

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 774/2016</b>  Date of Institution ... 11.07.2016  Date of Decision ... 04.04.2018</p> <p>Attaullah, Ex-Constable No.512 Elite Force, resident of Village &amp; P.O Masho Khel, P/S Badbher District Peshawar.  <p style="text-align: right;"><b>Appellant</b></p> <ol style="list-style-type: none"> <li>1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar.</li> <li>2. Additional Inspector General of Police/Commandant Elite Force, Khyber Pakhtunkhwa Peshawar.</li> <li>3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p>04.04.2018 <b><u>JUDGMENT</u></b>  <b>MUHAMMAD HAMID MUGHAL, MEMBER:</b> - Learned counsel for the appellant present. Learned Additional Advocate General for the respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974. The appellant was awarded major punishment of dismissal from service vide order dated 05.05.2011. The departmental appeal of the appellant against the order dated 05.05.2011 was rejected vide order dated 12.07.2011. Thereafter, appellant approached this Tribunal by filing service appeal No.1457/2011. Resultantly this Tribunal set aside the appellate order dated 12.07.2011 and remitted the case to the departmental appellate authority for decision afresh. The appellate authority again rejected the departmental appeal of the appellant</p> </p>		

D  
Counsel

vide order dated 09.06.2016. Hence the appellant again approached this Tribunal by filing the present service appeal.

3. Learned counsel for the appellant argued that the appellant was made member of raid party and due to some misunderstanding it was alleged that the appellant intended to steal Gold Made Necklace from a house during search proceedings. Further argued that the departmental proceedings were initiated against the appellant and ultimately the appellant was dismissed from service vide order dated 05.05.2011. That the departmental appeal of the appellant was also rejected vide order dated 12.07.2011, however the service appeal bearing No.1457/2011, of the appellant was partially accepted vide judgment dated 13.04.2016 and resultantly the appellate order dated 12.07.2011 was set aside with the direction to departmental appellate authority for decision afresh. That the departmental appeal of the appellant was again rejected vide order dated 09.06.2016 without observing legal requirements. That the punishment orders are illegal, unlawful, against the facts and that the appellant has not been treated in accordance with law. That the appellant was punished without observing the codal formalities and proper procedure and that the punishment awarded to the appellant is otherwise harsh and excessive.

4. As against that learned Additional Advocate General argued that the appellant was one of the member of the police party which conducted search operation and the appellant was caught red handed while committing theft of ornaments made of gold. Further argued

DP  
Dain

that the appellant was proceeded against departmentally and proper inquiry was conducted. Further argued that the inquiry officer examined various witnesses and after adopting procedural and codal formalities the appellant was awarded punishment. Further argued that being custodian of life and property of the citizens the appellant has committed a serious crime hence the impugned orders are not open to any exception.

5. Arguments heard. File perused.

6. In the present case the appellant replied the Charge Sheet, the inquiry officer recorded the statements of witnesses and found the appellant guilty.

7. In the original order dated 05.05.2011 whereby the major punishment of dismissal from service was awarded to the appellant, the authority has mentioned that the appellant was caught red handed while attempting to steal golden ornaments during search operation of a house.

8. From the material available on file it transpired that the appellant has not negated the fact that he had taken into possession gold made Necklace during search of the house, similarly this Tribunal in its judgment passed in service appeal bearing No.1457/2011 mentioned above noted that taking/keeping of the golden locket has been admitted by the appellant.

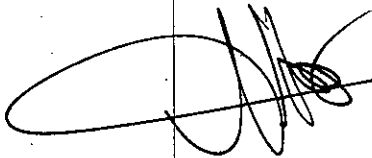
9. However it may also be mentioned that, in reply to Charge Sheet, the stance of the appellant was that he indeed wanted to deliver the gold made necklace to the inmates of the house and had

Dr. Rawan


no intention to steal the same.

10. In view of the narrative of the appellant during the departmental action as mentioned above and that the appellant was produced before the high-ups as and when he took into the possession the gold made Necklace, this Tribunal is of the considered view that the punishment awarded to the appellant appears to be harsh, hence for the purpose of safe administration of justice the punishment awarded to the appellant is modified and converted into withholding of two (02) annual increments for a period of two (02) years. Resultantly the appellant is reinstated in service. The period intervening in between the original impugned order dated 05.05.2011 and this judgment shall be treated as extraordinary leave without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
**04.04.2018**




(AHMAD HASSAN)  
MEMBER




(MUHAMMAD HAMID MUGHAL)  
MEMBER

12.01.2018

Learned counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney for the respondents present. Office is directed to requisition the original record of service appeal bearing No.1457/2011 entitled "Atta Ullah versus PPO" decided on 13.04.2016 from the record room. Adjourned. To come up for arguments on 22.02.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(M. Hamid Mughal)  
Member (J)


22.02.2018

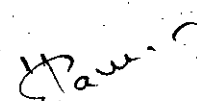
Due to none availability of D.B the case is adjourned. To come up on 04.04.2018 before D.B

  
Member

04.04.2018

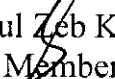
Learned counsel for the appellant present. Learned Additional Advocate General for the respondents present. Vide separate judgment of today placed on file, this Tribunal is of the considered view that the punishment awarded to the appellant appears to be harsh, hence for the purpose of safe administration of justice the punishment awarded to the appellant is modified and converted into withholding of two (02) annual increments for a period of two (02) years. Resultantly the appellant is reinstated in service. The period intervening in between the original impugned order dated 05.05.2011 and this judgment shall be treated as extraordinary leave without pay. The present appeal is decided in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

24.05.2017


Clerk of the counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 07.09.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member


07/09/2017

Due to general strike of the bar and bench is incomplete, the case is adjourned for arguments on 27/11/2017 before DB.

  
MUHAMMAD HAMID MUGHAL  
MEMBER

27.11.2017

Appellant in person and Addl: AG alongwith Mr. Akbar Hussain, SI for respondents present. Due to general strike of the Bar arguments could not be heard. Adjourned. To come up for arguments on 11.01.2018 before D.B.


  
Member

  
Chairman

11.01.2018

Counsel for the appellant present and Asst: AG for respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on tomorrow i.e 12.01.2018 before D.B.

(Ahmad Hassan)  
Member(E)

  
(M. Hamid Mughal)  
Member (J)

774/16

28.11.2016

Agent of counsel for the appellant and Fayaz, ASI alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 01.02.2017.

  
Chairman

01.02.2017

Counsel for appellant and Mr. Javed Iqbal, Inspector (legal) alongwith Mr. Ziaullah, GP for respondents present. Rejoinder not submitted by appellant counsel and requested for time for submission of rejoinder. To come up for rejoinder and arguments on 03.03.2017 before D.B.


  
(AHMAD HASSAN)  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER

03.03.2017

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 24.05.2017 before D.B.

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

10.08.2016

Clerk to counsel for the appellant present. Due to strike of the Bar, preliminary arguments could not be heard. To come up for preliminary hearing on 01.09.2016.

  
Member

01.09.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal, appellant has impugned order dated 09.06.2016 appellate authority vide which the departmental appeal of the appellant was rejected. Perusal of the case filed previously the appellant had impugned order dated 5.5.2011 before this Tribunal and, the Tribunal after hearing the arguments, remitted the case to the appellate authority for passing appropriate order on the departmental appeal of the appellant. The appellate authority on compliance with the court order dated 13.4.2016, decided departmental appeal of the appellant by the impugned order dated 9.6.2016 hence, the instant service appeal.

Since the matter required further consideration of this Tribunal therefore, the same is admitted for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 18.10.2016 before S.B.

  
Member

18.10.2016

Counsel for the appellant and Javed Iqbal, Inspector alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 28.11.2016 before S.B.




  
Member

Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Case No. 774/2016

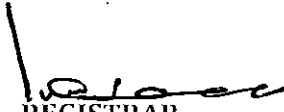
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/07/2016	<p>The appeal of Mr. Atta Ullah resubmitted today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	1-8-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>3-8-16</u></p> <p style="text-align: right;"> MEMBER</p>
	03.08.2016	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Adjourned for preliminary hearing to 10.08.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Atta Ullah Ex-Constable No.512 Elite Force Peshawar received to-day i.e. on 11.07.2016 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 departmental appeal mentioned in para-5 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1131 /S.T,

Dt. 12/7/2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Sajid Amin Adv. Pesh.

*Sis*

*Re. Submitted after compliance*

*Sajid Amin*  
*Atte*

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

Appeal No. 774/2016

**Attaullah**, Ex- Constable No.512 Elite Force, R/o Village & P.O Masho Khel, P/S Badbher District Peshawar.

(Appellant)

**VERSUS**

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

(Respondents)

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3	Copies of Charge Sheet, replies, inquiry reports along with statements, and dismissal from service order dated 05.05.2011.	A, B & C	7- 18
4	Copies of the departmental appeal, rejection order dated 12.07.2011, and judgment and order dated 13.04.2016	D, E & F	19- 24
5	Copy of the order dated 09.06.2016.	G	25
6	Vakalatnama.		26

  
Appellant

Through

**IJAZ ANWAR**  
Advocate Peshawar.

&

  
**SAJID AMIN**  
Advocate Peshawar.

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

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 693

Dated 11-7-2016

Appeal No. 774/2016

**Attaullah**, Ex- Constable No.512 Elite Force, R/o Village & P.O Masho Khel, P/S Baddher District Peshawar.

**(Appellant)**

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Additional Inspector General of Police/Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar.

**(Respondents)**

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 05.05.2011, whereby the appellant has been awarded the major punishment of dismissal from service, against which his departmental appeal was remitted by this Honorable Tribunal vide its judgment and order dated 13.04.2016 to the appellant authority i.e Respondent No.2 for decision afresh, has also been rejected vide order dated 09.06.2016.

**Filed to-day**

**Registrar**

11/7/16

Prayer in Appeal: -

**Re-submitted to -day  
and filed.**

**Registrar**

29/7/16

On acceptance of this appeal the order dated 05.05.2011 and order dated 09.06.2016, may please be set aside and the appellant may kindly be reinstated into service with all back benefits.

Respectfully Submitted:

1. That the appellant was initially enlisted as Constable in Police Department and successfully completed recruit training course. The appellant also imparted Elite Force Training.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.
3. That the appellant while attached to Police Station Doaba District Hango, was a member of a raiding party, when due to some misunderstanding It was alleged that the appellant intended to steal gold made locket.
4. That the appellant was proceeded against departmentally and after serving upon him a charge sheet and conducting a partial inquiry, the appellant was dismissed from service vide order dated 05.05.2011. **(Copies of Charge Sheet, replies, inquiry reports and dismissal from service order dated 05.05.2011, are attached as Annexure A, B and C)**
5. The appellant filed departmental appeal against the dismissal order, however the departmental appeal was also rejected vide order dated 12.07.2011. Thereafter the appellant filed service appeal No. 1457/2011 in this Honorable Service Tribunal. The Honorable Tribunal vide its judgment and order dated 13.04.2016, while partially accepting the Appeal, set aside the appellate order dated 12.07.2011, and remitted the case to the appellate authority for decision afresh on my departmental appeal. The operative Para of the judgment is reproduced bellow;

**“.....in the circumstances of the case, the Tribunal is of the considered view that the impugned order of the appellant authority dated 12.07.2011, being infirm for the above reasons, cannot be maintained. The same appellate order dated 12.07.2011, is therefore set aside. The case is remitted to the appellate authority for decision afresh after giving full opportunity of hearing to the appellant, to be decided within a period of one**

**month after the receipt of this judgment. The issue of back benefits be also decided by the appellate authority. Appeal is disposed of in the above terms....”**

**(Copies of the departmental appeal, order dated 12.07.2011 and judgment and order dated 13.04.2016, is attached as Annexure D, E & F)**

6. That again without properly allowing opportunity of defense to the appellant, and without considering his defense statement, the departmental appeal has been rejected by the appellate authority vide order dated 09.06.2016. **(Copy of the order dated 09.06.2016, is attached as Annexure G)**
7. That the orders impugned are illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

#### **GROUND OF SERVICE APPEAL**

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law and constitution is badly violated.
- B. That the appellant has never involved himself in any commission or omission that could be termed as misconduct, and the proceedings conducted against him are thus illegal and unlawful.
- C. That no proper procedure has been followed before awarding me the major penalty of dismissal from Service to the appellant, no proper inquiry has been conducted, the appellant has not been properly associated with the inquiry proceedings, statements of witnesses if any were never recorded in presence of the appellant nor has he been allowed opportunity of cross examination; thus the whole proceedings were defective in the eyes of law and the impugned order of dismissal from service being based on such defective proceedings, is thus liable to be set at naught on this score alone.

- D. That the undersigned have not been provided proper opportunity of personal hearing thus he has been condemned unheard.
- E. That the charges leveled against the appellant were never proved in the first enquiry and the appellant was exonerated of the charges, subsequently in the regular enquiry he was not properly associated and was not allowed to cross examine the witnesses those who may have alleged anything against him, the only eye witness was never examined in presence of the appellant his statement was never recorded in narrative form.
- F. That there was no witness in the whole enquiry proceedings who had utter a word against the appellant that they have seen the appellant committing the nefarious act, thus relying on hearsay evidence is uncalled for and not warranted under the law.
- G. That the only eye witness/ complainant who alleged to have seen/caught the appellant stealing the gold ornament, was never examined in presence of the appellant nor was he cross examined by the appellant.
- H. That even after the remand order of the Honorable Service Tribunal, the appellant was not given proper opportunity to defend himself against the charges, no endeavor has been made to re-inquire the matter, the plea of the appellant was never considered and his appeal was again rejected without any solid reasons/justification.
- I. That the reason given in the rejection order dated 09.06.2016, that the appellant was dismissed 5 year back hence his appeal is rejected, is also illegal and against the spirit of the judgment and order of the Honorable Tribunal, since the Honorable Tribunal had remitted the case to the appellate authority for decision afresh after giving full opportunity to the appellant, therefore it was required to have fully probe the matter and given opportunity to the appellant. There was no question of limitation involved in the case thus the Honorable Appellate Authority has completely gone on wrong presumption while giving such reasons for rejection of appeal of the applicant.

- J. That the charges leveled against me were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjunctures.
- K. That the appellant has never committed any act or omission which could be termed as misconduct, he had performed his duties and have showed no dereliction from duty, but has been awarded major punishment of dismissal from service.
- L. That the appellant has at his credit the qualification of Masters (MA) and has since undergone the necessary recruit courses is thus a qualified person, moreover he is young and energetic and wants to serve for the department, albeit his illegal dismissal from service has deprived him from serving but his illegal dismissal from service has deprived him to serve and proof himself.
- M. That under the circumstance of the case the Penalty of dismissal from service is too harsh and is liable to be set aside.
- N. That the appellant is jobless since the imposition of illegal penalty upon him.
- A. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of the appeal.

*It is, therefore, humbly prayed that on acceptance of this appeal the order dated 09.06.2016, and order dated 05.05.2011, may please be set aside and the appellant may kindly be reinstated into service with all back benefits.*

Through

*[Signature]*  
Appellant

*[Signature]*  
IJAZ ANWAR  
Advocate Peshawar

&

*[Signature]*  
SAJID AMIN  
Advocate, Peshawar.



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

Appeal No. \_\_\_\_\_/2016

**Attaullah**, Ex- Constable No.512 Elite Force, R/o Village & P.O Masho Khel, P/S Badbher District Peshawar.

(Appellant)

VERSUS

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

(Respondents)

**AFFIDAVIT**

I, **Attaullah**, Ex- Constable No.512 Elite Force, R/o Village & P.O Masho Khel, P/S Badbher District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



*(Signature)*  
Deponent

ANNEX A

DISCIPLINARY ACTION

1. I, Mr. Amir Khan, SUPERINTENDENT OF POLICE, ELITE FORCE, KOHAT as competent authority, am of the opinion that you Constable Atta ullah No 512 PL-1 D.D-18 dated 11-12-10 Ps That has rendered themselves liable to be proceeded against as he committed that the following acts/omission within the meaning of Section - 3 of the Khyber Pakhtunkhwa, Removal From Service (Special Powers) Ordinance - 2000.

STATEMENT OF ALLEGATIONS

2. WHEREAS you Atta ullah No 512 PL-1 of Elite Force, refused to obey the legal orders of your superior. This act is punishable under the Police Rules.

3. The Enquiry Officer/Committee shall, in accordance with the provision of the Ordinance, provided reasonable opportunity of hearing to the official record its findings and make within a week of the receipt of this order its recommendation as to punish or other appropriate action against the official.

4. The accused official shall be join the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

AK  
(Amir Khan)  
SUPERINTENDENT OF POLICE,  
ELITE FORCE, KOHAT

No 05 /R  
Dated 3-1 /2011

Received 1 /2011  
Lia

W/O  
SP  
Superintendent  
Elite Force, Kohat

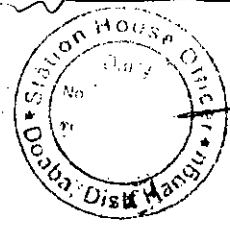
ELITE FORCE, KOHAT

### حساب عالی

حوالہ چارج شیٹ عنبری 05/8/2011 جاری SP اسٹیٹ ٹورسکی  
3/1/2011

کو باٹ صفرو صفا حضرت ہو میں کنٹیل عطاء اللہ عنبری 12/5/11 بلیٹ  
 فون میں متفقہ دوا ہو پوس سیشن پر جو الزام چارج شیٹ  
 میں لکھا گیا ہے اس میں کوئی حقیقت نہیں ہے۔ واقعی صور  
 12/10/11 ہم پوس کا پارٹی اور آری کساکہ مشترکہ سرج اپریشن  
 کر رہے تھے کہ عقلم جہر میں بازو ایک گھبر کی تلاشی کے دوران  
 ایڈ بکس کو میں نے جک کر رہا تھا جس سے کپور اٹھانے کے  
 دوران ایک سونے کا لاکٹ زمین پر گر گیا میں نے اٹھایا اور  
 گھروالوں کو حوالہ کرنا چاہا جس پر آری کے سپاہی نے میرے  
 ساتھ فدر اریس کہ بیاں پر چھوڑ دو چونکہ میں نے اس کی  
 کہا کہ دستو گھر کے مالک کے حوالے کرتے ہیں کیونکہ یہ لوگ  
 بعد میں پوس کی پر قسم قسم کے الزامات لگاتے ہیں چونکہ اس  
 بات پر میرا اور آری سپاہی کے مابین تلخ کلامی ہوئی جس نے اٹھانے  
 سیشن کو لگایا کہ میں نے فز کورہ کے صفحہ سے میرا اور کیا ہے اس واقع  
 میں پہری ہوئی بہر ریانتی نہیں تھی۔ صرف بات یہ ہے کہ وہ آری  
 لگا ہے اور اسکی بات قابل قبول سمی جاتی ہے اگر میں حلق  
 پتہ ہوں تو وہ چھوٹ میں شمار کیا جاتا ہے اس سے  
 سز پر میں کچھ نہیں کہہ سکتا ہوں یہ میرا بیان ہے۔

کنٹیل عطاء اللہ عنبری 12/5/11 بلیٹ ٹورسکی  
PL-27



Handwritten signature



تحقیقاتی رپورٹ

برخلاف کنشٹیبل عطاء اللہ نمبر 512 پلاٹون نمبر 01 متعینہ پولیس سٹیشن دو ابہ ضلع ہنگو حال پشاور

10

مورخہ 11-12-2010 کو کنشٹیبل بمعہ دیگر نفری کے زیر قیادت DSP سرکل ٹل و SHOs صاحبان ٹل و دو ابہ پاک آرمی پنجاب 24 زیر نمان کرنل آفتاب سرچ آپریشن کے سلسلہ میں جانے سے پہلے جملہ نفری کو کرنل صاحب نے ہدایات جاری کر کے مکانات کی تلاشی کے دوران ایک مکان میں بمقام سر و خیل ایلیٹ فورس کے جوان عطاء اللہ نمبر 512 طلائی زیورات چوری کرتے ہوئے پاک آرمی ایک سپاہی نے رنگے ہاتھوں پکڑ کر کرنل آفتاب کو موقع پر موجود SHO ٹل، DSP ٹل، پیش کر کے کرنل صاحب نے اپنے فرض شناس سپاہی کو پورے آرمی نفری اور پولیس نفری کے سامنے داد دی جبکہ مالک مکان نے موقع پر ایک ہزار روپے نقد انعام سے نوازا۔ اور زیورات مالک مکان کو واپس کئے اور کرنل صاحب کنشٹیبل عطاء اللہ کو کافی بعزت کیا اور دھکے دے کر باہر نکالا جس سے پولیس فورس کی بدنامی ہو کر سر شرم اور بے عزتی سے سرنگوں رہا اور مذکورہ کنشٹیبل نے آرمی افسران کے سامنے پولیس فورس کو بدنام کیا جس سے موقع پر موجود پولیس افسران کی جذبات کو کافی ٹیسٹ پہنچائی اور کنشٹیبل کی اس اقدام کی وجہ سے کرنل صاحب نے آپریشن کے دوران پولیس نفری کو خانہ تلاشی کے دوران گھر کے اندر جانے سے منع کیا جو کنشٹیبل کے اس حرکت کے بارے میں بحوالہ نمبر 18 توڑنا سچہ 12-2010-1.1 تھانہ ٹل SHO شیر بہادر خان نے تفصیلاً رپورٹ درج کرتے کرتے اسی رپورٹ کے سلسلہ میں SP ایلیٹ فورس کو ہاتھ لگنے کنشٹیبل کے خلاف کارروائی شروع کر کے DSP صاحب خورشید خان کو انکو آرمی افسر مقرر کیا مورخہ 14-04-2011 کو جب انکو آرمی کاغذات جناب ڈپٹی کمانڈنٹ صاحب ایلیٹ فورس کو ت پیش ہوئی۔

صاحب موصوف نے بحوالہ حکم نمبری 2478-82/EF مورخہ 14-04-2011 الزامات کی چارج شیٹ جاری فرما کر کنشٹیبل عطاء اللہ نمبر 512 جس نے بدوران سرچ آپریشن سونے کی زیورات چوراتے ہوئے آرمی کے جوان نے رنگے ہاتھوں پکڑ کر جس کا یہ فعل دفع 3 سیشنل اختیارات آرڈیننس 2000 پولیس سے برخاستگی ہے اور اسے 7 دن میں بیان و ضاحتی بیان دینے کا حکم بھی جاری فرمایا۔ اور مجھے انکو آرمی افسر مقرر فرمایا۔

مورخہ 14-04-2011 کو کنشٹیبل پر چارج شیٹ تقسیم ہو کر جس نے مورخہ 15-04-2011 کو الزامات کے بارے میں اپنا تحریری بیان پیش کر کے جو شامل انکو آرمی ہے۔ کنشٹیبل نے اپنے جیان میں بھی اس الزام کو مان لیا ہے کہ سونا اس نے اٹھایا تھا لیکن اس کی نیت سرقہ کرنے کی نہیں ہے جو اس بات کو قطعی طور پر تسلیم نہیں کیا جا سکتا۔ کیونکہ موقع پر پولیس کے سینئر افسر DSP سرکل ٹل بھی موجود تھا۔ جو موقع پر اس کی ٹیکل دفاع کرتا لیکن ایسا نہیں ہوا ہے۔

مورخہ 28-04-2011 کو جب کہ پہلے سے DSP ٹل کو اطلاع دی گئی تھی کہ واقعات کے گواہان بمقام ٹل موجود ہوں میں بمعہ نفری کے بسلسلہ انکو آرمی کے ٹل دو ابہ ضلع ہنگو جا کر الزام علیہ کنشٹیبل عطاء اللہ نمبر 512 انصاف کے تقاضوں کو مد نظر رکھتے ہوئے اپنے ساتھ لے گیا تاکہ اس کی موجودگی گواہان کے بیانات لئے جائے اور اس کو صفائی کا مکمل حق حاصل ہو سکے۔

گواہان DSP صاحب میر چمن خان سرکل ٹل شیر بہادر SHO ٹل کے بیانات لئے جا کر جو کہ ہر دو کنشٹیبل کے خلاف الزام کے انتہائی اہم گواہان ہیں جن کے بیانات میں کنشٹیبل کے خلاف الزام مکمل طور پر ثابت ہے لیکن ملزم کنشٹیبل نے ہر دو گواہان پر اپنا دعویٰ میں کوئی جرح نہیں کر سکا اس کے علاوہ نوید اختر، فاروق افضل، نور اختر اور حسین اختر ساکنان سر و خیل جو کہ ان کے مکان میں کنشٹیبل نے اس نازیبہ حرکت کا ارتکاب کیا ہے جس کے بیانات بھی موجودگی کنشٹیبل لئے جا کر کنشٹیبل کو اپنی دفاع میں گواہان پر جرح کرنے کے لئے پورا حق ملے گا۔

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حسین اصغر ولد محمد اصغر جو کہ گواہ چشم دید ہے نے کنشیل کو بغیر وردی کے شناخت بھی کیا جو کہ اس گواہ نے اپنے بیان میں یہ بھی بتلایا کہ آرمی الہاکار نے رائفل کے بٹ سے مارتے ہوئے کمرے سے باہر نکالا اور سونا اس کے ہاتھ پکڑا ہوا تھا جو کہ اس گواہ پر جرح کرنے کے بجائے انکھیں نیچے کیے اور اپنی دفاع نہ کر سکا۔

اس سلسلہ میں پاک آرمی سے معلومات کرا نا ضروری سمجھتے ہوئے ٹل قلعہ سے موجود ڈی DSP ٹل بندر یون فون رابطہ قائم کیا گیا بو ایسی اینچارج میجر اکبر نے انکو آرمی میں بیانات دینے سے معذرت ظاہر کی اور اجازت دی کہ صرف اپنی دونوں DSPs کا بیان دے۔ قلعہ آسکتے ہیں اور زبانی طور پر تسلی کر سکتے ہیں جو میں نے بمعہ DSP ٹل قلعہ ٹل دفتر میجر اکبر جا کر صحت موصوف نے تا نیک صداقت حسین نمبر 24-2419312 پنجاب پونٹ ٹل اپنے دفتر بلا کر جس سے اس الزام کے بارے میں زبانی معلومات کی گئی جو کنشیل کے خلاف الزام حقیقت پر مبنی ہے بلا کر جس پر مختلف سوالات کئے گئے جو انکو آرمی افسر کے حثیت سے اس نتیجہ پر پہنچا کہ کنشیل کے خلاف الزام میں کوئی شک و شبہ نہیں اور اس زبانی بیان پر مجھے مکمل تسلی ہوئی۔

کنشیل کی موقع پر موجودگی کے لئے تھانہ دوابہ سے نقلیات روانگی مد نمبر 36 روز نامہ 11-12-2010 اور واپسی مد نمبر 16 روز نامہ 11-12-2010 حاصل کر کے شامل انکو آرمی ہے لیکن واپسی رپورٹ میں SHO دوابہ نے اس نسبت کوئی ذکر نہیں کیا ہے جو کہ SHO دوابہ رخصت کلاں تین ماہ پر چلے گئے جس کی بیان کی بھی ضرورت محسوس نہیں کرتا ہوں۔ میں نے دیگر دفتری تھانہ جات سے خفیہ طور پر حقیقت جاننے کی کوشش کی جو کہ کنشیل کے خلاف الزام حقیقت پر مبنی ہے۔

گواہان کے بیانات اور دیگر دستاویزات سے بحثیت انکو آرمی افسر اس نتیجہ پر پہنچا کہ کنشیل نے بدوران سرچ آپریشن مکان سے سونا سرقہ کرنے کا اقدام کیا ہے اور پورے پولیس محکمہ کی بدنامی کا باعث بنا ہے موقع پر موجود SDPO صاحب ٹل کو برخلاف کنشیل تقریری مقدمہ درج رجسٹر کرنا چاہیے تھا لیکن ایسا نہیں ہوا ہے۔ کنشیل کے خلاف الزام ثابت ہے سنگین سزا کی سفارش کی جاتی ہے۔

بمراہم ملاحظہ گزارش ہے۔ سابقہ کاغذات انکو آرمی بھی ہمراہ شامل ہے۔

ڈپٹی سپرنٹنڈنٹ آف پولیس  
ہیڈ کوارٹر ایلیٹ فورس پشاور  
مورخہ 30-04-2011

(16) 11  
حکومت سندھ  
پشاور

ایس ایس ایف  
F. S. E. not  
30/4

46

سہ ماہی اردن اور مشرق وسطیٰ

اردن دوسرے میں دوسرے مقامات

اردن انتہائی تجارتی علاقہ ہے اور ملکیت خورس ازبکستان

ایرین مینام سرحدیں ایک مکان سے ملتا ہے

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

مجموعی طور پر اردن میں تجارتی سرگرمیوں میں اضافہ

میں نے یہ سارا سہارا ہی ہے۔

اس کے علاوہ اس کے ساتھ ہی آئی

اپنے اپنے گھر میں گھر میں

ہے۔ یہ سارا سہارا ہی ہے۔

میں نے یہ سارا سہارا ہی ہے۔

*[Signature]*

*[Signature]*

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No.

Attested

*[Signature]*

*[Signature]*

29/11/20





سائن اڈون سر سجاد علی سیال / 5145

2010/11 میں احمد دہلوتی خدشہ دلفری  
تہ ذہن فہم کے ساتھ ساتھ سر سجاد علی سیال  
یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

سر سجاد علی سیال کے ذہن فہم کے ساتھ ساتھ  
یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم

XXXX  
XXXXXXXXXXXX  
XXXXXXXXXXXX

یہ وہ نصاب میں وقت کے ساتھ ساتھ میں خدشہ فہم



پہلے اذیتیں تھیں اور پھر درد نچھوڑا اور کمر میں درد

11

12 P 11 2010

سے ہر ایک طرف ہتھکانے لگی۔ اس کے بعد اس کا درد اس کے  
پیشانی پر بھی پھیل گیا۔ اس کے بعد اس کے سینے میں بھی درد  
پھیل گیا۔ اس کے بعد اس کے پیٹ میں بھی درد پھیل گیا۔

کئی دنوں تک یہ حالت رہی۔ اس کے بعد اس کے دل میں بھی درد  
پھیل گیا۔ اس کے بعد اس کے کمر میں بھی درد پھیل گیا۔

اس کے بعد اس کے ہاتھوں میں بھی درد پھیل گیا۔ اس کے بعد  
اس کے پاؤں میں بھی درد پھیل گیا۔ اس کے بعد اس کے

سینے میں بھی درد پھیل گیا۔ اس کے بعد اس کے پیٹ میں  
بھی درد پھیل گیا۔ اس کے بعد اس کے دل میں بھی درد

پھیل گیا۔ اس کے بعد اس کے کمر میں بھی درد پھیل گیا۔  
اس کے بعد اس کے ہاتھوں میں بھی درد پھیل گیا۔

اس کے بعد اس کے پاؤں میں بھی درد پھیل گیا۔ اس کے بعد  
اس کے سینے میں بھی درد پھیل گیا۔ اس کے بعد اس کے

پیٹ میں بھی درد پھیل گیا۔ اس کے بعد اس کے دل میں  
بھی درد پھیل گیا۔ اس کے بعد اس کے کمر میں بھی درد

پھیل گیا۔ اس کے بعد اس کے ہاتھوں میں بھی درد پھیل گیا۔  
اس کے بعد اس کے پاؤں میں بھی درد پھیل گیا۔

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بہارِ ازالہ کا فرق اقصیٰ درجہ نوردانہ سے ہے۔

نہ سال کے لئے عرصہ 11/10 کو صحت گھر سے باہر دیکھا۔ جب  
 والہیں گھر آیا۔ مسرتوں سے چرخوں کو کہہ کر گھر کے دروازے  
 ارضی اور پورے میں نوردانہ کے ساتھ تھا۔ بہارِ ازالہ سے تھک کر  
 جو نہیں نوردانہ میں گیا۔ جب تک اس کا اللہ صلوات پر دیکھا۔  
 اس کی اگلائی سے سونے کی زلوررات کی مکمل سبب جس میں  
 سونے کا بارہ نمبرہ بھی شامل تھا۔ سرفہ کرنے کی سنت سے  
 دیکھا کہ ارضی کی اس سوال نے مذکورہ جو نہیں سنا ہے کو  
 ارضی اور نوردانہ کو سبب کرتا جس سے موقع پر سونے  
 نہرے جس نے افسر حجازی آدم جو کہ موقع پر موجود تھا۔  
 حوالہ کیا۔ جس نے ارضی سوال کے اس کا نوردانہ پر مدد  
 اپنے ہزار اربہ بطور انعام بھی دیا تھا۔ جو اس میں بھی نے  
 رہنے سے زلوررات جو بھی کرنے کی کوشش کی ہے۔  
 کامیاب نہیں ہو سکا۔ یہ میرا بیان ہے جو حقیقت ہے۔

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سوال: XXX  
210

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بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

علاقہ دیوبند

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

بہاؤ الدین بکھریا کی طرف سے لکھی گئی ہے۔

لورڈ افضل

29/4/2011

Nil

Attested

Wk

D.S.P 114 &

29/4/2011

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(18)  
ANNEX-1  


**ORDER**

You constable Attaullah No. 512 of Elite Force was found guilty of gross misconduct on the following ground.

You were caught red handed by military authorities while attempting to steal gold ornaments during search operation of a house in the jurisdiction of Police Station Doaba District Hangu. Your misconduct was reported at serial No. 18 of Daily Diary dated 11.12.2010 of Police Station Tal District Hangu. A Final Show Cause Notice was served upon you vide No. 3101/PA/DC dated 02.05.2011 by the competent authority and you were also heard in person on 05.05.2011.

The enquiry officer found you guilty of grave misconduct and during cross examination you failed to prove the charges leveled against you as false. You also failed to disprove the charges during personal hearing. I am convinced that you deliberately tried to steal gold ornaments which have brought a very bad name to Elite Force. I, Muhammad Iqbal Deputy Commandant, Elite Force, Khyber Pakhtunkhwa, Peshawar, therefore, as competent authority, impose major punishment of dismissal from service upon you with immediate effect.

  
(MUHAMMAD IQBAL)

Deputy Commandant,  
Elite Force, Khyber Pakhtunkhwa, Peshawar.

No. 3201-5 /PA/EF, dated Peshawar the 05/05/2011.

Copy to;

1. Deputy Superintendent of Police, Hqrs., Elite Force, Peshawar.
2. Accountant, Elite Force, Khyber Pakhtunkhwa, Peshawar.
3. OASI, Elite Force, Khyber Pakhtunkhwa, Peshawar.
4. Establishment Clerk, Elite Force, Khyber Pakhtunkhwa, Peshawar.
5. SRC, Elite Force, Khyber Pakhtunkhwa, Peshawar.



The Commandant Officer,  
Elite force, Khyber Pukhtoon Khawa,  
Peshawar.

Annexure D  
79

Subject: - Departmental appeal against the orders dated 05/05/2011 where by I have been awarded the major penalty of Dismissal from Service.

Sir,

While serving as Constable with platoon No.1 at P.S Doaba, District Hangu. I while accompanying with a raid in a search operation was implicated in a false departmental case alleging that I have attempt to steal Gold made ornament during search operation of a house, trough I deny any such happening.

It is astonishing that PWS Sher Bahadur SHO Doaba, Maddad Moharrir Saif Ullah and Numberdar Hussain while appearing before Muhammad Khurshid Dy. Suptd. of Police Elite Force Kohat did not supported the allegations against me and thus Muhammad Khurshid DSP Elite force Kohat in his report concluded that the allegations are not proved. Surprising by when the above PWS appeared in another enquiry, they supported the above allegations. Moreover I was not allowed to cross examine any of the witness who recorded statement in the enquiry. Similarly non of the witness are eye witness to the alleged occurrence, the Army official who made allegation against me and who was the complaint was not called to the enquiry, nor his statement if any was recorded in my presence.

The allegations leveled against me are totally incorrect and false. I never involved my self in any incident that can be termed as misconduct.

The penalty imposed is too harsh and has spoiled my service carrier besides my life.

It is therefore requested that on acceptance of this appeal the Dismissal orders dated 05/05/2011 may please be set aside and I may be reinstated in service with all wages and benefits of service.

Your obedient Servant

*Atta Ullah* 12/5/2011

Atta Ullah Ex Constable No.512  
Elite force Police Line Peshawar  
R/O Village and P.O Masho Khel  
Police station Badaber, Peshawar.

*Atta Ullah*

20

ANNEXURE



From : The Commandant,  
Elite Force, Khyber Pakhtunkhwa, Peshawar.

To : Mr. Atta Ullah (Ex-Constable No. 512)  
s/o Shafi Ur Rehman,  
r/o village & PO Masho Khel , P/S Badaber, Peshawar.

No. 4909 /EF, dated Peshawar the 12/07/2011.

Subject: APPEAL

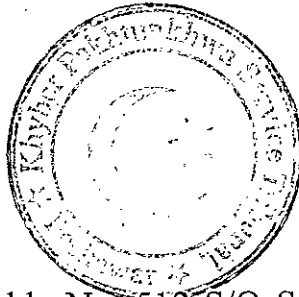
Memo:

Please refer to your application dated 12.05.2011, against the punishment order of the Dy: Commandant Elite Force, Khyber Pakhtunkhwa, Peshawar. The appeal has been examined and filed by the competent authority.

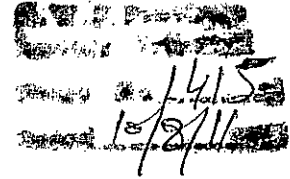
COMMANDANT,  
Elite Force, Khyber Pakhtunkhwa, Peshawar.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**



Appeal No. 1457 /2011



Atta Ullah Ex- Constable No. 512 S/O Sahfi ur Rehman R/O  
Village & P. O Masho Khel, P/ S Badaber Peshawar.

(Appellant)

VERSUS

1. Provincial Police officer, Khyber Pakhtunkhwa Peshawar.
2. Commandant Elite Force Khyber Peshawar.
3. Deputy Commandant, Elite Force, Khyber Pakhtunkhwa,  
Peshawar.

(Respondents)

**Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 read with section 10 of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 against the Office order No. 3201-5 dated 05.05.2011 whereby the appellant was awarded the major penalty of Dismissal from service, against he served departmental appeal dated 12.5.2011 however it was rejected vide office order No. 4909 dated 12.07.2011 conveyed through Regd post on 15.7.2011.**

*[Handwritten signature]*  
10/8/11

Prayer in Appeal: -

**On acceptance of this appeal both the impugned orders may please be set-aside and the appellant may please be reinstated in service with full back wages and benefits of service.**

Respectfully Submitted:

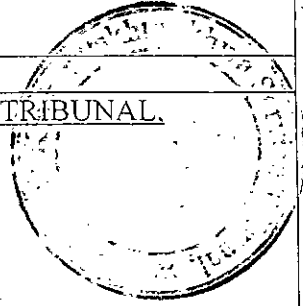
1. That the appellant was appointed as Constable in the Police Department and successfully completed recruit training course, he was also imparted Elite Force Training.

That the appellant while attached to the Police Station Doaba District Hangu was member of a raiding party, where due to some misunderstanding, it was alleged that the appellant intended to steal Gold made locket. In the instant case the

*[Handwritten signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

22

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	13.04.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1457//2011</p> <p style="text-align: center;">(Atta Ullah-vs- Provincial Police officer, Khyber Pakhtunkhwa Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Appellant with counsel (Mr. Sajid Amin, Advocate) and Mr. Javed Iqbal, Inspector (Legal) alongwith Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Appellant a police constable while attached to the Police Station Doaba District Hangu was a member of that searching party which consisted of the Army and Police personnel. They jointly raided a house at Charsi Banda on 11.12.2010. Appellant alongwith Army constable entered into the house and it is stated that during this searches he attempted to steal a golden locket from a box. In this regard after reporting of the matter in the daily dairy, appellant was charge sheeted. First regular enquiry was conducted by the DSP Muhammad Khurshid. The competent authority vide his order dated 14.04.2011 while observing that this enquiry was conducted in the casual manner, directed for enquiry <u>de-novo</u>. This time enquiry was conducted by DSP, Head Quarter Kohat who has submitted his report. Resultantly a final show cause notice was</p>



*[Handwritten signature]*  
va  
Peshawar

issued to the appellant to which he submitted his reply. Vide order dated 05.05.2011 appellant was dismissed from service and his departmental appeal was also turned out vide order dated 12.07.2011, hence this service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974.

3. Arguments heard and record perused.

4. It was submitted by learned counsel for the appellant that statement of the Army constable who accompanied the appellant at the relevant time has not been recorded. It was further submitted that proper opportunity of defense was not provided to the appellant. He also argued that the golden locket was taken by the appellant so that the same may be safely returned to the owner of the house and intention of the appellant was never to steel it. He submitted that harsh penalty of dismissal from service has been imposed on the appellant which may be set aside and the appellant may be reinstated into service with all back benefits.

5. The learned GP resisted the appeal and argued that the golden locket was recovered from the possession of the appellant and thus he was caught red handed. He also argued that proper opportunity of defense and hearing was provided to the appellant and as the appellant caused to humiliate and disgrace his police department in the eyes of Pak Army, therefore, he was rightly penalized. He prayed that the appeal being devoid of any merits may be dismissed.

5. After perusal of the record and hearing pro & Contra arguments, it was noted that taking/keeping of the golden locket has been admitted by the appellant. The raiding party also included senior police officers and they have not supported appellant in his stance that the charge against him

**ATTESTED**

  
 JUDGE  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

(29)

is false. The subsequent enquiry report has also found appellant guilty of the charge. The competent authority has given him opportunity of personal hearing. In these circumstances, the Tribunal would refrain to interfere in the order of the competent authority dated 05.05.2011. But while going through the record, it was observed that the order of the appellate authority dated 12.07.2011 is not a speaking order in which no reason has been given. No opportunity of hearing has been provided to the appellant. Besides dismissal from service, since the appellant has also been stigmatized, therefore, in the circumstance of the case, the Tribunal is of the considered view that the impugned order of the appellate authority dated 12.07.2011 being infirm for the above reasons, cannot be maintained. The same appellate order dated 12.07.2011 is therefore, set aside. The case is remitted to the appellate authority for decision afresh after giving full opportunity of hearing to the appellant, to be decided within a period of one month after receipt of this judgment. The issue of back benefits be also decided by the appellate authority. Appeal is disposed of in the above terms. Parties are left to bear their own cost. File be consigned to the record room.

*Sd/- Pir Bakhtish Shah,  
Member*

*Sd/- Abdul Latif,  
Member*

Original  
Copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ANNOUNCED**  
13.04.2016

Date of Presentation of the case: 18-04-2016  
 Number of Petition: 1600  
 Copying Fee: 10/-  
 Urgent: 2/-  
 Total: 12/-  
 Name: *[Signature]*  
 Date of Filing: 18-04-2016  
 Date of Settlement: 18-04-2016



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



No. 8184-91/EF

Dated: 09/06/2016.

**ORDER**

This order is passed in compliance of the judgment of the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar dated 13.04.2016 passed in Service Appeal No. 1457/2011 titled Attaullah VS Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others.

Attaullah Ex-Constable No. 512 (herein after only referred to appellant) of Elite Force was proceeded against departmentally on charges of attempt of theft of golden ornaments during house search carried out by joint team of Police and Army in the jurisdiction of Police Station Doaba District Hangu. He was proceeded against departmentally on the above charges and was dismissed from service vide order dated 05.05.2011 by Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar. He filed departmental appeal against the order of Deputy Commandant which was filed by the appellant authority on 05.07.2011. He filed service appeal mentioned above and the Service Tribunal remitted the case to appellant authority because the earlier order of appellant authority was not a speaking one as no reasons were given while filing the departmental appeal of appellant.

Therefore, the appellant was summoned and heard in person and his written statement was also recorded. The offence committed by the appellant is of serious nature while in Police Service, which is custodian of law, protection of life and property. Such kind of misconduct/offence are not acceptable in Police service. Moreover, the appellant was dismissed after 5 years back, hence, the appeal is rejected.

(TARIQ JAVED) P.S.P  
Additional Inspector General of Police  
Elite Force Khyber Pakhtunkhwa Peshawar

Copy of above is forwarded to the:-

1. Registrar Services Tribunal Khyber Pakhtunkhwa Peshawar.
2. Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Police Headquarters Elite Force Peshawar.
4. RI Elite Force Khyber Pakhtunkhwa Peshawar.
5. Accountant Elite Force Khyber Pakhtunkhwa Peshawar.
6. OASI/EC/SRC Elite Force Khyber Pakhtunkhwa Peshawar.

POWER OF ATTORNEY

In the Court of IC RIC Service Tribunal Peshawar  
Alta Ullah

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

P. S. O & others

} Defendant  
} Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

Sajid Amin Adv my true and lawful attorney, for me in my same and on my behalf to appear at Sec to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Sec  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
PK-3 & 9, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt  
Ph: 091-5272154 Mobile: 0333-9107225

Sajid Amin  
Sajid Amin

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PEASHAWAR.

Service Appeal No. 774/2016.

Attaullah.....(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and  
others.....(Respondents)

Subject:- COMMENTS ON BEHALF OF RESPONDENTS.

Preliminary Objections:-

- a) The appeal has not been based on facts and having no cause of action or locus standai.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for non-joining and mis-joining of necessary parties.
- d) The appellant is estopped to file the appeal.
- e) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. Correct to the extent that appellant was recruited in Police department as constable and he was dismissed from service on charges of committing theft of ornaments made of gold during house search operation conducted by joint team of Police officers and army personnel.
2. Incorrect, appellant made attempt of theft of ornaments during house search in presence of army personnel and tarnish the image of Police.
3. Correct to the extent that appellant was one of the member of the Police party which conducted house search operation in the jurisdiction of Police Station Doaba and appellant was caught hold red handed while committing theft of ornaments made of gold of the person whose house was being searched.
4. Correct to the extent that appellant was proceeded against departmentally and proper enquiry was conducted to scrutinize the conduct of appellant with reference to the charges leveled against him. The enquiry officer examined various witnesses and collected sufficient evidence in support of the charges leveled against him. The departmental proceeding culminated into passing the order of dismissal from of appellant. Copy of the finding inquiry report of the enquiry officer is enclosed as Annexure-A.
5. Correct to the extent that this Honorable Tribunal remitted the case to appellate authority for passing speaking order after hearing the

appellant. Accordingly appellant was heard by the appellate authority. The appellant admitted his guilt before the appellate authority and order dated 09.06.2016 was passed. Copy already attached with the original appeal as Annexure-G while copy of the admission is enclosed as Annexure-B. .

6. Incorrect, the appellant was heard in person by the appellate authority and he also submitted written statement thereafter the impugned order was passed.
7. Incorrect, the appeal of appellant is not maintainable. sustainable on the given grounds.


GROUND:-


- A. Incorrect, appellant was treated in accordance with law. Proper charge sheet and statement of allegations were issued to appellant. Enquiry officer examined witnesses in presence of appellant and he did not put any cross-question to the witnesses, thus appellant admitted the deposition of the witnesses.
- B. Incorrect, appellant being a Police officer and charged with duties of protection of life and properties of the citizens, made attempt of committing theft during house search operation. Therefore, appellant retention in Police service was not justified.
- C. Incorrect, all the procedural and codal formalities were adopted before passing the impugned orders. The report of enquiry officer already enclosed as Annexure-A is in detail and appellant failed to defend the charges leveled against him.
- D. Incorrect, the impugned orders are self speaking which reveals that appellant was heard in person and proper opportunity of defense was provided to appellant.
- E. Incorrect, the charges were reported proved against appellant during regular enquiry. The report of enquiry officer is already enclosed as Annexure-A.
- F. Incorrect, enquiry officer has examined Mir Chaman, Sher Bahadur, the then DSP and SHO of Tall Circle and Police Station. He also examined Naveed Asghar, Farooq Afzal, Noor Afzal, during course of enquiry and appellant did not put cross question to the witnesses.
- G. Incorrect, the statement of the witnesses are very much clear in this regard. Private witness Hussain Asghar has given ocular picture of the occurrence in his statement.

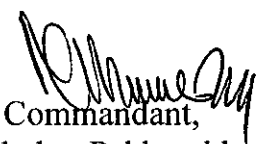


- H. Incorrect, appellant was heard in person by the appellate authority and his statement was also recorded and his appeal was rejected.
- I. Incorrect, the impugned order of the appellate authority is self speaking in all respects.
- J. Incorrect, the Para is repetition of Para-E of the ground of appeal. Anyhow, sufficient evidence was brought on the record in support of the charges before passing the impugned orders.
- K. Incorrect, appellant being Police officer was committing theft from the house of private person which was being searched therefore, the act of appellant falls within the ambit of misconduct.
- L. Incorrect, higher qualification is no ground of defense of the charges leveled against appellant.
- M. Incorrect, penalty commensurate with the charges was imposed on appellant. He made attempt of theft therefore, his retention in Police department was undesirable.
- N. Incorrect, appellant is jobless due to his own inaction.
- O-A. Incorrect, this Para has wrongly being numbered as "A" instead of "O". The respondents also seek permission of this Honorable Tribunal for raising other points during hearing of the case.

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


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

  
Addl. Inspector General of Police,  
Commandant, Elite Force,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No.2)

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

جناب عالی!

بحوالہ ڈائری نمبری 3849/EF مورخہ 19.05.2016 ڈینوائگوائری برخلاف سابقہ کنسٹیبل عطاء اللہ 612  
معروض خدمت ہوں کہ مذکورہ کو آج مورخہ 20.05.2016 کو دفتر من SP ہیڈ کوارٹریلیٹ فورس کو طلب  
کر کے سنا گیا اور اپنے صفائی کے بارے میں متوقع دیا گیا سابقہ کنسٹیبل نے اپنے غلطی کو تسلیم کیا اور اپنے غلطی  
پر پشیمانی ظاہر کی۔ جو کہ تحریری طور پر لف ایگوائری ہذا ہے۔ رپورٹ بعرض مناسب کارروائی ارسال خدمت ہے۔

  
سپرٹنڈنٹ آف پولیس  
ہیڈ کوارٹریلیٹ فورس پشاور  
20-05-2016

بیان اذات سابقہ کتب میں عطا اللہ علیہ السلام

### جناب عالی

میں ایڈیٹ بلا ٹوٹنے کے ساتھ تھا جو کہ ضلع ہنگوں میں آن  
 ڈیڑھ سہرا بجائے رہا تھا۔ ایک چھاپہ کے دوران میں  
 مقامی DSP صاحب S/O ریگرنری کا پوچھ لیں کے علاوہ آرمی کے  
 جو جنرل اسٹرائف بھی موجود تھے لہذا میں ایک امر آرمی کا  
 تیار کیا گیا ہے کہ اس دوران میں جانتا تھا ایک کرے گی  
 گھولہ میں سے سونے کی بار میں ہر گز نہیں ہے اس  
 نیت سے ہمارے پاس ہے اسٹرائف اس بار کو مالک کو  
 ہماروں مگر سب سے سابقہ اس آرمی والے نے بہت تلو قلمی  
 کیا اور اس بار کو لے کر اس آرمی کے جنرل نے سونے کی  
 بار کو حوالے کر دیا ہے سونے کی بار کو پوچھنے کے لئے  
 رہا تھا۔ میں نے ایک نیت سے ہمارے پاس لے کر  
 چوری کا الزام لگایا ہے۔ میرا قصور صرف یہ تھا کہ میں  
 نے ہمارے پاس لگایا تھا سب سے چوری کرنے کی نیت نہیں  
 تھی یہ سب سے غلطی تھی اس کی صفائی دیا جائے۔

عطا اللہ علیہ السلام

عطا اللہ علیہ السلام

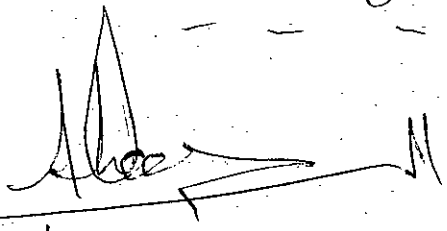
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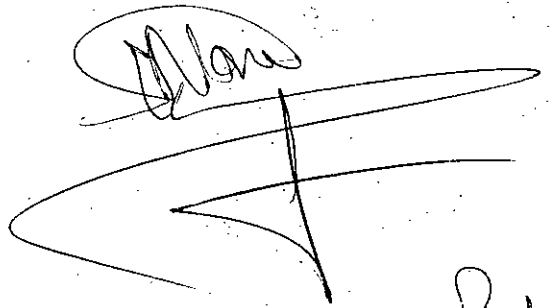
سوال۔ کیا آپ اپنی غلطی کو تسلیم  
 کرتے ہیں؟

جواب۔ جی ہاں، میں اپنے لئے یہ نشان میں اور اپنی غلطی  
 کو تسلیم بھی کرتا ہوں۔  
 عطا اللہ علیہ السلام

مذکورہ نیشنل عطاء ڈالنے کا بیان اور ان پر جمع شدہ رقم کے بارے میں

آپس کے موجودگی میں کیا گیا۔

  
Co.



SP H A Pesh EQ  
20-05-2016

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

In the matter of  
Appeal No. 774/2016

Ataullah, Constable No. 512, Elite force R/O Village & P.O.  
Masho Khel P/S Badbher District Peshawar.

*(Appellant)*

**VERSUS**

Provincial Police Officer Khyber Pakhtukhwa, Peshawar &  
others.

*(Respondents)*

**REJOINDER TO THE PARA WISE REPLY ON**  
**BEHALF OF THE APPELLANT**

Respectfully submitted:

The appellant submits his rejoinder as under:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of Dismissal from service hence he has got the necessary cause action and locus standi to file the instant appeal.
2. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rules and procedure hence maintainable in its present form.
3. Contents incorrect and misleading, all the parties necessary for the disposal of the appeal are arrayed in the instant appeal.
4. Contents incorrect and misleading, no rules of estoppel is applicable to the instant case.
5. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.

**ON FACTS**

1. Contents need no comments to the extent of admission, however rest of the para is incorrect and misleading. Contents of Para-1 of the appeal are true and correct.

2. Contents of Para-2 of the appeal are correct, the reply submitted to the Para is incorrect, baseless and without any proof / evidence hence misleading one.
3. Contents need no comments to the extent of admission, however rest of the Para is incorrect and misleading. Contents of Para-3 of the appeal are true and correct.
4. Contents need no comments to the extent of admission, however rest of the Para is incorrect and misleading. Contents of Para-4 of the appeal are true and correct.
5. Contents need no comments to the extent of admission, however rest of the Para is incorrect and misleading. Contents of Para-5 of the appeal are true and correct.
6. Contents of para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
7. Contents of para-7 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

### GROUNDS

The Grounds (A to O-A) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

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

Appellant

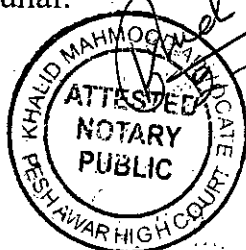
Through

*YASIR SALEEM*

Advocate High Court

### AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.



*Deponent*

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 843 /ST

Dated 20 /04/2018

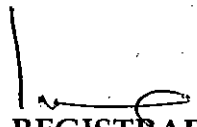
To

The Deputy Commandant, Elite Force,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 774/2016, MR. ATTAULLAH.**

I am directed to forward herewith a certified copy of Judgment/Order dated 04/04/2018 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

ok