



31.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sheraz, Head Constable for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 22.10.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member


22.10.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sheraz Khan, Head Constable for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before on 05.12.2018.


Reader

05.12.2018

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 29.01.2019 before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

29.01.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Case called but no one present on behalf of appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


Member


Member

ANNOUNCED.

29.01.2019

287/15

18.12.2017

None present for the appellant. Mr. Muhammad Jan, Deputy District Attorney alongwith Javed Iqbal, SI (Legal) for the respondents present. To come up for arguments on 22.02.2018 before the D.B.



Member



Chairman

22.02.2018

Due to none availability of D.B the case is adjourned. To come up on 26.04.2018 before D.B



Member

26.04.2018

None present on behalf of and Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Muqadar Khan S.I for the respondents present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 11.07.2018.



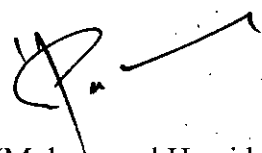
READER

11.07.2018

Clerk to counsel for the appellant and Mr. Sardar Shaukat Hayat learned Additional Advocate General alongwith Muqadar Inspector and Sheraz H.C for the respondents present. Due to general strike of the bar, the case is adjourned. To come up on 31.08.2018 before D.B.



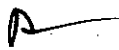
(Ahmad Hassan)
Member




(Muhammad Hamid Mughal)
Member

19.09.2016

No one is present on behalf of the appellant. Addl. AG for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 19-1-17.


Member


Member

19.01.2017


Clerk counsel for appellant and Mr. Javed Iqbal, Inspector (legal) alongwith Mr. Kabirullah Khattak, Assistant AG for respondents present. Clerk counsel for appellant requested for adjournment as counsel for appellant is suffering from fever so, requested for adjournment. Adjournment granted. To come up for arguments on 05.06.2017 before D.B.


(AHMAD/HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

05.06.2017

Clerk of the counsel for appellant present. Mr. Javed Iqbal, Inspector (legal) alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 29.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.09.2017

Clerk to counsel for the appellant and Asst: AG for the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 18.12.2017 before this D.B.


Member


Chairman

31.07.2015

Appellant in person and Mr. Fayaz Khan, Constable alongwith
Addl: A.G for respondents present. Requested for adjournment. To come
up for written reply/comments on 28.10.2015 before S.B.


Chairman

28.10.2015

None present for appellant. Mr. Javed Iqbal, Inspector (legal)
alongwith Addl: A.G for respondents present. Written statement
submitted. The appeal is assigned to D.B for rejoinder and final hearing
for 23.02.2016.


Chairman

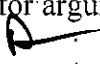
23.02.2016


Appellant in person and Mr. Javed Iqbal, Inspector
(Legal) alongwith Mr. Muhammad Jan, GP for respondents
present. Rejoinder submitted on behalf of the appellant which
is placed on file. Arguments could not be heard due to non-
availability of D.B. therefore, the case is adjourned to
23.05.2016 for arguments.


Chairman

23.5.2016

Clerk to counsel for the appellant and Javed Iqbal,
Inspector alongwith Ziaullah, GP for respondents present.
Clerk to counsel for the appellant requested for adjournment.
Adjourned for arguments on 19.9.2016.


Member


Member

28.04.2015

Junior to counsel for the appellant present. Requested for adjournment. Adjourned for preliminary hearing to 11.5.2015 before S.B.


Chairman

11.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when charged in a criminal case registered under section 302/34-PPC read with 11/12/40 FCR in FIR dated 11.07.2012 registered at Lower Kurram Agency. That the appellant was arrested in the said case and was behind the Bar when dismissed from service on the ground of wilful absence vide impugned order dated 20.09.2013 communicated to the appellant on 22.06.2014 regarding which he preferred departmental appeal on 17.07.2014 which was rejected on 16.03.2015 and hence the instant service appeal on 03.04.2015.

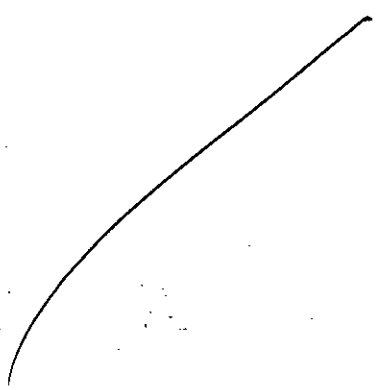
Appellant Deposited
Security & Process Fee



That the absence of the appellant was not wilful, and, furthermore, no enquiry in the prescribed manner was conducted.

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 31.07.2015 before S.B.





Chairman



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 287/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03.04.2015	<p>The appeal of Mr. Waqas-ur-Rehman presented today by Mr. Muhammad Usman Khan Turlandi 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		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-4-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	13.04.2015	<p>None present for appellant. Appeal be relisted for preliminary hearing for 28.4.2015 before S.B. Notice be issued to the counsel for the appellant for the date fixed.</p> <p style="text-align: right;"> Chairman</p>

(1)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

In Ref; to Appeal No. 287 of 2015.


Waqas-ur-Rehman Ex-Constable.....**Versus**.....I.G Police & others

INDEX

S.No.	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE
1.	Main Service Appeal along with Affidavit.	----	2-7
2.	Copy of the complaint/FIR dated 11-07-2012	"A"	8
3.	Complete challan/Final Report dated 25-09-2012	"B"	9-10
4.	Copy of the charge sheet/summery of allegation	"C"	11-12
5.	Copy of the Final showcause notice	"D"	13
6.	Reply given by the parents of appellant.	"E"	14
7.	Copy of the order of reference	"F"	15
8.	Copy of the compromise deed	"G"	16
9.	Copy of the order/judgment passed by PA Kurram	"H"	17
10.	First Impugned order dated 20-09-2013 communicated to the appellant on 22-06-2014.	"I"	18
11.	Copy of the department appeal	"J"	19-20
12.	Copy of the final impugned order	"K"	21
13.	Vokatnama in original	----	22

APPELLANT.

Through



Muhammad Usman Khan
Turlandi
Advocate Peshawar.

Dated; __/04/2015.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

In Ref; to S. Appeal No. 287 / of 2015.

K.P.K. Province
Service Tribunal
Diary No. 296
Dated 03-4-2015

Waqas-ur-Rehman Ex-Constable No. 1096, Platoon No. 43 Elite Force, Khyber Pakhtunkhwa, Peshawar and S/O Speen-ur-Rehman R/O Mohallah Bazokot, Tall Tehsil and District Hangu.

.....**APPELLANT.**

VERSUS

- 1) Inspector General of Police/ Provincial Police Officer, Khyber Pakhtunkhwa, Central Police Office Peshawar.
- 2) Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar
- 3) Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.....**RESPONDENTS.**

Appeal U/S 4 of the KPK Service Tribunal Act, against the impugned order bearing No. 3148/EF, dated 16-03-2015 passed by the respondent No. 3 whereby the departmental representation of the appellant for reinstatement in his services was rejected and the major penalty of dismissal from service awarded/passed by the respondent No. 3 vide office order No. 13157-66/EF dated 20-09-2013 was upheld.

PRAYERS:-

On acceptance of this appeal the impugned order passed by the respondent No. 3 dated 16-03-2015 may be set-aside whereby the departmental appeal filed by the appellant for reinstatement in service was rejected and the major penalty of dismissal from service awarded/passed by the respondent No. 3 dated 20-09-2013 was upheld and the appellant be re-instated in service as constable with all back benefits, seniority and allied allowances.

3/4/15

RESPECTFULLY SHEWETH:-

- 1) That since the appellant enlisted as constable in Police Department, District Hangu in the year 2007 and later-on, was transferred to Elite Force, Khyber Pakhtunkhwa Peshawar and was working with great zeal and enthusiasm.
- 2) That the appellant along with one other accused were charged U/S 302/34 PPC read with 11/12/40 FCR vide complaint/FIR dated 11-07-2012, authored by the Political Muharror Chappri, Lower Kurram and were committed to judicial lock-up/sub-jail Sadda Kurram Agency. (Copy of the complaint/FIR is annexure "A").
- 3) That complete Challan was put in court for final decisions of the case vide final report dated 25-09-2012 which is annexure "B".
- 4) That during his confinement, the appellant was served upon with a charge sheet and summery of allegations wherein the appellant was shown absent from duty without any leave or prior permission w.e.f 10-07-2012 till the date of communication of charge sheet dated 12-11-2012. (Copy of the charge sheet and summary of allegation are annexure "C").
- 5) That in response to the charge sheet the parents of the appellant did submitted a simple reply regarding his confinement and the relevant information of the criminal case registered by the political authority Kurram Agency, pending against the appellant.
- 6) That thereafter a final showcause notice was also served upon the appellant at his home address and whereas the parents of the appellant again submitted reply stating therein the details of the criminals case. (Copy of the final show cause and reply thereof is annexure "D" & "E" respectively).

- 7) That subsequently the criminal case was referred to the council of elders vide order of reference dated 20-03-2013. (Copy of the order of reference is annexure "F").
- 8) That eventually the council of elders and arbitrators were succeeded to effect compromise in between the parties vide compromise deed executed dated 22-01-2014 which is annexure "G".
- 9) That after effecting compromise in between the parties, the case, in light of the compromise deed was tabled before the Political Agent/DM Kurram Agency for final decision. The verdict of the Jarga in shape of compromise was accepted and thus orders of acquittal regarding section 302/34 PPC was passed in its agreement. (Copy of the order/judgment passed by the Political Agent/DM Kurram Agency dated 11-06-2014 is annexure "H").
- 10) That the appellant was succeeded to get his acquittal and final release from the judicial lock-up dated 20-06-2014.
- 11) That the appellant after his acquittal from the criminal charges, approached his parent department for assuming his duties but he was surprised to get the dismissal order on account of absence from his duty. (Copy of the first impugned order dated 20-09-2013 handed over to the appellant on dated 22-06-2014 is annexure "I").
- 12) That thereafter the appellant submitted departmental representation before the respondent No. 2 dated 17-07-2014 but his appeal for re-instatement in service was rejected by the competent authority vide order dated 16-03-2015. (Copy of the departmental representation and final impugned order is annexure "J" & "K" respectively).
- 13) That in the given circumstances, the appellant while having no other adequate remedy, is constrained to file this appeal for reinstatement in his services with all back benefits, allied allowances and seniority on the following amongst other grounds inter-alia.

GRUNDS:-

- a) That the first impugned order, dismissing the services of the appellant on the ground of absence and subsequently the final impugned order dated 16-03-2015 upholding the first impugned order have been passed in the exercise of colorful authority which is unlawful, without lawful authority, without jurisdiction, un-Islamic, un-constitutional, against the norms of equity and natural justice.
- b) That no proper inquiry has ever been conducted by the respondent department in the case of the appellant, had there was any proper inquiry, the reason for absence would definitely have been mentioned in the inquiry papers as well as in the impugned orders. Hence the so-called inquiry is defective one.
- c) That neither the parent department nor the inquiry officer have bothered to give due weight to the reply to the showcause notice given by the parents of the appellant and secondly none of them have ever contacted the appellant in jail thus the so-called inquiry is a one-way traffic, carried out in absence of the appellant depriving him of his livelihood, which is against the law on the subject and fundamental rights of the appellant.
- d) That the final impugned order has also been passed on surmises and conjecture in a slip shod and hap-hazard manner, whereas the appellant has never been given a chance of personal hearing, hence the appellant has been condemned unheard.
- e) That the criminal case wherein the appellant has been implicated as an accused, is also evident that the appellant was behind the bar since 11-07-2012 till 20-06-2014, the day of his acquittal, hence his absence from duty was not deliberate but beyond his reach and control and to this effect, the parents of appellant have categorically informed the parent department of the appellant in time.

- f) That it has been held by the higher and superior courts of the country that on acquittal from the criminal case the civil servant would be entitled to be reinstated in service and the intervening period of absence from duty would be treated in terms of FR 54.
- g) That the parents department as well as appellate authority was bound under the law to reinstate the appellant in service with all back benefits from the day of his acquittal from criminal charges as it has been held by the apex court of the country that "every acquittal is honorary" and thus the appellate authority has misused its power and thus the final impugned order is liable to be reversed.
- h) That the inquiry officer could not collect any single iota of concrete and unimpeachable evidence warranting major penalty rather the findings and recommendations of the inquiry officer are mainly based on surmises, conjecture, guesswork, estimation and speculation and as such the so called findings and recommendation of the inquiry officer are not maintainable in the eyes of law and liable to be reversed.
- i) That the respondent No. 3 while passing the penalty and final impugned order have never bothered to see the service file of the appellant and at least should see the length of spot-less service for sufficient remarkable period rendered by the appellant and in such a circumstances the penalty and subsequent impugned order having no value in the eyes of law, is liable to be set-aside.
- j) That valuable right was accrued to the appellant whereas his fundamental valuable rights have been encroached by the respondents No. 2 & 3 on their personal whims & wishes and such encroachment is hit by the law on the subject and the command of the constitution of the Islamic Republic of Pakistan 1973.
- k) That further submissions will be advanced at the time of hearing the appellant at the bar.

In view of the foregoing facts, circumstances and submissions, it is therefore humbly prayed that on acceptance of this


(7)

appeal the final impugned order passed by the respondent No. 3 in the capacity of respondent No. 2 dated 16-03-2015 may be set-aside, and the appellant be re-instated in service on his parent post with all back benefits, seniority and allied allowances.

Any other remedy is available may be also extended in favour of the appellant to meet the ends of justice.


APPELLANT.

Through


Muhammad Usman Khan
Turlandi
Advocate Peshawar.

Dated; __/04/2015.

Jehan Afsar Khan Pinda Khel
&

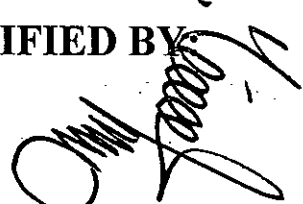
Naik Azam Khan
Advocates Peshawar.

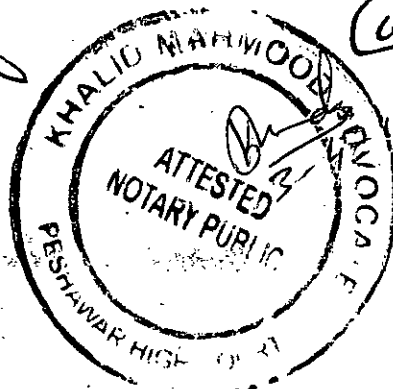
AFFIDAVIT.

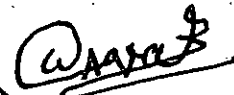
I, Waqas-ur-Rehman Ex-Constable No. 1096, Platoon No. 43, Elite Force, Khyber Pakhtunkhwa, Peshawar and S/O Speen-ur-Rehman R/O Mohallah Bazokot, Tall Tehsil and District Hangu, do hereby solemnly affirm and declare on oath that contents of the Service appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed therein.

IDENTIFIED BY

DEPONENT


Muhammad Usman Khan
Turlandi
Advocate Peshawar





وقاص الرحمن ولد حسن الرحمن قریب شہسوار
محمد اقبال الرحمن ولد سلطان الرحمن

حرم :- محفل علیہ برخان ولد گل دیباؤ قریب شہسوار

صبا - عالی

پورا شہسوار کی جانب سے آج مورخہ 11/11/07 کو بوقت 12:45 صبح
دو پلہ کو علیہ برخان بالا حوالہ سے محفل علیہ برخان کی جانب سے محمد علی
اور علی کے نامہ اجازت دیکھ کر محمد علی کے پاس سے 500 گزہ کے فاصلے
پر آگے اور وہاں علیہ برخان کے دو گانے کے طرف روانہ ہوئے دو گانے کو علیہ
کی حق تعالیٰ کو دیکھتے ہیں فائبر بند شروع کر دی فائبر بند شد
یہی علیہ کے لیے محمد علی کے گارڈ نے علیہ برخان کو علیہ برخان کے پاس لے کر
گئی فیکٹوری کو اجازتوں نے بہادری اور حفاظت کرتے ہوئے قاتلوں
کو تھک کر صبح علیہ برخان کی طرف لے کر آئے۔ علیہ برخان زخمی لائے پیر و دروہ
تھکے اور علیہ کے نامہ اجازتوں کی دستخطی کا نسخہ منسلک

پتیا جاتا ہے

- ① عزیز تفتیش جاری ہے
- ② محمد رفیق پتیا 50
- ③ سیکول 9MM نمبر 0.09003313
- ④ سیکول 30 TT نمبر 31064721
- ⑤ محمد رفیق پتیا - 6 نمبر دروہ

ATTESTED TO BE TRUE COPY

M. Usman Khan Tibrandi
M. A. LL. B Advocate
P.M. Chappin
11/11/07
11/11/07

11/11/07

حرف شفیق و لا فتول اعتبار خان اسحاق الرحمان دادلا سلطان الرحمان (ملزمان)
302/P.P.C
11/FCR
جرم: قتل اعتبار خان والد بیبا خان قوم در پورہ سٹیل (مستیت)

تذکرہ جالی :- ملاحظہ ہو۔ اطلاع ریپورٹ پولیس میں تحریر چیمبری فرم 7/11/2012 برورم 3 شامل
حسب حکم اجاب۔ فرم برورم خواست عدد 8/11/2012 برورم 8 شامل اور قابل
اللہ میں بارہ مقدم عنوان بالا میں ریپورٹ حاضر فرم جالی 2۔ W و وضو 7/11/2012 ملزمان
بالا فوق سائیکل پر سوار تھے۔ اور ملزمان سے چیمبری چیک پوسٹ آ کر ملزمان بالائے فالٹ
کے نتیجاً اعتبار خان کو موقع پر تھپڑ مارا گیا۔ جو زخموں کی تابانی لاکر جان بحق ہو
اور کاب جرم کے بعد ملزمان فرار ہو گئے۔ کہ لوی فوس نے ان پر فالٹ کرنا گرفتار
ہو کر زیر حراست سب جیل عدہ کو جلال گئے۔ اور پھر ڈو ملزمان سب جیل عدہ میں
قید ہوئے۔ پھر ڈو ملزمان بالائے عدالت میں بیان قلمذکر ملاحظہ ہو جو برورم 4
6-7 مل ہیں۔ وہ بیالی ہیں۔ سید دادا اور جالی چیب الرحمان پر خالی تھے
قتل کیا گیا۔ ان کے خلاف مل کے مقام میں اطلاع ریپورٹ درج کیا گیا۔ جبکہ فیوٹیو جالی
برورم 18 شامل اور قابل ملاحظہ ہے۔ ہم مجبور ہو کر اعتبار خان
کو قتل کیا گیا۔ ہم نے اپنا بدلہ لیا ہے۔ فریو فتول حرف شفیق کیا تو نذر نہ
درا ج قسم مدد کے فیصلہ کو تیار ہیں۔

حرف شفیق قوم وزیر نے مل کے حال میں چیمبری لاکر قسم نے برطانت بالائے ڈو
ملزمان وقاص الرحمان۔ اسحاق الرحمان عدالت لدا میں باقاعدہ استغاثہ دائر کیا
کہ بیبا والد کو گناہ قتل ایک سنگین جرم اور بہت بڑا ظلم کیا ہے۔ سنگین
سزا دی جاوے گی حرف شفیق سے عدالت میں بیان قلمذکر جو برورم 4 و 5 مل
اور قابل ملاحظہ ہے۔ وہ بیالی 2۔ کہ ملزمان بالائے سید والد اعتبار خان
کو گناہ قتل کیا ہے۔ ان کے ساتھ مقدم کے فیصلہ نذر نہ دراج اور تیار ہیں۔

(next -- sheet)

21-8-2014

ATTESTED TO BE TRUE COPY
M. Usman
M. S. EL. D. ADVOC
Rawat

جویدہ بخاری فریدالرحمن بابت ریجلی اہل ذمہ ملزما 10 و قاضی الہدیٰ 11 احکام
گزارا ہے کہ اہل ذمہ ملزمان کو سنگین ضمانت پر رہا کیا جاوے۔ ریجلی کے مقدمے

واردات کے بل پر ذمہ ملزمان سے برآمد شدہ اسٹیٹ ڈو لیسٹول اصلی مجھے ڈیڑھ
تین 25 + 25 ٹوٹل 50 ڈاؤنڈرز (کارٹوس) 10 لیسٹول MN 90 ماڈل HP-77
جائنا اصلی 10 لیسٹول پی ٹی 30 بورڈر انفا ماڈل اصلی اور ایک نڈر اوٹر سائیکل
2007ء تا حالہ پو لٹیکل عمر سخی عاشق کیا ہے بطور ضمانت موجود
لکھا اور کارٹوس 4 فوٹر سائیکل مالے خانہ محفل علی والی ایس باؤڈ
ع نہیں گئے ہیں۔ انکو بذریعہ عدالت طلب کیا جا کر مذکورہ کس پر لپریٹ
علی والی ایس باؤڈ رسید داخل کر کے دیابا ت کیا جاوے۔ تاہم کس ملل ہو جائے
رہنہ وصول کر شفوق کو ذمہ دفعہ 4/4/4/4 لکھنؤ والی یا کج لکھو اور
ہر رسید پاکستان ڈیڑھ لڑی اور چار لڑی یا بند ضمانت کٹھنہ جائے جس
پاے نمبر 17-12 مقالہ ہیں۔

مثل نڈر فوجداری نویت جاری۔ مخارج روانہ کئے۔ ایجنسی نڈر ایس
اقدام فصل کے دعویٰ جات بذریعہ روانہ کورم منسلک لٹیکل ہیں
پس مثل نڈر ذمہ دفعہ اسرمدی فوجداری سپرد ہوئے جو ان لٹیکل نڈر
کے مابین حتمی فیصلہ کر سکے۔
رپورٹ برادھنا سب حکم پیش لکھو راولپنڈی

پو لٹیکل عمر سخی والی لکھنؤ
25.9.2012
NO: 76 / PTA
Dt: 01.10.2012

Review
The report of PMIA
in detail and perused
to council of elders
decision of case is

APALIC
197
18/8/2014
21/8/2014
3
4
21-8-201

ATTESTED TO BE
TRUE COPY
M. Usman Khan Turlandi
M. S. LL. B Advocate
Peshawar.

APALIC
01/7/12

(11)

C

SUMMARY OF ALLEGATIONS

I, Muhammad Iqbal, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, am of the opinion that Constable Waqas Rehman No. 1096, Platoon No. 43 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

SUMMARY OF ALLEGATIONS

He remained absent without any leave or prior permission w.e.from 10.07.2012 till this date.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Khurshed Khan Deputy Superintendent of Police Elite Force Kohat is appointed as Enquiry Officer.
3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

(MUHAMMAD IQBAL)

Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar.

No. 9933-40/EF, dated Peshawar the 12 /11/2012.

Copies to;

1. Deputy Superintendent of Police, Elite Force Kohat.
2. OS, Elite Force Khyber Pakhtunkhwa Peshawar.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
5. OASI, Elite Force Khyber Pakhtunkhwa Peshawar.
6. SRC / FMC, Elite Force Khyber Pakhtunkhwa Peshawar.
7. Constable Waqas Rehman No. 1096 of Elite Force.

(MUHAMMAD IQBAL)

Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar.

(12)

C

CHARGE SHEET

I, Muhammad Iqbal, Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar as competent authority, hereby charge you Constable Waqas Rehman No. 1096, Platoon No. 43 of Elite Force as follows;

You remained absent without any leave or prior permission w.e. from 10.07.2012 till this date.

By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27th January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are, therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. You are directed to intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.


(MUHAMMAD IQBAL)
Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar.

(13)

D

FINAL SHOW CAUSE NOTICE

1. Muhammad Iqbal, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority under Police Rules (amended vide NWFP gazette, 27th January 1976), do hereby serve you Constable Waqas Rehman No. 1096, Platoon No. 43 of Elite Force as follows;

. You remained absent from duty without any leave or prior permission w.e.from 10.07.2012 till this date

i. That consequent upon the completion of enquiry conducted against you by Inspector Sajjad Hussain Elite Force Kohat for which you were given full opportunity of hearing but you did not appear before the enquiry officer.

ii. On going through the finding and recommendation of the enquiry officer, the material available on record, I am satisfied that you have committed the omission/commission specified in Police Rules (amended vide NWFP gazette, 27th January 1976) and charges leveled against you have been established beyond any doubt.

2. As a result therefore, I, Muhammad Iqbal, Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose major penalty upon you including dismissal from service under Police Rules (amended vide NWFP gazette, 27th January 1976) of the said ordinance.

3. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this show cause notice is received within seven days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put and in that case an ex-parte action shall be taken against you.

5. A copy of the finding of the Enquiry Officer is enclosed.

(MUHAMMAD IQBAL)
Deputy Commandant,

Elite Force Khyber Pakhtunkhwa Peshawar

No. 1188 dated Peshawar the 29 01/2013.

Constable Waqas Rehman No. 1096 through DSP/Elite Force Kohat. A special messenger be deputed to serve this notice upon the accused constable at his home address.

DY- 16/R-EF-Kohat
21-01-2013

E. خدمت جناب ڈپٹی کمشنر ڈی ایچ ایڈیٹ فورس فیڈریشن
لیسٹ

کوالیفیکیشن گائڈ لائنز 1188، جی، ای، ایف، 29-01
2013

معروض خدمت ہوں۔ کہ لیسٹنگ میں وقت فراہمی
جو ایڈیٹ فورس فیڈریشن کو ایچ ایس ڈی ایچ ایڈیٹ
کالکیشنز میں 1096 کے تحت ایڈیٹنگ میں منبھی کو بھیجا گیا تھا۔

مذکورہ لیسٹنگ ایک ناکرہ گنا اور بے بنیاد طور پر
37-PTA، جی، ای، ایف، 309/34، ڈی ایچ ایڈیٹ فورس میں
2012

یاد رہے کہ اس سلسلے میں آپ کو ایڈیٹنگ کے بارے
میں خطا نہ ڈال کر سکتے ہیں۔

لیسٹنگ میں مذکورہ جی ایچ ایڈیٹ میں وقت فراہمی
میں ہو جائے یا نہیں ہو جائے۔ ایڈیٹنگ میں منبھی کو بھیجا گیا
بلکہ تاخیر حافز ہو جائے گا۔ مخالف فریق سے گفت و شنید جاری ہے
الذی اللہ بہت جلد کوئی نہ کوئی حل نکلائے گا۔

مجھے آپ کے تعاون اور تعاونی ہمدردی کا شکریہ
اور جناب کی عمر درازی، صحت کامیابی و قارئین کے ہمہ وقت تعاون پر
واپس

پتہ: ایچ ایڈیٹ فورس فیڈریشن، ولد گھر، مسکن بازو کوٹ، لاہور
الذی اللہ بہت جلد کوئی نہ کوئی حل نکلائے گا۔
CNIC NO. 14101-2816367-1

5

Handwritten notes in Urdu: 11-6-2014, 11-7-2012, 3:50, 5:15, PTA

ANNEXURE F

IN THE COURT OF POLITICAL AGENT/DISTRICT MAGISTRATE, KURRAM

Case No. 37/PTA/2012.
Case instituted on 11-07-2012.

Muhammad Shafiq s/o Itbar Khan caste Wazir of Thall now at Chappri Lower Kurram. (Complainant)

Versus

1- Waqas -u-Rehman s/o Speen-u-Rehman caste Bangash of Thall.
2- Ishaq-u-Rehman s/o Sultan-u-Rehman caste Bangash of Thall. (Accused)

Charge: - MURDER OF ITBAR KHAN S/O GUL PIOW KHAN CASTE WAZIR THA NOW AT CHAPPRI LOWER KURRAM U/S 302/34/PPC READ WITH 11/FCR.

ORDER OF REFERENCE U/S 11 FCR.

Facts of the case are that on 11-07-2012, accused Waqas-u-Rehman and Ishaq-u-Rehman opened fire and shot dead Itbar Khan at Chappri the Levy personal arrested both the accused and kept in judicial lockup at Alizai Tehsile.

Statements of both the accused have been recorded who pleaded that they hit Itbar Khan in retaliation of their brother and grand father.

Statement of the complainant Muhammad Shafiq has also been recorded responsible both the accused for the murder of Itbar Khan.

All the cases in the Agency are decided with the help of jirga members FCR/Rewaj-e- Kurram. The case is therefore referred to the following council of elders with of the parties.

- 1- Haji Abdul Wali Alisherzai of Sadda.
- 2- Haji Mehmood Bangsh of Sadda.
- 3- Malik Haji Abdul Manan Bangash of Sadda.
- 4- Malik Mani Khan Watizai of Baggan.

The jirga members are required to submit their award on the following 15 month period.

- 1- As to whether the accused were at liberty to take revenge under the law?
- 2- How the case can be decided under Rewaj-e-Kurram?
- 3- Any recommendation the jirga likes to make?

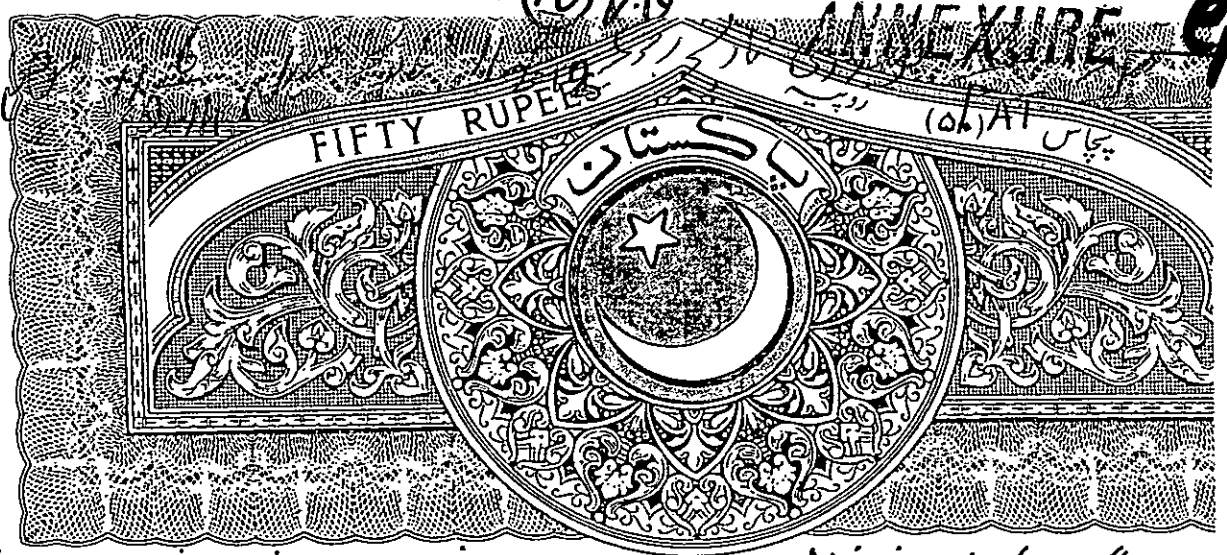
Dated 20-03-2013.

Political Agent/District Magistrate
Kurram Agency, Peshawar

Handwritten notes: 197, 18/5/2014, 21/5/2014, 1-5

Handwritten signature: Rink, 21.8.2014

ATTENDED TO BY
M. Usman Khan Taxtari
M. A. H. B Advocate
Peshawar.



Handwritten notes on the left margin in Urdu.

دبیر لویہ جریدہ محمد علی صاحب نے فریق اول: محمد شفیع و داد اعتبار خان، قیمت فاقہ فیروز خان فریق اول فریق اول

باعت فریق اول: محمد شفیع نے فریقین مذکورہ بالا کو چار ممبران جریدہ مقرر کیے تھے۔ مگر وہ فریقین کے مابین جریدہ کے بارے میں

درمیان متفقہ طور پر درج ذیل فیصلہ دیا گیا۔ فریق اول سے دو افراد حسین ابرہیم اور اعتبار خان مقرر ہوئے۔ فریق دوم سے ایک آدی حبیب الرحمن مقرر ہوئے۔ اور حاجی محمد رفیق شہید زخمی ہوئے۔ فریقین نے جریدہ محمد علی صاحب اختیار یعنی نوے روپے داک دیا تھا۔ مگر وہ جو بھی فیصلہ اسے وہیں قبول اور منظور ہوگا۔ بعد ازاں جریدہ محمد علی صاحبی سوچ بچار اور دوسرے لوگوں سے مشورے کر کے درج ذیل فیصلہ دیا گیا۔

تاریخ: 22.01.2014

ATTESTED TO BE TRUE COPY

M. Usman Khan Turlandi A. L. B Advocate

فریق اول: فریرز شاہ

محمد شفیع و داد اعتبار خان



Signature of Muhammad Shafiq

Received today 17-2-014

ANNEXURE **H**

17

11/6/2014

11/7/2012

37

PTA

IN THE COURT OF POLITICAL AGENT/DISTRICT MAGISTRATE, KURRAM

Case No.37/PTA/2012
 Case instituted on 11/7/2012.
 Case decided on 11/6/2014.

Muhammad Shafiq s/o Itibar Khan caste Wazir of Thall now at Chappri, Lower Kurram.
 (Complainant)

Versus

- 1- Waqas -u-Rehman s/o Speen-u-Rehman caste Bangash of Thall.
 - 2- Ishaq-u-Rehman s/o Sultan -u-Rehman caste Bangash of Thall.
- (Accused).

Charge: - MURDER OF ITIBAR KHAN S/O GUL PIOW KHAN CASTE WAZIR U/S 302/34/PPC READ WITH 11/12/40 FCR.


ORDER.

This is with order of reference dated 20/3/2013. jirga members appointed with consent of the parties have effected a compromise in between the parties with the help arbitrators which is available at page-24 of the file.

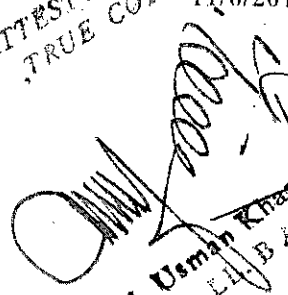
Case file put up to me in open court. Both the parties and jirga members Haji Abd Wali along with Jamil Khan arbitrator present and heard. The verdict of the jirga in shape compromise read over to the parties which was acceptable to them, therefore accepted and order passed in its agreement. As the offence has taken place on the main road at the entry of the Agency (Chappri Check Post), therefore the accused are fined for Rs. Three lacs. In default of payment fine, they are sentenced to undergo three year S.I. On recovery of the fine the accused may be released on furnishing bail bond in the sum of Rs.5.0 lac each with two reliable sureties to the satisfaction of the court. Two numbers pistol (9.MM, T.T China) original along with four magazine and (50) rounds recovered from the accused and a motorcycle Honda-125 Model -200 are confiscated to the state.

Case to APA (LK) Sadda for execution of the court order.

Remitted
 21-8-2014


 Political Agent/District Magistrate,
 Kurram Agency, Parachinar.

ATTESTED TO BE
 TRUE COPY
 Announced
 11/6/2014.


 M. Usman Khan
 Advocate

197
 18/8/2015
 21-8-2014
 1-50
 17/6/2014

No 906 / Rec
 DC 13/6/014

(18)

J



Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. /EF

Date: / /

ORDER

Constable Waqas Ur Rehman No. 1096 of Elite Force remained absent without any leave or prior permission w.e from 10.07.2013 till this date.

Proper departmental enquiry was conducted against him by Inspector Sajjad Hussain RI Elite Force Kohat. He was given full opportunity of hearing but he did not appear before the enquiry officer and remained absent. Which shows that he is not interested in his official duty. He was served with a Final Show Cause Notice, but he was failed to submit his reply.

Therefore he may be considered dismissed from the date of absence i.e. 10.07.2013.

(DPLAWAR KILTN BANGASH)

Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar

No. 13157-66 /EF dated Peshawar the 20/09/2013

Copy of above is forwarded to the:

1. Superintendent of Police, Elite Force Peshawar
2. Office Superintendent, Elite Force Khyber Pakhtunkhwa Peshawar
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Inspector Sajjad Hussain of Elite Force Kohat.
5. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar to recover over payments
6. OASI/Incharge Kot Elite Force, Khyber Pakhtunkhwa, Peshawar.
7. SRC/FMC, Elite Force, Khyber Pakhtunkhwa, Peshawar.
8. Constable Waqas Ur Rehman No. 1096 of Elite Force.

Received on
22-8-2014

To

The Commandant Elite Force,
Khyber Pakhtunkhwa Peshawar.

J

Subject: REPRESENTATION

Respected Sir,

With great veneration, appellant submits the instant representation for the revival and survival of lost service on the following facts and grounds

FACTS

1. That appellant joined police Department, district Hangu as constable in the year 2007 and was later on transferred to Elite force.
2. That the relatives of appellant live at Kurram Agency therefore appellant visited the house of his relative in July 2012.
3. That the blood feud enemies of appellant after joining hands with the Political authorities falsely implicated appellant and his another relative namely Ishaq Rehman in murder charge.
4. That appellant was incarcerated in judicial lock up of political administration for long period of one year and later on appellant party succumbed to the illegal demand of opponents of effecting compromise in murder case FIR No 514 dated: 21/12/2005 under section 302, 324, 34 PPC PS Thall, District Hangu.
5. That the political administration released appellant and accordingly appellant approached Elite force authorities in connection with joining duties but was shocked to know that appellant has been dismissed from service vide order Bearing Endst: No. 13157-66/EF dated: 20/09/2013 Hence this representation on the following grounds.

GROUNDS

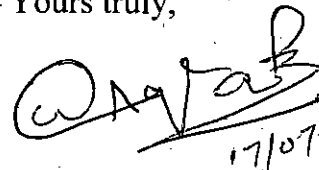
- a) That the disappearance of appellant was neither deliberate nor willful rather it was beyond the control of appellant as appellant

was behind the bars. Therefore, the impugned order is not sustainable.

- b) That the impugned order has been based on ex-parte proceedings. Neither charge sheet nor final showcase notice was served on appellant. Similarly no notice was published in two Urdu dailies as required under the law and rules.
- c) That under the law and rules no one shall be condemned unheard. Provision of opportunity of defense is fundamental rights of all citizens. The departmental action against appellant was taken at the back of appellant. Therefore the impugned order is bad in eye of law.
- d) That no evidence in support of the charges was collected during the so called enquiry proceedings. This is brought with great sorry in the notice of your good office that enquiry office did not trace the whereabouts of appellant meaning there by that the enquiry proceedings were restricted only to paper work.
- e) That the appellant being member of the disciplinary force was falsely implicated in murder charge at the instance of his opponents and the department instead of extending helping hand to the appellant passed dismissal from service order of appellant in absentia which further added salt to the already burning injuries of appellant.

It is therefore requested that on acceptance of the representation appellant may be reinstated in service with all back benefits.

Yours truly,



17/07/2014

WAQAS-UR-REHAMN
Ex Constable No. 1096 Elite force
Phone No 0304-5143360



(21)

K



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar

No. 3148 /EF

Dated 16 /03/2015.

To : Mr. Waqas-ur-Rehman S/O Speen-ur-Rehman
Address : Mohallah Bazo Kot Bannu road Tal.
Contact No. 0304 5143360

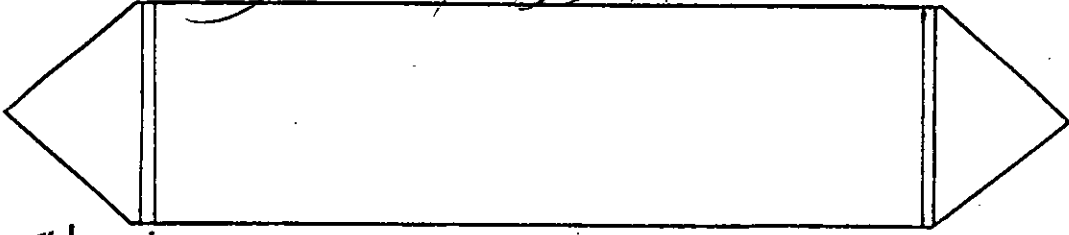
Subject : APPEAL FOR RE-INSTATEMENT IN SERVICE

Your appeal has not been accepted for re-instatement in service and Rejected by the competent authority.

SYED FIDA HASSAN SHAH) P.S.P.
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

11-3-15

بعدالت خیرہ نکتہ خواہ مسٹر بنوئل لہندہ



سید منجانب ایڈیٹور

وقاص الرحمان بنام PPO وغیرہ

ولد سیدین الرحمان

کانٹنٹل، ہنگو

بالقہ سب سے ایڈیٹور

باعث تحریر آنکے سائیکل ایڈیٹور

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

M. Usman Khan Turlandi

M. A. LL. B Advocate

KPK/S T کیلئے

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا۔ نیز
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالت ہ فیصلہ بر حلف دینے جواب دہی اور اقبال و دعویٰ اور
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی 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 منسوخ
 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 باختیارات 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 تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

ماہ الہرمبر 2015

تصدیق

الرقوم

WAPDA

ATTESTED

&

ACCEPTED

کے لئے منظور ہے۔

بمقام KPK/S T

محمد عثمان خان ترلانڈی
 ایڈووکیٹ پشاور ہائی کورٹ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 287/2015

Waqas-Ur-Rehman.....(Petitioner)

Versus

Inspector General of Police, Khyber Pakhtunkhwa and two
others.....(Respondents)

Subject:- REPLY ON BEHALF OF RESPONDENTS

Respectfully Sheweth!

Respondents very humbly submit as follows:-

Preliminary Objections:-

- a) The appeal has not been based on facts.
- b) The appeal is barred by law and limitation.
- c) The appeal of appellant is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
- d) The appellant has not come to the Honorable Tribunal with clean hands.
- e) The appellant has got no cause of action to file the appeal.
- f) The appeal of appellant is not maintainable in the present form.

FACTS:-

1. Correct to the extent that appellant was serving as constable in Elite Force and he was dismissed from service vide impugned order on charges of long absence from service.
2. Incorrect, appellant did not submit information with regard to his arrest in murder case by the Political Authorities of Kurram Agency and appellant was marked absent from duty.
3. Needs no comments as it pertains to the record of Political Administration of Kurram Agency.
4. Correct to the extent, that charge sheet and statement of allegations were issued to appellant and served upon.


- him through his relative but he failed to advance any defense or reply.
5. Incorrect, appellant has submitted no reply in response to the charge sheet.
 6. Incorrect, appellant has personally submitted no reply in response to the final show cause notice.
 7. Needs no comments as it pertains to record of Political Administration Kurram Agency.
 8. Incorrect, according to the record placed on file, appellant was convicted in the murder case by the Political.
 9. Incorrect, according to the record placed on file appellant was convicted in the murder case reported at Kurram Agency.
 10. Incorrect, appellant was convicted in the murder case.
 11. Incorrect, appellant was dismissed from service vide impugned order dated 20.09.2013.
 12. Incorrect, the departmental appeal of appellant was badly time barred as the impugned order was passed on 20.09.2013 and he submitted the departmental appeal on 17.07.2014.
 13. Incorrect, the appeal of appellant is not sustainable on the grounds advanced in the appeal.

GROUNDS:-

- a. Incorrect, appellant remained absent from duty for long period. The charge sheet was served on appellant through his uncle and he avoided defense of the charges leveled against him. Therefore, the respondents have passed the impugned orders in accordance with law and rules.
- b. Incorrect, proper enquiry was conducted but the appellant was avoiding associating the enquiry proceedings.
- c. Incorrect, appellant has not submitted any reply on response to the show cause notice.
- d. Incorrect, the impugned orders have been based on charges of long absence from duty of appellant.

- e. Incorrect, according to the record placed on file by the appellant, he was convicted in the murder case by Political Authorities.
- f. Incorrect, appellant was not acquitted of the criminal charges by Political Administration.
- g. Incorrect, appellant has not been acquitted of the criminal charges as evident from the order of Political Administration placed on file.
- h. Incorrect, appellant has failed to explain and defend his long absence from duty. He did not submit any information with regard to his arrest by the Political Administration. Again being Police constable he committed murder in tribal area and was held guilty by the Political Administration.
- i. Incorrect, length of service is no defense of commission of gross mis-conduct.
- j. Incorrect, no fundamental right of appellant has been violated or denied.
- k. The respondent may also be allowed to raise other grounds during hearing of the appeal.

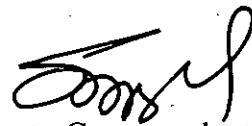
It is therefore prayed that the appeal of appellant may be dismissed with costs.



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



Commandant, Elite Force,
Khyber Pakhtunkhwa
Peshawar
(Respondent No.2)



Deputy Commandant,
Elite Force, Khyber
Pakhtunkhwa,
Peshawar
(Respondent No.3)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

In Ref; to Appeal No. _____ of 2015.

Waqas-ur-Rehman Ex-Constable.....**Versus**.....I.G Police & others.

REJOINDER ON BEHALF OF THE APPELLANT.

REPLY TO THE PRELIMINARY OBJECTIONS:-

- 1) Incorrect. The Appeal in hand is well based on actual and factual facts of the case and No facts whatsoever have ever been concealed from this august tribunal.
- 2) .Incorrect. The movement when the appellant acquitted from the charges and released from the Jail, he rushed to file the departmental appeal and within due time of process, approached this honourable Tribunal. Hence the appeal in hand is not barred by limitation.
- 3) Incorrect. All the necessary parties have been arrayed as respondents therein.
- 4) Incorrect. The appellant with his clean hands had approached this august Tribunal.
- 5) Incorrect. The Appellant has proper cause of action while filing the instant appeal.
- 6) Incorrect. Incorrect. The Appellant has proper Locus Standi and proper cause of action while filing the instant appeal and the appeal is maintainable on every aspect and respect.

FACTS :-

- 1) No comments, hence no reply.
- 2) Incorrect; - The respondents were categorically informed by the uncle of the appellant regarding his arrest in murder case when he was associated in the process of the departmental proceedings.

- 3 & 4) As no comments have been put forth by the respondents as such assumed the stance taken by the appellant in service appeal as correct and the respondent were duly informed regarding the arrest of the appellant in a murder case by the Political authorities Kurram Agency.
- 5) Incorrect;- In response to the Charge Sheet and Statement of allegation, the respondents were categorically informed by the uncle of the appellant regarding the arrest of the appellant in a murder case by the Political authorities Kurram Agency.
- 6) Incorrect. As stated in the main appeal, the final show-cause notice was served on appellant through his home address but admittedly, the appellant at that time was behind the bar by the Political Authority in a murder case and the reply to the final Show-cause notice was given by the parents of the appellant stating therein the arrest of the appellant in a murder case by the Political authorities Kurram Agency.
- 7) As no comments given by the respondents hence admitted to be correct.
- 8) Incorrect. This Para pertains to the official record containing public documents which has been annexed with the main service appeal.
- 9) Incorrect. As per attested copies of the judgment passed by the competent court of law/Political Authority Kurram Agency, properly annexed with the main service appeal, the appellant was acquitted from the charges of criminal case.
- 10) Incorrect. Detailed reply has been given in preceding Para.
- 11) Correct to the extent that the appellant was dismissed vide impugned order dated 20-09-2013 but the impugned order was communicated to the appellant by hand dated 22-06-2014 when he himself approached the office of respondents after his release and acquittal from the criminal case.
- 12) Incorrect. Detailed reply has been given in Para No. 11 above.
- 13) Incorrect. The grounds taken by the appellant in service appeal are quite legal one and are legally sustainable in the eyes of law.

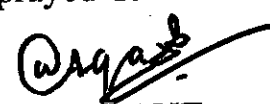
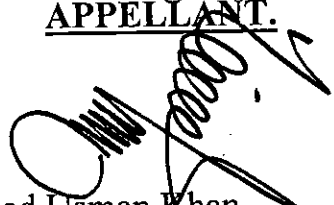
GROUND.

- a) Incorrect: - The respondents were categorically informed by the uncle of the appellant regarding his arrest in murder case when he was associated in the process of the departmental proceedings. The appellant was dismissed vide impugned order dated 20-09-2013 but the impugned order was communicated to the appellant by hand dated 22-06-2014 when he himself approached the office of respondents after his release and acquittal from the criminal case. The major punishment is against the canon of law and is liable to be set-aside.
- b) Incorrect: - No inquiry has ever been conducted what to say of a proper enquiry. Had any sort of inquiry was ever conducted, the respondents would never deny the arrest of the appellant and as such long absence would never call for such consequences resulting dismissal of the appellant from services. No chance of personal hearing was given to the appellant.
- c) Incorrect: - As stated in the main appeal, the final show-cause notice was served on appellant through his home address but admittedly, the appellant at that time was behind the bar by the Political Authority in a murder case and the reply to the final Show-cause notice was given by the parents of the appellant stating therein the arrest of the appellant in a murder case by the Political authorities Kurram Agency.
- d) Incorrect. Detailed reply has been given in Para No. "C" above.
- e) Incorrect. The respondents have never bothered to look at the relevant record nor have confirmed the factum of acquittal of the appellant in the murder case from the concerned quarter whereas the appellant has been acquitted from the charges of murder on the bases of compromise. It has been held by the apex Supreme Court of Pakistan that acquittal even on the bases of compromise is honourable acquittal.
- f) Incorrect: - Detailed reply has been given in Para No. "e" above.
- g) Incorrect. Detailed reply has been given in Para No. "e" above.

- h) Incorrect. The departmental appeal followed by the reply to the show cause given by the parents of the appellant is self-explanatory.
- i) Incorrect: - Detailed reply has been given in Para No. "C" & "E" above.
- j) Incorrect: - Detailed reply has been given in Para "b" above. Hence fundamental rights of the appellant, guaranteed by the constitution have been violated.
- k) Legal: hence no comments.

It is therefore humbly prayed that the comments submitted by the respondents be set at naught and the appeal of the appellant may graciously be accepted by redressing his grievances as prayed for in the appeal.

Through

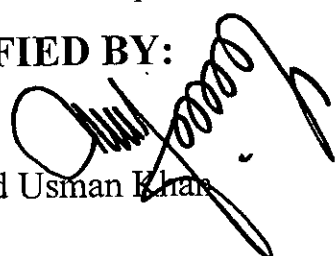

APPELLANT.

Muhammad Usman Khan
Turlandi
Advocate Peshawar.

Dated: __/02/2016

AFFIDAVIT.

I, Waqas-ur-Rehman Ex-Constable, do hereby solemnly affirm and declare on oath that contents of the accompanying Rejoinder on behalf of the appellant are true and correct to the best of my knowledge and belief and nothing has been kept secret or concealed therein.

IDENTIFIED BY:


Muhammad Usman Khan
Turlandi
Advocate Peshawar

DEPONENT



