

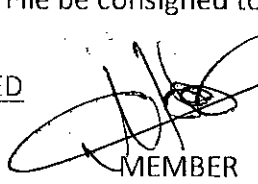
08.06.2016

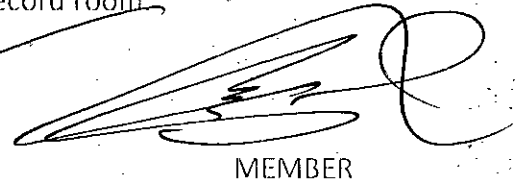
File was requisitioned on application of learned counsel for the appellant for withdrawal of the instant appeal which is placed on file. Learned counsel for the appellant stated that by way of the departmental appeal during pendency of this service appeal, the appellant dismissal order was converted into reduction to lower rank which he has already impugned in a fresh appeal.

In view of the stated position this appeal stand dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED

08.06.2016

  
MEMBER

  
MEMBER

28.1.2016  
07.06.2016

Appellant with counsel and Mr. Hayat Muhammad, Reader  
alongwith Assistant AG for respondents present. Requested for  
adjournment. To come up for written reply/comments on 25.2.2016  
before S.B. The restraint order shall continue

  
Chairman

MEMBER

MEMBER

25.02.2016

Counsel for the appellant and Mr. Aziz Shah, Reader  
alongwith Addl. A.G for respondents present. Written statement  
submitted. The appeal is assigned to D.B for rejoinder and final  
hearing for 7.6.2016. The restraint order shall continue.

  
Member

07.06.2016

Junior to counsel for the appellant and Addl. AG for  
respondents present. Rejoinder not submitted and requested for  
further time to file rejoinder. To come up for rejoinder and  
arguments on 26-7-16. The restraint order shall continue.

MEMBER

  
MEMBER

12.10.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Circle Officer (Investigation) when subjected to inquiry on the allegations of slackness in investigation in view of observations of the august Peshawar High Court recorded in Para-7 of the worthy judgment dated 12.12.2014 and vide impugned order dated 8.6.2015 dismissed from service against which he preferred departmental appeal on 23.6.2015 which was not responded and hence the instant service appeal on 2.10.2015.

Appellant Deposited  
Security & Process Fee



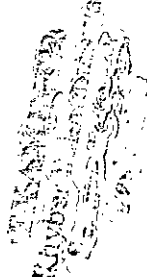
That during inquiry appellant was recommended for minor punishment and, moreover, the appellant was one of the Members of the Joint Investigation Team and picked-up for punishment mala-fidely

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 28.01.2016 before S.B.

Chairman

26.11.2015

Counsel for the appellant present. Application for suspension of letter dated 17.8.2015 for restraining the respondents from vacating residential accommodation was submitted on 3.11.2015. Notice of the said application be issued to the respondents for the date already fixed i.e 28.1.2016. Status-quo be maintained.





Chairman

FORM-A

FORM OF ORDER SHEET

Court \_\_\_\_\_

Case No. 1069 / 2015

	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	2.10.2015	<p>The appeal of Mr. Sabir Khan presented to-day by Mr. Ijaz Anwar, 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.B for preliminary hearing on <u>12-10-15</u>.</p> <p style="text-align: right;">                       CHAIRMAN                 </p>

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

Appeal No. 1069 /2015

Sabir Khan Ex Inspector Circle Office (Inv) Cantt-I Division  
Peshawar.

(Appellant)

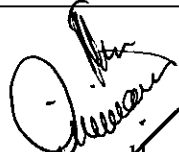
**VERSUS**

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

(Respondents)


**INDEX**

<i>S. NO</i>	<i>Description of documents</i>	<i>Annexure</i>	<i>Page No</i>
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3	Copies of the charge sheet and reply	C & D	15-18
4	Copies of the inquiry report	E	19-20
5	Final Show cause notice and reply	F & G	21-23
6	Copy of the dismissal order dated 8.6.2015	H	24
7	Copy of the departmental appeal	I	25-29
8	Vakalatnama		30

  
Appellant

Through

  
(IJAZ ANWAR)  
Advocate, Peshawar

&  
  
(SAJID AMIN)  
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

G.W.F. Provincial  
Service Tribunal

Diary No. 1134

Dated 2-10-2015

Appeal No. 1067/2015

Sabir Khan Ex Inspector Circle Office (Inv) Cantt-I Division  
Peshawar.

(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary to Govt Home and Tribal Affairs Department, Civil Secretariat Peshawar.
2. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. Additional Inspector General of Police (Investigations) Khyber Pakhtunkhwa, Peshawar.
4. Capital City Police Officer, Peshawar.
5. Senior Superintendent of Police Investigation, Peshawar.

(Respondents)

Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order Endorsement No. 2896-2906/ PA dated 8.06.2015 whereby the appellant is awarded major penalty of Dismissal from Service the departmental appeal dated 23.06.2015 filed there against has not been replied.

**Prayer in Appeal: -**

On acceptance of this appeal the impugned order dated 8.6.2015 may please be set-aside and the appellant may be re-instated in service *with all back benefits of service.*

**Respectfully Submitted:**

1. That the appellant was appointed /enlisted as Police Constable in police, during the course of his service he got promotion from time to time and raise to the status of Inspector with his hard work and dedication to his duties. That the appellant has at his credit all the major Police courses.

Filed to day

2/10/15

2. That while serving in the capacity Circle Officer (Investigation) Cantt : 1 Division Peshawar, he was served with an explanation letter dated 23.12.2014 calling upon him to reply regarding remarks of the Honourable High Court in showing slackness in investigation. He replied the same and explained his position. (Copies of the judgment of the High Court & explanation letter is attached as Annexure A & B)
3. That the appellant was served with charge sheet and statement of allegation dated 30.1.2015 containing the following false and baseless allegations:-

*“The honorable Peshawar high Court Peshawar has issued a judgment on 12.12.2014 on the bail application of accused Hameed Ullah and Hamid in case Fir No. 563 dated 1.7.2013 u/s 302/353/404/34/7 ATA Police Station Pishtakhara, Peshawar which revealed that he has conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables was martyred. He did not take pain to record the statements of those police officials who were posted in the same area where the incident took place. He did not made any efforts to collect information about the motorbikes used in the commission of offence or for the recovery of the officials weapon. He was so careless that you even did not bother to collect record of other cases of accused. Your conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which cannot be countenanced in any manner. Resultantly Honorable Judge released the accused on bail.”*

The appellant submitted his reply and refuted the allegations.

(Copies of the charge sheet and reply are attached as annexure C & D).

4. That a partial inquiry was conducted and the inquiry committee without properly associating the appellant with the inquiry proceedings conducted inquiry and submitted their findings wherein the committee recommended the appellant for minor punishment vide the inquiry report dated 11.5.2015. (Copies of the inquiry report is attached as annexure E).
5. That a final show cause notice was issued to the appellant dated 21.5.2015, wherein quite illegally minor/ major penalty including that of dismissal from service was proposed to be imposed, the appellant duly replied the show cause notice. (Copies of the Final Show cause notice and reply are attached as Annexure F & G)

6. That without adhering to the defence reply of the appellant or even to the report/ recommendations of the enquiry committee the appellant was awarded from major punishment of dismissal from service vide order dated 8.6.2015. (Copy of the dismissal order dated 8.6.2015 is attached as annexure H)
7. That appellant submitted his departmental appeal dated 23.6.2015 however it not responded despite the lapse of statutory period hence this appeal. (Copy of the departmental appeal is attached as Annexure I)
8. That the appellant prays for the acceptance of the instance appeal inter alia on the following grounds:-

*Grounds of Appeal*

- A. That the appellant has not been treated with accordance to law. Hence his rights secured and granted under the law are badly violated.
- B. That the departmental proceedings were partial mainly influenced by the observation of the Honourable High court, the enquiry committee did not taken pain to enquire the matter in its true perspective, simply referred to the observation of the High Court and allegedly prove the allegations, the appellant has thus not been provided proper opportunity to vindicate himself.
- C. That the authority or the enquiry committee did not considered that being a terror case, it is required to be investigated by the Joint Investigation Team, the appellant alone cannot be made liable in for alleged faulty investigation.
- D. That the Charge sheet & Final Show cause notice & the order of dismissal from service witnessed improvement in the allegations, thus the departmental proceedings are faulty and greatly prejudiced the case of the appellant.
- E. That no proper procedure has been followed before awarding the penalty to the appellant, the inquiry officer recommended only imposition of minor penalty, however the competent authority have never issued any order nor have stated any reason for disagreeing with the recommendations of the inquiry



officer, thus the penalty imposed is illegal and not tenable under the law.

- F. That the appellant has fully explained his position in the departmental proceedings, the nature of the case/ his investigation, however it was never considered by the respondents, thus the appellant was awarded a penalty too harsh, never commensurate with the allegations leveled.
- G. That the appellant has not been allowed the opportunity of personal hearing. Thus he has been condemned unheard.
- H. That the reason of disagreement with the enquiry committee given in the dismissal order is not the requirement of law, the proceedings are thus defective and the order of dismissal is not sustainable.
- I. That the recommendation of the enquiry officer were not adhered to and thus the order of dismissal is violative of law and thus is against the rules, law, arbitrary and is whimsical, similarly the appellant was never given opportunity of hearing as alleged, thus I have been condemned unheard.
- J. That ever since his appointment, the appellant had performed his duties with zeal and devotion and there was no complaint whatsoever regarding his performance.
- K. That the charges leveled against the appellant has never been proved during the inquiry albeit he has been dismissed from service on the bases of unproven charges.
- L. That the appellant has at his credit a long and spotless service career the penalty imposed is too harsh and liable to be set aside.
- M. That the facts and grounds mentioned in the departmental appeal, replies to the charge sheet and show cause notice may also be read as integral part of the instant appeal.

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

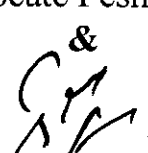
O. That the appellant seeks the permission of this Honorable Tribunal to rely on additional grounds at the hearing of this appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the dismissal from service order dated 8.6.2015 may please be set-aside and the appellant be re-instated in service with all back benefits of service.

  
Appellant

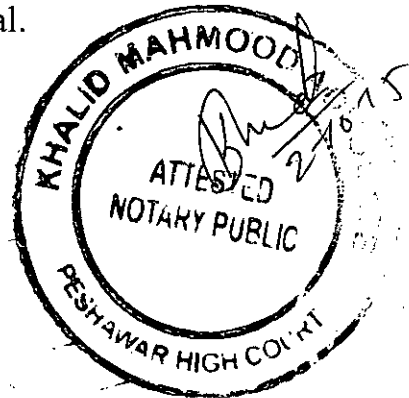
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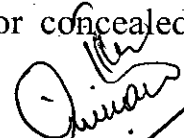
  
**IJAZ ANWAR**  
Advocate Peshawar.

  
**SAJID AMIN**  
Advocate Peshawar

### AFFIDAVIT

I, Sabir Khan Ex Inspector Circle Office (Inv) Cantt-I Division Peshawar, do hereby solemnly affirm and declare that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



  
Deponent

6 ANNEX A

**BEFORE THE  
PESHAWAR HIGH COURT PESHAWAR**



Bail Application No. 1818-P

Hameed Ullah alias Hamid S/o Amirullah  
Resident of Bazid Khel, Badhber, Tehsil & District Peshawar  
\_\_\_\_\_  
(Accused / Petitioner)

**V E R S U S**

The State  
\_\_\_\_\_  
(Respondent)

Case FIR No. 563 | Dated: 01.07.2013

U/S 302/353/404/34 PPC, 7ATA | Police Station: Pishtakhara

**APPLICATION FOR THE RELEASE OF ACCUSED /**  
**PETITIONER ON BAIL TILL THE FINAL DISPOSAL**  
**OF THE CASE.**

Respectfully Sheweth,

ATTESTED  
EXAMINER  
Peshawar High Court  
20 DEC 2014

A. That the accused / petitioner has been arrested in the above mentioned case and is behind the bars at Central Jail, Peshawar. (Copy of FIR is attached as Annexure A)

B. That the accused / petitioner moved bail application before the court of special Judge, Anti Terrorism Court-II, Peshawar but the bail application

FILED TODAY  
Deputy Registrar  
01 NOV 2014

*Atc*

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of the accused / petitioner was declined vide order dated 31.10.2014. (Copy of bail application and order dated 31.10.2014 is attached as Annexure B)

GROUNDS

- A. That the accused / petitioner is innocent and has falsely been implicated in the case.
- B. That there is nothing on the record to connect the accused / petitioner with the commission of the offence.
- C. That the case against the accused / petitioner is false, concocted and based on malafide.
- D. That the accused / petitioner is not directly charged in the FIR.
- E. That the accused / petitioner is complainant in case FIR No. 751 through which he received injuries and was admitted at LRH Peshawar, where he was charged in the instant FIR. (Copy of FIR No. 751 is attached as Annexure C)
- F. That nothing incriminating has been recovered at the instance of the accused / petitioner.
- G. That the case of the accused /petitioner false within the ambits of further inquiry.
- H. That the accused / petitioner is no more required for the purpose of investigation.

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01 NOV 2014

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ATTESTED  
EXAMINER  
Peshawar High Court  
20 DEC 2014

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~~1~~

I. That the accused / petitioner is ready to furnish bail bond with reliable sureties to entire satisfaction of the court.

It is therefore, most humbly prayed that on acceptance of this application the accused / petitioners may kindly be released on bail till the final disposal of the instant case.

Accused / Petitioner

Through

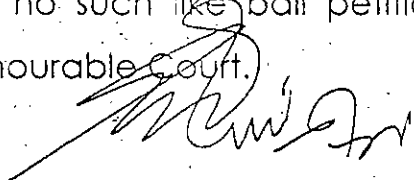


Muhammad Saleem Shakir  
Advocate,  
High Court Peshawar

Dated: 01.11.2014

NOTE

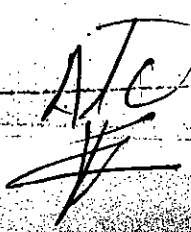
As per instruction of my client no such like bail petition has earlier been filed before this Honourable Court.



ADVOCATE

FILED TODAY  
Deputy Registrar  
01 NOV 2014

20 NOV 2014  
Court



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*(Handwritten mark)*

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

Cr.Misc.BA nO.1818-P/2014

Date of hearing: 12.12.2014

Petitioners (s) : Hameedullah alias Hamid by Mr. Muhammad Salim Shakir, Advocate.

Respondent(s) : The State by Mr. Muhammad Sajid, Advocate, State counsel.

**JUDGMENT**

**ASSADULLAH KHAN CHAMMKANI, J.-** Petitioner

Hameed Ullah alias Hamid, seeks bail in case FIR No.563 dated 01.07.2013, registered under sections 302/353/404/34 PPC read with Section 7 Anti Terrorism Act, at Police Station Pishtakhar.

2. Learned counsel for the petitioner and learned State counsel heard. Record perused.

3. It appears from record on 01.07.2013 at 1345 hours, three unknown culprits riding on motorbikes, in order to create terror in the society, opened fire at police officials who were on patrol duty near Abbas Terminal Ring Road, within the limits of Landi Akhun Abad, as a result, Constables

*Assadullah Khan*

*(Handwritten signature)*

M. Shari Afridi, P.S. O

**ATC**  
*(Handwritten signature)*

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*[Handwritten scribble]*

Subhan Ali and Usman Ali got hit and died on the spot; that after shooting the deceased, the culprits also took away along with them the officials rifles of the deceased Constables.

4. Petitioner is not named in the FIR. None has come forward to furnish the ocular account of the incident. The petitioner remained in police custody, but he has not confessed his guilt before any competent court of law nor anything incriminating such as the weapons of offence, motorbike or the rifles of the deceased Constables has been recovered either from his direct or indirect possession. The only piece of evidence which prevailed before the learned lower court for declining him bail was the confessional statement of co-accused Bilal recorded under section 164 Cr.P.C. on 20.09.2014. A look over the same would reveal that co-accused Bilal has not shown himself as an accused/participator of the present incident. According to him he was confined in judicial lockup in some narcotics case at the instance of his father where he met with present petitioner Hamidullah and co-accused Rizwan, who allegedly told him that they want to kill police officials and that later on, he came to know in village about the present incident. The I.O. has not brought anything in black & white to show association of the petitioner with co-accused Bilal in judicial lockup, as alleged by him. Except statement of co-accused Bilal, there is nothing on record, at this stage, to connect the petitioner with the

*Ass. & ...*

*May*  
20 DEC 2014

FILED

01

M. S. Ali P.S. D

*AJC*  
*[Signature]*

(11)

commission of offence. Rather, on tentative assessment of the record, reasonable grounds exist which requires further probe into the guilt of the petitioner. It is settled law that bail may not be refused merely on the ground that accused for a heinous offence, when otherwise, he is found entitled to the concession of bail because any mistaken relief of bail, can be repaired by convicting the accused, if proved guilty at the trial, but no proper reparation can be offered for his unjustified incarceration, albeit, his acquittal in the long run.

5. For the foregoing reasons, this petition is allowed and accused/petitioner is admitted to bail provided he furnishes bail bonds in the sum of Rs.3,00,000/- with two sureties each in the like amount to the satisfaction of learned Illaqa Judicial Magistrate/MOD, concerned.

6. Before parting with the judgment, this court has taken with great concern the conduct of learned State Counsel, who when confronted with the record of the instant and was asked to point out any evidence/material which could connect the petitioner with the commission of offence, he except reiterating the offence to be heinous in nature and against the society, could not urge more, rather pressed hard for provision of time to consult his seniors in the office. This conduct of the learned State counsel is highly deplorable which shall not be

Ass. - ...

ATTESTED  
 EXAMINER  
 Peshawar High Court  
 20 DEC 2014

MAJID ALI P.S.D.

ATC



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allowed to prevail in the future. By nominating such like junior advocates with the task of cases high import like terrorisms, murders and attempt to murders etc; also speak volumes about consciousness of the responsible officials of Office of the Advocate-General about their official obligations. Learned Additional Registrar (Judicial) of this court is directed to send copy of this judgment to learned Advocate-General Khyber Pukhtunkhwa, Peshawar, for taking the matter into consideration and curtailing such practice in the future by distribution of cases to the law Officers keeping in view the nature and gravity of offences involved in the cases.

Assessment

7. Moreso, I would not feel any hesitation to condemn the poor role of the Investigation Agency, particularly, the Investigation Officer of the instant case, keeping in view his poor investigation by roughly dealing with the case of terrorism where two innocent police Constables have been martyred.

The I.O. even has not taken pain to record the statements of those police officials who were also posted in the same area of the deceased constables and were on their duty in the area where the incident took place nor have made them

ATTESTED  
 JUDGE  
 Peshawar High Court  
 20 DEC 2014

ATC  
 [Signature]

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complainants of the case. He has not made any effort to collect information about the motorbikes used in the commission of offence or for the recovery of the official's weapons. He was so careless that he even did not bother to collect record of those cases of accused Bilal and the present petitioner in which they remained in judicial lock up with each other. If such is the conduct of the police in the cases of colleagues of their own Force, what the people of the society would expect from them and how they would consider themselves safe under the shelter of the police. The conduct of the Investigating Agency demonstrated in the instant case is highly dreadful, shocking and unacceptable, which cannot be countenanced in any manner. Copy of this order be placed before Additional Inspector General Police (Investigation) Khyber Pakhtunkhwa for taking the matter into consideration and doing the needful against the delinquent. Any step taken in this regard is expected to be intimated to this court, through the office of the Additional Registrar (Judicial), as early as possible.

**Announced.**  
12.12.2014

*Col/ Asst. Ad. J. Khan Chohan*  
JUDGE

CERTIFIED TO BE TRUE COPY

Examiner  
Peshawar High Court, Peshawar  
Authorized Under Article 21 of  
The Qanun-e-Shahadat Order 1984

20 DEC 2014

ATC  
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14

INSPECTOR SABIR KHAN  
Circle Officer (Inv.) Cantt:-I, Division, Peshawar

**EXPLANATION.**

The Honorable Peshawar High Court, Peshawar has issued a Judgment on 12/12/2014 on the bail application of accused Hameed Ullah @ Hamid in case FIR No.563 dated 01/07/2013 u/s 302/353/404/34 PPC/7ATA Police Station Pishtakhara, Peshawar which revealed that you have conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables have been martyred. You were not taken pain to record the statements of those Police officials who were posted in the same area where the incident took place. You were not made any efforts to collect information about the Motorbikes used in the commission of offence or for the recovery of the official's weapon. You was so careless that you even did not bother to collect record of other cases of accused. Your conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which cannot be countenanced in any manner. Resultantly Honorable Judge High Court released the accused on bail.]

You are hereby directed to explain your position within 03-days after the receipt of this explanation, otherwise it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

No. 7589 /PA,

Dated 23 /12/2014

S.S.P. INVESTIGATION, PESHAWAR.

(signature)

Received

O. Khan

MSP/iii/H Aserat  
24/12/14

A/C

15 ANNEX: C

**CHARGE SHEET**

1. Whereas I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary & expedients.

2. And whereas, I am of the view the allegations if establishment would call for major/minor penalty, as defined in Rules 3 of the aforesaid Rules.

Now therefore, as required by Police Rules 6 (1) of the said Rules, I **Ijaz Ahmad**, Capital City Police Officer, Peshawar, hereby charge you **Inspector Sabir Khan, Circle Officer (Inv:) Cantt-I, Division Peshawar** under Rule 5 (4) of the Police Rules 1975 on the following allegations:-


The Hon'able Peshawar High Court, Peshawar has issued a Judgment on 12.12.2014 on the bail application of accused Hameed Ullah@ Hamid in Case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34/7 ATA Police station Pishtakhara, Peshawar which revealed that you have conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables were martyred. You did not take pain to record the statements of those Police officials who were posted in the same area where the incident took place. You did not made any efforts to collect information about the Motorbikes used in the commission of offence or for the recovery of the official's weapon. You were so careless that you even did not bother to collect record of other cases of accused. Your conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which can not be countenanced in any manner. Resultantly Hon'able judge of High Court released the accused on bail.

No. 210/57  
Dt. 30/01/2015  
Pm/s: (12)

3. And I hereby direct you further under Rules 6 (I) of the said Rules to put in a written defence within 7 days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also stating at the same time whether you desire to be heard in person.

4. And in case your reply is not received within the specific period it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

AIC

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

16

12

**SUMMARY OF ALLEGATIONS**

1. **I, Ijaz Ahmad, Capital City Police Officer,** Peshawar as Competent authority, am of the opinion that **Inspector Sabir Khan, Circle Officer (Inv:) Cantt-I, Division,** Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

**STATEMENT OF ALLEGATION**

The Hon'able Peshawar High Court, Peshawar has issued a Judgment on 12.12.2014 on the bail application of accused Hameed Ullah@ Hamid in Case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34/7 ATA Police station Pishtakhara, Peshawar which revealed that he has conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables was martyred. He did not take pain to record the statements of those Police officials who were posted in the same area where the incident took place. He did not made any efforts to collect information about the Motorbikes used in the commission of offence or for the recovery of the official's weapon. He was so careless that you even did not bother to collect record of other cases of accused. Your conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which can not be countenanced in any manner. Resultantly Hon'able judge High Court released the accused on bail.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an Enquiry Committee/ Enquiry Officer comprising of the following is/are hereby constituted/nominated:-

- i) DSP Inv. Khauzes Khan
- ii) DSP Inv. Riaz Khan

3. The Enquiry Committee/Enquiry Officer shall in accordance with the provision of the Police Rules (1975) provide reasonable opportunity of hearing to the accused officer/officials and make recommendations as to punish or other appropriate action against the accused official.

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

No. 01 /E/PA, dated Peshawar the 30/1 /2015.

Copy of the above is forwarded to the enquiry Committee/ Enquiry Officer for initiating proceeding against the accused under the Police Rules 1975.

صا عالی  
حوالہ جاریہ ڈیٹ میں 30/11/2013ء EIPA حروف صوفیوں

کہ سلسلہ تفتیش حوالہ شدہ 563 حورہ 7/13 ص 01  
353/34/7ATA 202/404/7ATA  
تھا کہ لکھنؤ میں حوالہ عوارضات در 20 ہیں کہ دو کینڈلان شہید ہو کر  
کئی پولیس آفسر کا بیان تک قلمبند نہیں کیا گیا ہے

- (2) وہ کینڈا کینڈا اور شہید کینڈا کے - snatch سندہ و اول کے لئے نوشتیں نہیں کی گئی ہیں
- (3) زمانہ کے لسٹ کوئی اور ریکارڈ ہم پر پیش لائے گئے ہیں

صا عالی الزام ہمارے بار حود بانہ کر رہے کہ اگر ہفتہ قبل پر دیکھا جائے تو کینڈلان کے ایک پولیس کے پاس نام بریدی پوائنٹ پر تھے۔ جہاں قریب و حوالہ میں کوئی دیگر نفی پولیس افسر کی بات نہ تھی۔ کس کے بیانات قلمبند کر کے لکھے گئے و توڑے گئے۔ آج سے 2 1/2 سال پہلے کے واقعے پر یہ پھر بھی ہفتہ قبل پر موجود ہے کہ تعلقہ اور میں آفسران کے بیانات موجود ہیں

(2) آرام بر 2 - کے اس میں تحریر کرتا ہوں کہ FIR میں میں ہفتہ قبل کا ذکر فرسٹ لہار آفسر نے کیا ہے۔ جو قوم نہیں کہ اس میں نے کس ہفتہ قبل کا ذکر کیا ہے۔ کہ تو ایک ایڈر کا نام آج کا ذکر کیا ہے۔ اور نہ ہی FIR میں موجود ہے کینڈلان شہید ہو کر ان کے لا اسٹل لے جا کر ہر طرف سے اس کے اس وقت کے ماہ افسران سے بیان سماعت ہو گیا ہے۔ پولیس افسران نے۔ ہفتہ قبل تک 4 اور زمانہ تک رسد ملی اور لا اسٹل چھینے ہوئے کسی سرآمدگی کے لئے مذکورہ کر نہیں کی ہے۔ اگر ملائی ٹیسٹ شہادت کے ایسی کو نامزد کرنا ضروری ہے اس کے عا ہے۔ CRo کے رسد ملات سے گزرتا اگلا ہر نام میں مشہور کے بروقت تحریری درخواست ارسال کر کے ہفتہ قبل پر موجود ہے

(3) مثل حورہ دار تفتیش حالت میں ATC اور فوری لئے سماعت طلب کر کے ہر زمانہ کے ضمانت کے درخواست منسوخ ہو کر ATC سے یہ ات بحالیہ - حقہ ایسے کر تھا نہ وہ ایسے ہی نہیں ہوا۔ چونکہ ہر زمانہ گزرتا رہتا رہا، رضوان اور محمد اللہ محمد انہ لکھنؤ کے دیگر ہم صوفی قسم کے حقوق میں گزرتا رہا ہونے کے لیتا ان کے FIR میں وہ لا اسٹل کے لئے وہ نہیں کیے گئے ہیں۔ کیونکہ تینوں اہل عاقبت کے لئے ہیں۔ FIR میں ملنے والے نامزد نہیں تھے۔ اور ان عدم شہادتی کی صورت میں تو ایسے FIR - مثل پر لے آئے جائیں کہ مل کر وقت ہر نام کی مل کر بیٹا ثابت کرنے کے خاطر اس کے ساتھ شہادتی اور تقویات FIR لف مثل حقہ لکھنؤ شہادت کے لئے جاتے ہیں ذکر شدہ - مثل حورہ میں آج تو جان عمل قریب اس میں کیا گیا ہے۔ یہ خلاف آرام حورہ لکھنؤ میں گویا صلحاں قوموں نے لوں محسوس کی ہے کہ وہ - میں جان عمل و مل لیا گیا ہے

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جنا عالی، عرفان بلال، رمہان کو گرفتار کر کے قتل کر لیں تھا یہ  
 لیٹر کے حوالے کیے گئے تھے لوقت گرفتاری بروقت انٹورزاں کے گھروں پر  
 تھا یہ رہتی ہوئی، تو یقیناً سزا دہائی یعنی برقی، جبکہ لازم ہے برائے کوئی ان  
 خبر و حیت LRH میں گرفتار کیا گیا تھا۔

اس کے علاوہ، عدالت گریڈ 1م کے مقدموں کی فہرست، فرد واحد ہیں کرنا ہے  
 جو آرڈر ٹیوشن گیشن ٹیم ایک تحریری نوٹیفکیشن کے روشنی میں ہم جن میں قسم کے قتل  
 کی آفیش کر کے ہیں، وائزین اور ایکٹ اور 10.5.2014 حاکمان سے خصوصی رہا ان اسٹریٹ  
 کر کے۔ کہ یہ مقدمہ سپر لیسٹ پیس پیس کے آفیش / آرڈر گیشن واسطے حفاظت  
 پولیس اسٹیشن صاحبان مقرب کیے جائیں لہذا ان SSP 5000 نے مدد اسٹریٹ  
 کے پیش ایک ٹیم مقرب کر کے ملزمان کو اسٹریٹ کر گئے ہیں اور عمل آفیش  
 کی سے نوٹیفکیشن ای 15/9-14 3802-12PA-15 (4) No-3861-63PA 15-9-14  
 اور آرڈر 10/14 6045-48PA-20 جاریہ دفتر SSP صوبہ الودی گیشن قابل وارڈ  
 صاحبان

محض میں ایڈوائس نہیں کیا ہے جو کہا ہے دست کیا ہے سال ہی میں عدالت گریڈ 1م  
 کی مقربان مقدمہ 1061/13 365A تھا یہ حیات آباد میں گرفتار شدہ ملزمان چار نفر  
 25 سال، 11، مقدمہ 568/13-14 فرم 365A 302 تھا یہ نری میں گرفتار شدہ ملزمان 2 نفر -  
 سرائے سموت اور ایک عمر قید 50 کہ تھا یہ لیٹر کے ایک مقدمہ میں جو سال 2014 میں  
 رخصت ملزم حکم الحق دہ 20 ہو کر 5 سال قید سہارا اب "رکے" ان بعض اوقات  
 بنیادی سے قای گیاں مقدمہ کی تباہی کا باعث بنتے ہیں جو عرفان گرفتار دیاں بھی کبھی  
 اجمار سزا دہائی، نازیالی حفاظت بنتے ہیں۔

اللہ تعالیٰ ہم سے کلاف جاری کردہ جائے شہادت کو داخل دفتر واپس

الغرض  
 عرفان اس کے سوا کہ وہ تھا یہ لیٹر حال میں PT، لنگہ  
 ATC  
 [Signature]

29/1/2015  
 [Signature]

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ANNEX. E  
19

From : The Deputy Superintendent of Police,  
Investigation Rural Division.

To : The Capital City Police Officer  
Peshawar.

No. 569 /ST, dated Peshawar to the 11/05 /2015.

Subject: **DEPARTEMENTAL ENQUIRY AGAINST INSPECTOR SABIR KHAN.**

Memo:  
Kindly refer to your office Endst: No. 01/E/PA, dated 30.01.2015.

**ALLEGATIONS**

The Hon'able Peshawar High Court, Peshawar has issued a judgment on 12.12.2014 on the bail application of accused Hameed Ullah @ Hamid in case FIR No. 563 dated 01.07.2013 u/s 302/353/404/34/7ATA Police Station Pishtakhara, Peshawar which revealed that he has conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables were martyred. He did not take pain to record the statements of those Police official who were posted in the same area where the incident took place. He did not made any efforts to collect information about the motorbikes used in the commission of offence or for the recovery of the official's weapon. He was so careless that you did not bother to collect record of other cases of accused. Your conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which cant not be countenanced in any manner. Resultantly Hon'able Judge High Court released the accused on bail.

**PROCEEDINGS**

For the purpose to scrutinize the conduct of Inspector Sabir Khan was called, heard in person and recorded his statement, also cross examined.

**STATEMENT OF INSPECTOR SABIR KHAN.**

He stated in his statement that:-

1. The Constables were on duty at Abbas Terminal, other Police officials were also posted in the nearest area. Statement of concerned officials is present on case file.
2. The reporting officer unable to mention make and type of motorcycle in his initial report. Drastic efforts has been made for the recovery of snatched rifles, it has been advertised accordingly.
3. The case file has been submitted to ATC court in connection of bail application of accused, which was rejected and sent to Hon,able High Court Peshawar, which is yet not returned. The accused Bilal, Rizwan and Hameed Ullah are involved/arrested in such like case, their copies of FIR were not annexed with the instant case file because these cases files are in the court and the above mentioned accused are not directly charged in the cases. After conclusion of cases their copies will annexed with case files. The instant case is still under investigation and complete challan yet not submitted the quarter concerned.

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The accused Bilal and Rizwan were arrested and hand over to the local Police. If the accused were handed over to the local Police well in time, then the recovery would possible. The accused Hameed Ullah was arrested in injured condition at LRH.

Moreover, the investigation of such like cases are conducted through Joint Investigation team and a team has already constituted vide notification No. 3812-15/PA, dated 15.09.2014, No. 3861-63/PA, dated 15.09.2014 and order No. 6045-48/PA dated 20.10.2014 issue from the office of SSP Investigation, Peshawar. I has not investigated the case lonely.

He further stated that in case FIR No. 1061/2013 u/s 365-A Police Station Hayat Abad the arrested accused convicted for 25/25 years, in case FIR No. 568/13 u/s 365-A/302/381-A Police Station West Cantt convicted for life imprisonment. Some time initial irregularities destroy the case.


### **CONCLUSION.**


After thoroughly examination of case file and circumstances, the inquiry team came to the conclusion that being an investigation officer of the instant case he committed the following blunders:-

1. He unable to record the statements of other staff deputed with the martyred Police officers namely Anwar Ali No. 490/SPO, Aftab Gul No. 1070/SPO and Zahoor Hussain no. 475/SPO because they were deputed for the said naka bandi with the martyred constables.
2. He unable to bother the record of cases FIR No. 563 dated 1.7.2013 u/s 302 PPC, FIR No. 162 dated 15.02.2013 u/s 302 PPC and FIR No. 471 dated 7.6.2011 u/s 302 PPC Police Station Pishtakhara, being the accused, confessed before the Police and court in case FIR No. 563 dated 01.07.2013 u/s 302/353/404/34 PPC 7ATA of Pishtakhara, as the Hon'able Justice of Peshawar High Court observed in his judgment.

### **RECOMMENDATIONS**

Keeping in view the above circumstances and his negligence it is therefore recommended that he may be awarded minor punishment.

  
(Inayat Ullah Shah)  
Deputy Superintendent of Police,  
Investigation, Rural Division.

  
(Riaz Ahmad)  
Deputy Superintendent of Police,  
Investigation, City Division

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ANNEX I 'F'  
(20)

**FINAL SHOW CAUSE NOTICE**

I Ijaz Ahmad, Capital City Police Officer, Peshawar as Competent Authority under P.R. 1975, do hereby serve you **Inspector Sabir Khan**, Circle Officer (Inv) Cantt-I Division as follow:-

2. (i) The Consequent upon the completion of inquiry conducted against you by **Mr. Riaz Ahmad, DSP-inv: City Division & Mr. Inayat Ullah Shah, DSP-Inv: Rural Division** for which you were given opportunity of hearing.
- (ii) On going through the findings and recommendation of the inquiry officers, the material on record and other connected papers including your defense before the said officers.

I am satisfied that you have committed the following acts/omission:-

- i) He did not record the statements of other staff in case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34/7 ATA Police station Pishtakhara deputed with the martyred Police officers namely. Anwar Ali No. 490/SPO, Aftab Gul No. 1070/SPO and Zahoor Hussain No. 475/SPO of PS Pishtakhara because they were deputed for the Abbas Terminal Naka Bandi PS Pishtakhara with the martyred constables.
- ii) He did not bother the record of cases FIR No. 563 dated 1.7.2013 u/s 302 PPC, FIR No. 162 dated 15.2.2013 u/s 302 PPC and FIR No. 471 dated 7.6.2011 u/s 302 PPC Police Station Pishtakhara, being the accused, confessed before the Police and court in case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34 PPC 7 ATA of Pishtakhara, as the Hon'able justice of Peshawar High Court observed in his judgment.
- iii) You were held responsible for poor investigation in the above FIR.
3. As a result there of I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice received within 7-days of its delivery, it shall be resumed that you have no defense to put in and in that case an ex-part action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.
7. Copy of the findings of the inquiry officers is enclosed.

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR.**

No. 2737 /PA dated 21.5. /15





صا عالی

توالفٹ کو فائنل شو کاڈ نوٹس نری 5/21 dated 2737/PA

معرض خدمت 30

کمر رمانی اور تحریری طور پر بار بار عرض کر کے قانون کر مقدمہ عد 563

حرفہ 7/13 اجرم 7ATA / 404 / 302 / 353 / 34

طور پر عین کے اکیلا نہیں کیا ہے جبکہ سزا صحیح مل رہا ہے انکو نری

آخری درجہ میں کے علاوہ اسوقت کے دیگر نالہ افتدنی صہبان بار بار

مثل مقدمہ کا مدفظ کر کے عدالت جاری کیے جنکی روشنی میں ایک

ATC نے تفتیش کی ہے

صا عالی! ایک رڈ پر موجود ہے کہ کنیڈان جو شہرہ سونے میں ان کے

عہدہ ہالکرنڈری لو انڈیا پر کوئی پولیس اہلکار ان کو روک نہ تھے کہ

کیس کے بیانات قلمبند کر لئے جاتے۔ البتہ تعانہ لائبر کے متعلقہ سٹاف

کے بیانات ضرور قلمبند کیے ہیں

اسے عہدہ قابل سونچا امر ہے کہ کیس شخص کی مصیبت ثابت کرنے کے

حاضر اسے سالہ سزا بیسیوں کو بطور دم بقوت متبادل مثل مقدمہ اس وقت

کیے جاتے ہیں جب مقدمہ میں جاہل مکمل ہر شب کی جاتا ہے اس سلسلہ

میں بار بار رویا ہوں کہ زہر تفتیش مثل جو عدالت، ATC لیشاؤ

طد و تریں میں موجود تھا اور ایسی عدالت سے عدالت عالیہ کی مد

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تعالیٰ انجمن اہل حدیث سے رابطہ برقرار رکھو۔ مگر مگر  
یہ دعویٰ فقہاء اہل حدیث سے کیا گیا ہے کہ وہ فقہاء  
اہل حدیث ہیں۔ دیگر علما نے اس کا نام بیان کیا تھا۔ ولایت  
تعالیٰ لوہیوں نے معلوم کر کے مگر مگر اہل حدیث کے لئے  
ان کے خلاف دعویٰ جاری کیا ہے۔

563 حضرت مسیح موعود علیہ السلام نے 7/13  
میں فرمایا ہے کہ اہل حدیث کے لئے  
کو جو علم ہے اور لہذا ایک مگر مگر  
کے ایک مگر مگر اہل حدیث کے لئے  
مگر مگر اہل حدیث کے لئے  
مگر مگر اہل حدیث کے لئے  
مگر مگر اہل حدیث کے لئے  
مگر مگر اہل حدیث کے لئے

2875/14  
مگر مگر اہل حدیث کے لئے

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ORDER.

ANNEX H

(24)

**Inspector Sabir Khan**, Circle Officer (Inv) Cantt-I Division, was issued Charge Sheet and summary of allegations containing the following allegations:-

The Hon'able Peshawar High Court, Peshawar has issued a Judgment on 12.12.2014 on the bail application of accused Hameed Ullah@ Hamid in Case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34/7 ATA Police station Pishtakhara, Peshawar which revealed that he has conducted poor investigation by roughly with the case of terrorism where two innocent Police Constables were martyred. He did not take pain to record the statements of those Police officials who were posted in the same area where the incident took place. He did not made any efforts to collect information about the Motorbikes used in the commission of offence or for the recovery of the official's weapon. He was so careless that even did not bother to collect record of other cases of accused. His conduct demonstrated in the instant case is highly dreadful, shocking and unacceptable which can not be countenanced in any manner. Resultantly Hon'able judge High Court released the accused on bail.

**Mr. Riaz Ahmad, DSP-inv: City Division & Mr. Inayat Ullah Shah, DSP-Inv: Rural Division now SP/PBI-HQ:** was constituted for proper departmental enquiry into allegations. They in their finding recommended that:-

- i) He was unable to record the statements of other staff deputed with the martyred Police officials namely Anwar Ali No. 490/SPO, Aftab Gul No. 1070/SPO and Zahoor Hussain No. 475/SPO, because they were deputed for the Abbas Terminal Naka Bandi PS Pishtakhara with the martyred constables.
- ii) He did not bother to collect record of cases FIR No. 563 dated 1.7.2013, u/s 302 PPC, FIR No. 162 dated 15.2.2013 u/s 302 PPC and FIR No. 471 dated 7.6.2011 u/s 302 PPC Police Station Pishtakhara, being the accused, confessed before the Police and court in case FIR No. 563 dated 1.7.2013 u/s 302/353/404/34 PPC 7 ATA of Pishtakhara, as the Hon'able justice of Peshawar High Court observed in his judgment. They in their findings found him guilty. On receipt of the

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findings of the enquiry committee he was issued Final Show Cause Notice to which he replied. His reply was thoroughly examined. Besides, he was also heard in person on 5.6.2015, but failed to advance any prima facie reason in his support. Moreover, the accused officer has ill reputation, he is corrupt, known to be corrupt, he has intentionally carried out defective/faulty investigation and spoiled a genuine case in which the actual/real killers of Police constables were given relief and helped them who were bailed out by the Hon'ble court. The charge has been established, therefore, the undersigned does not agree with the recommendations of Enquiry Committee regarding award of minor punishment. He is awarded major punishment of **dismissal** from service.

  
**CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

No. 2896-2906/PA dated Peshawar the

8/6/2015.

Copies to the:-

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar w/r to Addl: IGP-Inv: Endst: No. No. 348-51/SP-Legal/ Invest:, dated 22.1.2015.
2. Addl: Inspector General of Police, Investigation, Khyber Pakhtunkhwa, Peshawar w/r his office letter No. 347/SP-Legal/ Invest:, dated 22.1.2015.
3. SSP-Ops: Peshawar.
4. SSP-Inv: Peshawar.
5. DSP-Legal, CCP, Peshawar.
6. AS/PO/EC-I-II/I-C Computer Cell
7. FMC encl: (25)

ANNEX I

25

Before the Hon'ble Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar

Subject: Departmental Appeal u/r 11 of Police (E&D) rule 1975, against the impugned order, Passed by W/CCPO vide Endost No. 2896-2906/PA dated 08.06.2015

Sir,

The appellant respectfully prefers this appeal against the impugned order of w/ CCPO, inter-alia on the following grounds, amongst others.

**PRELIMINARIES:**

1. The inquiry proceedings have not been conducted in accordance with the prevailed rules, contained **u/r 6 of E& D rules 1975**, as I have not been associated with the inquiry proceedings for clarification of the observations, passed by the Hon'able Peshawar High Court. The inquiry committee except Court observations, did not examine or consult any other oral or other documentary evidence, on record of criminal case.
2. As per provision **u/r 16.25 police rules 1934**, a Police Officer called upon to answer a charge of misconduct must be given every reasonable opportunity of proving his innocence. It was a blind case and the appellant minutely investigating it and traced out not only the culprits but arrested them.
3. The investigation of the criminal case bearing FIR No. 563 dated 01.07.2013 u/s 302 / 353/404 PPC and 7 ATA PS Pishtakhara has not been completed and in such situation if any lacuna or deficiencies are left, the same can be cured at this stage, legally no hindrance/ obstruction exists.
4. It is worth mentioning that there is no bar or end under the law for investigation and can continue even after execution of sentence. (2007 PCrLJ P-139 and PLD 2009 Lah P 585), therefore further investigation can be conducted in the aforestated case.
5. Even for the sake of arguments, if the findings of the inquiry committee are admitted for a while (Which are strongly denied), the punishment awarded to appellant is very harsh, arbitrary and contrary to the settled

ATC

principle and law on the subject. Provision of rule 16.2 PR 1934 are referred wherein dismissal shall be awarded only for the gravest acts of misconduct or continued misconduct proving incorrigibility and complete unfitness for police service however regard shall be had to the length of service, the appellant is having 19/20 years of longstanding service on his strength.

6. The aforestated case was a blind one, charged or identified no one but the appellant very tactfully traced out the culprits and brought material evidence on the file which is not possible in such like cases. Through honest and integrated investigation, the appellant interrogated accused Bilal who made confession before court of competent jurisdiction whereas accused Riswan also confessed his guilt before the appellant / IO but when produced to Court of competent Jurisdiction, he declined. However, both the accused made pointation of the alleged fateful occurrence and as such their places were cited in the cite plan.
7. So far the observation of information regarding motorcycle, used by the culprits, allegedly used by them, it is regretted with apology that in the murassila, sent by ASI Iftikhar did not contain make, colour or other particulars therefore, it was not possible to proceed in the alieged matter. Moreover, accused namely Bilal and Rizwan were granted less custody of 02 days, in which they were thoroughly interrogated but except confession and pointation of the place of occurrence no other revelation could be brought / made available. Accused Hamid in serious injured condition, was arrested but he due to fire shot injuries in abdomen, could not be properly interrogated. In this regard; health condition and custody request is fully and well indicated from Zamima B (Jail authority report), injury sheet and request of the appellant as IO which justifies the investigation, conducted by appellant. (relevant documents enclosed).
8. The Court observation for non-recording statements of constables, on duty which Shaheed constables, at the time of occurrence were not present on duty point, therefore did not witness the occurrence and in such circumstance, their statements cannot stand helpful to the prosecution case and as per law it does not matter. Moreover, those

AIC  
[Signature]



witnesses not present on spot, are not required to be examined, they being not eye witnesses

9. The veracity of the so called disciplinary proceedings/ impugned order can be judged from the fact that the contents of charge sheet and those of final show cause notice are different to the extent on one count, there are no where mention bad reputation or corruption of the appellant even in the final show cause notice but the impugned order carries the corruption charge, these versions strongly contradict the status/ integrity of the impugned order.

**ON FACTS:**

1. The Hon'able Peshawar High Court during arguments on bail application of accused Hameed Ullah in case FIR No. 563 dated 01.07.2013 u/s 302,353 404PPC/7 ATA observed the investigation of the case as substandard and without efforts of the appellant, therefore on these observation vide order dated 30<sup>th</sup> Feb 2015 the appellant was proceeded with departmentally under the Police (E& D) Rules 1975.
2. The inquiry committee recommended appellant for negligent investigation, to be awarded minor punishment but the competent authority over looked the recommendation and awarded major punishment of dismissal vide order dated 08.06.2015. the authority without giving heed to the findings, replies to charge sheet and show cause notice, issued the impugned order to the utter shock and dismay of appellant, major penalty was awarded.
3. Worth mentioning that the charge sheet and summary of allegation issued by competent authority do not include the act of corruption, neither in the final show cause notice but in the impugned order dated 08.06.2015, ill reputation, corruption / known to be corrupt has been incorporated which is quite against norms law & Justice as well the inquiry proceedings, therefore, worth of consideration.
4. The inquiry committee did not follow the procedure, laid down u/s 6 of the act 1975 and the committee submitted finding, did not base on any cogent reason, without consulting the investigation record of the case but simply referring court observation and recommended minor penalty.

A/C  
[Signature]

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**ROUNDS OF APPEAL:**

The impugned order of W/ Capital Police Officer KPK, is assailable on the following grounds.

1. The inquiry proceedings have not been conducted as per provision, contained in Police Rule 1975.
2. The Hon'able Court as per observation, reflecting in the bail order of accused Hameed Ullah that statements of police constables on duty with Shaheed constables have not been recorded by the appellant as investigating officer which is explained to the effect that the said police constables were not present on the fateful time of occurrence, therefore, their statements could not bring any development or benefit to the prosecution case if their statement are / were recorded. They have not witnessed the occurrence, therefore, as per law, their statements were not required to be recorded. It is worth mentioning that accused Hameed Ullah was arrested from hospital in serious condition who was also declared as unfit by medical authorities, therefore he could not be properly interrogated in the case to bring and collect incriminating materials from him. This agony was natural and cannot be attracted rather placed on the appellant's part.
3. There is no strong iota of evidence that the investigation record is faulty but in fact it was a blind/ untraced case and the appellant made honest efforts. unearthed the culprits and upto great extent, the case was made successful. One of the accused has made judicial confession while pointation was also brought from 02 accused in the place of occurrence.
4. The Learned Peshawar High Court while disposing bail application, allowed accused Rizwan Ullah to bail on 12<sup>th</sup> Dec 2014, whereas the learned Special Anti-Terrorism Court Peshawar did not extend bail concession to the remaining 02 accused, observing the case as prima-facie against them (copy attached).
5. It is worth mentioning that as per provincial notification No.SO.Pros/HD/8-2/2012 dated 20<sup>th</sup> Feb 2012 r/w section 19 of ATA 1997, JIT was constituted, comprising the appellant, Inspector Kamal Khan, DCP and SI Hameed Ullah while another special investigation team, comprising 05 officers including the appellant was constituted to investigate the case but for alleged faulty investigation, the appellant was only made accountable which is against the norms of law and justice hence, the impugned order is unwarranted rather unjustified, therefore the impugned order is worth of consideration.

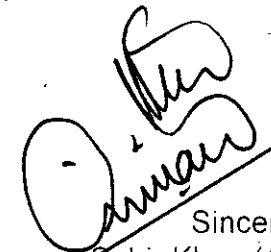
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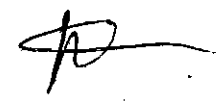
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6. The appellant has spotless service record of the 19 years and throughout his carrier he has been awarded, commended and given best postings / blessings. Even the recent past PER 2014, the reporting officer has valued the appellant as knowing his job well and performed honestly (copy attached).
7. The impugned order has caused disparity, mental agony and irreparable loss, not only to the appellant but also to the entire family.
8. The appellant, since joined this august force, has performed honestly, integratedly and to the entire satisfaction of superiors. It is worth mentioning that KP Anti Corruption Authorities, in view of honest performance, had requisitioned the appellant services and on their request, he was transferred vide notification No. 1154-59-E/II dated 28.05.2015 but he was not relieved by Police Authorities (copy enclosed). Moreover, no departmental inquiry was reported, as reflected in letter No. 0797-98/EC-1 dated 26.09.2014, inferring clean service of appellant (Copy enclosed).

**PRAYER**

In light of above, it is humbly prayed that by accepting this appeal, the impugned order dated 08.06.2015 may very kindly be set aside and orders to reinstate the appellant may kindly be passed. **It is further requested that the undersigned be personally heard to explain the circumstances / clarification of the case / Court observations.**

  
Sincerely yours  
Inspector Sabir Khan (Appellant)  
Ex Circle Officer (Inv) Cant 1 Division  
23/6/15.

ATC  


# POWER OF ATTORNEY

In the Court of \_\_\_\_\_

\_\_\_\_\_  
} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

## VERSUS

\_\_\_\_\_  
} Defendant  
} Respondent  
} Accused

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

Fixed for \_\_\_\_\_

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

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

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

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

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

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

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

*Accepted*

*S. Amin*

**SAJID AMIN**  
ADVOCATE HIGH COURT

Legal Advisor Services & Labour Laws Consultants  
FR-3-4, Fourth Floor, Bilour Plaza Peshawar Cantt.  
Ph: 091-5272054, Mob: 0333-4584986, 03339155956

*Ijaz Anwar*

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3 & 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt  
Ph.091-5272154 Mobile-0333-9107225

0333-4584506, 0333612522  
North - 2nd Floor, Poshan Centre  
Advocate Salim Amin & Labour Law Consultant  
**ADVOCATE HIGH COURT**  
**SALIM AMIN**

In the matter of

Appeal No. 1069/2015

Sabir Khan

..... Appellant

**VERSUS**

Govt. of KPK and others

..... Respondents

**APPLICATION FOR SUSPENSION OF  
LETTER DATED 17/08/2015 AND FOR  
RESTRAINING THE RESPONDENTS  
FROM VACATING RESIDENTIAL  
ACCOMMODATION ALLOTTED TO  
THE APPLICANT TILL THE FINAL  
DISPOSAL OF THE TITLED APPEAL.**

Respectfully Sheweth,

1. That the applicant has filed the titled appeal against the dismissal order dated 08/06/2015 in which 28/01/2016 is the next date fixed for hearing.
2. That being a civil servant the applicant have been lawfully allotted residential accommodation i.e. quarter No. 38-B<sup>A</sup>
  - (a) Civil Quarters, Peshawar, wherein he is residing alongwith his family, however, the respondents have now issued a letter dated 17/08/2015 to the applicant for vacating the said accommodation. (Copy of the letter dated 17/08/2015 is attached).

3. That the applicant would be exposed to great hardship and great inconvenience incase the respondents vacate him from the residential accommodation.
4. That the applicant has a good prima facie case and sanguine about its success.
5. That the applicant would suffer to irreparable loss incase the respondents are not restrained from vacating the residential accommodation i.e. quarter No. 38-B (a) Civil Quarters.
6. That the facts and grounds mentioned in the titled appeal may also be read as integral part of the instant application.
7. That there is no legal impediment in granting the relief as prayed.

it is therefore, humbly prayed that on acceptance of instant application the letter dated 17/08/2015 may kindly be suspended and the respondents may be restrained from vacating residential accommodation allotted to the applicant till the final disposal of the titled appeal.

Dated: 03/11/2015

  
Applicant

Through

**SAJID AMIN**  
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR

In the matter of

Appeal No. 1069/2015

Sabir Khan

..... Appellant

**VERSUS**

Govt. of KPK and others

..... Respondents

**AFFIDAVIT:-**

Solemnly affirm and declare on oath that the contents of the above application and correct to best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



**DEPONENT**

**ATTESTED**  




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

**Service Appeal No.1069/2015.**

Sabir Khan Ex- Inspector Investigation Cantt-I Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar
3. Additional Inspector General of Police Investigation, Peshawar.
4. Senior Superintendent of Police, Investigation, Peshawar.....Respondents.

**Reply on behalf of Respondents No. 1, 2, 3 &4.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder of unnecessary 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 Honorable Tribunal.
7. That this Hon'ble Tribunal has no jurisdiction to entertain the appeal.

**FACTS:-**

- 1) Para No.1 pertains to record hence needs no comments.
- 2) Para No. 2 is correct to the extent that the Peshawar high court Peshawar issued a judgment on 12.12.2014 on bail application of accused Hamid Ullah and Hamid in case FIR No.563 dated 01.07.2013 u/s 302/353/404/34/7ATA PS Pishtakhara Peshawar which revealed that the appellant had conducted poor investigation. In this regard he was served with an explanation.
- 3) Para No.3 is correct to the extent that the appellant was issued charge sheet and summary of allegations containing allegations regarding the judgment of Peshawar high court, wherein he conducted poor investigation incase FIR No563 dated 01.07.2013 u/s 302/353/404/34/7ATA PS Pishtakhara Peshawar. The appellant conducted poor investigation by roughly with the case of terrorism where two police constables were martyred. He did not take pain to record the statements of those police officials who were posted in the same area where the incident took place. In this regard he was proceeded departmentally. The appellant also submitted his reply but his reply was found unsatisfactory.
- 4) Para No.4 is incorrect. In fact proper departmental enquiry was conducted against him. The allegations leveled against him were stand proved.

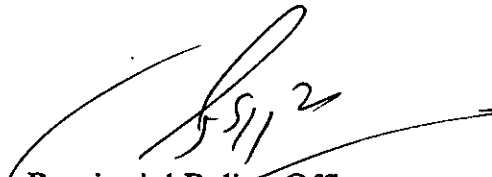
- 5) Para No.5 is correct to the extent that the charges leveled against him were stand proved, hence he was issued FSCN which he received and also replied but his reply was found unsatisfactory and he was awarded major punishment of dismissal from service vide office order No. 2896-2906/PA dated 08.06.2015.
- 6) Para No.6 is already explained above in detail.
- 7) Para No.7 is correct to the extent that the appellant filed a departmental appeal but without waiting for disposal of the same filed the instant service appeal.
- 8) That appeal of appellant being devoid of merits may kindly be dismissed.


**GROUNDS:**

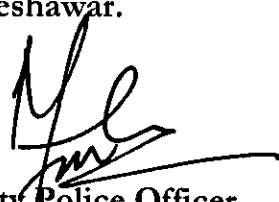
- A) Incorrect. The appellant was treated as per law and rules. No right of appellant has been infringed.
- B) Incorrect. In fact proper departmental enquiry was conducted against him wherein the allegations leveled against him were stand proved. He was given full opportunity to defend himself.
- C) Incorrect. The appellant conducted poor investigation and showed slackness.
- D) Incorrect. All the allegations leveled in charge sheet, FSCN, and dismissal order are true and were stand proved.
- E) Incorrect. The appellant was recommended for minor punishment but the competent authority is not bound to the recommendations of E.O. as the charges leveled against him were stand proved hence he was rightly awarded major punishment of dismissal from service.
- F) Incorrect. In fact the appellant failed to satisfy the E.O regarding the charges leveled against him.
- G) Incorrect. The appellant was given full opportunity to defend himself.
- H) Incorrect. The punishment order is in accordance with law/rules.
- I) Incorrect. The competent authority is not bound to the recommendations of E.O he was rightly awarded the punishment order.
- J) Incorrect. The appellant was found negligent in conducting investigation.
- K) Incorrect. The charges leveled against him were stand proved.
- L) Incorrect. The punishment order is lawful. The appellant does not deserve any leniency.
- M) That appeal of appellant being devoid of merits may kindly be dismissed.
- N) Para is not related hence needs no comments.
- O) That respondents also seek permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

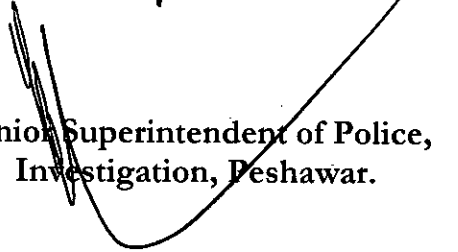
**PRAYERS:-**

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant being devoid of merits, legal footing may be dismissed.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

  
Addl: Inspector General of  
Police, Investigation,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Senior Superintendent of Police,  
Investigation, Peshawar.

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

**Service Appeal No.1069/2015.**


Sabir Khan Ex- Inspector Investigation Cantt-I Peshawar.....Appellant.


**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar
3. Additional Inspector General of Police Investigation, Peshawar.
4. Senior Superintendent of Police, Investigation, Peshawar.....Respondents.

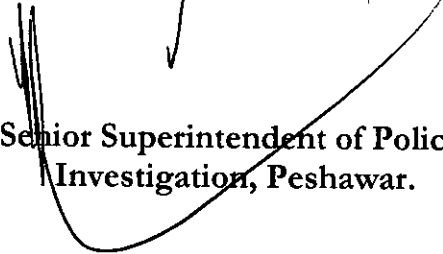
**AFFIDAVIT**

We respondents No. 1 ,2 ,3 & 4 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.

  
Addl: Inspector General of  
Police, Investigation,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Senior Superintendent of Police,  
Investigation, Peshawar.