BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No 2501/2023

Muhammad Tariq **VERSUS** The PPO Officer KPK Peshawar & others

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Copy of application along with affidavit		1-2
2.	Copy of charge sheet reply and inquiry reports	A,B,C & D	3-17
3.	Wakalat Nama		18

Dated 11/12/2023 Petitioner

Through

Roeeda Khan
Advocate, High Court
Peshawar

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No 2501/2023

Muhammad Tariq **VERSUS** The PPO Officer KPK Peshawar & others

APPLICATION OF AMENDMENT OF APPEAL FOR MENTIONING/PLACING FILE THE INQUIRY REPORTS, DATE 29.12.2022 CONDUCTED BY KAMAL HUSSAIN DSP LEGL CCP PESHAWAR AND RAHIM HUSSAIN SUPERINTENDENT OF POLICE HEADQUARTERS CITY TRAFFIC POLICE PESHAWAR AND INQUIRY REPORT CONDUCTED BY MEHER ALI SP /COMPLAINT & ENQUIRY IAB KHYBER PAKHTUNKHWA PESHAWAR CHARGE SHEET STATEMENT OF ALLEGATION AND REPLY OF CHARGE SHEET IN THE INTEREST OF JUSTICE AND GOOD CONSCIOUS FOR PERMISSION TO AMEND THE SERVICE APPEAL TO MENTION/INCLUDE/PLACE IN FILE THE ABOVE MENTION DOCUMENTS.

Respectfully Sheweth:

The petitioner respectfully submit as under;

1- That the noted Service appeal is pending adjudication before this Hon'ble Tribunal and is fixed for 09.01.2024.

2- That the petitioner inadvertently could not mention regarding issuing of charge sheet statement of allegation, reply, as well as enquiry reports date 29.12.2022 conducted by Kamal Hussain DSP Legl CCP Peshawar and Rahim Hussain Superintendent of Police Headquarters City Traffic Police Peshawar and inquiry report conducted by Meher Ali SP /Complaint & Enquiry IAB Khyber Pakhtunkhwa Peshawar at the time of submitting the above mentions service appeal titled "Niaz Ali and Versus Police

3- That mentioning/place in file the charge sheet, reply of charge sheet as well as inquiry reports were never intentional but on account of inadvertent mistake.

4- That the above amendments in the service appeal will neither change the nature of the service appeal nor it would prejudice the case/rights of the respondent departments.

5- That there is no legal bar in allowing the petitioner to amend the service appeal or to include the prayer as mentioned in the heading of the application. If the said amendment is not allowed the petitioner will suffer an irreparable loss.

It is, therefore, respectfully prayed that on acceptance of this application, the petitioner may very graciously be allowed to amend the plaint according to the prayer made in the above application.

Dated 11/12/2023 Petitioner

Through

Roeeda Khan
Advocate, High Court
Peshawar

Affidavit

I, Niaz Ali District Police Mardan do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

ATTESTED
Syed Muhammad Raza Shah Advocate
Oath Commissioner
High Court Peshawar

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

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

(A) (3) 2023

CHARGE SHEET

I, **NAJEEB-UR-REHMAN BUGVI (PSP),** District Police Officer Mardan, as competent authority, hereby charge **LHC Muhammad Tariq No.627 (Now 1608),** while posted at PAL Office Mardan (now Guard Anti Car Lifting Cell Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within **07 days** of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

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

4. Intimate whether you desired to be heard in person.

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

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

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

No. 169 /PA

Dated 03 / 7 / 2023

DE-NOVO DISCIPLINARY ACTION

I, **NAJEEB-UR-REHMAN BUGVI (PSP),** District Police Officer Mardan, as competent authority am of the opinion that **LHC Muhammad Tariq No.627 (Now 1608),** himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, **LHC Muhammad Tariq No.627 (Now 1608),** while posted at PAL Office Mardan (now Guard ACLC Mardan), was found of negligence for the following irregularities, as per SDPO Rural Mardan office letter No.1299/R dated 07-09-2021:-

1) On 01-09-2021, IHC Abid Khan No.3293, (Now dismissed) & LHC Niaz Ali No.2697 (Now 3333) of PP Shaheedan had arrested one Kamran r/o Nawan Killey Toru with a (30) bore without number and unlicensed pistol & (05) rounds during routine patrolling vide case FIR No.1057 dated 01-09-2021 U/S 15AA PS Rustam.

2) On 02-09-2021, IHC Abid Khan had prepared Remand Judicial Challan and sent it to the Court through Constable Ayaz No.1663 with advice that the accused is waiting at Mardan Katcheri. On reaching Mardan Katcheri, he found LHC Niaz Ali along-with accused Kamran, so he handed-over the Remand Judicial papers to LHC Niaz Ali & then he produced the accused to the Court wherein the accused couldn't produce any surety, so the Court fined him of Rs.1000/-, but intentionally the accused regretted by not paying the fined amount, so he was sent to Judicial Lock-up. The main purpose behind preferring Judicial Lock-up was that on 03-09-2021, brother of accused namely Amir Sajjad committed murder vide case FIR No.889 dated 03-09-2021 U/S 302/324/34 PPC PS Toru, in which, he (accused Kamran) was also charged for the commission of crime.

ATTESTED

3) As per SP/Investigation Mardan vide his office letter No.531/PA/Inv: dated 06-09-2021, highlighting that accused Kamran in connivance with LHC Muhammad Tariq of PAL Office Mardan and his brother LHC Niaz Ali of PP Shaheedan registered the above quoted case against himself, because on the day and at the time of occurrence, accused Kamran was not present on the spot and no direct recovery has been made from him, while on the next day (02-09-2021), accused Kamran was handed-over to Constable Ayaz Ali No.1663 without handcuffs in the Court, wherein before the concerned Magistrate, accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry, it has been found that accused Kamran in connivance with LHC Muhammad Tariq has planned his entrance to Mardan Jail and this fact has been accepted by all.

4) From the above discussion, the involvement of LHC Muhmmad Tariq in this episode/plan can't be ruled-out.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **Mr. Mehir Ali SP/Complaints & Enquiry Internal Accountability Branch CPO Peshawar has been nominated as Enquiry Officer by Worthy DIG IAB Khyber Pakhtunkhwa CPO Peshawar to conduct denovo enquiry proceedings vide SP/C&E office letter No.943-45/PA-AIG/IAB dated 08-06-2023.**

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police official, submit his findings to the competent authority and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

LHC Muhammad Tariq is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.

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

'B' 6

جناب عالی!

بحوالہ چارج شیٹ نمبری مورخہ 23/05 مجاز از دفتر جناب [illegible] صاحب مردان

حضور من عرض ہوں کہ میں پال سرائے مردان میں فرنٹ شاہ [illegible] عرصہ 1 سال سے تعینات تھا۔ مورخہ 21/05 کو اپنے گھر میں موجود تھا کہ پولیس اسٹیشن سے مجھے کال آئی کہ ابھی ابھی پولیس اسٹیشن آ کر محرر اسٹیشن کو رپورٹ کرو۔ پولیس اسٹیشن آ کر محرر اسٹیشن نے مجھے [illegible] کر کے بیان کیا کہ تھانہ رستم میں مورخہ 21/05 کو کامران ولد نور حبیب سکنہ [illegible] کے خلاف بجرم ISAA تھا۔ [illegible] مقدمہ درج ہو کر جس میں ملزم کامران مورخہ 21/05/02 کو جیل منتقل کیا گیا ہے جبکہ مورخہ 21/05/03 کو مذکورہ ملزم کے خلاف بجرم 302/324/34 تھانہ [illegible] مقدمہ درج ہو کر آپ کے خلاف الزام ہے کہ مذکورہ ملزم کے خلاف آپ سے ISAA کا مقدمہ درج کروایا ہے۔ چونکہ میں پال سرائے مردان میں کو ڈیوٹی دیتا ہوں۔ [illegible] اور رستم کے تھانوں میں مجھے FIR درج کرنے کا کوئی [illegible] حاصل نہیں ہے کہ میں کسی بھی شخص کو گرفتار کروں یا چھوڑ دوں۔ اور یہ کہ ملزم مذکورہ کو میں نہیں جانتا ہوں کہ کون ہے اور کس کے ساتھ دشمنی ہے۔ چونکہ 16 یوم کوارٹر گارڈ میں گزارنے کے بعد مجھے تسلی دلا کر انکوائری [illegible] مجھے محکمہ ہذا سے بتاریخ 22/03 کو [illegible] کیا گیا۔ جبکہ میں نے سروس ٹریبونل میں کیس دائر کیا۔ [illegible] کی وجہ سے سروس ٹریبونل نے میری بحالی کے احکام صادر کیے۔ چونکہ محکمہ کی طرف سے ڈی نوو انکوائری کے لئے جناب محمد اشفاق [illegible] CCP پشاور نے میری انکوائری صاحب [illegible] حسن خان [illegible] میرے بیانات قلمبند کئے۔ جبکہ مقدمہ علت [illegible] CCP پشاور کو حوالہ کر کے صاحبان موصوف [illegible] مقدمہ طلب کر کے اُن کے بیانات بھی قلمبند کئے۔ مورخہ 21/05/03 جرم 302/324/34 [illegible] سائل کے خلاف کوئی شہادت وغیرہ نہیں ہے۔ ہماری ذاتی خاندانی دشمنی ہے اور [illegible] انکوائری افسر نے مجھے بے گناہ قرار دے کر عدالتی فیصلے کو [illegible] تقاضوں سے درست قرار دیا۔

آپ صاحب سے با جزا درخواست ہے کہ چارج شیٹ و انکوائری کو لعبہ محکمانہ کارروائی [illegible] داخل دفتر کے احکام صادر فرما کر مشکور فرمائیں

[illegible] محمد طارق 1658 مشتبہ پولیس [illegible]

No. 2019 /PA (C)

Dated 29 / 12 /2022 (7)

Subject: **DE-NOVO DEPARTMENTAL INQUIRY AGAINST EX-LHC TARIQ ALI BELT NO. 627/1608 .**

Please refer to the attached enquiry papers received from your good office vide No. 7304/EV, dated 21.12.2022.

(B) BACKGROUND

3. The accused official LHC Tariq Ali No. 627/1608 was alleged as follows:-

"while posted as PAL office Mardan (now under suspension Police Lines Mardan) was found negligence for the following irregularities as per SDPO Rural Mardan Office Letter No. 1299/R, dated 07.09.2021.

a) on 01.09.2021 IHC Abid Khan No. 3293 and LHC Niaz Ali No. 2697 Etc of PP Shahedan (now under suspension Police Lines) arrested one Kamran r/o Nawan Kalley Toru with a 30 bore without number and un licensed Pistol and 05 rounds during routine patrolling vide case FIR No,. 1057, dated 01.09.2021 u/s 15AA PS Rustam.

b) On 02.09.2021 IHC Abid Khan prepared remand Judicial Challan and sent it to the court through Constable Ayaz No. 1663 with the advice that the accused is waiting at Mardan Kacheri. On reaching Mardan Kacheri, he found LHC Niaz Ali No. 2697 along-with accused Kamran,so he handed over the remand Judicial papers to LHC Niaz Ali and then he produce the accused to the court. Wherein the accused could not produce any surety, so the Court fined him of Rs. 1000/- but intentionally the accuse regretted by not paying the fine amount. So he was sent to the judicial lockup. The main purpose being preferring Judicial lockup was that on 03.09.2021 brother of accused namely Amer Sajjad committed murder vide Case FIR No. 889, dated 03.09.2021 u/s 302/324/34 PPC PS Toru in which he accused Kamran was also charged for the commission of crime.

c) As per SP Investigation Mardan vide his office Letter No. 531/PA/INV, dated 06.09.2021 highlighting that accused Kamran in connivance with LHC Tariq Ali No. 627 of PAL office Mardan and his brother LHC Niaz Ali No. 2697 of PP Shaheedan (now both suspended) registered the above quoted case against himself because on the day and at the time of occurrence accused Kamran was not present on the spot and

no direct recovery has been made from him. While on the nex. ...y on 02.09.2021 accused Kamran was handed over to Constable ... No. 1663 without handcuffs in the court. Wherein before the concerned Magistrate accused Kamran resiled from his statement and was sent to Judicial Lockup Mardan. From the preliminary enquiry it has been found that accused Kamran in connivance with LHC Tariq Ali has planned his entrance to Mardan jail and this fact has been accepted by all.

(8)

d) From the above discussion the involvement of LHC Tariq Ali in this episode/plan cannot be ruled out.

(A) PROCEEDINGS

i. In order to probe into the matter and ascertain the real facts, statements of the following were recorded:

a. Complainant Mr. Sher Ullah s/o Hanif Ullah r/o Nawan Killey Toru in case FIR No. 889, dated 03.09.2021 u/s 302/324/34 PPC PS Toru Mardan.
b. Complainant Muhammad Salim s/o Jehangir Khan Nawan Killey Toru in case FIR No. 889, dated 03.09.2021 u/s 302/324/34/109 PPC PS Toru Mardan.
c. I.O of the above quoted case SI Niaz Muhammad Belt No. 587/MR.
d. ASI Abid Khan No. 3293 the then In-Charge PP Shaheedan.
e. Constable Ayaz Ali Belt No. 1663 of PP Shaheedan.
f. Constable Wakeel Belt No. 2644 of PP Shaheedan.
g. Constable Sajjad Ahmad Belt No. 2979 of PP Shaheedan.
h. Constable Fayaz Ahmad Belt No. 544 of PP Shaheedan.
i. Accused LHC Tariq Ali Belt No. 1608/627.
j. Accused LHC Niaz Ali Belt No. 2697/3333.

ii. The following documents were obtained and attached with file.

i. CDR of Cell phone No. 0314-5733267 of LHC Tariq Ali Shah pertaining to his contacts with his brother LHC Niaz Ali.
ii. CDR of Cell phone No. 0310-9867050 of Accused Kamran in case FIR No. 1057, dated 01.09.2021 u/s 15AA PS Rustam pertaining to his contacts with LHC Tariq Ali.
iii. CDR of Cell phone No. 0333-9655510 of Accused Kamran in case FIR No. 1057, dated 01.09.2021 u/s 15AA PS Rustam pertaining to his contacts with LHC Tariq Ali.
iv. CDR of Cell phone No. 311-7695993 of LHC Niaz Ali.
v. Report of MASI PS Rustam, ASI Zia ur Rehman Belt No. 3410 pertaining to non-confinement of accused Kamran Ali in PS Rustam in FIR No. 1057, dated 01.09.2021u/s 15AA.
vi. Report of ASI Azam Shah I/C PP Shaheedan pertaining to non-confinement of accused Kamran Ali in PP Shaheedan in FIR No. 1057, dated 01.09.2021 u/s 15AA.

vii. Copy of murasila report in case FIR No. 1057, dated 01.09.2021 u/s 15AA PS Rustam.
viii. FSL report of CCTV footage installed in Mardan Kacheri.

ix. Copy of FIR No. 1057, u/s 15AA PS Rustam.
x. Copy of Judicial Remand paper in case FIR No. 1057, dated 01.09.2021 u/s 15AA PS Rustam.
xi. Copy of Recovery memo in case FIR No. 1057, u/s 15AA PS Rustam.
xii. Copy of Surety bond in case FIR No. 1057, u/s 15AA PS Rustam.
xiii. Copy of DD Report No. 13, dated 05.09.2021 pertaining to confinement to quarter guard of LHC Tariq Ali and LHC Niaz Ali
xiv. Copy of DD report No 54, dated 10.09.2021 pertaining to release from quarter guard of LHC Tariq Ali and LHC Niaz Ali.

i. **STATEMENT OF COMPLAINANT SHER ULLAH S/O HANIF ULLAH R/O NAWAN KILLEY TORU** stated that he had not seen Kamran at the time of occurrence of the murder incident, however, he nominated him only because he was involved in previous conflicts between his family and the family of in-laws of his daughter. The complainant Sher Ullah has also stated that he had not nominated any Police official in the Case FIR No. 889, dated 03.09.2021 u/s 302/324/34 PPC PS Toru nor he had any grudges with the Police officials. His statement is attached as **Annexure ("A")**

ii. **STATEMENT OF COMPLAINANT MUHAMMAD SALIM S/O JEHANGIR KHAN R/O NAWAN KILLEY TORU** stated that he has charged accused Sabir and Kamran in his statement u/s 164 CrPC for abetment in aforementioned murder case instead of directly commission of offence.
He further stated that he had not directly nominated LHC Tariq Ali and LHC Niaz Ali in the above mentioned FIR, however, they had contacts with accused Kamran and accused Sabir as per the Call Data Records. His statement is attached as **Annexure "B".**

iii. **SI NIAZ MUHAMMAD THE THEN OII PS TORU** (previously posted at PS Toru) stated that the accused Kamran was directly charged in case FIR No. 889, dated 03.09.2021 u/s 302/324/34 PPC PS Toru. However, he was imprisoned in Mardan Jail in Case FIR No. 1057, dated 01.09.2021 u/s 15AA. He further stated that during the course of investigation the CDR reports revealed the contacts of LHC Tariq Ali with the accused Kamran. However, during the course of investigation LHC Tariq Ali and LHC Niaz Ali were not found guilty of planned confinement of accused Kamran in Mardan jail in case FIR No. 1057, dated 01.09.2021 u/s 15AA PS Toru. Similarly the

CCTV footage revealed that LHCs Tariq and Niaz Ali were accompanying accused Kamran in court while he was presented in court in connection with Case FIR No. 1057 dated 01.09.2021 u/s 15AA PS toru. His statement is attached as **Annexure ("C")**

iv. **ASI ABID KHAN THE THEN IN-CHARGE PP SHAHEEDAN** stated that he was on Mobile patrolling in the area of PS Rustan and in the meanwhile Niaz Ali LHC Called him and told that if permitted he had an accused with 30 bore pistol and 05 rounds without license and FIR will be registered on his behalf by Niaz Ali. That he allowed registering FIR on his behalf. Resultantly and FIR No. 1057, dated 01.09.2021 u/s 15AA lodged in PS Rustam. Niaz Ali prepared papers of Judicial remand and produced accused through Constable Ayaz before the learned court. That e doesn't know about the confinement of accused in lockup as he was actually not present on the reported place of occurrence of that case u/s 15AA. That upon reaching PP Shaheedan he was informed that the accused Kamran will reach court on his own on 02.09.2021. And that the Roznamcha of PP Shaheedan was usually maintained by LHC Niaz Ali. His statement is attached as **Annexure ("D")**.

v. **CONSTABLE AYAZ ALI BELT NO. 1663 OF PP SHAHEEDAN** stated that ON 02.09.2021 he was directed that the accused Kamran is waiting at Mardan Kacheri and he may be presented before the Magistrate. On reaching Mardan Kacheri, he found LHC Niaz Ali No. 2697 and LHC Tariq Ali were accompanying accused Kamran, then he produced the accused to the court. Wherein the accused could not produce any surety, the Court then fined him of Rs. 1000/-. The court directed the accused to borrow from someone the fine amount but he refused to do so. The accused denied to pay fine amount. Eventually he was sent to the Mardan Judicial lockup. He further stated that he was not handcuffed at the time of presenting him before the Magistrate because he had not taken the accused from Police Station rather he accompanied him from the Kacheri. As Niaz Ali was his senior, hence, he presented the accused Kamran before the Magistrate without handcuffs. The accused was then handcuffed and sent to Judicial lockup Mardan and the receipt of receiving of the prisoner duly signed by Darban Jail was sent to the reader SP Investigation, Mardan His statement is attached as **Annexure ("E")**

vi. **CONSTABLE WAKEEL BELT No. 2644 OF PP SHAHEEDAN** stated that ON 01.09.2021 he was present in PP Shaheedan when LHC Niaz Ali made a call to ASI Abid and asked him that they are lacking behind in progress and he desires to lodge a self-styled FIR u/s 15AA against one of his friend. ASI Abid Ali permitted him for doing so and the recovery memo was signed by Constable Wakeel No. 2644. His statement is attached as **Annexure ("F")**

vii. **CONSTABLE SAJJAD AKHTAR BELT NO. 2979** stated that he along-with constable Sajjad, Fayaz, Sarwar and Wakeel was performing duties in PP Shaheedan and the roznamcha of the said PP was usually maintained by LHC Niaz Ali. He also stated that he is totally unaware about the case FIR No. 1057, dated 01.09.2021 u/s 15AA. His statement is attached as **Annexure ("G")**.

viii. **EX-LHC MUHAMMAD TARIQ BELT NO. 1608** stated that he was performing duties in PAL when he was directed to report his arrival in Police Lines Mardan and was then confined in quarter guard. He later learnt that he has been suspended owing to case FIR No. 1057 of PS Rustam in which Mr. Kamran was accused. The accused Kamran was once again nominated in case FIR No. 889 , dated 03.09.2021 u/s 302/324/34 PPC PS Toru. The accused official denied any acquaintance or relation with Kamran and stated that the charges levelled against him are totally baseless. The accused official denied his presence with accused Kamran in Court on the day of his appearance. However he had contacted him 02 to 03 times but he couldn't remember the reason behind contacts. And that he was posted at PAL office and he might had established contacts with Kamran. He also stated that he was given full opportunity of personal hearing and cross examination during this enquiry procedure. His statement is attached as **Annexure ("H")**.

F. FINDINGS

1. Accused Kamran charged in case FIR No. 1057 dt 01.09.2021 u/s 15AA PS Rustam, Distt: Mardan has asked Muhammad Tariq LHC, then posted in PAL office Mardan, to arrest him with pistol and send him to jail.
2. Muhammad Tariq LHC, talked to his brother Niaz Ali who was posted in PP Shaheedan PS Rustam for booking Kamran u/s 15AA in PS Rustam and Niaz Ali talked to Abid Ali IHC the then In-charge PP Shaheedan. Both were agreed on the plan as discussed above. Kamran was shown arrested in above FIR registered on 01.09.2021.

Accused Kamran was shown arrested in Murasla and FIR with ore without number pistol with 5 live rounds without licence but whether accused was released on bail or put into the lockup and where? Nothing available on record of PP Shaheedan and PS Rustam.

4. Accused Muhammad Tariq in his written statement to the charge sheet had denied any contact with accused Kamran but CDR of his cell phone No. divulge that he had contact with accused Kamran before arrest and sending him to jail in case FIR No. 1057 u/s 15AA PS Rustam. Similarly Muhammad Tariq LHC and Niaz Ali LHC are real brothers and remained in contact with each other. On this account too accused officials could not justified their stance.
5. Accused Kamran was not present on the place, time and date of occurrence as shown in Murasila and FIR as evident from statements of witnesses.
6. According to statement of Niaz Muhammad SI/IO of the case, videos clips of CCTV Cameras installed in Kachehri Mardan were obtained, sealed and sent to Laboratory. In those videos both accused officials Niaz Ali and Muhammad Tariq were present with accused Kamran at the time of his production before the learned court.
7. The incident of case FIR No. 889 dated 03.09.2021 u/s 302/324/34/109 PPC PS Toru took place when accused Kamran was in Mardan Jail. In this case Sher Ullah khan complainant had directly charged accused Ameer Sajjad and Kamran for murder of two persons.
8. Accused Ameer Sajjad was arrested and sent to jail. Later on, Muhammad Saleem in his statement u/s 164 CrPC had charged accused Sabir and Kamran for abetment in aforementioned murder case instead of directly commission of offence. Accused Kamran later on bailed out. Accused Ameer Sajjad had recorded his confessional statement in which he did not accused Kamran for any role.
9. The complainant Sher Ullah and Muhammad Salim did not charge in FIR and in subsequent statements police officials for any offence. They even did not charge them in their statements recorded in this De-Novo inquiry for any role in criminal cases.
10. Contacts between accused official Muhammad Tariq and accused Kamran do exist. However, it does not constitute any role of police officials in commission of offence in murder case.

..No corroborative statement of either party to the criminal cases available against both police officials.

(13)

12. The questions arise here are as follows;

i. Who is the maximum gainer in this scenario?

ii. Was accused Kamran involved physically in murdering two persons namely Suleiman and Sami Ullah and had accused Police official has helped him to get out of the charges by putting him in jail in another case i.e. u/s 15AA? If yes, is there any proof against the accused Police Official?

iii. Had the accused Police Official managed, planned or abetted the murder case in PS Toru?

iv. Had the accused official gained something in lieu thereof?

v. Was accused Kamran legitimately charged, arrested and produced before the learned court as shown in the Police File.

The answers as per available record are as under:-

Ans to Q.i:- No one found beneficiary of the whole episode rather they are the losers as per the reasons mentioned hereunder:-

a. Accused Kamran was not present at the time of the commission of murder case but he was charged, as he was shown present by the complainant Sher Ullah. So, it was untrue and they committed another misunderstanding by charging the same accused under a different role (for abatement) in light of supplementary statements recorded u/s 164CrPC before the learned court by Muhammad Salim brother of deceased Suleiman.

b. Accused Kamran, despite the alleged managed plea of alibi he was charged for abetment while he was in the Judicial lockup.

c. The accused Police Official LHC Tariq Ali despite he had not been charged or factually contradicted by either party to the criminal case, had been dismissed from service and now his future is on the line.

Ans Q.ii. No proof was found against the accused Police Official.

Ans Q.iii No proof or even supportive statement in favor of this allegation available.

Ans Q.IV No Proof available.

Not. Police officials Tariq Ali, Niaz Ali neither arrested the accused Kamran at the reported place and time of occurrence nor any recovery was made. This FIR No. 1057/2021 U/S 15AA is totally fabricated and concocted for which both are found guilty.

CONCLUSION

Police officials LHC Tariq Ali Belt No. 627/1608 and LHC Niaz Ali Belt No. 2697/3333 neither arrested the accused Kamran at the reported place at time of occurrence nor any recovery was made. This FIR No. 1057/2021 U/S 15AA is totally fabricated and concocted for which both are found guilty. However, on this account, both the accused have already been punished for confinement to Quarter Guard for 05 days i.e. 05.09.2021 to 10.09.2021. The Enquiry Committee, keeping in view the above circumstances, is of the opinion that awarding more than one punishment would be a double jeopardy and it will be in a fitness of things and in accordance with KP Police Rules 1975 that the above mentioned punishment i.e. of 05 days Quarter Guard awarded w.e.f 05.09.2021 to 10.09.2021 may be considered as suitable punishment.

(KAMAL HUSSAIN)
DSP Legal
CCP Peshawar

(RAHIM HUSSAIN)
Superintendent of Police HQrs
City Traffic Police Peshawar

Phone:-091-9211769

Office of the
Inspector General of Police
Khyber Pakhtunkhwa, Peshawar.

No. 1206 /CPO/IAB dated Peshawar the 26 /07/2023

To: The District Police Officer,
Mardan.

Subject:
1. REQUEST FOR EITHER FILING CPLA AGAINST THE ORDER DATED 25.10.2022 PASSED IN SERVICE APPEAL NO. 570/2022 FILED BY EX-LHC TARIQ ALI NO.627 OR INITIATING DENOVO ENQUIRY PROCEEDINGS AS DIRECTED BY THE COURT.
2. REQUEST FOR EITHER FILING CPLA AGAINST THE ORDER DATED 25.10.2022 PASSED IN SERVICE APPEAL NO. 569/2022 FILED BY EX-LHC NIAZ ALI NO.2697 OR INITIATING DENOVO ENQUIRY PROCEEDINGS AS DIRECTED BY THE COURT

Memo:

1. Please refer to your office letter No. 5712/PA dated 26.05.2023, on the subject cited above.
2. Pursuant to the directions of the Competent Authority, Denovo Departmental Enquiry into the subject matter has been conducted by the undersigned.
3. Denovo Departmental Enquiry report dully approved by the Competent Authority is sent herewith to proceed further into the matter as per rules.
4. Furthermore, complete Enquiry files received from your office vide letter No. 6675/PA dated 06.07.2023 are returned herewith for record.

Enclrs: (02 file)
1. Tariq (141 sheets).
2. Niaz Ali (112) sheets.

LHC ~~NIAZ ALI~~
TARIQ 1608

SP/Complaint & Enquiry
For Deputy Inspector General of Police
Internal Accountability Branch
Khyber Pakhtunkhwa,
Peshawar.

No & Date even

Copy of above is forwarded for information to PA to the Deputy Inspector General of Police, Internal Accountability Branch, Khyber Pakhtunkhwa, Peshawar.

ATTESTED

Subject: **DENOVO DEPARTMENTAL ENQUIRY AGAINST FC TARIQ ALI NO.1605 AND LHC NIAZ ALI NO.8333 OF DISTRICT MARDAN**

Background of enquiry proceedings

FC Tariq Ali No.1608 and LHC Niaz Ali No. 3733 were dismissed from service in conspiracy in the commission of the offence of murder vide case FIR No. 589 dated 30.09.2022 u/s 302/34/109 PPC Police Station Rustam Mardan. There were allegations that they have paved the way by providing the opportunity of safe escape to one accused (directly charged in the murder case). During preliminary enquiry both officials were found guilty of connivance in the commission of a heinous case of murder. Upon the recommendations of the enquiry officer (DSP Sheikh Maltoon), both the officials were dismissed from service. After rejection their departmental appeals, they approached to Service Tribunal. Their cases were contested by the department but the Tribunal issued order for re-instatement of both the official for the purpose of denovo enquiry. As per practice denovo departmental enquiry was marked to Mr. Rahim Hussain (SP/HQrs: Traffic, Peshawar) and Mr. Kamal Hussain, DSP/Legal Peshawar.

Charge sheet and summary of allegation were issued to the officials. The enquiry committee after going through the relevant record and cross examination of the accused officials recommended that the punishment of 05 days quarter guard is sufficient. The enquiry report was placed before the DPO Mardan. When the recommendations of the enquiry committee were produced before DPO Mardan (being Competent Authority in the matter) he raised some objections over the recommendations of the enquiry committee and intimated for fresh enquiry through some other officers.

On perusal of objections of DPO Mardan, the denovo departmental enquiry was entrusted to the undersigned.

Proceedings

To dig out the real facts, both the officials (FC Tariq Ali and LHC Niaz Ali) were summoned and their statements were recorded. Fresh Charge Sheets and Summary of allegations were issued to the delinquent officials by DPO, Mardan. Relevant record was thoroughly checked and the delinquent officials were cross

ATTESTED

examined. During denovo enquiry it was found that due to unawareness of intention of the accused namely Kamran charged u/s 15-AA but the accused opted to go to Judicial Lock-up instead of payment of fine imposed by the Judicial Magistrate, as the accused party had already conspired for commission of murder of his opponent. It seems that the accused party had already intended to commit murder but the Police officials were not in knowledge of the commission of such offence. They have just apprehended the accused Kamran for showing their efficiency in capatring a weapon. At the same time they have not applied their prudent mind before showing their efficiency.

Keeping in view the above explained scenario, it has come to surface that both the Police officials have provided safe escape to the accused party. If the Police officials could have used their prudent mind, the accused party would not be able to manage their safety from the clutches of law.

Recommendations

For going in view, I have come to the conclusion that the Police officials were not malafidely involved in the case, if they had used their minds about the role of accused party. In the situation explained before malafide involvement of both the Police officials could not be proved beyond reasonable doubt as they have been used due to misunderstanding on their part. Hence, in my opinion the punishment of dismissal awarded to them is too harsh. It is, therefore, recommended that the punishment of dismissal may be converted into any kind of major punishment, less than dismissal or removal from service.

Denovo Enquiry report is submitted, please.

(MEHIR ALI)
SP/Complaint & Enquiry
Internal Accountability Branch
Khyber Pakhtunkhwa,
Peshawar

Dismissed from service

Lhc M. Tariq/1608

Sir,

Submitted for Perusal, Pls

DPG/M

PA 07/18

ATTESTED

بعدالت جناب سوسکراسپل

مورخہ 2023 منجانب (اسلام)

مقدمہ محمد طارق بنام ایس

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام پشاور کیلئے روشن خان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعوی اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور 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 بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ ہوں گے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندرہے۔

المرقوم 11 ماہ دسمبر 2023ء

العبد گواہ العبد

مقام

کے لئے منظور ہے۔

Accepted

[signature]