یا ت اور کیے عرصے تک کورٹ، پیجبری کے اخراجات کی مدمیں نا قابل برداشت حدقرضوں کے بوجھ تلے دیا ہوا۔

ماك كامر ت اور شهرت كونا قابل تلانى نقصان يهنجاب

ویگر ذریعد معاش ند بونے کی وجہ سے اس مہنگائی کے دور میں روح اور جسم کارشتہ برقر اررکھنامشکل

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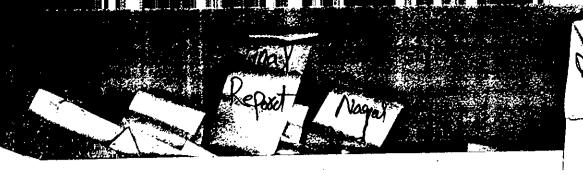
جناب سے دردمندانہ التماس ہے کہ درج بالاحقائق اور انسان کے تقاضوں کو مدنظر رکھتے ہوئے من سائل کے ساتھ ماتحت پر وری کامعاملہ کر کے من سائل کی رخم کی ایبل منظور فر ماکر ملازمت پر بحالی کے احکامات صاور فر ماکمیں۔

من سأئل اور سأئل بوڑ مصوالد من جناب کے بلندا قبال کے لیے دعا محور ہیں سے۔

العــــــارض

. 11 2023

محمد بلال سابقه بیلٹ نمبر 8198ولداللہ و سایا قوم بلوچ سکندمریا لیخصیل و ضلع ڈیرہ ا ساعیل خان 2023 – 07 – // Affectul y



This order will dispose of the departmental appeal preferred by exconstable Muhammad Bilat No. 8198 of FRP DI Khan against the order of SP FRP DI Khan Ranco. Di in Khan Range, DI Khan issued vide OB No. 467 dated 07.07.2020, wherein he was

Brief facts of the case are that the applicant absented himself with effect awarded major punishment of removal from service from 17.06.2019 to 20.05.2019 and during his absence he was found involved in case FIR No. 598, dated 18.06.2019, U/S 302/404/109/34 PPC Police Station Cantt;

In this regard, he was placed under suspension vide office Order Endst, //FRP, dated 19.06.2010 and District Di Khan. No. 995-96/FRP, dated 19.06.2019 and proper departmental proceedings were initiated against him and Zahoor Ud Din DSP FRP DI Khan was nominated as Enquiry Officer. After completion of enquiry, the Enquiry Officer recommended that the instant enquiry may be kept pending till the decision of court.

However, his enquiry alongwith relevant papers were again marked to Asad Mehmood DSP FRP DI Khan with the direction to conduct re-enquiry into the matter. After completion of enquiry, the Enquiry Officer found him guilty of the charges leveled against him.

Keeping in view the above narrated facts and other material available on record, he was awarded major punishment of removal service vide OB No. 467. dated 07.07,2020.

Feeling aggrieved against the impugned order of SP FRP DI Khan Range, DI Khan, the applicant preferred the instant appeal.

Perusal of file it has been found that the allegations were fully established during the course of enquiry. 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 Knyber 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. 8788 - 89 /SI Legal, dated Peshawar the 14 109 /2023:

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

1. SP FRP DI Khan Range, DI Khan. His Service record alongwith D-file sent

2. Ex-constable Muhammad Bile! No. 8198 FRP DIK S/o Allah Wasaya R/o Village Elaz Abad Munjall Police Station Cantt, District DI Khan.

KHYBER PAKHTUNKHWA BAR COUNCIL Aman Ullah ther's Name: Basti Usirana South Call:0336-16285 0336-1628586 RIZWAN ULLAH KHAN Chrolinent Date E.C. 01-10-2012 Place of Practice 25-02-1985 Tate of Birth Date of Issue: 15-05-2013 **Hood Group** 15-05-2016 Valid upto: 12101-0996987-9 EXATE Ku. مقدمه مندرجه بالاعنوان مي اپن طرف دايسله بيرون برواب ون برائ بيش يا ته غيرمندر بنام Mc Coler (Men) (1) کو حسب ذلی شرائط پر وکیل مقرر کیا ہے کہ میں بیش بر خود یا بذا بذرایہ رو برو عدالت حاصر تونا رموں کا اور ہر وقت یکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں کا اگر پیٹی پر مظہر ماضر نہ ہو اور مقدمہ میری غیر ماضری کی دجہ سے کمی طور میرے خلاف ہو گیا آو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں کے نیز دکیل صاحب موصوف مدر مقام کچہری کے علاوہ یا کچہری کے ادقات سے پہلے یا پیچھے یا بروز بعطیل یروی کرنے کے اسر وار نہ ہول کے اور مقدمہ صدر کھیری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا کچیری کے اوقات کے آگے یا بیچھے بیش ہونے یر مظہر کوئی نقصان بینے لز اس سے وحد دار یا اسکے واسطے کی معاوخہ کے ادا کرنے یا محنت نہ داپس کرنے سے بھی صاحب موسوف وحد دار نہ ہول سے بھی کو کل ماخته میر واخند معاحب موسوف مثل کرده ذات خود منظور و آول موح اور ماحب موسوف کو عرض دعوی یا جواب دعوی یا ورخواست اجراء اساسته و کری نظرونی ائیل محرانی و ہرتم درخواست ہرتم کے بیان دینے اور پر تالتی یا رامنی نامہ و فیصلہ برصلف کرنے اقبال دوری کا بھی انتیار ہوگا اور بصورت مقرر وونے تاریخ بیش مقدمه مرکد بیرون از بچهری مدر بیروی مقدمه مرکور نظر تانی ایل و مجرانی و برآ مدکی مقدمه یا مفونی ذکری یک طرف یا درخواست محم امتناک یا قرتی یا کرفاری قبل از فیمله اجرائے ذکری میں صاحب موموف کو بشرط ادائی علیدہ مخانہ پر دی کا اختیار وہ کا ادر تمام ساخت پرداخت صاحب موموف مثل کردہ از خره منظور و قبول ادم کا اور بصورت ضرورت صاحب موسوف کو به بھی اختیار او کہ مقدمہ مزکورہ یا اس کے کئی جزء کی کاروائی یا بصورت ورخواست انظر ٹائی ائیل محرالی یا دیگر معاملہ و قدمہ فیکورو کمی دوسرے وکیل یا بیرسٹر کو این بجائے یا است امراه سترد کریں اور ایسے مشیر تانون کو میں ہر امر میں وی اور دیسے اختیارات عاصل ہول کے جیسے صاحب موصوف کو حاصل این اور داران مقدمہ این اور کھے ہر جانہ الزاء پڑے کا وہ صاحب موصوف کا حق ہو گا کر صاحب موسوف کو پوری فیم تاریخ بیشی سے بہلے اوا نہ کرول گا تر ساحب موسوف کو پورا انتیار وو گا کہ مقدمہ کی پروی نہ کریں اور ایک سودت یں برا کوئی مطالبہ کمی متم کا صاحب موصوف کے برطاف نہیں ہوگا للذاوكالت نامه كهوديان تأكيسندزب مضمون وكالت نامين لياب اوراتيس طرح سجه لياب اورمنظورب 12101-7907963-5 - ن كاليميز سنفرا ندرون مين زر ماركيال بالنتنافل جائز مركل لهيدها سائيل خاك

