

28.04.2016

Agent of counsel for the appellant and Mr. Ziaullah, GP for respondents present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for arguments to 23.9.16.



Member



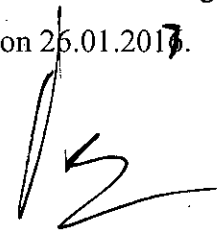
Member

23.09.2016

Clerk to counsel for the appellant and Addl: AG for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 26.01.2017.



Member

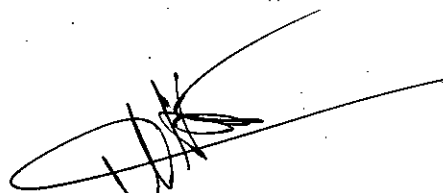


Member

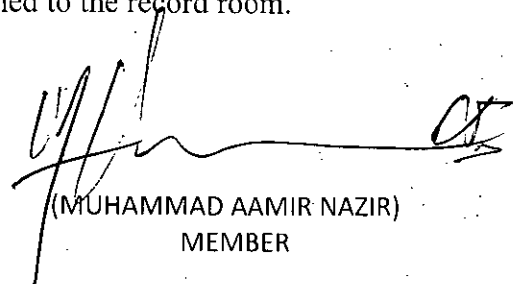
26.01.2017

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Learned counsel for the appellant submitted before the court that the grievances of the appellant has been redressed, hence the instant appeal has become infructuous.

In light of the above statements of the learned counsel for the appellant, the appeal in hand is hereby dismissed without further proceedings. File be consigned to the record room.



(AHMAD HASSAN)  
MEMBER



(MUHAMMAD AAMIR NAZIR)  
MEMBER

Announced:  
26.01.2017

09.4.2015

Counsel for the appellant and Mr. Muhammad Jan, GP present. Fresh notices be issued to the respondents. Case to come up for written reply on 16.6.2015.

  
MEMBER

16.06.2015


Counsel for the appellant and Mr. Azizullah, H.C alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for further time. To come up for written reply/comments on 6.10.2015.

  
Member

06.10.2015

Clerk of counsel for the appellant and Mr. Azizullah, H.C alongwith Mr. Muhammad Jan, GP for respondents present. Written reply not submitted. Requested for further time to submit written reply. Last opportunity granted. To come up for written reply/comments on

23-11-15

  
Member

  
Member

23.11.2015

Counsel for the appellant and Mr. Aziz Shah, HC alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to learned member (Judicial) is on official tour to D.I. Khan. Therefore the case is adjourned to for arguments on



28/4/16

  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 14/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02.01.2015	<p>The appeal of Mr. Shabir Khan resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22.1.2015	<p><del>File received from the Hon'ble Bench-I.</del></p> <p><del>hearing to be taken up there on</del></p> <p>Appellant with counsel present. The learned counsel for the appellant submitted before the court that no period has been specified for the impugned penalty of reduction in rank as under under Rule 29 of Fundamental Rules; and that the appellant is a civil servant while proceedings against him were initiated under Police Rules, 1975, thus the whole proceedings are illegal. Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for submission of written reply/comments on 04.4.2015.</p> <p style="text-align: right;"> MEMBER</p>

Appellant deposited  
 process fee security  
 Rs. 300/- Bank Receipt  
 attached with file.

The appeal of Mr. Shabir Khan Ex-ASI received to-day i.e. on 26.12.2014 is returned to the counsel for the appellant with the direction to submit five copies of the appeal along with annexures i.e. complete in all respect, within 15 days.

No. 1733/S.T,

DT. 29/12/2014.

  
Registrar  
Service Tribunal  
Khyber Pakhtunkhwa  
Peshawar.

Mr. M. Asif Yousafzai Adv. Pesh.

*objections removed & re-submitted*

*Asif*

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

Appeal No. 14 /2015

M. Shabir Khan

V/S


Police Department

**INDEX**

S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of Charge-sheet	- A -	04
3.	Copy of Statement of Allegations	- B -	05
4.	Copy of Order	- C -	6
5.	Copy of Appeal	- D -	7
6.	Copy of Appellate Order	- E -	8
7.	Copy of Application	- F -	9
8.	Vakalat Nama	-----	10

APPELLANT

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

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

Appeal No. 14 /2015

**K.P.S.T. Peshawar**  
Case No. 1468  
Dated 26/12/2014

Mr. Shabir Khan, Ex-ASI,  
Police Line, Peshawar.

**APPELLANT**

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Khyber Pakhtunkhwa, Peshawar.
3. The Senior Superintendent of Police, (Operation), KPK, Peshawar.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 14.10.2014 RECEIVED BY THE APPELLANT ON 15.12.2014, WHEREBY THE PENALTY OF REDUCTION IN RANK HAS BEEN IMPOSED UPON BY THE APPELLATE AUTHORITY BY MODIFYING THE ORIGINAL ORDER OF COMPULSORY RETIREMENT PASSED BY RESPONDENT NO.3 ON 19.8.2014.

**PRAYER:**

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14.10.2014 RECEIVED BY THE APPELLANT ON 15.12.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO THE RANK OF ASI WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

re-submitted to-day  
and filed.

*[Signature]*  
2/1/15

**RESPECTFULLY SHEWETH:**

1. That the appellant joined the Police Force in the year 1989. The appellant has more than 25 years service at his credit with good service record, throughout. The appellant was promoted to the rank of ASI due to his good service record.
2. That the appellant was charge sheeted under P.R. 1975 for incomplete record in P.S. Gul Bahar, while he was performing duty as Moharrir P.S. Gul Bahadar. Copies of charge sheet and Statement of Allegations are attached as Annexure-A and B.
3. That then one sided inquiry was conducted at the back of appellant and the Inquiry Officer, while shifting all the responsibilities of the then S.H.O. to appellant, recommended the appellant for major punishment.
4. That on the basis of so-called inquiry, the penalty of compulsory retirement was imposed on appellant under P.R. 1975 vide order dated 19.08.2014. Copy of the Order is attached as Annexure-C.
5. That the appellant filed an appeal against the above mentioned order before the CCPO, who was kind enough while accepting appeal of appellant, reinstated the appellant by converting the penalty into reduction in rank. The said appellate order was communicated to appellant on his application on 15.12.2014. Copies of Appeal, Appellate Order and Application are attached as Annexure-D, E and F respectively.
6. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

**GROUND:**

- A) That the impugned appellate order is against law, facts, rules, norms of justice, material on record, therefore, not tenable and liable to be set aside.
- B) That the penalty of reduction in rank to H.C is against the law and spirits of F.R. 29 because no

period has been specified for reduction which was mandatory under the law.

- C) That the appellant is the civil servant of the province, but despite that the appellant was preceded against und P.R. 1975 and not under the prevailing law of E&D Rules 2011. Thus, the whole action is against the law and the resultant order is liable to be set aside.
- D) That the incomplete record was due to the then S.H.O. PS Gul Bahar but his inefficiency was thrown on the shoulders of appellant. Thus, the appellant has been penalized for the fault of others.
- E) That even the inquiry was conducted at the back of appellant because neither any statement was recorded in the presence of appellant nor he was allowed to cross examine the same. Thus, the findings of the inquiry officer as well as recommendations were against the sprits of fair justice and fairy play.
- F) That the appellant was A.S.I. at the time of proceedings and for him the competent authority was CCPO but the action against the appellant was taken by S.P. Thus, the basic penalty order was without lawful authority.
- G) That the appellant was not treated according to law and rules.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT  
Shabir Khan

THROUGH:

*M. Asif Yousafzai*  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

9. *Taimur Ali Khan*  
TAIMUR ALI KHAN  
Advocate



A (2)

CHARGE SHEET

1. Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you MASI Shabir PS Gulbahar Peshawar.

2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I Najeeb ur Rehman, Senior Superintendent of Police, Operations, Peshawar hereby charge you MASI Shabir PS Gulbahar, Peshawar under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations that:-

A report received by SP City vide his office Dy No.5746/PA, dated 15.07.2014 that on 24.06.2014 SP City conducted a surprise visit of PS Gulbahar where, the record of police Station Gulbahar was found incomplete. You MASI Shabir badly failed to prove the reason of incomplete record. Moreover, you did not take keen interest in your official duty and also a lethargic police official. Therefore you have been recommended for proper departmental proceedings under the Rule 1975.

4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.

5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

*Najeeb*  
SR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

**ATTESTED**

B (5)

DISCIPLINARY ACTION

I Najeeb-ur-Rehman, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that MASI Shabir PS Gulbahar, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

STATEMENT OF ALLEGATIONS

A report received by SP City vide his office Dy No.5746/PA, dated 15.07.2014 that on 24.06.2014 SP City conducted a surprise visit of PS Gulbahar where, the record of police Station Gulbahar was found incomplete. MASI Shabir badly failed to prove the reason of incomplete record. Moreover, he did not take keen interest in his official duty and also a lethargic police official. Therefore he has been recommended for proper departmental proceedings under the Rule 1975.

4. By doing so he has committed gross misconduct.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations Mr. Najeeb-ur-Rehman SPsec is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

*Najeeb*

SR: SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.

No. 267 E/PA, dated Peshawar the 22/07 /2014.

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975

**ATTESTED**

*[Signature]*

C 6

ORDER.

MASI Shabir Khan of PS Gulbahar was Charge Sheeted vide this office No. 267/E/PA, dated 22.07.2014 while appointing SP Security as Enquiry Officer. The Enquiry officer sent his finding on 25.07.2014 and recommended him for severe punishment. No plausible ground was forwarded by the delinquent official in response to numerous complaints of his incomplete record besides his constant illrepute reputation and did not take keen interest in his official duty and also a lethargic police official. He was issued Final Show Cause Notice to which his reply was received but found not satisfactory, therefore I being the competent authority: award him the major punishment of Compulsory Retirement with immediate effect under Police Rules 1975.

*Najeeb*  
SR: SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.

O.B.NO. 25091

Dated 19-8/2014.

No. 597-602/PA, dated Peshawar, the 19/08/2014.

Copy for information to:

1. The Capital City Police Officer, Peshawar.
2. SP City and DSP Gulbahar.
3. EC-II, CC, Pay Officer & I/C Computer Cell
4. FMC with enquiry file.
5. SHO Concerned.

**ATTESTED**  
*A*

## بخدمت جناب چیف کیپٹل سٹی پولیس آفیسر پشاور

اپیل برخلاف حکم محررہ 19/8/2014 جناب ایس ایس پی صاحب پشاور جسکی رو سے من  
سائل ایپلانٹ کو جبری طور پر ریٹائر کیا گیا بمنظوری اپیل ہذا حکم محررہ 19/8/2014 کو  
خارج فر کر من ایپلانٹ کو باعزت طور پر سابقہ پلینٹ بحال کرنے کا حکم صادر فرمائیں۔

جناب عالی: سائل حسب ذیل عرض رساں ہے۔

- 1- یہ کہ سائل تھانہ گلہار میں بحیثیت محرر تھانہ تعینات تھا مورخہ 24/06/2014 کو جناب ایس پی سٹی صاحب پشاور نے سپرائز تھانہ ہذا کے ریکارڈ کا معائنہ کیا جس میں جناب والا نے میرے خلاف شکایت درج کی کہ من ایپلانٹ کے FIR نمبر 272، 275 سال 2014 جرم 9ACNSA/9CNSA کی تکمیل نہیں کروائی ہے۔
- 2- یہ کہ من ایپلانٹ نے ایف آئی آر کے بیک سائڈ کی تکمیل بدیں وجہ نہیں کروائیں کہ مدعیان مقدمہ بچی جان SI اور رفیق خان ASI من سائل کو ہر دو مقدمات کے مال مقدمہ (جرس پختہ 2 کلو 95 گرام) حوالہ نہیں کی تھی۔
- 3- یہ کہ جب سے من ایپلانٹ کو تھانہ گلہار میں بحیثیت محرر پوسٹنگ ہوئی تھی تو من ایپلانٹ نے جملہ ریکارڈ رجسٹرار کے تکمیل بروقت کروائی ہے۔
- 4- یہ کہ من سائل نے ملازمت کے دوران اپنے ڈیوٹی نہایت دیانتداری کیساتھ سرانجام دی ہے اور کبھی بھی پولیس افسران بالا کو شکایت کا موقع نہیں دیا ہے اور اپنی اچھی کارکردگی کی بناء پر کلشیل سے ASI تک کا ترقیاب ہوا۔
- 5- یہ کہ من سائل بال بچے دار اور غریب خاندان سے تعلق رکھتا ہے اور سوائے اس ملازمت کے سائل کی آمدنی کا کوئی اور ذریعہ نہیں ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست ہذا اپیل ہذا سائل کو ملازمت پر دوبارہ بحال کیا جائے۔

المرقوم: 21-08-2014

ATTESTED

شہیناز خان ASI

ORDER

E (8)

Departmental appeal filed by ex-ASI Shabir Moharrar PS Gulbahar against the major penalty of Compulsory Retirement awarded by SSP (Ops) Peshawar vide OB No.2509 dated 19.8.14.

The inquiry file/record was thoroughly examined and appellant was also heard in person. It indicated and reflected that the penalty awarded by SSP(Ops) Peshawar is not commensurating the alleged act of the appellant, thus is very harsh, therefore, the circumstances requires and warrants interference of the appellate authority /undersigned, the appeal of ex-ASI Shabir is accepted to the extent that penalty of Compulsory Retirement is reduced and converted into Reduction in rank of Head Constable. He is re-instated in service with all other benefits under rules.

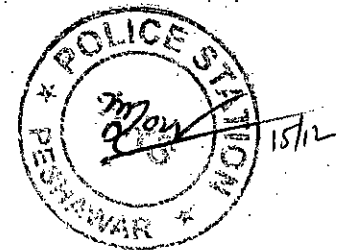
D. B No: 3113  
Date: 13-10-14

CAPITAL CITY POLICE OFFICER,  
PESHAWAR.

No. 1983-89/PA dated Peshawar the 14.10. 2014

Copies for inf and n/a to the:-

- 1/ SSP(Ops) Peshawar.
- 2/ PO//EC-I/AS
- 3/ EC.II ... for making necessary entry.
- 4/ FMC encl: (16 )
- 5/ Official concerned.



**ATTESTED**

9

گڈت / PA / اسپیڈ ٹو اسٹیٹ لٹریچر

دفعہ 174 عجل 1983-87

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Sib Forwarded

Jull  
P.P.K.G  
12-12-14

PA/CP/K...  
for further info  
as per rules.

Sib Forwarded



KRS

DSL/legal

15/14  
Superintendent of Police  
HQs: CCPD Peshawar

10

# VAKALAT NAMA

NO. \_\_\_\_\_ /20

IN THE COURT OF Service Tribunal Peshawar

Shabbir Khan (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt. (Respondent)  
(Defendant)

I/We Shabbir Khan (Appellant)  
*Talwar Ali Khan*

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

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

Dated 2-1 /2015

*Shabbir Khan*  
( CLIENT )

ACCEPTED

*M. Asif Yousafzai*  
**M. ASIF YOUSAFZAI**  
Advocate

*Talwar Ali Khan*  
**Talwar Ali Khan**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**  
Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240

*Gover Sajjad Khan*  
**GOVER SAJJAD KHAN**  
Adv

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

**Service Appeal No.14/2015.**

Shabir Khan Ex-ASI CCP Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operations, Peshawar.....Respondents.

**Reply on behalf of Respondents No. 1, 2,& 3.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'ble tribunal has no jurisdiction to entertain the appeal.

**FACTS:-**

- 1- Para No. 1 pertains to record, hence needs no comments.
- 2- Para No. 2 is correct to the extent that the appellant was proceeded departmentally on allegations that the he while posted at PS Gulbahar as Moharir, numerous complaints were received regarding his incomplete record and ill repute reputation. He was issued a charge sheet and summary of allegations, and proper enquiry was conducted against him. The enquiry officer after completing the enquiry recommended him for severe punishment because he was found to be lethargic police officer. Furthermore, he was found negligent in keeping the record complete. Hence he was awarded major punishment of compulsory retirement from service. The appellant then



filed a departmental appeal which was accepted to the extent that penalty of compulsory retirement was reduced and converted into reduction in rank of Head Constable of appellant. (order is annexed)

- 3- Para No. 3 is incorrect. A proper enquiry was conducted against him. The appellant was given full opportunity to defend himself but he failed to defend himself.
- 4- Para No. 4 is correct to the extent that the appellant was awarded major punishment of compulsory retirement from service but later on appellant filed a departmental appeal which was accepted to the extent that penalty of compulsory retirement was reduced and converted into reduction in the rank of Head Constable.
- 5- Para No. 5 is correct. Hence needs no comments.
- 6- That appeal of appellant being devoid of merits may kindly be dismissed on the following grounds.

**GROUND:-**

- A- Incorrect. The punishment order is in accordance with law/rules.
- B- Incorrect. The punishment order is per the law, because the appellant is a lethargic police officer.
- C- Incorrect. The appellant being a member of a disciplined force was rightly proceeded under Police Disciplinary Rules 1975.
- D- Incorrect. The appellant was posted as Moharir in PS Gulbahar. He was found negligent in performing his duties.
- E- Incorrect. A proper enquiry was conducted against appellant. He was given full opportunity to defend himself but he failed to satisfy the enquiry officer regarding the charges leveled against him.
- F- Incorrect. The appellant was proceeded departmentally by the competent authority as per law and rules.
- G- Incorrect. The appellant was treated as per law and rules.
- H- Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

**PRAYER.**

It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed.



**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**



**Capital City Police Officer  
Peshawar.**



**Senior Superintendent of Police  
Operations, Peshawar.**

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

**Service Appeal No.14/2015.**

Shabir Khan Ex-ASI CCP Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Senior Superintendent of Police Operations, Peshawar.....Respondents.

**AFFIDAVIT.**

We respondents 1, 2 &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
**Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.**

  
**Capital City Police Officer  
Peshawar.**

  
**Senior Superintendent of Police  
Operations, Peshawar.**

ORDER

E (8)

Departmental appeal filed by ex-ASI Shabir Moharrar PS Gulbahar against the major penalty of Compulsory Retirement awarded by SSP (Ops) Peshawar vide OB No.2509 dated 19.8.14.

The inquiry file/record was thoroughly examined and appellant was also heard in person. It indicated and reflected that the penalty awarded by SSP(Ops) Peshawar is not commensurating the alleged act of the appellant, thus is very harsh, therefore, the circumstances requires and warrants interference of the appellate authority /undersigned, the appeal of ex-ASI Shabir is accepted to the extent that penalty of Compulsory Retirement is reduced and converted into Reduction in rank of Head Constable. He is re-instated in service with all other benefits under rules.

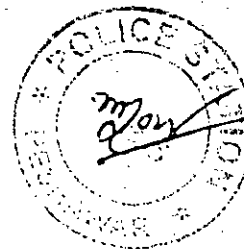
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CAPITAL CITY POLICE OFFICER,  
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No. 1983-89 /PA dated Peshawar the 14.10. 2014

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- 2/ BO//EC-I/AS
- 3/ EC.II ... for making necessary entry.
- 4/ FMC encl: (16 )
- 5/ Official concerned.



**ATTESTED**