

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2 02.05.2017	<p data-bbox="950 418 971 448">3</p> <p data-bbox="592 498 1404 579" style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p data-bbox="795 660 1096 700" style="text-align: center;">Appeal No. 645/2016</p> <p data-bbox="560 738 1372 819" style="text-align: center;">Younas Khan Versus Inspector General of Police, Khyber Pakhtunkhwa Peshawar and 2 others.</p> <p data-bbox="641 856 828 897" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="609 934 1388 975" style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p data-bbox="544 1015 1469 1222">Counsel for the appellant and Mr. Ziaullah, Government Pleader alongwith Bakht Zamin, Inspector (Legal) for respondents present.</p> <p data-bbox="544 1310 1469 1834">2. Younas Khan hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against impugned order dated 09.02.2016 vide which the appellant was awarded major punishment of reduction to time-scale for 03 years where-against his departmental appeal was not responded constraining the appellant to prefer the instant service appeal on 10.06.2016.</p> <p data-bbox="544 1910 1469 2111">3. We have heard arguments of learned counsel for the appellant and learned Government Pleader for respondents and perused the record.</p> <p data-bbox="544 2187 1469 2388">4. Charge against the appellant is that he has close relations with proclaimed offender Naseeb and others and inform them before conducting raids over them by the local police. Perusal of</p>

02.05.17

record would suggest that the witnesses produced have not supported the charge against the appellant during the enquiry but despite the same major penalty in the shape of reduction in time scale for 3 years was awarded.

5. In view of the above we are of the considered view that the impugned order referred to above is devoid of merit as not substantiated during the enquiry and as such we set aside the penalty awarded which is found devoid of merits. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Azim Khan Afridi)
Chairman

02.05.17.

ANNOUNCED
02.05.2017

19.12.2016

Counsel for the appellant and Mr. Farmanullah, Inspector alongwith Additional AG for the respondents present. Learned counsel for the appellant submitted application for correction of para-3 of the facts. Application placed on file. To come up for rejoinder and arguments on 01.03.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

01.03.2017

Counsel for appellant and Mr. Muhammad Jan, Government Pleader for respondents present. Learned counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 05.04.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(ASHFAQUE TAJ)
MEMBER

05.04.2017

Counsel for the appellant and Mr. Zafarullah, Inspector alongwith Mr. Kabir Ullah Khattak, Assistant: AG for the respondents present. Argument could not be heard due to incomplete bench. To come up for final hearing on 02.05.2017 before D.B.

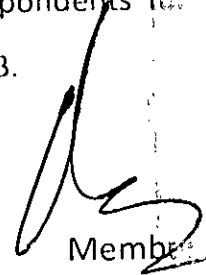

Chairman

26.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 9.2.2016 vide which the appellant was awarded major punishment of reduction to time scale. Consideration for three years. Against the impugned order, the appellant filed departmental appeal which was not responded within the statutory time, hence, in the instant appeal.

Appellant Deposited
Security & Access Fee

Points argued at the Bar required further consideration. As the appeal is within time, therefore, admit for regular hearing, subject to deposit of security and process fee within 10 days. Notices be issued to the respondents for written reply/comments for 29.8.2016 before S.B.


Member

29.08.2016



None for the appellant M/S Farman, Inspector and Asghar Ali, HC alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B. for rejoinder and final hearing on 19.12.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____


Case No. 645/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/06/2016	<p>The appeal of Mr. Younas Khan resubmitted today by Mr. Zahir Shah Marwat 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</p>
2-	15.6.2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>22-06-2016</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Younas Khan son of Noor Aslam Khan r/o Pahar khel Lakki Marwat received today i.e. on 10.06.2016 is returned to the counsel for the appellant with the direction to submit one spare copy/set of the memorandum of appeal along with annexures i.e. complete in all respect within 10 days.

No. 10/3 /S.T,

Dt. 13/6 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zahir Shah Marwat Adv. Pesh.

completed and resubmitted

SK
14/6/16

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 645/2016

Younas Khan(Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
and others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-6
2.	Affidavit		7
3.	Addresses of the parties		8
4.	Copies of Statement of allegations and Charge Sheet	A & B	9-10
5.	Copy of reply	C	11
6.	Copy of the impugned order dated 09/02/2016	D	12
7.	Copy of departmental appeal/representation	E	13
8.	Wakalat Nama		14

Appellant

Through

Dated: 09/06/2016


Zahir Shah Marwat
Advocate High Court,
Peshawar.
Cell No. 0313-9851385

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No. 645/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 610

Dated 10-6-2016

Younas Khan S/o Noor Aslam Khan

R/o. Pahar Khel Thall, Tehsil and District Lakki
Marwat.....(Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer (DIG); Bannu.
3. District Police Officer, Lakki Marwat.....(Respondents)

APPEAL U/S 4 OF THE N.W.F.P (KHYBER
PAKHTUNKHWA) SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 09/02/2016 PASSED BY THE
RESPONDENT NO. 2/ REGIONAL POLICE
OFFICER (DIG) BANNU.

Respectfully Sheweth:

Brief facts giving rise to the instant appeal are as
under:

FACTS:

1. That the appellant joined the Police Department on
09/12/2002 as constable and performed his duties
at various police stations with commitment and
devotion.

Filed to-day

Registrar

10/6/16

**Re-submitted to -day
and filed.**

Registrar

14/6/16

2. That the respondent No. 2 issued Statement of allegations and Charge Sheet to the present appellant on 09/12/2015. It would be relevant to mention that the RPO appointed DSP Headquarter Bannu as Inquiry Officer. (Copies of Statement of allegations and Charge Sheet are attached as annexure "A" & "B" respectively).

3. That in reply to the Charge Sheet dated 09/12/2015 the present appellant submitted his written reply, wherein clear denial has been made and plea was taken that the appellant was working at Interment Center, Lakki Marwat with the Pakistan Army for the last 3 months. (Copy of reply is attached as annexure "C").

4. That thereafter the respondent No. 2 passed impugned order on 09/02/2016 and a major penalty of Timescale Constable for three year was imposed upon the appellant. (Copy of the impugned order dated 09/02/2016 is attached as annexure "D").

5. That the appellant filed his departmental appeal/ representation against the impugned order dated 09/02/2016 before the respondent No. 1, but of no avail. (Copy of departmental appeal/ representation is attached as annexure "E").

6. That being aggrieved the appellant prefers this Service Appeal on the following grounds amongst others inter-alia:

GROUND:

- A. That the impugned order dated 09/02/2016 is arbitrary, mechanical and without the application of judicial mind and passed in vacuum needs interference of this august Tribunal.

- B. That the appellant has served the department since 2002 having curiosity to work hard, throughout his career the high-ups trusted him and no complaints whatsoever was made against him during his stay at various police stations.

- C. That the respondents No. 2 & 3 through the blind orders stigmatized the bright career of the appellant

not only through this illegal order within the department but in the public as well.

D. That no Show Cause Notice whatsoever has been issued by the respondent No. 2 which fact is evident from the record, that he only issued the statement of allegations and Charge Sheet, so when no show cause notice has been issued by the respondent No. 2, then how the major would be imposed upon the appellant.

E. That no inquiry has been conducted and the respondent No. 2 passed the impugned order in haphazard manner without adopting the proper and codal formalities, which clear cut violation of the service laws.

F. That the impugned order is the clear cut violation of the Article 4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973, which guaranteed the fundamental rights of the appellant.

G. That no material whatsoever has been brought on record to prove the allegations of close contact with

P.Os against the appellant. Moreover, at the time of issuance of Statement of allegations the appellant was remained there, so the allegations of close contact with P.Os is without any substantive material.

H. That at the time of conducting of raid at the P.Os in jurisdiction of P.S Landiwa appellant was performing Hajj and was in Saudi Arabia, so how he made contact with the P.Os about the raid of the police.

I. That all the proceedings were conducted in haphazard manner and no procedure was followed in strict sense but the hurry shown clearly show the intention of the respondents to make the appellant scape goat so that to help the provincial Government to score in the eyes of public.


J. That no material has been brought on record during the alleged inquiry nor any person was produced in support of the leveled allegations which could justify the stance of the respondents.

- K. That the appellant is innocent and has been dismissed from service which is a major punishment which is not in accordance with the police rules and the law laid down for the purpose.
- L. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.


It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 09/02/2016 passed by respondent No. 2 may kindly be declare as illegal and unlawful, and the penalty imposed upon the appellant may kindly be set aside.

OR

Any other relief which this august Tribunal deems appropriate may kindly be awarded to meet the ends of justice.


Appellant
YOUNAS KHAN C.

Through


Zahir Shah Marwat
Advocate High Court,
Peshawar.

Dated: 09/06/2016

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

Service Appeal No. ____/2016

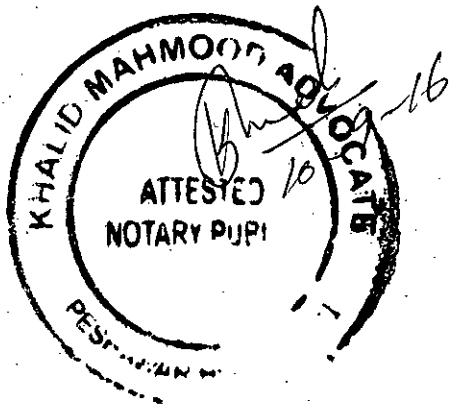
Younas Khan(Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
and others.....(Respondents)

AFFIDAVIT

I, **Zahir Shah Marwat** Advocate, as per instruction of my client, do hereby solemnly affirm and declare, that all the contents of accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.



S/C
ADVOCATE

8

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

Service Appeal No. ____/2016

Younas Khan(Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar
and others.....(Respondents)

ADDRESSES OF THE PARTIES

APPELLANT:

Younas Khan S/o Noor Aslam Khan
R/o Pahar Khel Thall, Tehsil and District Lakki Marwat.


RESPONDENTS:

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer (DIG), Bannu.
3. District Police Officer, Lakki Marwat.

Appellant

Through

Dated: 09/06/2016


Zahir Shah Marwat
Advocate High Court,
Peshawar.

STATEMENT OF ALLEGATIONS.

I, **Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** as competent authority, am of the opinion that **DFC-Constable Younas PS: Ghazni Khel, Lakki District Police** has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment vide NWFP Gazette 27th: January-1976)

SUMMARY OF ALLEGATION.

- D. Aliwala*
- That you DFC-Constable Younas, posted as PS: Ghazni Khel, District Lakki have closed relations with PO Nasib and others and inform them before conducting raids over them by the local police.

For the purpose of scrutinizing the conduct of the said accused w/r to the above allegations **DSP-HQr Bannu** is appointed as Enquiry Officer.

The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc: and findings within 25-days after the receipt of this order.

The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

7-2
(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 3690-91 /EC, Date: 10/12/15
Copy to:- *49/12/15*

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Lakaki for information.
3. The Enquiry Officer.

Attested
AK

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

0344-9341394
0336-9724438



CHARGE SHEET

(10)

WHEREAS, I am satisfied that a formal inquiry as contemplated in the N.W.F.P. Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation, if established would call for a Major penalty as confined in Rules 4-1 (b) of the aforesaid Rules.

NOW THEREFORE, as required by Rule 6-1 (a) of the aforesaid Rules, **I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** charge you **DFC-Constable Younas of PS: Dadiwala, Lakki District Police** for misconduct on the basis of summary of allegations appended herewith.

AND WHEREAS, I direct you further under the Rule (6-1) b of the aforesaid rules to put in a written defense within 07-days of the receipt of this charge sheet as to why a Major punishment as defined in Rule 4-1 (b) should not be awarded to you. Also state at the same time whether you desire to be heard in person or not.

In case your reply is not received within the prescribed period without sufficient reasons it would be presumed that you have no defense to offer and an ex-parte action will be taken against you.

(Muhammad Tahir) PSP
Regional Police Officer,
Bannu Region, Bannu.
4/9/12/15

Attested

Handwritten signature or initials at the top right.

P.T. 2

Main body of handwritten text, likely a letter or report, written in Urdu. The text is dense and covers most of the page.

10-12-05

3890-91/EC

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11

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12

ORDER.

My this order will dispose off the departmental proceedings initiated against Constable Younas Khan PS: Dadiwala, District Lakki on account of the following omission:-

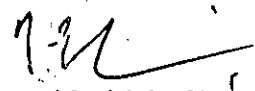
- That he, DFC Constable Younas Khan while posted at PS: Dadiwala, District Lakki has closed relations with PO Nasib and others and inform them before conducting raids over them by the local police.

The said Police Officer was charge sheeted based upon statement of allegations and DSP/HQrs: Bannu was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry under Police Rules 1975 and submitted his findings, wherein the aforementioned charges against the said delinquent Police Officer have been proved without any shadow of doubt.

The enquiry proceedings were thoroughly perused and the officer concerned heard in orderly room on 29.1.2016.

Therefore, I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusal the record/proceedings and hearing the Police Officer in orderly room on 29.1.2016 came to the conclusion that order of Major punishment is required to be imposed upon him, being held guilty of the allegations/charges by the Enquiry Officer as well as un-satisfactory hearing for showing himself innocent with the undersigned. Hence, the delinquent Police Officer is hereby awarded the Major Punishment of time-scale Constable for 03 years.


Order announced.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 395 /EC, dated. 09/2/2016. 03/2/16

- Copy to :-
- The District Police Officer, Lakki.

Attested
S/O


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

بخدمت جناب پروینشل پولیس آفسر صاحب خیبر پختونخوا پشاور

اپیل بحوالہ فقرہ نمبر 14 پولیس رولز 1975۔

12

عنوان: جناب ریجنل پولیس آفسر بنوں ریجین بنوں کا فیصلہ 395/EC مورخہ 09-02-2016 جو قانونی تقاضوں کے مطابق نہیں۔

جناب عالی: سائل بسطح اپیل ذیل گزارشات متعلق حکم بالا جو قانونی تقاضوں کو پورا نہیں کرتا ہے۔ عرض کرنا چاہتا ہے۔

یہ کہ بحوالہ فقرہ نمبر 7 پولیس رولز 1975 قانونی تقاضوں کو انکوائری افسر نے پورے نہیں کئے ہیں۔ اور تمام تراکوائری ایک طرفہ عمل میں لائی ہے۔ جو انصاف کے معیار کے مطابق انکوائری نہیں ہوئی ہے۔ اور میری حق تلفی ہوئی ہے۔

یہ کہ انکوائری افسر نے گواہان پر مجھے جرح کا موقع نہیں دیا ہے۔ جو پولیس رولز باب 16 فقرہ 23 مجھے یہ حق دیا کرتا ہے اور پولس رول 1975 اس لحاظ سے واضح ہے۔

یہ کہ پولیس رولز باب 16 فقرہ 24 انکوائری افسر کو چاہیے تھا کہ وہ گواہان کے بیانات کی تصدیق شدہ کاپی مجھے مہیا کرتا جو اسے بیانات نہیں دیے ہیں۔ جو میری حق تلفی ہوئی ہے۔ جو پولیس رول 1975 اس لحاظ سے بھی واضح ہے۔

یہ کہ مجھے مجاز اتھارٹی نے نہ فائل شوکا ز نوٹس دیا ہے اور نہ انکوائری افسر کے فائنڈنگ رپورٹ کی کاپی دی ہے جو اس لحاظ سے میری حق تلفی ہوئی ہے۔

یہ کہ فقرہ بالا نمبر 7 جز نمبر 3 کے مطابق انکوائری افسر کو انکوائری کو روزانہ کی بنیاد پر کرنی چاہیے تھی اور ایک ہفتہ کے اندر مکمل کرنا چاہیے تھا لیکن اس نے ایک مہینہ سے زیادہ عرصہ کے بعد انکوائری مکمل کی جو انکوائری کے اصولوں کی پاسداری نہیں ہوئی ہے۔

یہ کہ انکوائری افسر نے نہ میرا موقف سنا ہے۔ اور نہ ہی برائے بیان طلب کیا ہے۔

یہ کہ سائل کا لمبا ملازمت پولیس کا ہے اور مورخہ 09-12-2002 کو بھرتی ہوا تھا۔

یہ کہ فقرہ نمبر 3 پولیس رول 1975 کو اگر دیکھا جائے تو میں نہ نا اہل ثابت ہوا ہوں۔ نہ ہی رشوت خور اور نہ ہی بد چلنی کا قصور وار ثابت ہوا ہوں۔

عالی جاہ میرے بے قصوری کو مدنظر رکھ کر تمام تر یکطرفہ انکوائری پر غور شاہانہ فرما کر درج بالا قانونی تقاضوں سے ہٹ کر کی گئی انکوائری پر اپنے عقل سلہ سے سوچ فرما کر RPO صاحب بنوں کے احکام جو انصاف کے اصولوں انسانی بنیادی حقوق کے معیار کے مطابق نہیں کو منسوخ فرما کر میرے کو منظور فرما کر اسی ہی روز مورخہ 09-02-2016 سے مجھے جو ٹائم سکیل کی سزا دی گئی ہے اپنے اصلی تنخواہ کے سطح پر جو احکام ہذا سے پہلے دی جا تھی بحال کیا جائے اور مجھے معاف فرما کر کہ خداوند قدوس نے روئے زمین کے کسی بھی حصے پر معافی اصلہ رحمی پر پابندی عائد نہیں کی ہے۔ عنایت ماتحت پروری ہوگی۔

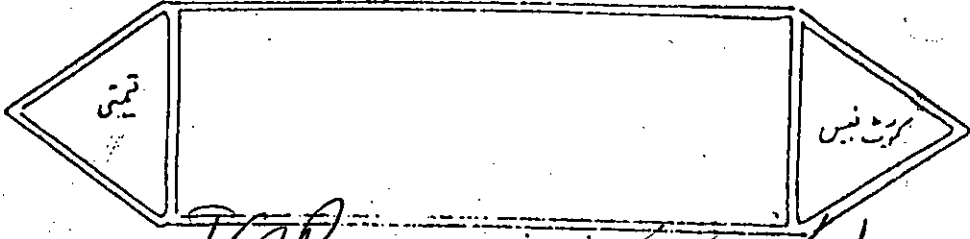
العارض

سائل کنشیل یونس خان نمبر 378/LHC متعینہ پولیس لائن کی ضلع لکی مروت

Attest
[Signature]

[Signature]

بدالت حساب سوکٹ سوسائٹی سوئٹس فوٹو گالری



عناصیل
بنا جدا عینا

کریکٹ سوسائٹی
دعویٰ باجرم
ایف آئی آر
تاریخ

باعت تحریر نمک
مقرر مزدج بالا متوان میں اپنی طرف سے اسلے پردی دے براد ہی بتمام
ایڈوکیٹ پش اور گو بدین مشرڈ ڈیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ منت رافیل ڈیرو
بدالت حافر مزار گولڈ گاہ کو وقت پکاد جائے مقرر کیل خاص مقرر کو اطلاع دیکر مافر بدالت کر لگا کر پیشی پر منظر مافر مزار اور
مقرر سبکی فیر مافر کی کہ جس سے کسی طریقہ سے بر خلاف ہو گیا تو صاحب موصون اس کے کسی طرح ذمہ دار نہ ہوں گے نیز کوکل
صاحب موصون صدر مقام کچھری کے کسی اور جگہ یا کچھری کے قریب اوقات سے پہلے یا پیچھے یا بروز تعطیل سپیری
کر لے کے ذمہ دار نہ ہوں گے، اگر مقرر علاوہ صدر مقام کچھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا
کچھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوکل نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
کس معاوضہ کے ان کرنے یا معافی سے روایس کرنے کے بھی صاحب موصون ذمہ دار نہ ہوں گے۔ کچھ کر گاہ سماعت پر دفتر
صاحب موصون میں کہ وہ ذات فرد مشلوہ و تبدیل ہوگا، اور صاحب موصون عرضی رول سے وجوب دعویٰ اور درخواست اجراء سے
ڈگری و نظریاتی اپیل گذران ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا، اور کسی حکم یا ڈگری کا جوا کرانے
اور ہر قسم کا دیپو موصول کر لے اور رسید ڈی اور عمل کرنے اور ہر قسم کے بیان پینے اور سپر ڈائن و رضی ندر کو لیکر بر خلاف کرنے، آجکل کو
پینے کا بھی اختیار ہوگا، اور بصورت اپیل و براہی مقرر یا مشورتی ڈگری، یکھرنہ درخواست حکم امتتامی یا قرنی یا مقراری قبل از
اجراء ڈگری بھی موصون کو بشرط ادا کیل معاوضہ منتظر سپیری کا اختیار ہوگا، اور بصورت ضرورت صاحب موصون کو بھی اختیار ہوگا
یا مقرر منکوہ باس کے کسی جنکلی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے کسی اور ڈگری یا سپر ڈگری کو بھی
پہے یا اپنا عملہ مقرر کریں، اور کیلے میں تانوں کو برابر میں رہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب
موصون کو حاصل ہیں اور درازن مقرر میں جو کچھ ہر جائے الزام پڑے گا، وہ صاحب موصون کا حق ہوگا، اگر کوکل صاحب موصون
کو پری میں تاریخ پیشی سے پہلے ادا نہ کر دیا گیا تو صاحب موصون کو پورا اختیار ہوگا کہ مقرر کی سپیری نہ کریں اور
ایس صورت میں سپر کوکل صاحب موصون کا صاحب موصون کے بر خلاف نہیں ہوگا، لہذا یہ فیاض رہے دیکر سند
مرفوع فیاض رہے سیں لیلیہ اور اچھی طرح کچھ لیلیہ اور منظور ہے۔

کریکٹ سوسائٹی

ACCEPTED گواہ گواہ

5
BE-09-2328
0312-9851385

Faisal Minakhet

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL 645/2016

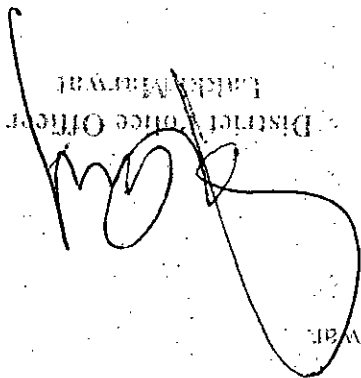
Younas Khan

VS

DISTRICT POLICE OFFICER LAIKI MARWAT

AUTHORITY LETTER

Mr. Farman Khan Inspector Police Lines Laiki Marwat is hereby authorized to appear before honorable Service Tribunal Peshawar behalf of the undersigned in the above cited title case. He is authorized to submit and sign all the documents pertaining to the present writ petition through advocate General Peshawar.


District Police Officer
Laiki Marwat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.645 /2016

Younis Khan S/O Noor Aslam Khan

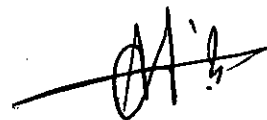
R/O Pahar Khel Thall, Tehsil & District Lakki Marwat Appellant

Versus

Provincial Police Officer, KPK, Peshawar & others Respondents

INDEX

S/No	Description of Documents	Annexure	Page
1	Comments/Reply		1 To 2
2	Affidavit		3
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4	Annexure " A "		5



DEPONENT

11101-1483421-1

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.645 /2016

Younis Khan S/O Noor Aslam Khan

R/O Pahar Khel Thall, Tehsil & District Lakki Marwat Appellant

Versus

Provincial Police Officer, KPK, Peshawar & others Respondents

Preliminary Objections

1. That the appeal of appellant is badly time-barred.
2. That the appeal is not maintainable in its present form.
3. That appellant has concealed the actual facts from the honorable tribunal.
4. That the appeal is bad in law due to non-joinder and mis-joinder of unnecessary parties.
5. That the appellant has approached the Honorable Tribunal with unclean hands.
6. That the appellant has got no cause of action and locus-standi to file the instant appeal.
7. That the appellant has been stopped by his own conduct.

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth

1. Pertains to record. Hence no comments.
2. Correct. Hence no comments .
3. Incorrect. In charge sheet's reply, the applicant has not taken the plea that he has posted in Internment Center Lakki Marwat. The applicant remained/posted as DFC PS Dadiwala and in PS Tajori.
4. Correct. Hence no comments.
5. Correct to the extent that the appellant has filed an appeal before the appellate forum but he badly failed to rebut the allegations, once proved in departmental proceedings.

Grounds of Appeal

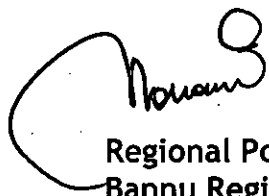
- A. Incorrect. The impugned order issued by the high-ups/competent authority is purely based upon merits and facts after having been proved beyond any shadow of doubts in departmental proceedings.
- B. Incorrect. During his short spell of service numerous complaints was received to his bosses/competent authority against him showing his involvement and hands

in glows with narcotic peddlers/criminals Nasibo and his brothers who even chronic element for the society. As per his service record, one (1) major and two (2) minor punishments were awarded to him after conducting thorough enquiries on the pandora of complaints.

- C. Incorrect. The appellant was never stigmatized and after having been proved in departmental proceedings, hence punishment awarded.
- D. Incorrect. All codal formalities were adopted i.e charge sheet/summary of allegations and show cause notice was issued.
- E. Incorrect. DSP/HQrs Bannu was appointed as enquiry officer who conducted proper departmental enquiry and punishment awarded.
- F. Incorrect. No fundamental/human rights were ever violated.
- G. Incorrect. The charges of close contacts with narcotic peddlers/criminals Nasibo, his brothers and father have proved even enquired through Intelligence Agencies.
- H. Incorrect. The appellant have a close contact before Hajj and still remain.
- I. Incorrect. All codal formalities were adopted, the appellant was properly charge sheeted and DSP/HQrs Bannu enquired the matter. During enquiry proceedings the charges proved and punishment awarded.
- J. Incorrect. The allegations were proved by the sister agencies.
- K. Incorrect. The punishment awarded to the appellant, after having been proved in departmental proceedings which is quite legal according to Police Rules 1975.

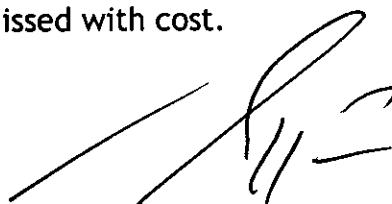
Prayer:-

It is, therefore, humbly prayed that in view of his involvement and close contacts with PO Nasibo etc which black stigma and brought bad name to the entire Police Force therefore, his appeal may kindly be dismissed with cost.



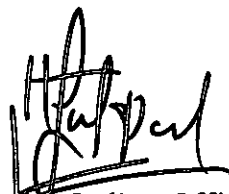
Regional Police Officer,
Bannu Region, Bannu

(Respondent No.2)



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

(Respondent No.1)



District Police Officer,
Lakki Marwat

(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.645 /2016

Younis Khan S/O Noor Aslam Khan

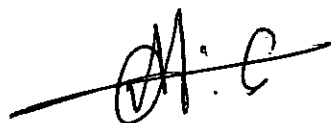
R/O Pahar Khel Thall, Tehsil & District Lakki Marwat Appellant

Versus

Provincial Police Officer, KPK, Peshawar & others Respondents

AFFIDAVIT.

I, Mohammad Farooq Khan Inspector, representative for respondents PPO & Others, do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.



DEPONENT

1101-1483421-1

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.645 /2016

Younis Khan S/O Noor Aslam Khan

R/O Pahar Khel Thall, Tehsil & District Lakki Marwat Appellant

Versus

Provincial Police Officer, KPK, Peshawar & others Respondents

AUTHORITY LETTER.

Mr. Mohammad Farooq Khan Inspector, is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar on behalf of the Provincial Police Officer, KPK & Others in the above cited Appeal.

He is authorized to submit and sign all documents pertaining to the present Petition.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

Respondent No.1


Regional Police Officer
Bannu Region, Bannu

Respondent No.2


District Police Officer
Lakki Marwat

Respondent No.3

ORDER.

My this order will dispose off the departmental proceedings initiated against Constable Younas Khan PS: Dadiwala, District Lakki on account of the following omission:-

- That he, DFC Constable Younas Khan while posted at PS: Dadiwala, District Lakki has closed relations with PO Nasib and others and inform them before conducting raids over them by the local police.

The said Police Officer was charge sheeted based upon statement of allegations and DSP/HQrs: Bannu was appointed as Enquiry Officer. The Enquiry Officer conducted proper departmental enquiry under Police Rules 1975 and submitted his findings, wherein the aforementioned charges against the said delinquent Police Officer have been proved without any shadow of doubt.

The enquiry proceedings were thoroughly perused and the officer concerned heard in orderly room on 29.1.2016.

Therefore, I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, after thoroughly perusal the record/proceedings and hearing the Police Officer in orderly room on 29.1.2016 came to the conclusion that order of Major punishment is required to be imposed upon him, being held guilty of the allegations/charges by the Enquiry Officer as well as un-satisfactory hearing for showing himself innocent with the undersigned. Hence, the delinquent Police Officer is hereby awarded the Major Punishment of time-scale Constable for 03-years.

Order announced.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 395 /EC, dated. 09/2/2016. 03/2/16

Copy to :-

- The District Police Officer, Lakki.


(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

From: - The Deputy Superintendent of Police,
HQ, Bannu.

To: - The Regional Police Officer,
Bannu Region, Bannu.

No. 75/110 Dated Bannu, 15/1 / 2016.

Subject: - FINDING OF DEPARTMENTAL ENQUIRY AGAINST CONSTABLE YOUNAS NO.378.

Memo:

Kindly refer to your Endst No.3690-91/EC dated 15.12.2015 on the above subject.

DFC Constable Younas Khan No.378 was charge sheeted on the following grounds:-

- "That he has close relation with PO Naseeb Khan and others of Lakki District".

The undersigned was appointed to probe into the allegations. The charge sheet/summary of allegations was served upon him and he replied to it which was placed on the enquiry file. He in his statement did not confess/establish the charges, during the enquiry I have recorded the statement of the following officers:-

Statement of the then SHO PS Dadiwala Raza Khan presently Police Line Lakki Marwat.

SI/SHO Raza Khan PS Dadiwala was examined but he did not support the allegation against Constable Younas Khan No.378.

According to the statement of SHO, PO Naseeb and his brothers Naimat, Qismat, Imran and his father Nekam Khan S/O Jan Ahmad wanted to the local Police of District Lakki Marwat in the following cases:-

- FIR No.96 dated 27.06.2010 u/s 302/324/353/148/149 PPC/7ATA PS Dadiwala.
- FIR No.112 dated 19.05.2011 u/s 324/353/148/149 PPC PS Dadiwala.
- FIR No.38 dated 05.03.2010 u/s 324/353/148/149 PPC PS Dadiwala.
- FIR No.134 dated 10.07.2014 u/s 324/353/148/149 PPC PS Dadiwala.
- FIR No.183 dated 10.09.2014 u/s 324/353/427 PPC/7ATA PS Dadiwala.
- FIR No.221 dated 25.10.2014 u/s 15AA PS Dadiwala.
- FIR No.246 dated 22.11.2014 u/s 5/6 Gambling Act/15AA PS Dadiwala.
- FIR No.252 dated 13.12.2014 u/s 15AA PS Dadiwala.
- FIR No.208 dated 11.10.2015 u/s 324/353/148/149 PPC PS Dadiwala.
- FIR No.103 dated 18.04.2015 u/s 15AA PS Dadiwala.
- FIR No.127 dated 27.06.2013 u/s 324/435/148/149 PPC PS Dadiwala.
- FIR No.48 dated 17.03.2011 u/s 13AO PS Dadiwala.
- FIR No.212 dated 30.09.2011 u/s 9CNSA PS Dadiwala.
- FIR No.49 dated 25.02.2015 u/s 5/6 Gambling Act PS Dadiwala.

Statement of accused official DFC Younas Khan No.378.

He stated that the allegations mentioned in the charge sheet are totally baseless. He has no relations with PO Naseeb and others neither he called by DPO Lakki Marwat for the same allegation. In this regard other personnel were called by DPO Lakki Marwat and charge sheeted them except him. He further stated that he did not know when the Police party conducted a raid upon PO Naseeb. He has not known about this because he went for

5

performing Hajj to Saudi Arabia and was out of country. The relevant documents are enclosed for perusal.

He further stated that how he keep the relations with one Naseeb PO while he has killed his close relative namely Constable Shahzad No.377 DFC PS Dadiwala in the year 2010. As a DFC posted in PS Dadiwala, he has conveyed strong information to martyred SHO Najeeb Ullah Khan, upon his information, he has done good performance. He further disclosed that he has obtained cash reward on good performance from the High ups.


No other supporting evidence from the staff of Police Officers came forward. The intelligence agencies were contacted and their officers (incharge of the unit) concerned were also contacted and confirmed the charges leveled against the individuals. Furthermore, secret enquiry from other reliable sources were also made and they also supported the charges. The record of the SRC consulted one major punishment of reduction to time scale for a period of two year & minor punishment of stoppage of two annual increments without accumulative effect were also found in his service record.

CONCLUSION:-

SHO PS Dadiwala has given an obliging admission in favour of the defaulter constable due to same race & locality and fair of local enmity therefore the evidence of said SHO discrete and excluded. He doesn't specifically point out that his (Constable Younis Khan No.378) relation with PO Naseeb and others.

According to his service record he was previously one major & two minor punishments were found.

The intelligence agencies have confirmed the charges against the defaulter constable therefore; I am of the view that the defaulter constable has close relation with PO Naseeb and his brothers. It is reasonably believed that he keeps the PO and his brothers informed about the movement of local Police pertaining to the raids/search operations for their arrests therefore, the charges were found established.


(SYED INAYAT ALI SHAH)
DSP/ HQ, BANNU.

5

CHARGE SHEET

WHEREAS, I am satisfied that a formal inquiry as contemplated in the N.W.F.P. Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation, if established would call for a Major penalty as confined in Rules 4-1 (b) of the aforesaid Rules:

NOW THEREFORE, as required by Rule 6-1 (a) of the aforesaid Rules, **I, Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** charge you **DFC-Constable Younas of PS: Dadiwala, Lakki District Police** for misconduct on the basis of summary of allegations appended herewith.

AND WHEREAS, I direct you further under the Rule (6-1) b of the aforesaid rules to put in a written defense within 07-days of the receipt of this charge sheet as to why a Major punishment as defined in Rule 4-1 (b) should not be awarded to you. Also state at the same time whether you desire to be heard in person or not.

In case your reply is not received within the prescribed period without sufficient reasons it would be presumed that you have no defense to offer and an ex-party action will be taken against you.

2-

o/r
(Muhammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

#9/12/15.

5

STATEMENT OF ALLEGATIONS.

I, **Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** as competent authority, am of the opinion that **DFC-Constable Younas PS: Ghazni Khel, Lakki District Police** has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment vide NWFP Gazette 27th: January-1976)

SUMMARY OF ALLEGATION.

- That you DFC-Constable Younas, posted as PS: Ghazni Khel, District Lakki have closed relations with PO Nasib and others and inform them before conducting raids over them by the local police.

For the purpose of scrutinizing the conduct of the said accused w/r to the above allegations **DSP-HQr-Bannu** is appointed as Enquiry Officer.

The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc: and findings within 25-days after the receipt of this order.

The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

7-2

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 3690-91 /EC, Date: 10/12/015 #9/12/15
Copy to :-

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Lakaki for information.
3. The Enquiry Officer:

14-12-2015

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

5

STATEMENT OF ALLEGATIONS.

I, **Muhammad Tahir PSP, Regional Police Officer, Bannu Region, Bannu** as competent authority, am of the opinion that **DFC-Constable Younas PS: Ghazni Khel, Lakki District Police** has rendered himself liable to be proceeded against as he committed the following misconduct within the meaning of disciplinary rules-1975 (amendment vide NWFP Gazette 27th: January-1976)

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The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc: and findings within 25-days after the receipt of this order.

The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

No. 3690-91 IEC 10/12/15
Copy to :-

L.

o/e

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

10/12/15

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar for favour of information.
2. The District Police Officer, Lakaki for information.
3. The Enquiry Officer.

L.

o/e

(Mohammad Tahir)PSP
Regional Police Officer,
Bannu Region, Bannu.

10/12/15

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 645/2016

Younas Khan Versus IGP and others

**APPLICATION FOR CORRECTION OF
PARA N. 3 ON FACTS**

Respectfully Sheweth

- 1- That the above titled appeal is pending before the court which is fixed for today. i.e. 19/12/2016 .
- 2-. That the appellant was in Saudi Arabia for the performance of hajj at the time of conducting raid but during the reproduction of facts in Para No. 3 it has inadvertently been mentioned that the appellant was posted at Interment Center Lakki Marwat
- 3- That the appellant wants the correction in Para No. 3 as. *"That in reply to charge sheet dated 09/12/2015 the present appellant submitted his written reply, wherein clear denial has been made and taken the plea that ~~he~~ at the time of conducting of raid at the POs in the jurisdiction of PS Dhadiwala the appellant was in Saudi Arabia for the performance of Hajj"*
- 4- That the above omission was not intentional but was clerical mistake.
- 5- That there is no bar in the eyes of laws on the acceptance of this application.

It is therefore most humbly requested that on acceptance of this application the above mention correction may kindly be made in appeal.

Appellant

Through

Zahir Shah Marwat
Advocate,
High Court Peshawar

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 645/2016

Younas Khan

Versus

IGP and others.

FFIDAVIT

As per instructions from my clients I, Mr. Zahir Shah Marwat Advocate, do hereby affirm and declare that the contents of this application are true and correct to the best of my knowledge and information and nothing has been concealed from this Hon;ble Court.

Deponent

①

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 645/2016

Younas Khan

Versus

IGP and others

Rejoinder on behalf of petitioner

Respectfully Sheweth

On preliminary objections

- 1- That the Para No 1 of the preliminary objection is incorrect. The Appeal of the appellant is within time.
- 2- That Para no 2 of the preliminary objection is incorrect.
- 3- Para No 3 is incorrect.
- 4- Para No 4 is incorrect.
- 5- Para No 5 is incorrect.
- 6- Para No 6 is incorrect.
- 7- Para No 7 is incorrect.

On facts: -

1. Para No 1 and 2 needs no reply.
2. That in response of Para No. 3 it is submitted that the appellant was in Saudi Arabia for the performance of hajj at the time of conducting raid but during the reproduction of facts it has inadvertently been mentioned that the appellant was posted at Interment Center Lakki Marwat and

for this factual correction the appellant has also filed an application.

- 3. Para No. 4 needs no reply.
- 4. Para No. 5 is incorrect and baseless.

On Grounds: -

- A. Para No A is incorrect and baseless.
- B. That in response of Para No. B it is submitted the allegation of association/relations of the appellant with POs is incorrect and based on surmises and conjectures. There is no such like evidence against the appellant and the appellant was in Saudi Arabia for the performance of hajj at the time of conducting raid.
- C. Para No C is incorrect and baseless.
- D. Para No D is incorrect and baseless. The alleged inquiry conducted by the respondents is totally not according to law and rules as no proper codal formalities was adopted which is against the services laws. Furthermore no show cause notice what so ever has been issued by respondent No. 2, so in the absence of any show cause notice no penalty can be awarded..
- E. Para No E is incorrect. The proper reply has been given in upper para.
- F. Para No F is incorrect and baseless.
- G. Para No G is incorrect. The proper reply has been given in upper para.
- H. Para No H is incorrect and baseless.

3

- I. Para No I is incorrect. The proper reply has been given in upper para.
- J. Para No J is incorrect.
- K. Para No K is incorrect

It is therefore most humbly requested that the appeal of the petitioner may kindly be accepted.

Appellant

Through

*slg*¹

Zahir Shah Marwat
Advocate,
High Court Peshawar

BEFORE THE SERVICE TRIBUNAL, KP, PESHAWAR

Service Appeal No. 645/2016

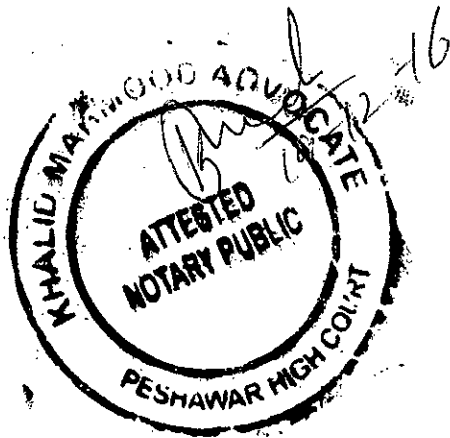
Younas Khan

Versus

IGP and others

FFIDAVIT

As per instructions from my clients I, Mr. Zahir Shah Marwat Advocate, do hereby affirm and declare that the contents of this rejoinder are true and correct to the best of my knowledge and information and nothing has been concealed from this Hon;ble Court.




Deponent

6

Airblue Limited

E-TICKET

Booking #XMYLFE

airblue

Booked By: K. R. Travel Bureau RWP HAJJ 2014
 Contact: Khaleel ur Rehman Paracha (Main Branch)
 92515581728



Reserved On: 16-Jun-2015 4:54 PM

Ticketed On: 16-Jun-2015 4:54 PM

Passengers

Name	Ticket #	Contact #	Passport #	Outbound	Return
MRS SAFIA BIBI	084 2301 181 314	+92 3335336200 +92 515113396	DG3106341	Any seat	Any seat
MR YOUNAS KHAN	084 2301 181 315		HH4131361	Any seat	Any seat
MRS SHAHMIM BIBI	084 2301 181 316		CU3102841	Any seat	Any seat
MRS GUL NISA	084 2301 181 317		LT9897471	Any seat	Any seat
MR QAMAR DIN	084 2301 181 318		CY7794201	Any seat	Any seat
MRS SAKHI MARJANA	084 2301 181 319		AL0986041	Any seat	Any seat

Travel Itinerary

Islamabad → Jeddah

Date	Times	Flight Info	Flight Number	Notes
Monday 07-Sep	3:00 AM 6:30 AM	Departs Islamabad (ISB) Lands in Jeddah (JED)	PA-270 Economy	Nonstop

Jeddah → Islamabad

Date	Times	Flight Info	Flight Number	Notes
Friday 16-Oct	12:10 AM 7:40 AM	Departs Jeddah (JED) Lands in Islamabad (ISB)	PA-271 Economy	Nonstop

Ticket Details

Passenger Name Ticket # / Coupon	Flight	Route	Date	Fare Family	Baggage Allowance	Fare Basis	Status
MRS SAFIA BIBI							
084 2301 181 314 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 314 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK
MR YOUNAS KHAN							
084 2301 181 315 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 315 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK
MRS SHAHMIM BIBI							
084 2301 181 316 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 316 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK
MRS GUL NISA							
084 2301 181 317 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 317 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK
MR QAMAR DIN							
084 2301 181 318 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 318 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK
MRS SAKHI MARJANA							
084 2301 181 319 / 1	PA-270	ISB-JED	07 Sep 2015	Standard (1 Bag)	1 pc	ESTARTK	OK
084 2301 181 319 / 2	PA-271	JED-ISB	16 Oct 2015	Standard (1 Bag)	1 pc	ESTARTX	OK