

04.09.2019

Appellant present. Learned counsel for the appellant present.  
Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal against the order dated 03.05.2018 whereby he was awarded major penalty of dismissal from service and against the order dated 27.02.2019 through which his departmental appeal was filed.

Upon query by this Tribunal that the departmental appeal of the appellant dated 01.12.2018 against the punishment order 03.05.2018 was time barred as such the present service appeal is incompetent. Learned counsel for the appellant responded that the appellant was awaiting the decision of the criminal case vide FIR No.108 dated 08.02.2018 Police Station Timergarah u/s 4 PHO registered against him and upon earning his acquittal in the said criminal case, the appellant filed departmental appeal and as such the departmental appeal is not time barred. In this respect learned counsel for the appellant referred to judgment reported in PLD 2010 Supreme Court 695.

Perusal of punishment order dated 03.05.2018 would show that disciplinary action was initiated against the appellant due to his involvement in case FIR No.108 dated 08.02.2018 Police Station Timergarah u/s 9 CNSA/4 PHO on the allegation that eighteen (18) grams contraband heroin was recovered from his possession. The authority while agreeing with the finding report of the inquiry officers that the appellant was running business of heroin/18 grams heroin was recovered from his possession, dismissed him from service vide order dated 03.05.2018.

Since the punishment was awarded to the appellant upon departmental action/inquiry hence the appellant was supposed to file departmental appeal within 30 days of the issuance of punishment order dated 03.05.2018 however the appellant delayed the filing of departmental appeal and submit the same on 01.12.2018. As a sequel to above the present service appeal of the appellant is not found competent consequently the same is dismissed in limine. No order as to costs. File be consigned to the record room.



(Muhammad Hamid Mughal)  
Member  
Camp Court, Swat.

ANNOUNCED.  
04.09.2019

05.04.2019

Learned counsel for the appellant present. Heard.

The appellant was dismissed from service on the basis of departmental inquiry vide order dated 03.05.2018. Admittedly the appellant was on bail in a criminal case but he did not bother to file departmental within the prescribed period of limitation rather he filed departmental appeal on 01.12.2018. Learned counsel for the appellant seeks adjournment for preliminary arguments including the arguments on the issue of limitation and competency of the present service appeal. Adjourned to 10.06.2019 before S.B at Camp Court Swat.



Member  
Camp Court, Swat.

10.06.2019

Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not available. Adjourned to 03.07.2019 before S.B at Camp Court, Swat.



Member  
Camp Court, Swat.

03.07.2019

Learned counsel for the appellant present. Heard.

Adjournment requested. Adjourn. To come up on 04.09.2019 before S.B at Camp Court, Swat for preliminary arguments.

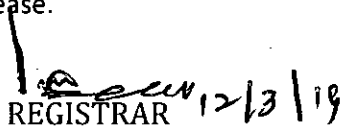
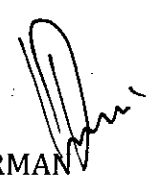


Member  
Camp Court, Swat.

Form- A  
FORM OF ORDER SHEET

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

Case No. 362/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/03/2019	<p>The appeal of Mr. Atta Ullah presented today by Mr. Aziz-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 12/3/19</p>
2-	13-3-2019	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>05-04-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 362 of 2019

Attaullah Ex-Constable No. 50 S/o Said Muhammad R/o Bagh Dushkhail Ojala,  
Tehsil, Timergara, District Dir Lower.

...Appellant

VERSUS

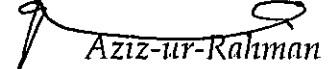
The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

INDEX

S #	Description of documents	Annexure	Pages
1.	Memo of Appeal	....	1-4
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4.	Copy of the FIR No. 108	A	7
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Appellant Through

  
Aziz-ur-Rahman  
Advocate Swat

Office: Khan Plaza, Gulshone Chowk,  
Mingora Swat, Cell 0333 929 7746

①

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

Service Appeal No. 362 of 2019

Attaullah Ex-Constable No. 50 S/o Said Muhammad R/o  
Bagh Dushkhail Otala, Tehsil, Timergara, District Dir  
Lower.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 329

Dated 12/3/2019

...Appellant

**VERSUS**

1. The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar.
2. The Regional Police Officer Malakand Region at  
Saidu Sharif, District Swat.
3. The District Police Officer District Dir Lower.

...Respondents

SERVICE APPEAL UNDER SECTION 4  
OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974  
AGAINST THE ORDER O.B.NO. 555/EB  
DATED 03-05-2018 WHEREBY THE  
MAJOR PENALTY OF DISMISSAL  
FROM SERVICE IS IMPOSED UPON  
THE APPELLANT AGAINST THE LAW,  
RULES AND SHARIAH, HENCE IS  
LIABLE TO BE SET ASIDE, FEELING  
AGGRIEVED OF THE SAME THE  
APPELLANT PREFERRED A  
DEPARTMENTAL APPEAL, BUT THE  
SAME WAS ALSO FILED VIDE NO.  
2627/E DATED 27-02-2019 IN A VERY  
SUMMARY MANNER AGAINST THE  
LAW, RULES AND SHARIAH AND IS  
ALSO LIABLE TO BE SET ASIDE.

Filed to-day

Registrar

12/3/19

PRAYER:

*That on acceptance of this service appeal both the orders impugned may very kindly be set aside and the appellant reinstated back into service with all back/consequential benefits.*

---

*Respectfully Sheweth:*

Facts:

- i. That the appellant was appointed as constable in the police force and was regularly performing his duties most efficiently and zealously.*
- ii. That the appellant while posted at Police Station Timergara was falsely involved in a criminal case vide FIR No. 108 dated 08-02-2018 Police Station Timergara under section 4PHO. Copy of the FIR No. 108 is enclosed as Annexure "A".*
- iii. That the on the basis of the criminal case the departmental proceedings were initiated against the appellant and major penalty of dismissal from service was imposed upon the appellant vide order O.B. No. 555/EB dated 03-05-2018 against the law, rules and Shariah. Copy of the order dated 03-05-2018 is enclosed as Annexure "B".*
- iv. That the appellant waited for the criminal case to conclude and when he was acquitted vide judgment dated 29-11-2018 the appellant preferred a departmental appeal against the*

impugned order of dismissal on 01-12-2018. Copy of the judgment dated 29-11-2018 is enclosed as Annexure "C" and that of the departmental appeal is enclosed as Annexure "D", respectively.

- v. That the appeal of the appellant was dealt with in a very summary manner and the same was field without any reasons vide order No. 2627/E dated 27-02-2019, which is liable to be set aside. Copy of the order dated 27-02-2019 is enclosed as Annexure "E".
- vi. That still feeling aggrieved and having no other option this honourable tribunal is approached on the following grounds.

Grounds:

- a. To be dealt with in accordance with the law is the fundamental right of every citizen, but in case of the appellant the same has utterly been denied to him as he has neither been afforded the opportunity to be hear in person nor has he been the afforded the opportunity to cross examine the witnesses, if any at all.
- b. That neither has the due course of law been adopted nor the codal formalities, mandatory under the law, have been observed.

- c. That this is a classic case of arbitrary, fanciful, mechanical and colourful use of the authority to the utter detriment of the appellant.
- d. That when the whole proceedings were based on the criminal case then the respondents should have waited for the outcome of the criminal case, but the same has not been done.
- e. That the appellant has been condemned as unheard.
- f. That the appellant is jobless and is not employed gainfully anywhere.
- g. That the appellant has not committed any act of commission or omission which may constitute any offence under any law.

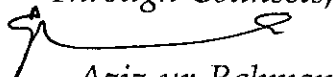
It is, therefore, very respectfully prayed that on acceptance of this service appeal both the orders impugned may very kindly be set aside and the appellant reinstated back into service with all the back / consequential benefits.

Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly be granted.

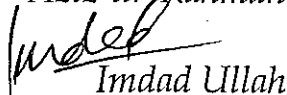
Appellant

~~Attaullah~~  
Attaullah

Through Counsels,



Aziz-ur-Rahman

  
Imdad Ullah

Advocates Swat



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

Service Appeal No. \_\_\_\_\_ of 2019

Attaullah Ex-Constable No. 50 S/o Said Muhammad R/o  
Bagh Dushkhail Otala, Tehsil, Timergara, District Dir  
Lower.

...Appellant

**VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar and Others.

...Respondents

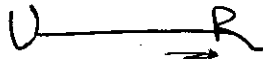
**AFFIDAVIT**

It is solemnly stated on Oath that all the contents of  
this service appeal are true and correct to the best of my  
knowledge and belief and nothing has either been  
misstated or kept concealed before this honourable  
Tribunal.

Deponent

  
Attaullah

**ATTESTED**



UMAR SADIQ Advocate,  
OATH COMMISSIONER  
Distt: Courts Swat.

No. 401 Date 11-3-2019

(6)

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

Service Appeal No. \_\_\_\_\_ of 2019

Attaullah Ex-Constable No. 50 S/o Said Muhammad R/o  
Bagh Dushkhail Otala, Tehsil, Timergara, District Dir  
Lower:

...Appellant

**VERSUS**

The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar and Others.

...Respondents


**ADDRESSES OF THE PARTIES**

Appellant:

Attaullah Ex-Constable No. 50 S/o Said Muhammad R/o  
Bagh Dushkhail Otala, Tehsil, Timergara, District Dir  
Lower.

Respondents:

1. The Provincial Police Officer Khyber Pakhtunkhwa,  
Peshawar..
2. The Regional Police Officer Malakand Region at  
Saidu Sharif, District Swat.
3. The District Police Officer District Dir Lower.

Appellant  
Through Counsel,  
  
Imdad Ullah  
Advocate Swat

153027-560654-7  
20.06.2011  
گورنمنٹ پبلس پتھار باب نمبر 13/2286/2006  
فارم نمبر ۲۲-۵

# ابتدائی اطلاعی رپورٹ

(7)

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

پولیس ڈپارٹمنٹ  
پتھار باب نمبر 13/2286/2006

تاریخ و وقت رپورٹ	۱۵/۶	محل وقوع	۱۵ گرام
نام و سکونت اطلاع دہندہ مستفیض	وقت ۱۵:۱۵ بجے	پاکیدگی سرچ	۱۵ گرام
مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔		شہر خیاب خان ای	
جائے وقوعہ فاصلہ تھانہ سے اور سمت		۹۵۷NSA ۹۹۱۱۵	
نام و سکونت ملزم		بازار فیروزہ نزد گورنمنٹ پبلس پتھار باب نمبر 13/2286/2006	
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع ورنہ کرنے میں توقف ہوا ہو تو وجہ بیان کرو		بازار فیروزہ نزد گورنمنٹ پبلس پتھار باب نمبر 13/2286/2006	
تھانہ سے روانگی کی تاریخ و وقت		بازار فیروزہ نزد گورنمنٹ پبلس پتھار باب نمبر 13/2286/2006	

## ابتدائی اطلاع نیچے درج کی گئی ہے

Civil Judge / Judicial Magistrate  
Dir. Lower & Emergency

بوقت صدر بمقام سرسولہ بمقام  
 شہر خیاب خان ای بدست کنسٹیبل ظفر علی ۶۵۹ حصول ہو کر ذیل ہے: کنوینٹ اسٹیٹ  
 تھانہ فیروزہ، احمدیوں جملہ لڑکی پولیس خستین خان ۶۹۔ نظر ۶۵۹۔ الجبیر شان ۱۳۹۹ بہانہ پتھار باب  
 گورنمنٹ بازار فیروزہ میں موجود تھا کہ ایک مخبر کے ذریعے اطلاع ملی کہ ایک جوان الہیہ پتھار باب  
 کھڑے ہیں پتھار باب خردخت کر رہے ہیں اطلاع کو مددہ جان کر میں جملہ لڑکی پولیس پتھار باب  
 والا لہواری تک آئے۔ گاڑی ۹۰۳۹۳۹۔ اگر واقعہ میں جوان الہیہ پتھار باب مشکوک حالت  
 میں آ کر جھکنا لو کر کے صاف کر کے حاضر تھانہ لائی جانے لگا تھا پتھار باب  
 تھانہ میں قیام کے دوران طرف لفظی سب سے ایک سفید لائننگ فیل سیرا ما کر کے  
 بس سے پتھار باب 22 پتھار باب سیرا ما کر کے کنسٹیبل تھار باب سے وزن کر کے پتھار باب ۱۷۹ گرام نکلی جبکہ  
 بس کے ساتھ جیب سے رقم ریز گاڑی ۱۱۵۵ روپے کے کل (۱۷) نوٹ 50 روپے کے (۱۷) نوٹ 20 روپے  
 کے (3) نوٹ 10 روپے کے (۱۷) نوٹ لیٹر نقل مبلغ 4630 روپے سیرا ما کر کے پتھار باب میں سے  
 (1) گرام پتھار باب ہوائی پتھار باب ہند۔ پارسل نمبر اجیہا پتھار باب ہند۔ پتھار باب 20 پتھار باب  
 ہند۔ پارسل نمبر ۱۷۹ جیل رقم ریز گاڑی ۱۱۵۵ روپے کے ہند۔ پارسل نمبر 3 سیرا ما کر کے پتھار باب  
 پتھار باب ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179 ایک نمونہ سیرا ما کر کے پتھار باب کے اور پتھار باب  
 پتھار باب ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179  
 پتھار باب ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179 ہند۔ پارسل نمبر 179



Annex B ⑧  
OFFICE OF THE  
**DISTRICT POLICE OFFICER**  
DIR LOWER

ORDER

This order will dispose of the departmental enquiry conducted against Constable Attaullah No.50, that while he was posted at Police Station Timergara having been involved vide in case FIR NO.108, dated 08-02-2018, u/s 4PHO PS Station Timergara, which is gross misconduct on his part. Therefore he was issued Show Cause Notice, Charge Sheet and Statement of Allegation and Mr. Fakhri Alam DSP HQrs Dir Lower was appointed as enquiry officer, to conduct proper departmental enquiry against him and submit his finding report.

The Enquiry Officer, during the course of enquiry recorded the statements of all concerned. The Enquiry Officer in his finding stated that he is running the business of Heroin, which is an illegal and dirty habit and affects the whole Police Force, therefore, recommended him for Major Punishment of Dismissal from service.

On the receipt of enquiry papers along with finding report, the undersigned marked the said enquiry to Mr. Muhammad Shah Khan Acting SDPO Adenzai for denovo enquiry, after conducting denovo enquiry the enquiry officer in his finding stated that 18 gm Heroin was recovered from above named defaulter official and he also recommended him for Major Punishment.

Therefore I, Nausher Khan District Police Officer, Dir Lower in exercise of power vested to me under (E & D) Rules 1975 with amendment 2014, "agreed with the finding report of enquiry officers, As the above named defaulter constable has earned a bad name for Police department, which would affect his colleagues too. He is directly involved in criminal activity and 18 gm (22 Packs) Heroin was recovered from his possession. Therefore, Constable Attaullah No.50 is hereby Dismissed from service with immediate effect.

ORDER ANNOUNCED

OB No. 555 /EB

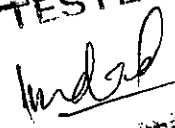
Dated 3/05/2018

No. 15095-97 /EB,

  
District Police Officer,  
Dir Lower

Copies for information and necessary action to the:-

- 1- District Account Officer, Dir Lower.
- 2- Pay Officer Local Office.
- 3- OHC Dir Lower.

**ATTESTED**  
  
**ADVOCATE**

Annex C

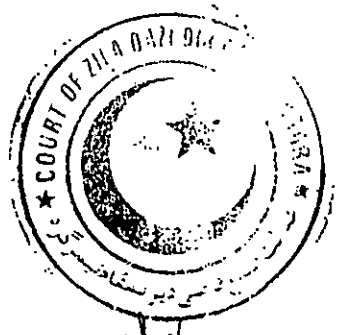
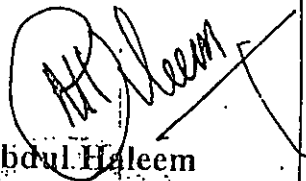

(A)

(9)

**FORM "A"**  
**FORM OF ORDER SHEET**

In the Court of Abdul Haleem, JM/IQ-1 Timergara, Dir Lower.

State Vs Attaullah

Serial No. of Order of Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of Parties or Counsel where necessary.
1	2	3
Order No. 21	29-11-2018	<p>APP present for state. Accused present on bail.</p> <p>Final arguments have already been heard. Case file perused.</p> <p>Vide detailed judgment of today separately placed on file, consisting of 07 pages, prosecution has badly failed to prove its case against accused beyond shadows of reasonable doubts. Case property i.e. Rs.4630/- be returned to accused, after lapse of period of appeal, however the alleged heroine be dealt with in accordance with law.</p> <p>File be consigned to record room after necessary completion and compilation.</p> <p><u>ANNOUNCED</u> 29-11-2018</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>CHECKED COPYIST ATTESTED DATE</p> </div> <div style="text-align: center;">  <p>Abdul Haleem Judicial Magistrate/I.Q-I Timergara Dir Lower</p>  <p>ATTESTED Indad ADVOCATE</p> </div> </div>

1

(S)

(10)

**IN THE COURT OF ABDUL HALEEM, JUDICIAL  
MAGISTRATE/ ILAQA QAZI-I TIMERGARA DIR  
LOWER**

Case file No: 2/2 CNSA of 2018

Date of institution: 23-02-2018

Date of decision: 29-11-2018

State, through Sher Hayat Khan SI PS Timergara Dir Lower.  
..... (Complainant)

Vs

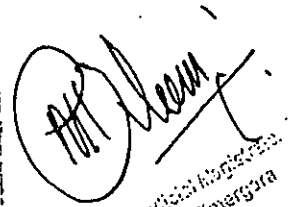
Attaullah S/o Said Muhammad R/o Bagh Dushkhail Otaia Tehsil  
Timergara Dir Lower. .... (Accused)

**Case FIR No. 108, Dated: 08.02.2018 u/s 9ACNSA, Police  
Station Timergara.**

**JUDGMENT:**

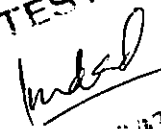
**29-11-2018**

Brief facts alleged in the FIR are that on dated 08-02-2018 at 14:55 hours on spy information local police who were on patrolling at Timergara Bazar, rushed to Gorgorai Chowk Timergara and found the accused named above in suspicious condition. Accused was apprehended and during search police recovered black shopper from right side pocket of accused shalwar which contained 22 sachets of heroin. The same was weighted through digital scale and came to 18 grams. Police also recovered Rs.4630/- a sale purchase money which included 35x100, 17x50, 3x20, 22x10 denominations of currency notes. IO sent 2 sachets i.e. 1 gram heroin for FSL examination in parcel No.1 while rest of

  
Civil Judge/Judicial Magistrate  
Dir Lower Timergara



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DATE

ATTESTED  
  
ADVOCATE

17 grams i.e. 20 sachets were sealed in parcel No.2 and sealed sale purchase money Rs.4630/- in parcel No.3. Sealed the parcels with seal (TM). The same were taken on recovery memo and murasila was scribed which was sent to police station through constable Zafar Ali No.709 for registration of FIR. Hence, the instant case FIR No.108 dated 08-02-2018 u/s 9ACNSA of PS Timergara was registered against the accused and investigation commenced.

After completion of investigation, complete challan was put in court on 23-02-2018. Proceedings u/s 241-A CrPC complied with and formal charge was framed on 19-03-2018 to which the accused claimed trial. Prosecution was directed to produce its evidence.

Prosecution produced 6 witnesses out of 8 witnesses and abandoned two witnesses i.e. Rahim Gul Khan SHO and Constable Hussain Ahmad No.79 of PS Timergara. Briefs of prosecution evidence is as under:

Saeed Gul Khan MASI, PS Timergara deposed as PW-1. He stated on oath that on dated 08-02-2018 he received murasila through Constable Zafar Ali No.709 and registered FIR against the accused which is ExPW-1/1. FIR correctly bears his signature.

Sher Hayat Khan SI PS Timergara deposed as PW-2. He reiterated contents of murasila in his statement and got exhibited murasila as ExPW-2/1 which correctly bears his signature. He also prepared arrest card of the accused which is ExPW-2/2.



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COPIST

APPEARED

DATE

ATTESTED  
*[Signature]*  
 ADVOCATE

12

Ajmeer Shah No.2132 PS Timergara deposed as PW-3. He stated on oath that he was on duty with Sher Hayat Khan SI. On getting spy information they rushed to Gorgory Chowk. SI Sher Hayat Khan apprehended the accused and on search black shopper recovered from right side pocket of accused shalwar containing 22 sachets of heroin on weighing the same with digital scale it came to 18 grams. The SI also recovered sale purchase money of Rs.4360/- from the accused vide recovery memo ExpPW-3/1 which correctly bears his signature. The recovered amount sealed in parcel No.3 is ExPA and 17 grams heroin sealed in parcel No.2 is ExPB.

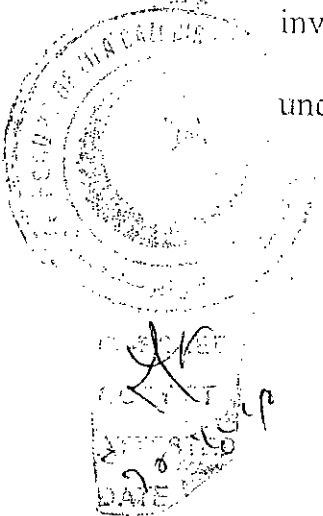
*(Signature)*

Mazhar No.40 PS Timergara presently at PS Talash deposed as PW-4. He stated on oath that he took 1 gram heroin to Peshawar for FSL examination on dated 09-02-2018. In this regard receipt No.106/21 is ExpPW-4/1.

Civil Judge, District Peshawar Lower Timergara

Muhammad Tahir Khan SI/Investigation PS Timergara deposed as PW-5. He stated on oath that he conducted investigation in the instant case. Briefs of his investigation are as under:

1. Prepared site plan ExpPW-5/1.
2. Recorded statements of witnesses.
3. Submitted application for custody of the accused which is ExpPW-5/2.
4. Submitted application ExpPW-5/3 to the Director FSL Peshawar.



**ATTESTED**  
*(Signature)*  
**ADVOCATE**



5. FSL report received which is ExpPW-5/4.
6. He testifies as correct signature of Rahim Gul SHO on complete Challan ExpPW-5/5.
7. He issued parwana ExpPW-5/6 for replacing section 4PHO to 9ANSA as per opinion of the learned DPP.

After completion of investigation handed over case file to SHO PS Timergara.

Constable Zafar Ali No.709 PS Timergara deposed as PW-6. He stated that after scribing of Murasila he took it to PS Timergara for incorporating it into FIR. He further added that SI Sher Hayat Khan recovered 22 Sachets of heroin and its income Rs.4630/- in his presence along with other witnesses. Site plan also prepared by the IO in his presence.

After closing the prosecution evidence, statements of accused u/s 342 CrPC recorded on 12-11-2018 wherein he denied the charges leveled against him in the prosecution evidence. He neither wished to produce defense evidence nor opted to record statement on oath.

Arguments heard record perused.

Perusal of record shows that the accused facing trials has been charged for the commission of offence u/s 9 ACNSA, for easy reference Sections of Law can be reproduced as under:

**Section 9 Punishment for contravention of Sections 6, 7 and 8.-**

*"Whoever contravenes the provisions of Sections 6, 7 & 8 shall be punishable with--*



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*Indal*  
ADVOCATE

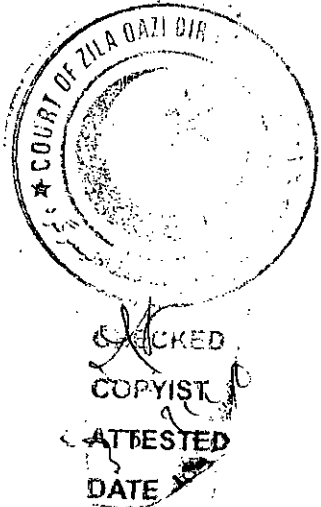
(a) imprisonment which may extend to two years, or with fine, or with both, if the quantity of the narcotic drug, psychotropic substance or controlled substance is one hundred grams or less"

After hearing the arguments and perusal of record it is clear that charge against the accused is framed u/s 9 ACNSA, evidence on record shall be weighed against the section of law as follows:

Allegations against the accused are that complainant recovered 22 sachets of heroin from his right side pocket. Complainant recorded his statement as PW-2. Complainant scribed murasila wherein he states about presence of three constables i.e. Hussain Khan, Zafar and Ajmir Shah. They accompanied complaint during the whole process. However, PW-2 has completely negated the presence of above mentioned constables in his cross-examination on page-2 as follows:

"کنشیبلان عرفان الدین اور جان محمد ساتھ تھے" Civil Judge/Judicial Magistrate  
Lower Timergaru

It is also interesting to note here that names of constable Irfanuddin and Jan Muhammad figure no where on record. This create serious doubts in prosecution evidence as the other witness i.e. PW-3 Ajmeer Shah and PW-6 Zafar Ali presence at the spot is denied by complainant in his cross examination. Complainant describes number of sachets 22 and weight 18 grams. This is also full of doubts because complainant states in his cross examination on page-2 and 3 that:



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File be consigned to record room after necessary completion and compilation.

ANNOUNCED  
29-11-2018

*Abdul Haleem*

**Abdul Haleem**  
Judicial Magistrate/I.Q-I  
Timergara Dir Lower

Civil Judge/Judicial Magistrate  
Dir Lower Timergara

CERTIFICATE

Certified that this Judgment consists of 07 pages including this page, each page has been checked, read over, corrected and signed by undersigned.

ANNOUNCED  
29-11-2018

*Abdul Haleem*

**Abdul Haleem**  
Judicial Magistrate/I.Q-I  
Timergara Dir Lower

Civil Judge/Judicial Magistrate  
Dir Lower Timergara

**ATTESTED**  
*Indef*  
**ADVOCATE**



*Indef*  
CLERK  
DATE

C.No: 1582

Date of Application 30-11-18

Usent Fee: \_\_\_\_\_

Response Fee: \_\_\_\_\_

Cost: \_\_\_\_\_

Med: 500

Copy Fee: \_\_\_\_\_

Total Fee: \_\_\_\_\_

Date of Preparation 30-11-18

Date of Delivery 30-11-18

Signature \_\_\_\_\_

بخدمت جناب DIG صاحب، ملاکنڈ بمقام سید و شریف سوات۔

درخواست بمراد بحالی در ملازمت۔

جناب عالی! سائل ذیل عرض رساں ہے۔  
۱۔ یہ کہ سائل محکمہ پولیس میں بطور ٹیمپل نمبر 50 ضلع دیر پائین میں اپنے خدمات انجام دے رہا تھا۔

۲۔ یہ کہ سائل کو بروئے علت نمبر 108 مورخہ 08-02-018 جرم زیر دفعہ 4PHO تھانہ تیمرگرہ، ایک جھوٹے، بے بنیاد، لغو، ذہنی اور جعلی مقدمہ میں ملوث کیا جا کر محکمانہ انکوائری عمل میں لائی گئی۔

۳۔ یہ کہ مقدمہ عنوان بالا برخلاف من اسائل بمورخہ 23-02-018 عدالت جناب جوڈیشل مجسٹریٹ صاحب (اول) تیمرگرہ ضلع دیر پائین ہمراہ چالان پیش ہو کر سماعت شروع کی گئی۔

۴۔ یہ کہ مقدمہ عدالت میں زیر سماعت تھا کہ ایک بے بنیاد محکمانہ انکوائری کے بنا پر من سائل کو بروئے حکم نمبر OB نمبر 55 مورخہ 03-05-018 نوکری سے Dismiss / برخاست کرنے کا حکم صادر کیا گیا۔ نقل حکم لف ہے۔

۵۔ یہ کہ حسب ضابطہ مقدمہ کی سماعت روبرو عدالت ہو کر من سائل کو بروئے حکم و فیصلہ مورخہ 29-11-018 بعدم ثبوت جرم بری کیا گیا جس سے من سائل کی بیگناہی واضح ہوگئی۔ نقل فیصلہ لف ہے۔

۶۔ یہ کہ میرٹ اور سینیاریٹی کے لحاظ سے، میں ہمراہ اپنے ساتھیوں کے اوڑ کورس کو جانے والا تھا لیکن بے بنیاد مقدمہ بالا کے وجہ سے میں مذکورہ ٹریننگ پر نہ جا سکا اور مجھ سے اپنا نمبر شائع ہو کر میرے جونز مجھ سے ترقی کے لحاظ سے آگے ہو گئے۔ نہ صرف یہ بلکہ میری تنخواہ اور جملہ مراعات بند ہو کر مجھے در بدر کے ٹھوکرے کھانے پڑے اور اہل و عیال سے اُن کا نوالہ بھی چھینا گیا۔

جناب والا! چونکہ طویل عدالتی کارروائی کے بند مقدمہ بالا میں میری بیگناہی ثابت ہو کر مجھے بعدم ثبوت جرم بری کیا گیا ہے لہذا میری استدعا ہے کہ میرے حالت زار پر رحم فرما کر میری نوکری بحال کرنے، تنخواہ و جملہ سابقہ مراعات دینے و نیز سینیاریٹی برقرار رکھنے کے احکامات صادر فرمائے جائیں۔ دُعا گو رہوں گا۔

مورخہ 01-12-018

عرض گزار!

عطاء اللہ کہ ٹیمپل نمبر 50 محکمہ پولیس ضلع دیر پائین۔

موبائل نمبر 3 0346-90026

ATTESTED

*Handwritten signature*

ADVOC



OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240399

Email: dirmalakand@yahoo.com

ORDER

This order will dispose off appeal of Ex-Constable Attaullah No. 50 of Dir Lower District for reinstatement in service.

Brief facts of the case are that Ex-Constable Attaullah No. 50 of Dir Lower District while posted at Police Station Timergara having involved in case FIR No. 108 dated 08/02/2018 u/s 4-PHO Police Station Timergara. Which is gross misconduct on his part. Therefore, he was issued Show Cause Notice, Charge Sheet and statement of allegation. Mr. Fakhri Alam DSP HQrs was appointed as enquiry officer, to conduct proper departmental enquiry against him and submit his finding report. The enquiry officer, during the course of enquiry recorded the statements of all concerned. The enquiry officer in his finding stated that he was running the business of heroin, which is an illegal and dirty habit and affects the whole Police Force, therefore, recommended him for major punishment. Therefore, the then District Police Officer, Dir Lower in exercise of power vested to him under (E & D) Police Rules 1975 with amendment 2014 "agreed with the finding report of enquiry officer, as the above named defaulter has committed a bad name for Police Department, which would affect his colleagues too. He was directly involved in criminal activity and 14 gm (22 packs) Heroin was recovered from his possession. Therefore the District Police Officer, Dir Lower dismissed him from service from vide his office OB No. 555/EB dated 03/05/2018.

He was called in Orderly Room on 02/01/2019 and heard him in person. His case was referred to DPO Dir Lower for Medical Check-Up and report. The DPO Dir Lower vide his Memo. No. 3552/EC, dated 04/02/2019 clearly reported that the above named Constable was dismissed from service in criminal case, involved in running of heroin business. His appeal alongwith relevant enquiry filed has been examined and hereby filed.

Order announced.

No. 5930 / EC dt. 1-3-2019

Copy to Ex-FC Attaullah No. 50 s/o Sultan Maud village Bagh Dushkhol through SHO's Talash for information plz

No. 2627 / E,

Dated 27-02-2019

Copy to District Police Officer, Dir Lower for information and necessary action with reference to his office Memo. No. 3525/EC dated 04/02/2019. His Enquiry file is returned herewith for record in your Office.

Signature of Regional Police Officer, Malakand, at Saidu Sharif Swat

ATTESTED [Signature] ADVOCATE

OB No 318

28.02.2019

OB/EC

Signature of District Police Officer

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

19

The matter of:-

Ahmedullah

Appellant

VERSUS

The P.D.O K.P. & Others

Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

**AZIZ-UR-RAHMAN and IMDAD ULLAH**

Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 09 day of 03 2019

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

(IMDAD ULLAH)

Advocate High Court

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G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746