

27.04.2017

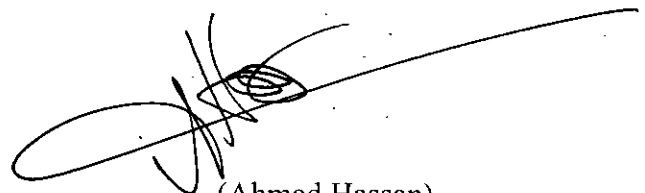
Clerk to counsel for the appellant present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven (7) days, thereafter notices be issued to the respondents for written reply/comments on 05.06.2017 before S.B.


(Ahmad Hassan)
Member

05.06.2017

None for the appellant despite repeated calls. Addl: AG for respondents present. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record room.

ANNOUNCED:
05.06.2017


(Ahmad Hassan)
Member

24.03.2017

Counsel for the appellant and Addl: AG for the respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within (7) days, thereafter notices be issued to the respondents for written reply/comments on 27.04.2017 before S.B.


(AHMAD HASSAN)
MEMBER

10/10/2017
MEMBER

474/2016

14.02.2017

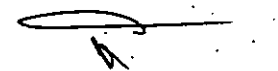
Mr. Yasir Saleem, Junior counsel for senior counsel Mr. Ijaz Anwar, Advocate present and requested for adjournment as senior counsel for appellant is busy before the august Supreme Court of Pakistan. Adjourned for preliminary hearing to 28.02.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

28.02.2017

Mr. Yasir Saleem, junior counsel with Mr. Ijaz Anwar advocate for appellant present. Preliminary arguments heard. Appellant was dismissed from service on 02.01.2008. There was a criminal case registered against appellant under sections 302/34 PPC of PS Sarband vide FIR No. 445 dated 14.09.2007. As per learned counsel the appellant remained in ^{hiding} ~~highly~~ due to serious threats to his life and finally after ^{arrested from} ~~compromise~~ in criminal case obtained bail before the competent court of jurisdiction and accordingly moved a departmental appeal on 18.12.2015 which was turned down by the competent authority on 16.02.2016 and hence the instant service appeal. The learned counsel was of the view that no proper opportunity was extended to appellant and all the ~~instituting~~ proceedings were initiated in absentia, thus has been condemned unheard.

Points urged before this Tribunal need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days there-after notices be issued to the respondents for written reply/comments for 28.03.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

01.12.2016

Agent of counsel for the appellant and Addl. AG present. ^{Agent of} Counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 29.12.2016 before S.B.


Chairman

29.12.2016

Agent of counsel for the appellant and Addl. AG for the respondents present. Request made on behalf of learned counsel for the appellant for adjournment as he is not present to-day. Last opportunity granted. Adjourned for preliminary hearing to 25.01.2017 before S.B.


Chairman

25.01.2017

Counsel for the appellant present. Requested for adjournment as senior counsel for the appellant is busy before the august Supreme Court of Pakistan. Adjourned for preliminary hearing to 14.02.2017 before S.B.


Chairman

474/16

27.09.2016

Counsel for the appellant and Addl.AG present. Counsel for the appellant seeks adjournment. Adjourned for preliminary hearing to 24.10.2016 before S.B.


Chairman

24.10.2016

Counsel for the appellant and Mr. Ihsanullah, ASI alongwith Addl: AG for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for preliminary hearing on 16.11.2016 before S.B.


(PIR BAKHSH SHAH)
MEMBER

16.11.2016

Counsel for the appellant and Mr. Ihsanullah. H.C for the respondents present. Learned Asstt. AG requested for adjournment. Adjourned for preliminary hearing to 01.12.2016 before S.B.


Chairman

14.07.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially enlisted as Constable in the Police Department in the year 2003. He was falsely implicated in a criminal case under section 302/34 PPC vide FIR No. 445 dated 14.9.2007 registered under Police Station Sarband. He was suspended from service vide order dated 24.9.2007. Ex-parte disciplinary proceedings were initiated against him which culminated in imposition of major penalty of removal from service vide order dated 2.1.2008.

As a result of compromise between the parties concerned bail of the appellant was conformed Additional Session Judge Peshawar. He submitted departmental appeal on 18.12.2015. Which was rejected on 16.2.2016 while instant appeal was filed on 16.3.2016.

Issue of limitation is involved and separate application for condonation of delay in filing the instant appeal has also been submitted by the learned counsel for the appellant.

Since the matter required further assistance, therefore, pre-admission notice be issued to SGP/respondents to argue the case particularly on maintainability of appeal. To come up for preliminary hearing on 22.8.2016 before S.B.


Member

22.08.2016

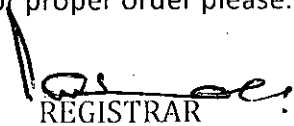


Agent to counsel for the appellant and Additional AG for respondents present. Due to strike of the Bar learned counsel for the appellant is not in attendance before the Tribunal therefore, case is adjourned for preliminary hearing to 27.09.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 474/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	04.05.2016	<p>The appeal of Mr. Rizwanullah resubmitted today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12.5.16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2	12.5.2016	<p>Agent of counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 14.07.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Rizwanullah Ex-Constable Capital City Police Peshawar received to-day i.e. on 15.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Annexures of the appeal may be attested.
- 3- Appeal may be page marked according to the Index.
- 4- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 5- Copy of order dated 16.2.2016 is illegible which may be replaced by legible/better one.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 449 /S.T.

Dt. 16/3 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

- 1) Affidavit attested by Oath Commissioner
- 2) All the Annexure attested by the Council
- 3) Appeal properly paged according to the Index
- 4) All the Annex Serial wise to appeal
- 5) Better copy attested with appeal
- 6) Five more attested with the appeal


Mr. Ijaz Anwar Adv.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 474/2016

Rizwanullah Ex-Constable, Capital City Police Peshawar
(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhuwa
Peshawar and others.


(Respondents)

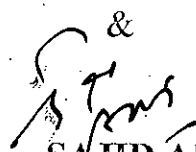
INDEX

S. NO	Description of documents	Annexure	Page No
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8	Copy of the Bail Application and Order dated 03.12.2015	G & H	16-19
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Appellant

Through


IJAZ ANWAR
Advocate Peshawar

&

SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 474 /2016

K.W.P. Province
Service Tribunal
Diary No. 291
Dated 15-03-2016

Rizwanullah Ex-Constable, Capital City Police Peshawar.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhuwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Superintendent of Police Headquarters Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 02.01.2008, whereby the appellant has been awarded the major Punishment of dismissal from service against which the departmental appeal dated: 18.12.2015 has also been rejected vide order dated: 16.02.2016 communicated to the appellant on 22.02.2016.

Prayer in Appeal: -

On acceptance of this appeal impugned orders dated 02.01.2008 and 16.02.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

Filed to-day
15/3/16.

re-submitted to-day
and filed.

15/3/16
Registrar

Respectfully submitted,

1. That the appellant was initially appointed/ enlisted as Constable in the Police Department in the year 2003.
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. The appellant was lastly posted as Naib Reader to DSP Circle Hayatabad Peshawar.
3. That while serving in the said capacity, the Appellant applied for ten days leave on 14.09.2007, however six days were sanctioned by the DSP. On the very same day the appellant, along with some other family members were falsely implicated in a criminal case under section 302/34 P.P.C, vide FIR No.445 dated 14.09.2007 of Police Station Sarband. The Appellant duly informed his department about his false implication in criminal case, accordingly the appellant was also suspended vide order dated 24.09.2007. Since there were serious threats to the live of the appellant from his enemies, therefore he could not join his duty and was compelled along with his family to shift from his home town for the sake of their lives. *(Copy of the FIR and suspension order are attached as Annexure A & B)*
4. That later on the appellant was proceeded departmentally and ex-parte departmental proceedings were conducted against him, a charge sheet was though issued, however never communicated to the appellant containing the allegations of involvement in murder case. *(Copy Charge Sheet [REDACTED] is attached as Annexure C)*
5. That thereafter an ex-parte inquiry was conducted and the inquiry officer held the appellant responsible. Thereafter a show cause notice was also issued but not served upon the appellant. *(Copies of the inquiry report and show cause notice are attached as Annexure D & E)*
6. That thereafter the appellant was awarded the major penalty of removal from service vide order dated 02.01.2008. Copy of the order was however never communicated to the appellant. *(Copy of the order dated 02.01.2008, is attached as Annexure F)*

7. That later due to the intervention of elders of the locality, a compromise was affected between the parties accordingly the application of Bail Before Arrest filed by the Appellant and others co-accused was confirmed by the Honorable Additional Sessions Judge Peshawar-XII, Peshawar vide his order dated 03.12.2015. *(Copy of the BBA application and Order dated 03.12.2015 is attached as Annexure G & H)*
8. That after the confirmation of the Bail application, the appellant when went to inquire about his service, he was told that he has been dismissed from service vide order dated 02.01.2008. The appellant requested for the provision of the departmental proceedings, if any, conducted against him, however he was only provided the copy of the dismissal order dated 02.01.2008.
9. That the appellant after obtaining the copy of the dismissal order, duly submitted his departmental appeal on 18.12.2015, however it has also been rejected vide order dated 16.02.2016. Copy of the rejection order was however, communicated to the appellant on 22.02.2016. *(Copies of the departmental appeal and rejection order are attached as Annexure I & J).*
10. That the penalty imposed upon the appellant is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL:

- A. That the appellant has not been treated with accordance to law. Hence his rights secured and granted under the law are badly violated.
- B. That no proper procedure has been followed before awarded the penalty to the appellant, the appellant has not been served with any charge sheet or show cause notice, nor has any endeavor been made to associate him with the inquiry proceedings, if any conducted. Thus the whole proceedings are thus defective in the eye of law.
- C. That the whole Proceedings against as well as the impugned orders being initiated/issued by unlawful authority are thus void ab-initio.

- D. That the appellant has not been allowed the opportunity of personal hearing. Thus he has been condemned unheard.
- E. That the appellant has not been served with any charge sheet or show cause notice thus he has been denied opportunity to defend him self against the charges as such the impugned order is violative of the principles of natural justice.
- F. That the superior courts have always held that mere filling of FIR would not ipso-facto made a person guilty of commission of the offence rather he would be presumed to be innocent unless convicted by court of competent Jurisdiction, since the Respondents were informed about the registration of FIR against the appellant, thus it was required to have keep the proceedings pending against him till the out come of the criminal proceedings. Since the appellant has now been granted bail on the basis of compromise, therefore, the impugned orders are liable to be struck down.
- G. That while rejecting the departmental appeal of the appellant vide order dated 16.02.2016, no reason has been shown for the rejection of appeal, as such the impugned order dated 16.02.2016 is not a speaking order and is the violation of Section 24-A of the General Clauses Act.
- H. That the appellant has been awarded the penalty of dismissal from service with retrospective effect since no penalty can be made with retrospective effect hence on this score alone the impugned order is illegal and not sustainable.
- I. That the appellant never committed any act or omission which could be term as misconduct. He was falsely implicated and charged in criminal case, he has now been granted bail in the said case, moreover his absence was also not willful but was due to his involvement in criminal case, albeit he has been awarded the penalty of dismissal from service.
- J. That the appellant has at credit years of spotless service career. The penalty impose upon him is too harsh and liable to be set-aside.

K. That the appellant is jobless since his illegal dismissal from service.

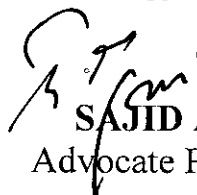
L. That the appellant seeks permission to relay on additional grounds at time of hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this appeal impugned orders dated 02.01.2008 and 16.02.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.


Appellant

Through


IJAZ ANWAR
Advocate Peshawar
&


SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. ____/2016

Rizwanullah Ex-Constable, Capital City Police Peshawar
(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhuwa
Peshawar and others.
(Respondents)

**APPLICATION FOR CONDONATION OF DELAY,
IF ANY IN FILING THE TITLED APPEAL**

Respectfully submitted:

1. That the appellant has today filed the accompanied appeal before this Honorable Tribunal in which no date of hearing is fixed so far.
2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

GROUND OF APPLICATION

- A. That the appellant has falsely been charged by the complainant. The appellant duly informed the department about his false implication, however since there were severe threats to the appellant and his family therefore it was not possible for the appellant to join his duties. During the entire period the appellant was never communicated the impugned order or any other notice from the Respondent department and was thus unaware of the departmental proceedings being initiated against him.

- B. That soon after his compromise and subsequent confirmation of BBA application, the appellant went to his office to inquire about his service and there he came to know about his dismissal from service, thereafter he submitted his departmental appeal well with in time which remained under consideration and was lastly rejected/ filed vide order 16.02.2016. Thus the appellant pursued his case diligently and never remained negligent in pursuing his remedy, therefore delay if any in filling the titled appeal is not willful but due to the reason stated above.
- C. That the delay, if any, in filing the instant appeal was not willful nor can the same be attributed to the appellant as it was due to the false implication and subsequent threats to his life. Moreover the impugned order of penalty was also not communicated to the appellant, therefore the appellant cannot be made suffered for the omission of respondent for not intimating him regarding the penalty. Hence delay if any deserves to be condoned.
- D. That it has been consistently held by the superior courts that appeal filed with in 30 days from the date of communication of the order on departmental representation / appeal would be in time. ***Reliance is placed on 2013 SCMR 1053 & 1997 SCMR 287 (b)***.
- E. That it has been always been held by the Apex Court that filing of appeal before acquittal from criminal charges would be a futile exercise as charges on the basis of the which accused civil servant has been proceeded against existed and unless he is acquitted, filling of departmental appeal would be a futile exercise. Since the appellant has filed departmental appeal within 30 days of the bail confirmation order. Therefore it can not be held as time barred. ***Reliance is placed on PLD 2010 SC Page 695.***
- F. That no proper procedure has been followed before the imposition of penalty upon the appellant. He has not been served with any charge sheet or show cause notice nor has been associated with the inquiry proceedings, if any conducted. Thus the whole proceedings as well as the order of penalty are illegal unlawful without lawful authority and void ab-initio, and no limitation run against such an illegal and void order.
- G. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.

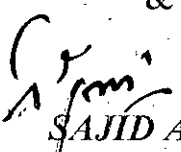
H. That it has been the consistent view of the Superior Courts that cases should be decided on merit rather than technicalities including limitation. The same is reported in 2014 PLC (CS) 1014 2003 PLC (CS) 769.

It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.


Applicant

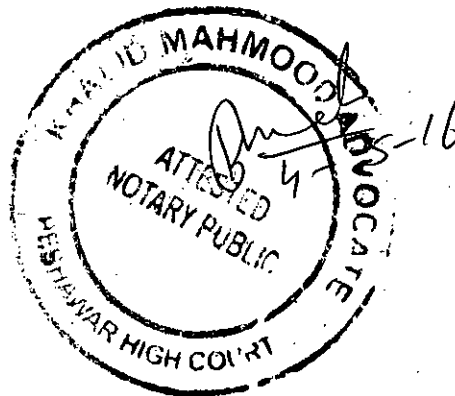
Through


IJAZ ANWAR
Advocate Peshawar

&

SAJID AMIN
Advocate, Peshawar

AFFIDAVIT

I, Rizwanullah Ex-Constable, Capital City Police Peshawar do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation 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.




Deponent

ANNEXURE B

ORDER

10

As reported by DSP/Hayatabad Circle that Constable Rizwanullah No.3855 of Capital City Police Peshawar, presently posted as Naib Reader with DSP/H.Abad, is hereby placed under suspension with immediate effect due to involvement in criminal case vide FIR No.455, dated 14.09.2007 u/s 302/34 P.S Sarband. Departmental proceeding is being initiated against him separately.

He will draw pay & allowances as admissible under the existing Rules.

Mu
(MUHAMMAD ALAM SHINWARI)
SUPERINTENDENT OF POLICE.
HEADQUARTERS, PESHAWAR

O.B No. 2732 dated 24-9- /2007

No. 2201-07/PA.

Copy forwarded for information & n/action to:-

1. The Capital City Police Officer, Peshawar.
2. The SSP/Operation, Peshawar.
3. The SP/Cantt Peshawar.
4. DSP/HQrs:
5. Pay Officer/RI, LO, Police Lines Peshawar.
6. OASI/CRC&FMC.
7. Official concerned.

Aliya

H

D

ANNEXURE "C"

CHARGE SHEET

11

I, Superintendent of Police, Headquarters, Capital City Police Peshawar as a competent authority,, hereby charge you Constable Rizwanullah No.3855 as follows.

That you Constable Rizwanullah No.3855 of Capital City Police Peshawar committed the following irregularities:-

As reported by DSP/Hayatabad Circle that Constable Rizwanullah No.3855 of Capital City Police Peshawar, presently posted as Naib Reader with DSP/H.Abad, involved in a criminal case vide FIR No.455, dated 14.09.2007 u/s 302/34 P.S Sarband. Being a Police force, your this act amounts to gross misconduct and against the discipline of the force.

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

Your written defence, if any should reached the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that have no defence to put in and in that case expartee action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.

(MUHAMMAD ALAM SHINWARI)
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

21/9/07

Alien

ANNEXURE D

SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police, Peshawar as competent authority, under the North West Frontier Provincial Removal From Service (Special Power) Ordinance, 2000 do hereby serve you Constable Rizwanullah No.3855 of Capital City Police, Peshawar as follows.

1 (i) That consequent upon the completion of enquiry conducted against you by the enquiry officer for which you were given opportunity of hearing.

(ii) On going through the findings and recommendation of the enquiry Officer, the material on record and other connected papers produced before the E.O.

I am satisfied that you have committed the following acts/omissions specified in section 3 of the said Ordinance.

As reported by DSP/Hayatatabad Circle that you Constable Rizwanullah No.3855 of Capital City Police Peshawar, presently posted as Naib Reader with DSP/H.Abad, involved in a criminal case vide FIR No.455, dated 14.09.2007 u/s 302/34 P.S Sarband. Being a Police force, your this act amounts to gross misconduct and against the discipline of the force.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under section 3 of the said Ordinance of sub section 4 of section 5 for absence-wilfully performing duty away from place of posting.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 7 days of its delivery, in normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as exparte action be taken against you.

5. The copy of the finding of the enquiry officer is enclosed.

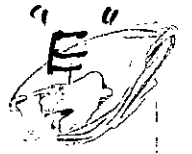
(MUHAMMAD ALAM SHINWARI)
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 110 /PA. SP/HQrs: dated Peshawar the 27/11 /2007.

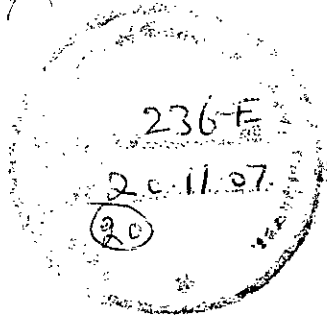
Copy to Constable Rizwanullah No.3855 s/o Nemat Ullah r/o Village Akhoon Ahmad P.S. Sarband.

A. Akbar
[Signature]

[Signature]
27-11-07



13



ایس پی صاحب سید صاحبہ کوٹلی پشاور۔

انگوازی برخلاف کنشیل رضوان اللہ نمبر 3855۔

بحوالہ انگوازی نمبر 110-E/PA مورخہ 22.9.2007 معروض خدمت میں۔

کہ کنشیل رضوان اللہ نمبر 3855 بحیثیت نائب ریڈر ڈی ایس پی حیات آباد تعینات تھا کہ بحوالہ مقدمہ نمبر 445 مورخہ 14.9.2007 جرم 302/34 تھا نہ سر بند کنشیل کے خلاف دیویداری ہوئی ہے۔

انکہ ایس آئی ایس کی کاروائی۔ کنشیل رضوان اللہ نمبر 3855 متعیناً سب ریڈر ڈی ایس پی حیات آباد کے ہارے میں ڈی ایس پی صاحب حیات آباد سے ایک تحریری رپورٹ حاصل کی۔ جس کے مطابق کنشیل نے مورخہ 14.9.2007 پر ڈی ایس پی صاحب حیات آباد سے دس یوم رخصت اتفاقہ کی درخواست کی ہے۔ جس پر ڈی ایس پی صاحب نے چھ یوم رخصت اتفاقہ منظور کر کے کنشیل نے تھانہ حیات آباد سے بحوالہ مد 26 روز نامہ 14.9.2007 بوقت 15.30 بجے روانگی کی ہے۔ چھ یوم گزرنے کے بعد جب کنشیل حاضر نہ ہوا تو بحوالہ مد 24 روز نامہ 21.9.2007 بوقت 12.15 بجے ان کے خلاف غیر حاضر کی رپورٹ درج روز نامہ مچھ کی گئی ہے۔ تفصیلات روانگی و غیر حاضر اور درخواست پمشی صدر پورٹ ڈی ایس پی حیات آباد لف انگوازی لکھا ہے۔

تھانہ سر بند سے تفتیشی آفیسر SI جناب داخان دفتر لکھا اطلب کر کے تحریری بیان قلمبند کر کے بیان کیا کہ مدعی عاشق حسین ولد سحان شاہ ساکن لنڈی اخون احمد نے بحالت مجروحیت ہوش و حواس درست بمقام کچاٹی KTH انصر اللہ ASI ان ڈیوٹی کو رپورٹ کی کہ میں بمقام راستہ عام واقع کوز کندے لنڈی اخون احمد موجود تھا کہ اس دوران مسیان (1) کفایت ولد عزت اللہ (2) رضوان اللہ (3) انعام پسران نعمت اللہ (4) جہانگیر ولد سیف اور ساکنان لنڈی اخون احمد بوقت 17.30 بجے آج مورخہ 14.9.2007 مسلحہ اسلحہ آئیں آئے۔ اور مجھ دیکھتے ہی مجھ پر ارادہ قتل فائرنگ شروع کی جسکی فائرنگ سے میں بدن کے مختلف جگہوں پر لگ زخمی ہوا۔ وجہ عناد جا کد ادا کا تنازعہ ہے۔ مجروح عاشق حسین نے بعد میں زخموں کی تاب نہ لا کر جان بحق ہوا۔ جملہ ملزمان بمعہ اہل و عیال اس کے بعد گمراہ چھوڑ کر پوش ہوئے۔ ملزمان کی گرفتاری کی کوشش کی گئی لیکن ملزمان دیدہ دانستہ طور پر اپنے جائز گرفتاری سے گریز کر رہے ہیں۔ ان کے خلاف باقاعدہ طور پر درخواست واجبے حصول وارنٹ زیر دفعہ 204 کی گئی ہے۔ اور ملزمان اپنے جائز گرفتاری گریز

Page No. 504

Alaga
D



Alaga

۱۶



کریے ہیں۔

تیسرا انگریزی:-

کنسٹیبل مازم رضوان اللہ پر بحوالہ مقدمہ عدالت 445 مورثہ 14.9.2007 جرم 302/34 تھا۔ سربراہ
By Name دعویٰ داری ہو کر بوقت وقوعہ کنسٹیبل چھ یوم رخصت پر تھا۔ اور آجگی اپنے جائز گرفتاری سے
گریز کرتا ہے۔ تفتیشی آفیسر si جناب دادخان تھا۔ سربراہ نے باقاعدہ طور پر درخواست حصول وارنٹ
زیر دفعہ 204 کی ہے۔ درخواست وارنٹ 204، ضمنی نمبر 2، بیان si جناب دادخان، رپورٹ
ڈی ایس پی حیات آباد، درخواست چھٹی، نقلد روانگی، نقلد غیر حاضری، اور FIR ہمراہ لف ہے۔
انگریزی رپورٹ کے دوران مہیا شواہد و بیانات کی روشنی میں کنسٹیبل رضوان اللہ نمبر 3855 کو خطا دار
پایا گیا ہے۔

نمبر..... ریڈ

مورثہ..... نومبر سال 2007

(مکمل دلی ہند)

ایس ڈی پی او ٹاؤن سرکل

پشاور

ORDER

(15)

Amir F

As reported by DSP/Hayatabad Circle that Constable Rizwanullah No.3855 of Capital City Police Peshawar, presently posted as Naib Reader with DSP/H.Abad, involved in a criminal case vide FIR No.445, dated 14.09.2007 u/s 302/34 P.S Sarband. Being a Police force, his this act amounts to gross misconduct and against the discipline of the force

In this connection proper departmental enquiry was initiated against the above accused Constable Rizwan Ullah No.3855 and Mr. Gul Wali Khan SDPO/Town was appointed as enquiry officer who submitted in his findings that the accused Constable Rizwan Ullah No.3855 involved in a criminal case vide FIR No.445, dated 14.09.2007 u/s 302/34 P.S Sarband and also absented with effect from 21.9.2007 till todate. The above named accused Constable has been charge in the above mentioned case directly and all the family proceeded to unknown place. Perpetual warrant u/s 204 has already been issued against him therefore, recommended for major punishment.

Show Cause Notice was issued to accused Constable Rizwan Ullah No.3855 vide No.110/PA, dated 21.11.2007 and sent the same to him through local Police P.S. Sarband. He returned the same with the remarks that the accused Constable not available in his home and proceeded to unknown place due to involvement in murder case.

From the perusal of recommendation of enquiry officer and other material on record, it is proved beyond any doubt, that the accused Constable Rizwan Ullah No.3855 involved in murder case vide FIR No.445 dated 14.9.2007 u/s 302/34 P.S.Sarband. Perpetual warrant u/s 204 has already been issued against him. Moreover the accused Constable absented with effect from 21.9.2007 till todate therefore, I came to the conclusion that there is no chance to rejoin service accused Constable Rizwan Ullah No. ³⁸⁵⁵, his retention is futile, I award him major punishment of "Dismissal from service from the date of absence" under NWFP, Removal From Service, (Special Power) Ordinance 2000.

(MUHAMMAD ALAM SHINWARI)
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

O.B No. 16 /dated 2-1-2008

No. 6-11 /PA,

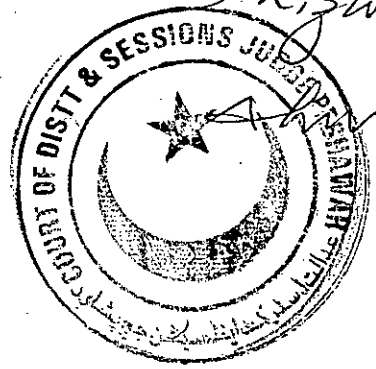
Copy forwarded for information & n/action to:-

1. The Capital City Police Officer, Peshawar.
2. The SSP/Operation Peshawar.
3. DSP/HQRS.
4. Pay Officer/RI, LO, Police Lines Peshawar.
5. OASI, CRC & FMC alongwith complete departmental file.
6. Official concerned.

Atyad

سید محمد علی شاہ

In the Court of Session Judge Fashaw
 3 1/2 - 1923 - 376
 15 - Kifayatullah S/o Ghattullah BBA, 1920
 2 Kizwanullah S/o Niamatullah R/o Land Akhron



Amir Fashaw

~~Amir~~

Amir Fashaw

1. The State
2. Subhan Shah S/o Khan Shah R/o Lower Akhron Amir Fashaw

Order
 SIGNED BY
 19/9/15

Respect

Caset No. 445 dated 14.9.07
 4/s 302/34 PPC Ps Subhan

Subject: Application for Pre-Arrest Bail
 to ~~be granted~~ till final
 disposal of the case
 on the basis of Compromis.

Respectful Secret.

1. That Accused stands charge in the above cited case

ATTESTED
 9/15
 (Name of)
 Sessions Judge Fashaw

9/15

has falsely been implicated into the
matter.

(17)



3. That there is malafide on
the part of prosecutor and the
local police intend to arrest the
Aced which will cause great
Anulad.

4. That DA has affected
Compromise with the deceased party

5. That Aced are ready to
give Smriti for the satisfaction
of the Court

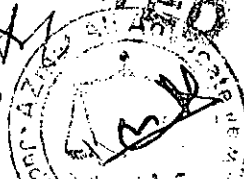
It is prayed that present
Bail may kindly be allowed to
Aced till final disposal of
the case

Aced

John

It is solemnly affirmed
& declared on oath
that content are
correct & nothing

Subscribed & signed
ATTESTED
ATTESTED



ATTESTED
12
1913

(18)

Approved - H

IN THE COURT OF PHOOL BIBI,
ADDITIONAL SESSIONS JUDGE -XII, PESHAWAR

Kifayat Ullah Vs State
Case File # 376/BBA of 2015
Date of Institution: 16/10/2015
Date of Decision: 02/12/2015

ORDER
03/12/2015.

1. Petitioners Kifayat Ullah and Rizwan Ullah on ad interim pre-arrest bail along with counsel present. APP for the state. Local commissioner present and submitted her report. Statement of local commission was also recorded, placed on file.
2. Petitioners named above are seeking confirmation of their pre-arrest bail in case FIR No. 445 dated 14/09/2007 u/s 302/34 PPC of Police Station Sarband, Peshawar.
3. At the very outset parties informed the Court that compromise had been effected between them. The deceased was unmarried and except parents there was no other legal heir of the deceased and they had pardoned the petitioners for the sake of Allah Almighty by waiving of their right of Qisas & Diyyat, so got no objection on confirmation of their ad interim pre arrest bail. On 21/11/2015, statements of Subhan Shah (father of the deceased) & Jirga members were recorded in the Court whereas statement of Mst. Zarpari (mother of the deceased) was recorded through commission.

Jirga
31/12/15

Mst. Zarpari

ATTESTED

9/12
[Signature]



19

4. The offence for which petitioners are charged is compoundable and the legal heirs/parents of the deceased have compounded the matter with the petitioners with their own free will and waived off their right of Qisas and Diyyat. The compromise seems to be genuine and in the best interest of the parties, hence, accepted.
5. In the circumstances, the pre-arrest bail of the petitioners is allowed on the basis of compromise and the ad-interim pre arrest bail already granted to them is hereby confirmed on the existing bail bond.
6. Requisitioned record be returned to the quarter concern.
7. File be consigned to Record Room after its completion.

Announced
03/12/2015

Farzina Shaid
Farzina Shaid,
 Additional Sessions Judge-XII,
 Peshawar

Atiqur
to

CERTIFIED TRUE COPY
 Copying Agency
 Peshawar
 (Exec. Magistrate Court)

No.	14454
Dated	9/12/15
Name	رضوان اللہ
Word	4800
Fee	2
Date	9/12/15

ANNEXURE "I"

20

The Capital City Police,

Peshawar.

Sub: REQUEST FOR RE-INSTATEMENT IN SERVICER.

Dy: No. 1976 PA-CCPO
Dt: 21-12-2015
Encl: _____

Respected sir,

With due and profound respect, the following few lines are submitted for favour of your kind perusal and sympathetic orders:

No 133 - LB
22/12/2015

FACTS.

- (i) I was enlisted as Constable on 00-00-2003 and completed my essential training.
- (ii) During my service in the year 2007, some threats of extortion of money was received by me and my family from the criminal elements of local area.
- (iii) Due to threats of dire consequence to me and my family, we were shifted from our residence. Meanwhile, one of the accused namely Ashiq Hussain was murdered and I was involved in the same vide FIR NO.445/2007 of P.S Sarband.
- (iv) Due to involvement and server life threats to me and my family, it was not possible for me to join my duty.
- (v) Consequently, I was awarded major punishment of Dismissal from Service vide order bearing O.B No. 16 dated 02-01-2008.

GROUNDS

- a) I was involved in the above said case falsely.
 - b) Due to constant threat to life, it was not possible for me to joint my duty.
 - c) It is natural course of law that
 - d) it is natural course of law that "every person is innocent until the guilty prove"
 - e) It was not possible for me to live at my own residence due to such threats, therefore, no any warrant or Show Cause Notice was served upon me.
 - f) I was awarded such major punishment without codal formalities and provision of opportunity of personal hearing to defend myself.
 - g) Now the case is almost at its normal disposal and I was allowed bail by the honorable Court of Law as per judgment annexed "A".
- 2- Sir, prior to my involvement in above case, I served the Police Department for 04 years without any stigma on my service and with entire satisfaction to my superiors.
- 3- In view of the above facts and grounds, it is earnestly, request that I may kindly be re-instated to service.
- 4- For this act of kind order, I will remains grateful to you, sir.
- 5- I also like to be heard in person.

Your Most Obediently,

Rizwan Ullah

RIZWAN ULLAH
EX.CONSTABLE /3855
CCP PESHAWAR.

18-12-2015

FILE

Pratap Kewar P.L.

Sun

Dy. Supt: Police
Legal, CCP/Peshawar
22-12-2015

DSP-legal

For Comments, please.

Ahmed

for CCPo 18/12/15

*DSP-legal
6/12/16
Recd*



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989
Fax No. 091-9212597

ANNEX J

21

ORDER


This order will dispose off departmental appeal preferred by ex- constable Rizwan Ullah No.3855 who was awarded the major punishment of **Dismissal** from service under Police Rules-1975 vide OB No. 16 by SP/HQrs Peshawar on the charge mentioned below:-

1- He was posted as N/Reader to DSP/Hayatabad. He was granted 6-days C/leave vide DD No.26, dated 14.9.2017. He was due to report back for duty on 20.9.2017, but he absented himself vide DD No. 24, dated 21.9.2017 due to involvement in case FIR No. 445, dated 14.9.2017 u/s 302/34 PS Sarbund.

2- Proper departmental proceedings were initiated against him and Mr. Gul Wali Muhammad SDPO-Town, was appointed as the E.O. The E.O summoned the delinquent official repeatedly but he failed to attend the departmental proceedings. As such the E.O concluded the enquiry and found him guilty on the charge of absence.

3- On receipt of the findings of the E.O, the accused constable Rizwan Ullah was issued Show Cause Notice by SP/HQrs at his home address but the same was returned with the remarks of local police that the accused constable shifted to some unknown place due to involved in criminal case, hence the Competent Authority awarded him the above major punishment.

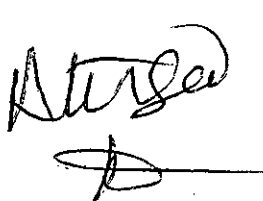
4- He was called in O.R. on 12.2.2016, and heard in person. Enquiry file was thoroughly examined. He was provided full opportunity to defend himself but he failed to defend himself. The allegations levelled against him stand proved. Appeal is also time barred for 7 years and 10 months. Therefore, the order passed by SP-HQrs is upheld and his appeal for reinstatement in service is rejected/filled.


CAPITAL CITY POLICE OFFICER,
PESHAWAR. 15/2

No. 357-63 /PA dated Peshawar the 16/09/2016.

Copies for Information and n/a to the:-

- 1 SP/HQrs Peshawar.
- 2 PU/OAS/Complain Cell, CCP Peshawar.
- 3 CRC along with S.Roll for making necessary entry in his S.Roll.
- 4 FMC along with FM
- 5 Official concerned.



OFFICE OF THE
CAPITAL CITY POLICE OFFICER
PESHAWAR.

ORDER

This order will dispose off departmental appeal preferred by ex-constable Rizwan Illah No.1855 who was amended the major punishment of Dismissal from service under Police Rule 1975 vide OB No.16 by SP/HQrs Peshawar on the charge mentioned above,

He was posted as N/Reader to DSP /Hayatabad. He was granted 6-days C/leave vide DD No.26 dated 14.9.2007. He was due to report back for duty on 20.9.2007, but he absented himself vide DD No.24, dated 21.9.2007 due to involvement in case FIR No.445 dated 14.9.2007 u/s 302/34 Sarband P.S. Sarband

Proper departmental proceedings were initiated against him and Mr. Gul Wali Muhammad SDPO-Town was appointed as the E.O. The E.O summoned the delinquent official reportedly but he failed to attend the departmental proceedings. As such the E.O concluded official on duty and found him guilty on the charge of absence .

The receipt of the findings of the E.O, the accused constable Rizwas Ullah was issued Show Cause Notice by SP/HQrs at his home address but the same was returned with the sent police that the accused constable shifted to some unknown place due to involved to criminal case, hence the Competent Authority awarded him the above major punishment.

He was called in O.R. on 02.12.2016 and heard to person. Enquiry file was throughly examined. He was provided full opportunity to defend himself but he failed to defend himself. The allegation kevelled against him stand proved. Appeal is also time barred for 7 years and 10 months. Therefore, order passed by SP/HQrs is upheld and his appeal for the re-instatement in service is rejected filed.

CAPITAL CITY POLICE OFFICER
PESHAWAR.

POWER OF ATTORNEY

In the Court of High Court Peshawar

Folhad Regha

Razwan Ullah

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

The P.P.O and 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 Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Pesh 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 _____
the _____ day to _____ the year 2011

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Accepted
S.H. / ant

Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan