

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No.783/2016

Date of Institution... 02.08.2016

Date of decision... 31.1.2018

Anwar Khan son of Bakhtiar Mian, R/O Haji Abad Lilowanai Tehsil Alpuri District Shangla. ... (Appellant)

Versus

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and 4 others. ... (Respondents)

MIAN ABDUL SABOOR,
Advocate

... For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was transferred from Shangla to Dir on 20.04.2016 against which he filed departmental appeal on 03.05.2016 which was not responded to and thereafter he filed the present service appeal on 02.08.2016.

ARGUMENTS


3. The learned counsel for the appellant argued that the transfer could not be made as a punishment. That the impugned order was liable to be set aside.

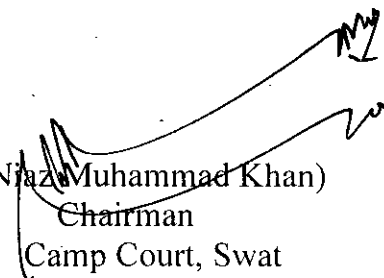
4. On the other hand, the learned Deputy District Attorney argued that no departmental appeal was preferred by the appellant because it was not available on the official record. That transfer could be made under the administrative ground.

CONCLUSION

5. The objection of non-filing of departmental appeal was raised by the learned Deputy District Attorney on 07.12.2017. The departmental appeal is available on the file, however, the objection was that the same was received by the Registrar on 03.05.2016 and the post of Registrar is not available in the office of the Inspector General of Police. As per record the post of Registrar is available in the office of Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

6. As a sequel to the above discussion, the present appeal is accepted and the impugned order is set aside. Parties are left to bear their own costs. File be consigned to the record room.


(Gul Zeb Khan)
Member


(Naz Muhammad Khan)
Chairman
Camp Court, Swat

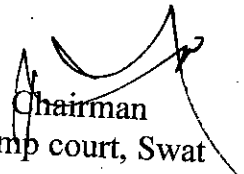
ANNOUNCED

31.1.2018

07.12.2017

Appellant alongwith counsel and Mian Amir Qadar, District Attorney for the respondents present. After arguing the case at some length, the learned AAG objected to departmental appeal. According to him no departmental appeal was preferred by the appellant. The appellant is directed to prove that when he filed departmental appeal. To come up for arguments on 31.01.2018 before the D.B at camp court, Swat.


Member



Chairman
Camp court, Swat

31.01.2018

Counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.


MEMBER


CHAIRMAN
Camp Court, Swat.

ANNOUNCED
31.01.2018

783/2016

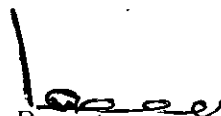
09.02.2017

Counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mian Amir Qadar, GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 07.06.2017 at camp court, Swat.


Chairman
Camp Court, Swat.

08.06.2017


Since the tour programme for the month of June, 2017 to camp court Swat has been cancelled by the Worthy Chairman, therefore, to come up for the same on 03.10.2017 at camp court, Swat. Notices be issued to the parties for the date fixed accordingly.


Registrar

03.10.2017

Appellant in person and Mr. Muhammad Zubair, District Attorney alongwith Raees Khan, Inspector (Legal) for the respondents present. Rejoinder submitted. Appellant seeks adjournment as his counsel is not in attendance. Granted. To come up for arguments on 06.12.2017 before the D.B at camp court, Swat.


Member


Chairman
Camp court, Swat

06.10.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as Driver Head Constable when transferred from District Shangla to Dir Lower vide impugned order dated 20.4.2016 on the basis of report of enquiry where-against he preferred departmental appeal on 3.5.2016 which was not responded and hence the instant service appeal on 02.8.2016.

That neither the allegations were proved nor the appellant was associated with any enquiry nor a civil servant can be transferred as punishment. That the impugned transfer order also affected seniority and promotion chance of the appellant. As such the impugned order is against facts and law and liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 09.12.2016 before S.B at camp court Swat.



Chairman
Camp Court, Swat




09.12.2016

Appellant in person and Mian Amir Qadar, GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 09.02.2017 before S.B at camp court, Swat.

Chairman
Camp court, Swat

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 783/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/08/2016	<p>The appeal of Mr. Anwar Khan presented today by Mr. Abdul Saboor Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	05-08-2016	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on. <u>8-09-2016</u></p> <p style="text-align: right;"> MEMBER</p>
	08.09.2016	<p>Appellant seeks adjournment as counsel is not in attendance. Adjourned for preliminary hearing to 6.10.2016 before S.B at camp court, Swat.</p> <p style="text-align: right;"> Chairman Camp Court, Swat.</p>

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

Service Appeal. No. 783/2016

Anwar Khan(Petitioner)

VERSUS

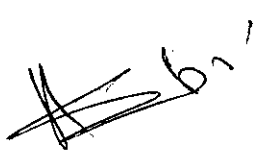
Chief Secretary & others(Respondents)

I N D E X

S. #	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
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2	Affidavit.		9
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PETITIONER

Through counsel


Mian Abdul Saboor Advocate
High Court.
District Shangla Courts Shangla.
Cell 03249171737

Dated: ____/08/2016.

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

Service Appeal. No. 783 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 798

Dated 02/8/2016

Anwar Khan son of Bakhtiar Mian

R/o Haji Abad, Lilowanai Tehsil Alpuri District Shangla.

.....(Petitioner)

VERSUS

- (1) Chief Secretary, Govt: of Khyber Pakhtunkhwa, Peshawar.
- (2) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- (3) Deputy Inspector General of Police, Malakand Range, Saidu Sharief Swat.
- (4) Superintendent of Police, District Shangla, at Alpuri.
- (5) Riaz, Deputy Superintendent of Police, Circle Alpuri District Shangla.(Respondents)

APPEAL UNDER SECTION 04 OF THE
SERVICE TRIBUNAL ACT AGAINST THE
ORDER NO. 3667-68/E DATED 20.4.2016
WHEREBY THE APPELLANT/PETITIONER
WAS ILLEGALLY TRANSFERRED FROM
DISTRICT SHANGLA TO DISTRICT DIR
LOWER.

Filed to-day

Registrar

2/8/16

Respectfully Sheweth:

1. That the petitioner is the bonafide resident of District Shangla.
(Copies of CNIC is attached as annexure "A")

2. That the petitioner was appointed as constable on 02.01.1984 in the M. T Staff as driver and latter on the petitioner also completed his ring route course in the same year.
(Copy of service card is annexed marked as "B")

3. That the petitioner has same land disputes with some of his close relatives in this respect the petitioner made some complaints for legal action to the police officials and also presented an application under section 22-A in the court of District & Session Judge/Zilla Qazi, Shangla.
(Copy of application is annexed herewith marked as "C")

4. That feeling aggrieved the police official transferred the petitioner from district Shangla to Dir Lower
(Copy of transfer order No. 3667-68/E dated 20.04.2016 attached herewith as annexure "D")

5. That one of the son of petitioner named Mr. Najeeb Ullah filed a writ petition in the court of Honourable Peshawar

High Court for the appointment on police sons quota which was admitted but respondent No. 02 denied to appoint him and Mr. Najeebullah approached the Honourable High court again filled a writ petition and in a writ petition No. 547 is still pending.

(Copy of writ petition is attached as annexure "E")

6. That on dated 20.04.2016 petitioner was transferred to district Dir Lower from Shangla on the base of inquiry report submitted by respondent No. 06.
7. That the petitioner does not know about the said inquiry because no opportunity / show cause notice was given to petitioner appellant.
8. That the petitioner has been condemned unheard, neither the petitioner/ Appellant was called to attend the proceedings of inquiry, nor any opportunity was given to cross examine the witnesses who deposed against appellant.
9. That the petitioner was proceeded illegally in order to deprive him of an expected promotion due to personal grudges of the department concerned.

10. That the appellant filed a departmental presentation well within time but till now, the same has not been decided. (Copy of presentation/application is annexed herewith as annexure "F")
11. That at present petitioner is on top in seniority list in district Shangla in the M. T. staff and the respondents are desirous to accommodate and promote one of his junior named Rozimand driver 145/HC.
12. That one ASI ^{drivey} ~~Mr.~~ Muhibul Haq who is senior in the MT Staff than petitioner has now completed his tenure and soon he will leave police department of district Shangla.
13. That the petitioner next in ranking deserve to be promoted in accordance with seniority list of MT Staff. (Copy of seniority list is attached as annexure "G")
14. That the petitioner belongs to the lower subordinate rank of police and deserve to be transfer to his native district.
15. That the petitioner applied for the attested copies of relevant record, but the concerned quarter denied to furnish attested copies of the concerned record but he

was denied. (Copy of application for copies of Inquiry is annexure "H")

16. That being aggrieved and dissatisfied the petitioner seeking the indulgence of this Honourable court inter alia on the following grounds: -

GROUNDS: -

- A. Because the impugned order dated 20.4.2016 is against law, facts, norms of justice and material on record and more for not tenable.
- B. Because no show cause notice was served to the petitioner/appellant, which is against the rule of law.
- C. Because the petitioner/appellant is not charged for any miss conduct, but the inquiry officer nominated him in his inquiry report illegally.
- D. Because no regular inquiry was conducted against the appellant which is violation of law & principle of justice.
- E. Because according to the decision of Supreme Court it is incumbent inquiry officer to give reasons specifically for involving & convicting someone.


- F. Because the petitioner was condemned un-herd and has not been treated in accordance with law & rules.
- G. Because the petitioner seeks the permission to advance other grounds and proof at the time of hearing.
- H. Because the petitioner/appellant is direct victim of the high up of police office and deserve to be dealt with in according to law.
- I. Because the petitioner was transferred from District Shangla to Dir Lower on dated - and he was directed to leave Shangla on the same day, *Naqalmad* was also chalked in this regard to leave the station on the same day.
(Copy of *Naqalmad* of dated 22.04.2016 is attached here with marked as annexure "I")
- J. Because the action and inaction on part of respondents is unwarranted by law.
- K. Because the in action on part of respondents is against legitimate expectation.
- L. Because the respondents by their acts has violated rules framed in KPK Civil Servant (Appointment, Promotion & transfer rules, 1989)

- M. Because the respondents by their conduct of illegally transferring petitioner to prevent him from promotion has violated the principle of natural justice.
- N. Any other ground not specifically prayed for in the body of instant writ petition shall be argued at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the service appeal this honourable court may be pleased direct respondents to :-

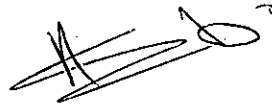
- 1) Transfer petitioner from District Dir Lower back to district Shangla.
- 2) To consider petitioner for promotion in accordance with the merit list prepared on this basis of appointment in district Shangla.

3) Any other remedy deemed appropriate in the circumstances of the case and specifically prayed for.



PETITIONER

Through counsel



Mian Abdul Saboor Advocate
High Court.
District Shangla Courts Shangla.
Cell 03249171737.

Dated: ____ .08.2016.

CERTIFICATE:

As per instructions of my clients, it is certified that no such like Service Appeal has earlier been filed by the petitioner before this Honourable Court.



ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan 1973.
2. NWFP/KPK civil servant (appointment, promotion and transfer rules 1989).
3. Case Law according to need.

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

Service Appeal. No. _____/2016

Anwar Khan(Petitioner)

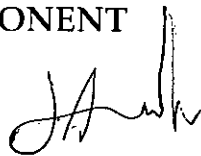
VERSUS

Chief Secretary & others(Respondents)

AFFIDAVIT

I, Anwar Khan S/o Bakhtiar Mian R/o Haji Abad Lilownai Tehsil Alpuri District Shangla do hereby solemnly affirm and declare on oath that contents of the accompanying ~~appeal~~ as per instructions of my clients are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT



Anwar Khan, Petitioner.

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

Service Appeal. No. _____/2016
C.M.A. No. _____/2016.

Anwar Khan(Petitioner)

VERSUS

Chief Secretary & others(Respondents)

**Application for grant of stay order to stay promotion
in district Shangla in concern department till the
decision of caption case.**

Respectively Sheweth: -

1. That the petitioner wants to file the caption case in this Honourable court and no order has been fixed till now.
2. That the petitioner has got a good prima facie case.
3. That the balance of convenience tilt in favour of petitioner.
4. That in irreparable loss will cause to the petitioner if stay order not granted in his favour.
5. That in order to grant stay in respect of promotion in the department concern till the decision of the case will be based on doctrine of law & justice

It is therefore humbly prayed that on acceptance of this application stay order M.T department of district Shangla may be granted till the final decision of the instant Service appeal.

PETITIONERS

Through counsel

Mian Abdul Saboor Advocate
High Court.
District Shangla Courts Shangla.
Cell 03249171737.

Dated: _____.08.2016.

BEFORE THE JUDGE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA AT PESHAWAR.

Service Appeal. No. _____/2016
C.M.A. No. _____/2016.

Anwar Khan(Petitioner)

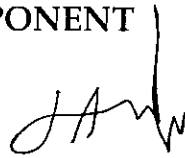
VERSUS

Chief Secretary & others(Respondents)

AFFIDAVIT

*I, Anwar Khan S/o Bakhtiar Mian R/o Haji Abad Lilownai
Tehsil Alpuri District Shangla do hereby solemnly affirm and
declare on oath that contents of the accompanying Stay Application
as per instructions of my clients are true and correct to the best of my
knowledge and belief and nothing has been concealed from this
Honourable Court.*

DEPONENT



Anwar Khan, Petitioner.

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

Service Appeal. No. _____/2016

Anwar Khan(Petitioner)

VERSUS

Chief Secretary & others(Respondents)

ADDRESSES OF THE PARTIES

PETITIONER:


Anwar Khan son of Bakhtiar Mian
R/o Haji Abad, Lilowanai Tehsil Alpuri District Shangla.
CNIC No. 15501-2251122-1
Contact No. 03055109970.

RESPONDENTS:

- (1) Chief Secretary, Govt: of Khyber Pakhtunkhwa, Peshawar.
- (2) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- (3) Deputy Inspector General of Police, Malakand Range, Saidu Sharief Swat.
- (4) Superintendent of Police, District Shangla, at Alpuri.
- (5) Riaz, Deputy Superintendent of Police, Circle Alpuri District Shangla.(Respondents)

PETITIONERS

Through counsel


Mian Abdul Saboor Advocate
High Court.
District Shangla Courts Shangla.
Cell 03249171737.

Dated: _____.08.2016.

(13)

حکومت پاکستان

قومی شناختی کارڈ

15501-2251122-1



ANNEX: "A"



نام : انور خان

جنس : مرد

والد کا نام : بختیار (مرحوم)

شناختی علامت : کوئی نہیں

1966

تاریخ پیدائش :

عثمان یوسف مبین

دستخط حامل کارڈ

دستخط رجسٹرار جنرل

شناختی نمبر: 15501-2251122-1 خاندان نمبر: U6K4T5

موجودہ پتہ: حاجی آباد، لیونسی، تحصیل اپوری، ضلع شانگلہ

11368253030

شناختی نمبر

مستقل پتہ: ایضاً

تاریخ اجراء: 12/02/2015

گشده کارڈ ملنے پر قریبی لیٹر بکس میں ڈال دیں



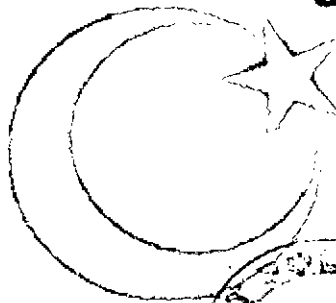
Attested by
Abdul Saboor
Advocate

(14)

POLICE

Khyber Pukhtoon Khwa
District Shangla.

S.No. 370



ANNEX: "B"

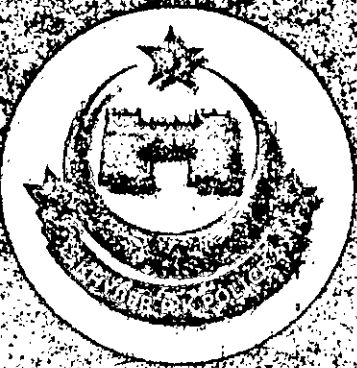
Anwar Khan

Head Constable (Drivar) No.86

District Police Officer, Shangla



SHANGLA



POLICE

F/Name: Bakhteyar

NIC No: 15501-2251122-1

Toll: No: 0305-510 9970

D.O.Birth: 1966

D.O.Appo: 01.02.1984

Blood G: A+

Hoight: 5' 10"

Eyos: Black

D.O.Issuo: 10.06.2011 D.O.Exp: 09.06.2014

**Address: Village & P/O Lilawni
Distt: Shangla.**

*Arrested by
Abdul Jabbar
Khalid.*

بعدالت جناب سیشن جج / ضلع قاضی صاحب شانگلہ بمقام اپوری

ANNEX: "C"



انورخان ولد بختیار میاں ساکن لیلوئی تحصیل اپوری ضلع شانگلہ۔ (سائیل)

بنام

(1) ڈسٹرکٹ پولیس افسر، ضلع شانگلہ بمقام اپوری۔

(2) ڈپٹی سپرنٹنڈنٹ آف پولیس، ہیڈ کوارٹر اپوری ضلع شانگلہ۔

(3) SHO تھانہ اپوری ضلع شانگلہ۔

(4) رفیع اللہ کنسٹیبل (5) امداد اللہ کنسٹیبل (6) سمیع اللہ پسران اسفندیار ساکنان لیلوئی تحصیل و تھانہ اپوری ضلع شانگلہ۔ (مسول الہیم)

درخواست زیر دفعہ A-22 ضابطہ فوجداری برائے درج کرنے FIR برخلاف
مسول الہیم 3 تا 5 و کاروائی محکمہ کرنے برخلاف کنسٹیبلان / مسول الہیم 4، 5۔

جناب عالی! درخواست ذیل عرض ہے۔

(1) یہ کہ سائیل محکمہ پولیس ضلع شانگلہ میں ملازم ہے اور موضع لیلوئی میں جائیداد منقولہ وغیرہ منقولہ کا مالک ہے۔

(2) یہ کہ مسول الہیم نمبر 3 ڈسٹرکٹ پولیس افسر کے دفتر میں تعینات ہے جبکہ مسول الہیم نمبر 4 بشام سیرور میں تعینات ہے۔

(3) یہ کہ مسول الہیم نمبر 3 بحیثیت کنسٹیبل تعینات ہے مگر سائیل کی مزارعین کو بلاوجہ تنگ و پریشان کرنے کے لئے اپنے آپ کو ہیڈ کنسٹیبل اور تھانہ اظہار ظاہر کر کے مزارعین مسیابن لعل باچا ولد گل فقیر اور امیر زادہ ولد گلاب اور سر بالی کے دروازے رات کے تاریکی میں کھٹکھا کر بلاوجہ عورتوں اور بچوں کو ہراساں (جاری)

(2)

کر رہے ہیں کیونکہ مزارعین کی خواتین اراضیات وغیرہ میں خود کام کرتے ہیں۔ اور باقاعدہ طور پر زمینداروں کے پاس درخواست میں ہیڈ کنسٹیبل تحریر کیا ہے حالانکہ رفیع اللہ ہیڈ کنسٹیبل نہ ہے اور جلسازی سے لوگوں کو ہراساں کر رہا ہے نیز سائیل اور سائیل کے مزارعین کو خوف زدہ اور دہشت زدہ کرنے پر تلے ہوئے ہیں۔

(نقل درخواست لف ہے)

(4)

یہ کہ مسول الیہم نے سائیل کی ملکیتی اراضیات میں راستے بند کر رکھے ہیں اور پانی میں رکاوٹ ڈال کر سائیل کے مزارعین کو نقصان پہنچ رہا ہے۔ نیز مسول الیہم 4 تا 6 نے زبردستی مزارعین کو سائیل کے مزارعین کو ڈنڈوں سے لیس ہو کر زبردستی کچھ مکان کے چھت کو ویران کیا ہے۔

(5)

یہ کہ مورخہ 25.1.2016 پر مسول الیہم نے سائیل کی ملکیتی اراضیات میں بلاوجہ اور غیر قانونی مداخلت کر کے مزارعین مذکورہ بالا کو زبردستی گھروں سے نکال باہر کر کے راستے بند کئے اور پانی منقطع کی جس کے خلاف سائیل نے مسول الیہم نمبر 1 کو درخواست گزاری مگر مذکورہ کنسٹیبلان کے خلاف اس کے اثر رسوخ کی وجہ سے کوئی کارروائی نہ ہوئی ہے۔ (نقل درخواست لف ہے)

(6)

یہ کہ سائیل نے مورخہ 18.1.2016 کو بھی مسول الیہم کے خلاف درخواست گزاری لیکن اس پر بھی کوئی کارروائی نہ ہوئی۔ (نقل درخواست لف ہے)

(7)

یہ کہ مذکورہ بالا کنسٹیبلان DPO اور DSP کے چہیتے ہیں اور کافی اثر رسوخ رکھتے ہیں جس کے وجہ سے اس کے خلاف نہ کوئی FIR درج کرتی ہے اور نہ کوئی حکمانہ کرتے ہیں۔

(8)

یہ کہ سائیل غریب شخص ہے اور مسول الیہم 4 تا 6 کے غیر قانونی حرکات اور ناجائز مداخلت کی وجہ سے سائیل کے مزارعین کو اراضیات چھوڑنے پر مجبور ہو چکے ہیں جس سے سائیل کو ناقابل تلافی نقصان پہنچے گا۔

بیان حلفی

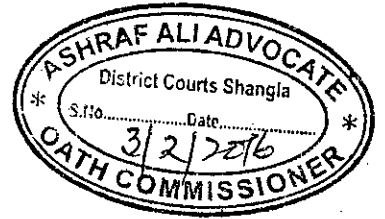
حلفاً بیان کیا جاتا ہے کہ جملہ مراتب درخواست ہذا تا حد علم و یقین میرے درست اور صحیح ہیں۔

لہذا استدعا ہے کہ بمظوری درخواست ہذا مسول الیہم 1 تا 3 کو حکم صادر فرمایا جاوے کہ وہ مسول الیہم 4 تا 6 کے خلاف حسب ضابطہ FIR درج کر کے تادیبی اور حکمانہ کارروائی عمل میں لائی جائے۔

عزیز

سائیل انور خان ولد بختیار میاں ساکن حاجی آباد لیلوی تحصیل اپوری ضلع شانگلہ۔

انور خان





0-6
21-3-16

فرقین صاف - و ملا فرقین کوٹ کے ساتھ ہیں۔

اے کوٹ سے $28 \frac{3}{16}$ کوٹس ہو۔

Mulla

(نوید احمد خان)
ڈسٹرکٹ اینڈ سیشن جج / ضلع قاضی
شانگلہ

ایڈووکیٹ

28-3-16

فرقین صاف - آفرین صاف سے ہیں۔

اے کوٹ سے $05 \frac{4}{16}$ کوٹس ہو۔

0-7
05-4-16

فرقین صاف - و ملا فرقین صاف ہیں۔

صاف طلبہ۔

اے کوٹ سے $11 \frac{4}{16}$ کوٹس ہو۔

Mulla

(نوید احمد خان)
ڈسٹرکٹ اینڈ سیشن جج / ضلع قاضی
شانگلہ

ایڈووکیٹ

11-4-16

فرقین صاف - آفرین صاف سے ہیں۔

اے کوٹ سے $19 \frac{4}{16}$ کوٹس ہو۔

فرقین صاف۔

0-8
19-4-16

اے کوٹ سے $03 \frac{5}{16}$ کوٹس ہو۔

Mulla



Order No. 9

03/5/2016

Counsel for the petitioner present. Respondent No.4,5,6 present. Counsel for the respondent No.3 to 6 also present. Comments already received and arguments heard.

Through this petition the Anwar Khan (petitioner) seeking the direction of this court/justice of peace for the registration of the criminal case against the respondents.

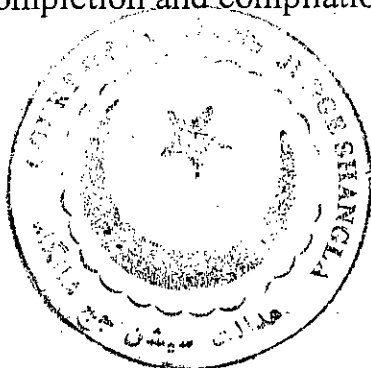
From the contents of the petition it is on the record that petitioner and respondents No.4 to 6 are relative and residing in the same area, their landed property is joint being inherited and the allegation against respondents No.3 to 6 that they entered into the property and disturbed the tenants of the petitioner. It is also alleged that on 25/1/2016 respondent No.4 to 6 entered into the landed property and ejected the tenant from the houses and disconnect the water pipe. According to the comments, the inquiry is conducted by the local police but nothing is found as mentioned in the application. Actually there is dispute between the parties regarding the landed property and the tenants have made no complaint so at the moment from the allegation no criminal cognizable case is made out. As far as the civil dispute is concerned, it will be appropriate to approach the proper forum. Hence the application in hand is hereby dismissed. File is consigned to record room after completion and compilation.

Announced

Certified 03/5/2016

For signature to District & Sessions Judge

4-5-16



Navied Ahmad Khan

(NAVEED AHMAD KHAN)

Sessions Judge/Zilla Qazi/ Justice of Peace

Shangla

Signature

Date

4-5-16

(19) (3)



ANNEX 'D'

ORDER

As recommended by the Enquiry Officer, Driver Head Constable Anwar Khan of Shangla District is hereby transferred and posted to Dir Lower District with immediate effect and until further order.

(AZAD KHAN) Tst, PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat

No. 3667-68/E,
Dated 20-4-2016.

Copy to for information and necessary action to the:-

- 1. District Police Officer, Dir Lower.
- 2. District Police Officer, Shangla with the direction to remove LHC Rafiullah from PAL and posted to some Police Station.

OB/EC (ORSI) Ho,

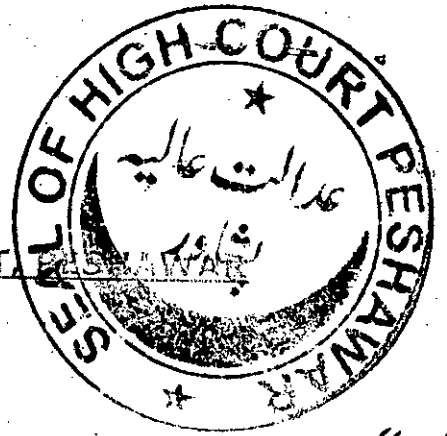
Zaid

DP Shangla

Handwritten notes: "Handwritten notes: 'to be copy' with a signature and arrow pointing to the DSP/HD stamp below."

DSP/HD
22-4-2016
Dy: Superintendent
Of Police Head Quarter
SHANGLA

OB. No. 65
21/04/2016



BEFORE THE PESHAWAR HIGH COURT

ANNEX: 'E'

Writ Petition No. 850 /2011

Najibullah S/O Anwar Khan

R/O Liloni, Tehsil Alpuri, District Shangla. Petitioner

Versus

1. P.P.O/ I.G.P Khyber Pakhtunkhwa, Peshawar.
2. D.I.G Malakand Range at Saidu Sharif, Swat.
3. D.P.O, Shangla at Alpuri, District Shangla.
4. Additional Inspector General K.P, at
Police Headquarters, Peshawar.
5. D.P.O, Kohat at District Headquarters, Kohat.
6. Umar Zamin S/O Sarzamin
Wireless Operator, Constabulary No.1295, Shangla.
7. Muhammad Rafiq S/O Bakht Parosh
Wireless Operator, Constabulary No.1296, Shangla.
8. Gohar Ali S/O Abdul Qasim
Wireless Operator, Constabulary No.1297, Shangla.
9. Muhammad-ud-Din S/O Umer Hassan
Wireless Operator, Constabulary No.1298, Shangla.
10. Ijaz-ul-Haq S/O Fazal Mabood
Wireless Operator, Constabulary No.1299, Shangla.
11. Hameed Ullah S/O Majbeen
Wireless Operator, Constabulary No.1300, Shangla.
12. Sardar Ali S/O Mehmood
Wireless Operator, Constabulary No.1301, Shangla.
13. Javed Iqbal S/O Muhammad Sherin
Wireless Operator, Constabulary No.1302, Shangla.

ATTESTED
Mey
EXAMNER
Peshawar High Court

FILED TODAY
Deputy Registrar
10 MAR 2011

- 14. Ijaz Ail S/O Gafar Ali
Wireless Operator, Constabulary No.1303, Shangla.
- 15. Husan Ali S/O Sher Badshah
Wireless Operator, Constabulary No.1304, Shangla.
- 16. Shahzad Khan S/O Jamal Din
Wireless Operator, Constabulary No.1305, Kohat.
- 17. Akbar Zaman S/O Hikmat Shah
Wireless Operator, Constabulary No.1306, Kohat.
- 18. Muhammad Shahzad S/O Muhammad Shafiq
Wireless Operator, Constabulary No.1307, Kohat.
- 19. Siddique-ur-Rehman S/O Muhammad Khan
Wireless Operator, Constabulary No.1308, Kohat.
- 20. Amir Khan S/O Abdur Rauf
Wireless Operator, Constabulary No.1309, Kohat.
- 21. Muhammad Shoaib S/O Gul Shahid
Wireless Operator, Constabulary No.1310, Kohat.
- 22. Muhammad Asim S/O dost Muhammad
Wireless Operator, Constabulary No.1311, Kohat.
- 23. Muhammad Fawad S/O Muhammad Hussain
Wireless Operator, Constabulary No.1312, Kohat.
- 24. Marwat Khan S/O Sardar Khan
Wireless Operator, Constabulary No.1313, Kohat.

.....Respondents

<=>⇄<=>⇄=>⇄<=>⇄=>⇄<=>

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973.

<=>⇄<=>⇄=>⇄<=>⇄=>⇄<=>

Respectfully Sheweth:

The petitioner submits as under:

ATTESTED
Maj
EXAMINER
Feshawar High Court

1. That the petitioner is domiciled of District Shangla and has passed his F.Sc from Swat Board. (Attested copies are attached as annexure "A" to "D" respectively).
2. That the respondent No.4 advertised certain posts of District Police and FRP Constables and Police Telecommunication vide advertisement dated 01.11.2010 in Daily "AAJ" inviting application. (Copy of advertisement is attached as annexure "E").
3. That respondents No.3 & 5 were deputed to carryout the recruitment against the vacancies and the petitioner also applied for the same post.
4. That the prescribed qualification for the said vacancies are detailed in advertisement and the petitioner fulfills the prescribed qualification. (Copies of the relevant record are attached as annexure "F").
5. That after conducting the relevant proceedings carried out by respondent No.3 the respondent No.4 in utter disregard of law rule and merit issued the appointment order of respondents No.6 to 15 vide office/ appointment order No.2846-53 dated 15.02.2011. (Copy of office order is attached as annexure "G").
6. That 10% quota was allocated for police son and in the candidates the petitioner was the only person who could be appointed against the same quota.

FILED TODAY

Deputy Registrar

100 MAR 2011

ATTESTED

May
EXAMINEE
Peshawar High Court

A | 23 | C | D

7. That it is pertinent to mention here that respondent No.6 who is shown at S.No.1 in the impugned order having bogus and fake certificate whereas the remaining respondents No.6 to 24 are low in merit in comparison to petitioner but the respondent No.3 is not providing the merit list to the petitioner. Despite the fact that an application was submitted by the petitioner but no action was taken and thus the relevant record and documents were not provided to the petitioner.
8. That the petitioner being aggrieved from the impugned notification having no other efficacious and alternate remedy is constrained to file the instant writ petition, inter alia, on the following grounds among others;

GROUND S:

- A. That the petitioner has not been treated in accordance with law.
- B. That it was also provided in instruction issued in this regard that 10% quota shall be allocated to police sons who otherwise fulfills the requisite and prescribed qualification. It is pertinent to mention here that the petitioner is also son of retired police and fulfills the other qualification also and there is no other son of police having a high merit.

FILED TODAY
Deputy Registrar
10 MAR 2011

ATTESTED
May
Examiner
Federal High Court

A, 1
24
C, D, W, V

(24)

4/A

- C. That the height of petitioner is 9-5" chest 37 x 38½ and date of birth 1991 but despite all this the petitioner has been ignored in disregard of law and rules.
- D. That respondent No.3 has acted in utter disregard of merit and rules and the impugned office order suffers from major infirmities.
- E. That any other ground not specifically raised shall be argued at the time of arguments with the leave of the court.

It is, therefore, humbly prayed that on acceptance of this Writ Petition, this Honourable Court may be pleased to declare the office order No.2846-53 dated 15.02.2011, whereby respondents No.6 to 24 has been appointed as illegal unwarranted, without lawful authority and hence of no legal effect and to direct the respondents No.4 to issue the appointment order of the petitioner.

Any other relief, deemed fit in the interest of justice not prayed for may also graciously be granted in favour of petitioner against the respondents.

FILED TODAY
Deputy Registrar
10 MAR 2011

ATTESTED
Maj
EXAMINER
Peshawar High Court

(25)

5

INTERIM RELIEF:

As interim relief, the impugned notification be suspended till decision of the case or in alternative the respondent may be restrained not to fill up vacancies accruing on disqualification of respondents No. 6 to 24 during pendency of Writ Petition

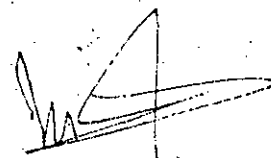
Petitioner
Through



Muhammad Saeed Khan Shangla
Dated: 08.03.2011 Advocate, Peshawar

CERTIFICATE:

As per instructions of my client, it is certified that no such like Writ Petition has earlier been filed by the petitioner before this Honourable Court.



Advocate

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan 1973.
2. Case Law according to need.



Advocate

ATTESTED

Maj
EXAMINER
Peshawar High Court

FILED TODAY

Deputy Registrar

10 MAR. 2011

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	19.04.2011	<p><u>Writ Petition No.850/2011 with Interim Relief.</u></p> <p>Present: Mr. M. Saeed Khan Shangla, Advocate, for the petitioner.</p> <p>*****</p> <p>Call for the comments of respondents No.3 to 5 alongwith the relevant record so as to reach this Court within a month. Adjourn to a date in office.</p> <p><u>Interim Relief.</u></p> <p>Notice to the other side for a short date in office. In the meantime, the vacancy, which has fallen vacant because of bogus certificates, shall not be filled.</p> <p><i>sd/ Ejaz Azzal</i> C.S.</p> <p><i>sd/ Mazhar Ali</i> Judge</p>

No. 15531

Date Of Presentation Of Application 21/4/2011

No Of Pages 7

Copying fee 10

Urgent fee ---

Total 10

Date Of Payment 21/4/11

Date Given 21/4/11

Date Of Delivery 21/4/11

Received By [Signature]

CERTIFIED TO BE TRUE COPY

[Signature]

Examined: 21/4/2011

Peshawar High Court Peshawar

Authorized Under Section 75 Acts Order

(Fayaz)

بخدمت جناب انسپکٹر جنرل صاحب آف پولیس آفیسر خیبر پختونخواہ بمقام پشاور

ANNEX: "F"

3/5/16

انورخان بنام DPO شانگلہ وغیرہ

مسئول ایہ نمبر 1 ڈسٹرکٹ پولیس آفیسر صاحب شانگلہ، مسئول ایہ نمبر 2 ڈی ایس پی صاحب ہیڈ کوارٹر شانگلہ نے مجھے 20.02.2016 پیش کیا کہ آپ نے ہماری اور DPO شانگلہ کے خلاف 22A درخواست دائر کیا فوری طور پر درخواست 22A واپس کروں۔ ورنہ ہم آپ کو نوکری سے فارغ کر دیں گے۔ ایسز آفیسر کا سننے گا۔ سیشن جج صاحب ہمارے سننے گا۔ میں نے کہا ہر پاکستانی کو حق حاصل ہے انصاف نہ ملنے پر عدالت کا دروازہ کھٹکاٹا سکتا ہیں جناب عدالت ہماری شعبہ ملازمت MT سٹاف میں ہیں بمطابق سینارٹی لسٹ میں پہلی نمبر ڈسٹرکٹ شانگلہ میں ہوں۔ مسئول ایہ نمبر 1، اور مسئول ایہ نمبر 2 نے میری سینارٹی بھی ختم کر دیا ہے۔ بڑا نقصان مجھے پہنچایا آپ کے علم میں ہوگا۔ مسئول ایہ نمبر 1 اور مسئول ایہ نمبر 2 نے ایک جھوٹے طور پر انکوائری میرے خلاف بنایا۔ مجھے علم نہیں تھا۔ ڈی ای جی صاحب ملاکنڈ کو میرا شکایت بھیجا ہیں۔ کہ مذکورہ ہیڈ کنسٹیبل یہاں سے ٹرانسفر کر دوں۔ میں مقامی باشندہ ہوں۔ بحیثیت اچھا پولیس آفیسر 33 سال سے نوکری کیا۔ DIG صاحب ملاکنڈ ڈویژن نے مسئول ایہ نمبر کے ساتھ دیا میرا ٹرانسفر ارڈر لوڈ کر دیا۔ مجھے علم بھی نہیں ہیں۔ مجھے روزنامہ میں 22 اپریل کو روانہ کیا کیونکہ یہ بھی قانونی خلاف ورزی ہیں۔ کیونکہ میں نے کسی قسم کی کلیرنس نہیں کیا۔ مسئول ایہ نمبر 1، مسئول ایہ نمبر 2 ہمارا عزت اور شہرت کو بھی نقصان پہنچایا ہے۔ نیز مذکورہ بالا وجوہات کی روشنی میں میرے ارڈر کینسل کرنے کی حکم صادر فرمایا جائے کیونکہ میں اپنے خاندان کا واحد کفیل ہوں اور نہایت غریب شخص ہوں۔

نوٹ۔ ارڈر کا پی، سینارٹی لسٹ ہمارا الف درخواست ہذا ہے۔

عزیز

سید تنہیل انورخان ولد بختیار میاں ساکن لیٹوٹی، تحصیل اپوری

ضلع شانگلہ۔ 1-22/22-1521-1521

0305-5109970

Accepted by
M. A. J. J. J.
A. J. J. J.

SENIORITY LIST OF DRIVER HEAD CONSTABLES (ACCORDING TO MT STAFF)

Sl.#	Name & No.	D/O Enlistment	D/O Birth	Education	Entries		Type of License	D/O of joining MT Staff	Qualified Recruit Course	Remarks
					Good	Bad				
1	Anwar Khan No. 86	02.04.1984	02.01.1964	Nil	18	15	HTV	27.05.2008	Qualified (Illiterate)	
2	Rozimand Khan No. 145	25.09.1988	10.06.1969	10 th	60	04	LTV		Qualified	
3	Akhtar Hussain No. 97	24.10.1989	26.10.1965	10 th	19	02	HTV/PSV/HR		Not qualified	
4	Abdullah No. 149	12.10.1995	01.12.1971	5 th	08	05	HTV/PSV/HR		-do	Seniority preference is given to HC Abdullah due to HTV license
5	Abdur Rahman No. 174	14.07.1996	18.05.1971	10 th	Nil	34	HTV		Qualified	
5	Javid Iqbal No. 23	07.03.1997	01.04.1974	6 th	03	07	HTV		Not qualified (Enlisted as Driver Const:	
7	Akbar Khan No. 54	01.08.2000	1976	Nil	08	Nil	LTV		Not qualified (Enlisted as Driver Const:	
8	Didar Ali No. 291	25.10.2004	15.05.1984	10 th	09	02	HTV/PSV	Qualified		
9	Inanullah No. 194	11.11.2004	15.04.1984	10 th	06	Nil	LTV	01.03.2010	Qualified	
10	Khanda Bashir No. 214	16.12.2002	01.12.1978	10 th	07	02	Motorcar/Jeep	12.04.2010	Qualified	

The District Police Officer Shangla has constituted the following committee vide endst: No. 1406-9/E, dated 14.03.2014, to review the seniority list of driver Head Constables upon the application of HC Anwar Khan No. 86. Today on 19.03.2014 the committee perused the record and seniority list of the drivers and vigilantly scrutinized the prepared list. In review their objections were also heard one by one. For the purposes of their seniority date of enlistment, date of joining MT Staff were duly considered and recommended the above review list for approval please.

[Signature]
DSP HQs,

[Signature]
DSP Circle Atpuri

[Signature]
R.I/Police lines

[Signature]
SI/Legal

*Abdul Saboor
Roharwar*

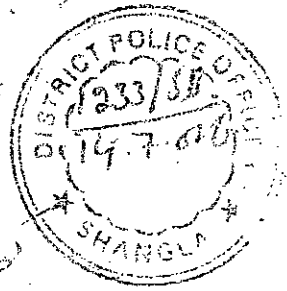
Approved.
[Signature]
D/201

ANNEX: "G"

پیشکش کیلئے اس پر عملدرآمد نہ کیا جائے۔

ANNEX: "H"

من علی



گزارش ہے کہ صدر دی ایس ایس کے سائل کا اندواثری پورا کیا گیا ہے۔

اس کے ایشیاء خواتین کا ایس ایس کی صورت ہے جو سائل کی جانب سے

انفارمیشن ایس ایس 2013 کے مطابق فراہم کیا گیا ہے۔

کہ اندر کے درخواست الٹے سائل کی ہے۔ اس پر ایس ایس کے سائل

کو رد فرما دیا گیا ہے۔ اس کے لئے رقم فراہم نہیں کی۔

Si/Legal

FOR OPINION ACCORDINGLY
THE SUBJECT MATTER

86
DPO SHANGLE
14.7.2016
مستند کی طرف سے
Abdul Saboor
Advocate

Submitted for
further on a
Headclone

11/07/2016
W/ DPO Shangle

PA

AS FOR MY KNOWLEDGE
THE SUBJECT ACT
IS NOT A
MHO REGISTRATION
FROM SI/LEGAL

E.C.

11.07.2016
DPO Shangle

تعلیم ۲۹ روزہ ۲۲ ۴/۱۶

فلسفہ

۲۹ اورنگی ۱۳:۱۵ صوف ۲۲ ۴/۱۶ اس وقت ۳ راتوں اور خان ۲۶ بحوالہ

جیجی اینٹریز ۳۶۶۷-۶۸/۱۵ مورخہ ۲۵ ۴/۱۶ حسب اطلاع کوالر صدر ۲۷ بان

ANNEX: "I"

فلہ پڑاست فلہ دیر نوٹس تبدیل ہو گیا ہے مذکورہ بعد از فلہ لیس صدر سادات

سرکاری و نجی کے فلہ دیر نوٹس روانہ کر کے پڑاست مناسب ہو گا

صناب عالی

نقل بحالیہ ریل

[Signature]

m m PL Shingla
12-6-16

Sir
Forwarded

[Signature]
to PL Shingla
12-6-16

In the event of joining or carrying on any other profession, service or business, the holder will not be entitled to use this Card and shall forthwith surrender it to the KP Bar Council.

Father's Name: Abdul Shakoor
Address: Vill. & P.O. Lilownai, Teh Alpurai District
Shangia
Office Tel: 0996-850035 Cell: 0324-9171737
Enrolment Date L.C. 16-04-2004
Enrolment Date H.C. 12-07-2008
Place of Practice District Courts Shangia
Date of Birth 16-04-1968
Blood Group O+ve
N.I.C No. 15501-2284719-3

KHYBER PAKHTUNKHWA BAR COUNCIL

1st Floor, G-Block, Khyber Road, Peshawar, FN: 091-4211172, Fax: 091-4213914
E-mail: support@kpbarcouncil.com, www.kpbarcouncil.com

(31)

KHYBER PAKHTUNKHWA
BAR COUNCIL

ABDUL SABOOR
Advocate High Court
bc-10-0127
Date of Issue: 29-06-2014
Valid upto: 29-06-2017

Secretary
KP Bar Council



ADVOCATE HIGH COURT

بعدالت جناب سرورس مسرینجیل صاحب شانگلہ ایڈووکیٹ اپورن ایٹام اچکیسر اینگورہ سوات
مورخہ 1 اگست 2016 منجانب مہندس
مقدمہ بعنوان الورضان بنام سید کبریٰ وحیدہ
دعویٰ — اپیل — نگرانی — درخواست
مقدمہ علت نمبر — مورخہ — جرم — تھانہ —

باعث تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام ایڈووکیٹ اپورن ایٹام اچکیسر اینگورہ سوات کیلئے عبدالصبور ایڈووکیٹ (ہائی کورٹ) مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی، اقبال دعویٰ واپسی مقدمہ اور بصورت ڈگری کرنے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل، نگرانی و نظر ثانی و پیروی کرنے کا اختیار حاصل ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کلی یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے ساختہ پر داختم منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا اس کا مستحق وکیل صاحب ہوگا۔ نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دور پر یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوگا کہ پیروی مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے۔

العبد العبد

الورضان

المرقوم

Attested & Accepted

by Abdul Saboor advocate

2016

ماہ اگست

بمقام ایڈووکیٹ اپورن ایٹام اچکیسر اینگورہ سوات کیلئے منظور ہے۔

عبدالصبور ایڈووکیٹ (ہائی کورٹ) ایڈووکیٹ شانگلہ سوات
سرورس مسرینجیل

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 783/2016

Ex-Head Constable Anwar Khan No. 86 s/o Bakhtiar r/o Lilownai District Shangla

.....(Appellant)

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer Malakand at Swat.
3. District Police Officer Shangla.
4. Riaz Khan Deputy Superintend of Police Circle Alpuri District Shangla.....(Respondents)

PARA WISE REPLY BY RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the present service appeal is not maintainable in its form.
2. That the appellant has not come to this August tribunal with clean hands.
3. That the present appeal is badly time barred.
4. That the honorable service tribunal has no jurisdiction to entertain the present service appeal.
5. That the appellant has got no cause of action or locus standi.
6. That appellant has suppressed the material facts from this honorable tribunal.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Pertains to record.
4. Correct to the extent of transfer of the applicant. However, the impugned order is in accordance with have rules and the applicant being a member of Police Force is to obey the order his superior.
5. Pertains to court record

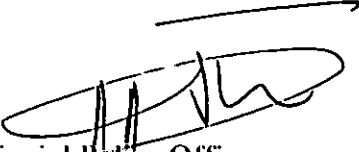

6. Incorrect, applicant is to serve any where he would be deputed. Hence, the impugned order is in public interest.
7. Incorrect, the applicant was aware about the departmentally proceeding. All the legal/codal formalities have been fulfilled by the respondents while conducting enquiry against the appellant.
8. Incorrect, proper opportunities of personal hearing was given to the appellant. Principle of "Audi Altrum Patram" has been followed by the respondents while conducting enquiry against the appellant. However, he was not be punished but transfer which cannot be amounted to punishment.
9. Incorrect, the appellant was not deprived of any right is to obey orders of the superior officers.
10. Incorrect, no documentary proof is available on the record regarding the appellants presentation.
11. Incorrect, the seniority of Rozimand is at serial No. 2 while that the appellant is at serial No. 1. The DPC is not yet constituted to promote the M.T Drivers.
12. Needs no comments.
13. Pertains to record, hence no comments.
14. On the basis of recommendation of the inquiry officer, the Regional Police Officer, Malakand transferred the appellant to District Dir Lower and being a member of discipline force, he is to obey the transfer order.
15. Incorrect, no application has been moved by the appellants relating to the grant of copies.
16. Needs no comments. However, reply on the grounds are as under.

ON GROUNDS:

- A. Incorrect, the order dated 20.04.2016 is in according with Law.
- B. There is no need of show cause notice as he has not been awarded any punishment.
- C. Incorrect, he has not been proceeded departmentally but transferred which comes with in terms and condition of service.
- D. As per pertains above.
- E. As per pertains above.
- F. As per pertains above.
- G. The respondents also seeks permission of this honorable tribunal to adduce further grounds at the time of arguments/hearing.
- H. Incorrect, has been committed by the respondents against the appellants.
- I. Pertains to record.
- J. Incorrect, all action of respondents are in accordance with law, police rules are applicable to police force.

PRAYED:

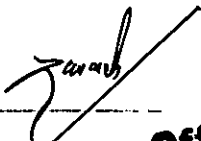
It is therefore humbly prayed that on acceptance of this Para-Wise reply the service appeal may graciously be set aside along with costs.


Provincial Police Officer
Khyber Pakhtunkhwa Peshawar



Regional Police Officer
Malakand at Saidu Sharif, Swat


Regional Police Officer,
Malakand at Saidu Sharif, Swat.

District Police Officer
Shangla


District Police Officer,
SHANGLA.

Deputy Superintendent of Police
Circle Alपुरi District Shangla


Dy. Supt. of Police,
Sub Division Alपुरai.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 783/2016

Ex-Head Constable Anwar Khan No. 86 s/o Bakhtiar r/o Lilownai District Shangla
.....(Applicant)


VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.
2. The Regional Police Officer, Malakand, Saidu Sharif, Swat.
3. The District Police Officer Shangla.
4. Riaz Khan Deputy Superintended of Police Circle Alpuri District Shangla
.....(Respondents)

AUTHORITY LETTER


Mohammad Muzafar Khan Sub Inspector Legal District Shangla is hereby authorized to appear on behalf of the respondents below, before the Honorable tribunal court. He is authorized to submit all the required documents and replies etc to the Honorable tribunal court.


Provincial Police Officer
Khyber Pakhtunkhwa Peshawar



Regional Police Officer
Malakand at Saidu Sharif, Swat

District Police Officer
Shangla

Deputy Superintendent of Police
Circle Alpuri District Shangla



Regional Police Officer,
Malakand at Saidu Sharif, Swat.


District Police Officer,
SHANGLA.


Dy: Supt: of Police,
Sub Division Alpurai.

BEFORE THE HONOURABLE CHAIRMAN
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

Service Appeal No. 783/2016

-Head Constable Anwar Khan..... (Petitioner)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, & others.
(Respondents)

REJOINDER ON BEHALF OF PETITIONER.

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS:-

1. That the Para wise comments submitted by respondents are not tenable and are liable to be discarded.
2. That the respondents have not brought relevant record before this honourable court and have concealed relevant fact.
3. That the respondents have filled their comments mala fide consideration.
4. That respondent are not entitle to protect their unwarranted exercise of power.

5. That the action taken by respondents is against legal expectations.
6. That Service appeal/petition filled by petitioner is maintainable & the petitioner is entitled to be transfer back to district Shangla.
7. That the respondents are not entitled to protect colorable exercise of power and to condemned the petitioner/appellant unheard without conducting proper inquiry.

GENERAL GROUNDS: -

- i. Para No. 01 requires no comments.
- ii. Para No. 02 requires no comments.
- iii. Para No. 03 requires no comments.
- iv. Reply to Para No. 04 is incorrect the impugned order of respondent is in correct against law and rules. The petitioner being a citizen of the country can only obey the legal orders of lies superior and not the illegal orders.
- v. Para No. 05 need not requires any comments.
- vi. Para No. 06 of the Para wise comments is incorrect the respondents can't transfer petitioner without any reason, while the respondent are not entitled to transfer petitioner as a punishment and to affect his legal right of promotion.

- vii. Para No. 07 is in correct, petition was unaware about the proceedings initiated against him and nothing is available on record, that how proceeding we initiated against him.
- viii. Para No. 08 is incorrect. No opportunity hearing was given to the appellant. The petitioner was condemned unheard. The petitioner was not only transferred but punished as he was placed at the bottom of seniority list in district Dir Lower while he is at the top of merit list in district Shangla.
- ix. Para No. 09 is incorrect. Detail answer is given above.
- x. Para No. 10 is incorrect respondents only wishes to justify his illegal act.
- xi. Para No. 11 is correct to the extent that appellant is at serial No. 01 but due to his transfer the petitioner is unable to be promoted.
- xii. Para No. 12 is no answerable.
- xiii. Para No. 13 is no answerable.
- xiv. Para No. 14 is incorrect. No proper inquiry has been conducted against appellant and the appellant don't know that haw the petitioner/appellant has been proceeded against because there is no charge against the petitioner. The appellant is obliged to obey only the legal orders.
- xv. Para No. 15 is incorrect.

xvi. Para No. 14 is incorrect, Reply is submitted by the petitioner is liable to dismissed on the following legal grounds: -

LEGAL GROUNDS:-

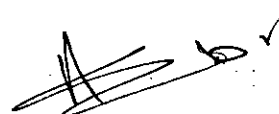
- A. That the order dated 20.04.2016 is not an accordance with law.
- B. That it is incumbent on respondents to properly issue show cause Notice, conduct of inquiry and not to transfer the petitioner as mean of punishment.
- C. That although departmental transfer is within the terms & conditions of service but where the right is effected then the transfer should not be made as the right of promotion of the petitioner/appellant has been effected. Therefore such kind of transfer or not based on law and equity.
- D. That all the action taken by respondent is against law and cannot be protected by any norms of law.

E. That the petitioner/appellant deserved to be transferred back to Shangla and must be promoted according to the merit list.

It is humbly prayed that on acceptance of the service appeal and rejoinder submitted by the petitioner/appellant the Para wise comments/ reply by the respondents may kindly be rejected and the petitioner may kindly be transferred back to district Shangla and must be promoted on the said post.

PETITIONER/APPELLANT

Through counsel


Mian Abdul Saboor
Advocate
High Court.
Cell 03249171737.

Dated: .04.2017.

BEFORE THE HONOURABLE CHAIRMAN
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT AT GULKADA SAIDU SHARIF SWAT.

Service Appeal No. 783/2016

Ex-Head Constable Anwar Khan..... (Petitioner)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, & others.
.....(Respondents)

REJOINDER ON BEHALF OF PETITIONER.

AFFIDAVIT

I **Mr. Anwar Khan** S/o **Bakhtiar Mian** R/o Haji Abad Lilownai Tehsil Alpuri District Shangla do hereby solemnly affirm and declare on oath that contents of accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hounourable Court.

DEPONENT



Anwar Khan
S/o Bakhtiar Mian
R/o Haji Abad Lilownai,
Teh: Alpuri Dist: Shangla.
CNIC # 15501-2251122-1

The Registrar Feshwar High Court, Peshawar.

Subject: Departmental Appeal Against the Order Endst:
No.7468-75/E.C.Brh Dated: 17-12-2013

Respectfully sheweth,

The appellant submits as under:

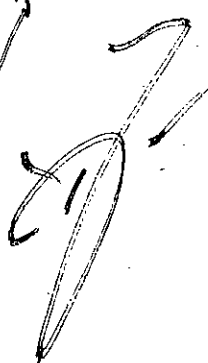
That the appellant was appointed as junior clerk in District Swat judiciary on 05-05-2013 and till date performing my duties honestly. I have worked with ought most zeal o the best of my abilities.

That in the mid of 2013 I got married and asked for leave as my in-laws are settled at Karachi, so it was not possible for me to continue my duties from there. That initially my application was accepted, but on submitting another application for the extension of the leave so that I with my spouse may settle at swat, not only my application was turned down, but my service was dispensed with instead.


That before my marriage I performed my duty regularly punctually and to the best of my abilities and I have never given opportunity of complaint to any one.

That I intend to settle in swat along with my spouse and if opportunity is give to me I will never let you down.

That the said order is against the law, facts and shariah hence liable to be set aside and I being female and selected on merit, that also in district of swat, so my this appeal be considered on compassionate grounds and be reinstated back into service.

Actuals


Appellant

Mst. Afroz 

Dated: 15/01/2014

02/01/1984

گیتواضری لیٹو کیشیل الودخان نمبر 86 - تاریخ لکھری

گیتواضری لیٹو کیشیل الودخان نمبر	تاریخ	گفتش	منٹ	سبب
1986-01-31	02	-	-	بلا تنخواہ
86-05-19-123				ایک سال سرورس ضبط 10/10 کو اٹھایا اور
87-12-14-356	05	-	-	بلا تنخواہ - وارنٹ
87-02-16-44	2	-	-	بلا تنخواہ -
87-04-18-112	01	-	-	وارنٹ
88-04-30-108	06	-	-	بلا تنخواہ -
87-04-30-108	05	-	-	بلا تنخواہ
87-12-14-356	05	-	-	بلا تنخواہ - وارنٹ
88-04-30-108	06	-	-	بلا تنخواہ -
92-08-22-190	-	01	10	وارنٹ
92-11-29-261	01	09	10	بلا تنخواہ - وارنٹ
91-04-04-128	08	-	-	بلا تنخواہ - 100 روپے جرمانہ -
93-02-18-38	-	01	55	وارنٹ
93-04-11-96	-	22	45	2/97 گفتش الیکٹرا ڈریل
93-06-27-130	-	12	10	ایڈیو انکسٹرا ڈریل
93-04-18-86	-	10	-	ایڈ گفٹ - الیکٹرا ڈریل
93-04-11-70	-	22	45	2/95 گفتش الیکٹرا ڈریل
94-11-17-194	08	-	-	بلا تنخواہ -
96-09-17-97	02	21	-	بلا تنخواہ - 100 روپے جرمانہ
99-09-26-	02	10	35	بلا تنخواہ
99-10-11-136	01	01	40	بلا تنخواہ
2002-08-19-59	-	15	30	وارنٹ
2010-01-25-11	-	16	55	بلا تنخواہ
2010-12-29-159	-	09	50	بلا تنخواہ