

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	29.03.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 136/2015</p> <p style="text-align: center;">Muhammad Ishaq Versus Regional Police Officer, Bannu Region Bannu and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>Appellant with counsel and Mr. Ziaullah, Government Pleader for respondents present.</p> <p>2. Muhammad Ishaq son of Bashir Ahmad Khan hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the original order dated 13.03.2014 vide which he was dismissed from service and where-against his departmental appeal was also rejected vide final order dated 05.06.2014 and hence the instant service appeal on 18.02.2015.</p> <p>3. Brief facts of the case of the appellant are that the appellant was serving as Constable when charged for tainted reputation and involvement in anti-social activities contrary to the norms of a discipline of police force amounting to gross misconduct. Vide impugned order referred to above appellant was dismissed from service and his departmental appeal was also rejected and hence the instant service appeal.</p> <p>4. Learned counsel for the appellant has argued that the</p>

29.03.17

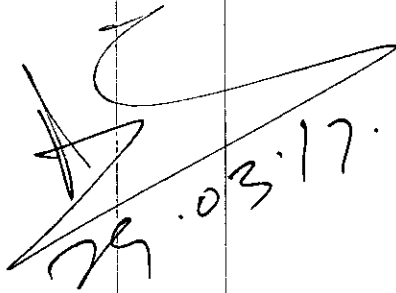
appellant was not treated in accordance with law. That the respondents failed to substantiate the charges during the enquiry. That no opportunity of hearing and participation in the enquiry proceedings extended to the appellant and as such the impugned orders are liable to be set aside.

5. In support of his arguments learned counsel for the appellant placed reliance on case law reported as 2008-SCMR-609 (Supreme Court of Pakistan), 2016 PLC (C.S) 682 (Supreme Court of Pakistan) and 2012 PLC (C.S) 701 (Supreme Court of Pakistan).

6. Learned Government Pleader has argued that the impugned order is based on sound appreciation of legal and actual position. That the record of the appellant shows his involvement in anti-social activities and as such retention of the appellant in police force was not desirable and that the impugned order is in accordance with law and as such the appeal is liable to dismissal.

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

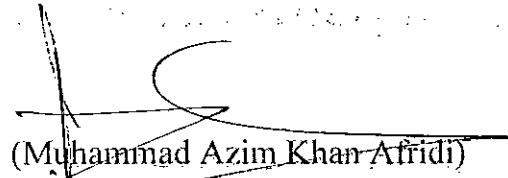
8. Perusal of report of enquiry officer would suggest that one Head Constable Samiullah was examined who deposed that the appellant was involved in smuggling of non-custom paid vehicles and in trafficking of narcotics. According to the said report it is said by the witness in the cross-examination that there was such general reputation in the general public. Line Officer Saiful Malook was also examined on oath and, as per report of the enquiry officer, he did not support the allegations. SRC Muhammad Ibrahim Shah has submitted service record of the

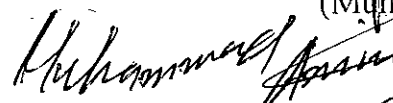
A handwritten signature and the date '03.17' are present on the left side of the page, overlapping the margin.

appellant containing 7 bad entries.

9. We perused the record of the said bad entries as well which pertains to the alleged absence of the appellant from duty and for which absence appellant was punished in the shape of counting the said period as leave without pay. The said record cannot be therefore, read as evidence for tainted reputation or for ante-social activities. In support of allegations for tainted bad reputation of the appellant or involvement in any ante-social activities none of the witnesses examined during the enquiry proceedings have substantiated the charges. Additionally the enquiry was not conducted in the mode and manners prescribed by rules.

10. For the afore-mentioned reasons we accept the present appeal, set aside the impugned orders referred to above and, as a consequence thereof, reinstate the appellant in service by treating absence period of appellant from duty as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


(Muhammad Azim Khan Afridi)
Chairman


(Muhammad Amin Khan)
Member

29.03.17

ANNOUNCED
29.03.2017

08.11.2016

Ms. Uzma Syed, Advocate, junior to counsel for the appellant and Mr. Farman, Inspector alongwith Asst:AG for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.02.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

20.02.2017

Counsel for the appellant and Mr. Farman, Inspector alongwith Assistant AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 29.3.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

6

30.09.2015

Counsel for the appellant and Mr. Khan Khail, DSP (Lakki) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.12.2015 before S.B.


Chairman

01.12.2015

Appellant with counsel and Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 30.3.2016 before S.B.


Chairman

30.03.2016

Appellant with counsel and Mr. Muhammad Ishaq, S.I alongwith Addl: A.G for respondents present. Written statement by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 19.7.2016.


Chairman

19.07.2016

Appellant in person and Mr. Farman Khan, Inspector (Lakki Marwat) alongwith Mr. Muhammad Jan, GP for the respondents present. Rejoinder submitted by appellant, copy whereof handed over to learned GP. To come up for arguments on 8-11-16 before D.B.


MEMBER


MEMBER

3

26.02.2015

None present for appellant. Notice be issued to counsel for the appellant for preliminary hearing for 01.04.2015 before S.B.


Chairman

4

01.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when dismissed from service on the ground of tinted reputation vide impugned order dated 13.3.2014. That the appellant preferred departmental appeal on 31.3.2014 which was rejected on 5.6.2014 and copy thereof allowed to appellant on 16.2.2015 and hence the service appeal on 18.2.2015.

That the allegations general in nature and were not substantiated during the inquiry and hence the impugned orders are nullity in the eyes of law.

Handwritten notes:
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U ...

Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.6.2015 before S.B.


Chairman

Appellant Deposited
Security & Process Fee

5

25.06.2015





Counsel for the appellant present. Security and process fee have not been deposited. Requested for further time. The same be deposited within a week, where-after notice be issued to the respondents for written reply/comments for 30.9.2015 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 136/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18.02.2015	The appeal of Mr. Muhammad Ishaq presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.  REGISTRAR
2	23-2-15	This case is entrusted to Bench <u>F</u> for preliminary hearing to be put up thereon <u>26-2-15</u>  CHAIRMAN

2015/02/23
Abdullah Khan Marwat
Advocate

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. ¹³⁶/2015

Muhammad Ishaq Versus


RPO & others

INDEX

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-3
2.	Final Show Cause Notice,	"A"	4
3.	Reply to Notice, 03.02.14	"B"	5
4.	Enquiry Report,	"C"	6
5.	Order, 13.03.2014	"D"	7
6.	Representation, 31.03.2014	"E"	8-9
7.	Rejection Order, 05.06.2014	"F"	10
8.	Application for supply of Rejection order, 16.02.2015	"G"	11

Dated: 18.02.2015

Through

Appellant

Saad Ullah Khan Marwat
Advocate.
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 136 /2015

Muhammad Ishaq S/o Bashir Ahmed Khan, R/o
Ghazni Khel, Ex-Constable No. 626,
Check Post, Shah Hassan Khel, Lakki Marwat Appellant

Versus

1. Regional Police Officer, Bannu Region,
Bannu.
2. District Police Officer, Lakki Marwat
3. Provincial Police Officer, KP, Peshawar. Respondents

H.W.F Provincial
Service Tribunal
Diary No. 137
Dated 18-2-2015

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 1615/EC, DATED
05.06.2014 OF R. NO. 1 WHEREBY DEPARTMENTAL
APPEAL DATED 31.03.2014 AGAINST OFFICE ORDER
NO. 688-9/OB NO. 143, DATED 13.03.2014,
DISMISSING APPELLANT FROM SERVICE, WAS
REJECTED, FOR NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was appointed as Constable on 29.05.2007. He was deputed for training to FF Abbottabad and qualified the same at the end of the year, 2007.
2. That at present, appellant was posted at Police Check Post, Shah Hassan Khel, when he was straight away served with final show cause notice on the allegations of tainted reputation of involvement in anti social activities by R. No. 2. The said notice was replied on 03.02.2014 and denied the allegations with cogent reason. (Copies as annex "A" & "B")
3. That enquiry in to the matter was initiated and Mr. S. Liaqat Shah was appointed as Inquiry Officer but he refused to conduct the same as the allegations was general in nature while on the other hand, R. No. 1 verbally directed him to prove appellant guilty.

Filed to-day

[Signature]
Registrar

[Signature]
18/2/15

4. That without any reason and justification, he was changed by subsequent Inquiry Officer, Muhammad Shafiq, SP (Inv) Bannu who also did not conduct the enquiry as per the mandate of law, yet proved appellant guilty. (Copy as annex "C")
5. That on 13.03.2014, appellant was awarded with major punishment of dismissal from service by R. No. 2 retrospectively. (Copy as annex "D")
6. That on 31.03.2014, appellant submitted representation before R. No. 1 for reinstatement in service which was rejected on 05.06.2014. Copy of the said order was got from office on 16.02.2015 as the same was never endorsed / dispatched to appellant as is evident from the same. (Copies as annex "E" & "F")
7. That on 16.02.2015, appellant submitted application before R. No. 2 for supply of order of rejection of appeal which was supplied / received from the office of R. No. 1. (Copy as annex "G")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That R. No. 1 and 2 were not in normal terms and to mend R. No. 2, appellant was called for to his office to depose against R. No. 2 but he showed inability in this respect.
- b. That as per the mandate of law, servant is legally required to be served with charge sheet / statement of allegations and then to make enquiry and thereafter to serve him with final show cause notice but the required procedure was curtailed for no legal reason and straight away served appellant with final show cause notice which is not the mandate of law.
- c. That 1st Syed Liaqat Shah was appointed as Inquiry Officer but he refused to conduct the same in the general allegations and without giving any reason for change of the Inquiry Officer, Shafiq Khan was appointed as such who also failed to honour the law on the subject.
- d. That no statement of any witness(s) was recorded in presence of appellant nor he was afforded opportunity of cross examination

nor he was served with any charge sheet, statement of allegations and the procedure enumerated in the rules was curtailed for no legal reason.

- e. That appellant was serving the force under the command of R. No. 2 but at the instigation of R. No. 1, so called allegations were leveled against him for no reason.
- f. That as is evident from appellate order dated 05.06.2014, neither this order was addressed to appellant nor was endorsed / dispatched to him, so the malafide of the respondents is quite apparent from the same.
- g. That original as well as appellate orders are against the norms of justice, so are not only illegal but were also based on malafide.
- h. That no administrative order could be effected retrospectively.

It is, therefore, most humbly prayed that on acceptance of appeal, order dated 05.06.2014 or 13.03.2014 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Dated. 18.02.2015

Through

Ishaq
Appellant
Saad Ullah Khan
Saad Ullah Khan Marwat

Arbab Saiful Kamal
Arbab Saiful Kamal

&

Rubina
Miss Rubina Naz,
Advocates.

- Amene A

4

35

S.P.-AT SRC. Charge Sheet & Show Cause Notice-2013

FINAL SHOW CAUSE NOTICE.

WHEREAS, you Constable Muhammad Ishaq No.626 while posted at PP Shah Hassan Khel, was found indulged into the following misconduct:-

1. That you are reported to be of tainted reputation of involvement in anti social activities as intimated by Regional Police Officer Bannu vide his order Endst: No.2873-75/EC dated 29.11.2013.

That your activities are contrary to the norms of a discipline force and to become a good Police Officer which amounts to gross misconduct on your part.

2. That being a Police Officer, involvement in anti social elements speaks of in-efficiency and suggests you unbecoming of good Police Officer and all this amount to gross misconduct on your part and liable to be punished under the Police Rules, 1975.

3. That Mr: Syed Liyqat Shah was nominated as enquiry officer but later on, Mr: Shafique Khan SP/Investigation Bannu was nominated as enquiry officer on the order of worthy Regional Police Officer, Bannu Region, Bannu. The enquiry Officer conducted enquiry into the matter and the above charges level against you were found proved.

NOW THEREFORE, I, Ismail-ur-Rehman PSP District Police Officer, Lakki Marwat call upon you to Final Show Cause Notice within seven days of the receipt of this Final Show Cause Notice that as to why you should not be awarded a major punishment including dismissal from service as provided under Rule 4 (1) (b) of the above said Rules. Also state whether you wish to be heard in person.

In case your reply is not received within the stipulated period without sufficient reason, it shall be presumed that you have no defense to offer and the undersigned would be at liberty to pass on ex-parte action against you.

(ISMAIL KHAN) PSP
District Police Officer,
Lakki Marwat.

Ali
Shah

Annexure B

5

3-2-14

To

The District Police Officer,
District Lakki Marwat.

Subject:

Reply to final show cause notice.

Respected Sir,

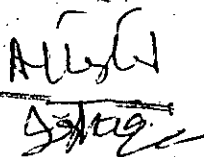
I submit the following submissions as under.

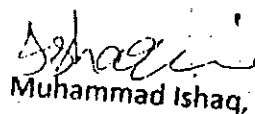
1. As per finding report of Sami Ullah #224 H/C incharge DSB Lakki Marwat that I am involved in smuggling of non-custom paid vehicles is false and baseless and there is no lota of facts, based on surmises and conjectures. As there is no proof of effected person, eye witnesses or any other case property. If an innocent person is convicted on the bases of hear-say statement that will be against the ends of justice.
2. As far as involvement in anti social elements the statement of DSB incharge in the aforesaid Para # 1, if I was involved in the above said activities my concerned officers would have submitted written report against me, or any other complaint of public in-large to my officers against me, but nothing available in black and white against me on record. The Inquiry Officer has ignored the actual facts and completed the inquiry ex-parte without reaching to the depth of the matter and based on flimsy statement of DSB incharge and I was implicated without any cogent reason.
3. The Inquiry Officer has stated in his findings that there are seven bad entries in my service role which are due to absence from duty for which I have been punished and treated as leave without pay.
4. I want to be heard in person too.

Sir, keeping in view the afore mentioned facts I may kindly be considered innocent and exonerated from the charges leveled against me so as to meet the ends of justice.

Dated: 03-02-2014

Yours Most Obedient Servant,




Muhammad Ishaq,

Belt # 626

Annexure - C

C

(4)

6

FINDING OF DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MUHAMMAD ISHAQ
NO.626 DISTRICT LAKKI MARWAT.

Constable Muhammad Ishaq No.626 posted at Police Check Post Shah Hasan Khel Lakki Marwat was charged for the following allegations.

1. That Constable Muhammad Ishaq No.626 has been reported to be of tainted reputation of involvement in anti social activities as intimated by Regional Police Officer, Bannu Region, Bannu vide order Endst; No.2873-75/EC, dated 29.11.2013.
2. That his activities are contrary to the norms of a discipline force and to become a good Police Officer which amounts to gross misconduct on his part, hence the summary of allegations.

Constable/accused officer replied to the charge sheet which was kept on the file for perusal. He did not make of confession to the charges. DSP Lakki was asked to submit written report pertaining to the allegations and he wrote that the individual has no adverse reputation and no such complaint was received by him. Similarly statement of HC Sami Ullah No.224 I/C, DSB Lakki Marwat was also recorded on oath. He in his statement stated that the said constable has been found involved in the smuggling of non custom paid vehicle and in trifling of narcotics. Constable made cross examination upon HC Samiullah. On reply HC stated that there was general reputation in the general public.

Lines Officer Saif-ul- Malook was also examined on oath in the presence of said constable, but he did not support the prosecution. More over SRC Muhammad Ibrahim Shah DPO office Lakki also submitted in- written statement that 07 bad entries were found in service record and no good entry was available in the service record.

Accused officer was examined but he did not produce any defense and he referred his previous statement. He was enlisted to Police department on 20.05.2007.

In the light of the statement of DSB I/C Lakki coupled with service record it is concluded that charges against Constable Muhammad Ishaq No. 626 stands proved.

Alshah
Ishaq

Muhammad Shafiq
(MUHAMMAD SHAFIQ)
Superintendent of Police

Annexure-D

(7)

ORDER

My this order will dispose off the departmental enquiry proceedings initiated against Constable Muhammad Ishaq No.626 on the allegations that accused police officer, while posted at PP Shah Hassan Khel, was charged with the following allegations:-

1. That he has been reported to be of tainted reputation of involvement in anti social activities as intimated by Regional Police Officer Bannu vide his order Endst: No.2873-75/EC dated 29.11.2013.
2. That his activities are contrary to the norms of a disciplined force and unbecoming of a Police official.
3. That being a Police Officer, involvement in anti social elements speaks of in-efficiency and suggests him unbecoming of good Police Officer and all this amount to gross misconduct on his part and liable to be punished under the Police Rules, 1975.
4. That Mr. Syed Liaqat Shah was nominated as enquiry officer but later on, Mr. Shafique Khan SP/Investigation Bannu was nominated as enquiry officer on the order of worthy Regional Police Officer, Bannu Region, Bannu. The enquiry Officer conducted enquiry into the matter and the above charges level against him were found proved.

The delinquent Police Officer was served with Final Show Cause Notice and the reply thereto was also found not satisfactory. He was also heard in person, but he has miserably failed to rebut the allegations.

Keeping in view of the above facts, the guilt proved on his part is of such nature as well as his previous bad record & reputation his retention in service will bring harm and bad name to the department. Therefore, I, **Ismail-ur-Rahman**, District Police Officer, Lakki Marat hereby award him Major punishment of "**Dismissal from service**" w.e from the date of suspension under Police Rules 1975. He is directed to deposit all the Govt. articles allotted to him to the concerned branches.

Order announced

OB No. 143

Dated 13/3 2014.

No. 422-91

Lakki Marwat the 13 / 3 / 2014.

Copy to the:-

1. Regional Police Officer, Bannu Region, Bannu for f/o information w/r to his Memo: No. 149/ EC, dated 16.02.2014.
2. SRC, OASI, PO for necessary action.

(Ismail Kharak) PSP
District Police Officer,
Lakki Marwat.

(Ismail Kharak) PSP
District Police Officer,
Lakki Marwat.

Attested

Ghazal

Annexure - E

E

8

The Regional Police Officer,
Bannu Range Bannu.

Subject: APPEAL AGAINST ORDER OB# 143 DATED 13-03-2014 PASSED BY DISTRICT POLICE OFFICER LAKKI MARWAT.

Respected Sir,

The appellant submits as under:

Facts of the case:

1. That the appellant has been serving to the entire satisfaction of my superiors since my enlistment to Police Department on 20-05-2007. The appellant was posted at the Police Check Post at Shah Hassan Khel Lakki Marwat.
2. That Departmental enquiry proceeding were initiated and final show cause notice was issued against the appellant and reply thereof was submitted within seven days to Muhammad Shafiq Superintendent of Police Investigation Bannu who was nominated as Enquiry Officer. Copies of show cause notice, reply and findings of departmental enquiry are enclosed.
3. That on completion of enquiry final finding of Departmental enquiry was submitted to the District Police Officer Lakki Marwat for further order.
4. That the District Police Officer Lakki Marwat passed the Order of dismissal w.e.f the date of suspension. Copy of order OB# 143 dated 13-03-2014 is enclosed.

Hence the appellant approach this Honorable Appellate forum enteralia on the following grounds:-

GROUNDS.

1. That the order of the District Police Officer Lakki Marwat is against Law and Facts of the case as he has based his order on the flimsy statement of H.C Sami Ullah DSB Incharge Lakki coupled with Service record without any cogent proof in black and white.

That the District Police Officer flatly ignored the statement of D.S.P Lakki coupled with statement of Lines Officer Saif Ul Malook being closed responsible Officers.

- 3. That H.C Sami Ullah DSB Incharge Lakki admitted in cross examination before Inquiry Officer and stated that there was general reputation in the general public without bringing any material on record to prove the guilt in black and white.
- 4. That as regard statement of S.R.C Muhammad Ibrahim Shah office of the D.P.O. Lakki Marwat who stated that seven bad entries were found in service record. From perusal of the service record it was transpired that the aforesaid entries were regarding absence from duty not corruption for which the appellant had already been punished and treated as leave without pay.
- 5. That the Inquiry Officer has ignored the actual facts and completed the finding of Departmental enquiry against the appellant without reaching to the depth of the case and based his findings on flimsy statement of H.C Sami Ullah Incharge DSB Lakki coupled with service record and punished twice for the same charge being illegal one. Copy of order of Apex Court reported in 2006 SCMR page 434 is enclosed.

It is, therefore, humble prayed that on acceptance of instant appeal an appropriate order may kindly be issued in this respect to meet the ends of justice and obliged please.

Dated: 31-03-2014

Your Humble Appellant,

Ali Ishaq
S. Ishaq

.....
Muhammad Ishaq,
Ex Constable#626,

Amendment - F

F

10

5-6-14

POLICE DEPARTMENT.

ORDER

My this order will dispose of departmental appeal preferred by Ex: constable Mohd: Ishaq No. 626 naik name Pepsi s/o Bashir Khan village Ghazni Khel against the order of Major Punishment of dismissal from service by DPO/Lakki Marwat vide OB No. 143 dated 13-03-2014 for committing of the following omissions:-

- That his reputation was reported to be tainted as well as involved in anti social activities.

The said EX: constable was proceeded against departmentally for the above misconduct. Mr. Mohd: Shafiq SP/Investigation Bannu was appointed as Enquiry Officer, who conducted proper departmental enquiry into the allegations and submitted his findings wherein he opined that the allegations stand proved against the accused official. Hence, he was awarded major punishment of dismissal from service by the competent authority under police rule-1975

The appellant preferred departmental appeal before the undersigned for set asiding the awarded punishment. The undersigned, besides perusing the departmental enquiry file and contents of the appeal, also verified the allegations through various sources which were found accurate. Opportunity of personal hearing was also afforded to the appellant but failed to satisfy the undersigned regarding the allegations leveled against him.

Keeping in view the above, therefore, I SAJID ALI KHAN, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me under Police Rules 1975. hereby file the instant appeal with immediate effect.
Order announced.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 1615 /EC, dated Bannu the 05/16 /2014.

Copy to:-

- The District Police Officer, Lakki Marwat along with service record containing departmental proceeding file for information and necessary action w/r to his office memo: No. 4286 dated 11-04-2014. Besides, the appellant may be informed.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu

وصول از دفتر
Ishaq
16/2
15

Attest
Ishaq

مخدوم صاحب دفتر پالیسی انیسٹر صلیب کلیمروت

درخواست براد عظیمی کلیم اری او نیوں

صاحب عالی

گزارش ہے کہ سائل انجمن کے زیر سایہ خدمات سر انجام دے رہا تھا۔
سائل کو تاثر دہ جسم و ذنہ پر رسوں سے ہر طرف کھینچا گیا ہے۔ سائل نے
اری او نیوں پر بیخ بنوں کو کھانا اپیل گزار دی جو خارج کی گئی ہے۔
سائل نے بیٹے میں دوبار اری او نیوں دفتر لکھا یا کہہ کر کہتے کہ آج کل
ہونے میں۔ اور کہتے کہ آری او نیوں پر کمال فہم نہیں ہوا ہے۔

اب دفتر بذاتے معلوم ہوا ہے کہ میرا کھانا اپیل خارج ہو چکا ہے نہ
تو اہلک کلیم خارجی کا اردو مجھے بھیجا گیا ہے۔ نہ اسکی کاپی دی جا رہی ہے۔

اسد علی ہے کہ سائل کھانا اپیل خارج کرنے کا حکم عطا فرمادیں۔

اشکوڑہ سونگا۔ درقم 2/16

الکارب

مخدوم صاحب دفتر پالیسی انیسٹر صلیب کلیمروت
بابتہ کانسٹیبل 626، چک پوسٹ، شاہ حسن صلیب
کلیمروت

اشکوڑہ
Shah

بعد الت چاپ سروس ٹریبونل صوبہ سرحد پشاور

مخانب اسلٹ

محمد اسحاق بنام محمد لوہی وطنہ

دعویٰ اصل

باعث تحریر ایٹک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کاروائی متعلقہ آن مقام پشاور کیلئے سعد اڈاس خان سرور نے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقرر ثالث و فیصلہ بر علف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تقدیرات اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بیکطرفہ یا اپیل کی برآمدگی اور مستثنیٰ نیز وارڈ کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مشار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا دفر حسبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 2/16

العبد العبد العبد

سعد اللہ خان مراد ایڈووکیٹ
از باب شیخ انکال ایڈووکیٹ
Pabina
من روایت تاز
ایڈووکیٹ
Shahz

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
APPEAL NO. 136/2015.

Muhammad Ishaq s/o Bashir Ahmad Khan r/o Ghazni Khel,
Ex: Constable No. 626,
Check Post, Shah Hassan Khel, Lakki MarwatAppellant

VERSUS

- 1) The Regional Police Officer, Bannu Region Bannu.
- 2) The District Police Officer, Lakki Marwat.
- 3) The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

REPLY BY RESPONDENT NO. 1,2 &3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

- 1) That the appeal is not maintainable in its present form.
- 2) That the appellant has concealed the material facts from the Honorable Tribunal.
- 3) That the appeal of appellant is time barred.
- 4) That the appellant has no cause of action.
- 5) That the appellant has no locus stand to file the appeal.
- 6) That the appellant has been stopped by his own conduct to file the appeal.
- 7) That the appeal is bad due to non joinder of necessary and misjudice of unnecessary parties.

OBJECTIONS ON FACTS.

1. Pertains to record, needs no comments.
2. Correct, to the extent that the reply of appellant to final show cause notice was found unsatisfactory and un sound.
3. Incorrect. Proper regular inquiry through Muhammad Shafiq SP/Investigations, Bannu was conducted and charges leveled against appellant were proved.
4. Incorrect. Fair inquiry through Enquiry officer of other District was conducted wherein all the opportunities of defense were provided to appellant.
5. Pertains to record, needs no comments.
6. Incorrect. Departmental appeal of appellant was filed by Respondent No.1 on 05.06.2014 in the presented of appellant but he did not make effort to obtain the order copy on the same or following day. Furthermore, Establishment Clerk DPO Office Lakki Marwat also informed the appellant in time.
7. Incorrect. Appellant has not moved application for the order nor was attested copy issued to him as evident from the order/application. The rest of the plea is denied.

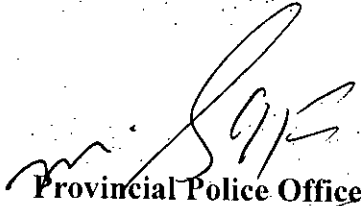
OBJECTIONS ON GROUNDS:


- A) Incorrect. Appellant and other officials were dealt departmentally on the charges of tainted reputation.
- B) Incorrect. As evident from the annexure "D" charge Sheet based on statement of allegations were issued /served upon the appellant and SP/Investigation Bannu was appointed as Enquiry Officer. Further it is evident from the enquiry. Re put that he replied the same.

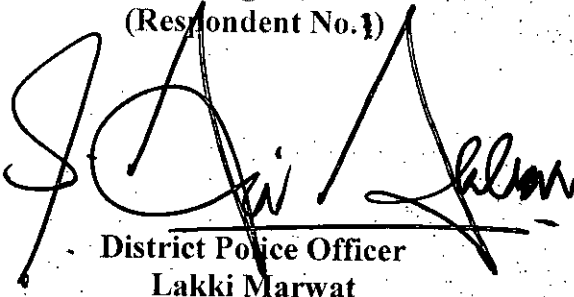
- C) Correct to extent that initially DSP/Naurang was appointed but the same was substituted with Mr. Shafiq Khan SP/Investigation Bannu on the reason that as per directions of high-ups impartial Enquiry through Enquiry Officer other than home District may be conducted. Who conducted an impartial enquiry fulfilled all the requisites as per law.
- D) Incorrect. Statement of Samiullah and Saiful Malook were recorded by Enquiry Officer in the presence of appellant and provided opportunities of cross and defense to appellant.
- E) Incorrect. The appellant proved to have tainted reputation.
- F) Incorrect. All the opportunities of hearing and defense were provided to appellant during passing of dismissal order and rejection order of departmental appeal. Dismissal order was handed over to appellant while he was informed regarding rejection of departmental appeal but he did not move any application in time.
- G) Incorrect. Both the orders are based on facts, justice and in accordance with law /rules. There is no malafidy on the part of respondents and all the proceeding was carried out in fair and transparent manners.
- H) Incorrect. After establishing /proving of charges against the appellant, he was dismissed from service from the date of suspension which is based on justice and in accordance with rules.

PRAYER:

In view of the above facts and circumstances, it is humbly prayed that appeal of appellant, being not maintainable, may kindly be dismissed with costs.


 Provincial Police Officer
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No.3)


 Regional Police Officer
 Bannu Region, Bannu
 (Respondent No.1)


 District Police Officer
 Lakki Marwat
 (Respondent No.2)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
APPEAL NO. 136/2015.

Muhammad Ishaq s/o Bashir Ahmad Khan r/o Ghazni Khel,

Ex: Constable No. 626,

Check Post, Shah Hassan Khel, Lakki Marwat

(Appellant)

VERSUS

- 1) The Regional Police Officer, Bannu Region Bannu.
- 2) The District Police Officer, Lakki Marwat.
- 3) The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. **(Respondents)**

COUNTER AFFIDAVIT

We, the respondents do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the based of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.

(Deponent)

**Regional Police Officer
Bannu Region, Bannu
(Respondent No.1)**

(Deponent)

**Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)**

(Deponent)

**District Police Officer
Lakki Marwat
(Respondent No.2)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR
APPEAL NO. 136/2015.

Muhammad Ishaq s/o Bashir Ahmad Khan r/o Ghazni Khel,

Ex: Constable No. 626,

Check Post, Shah Hassan Khel, Lakki Marwat

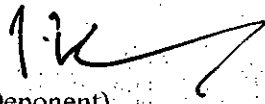
(Appellant)

VERSUS

- 1) The Regional Police Officer, Bannu Region Bannu.
- 2) The District Police Officer, Lakki Marwat.
- 3) The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. **(Respondents)**

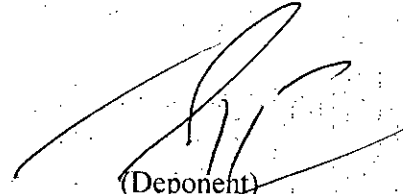
AUTHORITY LETTER

Mr. Ayyub Khan SI/Legal, Lakki Marwat is hereby authorized to appear before the Service Tribunal KP, Peshawar on our behalf in the subject cited case. He is also authorized to submit any documents pertaining to the subject case/appeal with the prior consultation of AGP, of the respective Tribunal.



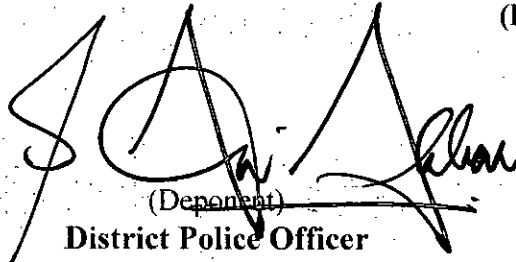
(Deponent)

**Regional Police Officer
Bannu Region, Bannu
(Respondent No.1)**



(Deponent)

**Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
(Respondent No.3)**



(Deponent)

**District Police Officer
Lakki Marwat
(Respondent No.2)**

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARS.A No. 136/2015

Muhammad Ishaq

Versus

R.P.O & Others

REPLICATION**Respectfully Sheweth,****PRELIMINARY OBJECTION.**

All the 7 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appeal is not maintainable, appellant has concealed the material facts, appeal is time barred, appellant has no cause of action, locus standi, stopped by his own conduct, appeal is bad due to non and mis-joinder of unnecessary parties.

ON FACTS

1. Needs no comments.
2. Admitted correct to the extent of reply to final show cause notice without serving appellant with first show cause notice or charge sheet, etc. The law requires to do a particular thing in a particular manner, the same shall be done in that manner.
3. Not correct. Liaqat Shah, DSP refused to conduct enquiry in the general allegation. The authority directed the subsequent Inquiry Officer, Shafiq Khan, SP Investigation, Bannu to prove appellant guilty at any cost, so he did the job what was directed.
4. Not correct. The para of the appeal is correct and the reply of the para is without proof regarding fair enquiry.
5. Not commented upon by the respondents, so the para of the appeal is correct regarding dismissal from service.

6. Not correct. The para of the appeal is correct. It was the duty of the department to supply order to the servant and not the duty of the servant to make effort to get the same from office as alleged by the respondents. D.P.O Office was legally bound to supply copy of the order to appellant after getting receipt of the same.
7. Not correct. Receipt of TCS are enclosed.

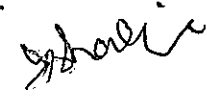
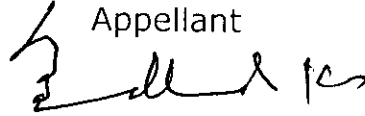
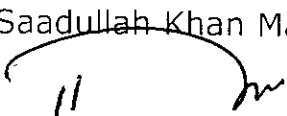
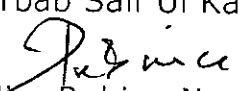
GROUNDS:

All the grounds of the appeal are legal and correct; while that of the reply of respondents are illegal and incorrect. The same are reaffirm once again.

It is, therefore, most humbly requested that the appeal be accepted as prayed for in prayer of appeal.

Through

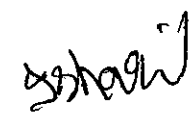
Dated: 19.07.2016


Appellant

Saadullah Khan Marwat

Arbab Saif Ul Kamal

Miss Rubina Naz
Advocates,

AFFIDAVIT

I, Muhammad Ishaq S/o Bashir Ahmed Khan, R/o Ghazni Khel, Appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief and that of the reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.


DEPONENT
19/7/16



DELTEX COURIER SERVICE

DOMESTIC & INTERNATIONAL COURIERS
 LHE:6369251-6369942-5857303 KHI:4534049-4389626 RWP:5531866-5534711
 ISB: 2276365-2872164 FSD: 643517 PEW:217993 UET:822751 MUX: 515534

OVER NIGHT	DTN.	OVER LAND	C.N. NO.	WEIGHT	PIECES
CLIENT REGD. NO.	ORIGIN	DESTINATION	75864	DOC	PARCEL
FROM: (SHIPPER) <i>Muhammad Ishaq LM</i>			TO: (CONSIGNEE) <i>P.P.O LM office</i>		
Courier Code			Date	SIG.	Receiver Name
			19/2/15		
					Date
					Time
			Shipper Signature		

CHARGES

Wt.Charges

G.S.T.

TOTAL

NO VALUE DECLARED

TERMS & CONDITIONS: 1. DCS has right to inspect any shipment including opening the shipment. 2. Liability of DCS for any loss or damage of shipment shall in no way exceed a maximum amount of Rs. 100 per shipment. 3. DCS shall not be liable in any event for any consequential or special damage or other indirect losses however arising, whether or not DCS acknowledge that such damage might to incurred including, but not limited to, loss of income, profit, interest, utility or loss of market. 4. While DCS will endeavor to exercise its best efforts to provide expeditious delivery schedule, however DCS will not, under any circumstances, be liable for delay in pickup, transportation or delivery of any shipment. Further, DCS shall not be liable for any loss, damage, mis/non delivery, because of act of God, force majeure or any act or happening reasonably beyond the control of DCS. 5. DCS has policy of progressive destruction of its records pertaining to shipment of consignment. Any claim regarding a shipment must, therefore, be lodged by the shipper with DCS, in writing, within a maximum period of 10 days from the date of the relevant shipment, otherwise no claim shall be accepted. 6. Proof of delivery will be provided on request within 30 days from the date of shipment, after 30 days DCS will not be responsible for providing the proof of delivery. 7. DCS will not carry Passport, Letters, Post Cards, Cash, Currency, Bearers Cheque, Bearers Travelers Cheque, Gold, Precious Stones/Metals, Drugs or any items the carriage of which is prohibited by any law of any provincials or Federal Government of Pakistan. If the above noted items hand over to DCS by any shipper by giving a false statement, DCS Shall not responsible for the loss/misplace of such items, provided the item insured by the shipper by insurance company.

بھاری، بھاری، بھاری اور ہر روز چیک اور ہر روز پول چیک کی ترسیل قابل قبول نہیں ہے اگر آپ نے قیمتی اشیاء، اسٹورٹس کر دئے بغیر ڈی۔ سی۔ ایس سے مجھائیں تو ان کی ٹوٹ پھوٹ اور چوری وغیرہ کے نقصان کی صورت میں ڈی۔ سی۔ ایس ذمہ دار نہیں ہوگی۔