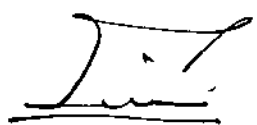


29.08.2022

Appellant in person present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

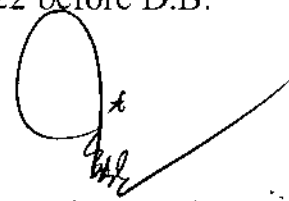
The Lawyers are on strike and Learned Member (Judicial) Ms. Rozina Rehman is also on leave, therefore, arguments could not be heard. Adjourned. To come up arguments on 02.11.2022 before the D.B.



(Salah-Ud-Din)
Member (Judicial)


02.11.2022

Junior of learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station. Adjourned. To come up for arguments on 27.12.2022 before D.B.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)


27.12.22 Due to winter vacation,
the case is adjourned to
4.4.23 Before the same

Reza

Stipulated period passed reply not submitted.

15.09.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

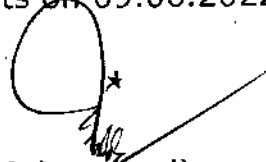

Chairman

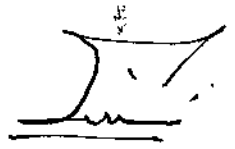
Due to ~~winter~~ vacations ~~the~~ case is adjourned to come up for the same as before on 14-04-2022

Reader.

14.04.2022

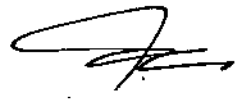
Appellant in person present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Written reply on behalf of respondents submitted, which is placed on file and copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 09.06.2022 before the D.B.


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member, (J)

9.6.22

Proper D.B. is not there, therefore the case is adjourned to 29.8.22 for same.


02.08.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised Need consideration. Subject to all just and legal objections, this appeal is accepted for full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 27.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee

4/8/21



Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 5910 /2021

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 08/06/2021 | <p>The appeal of Mr. Atif Ullah presented today by Mr. Munsif Saeed Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |

BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR

5910

Service Appeal No. _____/2021

Constable Atif Ullah

(Appellant)

VERSUS

Govt. of KPK through Inspector General and others

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| 4 | Copy of Charge Sheet and reply | B | 5-7 |
| 5 | Copy of inquiry | C | 8-14 |
| 6 | Copy of final show cause notice and reply | D | 15-17 |
| 7 | Copy of order | E | 18 |
| 8 | Copy of departmental appeal and order | F | 19-23 |
| 11 | Wakalat Nama | | 24 |

Through

Appellant

Malik Misraf
Munsif Saeed
Advocates High Court,

Peshawar

Dated: 08.06.2021

BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. _____/2021

Constable Atif Ullah

NO 4127 Moharar Investigation P/S ~~P/SP~~ Peshawar

(Appellant)

VERSUS

- 1) Govt. of KPK through Inspector General of Police KP, Central Police Office, Peshawar
- 2) Additional Inspector General of Police Peshawar
- 3) Deputy Inspector General of Police Peshawar
- 4) Deputy Superintendent of Police Inquiry Central Police Office Peshawar.
- 5) The Capital City Police Officer, Headquarter Central Police Lines, Peshawar
- 6) SSP Investigation, Headquarter Central Police Lines, Peshawar

(Respondents)

Appeal Under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 18.02.2021 whereby imposing major punishment of "time scale from the higher stage to the lower stage in the same time scale of pay" was wrongly awarded to the appellant and against order dated 26.05.2021 of the respondent no 5 where by departmental appeal was wrongly dismissed

Prayer:

On acceptance of the instant appeal both the impugned orders may kindly be set aside and the time scale of the petitioner/ appellant may kindly be restored with all back benefits to the appellant.

Interim relief:

By way of interim relief operation of the impugned order may kindly be suspended till final disposal of the present appeal.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

- 1) That the petitioner is presently serving in the police department as

constable and is performing his duties with devotion and honestly.

- 2) That during the course of service when the appellant was serving as Moharrar Investigation MI at p/s Paharipura, unfortunately case file of FIR no 367, dated 13.05.2014, u/s 387 PPC read with 07 ATA, p/s Paharipura, went missing.
- 3) That on the basis of the said incident, the respondents initiated departmental proceedings against the appellant along with other officials.
- 4) That after conclusion of inquiry, the appellant was awarded major punishment "time scale from the higher stage to the lower stage in the same time scale of pay" vide order dated 18/02.2021 by the respondent no 06.
- 5) That the appellant feeling aggrieved from the said order, preferred departmental appeal which was also dismissed vide order dated 26.05.2021 by the respondent No. 05.
- 6) That the appellant feeling aggrieved from both the above impugned orders, actions and enquiry, preferred the present appeal before this hon'ble tribunal.

GROUNDS

- a) That both the impugned orders are against the law facts material available on record, hence not tenable in the eyes of law.
- b) That the respondents has not treated appellant in accordance with law, rules, policy on subject and acted in violation of Article 4 and 25 of the Constitution of Islamic Republic of Pakistan and unlawfully issued impugned orders which are unjust, unfair and hence not sustainable in the eyes of law.
- c) That the respondents not made statement of allegation against the appellant in accordance with law and had not followed the required procedure as set by the law due to which the impugned orders are liable to be set aside.
- d) That the discrimination has been made while issuing the impugned

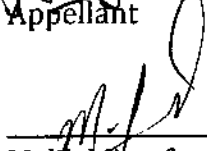
order by the respondents as other official has been awarded lesser punishment in the same inquiry.

- e) That the petitioner has not been dealt with in accordance with law and serious prejudice has been caused to the petitioner in the so called inquiry.
- f) That no opportunity of fair hearing has been given to the petitioner and the whole proceeding has been conducted in hasty manners thus violating basic rights of the petitioner.
- g) That the being a constable, the petitioner has been made a scape goat in the present case in order to save the skin of the blue eyed ones.
- h) That any other grounds will be raised with permission during the course of arguments.

It is, therefore, humbly requested that on acceptance of instant appeal, both the impugned orders may kindly be set aside, and the time scale of pay of the appellant be restored with all back benefits.


Appellant

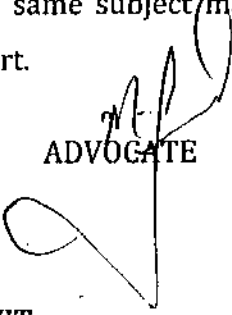
Through


Malik Misraf
Munsif Saeed
Qasim noor
Arif Ullah
Advocates High Court,

Peshawar

Dated: 08/06/2021

Note: No such service appeal on the same subject matter has earlier been filed before this honourable court.


ADVOCATE

AFFIDAVIT

I, Constable Atif Ullah NO 4127 Moharar Investigation P/S ~~shahpur~~ peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant "SERVICE APPEAL" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.


DEPONENT

~~ATTESTED~~

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE

SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

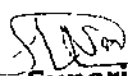
No. _____/PA

Dated Peshawar the ___/___/2020

DISCIPLINARY ACTION AGAINST HC ATIF ULLAH MI PS PAHARIPURA ESHAWAR
I, Nausher Khan Senior Superintendent of Police, (Investigation), Peshawar, as competent authority, am of the opinion that HC Atif Ullah MI PS Paharipura Peshawar has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975.

STATEMENT OF ALLEGATIONS.

- I. With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020 , duly forwarded by CCPO Peshawar vide dairy No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020 u/s 387 PPC R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Moharar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part . Your this act is highly objectionable.
- ii. This amounts to gross misconduct, negligence and malafide on your part for which you are liable for punishment as defined in Police Disciplinary Rules, 1975.
 1. That all the above acts amount to gross misconduct, negligence, in-efficiency and malafide on his part for which he is liable for punishment as defined in Police Disciplinary Rules, 1975.
 2. For scrutinizing the conduct of said accused with reference to the above allegations, DSP Jamun Khand is deputed as the Inquiry Officer.
 3. The Inquiry shall be conducted in accordance with the provision of the Rules to provide reasonable opportunity of hearing to the accused officer, record its finding within 15 days of the receipt of this order, & make recommendations as to punishment or other appropriate action against the accused.
 4. The accused shall join the proceeding on the date and time and place fixed by the Inquiry Officer


Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.

Depty Superintendent
of Police City inv. Peshawar



ATTESTED

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 323-28/1 PA

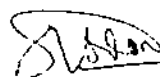
Dated Peshawar the 22/10/2020

3

CHARGE SHEET

I, Nausher Khan Senior Superintendent of Police, Investigation, Peshawar, as competent authority hereby charge you HC Atif Ullah MI PS Paharipura Peshawar: -

- I. With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020, duly forwarded to CCPO Peshawar vide dairy No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020 u/s 387 PC R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Mohar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part. Your this act is highly objectionable.
- II. This amounts to gross misconduct, negligence and mala-fide on your part for which you are liable for punishment as defined in Police Disciplinary Rules, 1975
 1. By the reasons of the above, you appeared to be guilty of misconduct under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the said Rules.
 2. You are therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the Inquiry Officer/Committee.
 3. Intimate as to whether you desire to be heard in person?
 4. A Statement of allegation is enclosed.


Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar

Deputy Superintendent
of Police City Inv. Peshawar

بیان اذال عاظم اللہ محررانو سٹی گیشن تھانہ پہاڑی پورہ

ATTACHED

سلسلہ:- چارج شیٹ نمبری 20/10/22 PA/28-327

بابت مسگ مقدمہ علت 367 مورخہ 13.5.14 م 387/7ATA پہاڑی پورہ

جناب عالی!

(1) بحوالہ مشمولہ چارج شیٹ معروض خدمت ہوں مثل مقدمہ کے بعد از اندراج مورخہ 26.5.14 کو من محرر نے حاضری کی ہے مقدمہ کی تفتیش انسپکٹری سسرکل یا سرامان کر رہا تھا مقدمہ اس کے ساتھ تھا۔

(2) مورخہ 6.6.2014 تک مثل مقدمہ انہی کے ساتھ زیر تفتیش تھا جو مورخہ 6.14.14 کو حسب طلبی بحوالہ رسید نمبر NC 591/21 بعد الت اندادہ ہنگردی پشاور بھجوا یا گیا ہے۔

(3) مورخہ 10.6.2014 اور 15.6.2014 محررہ ضمنیات مثل کے عدم موجودگی میں تحریر شدہ ہے کیونکہ مثل مقدمہ 18.6.2014 کو عدالت جناب اندادہ ہنگردی سے موصول ہو کر زیر دستخطی ٹکیب DFC حوالہ ساچد ممتاز OII کیا گیا ہے جس نے باقاعدہ ضمنی محررہ مورخہ 20.6.2014 کو ضمنیات بلا سابقہ تواریخ میں تحریر کی ہے جس میں سابقہ چالان کو سہوا دینا قرار دے کر پسماندہ ملزم عبداللہ کے خلاف کارروائی روپوشی کرنے کا ذکر ہے۔

(4) ساچد ممتاز خان کے ضمنی تحریر کرنے کے بعد ضمنی صفحہ خان SHO مورخہ 21.6.2014 عبوری چالان تحریر ہے جو مورخہ 23.6.2014 کو طلبیدہ عدالت عالیہ ہائی کورٹ پشاور بحوالہ رسید نمبر 560/21 بھجوا یا گیا ہے جو وہی سے دستی حاصل کر کے درج بالا تکمیل ہو کر کیونکہ ملزم حبیب الرحمن کے ضمانت عدالت عالیہ ہائی کورٹ پشاور سے مورخہ 4.7.2014 کو ہوئی ہے اور مورخہ 20.8.2014 بحوالہ رسید نمبر 603/21 بدست کنسٹیبل ٹکیب DFC دوبارہ عدالت عالیہ پشاور ہائی کورٹ بھجوا یا گیا ہے۔

(5) مورخہ 18.9.2014 کو موصول ہو کر جو کہ مورخہ 4.10.2014 کو ساچد ممتاز انسپکٹر کے جانشین انسپکٹر مراد خان کے تعیناتی پر ان کو حوالہ کی گیا ہے اسی حوالگی کے دوران مثل مقدمہ OII سبز علی خان کے پاس تھا جس نے اپنا اثباتی ضمنی مورخہ 23.10.2014 کو تحریر کر کے جس سے واضح ہے کہ مثل مقدمہ تھانہ میں ان کے پاس تھا۔

(6) اور مورخہ 28.10.2014 کو طلبیدہ عدالت عالیہ ہائی کورٹ بحوالہ رسید 964/21 جو کہ ثبت FIR زیر دستخطی من محرر درج ہے بدست کنسٹیبل ٹکیب DFC بھجوا یا گیا ہے جس کی باقاعدہ روزنامچہ میں روانگی بحوالہ بد 14 روزنامچہ 28.10.2014 قبیل امثالات عدالت عالیہ ہائی کورٹ واسطے کی ہے جو کہ نقلدلف ہے اور مورخہ 27.10.2014 کو مقدمہ علت 807 مورخہ 26.10.2014 م 15AA تھانہ پہاڑی پورہ چالان مکمل بعد الت محمد فیاض خان IMIC بحوالہ رسید نمبر 963/21 بدست جان عالم IIC بھجوا یا گیا ہے جو کہ FIR لف ہے۔

(7) رسید راہداری پر وصولی کا دستخط حاصل کرنا تاویل مثل مقدمہ کی ذمہ داری اور بعد میں رسید راہداری کی حوالگی یا خود رجسٹر پر لگانا اسکی ذمہ داری ہے۔

(8) مثل مقدمہ کے نسبت بعد میں معلومات تفتیشی افسر کی ذمہ داری ہے من محرر کی ذمہ داری صرف تکمیل ریکارڈ ہے۔

(9) رسید راہداری اور دیگر رجسٹر تھانہ کی حفاظت و ذمہ داری بمطابق پولیس روڈز بات 22 فقرہ 22 اپریشن محرر کے ذمے ہے اور اپریشن کریم داد نے بحوالہ بد 53 روزنامچہ 30.1.2020 کو رجسٹر رسید راہداری و دیگر رجسٹرات سال 2014 کے مسگ کارپورٹ درج روزنامچہ کی ہے جو کہ نقلدلف ہے جو کہ یہی نتیجہ اخذ نہیں کیا جاسکتا ہے کہ مثل مقدمہ عدالت عالیہ ہائی کورٹ میں کس نے وصول کی ہے یا رسید راہداری ٹکیب DFC نے لا کر لگائی ہے یا تاکہ DFC مذکورہ کی روانگی جمع کرنے امثالات روزنامچہ میں بحوالہ بد 14 روزنامچہ 28.10.2014 کی گئی ہے محرر ایسی کا ذمہ داری گوارا نہیں کی۔

Deputy Superintendent
of Police City Inv. Peshawar

~~ATTESTED~~


86-2 (7)

(10) بعد از من محرر تھانہ سے ہذا سے ٹرانسفر ہو کر مختلف تھانہ جات میں عرصہ ملازمت کر کے دوبارہ تعیناتی تھانہ ہذا میں ہوتی ہے
(11) ملزم عبداللہ کی گرفتاری تھانہ CTD کو حادث کے اطلاع پر OI نے مثل مقدمہ فردا کاروائی واسطے طلب کر کے جو ریکارڈ پر بدستور
حالی کورٹ میں چلا آ رہا ہے معلومات کرنے پر مسگ ہے۔

(12) دوبارہ مثل مقدمہ تیار کرنے کے لیے محررہ ضمنیات کا معلومات VRK سے ہو کر تو وہی پر ضمنیات 17.11.14 درج ہے جبکہ
دیگر ضمنیات دفتر جناب DSP سٹی انوسٹی گیشن ڈاگ بھیجی پر ضمنیات 17.11.14 مورخہ 13.9.2014 کو بدست کسٹینبل طارق
2457 بھجوائے گئے ہے مگر تاحال وہی سے پاس ہو کر VRK نہیں گئے ہے بلکہ وجہ مثل مقدمہ تیار نہیں ہو سکتا ہے لہذا درج بالا
حالات کے رونے من محررہ تصور ہے جہاں تک انکوائری افسر نے زمرہ وار نمبر ایات تو مذکورہ صرف پیپر ورک کا ملاحظہ کر کے
آخری تفشیشی افسر سب علی خان OI اور چالان کردہ SHO انسپکٹر صفدر خان کو معاملہ سے بری الذمہ کی ہے جو کہ اہمیت کا حامل
ہے۔

(13) کیونکہ صفدر خان SHO نے 15.6.2014 کو چالان مکمل برخلاف ملزمان دے کر مورخہ 20.6.2014 کو ساجد ممتاز انسپکٹر نے
سہو اقرار دے کر مورخہ 21.6.2014 کو صفدر خان نے دوبارہ عبوری چالان دیا ہے تو کونسا وجہ لائق ہے کہ چالان مکمل سے دوبارہ
عبوری چالان بنایا گیا ہے جسکی ضمنیات لف ہے اور اسکی خاطر عدالت عالیہ حالی کورٹ پشاور سے دستی حاصل کیا گیا تھا۔
(14) اس مقدمہ میں برخلاف انسپکٹر ساجد ممتاز خان تحریر ذی درخواست افسران بالا سے 9.7.2014 کو موصول ہو کر رجسٹر نمبر 5 خط
و کتابت کی سیریل نمبر 618 پر مارک ہے جو بدستور پنڈنگ ہے اور ملزم گرفتار شدہ کے ضمانت عدالت عالیہ حالی کورٹ سے
30.7.2014 کو برطابق پیشین نمبری 943-P/2014 ہو چکا ہے دیگر شواہد بھی بدوران پیشی بیان کر سکتا ہوں بے گناہ ہوں معافی دی
جائیں۔

نوٹ:- ضمنیات بسلسلہ 17.11.14 مرسلہ کے نسبت ڈاگ بھیجی کے فوٹو سٹیٹ لف ہذا ہے مندرجہ دیگر ضمنیات VRK بھجوائے گئے
ہیں۔ تو ضمنیات بالا میں سے 13 تا 1 کیوں موجود نہیں ہے دیگر برخلاف انسپکٹر ساجد ممتاز خان کے درخواست جو رجسٹر نمبر 5 خط و کتابت کے
سیریل نمبر 618 پر درج ہے۔ تاحال پنڈنگ ہے جس کی فوٹو کاپی لف ہے۔


MI PS PAHARIPURA
23-10-20

Deputy Superintendent
of Police City Inv. Peshawar

~~ATTESTED~~

ENQUIRY REPORT

Subject: INTO MISSING OF CASE FILE VIDE FIR NO.367 DATED 13.05.2014
U/S 387PPC R/W 7ATA POLICE STATION PAHARIPURA.

Background

Vide "F/PUC" Administrative Judge, Anti Terrorism Court, Peshawar intimated that a Bail Before Arrest petition titled as "Abdullah Khan Vs State" is pending in Anti Terrorism Court since 05.08.2020 in which repeatedly the above mentioned record was requisitioned from the concerned but, of no avail. It was reported to the court that the said record is missing from the Police Station since 28.10.2014. It is painful to observe that number of accused who were released on bail in the instant case are still waiting for their trial but due non-availability of original record, no challan against them has been submitted so far, despite being lapse of more than six years.

Administrative Judge Anti Terrorism Court further directed to probe into the matter and fix responsibility upon the said delinquent officials who being responsible for such negligence and also issue necessary directions for the reconstruction of Record.

Proceedings

To unearth the real facts, the following concerned were summoned. They were heard in person and their statements were recorded. They were also cross examined.

1. DSP Sajid Mumtaz, the then OII PS Paharipura.
2. Inspector Doran Shah OII Police Station Paharipura.
3. Head Constable Atif, Moharrar Investigation, PS Paharipura.
4. OFC Muhammad Shakeeb, Police Station Paharipura.
5. ASI Syed Shahid Ali Shah, the then Moharrar PS Paharipura.

Statement of DSP Sajid Mumtaz, the then OII PS Paharipura

He stated that on 18.06.2014 he was posted as Officer Incharge investigation (OII) Police Station Paharipura. On 18.06.2014 the said case file was received in Police Station Paharipura from ATC Court for completion and further investigation. On 20.06.2014 he being OII/CIO wrote a Zimni No.16 which is properly recorded in the index of supplementary report (index

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Zemina: of register FIR. On 26.06.2014 after his Zimni No.16 the then SHO Inspector Safdar Khan had written interim challan Zimni No.17 which is recorded properly on the index of the register FIR at Sr.No.17. Afterwards on 20.08.2014 the case file vide receipt No.603/14 by hand of Shakib Khan DFC to Peshawar High Court. The entry is made on the back of FIR duly signed by the then Investigation Moharrar HC Atif Ullah. On 18.09.2014 the case file had received by Atif HC, the then Moharrar Investigation in Police Station but he had not handed over the case file to him. On 25.09.2014 he was transferred to LRH as Security Officer, posting history chart is annexed at "F/A". On 04.10.2014 case file is handed over to Inspector Murad Khan his successor properly recorded on the back side of the original FIR duly signed by Atif Ullah Moharrar Investigation. On 23.10.2014 SI Sabz Ali Khan had written Zimni No.18 which is properly mentioned and shown on index Zimniat of register FIR with Red pen clearly reflects that the case file is present in Police Station in the custody of SI Sabz Ali Khan. On 28.10.2014 the case file has been sent to High Court vide receipt No.964 through Shakib Khan DFC which once again shows that till that date the case file was present in Police Station in the custody of Atif Ullah Moharrar Investigation. During his posting the case file was present and safe. The record shows that he being responsible Police officers fulfilled his responsibilities properly and adequately.

Statement of Inspector Doran Shah OII Police Station Paharipura.

He stated that on the pointation of other accused, accused Abdullah was charged by the complainant namely Irfan u/s 164 Cr.PC in the case vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7ATA Police Station Paharipura. Accused Abdullah was arrested by CTD Kohat u/s 54 Cr.PC vide DD No.26 dated 22.07.2020. He was requested through letter No.3371/PA dated 23.07.2020 to Addl: & Sess. Judge Peshawar for transfer of the accused. The honorable Addl: & Session Judge Peshawar asked the case file. According to Police Station Record the said case file was sent to Peshawar High Court vide receipt (No.964) dated 28.09.2014 dully signed by Atif Ullah Moharrar Investigation Police Station Paharipura through DFC Shakib. He approached to Peshawar High Court regarding the case file but no clue was found. Moharrar

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Operation Staff has written a Daily Diary No.53 dated 30.01.2020 regarding missing of case file No.21/2014. For completion of the case he approached to VRK in connection with preparing duplicate file but he received only photocopies of Ziminiat from Sr.No.14 to 17 and the remaining ziminiat from 01 to 13 & 18 was not available. (in the index of FIR there are mentioned 01 to 18 Ziminiat). Moharrar Investigation Atif Ullah had sent all the ziminiat to DSP City Investigation Office. On perusal of record of DSP City Investigation office, as per crime register Zimni from 14 to 17 was sent to VRK while Sr. No.01 to 13 was missing.

Statement of Head Constable Atif, Moharrar Investigation, PS Paharipura

He stated that transitional challan in the instant case was submitted by OII Inspector Sajid Mumtaz and the same file had been sent to Honorable Peshawar High Court vide receipt No. 964 dated 28.09.2014 through DFC Shakib. But despite his best try receipt duly signed by the concerned authority was not found. In this connection Moharrar Operation wrote a report vide Daily Diary No.53 dated 30.01.2014 regarding missing of the said file. DFC Shakib at the time of his departure mentioned vide DD No.14 dated 28.09.2014 that some case file is in High Court and other courts. Original index of Ziminiat was entered in FIR back side and sent to DSP Investigation City office on 13.09.2014.

Statement of DFC Muhammad Shakeeb, Police Station Paharipura

He stated that on the direction of honorable High Court, Peshawar the case file was submitted to record Naib Court Peshawar High Court on 27.08.2014 (copy of receiving is annexed at "F/B"). On 18.09.2014 the said case file had been brought by the official of Peshawar High Court to Police Station Paharipura and handed over to DFC Alaf Shah. Copy of Dak book is annexed at "F/C". In the year 2014 receipt No. 21 to 910 was used while the receipt No.964/21 is totally bogus. He denied that on 28.10.2014 he has not sent the case file in question to Peshawar High Court nor he received it from anyone.

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of Police City Peshawar

ATTESTED

29/10/2020

Statement of ASI Syed Shahid Ali Shah, the then Moharrar Police Station Paharipura

He stated that he was posted as Moharrar Police Station Paharipura from 22.06.2014 to 08.02.2015. During his posting he performed his duty, honestly. Register No.21 was in his custody during his posting and on his transfer the said register was present in the Police Station. The said register was also in use of Moharrar Investigation.

FINDINGS:

After going through the relevant record and cross examination of all the concerned, it revealed that:-

1. Mr. Irfan Ullah registered a case vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7ATA Police Station Paharipura regarding threatening phone call from mobile No. 0304-0793173 as well as letter for money received from unknown persons.
2. During investigation mobile phone set of IMEI No.0356382028030910 was recovered from one of the accused namely Muhammad Alam and co-accused namely Habib-ur-Rehman and Babu Rehman were traced-out.
3. All the accused were nominated by the complainant Irfan Ullah u/s 164 Cr.PC before the Magistrate on 06.06.2014.
4. The complainant Irfan Ullah also nominated his relative namely Abdullah and Habib-ur-Rehman u/s 161 Cr.PC that they are well aware from his mobile number.
5. On 18.06.2014 the said case file had been received to Police Station Paharipura from ATC Court for completion and further investigation.
6. On 20.06.2014 Inspector Sajid Mumtaz being OII/CIO wrote a Zimni No.16 which is properly recorded in the index of supplementary report (index Zeminat) of register FIR.
7. On 21.06.2014 the then SHO Inspector Safdar Khan had written interim challan Zimni No.17 which is recorded properly on the index of the register FIR at Sr.No.17.

ATTESTED

8. On 20.08.2014 the case file vide receipt No.603/14 by hand of Shakib Khan DFC to Peshawar High Court. The entry is made on the back of FIR duly signed by the then Investigation Moharrar HC Atif Ullah.
9. On 18.09.2014 the case file in question had brought by the official of Peshawar High Court to Police Station Paharipura and handed over to HC Atif Ullah Moharrar Investigation Police Station Paharipura.
10. On 28.10.2014 HC Atif Ullah Moharrar Investigation Police Station Paharipura intentionally shows that the case file in question was handed over to DFC Shakib vide receipt No.964/14 to produce it before the Peshawar High Court as desired. But as per record of Peshawar High Court the case file in question was not requisitioned by the Court.
11. Moharrar Operation Staff has written a Daily Diary No.53 dated 30.01.2020 regarding missing of case file No.21/2014.

Conclusion

Keeping in view of the above facts, circumstances and cross examination of all concerned I have come the conclusion that Bail Before Arrest petition titled as "Abdullah Khan Vs State" is pending in Anti Terrorism Court since 05.08.2020 in which Anti Terrorism Court repeatedly the above mentioned record was requisitioned from the concerned but it was reported to the court that the said record is missing from the Police Station since 28.10.2014.

Head Constable Atif Ullah, Moharrar Investigation being custodian has failed to keep the most important case files in safe custody. He tried to protect himself malafidely and showed that the case file in question was handed over to DFC Shakeeb on 28.10.2014 to produce it before the Peshawar High Court as desired but as per record of Court the said file was not requisitioned by court. Due to his negligence and non availability of record, no challan against the accused has been submitted so far, despite a lapse of more than six years.

Deputy Superintendent
of Police City Inv. Peshawar


9-8-21 (13)
ATTENDED

Recommendations

Head Constable Atif Ullah, Moharrar Investigation Police Station, Paharipura is found guilty of gross misconduct and negligence. It is therefore, recommended that CCPO, Peshawar may be asked to initiate proper departmental action against Head Constable Atif Ullah, Moharrar Investigation Police Station Paharipura, Peshawar.

Moreover, SSP/Investigation, Peshawar may be directed to prepare duplicate case file and produce it before the Anti Terrorism Court, Peshawar for further necessary action.

Enquiry report is submitted for kind perusal, please.


(MEHIR ALI)
DSP Enquiry
CPO, Peshawar

Depty Superintendent
of Police City Inv. Peshawar
Peshawar

~~APPROVED~~ 2-6-21 (14)

2 ✓

From: DSP Investigation City Peshawar
To: SSP Investigation CCP Peshawar
No. 295 /St: Dated 16 /Feb, 2021.

SUBJECT: ENQUIRY INTO MISSING OF CASE FILE VIDE FIR NO.367 DATED 13.05.2014 U/S 387 PPC RW 7-ATA PS PAHARI PURA

Kindly refer to your dy: No. 409/E/PA received from your office dated 27.01.2021 follow by Dy: No. 1124/PA dated 11.02.2021 and Dy: No. 1191/PA dated 12.02.2021 on the subject noted above.

It is submitted that with reference to memo No. 1287/CPO/IAB, dated 15.10.2020 duly forwarded by CCPO, Peshawar vide Dy: No. 14175/G dated 18.10.2020, it has been noted with great concern that complete case file of FIR No. 367 dated 13.05.2014 u/s 387 RW 7-ATA PS Pahari Pura, Peshawar is missing (misplaced). Being a Moharrar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part. Your this act is highly objectionable.

In this regard two Senior Officer of Police conducted enquiry in the matter and all the responsibility lying in the shoulders of Muharrar Investigation Atif of PS Pahari Pura and found guilty for the negligence.

Furthermore, the under reference final show cause notes along with reply of alleged Muharrar Investigation Atif was received from the office of worthy SSP investigation for scrutiny and report.

In the matter the undersigned called Explanation vide No. 272-A dated 29.01.2021 from the then Reader DSP Investigation City IHC-Naseem No: 961 and also called MHC PS Chamkani Mir Azam the then Reader DSP Investigation City Division, Peshawar. Both the official's attend the office of undersigned hear in person and recorded their statement but no mala-fide has been found in the role of both officials.

From the perusal of all available material on record the undersigned is of the views that from the verification of original Dak-book found tempered, because case Dairies 14 to 17 are available on VRK record, but after tempering he removed 14 to 17 figures from the Dak-book and write 1 to 17 which shown mala-fide of the said Muharrar Investigation. Copy of Dak-book is attached for perusal as Anx-C.

It is therefore, requested that the undersigned agree with the finding of the enquiry officer attached with file as Anx-A & B.

E.I. (S) (Dismissed)
Major Anshumit - mi
Pite
CIG to prepare duplicate

DSP Inv. City Div: Peshawar

S. N. San
SSP Inv
17/02

Depty Superintendent
of Police City Inv. Peshawar



8-6-21
(15)

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 409/E/PA 2020

Dated Peshawar the 21/12/2020

FINAL SHOW CAUSE NOTICE

(UNDER RULES 5(3) KHYBER PAKHTUNKHWA, POLICE RULES, 1975)

1. That you FC Atif Ullah MI PS Paharipura Peshawar have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa, Police Rules for following misconduct:-

With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020, duly forwarded by CCPO Peshawar vide diary No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020¹⁴ u/s 387 PPC R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Moharar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part. Your this act is highly objectionable.

2. That by reason of the above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceedings without aid of Inquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
4. That your retention in the Police Force will amount to encourage in efficient and unbecoming of good Police Officer.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.

Dsp Fazlur Rahman Khan
What is this?
It seem to your weakness
SSP (MSP)
27/1/2021

(Signature)
Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.

8-6-21

16

بیان اذال عاطف اللہ محرر انوشی گیشین تھانہ پہاڑی پورہ

ATTTESTED

بلسلسلہ:- فائل شوکارڈ نمبر 409/E/PA.21.12.2020

بابت سنگ مش مقدمہ ملت 367 مورخہ 13.5.14 جرم 387/7ATA پہاڑی پورہ

جناب عالی

بحوالہ مشمولہ فائل شوکارڈ ذیل معروض خدمت ہوں۔

- (1) کہ املاجات زیر تفتیش، تفتیشی افسران کے پاس ہوتا ہے۔ تکمیل کی خاطر اگر کئی بھیجواتا ہو تو حوالہ عمر ہو کر بذریعہ رسید راجداری بھیجو اگر تکمیل ریکارڈ کی جاتی ہے۔
- (2) جہاں تک مقدمہ میں چالان مکمل دینے کا سوال ہے تو تفتیشی افسر کے ذمہ ہے کہ وہ تفتیشی اندر معیار مکمل کر کے برائے PUT IN COURT کرنے واسطے حوالہ کرے تاکہ یوسالٹ پر سیکوریشن برانچ بھیجوا یا جائے، مش مقدمہ میں عبوری چالان مکمل برخلاف گرفتار ملان دی گئی تھی، جو کہ ہائی کورٹ بھجوانے کے لیے حوالہ ہو کر بھیجوا یا گیا ہے
- (3) مش مقدمہ کے بعد از اندراج مورخہ 26.5.14 کو سن عمر نے حاضری کی ہے مقدمہ کی تفتیشی انسپکٹری سرکل یا سرانان کر رہا تھا مقدمہ اس کے ماتحت تھا۔
- (4) مورخہ 6.6.2014 تک مش مقدمہ انہی کے ساتھ زیر تفتیش تھا جو مورخہ 9.6.14 کو حسب طلبی بحوالہ رسید نمبر NC 591/21 بدلت انداد و ہنگردی پشاور بھجوا یا گیا ہے۔
- (5) مورخہ 10.6.2014 اور 15.6.2014 عمرہ ضمنیات مش کے عدم موجودگی میں تحریر شدہ ہے کیونکہ مش مقدمہ 18.6.2014 کو عدالت جناب انسداد و ہنگردی سے موصول ہو کر زیر دستگی کلیم DFC حوالہ ساجد ممتاز OIL کیا گیا ہے جس نے ہاتھ دہنی عمرہ مورخہ 20.6.2014 کو ضمنیات بالاسابقہ تواریخ میں تحریر کی ہے جس میں سابقہ چالان کو سوا دینا قرار دے کر سہ ماہیہ لازم عبداللہ کے خلاف کارروائی روپوشی کرنے کا ذکر ہے۔
- (6) ساجد ممتاز خان کے ضمنی تحریر کرنے کے بعد ضمنی مندر خان SHO مورخہ 21.6.2014 عبوری چالان تحریر ہے جو مورخہ 23.6.2014 کو طلبیہ عدالت عالیہ عالی کورٹ پشاور بحوالہ رسید نمبر 560/21 بھجوا یا گیا ہے جو عدالت سے دستی حاصل کر کے درج بالا تکمیل اور کیونکہ ملزم حبیب الرحمن کے ضمانت عدالت عالیہ عالی کورٹ پشاور سے مورخہ 4.7.2014 کو ہوئی ہے اور مورخہ 20.8.2014 بحوالہ رسید نمبر 603/21 بدست کنسٹیبل کلیم DFC دوبارہ عدالت عالیہ عالی کورٹ پشاور بھجوا یا گیا ہے۔
- (7) مورخہ 18.9.2014 کو موصول ہو کر جو کہ مورخہ 4.10.2014 کو ساجد ممتاز انسپکٹر کے چائین انسپکٹر مراد خان کے تہناتی بران کو حوالہ کی گئی ہے اسی حوالگی کے دوران مش مقدمہ OIL سبز علی خان کے پاس تھا جس نے اپنا تاثراتی ضمنی مورخہ 23.10.2014 کو تحریر کر کے جس سے واضح ہے کہ مش مقدمہ تھانہ میں ان کے پاس تھا۔
- (8) اور مورخہ 28.10.2014 کو طلبیہ عدالت عالیہ عالی کورٹ بحوالہ رسید 964/21 جو کہ قیمت FIR زیر دستگی من عمر درج ہے بدست کنسٹیبل کلیم DFC بھجوا یا گیا ہے جس کی باقاعدہ روز نامہ میں رواگئی بحوالہ مد 14 روز نامہ 28.10.2014 قبیل املاجات عدالت عالیہ عالی کورٹ واسطے کی ہے جو کہ نقلدلف ہے اور مورخہ 27.10.2014 کو مقدمہ ملت 80 مورخہ 26.10.2014 م 15AA تھانہ پہاڑی پورہ چالان مکمل بعد از محمد فیاض بقان JMIC بحوالہ رسید نمبر 963/21 بدست جان عالم HC بھجوا یا گیا ہے جو کہ FIR لاف ہے۔
- (9) رسید راجداری پر وصولی کا دستخط حاصل کرنا ترسیل مش مقدمہ کی ذمہ داری اور بعد میں رسید راجداری کی حوالگی یا خود رجسٹر برائے کی ذمہ داری ہے۔
- (10) مش مقدمہ کے نسبت بعد میں معلومات تفتیشی افسر کی ذمہ داری ہے من عمر کی ذمہ داری صرف تکمیل ریکارڈ ہے۔
- (11) رسید راجداری اور دیگر رجسٹر تھانہ کی حفاظت و ذمہ داری برطابق پولیس رو لڑ بات 22 فقرہ 16 پریشن عمر کے ذمہ ہے اور اپریشن عمر کریم داد نے بحوالہ مد 53 روز نامہ 30.1.2020 کو رجسٹر رسید راجداری اور دیگر رجسٹرات سال 2014 کے سنگ کارپورٹ درج روز نامہ کی ہے جو کے نقلدلف ہے جو کہ یہی نتیجہ اخذ نہیں کیا جاسکتا ہے کہ مش مقدمہ عدالت عالیہ عالی کورٹ میں کس نے وصول کی ہے یا رسید راجداری کلیم DFC نے لا کر لگائی ہے یا بلکہ MDFC کو رو کی رواگئی صحیح کرنے املاجات روز نامہ میں بحوالہ مد 14 روز نامہ 28.10.2014 کی گئی ہے مگر وہی کا ذمہ داری نہیں کی۔

Depty Superintendant of Police City Inv. Peshawar

ATTESTED

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10) بعد از من محرر قلمند سے عدالت ٹرانسفر ہو کر مختلف قلمند جات میں عرصہ ملازمت کر کے دوبارہ تعیناتی قلمند عذا میں ہوئی ہے
11) ملوم عبداللہ کی گرفتاری قلمند CTD کو جات کے اطلاع پر OIL نے مشل مقدمہ فردا کارروائی واسطے طلب کر کے جوڑ پکارڈ پر بدستور حائی کورٹ میں نم
آ رہا ہے معلومات کرنے پر منگ ہے۔

12) دوبارہ مشل مقدمہ تیار کرنے کے لیے محررہ ضمنیات کا معلومات VRK سے ہو کر تو وہی پر ضمنیات 14 تا 17 درج ہے جبکہ دیگر ضمنیات دفتر
جناب DSP سٹی الو سٹی کمیشن ڈاک بمبئی پر ضمنیات 17 تا 1 مورخہ 13.9.2014 کو بدست کنسٹیبل طارق 2457 بجھوائے گئے ہے مگر تاحال وہی
سے پاس ہو کر VRK نہیں گئے ہے بدلیج وجہ مشل مقدمہ تیار نہیں ہو سکتا ہے لہذا درج بالا حالات کے رو سے من محررہ بے قصور ہے جہاں تک انکواری افسر
نے ذمہ دار ٹھہرایا ہے تو ذمہ دار نے صرف ہیرہ درک کا ملاحظہ کر کے آخری کنسٹیبل افسر سبز علی خان OII اور چالان کردہ SHO انسپکٹر صفدر خان کو
معاملہ سے بری الذمہ کی ہے جو کہ اہمیت کا حامل ہے۔

13) کیونکہ صفدر خان SHO نے 15.6.2014 کو چالان مکمل بر خلاف مہمان دے کر مورخہ 20.6.2014 کو ساجد ممتاز انسپکٹر نے سہو اقرار دے کر
مورخہ 21.6.2014 کو صفدر خان نے دوبارہ عبوری چالان دیا ہے تو کونسا درج لاحق ہے کہ چالان مکمل سے دوبارہ عبوری چالان بنایا گیا ہے جسکی ضمنیات
لف ہے اور اسکی خاطر عدالت عالیہ حائی کورٹ پشاور سے دستی حاصل کیا گیا تھا۔

14) اس مقدمہ میں بر خلاف انسپکٹر ساجد ممتاز خان تحریری درخواست السران بالا سے 9.7.2014 کو موصول ہو کر رجسٹر نمبر 5 خط و کتابت کی سیریل
نمبر 618 پر مارک ہے جو بدستور پنڈنگ ہے اور بلزم گرفتار شدہ کے ضمانت عدالت عالیہ حائی کورٹ سے 30.7.2014 کو برطانیہ پیشکش نمبری-943
P/2014 ہو چکا ہے دیگر شواہد بھی بدوران قومی بیان کر سکتا ہوں بے گناہ ہوں معافی دی جائیں۔

نوٹ:- ضمنیات بسلسلہ 17 تا 17 اسلسلہ کے نسبت ڈاک بمبئی کے فوٹو میٹ لف عذا ہے مندرجہ دیگر ضمنیات VRK بجھوائے گئے ہیں۔ تو ضمنیات بالا
میں سے 13 تا 13 کیوں موجود نہیں ہے دیگر بر خلاف انسپکٹر ساجد ممتاز خان کے درخواست جو رجسٹر 5 خط و کتابت کے سیریل نمبر 618 پر درج ہے۔ تاحال
پنڈنگ ہے جس کی فوٹو کاپی لف ہے۔

MI PS PAHARIPURA

24/12/20

27/01

Depty Superintendent
of Police City Inv. Peshawar



ATTESTED
CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 140-437 PA, Dated Peshawar the 18/02 /2021

ORDER

No. 4127

This order will dispose off the departmental Enquiry against FC Atif Khan the then MI PS Paharipura Peshawar, which was initiated by the undersigned on the grounds that complete file of FIR No. 367 dated 13.05.2014 u/s 387 PPC PS RW 7 ATA PS Paharipura Peshawar was missing (misplaced), being a Moharar Inv: and custodian, he failed to keep the most important case file in safe custody.

He was issued Charge Sheet/Summary of allegations and inquiry was marked to Mr. Janan Habib DSP Inv: Rural Peshawar. E.O called the alleged official and heard him in person. The E.O after completion of departmental proceedings found the alleged official guilty, which was later on marked to Mr. Fazal Rehman DSP Inv: City Peshawar and as per his report he also agreed with the recommendation of Inquiry officer.

Therefore I, hereby as competent authority agree with recommendation of Inquiry officer. Hence, FC Atif Khan No. 4127 is hereby awarded major punishment of "time scale from higher stage to lower stage in the same time scale of pay" as defined in Police Disciplinary Rules 1975 amended 2014.

Enq-32

Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.

OB. No. FR dated 18 /02 /2021

Copy of above for favor of information and necessary action to:-

- > W/Capital City Police Officer w/r to his office diaries No. 2381/G dated 10.02.2021, No.19005/G dated 24.12.2020, 17032/G dated 25.11.2020, 16182/G dated 16.11.2020, 14175/G dated 18.10.2020 and Endst: No. 22301-02/C. Cell dated 29.12.2020.
- > W/Addl: Inspector General of Police Internal Accountability Branch w/r to his office memo: No. 1287/CPO/IAB dated 15.10.2020.
- > SP Inv: PBI/HQrs: Peshawar.
- > DSP Inv: City, CCP Peshawra w/r to his office memo. No.295/St dated 16.02.2021.
- > DSP Inv: Rural, CCP Peshawar w/r to his office memo: No. 79//St dated 08.12.2020.
- > FMC, SRC,
- > E-C/I, OSI Police Line Peshawar.
- > DSP Inv:City Peshawar and OII PS Paharipura is directed to prepare duplicate case file and submit it for put in Court at the earliest.
- > All concerned.

Depty Superintendent
of Police City Inv: Peshawar

ATTENTION

درخواست برادر محکمانہ اہیل

Dy: No. 328 PA-CCPO
Dt: 15-03-2021
Encl:

بھگتور جناب چیف کنسٹیبل مسٹ پولیس آفیسر پشاور:-

جناب عالی:-

(19)

بحوالہ آرڈر نمبری PA/140 جاریہ 28.02.2021 جناب ایس۔ ایس۔ پی صاحب پشاور ذیل معروض خدمت ہوں۔

بلسلہ مسٹ مشل مقدمہ علت 367 مورخہ 13.05.2014 جرم ATA-7-387 تھانہ پہاڑی پورہ کو من ساکھ کو بڑی سزا از قسم لوز
سٹیج کنسٹیبل دی گئی ہے جو کہ مشل مقدمہ میں ذیل عرض ہے۔

کہ امٹلاجات زیر تفتیش تفتیشی افسران کے پاس ہوتا ہے بحکیم کی خاطر اگر کئی بھجوانا ہو تو حوالہ محرر ہو کر بذریعہ رسید راجداری
بھجوا کر بحکیم ریکارڈ کی جاتی ہے۔

جہاں تک مقدمہ میں چالان مکمل دینے کا سوال ہے تو تفتیشی افسر کے ذمہ ہے کہ وہ تفتیش اندر معیار مکمل کر کے برائے پٹ ان
کورٹ کرنے واسطے حوالہ کرے تاکہ بواسطت پر اسکیوشن برانچ بھجوا یا جائے مشل مقدمہ میں عبوری چالان مکمل برخلاف
گرفتار ملزمان دی گئی تھی جو کہ ہائی کورٹ بھجوانے کے لئے بھجوا یا گیا ہے۔

مشل مقدمہ کے بعد از اندراج مورخہ 26.05.2014 کو من محرر نے حاضری کی ہے مقدمہ کی تفتیش انسپکشن سٹی سرکل یا سر
مان کر رہا تھا مشل مقدمہ اس کے پاس تھا۔

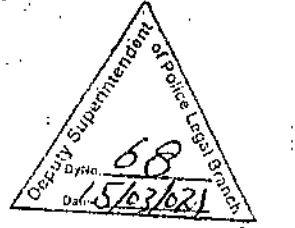
مورخہ 06.06.2014 تک مشل مقدمہ انہیں کے ساتھ زیر تفتیش تھا مورخہ 09.06.2014 کو جب طلہی بحوالہ رسید نمبر
591/21 نائب کورٹ بعد اہل انداد ہشت گردی بھجوا یا گیا ہے۔

مورخہ 10.06.2014 اور 15.06.2014 عمرہ ضمنیات مشل کی عدم موجودگی میں تحریر شدہ ہے کیونکہ مشل مقدمہ
18.06.2014 کو عدالت جناب انداد ہشت گردی سے موصول ہو کر زیر دستگی بھجوا یا گیا گیا
ہے جس نے باقاعدہ ضمنی محرر مورخہ 20.06.2014 کو ضمنیات بلا سابقہ توارخ میں تحریر کی ہے جس میں سابقہ چالان کو
سہو آدینا قرار دے کر پسماندہ ملزم عبداللہ کے خلاف کارروائی روپوشی کرنے کا ذکر ہے۔

ساجد ممتاز خان کے ضمنی تحریر کرنے کے بعد ضمنی صفدر خان SHO مورخہ 21.06.2014 عبوری چالان تحریر ہے جو مورخہ
23.06.2014 کو طلبیدہ عدالت عالیہ ہائی کورٹ پشاور بحوالہ رسید نمبر 560/21 بھجوا یا گیا ہے جو وہی سے دستی حاصل
کر کے درج بالا بحکیم ہو کر کیونکہ ملزم حبیب الرحمن کے ضمانت عدالت عالیہ ہائی کورٹ پشاور سے مورخہ 04.07.2014
کو ہوئی ہے اور مورخہ 20.08.2014 بحوالہ رسید نمبر 603/21 بدست کنسٹیبل شکیب DFC دوبارہ عدالت عالیہ ہائی
کورٹ پشاور بھجوا یا گیا ہے۔

مورخہ 18.09.2014 کو موصول ہو کر جو کہ مورخہ 04.10.2014 کو ساجد ممتاز انسپکٹر کے جانشین انسپکٹر مراد خان کے
تعییناتی پر ان کے حوالہ کی گئی ہے اسی حوالگی کے دوران مشل مقدمہ OII سب علی خان کے پاس تھا جس نے اپنا تاثراتی ضمنی
مورخہ 23.10.2014 کو تحریر کر کے جس سے واضح ہے کہ مشل مقدمہ تھانہ میں ان کے پاس تھا۔

اور مورخہ 28.10.2014 طلبیدہ عدالت عالیہ ہائی کورٹ پشاور بحوالہ رسید نمبر 964/21 جو کہ ثبت FIR زیر دستگی
محرر درج ہے۔ بدست کنسٹیبل شکیب DFC بھجوا یا گیا ہے۔ جس کی باقاعدہ روزنامچہ میں رواگی بحوالہ 14 روزنامچہ
28.10.2014 تعمیل امٹلاجات عدالت عالیہ ہائی کورٹ واسطے کی ہے جو کہ نقل رائف ہے۔



FMC

For Detail report

Provide relevant

Record. (S. Shukh)

Dy. Suptd: Police
Legal, CCP/Peshawar

Legal

Per comment

Pl.

M. A. C. P. O.
15/3

Deputy Superintendent

Police City In. Peshawar

مقدمہ علت 807 مورخہ 26.10.2014 جرم AA 15 تھانہ پھانسی پورہ چالان مکمل بعد اہل محمد فیاض خان JMIC بحوالہ رسید نمبر 21/963 بدست جان عالم HC بھوپا گیا ہے جو کہ FIR لف ہے۔

رسید راہداری پر وصولی کا دستخط حاصل کرنا تریبل مشل مقدمہ کی ذمہ داری اور رسید راہداری کی حوالگی یا خود رجسٹر پر لگا چکی ذمہ داری ہے۔

- مشل مقدمہ کے نسبت بعد میں معلومات نقشیشی افسر کی ذمہ داری ہے من محرر کی ذمہ داری صرف تکمیل ریکارڈ ہے۔
- رسید راہداری اور دیگر رجسٹر تھانہ کی حفاظت و ذمہ داری بمطابق پولیس رولز باب 22 فقرہ 6 اپریشن محرر کی ذمہ داری ہے اور اپریشن محرر کریم داد نے بحوالہ مد 53 روز نامہ 30.01.2020 کو رجسٹر رسید راہداری و دیگر رجسٹریات سال 2014 کے مسنگ کارپورٹ درج روز نامہ کی ہے جو کہ نقلد لف ہے جو کہ یہی نتیجہ اخذ نہیں کیا جاسکتا کہ مشل مقدمہ عدالت عالیہ ہائی کورٹ میں کس نے وصول کی ہے یا رسید راہداری ٹکلیب DFC نے لاکر لگائی ہے یا نہ بلکہ DFC مذکورہ کی روانگی جمع کرنے امٹلاجات روز نامہ میں بحوالہ مد 14 روز نامہ 28.10.2014 کی گئی ہے مگر واپسی کا زمت گوارا نہیں کی۔
- بعد از من محرر تھانہ ہڈے ٹرانسفر ہو کر مختلف تھانہ جات میں عرصہ ملازمت کر کے دوبارہ تعیناتی تھانہ ہڈا میں ہوئی ہے۔
- ملزم عبداللہ کی گرفتاری تھانہ CTD کوہٹ کے اطلاع پر OII نے مشل مقدمہ فرد کاروائی واسطے طلب کر کے جو ریکارڈ پر بدستور ہائی کورٹ میں چلا آ رہا ہے معلومات کرنے پر مسنگ ہے۔

دوبارہ مشل مقدمہ تیار کرنے کے لیے محررہ ضمنیات کا معلومات VRK سے ہو کر تو وہی پر ضمنیات 14 تا 17 درج ہے جبکہ دیگر ضمنیات دفتر جناب DSP انوسٹی گیشن سٹی ڈاگ بھی پر ضمنیات 1 تا 17 مورخہ 13.09.2014 کو بدست کنسٹیبل طارق 2457 بھجوائے گئے ہے مگر تاحال وہی سے پاس ہو کر VRK نہیں گئے ہیں بدیع وجہ مشل مقدمہ تیار نہیں ہو سکتا ہے لہذا درج بالا حالات کے زو سے من محرر بے قصور ہے جہاں تک انکو آڑی آفسر نے ذمہ دار ٹھہرایا ہے تو مذکورہ نے صرف پیپر ورک کا ملاحظہ کر کے آخری نقشیشی افسر سبزی علی خان OII اور چالان کردہ SHO انسپیکٹر صفدر خان کو موقع برالزامہ کی ہے جو اہمیت کا حامل ہے مورخہ 21.06.2014 کو صفدر خان نے دوبارہ عبوری چالان دیا ہے تو کون سا وجہ لاحق ہے کہ چالان مکمل سے دوبارہ عبوری چالان بنایا گیا ہے جس کی ضمنیات لف ہے اور اس کی خاطر عدالت عالیہ ہائی کورٹ پشاور سے دستی حاصل کیا گیا ہے۔

اس مقدمہ میں برخلاف انسپیکٹر ساجد ممتاز خان تحریری درخواست انسراں بالا سے مورخہ 09.07.2014 کو موصول ہو کر رجسٹر نمبر 5 خط و کتابت کی سیریل نمبر 618 پر مارک ہے جو بدستور پنڈنگ ہے اور ملزم گرفتار شدہ کے ضمانت عدالت عالیہ ہائی کورٹ سے مورخہ 30.07.2014 کو برطابق پیشین نمبری P/2014-943 ہو چکا ہے دیگر شواہد بھی بدوران پیشی بیان کر سکتا ہوں بے گناہ ہوں معافی دی جائے۔

ضمنیات بسلسلہ 17 تا 1 مر اسلہ کے نسبت ڈاگ بھی کے فونو شیٹ لف ہڈا ہے مندرجہ دیگر ضمنیات بالا میں سے 13 تا 1 کیوں موجود نہیں ہیں دیگر برخلاف انسپیکٹر ساجد ممتاز خان کے درخواست جو رجسٹر 5 خط و کتابت کے سیریل نمبر 618 پر درج ہے تاحال پنڈنگ ہے جس کی فونو کاپی لف ہے۔

لہذا استدعا ہے کہ من سائل کے حالات پر رحم فرما کر سزای معافی کا حکم صادر فرمایا جائے۔
سائل عمر بھڑغا گورہ ہے گا

Deputy Superintendent
of Police City In. Peshawar

001.7966

15-3-21

العارض

کنٹ

86-2
(21)
ATTESTED

COMMENTS ON DEPARTMENTAL APPEAL

Sir,

Kindly with reference to the attached appeal filed by Constable Atif Khan No.4127 against the punishment order of "time scale from higher stage to lower stage in the same time scale of pay" by SSP/Investigation Peshawar vide endst; No.140-48/PA, dated 18.02.2021.

Short facts leading to the instant appeal are that the accused constable while posted as MI PS Paharipura, was proceeded against departmentally on the charges that complete file of FIR No.367 dated 13.05.2014 u/s 387-PPC/7-ATA PS Paharipura Peshawar was missing (misplaced), being a Muharrar Investigation and custodian, he failed to keep the most important case file in safe custody. DSP/INV: Rural was nominated as enquiry officer to conduct departmental enquiry into the charges. The enquiry officer after completion of enquiry proceedings, found the accused official guilty of the charges. Subsequently, the enquiry was entrusted to DSP/INV: City who also agreed with the findings of the Enquiry Officer.

After completion of enquiry proceedings, the competent authority in light of the recommendation of the enquiry officer awarded the delinquent official the major punishment mentioned above.

Perusal of relevant available record reveals that punishment order passed by the competent authority is in accordance with law.

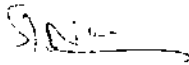

**DSP/Legal,
CCP, Peshawar**

**Depty Superintendent
of Police City Inv. Peshawar**

SUBJECT: DEPARTMENTAL APPEAL OF FC ATIF KHAN NO. 4127

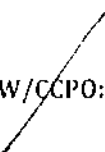
R/SIR,

1. It is submitted that in compliance of the order of W/CCPO Peshawar regarding the subject matter. In this connection, written statement of the then I.O of the case Sajid Mumtaz Khan is enclosed, which reveals that on 18.06.2014 , the case file vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7-ATA PS Paharipura was returned from ATC Court for further investigation and completion, he wrote a case dairy No. 16 on dated 20.06.2016 and case diary No. 17 was written the then SHO Safdar Khan, which as record present on FIR index and after that the case file was sent on receipt no. 603/21 dated 20.08.2014 by FC Shakeeb to High Court Peshawar. On dated 18.09.2014, the case file was received by FC Atif MI PS Paharipura and did not handed over to the said OII and on 25.09.2014, he the OII was transferred as Security officer LRJI Peshawar.
2. The then DFC Shakeeb was recalled by the E.O, wherein he stated that his statement is already present in the inquiry and totally denied about the receipt No. 964/21 dated 28.10.2014 and further told that the receipt No. and his departure ^{IN} and DD on the same date is totally fabricated, made by FC Atif MI PS Paharipura and also verbally told E.O that FC Atif threatened him for the dire of consequence.
3. As per Police rules 22-7, "Duties as a custodian of property. -- As custodian, the station clerk (Moharar) is responsible for all Government property, including arms, ammunition, bicycles, articles of clothing and equipment other than such as are in the personal charge, of individual officers, and all unclaimed property connected with cases, including cattle in the pound. He is in direct charge of the store-room and shall keep the keys thereof and personally superintend all receipts and issues therefrom. He shall also be responsible for the safe custody and dieting of persons in the lock-up and shall personally keep the keys thereof." Similarly, inquiries have already been conducted by DSP Faqirabad and DSP Mehar Ali DSP Inquiry CPO and DSP Inv: City ,CCP Peshawar.
4. In view of above circumstances, it transpires that Sajid Mumtaz Khan the OII and DFC Shakeeb are found innocent in the instant matter. Hence, FC Atif is responsible for the missing of case file as well as Zaminyat and receipts.
5. Submitted for kind perusal, please.




DSP Inv: Rural

6. SSP Inv:


Depty Superintendent
of Police City Inv. Peshawar

7. W/CCPO:



26-2
ATTESTED

**OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR**

Phone No. 091-9210989
Fax No. 091-9212597

(28)


ORDER

This order will dispose of the departmental appeal preferred by **Constable Atifullah No.4127** who was awarded the major punishment of "time scale from the higher stge to lower stage in the same time scale of pay" under PR-1975 by SSP/Investigation Peshawar vide order No.71/Inv, dated 18-02-2021.

2- He while posted as Moharrer Investigation (MI) PS Shahipur Peshawar was proceeded against departmentally on the charges that complete case file of FIR No.367, dated 13-05-2014 u/s 387 PPC RW 07 ATA PS Paharipura Peshawar was missing (misplaced) being a moharrer Investigation and custodian. He failed to keep the most important case file in safe custody.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP Investigation Peshawar and DSP Investigation Rural Peshawar was appointed as Enquiry Officer to scrutinize the conduct of the accused official. During the course of enquiry statements of all concerned were recorded and after completion of codal formalities, the Enquiry Officer recommended him for suitable punishment. The competent authority after perusal of the findings of the enquiry officer issued him Final Show Cause Notice to which he replied but his reply was also found unsatisfactory, hence the competent authority awarded him the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. He failed to produce any plausible explanation in his defence. Therefore his appeal for setting aside the punishment awarded to him SSP/Investigation Peshawar vide order No.17/Inv, dated 18-02-2021 is hereby **rejected/ filed**.


(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 1755-61 /PA dated Peshawar the 26-05-2021

Copies for information and n/a to the:-

1. SSP/Investigaion Peshawar.
2. DSP/Investiation Rural Peshawar.
3. OSI/CRC/FMC/Pay officer.
4. Official concerned.

**Depty Superintendent
of Police City Inv. Peshawar.**

(-WAKALAT NAMA-)

BEFORE THE HONOURABLE
SERVICE TRIBUNAL, KP PESHAWAR

Service appeal NO /2021

Bc-11-1916
CNIC No 17301-1633023-5
Cell no 0345-9429198

Atifullah

VERSUS

Govt of kpk and others

Complainant/Defendant / Respondent / Accused / Judgment Debtor

I, the above name petitioners / petitioner / plaintiff / APPELLANTS / respondents / defendant do hereby appoint and constitute **Munsif Saeed Advocate High Court and Associates** as Counsels in the above mentioned case, to do all the following acts, deeds and things:

- 1) To appear, act and plead for me / us in the above mentioned case in this court /tribunal or any other court / tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
- 2) To sign, verify and file plaint / written statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defense of the said case at any stage.
- 3) To receive payment of and issue receipts for all money that may become due and payable to us during the course or on the conclusion of the proceedings. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

AND HEREBY AGREE:

- a. To ratify whatever the said Advocate may do in the proceedings in my interest.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court / Tribunal when it is called for hearing or is decided against me / us.
- c. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/we have signed this power of Attorney / Wakalat Nama hereunder the contents of which have been read / explained to me / us and fully understood by me / us this 04TH day of MAY in the year 2021.

Accepted.

Munsif Saeed

Qasim Noor

Arif Ullah

Adnan Zeb

Advocate High Court,

Peshawar.

[Signature]
Signature of Executant/

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.5910 /2021.

Constable Atif Ullah No.4127 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others: . **Respondents.**

REPLY BY RESPONDENTS NO. 1, 2,3,4,5 &6.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

REPLY ON FACTS:-

- 1) Incorrect. The appellant was appointed as constable in the year 2000 in the respondent department. The appellant has not a clean service record and contains 07 bad entries and on different occasions in his service. (copy of list as annexure A)
- 2) Incorrect. In fact the appellant while posted as MI (Moharrer Investigation) Police Station Paharipura Peshawar was proceeded departmentally on the charges that a complete file of FIR No.367 dated 13.05.2014 u/s 387 PPC RW 07 ATA PS Paharipura Peshawar was missing (misplaced) being a Moharrer Investigation and custodian, he failed to keep in safe custody the important case file of ibid criminal case.
- 3) Incorrect. The appellant was issued charge sheet with statement of allegations and Proper departmental enquiry was conducted against him. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted thorough probe into the matter and found the appellant guilty of gross misconduct and negligence. The matter was also preliminary enquired by the DSP Enquiry CPO Peshawar and found the appellant guilty on the charges leveled against him. (Copy of charge sheet, statement of allegations, enquiry report, Final Show Cause Notice are annexure as B,C,D,E)
- 4) Correct to the extent that the competent authority before imposing the major punishment had completed all codal formalities and thereafter, he was issued a final show cause notice which he replied and his reply was examined and found unsatisfactory, hence after fulfilling of all the codal formalities, he was awarded the major punishment under the rules.


- 5) Correct to the extent that the appellant filed departmental appeal which was properly processed and an ample opportunity of hearing was provided to appellant by appellate authority but appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed under the facts and rules.
- 6) That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

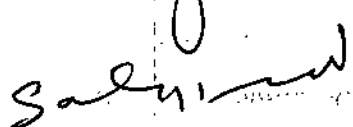
REPLY ON GROUNDS:

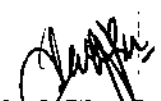
- a) Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and an ample opportunity of self defense was provided, but he failed to defend himself. The punishment orders passed by the competent authority are in accordance with law/rules and liable to be upheld.
- b) Incorrect. The appellant was treated as per law/rules and no violation of the Constitution of Pakistan 1973 has been done by the respondent's department. The Punishment Orders passed by the competent authority are just legal and have been passed in accordance with law/rules.
- c) Incorrect. Charge sheet with statement of allegations was served upon him. Regular inquiry was conducted and thereafter he was issued a final show cause notice hence after fulfilling of all the codal formalities he was awarded the major punishment of dismissal from service as per law/rules and liable to be upheld.
- d) Incorrect. The appellant was treated as per law/rules and no discrimination have been done by replying respondents. During the course of enquiry, the appellant failed to rebut the charges and the enquiry officer conducted thorough probe into the matter and found the appellant guilty of gross misconduct, negligence and malafide on his part, hence the punishment order was passed.
- e) Incorrect. The whole enquiry proceedings were initiated purely on merit and in accordance with law/rules. The appellant availed the opportunities of defense, but he failed to defend himself nor produced cogent evidence in his favour and as per Police Rules 22-7 the appellant was responsible for the missing of case file.
- f) Incorrect. The competent authority before imposing the major punishment had completed all codal formalities and an ample opportunity of self defense was provided, but he failed to defend himself. The appellant was rightly awarded the major punishment under the law/rules.
- g) Incorrect. In fact three full fledged departmental enquires were conducted against him to dig out the real facts. During the course of enquires, the allegations were proved beyond any shadow of doubt, hence he was awarded the major punishment under the rules.
- h) That respondent may also be allowed to advance any additional grounds at the time of hearing of the appeal.

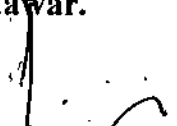
PRAYER.

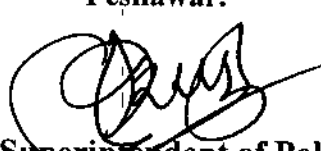
Keeping in view the gravity of slackness, negligence and misconduct of appellant, it is prayed that appeal being devoid of merit may kindly be dismissed with cost please.

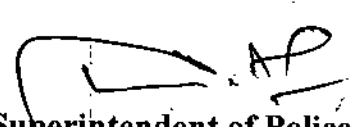

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.**


**Add: Inspector General Police,
Hqrs: Khyber Pakhtunkhwa,
Peshawar.**


**Capital City Police Officer,
Peshawar.**


**Deputy Inspector General Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.**


**Senior Superintendent of Police,
Investigation, Peshawar.**


**Deputy Superintendent of Police,
Inquiry CPO Peshawar.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.5910 /2021.


Constable Atif Ullah No.4127 of CCP Peshawar..... Appellant.

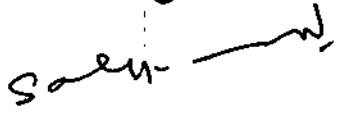
VERSUS


Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . Respondents.

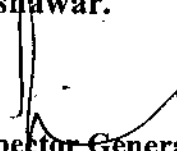
AFFIDAVIT.

We respondents 1,2,3,4,5 and 6 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

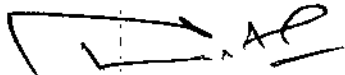

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.


Add: Inspector General Police,
Hqrs: Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


Deputy Inspector General Police,
HQrs: Khyber Pakhtunkhwa,
Peshawar.


Senior Superintendent of Police,
Investigation, Peshawar.


Deputy Superintendent of Police,
Inquiry CPO Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.5910 /2021.

Constable Atif Ullah No.4127 of CCP Peshawar..... **Appellant.**

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

AUTHORITY.

I, **Capital City Police Officer, Peshawar**, hereby authorize **Mr.Ahmad Jan** SI legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

**Capital City Police Officer,
Peshawar.**



Name of Official Atif Ullah No.4127 S/O Wazir Khan

2. R/O CHAMKANI Mustaf Khel Distt: Peshawar
Date of Birth 25-12-1981
3. Date of enlistment 14-10-2000
4. Education 10th
5. Courses Passed Recruit,
6. Total qualifying service 20 years, 05 Months & 17 days.
7. Good Entries Nil

Bad Entries (L.W.O Pay, E/Drill & Warning)

- 01 02 days leave without pay vide OB No.376 dt: 25-01-2003.
02 01 day leave without pay vide OB No.3566 dt: 16-11-2005
03 09 days leave without pay vide OB No.2643 dt: 14-09-2007
04 01 day leave without pay vide OB No.3411 dt: 11-12-2007
05 02 days leave without pay vide OB No. 2275 dt: 09-08-2007
06 02 days leave without pay vide OB No. 2488 dt: 30-08-2007
07 01 day leave without pay vide OB No.2417 dt: 24-08-2007

Minor Punishment

Major Punishment

Nil

8. Punishment (previous)

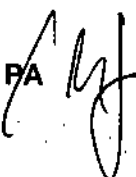
Nil

09. Punishment (Current)

- Awarded major punishment in reduction to time scale from higher stage to lower stage in the same scale of pay by SSP/Investigation peshawar vide endust: No.140-48/PA, dt: 18-02-2021..

10. Leave Account

| <u>Total leave at his credit</u> | <u>Availed leaves</u> | <u>Balance</u> |
|----------------------------------|-----------------------|----------------|
| 980 days | 30 | 950 Days |

PA 


CRC 8/4

W/CCPO



**CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE**

SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

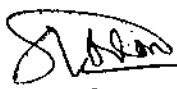
No. 327-2014 PA

Dated Peshawar the 22/10 /2020

CHARGE SHEET

I, Nausher Khan Senior Superintendent of Police, Investigation, Peshawar, as competent authority hereby charge you HC Atif Ullah MI PS Paharipura Peshawar: -

- I. With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020 , duly forwarded CCPO Peshawar vide dairy No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020 u/s 387 P R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Mohar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before Court, which clearly shows gross misconduct & negligence on your part . Your this is highly objectionable.
- II. This amounts to gross misconduct, negligence and mala-fide on your part for which you are liable for punishment as defined in Police Disciplinary Rules, 1975
 1. By the reasons of the above, you appeared to be guilty of misconduct under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the said Rules.
 2. You are therefore, required to submit your written defense within seven days of the receipt of this charge sheet to the Inquiry Officer/Committee.
 3. Intimate as to whether you desire to be heard in person?
 4. A Statement of allegation is enclosed.


**Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar**

CAPITAL CITY POLICE PESHAWAR
OFFICE OF THE
SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. _____ / PA

Dated Peshawar the ____/____/2020

DISCIPLINARY ACTION AGAINST HC ATIF ULLAH MI PS PAHARIPURA ESHAWAR

I, Nausher Khan Senior Superintendent of Police, (Investigation), Peshawar, as competent authority, am of the opinion that HC Atif Ullah MI PS Paharipura Peshawar has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of Police Disciplinary Rules, 1975.

STATEMENT OF ALLEGATIONS.

- I. With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020 , duly forwarded by CCPO Peshawar vide dairy No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020 u/s 387 PPC R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Moharar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part . Your this act is highly objectionable.
- II. This amounts to gross misconduct, negligence and malafide on your part for which you are liable for punishment as defined in Police Disciplinary Rules, 1975.
 1. That all the above acts amount to gross misconduct, negligence, in-efficiency and malafide on his part for which he is liable for punishment as defined in Police Disciplinary Rules, 1975.
 2. For scrutinizing the conduct of said accused with reference to the above allegations, DSP Javed Mehd is deputed as the Inquiry Officer.
 3. The Inquiry shall be conducted in accordance with the provision of the Rules to provide reasonable opportunity of hearing to the accused officer, record its finding within 15 days of the receipt of this order, & make recommendations as to punishment or other appropriate action against the accused.
 4. The accused shall join the proceeding on the date and time and place fixed by the Inquiry Officer.


Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar

SUBJECT: DEPARTMENTAL APPEAL OF FC ATIF KHAN NO. 4127

R/SIR,

1. It is submitted that in compliance of the order of W/CCPO Peshawar regarding the subject matter. In this connection, written statement of the then I.O of the case Sajid Mumtaz Khan is enclosed, which reveals that on 18.06.2014 , the case file vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7-ATA PS Paharipura was returned from ATC Court for further investigation and completion, he wrote a case dairy No. 16 on dated 20.06.2016 and case diary No. 17 was written the then SHO Safdar Khan, which as record present on FIR index and after that the case file was sent on receipt no. 603/21 dated 20.08.2014 by FC Shakeeb to High Court Peshawar. On dated 18.09.2014, the case file was received by FC Atif MI PS Paharipura and did not handed over to the said OII and on 25.09.2014, he the OII was transferred as Security officer LRH Peshawar.
2. The then DFC Shakeeb was recalled by the E.O, wherein he stated that his statement is already present in the inquiry and totally denied about the receipt No. 964/21 dated 28.10.2014 and further told that the receipt No. and his departure ^{IN} and DD on the same date is totally fabricated, made by FC Atif MI PS Paharipura and also verbally told E.O that FC Atif threatened him for the dire of consequence.
3. As per Police rules 22-7, "**Duties as a custodian of property. -- As custodian, the station clerk (Moharar) is responsible for all Government property, including arms, ammution, bicycles, articles of clothing and equipment other than such as are in the personal charge, of individual officers, and all unclaimed property connected with cases, including cattle in the pound. He is in direct charge of the store-room and shall keep the keys thereof and personally superintend all receipts and issues therefrom. He shall also be responsible for the safe custody and dieting of persons in the lock-up and shall personally keep the keys thereof.**" Similarly, inquiries have already been conducted by DSP Faqirabad and DSP Mehar Ali DSP Inquiry CPO and DSP Inv: City ,CCP Peshawar.
4. In view of above circumstances, it transpires that Sajid Mumtaz Khan the OII and DFC Shakeeb are found innocent in the instant matter. Hence, FC Atif is responsible for the missing of case file as well as Zaminyat and receipts.
5. Submitted for kind perusal, please!



6. ~~SSP Inv:~~


DSP Inv: Rural

7. ~~W/CCPO:~~

From: DSP Investigation City Peshawar
To: SSP Investigation CCP Peshawar
No. 295 /St: Dated: 16 /Feb, 2021.
SUBJECT: **ENQUIRY INTO MISSING OF CASE FILE VIDE FIR NO.367 DATED 13.05.2014 U/S 387 PPC RW 7-ATA PS PAHARI PURA**

Kindly refer to your dy: No. 409/E/PA received from your office dated 27.01.2021 follow by Dy: No. 1124/PA dated 11.02.2021 and Dy: No. 1191/PA dated 12.02.2021 on the subject noted above.

It is submitted that with reference to memo No. 1287/CPO/IAB, dated 15.10.2020 duly forwarded by CCPO, Peshawar vide Dy: No. 14175/G dated 18.10.2020, it has been noted with great concern that complete case file of FIR No. 367 dated 13.05.2014 u/s 387 RW 7-ATA PS Pahari Pura, Peshawar is missing (misplaced). Being a Moharrar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part. Your this act is highly objectionable.

In this regard two Senior Officer of Police conducted enquiry in the matter and all the responsibility lying in the shoulders of Muharrar Investigation Atif of PS Pahari Pura and found guilty for the negligence.

Furthermore, the under reference final show cause notes along with reply of alleged Muharrar Investigation Atif was received from the office of worthy SSP investigation for scrutiny and report.

In the matter the undersigned called Explanation vide No. 272-A dated 29.01.2021 from the then Reader DSP Investigation City IHC-Naseem No. 961 and also called MHC PS Chamkani Mir Azam the then Reader DSP Investigation City Division, Peshawar. Both the official's attend the office of undersigned hear in person and recorded their statement but no mala-fide has been found in the role of both officials.

From the perusal of all available material on record the undersigned is of the views that from the verification of original Dak-book found tempered, because case Dairies 14 to 17 are available on VRK record, but after tempering he removed 14 to 17 figures from the Dak-book and write 1 to 17 which shown mala-fide of the said Muharrar Investigation. Copy of Dak-book is attached for perusal as Anx-C.

It is therefore, requested that the undersigned agree with the finding of the enquiry officer attached with file as Anx-A & B.

E1. (S3)

(Dismissed)

DSP Inv/ City Div: Peshawar

Major Punishment - mi
C/O to
Prepare duplicate Rite

S/San
SSP lines
17/02

ENQUIRY REPORT

Subject: **INTO MISSING OF CASE FILE VIDE FIR NO.367 DATED 13.05.2014
U/S 387PPC R/W 7ATA POLICE STATION PAHARIPURA.**

Background

Vide "F/PUC" Administrative Judge, Anti Terrorism Court, Peshawar intimated that a Bail Before Arrest petition titled as "Abdullah Khan Vs State" is pending in Anti Terrorism Court since 05.08.2020 in which repeatedly the above mentioned record was requisitioned from the concerned but, of no avail. It was reported to the court that the said record is missing from the Police Station since 28.10.2014. It is painful to observe that number of accused who were released on bail in the instant case are still waiting for their trial but due non-availability of original record, no challan against them has been submitted so far, despite being lapse of more than six years.

Administrative Judge Anti Terrorism Court further directed to probe into the matter and fix responsibility upon the said delinquent officials who being responsible for such negligence and also issue necessary directions for the reconstruction of Record.

Proceedings

To unearth the real facts, the following concerned were summoned. They were heard in person and their statements were recorded. They were also cross examined.

1. DSP Sajid Mumtaz, the then OII PS Paharipura.
2. Inspector Doran Shah OII Police Station Paharipura.
3. Head Constable Atif, Moharrar Investigation, PS Paharipura.
4. DFC Muhammad Shakeeb, Police Station Paharipura.
5. ASI Syed Shahid Ali Shah, the then Moharrar PS Paharipura.

Statement of DSP Sajid Mumtaz, the then OII PS Paharipura

He stated that on 18.06.2014 he was posted as Officer Incharge Investigation (OII) Police Station Paharipura. On 18.06.2014 the said case file was received in Police Station Paharipura from ATC Court for completion and further investigation. On 20.06.2014 he being OII/CIO wrote a Zimni No.16 which is properly recorded in the index of supplementary report (index

Zeminaat) of register FIR. On 26.06.2014 after his Zimni No.16 the then SHO Inspector Safdar Khan had written interim challan Zimni No.17 which is recorded properly on the index of the register FIR at Sr.No.17. Afterwards on 20.08.2014 the case file vide receipt No.603/14 by hand of Shakib Khan DFC to Peshawar High Court. The entry is made on the back of FIR duly signed by the then Investigation Moharrar HC Atif Ullah. On 18.09.2014 the case file had received by Atif HC, the then Moharrar Investigation in Police Station but he had not handed over the case file to him. On 25.09.2014 he was transferred to LRH as Security Officer, posting history chart is annexed at "F/A". On 04.10.2014 case file is handed over to Inspector Murad Khan his successor properly recorded on the back side of the original FIR duly signed by Atif Ullah Moharrar Investigation. On 23.10.2014 SI Sabz Ali Khan had written Zimni No.18 which is properly mentioned and shown on index Zimniat of register FIR with Red pen clearly reflects that the case file is present in Police Station in the custody of SI Sabz Ali Khan. On 28.10.2014 the case file has been sent to High Court vide receipt No.964 through Shakib Khan DFC which once again shows that till that date the case file was present in Police Station in the custody of Atif Ullah Moharrar Investigation. During his posting the case file was present and safe. The record shows that he being responsible Police officers fulfilled his responsibilities properly and adequately.

Statement of Inspector Doran Shah OII Police Station Paharipura.

He stated that on the pointation of other accused, accused Abdullah was charged by the complainant namely Irfan u/s 164 Cr.PC in the case vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7ATA Police Station Paharipura. Accused Abdullah was arrested by CTD Kohat u/s 54 Cr.PC vide DD No.26 dated 22.07.2020. He was requested through letter No.3371/PA dated 23.07.2020 to Addl: & Session Judge Peshawar for transfer of the accused. The honorable Addl:& Session Judge Peshawar asked the case file. According to Police Station Record the said case file was sent to Peshawar High Court vide receipt (No.964) dated 28.09.2014 dully signed by Atif Ullah Moharrar Investigation Police Station Paharipura through DFC Shakib. He approached to Peshawar High Court regarding the case file but no clue was found. Moharrar

Operation Staff has written a Daily Diary No.53 dated 30.01.2020 regarding missing of case file No.21/2014. For completion of the case he approached to VRK in connection with preparing duplicate file but he received only photocopies of Ziminit from Sr.No.14 to 17 and the remaining ziminit from 01 to 13 & 18 was not available. (in the index of FIR there are mentioned 01 to 18 Ziminit). Moharrar Investigation Atif Ullah had sent all the ziminit to DSP City Investigation Office. On perusal of record of DSP City Investigation office, as per crime register Zimni from 14 to 17 was sent to VRK while Sr. No.01 to 13 was missing.

Statement of Head Constable Atif, Moharrar Investigation, PS Paharipura

He stated that transitional challan in the instant case was submitted by OI Inspector Sajid Mumtaz and the same file had been sent to Honorable Peshawar High Court vide receipt No. 964 dated 28.09.2014 through DFC Shakib. But despite his best try receipt duly signed by the concerned authority was not found. In this connection Moharrar Operation wrote a report vide Daily Diary No.53 dated 30.01.2014 regarding missing of the said file. DFC Shakib at the time of his departure mentioned vide DD No.14 dated 28.09.2014 that some case file is in High Court and other courts. Original index of Ziminit was entered in FIR back side and sent to DSP Investigation City office on 13.09.2014.

Statement of DFC Muhammad Shakeeb, Police Station Paharipura

He stated that on the direction of honorable High Court, Peshawar the case file was submitted to record Naib Court Peshawar High Court on 27.08.2014 (copy of receiving is annexed at "F/B"). On 18.09.2014 the said case file had been brought by the official of Peshawar High Court to Police Station Paharipura and handed over to DFC Alaf Shah. Copy of Dak book is annexed at "F/C". In the year 2014 receipt No. 21 to 910 was used while the receipt No.964/21 is totally bogus. He denied that on 28.10.2014 he has not sent the case file in question to Peshawar High Court nor he received it from anyone.

Date: 20/06/2020

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Statement of ASI Syed Shahid Ali Shah, the then Moharrar Police Station Paharipura

He stated that he was posted as Moharrar Police Station Paharipura from 22.06.2014 to 08.02.2015. During his posting he performed duty, honestly. Register No.21 was in his custody during his posting and on transfer the said register was present in the Police Station. The said register was also in use of Moharrar Investigation.

FINDINGS:

After going through the relevant record and cross examination all the concerned, it revealed that:-

1. Mr. Irfan Ullah registered a case vide FIR No. 367 dated 13.05.2014 u/s 387 PPC/7ATA Police Station Paharipura regarding threatening phone call from mobile No. 0304-0793173 as well as a letter for money received from unknown persons.
2. During investigation mobile phone set of IMEI No.0356382028030910 was recovered from one of the accused namely Muhammad Alam and co-accused namely Habib-ur-Rehman and Babu Rehman were traced-out.
3. All the accused were nominated by the complainant Irfan Ullah u/s 164 Cr.PC before the Magistrate on 06.06.2014.
4. The complainant Irfan Ullah also nominated his relative name Abdullah and Habib-ur-Rehman u/s 161 Cr.PC that they are well aware from his mobile number.
5. On 18.06.2014 the said case file had been received to Police Station Paharipura from ATC Court for completion and further investigation.
6. On 20.06.2014 Inspector Sajid Mumtaz being OII/CIO wrote a Zimni No.16 which is properly recorded in the index supplementary report (index Zeminat) of register FIR.
7. On 21.06.2014 the then SHO Inspector Safdar Khan had written an interim challan Zimni No.17 which is recorded properly on the index of the register FIR at Sr.No.17.

Head Constable Atif Ullah, Moharrar Investigation being custodian has failed to keep the most important case files in safe custody. He tried to protect himself malafidely and showed that the case file in question was handed over to DFC Shakeeb on 28.10.2014 to produce it before the Peshawar High Court as desired but as per record of Court the said file was not requisitioned by court. Due to his negligence and non availability of record, no challan against the accused has been submitted so far, despite a lapse of more than six years.

28.10.2014. the court that the said record in missing from the Police Station since mentioned record was requisitioned from the concerned but it was reported to since 05.08.2020 in which Anti Terrorism Court repeatedly the above petition titled as "Abdullah Khan Vs State" is pending in Anti Terrorism Court examination of all concerned I have come the conclusion that Bail Before Arrest Keeping in view of the above facts, circumstances and cross

Conclusion

- 30.01.2020 regarding missing of case file No.21/2014.
- 11. Moharrar Operation Staff has written a Daily Diary No.53 dated 30.01.2020 regarding missing of case file No.21/2014.
- requisitioned by the Court.
- Peshawar High Court the case file in question was not before the Peshawar High Court as desired. But as per record of handed over to DFC Shakib vide receipt No.964/14 to produce it. Paharpura intentionally shows that the case file in question was
- 10. On 28.10.2014 HC Atif Ullah Moharrar Investigation Police Station Paharpura.
- over to HC Atif Ullah Moharrar Investigation Police Station of Peshawar High Court to Police Station Paharpura and handed
- 9. On 18.09.2014 the case file in question had brought by the official Atif Ullah.
- the back of FIR duly signed by the then investigation Moharrar HC Shakib Khan DFC to Peshawar High Court. The entry is made on
- 8. On 20.08.2014 the case file vide receipt No.6037/14 by hand of

Recommendations

Head Constable Atif Ullah, Moharrar Investigation Police Station, Peshawar is found guilty of gross misconduct and negligence. It is therefore, recommended that CCPO, Peshawar may be asked to initiate proper departmental action against Head Constable Atif Ullah, Moharrar Investigation Police Station, Baharipura, Peshawar.

Moreover, SSP/Investigation, Peshawar may be directed to prepare duplicate case file and produce it before the Anti-Terrorism Court, Peshawar for further necessary action.

Enquiry report is submitted for kind perusal, please.



(MEHIR ALI)
DSP Enquiry
CPO, Peshawar



CAPITAL CITY POLICE PESHAWAR

OFFICE OF THE

SENIOR SUPERINTENDENT OF POLICE INVESTIGATION PESHAWAR.

No. 409/161 PA

Dated Peshawar the 21/12/2020

FINAL SHOW CAUSE NOTICE


(UNDER RULES 5(3) KHYBER PAKHTUNKHWA, POLICE RULES, 1975)

1. That you **FC Atif Ullah MI PS Paharipura Peshawar** have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa, Police Rules for following misconduct:-

With reference to memo: No. 1287/CPO/IAB, dated 15.10.2020 , duly forwarded by CCPO Peshawar vide dairy No. 14175/G dated 18.10.2020, It has been noted with great concerns that complete case file of FIR No. 367 dated 13.05.2020 u/s 387 PPC R/W 7ATA Police Station Paharipura Peshawar is missing (misplaced. Being a Moharar and custodian, you failed to keep the most important case file in safe custody. Despite a lapse of more than six years no challan in the case has been submitted before the Court, which clearly shows gross misconduct & negligence on your part . Your this act is highly objectionable.

2. That by reason of the above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceedings without aid of Inquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
4. That your retention in the Police Force will amount to encourage in efficient and unbecoming of good Police Officer.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.


**Senior Superintendent of Police,
Investigation
Capital City Police, Peshawar.**


21-12-20
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