



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
KPJST
Rehman


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

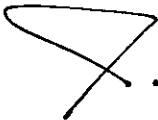
*Mutaazem Shah *


05th May, 2023

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.

SCANNED
KPST
Peshawar


(Salah-ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

Naeem Amin

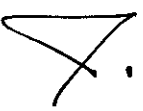
10.07.2023

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 Honble Chairman
the case is adjourned to come up for the
same as before on 10-6-22


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
14/6/21


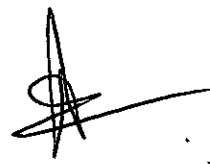

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 4954 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/04/2021	<p>The appeal of Mr. Roohullah 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.</p> <p style="text-align: right;"> REGISTRAR,</p>
2-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Roohullah son of Sultan Muhammad Constable no. 1924 Police Line Peshawar received today i.e. on 13/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 3- Annexure-B of the appeal is incomplete which may be completed.
- 4- Appeal has not been flagged/annexed annexures marks.
- 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. 731 /S.T,

Dt. 16/04 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Sir

Re-submitted after removing
the objections

An for as reply to FSCOR

is concerned the record is with
the department and as I reviewed

the eligible copy I will place
in file.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

4954
S.A No. _____/2021

Rooh Ullah

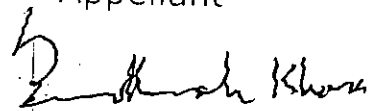
versus

SP & Others

INDEX

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Lower School Certificate, 2019	"A"	5
3.	Charge Sheet dated 25-09-2020	"B"	6
4.	Reply to Charge Sheet	"C"	7
5.	Final Show Cause Notice, 03-12-2020	"D"	8
6.	Reply to FSC Notice, 21-12-20	"E"	9
7.	Impugned order dated 20-01-2021	"F"	10
8.	Representation dated 10-02-2021	"G"	11
9.	Rejection order dated 11-03-2021	"H"	12

Through Appellant



Saadullah Khan Marwat
Advocate.

21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated 12-04-2021.

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. _____/2021

Rooh Ullah S/O Sultan Muhammad,
R/o Chaghar Matti, Peshawar.
Constable No. 1924,
Police Line Peshawar. Appellant

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 4867

Dated 13/4/2021

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.
1071-75 / PA DATED 06-04-2021 OF R. NO. 02,
WHEREBY APPEAL OF APPELLANT WAS
REJECTED / FILED FOR NO LEGAL REASON:

⊕<=>⊕<=>⊕<=>⊕<=>⊕

Filed to-day
Registrar
13/4/21

Respectfully Sheweth:

1. That appellant was enlisted in service as Constable in the year 2009 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 2013 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. (Copy as annex "A")
5. That appellant is serving the department for the last 13 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 "B")
7. That the said Charge Sheet was replied and denied the allegations. (Copy as annex "C")

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. (Copies as annex "D" & "E")
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 "F")
11. That thereafter appellant submitted representation before R. No. 02 for waiving of the aforesaid punishment on 10-02-2021 which was rejected on 06-04-2021. (Copies as annex "G" & "H")

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 13 years service.

- 14
- 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 06-04-2021 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.


Robin
Miss Robinia Naz

Through


Appellant


Saadullah Khan Marwat


Arbab Saiful Kamal


Anjad Nawaz
Advocates.

Dated 12-04-2021

Police Training College Hangu



PERFORMANCE REPORT

Starting Date : 15.03.2019
 College Course : Lower
 District/Unit : CCP Pesh:
 Belt No. : 1924
 Education : FA
 Term Qualifying : 15.07.2019

Ending Date : 15.07.2019
 Name : Rooh Ullah
 Comp# : L-11860
 Company : Suleman
 Merit : 166

Subjects	Marks obtained	Marks allotted	Subjects	Marks obtained	Marks allotted	Remarks	
Paper No: I			Parade	27	/50.00	Declared Passed	
PPC	246	/400.00	PT	15	/30.00		
PR			FC	23	/50.00		
MJ/AC			DPA	36	/70.00		
Ist/FP			A.Fire SMG	200	/200.00		
Paper No: II			G3.Fire	61	/100.00		
CrPC	261	/400.00	AC	52	/110.00		
LSL			R.On P.O's	14	/30.00		
FCT			Ambush	15	/30.00		
PPWP			Naka Bandi	16	/30.00		
PFW/QS			Total	459	/700.00		
Total			507	/800			
							Overall %age is: 64.40
Grand Total 966 / 1500.00							

Leave:02days, M. Rest:Nil, Absence:Nil, Punishment: 03x-drill, Reward:Nil

Checked and found correct.

Incharge Secrecy

Amad
 Controller of examinations
 For Commandant,
 Police Training College, Hangu.

B

6

[REDACTED]
[REDACTED] of Police, Headquarters, Capital City Police
[REDACTED] as a competent authority, hereby, charge that
[REDACTED] in the attached list vide an annexure-D of
Capital City Police Peshawar with the following irregularities

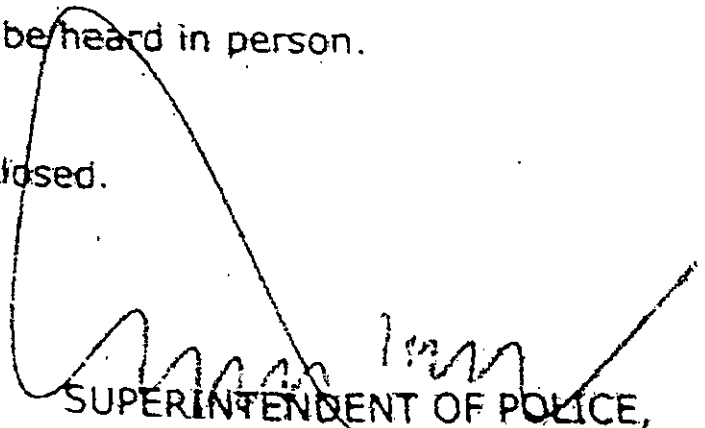
"During scrutinizing by committee constituted vide No.227-
[REDACTED] dated 20.03.2020 to conduct Audit of A-I & B-I
examination of Q2-branches i.e OSI & CRC, you were found failed in
examination but you qualified lower school course in PTC Hangu,
this amounts to gross misconduct on your part and is 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 you have no defence to put in and in that case ex-parte
action shall follow against you.

Indicate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

جناب عالی

3

2

حوالہ مشمولہ خارج شدہ معروض خدمت ہوں کہ میرے خلاف
 لگائے گئے الزامات غلط اور بی بنیاد ہیں سائل حکم پولیس میں سال ۱۹۵۹ء
 کو کوئی پروگرام ریکارڈ نہیں کیا ہے۔ دروازے سے حساب قاعدہ آ-آ
 اور آ-ب کے امتحانات پاس کر کے سائل کوخ انہیں بالذات کوئی نہیں
 کیلئے منتقل کیا۔ اور سال ۱۹۵۸ء کو کوئی نہیں ہے آ-آ ہنگو سے پاس کیا ہے

جناب عالی، جہاں تک خارج شدہ میں الزامات کا تعلق ہے تو میں بار
 سائل بالکل لاعلم ہے کیونکہ سائل نے ہمیشہ جنرل ڈیوٹی انجام دی ہے
 اور کبھی دما شتر میں ڈیوٹی نہیں انجام دی ہے۔ سائل کا سروس ریکارڈ
 سائل کی تحویل میں نہیں ہے جس میں وہ اپنی مرضی سے اپنی فوائڈ کے
 اندر احاطہ کرتا ہے۔ سروس ریکارڈ میں اندراجات اور رقم کی انٹری
 سے سائل لاعلم ہے۔ یہ متعلقہ سکرٹس جس کی نگرانی میں ریکارڈ ہے
 دستہ زاری ہے کہ وہ ریکارڈ کو محفوظ رکھے۔

سائل بالکل گناہ ہے۔ اور نامیاد طور پر ہے آ-آ ہنگو
 ۱۹۵۶ء میں سائل کوئی نہیں پاس کیا ہے جو کہ ریکارڈ سے
 مدلل کیا جا سکتا ہے

اس لئے درخواست ہے کہ درج بالا حقیقت کے پیش نظر
 سائل کے خلاف جاریہ انٹوائیڈ کو داخل دستہ فرما کر فکس روٹ میں
 لکھ کر دیا جائے گا

ان کے نام سے دارالاجلہ ۱۹۵۶ء حال پولیس لائن سید
 ان کے نام سے دارالاجلہ ۱۹۵۶ء
 No 0316-9699390

D 8

FINAL SHOW CAUSE NOTICE

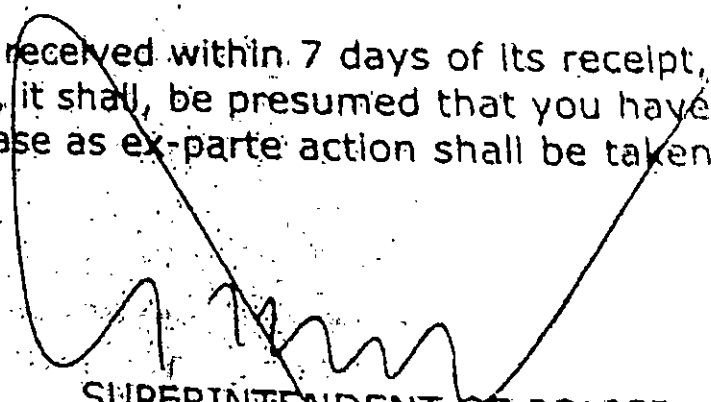
I Superintendent of Police, Headquarters Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you Constable LHC Rosh uddin No. 1924 the final show cause notice.

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 LHC Rosh uddin No. 1924 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

Pak
17/12/2020

میں سے بہت سی باتیں ہوئی ہیں
 اور میں نے ان سے بہت سیکھا ہے
 اور ان سے بہت سیکھا ہے

ان سے بہت سیکھا ہے
 اور ان سے بہت سیکھا ہے
 اور ان سے بہت سیکھا ہے

اس لئے درخواست ہے کہ مسائل کے بارے میں
 داخل دفتر ہمارے دفتر میں
 کیجئے اور دعا ہے کہ

۱۲
 ۲۰۲۰

ان کا تعلق روح اللہ علیہ السلام ۱۹۲۴
 حال بولنگ لائن سٹارڈ

Oct

21/12/20

F

10

ORDER

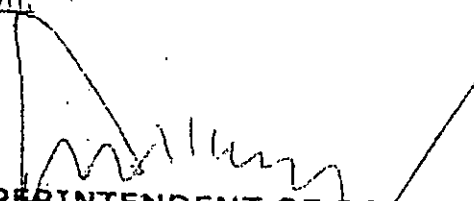
This office order relates to the disposal of formal departmental enquiry against Constable Roohullah No.809-T/1924 of Capital City Police Peshawar on the allegations that during scrutinizing by committee constituted vide No.227-31/PA/CCPO dated 20.03.2020 to conduct audit of A-I & B-I examination of 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. 522-28 /PA/SP/dated Peshawar the 20/1/2021

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

- ✓ The Capital City Police Officer, Peshawar.
- ✓ DSP/HQrs, Peshawar.

144

اپیل برائے بحالی کوئٹہ کورس

49

15/2/2021

جہاں علی ا

حوالہ حکمتا نمبر 244 فورہ 20.1.2021 بحالیہ ایس پی حیدر نواز شہزادہ صاحب
 خدمت میں کہ سہ ماہی سال 2009 میں ٹیسٹ کنٹریل ٹیکہ پولیس لٹور میں بھرتی ہوا ہے
 AI پاس کیا۔ ٹریفک کورس کیا۔ BI کیلئے وکٹوریہ کے کورسز میں شمولیت کرتے
 پاس کیے۔ BI کا امتحان پاس کر کے انسٹران بلانے کوئٹہ کورس کیلئے منتخب کیا
 اور سال 2019ء میں کوئٹہ کورس PTC بنگو سے پاس کیا ہے۔
 جہاں تک سہ ماہی کے سروسز ریکارڈز میں AI کورس سرٹیفکیٹ کی عدم دستیابی کا
 تعلق ہے تو ریکارڈز کیلئے متعلقہ پرائیج سے نہ کہ سہ ماہی کی ڈویل میں پوچھا ہے۔ اگر
 AI سرٹیفکیٹ عدم دستیابی ہے تو پھر سہ ماہی کی IQ میں موجودگی کس طرح ہو سکتی
 ہے۔ کیونکہ BI میں وہ بیٹھ سکتا ہے جو AI پاس کر چکا ہو پوچھا ہے۔ پھر سہ ماہی کے
 کوئٹہ کورس میں پاس کر چکا جس کا مطلب سہ ماہی کے سارے کورسز تاملوئی طریقہ کار کے
 عین مطابق ہے۔ AI سرٹیفکیٹ کی ریکارڈز سے عدم دستیابی سے سہ ماہی کے
 اس بارے کی قسم کی معلومات نہیں ہے۔
 بالخصوص ذات کی روشنی میں عرض نہ سہ ماہی کے پتھر دارانہ طور فرماویں اور مذکورہ بالا
 آرڈر منسوخ فرما کر سہ ماہی کو انصاف فراہم کرے دعا گو رہوں گا

تقریر 10-02-2021

الحاضر ا

تالیخ فرمائے روح اللہ نمبر 1924 متعینہ پولیس لائسنس ڈیوی
 0316-9688390 -

F.M.

Dep sb legal

For comments

Pl. 15/2

Put up

Signature



CAPITAL CITY POLICE DEPARTMENT
PESHAWAR

Phone No: 091-9210989

Fax No: 091-9212397

ORDER

This order will dispose of the departmental appeal preferred by Constable Rooh Ullah No.1924 who was awarded the major punishment of "Reduction to the lower stage of time scale for a period of one year and his fake entry of A-I passed in his Service Roll also withdrawn" under PR-1975 by SP/HQrs Peshawar vide order No.522-28 /PA, dated 20-01-2021.

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 School Course in PTC Hangu.

3- He was issued proper Charge Sheet and Summary of Allegations by SP/HQrs Peshawar. An enquiry committee comprising of DSP/Coordination and DSP/Civil Secretariat Peshawar was constituted 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 Committee found the accused official guilty in the matter and 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 by SP/HQrs vides order No 522-28 /PA, dated 20-01-2021 is hereby rejected/ filed.

(ABBAS AHSAN) PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No 1071-75 /PA dated Peshawar the 06-04-2021

Copies for information and n/a to the:-

1. SP/HQrs Peshawar
2. OS/ Pay Officer/ CRC
3. FMC along with Fouji Missal
4. Official concerned.

پتہ الٹ چٹا بس سروس ٹرمینل صوبہ سرحد پشاور

میتھاب املانٹ

محمد کولیس

بنام

روح اللہ

دعویٰ ایل

باعتبار سے ایٹک

مستند مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل کاروائی متعلقہ آن مقام پشاور کیسٹ اسٹول اڈا خان سرور سے ایڈووکیٹ ہانی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب تموضوف کو مقدمہ کی کاروائی کا کاربن اختیار ہوگا نیز وکیل صاحب کو کرنے والی نامہ و اقرار ثالثہ و لایہما برتلاف میں جواب دہی اور اقبال دعویٰ اور لیکچر ڈگری کرنے اور دوسری چیک درجہ اور مرضی دعویٰ اور درخواست ہر قسم کی تعدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز لیکچر عدم پیروی یا ڈگری بکطرفہ یا اپیل کی برآمدگی اور تسویجی نیز دائر کرنے اپیل ٹرانسفر و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ بنا کر کے گن یا جزی کی کاروائی کے واسطے اور وکیل یا مزارق قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور فیصلہ مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر واختہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجا منہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب تموضوف ہوں گے نیز بقایا و فریبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ پر ہو یا عدت سے باہر ہو تو وکیل صاحب یا بائرنہ ہوں گے کہ پیروی اندکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ مندرجہ ہے۔

الرقوم ۱۱-۵۶-۵۹

الکند

القائد

الکند

ارباب ایٹک
ایڈووکیٹ

سید محمد علی
سید محمد خان
ایڈووکیٹ

محمد نواز
ایڈووکیٹ

روح اللہ

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 4954/2021

Rooh 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 13 years service is neat and clean and if any previous 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 13 years such closed chapter cannot be opened on the false allegation. No proper enquiry was ever made regarding the allegations.
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 fledge 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



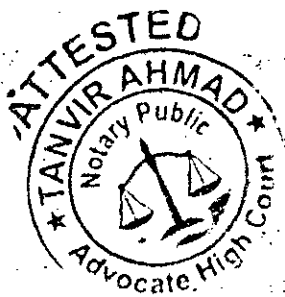
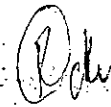
Saadullah Khan Marwat

Advocate,

Dated: 31-08-2022

AFFIDAVIT

I, Rooh 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

31/08/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.4954 /2021.

Constable Rooh Ullah No.1924 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 04 bad entries and 16 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:

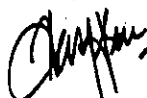
- a. Incorrect. During the audit of A-1 and B-1 examination, the appellant was found failed in A-1 examination. The charges levelled against him was proved, hence he was awarded the appropriate punishment as per law/rules.
- b. Incorrect. As per the amended 2017 rules 13(7) those constables who qualified 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.4954 /2021.

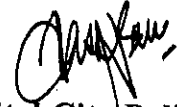
Constable Rooh Ullah No.1924 of CCP Peshawar..... **Appellant.**

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.**