

S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	01.06.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.245/2015</p> <p style="text-align: center;">(Syed Farid Shah-vs-Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH , MEMBER:</u></p> <p>Appellant with counsel (Mr. Fazal Shah Mohmand, Advocate) and Hayat Muhammad, Reader alongwith Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Appointed as Police Constable in the year 1985, the appellant was stated to be Inspector Incharge Investigation, at Police Station Daudzai, Peshawar. That he was departmentally proceeded against and show cause notice was issued to him by CCP Peshawar containing the following charge:-</p> <p>“During re-investigation conducted by Investigation Branch of CPO you were held responsible for defective investigation in case FIR No. 517 dated 05.11.2013 u/s 302/324/427/34 PPC P Daudzai as a result of which the court granted bail to the accused Misal Khan etc who were charged by complainant Mumtaz Ahmad for the murder of his daughter Mst: Seema and injured daughter-in-law (Aiman). Besides, Taxi driver who was later-on identified as Kamran r/o Hayatabad was also killed in the incident.</p> <p>You neither obtained CDR of both the deceased and</p>

accused nor sent the recovered empties and damaged car to FSL for analysis and thus spoiled the cases.”

The appellant he submitted his reply to this show cause notice. However, CCP Peshawar vide his order dated 27.10.2014 reduced him to the rank of Sub-Inspector and his departmental appeal was also rejected vide order dated 25.02.2015, hence this appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal, 1974.

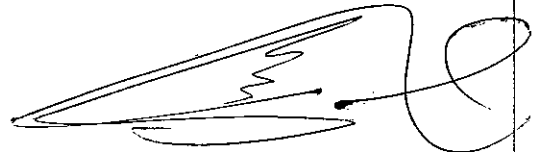
3. Arguments heard and record perused.

4. Evidently, no charge sheet was issued to the appellant nor any regular enquiry was conducted in the case. Charge against the appellant is that he conducted poor investigation in case vide FIR No. 517 dated 05.11.2013 when he neither obtained CDR of both the deceased and accused nor sent the recovered empties and damaged car to FSL. The appellant in his reply has denied the allegations. According to him S.I.Naseem Akbar Incharge of the P.S Naguman, at the first instance had reached on the spot and no Mobile was recovered from the deceased nor the accused were arrested on the spot, therefore the question of CDR does not arise. That the empties were not sent to the Laboratory for the reason as weapon of offence was not recovered/available and the motor car was got examined from the Arms experts as well as Mechanic and all the case property was duly secured. On record, there is no judgment or order of the Court or any finding of the officer who had re-investigated the case, to show as to whether investigation by the appellant infact was poor and faulty and that it was the same poor and faulty investigation which turned out to be the cause of damaging the case The above factual position in view, this cannot be denied also that no time limit has been prescribed in the impugned orders for imposition of penalty of reduction in rank awarded to the appellant which is a conflicting situation with FR.29. For the said reasons in brief, the Tribunal is of the

considered opinion that ample opportunity of defense has not been provided to the appellant for which reason the impugned orders cannot be maintained. Consequently, the impugned orders dated 27.10.2014 and dated 25.02.2015 are set aside and appellant reinstated to the status of his substantive rank before he was reduced to the rank of Sub-Inspector. However, if the department deems proper, *de-novo* proceedings may be started against the appellant in which full opportunity of defense and hearing be provided to him. Appeal is allowed in the above terms. Parties are left to bear their own cost. File be consigned to the record room.



(ABDUL LATIF)
MEMBER



(PIR BAKHSH SHAH)
MEMBER

ANNOUNCED
01.06.2016

02.12.2015

Counsel for the appellant and Mr. Aziz Shah, Head Constable alongwith Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Therefore, the case is adjourned to 11.4.16 for arguments.



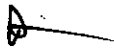
Member



Member

11.04.2016

Appellant with counsel (Mr. Fazal Shah Mohmand, Advocate) and Mr. Hayat Muhammad, Reader alongwith Mr. Muhammad Jan, GP for respondents present. From perusal of the record it found that subsequently investigation made in the FIR under description by Crime Branch which is not available on record similarly court order on the bail application of the accused is also not available on the record. The respondent-department is directed to produce the same. To come up for such record and order on 4-5-16



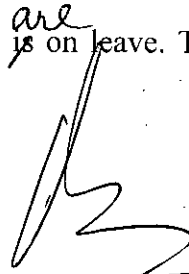
Member



Member

04.05.2016

Counsel for the appellant and Mr. Usman Ghani, Sr.GP for respondents present. Order could not be announced due to Learned Member (Executive) ^{are} is on leave. To come up for order on 01.06.2016.



Member

3 31.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Inspector when subjected to inquiry for inefficiently conducting a criminal case registered vide FIR No. 517 dated 5.11.2013 registered under sections 302/324/34 PPC PS Daudzai and that vide impugned order dated 27.10.2014 he was reverted from the post of inspector to Sub-Inspector. That he preferred departmental appeal against the said order on 5.11.2014 which was rejected on 25.2.2015 and hence the present service appeal on 24.3.2015.

That no proper charge sheet was issued nor inquiry conducted in the prescribe manners.

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 for 24.6.2015 before S.B.

Appellant Reinstated
Security & Process Fee




Chairman

4 24.06.2015

Counsel for the appellant and Mr. Hayat Muhammad, Reader to DSP alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.9.2015 before S.B.


Chairman

5 01.09.2015

Appellant in person and Mr. Muhammad Hayat, Reader to DSP alongwith Assistant A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 2.12.2015.



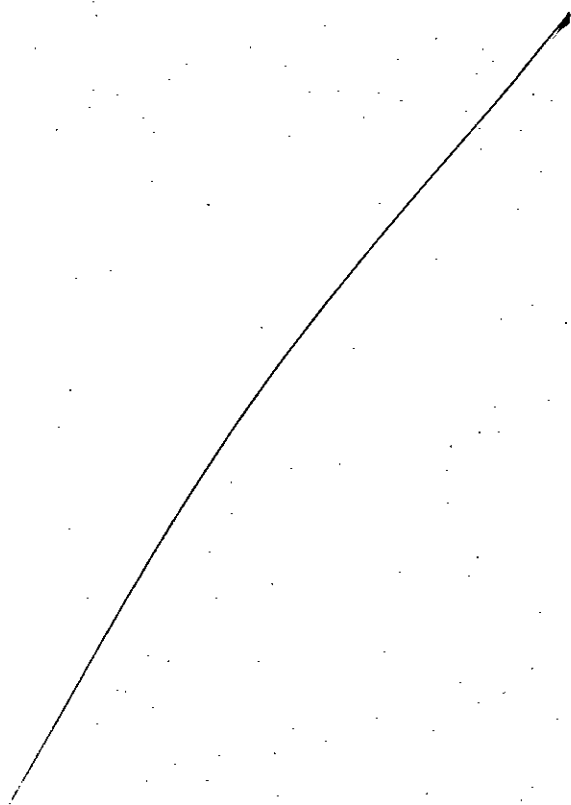

Chairman

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Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 245 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.03.2015	<p>The appeal of Syed Farid Shah presented today by Mr. Fazal Shah Mohmand 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	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>30-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 245 /2015

Syed Farid Shah.....Appellant

V E R S U S

PPO & Others.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-8
2.	Copy of FIR with better copy	"A"	9
3.	Copies of the statement of aforesaid PWs alongwith better copies	"B", "C", & "D"	10-13
4.	Copy of show cause notice, reply as well as suspension order	"E", "F" & "G"	14-17
5.	Copy of the order	"H"	18
6.	Copy of departmental appeal	"I"	19-23
7.	Copy of the order	"J"	24
8.	Copy of FSL report	"K"	25
9.	Wakalat Nama		26

Syed Farid Shah
Appellant

Dated:- 20-03-2015

Through

Ataullah Khan
Ataullah Khan

&

Fazal Shah Mohmand
Fazal Shah Mohmand,
Advocates, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar
Cell# 0301 8804841

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 245 /2015

Syed Farid Shah Sub-Inspector, CTD, Peshawar R/o Akra Pura,
District Nowshera.....Appellant

V E R S U S

1. Provincial Police Officer KPK Peshawar.

2. Capital City Police Officer Peshawar.

.....Respondents

**A.W.P. Province
Service Tribunal**

Diary No 252

Dated 24-3-15

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 25-02-2015 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL
OF THE APPELLANT FILED AGAINST THE ORDER DATED 27-
10-2014 OF RESPONDENT NO 2 HAS BEEN REJECTED/FILED.**

PRAYER:-

On acceptance of this appeal the impugned order dated 25-02-2015 of respondent No 1 and Order dated 27-10-2014 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be restored to his original rank of Inspector with all back benefits.

Respectfully Submitted:-

1. That the appellant joined Police Department as constable in the year 1985 and after qualifying/passing of lower and intermediate course was promoted as ASI in the year, 2008.

2. That the appellant was then selected for upper class course, which he qualified successfully and brought on promotion list 'F'.

Filed to-
24/3/15

[Signature]
24/3/15

3. That the appellant was thereafter promoted as inspector in the year, 2011.
4. That in the year, 2013, the appellant was posted as Incharge Investigation at Police Station Daudzai, Peshawar, where after registration of case FIR No 517, dated 05/11/2013, u/s 302/324/34 P.P.C, Police Station Daudzai, he was deputed for conducting investigation of the said case. **(Copy of FIR with better copy attached as annexure "A")**.
5. That according to the lodger of FIR namely Naseem Akbar SI Incharge Police Post Naguman Police Station Daudzai, he received information on 05/11/2013 during Gasht at about 12:45 hrs that some unknown culprits have fired upon a motorcar No 0098/LHO in limits of village Kareri on road side wherein the passengers present in the motorcar have been murdered. On receipt of this information he alongwith police party reached to the spot where he found that the unknown driver of car and a lady were lying murdered whereas it came to his knowledge that a minor injured girl has already been taken by the inhabitants of the area to the LRH, Peshawar for medical treatment. From the personal search of driver he recovered his CNIC. Meanwhile, Mumtaz Ahmad S/o Sharaf Ud Din R/o Afghan Colony, arrived to the spot and reported that deceased Mst: Seema Ahmad who had been married to one Misal Khan had some grudges and on account of said ill will, he committed the said incident and charged the said Misal Khan for the commission of offence. Accordingly the

mentioned case registered against the said Misal Khan and his other unknown accomplices.

6. That on receipt of the said FIR the appellant was deputed for investigation of the case, who properly conducted investigation of the case, honestly and fairly.
7. That during course of investigation, the complainant Mumtaz Ahmad PW Bilal Ahmad S/o Mumtaz Ahmad and Shiraz Ahmad S/o Mumtaz Ahmed gave supplementary statements wherein they charged some other accused namely Hazrat Khan, Munawar Khan and Khaista Rehman besides Misal Khan, who had already been charged in the FIR in their statements recorded u/s 164 Cr.P.C. **(Copies of the statement of aforesaid PWs alongwith better copies are attached as annexure "B", "C", & "D")**.
8. That appellant tried his best level by conducting so many raids at houses as well as suspected abodes of accused, but they had already gone into hiding and there was no likelihood of their arrest, therefore, they were proceeded against 204 and 87 Cr.P.C.
9. That meanwhile, the appellant was transferred from Police Station Daudzai and investigation was entrusted to his predecessor namely Hamdullah Khan SI.
10. That later on the case was transferred for reinvestigation to Crime Branch CPO on the request of complainant party.

11. That on the conclusion of the investigation Crime Branch made a complaint to respondent No 1 that the appellant during the course of investigation did not obtain CDR of the deceased as well as of the accused, with further charge that the appellant had not sent the received empties and motorcar mentioned above to the FSL analysis and opinion and thus spoiled the case.
12. That on the basis of said complaint respondent No 1 directed respondent No 2 to proceed against the appellant departmentally.
13. That respondent No 2 on receipt of said directions from respondent No 1 issued Show Cause Notice on the same charges to the appellant and also suspended the appellant vide order dated 24/09/2014. The appellant replied the show cause notice. **(Copy of show cause notice, reply as well as suspension order are attached as annexure "E", "F & "G")**
14. That respondent No 2 without observing legal formalities to carryout departmental inquiry against the appellant awarded him punishment of reversion from rank of inspector to that of SI vide order dated 27/10/2014. **(Copy of the order is attached as annexure "H").**
15. That the appellant filed departmental appeal against the aforesaid impugned order before respondent No 1. **(Copy of departmental appeal is attached as annexure "I").**

16. That respondent No 1 without any legal formalities, personal hearing of the appellant filed his appeal vide order dated 25/02/2015. **(Copy of the order is attached as annexure "J")**.
17. That the impugned order dated 25/02/2015 of the respondent No 1 and order dated 27/10/2014 of respondent No 2 are against the law, facts and principals of justice on ground inter alia as follows:-

G R O U N D S :-

- A. That the impugned orders are illegal and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and the appellant did nothing that amounts to misconduct.
- C. That no inquiry was conducted to find out the true facts and circumstances, and prove or disprove the allegations against the appellant.
- D. That no charge sheet/summary of allegation was communicated to the appellant.
- E. That the impugned orders are not speaking order and thus not tenable in the eyes of law.

- F. That there is no mention of law under which the proceedings were carried out or the impugned orders were passed.
- G. That the appellant was not provided the opportunity of personal hearing and the impugned order is defective as well.
- H. That the appellant had already sent the motorcar which was fired upon by the accused to the FSL for the determination of holes present on the car. The result of which was received in positive. **(Copy of FSL report is attached as annexure "K")**. Whereas regards non sending of crime empties to the FSL is concerned to the appellant had already sealed the same in a parcel and were kept in safe custody in Police Station Mal Khana, to be sent after the recovery of weapon of offence if the absconding accused are arrested and weapon recovered from their possession or at their instance.
- I. That as regards allegations regarding the non obtaining of CDR is concerned, in this regard it is submitted that neither the deceased had in possession of any mobile set nor any mobile number was registered in their names. Similarly during the process of investigation conducted so far by appellant, the accused were absconding therefore, the appellant was not able to obtain the CDR, either of the deceased or of the absconding accused.
- J. That the allegations against the appellant are totally false, frivolous and baseless.

K. That the appellant have spotless career spanning about 30 years with clean record and have always earned excellent ACRs throughout his service career.

L. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.


Dated:- 20-03-2015

Through


Appellant


Ataulah Khan

&


Fazal Shah Mohmand,
Advocates, Peshawar

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2015

Syed Farid Shah.....Appellant

V E R S U S

PPO & Others.....Respondents

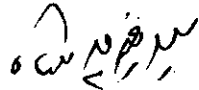
A F F I D A V I T

I, Syed Farid Shah Sub-Inspector, CTD, Peshawar R/o Akra Pura, District Nowshera, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

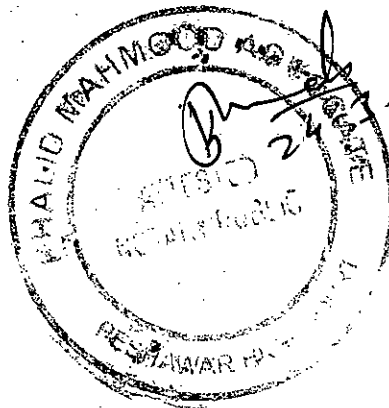
Identified by



**Ataullah Khan
Advocate Peshawar**



DEPONENT



اسے فٹو لین سماہ بیاد اور دھنر شمار احمد اور کافران ولد تیر باز کیسی نہ انہی سلکنہ ہا سنا بنا ولیم
 فالون کے اغذات فرگ تیار کر کے کوزوں کو تیار کر کے ہر صفا کھنسل دو پیر آئی کھنسل
 کھنسل کے لیے ہیکہ لفلکہ اعلیٰ جو RH ایسا دھنر جو ان کے کھنسل فرورین کے خلیق ایجان
 کی لئی RH کو پیر این کی لئی لکھن بلور سے صورت فرورین پائی جا کر جو انہ لکھن لکھن لکھن لکھن لکھن
 نام یہ کسی لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن لکھن
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Miss P. S. D. 700
 5-11-013
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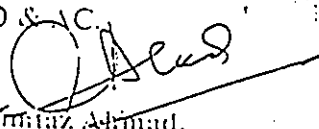
اطلاع کے لیے اطلاع دیندہ کا ترجمہ دیا گیا اس کی تہہ یا نشان لگایا جائے گا اور اسے تحریر کر کے ابتدائی اطلاع کا ترجمہ بطور تصدیق لکھ کر اس کے سرخ و نشانی سے اتنا مل نام
 ایک لکھن یا شہر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں دوزوں ہوں لکھنا چاہئے۔

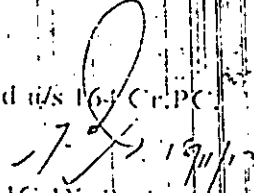
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B/10

Statement of Mumtaz Ahmad son of Sharaf-Din, aged about 69 years, resident of Afghan Colony, St. No.9, Peshawar on oath.

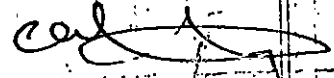
I am complainant in case FIR No. 517 dated 5/11/13 u/s 302/324/34/427 PPC, PS. Daudzai, in which I have charged my son-in-law Misal Khan son of Rokhan alongwith unknown accused for the murder of my daughter Mst. Seema Ahmad and taxi driver Kamran son of Sher Baz and also firing ^{made on} my grand daughter Mst. Aiman aged about 2 years effectively. I was in search of unknown accused and after due satisfaction came to know that the names of the said unknown accused are Hazrat Khan, Munawar Khan sons of Rokhan residents of Saeed Abad No.1 and Khaista Rahman son of Ghaniur Rahman. Hence beside accused Misal Khan I also charge the above mentioned three accused for the commission of the offence.

RO & J.C.

Mumtaz Ahmad.
NIC No. 17301-4787146-7.

Certified u/s 163 Cr.P.C.

Judge: MHC-IX, Peshawar.
Dated: - 18/11/13.

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Attested

Ad

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Statement of Bilal Ahmad son of Muntaz Ahmad, aged about 30 years, resident of Afghan Colony, Street No.9, Peshawar on oath.

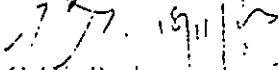
My sister Mst. Seema Ahmad, taxi driver Kamran were murdered and Mst. Aiman aged about 2 years daughter of my deceased sister was fired at effectively on 5/11/13 and the report to this effect was made by my father Muntaz Ahmad against Misal Khan son of Rokhan husband of my deceased sister along with other unknown accused. We were in search of unknown accused and after due satisfaction came to know that the names of unknown accused are Hazrat Khan, Munawar Khan sons of Rokhan, residents of Saheed Abad No. 1 and Khaista Rahman son of Ghaniur Rahman. Hence I charge all the aforesaid accused for the commission of the offence.

RO & AC,


Bilal Ahmad.

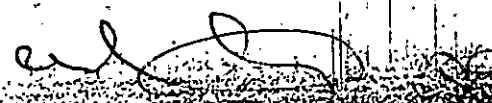
NIC No. 17301-2110595-7.

Certified as 164 Cr.P.C.


Judl: MIC-IX, Peshawar.

Dated: - 18/11/13.



Attested


Statement of Bilal Ahmad son of Mumtaz Ahmad, aged about 30 years. resident of Afghan Colony, St. No.9. Peshawar on oath.

My sister Mst. Seema Ahmad, taxi driver Kamran were murdered and Mst. Aiman aged about 2 years daughter of my deceased sister was fired at effectively on 5/11/13 and the report to this effect was made by my father Mumtaz/Ahmad against Misal Khan son of Rokhan husband of my deceased sister alongwith other unknown accused. We were in search of unknown accused after due satisfaction came to know that the names of unknown accused are Hazrat Khan. Munawar Khan sons of Rokhan, residents of Saeed sick No.1 and Khaista Rahman son of Ghaniur Rahman. Hence I charge all the aforesaid accused for the commission of the offence.

RO & AC.

xxSdxx

Bilal Ahmad.

NIC No. 17301-2110595-7

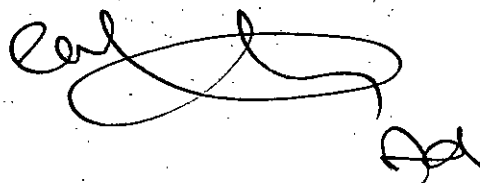
Certified u/s 164 Cr.PC.

xxSdxx 18/11/13

Judl: MIC-IN, Peshawar.

Date: 18/11/13

Attested



12/A

Statement of Shiraz Ahmad son of Mumtaz Ahmad, aged about 28 years, resident of Afghan Colony, Street No.9, Peshawar on oath.

My sister Mst. Seema Ahmad, taxi driver Kamran were murdered and Mst. Aiman aged about 2 years daughter of my deceased sister was fired at effectively on 5/11/13 and the report to this effect was made by my father Mumtaz Ahmad against Misal Khan son of Rokhan husband of my deceased sister alongwith other unknown accused. We were in search of unknown accused and after due satisfaction came to know that the names of unknown accused are Hazrat Khan, Munawar Khan sons of Rokhan, residents of Saeed Abad No. 1 and Khaista Rahman son of Ghaniur Rahman. Hence I charge all the aforesaid accused for the commission of the offence.

RO & AC.

Shiraz Ahmad
Shiraz Ahmad.

NIC No. 17301-93-48995-3.

Certified u/s 164 Cr.P.C.

18/11/13
Judl: MIC-IX, Peshawar.

Dated: - 18/11/13.

Attested

[Signature]

[Signature]

D
12

Statement of Shiraz Ahmad son of Mumtaz Ahmad, aged about 28 years. resident of Afghan Colony, St. No.9. Peshawar on oath.

My sister Mst. Seema Ahmad, taxi driver Kamran were murdered and Mst. Aiman aged about 2 years daughter of my deceased sister was fired at effectively on 5/11/13 and the report to this effect was made by my father Mumtaz Ahmad against Misal Khan son of Rokhan husband of my deceased sister alongwith other unknown accuse. We were in search of unknown accused and after due satisfaction came to know that the names of unknown accused are Hazrat Khan, Munawar Khan sons of Rokhan, residents of Saeed Abad No.1 and Khaista Rahman son of Ghaniur Rahman. Hence I charge all the aforesaid accused for the commission of the offence.

RO & AC.

xxSdxx

Shiraz Ahmad.

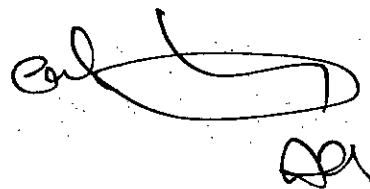
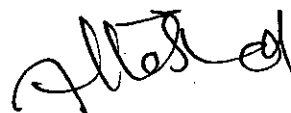
NIC No. 17301-9348995-3

Certified u/s 164 Cr.PC.

xxSdxx 18/11/13

Judl: MIC-IN, Peshawar.

Date: 18/11/13



Statement of Sher Baz son of Khattar
resident of Labour Colony, Nagat Abad,
Peshawar on oath.

91
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Deceased Karan was my son. He used to ply
his motor car No. 0094 LHO, Alto of red colour, as taxi.
On the day of I was informed that my son Karan along with a
lady had been murdered by some unknown persons at Nagat Abad.
The report about the occurrence was made to the police by
Munawar Khan father of the said lady which was testified to
by my son Karan. On receiving the information I came to my
house and after carrying the dead body of my son I reported the
search of the accused, and after the investigation came to know
that my son has been murdered by accused Munawar Khan, Munawar
Khan, Munawar Khan sons of Khatkar, resident of Nagat Abad,
at present Saced Shad No. 1, Peshawar and Mustafa Khan son of
unknown, resident of Dar Jagunan, Lathi Karoonka, House 1
charge all the aforesaid four accused for the murder of
son Karan.

RO. J. AC
Sher Baz

Certified by
Sd/-
Sd/-

REC No. 1721-439504-1. Date: -

مردم کو برکت و برکت
مردم کو برکت و برکت
مردم کو برکت و برکت

سید عبدالغفار
Sd/-

Attested
all
for

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Statement of Sher Baz son of Khansher, aged about 54/55 years resident of Labour Colony, Hayat Abad, House No. H-195, Peshawar on oath.

Deceased Kamran was my son he used to play his motor car No. 0098 LHC, Alto of red colour as Taxi. On the Day of I was informed that my son Kamran alongwith a lady has been murdered by some unknown accused at kareri. the report about the occurrence was made to the police by Mumtaz Ahmad father of the said lady which was testified sick by my son Imran, on receiving the information I came to my house and after burying the dead body of my son I sick search of the accused. And after due satisfaction sick that my son has been murdered by accused Mumtaz Khan, Munawar Khan sons of Rokhan, resident of sick at present Saeed Abad No.1, Peshawar and Khaista Rahman son of unknown, resident of Dag sick, Lachi Koroona, sick sick all the aforesaid four accused for murder of my son Kamran.

RO & AC.

xxSdxx

Sher Baz.

NIC No. 17301-sick

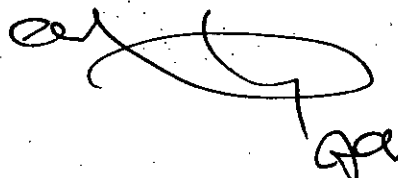
Certified u/s 164 Cr.PC.

xxSdxx 18/11/13

Judl: MIC-IN, Peshawar.

Date: 18/11/13

Attested

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ORDER.

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In compliance of W/IGP-KPK direction vide letter No. 14736-41/PPO, dated 16.9.2014 Inspector. Farid Shah of CCP now CTD is hereby placed under suspension for his defective investigation in case FIR No. 517 dated 5.11.2013 u/s 302/324/427/34 PPC PS Daudzai.

2. Show Cause Notice is being issued to him separately.

**CAPITAL CITY POLICE OFFICER,
PESHAWAR**

No. 1857-66/PA dated Peshawar the

24/9/2014.

Copies for inf: and n/a to the:-

1. Inspector General of Police, KPK, Peshawar w/r to above cited reference.
2. Addl: Inspector General of Police, Investigation, KPK, Peshawar.
3. DIG/E & I, KPK, Peshawar.
4. DIG/CTD, KPK, Peshawar.
5. AIG/Establishment, KPK, Peshawar.
6. PSO to IGP-KPK, Peshawar.
7. SSP-Inv: Peshawar.
8. EC-I-II/AS

Attested
and

F
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SHOW CAUSE NOTICE

(Under Rules 5 (3) KPK Police Rules, 1975)




1. That you Inspector Farid Shah while posted as I.O. P.S Daudzai now CTD, Peshawar have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct:

During re-investigation conducted by Investigation Branch of CPO you were held responsible for defective investigation in case FIR No. 517 dated 5.11.2013 u/s 302/324/427/34 PPC PS Daudzai as a result of which the court granted bail to the accused Misal Khan etc who were charged by complainant Mumtaz Ahmad for the murder of his daughter Mst: Seema and injured daughter-in-law (Aiman). Besides, Taxi driver who was later-on identified as Kamran r/o Hayatabad was also killed in the incident. You neither obtained CDR of both the deceased and accused nor sent the recovered empties and damaged car to FSL for analysis and thus spoiled the case.

2. That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.
3. That the misconduct on your part is prejudicial to good order of discipline in the Police Force.
4. That your retention in the police force will amount to encourage in efficient and unbecoming of good Police officer.
5. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.
6. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
7. You are further directed to inform the undersigned that you wish to be heard in person or not.


CAPITAL CITY POLICE OFFICER,
PESHAWAR

No. _____/PA, dated: _____/_____/2014.

بحوالہ شوکانہ نوٹس نمبری PA-1867 مورخہ 24-09-14 مجاریہ دفتر CCPO پشاور معروض ہوں۔ کہ مقدمہ نمبر 517 مورخہ 05-11-13 جرم 302, 324, 34 PPC تھانہ داؤد زئی میں نسیم اکبر SI انچارج چونکہ ناگمان نے مراسلہ بھجوایا۔ کہ وہ بمعہ دیگر نفری پولیس کے ساتھ گشت پر تھا۔ کہ اطلاع ملی کہ دیہہ کرپڑی روڈ پر قتل کا وقوعہ رونما ہوا ہے۔ جائے وقوعہ آ کر ایک موٹر کار نمبری LHO-0098 برنگ سرخ کھڑی پا کر جس میں ایک شخص ڈرائیور سیٹ پر جبکہ فرنٹ سیٹ پر ایک عورت اسماء نامعلوم جو اسلحہ آتش سے قتل شدہ گاڑی میں پا کر موٹر کار بھی ملزمان کی فائرنگ سے نقصان رسیدہ ہو چکی تھی۔ اہلیان دیہہ سے معلوم ہوا کہ موٹر کار میں ایک بچی بھرت تقریباً 2 سال بھی زخمی ہو کر جس کو اہلیان دیہہ بغرض علاج معالجہ LRH پشاور لے گئے تھے۔ ڈرائیور کی جامعہ تلاشی سے ایک قومی شناختی کارڈ بنام کامران ولد شیر باز سکنہ حیات آباد لیسر کالونی برآمد ہو کر مقتولین کی معلومات ہو کر در ثناء مقتولین جائے وقوعہ پر پہنچ کر موقع پر مسی ممتاز احمد ولد شرف دین سکنہ افغان کالونی گلی نمبر 9 رپورٹ کی کہ مقتولہ مسماۃ سیماء احمد زوجہ مثل خان اس کی بیٹی ہے جس کے خاندان کے ساتھ تعلقات اچھے نہیں تھے۔ جن کے مابین پہلے بھی کئی بار جھگڑا ہوا تھا۔ داماد مثل خان مقتولہ سیماء احمد پر غلط شک ظاہر کرتا تھا۔ کہ اسکے دیگر لوگوں کے ساتھ تعلقات ہے۔ بعد تسلی و یقین کے دختر اش مقتولہ سیماء اور ٹیکسی ڈرائیور کامران کے قتل اور نواسی اش طفیلکہ ایمن کے مجروحیت کی دعویٰ اداری داماد مثل خان ولد روخان سکنہ سعید آباد نمبر 1 اور دیگر ملزمان نامعلوم کے خلاف کی۔ جبکہ مقتول کامران کے بھائی عمران ولد شیر باز نے رپورٹ بالا کی تائید کی ہے۔ موقع پر کوئی گواہ چشم دیدہ نہ پایا گیا۔ مراسلہ پر مقدمہ درج رجسٹر ہو کر نقول FIR و مراسلہ بغرض تفتیش میرے حوالہ ہوا۔ نقل FIR ہمراہ لف ہے۔

1۔ میں فوری طور بمعہ دیگر نفری پولیس کے جائے وقوعہ پر جا کر موقع پر موٹر کار متذکرہ نمبر LHO-0098 جو ملزمان کی فائرنگ سے نقصان رسیدہ تھی کھڑی پا کر بروئے فرد قبضہ پولیس میں کر کے موٹر کار کے ڈرائیونگ سیٹ پر خون ازان مقتول کامران اور ساتھ ہی فرنٹ سیٹ سے خون ازان مقتولہ مسماۃ سیماء احمد بذریعہ روٹی بروئے فرد قبضہ پولیس میں کر کے علیحدہ علیحدہ پارسلوں میں بندسز بھر کیا گیا۔ اسی طرح موقع واردات میں سے 8 عدد دخول کارتوس 7.62 اور 5 عدد دخول کارتوس 12 بور اور 1 عدد دخول کارتوس 30 بور بکھرے ہوئے حالت میں برآمد ہو کر علیحدہ علیحدہ پارسلوں میں بندسز بھر کر کے بروئے فرد قبضہ پولیس کئے گئے۔ اور اسی طرح پارچات مقتولین اور مجروحہ طفیلہ بھی قبضہ پولیس کر کے علیحدہ علیحدہ پارسلوں میں بندسز بھر کئے۔ جملہ فردات ہمراہ لف ہے۔

2۔ جملہ پارسل ہائے پارچات اور روٹی خون آلود بغرض تجزیہ FSL بھجوائی جا کر رائے FSL حاصل کر کے شامل مثل مقدمہ ہوئی۔ رائے نقول ہمراہ لف ہے۔

3۔ اس طرح موٹر کار مقتولین نمبر LHO-0098 کا بھی آزمائے کسپرٹ سے FSL کیا گیا ہے جبکہ موٹر کار کا مسٹری ملاحظہ بھی کرایا جا کر رائے حاصل کر کے شامل مثل مقدمہ کی گئی ہے۔ نقولات ہمراہ لف ہے۔

4۔ ملزم مثل خان کی گرفتاری کے سلسلے میں ہمراہ مقامی پولیس کے ملزم کے گھر پر چھاپہ زنی کی گئی مگر ملزم عدم موجود پایا گیا اور نہ ہی خانہ ملزم سے کوئی آلہ نقل برآمد ہوا۔ فرد خانہ تلاش کی نقول ہمراہ لف ہے۔

Attested
[Signature]

5- دیگر ملزمان کی تلاش و گرفتاری کی کوشش جاری رکھتے ہوئے مورخہ 12-11-13 کو مقتول کامران کے والد شیر باز اور بھائی عمران نے ملزم مشمل خان کے علاوہ دیگر ملزمان حضرت خان، منور خان پسران، روخان ساکنان سعید آباد نمبر 1 اور خاستہ الرحمن ولد غنی الرحمن سکند ڈب ناگمان کے خلاف دعویٰ داری کی۔ اس طرح مورخہ 18-11-13 کو مقتولہ مسماۃ سیما احمد کے والد ممتاز احمد اور برادران شیراز احمد، بلال احمد نے بھی ملزمان بالا کے خلاف دعویٰ داری کی جن کے بروقت بیانات دعویٰ داری زبردعات CRPC 161/164 قلمبند کئے گئے ہیں۔ نقولات CRPC 164 ہمراہ لف ہے۔

6- دیگر ملزمان کی گرفتاری کے سلسلے میں ملزمان کے گھروں پر چھاپہ زنی ہو کر جملہ ملزمان عدم موجود پائے گئے اور نہ ہی کوئی آلہ قتل وغیرہ برآمد ہوا ہے۔ فرد خانہ تلاشیں ہمراہ لف مثل مقدمہ ہوئی۔

7- سبکدہ CDR کا سوال ہے۔ تو لغش ہائے مقتولین سے کوئی موبائل وغیرہ برآمد نہیں ہوئی ہے۔ اگر موبائل برآمد ہوئی تو قبضہ پولیس میں کر کے ضرور حاصل کر لیتا اور نہ ہی بدوران تفتیش مقتولین کے ورثاء نے مقتولین کے موبائل نمبر بتلائے۔ بدیں وجہ CDR حاصل نہیں کی گئی۔ جبکہ مقتولین کے ورثاء نے وقوعہ کے تقریباً ایک ہفتہ بعد ملزمان کے خلاف دعویٰ داری کی۔ جس کی وجہ سے ملزمان کی CDR حاصل کرنے کی ضرورت محسوس نہیں کی کیونکہ اگر مقدمہ ہڈا میں تفتیش کے لئے CDR ضروری ہوتا تو Re-Investigation کے دوران کرائم برانچ کے تفتیشی افسران نے بھی کیوں CDR کی ضرورت محسوس نہیں کی ہے؟۔

8- خول کارٹوس بند پیرسل زیر نگرانی محرر تھانہ کے مالخانہ میں رکھے گئے ہیں۔ کیونکہ آلہ قتل کی برآمدگی نہیں ہوئی تھی۔ جب بھی بغیر آلہ قتل کے خول کارٹوس FSL بھجوائے جاتے ہیں۔ تو FSL کی طرف سے بتلایا جاتا ہے کہ اسلحہ کی برآمدگی کی صورت میں خول کارٹوس بغرض تجزیہ بھجوائے جائے جو درست طور پر تھانہ کے مالخانہ میں رکھے۔

ملزمان کی گرفتاری کی کافی حد تک کوشش کی گئی مگر ملزمان بدستور روپوش تھے۔ جس کی وجہ سے ملزمان کے خلاف کارروائی روپوش مکمل کر کے مورخہ 24-11-13 کو ملزمان کے خلاف چالان مکمل زبردفعہ CRPC / 512 بھجوایا گیا ہے۔ مورخہ 26-12-13 کو میرا تبادلہ تھانہ نصیر آباد ہوا۔ بعدہ ملزمان کی گرفتاری کی صورت میں مزید تفتیش حمد اللہ خان SI / CIO نے کی ہے۔

ORDER.

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Inspector Farid Shah was placed under suspension and issued Show Cause Notice on the direction of the IGP-KPK on the charges mentioned below:-

"During re-investigation conducted by Investigation Branch of CPO, held him responsible for defective Investigation in case FIR No. 517 dated 5.11.2013 u/s 302/324/427/34 PPC 33 PS PS Daudzai as result of which the court granted bail to accused Misal Khan etc who were charged by complainant Mumtaz Ahmad for the murder of his daughter Mst: Seema and injured his daughter-in-law (Aiman). Besides, Taxi driver who was later-on indentified as Kamran r/o Hayatabad was also killed in the incident. But he neither obtained CDR of both the deceased and accused nor sent the recovered empties and damaged car to FSL for analysis and thus spoiled the case".

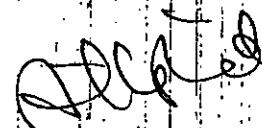
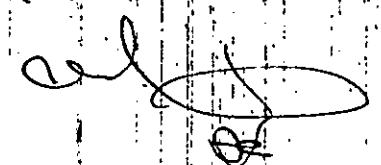
His written reply to the SCN obtained and he was also called in OR and heard him in person on 23.10.2014. He could not defend himself. Perusal of record reveals that he did not obtain CDR of the deceased and accused. He is found guilty of poor investigation. Therefore, he is reduced to the rank of sub-Inspector.


CAPITAL CITY POLICE OFFICER,
PESHAWAR.

No. 2048-55 /PA dated Peshawar the 27.10 2014.

Copies for inf: and n/a to the:-

- 1/ Inspector General of Police, Khyber Pakhtunkhwa, Peshawar w/r to his office letter No. 14736-41/P.P.O dated 16.9.2014 and this office Lndst: No. 1857-66/PA, dated 24.9.2014. since departmental enquiry against the delinquent official has been finalized. Therefore, he may please be re-instated in service if so aggreed please.
- 2/ DIG/E & I, KPK, Peshawar.
- 3/ DIG/CTD, KPK, Peshawar. — encl: (48)
- 4/ AIG/Establishment, KPK, Peshawar.
- 5/ PSO to IGP-KPK, Peshawar.
- 6/ SSP/Invst: Peshawar.
- 7/ AS/PO/EC-I-II/FMC
- 8/ Official Concerned

To

**The Provincial Police Officer,
Khyber Pakhtunkhawa
Peshawar.**

9/15

Through Proper Channel

Subject:-

APPEAL AGAINST THE ORDER OF WORTHY CAPITAL
CITY POLICE OFFICER, PESHAWAR DATED
27/10/2014, WHEREBY THE APPELLANT WAS
AWARDED THE PUNISHMENT OF REVORATION
FROM RANK OF INSPECTOR TO THAT OF SUB-
INSPECTOR.

Prayer:

On acceptance of this appeal, the impugned order may please be set-aside and be restored to my own rank with all benefits.

Respected Sir,

1. That the appellant was enlisted in Police Department as Constable in the year, 1985 and due to hard work and efficient performance and after qualifying lower and intermediate classes was promoted as ASI in the year, 2008.
2. That thereafter, the appellant was promoted as officiating Sub-Inspector and then was selected for upper class course, which the appellant qualified in the year, 2011 and after fulfilling all the criteria ad per law/rules for promotion, the appellant was promoted to the rank of Inspector.
3. That in the year, 2013, the appellant while posted as Officer Incharge Investigation Police Station

Attest
[Signature]

Daudzai, the appellant conducted investigation of Case FIR No 517, Dated 05/11/2013, U/s 302/324/34 P.P.C, Police Station: Daudzai.

4. That according to the FIR story, same unknown culprits fired on a Taxi Motorcar No 0098 LHO on Karairi, Road, as a result the occupation therein i.e. the unknown driver and a lady were expired whereas a minor girl of two years sustained injuries. SI Naseem Akbar Incharge Police Post Nguman on recovery of CNIC of the deceased lady contacted her father namely Mumtaz Ahmad S/o Sharif Din R/o Afghan Colony, street No 9, Peshawar, who accordingly arrived to the spot and deceased daughter Mst: Seema Ahmad alongwith other unknown, accused. (Copy of FIR is attached).

5. That on receipt of Copy of FIR, I immediately, reached to the spot. During the spot inspection I recovered and took into possession 8 crime empties of 7.62 bore, 5 crime empties of 12 bore, one crime empty of 30 bore pistol, blood stained articles, motorcar and sealed all the articles except motorcar in separate parcels.

6. That during investigation on 18/11/2013, the complainant then charged some others accused namely Hazrat Khan, Manawar Khan and Ghani

Attested

[Handwritten signature]

Ur Rehman in his supplementary statement recorded u/s 161/164 Cr.P.C. (Copy attached).

7. That during investigation, I sent the blood stained articles and motor car to FSL for examination and opinion, which were received in positive. According to the Expert opinion, the holes present on various parts of the motor car in question were caused due to fire shots. (Copy attached).
8. That the crime empties were kept in safe custody in sealed parcels, for the reason that if the accused were arrested and the weapons of offence ~~entire~~ recovered from their possession or at their instance, then the same would be sent alongwith the recovered crime empties to Ballistic Expert for examination and opinion as per law and practice in vogue.
9. That efforts were made time and again for the arrest of accused by conducting raids at their houses and other their suspected abodes but were not found because they had gone into hiding to unknown places, hence I proceeded against them U/s 204/87 Cr.P.C for proceeding U/s 512 Cr.P.C.
10. That meanwhile I was transferred from Police Station Daudzai to Police Station Faqir Abad, whereas Sub-Inspector Hamd Ullah was posted as Incharge Investigation Daudzai.

Attested

Real

Handwritten mark

11. That afterward as per information after receipt of the Show Cause Notice issued to me, I came to know that the said case afterward was transferred to investigation unit CPO for re-investigation in which I was blamed that I had neither sent the Motorcar No 0098 LHO and recovered crime empties to FSL for examination and opinion nor had obtained CDR of the deceased and accused.

12. That astonishingly as stated above, I had sent the said motor car for examination to FSL for determination of the holes on it, the result of which was received in positive and I placed it on file. (Copy attached as stated above) whereas the crime empties were not necessary to be sent for examination without the recovery of weapons of offence as per practice in vogue.

13. That further as per charge that I had not obtained CDR of the deceased and accused. In this regard it is submitted that none of the deceased were having in possession of mobile phone sets, similarly I had made efforts about the mobile phone numbers of accused if any but could not detect because they were absconding.

Attest
[Signature]

14. That obtaining of CDR and detecting of mobile numbers if any with accused was the job of that investigation officer who had arrested the accused

afterward. Even during re-investigation, they could not do so.

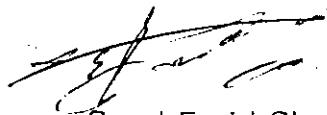
15. That the appellant was punished for none of wrong doing or any slackness during the course of investigation conducted so far on my part.

16. That the appellant have got spotless career through out my service and always obtained excellent ACR's and Commendation Certificates.

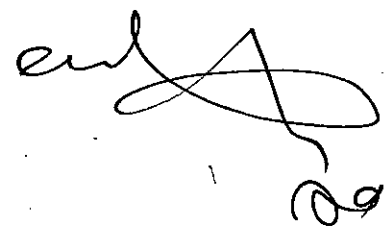
In the light of above submissions, it is, humbly requested that the impugned order may kindly be set aside and I may please be restored to my original rank of Inspector with all back benefits.

Dated: - 05/11/2014

Your Obediently



Syed Farid Shah,
Sub Inspector.

Attested




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

No. S/ 1356 /15, Dated Peshawar the 25/02/2015.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Sub-Inspector Syed Farid Shah** the then Inspector. The appellant was awarded punishment of reduction from the rank of Inspector to Sub-Inspector by Capital City Police Officer, Peshawar vide Order Endst: No. 2048-55/PA, dated 27.10.2014.

In the light of recommendations of Appeal Board meeting held on 18.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Show Cause Notice. The appellant was held responsible for defective investigation in case FIR No. 517, dated 05.11.2013 U/S 302/324/427/34 PPC, PS Daudzai. From the perusal of enquiry papers which revealed that during re-investigation conducted by Investigation Branch of CPO the appellant has held responsible in case FIR No. 517. The charges establishment against him.

He was also heard in person. He failed to offer any plausible grounds in his defense. The enquiry papers were perused. The charges stands established against him. Therefore, the appeal of Sub-Inspector Syed Farid Shah regarding punishment of reduction from the rank of Inspector to Sub-Inspector has no substance; hence his appeal is hereby filed.

Sd/-

NASIR KHAN DURRANI
Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

No. S/ 1357-64 /15,

Copy of the above is forwarded to the:

1. Capital City Police Officer, Peshawar w/r to his office memo: No.2211/PA, dated 20.11.2014.
2. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
3. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Establishment CPO, Peshawar.
7. Office Supdt: E-II, CPO Peshawar.
8. Office Supdt: E-III, CPO, Peshawar.

(MUHAMMAD ALI KHAN)
DIG/Trg:

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

JUSTICE THROUGH SCIENCE
FORENSIC SCIENCE LABORATORY, CRIMES BRANCH
KHYBER PAKHTUNKHWA, PESHAWAR.
REPORT OF THE FIRE ARMS EXPERTS

K
25

Laboratory No. 4719 Received the sealed parcel on 19.11.20

At FSL From SEC Daudzai District Peshawar

The contents of parcels were found intact.

FEIR No. 517 dated 5.11.2013 302/3247 Daudzai District
US 427/34 PPS

One Suzuki motor car (auto) red coloured bearing registration No.0098-L.H.O.

OPINION.

Examination of the case has revealed that the holes on the various parts of Suzuki motor car (auto) red coloured bearing registration No.0098-L.H.O were caused due

- Note:- (1)
- (2)
- (3)

Any report without embossing marks is not genuine.
The contents of the parcel were under our immediate custody until the examination was completed.

(AJAD JAVED)
FIRE ARMS EXPERTS

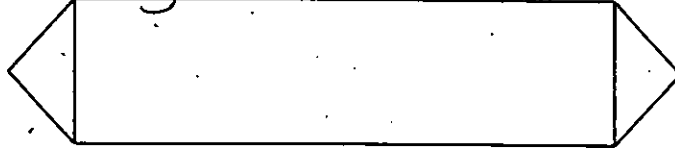
(MINHAJ MOHAMMAD)
FIRE ARMS EXPERTS

No. 21181 FSL, Dated 28.11.2013

The Opinion of the Fire Arms Experts is forwarded to
The receipt may be acknowledged and the exhibits collected from this Laboratory.

1911

Attested
[Signature]



مورخہ 16 مارچ 2015ء پنجاب
 مقدمہ سردسٹریٹس، سی ایس ایف سیٹڈ CTD بنام PPO
 دعویٰ
 جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

ایم ڈی کے لئے

آن مقام لسٹور کیلئے عطاء اللہ خان صاحب
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی 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 کاروائی 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
 سبب سے ہوگا۔ 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 سندر ہے۔

المرقوم 16 مارچ 2015ء

العبد الغلام واہ العبد

Attaullah Khan Advocate

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

Service Appeal No.245/2015.

Syed Farid Shah SI CTD PeshawarAppellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.Respondents.

Reply on behalf of Respondents No. 1 &2.

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Honorable Tribunal.

Facts:-

1. Para No.1 pertains to record, hence needs no comments.
2. Para No.2 pertains to record, hence needs no comments.
3. Para No.3 pertains to record, hence needs no comments.
4. Para No.4 is correct to the extent that the appellant while posted at PS Daudzai Peshawar was entrusted with an investigation in case vide FIR No.517 dated 05.11.2013 U/S 302/324/34PPC PS Daudzai.

5. Para No.5 is correct hence needs no comments.
6. Para No.6 is incorrect the appellant conducted a defective investigation in case FIR No. 517 dated 05.11.2013 U/S 302/3024/34PPC PS Daudzai Peshawar. While conducting the investigation the appellant neither obtained CDR of both the deceased and accused nor sent the recovered empties and damaged car to FSL for analysis and thus spoiled the case. During re-investigation conducted by investigation Branch CPO, held the appellant responsible for the negligence of conducting a poor investigation which helped the accused in granting bail by the court.
7. Para No.7 Pertains to record. Hence needs no comments.
8. Para No.8 pertains to record. Needs no comments.
9. Pertains to record hence needs no comments.
10. Para No.10 is correct to the extent that as the appellant spoiled the case hence the case was sent to investigation Branch CPO, for re-investigation. Wherein the appellant was proved guilty of misconduct.
11. Para No.11 is correct to the extent that the appellant while conducting investigation committed gross misconduct and negligence by ignoring the real facts. He failed to obtain CDR of both the deceased and accused and also failed to send the recovered empties and damaged car to FSL for analysis and thus spoiled the case.
12. Para No. 12 is correct to the extent that the appellant was proceeded departmentally and proper enquiry was conducted against him. He was issued a Show Cause Notice which he also replied but he failed to defend himself.
13. Para No.13 is explained above in detail.
14. Para No. 14 is incorrect. In fact a proper departmental enquiry was conducted against him. Wherein the appellant was proved guilty of charges

leveled against him. The appellant also submitted his reply to the Show Case Notice and was heard in person in OR on 23.10.2014 but he could not defend himself, hence was awarded major punishment of reversion from rank of inspector to the rank of SI vide order dated 27.10.2014.

15. Para No.15 is correct to the extent that the appellant filed a departmental appeal but was rejected/ filed because the charges leveled against him were stand proved.
16. Para No.16 is in correct. In fact all the codal formalities were fulfilled. The appellant was called & heard in person in OR on 23.10.2014 but he failed to defend himself.
17. Para No.17 is incorrect. The orders passed by the competent authority are in accordance with law and rules and liable to be upheld.

Grounds:-

- A) Incorrect the orders passed by the competent authority are in accordance with law/rules.
- B) Incorrect. The appellant is treated as per law and no provision of law has been violated.
- C) Incorrect. A proper departmental enquiry was conducted against him.
- D) Incorrect. The appellant was issued a charge sheet & summary of allegations.
- E) Incorrect. The orders passed by the competent authority are per the law & rules.
- F) Incorrect. The appellant being a member of a disciplined force was proceeded under Police Disciplinary rules.

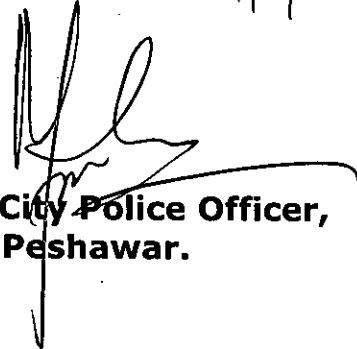
- G) Incorrect. The appellant was called & heard in person in OR on 23.10.2014, and after fulfilling all codal formalities he was awarded the punishment of reversion to rank of SI.
- H) Incorrect. Para already explained in Para No.11.
- I) Incorrect. In fact appellant committed gross misconduct & negligence on his part & failed to obtain the concerned CDR either of the accused or of the deceased. He also failed to send the recovered empty and damaged car to FSL for analysis. Thus he helped the accused in granting bail by the court.
- J) Incorrect. The allegations leveled against him were stand proved.
- K) Para is for the appellant to prove.
- L) Respondents also seek the permission of Honorable Tribunal to produce further grounds, points at the time of arguments.

PRAYER:-

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant may kindly be dismissed with cost.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar. 31/8/15**



**Capital City Police Officer,
Peshawar.**

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

Service Appeal No.245/2015.

Syed Farid Shah SI CTD PeshawarAppellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.Respondents.

AFFIDAVIT

We respondents No. 1 &2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar. 31/8/15**



**Capital City Police Officer,
Peshawar.**

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No 245/2015.

Syed Farid ShahAppellant.

VERSUS

PPO & Others.....Respondents

REPLICATION ON BEHALF OF THE APPELLANT.

REPLY TO PRELIMINARY OBJECTIONS.

All the objections raised by the respondents are incorrect and as such denied. The appellant has got valid cause of action and locus standi to bring the present appeal, he has come to this honorable Tribunal with clean hands, and the appellant is not estopped by his conduct to bring the instant appeal. Instant appeal is well within time, in which necessary parties have been impleaded and the appellant has concealed nothing from this honorable Tribunal.

REPLY TO FACTS/GROUNDS:

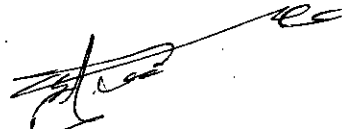
Comments of the respondents are full of contradictions, rather amounts to admissions and are based on malafide. Respondents have failed to show that the version of the appellant is incorrect. Even respondents have failed to show and substantiate their version referring to any law and rules. Respondents have failed to substantiate their version and bring anything on record in support of their version. In the circumstances the appellant has been deprived of his rights without any omission or commission on his part and he has been deprived of his rights guaranteed by the Constitution and law of the land. It is also important to mention here that the appellant had already sent the motor car to the FSL and its result was received and placed on file whereas crime empties were kept in safe custody so that the same be sent when the crime weapons are recovered and opinion is obtained accordingly from ballistic expert.

In the circumstances the appellant has been punished without any fault on his part. Respondents have admitted that no charge sheet and show cause notice were issued to the appellant. Respondents have also admitted that no inquiry was conducted in the matter to prove the allegations against the appellant, as such the impugned orders are void ab-initio and not tenable in the eyes of law. Respondents have also admitted that the appellant was not provided opportunity

of personal hearing. As regard allegations regarding non obtaining of CDR is concerned, the same are totally baseless and unfounded, because when the mobile sets were neither recovered and nor registered in the names of deceased or accused and more so the accused were absconding, as such the appellant has not committed any omission or commission nor is guilty of misconduct.

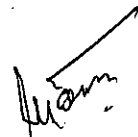
It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for.

Dated:-26-11-2015.



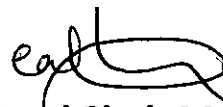
Appellant

Through



Attaullah Khan

&



**Fazal Shah Mohmand
Advocate Peshawar**

AFFIDAVIT

I, Syed Farid Shah Sub Inspector CTD Peshawar, (the appellant), do hereby solemnly affirm and declare on oath that the contents of this **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by



Fazal Shah Mohmand

Advocate Peshawar.



DEPONENT



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 1010 /ST

Dated 10/6/2016


To

The C.C.P.O,
Peshawar.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 1.6.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.