

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	23.11.2017	<p style="text-align: center;">3</p> <p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 1087/16</p> <p style="text-align: center;">Date of Institution ... 25.10.2016 Date of Decision ... 23.11.2017</p> <p>Abdul Sadiq Afridi s/o Mian Gul Jan r/o Pajjagi Road near Bacha Khan Markaz, Tehsil and District Peshawar -----Appellant</p> <p style="text-align: center;">VERSUS</p> <p>1. Hospital Director, LRH/MTI, Peshawar 2. D.G Health Services, Khyber Pakhtunkhwa, Peshawar. 3. DMS (Admin) LRH/MTI, Peshawar. 4. Chief Head Ward Orderly LRH/MTI, Peshawar. 5. Budget & Accounts Officer LRH/MTI, Peshawar. 6. The Accountant General Khyber Pakhtunkwa, Peshawar</p> <p style="text-align: right;">Respondents</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant and Learned District Attorney for the respondents present:</p> <p>2. The appellant was aggrieved against the order dated 18.07.2016 of respondent No. 3 whereby the application of the appellant for the withdrawal of his retirement order dated 30.06.2016 was regretted.</p> <p>3: Learned counsel for the appellant argued that the appellant submitted application for his retirement through LPR, which application was accepted vide order dated 30.06.2016 and it was</p>

Dawar

ordered that the appellant shall stand retired from service w.e.f 01.09.2016 (F N). Further argued that on 11.07.2016 that the appellant submitted application for the withdrawal of his retirement order, however his request was turned down vide impugned order dated 18.07.2016. Further argued that by refusing to reject the application of the appellant for withdrawal of his retirement order, the appellant has not been treated in accordance with law. Further argued that the impugned order is unjust and against the natural justice. Further argued that the respondent department has withdrawn the retirement order of another employee hence the impugned order is discriminatory. In support of his arguments learned counsel for the appellant also cited the judgments reported in 1995 PLC (C.S) 644 AND 2000 SCMR 1964.

7. As against that learned District Attorney while opposing the present appeal relied upon the judgment reported in 2005 SCMR 1928 and argued that option to withdraw request for premature retirement is not available to a government servant after the acceptance of the said request by the competent authority, where after it attains finality and becomes a past and closed transaction.

8. Arguments heard. File perused.

9. It is settled proposition of law that option to withdraw request for premature retirement is available to a government servant only before the said request is accepted by the competent authority and request for premature retirement once accepted by the competent authority cannot be allowed to be withdrawn by the department

①
D
amin

itself under the normal circumstances. After the acceptance of application for premature retirement by the competent authority it attains finality and becomes a past and closed transaction. Recall to duty after acceptance of request for voluntary retirement amounts to re-employment for which approval as per law is required. The instance and case law referred to by the learned counsel for the appellant have different set of facts and circumstances.

10. As a sequel to above the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(GUL ZEB KHAN)
MEMBER

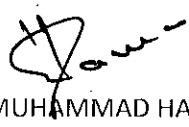

(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
23.11.2017

3/8/2017

Counsel for the appellant and Mr. Asghar Ali, Head Constable alongwith Mr. Ziaullah; Deputy District Attorney for the respondents present. Deputy District Attorney seeks adjournment. Representative of the respondents is directed to produce complete inquiry record including statement of witness ~~of inquiry office~~ on next date of hearing. To come up for arguments on 29/8/2017 before DB.



(GUL ZEB KHAN)
MEMBER



(MUHAMMAD HAMID MUGHAL)
MEMBER

29.08.2017

Counsel for the appellant present. Learned Deputy District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, the impugned orders are set aside and the appellant is restored to this original rank. However the department is at liberty to conduct and conclude de-novo proceedings within four months form the receipt of this judgment. The issue of back benefits of the appellant shall be dependent upon the outcome of the de-novo proceedings. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.08.2017


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

717/2016

19.10.2016

Appellant with counsel and Mr. Asghar Ali, H.C alongwith Additional AG for respondents present. Written reply on behalf of respondents No. 1 to 3 submitted, copy whereof handed over to learned counsel for the appellant. To come up for rejoinder and arguments on 21.12.2016 before D.B.


(PIR BAKHSH SHAH)
MEMBER


21.12.2016

Counsel for the appellant and Mr. Asghar Ali, H.C alongwith Additional AG for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 11.04.2017 before D.B.


(MUHAMMAD AAMIR NAZIR)
MEMBER

11.04.2017

Appellant with counsel present. Mr. Asghar Ali, Head Constable alongwith Mr. Ziaullah, Government Pleader for respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.06.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

13.06.2017

Appellant in person present. Mr. Asghar Ali Khan, Head Cosntable alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Appellant requested for adjournment. Adjourned. To come up for arguments on 03.08.2017 before D.B.


(GUL ZEB KHAN)
MEMBER

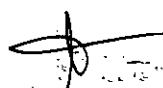

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.7.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was recruited as ASI in Police Department. Afterwards disciplinary proceedings were initiated against the appellant under Police Rules 1975. He was dismissed from service on 13.4.2016. He submitted departmental appeal on which date is not mentioned. ^{The} ~~One~~ competent authority converted the punishment of dismissal into reduction ^{in rank} for a period of two years. Hence the instant service appeal on 1.7.2016.

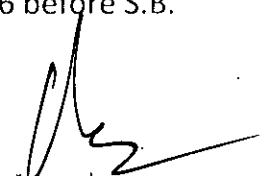
Appellant Deposited
Security & Process Fee

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 17.8.2016 before S.B.


Member

17.08.2016

Counsel for the appellant and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 19.10.2016 before S.B.


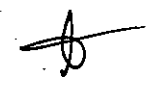

Member

Form- A.

FORM OF ORDER SHEET

Court of _____

Case No. 717/2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/07/2016	<p>The appeal of Mr. Aman Ullah resubmitted today by Mr. Muhammad Aisf Yousafzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	14-7-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>15-7-16</u></p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Amanullah Khan Ex-SI of Police Bannu received to-day i.e. on 01.07.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of charge sheet mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures-C and G of the appeal are illegible which may be replaced by legible/better one.

No. 1118 /S.T,

Dt. 01/7 /2016

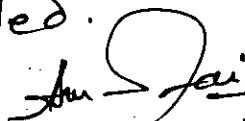

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

Sir;

1. removed and attached as "7A".
2. removed and legible copies attached.

Re-submitted.


13.7.16.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 717 /2016

Aman Ullah

V/S

Police Deptt:

.....
INDEX

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-5A
2.	Copy of FIR	-A-	6
3.	Copy of bail bond	-B-	7
4.	copy of charge sheet	-C-	8
5.	copy of reply to charge sheet	-D-	9-10
6.	Copy of inquiry report	-E-	11-12
7.	Copy of inquiry report final	-F-	13-14
8.	Copy of order dated: 13.4.2016	-G-	15
9.	Copy of departmental appeal	-H-	16-19
10.	Copy of rejection order dated: 28.6.2016	-I-	20
11.	Copy of statement of Farman Ali	-J & J1-	21-22
12.	Vakalat Nama	-----	23

APPELLANT

THROUGH:


(M.ASIF YOUSAFZAI),


(TAIMUR ALI KHAN),


&
(Syed Noman Ali Bukhari)
(ADVOCATES, PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 717 /2016

Aman Ullah Khan Ex-SI,
S/O Muhammad Sher Khan R/O
Arsala Machan Khel P/O
Ghori wala Bannu.

Khyber Pakhtukhwa
Service Tribunal

Diary No. 688

Dated 01-7-2016

.....(Appellant)

VERSUS

1. The Provincial Police Officer, KPK Peshawar.

~~2. Regional Police Officer, Bannu Region.~~ *Rai*

✓ 3. District Police Officer Bannu.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 28.06.2016, WHEREBY, DISMISSAL ORDER DATED 13.4.2016 CONVERTED IN TO THE REDUCTION IN RANK FOR TWO YEARS ON THE DEPARTMENT APPEAL OF THE APPELLANT.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 28.06.2016 AND 13-4-2016, MAY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL RANK WITH THE PERIOD OF SHO SHIP AND WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS

Filed to day
✓ *Sher Khan*
11/9/16
Registrar

Re-submitted to -day
and filed.

Rai
Registrar
13/7/16

2

**FIT AND APPROPRIATE THAT MAY ALSO BE
AWARDED IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was recruited as ASI in the police Department through PSC and completed his due training etc and the appellant performed his duties with great Zeal and Zest and due to best performance appellant was promoted to the rank of Sub Inspector and also has good service record throughout.
2. That on the day of occurrence appellant apprehended a motor car bearing number WH-329/ISB which was being driven by Farman Ali and also owned by him. The other person sitting on the front seat of the motor car was Shakir Ullah and on the personal search of the above two person 1/1 KG Charas was recovered from each of the above accused and also one KG from the switch board of the motorcar .Two ladies and one minor kid was also found sitting in the motor car on rear seat and the petitioner registered FIR against the above mention person. However the ladies were released on personal bond being found innocent. **(Copy of the FIR is attached as Annexure-A)**
3. That on summary interrogation of the male accused, they admitted the Contraband charas as that of their own and no involvement has been attributed to the lady accused. On this, petitioner released the lady accused on personal bond with direction to the male accused as well as to sureties of the ladies accused for the production of the ladies whenever required for investigation of the instant case. **(Copy of the bond is attached as Annexure-B).**
4. That statement of allegation and charge sheet under police rules 1975 was served in which the appellant was charged for allegations as under:

"That you while posted as SHO-PS: Township, District Bannu have released two-ladies and taking 03-KG Charas from their possession last night dated 9.12.2015".

The appellant properly replied the charge sheet and denied the allegations. **(Copy of charge sheet and replied are attached as Annexure- C & D).**

5. That the preliminary inquiry as well as regular inquiry was conducted against the appellant but the inquiry officer without thrashing out the real fact in true sense, gave his recommendations without giving any proper chance to appellant to defend himself. **(Copy of Inquiry reports are attached as Annexure-E & F).**
6. That without serving any final show cause notice to the appellant, the penalty order dated 13.4.2016 "dismissal from service" was imposed on the appellant under Police Rules 1975. **(Copy of order dated 13-4-2016 is attached as Annexure-G).**
7. That the appellant filled departmental appeal against the order dated 13-4-2006. Whereby the penalty of "Dismissal from Service" was converted into "Reduction in Rank for two year" through order dated 28-6-2016. **(Copy of departmental appeal and order dated 28-6-2016 are attached as Annexure-H & I).**
8. That now the appellant come to this august Tribunal on the following grounds amongst others.

GROUND:

- A) That the impugned order dated 14.3.2016 AND 28.6.2016 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the preliminary inquiry as well as regular inquiry was conducted against the appellant but the inquiry officer without thrashing out the real fact in true sense, gave his recommendations without giving any proper chance to appellant to defend himself which is violation of norms of justice.

- C) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.

- D) That without serving any final show cause notice to the appellant, the penalty order dated 13.4.2016 "dismissal from service" was imposed on the appellant under Police Rules 1975 which is against the law and rules and amount to condemnation unheard.

- E) That the appellant's guilt has not been proved beyond the shadow of doubt and the appellant has been punished on the basis of conjecture and surmises.

- F) That on summary interrogation of the male accused, they admitted the Contraband charas as that of their own and no involvement has been attributed to the lady accused. On this, appellant released the lady accused on personal bond with direction to the male accused as well as to sureties of the ladies accused for the production of the ladies whenever required for investigation of the instant case.

- G) That during the verification, interrogation and during inquiry nothing come on record that the ladies which were released by the appellant on bond, these ladies were have neither knowledge of charas nor have any relation with charas and whole scenario confirm that appellant Morasalla and FIR are based on truth.

- H) That even the appellate authority has admitted the innocence of the appellant in his appellant order but despite that the appellant has been penalized for no fault on his part..

- I) That the ladies were also interrogated by the order of officer but nothing has been proved against the ladies and ladies were also released by the court. Which proved that appellant was on bonafide intention released the ladies on bond.

- J) That the RPO also admitted in the Para-3 of his comments that three kilo charas recovered from Farman and Shakir and FIR

5

was registered against them by the appellant and ladies were released by the Bail Bond.

- K) That the finding of the EO is also not based upon facts because during the course of inquiry accused Farman Ali has admitted before the committee that the contraband charas was 3 KG and is belonging to him being his business. Nothing has been brought on record by the inquiry committee that the lady accused were having the knowledge of contraband charas or involved in the transportation of the said charas. By the statement of Farman Ali clearly suggested that that the charges of relieving lady accused by the petitioner for some ulterior motive is not proved and brushed aside. **Copy of the Statements of Farman Ali is attached-J & J1).**
- L) That the petitioner has performed his duties according to the law and arresting and seizing the narcotics from such like notorious as evident from his statement is not possible but with the risk of life. Not only appellant have arrest the accused the contraband but also saved the lives of the police officials in performance of duty but it is strange enough that appellant good work converted in to departmental action which will certainly discourage the police officers in performing of duties.
- M) That the impugned order dated 24-3-2016 "Dismissal from Service" is passed by the incompetent authority. And as such the whole action taken against the appellant become a nullity in the eye of law.
- N) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Aman Ullah SA

APPELLANT

Aman Ullah

THROUGH:

M. Asif Yousafzai

(M.ASIF YOUSAFZAI),

Taimur Ali Khan

(TAIMUR ALI KHAN),

Syed Noman Ali Bukhari &

**Syed Noman Ali Bukhari
(ADVOCATES, PESHAWAR)**

ATTESTED

Handwritten text in Urdu script, appearing to be a detailed account or report. The text is dense and covers most of the upper half of the page.

Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text
Handwritten Urdu text	Handwritten Urdu text

Handwritten notes and signatures at the bottom of the page. Includes a circled number '544' and other illegible Urdu text.

Handwritten signature: *[Illegible]*

Handwritten signature: *[Illegible]*

A 6

4

CHARGE SHEET

(7A)




WHEREAS, I am satisfied that a formal inquiry as contemplated in the N.W.F.P. Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation, if established would call for a Major penalty as confined in Rules 4-1 (b) of the aforesaid Rules.

NOW THEREFORE, as required by Rule 6-1 (a) of the aforesaid Rules, **I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** charge you **SI Amanullah** for misconduct on the basis of summary of allegations appended herewith.

AND WHEREAS, I direct you further under the Rule (5-1) b of the aforesaid rules to put in a written defense within 07-days of the receipt of this charge sheet as to why a Major punishment as defined in Rule 4-1 (b) should not be awarded to you. Also state at the same time whether you desire to be heard in person or not.

In case your reply is not received within the prescribed period without sufficient reasons it would be presumed that you have no defense to offer and an ex-parte action will be taken against you


(Muhammad Tahir) PSP
Regional Police Officer,
Bannu Region, Bannu.

22/12/15

STATEMENT OF ALLEGATIONS.

I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu as competent authority, am of the opinion that **SI Amanullah the then SHO-PS: Township** has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment vide KPK. Gazette 27th: AUGUST: 2014)

SUMMARY OF ALLEGATION.

- That you, while posted as SHO-PS: Township, District Bannu have released two-ladies and taking 03-Kg Charas from their possession last night dated 09.12.2015

For the purpose of scrutinizing the conduct of the said accused w/r to the above allegations SP-Inv Lakki, DSP-HQrs-Lakki & DSP/Rural Bannu have already been appointed as Enquiry Officers.

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.

The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

[Handwritten Signature]

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 3811-15 /EC. 23/12/2015
Copy to :- *[Handwritten: 24/12/15]*

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Bannu for information w/r to his Memo: No 15755 dated 17.12.2015.
3. The Enquiry Officers.

[Handwritten Arrow]

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

[Handwritten: Received on 20/12/15]

STATEMENT OF ALLEGATIONS.

(C) (8)

I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu as competent authority, am of the opinion that SI Amanullah the then SHO-PS: Township has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment Vide KPK Gazette 27th: AUGUST-2014)

SUMMARY OF ALLEGATION.

[that you, while posted as SHO-PS: Township, District Bannu, have released two-ladies and taking 03-Kg Charas from their possession last night dated 09.12.2015

For the purpose of scrutinizing the conduct of the said accused w/r to the above allegations SP-Inv Lakki, DSP-HQrs-Lakki & DSP/Rural Bannu have already been appointed as Enquiry Officers.

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.

The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

[Handwritten Signature]

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 3811-15 /EC-23/12/2015 9/22/12/15
Copy to :-

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Bannu for information w/r to his Memo: No 15755 dated 17.12.2015.
3. The Enquiry Officers.

[Handwritten notes and signatures]

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

ATTESTED
[Handwritten signature]

بحوالہ چارج شیٹ نمبر 3811-15/ECO/23/12/2015

معروضی ہوں کہ:-

9

1- منسٹر اطلاع پر مین گیٹ بنوں ٹاؤن شپ پر ناکہ بندی کی دوران موٹر کار نمبر WH-329/ISB کو روکا گیا۔ ڈریور نے اپنا نام فرمان علی بتلایا اور موٹر کار اپنی ملکیت بتلائی جبکہ ٹریفک سیٹ پر دوسرے شخص نے اپنا نام سٹاکر ایڈم بتلایا۔ ان دونوں کی تلاشی لینے پر ہر ایک کے قبضہ سے 1/1 کلو چرس برآمد ہوئی۔ اسی طرح موٹر کار کے منسٹر بورڈ سے مزید ایک کلو چرس برآمد ہوئی۔ موٹر کار کی پچھلی سیٹ پر دو لیڈیز بہ حد ایک شیر خوار بچے کے موجود تھیں۔ جن کی تلاشی لیڈیز کانسٹیبلان کے ذریعے کرائی گئی لیکن ان کے ذاتی قبضہ سے کوئی چرس یا دیگر کوئی ممنوعہ شے برآمد نہیں ہوئی۔ برآمدہ چرس۔ موٹر کار قبضہ میں لینے کے ساتھ ہر دو ملزمان متذکرہ بھی گرفتار کیے گئے جبکہ عورتوں کو رہا کر دیا گیا۔

2- میں نے تھانہ کو مراسلہ بھجوا یا جس پر مقدمہ علت 514 مورخہ 10/12/2015 جرم SCNSA(C) تھانہ ٹاؤن شپ درج رجسٹر ہوا جسکی تفتیش انوسٹی گیشن سٹاف کر رہا ہے۔

3- یہ الزام کہ چرس لیڈیز کے قبضے سے برآمد ہوئی دروست نہیں ہے۔ جسکی تصدیق چشم دید گواہان ممتاز HC/78 اور کانسٹیبل شیبب الرحمن نمبر 1800 کر سکتے ہیں۔ جو فرد برآمدگی کے حاشیہ کے گواہان ہیں۔ مقدمہ کی تفتیش منزل خان Si کر رہے ہیں۔ اور سرکل DSP نے بھی تفتیش کی Verification کی ہے اور باقاعدہ اپنی ضمنی مرتب کی ہے۔ اب تک اتنا عرصہ گزر جانے کے بعد مثل مقدمہ میں ایسی کوئی شہادت ریکارڈ نہیں آئی ہے کہ چرس لیڈیز سے برآمد ہوئی تھی۔ تفتیش کے دوران جتنے گواہان کے بیانات لئے گئے ہیں اور ملزمان کو انٹرویو کیا گیا ہے سب نے مراسلہ ایف۔ ای۔ ار کے مضمون اور واقعات کی تصدیق کی ہے۔

4- یہ کہ دونوں لیڈیز سماعت رشیدہ اور سماعت روبینہ کو بعد میں (IO) نے مورخہ 13/12/2015 کو گرفتار کیا ہے اور عدالت سے بطور حاضری ضمانت پر رہا ہوئی ہیں لیکن تفتیش کے دوران کوئی ایسی شہادت سامنے نہیں آئی کہ سماعت کو اس چرس کی Transportation کا علم تھا یا اس کو سمگل کرنے میں شامل واردات تھیں اور ان کے خلاف کوئی قابل چالان عدالت شہادت موجود نہیں ہے۔ لیڈیز کی گرفتاری سے اصل ملزمان کے خلاف مقدمہ کو کمزور کرنے کی کوشش کی گئی ہے۔

ATTESTED

ایبٹ آباد پولیس فائنڈنگ ریپورٹ

معروض سے کہ SHC ان اللہ ٹاؤن شپ بنوں کے حوالہ دینے والے ایک برکے وائس میں رہنے والی
خواتین کو گورنمنٹ کے علاقہ میں ایک موٹر کار میں سے 2 نومبر 2015 کو اغوا کر لیا گیا اور
SHO کو گورنمنٹ چرس بھری ہوئی تھی۔ SHO نے فوری طور پر قانونی کارروائی کرنے کے لئے ضروری اقدامات
لیے۔ یہ عموماً خواتین کو اغوا کرنے والے مردوں کو حالات تھانہ میں بند رکھا۔ اور ان کے ساتھ ساتھ اس میں
قانونی کارروائی نہیں کی گئی۔

بالا آئی سر کی جانب سے ہم دونوں DSP کو ذمہ داری دینی گئی کہ ہم فوری طور پر معلومات کر کے اس حقائق
سائنس لائیں۔ اس سلسلہ میں فوری طور پر سپریم لزمان فرمان علی، شاہ کر علی، مسما رشید، بی بی اور مسما آرو بیہ بی بی کی طور پر طلبی
کا بندوبست کر کے ان کے بیانات قلمبند کیے گئے۔

اسی طرح SHO ٹاؤن امان اللہ، ہمراہ ہی کا نیشنل فور اللہ نمبر 944، سیما ب الدین نمبر 352 اور ڈوگر اللہ
نمبر 931 کے بیانات قلمبند کیے گئے۔ تمام پولیس ایگ ان نے اپنے اپنے بیانات میں جملہ برکے وائس چرس کو
مورخہ 10.12.2015 کا وقوعہ بتایا اور زبانی جرح کے باوجود کبھی اس بات پر قائم / بندھیے کہ مورخہ 2015
بلکہ 10.12.2015 بوقت تقریباً 2:30 بجے کا ہے۔ جملہ پولیس ایگ ان SHO کے دستخط شدہ بیانات میں قابل ملاحظہ
ہے۔ تاہم چار لزمان میں سے ملزم فرمان، شاہ کر اور دو خواتین مسما رشیدہ اور رو بیہ نے موجودگی نیڈی کا کٹاؤن نصرت بی بی
نمبر 1297 اور سپر ایگٹر نمبر 4846 یہ تحریر بیان دیا کہ ان سب کو مورخہ 9.12.2015 بوقت تقریباً 9:00 بجے رات
گرفتار کیا گیا تھا۔ تقریباً 11:30 بجے رات خواتین کو چھوڑ دیا گیا جبکہ ملزم شاہ کر اور فرمان تمام رات وہ حالات تھانہ میں رہے۔

ملزم فرمان علی اقبالی ہے کہ واقعی کچھ عرصہ سے بنوں چرس لانے کا کام کر رہا ہے اور اس کا کاروبار سے
کو گورنمنٹ چرس گاڑن میں دیا تھا مورخہ 9.12.2015 کو پولیس نے پکڑ لی۔ ریگڈ بیہ لزمان کی کٹاؤن تھانہ میں
تھی۔ اس سے یہ حقیقت واضح ہوئی کہ ملزم فرمان، ملزم اور تمام لزمان کو چرس نے ہمارے پاس لایا تھا۔

اگرچہ SHO نے اپنے تحریر بیان میں خود ہر ماہ مورخہ 10.12.2015 کا تقریر بیان ہے۔ تاہم زبانی جرح
میں اس نے تسلیم کیا ہے کہ اس نے تمام مرد و خواتین کو ڈوگر کار نمبر 329-7114 میں مورخہ 9.12.2015 کو گرفتار کیا تھا۔ مرد
لزمان کو حالات تھانہ میں بند کرنے کے بعد خواتین کو رات دیر گئے چلاکے پر حوالے کیا گیا اور مسی عمر قیاز میٹرسٹ اس کے ساتھ
بنوں ٹاؤن شپ میں جا کر گاڑی کے وائس بورڈ سے تین کا گورنمنٹ چرس برآمد کی۔ سر دست SHO ان اللہ اس سوال پر کسی شخص کو
کشتہ کی پر مدد نہیں کہ اس نے یہ غیر ذمہ دارانہ اور غیر قانونی کام کیوں کیا۔۔۔؟

حقائق کی مزید شفافیت جانے کیلئے مستری و میٹری عمر قیاز کا بیان بھی قلمبند کیا گیا۔ اس نے اپنے بیان میں
بتایا ہے کہ مورخہ 9.12.2015 کو مورخہ 9:00 بجے کے بعد ایک لیکچرنگ کار کے ساتھ تھانہ میں
سے دو کٹاؤن طلبی کے بعد اس نے ان میں سے ایک کو اپنے پاس لایا اور دوسرے کو حوالے کی تھی۔

ATTESTED

تقریباً 7 بجے لیڈی کانسٹیبل نصرت بی بی نمبر 4846 کے بیانات کی حقیقت کو مزید واضح کرنے کیلئے لیڈی کانسٹیبل نصرت بی بی نمبر 4846 کے بیانات سے قلمبند کیے گئے ہیں۔ جو کہ ملزمان کے بیانات تصدیق کی۔

اسی طرح SHO کے بیان میں مندرجہ لیڈی کانسٹیبل شاہین اختر نمبر 172 اور لیڈی کانسٹیبل شبنم نمبر 640 کے بیانات بھی قلمبند کیا گئے۔ جنہوں نے واضح کیا کہ مورخہ 9.12.2015 بروز بدھ جب SHO ٹاؤن کے کچھ انہیں پہلی پریکٹس بویا گیا تو پولیس لائن ہی میں موٹر کار میں دو خواتین موجود تھیں۔ جن کو پولیس اسٹیشن ٹاؤن لے جا کر ان کی جائیداد لٹائی گئی لیکن ان سے کچھ نہیں برآمد نہ ہوا۔ اور وہ واپس 10:00 بجے رات تک پولیس لائن واپس آ گئی۔ انہوں نے واضح کیا کہ خواتین کی گرفتاری کے وقت وہ دونوں لیڈی کانسٹیبل موجود نہیں تھیں اور نہ ہی ان کے سامنے کچھ برآمد ہوا تھا۔

مزید یہ ہے کہ کانسٹیبل برائے ہر شاہ نمبر 833 اور محمد ولی ولد تاج علی صاحب مسکنہ بوڑھ شہل نظم بازار کے بیانات بھی قلمبند کیے گئے۔ جس میں جالندھر شاہ نے واضح کیا کہ اس سے محمد ولی نے رات کو فون پر بلایا کہ تھانہ ٹاؤن شپ کے پاس آ کر کچھ خواتین گرفتار کی گئی ہیں۔ ان کی رہائی میں مدد کیلئے تھانہ ٹاؤن آ جاؤ۔ جس پر وہ تھانہ ٹاؤن شپ جا کر SHO کے ساتھ مراجعت کر کے مہینہ لزم خواتین کو پنکھ پر رہائی دلوائی۔ جالندھر شاہ کے اس بیان کی مکمل تائید محمد ولی بالائے پجہ کی۔ کہ خواتین کی رہائی کے سلسلے میں اس نے جالندھر شاہ کو بھی طلب کیا تھا۔

جملہ قلمبند کیے گئے بیانات لف ہمراہ رپورٹ ہذا ہے۔

اسی طرح شب درمیان مورخہ 10/11.12.2015 کو جب تقریباً بوقت 01:00 بجے پولیس کنٹرول روم سے دریافت کیا گیا تو اس وقت تک SHO کے بیان کے مطابق مقدمہ 514 کے بارے میں کسی کو آگاہ نہیں کیا گیا تھا اور نہ ہی کوئی تحریر موجود تھی۔

تحریری بیانات زبانی جرح اور گواہی کے ملاحظہ سے یہ بات بالکل واضح ہوئی ہے کہ واقعی SHO ایمان اللہ نے تمام مرد خواتین کو مورخہ 9.12.2015 کو رات گرفتار کیا تھا اور ملزمان بغیر کسی قانونی کارروائی کے بلا جواز زیر حراست رکھا۔ کسی بھی سنٹیئر آفیسر اندر میں ہارے آگاہ نہیں کیا جہر کہ اس کی بنیادی ذمہ داری اور فرض تھا۔

مزید حقائق سامنے لانے کیلئے ایمان اللہ SHO تھانہ ٹاؤن شپ کے خلاف تھانہ کارروائی نٹل میں لانے کی سفارش کی جاتی ہے۔

محمد ظہیر شاہ
11/12/15

ڈی ایس پی، ہیڈ کوارٹرز بنوں

محمد ظہیر شاہ

ڈی ایس پی، کینٹر شاہ بازار

ATTESTED

SI Amanullah named in person -

(F) (13)

In the light of findings of Inquiry Committee, it has transpired that SI Amanullah has committed gross misconduct, he is therefore

dismissed from service

بحوالہ آرڈر Endst:No. 3713-17/EC مورخہ 11.12.2015 بجاریہ جناب RPO صاحب بنوں رتن بنوں

معروض ہوں کہ سب انسپکٹر آمان اللہ SHO تھانہ ٹاؤن بنوں کو مورخہ 09.12.2015 کی شب دو مستورات سے 3 کلواگرام چرس برآمد ہو کر چھوڑنے کے الزام کی پاداش میں معطل لائن کیا جا کر سرسری انکوائری سے قصور وار پایا جا کر حسب ضابطہ حکمانہ انکوائری ہم ممبران پینل کو تفویض ہو کر مشمولہ ابتدائی فائنلڈنگ رپورٹ مرتبہ جناب DSP/Cantt. DSP/HQr بنوں محیطہ بریانات

ملزمان مقدمہ نمبر 514 مورخہ 10.12.2015 جرم 9CNSA(C) تھانہ ٹاؤن بنوں

1- فرمان علی ولد غلام حیدر قوم افغان سکندہ بالٹری صدف خیل ماشو لگھر بڈھ بیر ضلع پشاور (شناختی کارڈ نمبر 1-17301-6609185) بمر تقریباً 46/47 سال

2- شاکر اللہ ولد سفیر اللہ سکندہ ماشو لگھر کندی محلہ ماما خیل ضلع پشاور (شناختی کارڈ نمبر 3-17301-8189725) بمر تقریباً 17/18 سال

3- مسماة رشیدہ بی بی زوجہ شاکر اللہ سکندہ ماشو لگھر بڈھ بیر ضلع پشاور (شناختی کارڈ Nil) بمر 18/19 سال

4- مسماة روبینہ بی بی زوجہ امجد خان ولد محمد ولی سکندہ بوزہ خیل ضلع بنوں حال شہید گڑھی ماشو لگھر بڈھ بیر ضلع پشاور (بمر تقریباً 17/18 سال) گواہان پولیس اہلکاران:- لیڈی کنسٹیبل نصرت نمبر 1297، لیڈی کنسٹیبل ناہید اختر 4846، نور اللہ نمبر 944 ایلٹ فورس متعینہ تھانہ ٹاؤن شپ بنوں، ذاکر اللہ نمبر 931 ایلٹ فورس متعینہ تھانہ ٹاؤن شپ بنوں، سیما ب الدین نمبر 382 متعینہ تھانہ ٹاؤن شپ بنوں، لیڈی کنسٹیبل شبنم نمبر 640 متعینہ پولیس لائن بنوں، لیڈی کنسٹیبل شاہین اختر نمبر 172 متعینہ پولیس لائن بنوں، ضامنان محلکہ (1) کنسٹیبل جاندر شاہ نمبر 1833 متعینہ RPO بنگلہ گارڈ/ایٹ -

(۲) محمد ولی خان ولد تاج علی خان سکندہ بوزہ خیل تنظیم بازار (شناختی کارڈ نمبر: 3-11101-0537610-03) موبائل نمبر 0336-9241011

(۳) جہانزیب خان ولد محمد ولی خان سکندہ بوزہ خیل تنظیم بازار (شناختی کارڈ نمبر: 3-11101-6264533-03) موبائل نمبر: 0332-9344688

ڈیوٹی: عمر قیاز ولد کریم گل سکندہ بنگلہ نمبر 31، بنوں ٹاؤن شپ بمر 56/57 سال موبائل نمبر: 0336-9328855

کاسٹمز حاصل مطالعہ کرنے سے پایا کہ آمان اللہ سابقہ SHO تھانہ ٹاؤن نے مورخہ 09.12.2015 کو ایک موٹر کار نمبر

WH-329/Islamabad جس میں ملزمان بالا دو مرد اور دو خواتین سوار جانب پشاور سے آتے ہوئے روک کر تھانہ لے جا کر خواتین کو

ضامنان (1) کنسٹیبل جاندر شاہ نمبر 1833 متعینہ RPO بنگلہ گارڈ/ایٹ -

(۲) محمد ولی خان ولد تاج علی خان سکندہ بوزہ خیل تنظیم بازار (شناختی کارڈ نمبر: 3-11101-0537610-03) موبائل نمبر 0336-9241011

(۳) جہانزیب خان ولد محمد ولی خان سکندہ بوزہ خیل تنظیم بازار (شناختی کارڈ نمبر: 3-11101-6264533-03) موبائل نمبر: 0332-9344688

کی ضمانت پر چمکے تحریر کر کے غلطی دینے اور ہر دو افراد کو تھانہ میں بلا جواز غیر قانونی طور پر زبردستی رکھنے کا قصور وار ٹھہرا کر حکمانہ کارروائی کی سفارش کی ہے۔

مزید حقائق سامنے لانے کیلئے مورخہ 12.12.2015 کو تھانہ ٹاؤن بنوں جا کر تفتیشی آفسر SI منزل خان محرر تھانہ موڈیگر

شاف موجودہ تھانہ مطالعہ FIR چلیدہ سے برآمدہ چرس متذکرہ بالا کی بابت مقدمہ نمبر 514 مورخہ 10.12.2015 جرم 9CNSA(C)

تھانہ ٹاؤن بنوں درج شدہ پاکر ملزمان مقدمہ:-

ATTESTED

1 - فرمان علی ولد غلام حیدر قوم افغان سکنہ بالٹریز کی صدیق خیل ماشوگھر بڈھ پیر ضلع پشاور (شناختی کارڈ نمبر 1-17301-6609185-17301-8189725-3) (شناختی کارڈ نمبر 3-17301-8189725-3) (تقریباً 46/47 سال) 2 - شاکر اللہ ولد سفیر اللہ سکنہ ماشوگھر کندی محلہ ماما خیل ضلع پشاور (شناختی کارڈ نمبر 3-17301-8189725-3) (تقریباً 17/18 سال) کو دو روزہ ریماٹڈ جسمانی پر بند کحوالات تھانہ پایا۔ جنکے بیانات لئے جا کر کراس Examin کے گئے۔ اسی طرح محرر تھانہ سے نقول FIR، روزنامچہ حاصل کئے منزل خان SI کو تفتیش در سمت سمت میں کرنے کی ہدایت ہوئی ہے۔

مورخہ 29.02.2015 کو انکو انٹیری پینل نے دیگر کارس کار سے فراغت ملتے ہی الزام علیہ آمان اللہ خان SI، منزل خان تفتیش آفسر پولیس ہلکاران بشمول ڈیٹر عمر قیاز سکنہ ٹاؤن شپ بنوں طلبیدہ کے بیانات بموجودگی الزام علیہ لئے جا کر کراس Examin کئے گئے۔ کردہ انکو انٹیری سے یہ بات اظہر من الشمس ہو چکی ہے۔

(1) کہ وقوعہ مورخہ 09.12.2015 برسات رات کا ہے شب وقوعہ بالمقابل ٹاؤن شپ مین گیٹ بنوں کو ہاٹ روڈ موٹر کار نمبر WH-329/Islamabad کو SI آمان اللہ نے بشمول کنسٹیبلان شیب الرحمن 1800، ہمتاز HC، ڈاکٹر 934/E، مطیع اللہ 956/E، خیال محمد 1441/E روکا جس میں دوسرا اور دو مستورات سوار پا کر تھانہ لا کر مردوں کو حوالات میں بند کیا اور مستورات کو چمکے پر چھوڑ دیا۔ چمکے مستورات لف قابل ملاحظہ ہے۔ جہاں تک چمکے لینے کا سوال ہے۔ مورخہ 09.12.2015 کو لیا گیا ہے۔ بیان کنسٹیبل جانندھر شاہ نمبر 1833 متعینہ بنگلہ RPO صاحب قابل ملاحظہ ہے۔

(2) چرس وزنی 3 کلو (3 پیکٹ) مورخہ 09.12.2015 کی شب کو ڈیٹر عمر قیاز نے موٹر کار ملوث مقدمہ کی دو گناہ تاش کے بعد ڈیش بورڈ سے برآمد کر کے آمان اللہ SI کے حوالے کی۔ بیان ڈیٹر لف قابل ملاحظہ ہے۔

(3) ہر دو مستورات کا چمکے لیا گیا لیکن مورخہ 10.12.2015 کو مقدمہ نمبر 514 بالا میں نامزد نہ کیا گیا۔ جبکہ انکے ہمراہیان ہر دو افراد کو نامزد کیا۔ برطابق ریکارڈ تفتیش مقدمہ تفتیشی آفسر نے مقدمہ متذکرہ بالا میں ہر دو مستورات کو ملوث جان کر حسب ضابطہ گرفتار کیا ہے۔

(4) تاریخ چمکے مستورات، برآمدگی چرس بذریعہ ڈیٹر سے وقوعہ 09.12.2015 کا ثابت ہوتا ہے۔ جبکہ اندراج تاخیر کی نذر ہو کر مورخہ 10.12.2015 کو مقدمہ نمبر 514 بجرانم (C) CNSA 9 تھانہ ٹاؤن بنوں میں درج رجسٹر ہوتا ہے۔

(5) بالا چار نقاط سے یہ اخذ ہوتا ہے کہ SI آمان اللہ خان نے معہ ہمراہی کنسٹیبلان شیب الرحمن نمبر 1000، ہمتاز خان HC، ڈاکٹر نمبر 934/E، مطیع اللہ نمبر 956/E، خیال محمد نمبر 1441/E کے موٹر کار نمبر WH-329/Islamabad روک کر مورخہ 09.12.2015 کو روک کر گاڑی میں سوار بالا ملزمان دوسرا اور دو مستورات کو مورخہ 09.12.2015 کی شب تھانہ لا کر ملزمان میں سے مرد حضرات کو غیر قانونی طور پر مجبوس رکھنے مستورات کو مقدمہ میں ملوث کئے بغیر چمکے پر مخلصی دینے اور دوسرے روز مقدمہ نمبر 514 بالا درج رجسٹر کرنے کا تصور وار پایا جاتا ہے۔

نوٹ: پینل ممبر DSP/HQR: کلی بصورت تبادلہ مردان رنچ جا چکے ہیں۔ جملہ متعلقہ بیانات کا غذات لف انکو انٹیری ہذا کئے جاتے ہیں۔

خان سید

DSP روزل بنوں۔

سید

ایس پی انویسٹی گیشن کمی مروت۔

ATTESTED

ORDER.

My this order will dispose off the departmental enquiry proceedings conducted against Sub: Inspector Amanullah 11/B of Bannu for committing the following omissions:-

"That he, while posted as SHO-PS: Township, District Bannu arrested four persons including two ladies on 09.12.2015 by recovering / taking into possession 03-Kg Charas from their possession. A case to this effect was registered on the following day vide FIR No.514 dt:10/12/2015 u/s 9-CNSA(c) PS Township Bannu and the two ladies were released."

The said Police Officer was charge sheeted based upon statement of allegations and an Enquiry Panel, consisting of the following Police Officers was constituted for conducting proper departmental enquiry proceedings in the subject case under Police Rules 1975:-

1. SP/Invest Lakki.
2. DSP/HQrs: Lakki.
3. DSP/Rural-Bannu.

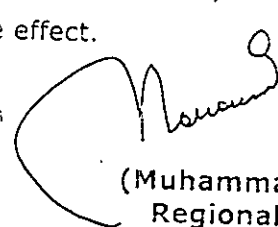
The Panel conducted proper departmental enquiry proceedings and submitted its findings, wherein the said delinquent Police Officer has been held guilty of the charges.

The said Police Officer (SI- Amanullah 11/B) was called to Orderly Room on 12.4.2016 and heard in person.

I, Muhammad Ali Khan, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thorough perusal of the record and hearing the delinquent Police Officer in orderly room held on 12.4.2016, am agreed upon the findings of the Panel. Therefore, in light of the findings of the Panel, the delinquent Police Officer (SI- Amanullah 11/B) is hereby awarded major punishment of dismissal from service with immediate effect.

Order Announced.


Dated: 13/4/2016


(Muhammad Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 1131-32 /EC, dated. 13/4/2016.

Copy to :-

- The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- The District Police Officer, Bannu for information and n/action.


(Muhammad Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

POLICE DEPARTMENT

BANNU REGION

ORDER.

My this order will dispose off the departmental enquiry proceedings conducted against Sub: Inspector Amanullah 11/B of Bannu for committing the following omissions:-

"That he, while posted as SHO-PS: Township, District Bannu arrested four persons including two ladies on 09.12.2015 by recovering / taking into possession 03-Kg Charas from their possession. A case to this effect was registered on the following day vide FIR No. 514 dt:10/12/2015 u/s 9-CNSA(c) PS Township Bannu and the two ladies were released."

The said Police Officer was charge sheeted based upon statement of allegations and an Enquiry Panel, consisting of the following Police Officers was constituted for conducting proper departmental enquiry proceedings in the subject # under Police Rules 1975:-

1. SP/Invest Lakki.
2. DSP/HQrs: Lakki.
3. DSP/Rural-Bannu.

The Panel conducted proper departmental enquiry proceedings and submitted its findings, wherein the said delinquent Police Officer has been held guilty of the charges.

The said Police Officer (SI- Amanullah 11/B) was called to Orderly Room on 12.4.2016 and heard in person.

I, Muhammad Ali Khan, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thorough perusal of the record and hearing the delinquent Police Officer in orderly room held on 12.4.2016, am agreed upon the findings of the Panel. Therefore, in light of the findings of the Panel, the delinquent Police Officer (SI- Amanullah 11/B) is hereby awarded major punishment of dismissal from service with immediate effect.

Order Approved.
Date: 13/4/2016

(Muhammad Ali Khan) PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 1131-32 /EC, dated. 13/4/2016.

Copy to :-

- The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- The District Police Officer, Bannu for information and n/action.

ATTESTED

To,

The Worthy Provincial Police officer,
Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION AGAINST THE ORDER OF REGIONAL POLICE OFFICER BANNU VIDE NO. 1131 - 32/EC DATED 13/4/2016 VIDE WHICH THE PETITIONER WAS DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT.

Respected Sir,

The Petitioner draws your kind attention towards the following few lines:-

1. The Detail facts and figures on the subject of inquiry has already been submitted in response to the charge sheet and detail reasons were given in the said reply present on file of inquiry.
2. That the petitioner has been recruited as ASI in the police department through PSC and after undergoing the basic training reported back into the district. During my posting on various establishment of police department, I have performed my duty with great zeal and zest and because of efficient and honest performance of duty I have been promoted to the rank of sub inspector and no complaint what so ever has been lodged by any officer against me.
3. That on the day of occurrence I have apprehended a motor car bearing number WH-329/ISB which was being driven by Farman Ali and also owned by him. The other person sitting on the front seat of the motor car was Shakir Ullah and on the personal search of the above two persons 1/1 KG Chars was recovered from each of the above accused and also one KG from the switch board of the motorcar. Two ladies and one minor kid was also found sitting in the motor car.
4. That on summary interrogation of the male accused, they admitted the contraband chars as that of their own and no involvement has been attributed to the lady accused. On this, I released the lady accused on personal bond with the direction to the male accused as well as to the sureties of the ladies accused for production of the ladies whenever required for investigation of the instant case.

15
ATTESTED

5. That the registration of the FIR was made after the recovery of chas from the possession of accused as much recommendation /pressure was put up upon me from different influential person but I rejected their recommendation which resulted the rumour of suspension of FIR as well as release of lady accused. And this rumor was resulted in departmental proceedings against me and my good work was converted into my departmental action.
6. The inquiry officer of the preliminary inquiry as well as of the regular inquiry has not thrashed out the real facts in true sense because all the police officials accompanied with me at the time of recovery supported my version and nothing has been brought otherwise on record. These were the police officials accompanied with me who are the eye witness of the occurrence and all the remaining material collected by the EO are hearsay evidence which is not acceptable in the eyes of law.
7. That according to dicta of Superior courts the defaulting officer will be held guilty of major penalty when the charges against him are proved beyond any shadow of doubt but your honor perused the finding of EO and a single iota of evidence is not available on record bringing home the charges to the neck of the petitioner. The material based for my punishment and departmental proceeding are not connecting me with the charges. Furthermore both the Inquiry officers have travelled beyond the procedure of inquiry and the charges of charge sheet while recommending me fo departmental action and punishment and similarly the RPO has also not assist the record of inquiry proceedings in true prospective of law while inflicting major penalty upon the petitioner.
8. The petitioner is a officiating Sub Inspector and DPO was competent for initiation of any action against me and this fact is evident from the letter of RPO addressed to DPO vide letter No. 3713-17 /EC dated 11/12/15 and the reply to the letter by DPO vide letter No. 15755 dated 17/12/15. Both these authority were infix regarding the departmental action against the petitioner but lastly without solving the disputed point through legal expert, RPO has assume the jurisdiction in violation of police order 2002 as well as of the service rules. By this action the petitioner has deprived from one forum of appeal which is quite against the natural justice and law.

ATTEST

9. If the inquiry proceeding of the regular inquiry committee comprising of SP Inv Lakki Marwat , DSP HQ Lakki Marwat and DSP Rural Bannu is perused, it is also against the spirit of law because the matter was entrusted to the above three officers and during the course of inquiry, the DSP HQ lakki was ousted from the inquiry proceeding without nominating any other officer to be the member of the committee which is also short coming of the findings of the inquiry committee and suggest that the inquiry committee was in hurry in submission of finding to the authority without demanding the third officer to be nominated for the inquiry proceeding.
10. That the finding of the EO is also not based upon facts because during the course of inquiry accused Farman Ali has admitted before the committee that the contraband chars was 3 KG and is belonging to him being his business. Nothing has been brought on record by the Enquiry committee that the lady accused were having the knowledge of contraband chars or involved in transportation of the said chars. By the statement of Farman Ali it clearly suggest that the charges of reliving lady accused by the petitioner for some ulterior motive is not proved and brushed aside.
11. That regarding suspension of registration of case for some other time is also not proved on record because the Enquiry committee has not brought on record the motive of the suspension of the FIR. Submission of the finding by the inquiry committee and blindly relying by the worthy RPO Bannu is against the spirit of law because law prescribe that whenever major penalty is to be inflicted upon any official, strong connected evidence is required against the defaulting officer whereas in my case all the above fact is missing.
12. That the order of the worthy RPO is also not based upon facts because he has not given reason for belying the finding of the inquiry committee because as per the decision of the higher courts it has been held that authorized officer will passed an order of major penalty based upon well reasoned. Simply stating " relying upon the finding of the inquiry officer" is not the command of inquiry proceeding. The hap hazard order of the worthy RPO is not based upon rules and procedure.
13. That the petitioner has performed his duty according to law and arresting and seizing the narcotics from such like notorious

ATTESTED

accused as evident from his statement is not possible but with the risk of life. Not only I have arrested the accused the contraband but also saved the lives of police officials in performance of duty but strange enough that my good work has been converted into departmental action which will certainly discourage other police officers in performance of duty.

14. By the order of worthy RPO the people supporting such like criminals will certainly feel happiness because what has done by me is not fair and at the instant of hidden hands supporting the narcotics business. Through entire investigation of the case nothing adverse has been brought on record against me and while releasing the lady accused by the court, it has been held that nothing is found on record regarding the involvement of lady accused which also substantiate my stance which has been defeated by the inquiry committee on flimsy grounds.

15. Lastly, keeping in view the situation, position of ladies in our pakhtun society, my whole action was justified and there were no ill-intentions on my part nor any illegal gratification alleged against me.

PRAYER:-

In light of the above facts and circumstances, it is requested that the order of RPO DATED 13/4/2016 may be set-aside and I may be re-instated into the service from the date of the dismissal with all back benefits for the best interest of my service and large family. I may also be heard in person.

Yours Obediently,



Aman Ullah Khan
EX SI

S/O Muhammad Sher Khan r/o
Arsala Machan Khel P/O
Ghoriwala Bannu.

Contact # 0302-8088441

ATTESTED
12



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

No. S 4846 /16 dated Peshawar, the 28 /06 /2016.

ORDER

This order is passed in departmental appeal of Amanullah Ex-SI filed against the order dated 07.03.2016 of Regional Police Officer, Bannu vide which he was dismissed from service. Appellant was summoned and heard in detail, record gone through.

According to the statement of allegations appellant while posted as SHO, PS Township, District Bannu released two ladies and taking 03-Kg Charas from their possession last night dated 09.12.2015.

Perusal of the impugned order and comments filed by the Regional Police Officer, Bannu revealed that appellant had apprehended a motorcar bearing No. WH-329/ISB and made recovery of 03 Kg Charas from the motorcar and arrested Farman Ali and Shakeer Ullah occupants of the motorcar. He registered case vide FIR No. 514 dated 10.12.2015 under section 9-CNS, (c) in Police Station Town. He also detained two ladies namely Mst: Rasheeda Bibi and Rubina Bibi who were occupying the rear seat of motorcar. He released the said two ladies on "Mudhalla". Later on both the ladies were produced by appellant before the investigation officer and they were arrested in the case but no evidence with regard to their involvement in the case was procured leading to their released on bail by Court.

The charge of releasing the ladies who were arrested along with the male accused is proved against appellant and he has also admitted the charge. However, appellant has registered case against the male accused therefore penalty of dismissal from service is very harsh. Therefore the penalty of dismissal from service is converted into reduction in rank for a period of two years as envisaged in FR-29. Furthermore, the intervening period i.e. the date of dismissal and re-instatement in service may be treated as leave of the kind due.

The order is passed with approval of competent authority.

(Muhammad Aamir Shariq) PSP
DIO/3Qrs
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S 4847 /16.

Copy of the above is forwarded to the:-

1. Regional Police Officer, Bannu.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, Peshawar.

ATTENDED

Statement
Givens
Final Inquiry

(21)

mobile: 03317896621

بیٹان اداں بیگم ولدہ: 15/11/54. فرماں علی ولدہ علیہ صلاہتہ بیگم ولدہ: 47/46/46

نے بلدیافت بیان کیا کہ مورخہ 12/9 کو بت لکھیاوات کے

8000 کے بل کا اصل نمونہ ماؤں میں زور پر آڈی نہ 4329 لیا۔ مورخہ 20/11

ایسٹوریٹ سے شاکر اللہ - زید شاکر رساہ جو بڑھ چل بنوں کی رہتی ہے۔

دینیہ زید احمد ساکن بڑھ چل بنوں جو ایسٹوریٹ کے سرگرم کے خان میں
بحکم گڑھی مہر دین دیتا ہے۔ اور یہ ہے کہ SH5 ماؤں نے بیکر لیا۔

بت نمونہ سے گزری۔ مہر دین بوا مورخہ 12/10 - مورخہ 21/11

میں 500 بنوں کو پیش کیا۔ زنانہ کو سری در خواست پر 546
ذہجور ہے کہ میں نے بتایا مقصود سہرا ہے۔ یہ میگنا میں ہے

یہی دکھاتا ہوا جان مہر افندی لکھا ہے آباؤ ماؤں میں دیتا ہے، جسے

کیا کہ جسے سائبرل ذکر میں بنوں جو اس روڈ پر ملتا کو پتہ ہے۔ سائبرل
کا جو بیل

یہ سری سائبرل کے بتات ہیں رہی
الکب فہار علی

کیا SH5 نے اس سے دستبرد لی ہے۔

سری سائبرل کے بتات ہیں کہ ان اس کے بتات ہیں رہی ہے
دستبرد نہیں لی ہے۔ عورتوں کو جیلہ پر چھوڑا ہے (فرمان علی)

XX گاڑی کنڈے ہے۔

ATTESTED

"J" A

statement in preliminary inquiry

8

بیان اذعان فرمان علی ولد غلام حیدر قراقرم افغان نسلہ بالقرنی صدیقی

ماتنگو بڑھ پیر صلح پشاور CNIC نمبر 1-6609185-17301

بیمہ تقریباً 46/47 سال تک میری طرفہ تقریباً 3 سال سے ٹرسٹ وجہ کے

تحتوی والی بیان مارکیٹ میں شخصی پلٹیں کی دکان ہے۔ جہاں میرا

تقریباً 2 سال سے جان محمد آفریدی نامی شخص جو سے سامان خریدتا

رہا اور اچھی جان پہچان تھا۔ 2 ماہ قبل اس نے مجھے کہا کہ آپ کو

ایک کام بتانا ہوں جس میں آپ کا فائدہ ہوگا۔ پھر اس نے مجھے

جرس بنوں لے جانے پر آمادہ کیا۔ تقریباً 26/27 دن قبل جرس میں

اپنی فیملی رموٹ کار نمبر WH-329 میں پشاور سے 2 ٹکڑوں میں بنوں

لے آیا اور ایک انجان شخص کے حوالے کی۔

کل مورفہ 9/12 کو بھی جان محمد صہم 9 بجے جیسے میری گاڑی لے

گیا اور 30 منٹ بعد واپس لایا۔ جس کے طبعیتس بورڈ میں 3 گورس

لقب کے تھے۔ میں اپنے دوست شاکر اللہ، ڈسکی بولی رشید

اور اسٹے کے بھائی رہبر کے ہمراہ اپنی گاڑی میں پشاور

سے 4 بجے روانہ ہوا۔ راستہ میں آرام آرام سے گاڑی چلائی

تقریباً 9 بجے بنوں شہر میں داخل ہونے سے پہلے پلٹیں واپس لے

گیا۔ یہاں تک کہ کھانے لگے۔ خواتین کو صبح میں تقریباً 11

ATTESTED

[Signature]

VAKALAT NAMA

23

NO. _____/20

IN THE COURT OF K.P.K. Service Tribunal, Peshawar

Aman Ullah

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt.

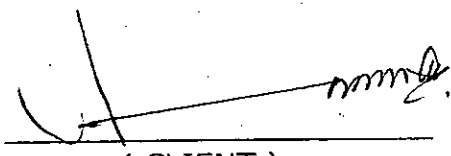
(Respondent)
(Defendant)

I/We Aman Ullah

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

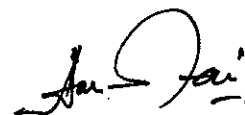
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

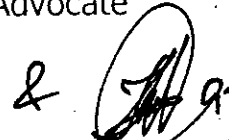


(CLIENT)

ACCEPTED



M. ASIF YOUSAFZAI
Advocate

& 

TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.717/2016

Aman Ullah Khan Ex-ASI,
S/O Muhammad Sher Khan R/O
Arsala Machan Khel P/O
Ghori Wala Bannu.

..... **Appellant**

Versus

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others.

..... **Respondents**

PARA WISE COMMENTS / REPLY ON THE ABOVE SUBJECT SERVICE APPEAL ARE SUBMITTED BY THE RESPONDENTS NO.1, 2 & 3.

Preliminary Objections

1. That the appeal of appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That the appellant has concealed the actual facts from the honorable tribunal.
4. That the appeal is bad in law due to non-joinder and mis-joinder of unnecessary parties.
5. That the appellant has approached the Honorable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been estopped by his own conduct.

OBJECTIONS ON FACTS:

Respectfully Sheweth

1. Pertains to record. Hence no comments.
2. Correct to the extent that the appellant has apprehended a motorcar bearing number WH-329/Isb which was searched by Dentor Umer Qiaz and 3 KG chars was recovered from the Dashboard of motorcar on 09.12.2015 and then handed over to Ex-SI Aman Ullah. Two ladies accused were also sitting on rear seat in the said motorcar which was released on bail/machalka.
3. Correct to the extent. It was admitted by male accused that the contraband chars belongs to him and he runs this business. This charges also verified by the enquiry officer as well as investigation officer of the case. The two ladies accused also accompanied with the male accused from Peshawar to Bannu.

However the defaulter officer was bond to join the ladies accused for investigation but they were released on bail/machalaka without any cogent reason.

4. Pertains to record. Hence, no comments.
5. Incorrect. Both the inquiries were conducted according to Police Rules 1975. The defaulter Police officer failed to rebut the allegations before the inquiry officer. Hence the charges were proved then the punishment was awarded. (Copies of Both the inquiries reports are A & B).
6. Pertains to record. Needs no comments.
7. Pertains to record. Needs no comments.

OBJECTIONS ON GROUNDS

- A. Incorrect. The impugned orders dated 14.03.2016 and 28.06.2016 are quite legal accordingly to law/rules, was issued after proper thorough prob/findings /recommendations of the inquiry constitutional penal.
- B. Incorrect. All codal formalities were adopted and legal requirements were fulfilled, hence punishment was awarded after proper departmental proceedings where the charges proved beyond any shadow of doubt.
- C. Incorrect. The defaulter officer was treated according to law/rules.
- D. Incorrect. No need to issue Final Show Cause Notice according to Police Rules 1975.
- E. Incorrect. The defaulter Police Officer was punished when it charges mentioned in the charge sheet was proved/establishment.
- F. Incorrect. It was admitted by the male accused that the chars belongs to him and they are running this contraband business. This charges also verified by the enquiry officer as well as by the Investigation Officer of the case. The ladies accused also accompanied with them from Peshawar was set free without cogent reason was bond to join the ladies accused for investigation.
- G. Incorrect. Both the ladies accused were involved in the same business.
- H. Pertains to record. Hence no comments.
- I. Pertains to record. However it is the trail court which will decide that the charges are proved or not.
- J. Incorrect. The chars were recovered from the dashboard and all the co-accused male and female are equally indulged in the said business.
- K. Incorrect. Reply has already been given in the above para.
- L. Incorrect. The defaulter official badly failed to performed his legal duties due to his ulterior motives.

- M. Incorrect. The RPO is competent authority under Police Rules, 1975 to take any legal action against the delinquent officer/official right from constable to inspector.
- N. The grounds if any moved/preferred by the appellant would be rebutted during course of Arguments.

Prayer:-

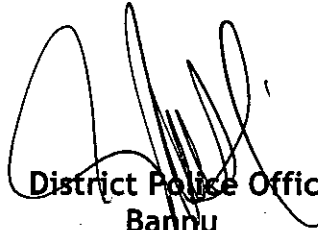
In view of the above para-wise comments & grounds is must respectfully prayed that there has been no mistake or wrong entry on the part of the respondent/ department as per available record. Therefore, it most respectfully submitted before this Honourable Service Tribunal that the present Service Appeal filed by SI Aman Ullah may very graciously be dismissed with cost.



**Regional Police Officer,
Bannu Region, Bannu
(Respondent No.2)**



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



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

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.717/2016

Aman Ullah Khan ASI,
S/O Muhammad Sher Khan R/O
Arsala Machan Khel P/O
Ghori Wala Bannu.

..... Appellant

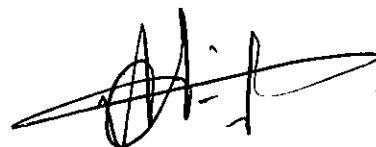
Versus

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & others.

..... Respondents

AFFIDAVIT.

I, Muhammad Farooq Khan, Inspector Legal of Regional Police Office, Bannu representative for respondent No.1, 2 & 3 do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.



DEPONENT

11101-1483421-1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.717/2016

Aman Ullah Khan Ex-ASI, S/O Muhammad Sher Khan R/O Arsala Machan Khel
P/O Ghorl Wala Bannu

(Appellant)

Versus

Provincial Police Officer, Khyber Pakhtunkhwa Peshawar & Others.

(Respondents)

AUTHORITY LETTER.

Mr. Muhammad Farooq Khan Inspector Legal Bannu, is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

He is authorized to submit and sign all documents pertaining to the present appeal.

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



**Regional police Officer
Bannu Region, Bannu
(Respondent No.2)**



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

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

Service Appeal No. 717/2016

Aman Ullah

VS

Police Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-7) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 NO comments endorsed by the respondents which mean that they have admitted para-1 of the appeal as record is already in the custody of the department.
- 2 Admitted correct by the respondents department.
- 3 In first portion of his reply half portion of the para-3 of the appeal is admitted correct by the respondents. Moreover, rest of the contention of the respondent department is incorrect while para-3 of the appeal is correct.
- 4 NO comments endorsed by the respondents which mean that they have admitted para-4 of the appeal as record is already in the custody of the department.
- 5 Incorrect. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant.

- 6 NO comments endorsed by the respondents which mean that they have admitted para-6 of the appeal as record is already in the custody of the department.
- 7 NO comments endorsed by the respondents which mean that they have admitted para-7 of the appeal as record is already in the custody of the department.

FOUNDATIONS:

- A) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- B) Incorrect. No opportunities of defense, cross examination etc were provided to the appellant during the course of inquiry.
- C) Incorrect. While para-C of the appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the appeal is correct as mentioned in the main appeal of the appellant. Final showcase notice is necessary before imposing major penalty of dismissal from the service which was not served to appellant, hence it is the violation of principles of personal hearing and fair play and the impugned order is liable to be set aside.
- E) Incorrect. While para-E of the appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the appeal is correct as mentioned in the main appeal of the appellant.
- G) Incorrect. While para-G of the appeal is correct as mentioned in the main appeal of the appellant.

- H) NO comments endorsed by the respondents which mean that they have admitted para-H of the appeal as record is already in the custody of the department.
- I) NO comments endorsed by the respondents which mean that they have admitted para-I of the appeal as correct. while rest of the contention of the department is incorrect.
- J) Incorrect. While para-J of the appeal is correct as mentioned in the main appeal of the appellant.
- K) Incorrect. While para-K of the appeal is correct as mentioned in the main appeal of the appellant.
- L) Incorrect. While para-L of the appeal is correct as mentioned in the main appeal of the appellant.
- M) Incorrect. While para-M of the appeal is correct as mentioned in the main appeal of the appellant.
- N) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

Amanullah

Through:

(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

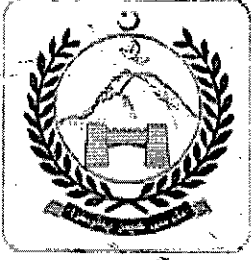
AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief.

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt. Court Peshawar

21/12/2010

DEPONENT



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1234 /ST Dated: 18 / 9 /2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To,

The District Police Officer,
Government of Khyber Paktunkhwa,
Bannu.

Subject: - **JUDGMENT IN APPEAL NO. 717/2016, AMAN ULLAH KHAN.**

I am directed to forward herewith a certified copy of judgment dated 29/08/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR