

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No.256/2016

Date of Institution ... 18.02.2016

Date of Decision ... 02.01.2019

Farid Khan, Constable No. 685/SB, Police Head Quarter, Peshawar.
... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others.
... (Respondents)

Present.

MR. TAIMUR ALI SHAH,
Advocate. ... For appellant

MR. ZIAULLAH,
Deputy District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. HUSSAIN SHAH, ... MEMBER(E)

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

The facts as laid in the memorandum of appeal are that the appellant was recruited as Constable on 16.02.2008 in Special Branch Canine Unit of Police Department. He was sent for training but returned before its completion. He reported to the Establishment Section of Special Branch and was referred to I.T Section. Thereafter, the appellant performed different duties including as Gunner with AIG Special Branch, and as Security personnel at the residence of SSP (Admn) etc. He was issued a show cause notice on 22.09.2010, wherein, it was noted that the appellant did not assume duty in Canine Unit. The notice was duly responded to. On 18.10.2010, the appellant alongwith one Ihsanullah was discharged from service under Police Rules, 1934 (Rule 12.21). The said order was, however, set

aside by A.I.G Special Branch with directions for issuance of fresh show cause notice and summary of allegations to the appellant. It was also noted that an enquiry be conducted into allegations. On 26.10.2010, the appellant was issued charge sheet and statement of allegations, wherein, it was alleged that he absented himself without prior permission and failed to comply with the order of superior officers. A detailed reply to the charge sheet was submitted where-after enquiry was conducted. The enquiry officer recommended that the allegations of non-compliance and absence from duty were not based on fact. Without any reference to the said enquiry report, yet another charge sheet and statement of allegations was issued on 31.1.2011 against the appellant, wherein, the appellant was stated to have not qualified the prescribed training for dog handling nor could handle and look after the sniffer dogs, not taking interest in his assigned professional duties in the said Unit, was also included. The appellant filed detailed reply to the charge sheet, wherein, he denied all the allegations and prayed for shelving the enquiry. Ultimately, the appellant was discharged from service under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 vide order dated 11.04.2011. An appeal was preferred against the said order which remained un-responded, therefore, the appellant filed Appeal No. 1314/2011 before this Tribunal. The Tribunal decided the case on 23.12.2015, in terms, that the appeal of appellant was remitted to the departmental appellate authority in order to examine the case and decide it on merits strictly in accordance with law within 45 days of the receipt of judgment. On 29.01.2016 the appeal of appellant was rejected, purportedly, on account of having no substance and force.

3. We have heard learned counsel for the appellant, learned Deputy District Attorney on behalf of the respondents and have also gone through the available record with their assistance.

It was contended by the former that the findings of enquiry dated 07.12.2010 were totally disregarded by the respondents. Similarly, the reply to charge sheet submitted by the appellant was not given due consideration. In view of learned counsel the case of appellant was not at all of absence as he was performing duty under the orders of his superiors at different places upon unsuccessful return from the Dog Handling Course. He was being regularly paid his salary all along, it was added. It was also contended that the proceedings against the appellant were taken under the provisions of Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, however, he was awarded punishment of 'discharge' from service which was a term alien to the provisions of the Ordinance.

As against that, learned Deputy District Attorney stated that the appellant, at the relevant time when he was issued charge sheet and statement of allegations, was under probation and had to remain as such upto 16.02.2011. Therefore, the penalty awarded to him was very much in line with the provisions of Rule 12.21 of Police Rules, 1934. He further contended that the allegations against the appellant stood proved and the impugned order was not exceptionable on that score.

4. It shall be useful to reproduce hereunder the relevant portion of judgment passed by this Tribunal on 23.12.2015:-

"From perusal of the record, it transpired that the appellant deliberately avoided to work in the Canine Unit for which he was specially enlisted and instead wanted to take shelter of different quarters in the Police Department by keeping himself posted in different Sections/Branches other than the unit of his original assignment. In spite of his being away from the designated position, he remained in the receipt of salary for performance of duty in different Sections/Positions other than the Canine Unit till his removal from service vide the impugned order dated 11.01.2011. The contention of the appellant that he remained on duty and was not heard by the relevant authorities before his removal from service

termining the same as malafide on part of the competent authority could have been addressed by the appellate authority but no such orders of the said authority are available on the record. In view of the foregoing the Tribunal deem it appropriate to remit the case to the appellate authority to examine and decide the departmental appeal of the appellant on its merits strictly in accordance with law/rules within a period of 45 days from the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room."

It is clear from above reproduction that the aspect of claim of appellant regarding performance of duty at different places other than the Canine Unit and the fact that he kept receiving monthly salary for the performance of duty, was also required to have been considered by the departmental appellate authority while deciding the appeal in pursuance to judgment by this Tribunal.

5. We consider that the argument of learned counsel regarding penalty of discharge from service not provided in the Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, has much force. In the said context, it is clearly noticeable that the impugned order dated 11.4.2011 itself spoke to have been passed under the Ordinance *ibid* while, on the other hand, Section 3 of the said Ordinance provided major punishment in the form of 'dismissal' or 'removal' from service and, compulsory retirement or reduction to lower post or pay scale. The penalty of 'discharge' from service does not find any mention in the Ordinance, 2000. The impugned order is, therefore, liable to be struck down on the said score alone.

6. It is not denied that the appellant was recruited on 16.02.2008. In such case, he was to remain under probation for three years during which period he could have been discharged by the Superintendent in case he was not likely to prove an efficient police official. However, on 11.04.2011 i.e. the date of passing of

impugned order of discharge the appellant had clearly completed the period of three years. In the said context, even otherwise, a discharge order could not be issued against the appellant. Here it shall be of use to make a reference to the findings of enquiry officer as noted in his report dated 07.12.2010. It was, inter-alia, noted therein that the appellant was an untrained constable for the specific job of Canine Unit. After arrival, he reported for duty where-after A.I.G BDU/S.B recommended him to be adjusted/accommodated in other Section/Unit of Special Branch. It was concluded that the allegations/charges levelled against the appellant for non-compliance or absentia were not based on facts and that he was proved innocent. The enquiry officer recommended that the enquiry be filed and appellant be adjusted in some other unit/section of the Special Branch, besides, sending him for basic policing recruit course.

7. In view of the above, the appeal in hand merits acceptance which is accordingly allowed. Impugned orders dated 11.04.2011 and 29.01.2016 are set aside and the appellant is reinstated into service. The period interregnum his impugned discharge from service and reinstatement shall be treated as leave of the kind due.

Parties are left to bear their respective costs. File be consigned to the record room.





(HUSSAIN SHAH)
MEMBER(E)



(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
02.01.2019

S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	02.1.2019	<p><u>Present.</u></p> <p>Mr. Taimur Ali Shah, Advocate .. For appellant</p> <p>Mr. Ziaullah Deputy District Attorney .. For respondents With M. Asif, DSP (Legal)</p> <p>Vide our detailed judgment of today the appeal merit acceptance which is accordingly allowed. Impugned orders dated 11.04.2011 and 29.01.2016 are set aside and the appellant is reinstated into service. The period interregnum his impugned discharge from service and reinstatement shall be treated as leave of the kind due.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Chairman </div> </div> <p><u>ANNOUNCED</u> 02.1.2019</p>


13.11.2018

Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 02.01.2019 before D.B.

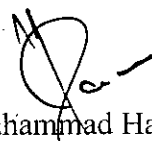

Reader

01.06.2018

Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as Learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 03.08.2018 before D.B



(Muhammad Amin Kundi)
Member



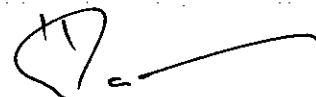
(Muhammad Hamid Mughal)
Member

03.08.2018

Appellant absent. Learned counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Suleman, Head Constable for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 28.09.2018 before D.B.



(Ahmad Hassan)
Member (E)



(Muhammad Hamid Mughal)
Member (J)

28.09.2018

Counsel for the appellant present. Mr. Muhammad Suleman, H.C alongwith Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Granted. Case to come up for arguments on 13.11.2018 before D.B.




(Ahmad Hassan)
Member




(M. Amin Khan Kundi)
Member

11.12.2017

Junior to counsel for the appellant present. Learned AAG for the respondents present. Junior to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 05.02.2018 before D.B


(Muhammad Hamid Mughal)
MEMBER


(Gul Zeb Khan)
MEMBER


05.02.2018

Since 5th February has been declared as public holiday. Therefore, the case is adjourned. To come up for arguments on 28.03.2018 Before D.B


Reader

28.03.2018


Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 24.04.2018 before D.B

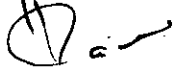

(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

24.04.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General alongwith Javid S.I present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 01.06.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.03.2017

Counsel for the appellant and Asst. AG alongwith Mr. Muhammad Asif, DSP(L) and Mr. Javed Khan, SI for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 14.06.2017 before D.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

(ASHFAQUE TAJ)
MEMBER

14.06.2017

Agent to counsel for the appellant and Mr. Muhammad Asif, DSP Legal alongwith Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Agent to counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 11.09.2017 before D.B.

(Muhammad Amin Khan Kundi)
Member

(Gul Zeb Khan)
Member

11.09.2017

Appellant in person and Asstt. AG alongwith Javed, S.I and Muhammad Asif, DSP for the respondents present. The Learned Chairman is on leave, therefore, arguments could not be heard. To come up for arguments on 11.12.2017 before the D.B.

(Gul Zeb Khan)
Member (Executive)

256/16

25.07.2016

Counsel for the appellant and Mr. Muhammad Asif, Inspector (Legal) alongwith Addl. AG for the respondents present. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 23.08.2016 before S.B.


Chairman

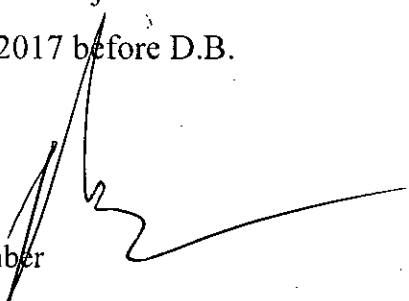
23.08.2016

Counsel for the appellant and Mr. Muhammad Asif, Inspector alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 2.11.2016.


Chairman

02.11.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted and requested for adjournment. To come up for arguments on 07.03.2017 before D.B.


Member


Chairman

28.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Police Constable when subjected to inquiry on the allegations of absence from duty and initially discharged from service under rule-12.21 of Police Rules, 1934 and consequently, removed from service vide impugned order dated 11.4.2011 where-after he preferred service appeal No. 1315/2011 which was decided on 23.12.2015 with the directions to the appellate authority to decide the departmental appeal of the appellant which was rejected vide order dated 29.1.2016 and hence the instant service appeal on 18.2.2016.

That neither any regular inquiry was conducted nor opportunity of personal hearing or cross-examination was extended to the appellant and, furthermore, the appellant was performing his duty regularly and as such the findings are against facts and law.

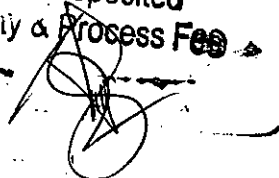
Points urged need consideration. Admit. Subject to deposit of security and process within 10 days, notices be issued to the respondents for written reply/comments for 25.5.2016 before S.B.


Chairman

25.05.2016

Appellant with counsel present. Security and process fee have not been deposited. The same be deposited within a week. Notices be issued to the respondents. To come up for written reply/comments on 25.07.2016 before S.B.

Appellant Deposited
Security & Process Fee






Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 256/2016

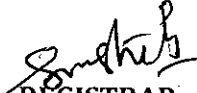
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.03.2016	<p>The appeal of Mr. Farid Khan resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21.3.16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-03-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Farid Khan Constable No. 685/SB Police Headquarter Peshawar received to-day i.e. on 18.02.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellatant.
- 2- Copy of Service certificate mentioned in para-F of the grounds of appeal (Annexure-5) is not attached with the appeal which may be placed on it.

No. 264 /S.T,

Dt. 18/2 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

Sir,

1. *objections removed and resubmitted*

Asif Yousafzai

2. ~~Annexure~~ Service certificate will be produced later as it is not available now.

Asif

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

Appeal No. 256 /2016

Mr. Farid Khan

V/S

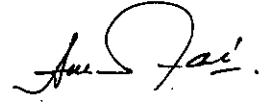
Police Department.

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5.	Copy of Order dated 22.10.2010.	D	09
6.	Copy of Charge sheet	E	10
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APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

And


(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR.

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

Appeal No. 256 /2016

**K.W.P. Provincial
Service Tribunal**
Diary No. 117
Dated 18-2-2016

Mr. Farid Khan, Constable No.685/SB,
Police Head Quarter, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G. Special Branch, Peshawar.
3. The S.S.P, Special Branch, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11.04.2011 WHEREBY THE APPELLANT HAS BEEN DISCHARGED FROM THE SERVICE AND THE ORDER DATED 29.01.2016 WHEREBY THE APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS IN VIOLATION OF SERVICE TRIBUNAL JUDGMENT.

.....

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 11.04.2011 AND 29.01.2016 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WILL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

1. That the appellant was recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the appellant to

re-submitted to-427
and filed.

Signature
17/3/16

I.T. Section and then the appellant was remained on duty as Gun man with AIG Special Branch and later on posted at the Bungalow of SSP (Admn). All these facts are narrated in the reply of show cause notice, the copy of which is already attached.

2. That on 22.9.2010, the show cause notice was issued to the appellant in which he was charged for not assuming the duty in Canine Unit, the appellant filed reply to the show cause notice wherein he explained the whole position. Copy of show cause notice and reply are attached as Annexure-A and B.
3. That on 18.10.2010, the appellant along with colleagues Mr. Irfanullah was directly discharged from service under Police Rules 12-21 which was set aside on 22.10.2010 by AIG Special Branch with the directions for issuing of fresh show cause with summary of allegations. Copies of Orders are attached as Annexure-C and D.
4. That this charge sheet and statement of allegations was issued to the appellant on 26.10.2010 wherein the appellant was charged for absented himself without prior permission and was failed to comply with the order of superior officers. The appellant filed details reply to the charge sheet and then enquiry was conducted in which the inquiry officer clearly stated that the allegations for non compliance and absented from duty are not based on facts and the appellant is proved innocent. Copy of Charge sheet and Statement of Allegations and Reply and Inquiry Report are attached as Annexure-E, F, G and H.
5. That the respondents kept mum on the findings of the inquiry officer (Muhammad Iqbal Khan) and issued another charge-sheet and statement of allegations on 31.1.2011 in which the appellant was charge sheeted for not qualifying the prescribed training for dog handling, not properly handle and look after the snuffer dogs, not taking interest in the professional duty in Canine Unit and having no knowledge about Dog handling and lastly failure and assuming in Canine Unit. All copies of Charge-sheet and Statement of allegations are attached as Annexure-I and J.

6. That on 13.3.2011, the appellant filed details reply to the charge sheet wherein he denied all allegations and requested for dropping the inquiry. Copy of Reply to Charge sheet is attached as Annexure-K.
7. That on 18.2.2011, the final show cause notice was issued to the appellant which was properly replied but despite of that the appellant was discharged from service under RSO 2000 vide order dated 11.4.2011. The appellant filed appeal against the impugned order on 12.4.2011 and waited for 60 days but no reply has been received within stipulated period. Copies of Final Show cause Notice, Reply , Order and Departmental Appeal are attached as Annexure-L, M, N and O.
8. That against the above impugned order, the appellant filed Appeal No.1315/2011 in the Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar. The Honourable Service Tribunal decided the case on 23.12.2015 through its Judgment dated 23.12.2015 in which the appeal of appellant was remitted to the appellate authority to examine the case and decide the departmental appeal of the appellants on merit strict in accordance with law and rules within 45 days of the receipt of the Judgment. Copies of Service Appeal and Judgment are attached as Annexure-P and Q.
9. That after more than two months of the announcement of the Judgment of this Honourable Tribunal, the respondent without examining the case, the department rejected the appeal of the appellant for no good on 29.01.2016. Copy of Rejection Order is attached as Annexure-R.
10. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

GROUND:

- A) That the impugned orders dated 11.04.2011 and 29.01.2016 are against the law, facts, material on

record, and against the Government Posting Transfer, therefore, liable to be set aside.

- B) That the appellant has been treated under RSO 2000 wherein the penalty of discharge is not mentioned thus the appellant has not been treated according to law and rules and the impugned order is liable to be set aside.
- C) That the charge sheet was served on the appellant directly by the authority and not by the inquiry committee and as such the respondents have violated Rules-5(1) (a) of the RSO 2000.
- D) That the appellant was not associated with the inquiry proceedings nor the appellant was allowed to cross examine and witness against him. Therefore, the respondents have violated Section-5(1) (c) of the RSO.
- E) That the appellant was condemned un heard and was not given any chance of personal hearing to the appellant despite of proper request which is against the principle of justice.
- F) That the appellant was remained on duty throughout the period and never remained absent from duty nor denied to perform any kind of duty rather the appellant is always remained obedient to the order of his superior and vigilantly performed his duty. This can be proved from the recommendation certificate given to the appellant. ~~Copy of Certificate is attached as Annexure-5.~~ *Sai*
- G) That the appellant had joined the training at Army Dog Breeding Training Centre, Rawalpindi and remained there for 9 days but then Lt. Col./ Incharge of the Centre sent back the appellant from training by showing that the training is meant for Ex-Army Personal. After returned from training centre from Rawalpindi, the appellant remained in I.T. Section for more than 1 year and then he deputed as Gun-man with the Additional I.G. Special Branch and then remained on duty with SSP (Admn) at his Bungalow.

- H) That the appellant is innocent but despite of that the respondents are bent upon the appellant to remove him from his service in a illegal and arbitrary manner because neither the absence proved against the appellant nor the appellant refused to perform the duty in the Canine Unit and even the charge sheet was issued on 31.1.2011 which was made after 3 years of the recruitment of the appellant which is baseless because if they found that the appellant is knowledge less in dog breeding then he can be deputed to other branch for some other duty.
- I) That the impugned order has passed on malafide and to save skin of high ups at the cost of appellant.
- J) That the appellant has not been treated fairly and justly and has been discriminated.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT

Farid Khan

THROUGH:

(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

And

(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR.

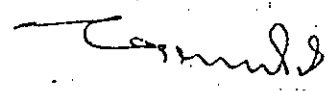
A 6!

SHOW CAUSE NOTICE

You constable Farid Khan No.685/SB of Canine Unit Special Branch was directed by the then Addl: IGP Special Branch KPK Peshawar through DSP/HQ: on 26.08.2010 to assume your duty (in Canine Unit/SB) but you have failed to comply the superior orders inspite of clear direction.

You are therefore, called upon show cause notice for your mis-conduct as to why you should not be dealt with departmentally.

Your reply should reach to the undersigned within 7 days of the receipt of this notice failing which it shall be presumed that you have nothing to say and ex parte action will be taken against you.



SSP/Admn:
SPECIAL BRANCH KPK PESHAWAR

No. S278/EB

Dt: 22/8/2010



ATTESTED

Handwritten signature and date: 16/02/08

685/SB/نمبر 685/سب

ATTESTED

Handwritten signature and date: 16/02/08

استدعا کے لئے اس کو اس اثرا سے بری الزم کرنا ہے۔

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ORDER

The following constables were enlisted for Canine Unit Special Branch to look after the Snifer Dogs wef 16.02.2008. They have been send to Dog Breeding and Training Center Rawalpindi where they completed two week training.

1. Farid Khan./ No.685/SB
2. Irfan Ullah. 685/SB

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that both the constables are absented without prior permission. On the compliant of AIG/BDU they were served with show cause notices. The replies of show cause notices found unsatisfactory and they have been found guilty of gross misconduct. Therefore, they are hereby "Discharge" from service under Police Rules 12.21 with immediate effect.


Dy: Inspector General of Police
Special Branch Khyber Pakhtunkawa
Peshawar

5793-97
No. /EB, dated Peshawar, the 18-10-2010
Copy forwarded to all concerned: 


ATTESTED


ATTESTED

2009

ORDER

Having perused the record and office order issued vide No.5793-97/EB, dated 18.10.2010, I set aside the impugned order and reinstate constable Farid Khan No.685/SB with immediate effect.

It is directed that fresh show cause with summary of allegations shall be issued and enquiry conducted into allegations. The enquiry shall be on day to day basis.

(Syed ~~Abdullah~~ Ali Shah)
Addl. Inspector General of Police
Special Branch KPK Peshawar

Dated 22-10-2010.

No. 5770-74/EB

Copy forwarded to all concerned

[Signature]
ATTESTED

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ATTESTED

E
10

CHARGE SHEET

I, Waheed ur Rahman SSP/Admn: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Farid Khan. No.685/SB of Canine Unit Special Branch-KPK Peshawar. as follows:-

That you were enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. You were selected for Dog Breeding and Training Center Rawalpindi where you completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that you are absented without prior permission. You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite of clear direction.

By reasons of the above you appear to be guilty of misconduct under section (3) of the KPK, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance, ibid.

2. You are therefore, directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Inquiry Officer as the case may be.
3. Your written defence if any should reach the Inquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case, exparte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.

Wah
(Waheed ur Rahman)
SSP/Admn:
Special Branch KPK Peshawar.

ATTESTED

بھارتیہ مسلم لیگ پاکستان
سیکرٹری جنرل
مقام: اسلام آباد

ATTESTED

SUMMARY OF ALLEGATIONS

1. Waheed ur Rahman SSP/Admn: Special Branch KPK Peshawar am of the opinion that you constable Farid Khan No.685/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the KPK Removal from Service(Special Power) Ordinance 2000.

STATEMENT OF ALLEGATIONS

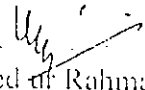
That he was enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. He was selected for Dog Breeding and Training Center Rawalpindi where he completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that he has absented without prior permission. He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite of clear direction.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

i. Mr. Muhammad Iqbal DSP/HQ/SB

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.


(Waheed ur Rahman)
SSP/Admn:
Special Branch KPK Peshawar.

NO. 6017-17 IIB, Dated Peshawar the 26/8/2010
Copy of above is forwarded to the:-

1. Mr. Muhammad Iqbal DSP/HQ/SB for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.
2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings.
3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.


ATTESTED


ATTESTED

بسم اللہ باری تعالیٰ شیت اسٹری آف انگلینڈ ڈیرہ چھٹی انگریزی ایسی 6017-1071-13 مورخہ 26.10.10 عرض ہوں کہ مسائل مورخہ 16.02.08 پیش براچ کیٹائن (Canine) پونت میں بھرتی ہوا۔ جاتی ہوئے سے بعد مسائل کو نمبر 6 کا ٹیشیل مرغان اللہ ڈاک بریڈنگ اینڈ ٹریڈنگ سنٹر ہارلینڈی بھیجا گیا جہاں ہم نے 9 دن گزارے۔ اور ٹریڈنگ کے نتیجے میں انگریزی انچارج ٹریڈنگ۔ ٹریڈنگ کے نتیجے میں مسائل کو نمبر 6 دیا۔ ٹریڈنگ سنٹر سے واپس آنے کے بعد اسٹیٹسٹ کٹرک انعام نے یہ کہا کہ اب آئیں بیٹک ریکورڈ کورس کے لئے پولیس ٹریڈنگ سنٹر بھیجا جائے گا لیکن اس کے برعکس انعام نے ہمیں جے آئی ٹی سیکشن کے حوالے کیا اور مسائل نے یہاں ایک ماہی سے زائد عمر سے جے آئی ٹی میں گزارا جس کی باتا بعد تصدیق سے آئی ٹی حاضرین رجسٹر سے کی جاسکتی ہے۔ اسی دوران مسائل نے سابقہ ایڈیشنل آئی جی سیشنل براچ ایمر حمزہ محمود صاحب کے ساتھ بطور مگن میں مختلف وقتوں میں تقریباً ایک مہینہ ڈیوٹی سرانجام دی جہاں سے بعد میں اسٹیٹسٹ کٹرک انعام نے مسائل کو سابقہ ایس ایس پی ایف ایف ایف جناب جعفر صاحب مجھہ واقع پورنیورسٹی ٹاؤن پشاور میں تقریباً 10 مہینے ڈیوٹی سرانجام دی اور اس بات ایس ایس پی صاحب نے کمنڈیشن سرٹیفکیٹ درجہ سیم نمبر 500/1 روپیے نقد انعام بھی دی۔ بعد ازاں مسائل نے سیکورٹی براچ میں ڈیوٹی سرانجام دینے کے دوران ایک بڑے ٹریڈنگ حادثے میں زخمی ہونے سے بچا یا جب سیشنل جال میں مسائل کو اللہ تعالیٰ نے ڈی آئی خان میں وزیر اعظم کی سیکورٹی ڈیوٹی سرانجام دینے کے دوران ایک بڑے ٹریڈنگ حادثے میں زخمی ہونے سے بچا یا جب سیشنل براچ کی گاڑی ڈی آئی خان سے واپسی پر ٹریڈنگ حادثے کا شکار ہوئی اور اس میں سیشنل براچ کے متعدد اہلکاران شدید زخمی ہوئے تھے۔ مسائل نے یہ تمام واقعہ صرف اور صرف شرف اسٹیٹسٹ کٹرک انعام نے اپنے ذمے تمام ذمہ داریاں نبھایا۔ ایسا نہ ہوتی اور خوش اسلوبی سے سرانجام دی ہیں۔ اس ضمن میں یہ عرض ہے کہ مورخہ 27.08.10 سے آئی جی ہم ڈیوٹی پونت کے حضور ہمراہ عرفان اللہ ایس آئی آئی فیسر خالد خان، اسٹیٹسٹ کٹرک انعام اور ڈی ایس پی بیڈگوار محمد اقبال خان بغرض رپورٹ ڈیوٹی حاضر ہوئے۔ مسائل اور عرفان اللہ کا ٹیشیل ضلع بنوں کے رہائشی ہیں اور یہ چونکہ یہاں اپنا ذاتی رہائش گاہ نہیں تھی بریں بعد شروع دن سے سیشنل براچ میں رہائش پذیر ہیں۔ اسی دوران مورخہ 22.09.10 بذریعہ چھٹی انگریزی نمبر 5278/E مسائل کو شوکا زونٹس باہت، حکم عدوی موصول ہوا۔ شوکا زونٹس وصول ہونے کے بعد مسائل نے اپنا جواب مورخہ 24.09.10 آسٹران بالا کو دیا۔ مورخہ 18.10.10 مسائل ہمراہ عرفان اللہ کا ٹیشیل کے بغیر عرض و معروض بیگ جنٹیل قلم پولیس رزلٹ 21: 12 کے زیر تفتیہ کارروائی سے ڈیپارچ کیا گیا۔ جناب عالی نہایت دلچسپی سے گزارش ہے کہ مسائل نے تاہر خاشا اپنی ڈیوٹی سیشنل براچ میں (چاہے وہ سیکورٹی سیکشن ہو یا جے آئی ٹی) نہایت جانفشانی سے سرانجام دی ہے۔ حیران پریشان اس بات پر ہوں کہ کیا مسائل اتنا کٹا کٹا کر رہے ہیں کہ آسٹران بالا جانز عرض و معروض نہیں سن سکتے۔ جب مسائل کو ہم ڈیوٹی پونت میں حاضرین کا حکم ملا ہے مسائل سیشنل براچ میں ہی مقیم تھا اور ہم ڈیوٹی پونت میں جناب آئی جی کے PA کے سامنے روزانہ حاضر ہوتا تھا۔ اب مسائل کو اپنے قصور کا علم نہیں کہ فرانس کی سرانجامی میں حکم عدوی کیسے سرزد ہوئی۔ یہاں ایک بات پھر آپ جناب کی انٹس میں لانا چاہوں گا کہ کئی مواقع پر اسٹیٹسٹ کٹرک انعام نے مسائل اور کا ٹیشیل عرفان اللہ بیٹک ریکورڈ کورس کے لئے سیکشن کے بارے میں بتایا اور اس کی تصدیق بیان کی کہ چونکہ مسائل ٹیمر تربیت یافتہ ہے اس لئے سب سے پہلے بیٹک پولیس ٹریڈنگ ضروری ہے۔ مورخہ 22.10.10 بذریعہ چھٹی انگریزی نمبر 5970-74/EB جناب ایڈیشنل انسپٹر جنرل صاحب سیشنل براچ پشاور نے سہرانی فرماتے مسائل کو ملازمت پر دوبارہ بحال کر دیا اور جناب ڈپٹی انسپٹر جنرل سیشنل براچ کے ارڈر ڈیپارچ کو منسوخ کر دیا اور ساتھ ہی از سر نو انگریزی کا حکم صادر فرمایا۔ اب کے بارچارج شیت اسٹری آف انگلینڈ میں مسائل پر بغیر حاضری کا الزام نہ کیا گیا ہے۔

جناب عالی ایک دفعہ پھر عرض ہے کہ مسائل نے کسی قسم کی غیر حاضری نہیں کی اور تمام ڈیوٹی پر حاضر ہے۔ اس لئے آپ صاحبان سے التماس ہے کہ مسائل کے باکوردہ جرم کو واپس فرمایا اور انگریزی ناکل کی جائے۔ مسائل تاہر ڈیمانڈ ہے گا۔
نوٹ: مسائل آپ صاحبان کے رد و رد پیش ہو کر عرض و معروض کرنا چاہتا ہے۔

اعزاز

آپ کے فرمانبردار کا ٹیشیل فرید خان نمبر 685/SB/مقبول کیٹائن (Canine) پونت سیشنل براچ پشاور

Recd
On 01/10/20

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DEPARTMENTAL ENQUIRY AGAINST CONSTABLE
FARID KHAN NO. 685/SB OF CANINE UNIT SPECIAL
BRANCH, KHYBER PUKHTUNKHWA, PESHAWAR.

The above mentioned departmental enquiry was entrusted to the undersigned vide letter No. 6017-19/EB dated 26.10.10.

It has been alleged that constable Farid Khan absented himself from duty without prior permission. He was directed time and again to assume duty in Canine Unit but he failed to comply with the orders of superior officers in true spirit despite of clear direction.

To probe in the matter, the defaulter constable Farid Khan along with PA to AIG/BDU Niaz Wali Stenographer, Inamullah Establishment Clerk and Aurangzeb Khan SI (Rtd) the then Line Officer Special Branch were examined and their statements were recorded which are as under:

Constable Farid Khan No. 685/SB stated that he was enlisted as constable on 16.02.2008 in Canine Unit of Special Branch. After enlistment he along with constable Irfanullah was sent to Dog Breeding and Training Center, Rawalpindi for training where they spent mere nine (09) days without getting any kind of training and then released with a movement order issued from the Center with the Officer Incharge's conclusion of being unfit for Canine unit. After arrival at Special Branch, HQRs, Peshawar, he was handed over to JTF Section where he served more than one year. During attachment with JTF, he also served in intervals for period of approximately one month as a gunman to the then worthy Addl. IGP Special Branch Amir Hamza Mehsood. Later on, after completion of one year in JTF, he was attached with the then SP Admn/Political Jaffar Khan and he spent 10 months in the bungalow situated at University Town Peshawar. He was awarded commendation certificate along with Rs. 500/- cash award for his efficient performance. After wards, he started performing security duties in the Security Section of Special Branch.


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In the mean while on 22.09.10, he received Show Cause Notice for non compliance and on 18.10.10 he was discharged along with constable Irfanullah from service under Police Rules 127. On 22.10.10, worthy Addl. IGP Special Branch set aside the impugned discharge order and reinstated him with immediate effect. The further stated that the Officer incharge of Dog Breeding and Training Center Kawalpindi declared him along with constable Irfanullah not fit/suitable for this training/job and did not give course completion certificate rather only handed over movement order for returning back. Further stated that it came to his knowledge at the Center that the said course duration is at least six (06) months and on qualifying one can get completion certificate. After arrival from Kawalpindi, he made it clear to Irfanullah Establishment Clerk to bring this fact in to the notice of High-ups but the same was not conveyed. However recently after reinstatement, he along with Constable Irfanullah was summoned/interviewed by AIG BDU where they narrated the whole episode and AIG BDU also agreed that they are not fit for the specific job of Canine Unit as being untrained to handle these precious dogs. AIG BDU also directed his PA-Niaz Wali to write a letter in this regard to High-ups of Special Branch for accommodating/transferring both to some other section of Special Branch being untrained. He further stated that when dogs were provided to Canine Unit, three Army retired soldiers (Munjab Domiet) were employed for the specific job of handling these precious dogs. He once again stressed on the point that he never absented himself from duty and being reading in Special Branch premises as he is native of District-Bannu how it could be possible to made himself absent.

Niaz Wali Stenographer, PA to AIG BDU Special Branch stated that on 26.10.2010 two constables named Farid Khan 68581B and Irfanullah 68678B enlisted for Canine Unit Special Branch on 16.02.2008, reported their arrival for duty from Security Section.

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Both the constables have been examined by AIG BDU/SB who after listening their plea ordered that they are not fit for Canine Unit as untrained and be accommodated in Security Section or any other section of Special Branch.

Inamullah Establishment Clerk Special Branch stated that he handed over the services of constable Farid Khan 685/SB and Irfanullah 686/SB to the then Line Officer SI (Rtd) Aurangzeb Khan for security duties on the verbal order of the then SSP Admn/SB.

Aurangzeb Khan SI (Rtd) the then Line Officer Special Branch stated that both constables Farid Khan 685/SB and Irfanullah 686/SB performed their duties in Special Branch HQRs.

FINDINGS:

After going through the statements of the witnesses and defaulter constable Farid Khan No. 685/SB it was established beyond any doubt that he was condemned unheard as he served more than two (02) years (his entire service is 02 years and 10 months) in JTF and Security Section of Special Branch which is in the knowledge of High-ups. He is an untrained constable for this specific job of Canine Unit and reverted back from Dogs Breeding and Training Center, Rawalpindi as unfit for the job. After arrival from Rawalpindi, he informed Inamullah Establishment Clerk about this but no heed was paid. It is also on record that he was interviewed by worthy AIG BDU/SB who also declared him unfit for Canine Unit and recommended to be adjusted/accommodated in some other section/unit of Special Branch. The allegations/charges leveled against him for non compliance or absentia are not based on facts and he is proved innocent. If approved, the said enquiry may be filed and the defaulter constable be adjusted in some other unit/section of the Special Branch besides sending him for basic policing recruit course.

Submitted please.

(MUHAMMAD) QBAL KHAN)
DSP-HQRs/SB

07-12-10

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I. 18

CHARGE SHEET.

1. Abdul Ghafoor Afridi SSP/Admin: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Farid Khan No.685/SB of Canine Unit Special Branch KPK Peshawar. as follows:-

i) That you were recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008. You could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, you are unfit to perform the duties of dog handling for which you had been recruited.

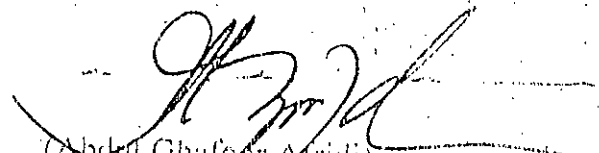
ii) That you while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but you failed to perform the said job as reported by I/C Canine Unit Special Branch.


iii) As per report of DSP Tanveer Ahmad supervisory officer of Canine Unit Special Branch you did not take interest in your assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties.

vi) You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite clear direction but you failed to take interest in the job assigned to you, therefore you are no more fit to remain in force.

By reasons of above acts of omission and commission you are guilty of misconduct under section (3) of the NWFP, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore, directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Inquiry Officer as the case may be.
3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case, exparte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.


(Abdul Ghafoor Afridi)
SSP/Admin:
Special Branch KPK Peshawar.


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SUMMARY OF ALLEGATIONS

1. Abdul Ghafoor SSP/Admn: Special Branch KPK Peshawar am of the opinion that you constable Farid Khan No.685/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section (3) of the NWFP Removal from Service(Special Power) Ordinance 2000.

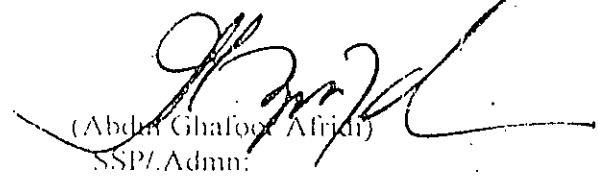
STATEMENT OF ALLEGATIONS

- i) That he was recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008 .He could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, he is unfit to perform the duties of dog handling for which he had been recruited.
- ii) That he while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but he failed to perform the said job as reported by IC Canine Unit Special Branch.
- iii) As per report of DSP Tanveer Ahmad supervisory officer of Canine Unit Special Branch he did not take interest in his assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties.
- vi) He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite clear direction but he failed to take interest in the job assigned to him, therefore he is no more fit to remain in force.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

- i. DSP Mohammad Rizy (Analysis)
- ii. DSP Abdur-Rashid (IC)

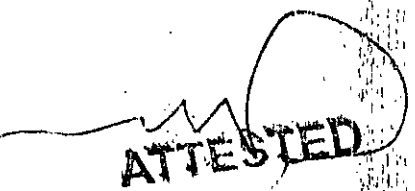
3. The Enquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.



(Abdul Ghafoor Afridi)
SSP/Admn:

Special Branch KPK Peshawar.

NO. 742-44 /EB, Dated Peshawar the, 31.1 /2011.
Copy of above is forwarded to the:-

1. _____ for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.
2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.


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To

K (18)
(18)

The Senior Superintendent of Police (Admn),
Special Branch, KPK, Peshawar.

No. _____ / _____ dated ~~2010~~ 1/3/2011

Subject :-

REPLY TO THE CHARGE SHEET
AND STATEMENT OF ALLEGATIONS

Respected Sir,

Reference the charge sheet and statement of allegations No.742-44/the Peshawar, dated 31.1.2011 containing statement of allegations in which two enquiry officers namely

- a) Mr. Mohammad Riaz, DSP Analysis.
- b) Mr. Abdur Rashid, DSP JIT.

have been nominated/appointed to conduct enquiry into the statement of allegations and charge sheet.

Respected Sir,

Before I clarify my position through my written reply, it is pertinent to mention here the previous facts briefly.

Brief history of show cause notices/charge sheets/statement of allegations and subsequent discharge order (s) and reinstatement orders

Respected Sir,

- a. The first show cause notice served upon me bearing No.5278/EB, the Peshawar, dated 22.09.2010 on 22.09.2010. In reply to the said show cause notice, I humbly submitted my written reply within the stipulated period.
- b. Then on 18.10.2010, I was discharged from service by D.I.G, Special Branch, KPK, vide order No.5793-97/EB, dated 18.10.2010.
- c. Then on 22.10.2010, I was reinstated into service vide order No.5970-74/EB, dated 22.10.2010 by A.I.G, Special Branch, KPK.
- d. After all these discharge and reinstatement orders, on 26.10.2010, S.S.P, Special Branch vide order No.6017-19/EB, dated 26.10.2010 again served a charge sheet and statement of allegations upon me. Mr. Mohammad Iqbal Khan, DSP/HQ/SB/Peshawar was nominated/appointed as enquiry officer to conduct an enquiry into the statements of allegations and charge sheet. The enquiry officer namely Mr. Mohammad Iqbal Khan, DSP/SB/HQ/Peshawar conducted a thorough enquiry and submitted his report on 7.12.2010 to the quarters concerned. The enquiry report is self explanatory and is attached for ready reference.
- e. Then on 31.1.2011, I, once again was freshly charge sheeted and served upon statement of allegations vide order No.742-44/EB, the Peshawar, dated

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31.1.2011 by SSP/Admn/SB/Peshawar/HQ. The SSP/SB/HQ has appointed/nominated two enquiry officers namely

- a. Mr.Muhammad Riaz, DSP Analysis
- b. Mr.Muhammad Abdur Rashid, DSP JIT

to probe into the allegations and submit a report to the effect.

Respected Sir,

After vouchsafing brief history of show cause notices, statement of allegations, discharge and reinstatement orders and the subsequent enquiry report, I hereby humbly want to clarify my position as under :-

1. That I have previously given my written reply/replies to various show cause notices/statements of allegations served upon me and I stand by those written replies in this reply too. Copies of replies are hereby attached for ready reference.
2. That I never violated any Rule/Regulation nor can I even think about violating Rules and Regulations.
3. That I Farid Khan along with other Constable namely Irfan Ullah was sent to Dog Breeding and Training Centre Rawalpindi from training. But we were sent back after 09 days with the observations that we have first to be given police basic training and we informed Mr.Inam, Establishment Clerk, who subsequently handed us over to J.T/SB. I spent more than a year in JIT which could be verified from JIT attendance register, so the matter of absence from service is unthinkable and out of question.
4. That I served as a gunman with AIG/SB Mr.Ameer Hamza Mehsood for about a month.
5. Then Establishment Clerk Mr.Inam handed over my services to SSP,Admn/Political, Mr.Jaffar as guard at his residence in University Town. I served there for about 10 months. The worthy SSP awarded me with a Commendation Certificate and Rs.500/- as reward in return for acknowledging my services which I have rendered.
6. Then after I served in Security Branch, and the rank and file of Security Branch are well aware of the fact.

Keeping in view of my humble submissions, enquiry report and show cause history, I humbly request to kindly file/drop the enquiry. I and my family shall always remember you in our prayers.

Yours obedient servant

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[Signature]

(FARID KHAN)

Constable No:685/SB

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FINAL SHOW CAUSE NOTICE

I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority under Removal from service (Special Power) Ordinance 2000, do hereby charge you constable Farid Khan No. 685/SB of Canine Unit Special Branch Khyber Pakhtunkhwa Peshawar on the following omission/commission.

That you were recruited for proper handling and lookafter of sniffer Dogs in the Canine Unit Special Branch but you failed to perform your duty in true spirit.

That you while deputed to Army Dog Breeding Centre and School Rawalpendi for proper Dog handling training vide this office letter No. 746/EB, dated 28.02.2008, where from you returned back as unqualified on 12.03.2008.

That as per report of Incharge Canine Unit DSP Tanveer Ahmad you are not willing to serve in the Canine Unit as you were not taking interest in the lookafter of sniffer dogs and proved your self inefficient.

That you were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers but you have not taking interest in the duty assigned to you.

i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn: Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance

3. You are therefore, directed through Final Show Cause within 15 days as to why the aforesaid penalty should not be imposed upon you.

4. In case your reply is not received within stipulated period, it shall be presumed that you have no defense to put, in that case an ex parte action shall be taken against you.

Also state as to whether you desired to be heard in person.

5. The copy of the finding of the Enquiry Officer is enclosed.

(Constable Farid Khan No.685/SB)

Nur 1258/EB

NR 18-02-2011

(Abdul Ghafoor Afridi)
SSP/Admn:
Special Branch KPK Peshawar.

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بحوالہ چارج شیٹ و سمری آف الیکیشن بذریعہ چھٹی انگریزی نمبری EB/19-6017-10 مورخہ 26.10.10 معروض ہوں کہ سائل مورخہ 16.02.08 سیشنل برانچ کینائن (Canine) یونٹ میں بھرتی ہوا۔ بھرتی ہونے کے بعد سائل کو ہمراہ کانسٹیبل عرفان اللہ ڈاگ بریڈ ایک اینڈ ٹریننگ سنٹر راولپنڈی بھیجا گیا جہاں ہم نے 9 دن گزارے اور ٹریننگ کئے بغیر ہی انچارج ٹریننگ سنٹر نے ہمیں واپس بھیج دیا۔ ٹریننگ سنٹر سے واپس آنے کے بعد اسٹیبلشمنٹ کلرک انعام نے کہا کہ اب انہیں بیک ریکورڈ کورس کے لئے پولیس ٹریننگ سنٹر منگو بھیجا جائے گا لیکن اس کے برعکس انعام نے ہمیں جے آئی ٹی سیکشن کے حوالے کیا اور سائل نے یہاں ایک سال سے زائد عرصہ جے آئی ٹی میں گزارا جس کی باقاعدہ تصدیق جے آئی ٹی حاضری رجسٹر سے کی جاسکتی ہے۔ اسی دوران سائل نے سابقہ ایڈیشنل آئی جی سیشنل برانچ امیر تہزہ محمود صاحب کے ساتھ بطور مگن میں مختلف وقفوں میں تقریباً ایک مہینہ ڈیوٹی سرانجام دی جہاں سے بعد میں اسٹیبلشمنٹ کلرک انعام نے سائل کو سابقہ ایس ایس پی پبلیک ایڈمن جناب جعفر صاحب بنگلہ واقع یونیورسٹی ٹاؤن پشاور میں تقریباً 10 مہینے ڈیوٹی سرانجام دی اور اس بابت ایس ایس پی صاحب نے کنڈیشن سرٹیفکیٹ درجہ سوم ہمراہ 500/- روپے نقد انعام بھی دی۔ بعد ازاں سائل نے سکیورٹی برانچ میں ڈیوٹی سرانجام دینے شروع کی اور اس بارے میں سکیورٹی برانچ کے آفسران باخبر ہیں۔

سال ہی میں سائل کو اللہ تعالیٰ نے ڈی آئی خان میں وزیر اعظم کی سکیورٹی ڈیوٹی سرانجام دینے کے دوران ایک بڑے ٹریفک حادثے میں زخمی ہونے سے بچایا جب سیشنل برانچ کی گاڑی ڈی آئی خان سے واپسی پر ٹریفک حادثے کا شکار ہوئی اور اس میں سیشنل برانچ کے متعدد اہلکاران شدید زخمی ہوئے تھے۔ سائل نے یہ تمام واقعہ صرف اور صرف اسلئے لکھا کہ سائل نے اپنے ذمے تمام ڈیوٹیوں نہایت ایمانداری اور خوش اسلوبی سے سرانجام دی ہیں۔ اس ضمن میں یہ عرض ہے کہ مورخہ 27.08.10 اے آئی جی ایم ڈی پوزل یونٹ کے حضور ہمراہ عرفان اللہ، لائن آفیسر خالد خان، اسٹیبلشمنٹ کلرک انعام اور ڈی ایس پی ہیڈ کوارٹر محمد اقبال خان بغرض رپورٹ ڈیوٹی حاضر ہوئے۔ سائل اور عرفان اللہ کانسٹیبل ضلع بنوں کے رہائشی ہیں اور یہ چونکہ یہاں اپنا ذاتی رہائش گاہ نہیں تھی بدیں وجہ شروع دن سے سیشنل برانچ میں رہائش پذیر ہیں۔ اسی دوران مورخہ 22.09.10 بذریعہ تہیش انگریزی نمبری 5278/E سائل کو شوکا ز نوٹس بابت حکم عدولی موصول ہوا۔ شوکا ز نوٹس وصول ہونے کے بعد سائل نے اپنا جواب مورخہ 24.09.10 آفسران بالا کو دیا۔ مورخہ 18.10.10 سائل ہمراہ عرفان اللہ کانسٹیبل کے بغیر عرض و معروض بیک جنٹس قلم پولیس رولز 21: 12 کے زیر تحمت ملازمت سے انچارج کیا گیا۔ جناب عالی نہایت دلگیر انداز میں گزارش ہے کہ سائل نے تا برخواستگی اپنی ڈیوٹی سیشنل برانچ میں (چاہے وہ سکیورٹی سیکشن ہو یا جے آئی ٹی) نہایت جانفشانی سے سرانجام دی ہے۔ جہاں اس بات پر ہوں کہ کہا سائل اتنا گناہ گار و خطا کار ہے کہ آفسران ہاا جان عرض و معروض نہیں سن سکتے۔ جب سے سائل کو ہم ڈی پوزل یونٹ میں حاضری کا تمام ملازمت سائل سیشنل برانچ میں ہی ملیم تھا اور ہم ڈی پوزل یونٹ میں جناب اے آئی جی کے PA کے ساتھ روزانہ حاضر، دنا تھا۔ اب سائل کو اپنے ساتھ رہا کہ علم نہیں کہ فرمائش کی سرانجامی میں حکم عدولی گیت سرزد ہوئی۔ یہاں ایک بات پھر آپ جناب کی نوٹس میں لانا چاہوں گا کہ کئی مواقع پر اسٹیبلشمنٹ کلرک انعام نے سائل اور کانسٹیبل عرفان اللہ بیک ریکورڈ کورس کے لئے بھیجنے کے بارے میں بتلایا اور اس کی وجہ یہ بیان کی کہ چونکہ سائل غیر تربیت یافتہ ہے اس لئے سب سے پہلے بیک پولیس ٹریننگ ضروری ہے۔ مورخہ 22.10.10 بذریعہ چھٹی انگریزی نمبری EB/74-5970 جناب ایڈیشنل انسپکٹر جنرل صاحب سیشنل برانچ پشاور نے مہربانی فرماتے سائل کو ملازمت پر دوبارہ بحال کر دیا اور جناب ڈپٹی انسپکٹر جنرل سیشنل برانچ کے ارڈر ڈسچارج کو منسوخ کر دیا اور ساتھ ہی از سر نو انکوائری کا حکم صادر فرما دیا۔ اب کے بار چارج شیٹ و سمری آف الیکیشن میں سائل پر غیر حاضری کا الزام عائد کیا گیا ہے۔

جناب عالی ایک دفعہ پھر عرض ہے کہ سائل نے کسی قسم کی غیر حاضری نہیں کی اور تا حال ڈیوٹی پر حاضر ہے۔ اسلئے آپ صاحبان سے التماس ہے کہ سائل کے بارے میں جرم کو معاف فرما کر انکوائری فائل کی جائے۔ سائل کا عمر ڈعا گور ہے گا۔

نوٹ: سائل آپ صاحبان کے روبرو پیش ہو کر عرض و معروض کرنا چاہتا ہے۔

العارض

آپ کا فرمانبردار کانسٹیبل فرید خان نمبر 685/SB متعینہ کینائن (Canine) یونٹ سیشنل برانچ پشاور

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ORDER

This is a departmental proceedings initiated against constable Farid Khan No.685/Sb of Canine unit Special Branch under the Govt. of NWFP Removal from Service (special Power) Ordinance 2000 as he rendered himself to be proceeded against on the following charges:

i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn: Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance.

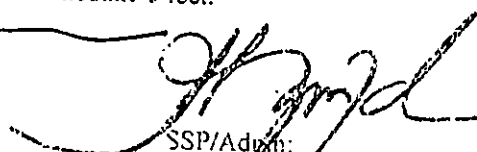
A charge sheet with statement of allegation has been served upon him and for the purpose of scrutinizing the conduct of said delinquent constable with the reference of the above allegations, the Enquiry Committee comprising Mr. Abdur Rashid DSP/JIT/SB and Mr. Riaz Ahmad DSP/Analysis/SB has been constituted with the direction to submit a report with in 25 days of the redceipt of the order alongwith their recommendation for appropriate action.

From Enquiry conducted by the above Committee, statements of the witnesses as well as the defaulter constable Farid Khan of Canine Unit Special Branch, the charges leveled against him has been proved beyond any shadow of doubt who is not ready to perform a specific job of dog handling/look after in the Canine Unit/SB. The Enquiry Committee in his findings has also made recommendation for major punishment under the afore-stated Ordinance.

Final show cause notice with a photo copy of findings has been served upon the accused constable to submit his reply with in the stipulated period in written defence if any should reach to this office failing which it shall be presume that he has no defence to put. His reply to the final show cause notice was received and perused by the undersigned which is not plausible and convincing one.

Foregoing in view, the recommendation of the Enquiry Committee, statement of witnesses and other relevant record place on file it is concluded that the delinquent constable is not ready to perform duty at Canine Unit though he was enlisted as constable to properly handle and lookafter the expensive dogs, therefore in exercise of legal powers under the said Ordinance, the delinquent constable Farid Khan No.685/SB is hereby "DISCHARGED" from service with immediate effect.

Order announced


SSP/Admn:
Special Branch Khyber Pukhtunkhwa Peshawar

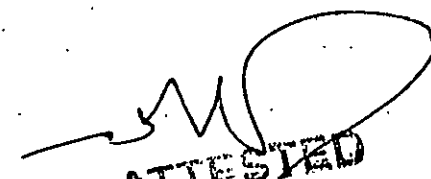
OB.No. 52 /EB

Dated 11/4/2011

No. 2445-50/EB dated Peshawar the, 11/4/2011

Copy above is forwarded for information and necessary action to the:-

1. Addl: Inspector General of Police Special Branch Khyber Pukhtunkhwa Peshawar
2. AIG/BDU/SB
3. DSP/HQr./SB
4. Acctt./SB
5. LO/SB
6. EA/SB
7. official concerned.


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بخدمت جناب عالی شام ڈپٹی انسپکٹر جنرل آف پولیس سپیشل برانچ خیبر پختونخواہ پشاور
عنوان :- حکمانہ اپیل برخلاف حکم نمبر 2445-50/EB مورخہ 11/04/2011 جس کی رو

سے سائل کو ڈسچارج کیا گیا

جناب عالی!

سائل مودبانہ طور جناب عالی کی خدمت میں مندرجہ ذیل معروضات عرض کرتا ہے۔

- 1- سائل مورخہ 16/02/2008 بطور کانٹیل Canine Unit سپیشل برانچ میں بھرتی ہوا۔
- 2- بھرتی ہونے کے بعد سائل کو ہمراہ کانٹیل عرفان اللہ ڈاگ بریڈنگ اینڈ ٹریننگ سنٹر راولپنڈی بھیجا گیا جہاں ہم نے 9 دن گزارے اور ٹریننگ کے بغیر ہی انچارج ترقیتی مرکز نے ہمیں واپس موومنٹ آرڈر کے ہمراہ بھیج دیا۔
- 3- ٹریننگ سنٹر سے واپس آنے کے بعد اسٹیبلشمنٹ کلرک نے یہ کہا کہ اب انہیں بیک ریکورٹ کورس کے لیے پولیس ٹریننگ ہنگو بھیجا جائے گا لیکن اس کے برعکس کلرک نے ہمیں بے آئی ٹی سیکشن کے حوالے کیا اور سائل نے یہاں ایک سال سے زائد عرصہ بے آئی ٹی میں گزارا جس کی باقاعدہ تصدیق بے آئی ٹی حاضری رجسٹر سے کی جاسکتی ہے۔
- 4- اسی دوران سائل نے سابقہ ایڈیشنل آئی جی سپیشل برانچ امیر حمزہ محسود صاحب کے ساتھ بطور گن میں مختلف وقفوں میں تقریباً ایک مہینہ ڈیوٹی سرانجام دی جہاں سے بعد میں اسٹیبلشمنٹ کلرک نے سائل کو سابقہ ایس ایس پی پولیٹیکل / ایڈ من جناب جعفر صاحب، بنگلہ واقع یونیورسٹی ٹاؤن پشاور میں تقریباً 10 مہینے ڈیوٹی سرانجام دی اور اس بابت ایس ایس پی صاحب نے کنڈیشن سرٹیفیکیٹ درجہ سوم ہمراہ -/500 نقد انعام بھی دی۔
- 5- بعد ازاں سائل نے سیکورٹی برانچ میں ڈیوٹیاں سرانجام دینے شروع کی اور اس بارے میں سیکورٹی برانچ کے آفسران با خبر باخبر ہیں۔ حال ہی میں سائل کو اللہ تعالیٰ نے ڈی آئی خان میں وزیراعظم کی سیکورٹی ڈیوٹی سرانجام دینے کے دوران ایک بڑے ٹریفک حادثے میں زخمی ہونے سے بچایا جب سپیشل کی گاڑی ڈی آئی خان سے واپسی پر ٹریفک حادثے کا شکار ہوئی اور اس میں سپیشل برانچ کے متعدد اہلکاران شدید زخمی ہوئے تھے۔ سائل نے یہ تمام واقعہ صرف اور صرف اس لیے لکھا کہ سائل نے اپنے ذمے تمام ڈیوٹیاں نہایت ایمانداری اور خوش اسلوبی سے سرانجام دی ہیں۔
- 6- اس ضمن میں یہ عرض ہے کہ مورخہ 27/08/2010 سے آئی جی بم ڈسپوزل یونٹ کے ہمراہ کانٹیل عرفان اللہ، لائن آفیسر خالد خان، اسٹیبلشمنٹ کلرک انعام اور ڈی ایس پی ہیڈ کوارٹر محمد اقبال خان بغرض رپورٹ ڈیوٹی حاضر ہوئے۔ سائل اور عرفان اللہ کانٹیل ضلع بنوں کے رہائشی ہیں اور یہ چونکہ یہاں اپنا ذاتی رہائش گاہ نہیں تھی بدیں وجہ شروع دن سے سپیشل برانچ میں رہائش پذیر ہیں۔ اسی دوران مورخہ 22/09/2010 بذریعہ چھٹی انگریزی نمبر

ATTESTED

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5278/E سائل کو شوکا ز نوٹس بابت حکم عدولی موصول ہوا۔ شوکا ز نوٹس وصول ہونے کے بعد سائل نے اپنا جواب مورخہ 24/09/2010 آفران بالا کو دیا۔ مورخہ 18/10/2010 سائل ہمراہ عرفان اللہ کانشیل کے بغیر عرض و معروض یک جنبش قلم پولیس روز 12:21 کے زیر تحت ملازمت سے ڈسچارج کیا گیا۔

7- مورخہ 22/10/2010 بذریعہ چھٹی انگریزی نمبر EB/74-5970 جناب ایڈیشنل انسپکٹر جنرل صاحب سپیشل برانچ پشاور نے مہربانی فرماتے سائل کو ملازمت پر دوبارہ پر بحال کر دیا۔ اور جناب ڈپٹی انسپکٹر جنرل سپیشل برانچ کے آرڈر ڈسچارج کو منسوخ کر دیا اور ساتھ ہی از سر نو انکواری کا حکم صادر فرما دیا۔ اب کے بار چارج شیٹ دوسری آف الیکیشن میں سائل پر غیر حاضری کا الزام عائد کیا گیا ہے۔

8- سائل کو بعد ازاں بغیر کسی وجہ کے دوبارہ چارج شیٹ بحوالہ چھٹی انگریزی نمبر EB/44-742 مورخہ 31/01/2011 دیا گیا جس میں اس دفعہ الزام بدل کر نوکری کے لیے نا اہل قرار دیا گیا۔

9- سائل کی اس الزام کے تحت DSP ہیڈ کوارٹر اقبال خان نے انکواری کی اور سائل کو مکمل طور پر بے گناہ تسلیم کیا لیکن حکام نے بغیر کسی وجہ کے اس انکواری رپورٹ کو تسلیم نہیں کیا اور دوبارہ دوسری انکواری ٹیم جناب DSP صاحبان عبد الرشید خان اور ریاض خان پر مشتمل تھی اور اس انکواری رپورٹ میں سائل کو قصور وار قرار دیا گیا۔

10- جناب عالی! سائل کو نا کردہ جرم کی بناء مختلف انداز سے ستایا گیا ہے کبھی الزام لگا کہ سائل نے حکم عدولی کی ہے جب اس بابت تحقیقات کی گئی تو بے گناہ قرار دیا گیا۔

بعد ازاں نا اہلی کا الزام لگا۔ سائل اس بات کو سمجھنے سے قاصر ہے کہ جب نا اہل تھا تو تین سال 2 مہینے نوکری میں کیوں رکھا گیا۔

اس لیے، اندر جہ بالا مروضات کو مد نظر رکھ کر سائل کو نوکری یہ بحال کیا جائے۔ سائل تا عمر دعا گو رہیگا۔

آپ کا فرمانبردار

سابقہ کانشیل فرید خان 685/SB

ایڈریس: مکان نمبر 539/D-C محلہ اباری بنوں سٹی نزد مسجد غزنی خیل ضلع بنوں

موبائل نمبر: 0305-9553500

فون نمبر: 0928-624537

ATTESTED

ATTESTED

P (25)

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. /2011

Mr. Farid Khan, Constable No.685/SB,
Police Head-Quarter, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G, Special Branch, Peshawar.
3. The S.S.P. Special Branch, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL, ACT 1974
AGAINST THE ORDER DATED 11.4.2011 HWEREBY
THE APPELLANT HAS BEEN DISCHARGED FROM
SERVICE AND AGIANS THE TAKING ANY ACTION
ON THE DEPARTMENTAL APPEAL OF THE
APPELLANT WITHIN THE STATUTORY PERIOD OF
60 DAYS

PRAYER

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 11.4.2011 MAYBE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. ANY OTHER REMEDY WITH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

1. That the appellant was recruited as Constable in the Special Branch on 16.2.2008 for Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the

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ATTESTED

appellant to I.T. Section and then the appellant was remained on duty as Gun-man with AIG Special Branch and later on posted at the Bungalow of SSP (Admn.). All these facts are narrated in the reply of show cause notice, the copy of which is already attached.

- 2. That on 22.9.2010 the show cause notice was issued to the appellant in which he was charged for not assuming the duty in Canine Unit, the appellant filed reply to the show cause notice where-in he explained the whole position. Copy of Show Cause Notice and Reply are attached as Annexure-A and B.
- 3. That on 18.10.2010 the appellant along-with colleagues Mr. Irfanullah was directly discharged from service under Police Rules 12-21 which was set aside on 22.10.2010 by AIG Special Branch with the directions for issuing of fresh show cause with summary of allegations. Copies of Orders are attached as Annexure-C and D.
- 4. That this charge sheet and statement of allegations was issued to the appellant on 26.10.2010 where in the appellant was charged for absented himself without prior permission and was failed to comply with the order of superior officers. The appellant filed details reply to the charge sheet and then enquiry was conducted in which the inquiry officer clearly stated that the allegations for non compliance and absented from duty are not based on facts and the appellant is proved innocent. Copy of Charge-sheet and Statement of Allegations and Reply and Inquiry Report are attached as Annexure-E, F, G & H.
- 5. That the respondents kept mum on the findings of the inquiry officer (Mohammad Iqbal Khan) and issued another charge sheet and statement of allegation on 31.1.2011 in which the appellant was charge sheet for not qualifying the prescribed training for dog handling, not properly handle and look after the snuffer dogs, not taking interest in the professional duty in Canine Unit and having no knowledge about Dog-handling and lastly failure and assuming in Canine Unit. All copies of Charge-sheet and Statements of Allegations are attached as Annexure-I and J.
- 6. That on 1.3.2011 the appellant filed details reply to the charge sheet wherein he denied all allegations and requested for dropping the inquiry. Copy of Reply of Charge sheet is attached as Annexure-K.

ATTESTED

7. That on 18.2.2011 the final show cause notice was issued to the appellant which was properly replied but despite of that the appellant was discharged from service under RSO 2000 vide order dated 11.4.2011. The appellant filed appeal against the impugned order on 12.4.2011 and waited for 60 days but no reply has been received so far. Hence, the present appeal on the following grounds, amongst the others inter-alia: Copies of Final show cause notice, Reply, Order and Departmental Appeal are attached as Annexure-L, M, N & O.

GROUNDS:

- A) That the impugned order dated 11.4.2011 and not taking any action on the departmental appeal of the appellant is against the law, facts and material on record, therefore, not tenable.
- B) That the appellant has been treated under RSO 2000 wherein the penalty of discharge is no mentioned thus the appellant has not been treated according to law and rules and the impugned order is liable to be set aside.
- C) That the charge sheet was served on appellant directly by the authority and not by the inquiry committee and as such the respondent have violated Rues-5(1) (a) of the RSO 2000.
- D) That the appellant was not associated with the inquiry proceedings nor he was allowed to cross examine and witness against him. Therefore, the respondents have violated Section-5(1)(c) of the RSO.
- E) The appellant was condemned un-heard and was not given any chance of personal hearing to the appellant despite of proper request which is against the principle of justice.
- F) That the appellant was remained on duty through out the period and never remained absent from duty nor denied to perform any kind of duty rather the appellant is always remained obedient to the order of his superior and vigilantly performed his duty. This can be proved from the recommendation certificate given to the appellant. Copy of Certificate is attached as Annexure-P.

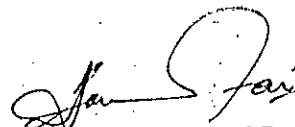
ATTESTED

- G) That the appellant had joined the training at Army Dog-Breeding Training Centre, Rawalpindi and remained there for 9 days but then Lt. Col./ Incharge of the Centre sent back the appellant from training by showing that the training is meant for Ex-Army Personals. After returned from training centre from Rawalpindi, the appellant remained in I.T. Section for more than 1 year and then he deputed as Gun-main with the Additional I.G. Special Branch and then remained on duty with SSP (Admn) at his Bungalow.
- H) That the appellant is innocent but despite of that the respondents are went upon the appellant to remove him from his service in a illegal and arbitrary manner because neither the absence proved against the appellant nor the appellant refused to perform the duty in the Canine Unit and even the charge sheet was issued on 31.1.2011 which was made after 3 years of the recruitment of the appellant which is baseless because if they found that the appellant is knowledge-less in dog-breeding then he can be deputed to other branch for some other duty.
- I) That the impugned order has passed on malafide and to save skin of high-ups at the cost of appellant.
- J) That the appellant has not been treated fairly and justly and has been discriminated.
- K) That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT
Farid Khan

Through:


M. ASIF YOUSAFZAI
ADVOCATE

~~A~~
ATTESTED



S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR:

APPEAL NO.1314/2011

(Irfanullah-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others).

JUDGMENT

ABDUL LATIF, MEMBER:

23.12.2015

Appellant with counsel (Mr. Mohammad Asif Yousafzai, Advocate) and Mr. Muhammad Asif, Inspector (Legal) alongwith Mr. Muhammad Jan, GP for respondents present.

2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 11.04.2011 whereby the appellant has been discharged from service and against not taking any action on the departmental appeal of the appellant within the statutory period of 60 days. He prayed that on acceptance of this appeal the impugned order dated 11.04.2011 may be set aside and the appellant may be reinstated with all back benefits.

3. Brief facts giving rise to the instant appeal are that appellant was recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

under Army Personnel but he returned the appellant who reported to the Establishment Section Who referred the appellant to Security Section, Special Branch and the appellant performed the duty at the Bungalow of Additional I.G. for one year and later on posted at the Bungalow of SSP (Admn). That on 22.09.2010 the show cause notice was issued to the appellant in which he was charged for not assuming the duty in Canine Unite, the appellant filed reply to the show cause notice wherein he explained the whole position. That on 18.10.2010 the appellant alongwith colleague Mr. Faridullah was directly discharged from service under Police Rules 12-21 which was set aside on 22.10.2010 by Additional I.G Special Branch with the directions for issuing of fresh show cause with summary of allegations. That charge sheet and statement of allegations was issued to the appellant on 26.10.2010 wherein the appellant was charged for absenting himself without prior permission and was failed to comply with the order of superior officers. The appellant filed details reply to the charge sheet and then enquiry was conducted in which the inquiry officer clearly stated that the allegations for non compliance and absence from duty are not based on facts and the appellant is proved innocent. That the respondents kept mum on the findings of the inquiry officer (Mhammad Iqbal Khan,) and issued another charge sheet and statement of allegation on 31.01.2011 in which the appellant was charge sheeted for not qualifying the prescribed training for dog handling, not properly handling and look after the sniffer dogs, not taking interest in the professional duty in Canine Unit and having no knowledge about Dog-handling and lastly failure and assuming in Canine Unit. That

ATTESTED

[Signature]
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawat

on 18.02.2011 the final show cause notice was issued to the appellant and then publication was made on 21.03.2011 for assuming the duty despite of the fact that the appellant was performing the duty in the Security Section in Special Branch and there was no need of such publication. That on 11.04.2011 the appellant was removed from service under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 against which the appellant filed departmental appeal on 12.04.2011 which was not responded, hence the instant appeal.

4. The learned counsel for the appellant argued that impugned order dated 11.4.2011 and non action on the departmental appeal of the appellant was against the law, facts and material on record therefore, not tenable. He further argued that appellant had not been associated with the enquiry proceedings nor was he allowed to cross examine any witness against him hence impugned orders were in violation of Section-5(1)(c) of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. He further contended that the appellant was condemned unheard which was against the principle of justice and not maintainable under the law. He further argued that the appellant remained on duty in different Sections of Special Branch and at residences of different authorities and never absented from duty, hence the charge of absence was not fair and impugned order had been passed on malafide and to save skin of high ups at the cost of the appellant. He prayed that impugned order dated 11.04.2011 may be set aside and the appellant may be reinstated into service with all back benefits.


ATTESTED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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5. The learned Government Pleader resisted the appeal and argued that the appellant was appointed specifically for the Canine Unit of Special Branch where he failed to get the requisite training from the Army Training Center at Rawalpindi from where he returned unqualified and there-after avoided to work in the Canine Unit for one pretext or other. He further argued that the appellant alongwith his other colleague Faridullah. Constable was proceeded against and were discharged from service by the DIG Special Branch vide order dated 18.10.2010. The said orders were set aside by Additional Inspector General of Police and fresh proceedings were initiated against them by issuing of proper charge sheet and statement of allegation. An enquiry committee comprising of DSP, Muhammad Riaz and DSP, Abdur Rashid was constituted who conducted the enquiry and submitted their separate enquiry report in respect of both constables Irfanullah and Faridullah on 12.02.2011. The enquiry committee established the charges of misconduct, inefficiency and failure to perform duty in the Canine Unit on the part of both the constables and the committee recommended them to the competent authority for major punishment under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. He further argued that all codal formalities were duly fulfilled by the competent authority while imposing on them the major penalty of removal from service and prayed that the appeal being devoid of any merits may be dismissed.

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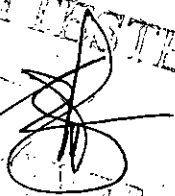

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

6. Arguments of learned counsels for the parties heard and

record perused with their assistance.

7. From perusal of the record, it transpired that the appellant was enlisted for the Canine Unit who did not take any interest in the assigned duty and was in the first instance discharged from service under Police Rules 12-21 by the DIG Special Branch vide his order dated 18.10.2010. The said orders were set aside by the Additional Inspector General of Police on 22.10.2010 and fresh formal enquiry was conducted against the appellant by an enquiry committee comprising DSP Muhammad Riaz and DSP Abdur Rashid who submitted their report wherein charges leveled against the appellant in the charge sheet and statement of allegations were established and major penalty of removal was recommended to the competent authority. From perusal of the record, it transpired that the appellant deliberately avoided to work in the Canine Unit for which he was specifically enlisted and instead wanted to take shelter of different quarters in the Police Department by keeping himself posted in different Sections/Branches other than the unit of his original assignment. In spite of his being away from the designated position, he remained in the receipt of salary for performance of duty in different Sections/Positions other than the Canine Unit till his removal from service vide the impugned order dated 11.04.2011. The contention of the appellant that he remained on duty and was not heard by the relevant authorities before his removal from service terming the same as malafide on part of the competent authority could have been addressed by the appellate authority but no such orders of the said authority are available on the record. In view of the foregoing, the Tribunal deem it

ATTESTED



Secretary,
Tribunal,
Peshawar

appropriate to remit the case to the appellate authority to examine and decide the departmental appeal of the appellant on its merits strictly in accordance with law/rules within a period of 45 days from the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record. //

8. Our this single judgment will also dispose-of in the same manner appeal No. 1315/2011 titled Faridullah, where common question of law and facts have been raised.

Sd/- Abdul Latif, Member

Sd/- Piro Bakht Shah, Member

Certified to be true copy

Khyber Pakhtunkhwa Service Tribunal Peshawar

Date of Presentation of Application 08-01-2016
Number of Pages 2400
Ct 14
U 2
R 16
Name of Clerk
Date of Entry 08-01-2016
Date of Delivery of 08-01-2016

R (35)

ORDER


This single order is passed on the departmental appeals of Irfanullah and Farid Khan Ex-constables of Canine Unit, Special Branch. Facts forming the back ground of the departmental appeals are as follows:-

Irfanullah and Farid Khan. (herein after only referred to appellants) were recruited as constables in Canine Unit Special Branch on 16.02.2008 and were selected for training at Army dog breeding and Training Centre, Rawalpindi for Canine Training, and both of them were returned unqualified by the Army authorities. They flatly refused serving Canine Unit of Special Branch and accordingly they were proceeded against departmentally. Irfanullah was removed from service and Farid Khan was discharge from service vide order dated 11.04.2011. The departmental appeal of appellants were not decided within statutory period of ninety days therefore they filed Service Appeal Nos. 1314/2011 and 1315/2011 which were disposed of vide consolidated judgment dated 23.12.2015 and the case was remitted to the appellate authority to examine the case and decide the departmental appeal of appellants on merit strictly in accordance with law and rules within 45 days of the receipt of the judgment.

In pursuance of the directions of the Service Tribunal Khyber Pakhtunkhwa, Peshawar the appellants were summoned and heard in detail on 26.01.2016. The available record was examined and gone through.

The appellants are unqualified and still do not know how to handle the dogs which prove their lack of interest of serving in the Canine Unit. The Government of Khyber Pakhtunkhwa has managed costly sniffer dogs for prevention and control of the terrorist activities. The appellants being unqualified and untrained will not only spoil the utility of the sniffer dogs but will also cause losses to the government if the leash of the dogs went to their hands.

In view of the above, the undersigned see no ground, substance and force in the departmental appeal of appellant, therefore, both the appeal stands rejected.


Additional Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar

No. 577-78/EB dated, the Peshawar
Copy of the above is forwarded to the:-

28/01/2016

1. Registrar Khyber Pakhtunkhwa, Service Tribunal Peshawar with reference to their letter No. 25/ST dated 05.01.2016.
2. Irfanullah Ex-Constable r/o Kotka Ghazi Marjan inside Kafshi Khel Muzafar Khan, Mardan PO Faiz Talab Abbas Mandan, District Bannu.
3. Farid Khan Ex-Constable r/o House No. 539/D-C, Muhallah Aabkari near Ghazni Khel Mosque, Bannu City, District Bannu.

ATTESTED

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Farid Khan

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt:

(Respondent)
(Defendant)

I/We Farid Khan

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter: The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Farid Khan

(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI

Advocate

M. ASIF YOUSAFZAI

Advocate High Court,
Peshawar.

OFFICE:

Room No.1; Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.

Ph.091-2211391-
0333-9103240

9. Taimur Ali Khan
Advocate



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Written reply on behalf of respondents in service appeal no. 256/2016

Mr. Farid Khan vs The PPO KP, Peshawar.

S.No	Documents	Annexure	Page No.
1.	Written Reply	-	01 to 04
2.	Affidavit	-	05
3.	Authority Letter	-	06
4.	Final Show Cause Notice	A	07
5.	Charge Sheet and Summary of Allegations	B	08 to 09
6.	Departmental Enquiry	C	10 to 12
7.	Report of In-Charger Canine Unit	D	13
8.	Registrar letter wherein receipt stamp of Special Branch	E	14
9.	Removal Order	F	15
10.	Enlistment Order	G	16
11.	Advertisement in Daily Mashriq	H	17

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 256/2016.

Farid Khan Constable No. 685/SB, Police Head Quarter, Peshawar

..... Appellant

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The DIG of Police Special Branch, Peshawar.
3. The SSP Special Branch, Peshawar.

..... Respondents

Subject: REPLY ON BEHALF OF RESPONDENTS NO. 1, 2 & 3

Preliminary Objections

1. That the appellant has not come clean hands to this honorable tribunal.
2. That the appellant has no cause of action and locus standi.
3. That appeal in the present form is legally defective.
4. That the appeal is time barred.
5. That the appellant concealed the material facts from honorable tribunal.
6. That the appeal is bad due to non-joinder of necessary party.

Facts

1. Correct to the extent that appellant was enlisted as constable in Special Branch for Canine Unit on 16.02.2008. The remaining Para is incorrect as the appellant was inducted to Special Branch for Look after the sniffer dogs, therefore, he was deputed to Army Dog breeding & training Centre Rawalpindi. The appellant returned back to parent department as unqualified because he did not possess requisite qualification. Then he performed various kinds of duties in Special Branch Head Quarter, because at that time Canine Unit was not functioning due to non-availability of dogs. On 30.06.2009 Canine Unit received two dogs. Beside the appellant and constable Irfanullah No. 686 three other constables were also recruited on 15.06.2009 in Canine Unit. The Incharge of Canine Unit FC Basharat Ali informed the high ups on 26.01.2011 for the alleged absence and lack of interest by the appellant in his official duty. According to the report of Incharge Canine Unit dated 26.01.2011, total number of absence from 30.06.2009 to 26.01.2009 by the appellant from Canine Unit is one year and eight months which shows lack of interest and the non-compliance orders of high ups which amounts to gross misconduct on his part.
2. Incorrect. The show cause notice mentioned in the appeal was of previous enquiry conducted against appellant which was set aside by the competent authority. A full-fledged enquiry dated 13.01.2011 was initiated against the appellant and he was served with charge sheet and statement of allegations. The appellant was charged in the said charge sheet that he was directed

time and again to assume his duty in Canine Unit, but the appellant failed to comply with the orders of his superior officers in true spirit despite clear directions but which show that the appellant failed to take interest in the job assigned to him. The appellant submitted his reply to the charge sheet on 07.02.2011 which was not satisfactory. After submission of enquiry report by the enquiry officer, the appellant was served with final show cause notice. The appellant submitted his reply to the final show cause notice on 01.03.2011 in which he admitted that the appellant did not know anything about the caring/handling of precious sniffer dogs because he is unqualified. (Copy of final show cause notice is attached as annexure A).

3. Correct to the extent that the appellant along with his colleague Irfanullah was discharged from service by the Deputy Inspector General of Police Special Branch but the same orders were set aside by the Additional Inspector General of Police Special Branch and fresh order was issued to hold a proper departmental enquiry into the allegations before imposing a penalty. Therefore, an enquiry committee was constituted in this regard.

4. Incorrect Annexure E, F, G and H are of the previous enquiry while annexure H is false/over written. Charge sheet and statement of allegations were issued to appellant on 31.01.2011 which was received by the appellant personally. (Copy is attached as annexure B). Enquiry committee in their report has clearly recommended the appellant for major punishment as the charges leveled against him have been proved beyond any shadow of doubt. According to the report of incharge Canine Unit dated 26.01.2011 both the officials i.e. Constable Farid No. 685 and Constable Irfanullah No. 686 are not taking interest in their official duty in Canine Unit. They remained absent from Canine Unit for about one year and eight months. (Copy is attached as annexure C). (Copy of the report of Incharge Canine Unit is attached as annexure D).

5. First two lines of the Para No. 5 are incorrect while Rest of the Para has already been explained in Para No. 1.

6. Correct to the extent that the appellant submitted reply to the charge sheet on 07.02.2011 but not on 01.03.2011. The said reply was not satisfactory.

7. Correct to the extent that the appellant submitted reply to the final show cause notice. His reply was not satisfactory and he was heard in person. The appellant was not ready to perform duty at Canine Unit though he was specifically enlisted as Constable in Canine Unit to properly handle and look after the expensive dogs. The appellant never submitted departmental appeal against the order dated 11.04.2011, therefore, he was removed from service.

8. Incorrect the appellant filed appeal No. 1315/2011 in the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar. The Service Tribunal vide Judgment on 23.12.2015 remitted the case to the department with the directions to appellate authority to examine the case and decide the departmental appeal of the appellant on merit strictly in accordance with law/rules within a period of 45 days from the receipt of the Judgment. The same judgment was received by this establishment on 21.01.2016 vide Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar letter No. 25/ST dated 05.01.2016 wherein the appellate authority rejected the departmental appeal on 29.01.2016 meaning thereby that it was disposed of well within shortest possible time of only (08) eight days. (Copy of the

Registrar letter wherein receipt stamp of Special Branch is printed is attached for perusal as annexure E).


9. Incorrect the Appellate authority reacted promptly on the direction of Khyber Pakhtunkhwa Service Tribunal and summoned the appellant who appeared on 26.01.2016 wherein he was heard in person besides his case was properly examined. The whole process was accomplished in a short span of only (08) eight days as the Judgment was received by this establishment on 21.01.2016 vide Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar letter No. 25/ST dated 05.01.2016 and the appeal was rejected on 29.01.2016.
10. The appellant has got no cause of action to file the instant appeal.


Grounds


- A. Incorrect Appellant never submitted departmental appeal before the appellate authority against the punishment order vide O.B No. 52 dated 11.04.2011. The order dated 29.01.2016 is passed strictly in accordance with law.
- B. Correct to the extent that the appellant was treated under RSO 2000. A full-fledged enquiry was initiated against the appellant and he was served with charge sheet and statement of allegations and final show cause notice. The appellant replies were not satisfactory and therefore, he was removed from service. The word "discharge" is only a clerical mistake, while all the obligations/procedures were followed /adopted by the competent authority under RSO 2000.
- C. Incorrect the second enquiry or re-enquiry was initiated against the appellant as per orders of the competent authority who charge sheeted him with the statement of allegations.
- D. Incorrect the appellant was given a full chance to express his position. He was allowed to cross examine the witness against him and was heard in person by the competent authority.
- E. Incorrect the appellant was heard in person by the competent authority where he refused to perform his duty in Canine Unit.
- F. Incorrect this Para has already been explained. Moreover, the appellant was returned back from training due to lack of requisite qualification. He remained absent from his lawful duty in Canine Unit for one year and eight months which is a gross misconduct on his part.
- G. Incorrect this Para has already been explained in facts of Para No. 01.
- H. Incorrect punishment awarded is in accordance with law. The appellant admitted in his reply to the charge sheet dated 07.02.2011 that he was served upon first show cause notice on 22.09.2010 and then he was discharged by DIG of Police Special Branch on 18.10.2010. Then he was reinstated by Additional Inspector General of Police Special Branch on request by the appellant that in future he will not remain absent from his lawful duty in Canine Unit. Rest of the Para has already been explained.
- I. Incorrect punishment awarded is in accordance with law. The impugned order is legal, lawful while the rest of Para is denied.
- J. Incorrect that the appellant has been treated fairly, justly and no discrimination has been done to appellant.
- K. That the respondents also seek permission of this honorable tribunal to raise additional grounds at the time of arguments.

Prayers:

It is therefore, humbly prayed that keeping in view of aforementioned submissions, the subject appeal of appellant devoid of merit, legal footing may graciously be dismissed.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)


Deputy Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa, Peshawar
43 (Respondent No. 2)


Senior Superintendent of Police,
Special Branch, Khyber Pakhtunkhwa, Peshawar
43 (Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 256/2016.

Farid Khan Constable No. 685/SB, Police Head Quarter, Peshawar

..... Appellant

VERSUS

- 7. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 8. The DIG of Police Special Branch, Peshawar.
- 9. The SSP Special Branch, Peshawar.

..... Respondents

AFFIDAVIT

We the deponents in the above titled service appeal, do here by solemnly affirm and declare on oath that the contents of Para wise comments are correct and true to the best of our knowledge and belief and nothing have been kept concealed from this honorable tribunal.

Deponents



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)



Deputy Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa, Peshawar
(Respondent No. 2)



Senior Superintendent of Police,
Special Branch, Khyber Pakhtunkhwa, Peshawar
(Respondent No. 3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 256/2016.

Farid Khan Constable No. 685/SB, Police Head Quarter, Peshawar

..... Appellant


VERSUS


- 4. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 5. The DIG of Police Special Branch, Peshawar.
- 6. The SSP Special Branch, Peshawar.

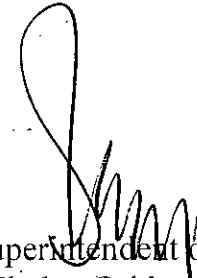
..... Respondents

AUTHORITY LETTER

Muhammad Asif Inspector Legal, Special Branch, Khyber Pakhtunkhwa Peshawar is hereby authorized to appear on behalf of the Respondents No. 1, 2 & 3 before the honorable Service Tribunal Peshawar. He is authorized to submit all required documents and replies etc pertaining to the appeal through the Government Pleader.


 Provincial Police Officer,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 1)


 Deputy Inspector General of Police,
 Special Branch, Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 2)


 Senior Superintendent of Police,
 Special Branch, Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 3)

FINAL SHOW CAUSE NOTICE

I, Abdul Ghafoor Afridi SSP/Admn: Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority under Removal from service (Special Power) Ordinance 2000, do hereby charge you constable Farid Khan No. 685/SB of Canine Unit Special Branch Khyber Pakhtunkhwa Peshawar on the following omission/commission.

That you were recruited for proper handling and lookafter of sniffer Dogs in the Canine Unit Special Branch but you failed to perform your duty in true spirit.

That you while deputed to Army Dog Breeding Centre and School Rawalpendi for proper Dog handling training vide this office letter No. 746/EB. dated 28.02.2008, where from you returned back as unqualified on 12.03.2008.

That as per report of Incharge Canine Unit DSP Tanveer Ahmad you are not willing to serve in the Canine Unit as you were not taking interest in the lookafter of sniffer dogs and proved your self inefficient.

That you were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers but you have not taking interest in the duty assigned to you.

i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn: Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance

3. You are therefore, directed through Final Show Cause with in 15 days as to why the aforesaid penalty should not be imposed upon you.

4. In case your reply is not received with in stipulated period, it shall be presumed that you have no defense to put, in that case an exparte action shall be taken against you.

Also state as to whether you desired to be heard in person.

5. The copy of the finding of the Enquiry Officer is enclosed.

(Constable Farid Khan No.685/SB)

Nor 1259/EB

18/12-2-2011

*Jan 2
18/12/2011*

[Signature]
(Abdul Ghafoor Afridi)
SSP/Admn:
Special Branch KPK Peshawar.

*Attested
[Signature]*

CHARGE SHEET.

I, Abdul Ghafoor Afridi SSP/Admn: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Farid Khan No.685/SB of Canine Unit Special Branch KPK Peshawar. as follows:-

i) That you were recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008 .You could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, you are unfit to perform the duties of dog handling for which you had been recruited.


ii) That you while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but you failed to perform the said job as reported by I/C Canine Unit Special Branch.

iii) As per report of DSP Tanveer Ahmad supervisory officer of Canine Unit Special Branch you did not take interest in your assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties.

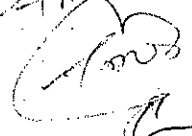
vi) You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite clear direction but you failed to take interest in the job assigned to you, therefore you are no more fit to remain in force.

By reasons of above acts of omission and commission you are guilty of misconduct under section (3) of the NWFP, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore, directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Enquiry Officer as the case may be.
3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case, exparte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.


 (Abdul Ghafoor Afridi)
 SSP/Admn.
 Special Branch KPK Peshawar.

Handwritten notes:
 6623
 30/1/2011

Handwritten notes:
 Attested


9

SUMMARY OF ALLEGATIONS

I, Abdul Ghafoor SSP/Admn: Special Branch KPK Peshawar am of the opinion that you constable Farid Khan No.685/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section (3) of the NWFP Removal from Service(Special Power) Ordinance 2000.

STATEMENT OF ALLEGATIONS

i) That he was recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008 .He could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, he is unfit to perform the duties of dog handling for which he had been recruited.

ii) That he while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but he failed to perform the said job as reported by I/C Canine Unit Special Branch.

iii) As per report of DSP Tanveer Ahmad supervisory officer of Canine Unit Special Branch he did not take interest in his assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties. .

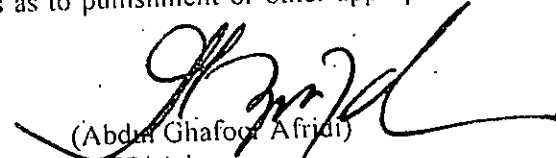
vi) He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite clear direction but he failed to take interest in the job assigned to him, therefore he is no more fit to remain in force.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

i. DSP Mohammad Riaz (Analyst)

ii. DSP Abdur Rashid (JIT)

3. The Enquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.


(Abdul Ghafoor Afridi)
SSP/Admn:
Special Branch KPK Peshawar.

NO. 742-44 /EB, Dated Peshawar the, 31.1 /2011.
Copy of above is forwarded to the:-

1. _____ for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.
2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.

Attested


**DEPARTMENTAL ENQUIRY AGAINST CONSTABLE
FARID KHAN NO. 685/SB OF CANINE UNIT SPECIAL BRANCH,
KHYBER PUKHTUNKHWA, PESHAWAR.**

The above mentioned departmental enquiry was entrusted to the undersigned vide letter No.742-44/EB dated 31.01.2011.

It has been alleged that constable Farid Khan was recruited for the purpose of dog handling in BDU Canine Unit and sent for one month training commencing from 01.03.2008 to 31.03.2008 but he could not qualified the prescribed training and returned back unqualified which proved him unfit for dog handling.

That while posted at Canine Unit he failed to perform the said job as reported by I/C Canine Unit.

That as per report of DSP Tanveer Ahmed, Supervisory Officer of Canine Unit, he did not take interest in the assigned task of Canine Unit and having no knowledge of dog handling.

He was directed time and again to assume duty in Canine Unit but failed to comply the orders of high ups, hence, no more fit to remain in the force.

To probe in the matter, the defaulter constable Farid Khan along with Tanveer Khan DSP/BDU, Niaz Wali PA to AIG/BDU, Inamullah Establishment Clerk, Khalid Khan, Lines Officer Special Branch and F.C Basharat Ali, I/C Canine Unit were examined and their statements were recorded which are as under:

Constable Farid Khan No. 685/SB stated that he was enlisted as constable on 16.02.2008 in Canine Unit of Special Branch. After enlistment he along with constable Irfanullah was sent to Dog Breeding and Training Center, Rawalpindi for training where they spent mere nine (09) days without getting any kind of training and then released with a movement order issued from the Center with the

Attended


Officer Incharge's conclusion of being unfit for the specific job of dog handling. After arrival at Special Branch HQRs, Peshawar, he started to perform various kinds of duties in the Special Branch including security section.

DSP Tanveer Ahmed Khan BDU stated that both constables were handed over to Canine Unit but they failed to perform their duties due to lack of interest coupled with absence. Both were time and again directed to resume their duties in Canine Unit but they paid no heed.

Niaz Wali Stenographer, PA to AIG BDU Special Branch stated that on 26.10.2010 two constables named Farid Khan 685/SB and Irfanullah 686/SB (enlisted for Canine Unit Special Branch on 16.02.2008) reported their arrival for duty and he then handed both the officials to I/C Canine Unit.

Inamullah Establishment Clerk Special Branch stated that he handed over the services of constable Farid Khan 685/SB and Irfanullah 686/SB to the then Line Officer SI (Rtd) Aurangzeb Khan.

Khalid Khan Lines Officer Special Branch stated that both constables Farid Khan 685/SB and Irfanullah 686/SB were received by the then Line Officer SI(Rtd) Aurangzeb Khan and they performed various kind of duties in Special Branch HQRs as that time Canine Unit was not functioning due to non availability of dogs.


FC Basharat Ali, I/C Canine Unit stated on 15.06.2009 he alongwith Muhammad Amir and Javed Iqbal were recruited as constables in Canine Unit. On 30.06.2009, they received 02 dogs and since then, they are handling the same. It is pertinent to mention that before their recruitment, 02 constables Farid Khan and Irfanullah were also recruited for the same purpose on 16.02.2008 but both the officials did not perform a single day in Canine Unit. Moreover, both


are not taking interest in their duties and in this connection, he (Basharat Ali) already informed the high ups on 26.01.2011 for their alleged absence.

FINDINGS:

After going through the statements of the witnesses and defaulter constable Farid Khan No. 685/SB it is proved beyond any doubt that he failed in performing his specific job of dog handling in Canine Unit.p Moreover, the charges of lack of interest and the non-compliance order of high ups also proved against him which amounts to gross misconduct on his part. These points proved him inefficient and liable to be extradited from the Police force. Hence, in view of above, the defaulter constable Farid Khan is recommended for major punishment under the Govt: of NWFP Removal from Service (Special Powers) Ord: 2000.

All statements and relevant recorded is attached herewith.


(RIAZ AHMED)
DSP Analysis
12.02.2011


(ABDUR RASHID)
DSP/J.I.T 12/2/2011

M. H. H.

Basement All
26.01.2011

DEG CAMPUS UNIT / 1

الذکر

بسم اللہ الرحمن الرحیم
 میں نے اپنے والدین سے کہا کہ ان کے لئے دعا کرو
 کہ وہ جلد سے صحت یاب ہو جائیں اور ان کے دل
 میں کفر و شک سے دور رہیں۔ آمین
 اللہ اعلم بالصواب

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

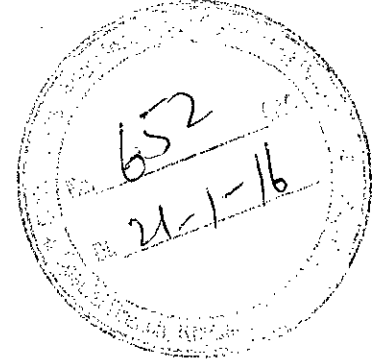
No. 25 ST

Dated 5 / 1 / 2016

To

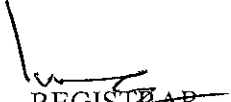
The S.S.P,
Special Branch, Peshawar.

Subject: - Judgement.



I am directed to forward herewith certified copy of Judgement dated 23.12.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

15
15

ORDER

This is a departmental proceedings initiated against constable Farid Khan No.685/Sb of Canine unit Special Branch under the Govt: of NWFP Removal from Service (special Power) Ordinance 2000 as he rendered himself to be proceeded against on the following charges

i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn: Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance.

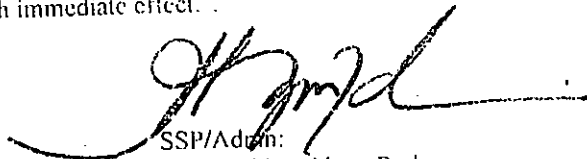
A charge sheet with statement of allegation has been served upon him and for the purpose of scrutinizing the conduct of said delinquent constable with the reference of the above allegations, the Enquiry Committee comprising Mr: Abdur Rashid DSP/JIT/SB and Mr: Riaz Ahmad DSP/Analysis/SB has been constituted with the direction to submit a report with in 25 days of the redceipt of the order alongwith their recommendation for appropriate action.

From Enquiry conducted by the above Committee, statements of the witnesses a well as the defaulter constable Farid Khan of Canine Unit Special Branch, the charges leveled against him has been proved beyond any shadow of doubt who is not ready to perform a specific job of dog handling/look after in the Canine Unit/SB. The Enquiry Committee in his findings has also made recommendation for major punishment under the afore-stated Ordinance.

Final show cause notice with a photo copy of findings has been served upon the accused constable to submit his reply with in the stipulated period in written defence if any should reach to this office failing which it shall be presume that he has no defence to put. His reply to the final show cause notice was received and perused by the undersigned which is not plausible and convincing one.

Foregoing in view, the recommendation of the Enquiry Committee, statement of witnesses and other relevant record place on file it is concluded that the delinquent constable is not ready to perform duty at Canine Unit though he was enlisted as constable to properly handle and lookafter the expensive dogs, therefore in exercise of legal powers under the said Ordinance, the delinquent constable Farid Khan No.685/SB is hereby "DISCHARGED" from service with immediate effect.

Order announced.


SSP/Admn:
Special Branch Khyber Pukhtunkhwa Peshawar

OB.No. 50 /EB
Dated 11/4 /2011

No. 2445-50/EB dated Peshawar the, 11 : 4 /2011

Copy above is forwarded for information and necessary action to the:-

1. Addl: Inspector General of Police Special Branch Khyber Pukhtunkhwa Peshawar
2. AIG/BDU/SB
3. DSP/HQ/SB
4. Acctt/SB
5. LO/SB
6. EA/SB
7. Official concerned.

Attested


ENLISTMENT ORDER

The following persons are hereby enlisted as constables in the existing

vacancies of Special Branch WFP Peshawar in BPS-5 (2780-135-6830) for Sniffer

Dogs duty (Canine Unit) with effect from 16.02.2008.

Their services are purely on temporary and liable for termination at any time

without any notice.

They are allotted constabulary Numbers as noted against each:-

S#	Name, Father name and Address	Constabulary Numbers
1	Farid Khan s/o Mir Qalam Jan r/o Tehsil Street Bannu G.T.H.No.335/E, Dist; Bannu	685/SB
2	Iranullah Khan s/o Umar Daraz Khan r/o village Kotka ghazi Marjan Dakhli Katsbi Khel Muzaffar Khan Mandan Dist; Bannu	686/SB

SSP/Admn:

For Dy: Inspector General of Police
Special Branch WFP Peshawar

No. 692-95/EB, Dated Peshawar the:- 23/02/2008

Copy to the:-

1. Acctt/SB

2. RI/SB

3. EA/SB

4. Constables concerned

Mashtaf

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 256/2016

Farid Khan

VS

Police Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. First portion of Para 1 is correct hence no correct while the rest of para is incorrect as the appellant did not remain absent from his duty and when the appellant was recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the appellant to I.T. Section and then the appellant was remained on duty as Gun man with AIG Special Branch and later on posted at the Bungalow of SSP (Admn). All these facts are narrated in the reply to charge sheet and show cause notice by the appellant. The copy of which are attached with the appeal.
2. It is correct that show cause notice was given in previous inquiry but on that show cause notice he was discharged from service but he was again reinstated into service as he did not remain absent from his duty but he posted in one place or another place by his high-up without assigning that duty for which he was recruited. Therefore he should not be punished for the fault of others.

3. First portion of Para 3 is correct hence no correct while the rest of para is incorrect hence denied.
4. Incorrect. While para 4 of the appeal is correct.
5. Not replied according to para 5 of the appeal. Moreover para 5 of the appeal is correct.
6. First portion of Para 6 is correct hence no comments while the rest of para is incorrect as in his reply to charge sheet the appellant stated that he never remain absent from his duty and gave detail about the performance of his duty in different station which was assigned to him by his high ups.
7. First portion of Para 7 is correct hence no comments while the rest of para is incorrect as the appellant did not remain absent from his duty but when he recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the appellant to I.T. Section and then the appellant was remained on duty as Gun man with AIG Special Branch and later on posted at the Bungalow of SSP (Admn), Which shows that he never absent from his duty and performed his duty in different stations assigned to him by his high ups. Moreover he filed departmental appeal on 12.4.2011 which is annexed as annexure-O with the appeal.
8. No comments.
9. Incorrect. While para 9 of the appeal is correct.
10. Incorrect. The appellant has good cause of action to file the instant appeal.

GROUND:

- A) Incorrect. The appellant filed departmental appeal on 12.4.2011 which is annexed as annexure-O with the appeal. Moreover order dated 29.01.2016 is against the law, facts norms and natural justice and liable to be set aside.

- B) Incorrect. While para B of the appeal is correct.
- C) Incorrect. While para C of the appeal is correct.
- D) Incorrect. The appellant was not associated with inquiry given chance nor given the chance of cross examination of witness which is violation of Section-5(1) (C) of RSO.
- E) Incorrect. While [para E of the appeal is correct.
- F) Incorrect. The appellant was recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the appellant to I.T. Section and then the appellant was remained on duty as Gun man with AIG Special Branch and later on posted at the Bungalow of SSP (Admn), Which shows that he never absent from his duty and performed his duty in different stations assigned to him by his high ups.
- G) Incorrect. This para has already explained in facts of para No.1 of the rejoinder.
- H) Incorrect. While para H of the appeal is correct.
- I) Incorrect. The punishment is not in accordance with law. As the appellant never remain absent from his duty and performed his duty in different stations assigned to him by his high ups and the impugned order has passed on malafide and to the save the skin of high ups at the cost of appellant.
- J) Incorrect. The appellant has not been treated fairly, justly and has been punished for the fault of others.
- K) Legal.

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

APPELLANT

Through:



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
&

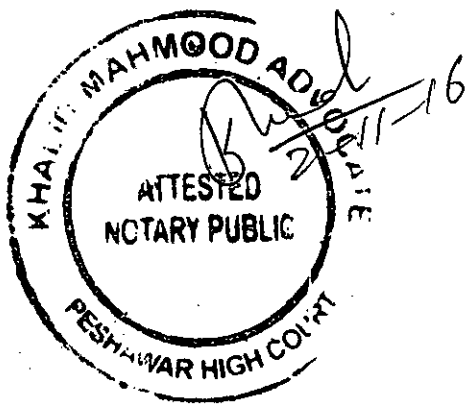
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder
are true and correct to the best of my knowledge and belief.



DEPONENT



ENLISTMENT ORDER

The following persons are hereby enlisted as constables in the existing vacancies of Special Branch NWFP Peshawar in BPS-5 (2780-135-6850) for Sniffer dogs duty (Canine Unit) with effect from 16.02.2008.

Their services are purely on temporary and liable for termination at any time without any notice.

They are allotted constabulary Numbers as noted against each:-

S#	Name, Father name and Address	Constabulary Numbers
1	Farid Khan s/o Mir Qalam Jan r/o Tehsil Street Bannu City H.No.335/E, Distt; Bannu	685/SB
2	Irfanullah Khan s/o Umar Daraz Khan r/o village Kotka Ghazi Marjan Dakhli Kafshi Khel Muzaffar Khan Mandan Distt: Bannu	686/SB

[Signature]
SSP/Admn:

For Dy: Inspector General of Police
Special Branch NWFP Peshawar

692-95/EB, Dated Peshawar the: 23/02/2008

Copy to the:-

- Acctt:/SB
- RI/SB
- EA/SB
- Constables concerned

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 74 /ST

Dated 11-1- / 2019

To

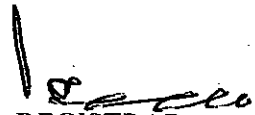
The Senior Superintendent of Police Special Branch,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 256/2016, MR. FARID KHAN.

I am directed to forward herewith a certified copy of Judgement dated 02.01.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.