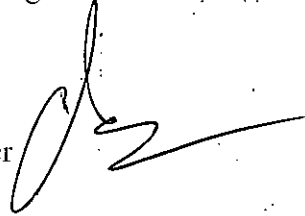


19.5.2016

Clerk to counsel for the appellant and Addl. AG for respondents present. Rejoinder not submitted requested for time to file rejoinder. To come up for rejoinder/arguments to 11.10.2016.

Member



Member



11.07.2016

Since 11th October 2016 has been declared as public holiday on account of Muharram, therefore, the case is re-fixed for arguments on 8.9.2016. Parties be informed accordingly.

Member

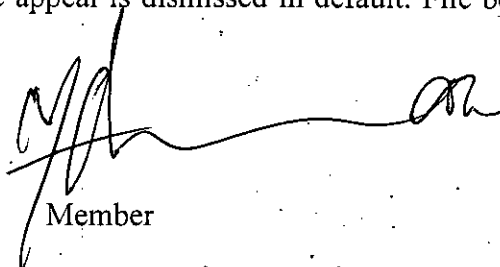


08.09.2016

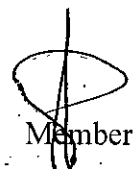
None present on behalf of the appellant. Mr. Muhammad Ghani, S.I alongwith Mr. Muhammad Jan, GP for respondents present. Mr. Muhammad Ghani, S.I representative of the respondent-department submitted copy of order dated 12.02.2016 and stated that the appellant has been reinstated in service. It was further submitted by learned GP that the appeal has become infructuous. Today case was called time and again but none appeared on behalf of appellant nor appellant is present in person. As such, the appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED
08.09.2016

Member



Member



01.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Lady Constable when subjected to inquiry on the allegations of involvement in professional misconduct and dismissed from service vide impugned order dated 31.7.2015 regarding which she preferred departmental appeal which was rejected on 25.8.2015 and hence the instant service appeal on 8.9.2015.

That neither any proper inquiry was conducted nor allegations substantiated and, furthermore, no opportunity of hearing was afforded to the appellant.

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 02.12.2015 before S.B.


Chairman

21-P-22
02.12.2015

Mr. Tehmid on behalf of the appellant and Mr. Muhammad Ghani, S.I alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 11.2.2016 before S.B.

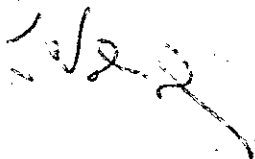

Chairman

11.02.2016

Mr. Tehmid, brother of the appellant and Mr. Muhammad Ghani, S.I alongwith Addl: A.G for respondents present. Written reply by respondents No. 2 to 4 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 1. The appeal is assigned to D.B for rejoinder and final hearing for 19.5.2016.


Chairman

Appellant Deposited
Security & Process Fee

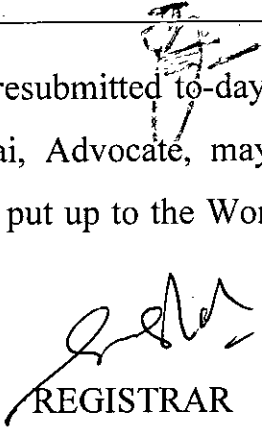




FORM-A

FORM OF ORDER SHEET

Court _____

Case No. 1018/2015

1	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	15.09.2015	<p>The appeal of Mst. Nijat resubmitted to-day by Mr. Muhammad Inam Khan Yousafzai, Advocate, may be entered in the institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case be put up before the S.Bench for preliminary hearing on <u>23-9-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	23.09.2015	<p>Counsel for the appellant present. Requested for adjournment. Adjourned to 1.10.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>



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

No. SI 1260 /16, Dated Peshawar the 12/02/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Ex-Lady Constable Nijat No. 2776**. The appellant was dismissed from service by DPO/Mardan vide OB No. 1260, dated 31.07.2015, on charges that she while posted at Police Line Mardan on 09.07.2015, she came to the house of proclaimed offender namely Esa Khan who is a notorious criminal and most wanted person to police, for night stay in his house.

The previous appeal was filed by RPO/Mardan vide order Endst: No. 5013/ES, dated 25.08.2015.

Meeting of Appeal Board was held on 07.01.2016, wherein the appellant was heard in person in detail. She stated that her sister namely Farah Naz is married to Arif and Mst: Almas the daughter of maternal Uncle of Muhammad Arif is married to Essa Khan, who is criminal and P.O. She admitted her visit to the house of PO in connection with enquiring about the health of Mst: Commission Cousin of Essa Khan who was suffering from fever.

Keeping in view the position explained above, the Board decided that she is hereby re-instated into service and the intervening period plus period of absence from duty be considered as leave without pay.

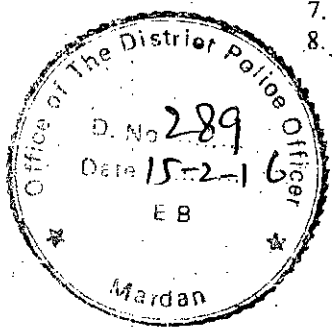
This order is issued with the approval by the Competent Authority.

Najeeb
(NAJEEB-UR-RAHMAN BUGVI)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.
1/2

No. SI 1261-68 /16,

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Mardan.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registrar, CPO.



OB/PO/EL/UA&S
For file
M
DPO, Mardan

OB 389
12-02-16

The appeal of Mst. Nijat D/O Sardar Ghani R/O Aloo, Tehsil Takht Bhai, District Mardan Ex-Lady Constable No. 277 received to-day i.e. on 8.09.2015, is incomplete on the following scores, which is returned to him for completion and resubmission within 15 days:-

1. The appeal may be got signed from the appellant.
2. Enquiry report may be placed on file.
3. Two more copies of appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1401 /ST,


Dated 10/9 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. Muhammad Inam Khan Yousafzai, Advocate, Peshawar

with great respect, the appeal is resubmitted

- 1: Done the need full.
- 2: despite efforts, the department is not providing copy of Enquiry report.
- 3: Done the need full.

Mohammad Inam Yousafzai
Advocate.
15-9-2015.


BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Services Appeal NO. 1018 /2015

Mst. Nijat

VERSUS

Government of Khyber Pakhtunkhwa etc

INDEX

S.No	Description	Annexure	Pages
1.	Memo of appeal, Affidavit, Addresses of parties		1-10
2.	Copy of Charge Sheet	A	11-12
3.	Copy of reply to Charge sheet	B	13
4.	Copy of the order from removal from service No.6728-33/R dated 03/08/2015 of respondent no.4	C	14
5.	Copy of the departmental appeal dated 04/08/2015	D	15-16
6.	Copy of order no.5013/ES, dated Mardan the 25/08/2015 of respondent no.3	E	17
7.	Wakalat Nama		18

Dated: 08/09/2015

Appellant / applicant

Through


MUHAMMAD INAM KHAN YOUSAFZAI
Advocate, High Court Peshawar

(17)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

A.W.F Province
Service Tribunal
Diary No. 1.2.56
Dated 8/9/15

Services Appeal NO. 1018 /2015

Mst. Nijat daughter of Sardar Ghani resident of Aloo, Tehsil
Takht Bhai, District Mardan. Ex-Lady Constable No.2776.

.. APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. District Inspector General of Police Mardan Region-1, Mardan
4. District Police officer, Mardan.

... RESPONDENTS

Handwritten: 8/9/15

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL
ACT 1974, AGAINST THE ORDER 6728-33/R, DATED
MARDAN 03/08/2015, OF RESPONDENT NO.4,
WHEREBY THE APPELLANT WAS AWARDED MAJOR
PUNISHMENT AND WAS DISMISSED FROM HER SERVICES
AND AGAISNT THE ORDER OF RESPONDENT NO. 3,
WHEREBY THE APPEAL OF THE APPELLANT WAS
REJECTED VIDE ORDER NO. 5013/ES, DATED MARDAN
THE 25/08/2015

PRAYER: -

2

ON ACCEPTANCE OF THE INSTANT APPEAL BOTH
THE ORDERS OF RESPONDENT NO. 3 AND 4 BE SET
ASIDE AND THE APPELLANT BE RE-INSTATED IN
SERVICES TO CONTINUE ON WITH SERVICE
ACCORDING AND ALONG WITH ALL BACK BENEFITS

RESPECTFULLY SHEWETH,

1. That the appellant was appointed as Lady Foot Constable on 18/05/2009 and served at different stations with full zeal and commitment and gave no chance of complaint to her superior.

2. That allegations are:

"it has reported against you Constable Nijat No.2776, DD No.06 dated 08/07/2015 while posted at Police lines Mardan that on 09/07/2015 had come to the house of PO Esa Khan for night staying in his house who is a notorious criminal and most wanted person to police"

(Copy of Charge sheet is attached as annexure "A")

3. That the appellant sister namely Mst. Farrukh Naz is married to one Arif son of Muhammad resident of Skhakot and one Said Nawab Son of Muhammad Gul resident of Skhakot is the maternal uncle of the said Arif. Mst. Almas Daughter of Said Nawab resident of Skhakot is married to

the above said Esa Khan. By this relation Arif and Esa Khan are related to each other.

4. That the appellant on dated 09/07/2015 when petitioner was on "Shabashi" was called by one Mst. Commission (who is the relative of appellant and has died now) to take her to Doctor as in our Country it is difficult for a poor person to get treatment easily hence appellant was requested.
5. That the appellant as per request of said Mst. Commission who was living in the house of Esa Khan (Proclaimed offender), went there for Mst. Commission to take her for medical treatment. (Copy of medical documents are attached).
6. That it is pertinent to mention here that said Proclaimed offender Isa Khan since last 2 years is at large from police and evidence this fact is that there is a police post available at the house of said Esa Khan.
7. That meanwhile the SHO PS Sher Garh visited the house of Isa Khan and upon arrival asked the appellant that what is she doing here, which was explained to the said SHO that she has came upon request of the patient Mst. Commission to take her for medical checkup and treatment, and now after the said help with Mst. Commission as now its time of "Aftari" hence I am here breaking fast and would then leave with my brother who would come soon.

8. That upon this the SHO PS told the appellant that do not call your brother we would take you to your house, which the appellant accepted and thereafter on the same dated 09/07/2015 the appellant left the house in vehicle facilitated by the SHO from the nearby police post with the said house of Esa Khan.
9. That while leaving in the said vehicle which was driven by one Atta Ullah (Sub Inspector) the said SHO Anwar called him to ask the appellant to appear before the respondent no. 4 tomorrow (i.e. 10/07/2015) as she would be heard there.
10. That on the next date the appellant appeared before respondent no.4 where the appellant was badly treated by respondent no.4 and was told to get out and the above said allegations were leveled against the appellant and was told to get out.
11. That on dated 14/07/2015 the appellant received Charge Sheet from respondent no.4 wherein false, baseless and self prepared allegations were leveled against the appellant.
12. That the appellant properly replied to the charge sheet and explained the reason of her at the said house and clearly rejected the allegations while explaining her position. (Copy of reply to the charge sheet is attached as annexure B).

13. That thereafter on dated 31/07/2015 the appellant was dismissed of her services and was awarded major punishment by respondent no.4 vide order No.6728-33/R, dated 03/08/2015. (Copy of the order No.6728-33/R dated 03/08/2015 of respondent no.4 is attached as Annexure C).

14. That the appellant feeling aggrieved filed departmental appeal on dated 04/08/2015 against order No.6728-33/R, dated 03/08/2015 and pleaded her innocence in the said appellant and also briefly explained her reason / presence at the said house. (Copy of the departmental appeal is attached as annexure D).

15. That upon the appeal of the appellant again the appellant was summoned by respondent no. 3, the appellant attended the office on the relevant date, but respondent no.3 instead of doing justice and rejected the impugned order of dismissal from services also disrespected appellant and rejected the appellant's appeal vide order no.5013/ES, dated Mardan the 25/08/2015. (Copy of order no.5013/ES, dated Mardan the 25/08/2015 is attached as annexure E).

16. That the appellant hence feeling extremely aggrieved from both the orders of learned lower offices, files the instant appeal on the following grounds inter alia:-

Grounds: -

- a) That the appellant never during her service and on record has ever done any misconduct while performance of her official duty.
- b) That the only reason for the appellant being present at the house in question was because as said Mst. Commission was the close relative of the appellant and she took her for medical treatment, which record is also present for ready reference, but both the respondent no.3 and 4 acting and using their powers with the single stroke of the pen dismissed the appellant from her 7 years long service and thereafter also dismissed her appeal.
- c) That this fact is also pertinent to mention here that a police post being available attached to the house of said Esa Khan, then how could appellant be breaking her code of conduct and the allegations of spending a night there is extremely baseless and self said, no question whosoever arises of spending night there as the appellant when returning from her duty at Police Lines Mardan was called and was requested for accompanying said Mst. Commission to the Doctor for medical treatment, as she would be helpful in getting an early number for check up from a Medical Consultant whose clinic is situated at College Chowk, Mardan.
- d) That it is also pertinent to mention here that the said patient was seriously ill and the appellant only for the reason of humanity and moral duty felt that she should go to said Mst. Commission to help her there where after

of appellant, she stayed for "Aftari" and rest of the story as mentioned above.

- e) That the allegations leveled against the appellant are extremely baseless and on the face of it are bogus and self made and all the actions carried out against the appellant is due to personal grudges of the police / Sub Inspector Atta Ullah who were present at the Police Post of the house of Esa Khan.
- f) That the order of dismissal was passed without observing necessary codal formalities, hence liable to be set aside.
- g) That the appellant was given no opportunity of fair hearing and rules of natural justice was clearly violated.
- h) That an ex-part inquiry was conducted the appellant was never heard in person.
- i) That both the orders are against the law fact and natural justice, hence liable to be set aside / cancelled.
- j) That other points be raised at the time of arguments with permission of this Honourable Court.

It is, therefore, most humbly prayed that on acceptance of the instant appeal the orders of respondent no. 3 and 4 may kindly be set aside and the appellant may kindly be set aside and the appellant may kindly be re-instated in service with all back benefits.

Any other remedy deemed fit in the circumstance may also be granted in favour of the appellant.

Dated 08-09-2015

Through

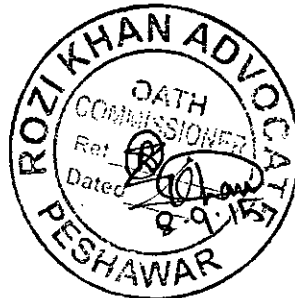
Appellant

MUHAMMAD INAM KHAN YOUSAFZAI
Advocate, High Court Peshawar

AFFIDAVIT

Declared on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

ATTESTED



Deponent

16102-1672748-0

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

9

Services Appeal NO. _____/2015

Mst. Nijat

VERSUS

Government of Khyber Pakhtunkhwa etc

AFFIDAVIT

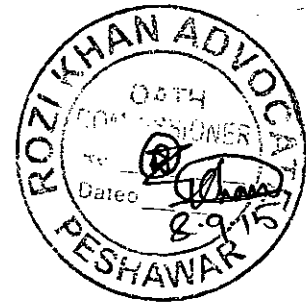
I, Mst. Nijat daughter of Sardar Ghani resident of Aloo, Tehsil Takht. Bhai, District Mardan. Ex-Lady Constable No.2776 do hereby solemnly affirm and declare on oath that the contents of the instant services appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Ar
Deponent

Identified by:

Muhammad Inam Khan
Muhammad Inam Khan Yousafzai,
Advocate, High Court Peshawar

ATTESTED



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

10

Services Appeal NO. _____/2015

Mst. Nijat

VERSUS

Government of Khyber Pakhtunkhwa etc

Addresses of parties

Address of appellant:

Mst. Nijat daughter of Sardar Ghani resident of Aloo, Tehsil Takht Bhai, District Mardan. Ex-Lady Constable No.2776.

Addresses of respondents:

1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. District Inspector General of Police Mardan Region-1, Mardan.
4. District Police officer, Mardan.

Dated: 08/09/2015

Appellant / applicant

Through



MUHAMMAD INAM KHAN YOUSAFZAI

Advocate, High Court Peshawar

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 1008 /R.D.A-P.R-1975.

Dated 14-7- /2015

(11)

AM = A =

DISCIPLINARY ACTION UNDER KPK POLICE RULES - 1975

I, Gul Afzal Khan District Police Officer, Mardan as competent authority am of the opinion that LFC Nijat No. 2776, rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of section-02 (iii) of KPK Police Rules 1975.

STATEMENT OF ALLEGATIONS

It has been reported against you Lady Constable Nijat No.2776, DD No. 06 dated 09.07.2015 while posted at Police Lines Mardan that on 09.07.2015 you had come to the house of PO-Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police.

2. For the purpose of scrutinizing the conduct of the said official with reference to the above allegations Mr: Mian Imtaiz Gul DSP/Legal Mardan is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

4. The accused officer shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

No. 1000 /R. dated Mardan the 14-7- /2015.

Copy of above is forwarded to the:

1. DSP/Legal Mardan for initiating proceedings against the accused official / Officer namely LFC Nijat No. 2776, under Police Rules, 1975.
2. LFC Nijat No. 2776, with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

***** !!! ****

CHARGE SHEET UNDER KPK POLICE RULES 1975

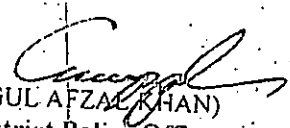
I, Gul Afzal Khan District Police Officer, Mardan as competent authority hereby charge you LFC Nijat No. 2776, as follows.

12

It has been reported against you Lady Constable Nijat No.2776, DD No. 06 dated 09.07.2015 while posted at Police Lines Mardan that on 09.07.2015 you had come to the house of PO Fsa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police.

This amounts to grave misconduct on your part, warranting departmental action against you, as defined in section - 6 (1) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section - 02 (iii) of the KPK Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04, (i) a & b of the said Rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this charge sheet to the enquiry officer.
3. Your written defence if any, should reach to 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, an ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(GUL AFZAL KHAN)
District Police Officer,
Mardan

BEFORE THE DISTRICT POLICE OFFICER, MARDAN

Subject: REPLY TO THE CHARGE SHEET+STATEMENT OF ALLEGATION NO.1008/R DATED
14-07-2015

Respected Sir,

Your Honour had issued the subject charge sheet/ statement of allegation against the petitioner with the following allegations, which was handed over to the petitioner on 15-07-2015:-

"It has reported against you Constable Nijat No. 2776, DD No. 06 dated 09-07-2015 while posted at police lines Mardan that on 09-07-2015 you had come to the house of PO Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to police." (Copy of charge sheet is enclosed).

1. That the petitioner is posted at police lines Mardan. Esa Khan, Musa Khan residents of Sher Ghar are the criminals and wanted to police in several cases. A special guard of police is permanently deployed at the house of the above criminals for the last one year.
2. That the petitioner hails from village Alo. The real sister of the petitioner Mst Farrukh Naz is married to one. Arif son of Muhammad Resident of Skhakot. One Said Nawab s/o Muhammad Gul R/o Skhakot is the maternal uncle of the said Arif. Mst Almas D/o Said Nawab R/o Skhakot is married to the above criminal Esa Khan. By this relation Arif and Esa Khan are related to each other.
3. That by relation of Arif being brother in law of the petitioner with Esa Khan family, the petitioner family used to visit their houses at special occasions. On 09-07-2015, the petitioner received an information regarding the serious illness of Mst Commission (Cousin of Esa Khan). The petitioner was also informed that the patient is on the way to Mardan for medical treatment. The petitioner wait at PRC Chock Mardan and the patient along with their relatives reach there. The petitioner accompanied them and brought the patient to the clinic Dr. Amir Khan situated at College chock Mardan. After medical checkup / treatment, the petitioner along with the patient went to their house at sher Ghar. (Medical Document regarding the illness of Mst Commission are enclosed).
4. That at Aftari Vella SHO Sher Ghar visited the house of Esa Khan, where I was present. SHO inquired about my presence in the said house, upon which, I disclosed that Esa Khan Family are my relatives and due to the illness of Mst Commission, she came to the said house. The SHO Further inquired that whether the petitioner will pass the night here or not. The petitioner disclosed that she does not want to stay here for night and just after Aftari, the petitioner will leave for his village. The SHO again said that they have brought my arrival in the said house into the notice of the DPO Mardan and the SHO arranged a private Car for taking the petitioner to her village. The petitioner to her house at late hour.
5. On the following day, the petitioner reported to DPO Mardan, where the petitioner disclosed the above mentioned facts. On 13-07-2015, the petitioner was suspended and closed to police lines.
6. That the petitioner has got no sympathy or support to the above criminals. The petitioner has visited the house of Esa Khan due to their family relation regarding the illness of Mst Commission and nothing else.
7. That the petitioner was enlisted as constable in police department in 2009 and performed his duty with zeal and efficiency. The petitioner had never been dealt departmentally throughout his lengthy period of service and holds a good shining service record.
8. That the petitioner parents are old and the petitioner police service is the only source of income of petitioner family.

Keeping in view of the facts and circumstances mentioned above, It is humbly requested that the charge sheet + summary of allegation may kindly be filed please and the petitioner be re-instated in service from the date of suspension.

Yours Obediently,

Constable (Nijat No. 2776)
Police lines Mardan.

Handwritten signature

15.7.2015

13

Am
B = 7

POLICE DEPARTMENT

MARDAN DISTRICT

14

AM
VIC

ORDER

My this order will dispose of departmental inquiry, which was conducted against Lady Constable Nijat No. 2776, on the allegations that she while posted at Police Lines Mardan, On 09.07.2015 she had come to the house of PO Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police. His this attitude adversely reflected on his performance, while discharge his official duty which is an indiscipline act and grass misconduct on his part as defined in rule 2(iii) of Police Rules 1975.


In this connection, Lady Constable Nijat No. 2776, was charge sheeted vide this office No. 1008/R, dated 14.07.2015 and also proceeded him against departmentally through **Mian Imtaiz Gul DSP/Legal Mardan**, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 797/S dated 31.07.2015, as the allegation have been established against him and recommended for punishment.

The undersigned agreed with the findings of enquiry officer and the alleged Lady Constable Nijat No. 2776, is hereby **dismissed from service** with immediate effect, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1260

Dated 31/7 /2015


(Gul Afzal Afridi)
District Police Officer,
Mardan.

No. 6798-331R, dated Mardan the 31/8 /2015

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1, Mardan.
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OHC(DPO) Mardan.

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION - I

MARDAN

Subject: APPEAL AGAINST THE ORDER O.B NO. 1260 DATED 31-07-015 OF DISTRICT POLICE OFFICER MARDAN, WHERE BY THE APPELLANT WAS AWARDED THE PUNISHMENT "DISMISSAL FROM SERVICE".

R/Sir,

It is submitted that :

The DPO Mardan had issued charge sheet No. 1008/R Dated 09-07-2015 against the Appellant with the following allegations:-

"It has reported against you Constable Nijat No. 2776, DD No. 66 dated 09-07-2015 while posted at police lines Mardan that on 09-07-2015 you had come to the house of SHO Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to police." (Copy of charge sheet is enclosed).

2. That on the receipt of the above charge sheet, a departmental inquiry was initiated against the appellant. In response to the charge sheet, the petitioner produced a detailed and comprehensive reply dated 15-07-2015 before the inquiry Officer. (Copy enclosed). The reply is reproduced below:

a) That the petitioner is posted at police lines Mardan. Esa Khan, Musa Khan residents of Sher Ghar are the criminals and wanted to police in several cases. A special guard of police is permanently deployed at the house of the above criminals for the last one year.

b) That the petitioner hails from village Aio. The real sister of the petitioner Mst Farrukh Naz is married to one Arif son of Muhammad Resident of Skhakot. One Said Nawab S/o Muhammad Gul R/o Skhakot is the maternal uncle of the said Arif. Mst Almas D/o Said Nawab R/o Skhakot is married to the above criminal Esa Khan. By this relation Arif and Esa Khan are related to each other.

c) That by relation of Arif being brother in law of the petitioner with Esa Khan family, the petitioner family used to visit their houses at special occasions. On 09-07-2015, the petitioner received an information regarding the serious illness of Mst Commission (Cousin of Esa Khan). The petitioner was also informed that the patient is on the way to Mardan for medical treatment. The petitioner wait at PRC Chock Mardan and the patient along with their relatives reach there. The petitioner accompanied them and brought the patient to the clinic Dr. Amir Khan situated at College chock Mardan. After medical checkup / treatment, the petitioner along with the patient went to their house at sher Ghar. (Medical Document regarding the illness of Mst Commission are enclosed).

d) That at Aftari Vella SHO Sher Ghar visited the house of Esa Khan, where I was present. SHO inquired about my presence in the said house, upon which, I disclosed that Esa Khan Family are my relatives and due to the illness of Mst Commission, she came to the said house. The SHO further inquired that whether the petitioner will pass the night here or not. The petitioner disclosed that she does not want to stay here for night and just after morning, the petitioner will leave for his village. The SHO again said that they have brought my arrival in the said house into the notice of the DPO Mardan and the SHO arranged a private Car for taking the petitioner to her village. The petitioner to her house at late hour.

(15)
AM
D

- (16)
- e) On the following day, the petitioner reported to DPO Mardan, where the petitioner disclosed the above mentioned facts. On 13-07-2015, the petitioner was suspended and closed to police lines.
- f) That the petitioner has got no sympathy or support to the above criminals. The petitioner has visited the house of Esa Khan due to their family relation regarding the illness of Mst Commission and nothing else.
- g) That, the petitioner was enlisted as constable in police department in 2009 and performed his duty with zeal and efficiency. The petitioner had never been dealt departmentally throughout his lengthy period of service and holds a good shining service record.
- h) That the petitioner parents are old and the petitioner police service is the only source of income of petitioner family.
2. That the reply of the petitioner was not considered by the inquiry Officer recommended the appellant for punishment. The DPO Mardan dismissed the appellant from service vide O.B No:1260 dated 31-07-2015. (Copy enclosed)
- 3.


PRAYER:

It is requested that the Appeal of the Appellant may kindly be accepted and Order of the punishment be set aside on the following grounds:-

- i) The allegations mentioned in the charge sheet are baseless. The E.O did not brought any evidence in support of the allegations. Not a single witness has given any statement against the appellant during the course of inquiry.
- ii) The Appellant was not given any opportunity of "PERSONAL HEARING" by the competent authority at the time of passing of Impugned punishment Order, which is contrary to the Police rules 1975, hence great injustice was extended.
- iii) The Appellant was not given "FINAL SHOW CAUSE NOTICE" by the competent authority, which was the necessary requirement as per relevant rules and thus the illegal Order was passed.
- iv) In addition to the above facts, the E.O has also made certain irregularities and has dashed the rules and regulations to the ground. The present inquiry, so far conducted is just an eye wash and amounts to fill in the blanks.
- v) The Appellant performed his duties efficiently, honestly, with great zeal and never showed any in efficiency and negligence during his service, the appellant was not dealt departmentally prior to this inquiry.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the Appeal of the Appellant may kindly be accepted and the impugned Order passed by DPO Mardan may kindly be set aside.

Yours Obediently,


Constable Nijat No.2776

District Police Mardan

(Now Dismissed from service)

(17) AM "E"

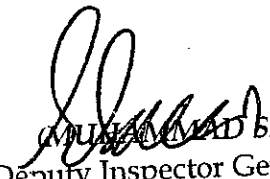
ORDER.

This order will dispose-off the appeal preferred by Ex- Lady Constable Nijat No. 2776 of Mardan District Police against the order of District Police Officer, Mardan, wherein she was dismissed from service vide OB: No. 1260 dated 31.07.2015.

Brief facts of the case are that she while posted at Police Lines, Mardan on 09.07.2015 she had come to the house of Proclaimed Offender namely Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police. Her this attitude adversely reflected on her performance, while discharge her official duty which is an indiscipline act and gross misconduct on his part. In this connection she was charge sheeted and also proceeded against departmentally through Deputy Superintendent of Police, Legal, Mardan, who after fulfilling necessary process submitted his findings to District Police Officer, Mardan as the allegation were established against her and recommended for Major punishment. District Police Officer, Mardan agreed with the findings of enquiry Officer and the alleged Lady Constable was dismissed from Service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 19.08.2015. She failed to justify her innocence and could not advance any cogent reasons in her defence. Therefore, I, MUHAMMAD SAEED, Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

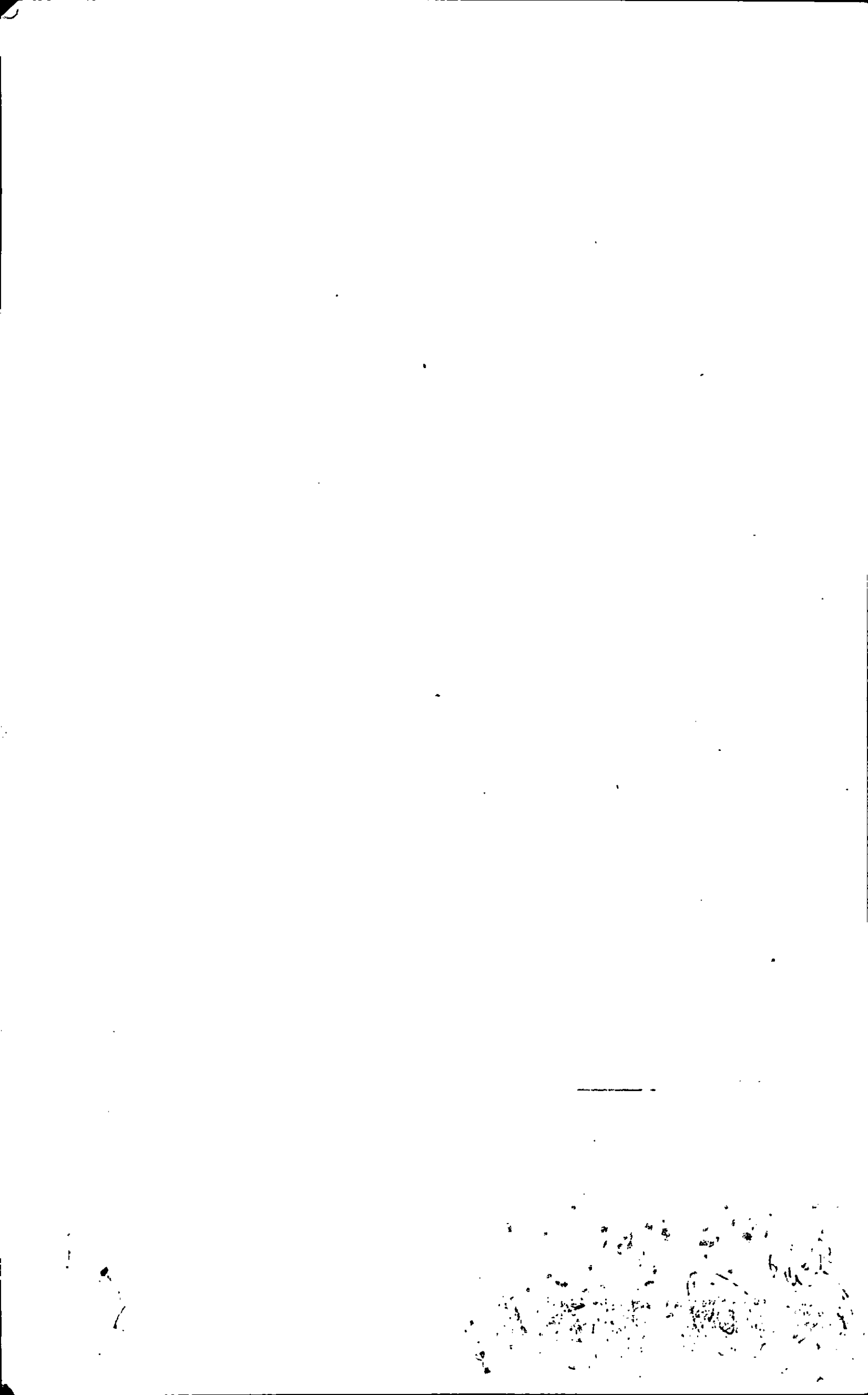
ORDER ANNOUNCED:


(MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 5013 /ES, Dated Mardan th: 25/08 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 947/LB dated 17.08.2015. Her service roll is returned herewith for record in your office.

(*****)



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8/9/15
 Handwritten body text, including a date and several lines of text.

سکاٹ = حیات = 270

پشاور بار ایسوسی ایشن	
نام: _____ پتہ: _____ تعلقہ: _____ صوبہ: _____ دہلی: _____	(Large handwritten signature and text)
نام: _____	

Handwritten text below the form: _____

<p>پشاور بار ایسوسی ایشن</p> <p>11771</p>	رجسٹرڈ نمبر: 5836040
	نمبر: 614

C

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

Service Appeal No. 1018/2015.

Mst: Nijat d/o Sardar Ghani r/o Aloo, Tehsil Takht Bhai District Mardan Ex-Lady Constable No. 2776Appellant.

VERSUS.

District Police officer, Mardan & others..... Respondents.

Parawise Comments on behalf of respondents No. 02, 03 & 04 are submitted as under:-

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary party and mis-joinder of unnecessary parties.
7. That the instant appeal is barred by law.

REPLY ON FACTS:-

1. Pertains to record, hence, no comments.
2. Correct, hence, no comments.
3. Incorrect & baseless. The appellant, being member of police Force, was required to have avoided any sort of relationship with the family of Esa Khan who is a notorious criminal & wanted to the Police in various criminal cases as well.
4. Incorrect. The appellant is not as such close relative of the caller i.e Mst: Commission and the appellant could offer excuse to her as being Police Official.
5. This Para is already replied in proceeding Para-4 above.
6. Correct. In this Para, the appellant admits herself that Esa Khan is a criminal person and in spite of that she used visiting his house.
7. Correct & this fact has been reported by SHO concerned vide DD No. 06 dated 09.07.2015, which is self-explanatory. **(Copy of DD No. 06 dated 09.07.2015 is enclosed as Annexure-A).**
8. Correct and already replied in the preceding Para-7 above.
9. Pertains to record, hence, no comments.
10. Correct to the extent that she appeared before the respondent No. 04 and she was asked to explain verbally her presence in the house of a most wanted criminal. Her reply was unsatisfactory and was, therefore, proceeded against departmentally.
11. Correct to the extent of issuance of charge sheet, however, based on facts and the same later on proved against her during enquiry.
12. Incorrect. Her reply to the charge sheet was un-satisfactory.
13. Correct, hence, no comments.
14. Correct, hence, no comments.
15. Correct to the extent she was called upon and heard by respondent No. 03 but she could not prove her innocence and the appeal was, therefore, rejected.
16. Incorrect. The appellant is not aggrieved, rather, punished as she deserved.

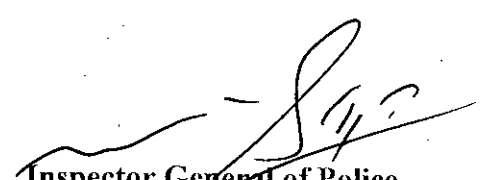
REPLY ON GROUNDS:-

- a. Incorrect. The appellant has short service but her service record shows numerous censures and warnings. The appellant in spite of that did not mend her ways and kept committed misconducts. **(Copy of red entries is enclosed as Annexure-B).**


- b. Incorrect. The appellant is not so close relative of the criminal Esa Khan that she, being a Police official, could spend night over there. The respondent No. 03 & 04 have acted under Rules/Law by awarding the impugned penalty.
- c. Incorrect. She has self-admitted that she was present in the house of Esa Khan, P.O, and this act of her amounted to misconduct on her part. She is neither close relative of the above said criminal person nor she was taking any one to the Doctor. Her this act amounts to misconduct and hence, punished for.
- d. Incorrect. She has committed misconduct and she has rightly been punished after proper departmental enquiry.
- e. Incorrect. The appellant has infact stayed at the house of a notorious criminal and her this act is evidently a violation of Rules & Law. This fact has been established after proper departmental enquiry against her, so, there happen no fake or self-made story.
- f. Incorrect. All codal formalities have been complied with.
- g. Incorrect. The appellant has been dealt under relevant rules & justice has been done with.
- h. Incorrect. Proper enquiry was conducted and the appellant was heard at all forums of appeal and even during enquiry opportunity of self-defence was provided to her.
- i. Incorrect. Both the impugned orders are in accordance with Rules/Law and natural justice, hence, maintainable in the eyes of law.
- j. The respondents also seek permission of presenting further documents/grounds etc, if any, at the time of arguments.

PRAYER:-

It is, therefore, prayed that the appeal of the appellant/lady constable, being devoid of merits, is liable to be dismissed with costs.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.**
(Respondent No. 02)


**Dy. Inspector General of Police,
Mardan Region-1, Mardan.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 04)

510-70-60
55



Michigan State Police

10-10

1. The first part of the document is a letter from the Michigan State Police to the Michigan State Bar Association. The letter is dated October 10, 1960, and is addressed to the Michigan State Bar Association, 1000 East Michigan Street, Lansing, Michigan. The letter is signed by the Michigan State Police and is a copy of a letter that was sent to the Michigan State Bar Association on October 10, 1960.

2. The second part of the document is a letter from the Michigan State Bar Association to the Michigan State Police. The letter is dated October 10, 1960, and is addressed to the Michigan State Police, 1000 East Michigan Street, Lansing, Michigan. The letter is signed by the Michigan State Bar Association and is a copy of a letter that was sent to the Michigan State Police on October 10, 1960.

3. The third part of the document is a letter from the Michigan State Police to the Michigan State Bar Association. The letter is dated October 10, 1960, and is addressed to the Michigan State Bar Association, 1000 East Michigan Street, Lansing, Michigan. The letter is signed by the Michigan State Police and is a copy of a letter that was sent to the Michigan State Bar Association on October 10, 1960.

4. The fourth part of the document is a letter from the Michigan State Bar Association to the Michigan State Police. The letter is dated October 10, 1960, and is addressed to the Michigan State Police, 1000 East Michigan Street, Lansing, Michigan. The letter is signed by the Michigan State Bar Association and is a copy of a letter that was sent to the Michigan State Police on October 10, 1960.

5. The fifth part of the document is a letter from the Michigan State Police to the Michigan State Bar Association. The letter is dated October 10, 1960, and is addressed to the Michigan State Bar Association, 1000 East Michigan Street, Lansing, Michigan. The letter is signed by the Michigan State Police and is a copy of a letter that was sent to the Michigan State Bar Association on October 10, 1960.

Michigan State Police
 Michigan State Bar Association
 1000 East Michigan Street
 Lansing, Michigan 48906
 10-10-60

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 10-10-60

Michigan State Police
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 1000 East Michigan Street
 Lansing, Michigan 48906
 10-10-60

14. COMMENTARY ENTRIES.

Commented call only for his good turnout
Performance in the General Parade held on

26/10/09
03 Nov 2344
28/10/09
DPS/MR

Commented Cook rewarded Rs. 50/-
for his good turnout on the Parade

held on 27-8-10

03 Nov 3842
DPS/Mardon

Commented Cook rewarded Rs. 50/-
for his good turnout during

General Parade.

03 Nov 4474
DPS/Mardon

24-11-10

ORDER

Site is being placed

with Suspension call immediate effect

(Correction not received)
03 Nov 4015

23-11-11

DPS/Mardon

Serial No.

Serial No.

CHARACTER

BEFORE THE DISTRICT POLICE OFFICER, MARDAN

Subject: **REPLY TO THE CHARGE SHEET+STATEMENT OF ALLEGATION NO.1008/R DATED 14-07-2015**

Respected Sir,

Your Honour had issued the subject charge sheet/ statement of allegation against the petitioner with the following allegations, which was handed over to the petitioner on 15-07-2015:-

"It has reported against you Constable Nijat No. 2776, DD No. 06 dated 09-07-2015 while posted at police lines Mardan that on 09-07-2015 you had come to the house of PO Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to police." (Copy of charge sheet is enclosed).

1. That the petitioner is posted at police lines Mardan. Esa Khan, Musa Khan residents of Sher Ghar are the criminals and wanted to police in several cases. A special guard of police is permanently deployed at the house of the above criminals for the last one year.
2. That the petitioner hails from village Alo. The real sister of the petitioner Mst Farrukh Naz is married to one Arif son of Muhammad Resident of Skhakot. One Said Nawab s/o Muhammad Gul R/o Skhakot is the maternal uncle of the said Arif. Mst Almas D/o Said Nawab R/o Skhakot is married to the above criminal Esa Khan. By this relation Arif and Esa Khan are related to each other.
3. That by relation of Arif being brother in law of the petitioner with Esa Khan family, the petitioner family used to visit their houses at special occasions. On 09-07-2015, the petitioner received an information regarding the serious illness of Mst Commission (Cousin of Esa Khan). The petitioner was also informed that the patient is on the way to Mardan for medical treatment. The petitioner wait at PRC Chock Mardan and the patient along with their relatives reach there. The petitioner accompanied them and brought the patient to the clinic Dr. Amir Khan situated at College chock Mardan. After medical checkup / treatment, the petitioner along with the patient went to their house at sher Ghar.(Medical Document regarding the illness of Mst Commission are enclosed).
4. That at Aftari Vella SHO Sher Ghar visited the house of Esa Khan, where I was present. SHO inquired about my presence in the said house, upon which, I disclosed that Esa Khan Family are my relatives and due to the illness of Mst Commission, she came to the said house. The SHO Further inquired that whether the petitioner will pass the night here or not. The petitioner disclosed that she does not want to stay here for night and just after Aftari, the petitioner will leave for his village. The SHO again said that they have brought my arrival in the said house into the notice of the DPO Mardan and the SHO arranged a private Car for taking the petitioner to her village. The petitioner to her house at late hour.
5. On the following day, the petitioner reported to DPO Mardan, where the petitioner disclosed the above mentioned facts. On 13-07-2015, the petitioner was suspended and closed to police lines.
6. That the petitioner has got no sympathy or support to the above criminals. The petitioner has visited the house of Esa Khan due to their family relation regarding the illness of Mst Commission and nothing else.
7. That the petitioner was enlisted as constable in police department in 2009 and performed his duty with zeal and efficiency. The petitioner had never been dealt departmentally throughout his lengthy period of service and holds a good shining service record.
8. That the petitioner parents are old and the petitioner police service is the only source of income of petitioner family.

Keeping in view of the facts and circumstances mentioned above, it is humbly requested that the charge sheet + summary of allegation may kindly be filed please and the petitioner be re-instated in service from the date of suspension.

Yours Obediently,

AN 15.7.2015
Constable (Nijat No. 2776)
Police lines Mardan

FINDING:-

This Departmental Enquiry was conducted against Lady Constable Nijat No. 2776 in accordance with provisions of Khyber Pakhtunkhwa Police Disciplinary Rules 1975 on below mentioned

"It has been reported against you Lady Constable Nijat No. 2776, DD No. 6 dated 07.07.2015 while posted at Police Lines Mardan that on 09.07.2015 you had come to the house of PO Essa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police".

2. Defaulter official was issued charge sheet with statement of allegation and vide office order No. 1008/R, dated 14.07.2015, I was appointed as inquiry officer.
3. On receipt of inquiry papers, the defaulter official was summoned and charge sheet with statement of allegations was handed over to her who submitted reply to it which was placed on file.
4. In order to prove the allegations against her, I summoned Anwar Khan SHO and concerned guard commander / IHC Attaullah and recorded their statements in presence of defaulter official.
5. I also recorded statement of defaulter official - she has stated in her statement that she has got relationship with family of Essa Khan as daughter of maternal uncle of her sister husband has been married to Essa Khan.
6. SHO after recording his statement also produced a copy of DD report No. 09 dated 22.07.2015 wherein he has reported that he was contacted on his cell No. 03005739730 by PO Essa Khan from his cell No. 0971-833518 that Police officials are teasing his friends / relatives. He also told about lady constable Nijat that she is closed relative of his wife, copy of said report has been placed on record.

7. **CONCLUSION/RECOMMENDATION:-**

From the statement of SHO and IHC as well as secret inquiry conducted by me it has been found that defaulter official / lady constable Nijat has got no blood relationship with family of PO Essa Khan rather she had developed relationship with them when she was posted with other Police Officials in the guard at house of PO Essa Khan. She has also admitted that she had remained posted at the said guard. Moreover she did not produce any witness etc in support of her contention regarding her relationship with wife or other family members of PO Essa Khan. It is worth mentioning here that PO Essa Khan is wanted to Sargodha Police in case FIR 161 dated 01.06.2014 u/s 365A/15/16PO-PA/7ATA PS Bera. Her service record was checked. It revealed that she was appointed as constable on 18.05.2009. There are 03 good entries in her credit with 07 bad entries. As such the allegations stand established against lady constable Nijat No. 2776 and she is recommended for suitable punishment.

Submitted please.

Dismissed from service

30.7.015

(MIAN IMTIAZ GUL)
DSP Legal Mardan.
Enquiry Officer

Confidential

MENT

MARDAN DISTRICT

ORDER

My this order will dispose of departmental inquiry, which was conducted against Lady Constable Nijat No. 2776, on the allegations that she while posted at Police Lines Mardan; On 09.07.2015 she had come to the house of PO Esa Khan for night staying in his house, who is a notorious criminal and most wanted person to Police. His this attitude adversely reflected on his performance, while discharge his official duty which is an indiscipline act and grass misconduct on his part as defined in rule 2(iii) of Police Rules 1975.

In this connection, Lady Constable Nijat No. 2776, was charge sheeted vide this office No. 1008/R, dated 14.07.2015 and also proceeded him against departmentally through **Mian Imtaiz Gul DSP/Legal Mardan**, who after fulfilling necessary process, submitted his findings to the undersigned vide his office endorsement No. 797/S dated 31.07.2015, as the allegation have been established against him and recommended for punishment.

The undersigned agreed with the findings of enquiry officer and the alleged Lady Constable Nijat No. 2776, is hereby **dismissed from service** with immediate effect, in exercise of the power vested in me under the above quoted rules.

Order announced

O.B No. 1260

Dated 31/7 2015

No. 6728-33/R, dated Mardan the 31/8 2015


(Gul Afzal Afridi)
District Police Officer,
Mardan.

Copy for information and necessary action to:-

1. The Deputy Inspector General of Police Mardan Region-1. Mardan.
2. The S.P Operations, Mardan.
3. The DSP/HQrs Mardan.
4. The Pay Officer (DPO) Mardan.
5. The E.C (DPO) Mardan.
6. The OHC(DPO) Mardan.

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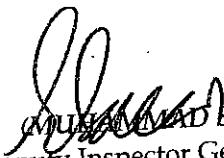
ORDER.

This order will dispose-off the appeal preferred by Ex- Lady Constable Nijat No. 2776 of Mardan District Police against the order of District Police Officer, Mardan, wherein she was dismissed from service vide OB: No. 1260 dated 31.07.2015.

Brief facts of the case are that, she while posted at Police Lines, Mardan on 09.07.2015 she had come to the house of Proclaimed Offender namely Ebn Khan for night staying in his house, who is a notorious criminal and most wanted person to Police. Her this attitude adversely reflected on her performance, while discharge her official duty which is an indiscipline act and gross misconduct on his part. In this connection she was charge sheeted and also proceeded against departmentally through Deputy Superintendent of Police, Legal, Mardan, who after fulfilling necessary process submitted his findings to District Police Officer, Mardan as the allegation were established against her and recommended for Major punishment. District Police Officer, Mardan agreed with the findings of enquiry Officer and the alleged Lady Constable was dismissed from Service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 19.08.2015. She failed to justify her innocence and could not advance any cogent reasons in her defence. Therefore, I, MUHAMMAD SAEED, Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal, not interfere in the order passed by the competent authority, thus the appeal is filed.

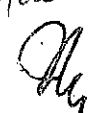
ORDER ANNOUNCED.


MUHAMMAD SAEED)PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 5013 /ES, Dated Mardan the 25/08 /2015.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 947/LB dated 17.08.2015. Her service roll is returned herewith for record in your office.

(*****)

Fe
For Action

DPO, Mardan
at 26/8/15