

6th Oct. 2023

1. Learned counsel for the appellant and Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Zahoor Khan, DSP (Legal) for the respondents present.

2. File to come up alongwith connected Service Appeal No.4951/2021 titled "Sawar Khan Vs. Police Department" on 03.11.2023 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman


Mutazem Shah

9

05th May, 2023

SCANNED
KPST
Peshawar

1. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Learned counsel for the appellant seeks time for preparation. Adjourned. To come up for arguments on 10.07.2023 before the D.B. Parcha Peshi is given to the parties.


(Salah-ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman


Naeem Amin

10.07.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

The availability of complete inquiry record before the Tribunal is necessary for just and right decision of the case, however the same has not been submitted by either party. Learned Assistant Advocate General shall intimate the respondents for submission of complete inquiry record on the next date. Adjourned. To come up for complete inquiry record as well as arguments on 06.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Rashida Bano)
Member (J)



(Salah-ud-Din)
Member (J)

Naeem Amin

4th Nov. 2022

Lawyers are on strike today.

To come up for arguments on 12.12.2022 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.


(Fareeha Paul)
Member(E)



(Kalim Arshad Khan)
Chairman


12.12.2022

Learned counsel for the appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General alongwith Aziz Shah, H.C for the respondents.


Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 23.02.2023 before the D.B.


(FAREEHA PAUL)
Member(E)


(ROZINA REHMAN)
Member (J)

23.02.2023

Bench is incomplete, therefore, the case is adjourned to 05.05.2023 for the same as before.


Reader

SCANNED
KFST
Peshawar

18-2-22

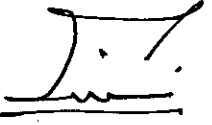
Due to Retirement of the Hon. Jale Chaudhary
the case is adjourned to come up for the
same as before on 14-6-22
Reader

10.06.2022

Appellant in person present. Mr. Riaz Ahmed Paindakhel,
Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that
his counsel is not available today due to strike of lawyers.
Adjourned. To come up for rejoinder, if any, as well as
arguments on 01.09.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

01.09.2022

Bench is incomplete, therefore, case is adjourned to
04.11.2022 for the same as before.


Reader

12.07.2021

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


Chairman

Stipulated period passed reply not submitted.

25.10.2021


Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

Written reply/comments has not submitted despite extension of 10 days time. Learned AAG seeks further time to submit the same on the next date. Granted but as a last chance. To come up for reply/arguments before the D.B on 19.01.2022.


(MIAN MUHAMMAD)
MEMBER (E)

19.01.2022

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant Advocate General alongwith Mr. Aziz Shah, Reader for respondents present and submitted reply/comments which are placed on file. Copy of the same is handed over to the learned AAG. Learned counsel for the appellant requested for adjournment to submit rejoinder. Adjourned. To come up for rejoinder if any, and arguments before the D.B on 18.02.2022.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

14.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular 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, the office shall submit the file with a report of non-compliance. File to come up for arguments on 25.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee

[Handwritten signature]
14/6/21



[Handwritten signature]
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 4955 /2021


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 23/04/2021 | The appeal of Mr. Naveedullah resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please  REGISTRAR |
| 2- | 27/05/21 | This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/06/21</u>  CHAIRMAN |

The appeal of Mr. Naveed Ullah son of Mushtaq Ahmad Constable No. 5449 Police Line Peshawar received today i.e. on 09/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Memorandum of appeal is unsigned.
- 2- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexures-A to J which are referred to in the memorandum of appeal are not attached with the appeal which may be placed on it.
- 4- Wakalat nama in favour of appellant be placed on file.
- 5- ~~Four~~ more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 683 /S.T,

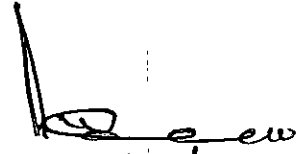
Dt. 09/04 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

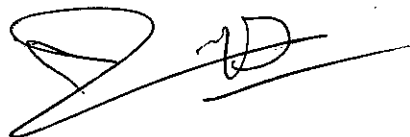
Mr. Saadullah Khan Marwat Adv. Pesh.

Re-submitted for further time.


10 days time further extended.


16/4/2021.

Sr, Re-submitted
after removing the objections



BEFORE THE KPK SERVICE TRIBUNAL PESHAWARS.A No. 4955 /2021

Naveed Ullah

versus

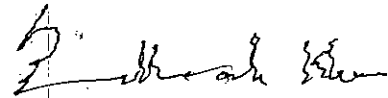
SP & Others

I N D E X

| S. No | Documents | Annex | P. No. |
|-------|--|-------|--------|
| 1. | Memo of Appeal | | 1-4 |
| 2. | Charge Sheet dated 25-09-2020 | "A" | 5-6 |
| 3. | Reply to Charge Sheet Dated 06-10-2020 | "B" | 7-8 |
| 4. | Final Show Cause Notice, 03-12-2020 | "C" | 9 |
| 5. | Impugned order dated 20-01-2021 | "D" | 10 |
| 6. | Representation | "E" | 11 |
| 7. | Rejection order dated 11-03-2021 | "F" | 12 |

Through

Appellant


Saadullah Khan Marwat
Advocate.21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated 09-04-2021

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____ / 2021

Naveed Ullah S/O Mushtaq Ahmad,
R/o Regi, Peshawar.
Constable No. 5449,
Police Line Peshawar.

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 4200

Dated 09/4/2021

Appellant

Versus

1. Superintendent of Police,
Hqrs: Peshawar.

2. Capital City Police Officer,
Peshawar

Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OB. NO. 244 DATED 20-01-2021 OF R.
NO. 01, WHEREBY APPELLANT WAS AWARDED
MAJOR PUNISHMENT IN REDUCTION TO LOWER
STAGE OF TIME SCALE FOR A PERIOD OF ONE
YEAR, CANCELLATION OF PASSING OF LOWER
COLLEGE COURSE AND WITHDRAWN OF ENTRY
OF A1 IN SERVICE ROLL OR OFFICE ORDER NO.
758-64 / PA DATED 11-03-2021 OF R. NO. 02,
WHEREBY APPEAL OF APPELLANT WAS
REJECTED / FILED FOR NO LEGAL REASON:

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Filed to-day
Registrar**

Respectfully Sheweth;

1. That appellant was enlisted in service as Constable in the year 2004 and was serving the department with the best of his ability and to the entire satisfaction of the superiors.
2. That at the time A1 examination was conducted in the year 2009 by the department and appellant was declared successful and entry in his Service Book was recorded by the department to this effect.
3. That in the year 2013, departmental examination was abundant and the same was then made through ETEA, so in the year 2018, appellant qualified B1 examination and entry to this effect was made in the Service Book.
4. That thereafter in turn appellant was deputed to PTC Hangu for qualifying Lower School Course and after taking the said examination, he passed the same and entry to this effect was also recorded in Service Book. The Service Book is in the custody of respondents.
5. That appellant is serving the department for the last 17 years when on 20-03-2020 Audit was conducted wherein it was found by the audit party that A1 examination in the record was found failed. Such matter came into surface at the time that one OSI made numerous appointments as per consideration in the department which was complained by colleagues and to scrutinized the said matter, Committee was constituted on 20-03-2020, wherein such matter was also came to surface and A1 examination was found failed.
6. That regarding the aforesaid omission, appellant was served with Charge Sheet on 25-09-2020 with allegation that during scrutiny by Committee constituted on 20-03-2020 to conduct audit of A1 and B1 examination of two branches of OSI and CRC, the same were found failed in A1 examination, yet qualified Lower School Course in PTC Hangu. Enquiry Committee was also constituted therein to probe into the matter. (Copy as annex "A")
7. That the said Charge Sheet was replied on 06-10-2020 and denied the allegations. (Copy as annex "B")

8. That enquiry into the matter was initiated but the same was not conducted as per the mandate of law and submitted enquiry report to the authority wherein suitable punishment was suggested.
9. That on 03-12-2020, appellant was served with Final Show Cause Notice which was replied in the aforesaid manner. (Copy as annex "C")
10. That on 20-01-2021, appellant was awarded with major punishment of reduction to lower stage of time scale for a period of one year, cancelled of passed Lower College Course and entry of A1 passed examination in Service-Roll was also withdrawn, meaning thereby that at one and the same time, 03 different punishments were awarded to appellant at a single stroke of pain. (Copy as annex "D")
11. That thereafter appellant submitted representation before R. No. 02 for waiving of the aforesaid punishment but the same was rejected on 11-03-2021. (Copies as annex "E" & "F")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That A1 examination was taken by the respondents internally wherein appellant was declared passed and entry to this effect was made in the Service Book.
- b. That as per Law and Rules after scrutiny of record employee is deputed / selected for subsequent courses of B1, Lower College Course, Upper School Course, etc and those who have not passed A1 or subsequent examinations cannot be selected for further upper courses.
- c. That in the office of OSI, some mishaps have taken place to dig out the same, scrutiny Committee was constituted to check the record as to whether appointments were as per the mandate of law or otherwise and not of the appellant but the Committee also scrutinized other record and then it came to notice that appellant had not passed A1 examination. By then appellant has served more than 17 years service.

- d. That the authority also cancelled all other courses which were qualified as per the mandate of law by the appellant.
- e. That every year audit goes in the department but no such lacuna was ever pointed out and it is very strange that after 13 years, such drastic action was taken by the respondents for no legal reason.
- f. That whole of the record of the courses is in the possession of the respondents and thereafter such entries were made in the Service Book by them and not by the appellant.
- g. That at this stage appellant cannot be deputed for passing of A1 examination followed by subsequent examination on account of age limit.

It is, therefore, most humbly prayed that on acceptance of appeal, orders dated 20-01-2021 and 11-03-2021 of the respondents be set aside and A1 examination of appellant be declared as passed with all consequential benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Parvina
Miss Parvina Naz

Through

Deed

Appellant

Saadullah Khan Marwat

Saadullah Khan Marwat

Arbab Saiful Kamal

Arbab Saiful Kamal

Anjad Nawaz
Anjad Nawaz
Advocates.

Dated 09-04-2021

A

5

نمبر

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that 06-officials mentioned in the attached list vide at annexure-D of Capital City Police Peshawar with the following irregularities.

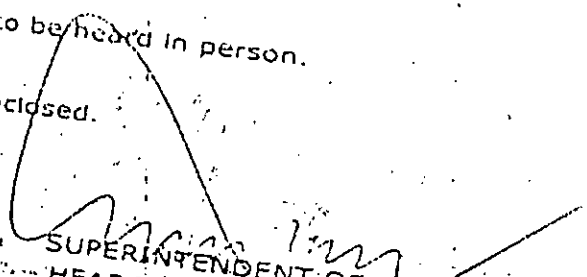
"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, you were found failed in A-I examination but you qualified lower school course in PTC Hangu. This amounts to gross misconduct on your part and is against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

6

DISCIPLINARY ACTION

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that 06 officials mentioned in the attached list vide annexure-D has rendered themselves liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

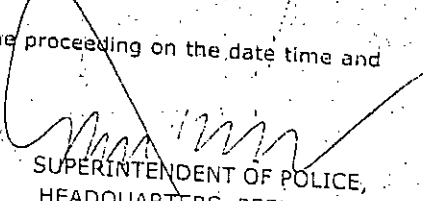
"During scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct Audit of A-I & B-I examination of 02-branches i.e OSI & CRC, they were found failed in A-I examination but they qualified lower school course in PTC Hangu. This amounts to gross misconduct on their part and is against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and following Officer appointed as Enquiry Officers.

- i) Mr. Gul Arif DSP Civil Secretariat
- ii) Mr. Arshid Khan DSP Coordination

2. The Enquiry Officer shall, in accordance with the provisions of the Police Disciplinary Rules, 1975, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 227 /E/PA, dated Peshawar the 25/3 /2020

1. _____ is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.

2. Official concerned

جناب عالی

من سائل کو ایسی انٹوٹری چھٹی انٹرنیٹ اور
 کے سلسلے میں ڈی. ایس. بی سیکرٹریٹ صاحبہ نے
 طلب کیا تھا۔ سائل نے Dsp سیکرٹریٹ کو بدوٹان
 انٹوٹری سب سے اور درست طور پر بیان کیا ہے
 سائل آج بھی اپنے اسی بیان پر کھڑا ہے جو سب سے
 پرستی ہے اور وہی بیان ہے

Need

بیان کنندہ نوید اللہ 5449

سائل

سائل کو دی گئی سرٹیفکیشن سے معلوم ہوا کہ آپ سرٹیفکیشن میں ایک ہارڈ ویئر ہے۔ سائل اس سرٹیفکیشن کے بارے میں پوچھ رہے ہیں۔ سائل کو اس بارے میں کچھ معلوم نہیں ہے۔ کہ سرٹیفکیشن میں انٹری یا ہارڈ ویئر کیا ہے۔ سائل نے مختلف پورٹل پر سرچ کیا ہے۔ اور A-1, B-1 ویب سائٹ پر سے اور درست طور پر کیا ہے۔ اور OS1 نامی سرٹیفکیشن کے عمل نامہ میں پاس درج کی ہے۔ اور اسی بنا پر سائل نے اطلاع B-1 کے نام سے OS1 پرائیج میں بھیجی اور OS1 پرائیج نے مجھے B-1 میں شامل کرنے سے اطلاع دی ہے۔ سائل نے B-1 پرائیج مارکٹ پر بھیج دیا ہے۔ دوسری بار B-1 نام بھیج کر OS1 پرائیج نے ہارڈ ویئر کے دوبارہ B-1 سے مل گیا اور میں سائل نے اچھے پوزیشن سے پاس کیا۔ اگر سرٹیفکیشن میں فرق یا کمی ہے یا نہ۔ تو اس کی ذمہ داری OS1 پرائیج ہے۔ اگر سائل میں کوئی خلطی ہے۔ تو اسے پرائیج کو جانے دیا۔ کہ مجھے روک لیتے۔ اور ہارڈ ویئر کو کورس کے نام سے بھیجے اور OS1 پرائیج پرنٹنگ کے سائل کو لوٹر کورس میں شامل کیا اور میں سائل نے لوٹر کورس اچھے پوزیشن سے پاس کی اور اگر مجھ میں کوئی خلطی ہے تو مجھے لوٹر کورس کے نام سے بھیجے۔ یہی سائل ہے۔ جو کہ حقیقت پر مبنی ہے۔

تاریخ 20-10-6

بیان کنندہ: نور اللہ 5449
Deed

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نور اللہ 5449

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Lt. Naveed Ullah No. 5449 the final show cause notice.

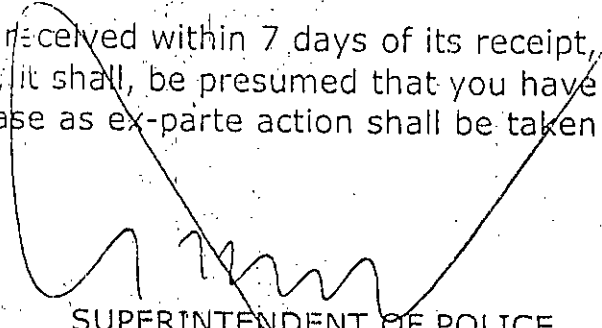
The Enquiry Officer, DSP Civil Secretariat & DSP Coordination, after completion of departmental proceedings, has recommended you for suitable punishment for the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas, the undersigned is satisfied that you Constable Lt. Naveed Ullah No. 5449 deserve the punishment in the light of the above said enquiry report.

And as competent authority, has decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 221 /PA, SP/HQrs: dated Peshawar the 3-12 /2020.

Copy to official concerned

D
30
ORDER

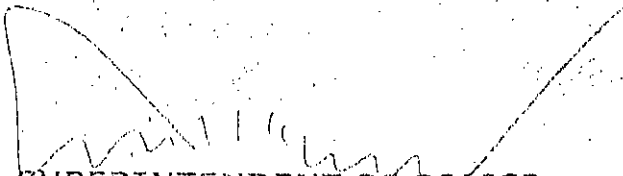
This office order relates to the disposal of formal departmental enquiry against Constable Maveed No.5449 of Capital City Police Peshawar on the allegations that during scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct audit of A-1 & B-I examination of 02-Branches i.e OSI & CRC, he was found failed in A-I examination but he qualified lower school course in PTC Hangu vide letter No.1095-99/PA/CCPO dated 03.09.2020.

In this regard, he was issued charge sheet & summary of allegations. DSP Civil Secretariat & DSP-Coordination were appointed as Enquiry Officers. They conducted enquiry proceedings & submitted their finding/report that the alleged official failed to produce solid proof in connection with his A-I passed result & found guilty. The E.O further recommended suitable punishment for the defaulter official.

Upon the finding of E.O, he was issued final show cause notice which he received & replied. His explanation found un-satisfactory.

DSP Legal opinion was also sought. He opined that "act of the accused official during perusal of relevant available record are highly objectionable as they had not qualified A-I examination on its own merits. Therefore his selection for B-I and subsequently to lower college course stand illegal"

From perusal of finding of Enquiry Officers & other material available on record, the undersigned came to the conclusion that the defaulter official found guilty of this misconduct. In exercise of the power vested to me under Police & Disciplinary Rules-1975, he is awarded the major punishment in reduction to lower stage of time scale for a period of 01-year with immediate effect. Hence, lower college course he passed is hereby cancelled with immediate effect & his fake entry of A-I passed examination in service roll is also withdrawn.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 244 / Dated 20 / 1 / 2021

No. 536-42 / PA/SP/dated Peshawar the 20 / 01 / 2021

Copy of above is forwarded for information & n/action to:

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.
- ✓ Pay Officer
- ✓ OASI, CRC & FMC along-with complete departmental file.
- ✓ Officials concerned.

اپیل برخلاف آرڈر ایٹوز از دفتر جناب ایس پی ہیڈ کوارٹر

جناب عالی!

گزارش ہے کہ من سائل کو جناب ایس پی ہیڈ کوارٹر نے بحوالہ آرڈر بک 244 مورخہ؛ 20.01.2021 ٹائم سکیل Reduction اور لور کورس کینسل کرنے کی سزا دی ہے چونکہ من سائل نے 2009 میں اے ون امتحان دیا تھا اس وقت etea کے ذریعہ امتحانات نہیں تھے بلکہ PTC سٹاف امتحانات لیتے تھے اس لیے من سائل کے پاس کوئی امتحانی ریکارڈ نہیں ہے ریکارڈ کی مکمل ذمہ داری OASI/CRC برانچ کی ہے کہ میرے سرویس بک کے ریکارڈ OASI/CRC برانچ پر اسید ہوتی ہے کہ وہ سرویس بک ریکارڈ سہی اور درست طور پر اپڈیٹ کرتے رہے سرویس بک ریکارڈ میں انٹری کرنا سائل کی ذمہ داری نہیں سائل نے اے ون بی ون سہی اور درست طور پر دیے ہے اور پھر CRC اور OASI برانچ نے جانچ پڑتال کر کے من سائل کو لور کورس ہنگو کو ایفا کڈ کیا تھا من سائل نے لور کورس PTC ہنگو سے اچھی پوزیشن سے پاس کیا ہے۔

اس لیے عاجزانہ استدعا ہے کہ من سائل کو نا کردہ گناہ کی وجہ سے جو سزا میلی ہے اسے معاف کر کے

مشکور فرمادیں

سائل ساری زندگی دعا گوہ رہے گا

آپ کا تابع دار نوید اللہ بلٹ نمبر 5449



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR

Phone No. 091-9210989

Fax No. 091-9212597

ORDER

This order will dispose of departmental appeal preferred by Constable Naveed Ullah No.5449 who was awarded the major punishment of "reduction to the lower stage of time scale for a period of one year and cancellation of Lower College Course" under PR-1975 by SP/HQrs Peshawar vide OB No.244, dated 22-01-2020.

2- He was proceeded against departmentally on the allegations that during the audit of A-I & B-I examination of the two branches i.e OSI and CRC, he was found failed in A-I Examination but he qualified lower College Course in PTC Hangu.

3- He was issued proper Charge Sheet and Summary of Allegations by SP/HQrs Peshawar and DSP/Civil Secretariat Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused official. The enquiry officer after conducting proper enquiry submitted his findings that Police official was B-I failed. Ample opportunity was given to him to produce solid proof in connection with his B-I result but he failed, therefore he was recommended for suitable punishment. The competent authority after perusal of the findings of the enquiry officer issued him Final Show Cause Notice to which his reply was also found unsatisfactory hence awarded the above major punishment.

4- He was heard in person in O.R. and the relevant record along with his explanation perused. He was given ample opportunity to defend himself but he failed to explain any reasonable reply in his defence. Therefore his appeal for setting aside the punishment awarded to him by SP/HQrs Peshawar vide OB No. 244, dated 20-01-2020 is hereby rejected/filed.

(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. 758-64 /PA dated Peshawar the 11-03- 2021

Copies for information and n/a to the:-

1. SP/HQrs Peshawar.
2. DSP/Civil Secretariate Peshawar.
3. OSI/ Pay Officer/ CRC
4. FMC along with Fouji Missal.
5. Official concerned.

متجانب اصلاحت

نور الدین بیٹا صاحب لوہی

دعویٰ اپیل

باعث شہرہ اشتہار

مستندہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹل سٹیٹ اکاؤنٹس خان سرورٹس اینڈ کیسٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب متذکورہ کو مقدمہ کی وکل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے یعنی نامہ و دفتر ثالثہ و فیصلہ برحالیف سے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور دعویٰ چیک و رپورٹ اور رضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور تصویبی نیز دائر کرنے اپیل نگران رٹ نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ تکبیر کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا اور اس پر مقدمہ شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پروا نہ منظر و قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجا نہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب متذکورہ ہوں گے نیز لغتیا و فرسبہ کی دعویٰ کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ پر ہو یا عدست باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ دیکھ دیا کہ مستند ہے۔

الرقوم 21-04-09

العقید العقید العقید

آریا بیگ انکال
ایڈووکیٹ

سیدہ النعمان شریقت
ایڈووکیٹ

Deel

امجد نواز
ایڈووکیٹ

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

"S.A No. 4955/2021

Naveed Ullah

versus

SP & Others

REJOINDER

Respectfully Sheweth,

PRELIMINARY OBJECTION

All the 07 Preliminary Objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, bad for mis and non-joinder of proper parties, unclean hands, without cause of action. / locus standi, estoppel, concealment of material facts and non maintainable.

ON FACTS

1. Not correct. Service record of appellant having 18 years service is neat and clean and if any pervious laxities exist, the same has already been dealt with and cannot be made part and parcel of the impugned punishment. More so, appellant was never reduced on the score mentioned in the impugned order.
2. Not correct. Appellant never managed and manipulated any entry in the Service Book because the Service Book is in the possession of the respondents and after 18 years such closed chapter cannot be opened on the false allegation. No proper enquiry was ever made regarding the allegations. (Copies attached)
3. Not correct. Every year audit took place and it is not known that such lacuna was, if any, not pointed out well within time. Appellant qualified the examination.

4. Not correct. Reply to the allegation in the para is given in the preceding para No. 02. It was the duty of the respondents to check the record before nominating him for B-1 examination. This means that nothing wrong was found in the service record of appellant. No enquiry was ever conducted as per the mandate of law what to speak of full fledged enquiry. Entry of the examinations were illegally cancelled.
5. Not correct. And as stated earlier whoever nominates for further courses, previous record was to check. The position of the matter has been explained in the para of appeal and it was not for the first time for audit but every year audit was conducted but no such lacuna was ever pointed out.
6. Not correct. It is not understood that why at such a belated stage, such action was taken. Enquiry Committee was constituted not for the purpose in hand but illegal appointments were made, so the same were scrutinized. As for as enquiry was conducted the same was not per the mandate of law because no statement of anyone was recorded in presence of appellant, nor opportunity of cross examination was provided to appellant.
7. Not correct. The para of the appeal is correct regarding reply to Charge Sheet and denial of allegation.
8. Not correct. The para of the appeal is correct regarding none conduct of enquiry as per the mandate of law. No major punishment was ever suggested for him.
9. Not correct. The para of the appeal is correct regarding submission of reply to the Final Show Cause Notice.
10. Not correct. The para of the appeal is correct regarding 03 different punishments for one and the same cause.
11. Not correct. The para of the appeal is correct regarding submission of representation and its rejection for no legal reason.

GRUNDS:

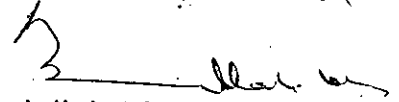
All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are re-affirmed once again.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Appellant



Through



Saadullah Khan Marwat

Advocate,

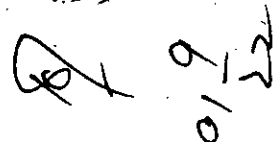
Dated: 31-08-2022

AFFIDAVIT

I, Naveed Ullah, appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.



DEPONENT

4

MISCELLANEOUS PARTICULARS

Miscellaneous Particulars

Awards and Decorations

NOTE: Enter designation of award and date only. Gazette Notification in case of Quaid-i-Azam Police Medal and Pakistan Police Medal. Other special decoration to be entered full under commendatory entries.

Recruits course

Passed Recruits Course during the term ending 2/19/2006. vide Comm. PTC Haripur letter no. 1246-77/3, dated 2/19/2006.

OB No-712
dt. 3/10/2006

[Signature]
Inspector General
Peshawar Range Peshawar

Passed A-I Examination 2003

Miscellaneous particulars including awards others than those accompanied by certificate, absence of approval from promotion lists.

vide OB No

558
6/1/2009

[Signature]
Inspector General
Peshawar Range Peshawar

Transferred to CPO Peshawar vide PP-2 memo no. 160-26505-8/E II P. 25/10/09

S.Y.C.
Service From 26/10 To 31/10
Has Been Verified From The Pay
Acc. Rols Kept in This Office, Peshawar

[Signature]
Supt. of Police, FRP
Peshawar Range Peshawar

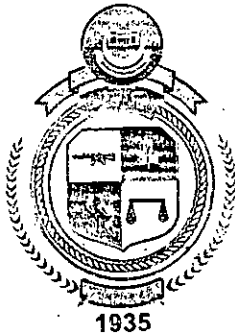
[Signature]
Supt. of Police, FRP
Peshawar Range Peshawar

Selected for 117th advance traffic course

vide O.D. NO. 717
10-10-09

[Signature]
Supt. of Police
FRP, Peshawar Range Peshawar

Police Training College



PERFORMANCE REPORT

Starting Date : 07.11.2018
 College Course : Lower
 District/Unit : CCP Pesh:
 Belt No. : 5449
 Education : 10th
 Term Qualifying : 10.03.2019

Ending Date : 10.03.2019
 Name : Naveed Ullah
 Comp# : L-11513
 Company : Suleman
 Merit : 49

| Subjects | Marks obtained | Marks allotted | Subjects | Marks obtained | Marks allotted | Remarks | |
|-----------------------------------|----------------|----------------|--------------|----------------|----------------|----------------|--------------------------|
| Paper No: I | | | Parade | 28 | /50.00 | Declared Merit | |
| PPC | 229 | /400.00 | PT | 17 | /30.00 | | |
| PR | | | FC | 29 | /50.00 | | |
| MJ/AC | | | DPA | 35 | /70.00 | | |
| Ist/FP | | | A.Fire SMG | 198 | /200.00 | | |
| Paper No: II | | | G3.Fire | 79 | /100.00 | | |
| CrPC | 360 | /400.00 | AC | 66 | /110.00 | | |
| LSL | | | R.On P.O's | 14 | /30.00 | | |
| FCT | | | Ambush | 15 | /30.00 | | |
| PPWP | | | Naka Bandi | 14 | /30.00 | | |
| PFW/QS | | | Total | 495 | /700.00 | | |
| Total | 589 | /800 | | | | | - Overall %age is: 72.37 |
| Grand Total 1084 / 1500.00 | | | | | | | |

Leave: Nil. M. Rest: Nil, Absence: Nil, Punishment: Nil, Reward: Nil

(Signature)
 Checked and found correct.

(Signature)
 Incharge Secrecy

(Signature)
 Controller of examinations
 For Commandant,
 Police Training College, Huzga.

20-10-07

(Signature)
 Controller of examinations

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4955 /2021.

Constable Naveed Ullah No.5449 of CCP Peshawar..... **Appellant.**

VERSUS

Capital City Police Officer Peshawar and others..... **Respondents.**

REPLY BY RESPONDENTS NO. 1, &2.

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 and proper 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 has not a clean service record and contains 05 bad entries and 02 minor punishments on different occasions in his service. Record shows that he was an unwilling and unprofessional officer, thereby not interested in discharging of his official duties. (copy of list as annexure A)
2. Incorrect. In fact when it was learnt that some constables have unlawfully managed and manipulated to make fake entry of A-1 and B-1 examination, so to unearth the real fact and enquiry committee was constituted. The committee after thorough probe into the matter concluded and nominated each and every individual who had manipulated the fake entry in their service record. As such proper departmental enquiry was initiated and all the defaulters were taken to task as per gravities of their misconduct.
3. Para is totally incorrect as explained above. However, during the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination.
4. Incorrect. In fact the appellant had managed his selection for Lower Course through back doors and after surfacing the real facts his A-1 and B-1 entry were found faked/forged, hence his selection for Lower Course was found illegal at the very outset, therefore after conducting full-fledged enquiry his Lower Course as well as entry of A-1 and B-1 were cancelled by the competent authority.

5. Para-5 the Appellant has personally explained the factual position of the case as police is a disciplined force wherein such fault/illegality is not tolerated and deserving individuals are not deprived of their due rights what so ever.
6. Incorrect. In fact during the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination. In this regard, he was issued charge sheet with statement of allegations. DSP Civil Secretariat and DSP Coordination were appointed as enquiry officers. The enquiry committee after thorough probe into the matter pointed out all sort of illegality and unlawful entries made in the record. . (copy of charge sheet, statement of allegations, enquiry report, FSCN are annexure as B,,C,D,E)
7. Incorrect. The appellant was issued charge sheet with summary of allegations to which he received and also submitted his written reply, but his reply was found unsatisfactory.
8. Incorrect. In fact, proper departmental enquiry was conducted against him in accordance with law/rules. The enquiry officers after conducting enquiry recommended that the charges leveled against him proved. The enquiry officers provided full opportunity of defense during the course of enquiry, but the appellant failed to defend the charges leveled against him. The enquiry was conducted against him on merit.
9. Incorrect. After completion of the enquiry proceedings, the appellant was issued final show cause notice to which he replied, but his reply was also found unsatisfactory.
10. Incorrect. Appellant was awarded only the punishment of reduction to lower stage of time scale for a period of 01 year, besides cancellation of fake entry and qualifying course illegally is not a punishment.
11. Incorrect. In fact, the punishment awarded to the appellant was found justified and lawful, therefore his departmental appeal was rejected as no modification in the punishment was deemed fit/appropriate.

That appeal of the appellant being devoid of merits and limitation may be dismissed on the following grounds.

REPLY ON GROUNDS:


- a. Incorrect. During the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination. The charges levelled against him was proved, hence he was awarded the appropriate punishment as per law/rules.
- b. Incorrect. As per the amended 2017 rules 13(7) those constables who qualified A-1 and B-1 examination through pre requisite criteria shall eligible for the lower school course in the order of merit in B-1 examination.
- c. Incorrect. A committee was constituted to scrutinized the record of OSI branch and CRC who after through probe to the matter and revealed that there were same


mischief was taken place, found some personnel failed in A-1 and B-1 examination. The appellant was also found failed in A-1 examination thus punished.

- d. Incorrect. In fact when the matter of mischief was brought in the notice of the competent authority the appellant was proceeded against departmentally over which his courses were cancelled.
- e. Incorrect. The appellant was treated legally and no violation of his right has been committed by the replying respondents, while conducting enquiry against him in accordance with law/rules.
- f. Incorrect. The replying respondents have never acted against the law/rules.
- g. Incorrect. The appellant himself is responsible for the situation. Furthermore, replying respondent is duty bound to strictly follow law/rules.

PRAYER.

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


Capital City Police Officer,
Peshawar.


Superintendent of Police,
HQrs, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4955 /2021.

Constable Naveed Ullah No.5449 of CCP Peshawar..... Appellant.

VERSUS

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

AFFIDAVIT.

We respondents 1 and 2 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.



**Capital City Police Officer,
Peshawar.**



**Superintendent of Police,
HQrs, Peshawar.**