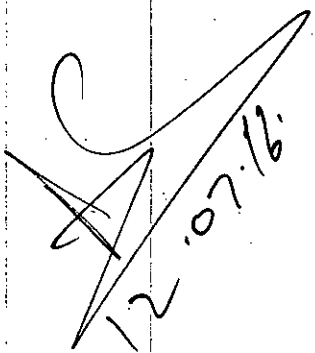


S.No. of proceed ings .	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	12.07.2016	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> CAMP COURT SWAT</p> <p style="text-align: center;">Service Appeal No. 1227/2014</p> <p>Rafiullah Versus Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Counsel for the appellant and Mr. Khawas Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents present.</p> <p>2. Mr. Rafiullah, ASI District Swat hereinafter referred to as the appellant has preferred the instant appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against final order dated 26.09.2014 passed by the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar vide which departmental appeal of the appellant against the adverse remarks recorded in the Annual Confidential Report of the appellant for the period commencing from 14.04.2012 to 31.12.2012 was rejected.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was initially appointed as Constable and with the</p>


12.07.16.

passage of time, promoted as ASI. That while performing his duties as ASI adverse remarks in his ACR for the period commencing from 14.4.2012 ending on 31.12.2012 were recorded by the District Police Officer, Swat in the following manners:-

"I do not agree with the reporting officer. He is the most corrupt officer. He is sitgma at the face of District Swat Police."

The said remarks were recorded by the District Police Officer when the report submitted to him by the Deputy Superintendent of Police, Swat in the following manners:-

"A competent Police Officer. Knows police job very well and well conversant of how to solve complex issues."

4. Learned counsel for the appellant has argued that the adverse remarks referred to above were neither fair nor based on actual appraisal of performance of the appellant. That neither any counselling was ever made nor any warning ever issued to appellant nor he ever subjected to any enquiry or probe for such acts or omissions on his part. That the said Reporting Officer has found and reported the appellant as hard working police officer knowing his job well in his subsequent analysis recorded in ACR for the period commencing from 1.1.2013 to 19.5.2013.

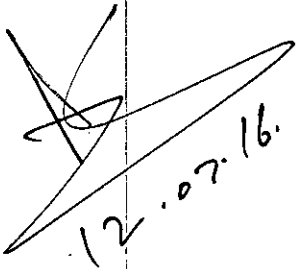
5. Learned Senior Government Pleader has argued that the remarks were recorded by the Countersigning Officer after taking

12.07.16.

into account the over all performance of the appellant and that the same cannot be expunged by this Tribunal for any technical omission or reason. That the same were recorded after fulfilling the codal formalities essential for recording and conveying such remarks.


5. We have heard arguments of learned counsel for the parties and perused the record.

6. Perusal of record placed before us including earlier ACRs of the appellant rights from the year 2010 upto 2013 would suggest that the appellant has earned no adverse entry and was found an obedient and intelligent hard working and good police officer. Even in the subsequent report for the period from 1.1.2013 to 19.6.2013 the reporting officer has categorized the appellant as a hard working police officer and knowing his job very well. The appellant was never subjected to any probe for the allegations of corruption. He is neither counselled nor warned nor any other material supporting the remarks was placed before us. The remarks may not hold ground more particularly when the same police officer has subsequently reported the appellant as a hard working police officer and knowing his job very well. Reliance was placed on case-law reported as 2007-SCMR-1251 according to which adverse remarks against a civil servant having a long tenure of service of about 23 years but earning no adverse entries etc. except the one in question were expunged and the august


12.07.16.

Supreme Court of Pakistan dismissed appeal against the judgment of the Service Tribunal. The appellant was initially appointed as constable and has earned no adverse entry in the entire career of his service spreading over a period of 24 years and as such his case is at par with the reported case referred to above.

7. Keeping in view the afore-stated circumstances and case-law we are left with no option but to accept the instant appeal and set aside the impugned order passed by the appellate authority and expunge the adverse remarks recorded in the ACR of the appellant for the period commencing from 14.4.2012 to 31.12.2012. Orders accordingly. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Azim Khan Afridi)

Chairman
Camp Court, Swat.

12.07.16.

ANNOUNCED

12.07.2016


04.11.2015

Appellant with counsel and Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Sr.GP for respondents present. Arguments could not be heard due to non-availability of D.B. To come up for final hearing before D.B on 2.2.2016 at Camp Court Swat.


Chairman
Camp Court Swat

02.02.2016

Counsel for the appellant and Mr. Khawas Khan, SI (legal) alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present. Learned Sr. GP seeks adjournment. To come up for final hearing before D.B on 12.07.2016 at Camp Court Swat.


Chairman
Camp Court Swat


Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____ 1227/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/10/2014	<p>The appeal of Mr. Rafiullah presented today by Mr. Aziz-ur-Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	17-10-14	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up there on <u>05-01-2015</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
	5-1-15	<p><i>counsel for the appellant present</i> <i>The Tribunal is incomplete. To come up for preliminary hearing at camp court Swat on 02-03-2015</i></p> <p style="text-align: right;"><i>[Signature]</i> Rashid</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service appeal No. 1227 of 2014.

Rafi Ullah ASI No.741, currently posted at Police Station Kabal, District Swat.....Appellant.

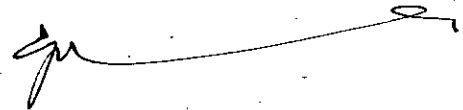
Versus

The Provincial Police Office Khyber Pakhtunkhwa and Others Respondents.

INDEX

S.No	Description of Document	Annexure	Page (S)
1	Service appeal	1 to 4
2	Affidavit	5
3	Addresses of Parties	6
4	Copy of the Adverse ACR	A	7 to 8
5	Copy of the Appeal	B	9 to 10
6	Copy of the ACRs	C	11 to 15
7	Copy of the memo dated 26-09-2014	D	16-16A
8	Wakalat Nama	17

APPELLANT THROUGH



AZIZ UR RAHMAN
Advocate High Court Swat
Khan Plaza Gulshan Chowk
Mingora District Swat.
Contact No.03009070671

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1227 of 2014

Rafiullah ASI No. 741, currently posted at Police Station
Kabal, District Swat.

...Appellant

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.
2. The Deputy Inspector General of Police Malakand
Range, at Saidu Sharif, District Swat.
3. The District Police Officer, at Gulkada District
Swat.

...Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
ORDER NO. 3225/14 DATED
PESHAWAR THE 26-09-2014, RECEIVED
ON 30-09-2014, WHEREBY THE APPEAL
OF THE APPELLANT REGARDING THE
EXPUNCTION OF THE ADVERSE
ENTRIES MADE IN HIS SERVICE
RECORD AGAINST THE LAW, RULES,
FACTS AND SHARIAH, HENCE LIABLE
TO BE SET ASIDE AND THE ADVERSE
ENTRIES MADE BE EXPUNGED FROM
THE SERVICE RECORD OF THE
APPELLANT.

PRAYER:

THAT ON ACCEPTANCE OF THIS
APPEAL BOTH THE ORDER

IMPUGNED MAY VERY KINDLY BE SET
ASIDE BEING AGAINST THE LAW,
RULES AND FACTS AND THE ADVERSE
ENTRIES MADE IN THE SERVICE
RECORD OF THE APPELLANT BE
EXPUNGED AS WELL.

Respectfully Sheweth:

Facts:

- i. That the appellant is regular employee of the Police Force and is performing his duties with utmost zeal, vigor and honesty to the satisfaction of the authorities.
- ii. That the appellant punctually performed his duties even in the days of insurgency in District Swat and that too with un-shattered bravery.
- iii. That the appellant was communicated the adverse entries in his ACR for the year 2012, i.e. for the period from 14-04-2012 to 31-12-2012, vide memo No. 423/AS, dated Saidu Sharif the 23-10-2013. Copy is enclosed as Annexure "A".
- iv. That feeling aggrieved of the adverse entries as the same were made without fulfilling the codal formalities, the appellant preferred an appeal for the expunction of the same. Copy of the appeal is enclosed as Annexure "B".
- v. That the appellant has very clean and excellent service record, which is clear from the ACRs prior and after the period of which the adverse

entry is being made against the law, rules and facts. Copy of the ACRs are enclosed as Annexure "C".

- vi. That the appeal of the appellant was rejected vide order No. 3225/14 dated Peshawar the 26-09-2014, received on 30-09-2014. Feeling aggrieved of the same this appeal on the following grounds. *copy is enclosed as Annexure "D".*

Grounds:

- a. That the appellant is not being treated in accordance with the law. That before making the adverse entries in the service record, the appellant was not neither warned nor counseled, thus the law and rules on the subject have been done away with.
- b. That established rights of the appellant have been infringed without recourse to the established principles and guidelines.
- c. That the respondents have condemned the appellant as unheard without digging the facts and made the adverse entries in a very hush hush manner.
- d. That the respondents have misused the authority vested in them and used the same in a very colorful and classical way.
- e. That the appellant is an honest official of the Police Force and has served the force with great integrity and will do so in future as well.

f. That the appellant has committed no act of commission or omission which may constitute any offence under any law.

It is, therefore, very respectfully prayed that on acceptance of this appeal the order impugned may very kindly be set aside and the adverse entries made may be expunged.

Any other relief deemed appropriate may also very kindly be granted.

Appellant
Raffiullah
Raffiullah

Through Counsels,
Aziz-ur-Rahman
Aziz-ur-Rahman

Imdad Ullah
Imdad Ullah
Advocates Swat

5

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2014

Rafiullah ASI No. 741, currently posted at Police Station
Kabal, District Swat.

...Appellant

VERSUS

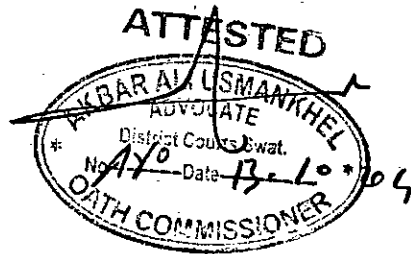
The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents

AFFIDAVIT

I Rafiullah state on Oath that all the contents of this
appeal are true and correct to the best of my knowledge and
belief and nothing has either been misstated or concealed
before this Honourable Tribunal.

Deponent
Rafiullah



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2014

Rafiullah ASI No: 741, currently posted at Police Station
Kabal, District Swat.

...Appellant

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents

ADDRESSES OF THE PARTIES

Appellant:

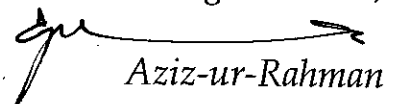
Rafiullah ASI No: 741, currently posted at Police Station
Kabal, District Swat.

Respondents:

1. The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.
2. The Deputy Inspector General of Police, Malakand
Range, at Saidu Sharif, District Swat.
3. The District Police Officer, at Gulkada District
Swat.

Appellant

Through Counsel,


Aziz-ur-Rahman

Advocate Swat

8730

Annexure "A"

24/10/13

7

From : The Regional Police Officer,
Malakand, at Saidu Sharif, Swat.

To : The District Police Officer, Swat.

No. 123 /AS, dated Saidu Sharif, the 23-10 /2013.

Subject: ANNUAL CONFIDENTIAL REPORT (COMMUNICATION OF ADVERSE REMARKS).

Memorandum:

In the Annual Confidential Report on the working of ASI Rafiullah for the period from 14/04/2012 to 31/12/2012, it has been mentioned that:

Class of the report:	"A"
1. Remarks of the reporting officer	A competent Police Officer knows Police job very well and well conversant of how to solve complex issues.
2. Remarks of the 2 nd reporting Officer	I do not agree with the reporting Officer. He is the most corrupt Police officer. He is stigma, at the face of District Swat Police.
Remarks of the countersigning officer	Please convey as adverse.

The above adverse remarks may please be conveyed to the Officer concerned in Order that he may remedy the defects. Representation if made should be sent not later than one month from the date of receipt of this communication.

The acknowledgement in token of the receipt of Memo: may please be obtained from him on the attached duplicate copy of this communication and sent to this office for record in his CR dossier.

Duplicate ACK Incls (1)

[Signature]
 Regional Police Officer,
 Malakand, at Saidu Sharif, Swat.

DSP/Kabal

Copy of The adverse remarks may be served upon the officer concerned and the second copy after obtaining his signature may be returned to this office.

ATTESTED

[Signature]
Advocate

DPO/Swat

8
SUBMITTED

NO.13-17

POLICE DEPARTMENT

KPK .POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2012.

Name, Provincial or Range No. Rank and Grade	ASI RAFI ULLAH
Father's Name	SHAHI BOSTAN
Where and on what duties Employed during the past 12 months	14-04-2012 to 31-12-2012 Police Station Mingora
Class of Superintendent of Police's Report, i.e "A" or "B"	A
Is he honest?	No. Complaint
Remarks by:- (1) Superintendent of Police, (2) Regional Police Officer, Malakand at Saidu Sharif Swat.	<p>A Competent police officer known police jobs very well and will take care of local to solve complex issues.</p> <p>(Amjad Ali Khan) DSP City Swat. 14-04-2012 to 31-12-2012</p> <p>I do not agree with the reporting officer</p> <p>(GUL AFZAL AFRIDI) District Police Officer, Swat 14-04-2012 to 31-12-2012</p> <p>Advocate, ... Vide This Office Memo 403/AS 23/10/2013 No. Date</p>
<p>I do not agree with remarks of reporting officer. He is the most corrupt police officer. He is a stigma at the face of Dist Swat police.</p> <p>(Signature)</p> <p>He convey an adverse</p> <p>(Signature)</p>	

AKHTAR HAYAT KHAN
Deputy Inspector General of Police
Malakand Region Swat

ATTESTED
(Signature)
Advocate

جدا علی!

جوالم مشترکہ Adverse Remarks نئی 423/AS

وراء 23/10/2013 ، ڈائری نمبر 87301SB مورخہ 24/10/2013

جی ایچ جی 14 ملاک کنگڈ ریج سرحدی خدمت میں 1991 سے حکم پورس ختم سوات میں خدمات سر انجام دیا ہے

دوران ملازمت حکم کے مختلف پستہ و اہلہ کو سر کرنے

ترقی کے امتیحات کو تیر سکول ٹورس 1998 میں جیم انٹر میڈیٹ

ٹورس 2007 میں پاس کر کے سال 2010 میں بھودہ ASI

ترقیاً بہتر کیا ہے۔ ترقی سے تیکر تاحال رہتا تواری امتیحات

نگن اور جوائنٹمنی سے کر کے افسران بالا کو کسی قسم کی شکایت

کا موقع نہیں دیا ہے۔

جدا علی!

دوران تکسیدہ حالات ساتھ اپنے ڈیوٹی پر فوڈو کا

حالات نامہ دستگیردوں کی طرف بار بار مختلف قسم کی دیکھیا جان

میں سے حقہ نہیں ساتھ کو اس کی پرواہ نہ تھی اور اپنی مدت

وقوم کی عزت اور ناموس جان سے عزیز تھی۔ اس لیے اپنے جان

تعمیناتی پر ڈیوٹی پر جائیم رہ کر اپنے پورس پورس کوئی نہ کوئی

تورسیت ٹورس سے بچا ہے رہا اور صرف یہی ایک پورس پورس

ابھی تک سلامت ہے۔ اس طرح اوائیل ملازمت سے تیکر

تاحال ساتھ نے ختم کا تقریباً ہر ایک میٹن پر ڈیوٹی سر انجام

دیا ہے اور ہمیشہ اپنی عزت نفس کو اپنی جان سے زیادہ عزیز

سمجھ کر نبھایا ہے۔ بد میں دم مانتیں اسلی پورس افسران

من مسائل کو فوڈو خدمات کے ساتھ ساتھ تو ہمیں رہتا ہے یہی

توازا ہے۔ جوتے کار کیا رڈ تو ہے۔

ATTESTED

Advocate

26/01/2013 13

Advocate General's Office
AS1

ATTESTED
Advocate

[Handwritten signature]

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2007 S C M R 1251

[Supreme Court of Pakistan]

Present: Javed Iqbal and Mian Shakirullah Jan, JJ

REGISTRAR, LAHORE HIGH COURT, LAHORE----Appellant

Versus

MUHAMMAD AFZAL KHAN, CIVIL JUDGE, SAHIWAL and another----Respondents

Civil Appeals Nos.1832 and 1833 of 2003, decided on 26th April, 2007.

(On appeal from the judgment, dated 27-2-2003 passed by the Punjab Subordinate Judiciary Tribunal, Lahore in Service Appeals Nos.84 and 85 of 2003).

(a) Punjab Subordinate Judiciary Service Tribunals Act (XII of 1991)---

---S. 3---Constitution of Pakistan (1973), Art.212(3)---Leave to appeal was granted on the ground that judgment of the Tribunal prima facie appeared to be based on certain assumptions which were not sustainable in law.

(b) Civil service---

---Annual Confidential Report---Allegation of bias---Remarks about the performance of an incumbent may be a, subjective evaluation on the basis of objective criteria where substitution for an opinion of the competent authority is generally avoided unless the same is tainted with mala fide, partiality and bias---Annoyance of the Reporting Officer over the insistence of incumbent for vacation of the official accommodation allotted to him (incumbent) can be a factor.

Zahoor Hussain v. Principal of Government College, Sahiwal and others 2005 SCMR 1035 ref.

(c) Civil service---

---Annual Confidential Report---Expunction of adverse remarks---Civil servant having a long tenure of service of about 23 years had not been given any adverse remarks except the one in question---Service Tribunal had given sufficient reasons for the interference by expunging the adverse remarks from the Annual Confidential Reports and no justification existed to differ with the impugned judgment---Supreme Court dismissed the appeal against order of Service Tribunal in circumstances.

Ms. Afshan Ghazanfar, A.A.-G. and Nazar Hussain, Deputy Registrar for Appellant.

Pervaiz Inayat Malik, Advocate Supreme Court for Respondent No.1.

M. Yousaf, (S.O.) Legal for Respondent No.2.

Date of hearing: 26th April, 2007.

JUDGMENT

MIAN SHAKIRULLAH JAN, J.--- The respondent, a member of the District Judiciary was awarded three adverse ACRs. for the period (i) 1-1-1998 to 31-12-1998 (ii) 1-1-1999 to 30-6-1999 and (iii) 1-1-2000 to 5-7-2000 by the Reporting Officer who in the case of first two ACRs was District and Sessions Judge, Jhang while in the case of third ACR, he was Sessions Judge/Judge Accountability Court, Bahawalpur. The said ACRs bearing out endorsement by the countersigning officer, not totally agreeing with the Reporting Officer. The incumbent felt aggrieved of the aforesaid adverse ACRs approached the Punjab Subordinate Judiciary Service Tribunal, Lahore for the expunction of the same through three different Service Appeals bearing Nos.83 to 85 of 2001. All the three appeals were allowed, through, a common judgment, by the Tribunal after finding that he did not deserve at all the adverse remarks. The appellant, Registrar, Lahore High Court, Lahore has filed three separate Civil Petitions Nos.1483-L to 1485-L of 2003. All the three petitions were fixed before this Court for hearing on 8-12-2003 and out of three, one relating to the ACR for the period pertaining to the year 1-1-1998 to 31-12-1998 was dismissed while in two petitions i.e. 1484-L and 1485-L of 2003, leave to appeal was granted on the ground that the judgment of the Tribunal prima facie appears to be based on certain assumptions which are not sustainable in law" and which are now before us for adjudication.

2. Learned A.A.-G. has contended that the remarks of the Reporting Officer are not to be likely interfered with by the Tribunal as it is subjective evaluation on the overall performance, closely watched by the Reporting Officer and when the countersigning authority has not specifically disagreed with him.

3. On the other hand, learned counsel for the respondent, in addition to his other contentions, has raised preliminary objection, as noted in the leave granting order, the question of limitation by stating that the petitions, prior to leave granting order, were hopelessly time-barred. On merits, he has submitted that as evident from the impugned judgment passed on the basis of record of the case that the Reporting Officer was biased having a grievance against the incumbent, who (the respondent), after allotment of official accommodation pressing for its vacation, which was in occupation of the Reporting Officer already transferred from the said station, annoyed him and resulted in the impugned ACRs. The one (ACR) written by another Reporting Officer was on account of communication of the adverse remarks to the respondent, which came to his (Reporting Officer) notice, prior to the writing of the ACR for the period i.e. 1-1-2000 to 5-7-2000, the said Reporting Officer had given the incumbent good remarks, prior to the period i.e. 1-1-2000, i.e. for the remaining six months of the year 1999.

4. The submission of the learned counsel for the respondent on the question of limitation was that since the copy of the judgment had been sent by the Punjab Subordinate Judiciary Tribunal to the appellant on 4-3-2003 and which was received by him on the same day and by counting the period from that date, the filing of petition/appeal became time-barred which position qua the receipt of the copy on 4-3-2003 was not denied by the appellant and it was contended that for filing of the petition/appeal before this Court other documents, apart from the judgment e.g. the grounds of appeals are required to be filed and it was the only impugned judgment which was sent to the appellant not accompanied by other necessary documents and obtaining certified copies of those documents delayed the matter and after getting certified copies of the documents along with the impugned judgment, the petition was filed within time. We inspected the file of this Court and found that the judgment annexed with the grounds/memorandum of petition/appeals bearing the dates as described by the appellant and counting as such the appeal not seems to be time-barred and particularly when three petitions/appeals have been filed against a common judgment and which also requires three separate certified copies of the judgment and the three certified copies of the judgment appears to have not been sent with the covering letter to the appellant. Hence this objection of the learned counsel for the respondent is overruled.

5. One of the petitions pertaining to the period i.e. 1-1-1998 to 31-12-1998 filed by the present appellant was dismissed by this Court on the date when leave to appeal was granted in the instant petition as no substance was found in that petition.

6. Though the remarks about the performance of an incumbent may be a subjective evaluation on the basis of objective criteria where substitution for an opinion of the competent authority is generally avoided unless the same is tainted with mala fide, partiality and bias but which factors are found in the instant case for the reasons, referred to above, as annoyance of the Reporting Officer over the insistence of incumbent for the vacation of the official accommodation allotted to him (incumbent) did exist. The case *Zahoor Hussain v. Principal of Government College, Sahiwal and others* 2005 SCMR 1035 may be referred to. The reasons advanced for the adverse ACRs given by the other Reporting Officer seems to have weight as prior to the ACR in question for a period of the half of the year, good ACR had been given by the same Reporting Officer. It was stated at the bar that the respondent having a long tenure of service about 23 years, had not been given any adverse remarks except the one in question. We do not find the judgment of the Tribunal to be lacking in any aspect as sufficient reasons have been given for the interference by expunging the ACRs and we see no justification to differ with the impugned judgment. Resultantly these appeals have no merit and the same are dismissed. No order as to costs.

M.B.A./R-10/SC

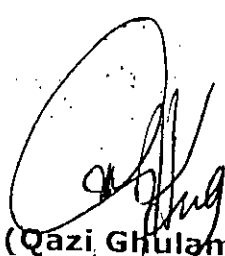
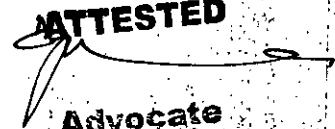
Appeals dismissed.

POLICE DEPARTMENT

NO.13-17

KPK .POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2010.

Name, Provincial or Range No.	ASI Rafiullah
Rank and Grade	
Father's Name	Shahi Bostan
Where and on what duties Employed during the past 12 months	01-01-2010 to 31-12-2010.
Class of Superintendent of Police's Report, i.e "A" or "B"	A
Is he honest?	
Remarks by:- (1) Superintendent of Police, (2) Regional Deputy Inspector General of Police	<p><i>No Complaint.</i></p> <p><i>An Intelligent, Steadfast and hardworking and Good Police Officer.</i></p> <p style="text-align: right;">(Khaista Rahman) SDPO, Barikot</p> <p style="text-align: center;"><i>Agreed.</i></p> <p style="text-align: center;">  (Qazi Ghulam Farooq) District Police Officer, Swat 01-01-2010 to 31-12-2010. </p> <p style="text-align: right;"> ATTESTED  Advocate </p>

12

NO.13-17

POLICE DEPARTMENT

KPK .POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2011.

Name, Provincial or Range No.	ASI Rafiullah
Rank and Grade	
Father's Name	Shahi Bostan
Where and on what duties Employed during the past 12 months	01-01-2011 to 31-12-2011.
Class of Superintendent of Police's Report, i.e "A" or "B"	"A"
Is he honest?	NO Complaint.
Remarks by:- (1) Superintendent of Police, (2) Regional Deputy Inspector General of Police	An intelligent, obedient and hardworking and good officer. (Khaista Rahman) SDPO, Barikot 01-01-2011 to 23-09-2011. Agree with the remarks of SDPO Barikot. (Jehangir Khan) SDPO, City 24-09-2011 to 31-12-2011. (Qazi Guliam Farooq) District Police Officer, Swat 01-01-2011 to 31-07-2011. Good officer (Dilawar Khan-Bangash) District Police Officer, Swat 01-08-2011 to 31-12-2011.

ATTESTED

Admission

13

Police No. 99

G-5&PD (PK. 1559 F.S 500P. of 100-9-12 1990-(62)

NC.13-17

POLICE DEPARTMENT

KPK POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2012.

Name, Provincial or Range No.	ASI RAFI ULLAH
Rank and Grade	
Father's Name	SHAH BOSTAN
Where and on what duties Employed during the past 12 months	From 01-01-2012 to 30-04-2012 I/C POLICE POST KOKARAI
Class of Superintendent of Police's Report, i.e "A" or "B"	"A"
Is he honest?	NO COMPLAINT
Remarks by:- (1) Superintendent of Police, (2) Regional Deputy Inspector General of Police	<p>A competent Police officer. Takes keen interest in job of responsibility. Has a bright future ahead of him.</p> <p>(JEHANGIR KHAN) Deputy Superintendent of Police, City Swat.</p> <p>Agreed</p> <p>(DILAWAR KHAN, BANGASH) District Police Officer, Swat. From 01-01-2012 to 30-04-2012</p>

[Signature]

28/5/2013

Recd ACIR Swat

ATTESTED
[Signature]
Advocate

Police No. 99

GS&PD.KPK.1559 F.S 500P. of 100-9-12 1990-(62)


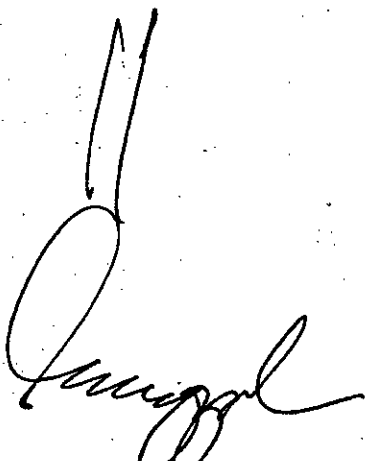

14

NO.13-17

POLICE DEPARTMENT

KPK .POLICE

Annual Confidential Report on the Working of Assistant Sub-Inspector, Sub-Inspector and Inspector for the year ending 31st December 2013.

Name, Provincial or Range No. Rank and Grade	ASI Rafi Ullah
Father's Name	Shahi Bustan
Where and on what duties Employed during the past 12 months	01-01-2013 to 19-06-2013 Police Station Kalam
Class of Superintendent of Police's Report, i.e "A" or "B"	A
Is he honest?	No Complaint
Remarks by:- (1) Superintendent of Police, (2) Regional Police Officer, at Malakand Saidu Sharif, Swat	<p>A hard working Police officer, know his job very well</p> <p> (NAVEED IQBAL) DSP Madyan Swat. 01-01-2013 to 19-06-2013</p> <p> (GUL AFZAL KHAN AFRIDI) District Police Officer, Swat 01-01-2013 to 19-06-2013</p> <p>ATTESTED  Advocate</p>

15

NO.13-17

POLICE DEPARTMENT

KPK.POLICE

Annual Confidential Report on the working of Assistant Sub Inspector, Sub Inspector and Inspector for the year ending 31st December 2013.

Name, Provincial or Range No. Rank and Grade	ASI RAFIULLAH KHAN
Father's Name	SHAHI BOSTAN
Where and on what duties Employed during the past 12 months	24-06-2013 to 31-12-2013 MASI POLICE STATION KABAL
Class of Superintendent of Police's Report, i.e. "A" or "B"	"A"
Is he honest?	No Complaint
Remarks by :- 1) District Police Officer, Swat 2) Regional Police Officer, Malakand Regional, Saidu Sharif, Swat	<p>Hard working & good Police officer</p> <p><i>[Signature]</i> (DSP MUZZKIR SHAH) DSP KABAL SWAT 25-06-2013 to 30-10-2013</p> <p>Efficient and hard Police officer</p> <p><i>[Signature]</i> (DSP KHALID NASEEM KHAN) DSP KABAL SWAT 01-10-2013 to 31-12-2013</p> <p><i>[Signature]</i></p> <p>(SHER AKBAR PSP, SSI) DISTRICT POLICE OFFICER SWAT 24-06-2013 to 31-12-2013</p>

ATTESTED

[Signature]
Advocate

16

449/AS

DT 29/9/2014

Tele Phone No. 091-9210152
Fax No. 091-9213165/9211227

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

The Regional Police Officer,
Malakand at Saidu Sharif, Swat.

1954
30-09-14

No. S/ 3225 /14, dated Peshawar, the 26-09/2014.

Subject: REPRESENTATION FOR EXPUNCTION OF ADVERSE REMARKS

Memo:

Please refer to your letter No. 361/AS, dated 15.07.2014 on the subject cited above.

Representation submitted by ASI/Rafiullah for the expunction of Adverse Remarks recorded in his ACR for the period from 14.04.2012 to 31.12.2012 has been examined and filed by the competent authority.

Moreover original ACR for the period from 14.04.2012 to 31.12.2012 is also returned herewith for your office record.

The Representationist may be informed accordingly.

(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

10/9/14

No 425 /AS DT 30-9 2014

A. S / DPOT Swat
action + To inform the A.S.T.

Regional Police Officer,
Malakand, at Saidu Sharif Swat.
29/9

ATTESTED

Advocate

Better Copy.

16A

Tele Phone No. 091-9210457
Fax No. 091-9213165/9210927

From : The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

To : The Regional Police Officer,
Malakand at Saidu Sharif, Swat.

No. S/ 3225 /14, dated Peshawar, the 26-09 /2014.

Subject:- REPRESENTATION FOR EXPUNCTION
OF ADVERSE REMARKS.


Memo:

Please refer to your letter No. 361/AS, dated 15.07.2014 on the subject cited above.

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Moreover original ACR for the period from 14.04.2012^{31.12.2012} to is also returned herewith for your office record.

The Representationist may be informed accordingly.


(SYED FIDA HASSAN SHAH)
AIG/Establishment
For Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.

ATTESTED

Advocate

17 بعدالت شہید سید سیدنا لیبہ در کتبہ کورہ

کورت فیس قیمت ایک روپیہ

مورخہ 6 اکتوبر 1912ء منجانب سیدنا لیبہ
مقدمہ لکھنے کا نام صورت تحریر
دعویٰ سروی مورخہ
جرم باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ آن مقام لکھنے کو سوا سے ملے / سوز لال محمد کا بعدد اللہ اقرار مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا یہ مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 07 ماہ اکتوبر 1912ء

العبد گداہ شہید العبد
بمقام لیبہ در کتبہ کورہ
کے لئے منظور ہے
by
Mudged

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Service Appeal No. 1227/2014.

Rafi Ullah ASI No. 741

District Swat..... Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand Region, Swat.
3. District Police Officer, Swat..... Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

1. **Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

2. **REPLY ON FACTS.**

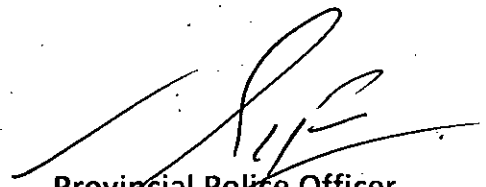
1. Para No. 01 of appeal pertains to record and subject to proof.
2. Para No. 02 of appeal pertains to record and subject to proof.
3. Para No. 03 of appeal pertains to record.
4. Para No. 04 of appeal is incorrect. After fulfilling codal formalities the appellant was communicated adverse remarks.
5. Para No. 05 of appeal is incorrect. The adverse remarks are made on the basis of performance of appellant during the period of his posting with respondent No. 03 who was in better position to evaluate performance of the appellant.
6. Para No. 06 of appeal is correct to the extent of filing appeal, but the same was rejected being meritless.


0-5
01.06.15

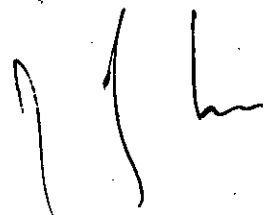
GROUNDS.

- a. Incorrect. Appellant has been treated in accordance with law & rules.
- b. Incorrect. Reply already given vide para above.
- c. Incorrect. Appellant was not condemned unheard, adverse entries were made on the basis of his performance.
- d. Incorrect. The respondents acted as per law.
- e. Incorrect. Appellant proved himself an inefficient Police official during posting period with respondent No. 03.
- f. Incorrect. Reply already given vide para above.

It is therefore prayed that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


Deputy Inspector General of Police,
Malakand Region, Swat
Regional Police Officer,
(Respondent No. 2)
Malakand, at Saidu Swat


District Police Officer, Swat.
(Respondent No. 3)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR SERVICE APPEAL NO. 1227/2014

Rafi Ullah ASI No. 741 District Swat

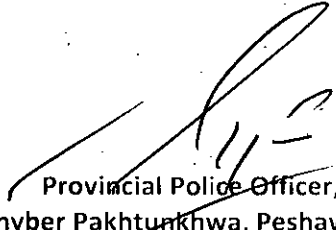
Appellant


VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Swat..... Respondents.

AFFIDAVIT:-

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/belief and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)


Deputy Inspector General of Police,
Malakand Region, Swat, Saidu Sharif.
(Respondent No. 02)
Malakand, at Saidu Sharif Swat.


District Police Officer, Swat
(Respondent No. 03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR SERVICE APPEAL NO. 1227/2014

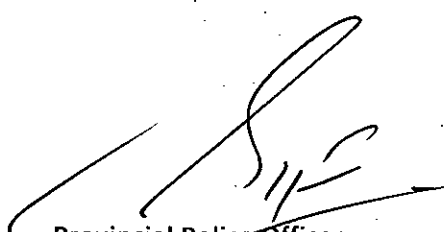
Rafi Ullah ASI No. 741 District Swat
Appellant


VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Swat..... Respondents.

AUTHORITY LETTER:-

We, the above respondents do hereby authorized Mr. Aziz Ur Rahman DSP Legal Swat as representative of Police Department to appeal in the Court on behalf and do the needful in the court.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)


Deputy Inspector General of Police,
Malakand Region, Swat Saidu Sharif.
(Respondent No. 02)
Malakand, at Saidu Sharif Swat.


District Police Officer, Swat
(Respondent No. 03)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1227/2014

Rafiullah ASI No. 741.

...Appellant

VERSUS

The PPO Khyber Pakhtunkhwa and others.

...Respondents

REJOINDER BY THE APPELLANT

Respectfully Sheweth:

Preliminary Objections:

That all the preliminary objections are incorrect, baseless, whimsical and against the law, rules and facts, hence are specifically denied. Moreover the appellant has got a prima facie case in his favour and he has approached this Honourable Tribunal with clean hands well within time and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

On Facts:

- 1. Para 1 of the reply as drafted is admission hence needs no comments.*
- 2. Para 2 of the reply also is admission needs no reply.*
- 3. Para 3 of the reply as drafted amounts to admission as well thus needs no reply.*

4. *Para 4 of the reply as drafted is incorrect and in need of proof, hence is denied.*
5. *Para 5 of the reply as drafted is incorrect, as the same are done in a very mechanical manner, hence the para is denied.*
6. *Para 6 of the reply as drafted needs no comments.*

On Grounds:

- a. *Ground a of the reply as drafted is incorrect and vague, hence denied.*
- b. *Ground b of the reply as drafted amounts to admission, hence needs no comments.*
- c. *Ground c of the reply as drafted is incorrect and based on misstatement, the codal formalities were never fulfilled, hence the para is denied.*
- d. *Ground d of the reply as drafted is incorrect.*
- e. *Ground e of the reply as drafted is incorrect and baseless and is in need of proof, hence denied.*
- f. *Ground f of the reply as drafted is vague and evasive thus needs no reply.*

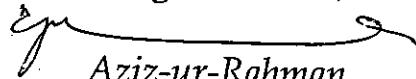
It is, therefore, very respectfully prayed that on acceptance of this rejoinder the appeal of the appellant may very kindly be decided as prayed for originally.

Appellant

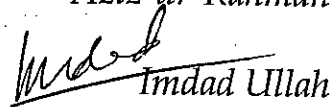


Rafiullah

Through Counsels,



Aziz-ur-Rahman



Imdad Ullah

Advocates Swat

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1227/2014

Rafiullah ASI No. 741.

...Appellant

VERSUS

The PPO Khyber Pakhtunkhwa and others.

...Respondents

AFFIDAVIT

I Rafiullah solemnly state on Oath that all the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has either been misstated or concealed before this Honourable Tribunal.

Deponent


Rafiullah


Identified by:



Aziz-ur-Rahman

Advocate Swat

ATTESTED


Gulzar Bilal Khan Advocate
OATH COMMISSIONER
Distt: Courts Swat.
upto. 18-11-2017

No. 33/ Date 08/04/2015

محفوظات صبر میں صاحب سرورین طرہ سے نقل کیا اور
مکمل سو فی صد لکھ

درخواست لکھ کر تہذیبی تاریخ
صبا عالی

میں ہے یہ سائل 14 اپریل 1227/1227
رفع اللہ ASI سو فی صد مکمل سو فی صد لکھ
اور تاریخ حوالہ 7/12 فور ہے۔

حوالہ سائل کا مرقومین کے مصلح سے ہے DP سو فی
والد ہے اور سائل کے متعلق تاریخ سو فی
کا فرق ہے۔

کے لیے آپ صاحبان کو باہمی و سائل کو ماہ
اپریل تاریخ فور سو فی صد حکم ہمارے مابین
دعا کو رہو گا۔

الارضاء - رفع اللہ ASI اپریل 1227/1227
مکمل سو فی صد لکھ
سو فی صد

DT-2-2-16

کے لیے
بزرگ اور والدین
اپنے

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR
Service Appeal No. 1227/2014.

Rafi Ullah ASI No. 741
District Swat.....

Appellant

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand Region, Swat.
3. District Police Officer, Swat..... Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

1. Preliminary Objections.

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

2. REPLY ON FACTS.

1. Para No. 01 of appeal pertains to record and subject to proof.
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4. Para No. 04 of appeal is incorrect. After fulfilling codal formalities the appellant was communicated adverse remarks.
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6. Para No. 06 of appeal is correct to the extent of filing appeal, but the same was rejected being meritless.

Rafi Ullah ASI No. 741 District Swat

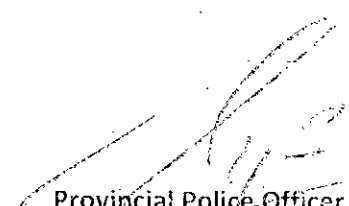
Appellant


VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Swat..... Respondents.

AFFIDAVIT:-

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/belief and nothing has been kept secret from the honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)


Deputy Inspector General of Police,
Malakand Region, Swat Saidu Sharif.
(Respondent No. 02)


District Police Officer, Swat
(Respondent No. 03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR SERVICE APPEAL NO. 1227/2014

Rafi Ullah ASI No. 741 District Swat


Appellant

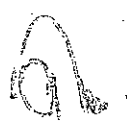
VERSUS

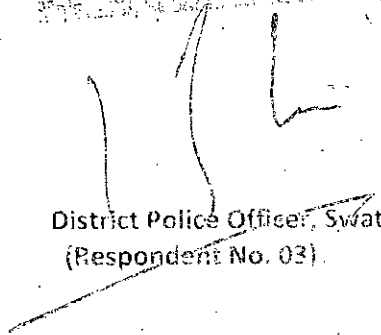
1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar:
2. The Deputy Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Swat..... Respondents.

AUTHORITY LETTER:-

We, the above respondents do hereby authorized Mr. Aziz Ur Rahman DSP Legal Swat as representative of Police Department to appeal in the Court on behalf and do the needful in the court.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No. 01)


Deputy Inspector General of Police,
Malakand Region, Swat Saidu Sharif.
(Respondent No. 02)


District Police Officer, Swat
(Respondent No. 03)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1188 /ST

Dated 25th / 7 / 2016


To

The D.I.G of Police,
Malakand Range at Saidu Shariif Swat.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 12.7.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR -
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.