

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	11.05.2016	<p align="center"><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p align="center">Appeal No. 221/2015</p> <p align="center">Bakht Jamil Versus Provincial Police Officer KPK Peshawar and others.</p> <p align="center"><u>JUDGMENT</u></p> <p align="center"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Counsel for the appellant and Mr. Ziaullah GP alongwith Muhammad Ghani, S.I for the respondents present</p> <p>2. Mr. Bakht Jamil Ex-Sub Inspector hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the original order dated 13.11.2014 vide which he was dismissed from service where-against he preferred departmental appeal which was also rejected vide impugned order dated 11.3.2015 and hence the instant service appeal on 16.03.2015.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant while serving as Sub Inspector and posted as Officer Incharge (Investigation) at Police Station Turo was proceeded against under Rule-5(3) of the Khyber Pakhtunkhwa Police Rules, 1975 for changing the Zimni (Case Diary) No. 7 in FIR No. 636 on the request of the lawyer of the accused and attributing certain directions to Assistant. to DIG (Mr. Dawood)</p>

~~11.05.16~~

for deferring the arrest of the accused. On the basis of show cause notice dated 6.11.2014 and after hearing the appellant the DIG of Police Mardan Region-I dismissed him from service vide order dated 13.11.2014 where-against departmental of the appellant was also rejected by the Provincial Police Officer, Khyber Pakhtunkhwa vide order dated 11.03.2015.

4. We have heard the arguments of learned counsel for the appellant as well as learned Addl. AG for the respondents and perused the record.

5. Record placed before us contains copies of Daily Diary No. 7 dated 24.10.2014 and extract of service record of the appellant. According to the contents of the said Diary, appellant was informed by the D.I.G of Police to postpone arrest of the accused in case FIR No. 436 dated 08.10.2014 registered at P.S Turo under Section 302/324/427/34-PPC. The contents further suggest that the said information was conveyed on behalf of DIG by his Assistant namely Dawood Khan. It is to be taken note of that the competent authority has not enquired from the said Assistant in any manners regarding passing of information to the appellant on behalf of the DIG. It is also not ascertainable from the record that the said diary was subsequently substituted by the appellant either for including or omitting the name of the DIG and his Assistant ~~to him~~ and that too ~~by~~, with any mala fide intentions attributable to the appellant. Apart from the above we are of the view that for ascertaining true facts a regular enquiry was essential and withholding the same, in the circumstances of


~~11.05.16~~

the case in hand, has prima facie, caused miscarriage of justice and fair-play. We were also informed that the impugned order was passed by the same DIG to whom reference was made by the appellant in his daily diary No. 7 dated 24.10.2014.

6. For the above mentioned reasons the appeal in hand is accepted and as a consequence thereof appellant is reinstated in service placing the respondents at liberty to proceed against the appellant through regular enquiry in the prescribed manners by affording him opportunity of hearing which shall be conducted and concluded by the respondents within a period of 2 months of the receipt of this judgment. In case the respondents failed to conduct and conclude the enquiry within the specified period then the appellant shall be deemed to have been reinstated in service with back benefits and the period spent out of service shall be treated as leave of the kind due. The appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Abdul Latif)
Member



(Muhammad Azim Khan Afridi)
Chairman
11.05.16.

ANNOUNCED
11.05.2016

08.03.2016

Agent to counsel for the appellant and Mr. Muhammad Ghani, SI (Legal) alongwith Asst: AG for respondents present. Due to general strike of the bar counsel for the appellant is not available. Therefore, the case is adjourned to 11.05.2016 for arguments.



Member



Member

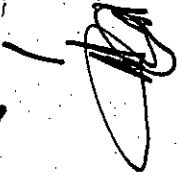
31.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially recruited as Constable in the year 1980 and promoted as ASI on 28.12.2004 and then S.I on 2.12.2012. That it was in the year 2014 that the appellant was performing duties as Incharge Investigation at PS Toru when charged for changing case diary No. 7 of a criminal case registered vide FIR No. 436 and finally dismissed from service vide impugned order dated 13.11.2014 against which departmental appeal was preferred which was rejected on 11.3.2015 and hence the instant service appeal on 16.3.2015.

That no charge sheet was served nor any inquiry conducted and as such the impugned orders are liable to be set-aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 8.6.2015 before S.B.

Appellant Deposited
Security & Process Fee




Chairman

4 08.06.2015


Appellant in person and Mr. Muhammad Shafique, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 10.11.2015.


Chairman

10.11.2015

Counsel for the appellant and Mr. Ghani Khan, ASI alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder on behalf of the appellant submitted, copy of which placed on file. To come up for arguments

on 8-3-2016.




Member


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 221/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	16.03.2015	<p>The appeal of Mr. Bakht Jamil presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>30-3-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 221 /2015

Bakht JamilAppellant

V E R S U S

PPO and OthersRespondents.


I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-5
2.	Copy of Show Cause Notice & Reply	A & B	6-7
3.	Copy of Order dated 13-11-2014	C	8
4.	Copy of Departmental appeal & Order dated 11-03-2015.	D & E	9-11
5.	Wakalat Nama		12

Dated:-16-03-2015


Appellant

Through


Fazal Shah Mohmand
Advocate Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar
Cell# 0301 8804841

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 221 /2015

Bakht Jamil Ex Sub Inspector, District Police Mardan.....Appellant

V E R S U S

1. Provincial Police Officer KPK Peshawar
2. Deputy Inspector General of Police Mardan Region-1 Mardan.
3. District Police Officer Mardan.....Respondents

**A.W.F Provincial
Service Tribunal**
Diary No. 226
dated 16-3-2015

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 11-03-2015 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL
APPEAL OF THE APPELLANT FILED AGAINST THE ORDER
DATED 13-11-2014 OF RESPONDENT NO 2 HAS BEEN
REJECTED/FILED.**

PRAYER:-

On acceptance of this appeal the impugned Order dated 11-03-2015 of respondent No 1 and Order dated 13-11-2014 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department as Constable on 05-06-1980 remained posted to various Police Stations and since then he performed his duties with honesty and full devotion.
2. That the appellant was promoted as Assistant Sub Inspector on 28-12-2004 and was promoted as Sub Inspector on 02-12-2012.
3. That on 08-10-2014, the appellant while lastly posted as Officer Incharge Investigation Police Station Toru District Mardan, Case FIR No 436 U/Ss 302/324/427/34 PPC was registered and he was entrusted investigation of the case. The appellant was issued Show Cause Notice by respondent No 2 on the allegations of changing case diary No 7 on ulterior motives and mentioning in case diary that he was directed by A/DIG Mardan Mr. Daud to defer the arrest of accused, the appellant replied the same in detail explaining the true circumstances. (Copy of Show Cause Notice and reply are enclosed as Annexure A & B).

Filed to-
16/3/15

4. That there after the appellant was awarded the penalty of dismissal from service with immediate effect under Police Rules 1975, by respondent No 2 vide order dated 13-11-2014. **(Copy of the order is enclosed as Annexure C).**
5. That the appellant filed Departmental appeal before respondent No 1, which was rejected/filed vide order dated 11-03-2015. **(Copy of departmental appeal and order dated 11-03-2015 are enclosed as Annexure D & E).**
6. That the impugned order dated 11-03-2015 of respondent No 1 and order dated 13-11-2014 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

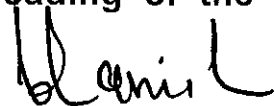
GROUND S:-

- A. That the impugned orders are illegal and void abinitio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and the appellant did nothing that amounts to misconduct.
- C. That no inquiry was conducted to find out the true facts and circumstances.
- D. That no charge sheet was communicated to the appellant thus no charge was framed against the appellant and as such the impugned order is not maintainable in the eyes of law.
- E. That the impugned order is not a speaking order and thus not tenable in the eyes of law.
- F. That there is misapplication of law as the law mentioned in the order of respondent No 1 is not applicable in case of the appellant.
- G. That the facts are that the accused in the mentioned case were the relatives of one Samad the Orderly of the mentioned Daud Khan A/DIG Mardan besides the relatives of Jamshed Cook of

the respondent No 2 and they time and again tried to influence the investigation of the case. Even the appellant was called by the mentioned A/DIG Daud Khan on 21-10-2014 from his office No 0937-9230678 at about 1500 hrs and told the appellant that the respondent No 2 has directed to declare the accused in the case as innocent and release them. The appellant entered this detail in Case Diary No 7, upon which respondent No 2 got annoyed and initiated departmental action against the appellant.

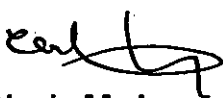
- H. That even the gunman of the appellant Ilyas Constable No 1703 was directed by respondent No 2 to record his statement that he has given illegal gratification to the appellant in the mentioned case and upon refusal he was put in quarter guard for one week.
- I. That the appellant has about 35 years of service with unblemished service record and is jobless since his illegal dismissal from service.
- J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.


Appellant

Dated:-16-03-2015

Through


Fazal Shah Mohmand
Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____ /2015


Bakht JamilAppellant

V E R S U S

PPO and OthersRespondents.

A F F I D A V I T

I, Bakht Jamil Ex Sub Inspector, District Police Mardan, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by 

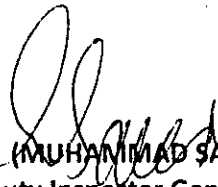
**Fazal Shah Mohmand
Advocate Peshawar**


DEPONENT

SHOW CAUSE NOTICE

(Under Rules 5 (3) KPK Police Rules, 1975)

1. That you **Sub Inspector Bakht Jamil** while posted as O.I.I Police station Toru, District Mardan have rendered yourself liable to be proceeded under Rules 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct;
 - i. You changed the Zimni i.e Case Diary No. 7 in FIR No. 436 on the request of the lawyer of the accused. Both the case diaries are available on record.
 - ii. Moreover, you have mentioned in your case diary that you were directed by ADIG Dawood to defer the arrest of the accused. This act of yours is based on malafide and based on ill intention.
2. That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry 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. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
6. 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.
7. 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.
8. You are further directed to inform the undersigned that you wish to be heard in person or not?
9. Grounds of action are also enclosed with this notice.


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

Attested



Adl.

To

The Deputy Inspector General of Police Mardan Region-1,
Mardan

B/7

Subject: **REPLY TO THE SHOW CAUSE NOTICE NO.2562/PA DATED 06-11-2014**

R/Sir,

That I was issued with the subject show cause Notice with the following allegations.

- i. " You changed the Zimni i.e case Diary No.7 in FIR No.436 on the request of the lawyer of the accused. Both the case diaries are available on record.
- ii. Moreover, you have mentioned in your case diary that you were directed by ADIG Dawood to defer the arrest of the accused. This act of yours is based on malafide and based on ill intention " (Copy enclosed)

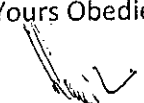
1. That, I remained posted as SI/Oii at PS Toru, District Mardan. During this period I, had conducted the investigation of case FIR No. 436 dated 08-10-2014 u.s 302/324/427/34 PPC PS Toru, Mardan. Complainant Ashfaq Ahmad r/o chechyano kalay had charged accused Fazal-e-subhan, Fazal-e-rehman and awais for the murder of deceased Fazal-e-hadi and Naseer Ahmad in his report. All the three charged accused have obtained BBA from the court of session, where there date of appearance are changing constantly and the case is still pending investigation.

2. During the course of investigation, one Muhammad Arif s/o accused Fazal-e-rehman submitted an application before the DIG Mardan regarding the innocence of the charge accused. The applicant Muhammad Arif produced disinterested elders of the area before me where I, recorded there statement. Neither I have concluded anywhere in the case file that the charge accused are innocent nor I have given him any help / support in the investigation of the case which clearly shows my honesty and good intention.

3. In connection with BBA of the accused, the pending investigation file including case diary No.7 dated 24-02-2014 was sent to the court of additional session Judge Mardan where the accused party succeeded to get the photo state copy of the case file. On receiving case file back in the police station, I felt a technical mistake in case diary No.7 (which I will disclose in personnel hearing to your honour) and hence after getting guidance I changed the same in an other shape with good intention. The accused party was already in possession of the previous case diary No.7 and hence they got an opportunity for blaming me for changing of the case diary.

Keeping in view the facts and circumstances mentioned and the Act made honesty and good intention, I may kindly be exonerated from the charges mentioned in the show cause Notice.

Yours Obediently,


SI Bakht Jamil
Police Line, Mardan

A Hated
Ad.


ORDER.

This order will dispose-off a Show Cause Notice under Police Rules 1975, served upon Sub Inspector Bakht Jamil Khan Officer Incharge Investigation Police Station, Toru District Mardan on account of changing case diary No. 07 in case No. 436 dated 08.10.2014 u/s 302/324/427/34PPC Police Station Toru, Mardan.

Brief facts of the case are that he while posted as Officer Incharge Investigation Police Station, Toru District Mardan was entrusted Investigation of case FIR No. 436 dated 08.10.2014 u/s 302/324/427/34PPC Police Station Toru, Mardan. During the course of Investigation you have changed case diary No. 07 on some ulterior motive. Further more, your have also mentioned in your case diary that you were directed by A/DIG, Mardan to defer arrest of accused. His this act is based on malafide and ill intention.

I have also perused the record and also heard the appellant in person. In view of the above serious allegations, I MUHAMMAD SAEED, Deputy Inspector General of Police, Mardan Region-I, Mardan, the Officer was found guilty of misconduct as the charges have been proved against him with out any shadow of doubts. Hence, under the KPK Police Rules 1975, I hereby impose Major penalty of dismissal from service on *Sub Inspector Bakht Jamil (under suspension)* from service with immediate effect.

ORDER ANNOUNCED.


(MUHAMMAD SAEED)PSP
o/c Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 7437-38 /ES, Dated Mardan the 13 /11 /2014.

Copy forwarded for information and necessary action to the:-

1. District Police Officer, Mardan.
2. Superintendent of Police Investigation, Mardan.

(*****)

Attended
encl. 2

D/9

BEFORE THE PROVINCIAL POLICE OFFICER KHYBER PAKHTUNKHWA PESHAWAR

13.11.

Subject: **APPEAL AGAINST THE ORDER NO.7437-38 /ES DATED ~~27-08-014~~ OF DEPUTY INSPECTOR GENERAL OF POLICE , MARDAN REGION-1 MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT " DISMISSAL FROM SERVICE".**

R/Sir,

It is submitted that :

1. The DIG Mardan Region-1 Mardan had issued show cause Notice No.2562 / PA dated 06-11-2014 against the Appellant with the following allegations:-
 - a) " You changed the Zimni i.e case Diary No.7 in FIR No.436 on the request of the lawyer of the accused. Both the case diaries are available on record.
 - b) Moreover, you have mentioned in your case diary that you were directed by ADIG Dawood to defer the arrest of the accused. This act of yours is based on malafide and based on ill intention "
2. That in response to the said Show cause Notice , the appellant submitted a detailed and comprehensive reply before the DIG Mardan, which is reproduced below:-
 - i) That, I remained posted as SI/Oii at PS Toru, District Mardan. During this period I, had conducted the investigation of case FIR No. 436 dated 08-10-2014 u.s 302/324/427/34 PPC PS Toru, Mardan. Complainant Ashfaq Ahmad r/o chechyano kalay had charged accused Fazal-e-subhan, Fazal-e-rehman and awais for the murder of deceased Fazal-e-hadi and Naseer Ahmad in his report. All the three charged accused have obtained BBA from the court of session, where there date of appearance are changing constantly and the case is still pending investigation.
 - ii) Durring the course of investigation, one Muhammad Arif s/o accused Fazal-e-rehman submitted an application before the DIG Mardan regarding the innocence of the charge accused. The applicant Muhammad Arif produced disinterested elders of the area before me where I, recorded there statement. Neither I have concluded anywhere in the case file that the charge accused are innocent nor I have given him any help / support in the investigation of the case which clearly shows my honesty and good intention.
 - iii) In connection with BBA of the accused, the pending investigation file including case diary No.7 dated 24-02-2014 was sent to the court of additional session Judge Mardan where back in the police station, I felt a technical mistake in case diary No.7 (which I will disclose in personnel hearing to your honour) and hence after getting guidance I changed the same in an other shape with good intention. The accused party was already in possession of the previous case diary No.7 and hence they got an opportunity for blaming me for changing of the case diary.(copy of reply to the show cause notice before DIG Mardan as enclosed)

Attested
 [Signature]
 AD

3. On 13-11-2014 , the appellant was called by DIG Mardan in person. The appellant brought all the facts of changing of case diary No.7 dated 24-02-2014 in detail. The appellant also disclosed that in fact he was directed by **Dawood Khan ADIG Mardan** on telephone to change the case diary to remove the technical mistake. The worthy DIG Mardan did not considered appellant virgin / explanation and passed an order of **dismissal from service** of the appellant vide his office Order No. 7437-38 dated 13-11-2014. (copy of Order of dismissal is enclosed)

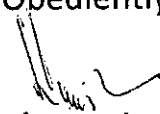
Conclusion:

It is requested that the Appeal of the Appellant may kindly be accepted and Order of the punishment (Dismissal from service) be set aside on the following grounds:-

1. That from the above detailed reply to the show cause notice, it is crystal clear that the Change of case diary was made with the direction of Dawood Khan ADIG Mardan, which was in compliance of his verbal order and with good intention
2. That The allegations leveled against the appellant are false, baseless and based on personnel grudges. The change of case diary was made on the direction of a senior officer to remove the technical mistake and not on the request of lawyer of the accused.
3. Neither proper departmental inquiry was conducted by the competent authority against the appellant, nor any opportunity was given to the appellant to cross examine the witnesses. Only passing the order on show cause notice is against the rules / regulations and beyond the requirement of justice.
4. The Appellant was not given final show cause Notice by competent authority, which was the necessary requirement as per relevant rules and thus the illegal Order was passed.
5. The Appellant has served the Department for more than **33 years** and was at the verge of pension.
6. The Appellant is having shining Official record and prior to this, the Appellant was not treated departmentally during his whole service.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the Appeal of the Appellant may kindly be accepted and the impugned Order passed by DIG Mardan Region-1 Mardan may kindly be set aside.

Yours Obediently,


Ex-Sub Inspector (Bakht Jamil)
Mardan District Police
(Now Dismissed from service)

Attended
caj
Adh



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar

E
11

No. S/ 1602 /15, Dated Peshawar the 11/03/2015.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Sub-Inspector Bakht Jamil**. The appellant was awarded major punishment of dismissal from service by RPO/Mardan vide order 7437-38/ES, dated 13.11.2014.

In the light of recommendations of Appeal Board meeting held on 25.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Show Cause Notice. He failed to produce any plausible reason about his innocence. The appellant was entrusted investigation of case FIR No. 436 dated 08.10.2014 u/s 302/324/427/34 PPC PS Toru, Mardan. During the course of investigating he have changed case Diary No. 07 on some ulterior motive. The appellant was found guilty of misconduct as the charges have been proved against him without any shadow of doubts and appellant was awarded major punishment of dismissal from service under Police Rules 1975. The order was announced on the basis of reply to the Show Cause Notice.

He was also heard in person. The enquiry papers were perused. The appellant also accepted that he actually changed case Diary No. 07 in the subject case file. He however could not justify his action which amounts to gross misconduct. Therefore, his appeal regarding major punishment of dismissal from service of **Ex-Sub-Inspector Bakht Jamil** is hereby rejected and filed.

Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

No. S/ 1603-10 /15,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan w/r to his office memo: No. 104/ES, dated 05.01.2015.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-III, CPO Peshawar.

Attested

earl

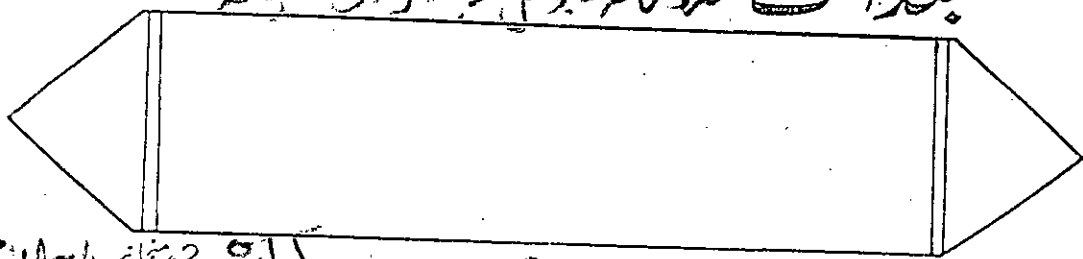
21

(MUBARAK ZEB)

DIG/HQrs:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

بعد الٹ سروس ٹر۔ جونل حیدر محمد علی



16 مارچ 2015ء
 کت عمل با لقب اسکیرٹ بنام PPO صدر
 مورخہ
 مقدمہ
 دعویٰ
 جرم

باعث تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
 آن مقام لکھنؤ کے لیے فصل مشاہدہ حیدر محمد علی مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
 کوئی تارتخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 16 مارچ 2015ء

واہ العباد

کے لئے منظور ہے۔

بمقام

Attested & Accepted

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 221/2015.

EX SI Bakht Jamil , District Mardan.....Appellant.

VERSUS.

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Mardan Region-I, Mardan
3. District Police Officer, Mardan.....Respondents.

Parawise comments on behalf of respondents

Respectfully Sheweth:

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law.

REPLY ON FACTS:-

1. Pertains to record, hence, no comments.
2. Pertains to record, hence, no comments.
3. Correct to the extent that the appellant was entrusted, during his posting as investigation incharge P.S Toru Mardan, a case vide FIR No. 436 u/Ss 302/324/427/34 PPC for investigation, therein. The appellant, however, rendered himself liable to be proceeded against under Rule 5(3) of Khyber, Pakhtunkhwa Police Rules,1975 for misconduct as such:-

— the appellant during investigation of the case changed /replaced the case diary No. 7 at the request of the accused's lawyer.

— besides, the appellant also alleged A/DIG Dawood Khan (ASI) in his diary for issuing directions to this /appellant to defer arrest of the accused party. The two acts of the appellant were found malafide and based on ill-intention, that could spoil the case under his investigation. Thus, his reply to the show cause notice, issued by the office of the respondent No. 02, was found unsatisfactory(**Copies of case diaries attached as annexure-“A” & “B”**)

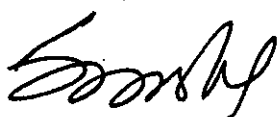
4. Correct, hence, no comments.
5. Correct, hence, no comments.
6. Incorrect. The two impugned orders issued by respondent No. 01 & respondent No. 02 respectively were in accordance with law facts & principles of justice.

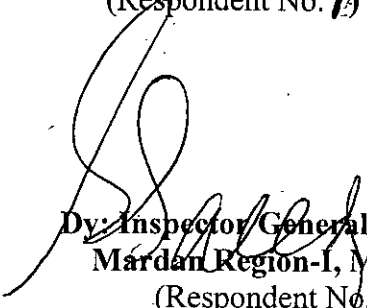
REPLY TO GROUNDS.


- a. Incorrect & baseless. The impugned orders are legal and valid.
- b. Incorrect the appellant had committed acts which amounts to misconduct & was, therefore, dealt under rules /law.

- c. Sufficient material and appellant's false statement in the alleged diaries & the presence of two replaced diaries being on record, so, there was no alternative than punishing the appellant for his grievous misconduct.
- d. Incorrect. All the ^{Codal} formalities were fulfilled and the impugned order is maintainable with eye of law.
- e. Incorrect, hence, tenable in the eyes of law.
- f. Incorrect. The appellant has been treated under rules/law.
- g. Incorrect & totally baseless allegation
- h. This para is also incorrect & baseless.
- i. Correct to the extent of his service tenure but incorrect to suggest that the applicant has unblemished service carrier. (Copies red entries attached as annex-"C").
- j. The respondents also seek permission of the honorable court to submit further grounds etc, inquiry at time of arguments.

It is requested that the appeal may be dismissed.

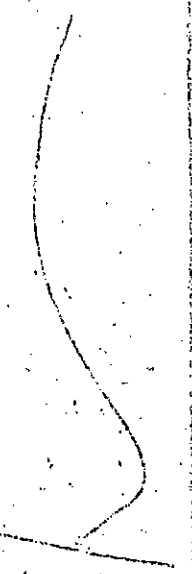

**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.**
(Respondent No. 1)


**Dy. Inspector General of Police,
Mardan Region-1, Mardan.**
(Respondent No. 2)


**District Police Officer,
Mardan.**
(Respondent No. 3)

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24.11.14
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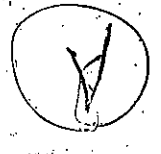
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1. The first part of the report is devoted to a description of the general conditions of the country and the results of the survey.

2. The second part is devoted to a description of the results of the survey and the results of the analysis of the data.

3. The third part is devoted to a description of the results of the survey and the results of the analysis of the data.

4. The fourth part is devoted to a description of the results of the survey and the results of the analysis of the data.

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8. The eighth part is devoted to a description of the results of the survey and the results of the analysis of the data.

9. The ninth part is devoted to a description of the results of the survey and the results of the analysis of the data.

10. The tenth part is devoted to a description of the results of the survey and the results of the analysis of the data.

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24.10.14
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Handwritten notes or calculations, including a fraction $\frac{8}{10}$.

436

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سے صلوات اٹھانے کے سائلوں کے لیے یہی
 ثابت ہو سکتا ہے - اور بے گناہ کو اگلا ہے
 ہو سکے۔ سائل سارا عمر و مال و رزق کا سائل ہے
 اور صلوات اٹھانے کے لیے ضروری ہے۔
 درج ذیل نمبر 3339016992 سے درج ذیل نمبر سے صلوات
 اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔ صلوات اٹھانے
 کے لیے سائلوں کو نصیحت درج ذیل ہے۔ صلوات اٹھانے کے لیے
 اور صلوات اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔
 صلوات اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔
 درج ذیل نمبر 3339016992 سے درج ذیل نمبر سے صلوات
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 صلوات اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔
 درج ذیل نمبر 3339016992 سے درج ذیل نمبر سے صلوات
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 اور صلوات اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔
 صلوات اٹھانے کے لیے سائلوں کو نصیحت درج ذیل ہے۔

24/10/14
 24.10.14

u C 2

Head in	10 Date of termination of appoint- ment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant	
				Nature and dura- tion of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtible to another Government			
					Period			Government to which debtible

charges For his negligence/carelessness.

Punishment: Censured to be careful in future.

of No. 2314

dt. 13/12/66

Mardan

①

ORDER.

Reverted to the Substantive Rank of Head Constable vide Dig R-1 Mardan Endst No. 5940 dt. 30/12/08 and pay fixed Rs. 30/12/08.

District Police Officer
Mardan

OB No 05

1-1-2009

ORDER

The reversion order of Jai Bakht Jamil issued vide Dig/Mardan Endst. No. 5940/les dated 30-12-2008. is hereby restored vide Dig/Mardan Endst. No. 1932-33/les dt. 30⁰⁶/2009.

OB No - 1142

dt 2/7/2009

District Police Officer
Mardan

t with 04 constables from Police Lines Mardan

han 03449056764 replaced by Shah Nawaz 3424 Police 05722081 and ASI Shahjehan will be changed

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service courts for pension under Art. 371. C.S.R.	Pay in substantive post	Additional Pay for Officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government Servant

Si 610 15930
 Rs @ Rs / Rs / per
 with effect from 1-12-13

[Signature]
 DPO MARDAN

order.

He is hereby suspended with immediate effect and closed to police lines mardan.

OB No 2229
 7-11-14

[Signature]
 DPO MARDAN

~~ORDER~~

He is hereby dismissed from service with immediate effect, for

his negligence vide case file No. 436

dt. - 8-10-2014 u/s 302/324/427/34
 PDC ps Toru, mardan vide Dig 1 mardan
 Endst No: 7437-38/es, dt. - 13.11.2014

OB No. 2280
 DT: - 13.11.14.

[Signature]
 DPO MARDAN

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 221/2015.

Ex- SI Bakht Jamil, District Mardan.....Appellant.

VERSUS.


1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Mardan Region-I, Mardan
3. District Police Officer, Mardan.....Respondents.

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)**



**Dy: Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No.2)**



**District Police Officer,
Mardan.
(Respondent No. 3)**

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.**

Service Appeal No. 221/2015.


Ex- SI Bakht Jamil, District Mardan.....Appellant.

VERSUS.

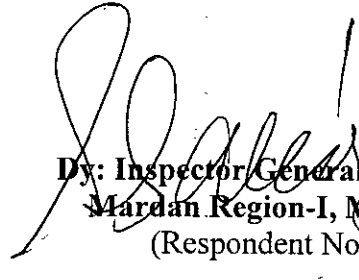
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police, Mardan Region-I, Mardan
3. District Police Officer, Mardan.....Respondents.

AUTHORITY LETTER.

Mr. Muhammad Shafiq Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 1)**



**Dy: Inspector General of Police,
Mardan Region-I, Mardan.
(Respondent No. 2)**



**District Police Officer,
Mardan.
(Respondent No. 3)**

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Appeal No 221/2015

Bakht Jamil.....Appellant.

V E R S U S

IGP & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the preliminary objections raised by the respondents are incorrect and as such denied. The appellant has got a valid cause of action and locus standi to bring the present appeal, which is well within time and the instant appeal is maintainable in its present form. All necessary parties have been impleaded, the appellant has concealed nothing from this honorable tribunal, has come to this honorable tribunal with clean hands and he is not stopped by his own conduct to bring the present appeal.

REPLY TO FACTS/GROUNDS:-

Comments of the respondents are full of contradictions and are based on malafide. Respondents have failed to show that the appellant did anything that would amount to misconduct. The comments amount to admissions on part of the respondents, as they have failed to deny the plea of the appellant. Respondents have admitted that no charge sheet was communicated to the appellant and have also admitted that no inquiry has been conducted in the matter to find out the true facts and circumstances, which is against the law, rules and principles of natural justice.

Respondents have failed to substantiate their version and bring anything on record in support of allegations leveled against the appellant. In the circumstances the appellant has been punished without any omission

or commission on his part and he has not committed any misconduct. The appellant has been punished for mentioning the true facts in the case diaries which act was not liked by the respondents and they thus were bent upon to remove the appellant from service. Respondents have also not denied the version of the appellant about the relation of the accused party of the case and same is the case of the misapplication of law. The respondents have failed to substantiate their version and bring anything on record in support of their version; as such the impugned orders are not maintainable in the eyes of law.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated: 10-11-18

Appellant
Through
Fazal Shah Mohmand
Advocate Peshawar

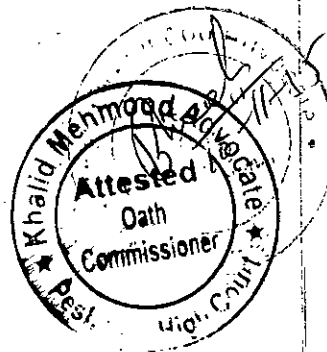
AFFIDAVIT

I, Bakht Jamil Ex Sub Inspector, District Police Mardan, (The Appellant), do hereby solemnly affirm and declare on oath that the contents of this Replication are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by

Fazal Shah Mohmand
Advocate Peshawar.

DEPONENT



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 846 /ST

Dated 20 / 5 / 2016

To


The DIG of Police,
Mardan Region I Mardan.

Subject: -

JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 11.5.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.