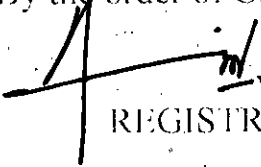


FORM OF ORDER SHEET

Court of _____

Appeal No. 2501/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	30/11/2023	<p>The appeal of Mr. Muhammad Tariq presented today by Mr. Muhammad Riaz Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____</p> <p>Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 2501 /2023


Muhammad Tariq..... Appellant

Versus

The Provincial Police Officer KPK Peshawar and
others..... Respondents


I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-4
3	Addresses of the parties.		5
4	Copy of Order dated 25.10.2022	A	6-12
5	Copy of Order dated 19.10.2023 communicated on 23.10.2023	B	13-14
6	Copy of appeal and order dated 28.11.2023	C & D	15-18
12	Wakalatnama.		19


Appellant
Muhammad Tariq
LHC 1608
District Police Mardan

Dated: 30-11-2023

Through


Muhammad Riaz Khan
Paindakhel
Advocate High Court District
Mardan
Cell No. 0302-8360219

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. 2501 /2023

Muhammad Tariq (LHC No.1608)
District Police Mardan Appellant

Versus

- 1) The Provincial Police Officer KPK Peshawar.
 - 2) The Regional Police Officer Mardan (Region).
 - 3) The District Police Officer, Mardan.
- Respondents

Service Appeal U/S 4- of the Khyber Pakhtunkhwa Services Tribunal Act 1974 against the order dated 19.10.2023 of Respondent No.1 whereby the appellant was dismissed from service and order dated 28.11.2023 of respondent No.2 whereby the departmental appeal of the appellant has been rejected.

PRAYER

On acceptance of the instant appeal the order dated 19.10.2023 of Respondent No.1 and order dated 28.11.2023 of Respondent No.2 may be set aside and the appellant may be reinstated into service alongwith all back and consequential benefits OR any other remedy which the august tribunal deems fit and appropriate may also be awarded in favour of appellant.

Respectfully Sheweth:

- 1) That the appellant joins the police department in the year 2011 and performed his duty with zeal and zest.
- 2) That the appellant while posted in the PAL Office Mardan was dismissed from service and consequently filed departmental appeal as well as service appeal in the above mentioned tribunal.
- 3) That the tribunal while deciding the service appeal of the appellant partially allowed the appeal and remanded the case for de-novo enquiry to the respondents to complete the same inquiry within a period of 30 days strictly in accordance with relevant law/rules. (Copy of order dated 25.10.2022 of this Hon'ble tribunal is Annexure "A").
- 4) That the respondent without issuing any charge sheet, show cause notice or conducting full fledged inquiry, straight away removed the appellant from service vide Order dated 19.10.2023 communicated on 23.10.2023. (Copy of Order dated 19.10.2023 of DPO Mardan is Annexure "B").
- 5) That appellant feeling aggrieved from the above said order filed an appeal before Respondent No.2, which was also dismissed on 28.11.2023. (Copy of Appeal and Order is annexure "C" & "D").
- 6) That the orders of respondent No.1 and 2 being against the law, facts and natural justice are subject to be set aside on the following grounds;-

GROUNDS

- a. That the impugned orders dated 19.10.2023 and 28.11.2023 are against the law, facts, norms of justice and material available on the record, therefore not tenable and liable to be set aside.
- b. That inquiry has not been conducted against the appellant in the prescribed manner nor any statement has been recorded in presence of appellant, nor any opportunity of cross examination has been given to the appellant which is the violation of law and rules therefore the impugned orders are liable to be set aside.
- c. That neither show cause notice has been given to the appellant nor any inquiry report has been conveyed to the appellant.
- d. That no chance of personal hearing has been given to the appellant which is also the violation of natural justice.
- e. That the appellant has not been treated in accordance with law and justice.
- f. That even the recommendation of the inquiry officer and respondent No.1 are not in harmony and the appellant has punished twice.
- g. That the appellant performed his duties honestly and regularly without no complaint.
- h. That the appellant is a poor person having no other source of income and if the appellant is not re-instated then the entire family would suffer from starvation.
- i. That the appellant has been condemned unheard and no opportunity of personal hearing has been provided, which is the requirement of law, justice and equity.

- j. That this honorable Service Tribunal has vast powers to re-instate the appellant as being a poor person.
- k. That the appellant seeks permission to advance other grounds at the time of hearing.

It is therefore, humbly prayed that on acceptance of this appeal the appellant may kindly be re instated on his job. Any other remedy which deems fit may also be granted.

Appellant
Muhammad Tariq
LHC 1608
 District Police Mardan

Dated: 30-11-2023

Through

Muhammad Riaz Khan
 Paindakhel
 Advocate High Court District
 Mardan
 Cell No. 0302-8360219

AFFIDAVIT

I, **Muhammad Tariq (LHC No.1608)** District Police Mardan, do hereby affirm and declare on oath that the contents of the Service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

Service Appeal No. _____/2023

Muhammad Tariq..... Appellant

Versus

The Provincial Police Officer KPK Peshawar and
others..... Respondents

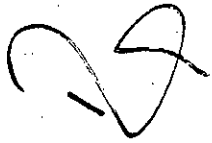
ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Tariq (LHC No.1608)
District Police Mardan.

RESPONDENTS:

- 1) The Provincial Police Officer KPK Peshawar.
- 2) The Regional Police Officer Mardan (Region).
- 3) The District Police Officer, Mardan


Appellant
Muhammad Tariq
LHC 1608
District Police Mardan

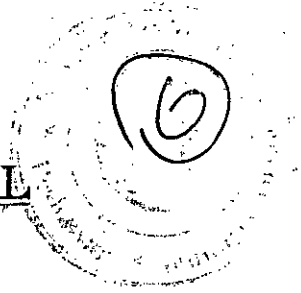
Dated: 30-11-2023

Through 

Muhammad Riaz Khan
Paindakhel
Advocate High Court District
Mardan
Cell No. 0302-8360219

Amended - A

(V)



**BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR**

In Re S.A No. 570 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 591

Dated 18/4/2022

Tariq Ali Ex-LHC/Police No. 627 R/o Charsadda Road
Mirwas Mohallah Kohistani Mardan.

Appellant

VERSUS

1. District Police Officer Mardan
2. Regional Police Officer Mardan.
3. Inspector General of Police KPK Peshawar.

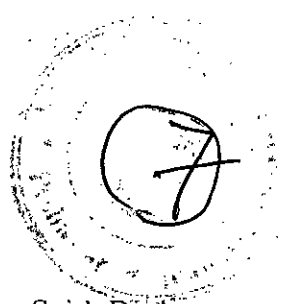
Respondents

Filed to-day
Registrar
18/4/2022

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED
09-03-2022, WHEREBY THE APPELLANT
HAS BEEN AWARDED MAJOR
PUNISHMENT OF DISMISSAL FROM
SERVICE AND AGAINST WHICH THE
APPELLANT FILED DEPARTMENTAL
APPEAL ON 15.03.2022 WHICH HAS
BEEN REJECTED ON 05.04.2022 ON NO
GOOD GROUNDS.

PRAYER:-

ON ACCEPTANCE OF THIS APPEAL
BOTH THE IMPUGNED ORDERS DATED
09/03/2022, & 05.04.2022 MAY KINDLY



ORDER
25.10.2022

Appellant alongwith his counsel namely Messrs Said Basher Khan and Roeeda Khan, Advocates, present. Mr. Said Basher Khan, Advocate submitted Wakalatnama on behalf of the appellant, which is placed on file of connected Service Appeal bearing No. 569/2022 titled "Niaz Ali Versus District Police Officer Mardan and two others". Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, placed on file of Service Appeal bearing No. 569/2022 titled "Niaz Ali Versus District Police Officer Mardan and two others", the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service for the purpose of de-novo inquiry. The de-novo inquiry shall be completed within a period of one month of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needless to mention that the appellant shall be fully associated with the inquiry proceedings by providing him fair opportunity to cross examine the witnesses as well as production of evidence in his defence. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.10.2022

(Mian Muhammad)
Member (Executive)

(Salah-Ud-Din)
Member (Judicial)

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15/11/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 569/2022

Date of Institution ... 18.04.2022

Date of Decision ... 25.10.2022

Niaz Ali Ex-LHC/Police No. 2697. R/O Charsadda Road Mirwas Mohallah
Kohistani Mardan.

... (Appellant)

VERSUS

District Police Officer Mardan and two others.

... (Respondents)

MESSRS.
SAID BASHER KHAN,
&
ROEEDA KHAN,
Advocates

--- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

--- For respondents.

SALAH-UD-DIN
MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

CONSOLIDATED JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of the instant service appeal as well as connected Service Appeal bearing No. 570/2022 titled " Tariq Ali Versus District Police Officer Mardan and two others", as common question of law and facts are involved in both the appeals.

2. Precisely stated the facts surrounding the instant service appeals are that the appellants were proceeded against departmentally on the allegations that with their active connivance with one Kamran, he was shown arrested in a concocted case FIR No. 1057 dated 01.09.2021 under Section 15AA

Police Station Rustam so as to create plea of *ali-bi* for Kamran in the intended murder of his opponents; that Kamran went to jail in the aforementioned case on 02.09.2021, while his brother namely Amir Sajjad committed murder of two persons on the following day regarding which case FIR No. 889 dated 03.09.2021 under Sections 302/324/34 PPC was registered at Police Station Toru, wherein Kamran was also directly charged. On completion of the inquiry, the appellants were awarded major punishment of dismissal from service vide separate orders dated 09.03.2022 passed by the then District Police Officer Mardan. The departmental appeals of the appellants were also rejected, hence the instant service appeals.

3. Respondents contested the appeals by way of submitting para-wise comments, wherein they refuted the assertions raised by the appellants in their appeals.

4. Learned counsel for the appellants has contended that the appellants are innocent and the allegations leveled against them were totally wrong and baseless; that no material in support of the allegations against the appellants was available but even then the inquiry officer has wrongly held that the allegations against the appellants stood proved; that no evidence was produced during the inquiry proceedings in respect of the alleged connivance of appellants with one Kamran, therefore, the competent Authority was thus, not justified in awarding them major penalty of dismissal from service; that departmental action was also taken against Constable Ayaz Ali, however he was awarded minor penalty of forfeiture of two years approved service, while the appellants were treated with discrimination and were awarded major penalty of dismissal from service; that no opportunity was provided to the appellants for cross examination of

CONTESTED

ALYAS BAK
 Member Panel
 Service Tribunal

the witnesses examined during the inquiry and they were also not provided any opportunity to produce evidence in their defence; that the inquiry proceedings were conducted in sheer violation of mandatory provisions of Police Rules, 1975, therefore the impugned orders are liable to be set-aside and the appellants are entitled to be reinstated in service with all back benefits.

5. On the other hand, learned Assistant Advocate General for the respondents has argued that the appellants in connivance with one Kamran had managed registration of a concocted case under Section 15AA against Kamran for the purpose of creating plea *ali-bi* for the said Kamran in the intended murder case, which was then committed on 03.09.2021, resulting in death of two persons; that a regular inquiry was conducted in the matter and the appellants were provided opportunity of personal hearing as well as self defence; that evidence of Abid Khan IHC and Constable Ayaz Ali No. 1663 was recorded during the inquiry, which proved the allegations leveled against the appellants: that the appellants had connived in facilitation of the accused charged in case FIR No. 889 dated 03.09.2021 under Sections 302/324/34 PPC registered at Police Station Toru, therefore, they have rightly been dismissed from service.

6. We have heard the arguments of learned counsel for the parties and have perused the record.

7. A perusal of the record would show that the investigating officer had examined Constable Ayaz Ali No. 1663 and Abid Khan IHC during the inquiry, however the appellants have not been provided an opportunity of cross examination of the said witnesses. The statements of the said witnesses

CITESTED


Assistant Advocate General
Subject: Tribunal

recorded during the inquiry thus could not be used as evidence against the appellants. According to the statements of Constable Ayaz Ali No. 1663 and Abid Khan IHC, the appellants were present in District Courts Mardan on 02.09.2021 and one Kamran, who was charged in FIR No. 889 dated 03.09.2021 registered under Sections 302/324/34 PPC at Police Station Toru, had come to the court alongwith the appellant Niaz Ali LHC. Appellant Niaz Ali LHC has categorically mentioned in his reply to the show-cause notice that as per the entries in daily diary No. 4 and daily diary No. 05 dated 02.09.2021, he alongwith other police officials were on *Nakabandi* duty in front of Police Post Shaheedan and had not at all visited District Courts Mardan on the said date. The inquiry officer had not given any opportunity to the appellants to produce evidence in rebuttal of the allegations leveled against them. The appellant namely Tariq Ali was posted at PAL Office Mardan, while appellant Niaz Ali was posted in Police Post Shaheedan and their role in the alleged episode is not the same but the orders passed on their departmental appeals are verbatim copies of each other, which would show that the departmental appeals were decided in a perfunctory manner. Moreover, the appellants were not provided copy of the inquiry report alongwith final show-cause notices issued to them and they were thus not in a position to properly defend themselves. In these circumstances, we deem it appropriate to remit the matter back to the competent Authority for de-novo inquiry in accordance with relevant law and rules.

8. In view of the above discussion, the appeal in hand as well as connected service appeal bearing No. 570/2022 titled "Tariq Ali Versus District Police Officer Mardan and two others" are allowed by setting-aside

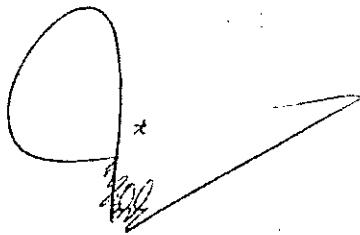
STAYED

By Order of the
 Member (Appellate)
 Service Tribunal
 Peshawar

12

the impugned orders and the appellants are reinstated in service for the purpose of de-novo inquiry. The de-novo inquiry shall be completed within a period of one month of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needless to mention that the appellants shall be fully associated with the inquiry proceedings by providing them fair opportunity to cross examine the witnesses as well as production of evidence in their defence. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.10.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

EXAMINE
Khayber Pakhtunkhwa
Service Tribunal
Peshawar

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 Name of Applicant _____
 Date 15/11/22
 Mode of Delivery of Copy 15/11/22



13

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2023

No. 9322-26 /PA

Dated 23/10/2023

ORDER ON DE NOVO ENQUIRY OF LHC M. TARIQ NO.1608 (OLD NO.627)

This order will dispose-off de-novo Departmental Enquiry under Police Rules 1975, initiated against LHC Muhammad Tariq No.627 (New No. 1608), under the allegations that while posted at PAL Office Mardan (now Guard ACLC Mardan) on 01-09-2021, he in collaboration with IHC Abid Khan No.3293, the then In-charge PP Shaheedan and LHC Niaz Ali No.3333 his brother had shown arrest of one Kamran resident of Nawan Killey Toru with a (30) bore without number/unlicensed pistol and (05) rounds in the area of PS Rustam vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam, who was actually present at Nawan Killey (Toru) at the time of his alleged arrest, as proved from his CDR analysis. He was produced before the concerned court on the following day & was fined Rs.1000/-. However, in a deliberate and preplanned move, he intentionally refused to pay the fine, hence he was sent to Judicial Lock-up. The main purpose of accused to be arrested and lodging in Jail was to have a plea of alibi and to get himself absolved from being charged in a murder case vide FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, which was committed by his brother namely Amir Sajjad, after due planning & conspiracy, in which, he (accused Kamran) was also charged for the commission of crime. Thus, LHC Muhammad Tariq abetted & connived with Kamran to get him plea of alibi in murder case vide FIR No.889 PS Toru by registering a false case against him & showing him arrested in Police Station Rustam, whereas in actuality he was present in Toru at that time.

After the allegations leveled against him were established during the course of departmental enquiry conducted by Mr. Adnan Azam, the then SDPO Sheikh Maltoon vide his office letter No 632/ST dated 31-12-2021; in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.225/PA dated 01-10-2021, the accused official LHC Muhammad Tariq was served with Final Show Cause Notice vide No.1074-75/PA dated 07-02-2022 & founding his reply as unsatisfactory, the then DPO Mardan vide this office OB No.634 dated 09-03-2022, issued vide order No.2122-24/PA dated 10-03-2022 dismissed LHC Muhammad Tariq from service.

6

Later-on, he was reinstated in service on the directions of K.P Service Tribunal vide this office OB No.2671 dated 20-12-2022, issued vide order/endorsement No.7270-74/EC dated 21-12-2022 and a de-novo enquiry was conducted by Mr. Rahim Hussain, SP/HQrs City Traffic Peshawar and Mr. Kamal Hussain DSP/Legal CCP Peshawar, wherein the Enquiry Panel held the delinquent official responsible for the charges leveled against him and found him guilty of misconduct, however, strangely enough recommended that as the defaulting official has already remained under (05) days Quarters Guard, so awarding him any punishment on account of such a grave misconduct wherein assassination of a person was facilitated would be a double jeopardy to the accused official and five days Quarters Guard may be considered as suitable punishment in the instant case.

The undersigned did not agree with the findings being flimsy and another de-novo enquiry was conducted through Mr. Mehir Ali SP/Complaints & Enquiry, Accountability Branch CPO Peshawar, wherein the Enquiry Officer again held responsible the delinquent official of commission of grave misconduct, which resulted in benefiting an accused of a murder case. It is pertinent to mention that under Police Rules-1975, Enquiry Officer is meant to enquire & to give verdict whether charges leveled against the delinquent official were established or not and he cannot direct the authority concerned about quantum of punishment to be awarded.

Final Order

LHC Muhammad Tariq was heard in OR on 12-10-2023, during which, he failed to present any cogent reasons in his defense. Further, as the misconduct and abuse of authority has been established in two consecutive departmental enquiries, thus the undersigned being authority awarded him major punishment of dismissal from service with effect from 09-03-2022, in exercise of the power vested in me under Police Rules-1975.

OB No. 2102

Dated 19/10/2023

Najeed

(Najeed-ur-Rehman Bugvi) PSP
District Police Officer, Mardan.

Copy forwarded for information & n/action to:-

- 1) The Deputy Inspector General of Police Internal Accountability Branch Khyber Pakhtunkhwa Peshawar w/r to his office letter No.1206/CPO/IAB dated 26-07-23.
- 2) The DSP/HQrs Mardan.
- 3) The E.C & P.O (DPO Office) Mardan.
- 4) The In-charge Lab (HRMIS) DPO Office Mardan.
- 5) The OSI (DPO Office) Mardan with () Sheets.

Attested to be true copy
[Signature]

بخدمت جناب ڈپٹی انسپیکٹر جنرل آف پولیس مردان ریجن

عنوان:-

محکمانہ اپیل بر خلاف حکم جناب ڈسٹرکٹ پولیس، قمر مردان محرمہ 23/10/2023 جسکی رو سے اپیلانٹ کو ملازمت سے برخاست کیا گیا۔

جناب عالی:- محکمانہ اپیل ذیل عرض ہے

- 1: یہ کہ اپیلانٹ نے محکمہ پولیس میں عرصہ طویل تک فرائض سرانجام دیے۔
- 2: یہ کہ اپیلانٹ کے خلاف DPO مردان نے محکمانہ انکو ایسری شروع کر کے اپیلانٹ کو برخاست کیا۔
- 3: یہ کہ اپیلانٹ نے محکمانہ اپیل کر کے مسترد کیا۔
- 4: یہ کہ اپیلانٹ نے سرو سٹریٹیبل میں سروس اپیل دائر کر کے مورخہ 25/10/2022 کو فیصلہ صادر فرمایا گیا جسکی رو سے اپیلانٹ کو بحال کر کے De Nove لکٹوری کا حکم صادر فرمایا گیا۔
- 5: یہ کہ محکمہ نے عدالت اسروس ٹریبیونل کے حکم کو یکسر نظر انداز کر کے مورخہ 23/10/2023 کو ایک مرتبہ پھر اپیلانٹ کو نوکری سے برخاست کیا جو کہ بوجوہات ذیل قابل منسوخی ہے۔
 - i: یہ کہ انکو لکٹوری آفسر کے جملہ قانونی تقاضوں کو نظر انداز کر کے فیصلہ سنایا ہے۔
 - ii: یہ کہ اپیلانٹ کو نہ تو شوکا ز نوٹس ایشو کیا گیا ہے۔ اور نہ جرح کا موقع دیا گیا ہے۔
 - iii: یہ کہ اپیلانٹ کو بغیر سنے ہوئے ہزار کا حکم سنایا گیا ہے۔

لیہذا یہ کہ منظور کی محکمانہ اپیل ہذا اپیلانٹ کو نوکری پر بحالی کے احکامات صادر فرمائی جائے۔

تحریر:- 25/10/2023

الع

محمد طارق LHC نمبر 1608

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-LHC Tariq Ali No. 1068 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB No. 2102 dated 19.10.2023. The appellant was proceeded against a de-novo Departmental Enquiry, under the allegations that while posted at PAL Office Mardan on 01-09-2021, he in collaboration with IHC Abid Khan No.3293, the then In-charge Police Post Shaheedan and LHC Niaz Ali No.3333 his brother had shown arrest of one Kamran resident of Nawan Killey Toru with a (30) bore without number/unlicensed pistol and (05) rounds in the area of Police Station Rustam vide case FIR No.1057 dated 01-09-2021 U/S 15AA Police Station Rustam, who was actually present at Nawan Killey (Toru) at the time of his alleged arrest, as proved from his Call Data Record analysis. He was produced before the concerned court on the following day & was fined Rs.1000/-. However, in a deliberate and preplanned move, he intentionally refused to pay the fine, hence he was sent to Judicial Lock-up. The main purpose of accused to be arrested and lodging in Jail was to have a plea of alibi and to get himself absolved from being charged in a murder case vide FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru, which was committed by his brother namely Amir Sajjad, after due planning & conspiracy, in which, he (accused Kamran) was also charged for the commission of crime. Thus, LHC Muhammad Tariq abetted & connived with Kamran to get him plea of alibi in murder case vide FIR No.889 Police Station Toru by registering a false case against him & showing him arrested in Police Station Rustam, whereas in actuality he was present in Toru at that time.

After the allegations leveled against him were established during the course of departmental enquiry conducted by Mr. Adnan Azam, the then Sub Divisional Police Officer, (SDPO) Sheikh Maltoon, the accused official LHC Muhammad Tariq was served with Final Show Cause Notice vide & founding his reply as unsatisfactory, the then District Police Officer, Mardan vide his office OB No.634 dated 09-03-2022, dismissed LHC Muhammad Tariq from service.

Later-on, he was reinstated in service on the directions of Khyber Pakhtunkhwa Service Tribunal vide OB No.2671 dated 20-12-2022, issued vide order/endorsement No.7270-74/EC dated 21-12-2022 by the District Police Officer, Mardan and a de-novo enquiry was conducted by Mr. Rahim Hussain,

Superintendent of Police Headquarters, City Traffic Peshawar and Mr. Kamal Hussain Deputy Superintendent of Police, Capital City Police, Peshawar, wherein the Enquiry Panel held the delinquent official responsible for the charges leveled against him and found him guilty of misconduct, however, strangely enough recommended that as the defaulting official has already remained under (05) days Quarters Guard, so awarding him any punishment on account of such a grave misconduct wherein assassination of a person was facilitated would be a double jeopardy to the accused official and five days Quarters Guard may be considered as suitable punishment in the instant case.

The District Police Officer, Mardan did not agree with the findings being flimsy and another de-novo enquiry was conducted through Mr. Mehir Ali Superintendent of Police Complaints & Enquiry, Accountability Branch Central Police Office, Peshawar, wherein the Enquiry Officer again held responsible the delinquent official of commission of grave misconduct, which resulted in benefiting an accused of a murder case. It is pertinent to mention that under Police Rules-1975, Enquiry Officer is meant to enquire & to give verdict whether charges leveled against the delinquent official were established or not and he cannot direct the authority concerned about quantum of punishment to be awarded.

The delinquent Officer was heard in Orderly Room on 12-10-2023, during which, he failed to present any cogent reasons in his defense. Further, as the misconduct and abuse of authority has been established in two consecutive departmental enquiries, thus the District Police Officer, Mardan being authority awarded him major punishment of dismissal from service with effect from 09-03-2022.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 23.11.2023.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the Investigating Officer of case FIR No. No.889 dated 03-09-2021 U/S 302/324/34 PPC Police Station Toru also affirmed the involvement of appellant in this heinous criminal case because Call Data Record of accused Kamran revealed that he was present in his village Toru despite his arrest in case FIR No. 1057 dated 01.09.2021 U/S 15-AA Police Station Rustam and on the

(LB)

very next day he came to District Courts, Mardan from his home where from he was sent to District Jail, Mardan. The accused Officer namely Abid Ali No. 627 (appellant) staged the drama of the FIR for sending accused Kamran to Jail just to facilitate him in a murder which the brother of the accused planned to commit after two days. Hence, the involvement of appellant in such like activities is clearly a stigma on his conduct. Therefore, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification regarding his innocence.

Keeping in view the above, I, Muhammad Suleman, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

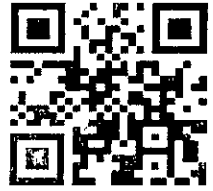
(MUHAMMAD SULEMAN) PSP
Regional Police Officer,
Mardan.

No. 1786 /ES, Dated Mardan the 29 / 11 / 2023.

Copy forwarded to District Police Officer, Mardan, for information and necessary action w/r to his office Memo: No. 160/LB dated 07.11.2023. His Service Record is returned herewith

قیمت 100 روپے

سرٹیفکیٹ نمبر 1344



19

ایڈووکیٹ
محمد رفیق بانٹو خیل
بار کونسل ایسوسی ایشن بمبئی
10-5558
رابطہ نمبر: 0352-8360219

ڈسٹرکٹ بار ایسوسی ایشن مردان

بعدالت جناب: محمد رفیق بانٹو خیل

منجانب: ایس۔ ایل۔ این۔
محمد طارق
بنام
حکومت

دعویٰ مقدمہ:
علت نمبر:
جرم:
تھانہ:

باعث تخریر آئینکے

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

آن مقام شماور کیلئے محمد رفیق بانٹو خیل اور اسد زہیب جو وکیل مقرر

کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زر پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ برداشتہ منظور و قبول ہوگا۔

دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہوں گے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کسی تاریخ پیشی پر وکیل موصوف دورہ پر ہو یا مقام سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم: 30/11/2023 مقام شماور کے لئے منظور ہے

دستخط وکیل موصوف
منظور تصدیق شدہ

نوٹ اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

محمد رفیق بانٹو خیل
ایڈووکیٹ

علی

محمد طارق وکیل محبت شاہ (ایس۔ ایل۔ این۔)

Accepted