

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD.**

SERVICE APPEAL NO. 47/2016

Date of institution ... 12.01.2016

Date of judgment ... 18.12.2017

Shabbir Ahmed S/o Wali Muhammad, Caste Gujjar,
R/o Schan Kalan, Tehsil and District Mansehra, Ex-Police Constable No. 1115.
... (Appellant)

VERSUS

1. District Police Officer Mansehra.
2. Deputy Inspector General of Police Hazara Range Abbottabad.
... (Respondents)

**APPEAL AGAINST THE ORDER OF DPO MANSEHRA VIDE
WHICH THE APPELLANT WAS AWARDED PUNISHMENT OF
DISMISSAL FROM SERVICE.**

Mr. Shad Muhammad Khan, Advocate. .. For appellant.
Mr. Kabirullah Khattak, Additional Advocate General .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. GUL ZEB KHAN .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant with
counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith
Syed Ikhtlaq Hussain Shah, Inspector (legal) for the respondents also present.
Arguments heard and record perused.

2. Brief facts of the present appeal are that that appellant was serving in Police
Department and during service he was dismissed from service vide order dated
23.07.2015 by the District Police Officer Mansehra on the allegations of alleged
association with timber smuggler and receiving of Rs. 20,000/- as illegal

*M. Amin
18.12.2017*

gratification from each vehicle of timber smugglers therefore he being corrupt police official had committed gross misconduct. The appellant filed departmental appeal on 29.07.2015 which was dismissed by the departmental authority and maintained the order of DPO vide order dated 10.12.2015 hence, the present service appeal on 12.01.2016.

3. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that during service the appellant was charge sheeted on the aforesaid allegation and ultimately he was dismissed from service by the competent authority. It was further contended that the appellant also filed the departmental appeal but the same was also dismissed. It was further contended that neither statement of allegation was served upon the appellant nor proper inquiry was conducted nor the appellant was provided opportunity of cross examination. It was further contended that the appellant was also neither provided opportunity of personal hearing nor proper opportunity of defence therefore, the impugned order is illegal and liable to be set-aside.

4. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department and during service he was charge sheeted on the allegations of having association with Timber smugglers and receiving of Rs. 20,000/- as illegal gratification from each vehicle of timber smugglers, therefore, it was contended that the appellant has committed gross misconduct and after conducting proper inquiry the appellant was rightly dismissed from service by the competent authority.

5. We have heard the arguments on both sides and gone through the record available on file.

6. Perusal of the record reveals that the appellant was serving in Police Department and during service he was charge sheeted of having association with Timber smugglers and receiving of Rs. 20,000/- as illegal gratification from each vehicle of timber smuggler. The record further reveals that inquiry was initiated by the inquiry

*10.01.2017
M. Anwar*

officer wherein the inquiry officer has recorded the statement of Rashid Mehmood Forest Guard, Umer Sherif Forest Guard and Saddique son of Abdul Ghani but the appellant was not provided any opportunity of cross examination on the aforesaid witnesses which has rendered the inquiry illegal and liable to be set-aside, therefore, we are constrained to accept the appeal, set-aside the impugned order and reinstate the appellant in service. However, the respondent-department is at liberty to conduct de-novo inquiry in mode and manner prescribed by law and rules within in a period of three months from the date of receipt of this judgment. In case the de-novo inquiry is conducted the issue of back benefits of intervening period will be decided subject to the outcome of de-novo inquiry. Parties are left to bear their own costs.

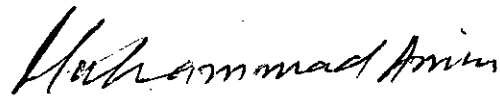
File be consigned to the record room.

ANNOUNCED

18.12.2017



(GUL ZEB KHAN)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

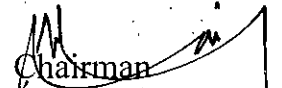


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

21.08.2017

Appellant with counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Akhlaq Hussain Shah, Inspector (Legal) for the respondents present. The learned DDA also seeks adjournment as he has no record of the case. Adjourned. To come up for rejoinder and final hearing on 23.11.2017 before the D.B at camp court, Abbottabad.

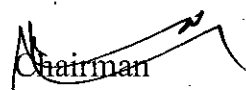

Member


Chairman
Camp court, A/Abad

23.11.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG alongwith Akhlaq Hussain Shah, Inspector (Legal) for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 18.12.2017 before D.B at camp court, Abbottabad.


18.12.2017



Chairman
Appellant with counsel present. Mr. Kabeerullah Khattak, Additional Advocate General alongwith Syed Ikhtlaq Hussain Shah, Inspector (legal) for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we are constrained to accept the appeal, set-aside the impugned order and reinstate the appellant in service. However, the respondent-department is at liberty to conduct de-novo inquiry in mode and manner prescribed by law and rules within in a period of three months from the date of receipt of this judgment. In case the de-novo inquiry is conducted the issue of back benefits of intervening period will be decided subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

18.12.2017


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD


(GUL ZEB KHAN)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD

18.08.2016

Appellant in person and Mr. Nazir Muhammad H.C alongwith Mr. Muhammad Bilal, GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 13.02.2017 at camp court, Abbottabad.

13.02.2017

Clerk of counsel for the appellant and ^{Chairman} Mr. Muhammad Umar, Reader alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing on 21.08.2017 before the D.B at camp court, Abbottabad.

~~Chairman~~

~~Appellant with counsel for the respondents present. The case is assigned to D.B at camp court, Abbottabad. He has no record of the case. A final hearing could not be held before the D.B at camp court, Abbottabad.~~

~~Chairman~~

~~Chairman
Camp court, Abbottabad~~

~~Chairman~~

~~Chairman~~


17.02.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of involvement in timber smuggling and receiving illegal gratification and dismissed from service vide impugned order dated 23.7.2015 where-against he preferred departmental appeal on 29.7.2015 which was rejected on 10.12.2015 and hence the instant service appeal on 12.01.2016.

That the inquiry was not conducted in the prescribed manners and the allegations were not substantiated in the inquiry proceedings but despite the same appellant was punished in the shape of award of major punishment.


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 before S.B on 18.5.2016 at Camp Court A/Abad.

Appellant Deposited
Security & Process Fee


Chairman
Camp Court A/Abad

18.5.2016

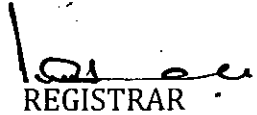


Appellant with counsel and Mr. Muhammad Siddique, Sr.GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 18.08.2016 before S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 47/2016 _____

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12.01.2016	<p>The appeal of Mr. Shabbir Ahmad presented today by Mr. Shad Muhammad Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up thereon <u>20-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	20.01.2016	<p>Appellant in person present. Counsel for the appellant is busy before the Peshawar High Court, Abbottabad Bench. Requested for adjournment. To come up for preliminary hearing on 17.2.2016 before S.B at Camp Court A/Abad.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p>

**BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR**

Appeal no. 47/2016

Shabbir Ahmed.....Appellant

Versus

District Police Mansehra and one
another.....Respondents

SERVICE APPEAL.

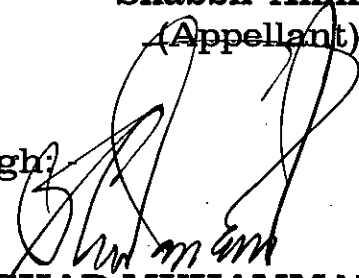
INDEX

S#	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE#
1.	Memo of appeal.	-	1 to 5
2.	Copy of charge sheet & reply	"A" & "B"	6, 7
3.	Copy of findings	"C"	8, 8A
4.	Copy of final show cause notice	"D"	9
5.	Copy of order	"E"	10
6.	Copy of appeal and order.	"F" & "G"	11 to 14
7.	Wakalat Nama	-	15

DATED 08.01.2016


Shabbir Ahmed
(Appellant)

Through:


SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

①

**BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR**

Appeal no. 47/2016

Shabbir Ahmed son of Wali
Muhammad, Caste Gujjar, resident of
Schan Kalan, Tehsil and District
Mansehra, Ex-Police Constable No.
1115.....Appellant

G.W.F. Province
Service Tribunal

Diary No 33

Dated 12-01-2016

Versus

- 1) District Police ^{officer} Mansehra
- 2) Deputy Inspector General of Police
Hazara Range Abbottabad
.....Respondents

**APPEAL AGAINST THE ORDER OF
DPO MANSEHRA VIDE WHICH THE
APPELLANT WAS AWARDED
PUNISHMENT OF DISMISSAL FROM
SERVICE.**

Respected Sir,

- 1) That, the appellant joined service
as a Police Constable on
08.03.2010.
- 2) That, the appellant was served
with a charge sheet stating therein
that he was associated with timber
smuggler and received 20,000/- as
illegal gratification.

*Miss to do
12/1/16*

- 3) That, the appellant submitted a detail reply refuting all the allegations.

(The copy of charge sheet and the reply are attached as Annexure "A" & "B" respectively).

- 4) That, the competent authority was not satisfied by the reply submitted by appellant and inquiry was initiated through DSP Shinkiari who conducted the said inquiry, recorded the statements of the witnesses and submitted his own finding.

(The copy of finding is attached as Annexure "C").

- 5) That, the appellant was served with a final show cause notice by respondent No. 1 and the appellant submitted the same reply which was submitted by him to the charge sheet, but even then his stance was not accepted.

(The copy of final show cause notice is attached as Annexure "D").

- 6) That, the competent authority passed in order vide which the appellant was removed from service.

(The copy of order is attached as Annexure "E").

- 7) That, the appellant aggrieved by the order of respondent No. 1 submitted an appeal before

respondent No. 2 which was dismissed by respondent No. 2 by way of filing the same.

(The copy of appeal and order are attached as Annexure "F" & "G" respectively).

That, the appellant seeks the setting aside the order of respondent No. 1 on the following amongst other grounds: -

GROUND: -

- A) That, the order of dismissal of the appellant is against the facts and law and is not maintainable in the eye of law.
- B) That, the inquiry has not been carried out in accordance with law and so the order passed on the basis of such inquiry carries no value in the eye of law.
- C) That, the statements of the witnesses produced during the trial were also not recorded in accordance with law nor the appellant was provided the opportunity as required and so the finding of the inquiry carries no value in the eye of law.
- D) That, the driver was examined and his statement was recorded and he has divulged the whole truth but,

(4)

for reason best known the said evidence was not considered.

E) That, the appellant who on his return to the P.S informed the SHO about the detail of the situation, but for reasons best known the SHO remained mum.

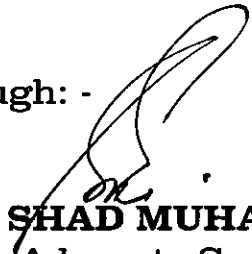
It is, therefore, requested that on acceptance of appeal the impugned order may kindly be set aside and the appellant may kindly be re-instated in service.

DATED 08.01.2016



Shabbir Ahmed
(Appellant)

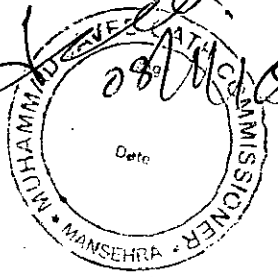
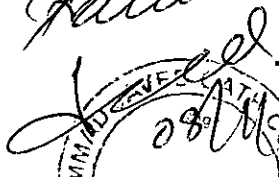
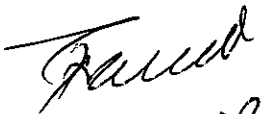
Through: -



SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

AFFIDAVIT

I, SHABIR AHMED SON OF WALI MUHAMMAD, CASTE GUJJAR, RESIDENT OF SCHAN KALAN, TEHSIL AND DISTRICT MANSEHRA, EX-POLUICE CONSTABLE NO. 1115 DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT THE CONTENTS OF FORE-GOING APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.



Commissioner
Mansehra



SHABIR AHMED
(DEPONENT)

5

BEFORE THE SERVICE TRIBUNAL
K.P.K. PESHAWAR

Shabbir Ahmed.....Appellant

Versus

District Police Mansehra and one
another.....Respondents

SERVICE APPEAL.

CORRECT ADDRESSES OF THE
PARTIES

Respected Sir,

Correct addresses of the parties
are as under: -

APPELLANT

Shabbir Ahmed son of Wali
Muhammad, Caste Gujjar, resident of
Schan Kalan, Tehsil and District
Mansehra, Ex-Police Constable No.
1115

RESPONDENTS

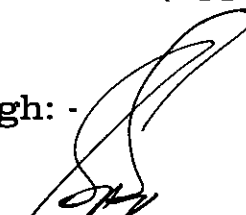
- 1) District Police Mansehra
- 2) Deputy Inspector General of Police
Hazara Range Abbottabad

DATED 08.01.2016



Shabbir Ahmed
(Appellant)

Through: -



SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

Annex A.P. (6)

CHARGE SHEET

I, Najeeb ur Rehman, District Police Officer, Mansehra as Competent Authority, hereby charge you Constable Shabbir No.1115 Police Lines as follows.

Vide W/RPO Hazara Letter No. 113/C Cell dated 10-06-2015 it has been reported that you while posted at PS Battal have association with timber smugglers and receives 20,000/- as illegal gratification from each vehicle of timber smugglers. It shows that you are a corrupt police official and stigma for police department. It amounts to gross misconduct.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

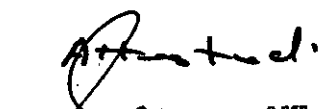
You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

Your written defense, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex parte action shall follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.


District Police Officer,
Mansehra


Sh. M. Anwarul Khan
Advocate Supreme Court
of Pakistan.

بحوالہ بشمولہ شارح شیٹ مجاریہ منجانب DPO صاحب

جناب عالی:- بیان ذیل پیش ہے۔

MANSEHRA
178 MANSEHRA
178 MANSEHRA
HRA
NSEHRA
178 MANSEHRA
MANSEHRA
NSEHRA
MANSEHRA
NSEHRA
MANSEHRA
HRA
NSEHRA
HRA
NSEHRA
HRA
HRA
A
MANS
MA
MA
MI
NS
N
N

۱- یہ کہ معروض ہوں کہ سائل تھانہ بٹل میں بطور DFC تعینات ہوں جبکہ بشمولہ چارج شیٹ میں سائل پر نامعلوم SMS کے ذریعہ جناب IGP صاحب کو شکایت کی گئی اور الزام لگایا گیا کہ ٹر اسمگلر سے بیس ہزار روپے فی گاڑی وصول کیا جاتا ہے۔ اندرین بالا نہایت ادب سے گزارش کرتا ہے کہ سائل ایک ادنیٰ کانسٹیبل ہے اور تعمیلی اسٹاف میں ہے۔ اور رات کو گشت نہیں ہوتی ہے جو دن کو تعمیل ہائے کے سلسلہ میں ہوتی ہے جو سائل رات کو کیسے اسمگلر سے رابطہ کر سکتا ہے اور دن کوئی اسمگلر بھی لکڑی نکل و حرکت نہیں کر سکتا۔

۲- یہ کہ سائل ایک ادنیٰ ملازم ہے۔ سائل کے علاوہ بھی تھانہ میں بالا ترکی افسر اور بھی تعینات ہیں اور سب سے اہم SHO صاحب کی تمام ملازمین اور علاقہ تھانہ میں نظر رہتی ہے۔ اگر من سائل نے کوئی بھی ایسی غلطی ہوتی تو جناب SHO صاحب تحریری طور پر افسران بالا کو نوٹس میں میرے متعلق لاتے۔

۳- یہ کہ سائل نے جتنا عرصہ بھی تھانہ بٹل میں گزارا ہے محکمہ کی عزت کا خیال رکھا ہے اور جرائم کے متعلق SHO صاحب کو اطلاع کیا ہے اور کوئی ایک اسمگلر کو پکڑوایا بھی ہے۔ جہاں تک SMS کا تعلق ہے ہو سکتا ہے کہ کسی نے من سائل کو بدنام کرنے اور نقصان پہنچانے کی خاطر ایسا کیا ہے۔ جبکہ کوئی ایسا شخص سامنے آکر بیان دے اور پتہ چل سکے کہ شاید اسمگلروں میں ہی کوئی ایسا شخص ہو جس نے SMS کیا ہو۔ جو کہ SMS میں تحریر کیا گیا وہ غلط اور بے بنیاد الزام ہے جبکہ چارج شیٹ میں بھی جو تحریر ہے وہ صرف الزام کی حد تک ہے۔ لہذا سائل نے کوئی ایسا کام نہیں کیا جس سے محکمہ کی بدنامی ہو۔

لہذا بذریعہ درخواست ہذا استدعا ہے کہ چارج شیٹ داخل دفتر فرمائی جاوے۔

شیر احمد - 1115
متعینہ پولیس لائن مانسہرہ

Attended
Shah Miriam Khan
Advocate Supreme Court
of Pakistan.

Subject

FINDING OF DEPARTMENTAL INQUIRY UNDER THE K.P.K DISCIPLINARY RULE
NO. 1115 POLICE LINE MANSEHRA UNDER THE K.P.K DISCIPLINARY RULE
1975.

Annex C.P. 9

Memorandum.

Please refer to your office Encls: No. 1868-69/PA dated
15-06-2015 attached in original.

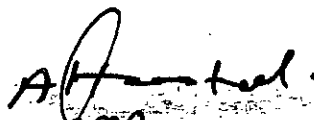
The departmental inquiry of Constable Shabeer No. 1115
Police Line Mansehra received, in which he was alleged that vide RPO,
Hazara Letter No. 113/C-Cell dated 10-06-2015 it has been reported that
while he was posted at PS Battal have association with timber smugglers
and receives RS: 20,000/- as illegal gratification from each vehicle of
timber smugglers, which shows that he is a corrupt police official and
stigma for police department. It amounts to gross misconduct.

The proceeding of the inquiry is carried-out accordance with
provision of police rule 1975. During the inquiry the statements of accused
Constable Shabeer No. 1115, Rashid Mehmood forest guard, Umer Sharif
forest guard, Faz-ul-Islam SDFO, Muhammad Alam Block Officer Battal
forest department, Muhammad Sadique Suzuki driver and opportunity of
cross examination has been given to the accused Constable Shabeer
No. 1115. The CDR of mobile numbers 0312-5060309 and 0346-9636452 of
the accused constable also got. The statements recorded and CDR prints
are attached herewith.

➤ **FINDING:** →

During the inquiry in the light of statements, CDR and cross
examination, it is proved that accused Constable Shabeer No. 1115
caught by forest department official on the spot on 24-05-2015 with timber
product along with Suzuki bearing No. 9319/IDT and driver Muhammad
Sadique.

In this regard forest officials during the inquiry produced copy
of damage report FIR dated 24-05-2015 against the accused Muhammad
Sadique and accused Constable Shabeer No. 1115, moreover the forest
officials also produced copy of form No. 14-E according to that form
Muhammad Sadique was fined Rs: 40,000/- by the SDFO, Hilkot Forest
Su-Division. Such a documentary action was taken by the forest

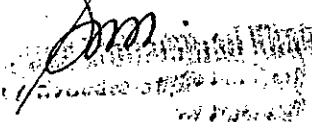

Sharif Muhammad Khan
Advocate
of Pakistan

Annex ~~CP~~ (SA)

department against the accused Constable Shabeer No. 1115 but in this regard accused Constable Shabeer No. 1115 neither wrote a single report in the daily diary of PS Battal nor he brought the matter in the notice of his superior, which clearly proved the involvement of accused Constable Shabeer No. 1115 with timber smugglers. CDR of the mobiles number of the accused Constable Shabeer No. 1115 also revealed that accused Constable Shabeer No. 1115 conducted with timber smuggler namely Imtiaz r/o Chatter plain on his mobile No. 0313-5889140 many times.

In the light of above circumstances the charges leveled against the accused Constable Shabeer No. 1115 has been proved, hence it is suggested that he may be panelized with

Attested



Annex D.P. (9)

FINAL SHOW CAUSE NOTICE

You Constable Shabbir No. 1115 were proceeded against departmentally with the allegation that vide W/RPO Hazara Letter No. 113/C-Cell dated 10-06-2015 it has been reported that you while posted at PS Battal have association with timber smugglers and received Rs.20,000/- as illegal gratification from each vehicle of timber smugglers. It shows that you are corrupt Police official and stigma for police department.

In this connection you were proceeded against departmentally. Mr. Nazeer Ahmed DSP Shinkiari, Enquiry Officer, after conducting proper departmental enquiry has submitted his report and proved the charges leveled against you. I am satisfied with the report of Enquiry Officer and therefore finally call upon to show cause as to why you should not be awarded major punishment under the Khyber Pakhtunkhawa Police Disciplinary Rules 1975. In case your written reply is not received within 07 days after the receipt of this final show cause notice it shall be presumed that you have no defense to offer. You are also allowed to appear before the undersigned, if you so desire. (Copy of the finding of the Enquiry Officer is also enclosed).

Najab
District Police Officer,
Mansehra

No 2167 /PA dated Mansehra the 16/07 2015

Shahzad
Shahzad Muhammad Khan
Advocate Supreme Court
of Pakistan.

ORDER

This office order will dispose of the departmental enquiry against Constable Shabbir No. 1115 who was proceeded against departmentally with the allegations that vide W/Regional Police Officer, Hazara Region Abbottabad Hazara letter No. 113/C-cell dated 10-06-2015 it has been reported that he while posted at PS Battal have association with timber smugglers and receives 20,000/- as illegal gratification from each vehicle of timber smugglers. It shows that he is corrupt police official and stigma for police department.

The enquiry Officer i.e. Mr. Nazeer Khan SDPO Shinkiari after conducting proper departmental enquiry has submitted his report and proved the charges leveled against delinquent Constable Shabbir No. 1115. Final Show Cause Notice for the award of punishment under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 was issued to the delinquent constable. In response to which he has submitted his written statement which was not satisfactory. The delinquent Constable Shabbir No. 1115 was also heard in person in orderly room but he failed to convince the undersigned in his defense.

I, the District Police Officer, Mansehra therefore, award major punishment of "Dismissal from Service" to the delinquent Constable Shabbir No. 1115 under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 for indulging in corruption.

Ordered announced

Nazeer Khan
District Police Officer,
Mansehra

OB No 135
d 23-07-2015

A. Javed
Amir Khan
Advocate Supreme Court
of Pakistan

Attested

Nazeer Khan
Mansehra

81
2

BEFORE THE D.I.G.,
HAZARA RANGE ABBOTTABAD

Annex ^{"E"} P. 11

APPEAL AGAINST THE ORDER OF
D.P.O, MANSEHRA DATED 23.07.2015
BEARING ORDER BOOK NO. 135 VIDE
WHICH THE APPELLANT HAS BEEN
DISMISSED FROM SERVICE BY
INVOKING POLICE RULES, 1975.

PRAYER: -

On acceptance of appeal the impugned order of dismissal may be set-aside and the appellant be re-instated into service with all back benefits

Respected Sir,

The brief facts leading to the instant appeal are arrayed as follows: -

- 1) That, the appellant was posted as DFC at PS. Battal who was away in the Illaqa and found some persons who had cut a tree and on seeing the appellant they fled away. The appellant intended to take the scants to the P.S and for that purpose he arranged a vehicle. While loading the scants, the forest employees also reached at the spot and the appellant wanted to contact

A. H. Steel
Shah Mohammad Khan
Advocate Supreme Court
of Pakistan

the SHO but the Block Officer snatched mobile from the appellant. The appellant after covering a few paces, took mobile from the driver, contacted the SHO and apprised him of the whole situation. The SHO apprised the appellant that he is sending police mobile, but the forest officials loaded the said timber, but instead of taking to the PS they took the timber to Range Quarter. On the following day the SHO went to the Range Quarter in order to discuss the matter with them, but the Range Officer return the mobile, but did not come to the terms.

- 2) That, the appellant was issued a charge sheet and an inquiry was conducted therein the statement of Ghulam Muhammad, Block Officer was recorded a part from the statement of other witnesses. From the narrations of the statement of Ghulam Muhammad which is quite inconsonance with the version of the appellant but yet the stance of the appellant was not accepted and he was awarded the punishment of dismissal from service.
- 3) That, there is not an iota of evidence of his involvement in such like

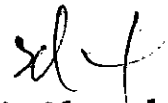
Sh. Muhammad Khan
Sh. Muhammad Khan
Advocate Supreme Court
of Pakistan

Annex "F" P (13)

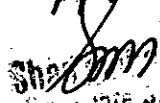
affairs and that the entire allegation are based on surmises, conjunctures which do not tantamount to evidence.

It is, therefore, requested that on acceptance of appeal, the impugned order of dismissal may kindly be set-aside and the appellant may kindly be reinstated into service.

Dated 29.07.2015



Shabbir Ahmed
(Appellant)
No. 1115
Mansehra Police

Attested

Advocate
Advocate of the Court
of Mansehra

ORDER

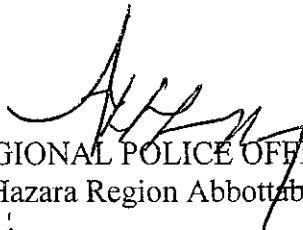
Annex "G.P." (14)

This is an order on the representation of *Ex-FC Shabbir No.1115* of Mansehra District against the order of major punishment i.e. *dismissal from service* awarded by the District Police Officer, Mansehra vide his OB No.135 dated 23-07-2015.

Facts leading to his punishment are that vide W/Regional Police Officer, Hazara Region Abbottabad letter No.113/C.Cell dated 10-6-2015 it has been reported that he while posted at PS Battal has association with timber smugglers and receives 20,000/- as illegal gratification from each vehicle of timber smugglers. It shows that he is corrupt police official and stigma for Police department.


Proper departmental enquiry was conducted by *Mr. Nazeer Khan SDPO Shinkiari*. After conducting a detailed enquiry, the E.O proved him guilty. On the recommendation of E.O, the District Police Officer Mansehra awarded him major punishment of *dismissal from service*.

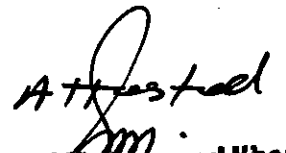
He preferred an appeal to the undersigned upon which the comments of the DPO Mansehra were obtained. He was heard in OR where he offered no cogent reason in his defence to prove his innocence for corrupt practices. After thorough probe into the enquiry report and the comments of the DPO Mansehra, it came to light that the punishment awarded to him by the DPO Mansehra i.e. *dismissal from service* is genuine. Therefore, his appeal is *filed*.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 8987 /PA Dated Abbottabad the 10 / 12 /2015.

Copy of above is forwarded to the District Police Officer, Mansehra for information and necessary action with reference to his Memo: No.11324/GB dated 13-8-2015. The Service Record along-with Fauji Missal of the appellants are returned herewith.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad


Shah Muhammad Khan
Advocate Supreme Court
of Pakistan

بعدالت جناب چیئر مین صاحب سروس ٹریبیونل K.P.K. پشاور

شہیر احمد نام D.P.O. ویکٹ -

دعوی یا جرم (جے) سروس اپیل منجانب اپیلانٹ

باعث تحریر آنکے

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام ایسٹ آف پاکستان کے لئے

خبہ شاد محمد خان ایڈووکیٹ سپریم کورٹ آف پاکستان کو

ایسا شہادتیں قرار کیا ہے کہ میں ہر ڈیڑھ گھنٹہ پر نوڈی نوڈی اختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہوتے ہی ہمارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرداختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعوی اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے، نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپرد تاشی و رضی نامہ و فیصلہ برخلاف کرنے و اقبال دعوی کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا جنگی علیحدہ پیروی مختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا اختیار نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم

ATTESTED & ACCEPTED

SHAD MUHAMMAD KHAN,

Advocate Supreme Court,

of Pakistan.

SHAD MUHAMMAD KHAN
ADVOCATE
SUPREME COURT OF PAKISTAN

شہیر احمد ولد ولی محمد قوم کٹر سیدہ ماسٹرہ
EX کنٹریبل (اپیلانٹ)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRUIBUNAL PESHAWAR

Service Appeal No.47/2016

Shabir Ahmad..... (Appellant)

Versus

District Police Officer, Mansehra and others..... (Respondents)

Subject: - COMMENTS ON BEHALF OF RESPONDENTS .

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant has no cause of action to file present appeal.
2. That the appeal has not been based on facts.
3. That the appeal is not maintainable in its present form.
4. That the appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
5. That the appellant is estopped by his own conduct to file the appeal.
6. That the appeal is barred by law and limitation.
7. That the appellant has not come to the Honorable Tribunal with clean hands.
8. That appellant has suppressed the material facts from this Honorable Tribunal hence not entitled for any relief and appeal is liable to be dismissed.
9. That appellant has been treated as per Law & Rules.
10. That order passed by the authorities is correct & legal hence appeal is liable to be dismissed.

Factual Objections:-

1. Correct.
2. The appellant while posted at Police Station Battal has associated himself with timber smugglers and received Rs.20000/- as illegal gratification from each vehicle of timber smugglers.
3. The appellant was properly charge sheeted and during departmental proceedings he submitted his reply to the charge sheet.
4. Correct. The enquiry officer, DSP Shinkari conducted proper departmental enquiry and submitted his finding report in which the enquiry officer proved the appellant guilty and recommended him for punishment.

5. Correct. The reply to final Show Cause Notice was not found satisfactory by the competent authority.
6. Correct. The charges leveled against the appellant were proved during the enquiry proceedings due to which he was awarded major punishment of dismissal from service.
7. Correct. The appeal is not maintainable on the following grounds:-

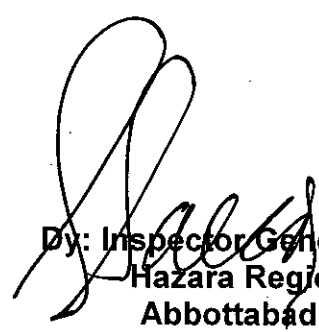
Grounds:-

- a. Incorrect. The order of dismissal was just, lawful and maintainable in the eye of Law.
- b. Incorrect. The enquiry officer conducted the enquiry in accordance with Law and Rules.
- c. Incorrect. Hence denied, during the enquiry proceedings the charges leveled against the appellant stood proved and he was also provided with the opportunity to defend his case.
- d. Incorrect. Hence denied, all the proceeding has been done by the authorities as per Law and rules hence appeal is liable to be dismissed.
- e. Incorrect.

Prayer:-

It is therefore, humbly prayed that the appeal in hand may be dismissed with costs.


District Police Officer,
Mansehra
(Respondent No.1)


Dy: Inspector General Police,
Hazara Region,
Abbottabad
(Respondent No.2)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 47/2016

Shabir Ahmad (PETITIONER)

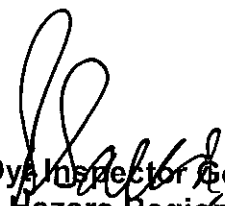
Versus

**Deputy Inspector General of Police Hazara Region Abbottabad
and others..... (RESPONDENTS)**

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the comments are true and correct to our knowledge and beliefs and that nothing has been concealed from this honorable tribunal.


**District Police Officer,
Mansehra
(Respondent No.3)**


**Deputy Inspector General of Police,
Hazara Region, Abbottabad
(Respondent No.2)**

13/2

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

Service Appeal No.47/2016

Shabbir AhmedAppellant

VERSUS

District Police Officer, Mansehra and others
.....Respondents.

SERVICE APPEAL

**REJOINDER ON BEHALF OF
APPELLANT**

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. Para No.1 is incorrect.
2. Para No.2 is incorrect.
3. Para No.3 is incorrect.
4. Para No.4 is incorrect.
5. Para No.5 is incorrect.
6. Para No.6 is incorrect.
7. Para No.7 is incorrect.
8. Para No.8 is incorrect.
9. Para No.9 is incorrect.
10. Para No.10 is incorrect.

FACTUAL OBJECTIONS.

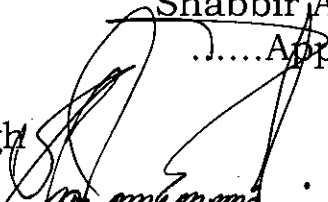
1. Para No.1 is admitted as correct.
2. Para No.2 is all incorrect.
3. Para No.3 is incorrect.
4. Para No.4 is incorrect. The enquiry was conducted by ignoring the mandatory provisions of law.
5. Reply submitted to show cause notice was reasonable and proper.
6. The charges, could not be proved and so the major punishment is against law.
7. It is all incorrect.

GROUND

- a. Para No.(a) is all incorrect.
- b. Enquiry was not in accordance with law.
- c. Enquiry was not in accordance with law so, the findings or order passed is against the facts.
- d. No. Proceedings were never in accordance with law.
- e. Incorrect.

It is, therefore, most humbly
prayed that on acceptance of the
appeal, the impugned order may
kindly be set aside and the appellant
may kindly be re-instated in service.


Dated 01.02.2017

Shabbir Ahmed
.....Appellant
Through

SHAD MUHAMMAD KHAN,
Advocate Supreme Court,
Of Pakistan.

AFFIDAVIT.

I, Shabbir Ahmed son of Wali Muhammad,
caste Gujjar, resident of Sachan Kalan, Tehsil
and District Manshehra, Ex-police Constable
No.1115 do hereby solemnly affirm and
declare on oath that the contents of the
foregoing rejoinder are true and correct to the
best of my knowledge and belief and nothing
has been concealed or suppressed from this
Honourable Tribunal.

Dated 02.01.2017


Shabbir Ahmed
(DEPONENT)



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 20 /ST

Dated 04/01/2018


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Mansehra.

Subject: **JUDGEMENT/ORDER IN APPEAL NO. 47/16 MR.SHABBIR AHMAD.**

I am directed to forward herewith a certified copy of Judgment/Order dated 18/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

ote