

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 467/2015

Date of institution ... 24.04.2015

Date of judgment ... 08.04.2019

Amjal Khan S/o Muhammad Shafiq
R/o Khana Azmaad Mughal Khel, District Bannu

... (Appellant)

VERSUS

1. Provincial Police Officer Khyber Pakhtunkhwa.
2. Commandant Frontier Reserve Police Khyber Pakhtunkhwa .
3. SP Frontier Reserve Police Bannu.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED OFFICE ORDER NO.3167-68/EC DATED
09.04.2015 OF THE COMMANDANT FRP WHEREBY THE
DEPARTMENTAL APPEAL OF THE PETITIONER WAS
TURNED DOWN VIDE IMPUGNED ORDER OF SP FRP
BANNU RANGE VIDE OFFICE ORDER NO. 497 DATED
22.07.2015 AND ANOTHER OFFICE ORDER NO. 503 DATED
26.07.2010.

Mr. Barrister Amir Khan Chamkani, Advocate.

.. For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the

appellant present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for
the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant
was serving in Police Department. He was imposed major penalty of dismissal
from service vide order dated 22.07.2010 on the allegation of

corruption/embezzlement. The appellant filed departmental appeal (undated) which was rejected on 09.04.2015 hence, the present service appeal on 24.04.2015.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department was Constable. It was further contended that the appellant was falsely implicated in case FIR No. 4 dated 04/2010 under Section 409/420 PPC 5 (ii) PC Act, in which the appellant was convicted. It was further —

contended that the appellant was dismissed from service on the ^{allegation} ~~basis~~ of ^{corruption in} ~~conviction~~. It was further contended that the appellant was also involved in a narcotic case but he was honorable acquitted. It was further contended that neither charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor the appellant was given opportunity of personal hearing and defence therefore, the impugned order is illegal and liable to be set-aside.

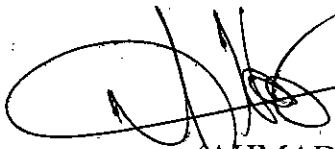
5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department. It was further contended that the appellant was involved in embezzlement case and the department also registered a criminal case against the appellant vide FIR No. 4 dated 04/2010 under Section 409/420 PPC 5 (ii) PC Act. It was further contended that the appellant was convicted in the said case. It was further contended that the appellant was dismissed from service vide order dated 22.07.2010 but he has filed departmental appeal (undated) which was rejected on 09.04.2015. It was further contended that the departmental appeal was also badly time barred therefore, the present service appeal is not maintainable and prayed for dismissal of appeal.

M. J. J. J.
8.4.2015

6. Perusal of the record reveals that the appellant was serving in Police Department. He was involved in corruption/embezzlement and a criminal case was also registered against the appellant in this regard. The record further reveals that the appellant was convicted in the said embezzlement case vide judgment dated 14.05.2011. The record further reveals that the appellant was dismissed from service on the allegation of corruption vide order dated 22.07.2010 and he has filed departmental appeal which does not bear any date however, the same was rejected on 09.04.2015. Prima-facie it appears that the departmental appeal was badly time barred therefore, the present service appeal is not maintainable hence, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED
08.04.2019


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(AHMAD HASSAN)
MEMBER

04.03.2019

Appellant in person present. Learned counsel for the appellant is absent. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Appellant seeks adjournment. Adjourn. To come up for arguments on 08.04.2019 before D.B.



(M. HAMID MUGHAL)
MEMBER



(M. AMIN KHAN KUNDI)
MEMBER

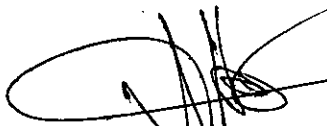
08.04.2019

Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, Prima-facie it appears that the departmental appeal was badly time barred therefore, the present service appeal is not maintainable hence, the appeal has no force which is hereby dismissed with no order as to costs. File be consigned to the record room.

ANNOUNCED

08.04.2019



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

02.01.2019

Learned Deputy District Attorney present. Due to rush of work, the case is adjourned. To come up for further proceedings on 10.01.2019 before D.B.

Member



Member

10.01.2019

To come up before proper bench on 29.01.2019 before D.B.


Member

Member

30.01.2019

Mr. Muhammad Jan learned Deputy District Attorney present. Some points need consideration. Learned counsel for the appellant is not available. Adjourn. To come up for arguments on 04.03.2019 before D.B.


Member

Member

12.10.2018

Junior to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment that ~~his~~ senior counsel is not in attendance. Adjourned. To come up for arguments on 12.11.2018 before D.B


Member


Member

12.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 10.12.2018.


READER

10.12.2018

Appellant with counsel and Mr. Zia Ullah learned Deputy District Attorney alongwith Mr. Khan Baz SI for the respondent present. Arguments heard. To come up for order on 24.12.2018 before D.B


Member


Member

24.12.2018

To come up before proper bench on 02.01.2019.


Member


Member

07.05.2018

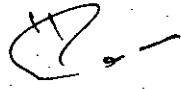
Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 26.6.2018 before D.B.


Reader

26.06.2018

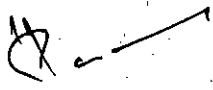
Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Younas Khan ASI for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 23.07.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

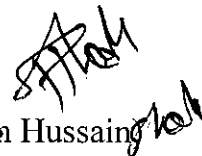
23.07.2018


Appellant absent. Learned counsel for the appellant and Sardar Shoukat Hayat, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 07.09.2018 before D.B.


Member

07.09.2018

Clerk of the counsel for appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 12.10.2018 before D.B.

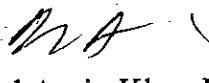

(Shah Hussain)
Member


(Muhammad Amin Khan Kundi)
Member

06.11.2017


Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney also present. Appellant requested for adjournment on the ground that his counsel is not in attendance today. Adjourned. To come up for arguments on 01.01.2018 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

01.01.2018

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Safeerullah, SI for respondents present. Appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 01.03.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

01.03.2018

Appellant in person and Addl: AG for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 07.05.2018 before D.B.


Member


Chairman

25.11.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 4.4.2017 before D.B.


(ABDUL LATIF)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

04.04.2017

Counsel for the appellant and Mr. Safer Ullah, (HC) along with Mr. Adeel Butt, Addl: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 10.07.2017 before D.B.


Chairman

10.07.2017

Appellant in person and Addl. AG along with Safirullah, H.C for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. To come up for final hearing before the D.B on 06.11.2017 before the D.B.


Member


Chairman

10.11.2015

Appellant in person and Mr. Ihsanullah, ASI (legal) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 2.12.2015 before S.B.


Chairman

02.12.2015

Appellant in person and Mr. Younas Khan, ASI alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 28.3.2016 before S.B.


Chairman

28.03.2016

Appellant with counsel and Mr. Younas Khan, ASI alongwith Assistant AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 14.7.2016.


Chairman

14.07.2016

Clerk to counsel for the appellant and Mr. Safirullah, Naib Court alongwith Mr. Muhammad Jan, GP for the respondents present. Fresh Wakalatnama and Rejoinder on behalf of the appellant submitted. Copy of rejoinder also handed over to learned GP. To come up for arguments on 25.11.16 before D.B.


MEMBER


MEMBER

5

30.06.2015

Junior to counsel for the appellant present. Counsel for the appellant is stated busy at Islamabad. Adjourned to 31.7.2015 for preliminary hearing before S.B.


Chairman

6.

31.07.2015

Appellant in person present. Requested for adjournment. To come up for preliminary hearing on 13.8.2015 before S.B.


Chairman

13.08.2015

Counsel for the appellant present and submitted fresh Wakalat Nama. Learned counsel for the appellant argued that the appellant was serving as S.I when involved in two criminal cases out of which he was convicted in one of the criminal cases and acquitted in the other. That the appellant preferred departmental appeal against the impugned order dated 26.7.2010 vide which he was dismissed from service which appeal was rejected on 9.4.2015 and hence the instant service appeal on 24.4.2015.

That the appellant was serving as S.I and SP was not competent to pass the punitive order. That the inquiry was conducted in a slipshod manners as no charge sheet and statement of allegations were issued to the appellant and, moreover, punishment is excessive.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 10.11.2015 before S.B.


Chairman





Appellant Deposited
Security & Process Fee ✓



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 467 /2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.05.2015	<p>The appeal of Mr. Muhammad Ajmal Khan resubmitted today by Mr. Amir Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-5-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	27.05.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 10.6.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>
4	10.06.2015	<p>Counsel for the appellant present. Requested for adjournment. Adjourned for preliminary hearing to 30.6.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Ajmal Khan son of Muhammad Shafiq r/o Khana Azmaad Mughal Khel Bannu received to-day i.e. on 24.04.2015 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

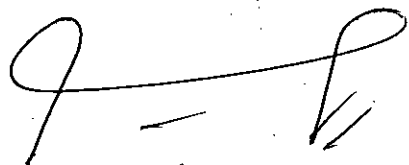
- 1- Page No. 4 of the appeal is illegible which may be replaced by legible/better one.
- 2- Memorandum of appeal may be got signed by the appellatant.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 4- Annexures of the appeal may be attested.

No. 619 /S.T,

Dt. 24/4 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Barrister Amir Chamkani Pesh.

Reply:-
Re-submitted after
completion of all the objections.

ADVOCATE

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re S.A No. 467 /2015

Muhammad Ajmal

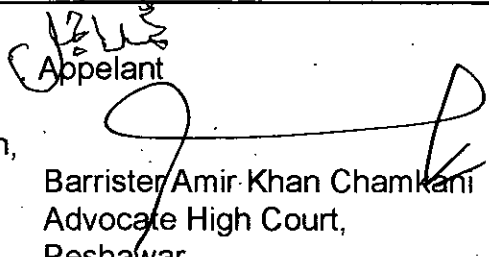
Vs

Provincial Police Officer Khyber Pakhtunkhwa and Others

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S.NO	DESCRIPTION OF DOCUMENTS	ANNEX	PAGE NUMBER
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2	Affidavit		3
3	Copy of Office Order No.497	"A"	4 - 6
4	Copy of the Judgement of Acquittal	"B"	7 - 15
5	Copy of Office Order No.503	"C"	16 - 17
6	Copy of the Departmental Appeal and Order	"D"	18 - 19
7	Final Show Cause Notice in Case FIR No.4	"E"	20 - 23
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10	Disciplinary Sheet	"H"	30
12	Final Inquiry Report	"I"	31 - 33
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Through,


Appellant
Barrister Amir Khan Chamkani
Advocate High Court,
Peshawar
Cell No. 03451166999

(1)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re S.A.No. 467 /2015

K.P. Province
Service Tribunal

Diary No. 416

Dated 24-4-2015

Ajmal Khan S/o Muhammad Shafiq R/o Khana Azmaad Mughal Khel, District Bannu

(Petitioner/Appellant)

Versus

1. Provincial Police Officer Khyber Pakhtunkhwa
2. Commandant Frontier Reserve Police Khyber Pakhtunkhwa
3. SP Frontier Reserve Police Bannu

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER NO.3167-68/EC DATED 9/4/2015 OF THE COMMANDANT FRP WHEREBY THE DEPARTMENTAL APPEAL WAS OF THE PETITIONER WAS TURNED DOWN VIDE IMPUGNED ORDER OF SP FRP BANNU RANGE VIDE OFFICE ORDER NO.497 DATED 22/07/2010 AND ANOTHER OFFICE ORDER NO.503 DATED 26/07/2010

Respectfully Sheweth,

1. That the Petitioner/Appellant was appointed as Constable FRP on 05/02/1987 and upon exceptional service was later on promoted to the rank of HC in 1991 and similarly was promoted again on 14/10/2003, and at the time of dismissal was of the rank of SI.
2. That in the year 2009 the Petitioner/Appellant was falsely implicated in case FIR No. 4 dated 04/2010 u/s 409/420 PPC 5 (ii) PC Act, in which he was convicted.
3. That resultantly the Respondents dismissed the Petitioner/Appellant from service vide office order No. 497 dated 22/07/2010 without adhering to the principles of natural justice (Copy of the office order no.497 is Annex A)
4. That in the year 2010, the Petitioner/Appellant was again falsely implicated in a case of Narcotics, in which he was eventually honourably acquitted (Copy of the Judgement of acquittal is Annex B)
5. That regardless of the finding of acquittal by a competent court of law the Petitioner/Appellant was unlawfully dismissed vide office order number 503 dated 26/07/2010 (Copy of the office order no.503 is Annex C)
6. That upon dismissal from service both the orders were challenged in a Departmental Appeal, however that too was dismissed vide office order No.3167-68 dated 9/4/2015 (Copy of the Departmental Appeal and order is Annex D)
7. That the impugned order not only dismissed the Petitioner/Appellant from service but also deprived him from pension and literally watered down almost 24 years of service, which is not only against due process as enshrined by the constitution but also against the settled principles of natural justice

2

8. That, feeling aggrieved from the impugned orders, the Petitioner/Appellant has lodged this appeal on the following grounds inter alia.

GROUND

- A. That the impugned order by which the departmental appeal was dismissed is illegal, wrong and against the principles of natural justice.
- B. That the impugned order is arbitrary as no opportunity of hearing had been afforded by the Respondents to the Petitioner/Appellant.
- C. That even though the Petitioner/Appellant was honourably acquitted in the case of Narcotics, however, the Respondents still dismissed him from service on that score alone, thereby side stepping the findings of a court of competent jurisdiction.
- D. That even otherwise, by dismissing the Petitioner/Appellant, the Respondents watered down almost 24 years of his service, which in any case is not a proportionate order, as the fundamental rights of the Petitioner/Appellant has been usurped.
- E. That the order passed is susceptible to a case of extreme hardship as not only does this effect the fundamental rights of the Petitioner/Appellant, but also of his family as the benefits of pension too, have been withheld owing to the impugned order.
- F. That the impugned order has effectively punished the Petitioner/Appellant retrospectively as by virtue of the order, almost 24 years of unblemished service has been made redundant.
- G. That any other ground may be raised at the time of arguments.

It is therefore, most humbly submitted that on acceptance of this appeal, the impugned office order may kindly be set aside, and the Petitioner/Appellant may kindly be restored to his employment, in the alternative the Petitioner/Appellant service dismissal may kindly be construed as forced retirement and his pensionary benefits may kindly be give to him, or any other relief may be given as seen fit by this honourable tribunal.


Appellant

Through


Barrister Amir Khan Chamkani

Dated: 24/04/2015

NOTE: No such appeal, for the same Appellant has earlier been filled me, before this honourable Tribunal

Books Reference

- Constitution of Pakistan
- Khyber Pakhtunkhwa Service Tribunal Act 1974
- Civil Services Act 1973
- Case law as per need

3

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

In Re S.A No. _____/2015

Muhammad Ajmal

Vs

Provincial Police Officer Khyber Pakhtunkhwa and Others

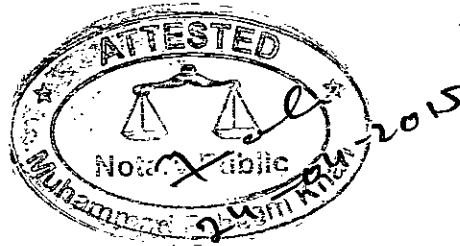
AFFIDAVIT

I, Muhammad Ajmal Khan S/o Muhammad Shafiq Khan R/o Khana Azmaad Mughal Khel, District Bannu, do hereby solemnly affirm and declare on oath that the all the contents of the accompanying petition are true and correct to the best of my knowledge and nothing has been concealed from this honourable tribunal either intentionally or otherwise.

(محمد اجمال)

Deponent

Muhammad Ajmal S/o Muhammad Shafiq



(4)

True Copy
ATTESTED

ORDER:- My this order shall dispose off the inquiry pending against SI/PC Muhammad Ajmal FRP Bannu.

Short facts of the inquiry proceedings were that on 03.10.2009 one Muhammad Shahid Khan of SI/PC Muhammad Ajmal reported to the local police of PS-Ghorwala about missing of his son (SI/PC Muhammad Ajmal). The accused official appeared before the local police on 09.10.2009 and disclosed that he was kidnapped from the jurisdiction of PS-Dadiwala District Lakki Marwat. However, the inquiry made revealed that the report was false/ self-made-up story and entered just to swallow / misappropriate huge government amount, lying with him in his custody, as a Cashier of FRP Department. Eventually the District Police Officer, Lakki Marwat approached Director Anti Corruption Peshawar for registration of case against the accused official being government servant and involved in embezzlement & entered the report, in order to cover up the loss caused to government exchequer. Resultantly case was registered at PS-ACE Lakki Marwat vide FIR No.4 dated 04/2010 u/s 409/420/5-(ii) PC Act.

From Department side a proper charge sheet was issued and Inspector Muhammad Arif Khan was deputed to delve in the matter in order to unearth the real facts. Inquiry Officer at the same time also directed to recommend the case of accused official for punishment if any deserve or otherwise, within prescribed period, laid down in the law/rules.

The Inquiry Officer after conducting discreet inquiry in the matter, briefly scribed that during the course of inquiry amount of Rs.1972876/- was deposited through receipt Rah Dari No.22/17, dated 21/12/2009, while the rest of amount as per the record speaks that an amount of Rs.1900000/-, the Salary of FRP Personnel's while the other amount Rs.872093/- was received from the office of SP/FRP, D.I.Khan, for the Naurang Sub Division employees. At the end the Enquiry Officer submitted his final finding wherein the accused official was rendered guilty and recommended for entailing major punishment, upon him.

Final Show Cause Notice was issued on 18.06.2010 and served upon the accused official through Superintendent Central Jail Bannu, as presently confined in Jail in another case vide FIR No.07/2010 u/s 9-CNSA of PS-Kakki. Reply of the Final Show Cause Notice was rotated to this office through Superintendent Central Prison Bannu, wherein the accused official totally denied the allegations leveled against him. The accused official was also heard in person but could not satisfy the undersigned.

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Better Copy
SP/ED

BETTER COPY

ORDER:- My this order shall dispose off the inquiry pending against SI/ PC Muhammad Ajmal FRP Bannu.

Short facts of the inquiry proceedings were that on 03-10-2009 one Muhammad Shah father of SI.PC Muhammad Ajmal reported to the local police of PS Ghoriwala about missing of his on (SI/PC Muhammad Ajmal). The accused official appeared before the local police on 09-10-2009 and disclosed that he was kidnapped from the jurisdiction of PS-Dadiwala District Lakki Marwat. However, the inquiry made revealed that the report was false / self made-up story and entered just to swallow / misappropriate huge government amount, lying with him in his custody, as a Cashier of FRP Department. Eventually the District Police Officer, Lakki Marwat approached Director Anti Corruption Peshawar for registration of case against the accused official being government servant and involved in embezzlement and entered the repor, in order to cover up the loss caused to government. Exchequer. Resultantly case was registered at PS-ACE Lakki Marwat vide FIR No. 4, dated 04/2010 u/s 409/420/5-(ii) PC Act.

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Final show cause notice was issued on 18-06-2010 and served upon the accused official through Superintendent Central Jail Bannu, as presently confined in Jail in another case vide FIR No. 07/2010 U/S 9-CNSA of PS-Kakki. Reply of the Final Show Cause Notice was rotated to the office through Superintendent Central Prison Bannu, wherein the accused official totally denied the allegations leveled against him. The accused official was also heard in person but could not satisfy the undersigned.

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In the light of above said discussion the accused official being a member of discipline force & supposed to be custodian of law, has himself committed an offence of misappropriation and thereby caused a huge loss to the Govt: exchequer as a result he becomes a black dot for the Department. His further retention in the Department will further bring bad name to the whole Department:

Therefore, I, MEHR ZAMAN KHAN, Superintendent of Police, FRP, Bannu Range, Bannu, competent authority, dismissed the accused official from service with immediate effect.

O.B No. 497

Dated: 22/07/10 ✓

Mehr Zaman Khan
Superintendent of Police,
FRP, Bannu.

True copy

[Signature]

ATTESTED

IN THE COURT OF MISS AMBAREEN NAVID
 ADDITIONAL SESSIONS JUDGE-II
 JUDGE SPECIAL COURT BANNU
 GNSA Case No. 23 of 2010

Date of Original Institution 19-5-2010
 Date of Receipt of Case File 27.09.2010
 Date of Decision of Case 11.12.2010

State Versus
 Muhammad Ajmal (42/43) years Son of Muhammad Shafi R/o Azad Mughal Khel, Tehsil & District Bannu. (Accused)

Charged under section 9 of the Control of Narcotics Substances Act, 1997/420/468/473 PPC vide case FIR No. 07 dated 14-02-2010 registered at Police Station Kakki.

J U D G M E N T

Briefly stated facts of the prosecution case are that on 14-02-2010 at 12 noon, the complainant Inayatullah Khan alongwith Under Sadig FC, Muhammad Ishtaq, Javid Khan, Mehmood Khan FCs and Driver Nasrullah

was present near Nar Bostn, while patrolling, he received information that a huge quantity of chars was going to be transported to village Takhti Khel in a white colour motorcar. He then immediately cordoned the road. After

something a white colour motorcar came there which was stopped at a circle distance and thereafter U-turned and sped away. He chased the said motorcar and was overpowered. A person namely, Muhammad Ajmal (accused on trial)

was found therein, driving the motorcar. Motorcar bearing No: B-7867 Lahore was searched and in the Dikki a plastic envelop containing chars in shape of

slabs was found therein which on weighing case out to be 3000 grams. He then separated four grams from the same and was packed and sealed into

parcel. The same Ex: P1, put the same into possession vide memo Ex: Pw-3/1 and in presence of marginal witnesses. The complainant-SHO drafted the

muratla on spot and sent to PS for registration of case.

Arrested
 Copy/least
 District & Session Judge
 Bannu
 11/5

[Handwritten signature]

9397 (C) 10

[Handwritten mark]

9/6



9/7 2 (B)

After completion of usual investigation, challan was put in court against the accused. He was summoned. Accused Ajmal was produced in custody. He was delivered copies u/s- 265-C Cr.P.C and he was formally charged sheeted u/s- 9 CNSA/420/468/473 PPC to which he pleaded not guilty and claimed trial.

The prosecution to prove its case produced as many as six PWs. Gist of the prosecution is as follows:-

PW-1 Noor Aslam ASI Kohat the then ASI PS Kakki deposed that on 16-02-2010 vide letter No: 283 SP Investigation Bannu had deputed him to verify the registration of motor car No: B7867/Lahore from MRA Lahore. He was given the report by MRA Lahore on 22-02-2010 on the same letter. The letter is Ex: Pw-1/1 (STO) on the ground that he is not the author of said letter).

PW-2 Niaz Muhammad HC/527 MHC PS Kakki, Bannu on receipt of murasila had chalked out the FIR Ex.PA under his correct signature.

PW-3 Inayatullah Khan SI/Incharge Investigation PS Saddar Bannu the then SI Ps kakki, Bannu-deposed that on 14-02-2010 at 12 noon, he alongwith Umer Sadiq FC, Muhammad Ishfaq, Javid Khan, Mehmood Khan FCs and Driver Nasrullah was present near Nar Bostn, while patrolling, he received information that a huge quantity of chars was going to be transported to village Takhti Khel in a white colour motorcar. He then immediately cordoned the road. After sometime a white colour motorcar came there which was stopped at a circle distance and thereafter U-turned and sped away. He chased the said motorcar and was overpowered. A person namely, Muhammad Ajmal (accused on trial) was found therein, driving the motorcar. Motorcar bearing No: B 7867 Lahore was searched and in the Dikki a plastic envelop containing chars in shape of slabs was found therein which on weighing came out to be 3000 grams. He then separated four grams from the same and was packed and sealed into parcel. The same Ex: P1, put the same into possession vide

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without relevant documents bearing No: Plat B-7868-Lahore having chassis memo Ex: Pw-3/2 vide which one motor car, white in colour Model 1988 presence. The SHO also affixed name seal "N.M." He also witness to recovery remaining 2996 grms chars were packed and sealed in parcel No: 2 in him for chemical analysis and packed and sealed in parcel No: 1 while the by accused on trial. the SHO separated four grams of chars from all the slabs colour plastic envelop from the Diggi of motorcar No: B7867-Lahore, driven chars/Garda, consisting three slabs, 1000 grams each, wrapped in black which the SHO/complainant has taken into possession 3000 grams Bannu is the marginal witness to the recovery memo: already Ex: Pw-3/1, vide PW-5 Umar Sadig No: 941/HC now Traffic; then posted at PS Kakki, handed over to the SHO.



after being incorporated into FIR, he took copy of FIR to the spot which was has taken the murasila from the spot to the PS for registration of case and PW-4 Javid Khan No: 1683 Police Line Bannu the then PS Kakki Bannu

02-2010.

is Ex: Pw-3/6. He also submitted complete challan against the accused on 26- that the motorcar was not a stolen property. The report of computer Peshawar computer cell in respect of the whereabouts of the motorcar but it was opined report whereof Ex: pw-3/5 and also placed on file. He also contacted the 3/4. The motorcar was also sent to the chemical examiner, FSL Peshawar, the 3/3. The sample was sent to FSL for analysis and the report whereof Ex: Pw- in presence of marginal witnesses. He has also prepared the site plan Ex: Pw- possession vide memo Ex: pw-3/2 alongwith a type recorder and spare wheel to PS for registration of case. The motorcar B-7867 was also taken into also drafted by him which correctly bears his signature and the same was sent also arrested by him and issued his card of arrest. The murasila Ex: PA/1 was memo Ex: Pw-3/1 and in presence of marginal witnesses. The accused was

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2010.

The prosecution thereafter declared its evidence as close on 06-11-

taken into possession.

2996 grams was packed and sealed in parcel No: 2. The motor car was also separated and packed and sealed into parcel No: 1 for FSI, and the remaining weight, the same came out 3000 grams out of which 4 grams was colour containing garda chas of three slabs, were recovered and after Basia Khel and on search of the motorcar, from the Diggi one bag black in Muhammad Shafiq and also disclosed his identity as a platoon Commander PP, boarded and he disclosed his name as Muhammad Ajmal son of and was stopped near Haji Niaz Tube Well. The driver of the motor car was speed away. They chased the said motorcar with the help of official vehicle was stopped at some distance from them and tried to U-turn the same and motor car, white colour coming from Nar Jaffar side was seen by them and were on patrolling and were present near Nar Bostan. In the meanwhile one Umer Sadig FC, Muhammad Jshfaq, Javid Khan FCs and driver Nasrullah deposed that on 14-02-2010 at 12:00 noon he alongwith Inayatullah Khan SI, PW-6 Mehmood Khan No: 1728-FC PS Domel the then PS Kakki

2010 placed on file Ex: C-1.

accident which is not movable; hence, report of the SHO Kakki dated 26-10-10 of the motorcar are flat and that the motorcar is damaged due to basis of report of MHC Kakki dated 26-10-2010 sent therein, stating that the motorcar was requisitioned from PS whereupon the SHO Kakki on the were prepared in his presence on the spot, correctly bears his signature. Note: motor car from where the contraband was recovered. The recovery memos installed in motorcar and also having a spare wheel in the Diggi of above No: EB90.5015589 and Engine No: 3623221. There was a type recorder

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The accused was examined u/s- 342 Cr.P.C in which he refuted the allegation and confessed his innocence. He wished to be examined on Oath and produced evidence in his defense.

Muhammad Ajmal (accused on trial) stated that IO/SHO Inayat ullah Khan is known to him since long as they have remained on different occasion at the same places, wherein some ill will had developed between him and the said Inayat ullah Khan. On the day of occurrence, he had come to see his friend Gul Muhammad "Darhy Bridge Police Post" and on return the motor car stopped by him wherein a driver was seated who asked as where he was going. He told him that he is going to him village. He boarded with him and when reached village Nar Sher Mast, there the road was too narrow due to which the motor collided with a was damaged. He alighted from the same and was standing there that a police Van from Ghoriwala side came there wherein Inayatullah Khan, then SHO PS kakki was present who asked the driver and him to accompany them to the PS kakki. He told him that village Nar Sher Mast lies in the jurisdiction of PS Ghoriwala, therefore, the report of accident will also be entered there, but he insisted on going to PS kakki. When they reached there, he was put in the police lockup, after some time he was told that narcotics were recovered from the motorcar. He pleaded his innocence before him as well as high-ups of the police later on. On which, an inquiry was conducted by the DIG Fagir Hussain and the persons in whose presence he was taken from nar Sher Mast to PS kakki had also deposed against Inayatullah SHO but no solid punishment awarded to Inayat ullah till date, however, he was told by the DIG Fagir Hussain that he has recommended Inayatullah Khan the then SHO to the IG police for major punishment. He is innocent and have been falsely implicated in the instant case.

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Dw-1 Hayatullah Khan deposed that on 14-02-2010 he was present in his house situated at village Nar Shermast that at about 11:00 hrs he heard the noise of accident. He went out to enquire about. He saw that a motorcar had collided with a wall of his house. He saw that a person, whose name was later on told to him as Muhammad Ajmal, was standing nearby the said motorcar on its left side while the driver was seated in the driving seat. A little while later a police van came there wherein some police officials were present who asked the person standing there to accompany them to PS Kakki but the said man told that as the accident has taken place in the jurisdiction of PS Chorwala and if any report etc be entered that will be lodged at PS Chorwala. But the said police officials forcibly shifted motorcar, driver, and the said person to PS Kakki. Later on he came to know that a case was registered against the said person. He was examined in this respect by the crime Branch Peshawar. No recovery whatsoever was effected from the motorcar.

I have heard the learned SPP for the State and Counsel for the accused as well.

Perusal of the record reveals that allegedly the accused Muhammad Ajmal was apprehended by the local police and chars weighing 03 kg was recovered from the diggi of the motorcar which was driven by the accused facing trial at the time of his arrest and seizure of the contraband. Moreover, the documents in respect of the vehicle i.e. motorcar bearing No: 7867B Lahore were found bogus. The record, further reveals that the accused facing trial was arrested by Hayatullah Khan SI on the charges leveled in the FIR. The complainant himself drafted the murasala for registration of the FIR. Prepared the recovery memos, separated 04 grams of chars for FSL and sealed into parcel. After registration of FIR, the remaining investigation was also

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The most important aspect of the present case is that there is no mention of the accident of the vehicle at the time of the arrest of the accused and the alleged recovery of the contraband from the diggi of the vehicle. Similarly all the prosecution witnesses have not uttered a single word that the

It is on the record that at the time of arrest of the accused, many private persons were present on the spot, however, no efforts have been shown to be made by the local police to associate independent person to the recovery proceedings.

The prosecution witness are not consistent on material points. The IO while recording his statement as Pw-3 has deposed that the accused stopped his motorcar & took U-turn at a distance of about 1 & 1/2 furlong from the place where they had got down off the road. Whereas Mehmood Khan, who has recorded his statement as Pw-6, stated that the accused has stopped his car at a distance of less than a kilometer from them. The IO has stated that he chased the accused facing trail for about 3/4 furlong. Whereas Pw-6 has stated that they went towards the accused. The IO stated that he had recorded the statement of all the witnesses on the spot whereas Pw-6 has stated that he had not been examined by anybody in the instant case.

As per record the recovered contraband was in shape of three slabs, however, the IO has separated only 04 grams from the same, and only a single sample was obtained from three slabs.

completed by the same SI. The complainant also being the investigation officer of the present case has failed to explain the reason that why he was complainant as well as IO of the same case.

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All the prosecution witnesses were particularly questioned by the learned defense counsel about the accident of the vehicle on the place of occurrence & they all denied the same. However, the report of SHO Kakki dated 22-10-2010, which is available on the case file, shows that the local

it is standing in the police station. -
condition & the local police is unable to move the vehicle from the place where it was brought into the notice of the court that the vehicle in question is in bad directed the local police for the production of the vehicle before the court but During recording evidence of the prosecution the court repeatedly

accident of the motorcar & arrival of the local police on the spot.
categorically supported the stance of the accused facing trial, regarding the namely Hayatullah Khan, resident of village Nar Sher Mast, who has accused facing trial has produced before the court an independent witness the detailed story of his false involvement in the present case. Similarly the The accused has also recorded his statement on oath where he has narrated case was registered against the accused facing trial in order to take revenge. driver of the vehicle and him to accompany them to the PS Kakki, where false damaged. From Ghoriwala side Inayatullah Khan IO came and asked the and near village Nar Sher Mast the motorcar collided with a wall and was occurrence, the accused facing trial was traveling in a motorcar as passenger very reason the IO has falsely involved him in the present case. At the day of some ill will had developed between him and Inayat ullah Khan and for that Commander had remained posted with the IO Inayat ullah Khan wherein trial also being a police official, and being an employee of FRR as platoon other hand the accused has narrated a different story, that the accused facing vehicle in question met an accident at the place of occurrence. Whereas on the

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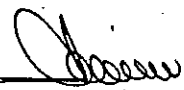
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police is unable to produce the vehicle in question before the court because the vehicle is parked in PS since the day of occurrence, its tyres are flattened and due to the damage caused by the accident. The report of the SHO Kakki 22-10-2010 verify the stance of the accused facing trial that on the day of occurrence, the vehicle met an accident & he was falsely involved in the present case. The IO Inayatullah Khan has also admitted the factum of ill will between him and the accused facing trial as well as submission of many application by the accused to the high-ups of police against him. Therefore, in these circumstances false implication of the accused facing trial cannot be ruled out.

Summing up, in the light of what has been discussed above, the case of the prosecution is full of doubts, benefit of which must go to the accused facing trial, therefore, by giving benefit of doubt, accused facing trial, Muhammad Ajmal is hereby acquitted of the charge. He is in custody, therefore, be set free if not required in any other case.

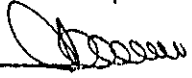
Case property be destroyed in accordance with law, but after the expiry of period of appeal or revision.

Announced
11.12.2010


Miss Ambareen Navid,
Additional Sessions Judge-II,
Judge Special Court Bannu

CERTIFICATE

Certified that this judgment consist of nine (09) pages. Each page has been read, checked and signed after making necessary corrections therein.


Miss Ambareen Navid,
Additional Sessions Judge-II,
Judge Special Court Bannu.

- 1- Registration No: 1891
- 2- Date of Presentation of Application 11-5-15
- 3- Date of Receipt of the file 11-5-15
- 4- Date of Preparation of copy 11-5-15
- 5- Date of Delivery of copy 11-5-15
- 6- No. of copies / words _____
- 7- Ordinary Fee 9/-
- 8- Urgent Fee 2/-
- 9- Total Fee 11/-
- 10- Signature of copyist [Signature]

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District & Session Judge
Bannu
11-5-15

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The accused official since now been in confinement in the Central Prison Bannu therefore the Final Show Cause Notice was served upon him through Superintendent Jail/ Bannu.

The reply forwarded / submitted was gone through but was not found satisfactory. Accused official was also heard in person but in that case too, the undersigned was not satisfied.

The accused official though a discipline force member supposed to at least discourage suchlike activities conversely he himself indulged in the menace practice, thus becomes a black sheep & needs to be kick of from the service.

The accused official being already dismissed from his service in another case of corruption case, wherein a huge Govt: amount was misappropriated.

Keeping in view the above said facts, I, MEHR ZAMAN KHAN, Superintendent of Police/FRP, Bannu, do agree with the recommendations of the Enquiry Officer. Therefore in the present case too he (accused official) will also meet with the same nature fate, as the one's passed already in the corruption/misappropriation case.

No. 503
Dated 26/07/2010

Mehr Zaman Khan
Superintendent of Police,
FRP, Bannu.

"True Copy"
[Signature]
ATTESTED

خدمت جناب کمانڈنٹ FRP خیبر پختون خواہ پشاور
عنوان :- حکمانہ اپیل بابت بحالی نوکری اور منسوخ فرمائے جانے حکم ازاں SP ایف اربن بنوں

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ATTESTED

جناب عالی!

گزارش ہے کہ:-

- 1- من سائل پولیس FRP میں بطور سپاسی مورخہ 05-02-1987 کو بھرتی ہوا تھا اور ضروری ٹریننگ کے بعد اور اچھی کارکردگی کی بناء پر SI/PC کے عہدے پر ترقی دی گئی۔
- 2- یہ کہ من سائل پولیس چوکی بسیہ خیل بطور انچارج ڈیوٹی سرانجام دے رہا تھا۔ اور شب باشی پر گھر خود براستہ نار جعفر ٹیکسی میں جا رہا تھا تو راستے میں عنایت اللہ SHO لکھی جس کیساتھ میرا ذاتی عناد تھا نے بے بنیاد مقدمہ میں گرفتار کر کے جیل بھیج دیا۔
- 3- اسی دوران مہر زمان سابقہ SP/FRP بنوں نے سرکاری رقم کو ہڑپ کرنے کیلئے مجھے ایک اور بے بنیاد انٹی کرپشن کیس میں ملوث کر کے جیل میں بند کیا۔ اور یکطرفہ انکوائری کر کے نوکری سے برخاست کیا ہے۔
- 4- یہ کہ مقدمہ فوجداری میں عدالت نے مجھے بری کیا ہے۔ جبکہ دوسرے مقدمے کی اپیل پائی کورٹ میں زیر سماعت پڑا ہے۔
- 5- یہ کہ جیل سے رہا ہونے کے بعد SP/FRP بنوں جا کر تحریری درخواست بابت نقل فیصلہ برخواستگی حوالہ کرنے کی کوشش کی لیکن وہ لینے سے انکاری ہے۔ بدیں وجہ اب ایک حضور میں بزرگیہ درخواست ہذا عرض معروض ہوں۔
- 6- یہ کہ انکوائری برخلاف رولز یکطرفہ ہے۔ سفائی کا کوئی موقع نہیں دیا گیا ہے۔ نہ ہی فائل رپورٹ و حکم برخواستگی حوالہ کی گئی ہے۔ جو صریحاً مروجہ قوانین کی خلاف ورزی ہے۔ حکم برخواستگی غیر قانونی اور ناقابل عمل قرار فرمائی جا کر منسوخ کیا جائے اور من سائل کو نوکری پر بعد سابقہ مراعات بحال کیا جائے۔
- 7- یہ کہ الزامات انکوائری اور فوجداری ایک ہی ہے لیکن SP موصوف نے عدالت کے حکم سے قبل مجھے میجر سزا دی جو کہ نیچرل جسٹس کے بالکل منافی ہے۔ ایک مقدمہ میں میں بھری ہوا ہوں جبکہ دوسرے میں میرا اپیل زیر سماعت ہے۔
- 8- یہ کہ سائل نے تقریباً 24 سال سروس کی ہے۔ چھوٹے چھوٹے بچے ہیں۔ سزا برخواستگی انتہائی ظالمانہ ہے۔ روٹنگ سروس کا کوئی خیال نہیں رکھا گیا ہے۔

مندرجہ بالا حالات و واقعات کی روشنی میں استدعا کی جاتی ہے کہ احکام بابت برخواستگی ازاں مہر زمان سابقہ SP/FRP بنوں خلاف قانون و ظالمانہ ہے۔ اور بدینتی پر مبنی ہے۔ منسوخ فرمائی جائے اور مجھے سابقہ مراعات کیساتھ نوکری پر بحال فرمایا جائے۔

العارض: اجمل خان

اجمل خان سابقہ SI/PC ولد محمد شفیق سکنہ خانہ آزاد مغل خیل تھانہ غور یوالہ ضلع بنوں۔

ORDER.

(18)

(19)

This order shall dispose off the appeal of Ex-SI/PC Ajmal Khan of FRP Bannu Range Bannu against the order of SP FRP Bannu Range wherein he was dismissed from service vide OB No.497 dated 22.07.2010.

Brief facts of the case are that the accused official was involved in embezzlement case vide FIR No.04, dated 02.04.2010 u/s 409-420 PPC 5 (2) PC act of P.S ACE Lakki Marwat. The learned court of Addl: Special judge Anti Corruption Southern region Head Quarter at Bannu convicted the accused official vide judgment dated 14.05.2011. As a result of which the said official was dismissed vide OB No.497 dated 22.07.2010.

His attempt of smuggling of huge quantity of Charas towards Takhti Khel side in a white color Motor Car was foiled by SHO Kakki vide FIR no.7/10 dated 14.02.2010 u/s 9-CNSA, PS Kakki, of Narcotics substances Act-1997. The official has submitted the present appeal for his re-instatement without any solid reasons.

Since the accused official SI/PC Ajmal Khan of FRP Bannu Range Bannu was involved in unlawful activities and is convicted by the competent court of law his retention in the Force is not required.

Therefore his Appeal is Rejected.

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Awalki

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 3167-68/EC dated Peshawar the 9/4/2015.

Copy to the:-

1. SP FRP Bannu Range Bannu with reference to his office letter No.2967 dated 20.10.2014 alongwith his service record.
2. Ex-SI/PC Ajmal Khan through SP FRP Bannu Range.

Pay officer
SPFRP Bannu

16-4-2015

FINAL SHOW CAUSE

I, MEHR ZAMAN KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority, under the NWFP Removal from Service (Special Powers) Ordinance 2000, do hereby serve upon you this Final Show Cause Notice, SI/PC Mohammad Ajmal Khan as follow.

- 1- (i) That consequent upon the completion of inquiry conducted against you by an Enquiry Officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the Enquiry Officer and the material on record and other connected papers including your defense before the said Enquiry Officer.

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

You SI/PC Mohammad Ajmal Khan while posted as LO-II/Cashier FRP, Bannu.

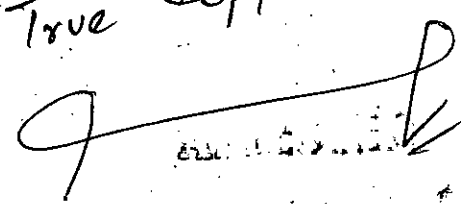
- 1. During the handing over the charge of LO-II/Cashier, vide DD No.5 dated 19-12-2009, a sum of Rs. 1906000/- were fund outstanding against you.
- 2. That you have used the Govt. money for your ulterior motives instead of debiting remitting the same to the Govt. treasury.
- 3. All the above circumstances amounts to gross mis-conduct on your part.

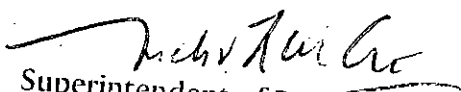
As a result thereof, I, MEHR ZAMAN KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority have tentatively decided to impose upon you the penalty of minor/major punishment under section 3 of the said Ordinance.

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

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

The copy of the findings of the Enquiry Officer is enclosed.

True copy



Superintendent of Police
FRP, Bannu

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FINAL SHOW CAUSE

1, **MEHR ZAMAN KHAN Superintendent of Police, FRP Bannu**, as competent authority, under the NWFP Removal from Service (Special Powers) SI/PC Mohammad Ajmal Khan as follow.

- 1- (i) That consequent upon the completion of inquiry conducted against you by an Enquiry Officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the Enquiry Officer and the material on record and other connected papers including your defense before the said Enquiry Officer.

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

You **SI/PC Mohammad Ajmal Khan** while posted as LO-II / Cashier FRP, Bannu.

1. During the handing over the charge of LO-II/Cashier, vide DD No. 5 dated 19-12-2009, a sum of Rs. 1900000/- were fund outstanding against me.
2. That you have used the Govt. money for your ulterior motives instead of debiting remitting the same to the Govt. Treasury.
3. All the above circumstances amounts to gross mis-conduct on your part.

2- As a result thereof, I, **MEHR ZAMAN KHAN, Superintendent of Police, FRP Range Bannu** as competent authority have tentatively decided to impose upon you the penalty of minor / major punishment under section 3 of the said ordinance.

3- You are, therefore, required to show cause as to why the aforesaid penalty should be imposed upon you.

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

5- The Copy of the findings of the Enquiry Officer is enclosed.

Better copy
ATTESTED

Superintendent of Police
FRP, Bannu.

استیوار شکر دار خوش معروض ہوں

کہ میں جتنے عرصہ سے الف ارجی ہوں رنج میں لگور این آفسر آگسٹ
 رہ چکا ہوں اس تمام عرصہ میں اس تک میں نے کوئی غیر ذمہ داری
 کام نہیں کیا ہے اور نہ ہی میں کسی کرپشن یا عسور ارجی سے متعلق
 صرف تھانے کے تمام الزامات سے تیار اور میں گرفتار ہے اور
 میں نے کسی غیر میں کسی میں نہیں کیا ہے

میں نے حلال میں ایک آن آ رہا ہوں میں نے ساری
 اور میں نے ضرر دار آفسر اور تفتیش تھے جس کے لئے خاص کر
 میں میں جا رہا ہوں، میری جو بیس سال سے وہیں ہے اور ان
 حالات میں گورنمنٹ میں عسور ارجی کا سوجھ بوجھ نہیں
 تاہم میری درخواست ہے کہ میری انٹروائری نہ لے لی جاسکے
 تک میں نہ لگاؤں جاؤں

فائل میں محمد امین خان Sillpے حال میں ہیں
 محمد امین خان

"True copy"
 [Signature]

(23)

فائنل رپورٹ

جناب عالی!

مشمولہ انکوائری سابقہ LO/FRP محمد اجمل خان SI/PC کے برخلاف لیٹر انگریزی

2409/EC مورخہ 05-04-2010 مجاریہ کمانڈنٹ صاحب ایف آر پی، این۔ ڈبلیو۔ ایف۔ پی معروض ہوں۔

کہ نمبر 5 روزنامہ مورخہ 19-12-2009 پولیس لائن ٹوروز نامہ میں رپورٹ درج کی ہے۔ جس میں سے

سابقہ LO/FRP محمد اجمل خان SI/PC کے ذمہ بقایا تنخواہ بندش ملازمان مبلغ آئیس لاکھ بہتر ہزار آٹھ

سو چھیا تر روپے (1972876) بحوالہ رسید راہداری نمبر 22/17 مورخہ 21-12-2009 نزد پے آفس صاحب ایف آر پی بنوں جمع

کرنے بغرض ادخال خزانہ 232 جمع کئے گئے ہیں۔ اور بقایا رقم مبلغ آئیس لاکھ روپے (1900000) محمد اجمل خان SI/PC کے

ذمے بقایا ہے اسکے علاوہ بابت منی، جون، جولائی 2009 پے آفس صاحب ڈیرہ رینج سے سب ہیڈ کوارٹرس رائے نورنگ ملازمان ایف آر

پی SPL کے تنخواہ لائے تھے جس میں سے مبلغ 872093/- روپے بندش تنخواہ ملازمان کے اجمل خان SI/PC کے ذمہ بقایا ہے جو یہ

رقم ایس پی ایف آر پی صاحب ڈیرہ کے دفتر جمع کرنے تھے۔ جو کہ جمع نہیں کئے ہیں۔ اسکے علاوہ اجمل خان SI/PC کا تفصیلی بیان بھی

انکوائری ہمراہ لف ہے جو کہ خود تسلیم کرتا ہے کہ میں نے سرکاری رقم بطور قرضہ اپنے دوست کو حوالہ کی تھی اس نے مجھے یقین دہانی کرائی کہ

وہ جلد یہ رقم حکومت کو جمع کرائیگا۔ مزید یہ کہ ان کے خلاف ضلع الیکمروت میں اینٹی کرپشن نے مقدمہ نمبر 4 مورخہ

25-03-2010 جرم (PC Act) 409-420/5(2) PPC مقدمہ قائم کیا ہے جو کہ زیر تفتیش ہے۔ اس طرح محمد اجمل خان

SI/PC کا بیان جرم کے اقرار کیلئے کافی ہے۔ اسی طرح تمام ریکارڈ اور بیانات سے واضح ہے کہ وہ اکیلے اس جرم کے خود ذمہ دار ہے۔

جو کہ وہ زبانی اور تحریری طور پر وہ قبول کر چکے ہیں۔ اسی طرح محمد اجمل خان SI/PC کو انکوائری میں قصور وار پا کر

(Major Punishment) کی سفارش کی جاتی ہے تاہم بہتر ہوگا کہ تا تصفیہ مقدمہ انکوائری رپورٹ پینڈنگ رکھا جائے مزید

آفسران بالا کا حکم افضل ہے۔ انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

M. A. Khan

محمد عارف خان

انسپیکٹر ایف آر پی بنوں۔

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ATTESTED

Issue Final Show Cause
notice

Sub Division

P.P.R.

7/5

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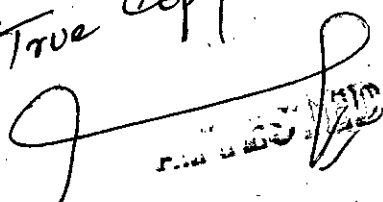
FINAL SHOW CAUSE

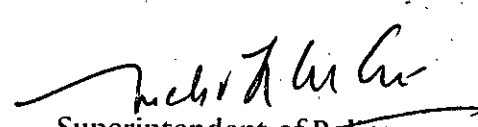
I, MEHR ZAMAN KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority, under the NWFP Removal from Service (Special Powers) Ordinance 2000, do hereby serve upon you this Final Show Cause Notice, SI/PC Mohammad Ajmal Khan as follow.

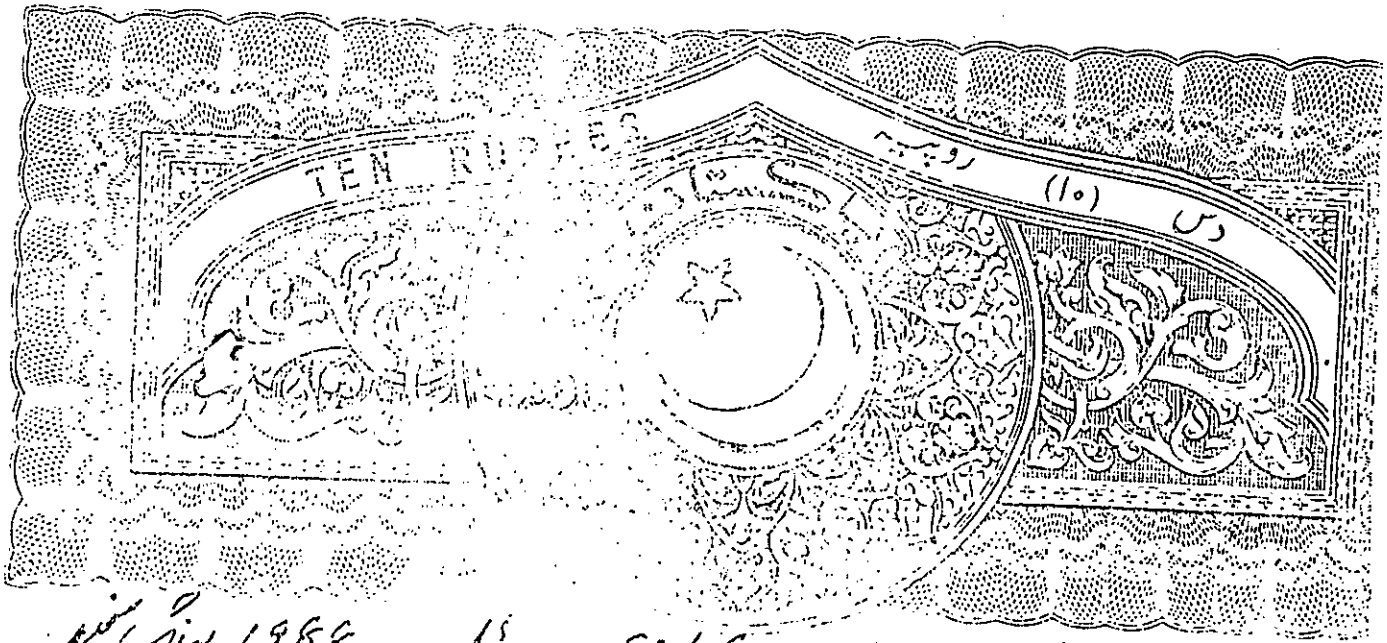
- 1- (i) That consequent upon the completion of inquiry conducted against you by an Enquiry Officer for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendations of the Enquiry Officer and the material on record and other connected papers including your defense before the said Enquiry Officer.

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

- 1- That on 14-02-2010, you SI/PC Mohammad Ajmal Khan was arrested by SFO Kakki in case FIR No.7 dated 14-02-2010 u/s 9CNSA PS Kakki who recovered 3000 gm Cheras from you possession your this act is against the Police Rule & Discipline.
- 2- As a result thereof, I, MEHR ZAMAN KHAN, Superintendent of Police, FRP Bannu Range Bannu as competent authority have tentatively decided to impose upon you the penalty of minor/ major punishment under section 3 of the said Ordinance.
- 3- You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
- 4- If no reply to this notice is received within seven days of the receipt of this final show cause notice, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
- 5- The copy of the findings of the Enquiry Officer is enclosed.

" True copy "



Superintendent of Police
FRP, Bannu



آئی آر ایم جی ڈی بی 5248 سڈل 1988

میں نے اس رقم کو اپنے قبضے میں لیا ہے۔

اس رقم کی تفصیلات درج ذیل ہیں:

1. ایک سو تیس ہزار روپے (130,000/-)

2. ایک سو چالیس ہزار روپے (140,000/-)

3. ایک سو پچاس ہزار روپے (150,000/-)

4. ایک سو ستتر ہزار روپے (170,000/-)

5. ایک سو اسی ہزار روپے (180,000/-)

6. ایک سو نو ہزار روپے (190,000/-)

7. ایک سو نو ہزار روپے (190,000/-)

8. ایک سو نو ہزار روپے (190,000/-)

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ATTESTED


ایسا ہوتا ہے کہ رخصت کی بات نہیں آتی اور جب
اس نے فوراً FIR درج کیا تو اس سے تو صانایات
رخصت کی نظر آتی ہے اس کے بعد جائے وقوعہ
سے عدالت کے مہذ لوگ بھی اس میں گواہ ہے

اور عنایت اللہ کی کئی بار سائل کے چچا و منیرہ
کو شناخت پر بھی آیا ہے کہ وہ خود سے غلط نہیں ہے

مذید یہ ہے کہ یہاں گناہ ہوا اور میرے علم اور
زیادتی ہوئی ہے اور عنایت اللہ سائل کی
اور کئی عیالیت بے مہربانی ہے اور

یہ سروس کر کے بنا وجود رکھنا
شفاق ہے تو آفریں غلط کاموں کا تصور
نہیں کرنا ہے اور یا علی فیصلہ کے بارے

میں انتظار ہے لہذا فاسٹ شو کا رٹوش
داخل ہوتے کرتے افکانات صادر فرمائیں

"True copy"

ATTESTED

ایک بارے میں کوئی اور کسی قسم کا ثبوت نہیں ملا SHO عنایت اللہ نے تحریری بیان دیا ہے اسی طرح گواہان فرد وغیرہ کے بیانات بھی بدوران انکوائری لئے گئے ہیں جہاں تک میں سمجھتا ہوں کوئی پولیس آفسر کسی شخص کے ساتھ بھی اسی قسم کی زیادتی نہیں کر سکتا۔ کیونکہ یہ رواج پشتو بھی عموماً اس قسم کے حالات سے پولیس آفیسر گزرے ہیں اور زیادتی کرنے سے ڈرتے ہیں۔ جہاں تک عنایت اللہ SHO کا تعلق ہے اس نے مجھے حلفیہ بیان دیا کہ اسکی اجمل خان SI/PC کے ساتھ کوئی ذاتی رنجش ہے اور نہ ہی ملزم ایسا ریکارڈ پیش کر سکا صرف زبانی طور پر رنجش کا ذکر کرتا ہے۔ اسی طرح انہوں نے بیان کیا کہ اس نے تھانہ لکی کی حدود میں مذکورہ کو گرفتار کیا ہے اس نے بیان کیا کہ وہ اکیلا تھا اور وہ خود ڈرائیور کر رہا تھا اسی طرح عنایت اللہ SHO کی روانگی کا مدچیک کیا گیا نقلہ ہمراہ لف انکوائری ہذا ہے اسی طرح واپسی کا نقلہ بھی ہمراہ لف انکوائری ہذا ہے جہاں تک موٹر کار کا تعلق ہے اغوا بنگلی کے وقت بھی ان کے ساتھ سفید موٹر کار کا ذکر کیا ہے اسی طرح SHO عنایت اللہ کو اس نے 161 بیان میں ایک اور شخص جس کا نام امیر علی ولد اصغر علی قوم سپر کہ حال گممتی علاقہ غیر بتلایا ہے اسکے بارے میں تھانہ ٹاون شپ سے رابطہ کیا گیا لیکن Trace کرنے میں ناکام رہے اسی طرح میں بھی جگہ بہ جگہ پتہ براری کی لیکن پتہ نہ چل سکا۔ دوسری طرف مذکورہ بیانی ہے کہ وہ ضروری کام کے سلسلے میں گھر جا رہا تھا۔ جبکہ ان کا گھر بنوں DIK روڈ نزد تھانہ غور یوالہ واقع ہے اس طرح ان کو بنوں DIK روڈ نزدیک پڑتا ہے اسی طرح حمید اللہ جو الدار جس نے اپنے بیان میں ذکر کیا ہے کا بیان بھی لف انکوائری ہذا ہے۔

انکوائری کے مطابق اور بیانات کی روشنی میں SI/PC محمد اجمل خان انچارج پلاٹون نمبر 150 چوکی بسہ خیل بنوں اسی جرم میں ملوث پایا جاتا ہے۔ بیانات ہمراہ لف ہے۔ (Major Punishment) کی سفارش کی جاتی ہے۔ دوسری طرف بہتر یہ ہوگا کہ تا تصفیہ مقدمہ انکوائری کو پینڈینگ رکھا جائے مزید آفسران بالا کا حکم افضل ہے انکوائری رپورٹ مرتب ہو کر گزارش ہے۔

M. A. M.

محمد عارف خان

انسپیکٹر ایف آر پی بنوں۔

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ATTESTED

Issue Final Show Case

notice

M. A. M.

فائل رپورٹ

مشمولہ انکوائری SI/PC محمد اجمل خان انچارج پلاٹون نمبر 150 چوکی بسیہ خیل ضلع بنوں انگریزی لیٹر نمبر PA-941 مورخہ 27-03-2010 بجاریہ جناب RPO صاحب بنوں معروض ہوں۔ کہ SI/PC محمد اجمل خان مورخہ 14-02-2010 FIR نمبر 7 جرم 9 CNSA تھانہ لکی درج ہو کر موقعہ پر گرفتار ہو کر سنٹرل جیل بنوں بھجوا یا گیا جو تاحال سنٹرل جیل بنوں میں ہے جس پر آفسران بالانے مذکورہ کو چارج شیٹ آف الیکیشن جاری کیا۔ چارج شیٹ کے جواب میں مذکورہ نے تحریری طور پر بیان کیا ہے کہ من سائل کے خلاف SHO لکی عنایت اللہ نے ذاتی علاوت کی بنا پر ایک جھوٹے اور بے بنیاد کیس میں ملوث کیا ہے۔ جس کا مجھ سے دور کا واسطہ نہیں ہے۔ کیونکہ میں ایک سرکاری ملازم ہوں۔ مورخہ 14-02-2010 کو ڈیوٹی سے فارغ ہو کر ضروری کام کے سلسلے میں گھر خود جا رہا تھا۔ روڈ کے کنارے گاڑی کے انتظار میں کھڑا تھا۔ کہ اس دوران ایک موٹر کار سٹی کی طرف سے آیا اور میں بطور سواری گاڑی میں بیٹھ گیا جو نہی گاڑی غور یوالہ آڈہ کے قریب پہنچی تو میں نے ڈرائیور سے سوال کیا کہ مجھے دڑے پل چیک پوسٹ تک لے جاؤ۔ وہاں پر مولد ارجمید اللہ سے کچھ رقم لینا ہے جو کہ اسکے ذمہ واجب الادا ہے پھر اپ نورنگ چلے جاؤ۔ اور میں چیک پوسٹ پر ٹھہر جاؤنگ۔ جس وقت موٹر کار نارشکر اللہ پہنچا۔ تو وہاں تھانہ لکی کے مولد ارجمید نفری نے ناکہ بندی کر رکھی تھی حالانکہ یہ علاقہ تھانہ غور یوالہ کا حدود ہے۔ اور تھانہ لکی کو ناکہ بندی کرنے کا کوئی قانونی جواز نہیں ہے۔ جب ڈرائیور نے پولیس کی ناکہ بندی دیکھی تو گاڑی کھڑی کر کے بھاگنے لگا جس پر میں نے ڈرائیور کو چیخو پکار کر لیا کہ بھائی کدھر بھاگ رہے ہو اس دوران پولیس پارٹی کو خود بلایا جس پر انہوں نے گاڑی کی تلاشی لی دوران تلاشی گاڑی کی ڈگی سے تین کلوچرس برآمد ہوئی جو کہ بھاگتے ہوئے ڈرائیور کی ملکیت ہے۔

جناب والا! ناکہ بندی مولد ارگاڑی کو تھانے لے آیا تو تھانہ SHO عنایت اللہ نے جس کیساتھ میری پرانی رنجش ہے میرے خلاف 9 CNSA کا پرچہ چاک کیا اگرچہ میں نے کافی منت سماجت کی مگر وہ نہ مانا اور میرا چالان کروایا۔ سائل ایک شریف اور معزز شہری اور سرکاری ملازم ہے۔ کیا میں تین کلوچرس کے خاطر اپنے عزت نوکری پنشن کو داؤ پر لگا سکتا ہوں۔ کبھی نہیں یہ میرے خلاف ایک سازش کے تحت یہ کاروائی عمل میں لائی گئی ہے۔ سائل بالکل بے گناہ ہے جبکہ مثل جوڈیشیل کے ساتھ لف شدہ بیان ملزم محمد اجمل خان اور چارج شیٹ کے بیان دونوں میں فرق ہے جہاں تک عنایت اللہ SHO کے ساتھ ذاتی عداوت کا تعلق ہے۔

See Next Page.....


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 [Signature]
 ATTESTED

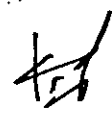
29


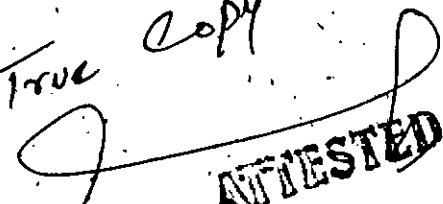
CHARGE SHEET

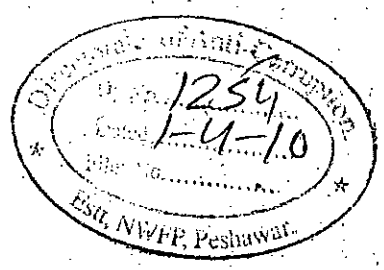
I, MEHR ZAMAN KHAN, Superintendent of Police FRP, Bannu Range Bannu, as competent authority charge you SI/PC Ajmal Khan for the allegations stated in the attached statements of allegations.

- i. By reasons of the above, you appear to be guilty of misconduct under section 3 of the NWFP, (Removal from Service) Special Powers Ord: 2000, and have rendered yourself liable to all or any of the penalties specified in section 3 of the Ordinance *ibid*.
- ii. You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer, as the case may be.
- iii. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case *ex-parte* action shall follow against you.
- iv. Intimate whether you desire to be heard in person.
- v. A statement of allegations is enclosed.


Superintendent of Police
FRP, Bannu


SI/PC
5/2/2010


"True Copy"

ATTESTED



(31)

(30)

True Copy
ATTESTED
ACER

ضلع ملتان

فائل نمبر

انٹرنیٹ کنٹریکٹ نمبر 1042 مورخہ 3-1-2003 بجائے قیام 2002 نمبر 14

بہر خلاف محمد اجمل خان سب انسپکٹر (P.C) FRP 14 BPs

حالات انٹرنیٹ کنٹریکٹ میں کہ DPo بیکورٹ سے کنٹریکٹ 17 مورخہ 2003 کے ذریعہ الملہ مری کے التزام علیہ نے پچاس لاکھ روپے کی رقم کے ساتھ ساتھ ڈیپازٹ کے طور پر 10 مورخہ 2003 کے نام سے فریڈ کے نام میں التزام علیہ کے بعد ڈیپازٹ کے طور پر ڈیپازٹ کیا گیا۔ چیک درج ذیل ہے۔ 158 شہزاد کا مولد میں بلایا گیا۔ تمام ڈیپازٹ کے نام پر فریڈ کے نام میں ڈیپازٹ کیا گیا۔ درج ذیل ہے۔ 158 شہزاد کا التزام علیہ نے انگریزی میں فریڈ کے نام میں ڈیپازٹ کیا گیا۔ اور دراصل سرکار نے رقم کا خود بردار ہونے کی اطلاع دی۔

Additional Special Judge
Anti-Corruption, Sanchet, Region
al Bano
17-2-11

ضلع ملتان بیکورٹ کے ذریعے سے درج ذیل ہے۔ 158 شہزاد کے نام میں ڈیپازٹ کیا گیا۔ 158 شہزاد کے نام میں ڈیپازٹ کیا گیا۔ 158 شہزاد کے نام میں ڈیپازٹ کیا گیا۔

1. اجمل خان التزام علیہ کے نام میں 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔
2. 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔
3. 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔
4. 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔
5. 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔
6. 153 مورخہ 2003 تک ڈیپازٹ کیا گیا۔

انسپکٹر (P.C) نے ملحقہ 19,200,000 روپے کے نام میں فریڈ کے نام میں ڈیپازٹ کیا گیا۔ 158 شہزاد کے نام میں ڈیپازٹ کیا گیا۔ 158 شہزاد کے نام میں ڈیپازٹ کیا گیا۔

Malik

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Mansour

Malik

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(136)

سوال: کیا ایک کان جو پس زدگی میں ہر اروپا کے کار میں ہے۔

جواب: ہاں یہ خبر ہے اس کے بارے میں رقم لگا۔

سوال: کیا ایک قسمی زبان میں سکھ گناہ کے طور پر کوئی چیز ہے جو ہر اروپا کے کار میں ہے۔

جواب: ہاں یہ ہے۔

جواب: ہاں یہ ہے۔ اس کے بارے میں رقم لگا۔

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9/11/2010

Attested

Signature

Ed. S. P. K.

13/11/2010

True Copy

Handwritten signature and stamp

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وکالت نامہ

بعدالت جناب سروس ٹریڈ سوسائٹی جسٹس محنتو نھو لہنڈا اور

آجمل خان بنام ای سی بی پی جسٹس محنتو نھو وغیرہ

علت نمبر مورخہ
جرم تھانہ
منجانب سائل دعویٰ سروس ٹریڈ سوسائٹی کے پٹیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام لہنڈا کے لئے
پیرسٹر امیر اللہ خان چکنی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار
ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے
اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم
پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت
ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور
صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا ساختہ پرواختہ منظور و قبول ہوگا۔ دوران مقدمہ میں
جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے
کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا
وکالت نامہ لکھ دیا کہ سندر ہے۔

2015ء

ماہ

المرقوم

Accepted By:

بمقام Destawar! کے لئے منظور ہے۔ پیرسٹر امیر اللہ خان چکنی

A. Parigal

(اجمل خان) آجمل خان ولد محمد شفیع کائن خانہ آزاد مغل ضلع بنوں

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Appeal No. 467/2015.

Ajmal Khan s/o Muhammad Shafiq,
R/o Khana Azmaad Mughal Khel, Bannu
Ex- SI/PC FRP Bannu Range

(Appellant)

VERSUS

- 1) Provincial Police Officer, KPK, Peshawar.
- 2) Commandant, FRP, KPK, Peshawar.
- 3) Superintendent of Police, FRP, Bannu.

(Respondents)

REPLY BY RESPONDENT NO. 1, 2 & 3

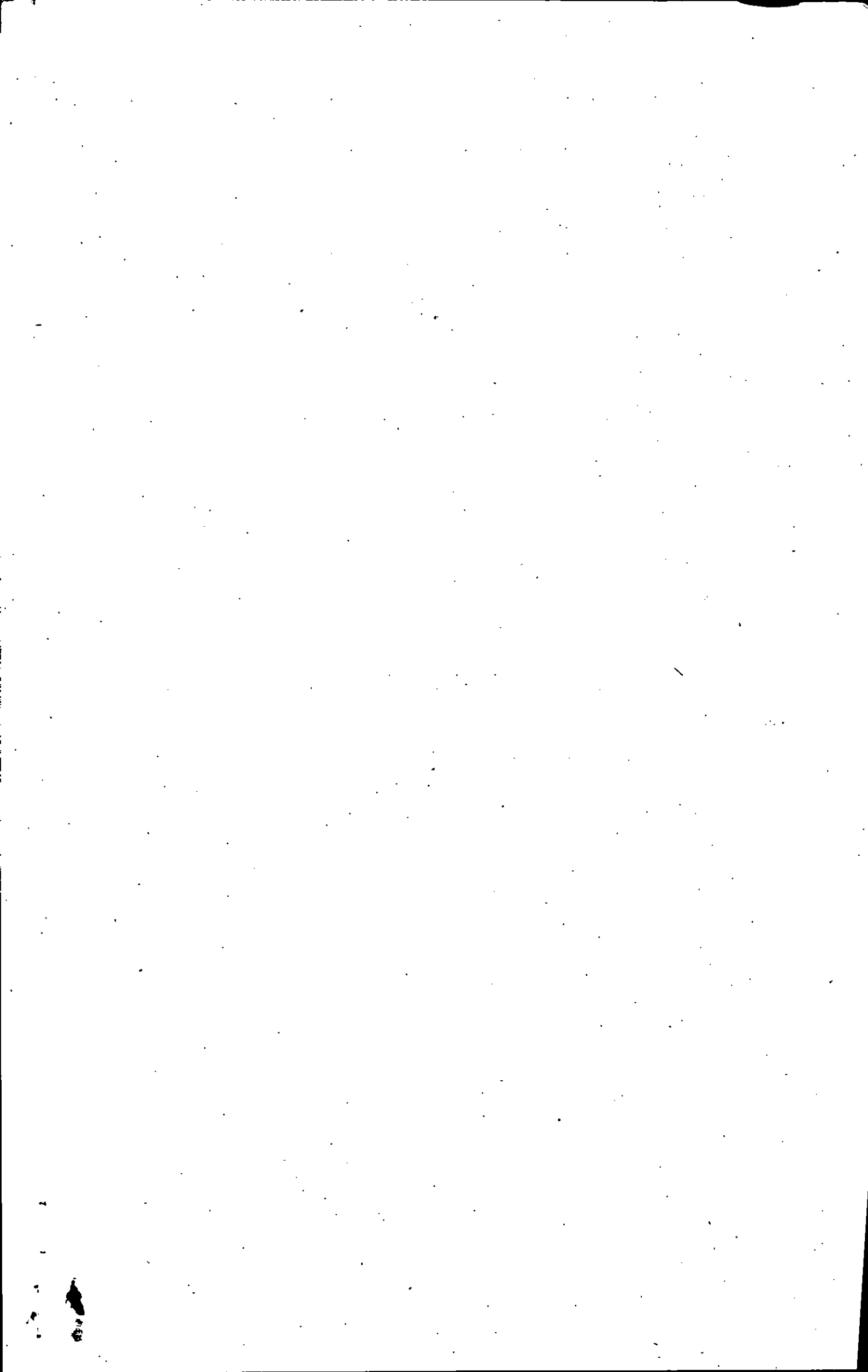
Respectfully Sheweth:

PRELIMINARY OBJECTIONS

- 1) That the appeal of appellant is not maintainable under the law and rules.
- 2) That the appellant has concealed the actual facts from the Honorable Tribunal.
- 3) That the appeal of appellant is time-barred.
- 4) That the appellant has approached the Honorable Tribunal with unclean hands.
- 5) That the appellant is estopped to file the appeal due to his own conduct.
- 6) That the appeal is bad due to Non-joinder and mis-joinder of un-necessary party.

OBJECTIONS ON FACTS

1. Pertains to record.
2. Incorrect: Brief facts are that on 03-10-2009, One Muhammad Shafiq father of appellant reported to the local Police PS Ghoriwala about missing of his son (appellant): Afterward Appellant appeared before the local police on 09-10-2009 and disclosed that he was kidnapped from the jurisdiction of PS-Dadiwala Lakki Marwat. However after carried out initial investigation / enquiry made revealed that the report was false concocted story and entered just to swallow / misappropriate huge Government amount, lying with appellant in his custody, as a Cashier of FRP Department. Eventually District Police Officer Lakki Marwat approached Director Anti Corruption Peshawar for registration of case against the appellant being govt servant and involved in embezzlement & entered the report, in order to cover up the loss caused to government exchequer. Resultantly case was registered at PS-ACE Lakki Marwat vide FIR No.4 dated 04/2010 u/s 409/420/5-(ii) PC Act. (Copy of FIR as Annex "A")
3. Incorrect: Appellant was properly charge sheeted and Inspector Arif Khan was deputed to deal in the matter in order to unearth the real facts. During the course of enquiry amount of Rs,1972876/- was deposited through receipt Rah Dari No.22/17, dated 21-12-2009, while the rest of amount as per record speaks that an amount of Rs.1900000/- the salary of FRP personnel while the other amount Rs.872093/- was received from the office of SP/FRP D.I.Khan for the Naurang Sub Division employees. At the end of Enquiry Officer submitted his final findings wherein the appellant was rendered guilty and recommended for entailing Major Punishment upon him. After observing all legal / codal formalities appellant was dismissed from service vide OB No.497 on 22-07-2010. (Copy of dismissal order as Annex "B")

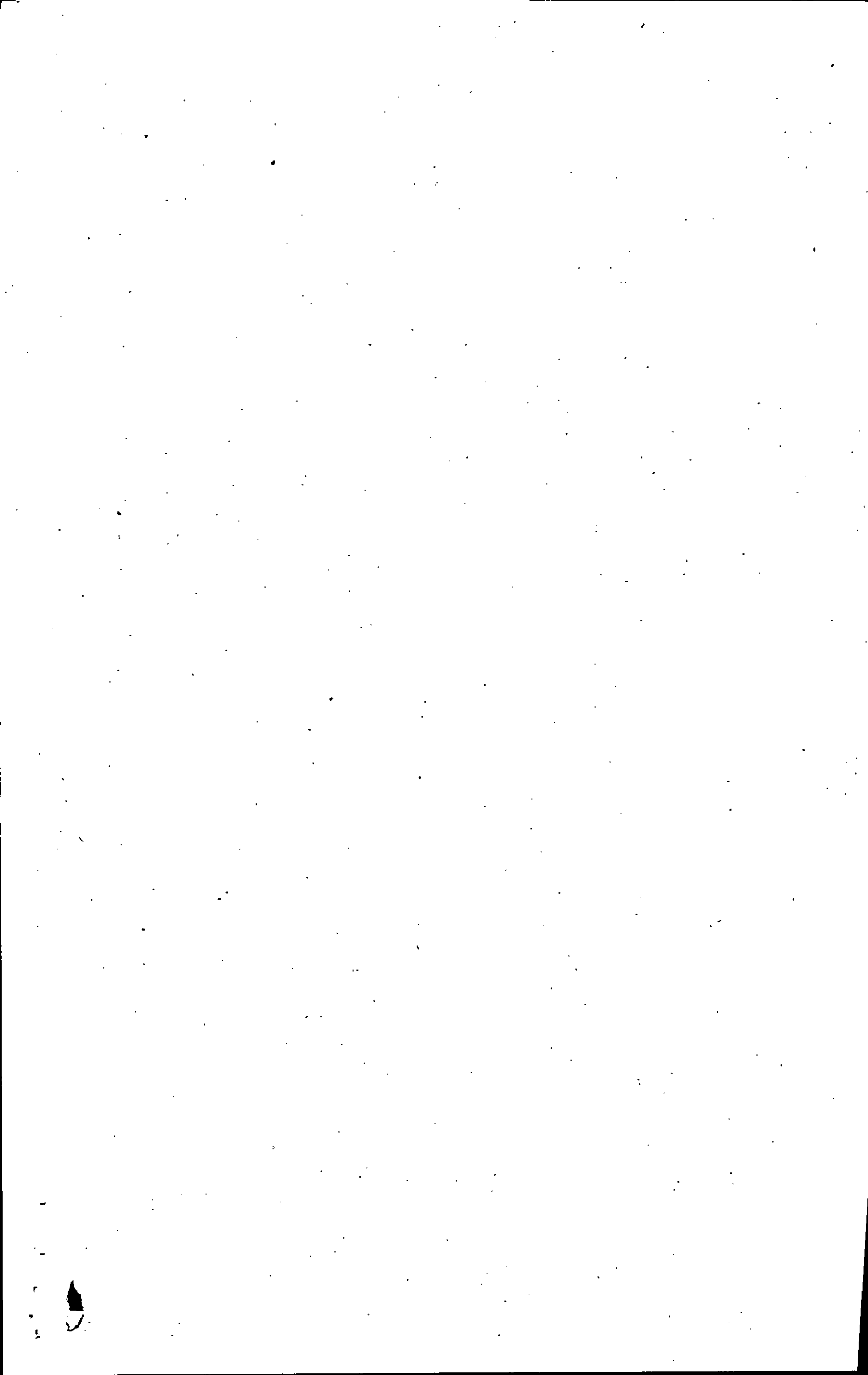


4. In-correct: Short facts of the case were that on prior tip off that a huge cache of Charas to be smuggled towards Takhti Khel side in white color Motorcar. SHO Kakki along with other police contingent arranged Nakaband, forthwith on Kakki Naurang road, near Nar Najeeb. A motorcar coming from Nar Shukrullah was signaled to stop but the driver accelerated the car & over due after covering some distance. During search of the vehicle 3000 grams Charas were recovered from the motor Dagi. The driver disclosed his name to be SI/PC Muhammad Ajmal (appellant) & case was accordingly registered against the appellant at PS Kakki vide FIR No.7/10 u/s 9 control of Narcotics Substances Act 1997. (Copy of FIR as "C")
5. Incorrect: After observing all legal / codal formalities appellant was already dismissed from service in another case of corruption as earlier stated in Para No. 2, vide Order Book No.497 dated 22-07-2010 wherein a huge Govt: amount was misappropriated. (Copy already Annex "B")
6. Correct to the extent that after dismissal from service appellant approached to the Honorable Commandant FRP Khyber Pakhtunkhwa, Peshawar after laps of about 05 years, which had legally speaking no place in the eye of law, which was examined and perused by the high ups. The belated appeal has got no legal weight age, consequently his appeal for re-instatement in service was rejected with the conclusion / remarks which is reproduced below:

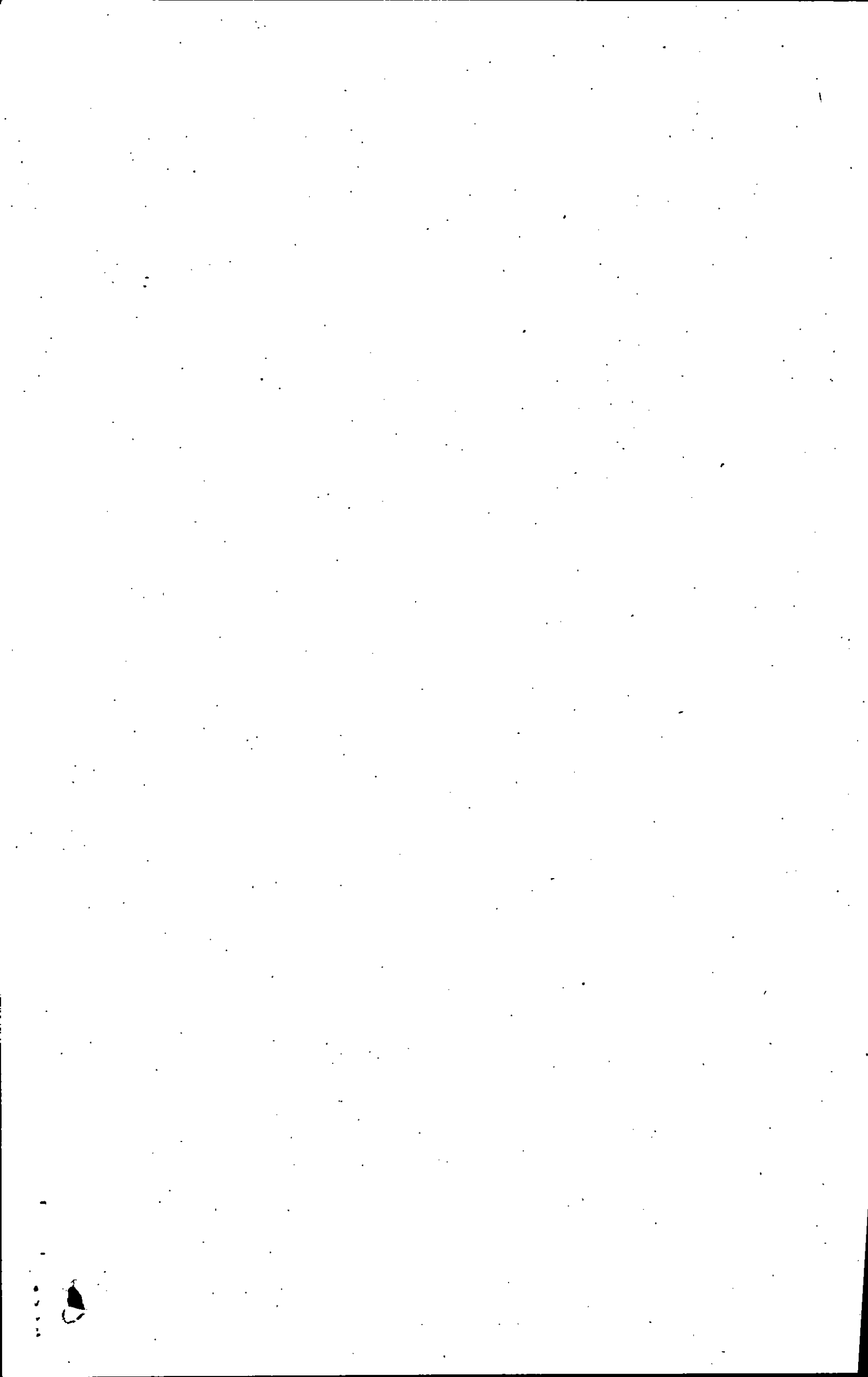
"Since the appellant Ex-SI/PC Ajmal Khan FRP Bannu was involved in unlawful activities and is convicted by the competent court of law, his retention in the force is not required, therefore his appeal is rejected". (Copy of rejection order as "D")
7. In-correct: As per rules and regulations when a Govt: servant is dismissed or removed from service at any stage of service by the authority, No pension shall be admissible to such Govt: servants. The orders of the respondents were passed in accordance with law, facts and based on justice.
8. In-correct: Appellant has now approached Honorable Service Tribunal KPK Peshawar with unclean hands, based on false statements and self made grounds as well concealed the real facts of the case from the honorable Tribunal; hence the appeal of the appellant is not maintainable under the law / rules.

OBJECTION ON GROUNDS

- A. In-correct: A detail inquiry into the case was conducted by Mr. Arif Khan Reserve Inspector FRP Bannu on the direction of SP/FRP Bannu (Respondent No.3) & appellant was afforded full opportunity of self defense and after observing all legal / codal formalities he was awarded Major Punishment i.e. dismissal from service vide OB No.497 dated 22-07-2010. As per inquiry appellant was responsible for the above misconduct / embezzlement.
- B. In-correct: During the course of enquiry appellant was afforded full opportunity of self defense, personal hearing as well cross examination. Enquiry officer recorded the statement of all relevant Police Officers and after fulfilling all legal formalities came to conclusion that the allegation leveled against the appellant stands proved, thus dismissal order vide OB No. 497 dated 22-07-2010 passed by the competent authority.




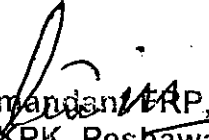
- C. Incorrect: After conducting discreet probe / enquiry into the allegations leveled against the appellant as stated in above Para's No.2 & 3 and observing all legal / codal formalities appellant was already dismissed from service in another case of corruption vide Order Book No.497 dated 22-07-2010 wherein a huge Govt. amount was misappropriated by the appellant. At the same time he was also involved in smuggling case vide PS Kakkī FIR No.7/10 u/s 9 Control of Narcotics Substances Act 1997, which was also thoroughly inquired / probed by the Enquiry Officer and after observing all legal / codal formalities came to the conclusion that the allegations leveled against the appellant also stand proved, finally recommended for Major Penalty, thus another order of same nature fate, passed vide Order Book No.503 on 26-07-2010. (Copy as Annex "E")
- D. In-correct: The two different types of charges / allegations pertaining to serious misconduct committed by the appellant stands proved and competent authority dismissed the appellant from service after fulfilling all legal / codal formalities as Respondent No.3 has left with no option except the one already taken. As per rules and regulations when a Govt. servant is dismissed or removed from service at any stage of service by the authority, No pension and other financial benefits etc shall be admissible to such Govt. servants.
- E. In-correct: Appellant indulged himself in unlawful practices i.e. smuggling, corruption and fraudulently misappropriation of huge Govt. funds / amount, which caused a huge loss to the Govt. exchequer as a result he becomes a black dot for the department. Since been Appellant has not deposited the embezzled Govt. amount i.e. a sum of Rs.19,00,000 approximately pertaining to funds of FRP Bannu as well Rs.8,00,000 more or less of FRP D.I.Khan Range are still outstanding against him. He was already convicted by the court concerned in the embezzlement case as below scribed in Para "F" in detail. Proper departmental enquiry was initiated into the allegations leveled against the appellant and Enquiry Officer came to the conclusion that the charges / allegation leveled in the charge sheet stands proved, consequently he was dismissed from service by the competent authority.
- F. In-correct: In-fact appellant was involved in embezzlement case vide PS-ACE Lakki Marwat FIR No.4 dated 02/04/2010 u/s 409/420/5-(ii) PC Act, in which the prosecution had successfully proved the charge against the appellant, consequently he was convicted u/s 409 PPC and was sentenced to suffer 05 years R.I along with a fine of Rs.50,000/-. Appellant was further convicted u/s 420 PPC and sentenced to suffer 05 years R.I along with fine of Rs.50,000/-. He is also further convicted under section 5(2) of PC Act 1947 and was sentenced to suffer 05 years R.I and he was directed to pay a fine of Rs.19,00,000/- i.e. the embezzled Govt. amount vide judgment dated 14-05-2011 announced by Gohar Rehman Special Additional Judge Anti Corruption for southern District Head Quarter Bannu. Appellant after conviction in the above stated case filed revision petition before the Honorable Peshawar High Court Circuit Bench Bannu which was also dismissed vide judgment dated 05-06-2014. (Judgments copy Annex "F" "G")
- G. That if any other grounds will produce at the time of arguments in support of the appellant, respondents may be made objection on the same evidence.




Prayer

Keeping in view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.


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


Commandant FRP,
KPK, Peshawar.
(Respondent No. 2)


Superintendent of Police,
FRP Bannu
(Respondent No.3)

(B)

ORDER:- My this order shall dispose off the inquiry pending against SI/PC Muhammad Ajmal FRP Bannu.

Short facts of the inquiry proceedings were that on 03.10.2009 one Muhammad Shafi father of SI/PC Muhammad Ajmal reported to the local police of PS-Ghoriwala about missing of his son (SI/PC Muhammad Ajmal). The accused official appeared before the local police on 09.10.2009 and disclosed that he was kidnapped from the jurisdiction of PS-Dadiwala District Lakki Marwat. However, the inquiry made revealed that the report was false/ self made-up story and entered just to swallow / misappropriate huge government amount, lying with him in his custody, as a Cashier of FRP Department. Eventually the District Police Officer, Lakki Marwat approached Director Anti Corruption Peshawar for registration of case against the accused official being government servant and involved in embezzlement & entered the report, in order to cover up the loss caused to government exchequer. Resultantly case was registered at PS-ACE Lakki Marwat vide FIR No.4 dated 04/2010 u/s 409/420/5-(ii) PC Act.

From Department side a proper charge sheet was issued and Inspector Muhammad Arif Khan was deputed to delve in the matter in order to unearth the real facts. Inquiry Officer at the same time also directed to recommend the case of accused official for punishment if any deserve or otherwise, within prescribed period, laid down in the law/rules.

The Inquiry Officer after conducting discreet inquiry in the matter, briefly scribed that during the course of inquiry amount of Rs.1972876/- was deposited through receipt Rah Dari No.22/17, dated 21/12/2009, while the rest of amount as per the record speaks that an amount of Rs.1900000/-, the Salary of FRP Personnel's while the other amount Rs.872093/- was received from the office of SP/FRP, D.I.Khan, for the Naurang Sub Division employees. At the end the Enquiry Officer submitted his final finding wherein the accused official was rendered guilty and recommended for entailing major punishment, upon him.

Final Show Cause Notice was issued on 18.06.2010 and served upon the accused official through Superintendent Central Jail Bannu, as presently confined in Jail in another case vide FIR No.07/2010 u/s 9-CNSA of PS-Kakki. Reply of the Final Show Cause Notice was rotated to this office through Superintendent Central Prison Bannu, wherein the accused official totally denied the allegations leveled against him. The accused official was also heard in person but could not satisfy the undersigned.

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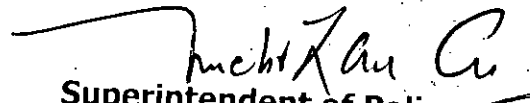
5

In the light of above said discussion the accused official being a member of discipline force & supposed to be custodian of law, has himself committed an offence of misappropriation and thereby caused a huge loss to the Govt: exchequer as a result he becomes a black dot for the Department. His further retention in the Department will further bring bad name to the whole Department.

Therefore, **I, MEHR ZAMAN KHAN**, Superintendent of Police, FRP, Bannu Range, Bannu, competent authority, dismissed the accused official from service with immediate effect.

O.B No: 497

Dated: 22/07/10


Superintendent of Police,
FRP, Bannu.

سرانجامہ لکھنؤ قلمی مرکز میں
 درج ذیل ممبروں کے ناموں پر
 ۱۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۲۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۳۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۴۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۵۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۶۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۷۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۸۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۹۔ ممبرانہ لکھنؤ قلمی مرکز میں
 ۱۰۔ ممبرانہ لکھنؤ قلمی مرکز میں

14-2-10
 14-2-10

دستخط

محمد

اطلاع کے لیے اطلاع دینا کا دستخط ہوگا یا کسی ممبر یا نشان لگا یا جائیگا اور اس پر کتبہ ابتدائی اطلاع کا دستخط ہونا ضروری ہوگا۔
 نوٹ } حروف الفبا پر سرخ روشنائی سے بالفاظ نام ہر ایک ممبر یا ممبر علی الترتیب واسطے یا ممبرانہ لکھنؤ قلمی مرکز میں افغانستان جہاں
 ہوگا سنا جائے۔

To:
 No. B
 Subject M

(E)

ORDER.

My this order shall dispose off the inquiry proceedings pending against one SI/PC FRP namely Muhammad Ajmal S/o Muhammad Shafi R/o Khan zad Mughal Khel, District Bannu.

Short facts of the case were that on prior tip off that a huge cache of Charas to be smuggled towards Takhti Khel side in a white color motor car. SHO Kakki along with other police contingent arranged Nakabandi, forthwith on Kakki Naurang road, near Nar Najeeb. A motor car coming from Nar Shukrullah was signaled to stop but the driver accelerated the car & over due after covering some distance. During search of the vehicle 3000 grams Charas were recovered from the motorcar Dagi. The driver disclosed his name to be Muhammad Ajmal SI/PC FRP, during course of investigation. Case was then accordingly registered against the accused official, at PS-Kakki vide FIR No.7/10 u/s 9 control of Narcotics Substances Act 1997.

On receipt of the information to the Department, accused official was properly charge sheeted, based upon summary of allegations, which is reproduced below as follow.

"That on 14.02.2010, you SI/PC Muhammad Ajmal Khan was arrested by SHO Kakki in case FIR No.7 dated 14.02.2010 u/s 9-CNSA, PS-Kakki, who recovered 3000 grams Charas from your possession, your this act is against the Police Rule & Discipline".

Inspector Muhammad Arif Khan was nominated to properly thrash out the real facts. Inquiry Officer was further directed to also recommend the punishment, if any, deserve by the accused official or otherwise, within the stipulated period.

In response to the charge sheet the accused official totally denied the allegations & reported that it was all done by the SHO with ulterior motive as accused official was not in good term with him, before the present incident.

Discreet inquiry was made & finally in his finding the accused official was reported to be guilty of the allegations leveled, & lastly recommended his case for major punishment to be imposed on accused official, being directly involved in the unlawful activities.

(51)

The accused official since now been in confinement in the Central Prison Bannu therefore the Final Show Cause Notice was served upon him through Superintendent Jail/ Bannu.

The reply forwarded / submitted was gone through but was not found satisfactory. Accused official was also heard in person but in that case too, the undersigned was not satisfied.


The accused official though a discipline force member supposed to at least discourage suchlike activities conversely he himself indulged in the menace practice, thus becomes a black sheep & needs to be kick of from the service.

The accused official being already dismissed from his service in another case of corruption case, wherein a huge Govt. amount was misappropriated.

Keeping in view the above said facts, I, **MEHR ZAMAN KHAN**, Superintendent of Police/FRP, Bannu, do agree with the recommendations of the Enquiry Officer. Therefore in the present case too he (accused official) will also meet with the same nature fate, as the one's passed already in the corruption/misappropriation case.

No. 503

Dated 26/07/2010.


Superintendent of Police,
FRP, Bannu.

IN THE COURT OF GOHAR REHMAN, ADDITIONAL SPECIAL
JUDGE, ANTI-CORRUPTION, SOUTHERN REGION,
HEAD QUARTER AT BANNU.

Case file No. 09/2010.

Date of Institution..... 19-07-2010

Date of Decision..... 14.05.2011

State..... VS.....

1. Muhammad Ajmal Khan s/o Muhammad Shafi r/o Khanzad Mughal
Khel Tehsil & Distt: Bannu (S.I/P.C FRP
Bannu):.....(Accused)

Case FIR No. 04 Dated 02-04-2010 U/Ss: 409/420 PPC
5(2) PC Act of P.S ACE Lakki Marwat.

JUDGMENT:

The accused named above is facing trial in the above mentioned case.

Brief facts of the case are that on 03.10.2009 at 09:15 hours father of accused lodged a report in PS Ghoriwala Distt: Bannu, to the effect that his son Ajmal Khan is serving in FRP as S.I and is posted in Naurang Distt: Lakki Marwat. That on 28.09.2009 his son went to his duty in his motor car but no contact has been made with him since then. That he was searched in PS Naurang where he is posted; but he has not been found. That his son is missing along with motor car and they have no enmity with anyone and did not charge anyone so far.

This report of the father of accused was entered in DD No: 10 dated 03.10.2009 and an inquiry U/S 156 (3) Cr.P.C was initiated and meanwhile the accused himself reached his home on 06.10.2009 and his statement U/S 161 Cr.P.C was recorded on 09.10.2009. In his statement the accused stated that he received a sum of Rs. 24,00,000/- from one Riaz and he was also having a sum of Rs. 30,000/- with him and three persons have forcibly stopped his car and kidnapped him and confined him in a room and his cousin KhairUllah gave Rs. 15,00,000/- to the kidnappers and then they released him near Dherry Kalā Ghoriwala. The accused facing trial also pointed out the place from where he was kidnapped. As the place pointed out by the accused was within the local limits of PS Dadiwala Distt: Lakki Marwat, therefore, the inquiry file with all record was sent to PS Dadiwala Distt: Lakki Marwat for further proceedings. One Khadim Hussain Sub Inspector SHO of PS Dadiwala continued with the inquiry and he came to the conclusion that accused and his father have fabricated a false story about his kidnapping for ransom and the purpose was to embezzle the Govt: money which was in the custody of accused because he was cashier of FRP Bannu. The DPO Lakki Marwat sent a letter No: 177 dated 20.02.2010 which is Ex: Pw4/1 to the Director ACE Peshawar with a request that accused has embezzled huge Govt: amount therefore; he may proceeded under the Anti-Corruption laws.

ATTESTED

Additional Special Judge
Anti Corruption Southern Region

14/5/2011

Additional Special Judge
Anti Corruption, Southern Region
at Bannu

Pi
M/A

Upon the above mentioned letter of DPO Lakki Marwat, the local ACE of District Lakki Marwat started an open inquiry and the C.O submitted his final report which is Ex: Pw4/2 and according to his report the accused has embezzled the Govt: money amounting to Rs. 19,00,000/-. The C.O obtained permission to register the case and thereafter, this case vide FIR Ex: Pw4/3 was registered. After completion of investigation challan Ex: Pw4/4 has been submitted against the accused.

The accused was summoned to face the trial and he was provided copies on 26-07-2010, and was formally charged on 23-08-2010 to which he accused pleaded not guilty and claimed trial. Prosecution was directed to produce its evidence against the accused. Prosecution in support of its case has produced 8 witnesses against the accused. Brief resume of the prosecution evidence is as under:-

PW-1, is the statement of Abdul Sattar Khan Platoon Commander, who conducted an inquiry against the accused and he had stated that accused was posted in FRP as line officer and as well as cashier and he embezzled the salaries of those constables who were absent from their duties and in this regard an amount of Rs. 19,72,876/- of Bannu range and an amount of Rs. 8,72,093/- of D.I.Khan range was in the custody of accused. That during inquiry proceedings the accused deposited the sum of Rs. 72,876/- and his statement was also recorded which is Ex: Pw1/1 and some questions were also put to the accused which is Ex: Pw1/2. After conclusion of inquiry he submitted his report which is Ex: Pw1/3 and the DD No: 05 dated 09.12.2009 of Aslam Khan is Ex: Pw1/4.

PW-2 is the statement of Mehar Zaman SP FRP who stated that accused was posted as S.I/P.C in FRP Bannu and was also holding the charge of cash and his duty was to distribute pay, allowances and T.A to the officials of police personals of Bannu and Lakki Marwat and in this regard the copy of appointment order of accused is Ex: Pw2/1. He also gave the attested copy of register No: 1052 (A) which is Ex: Pw2/2. Letter No. 124 regarding missing and absence of accused is Ex: Pw2/3. He also provided the relevant record to the C.O through his letter No. 693 dated 20.03.2010 which is Ex: Pw2/4.

PW-3 is the statement of Atlas Khan Pay Officer FRP D.I.Khan, who produced Govt: draft No. GD/AO76762 dated 01.06.2009 amounting to Rs. 106,52,600/- remittance of FRP personal for the month of 05.2009, letter no: 114 dated 01.06.2009 of SP FRP. The copy of draft is Ex: Pw3/1 and the letter is Ex: Pw3/2. The confirmation letter No: 1111 dated 18.06.2009 of SP FRP Bannu is Ex: Pw3/3. He further stated that draft and letter Ex: Pw3/2 were received by the accused Ajmal Khan and his signature is available on Ex: Pw3/2. The signature of the accused and a certificate regarding receipt of draft is Ex: Pw3/4. He also placed on record the photocopy of distribution of pay of SP FRP Office Bannu and it also bears the signature of accused and is Ex: Pw3/5 and the photocopy of relevant register is Ex: Pw3/6. He also produced another draft No. GD/A076884 dated 02.07.2009 amounting to Rs.

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748,00,00/- which is Ex:Pw3/7 and receipt is Ex:Pw3/8 and the receipt of office of the SP FRP Bannu dated 03.07.2009 is Ex:Pw3/9. The photocopy of relevant register of SP FRP Bannu bearing the signature of accused is Ex:Pw3/10 and register is Ex:Pw3/11. He also produced the attested copy of form of bank regarding Govt. draft amounting to Rs. 8012,000/- which is Ex:Pw3/12 and the remittance receipt of above mentioned amount is Ex:Pw3/14 and the signature of the accused is Ex:Pw3/13. The receipt of office of SP FRP of above mentioned amount is Ex:Pw3/15 and the register in which the signature of accused is affixed is Ex:Pw3/16 and the attested copy of relevant register is Ex:Pw3/17.

PW-4 is the statement of Aman Ullah Khan C.O who started an inquiry after receiving letter No. 117 of DPO Lakki Marwat which is Ex: Pw4/1. During inquiry he came to know that accused and his father have fabricated a false story of his kidnapping in order to embezzle the Govt. money which was in custody of accused being cashier. That an amount of Rs. 36,20,153/- were with him and during departmental proceedings the accused has deposited a sum of Rs. 17,20,153/- and Rs. 19,00,000/- are still outstanding against the accused. He collected the relevant record from the office of DPO Lakki Marwat and FRP Bannu and Lakki Marwat. After conclusion of inquiry he submitted his final report which is Ex: Pw4/2 and obtained permission to register the case and then registered the case Vide FIR Ex: Pw4/3. He formally arrested the accused who was already in jail in some other criminal case. He issued the card of arrest of accused, recorded his statement and sent him to Judicial Lock up. After completion of investigation he submitted complete challan which is Ex: Pw4/4.

PW-5 is the statement of Shah Sawar Khan (Head Clerk Office of SP FRP Bannu), who produced the register of distribution of salaries of FRP Personals Bannu range. According to this register a sum of Rs. 3457287/-, 3557076/-, 3357740/-, 3306140/-, 7229864/- & 4963227/- were paid to the accused in respect of salaries of personals of FRP for the months of January 2009 to June 2009 respectively. The accused also put his signatures in the relevant column of register as a token of receipt of above mentioned amount. The relevant pages of the register is Ex: Pw5/1 to Ex: Pw5/6 respectively. The accused also gave the receipt regarding receiving of the above mentioned amount for each month and these receipts are Ex:Pw5/7 to Ex:Pw5/12 respectively.

PW-6 is the statement of Muhammad Aslam S.I, who was posted as cashier in place of accused Ajmal and he assumed the charge on 22.12.2009 and entered his arrival in DD No: 06 dated 22.12.2009 the copy of which is Ex:Pw6/1. He also took Cabz-Ul-Wasool for the months of January to June 2009 in his charge the copies of which are Ex: Pw6/2 to Ex:Pw6/7 respectively.

PW-7 is the statement of Salahud Din Moharrir, who entered the report of father of accused in DD No: 10 dated 03.10.2009. The attested copy of DD No: 10 is Ex:Pw7/1. The inquiry conducted by Muhammad

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S.I. even otherwise the documents produced by the prosecution bear the signature of accused in English and this fact also shows that accused is literate. Hence the objection of accused about his illiteracy and that he was not performing his duties as cashier is without any merit.

The father of accused has lodged a report about his missing in DD No:10 dated 03.10.2009 in PS Choriwala Distt: Bannu and scribe of this report has appeared as PW-7. When the accused appeared and recorded his statement U/S 161 Cr.P.C he pointed out the place of occurrence which was situated in the limits of PS Dadiwala Distt: Lakki Marwat. The inquiry file was sent to PS Dadiwala and SHO Khadim Hussain continued with the inquiry and he came to the conclusion that accused and his father have fabricated a false story about his kidnapping and no such occurrence has taken place and their purpose was to embezzle the Govt: amount which was in the custody of accused being cashier of FRP. The final report of SHO Khadim Hussain is available on the file as Ex:Pw7/3. This PW was not cross-examined by the accused although an opportunity was given to his counsel. It may be pointed out here that accused during his statement recorded U/S 342 Cr.P.C has shown his ignorance that his father has lodged any report about his missing. And on the other hand the scribe of the report of father of accused was not cross-examined thus the statement of PW-7 has gone un-rebutted and the facts mentioned by PW-7 are supposed to have been admitted as true. The accused has also not challenged the findings of SHO Khadim Hussain in which he has stated that the story of his kidnapping for ransom was false and fabricated. Thus the prosecution has succeeded to prove that the father of accused has lodged the report about his missing which was found untrue.

Now the question is that whether the accused was having a sum of Rs. 36,20,153/- in his custody and he has embezzled this amount but deposited Rs. 17,20,153/- during departmental inquiry. PW-1 has also conducted a departmental inquiry against the accused and he has stated that a sum of Rs. 19,72,876/- of Bannu range and Rs. 8,72,093/- of D.I.Khan range were in the custody of accused and during the inquiry proceedings he deposited a sum of Rs. 72,876/- in Govt: treasury. The inquiry report of this PW is available on the record as Ex:Pw1/3 in which the details of all the amounts have been given. PW-2 has produced the register No. 1052 (A) as Ex:Pw2/2 and perusal of it shows that an amount of Rs. 36,20,153/- were in the custody of accused and it also bears the signature of accused. The most important statement is of PW-6 who was posted as cashier in place of accused and he took the Qabz UI Wasool for the months of January to June 2009 in his charge and the copies of these Qabz UI Wasool are available on the file as Ex:Pw6/2 to Ex:Pw6/7. In each Qabz UI Wasool the outstanding amount has been mentioned and the total amount comes to Rs. 19,00,000/- and the prosecution has also alleged that accused has embezzled a sum of Rs. 19,00,000/- Ex: Pw6/2 to Ex:Pw6/7 bear the signature of accused as well as of PW-6. The depositing of some amount by the accused during departmental proceedings is also another proof that accused was having the

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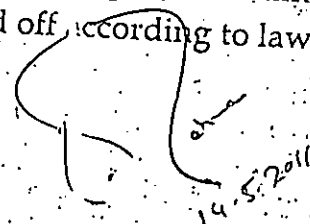
Govt: amount in his custody. Ex:Pw2/2 also supports the contentions of PW-6 a. according to Ex:Pw2/2 an amount of Rs. 36,20,153/- were with the accused.

The nutshell of the above discussion is that prosecution has successfully proved that an amount of Rs. 36,20,153/- were in the possession of accused and out of this amount he has deposited Rs. 17,20,153/- during departmental proceedings and still Rs. 19,00,000/- are outstanding against him. The prosecution has successfully discharged its burden and the accused has failed to point out any material contradiction in the statements of prosecution witnesses. The prosecution has succeeded to prove its charge against the accused. Therefore the accused facing trial namely Muhammad Ajmal Khan s/o Muhammad Shafi is convicted U/S 409 PPC and is sentenced to suffer 05 years R.I alongwith a fine of Rs. 50,000/- in default of payment of fine he will undergo simple imprisonment for a period of 06 months. He is further convicted U/S 420 PPC and is sentenced to suffer 05 years R.I alongwith a fine of Rs. 50,000/- in default of payment of fine he will undergo simple imprisonment for a period of 06 months. He is further convicted under Section 5(2) of PC Act 1947 and is sentenced to suffer 05 years R.I and he is directed to pay a fine of Rs. 19,00,000/- i.e, the embezzled amount and in default of payment of fine he will undergo simple imprisonment for a period of 06 months and this fine would be recoverable as arrears of land revenue. All these sentences shall run concurrently and the benefit of section 382-B Cr.P.C is extended to the accused. The accused is present in custody and is sent back to jail along with warrant to serve out his remaining sentence.

Case property be kept intact till the expiry of period of limitation of appeal / revision etc, and thereafter be disposed off according to law.

Announced

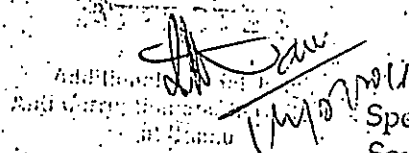
14.05.2011



(Gohar Rehman)
Special Addl: Judge Anti-Corruption for
Southern District Head Quarter Bannu.

CERTIFICATE.

It is hereby certified that this judgment consists of Six pages and each page has been read and checked and necessary corrections are been made by me.



(Gohar Rehman)
Special Addl: Judge Anti-Corruption for
Southern District Head Quarter Bannu.

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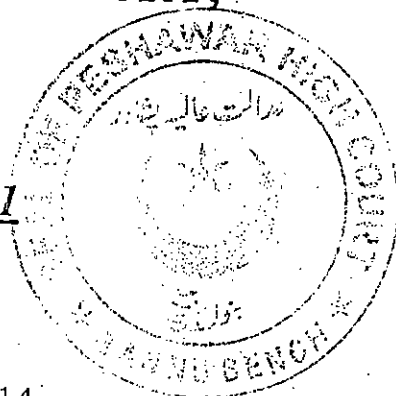
JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
BANNU BENCH.

(Judicial Department)

Cr. R No. 13-B of 2011

JUDGMENT



Date of hearing 05.06.2014

Appellant-Petitioner State By Badrullah
Muhammad Grandpur Dist. A-9

Respondent Muhammad Ajmal Khan
By Anwarul Haq Adv.

MUHAMMAD DAUD KHAN, J.- For the reasons recorded in the common judgment of the even date, placed in connected Cr. A No .19-B of 2011, titled "Muhammad Ajmal Khan Vs The State etc.", this criminal Revision petition stands dismissed.

Announced
05.06.2014.

self Muhammad Daud Khan

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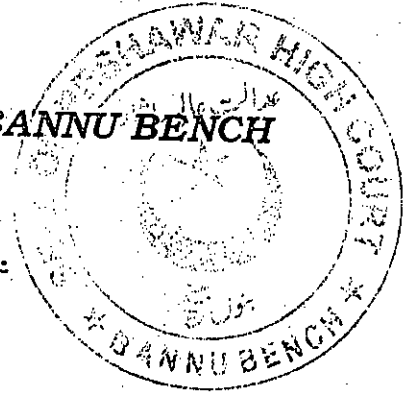
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12/11/14

Peshawar High Court Bannu Bench
Authorized under Article 87 of
The Constitution of Pakistan Order 1984

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH
(Judicial Department)

Cr. Appeal No.19-B of 2011.



JUDGMENT

Date of hearing 05-06-2014.

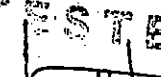
Appellant-Petitioner Muhammad Ajmal Khan & Muhammad Shafi by Anwar-ul-Haq Adv.

Respondent By Rudratullah Khan
Gandapur Asst. A.G.

MUHAMMAD DAUD KHAN, J.- Appellant

Muhammad Ajmal Khan has called in question the judgment of learned Additional Special Judge Anti-Corruption, South Region Head Quarter at Bannu, dated 14.05.2011, whereby he has been convicted and sentenced as under:-

- i) Under section 409 PPC sentenced to 5 years RI, with fine of Rs. 50,000/-, in default thereof to undergo six month SI.

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EXAMINER
Peshawar High Court,
Bannu Bench

- ii) Under section 420 PPC sentenced to 5 years R.I, with fine of Rs. 50,000/-, in default thereof to undergo six month SI.
- iii) Under section 5(2) of PC Act, 1947 PPC sentenced to 5 years R.I, with fine of Rs. 19 lacs, in default thereof to undergo six month SI and the fine will be recovered by as arrears of land revenue. .

All the sentences shall run concurrently.

Benefit of section 382-B PPC, was also extended.

As against that State has also filed Cr. R No. 13-B of 2011 for enhancement of sentence of the appellant.

As both, appeal as well as criminal revision emanate from the same judgment of trial court,

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EXAMINER
Peshawar High Court,
Bannu Bench

therefore, these are being disposed of by way of this single judgment.

2. The prosecution case as narrated in the F.I.R is that Muhammad Shafi, father of the appellant reported the matter to the local police of Police Station Ghoriwala on 03.10.2009 to the effect that his son Muhammad Ajmal Khan, serving in FRP as S.I was posted at Police Station Naurang. On 28.09.2009, he left his house for duty in his motorcar and since then no contact was made with him. The said report was entered in daily diary No.10 dated 03.10.2009 and inquiry under section 156(3) Cr.P.C was initiated. On 06.10.2009 the appellant reached to his house and his statement under section 161 Cr.P.C was recorded by the Inquiry officer on 09.10.2009. According to his statement he was having Rs.30,000/- with him and received Rs.24,00,000/- from one Riaz. When he was proceeding to D.I.Khan reached at Peshawar Highway road near the

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EXAMINER
Peshawar High Court,
Bannu Bench

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11. By now, it is settled law, that it is prerogative of prosecution to produce witness of its choice. It is the quality and not the quantity of evidence, which determines the fate of the case. If the evidence of single witness is truthful, trustworthy, coherent and confidence inspiring it is sufficient for conviction of accused. In the instant case, prosecution recorded statements of inquiry officers, investigation officers of ACE and FRP department, where the convict/ appellant was serving, all the statements corroborate each other. Above all, the documentary evidence produced against the convict/ appellant also supplements the prosecution case. The prosecution has successfully proved its case and has brought home guilt to the accused.

12. In view of above, there is no doubt that the charge against the appellant has been proved beyond any shadow of doubt and he has rightly been convicted for the offence.

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EXAMINER
Peshawar High Court.
Bannu Bench

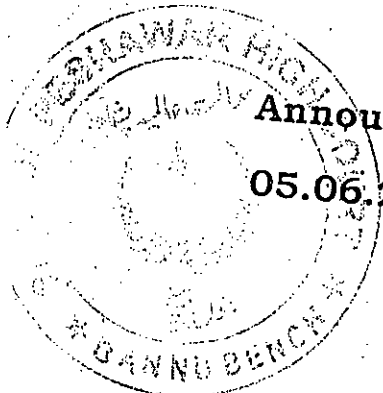
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13. So far as the quantum of sentence is concerned, suffice it to say that in peculiar facts and circumstances of the case, the sentence awarded to the appellant by the learned trial court is quite reasonable. The learned Asstt. A.G was unable to justify enhancement in the sentence awarded to the appellant.

14. For the reasons discussed above, the judgment of the learned trial Court being based on correct appreciation of evidence does not call for any interference. Resultantly, the appeal as well as criminal revision being devoid of substance are hereby dismissed.

Announced.
05.06.2014

sd/ Muhammad Dawud Khan J



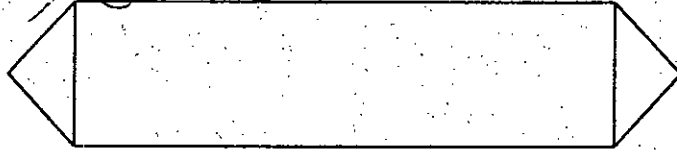
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12/11/14
11/14

Peshawar High Court Bannu Bench
Authorized Under Article 87 of
The Qanun-e-Shanadat Order 1984

ABD
28/11/14

S.No - 2688
Date of Presentation of Application - 06-05-14
No of Pages - 18 P
Urgent Fee - /
Total - 36/-
Date of Proceeding - 10-11-14
Date Given - 11-14
12-11-14
W/1914



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2014ء منجانب اہل خانہ
اہل خانہ بنام محکمہ پبلک سروس

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام اسپتال اور کیلئے فضل شاہ عینہ ایڈووکیٹ ایسوسی ایٹس لڈ کے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 16 ماہ جولائی 2014

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

Accepted

(Signature)