

Service Appeal No. 387/2023.

Ahmad Ali, S/o Wali Muhammad, R/o Mohallah Tahan Cham, P/o Lahore Raporay, Tehsil Lahore, District Swabi, Ex-FC# 763 FRP KP, Peshawar Appellant.

VERSUS

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RESPONDENTS

Service Appeal No. 387/2023.

Ahmad Ali, S/o Wali Muhammad, R/o Mohallah Tahan Cham, P/o Lahore Raporay, Tehsil Lahore, District Swabi, Ex-FC# 763 FRP KP, PeshawarAppellant.

VERSUS

PARAWISE REPLY BY RESPONDENTS 1 to 3.

Khyher Pokhtokhwa Service Tribuoal

RESPECTFULLY SHEWETH.

DEATY No. \$65/

PRELIMINARY OBJECTIONS:-

27-10-23

- 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 no cause of action and locus stand to file the instant appeal.
- 4. That the appellant has not come to this Honorable Tribunal with clean hands.
- 5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
- 6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

FACTS:-

- 1. Pertain to the appellant record.
- 2. The respondents are responsible for general administration, welfare as well as to maintain discipline of the whole force in accordance to law/rules.
- Incorrect. The appellant is being a member of discipline force involved himself in a moral turpitude nature criminal offence vide case FIR No. 674 dated 17.09.2021 U/S 9D CNSA Police Station Chota Lahore, District Swabi. Besides, perusal of record reveals that prior to the above case the appellant has also been found involved in same nature criminal case vide FIR No. 84, dated 05.02.2021 U/S 9C CNSA/11ACBSA at the same Police Station, which is sub-judice in the court of law. In fact the appellant was found indiscipline and inefficient Police Officer, which he is fames as a notorious for his evil and criminal activities.
- Incorrect. On the allegations of above the appellant was dealt with proper departmental enquiry and during the course of enquiry his guilt was fully established against him by the Enquiry Officer. It is worth to mention here that the court and departmental proceedings are two different entities and can run side by side. However, after fulfillment of all codal formalities he was awarded major punishment of removal from service by the competent authority as per law.
- 5. The departmental appeal of the appellant was thoroughly examined and rejected on sound grounds.
- 6. Incorrect. The revision petition submitted by the appellant was also thoroughly examined and rejected on sound grounds.

7. The appellant has not come to this Honorable Tribunal with clean hands, hence this appeal being devoid of merits may kindly be dismissed on the following grounds.

GROUNDS:-

- A. Incorrect. On the allegations of criminal case, the appellant was placed under suspension and closed to line. He was proceeded against proper departmentally as he was issued Charge Sheet and Summary of Allegations and DSP HQrs, was nominated as Enquiry Officer. After completion of enquiry, the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charge leveled against him and recommended for major punishment. Upon the findings of Enquiry Officer, the appellant was served with Final Show Cause Notice, to which he replied, but his reply was found unsatisfactory. After fulfillment of all codal formalities, he was awarded major punishment of removal from service as per law/rules.
- B. Incorrect. The bail application of the appellant was rejected by the learned trail court of ASJ Chota Lahore, and later on he was released by the Peshawar High Court Peshawar, on bail, but not exonerated from the charges leveled against him.
- C. Incorrect. The appellant was proceeded against proper departmentally and the allegations leveled against him were proved during the course of enquiry, without any shadow of doubt. Moreover, the court and departmental proceedings are two different entities and can run side by side. As such the earlier enquiry against the appellant regarding to his first time involvement in criminal case was kept pending till the final decision of court concerned, but he did not mend his way and again involved himself in the instant moral turpitude nature offence hence, for maintaining of discipline in force the competent authority is compelled to imposition the suitable punishment upon the appellant.
- D. Incorrect. Upon the findings of enquiry officer, the appellant was served with Final Show Cause Notice, to which he replied, but his reply was found unsatisfactory. (Copies of Final Show Cause Notice and his reply attached herewith as annexure "A & B"). Besides, the appellant was summoned and heard in person, but he failed to present any Justification before the competent authority.
- E. Incorrect. In fact, the appellant having an exceeding bad reputation in the police department as he was two times involved himself in the moral turpitude nature offenses, which he is notorious for his evil and also a black stigma on the face of Police Department. Besides, perusal of his service record reveals that the appellant is found inefficient and a habitual absentee as he is remained absent from his lawful duty for a period of 64 days, without any leave or prior permission of the competent authority, which he was awarded different punishments and in this regard there are 03 bad entries with no good entry in his credit.
- F. Incorrect. As the appellant was dealt with proper departmentally under the relevant law i.e Police Rules 1975 (amended in 2014). He was issued Charge Sheet alongwith Summary of Allegations and Enquiry Officer was nominated to dig out the actual facts. During the course of enquiry, the Enquiry Officer found him guilty of the charges leveled against him and recommended for major punishment. (Copies of Charge Sheet, enquiry report and his reply attached herewith as annexure "C, D & E"). Upon the findings of Enquiry Officer he was

- served with Final Show Cause Notice to which he replied, but his reply was found unsatisfactory. After fulfillment of all codal formalities, the appellant was awarded major punishment of removal from service.
- G. Incorrect. The allegations are false and baseless. The appellant being involved in a moral turpitude nature offence was placed under suspension and closed to line. He was dealt with proper departmentally under the existing law/rules and the allegations leveled against him were fully established by the enquiry officer during the course of enquiry. Since no illegality or misuse of powers as a public servant has been exercised and all procedure and rotation took placed in accordance to law, rule, and policy in vogue. Hence, the appellant absolutely treated in accordance to law/rules as the mandatory provision of law has already been adopted by the respondents in the case of appellant accordingly.
- H. Incorrect. The respondents have not committed with any violation of the Constitution of Islamic Republic of Pakistan in the case of appellant as the action so far taken against the appellant is not conflicted with any law/rules. Moreover, neither the appellant was treated discriminatory manner, nor deprived from his legal right. Besides, for disposal of departmental appeal submitted by the appellant, the relevant record were obtained and the appellant was summoned and heard in person by appellate authority in orderly room held on 20.01.2022, but he failed to advance any cogent reason for rebuttal of the charges leveled against him. Hence, a speaking order of rejection was passed in accordance to law/rules and a copy of such order has also been endorsed to the appellant vide order Endst; No. 59-61/PA, dated 25.01.2022. As such the respondents have not committed with any violation of justice or law/rules, hence the instant service appeal liable to be dismissed.
- The respondents may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.

Deputy Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 01)

Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 02)

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

(Respondent No. 03)

FINAL SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

I. Deputy Commandant, FRP, KPK as competent authority do hereby serve you Constable Ahmad Ali No. 763 of FRP/HQrs, Peshawar.

- That consequent upon the completion of enquiry conducted against you (1) iby DSP FRP HQrs: Peshawar for which you were given full opportunity of hearing, but you failed to submit reply in response to the Charge sheet/statement of allegation and recommend you for Major punishment.
- On going through the findings/recommendations of the Enquiry Officers, iithe material available on record and other connected papers I, am satisfied that you have committed the following acts/omissions per Police Rules 1975.

You Constable Ahmad Ali No. 763 of FRP HQrs: Peshawar being involved in criminal case vide FIR No. 674 dated 17.09.2021 u/s 9DCNSA at PS Chota Lahore District Swabi and absented from lawful duties w.e.from 12.09.2021 to 21.10.2021 for the total period of (38) days without any leave/permission of the competent authority. In this connection an enquiry was entrusted to DSP FRP HQrs: Peshawar, who after enquiry recommend you for punishment.

- Therefore, I, Deputy Commandant, FRP, KPK as competent authority has (2) tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said Rules.
- You are, therefore, required to Final Show Cause as to why not the aforesaid (3) penalty should not be imposed upon you.
- If no reply to this Final Show Cause Notice is received within fifteen days of it (4) delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently ex-parte action shall be taken against you.

Deputy Commandant.

Frontier Reserve Police,

Khyber Pakhtunkhwa, Peshawar.

/PA, Dated

15 / 11 /2021

ED Sudges je Empilere

14.763 1 18 121 FEW 101 وكوالرم معوله عامل سرط رول الارم صاحبي كايرس به الم ووص ورمد ون اون ال دا كوورا فورون كالم 1517-09-0217102674. 1 il , Los GDCNSA 13, 6 m 17, 13, 29 Jan 19: 1 July 19! - 15 h ورور دول کا ۔ اِس و کی سے کمانا کر سے حوالی کا ا yn Ufor DUS Him Syrphin in Co 1/2 d/ a/2/05/21/2/09 3 ph 19/9 (TW/ CU i love 1/ W 1 /5/ (10 2/12) CMB Low 1 1 0 301 TUT 19 Uf WI replie, Fill 1212 Attasted

- 1

CHARGE SHEET U/S 6(1) (A) POLICE RULES 1975. (6)

As reported by LO FRP HQrs: Peshawar vide FIR No. 674 dated 17.09.2021 that constable Ahmad Ali No. 763 of FRP HQrs: Peshawar. Being involved in case vide FIR No.674 dated 17.09.2021 u/s 9DCNSA Police Station Chota Lahore, Constable Ahmad Ali No. 763 of FRP HQrs: Peshawar is hereby suspended and closed to Police Lines FRP HQrs: with immediate effect. Besides, he also absented himself from duty with effect from 12.09.2021 till to date.

You are hereby called upon to submit your written defense against the above charges before the enquiry officer.

Your reply should reach the Enquiry Officer within seven (7) days from date of receipt of this Charge Sheet, failing which ex-parte action shall be taken against you.

Summary of allegations enclosed herewith.

Deputy Commandant Frontier Reserve Police

Khyber Pakhtunkhwa Peshawar

ا مومس ولد ولی فحر کی هر این و تالایور می این

0310 8690456 Atteted +916201-9727397-5

بان آذان كنسفيبل احمد على FRP/HQrs 763 پشاور

جناب عالى!

بحوالہ چارج شیف وسمری آف الیگیشن مجاربہ جناب ڈپٹی کمانڈنٹ ایف آرپی کے KP معروض فدمت ہوں کہ من سائل پر جھوٹا مقدمہ بحوالہ FIR علت نمبر 674 ہجرم 9D-KPCNSA مور ند FIR عانہ جھوٹالا ہور من سائل پر جھوٹا مقدمہ بحوالہ جسمیں من سائل مور ند 18.09.2021 پر سنٹرل جیل صوابی بیجوایا جا کر مور ند 15.10.2021 فضلع صوابی درج ہو چکا ہے جسمیں من سائل مور ند 18.09.2021 پر من سائل کا بعد الت جناب جسٹس سید محمد عثیق شاہ صاحب نے ضانت منظور کر کے من سائل کو جیل سے رہا ہونے کے احکامات پر من سائل کا بعد الت جناب جسٹس سید محمد عثیق شاہ صاحب نے ضانت منظور کر کے من سائل کو جیل سے رہا ہونے کے احکامات صادر فرمائیں ہیں۔ من سائل کی والدہ صاحبہ بیار تھی جس کی وجہ سے من سائل مور ند 12.09.2021 سے ابنی ڈبو ٹی سے قاصر رہا۔ من سائل ایک غریب گھرانے سے تعلق رکھتا ہوں ، میر سے اور میر سے والدین کا میر کی تخواہ کے علاوہ دو سراکوئی ذریعہ معاش نہیں ہے۔

لہذاآپ صاحبان سے بذریعہ درخواست ہذاالتماس ہیکہ من سائل کی ہے گناہی بمطابق عدالتی کاروائی مان کر من سائل کی غیر عاضری کورخصت میں شار کرنے اور جھوٹے مقدے میں ملوث ہونے کی وجہ سے سینشن معطلی سے بحال کرنے کے احکامات صادر فرمائیں۔

کرسیا کے اسل کسٹیبل احمد علی نمبر 763 انف آرپی ہیڈ کوارٹر پیٹا ور۔ آپکاتا بع فرمان کنسٹیبل احمد علی نمبر 763 انف آرپی ہیڈ کوارٹر پیٹا ور۔

صوراً إلى تمبر: ١٤٥٥ ١٤٦٤ ١٥٥٠

16201-3071581-3 : CNIC

Atteston 92

انكوائرى ربورث

جناب عالى!

بحوالہ مشمولہ انگوائری کاعذات برخلاف کنسٹیبل احمہ علی نمبر 763 ایف آرپی ہیڈ کوائر پشاور معروض خدست ہوں کہ بحوالہ نظمہ 15 روز نامچہ FRP/HQrs 763 لئن افسر ایف آرپی ہیڈ کوائر پشاور نے اطلاع رپورٹ درج روز نامچہ کی ہے جس میں درج ہیکہ "کنسٹیبل احمہ علی 17.09.2021 پشاور مور خد 17.09.2021 جرم 9DCNSA کاو گرام چرس ففانہ چھوٹالا ہور مین گرفتار ہو کر رپورٹ درج رجسٹر ہو چکا ہے جبکہ نذکورہ بخوالہ نظمہ 16 روز نامچہ 12.09.2021 سے لائن روز نامچہ FRP/HQrs میں بدستور غیر حاضر ہے۔ "

متذکرہ نظمدر پورٹ پر جناب ڈپٹی کمانڈنٹ صاحب ایف آر پی الا کہ پشاور نے کنٹ بیسل احمد علی نمبر 763 ایف آر پی ہیڈ کواٹر پیشاور کو معطل لائن کرکے مذکورہ کے خلاف چارج شیٹ وسمری آف الیکشن جاری فرماکر کاغذات بغرض انکوائری من DSP ہیڈ کوارٹر ایف آر پی ہیڈ کواٹر پشاور کو حوالہ کئے۔

اندریں سلیلے میں کنسٹیبل احمد علی نمبر 763ایف آرپی ہیڈ کواٹر پشاور پر چارج شیٹ وسمری آف الیکٹن بذریعہ DHC شاکراللہ حسب ضابطہ تقتیم کی گئی اور دفتر ہذا طلب کر کے مذکورہ نے اپنا تحریری بیان پیش کیا جس کا خلاصہ ذیل ہے۔

غلاصه بیان FC احماعلی نمبر 763 ایف آر پی میله کواٹریشاور: ـ

ند کورہ نے اسپنے بیان میں لکھاہیکہ کہ اس پر جھوٹا مقدمہ بحوالہ FIR علت نمبر 674 بجرم 9D-KPCNSA مور خد 17-09-09-11 تھانہ بچھوٹا لاہور ضلع صوائی درج ہو چکاہے جسمیں مور خد 18.09.2021 پر سنٹرل جیل صوائی بھجوایا جاکر مور خد 15.10.2021 پر ند کورہ کا بعدالت جناب جسٹس سید تحد عثیق شاہ صاحب نے صانت منظور کرکے جیل سے رہاہونے کے احکامات صادر فرمائیں ہیں۔ نہ کورہ کی والدہ صاحبہ بیار تھی جس کی وجہ سے وہ مور خد 12.09.2021 سے اپنی ڈیو ٹی

اس سلسلے میں CIO قعانہ چھوٹالا ہور ضلع صوابی ہے متذکرہ کیس کے بابت پرا گرس رپورٹ طلب کی گئی جس نے کاخلاصہ ذیل ہے۔

خلاصہ مج اسم من رورے CIO تھانہ چھوٹالا ہور طبلع صوائی: ند کورہ نے اپنی رپورٹ میں لکھاہیکہ کنسٹیبل احمد علی نمبر 763 ولد ولی محمد سکند چھوٹالا ہور ضلع صوائی سے خلاف بحوالد علت نمبر 674 ہرم 9DCNSA مور خد 17.09.2021 تھانہ چھوٹالا ہور ضلع صوائی میں حسب ضابطہ کر قار ہو کر جسکے قبضہ صوائی سے 40 عدد پیکٹ کل وزنی 4055 گرام پر س برآمد ہو کر فہ کورہ کو مش الزمان خان SI نے 70 یوم حراست پولیس کیلئے پیش عدالت کر کے حراست پولیس منظور نہ ہو کر داخل جیل ہو کر مور خد 22/09/2021 کو بعدالت ASJ صاحب لا ہور نے ند کورہ کا عنانت خارج کیا۔ علادہ ازیں فہ کورہ بالاپر قبل ازیں بھی منظور نہ ہو کر داخل جیل ہو کہ مور خد 25/02/2020 ہودے 11 محد مدادر جو جس میں مقد مدورج رسم ہوچکا ہے جس میں فہ کورہ عنانت برہے اور مقد مدھداعدالت میں زیر ساعت ہے۔ ریورٹ امراہ لف ہے۔

یہاں یہ امر قابل ذکرہے کہ کنسٹیبل احمد علی 763 بوالہ نظرہ 12/09/2021 ہے FRPہڈ کواٹر لائن میں غیر حاضرے اور مور خد 15/10/2021 کو پٹاور ہائی کورٹ سے صاحت پر ہاہو کر برطابت نظرہ 15 روزنامچہ 17/10/2021 پر FRPہڈ کواٹر لائن میں حاضری کی ہے

جناب عالى!

دوران اکوائری معلوم ہوا کہ کنسٹیبل اجد علی نمبر 763 ایف آر پی ہیڈ کواٹر پٹاور کے خلاف بحوالہ مقدمہ علت نمبر 674 جرم -9D مورخہ CNSA مورخہ 17.09.2021 تھانہ چھوٹا لاہور ضلع صوابی میں درج ہوئی ہے۔ مقدمہ ہذا میں کنسٹیبل مذکورہ باضابطہ کرفتار ہو کر مورخہ 18.09.2021 کو پابند جیل ہو کر جیل میں کل 26 یوم کرارنے کے بعد جسٹس عثیق شاہ پٹاور ہائی کورٹ سے مورخہ 15.10.2021 پر مفانت منظور ہو کر رہاہو کیا۔ عدالتی کا غذات ہمراہ لف ق بل ملاحظہ ہے۔

۔۔۔ برطابق پرامکرس رپورٹ CIO تھانہ چھوٹا لاہور ضلع صوابی کنسٹیبل احمد علی نمبر 763 کے خلاف اس سے قبل بھی بحوالہ علت 84 سور نے (9C-CNSA/11ACNSA بجرم 95.02.020 تھانہ چھوٹالا ہور ضلع صوابی میں ملوث رہ چکاہے۔ جسمیں مذکورہ ضائت پرہے۔

Attested

(E/2 " (۴)

كنستيبل احمد على نمبر 36 مور خد 12/09/2021 سے 21/10/2021 كك كل 38 يوم غير عاضرره چكاب اور لائن الف اآر لي بيذكوار ثر میں موجود آن ڈیوٹی ہے۔متذکرہ کیس میں کنسٹیبل احمد علی نمبر 763 پشاور ہائی کورٹ سے صانت پر دہااور کیس عدالت میس زیر ساعت ہے۔ چونکہ ند کورہ اس سے پہلے بھی ای قشم کے کیس میں ملوث رہ چکاہے۔ ڈسپلن فورس کا حصہ ہونے کے ناطے مذکورہ کابیہ فعل قابل سزاہے۔لہذا کنسٹیبل احمد علی نمبر 763 کی عرصه غير حاضري كل 38 يوم كوبلا تنخواه كرنے اور سزادينے كى سفارش كى جاتى ہے- باتى تھم انسران بالا إفضل ہے-

> بآرني ميذ كواثر يشاور 29/21

submetter that the The case proceeded further in of secommedation of

officer Pl.

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AFFIDAVIT

We respondents No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of our knowledge and belief that nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/costs.

Deputy Commandant FRP, Khyber Pakhtunkhwa, Peshawar

(Respondent No. 01)

Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 02)

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

(Respondent No. 03)

ATTESTED

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AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 3 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.

Deputy Commandant FRP,

Khyber Pakhtunkhwa, Peshawar

(Respondent No. 01)

Commandant FRP,

Khyber Pakhtunkhwa, Peshawar (Respondent No. 02)

Inspector General of Police, Khyber Pakhtuaktiwa, Peshawar (Respondent No. 03)

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