

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	03.05.2017	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No. 131/2014</p> <p style="text-align: center;">Muhammad Sohail Versus Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar 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>Counsel for the appellant, Mr. Ziaullah, Government Pleader for alongwith Mauzam Ali Shah, ASI for respondents present.</p> <p>2. Muhammad Sohail hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 06.06.2012 vide which he was awarded penalty by reducing him in time scale for 2 years and where-against his departmental appeal was rejected vide order dated 17.09.2012 constraining him to prefer the instant service appeal on 17.10.2012.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant displayed cowardice and avoided to arrest accused when one Alamzeb was murdered.</p> <p>4. We have heard arguments of learned counsel for the parties and perused the record.</p> <p>5. Regarding the said episode a criminal case was registered vide FIR No. 539 dated 21.12.2011 under Section 155 Police Order</p>

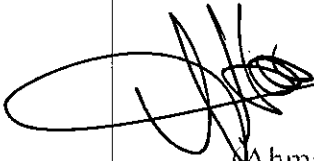
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03.05.17.

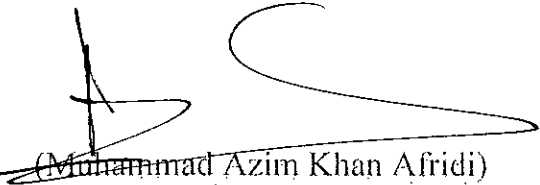
2002 P.S Yaqub Khan Shaken Karak. Apart from the appellant one Muhammad Subhan, Muhammad Kamal and Haji Rahman were also charged for displaying cowardice.

6. The enquiry officer, during the enquiry has recorded the statements of co-accused charged in the said FIR and, on the strength of the same, awarded the penalty to the appellant in the manner referred to above.

7. It is evident from the record that the statements of co-accused are considered for awarding the penalty which practice is not permissible under the law as the co-accused cannot be deposed against any accused more particularly when he is facing the same charge and where-from he is absolved on the basis of such deposition.

8. For the above reasons we do not find any substance in the impugned orders and therefore hold that the charges against the appellant are remained unsubstantiated during the enquiry. We therefore, accept the present appeal and set aside the impugned orders referred to above. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member



(Muhammad Azim Khan Afridi)
Chairman

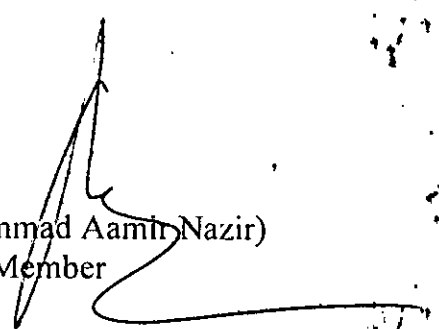
63.05.17.

ANNOUNCED
03.05.2017

20.12.2016

Counsel for the appellant and Mr. Ziaullah. GP
for respondents present. Counsel for the requested for
adjournment. Request accepted. To come up for
arguments on 3-5-17


(Ashfaq Taj)
Member

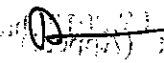

(Muhammad Aamir Nazir)
Member

29.10.2015

Clerk to Counsel for the appellant and Mr. Muhammad Jan,

GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on

4-5-16



Member

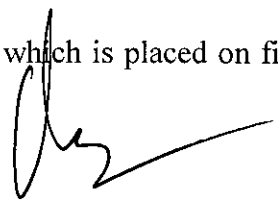


Member

04.05.2016

Counsel for the appellant (Ms. Uzma Syed, Advocate) and

Mr. Tariq Usman, SI alongwith Mr Ziaullah, GP for respondents present. Fresh Wakalat Nama as well as rejoinder submitted on behalf of the appellant, copy of which is placed on file. To come up for arguments on 19.8.2016.

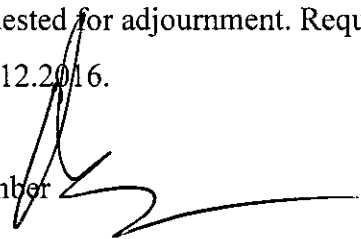


Member

19.08.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 20.12.2016.

Member

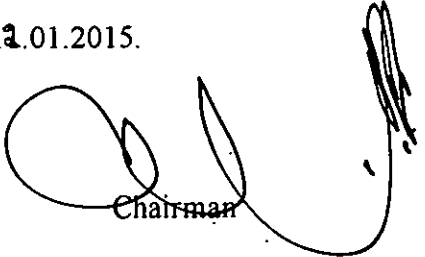


Member



11.09.2015

Appellant in person and Mr. Muhammad Tariq, ASI (legal) with Mr. Kabirullah Khattak, AAG for the respondents present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments, positively, on 12.01.2015.



Chairman

12.01.2015

Clerk of counsel for the appellant and Addl: AG for respondents present. Written reply has not been received despite another chance given for the purpose on the previous date; and request for further time again made on behalf of the respondents. A last chance is given for written reply/comments on 30.04.2015.



Chairman

30.04.2015

None present for appellant. Assistant A.G for respondents present. Written statement not submitted despite last chance. No further chance is allowed to the respondents. The appeal is assigned to D.B for final hearing for 29.10.2015.



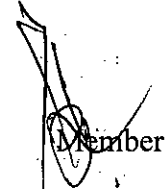
Chairman

Appeal No. 131/2014,
Mr. Muhammad Sohail,

18.03.2014

Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 06.06.2012, he filed departmental appeal which has been rejected on 17.09.2012, hence the present appeal on 17.10.2012. He further contended that the impugned order dated 17.09.2012, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 03.06.2014.

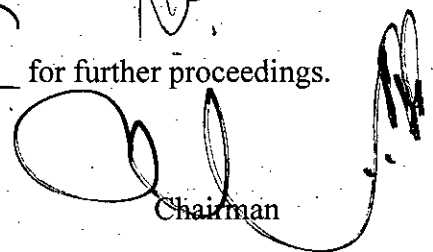
Appellant Deposited
Security & Process Fee
Rs. 180/- Bank
Receipt is Attached with File.


Member

4.

18.03.2014

This case be put before the Final Bench for further proceedings.


Chairman

3.6.14

The Hon'ble bench is on
vac, therefore case is adjourned
to 11-9-14.

Reeds

Form-A
FORM OF ORDER SHEET

Court of _____
Case No. 131/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge or Magistrate
1	25/01/2014	<p>The appeal of Mr. Muhammad Sohail was received on 17.10.2013 which was returned to the counsel for the appellant for completion and resubmission within 15 days; today he has resubmitted the same late by 48 days. The appeal may be entered in the institution register and put up to the Worthy Chairman for further order please.</p> <p style="text-align: right;">REGISTRAR</p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on _____</p> <p style="text-align: right;">CHAIRMAN</p> <p style="text-align: right;">12-11-2-14</p>
2		
3		

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 131/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/01/2014	<p>The appeal of Mr. Muhammad Sohail was received on 17.10.2012 which was returned to the counsel for the appellant for completion and resubmission with in 15 days; today he has resubmitted the same late by 448 days. The appeal may be entered in the Institution register and put up to the Worthy Chairman for further order please.</p> <p style="text-align: right;">REGISTRAR <u>29/1/14</u></p> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>18-3-2014</u></p> <p style="text-align: right;">CHAIRMAN</p>
2	<u>6-2-2014</u>	

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DEC 20 1944
DIA - 3000

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The appeal of Mr. Muhammad sohail FC.No.700 Police Line Karak received today i.e. on 17/10/2012 is incomplete on the following scores which is returned to the counsel for the appellatant for completion and resubmission within 15 days:-

- 1- Annexures of the appeal may be attested.
- 2- Appeal is unsigned which may be got signed.
- 3- Copies of FRs mentioned in para-3&4 of the memo of appeal (Annexure-A and B) are not attached with the appeal which may be placed on it.
- 4- Copies of charge sheet, statement of allegation, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 5- Copy of impugned order dated 06/06/2012 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 6- Copies of departmental appeal and its rejection order are not attached with the appeal which may be placed on it.
- 7- Wakalat nama in favor of appellatant be placed on file.
- 8- Five copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

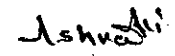
No. 1212 /S.T,

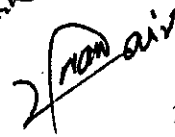
Dt. 23/10 /2012.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.


MR.ABDUL HALEEM KHATTAK ADV. PESHAWAR.

Re - Submitted after Completion.


Ashraf Ali Khattak
Advocate

Nawaz Khan Khattak Advocate


- (1) Annexures has been got attested.
- (2) Appeal has been got signed.
- (3) Annexur "A" and "B" has been attached.
- (4) Copies of charge-sheet, statement of allegation, show cause notice, enquiry finding and reply to final show cause has been attached.
- (5) Copy of impugned order dated 06.06.2012 has been attached.
- (6) Copy of dept Appeal and rejection order has been attached.
- (7) Wakalat nama. 5 copies may are also attached.


Ashraf Ali Khattak
Advocate

PTD

Reason for delay re-submission of appeal
actually this case was mix up with the
case of Sotail Khan, another, but
actually it was returned to us - still in present
app: in the mean while some documents were not
available, but now the relevant documents are
produce and also annex - please

Counsel for Pet:

From our
investigation also confirmed

It is noted
that in the finding

- (1) ...
- (2) ...
- (3) ...

through the ...
...
...

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...
...

1/1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 131 /2012

Muhammad Sohail FC
No.700, Police line Karak
.....Appellant

Versus

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

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-5
2.	Copy of FIR and Naqsh Moqa		A	6-7
3.	Copy of FIR No.539		B	8
4.	Copy of charge sheet and statement of allegation		C	9-10
5.	Copy of reply to charge sheet		D	11
6.	Inquiry finding report		E	12-13
7.	Copy of final show cause		F	14
8.	Copy of final show cause (Reply to final show cause)		G	15
9.	Copy of impugned order of respondent No.3		H	16
10.	Copy of departmental appeal		I	17-18
11.	Copy of impugned order of respondent No.2		J	19
12.	Wakalat Nama			

Through

M. Sohail
Appellant


Ashraf Ali Khattak
Advocate, Peshawar

Dated: __/10/2012

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 131 /2014

1166
17-10-12

Muhammad Sohail FC No.700, Police line Karak
.....Appellant.

Versus

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region Kohat.
3. The District Police Officer, District Karak
.....Respondents

SERVICE APPEAL UNDER SECTION 10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWER) ORDINANCE, 2000 READ WITH SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.

Prayer:

On acceptance of the instant service appeal this Honourable Tribunal may graciously be pleased to set aside the impugned order dated 06-06-2012 of the respondent No.3, who vide the same imposed upon the appellant reduction in time scale for two years and the impugned Order of respondent No.2 dated 17-09-2012 passed on the departmental appeal of the appellant, wherein he upheld the order of respondent No.3 and maintain the penalty and to set aside the same with all back benefits.

Respectfully Sheweth,

17/10/12

re-submitted to the
and filed.

29/11/2014

Facts giving rise to the present appeal are as under:-

1. That in the year 2011, appellant was posted at Cobra Mobile Police Station Yaqoob Khan Shaheed.
2. That on 09-12-2011, appellant was detailed with court duty in connection with famous Uzma Ayub alleged rape case. There was also a procession who chanted slogans in favour of Hakeem Khan ASI (alleged accused) of the cited case.
3. That on the same day brother of Mst: Uzma Ayub, namely Alam Zeb was killed outside the Court Premises and the killers succeeded in making the escape good (Copy of the FIR and Naqsh Moqa are attached as Annexure-A).
4. That later on case FIR No.539 dated 21-12-2011 under section 155 Police Order 2002 P/S Yaqoob Khan Shaheed was registered against appellant and others on charge of displaying cowardice and avoiding arrest of the killers of Alam Zeb(brother of Mst: Uzma Ayub). (Copy of the FIR is attached as Annexure-B).
5. That in addition to registration of case appellant was also served with charge sheet and statement of allegation (Annexure-C) to which he submitted reply (Annexure-D), slipshod inquiry was held (Annex-E). Appellant was served with final show cause (Annexure-F) to which he submitted reply (Annexure-G). The departmental proceeding

culminated into passing of the impugned order of imposing penalty of time scale for two years on appellant vide OB No.587 dated 06-06-2012 (Annexure-I).

6. That being aggrieved of the illegal and unlawful penal order, appellant submitted departmental appeal before the respondent No.2 (Annexure-J), who vide order dated 17-09-2011 rejected the same and upheld the order of respondent No.3 (Annexure-K).
7. That appellant, being aggrieved of the acts and actions of Respondents and having no other adequate and efficacious remedy, files this appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. Section 16 of the Civil Servant Act, 1973 provides that every civil servant is liable for prescribed disciplinary action and penalty only through prescribed procedure. In the instant case no prescribed procedure has been adopted by the respondents, hence the action taken by them is illegal, coram-non-judice and liable to be set aside.
- B. That appellant was behind the bar in judicial lockup and was proceeded against departmentally in absentia. Appellant was unable to defend him

self against the departmental charges while passing prison life.

- C. That the inquiry officer conducted ex-parte proceedings and no chance of defense was provided to appellant. No one was examined in presence of appellant and no chance of cross examination of witnesses was provided to the appellant. Again inquiry officer has allegedly examine Co-Police Officer in support of the charges, who were also facing departmental charge on same set of allegation. The testimony of the co accused officer was not worth credence, therefore, the authority wrongly believed the tainted evidence of the co accused officer.
- D. That the inquiry officer has based his opinion on no evidence as nothing was brought on record in support of the charges leveled against appellant. No direct or indirect evidence was available on file, which may connect the appellant with the alleged charges.
- E. That appellant was implicated in criminal charge vide FIR No.539/2011 under Article 155 Police Order and was also charged departmentally on the same set of allegation, which amounts to double jeopardy.
- F. That this on the record that appellant was subordinate. Therefore, appellant was wrongly punished for the in action of other police officer.

- G. That the departmental proceeding were carried out against the settle principle of disciplinary rules. Therefore, the impugned order is worth set aside.
- H. The whole record of service of appellant was unblemished and appellant was noted for good performance and impugned penalty was based on single intendance of escape of killers after the commission of offence with no fault and negligence in duty on the part of the appellant.

It is therefore humbly prayed that on acceptance of this appeal, this honourable Tribunal may graciously be pleased to set aside both the impugned orders as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

M. Sohail
Appellant

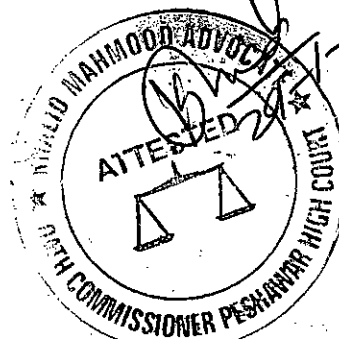
AH
Abdul Haleem Khattak,
Advocate, Peshawar.

Dated: _____ / 01/ 2001

Ashraf Ali Khattak

Affidavit

I, Muhammad Sohail FC No.700, Police line Karak hereby solemnly affirms on Oath that the contents of the instant Service Appeal are true to the best of my Knowledge and belief and nothing has been concealed from this Honourable Tribunal.



M. Sohail
DEPONENT

فقہ نمبر 2 یہ وہ فقہ تہذیبیہ جہاں اہل تہذیب انور جمیل
 کی بولی پر موجود ہیں کیسے کہتے تھے اور ہونا اور ہوتی
 ہذا کو ہم دیکھتے ہیں

فقہ نمبر 3 یہ وہ فقہ تہذیبیہ جہاں اہل تہذیب ضالہ اللہ ہیں
 کی بولی پر موجود ہیں کیسے کہتے تھے اور ہونا اور ہوتی
 ہذا کو ہم دیکھتے ہیں

فقہ نمبر 4 یہ وہ فقہ بیان ہوا جہاں اہل تہذیب ہوتی ہوتی
 ہذا کو ہم دیکھتے ہیں

فقہ نمبر 5 یہ وہ فقہ بیان ہوا جہاں اہل تہذیب ہوتی ہوتی
 ہذا کو ہم دیکھتے ہیں

فقہ نمبر 6 یہ وہ فقہ بیان ہوا جو علم التوحید اور توحید ہوتی ہوتی
 ہذا کو ہم دیکھتے ہیں

حاصل ہوا ہے۔ فقہ = فقہ A تا A 10 در سال ماہنامہ

فقہ 30	فقہ 29	فقہ 28	فقہ 26	فقہ 9	فقہ 65	فقہ 2	فقہ 5	فقہ 6	فقہ 30	فقہ 1	فقہ 6	فقہ 4	فقہ 30	فقہ 6	فقہ 3	فقہ 4
4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

نوٹ: یہاں اہل تہذیب
 ہونا اور ہوتی
 ہذا کو ہم دیکھتے ہیں

اس لکچر پر عبدالمجید
 کو ارسال کیا گیا

12/12/2011

Attested
To be true copy
Advocate

5/12/2011
S/12/2011

10/11/2011

Handwritten text in Tamil script, likely a legal notice or affidavit, detailing a dispute or legal action. The text is dense and covers the upper portion of the page.

1	சட்டப்படிப்படி	சட்டப்படிப்படி
2	சட்டப்படிப்படி	சட்டப்படிப்படி
3	சட்டப்படிப்படி	சட்டப்படிப்படி
4	சட்டப்படிப்படி	சட்டப்படிப்படி
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6	சட்டப்படிப்படி	சட்டப்படிப்படி
7	சட்டப்படிப்படி	சட்டப்படிப்படி

Handwritten text at the bottom of the page, including a signature and date. The date is 9/12/2011. There is also a reference number 557.

Ann. B

8

Anx - C

9

No. 12811 /EC
Dated 26/12/2011

84
21

CHARGE SHEET

I, Sajjad Khan, District Police Officer, Karak as competent authority, hereby charge you Constable Muhammad Sohail No. 700 Police Lines Karak as follow:

"You Constable Muhammad Sohail, No. 700 exhibited cowardice and avoided arrest of accused who committed offence vide FIR No. 529 dated 09.12.2011 under section 302, 109, 148, 149 PPC Police Station Yaqoob Khan Shaheed, despite the fact that you were present on the spot."

"You also avoided follow up of the accused who succeeded in making good their escape due to your lethargic conduct. Such act on your part is against service discipline and good order."

"You are also directly charged in criminal case FIR No. 539, dated 09.12.2011 under Article -155 Police Order-2002 Police Station Yaqoob Khan Shaheed which further establishes the charge against you."

2. By reason of your commission / omission, constitute miss-conduct under Police rules-1975 and have rendered your-self liable to all or any of the penalties specified in Police rules-1975 ibid.

3. You are, therefore, required to submit your written defense within 15 days of the receipt of this charge sheet to the enquiry officer Mr. Mir Chaman Khan SDPO Banda Daud Shah.

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

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

5. A statement of allegation is enclosed.

Attested
To be true on
Advoca

District Police Officer, Karak

Attested
To be true on
Advoca

10

DISCIPLINARY ACTION

1. I, Sajjad Khan, District Police Officer, Karak as competent authority, is of the opinion that Constable Muhammad Sohail No. 700 Police Lines Karak has rendered himself liable to be proceeded against departmentally on charges of committing misconduct and negligence in duty.

STATEMENT OF ALLEGATION


"Constable Muhammad Sohail No. 700 exhibited cowardice and avoided arrest of accused who committed offence vide FIR No. 529 dated 09.12.2011 under section 302, 109, 148, 149 PPC Police Station Yaqoob Khan Shaheed, despite the fact that he was present on the spot."

"He also avoided follow up of the accused who succeeded in making good their escape due to his lethargic conduct. Such act on his part is against service discipline and good order."

"You are also directly charged in criminal case FIR No. 539, dated 09.12.2011 under Article -155 Police Order-2002 Police Station Yaqoob Khan Shaheed which further establishes the charge against you."

2. The enquiry Officer **Mr. Mir Chaman Khan SDPO Banda Daud Shah** shall in accordance with provision of the Police rules-1975 may provide reasonable opportunity of hearing to the accused official, record his finding and make within 15-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

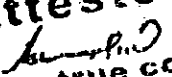
3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry committee.


District Police Officer, Karak.

No. 12812-13/EC (enquiry), dated 26/12 /2011

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of Police rules-1975.
2. ✓ Constable Muhammad Sohail No. 700 Police Lines Karak.

Attested

To be true copy
Advocate

مدرس عدالت میں کہ حکم افسان بالا صاحبان میں کوبرا سلواڈ میں
 تصدیقات تھا پورے 12 سہ ماہی اجراء کوبرا سلواڈ شہر لقمہ 140
 دیگر ساتھیوں ڈیوٹی پر تھا کہ ایک جلوس اگلے تھوڑے لمحے میں
 ہوا مشرکاء جلوس عدالت کچھری کی طرف آ رہا تھا عدالت کچھری میں
 تھکا، جلوس آ کر ٹرامس طور پر رستہ ہوا اجراء کے حکم پر
 میں جمع دیگر ساتھی احاطہ عدالت کے اندر چلے گئے ہمراہ اجراء
 احاطہ عدالت کے اندر موجود تھے کہ باہر ٹریفک کی آواز سننی
 معلوم ہوا کہ عالم ٹریفک کسی نے سٹاپ کیا ہے ہمراہ اجراء
 ملزمان کی تلبس، گرفتاری کے لحاظ میں زیرہ باٹروہ سیدان
 باٹروہ ملحقہ بیٹاری علاقہ میں ملزمان کی تلبس کر کے ملزمان
 ملے والیں آتے ہی جہاں SHC صاحب ملاحق ہوا SHC
 کے حکم پر سہ ماہی اجراء آدھ پانچ بیٹاری آتے ہی ناٹو بیٹاری
 کی تقریباً 22:30 کے قریب والیں آئے

مدرس عدالت مالہ مالہ کے بیس دگر میں بحیثیت سائیکل
 کسٹیل تصدیقات ہوں حکم افسان بالا کوبرا سلواڈ پیر ڈیوٹی
 سرانجام دینا یا اجراء کی حکم عدالتی کی ہے اور یہ تصدیقات
 کا وقت دیا ہے بحیثیت سائیکل اور کسٹیل ملزمان کی گرفتاری
 میں میرا کوئی قصور نہیں

استدعا حلیہ جاری اسٹاپ انکوٹری سریندر لقمہ مارواٹی
 کے داخل دفتر فرمایا اجراء

کسٹیل 700 سٹاپ لوکس لائن کرٹ
 کسٹیل 24

Attested
 To be true copy
 Advocate

To be true copy
Advocate
Attested

Witnesses Muhammad Kamal SI, Haji Rehman ASI the
able Naseem Ullah NO, Incharge Janbaz Mobile PS Takt-e-Nasrat,
led very clearly and openly stated that at the time of occurrence
Muhammad Sohail No. 700 was present out of the court premises near the
Incharge, he exhibited cowardice that avoid of arrest of accused
Facts arising out of the instant departmental enquiry is that the defaulter
constable Muhammad Sohail No. 700 Police Lines, district Karak was charge sheeted
by the competent authority as under:-
"You constable Muhammad Sohail No. 700 exhibited cowardice and
avoided arrest of accused who committed offence under section 302, 109, 143, 149 PPC Police Station Yagob Khan Shaned, despite
the fact that you were present on the spot."
"You also avoided follow up of the accused who succeeded in making
good their escape due to your laxity/conduct. Such act on your part is against
service discipline and good order."
"You are also directly charged in criminal case FIR No. 539, dated
09.12.2011 under section Article-155 Police Order-2002 Police Station Yagob Khan
Shaned which further established the charge against you."
To bring out the real facts, DSP Banda Daud Shah, Karak and then DSP
Headar Chole, Karak were appointed as enquiry officers. Later on upon the orders of
the competent authority the undersigned was directed to conclude the enquiry.
Reply to the charge sheet perused and the same was found
satisfactory, the defaulter Constable Muhammad Sohail No. 700 and witnesses
Muhammad Kamal SI the then PS Shan Salam, Haji Rehman ASI the then SHO PS
Takt-e-Nasrat, Aman Ullah NO Incharge Janbaz M. PS Takt-e-Nasrat,
Constable Naseem Ullah No. 343 and Constable Qismatullah No. 192 PS Yagob Khan
Shaned were summoned and their statements recorded. Opportunity of cross
examination have been provided to the defaulter Constable.
The defaulter constable in his statement denied the allegations and in
addition He admitted that he was present at the time of occurrence with his
brother Article-155 Police Order-2002 Police Station Yagob Khan Shaned presently on Bail

POLICE LINES KARAK
DEPARTMENTAL ENQUIRY AGAINST CONSTABLE MUHAMMAD SOHAIL NO. 700

Anx-E

(12)



13

... lethargic conduct accused succeeded in making good their escape from
of occurrence.

In view of the above statements recorded during the course of enquiry
the charges of exhibiting cowardice, avoiding follow up of accused against the
defaulter constable Muhammad Sohail No. 700 have been proved without any shadow
of doubt. Hence he is hereby held guilty of the charges leveled against him.

ENQUIRY OFFICER
ASST. POLICE OFFICER,
KOHAT

Attested
[Signature]
To be true copy
Associate.

Attested
To be true copy
Advocate

District Police Officer, Karak

Copy of finding of the Enquiry Officer is enclosed.

5. If no reply to this Notice is received within Seven (7) days of its delivery in the normal course of circumstances, it will be considered/pressured that you have no defense to put in and in that case an ex-parte action shall be taken against you.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also stating whether you desire to be heard in person.

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

"You are also directly charged in criminal case FIR No. 539, dated 09.12.2012 under Article 141 B Police Order-2007, Police Station Yaqoob Khan Shaheed which further establishes the charge against you."

"You also avoided follow up of the accused who succeeded in making good their escape due to your lethargic conduct. Such act on your part is against service discipline and good order."

"You Muhammad Sohail No. 700 exhibited cowardice and avoided arrest of accused who committed offence vide FIR No. 529 dated-09.12.2012 under section 302, 109, 148, 149 PPC Police Station Yaqoob Khan Shaheed, despite the fact that you were present on the spot."

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defence before the said Enquiry Officer, I am satisfied that the charge against you is proved and you have committed the following acts / omission specified in Police Rule-1975.

1. I, Sajjad Khan, District Police Officer, Karak as competent authority under the Police Rule-1975 serve you Constable Muhammad Sohail No. 700 as follows:
That consequent upon the completion of enquiry conducted against you by the Enquiry Officer, Mr. Mubarak Zeb District Police Officer, Kohat

FINAL SHOW CAUSE NOTICE

No. 4317/JEC
Dated 13/11/2012

14

Anx-F

Attested
To be true copy
Advocate

24/1/2012

700 سال 3 سال 6 سال

Handwritten text in Urdu script, appearing to be a list or record of items and their durations. The text is written in a cursive style and includes various words and numbers. Some legible words include 'سال' (year), 'مہینے' (months), and 'دن' (days). The entries are organized in a structured manner, possibly representing a schedule or inventory.

2317/EC
13.4.12

15

Ank-G

To,

The Deputy Inspector General of Police,
Kohat Region Kohat

(16) (17)

Through:- PROPER CHANNEL

Anx - I

Subject: REPRESENTATION

Respected Sir,

With due respect and humble submission appellant submits the present representation on the following facts and grounds:-

FACTS

1. That in the year-2011, appellant was posted at Cobra Mobile Police station Yaqoob Khan Shaheed.
2. That on 09.12.2011, the inhabitants of village Takht-e-Nasrati had arranged procession for provision of gas, therefore appellant along with other strength was detailed for procession duty. The members of the procession also chanted slogans in favour of Hakeem Shah ASI who along with two Police officers and other private persons were arrested in Uzma Ayub rape and abduction case.
3. That on the same day Alamzeb brother of Mst. Uzam Ayub was allegedly killed outside the court premises and the killers succeeded in making good their escape.
4. That later on case vide FIR No. 539 dated 21.12.2011 under section 155 Police Order 2002 Police station Yaqoob Khan Shaheed was registered against appellant and others on charges of displaying cowardice and avoiding arrest of the killers of Alamzeb.
5. That in addition to registration of case appellant was also indicted in departmental charge, which culminated in passing the impugned order of imposing penalty of time scale for two years on appellant vide OB No.587, dated 06.06.2012. Hence the present representation on the following grounds.

GROUND

- a. That the impugned order was passed against the facts and evidence on record. Appellant being Police officer was wrongly incarcerated for long period of about one month in judicial lockup on the basis of unfounded and baseless allegations of displaying cowardice. The impugned order was further added salt to the burning injuries of appellant.
- b. That appellant was behind the bar in judicial lockup and was proceeded against departmentally in absentia. Appellant was

Attested
To be true copy
Advocate

unable to defend himself against the departmental charges while passing prison life.

- c. That enquiry officer conducted ex-parte proceedings and no chance of defense was provided to appellant. No one was examined in presence of appellant and no chance of cross examination of witnesses was provided to appellant. Again enquiry officer has allegedly examined Co-Police officers in support of the charges who were also facing departmental charge on same set of allegations. The testimony of the co-accused officer was not worth credence. Therefore the authority wrongly believed the tainted evidence of the co-accused officer.
- d. That the enquiry officer has based his opinion on no evidence as nothing was brought on record in support of the charges leveled against appellant. No direct and indirect evidence was available on file, which may connect the appellant with the alleged charges.
- e. That appellant was implicated in criminal charge vide FIR No.539/2011 under article 155 Police Order and was also charged departmentally on same set of allegations, which amounts to double jeopardy.
- f. That this is on the record that appellant was subordinate officer. Therefore appellant was wrongly punished for the inaction of other Police officers.
- g. That the departmental proceedings were carried out against the settled principles of disciplinary rules. Therefore the impugned order is worth set aside.
- h. That the whole record of service of appellant was unblemished and appellant was noted for good performance and impugned penalty was based on single instance of escape of killers after the commission of the offence with no fault and negligence in duty on the part of appellant.

It is therefore requested that impugned order may please be set aside with all back benefits.

Yours truly,

(MUHAMMAD SOHAIL)
FC No.700,
Police Lines Karak

Attested
To be true copy
Advocate

18

Anx- J

POLICE DEPTT:

KOHAT REGION

ORDER

This order will dispose of a representation moved by const: Muhammad Sohail No. 700 of district Karak wherein he prayed for set-a-side punishment of time scale constable awarded to him by the DPO Karak.

Facts of the case are that the appellat while deployed at Cobra Squad Takht-e-Nasrati was dealt with departmentally on the score of charges that on 09.12.2012 during 'production' of accused Hakeem Shah (ASI) arrested in Uzma Ayub Rape case before the court of Takht-e-Nasrati, a heavy strength of Police contingent was deployed at court premises for security duty. However, Alam Zeb brother Uzma Ayub was killed in the court premises and accused succeeded to escape from the spot while he did not follow the accused.

DSP Sadder was appointed as enquiry officer but subsequently the enquiry was transferred to DPO Kohat vide this office letter No. 552/EC dated 16.01.2012 as the accused official expressed no confidence on DSP Sadder Kohat. On conclusion of enquiry proceedings the E.O held him guilty of the charge, which resulted penalty of time scale constable for two years vide DPO Karak office OB No. 587 dated 06.06.2012.

Feeling aggrieved from the impugned order the appellat preferred the instant representation.

The appellat was called in O.R on 05.09.2012 through DPO Karak, but failed to attend the O.R.

Record requisitioned and perused, which transpired that the appellat while deployed at Cobra Squad did not follow the killer of Alam Zeb, who succeeded to escape from the place of incident.

In view of the above and available record the undersigned came to the conclusion that the charge leveled against the appellat was proved beyond any shadow of doubt. Therefore, punishment order passed by DPO Karak is upheld and the representation is hereby dismissed.

This order is exclusively passed in departmental proceedings and shall not be produced as a piece of evidence in any criminal case if registered against the appellat.

05.09.2012

(MOHAMMAD IMTIAZ SHAH)
PSP, QPM

Dy: Inspector General of Police
Kohat Region, Kohat.

No. 7695 /EC

17/09/12
Copy of above to the District Police Officer, Karak for information & necessary action and the applicant be informed accordingly. Appellant's service record is returned herewith.

(MOHAMMAD IMTIAZ SHAH)
PSP, QPM

Dy: Inspector General of Police
Kohat Region, Kohat.

Attested
To be true copy
Advocate

بعدالت

KPK Service Tribunal

Peshawar

2 منجانب

Appellant بنام

Mohammad Sohail

Vs

PPD etc

مورخ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام لہذا اور کیلئے اشرف علی خان ایڈووکیٹ لہذا خان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوفہ کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے یا تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا عدسے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکورہ کرے۔ یہ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2014ء

ماہ سوری

المرقوم

کے لئے منظور ہے۔

Accepted & Affected مقام

Jshua ACO

Jshua ACO

2/Jan air

IN THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Services Appeal No. 131/2014

Muhammad Sohail

Versus

The Provincial Police officer and others

APPLICATION FOR SETTING ASIDE EX-PARTEE
PROCEEDINGS DATED 03/06/2015, 11/09/2014,
12/01/2015 AGAINST RESPONDENTS

RESPECTED SHEWETH:-

- 1) That the petitioner has filed the above titled appeal, wherein respondents are cited as party.
- 2) That the inspector Legal seat in respondent's department remained vacant for a period of 6 months, due to which no body from respondent's side appeared in cases before the services tribunal.
- 3) That for the above said reason on the above said date of hearings ex-part proceedings were initiated against respondents.

- 4) That the respondents got information of the case and hence is with the instant application for setting aside the ex-part proceedings.
- 5) That absence of the respondents is not willful but is due to the above said reason.
- 6) That the respondents will insure and would remain careful and will attend the court on time and on each and every date of hearing.
- 7) That there is no bar for setting aside ex-part proceedings and the application is also within time.

It is therefore, very humbly prayed that on acceptance of this application ex-part proceedings against respondents may kindly be set aside.

Dated: 29/10/2015

Respondents


ASI Legal Branch Karak

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 131/2014 Titled

Muhammad Sohail Ex- Constable No.700 of District Police
Karak..... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkwa, Peshawar.
2. The Regional Police Officer Kohat Region Kohat..
3. The District Police Officer, Karak....(Respondents)

**PARA-WISE COMMENTS/REPLY TO APPEAL ON BEHALF OF RESPONDENTS
NO. 1 TO 3**

Respectfully Shiewith,

Para-wise comments/Reply to appeal on behalf of
Respondents No. 1 to 3 are submitted as below,

Preliminary objections

1. The appellant has got no cause of action to file the present appeal.
2. The appellant has not come to this Tribunal with clean hands.
3. The appeal is not maintainable in its present form.
4. The appeal is time barred.
5. The appeal is bad for mis-joinder and non-joinder of necessary parties.

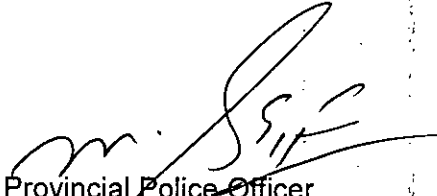
Facts


1. Admitted correct according to service record of appellant, need no comments.
2. Admitted correct, need no comments
3. Admitted correct, need no comments
4. Admitted correct, need no comments
5. Admitted correct, need no comments
6. incorrect, proper departmental inquiry was got conducted through DSP Sardar Kohat and DPO Kohat, during the course of which statements of all concerned were recorded and findings of inquiry to the effect that charges of showing cowardice by the appellant during performance of duties and not chasing accused causing murder of Alam Zeb brother of Uzma Ayub near entry gate of tehsil court takht e nasrati and decamped away from the spot. Hence punishment order of time scale for two years was imposed on the applicant vide O.B No. 587 dated 06.06.2012.
7. No Comments.

GROUNDS

- a. That the appellant was treated strictly in accordance with the provisions of NWFP now Khyber Pakhtunkhwa Police Rules 1975, summary of allegation and charge sheet were issued against the appellant and departmental inquiry was conducted through District Police Office Kohat. No irregularities whatsoever was noticed in conduct of inquiry.
- b. Admitted correct to the extent that the appellant remained confined in Jail in case FIR No. 539 dated 21.12.2011 u/s 155 Police Order 2002 PS Yaqoob Khan Shaheed District Karak but entire inquiry proceedings were conducted in the presence of appellant and opportunity of cross examination was provided to appellant. As proof, copies of statements of ASI Haji Rehman, SI Muhammad Kamal, HC Aman Ullah and FC Naseem Ullah are enclosed as Annexure A to A/3.
- c. Incorrect, already explained vide ground B above.
- d. Incorrect, need no comments.
- e. That criminal proceedings and disciplinary proceedings are two separate proceedings which can be undertaken side by side and the same cannot amount to double jeopardy.
- f. Incorrect as per paras mentioned above.
- g. Incorrect, need no comments.
- h. Incorrect, service record of appellant include irregularities on the part of appellant and award by punishment by the different competent authorities.

In the light of above facts and circumstances, it is requested that filed service appeal by the appellant may be dismissed being badly time barred, not maintainable and based on flimsy grounds.


Provincial Police Officer,
(Khyber Pakhtunkhwa, Peshawar.)
(Respondent No.1)


Dy. Inspector General of Police,
Kohat Region Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 131/2014 Titled

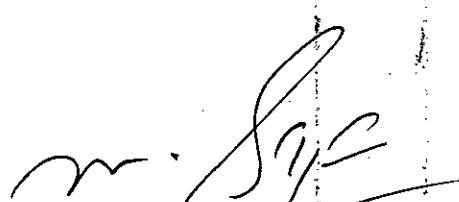
Muhammad Sohail Ex- Constable No.700 of District Police
Karak..... (Appellant)


Versus

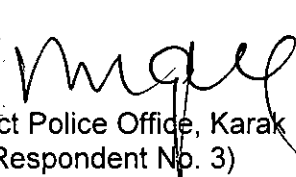
4. The Provincial Police Officer, Khyber Pakhtunkwa, Peshawar.
 5. The Regional Police Officer Kohat Region Kohat..
- The District Police Officer, Karak..... Respondents)

Subject: **AUTHORITY LETTER**

We the respondents do hereby authorize Mr. Ghulam Hussain Inspector Legal district Karak to represent us in the above cited service appeal. He is also authorized to submit comments etc on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.


Provincial Police Officer,
(Khyber Pakhtunkhwa, Peshawar.
(Respondent No.1)


Dy: Inspector General of Police,
Kohat Region Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL KP, PESHAWAR

Service Appeal No. 131/2014 Titled

Muhammad Sohail Ex- Constable No.700 of District Police
Karak..... (Appellant)

Versus


6. The Provincial Police Officer, Khyber Pakhtunkwa, Peshawar.


7. The Regional Police Officer Kohat Region Kohat..

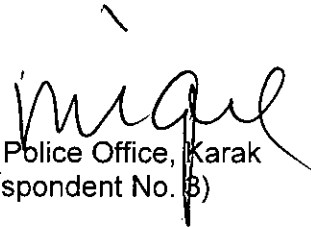
The District Police Officer, Karak... (Respondents)

Subject: **AFFIDAVIT**

We the respondents do hereby affirm on oath that
the contents of comments prepared in response to the above
titled service appeal are true and correct to best of our
knowledge and belief.


Provincial Police Officer,
(Khyber Pakhtunkhwa, Peshawar.)
(Respondent No.1)


Dy. Inspector General of Police,
Kohat Region Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)

بیان ازاں (50)

خاصی دکان آئی ایف ایف SHO تھانہ پانچوہ خان شہید
تحت نفوس کرنا۔

حلفاً بیان کرتا ہوں کہ بروز وقوع مورخہ 11-12-9

کو SHO تھانہ شاہ - ایم مال خان آئی ایف ایف نفوس تھانہ شاہ سلیم
کو توبہ موہائل نفوس پیری میں گئیٹ سے باہر ایک من SHO
میں نفوس و امان اللہ ایثار 2 جاہا سیکورڈ میں نفوس پیری
کے اندر اجازت میں موجود ہے کہ اس دوران عالمزبیت مشمول
کو کسی سے فائر کر کے قتل کیا جائے کہ، آواز پر فوراً گاڑی
سکوارا میں بیٹھ کر گئیٹ سے باہر آکر دیکھا کہ عالمزبیت قتل
شوخ پڑا تھا SDPO تحت نفوس محمد سید خان کے SHO شاہ سلیم
تحت نفوس اور توبہ موہائل نفوس کو موجود یا نہ جانتا SDPO صاحب
تحت نفوس نے اشارے سے کہ ملزمان دیگرف شاہ سلیم سواروں
میں سے کسی ایک کے لیے میں نے بھی آریا مگر کامیابی نصیب نہ
ہوئی۔

محمد سید خان
SDPO

x x x

سوال: توبہ موہائل میں کون کون تھا
جواب: قسم 14 محمد سید کانٹیل نمبر 700، شاہ خاروہہ دکنور و غیرہ
سوال: ملزمان تھے
جواب: 2 ملزمان تھے (ابھی) فی ریکام خان آئی ایف ایف اور تحت شاہ
سوال: کانٹیل سپل نمبر 700 بیان تھا
جواب: گئیٹ سے باہر موجود تھا

سوال :- کانٹیل سہیل نے ملک کس پروٹا میں نزدیکی

اور لایروا میں کامیاب کیا

جواب :- کانٹیل سہیل نے 700 نزدیکی اور لایروا میں کامیاب کیا

اسی بنا پر بلوچان گزار ہوتے میں کامیاب ہوئے

2012/02/08

سوال :- گوپا موٹائل ایچ آر و لفری پہلے یہ سکوارڈ کس کے ساتھ کام کرتے تھے

جواب :- حکیم خان Asi کے ساتھ کریا موٹائل، جی سکوارڈ کام کرتے تھے

سوال :- کانٹیل سہیل نے 700 حکیم خان کے ساتھ کتنا عرصہ

کام کیا

جواب :- میری معلومات سے پہلے ہی ہے یہ حکیم خان Asi

کے ساتھ موجود تھا

2012/02/08

گورنمنٹ سیکرٹریٹ

2012/02/08

700

8/02/2012

بیان اذان) امان اللہ Hc 2000 حیاتہاڑ موہائل
ایازہ 2 حال معانہ نقیوب خان شیردخت نور بک

یہ کہ بروز وقوع میں آئیں میں ہر روز اور
حیاتہاڑ موہائل موجود تھا۔ آئیں کے اندر 5th
نقیوب خان شیردخت کی موہائل میں کٹریں تھیں سیل
کاشیل پیر 700 جو کہ کوہاڑ موہائل میں بیٹا ہے
میں موہائل آئیں سے پار تھے۔ اس سیل کاشیل
ہلزمان کی گرفتار میں انتہائی لائبروائی
اور بزدلی کا مظاہرہ کیا اسی وجہ سے ہلزمان

خار بیونے

امان اللہ Hc
12/12 X X X

سوال: کاشیل سیل پیر 2000 کسی کے ساتھ گزر رہا تھا
جب کہ یہ حکم فان Asi کا گزر تھا
سوال: اسے کس سے حکم فان Asi کے ساتھ گلا
گزر رہا تھا۔

جواب: کافی عرصہ سے لکھی گئی عرصہ محدود ہیں
سوال: سیل پیر 2000 کاشیل سے انتہائی لائبروائی

اور نردنی کا مظاہرہ کیا اور ملزمان کو
گرفتار میں کیا گیا۔

جس پر نردنی اور انتہائی لائبرواری کا مظاہرہ
کیا اس لیے اس کے خلاف FIR بھی درج

ہوئی ہے

امان احمد
8/2/12

کراس لائن

→ New

702 سنل

8/02/2012

بیان ازاں نسیم اللہ نمبر 343 کا سہیل

ریگورڈنگ

بیان بروز وقوع میں ہوا گزشتہ ساتھیوں

ہاں دکان Asi کے ساتھ گیری میں موجود تھا

Silo کی مہائل جابا سکاڈ ونگ گیری کے اندر تھیں

سہیل نمبر 700 کا سہیل جو کہ پورے حکم خان Asi کا

خاص گزشتہ اور کوریا مہائل میں ڈیوٹی کرتا تھا

حکم خان Asi کے ساتھ بیٹھتے موجود بیوتا تھا اس

اور یہی 9/12/11 کو کوریا مہائل میں ڈیوٹی پر موجود تھا

اور وقوع سہیل خان کا سہیل نمبر 700 سے لاپرواہی

اور بزدلی کا مظاہرہ ملزمان گرفتار کر کے لائبریری

XXX

سوال کیا گیا سہیل کا سہیل نمبر 700 سے ملزمان فرار شدہ

گرفتار ہے

جواب ہے ہاں

سوال کیا گیا درست ہے کہ کا سہیل سہیل نمبر 700

Flint میں لودہ بزدلی اور لاپرواہی ثابت

گرفتار ملزمان جاری ہے

3 خان نسیم اللہ 343
Najam 8/2/2012