, S		
Sr.	Date of	Order or other proceedings with signature of Judge or Magistrate
Nc.	.	
	proceeding	
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	_	DEEODE THE ZHVOTO DAZHTHNIZHWA ĈEDVIĈE TOIDINAL
	* . *	BEFORE THE KHYBER PAKHTUNKHWA SERVIČE TRIBUNAL
		Appeal No. 640/2016
	4,00	
ņ		Date of Institution 13.06.2016
, l		Date of Decision 29.01.2018
"		Amal Badshah S/O Neek Badshah Ex-Constable No.3831/Ex-
	*	Servicemen Police Line, Hanguar.
	į	
		Versus
	29.01.2018	
1	29.01.2016	1. The Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs.
		2. Government of Khyber Pakhtunkhwa through Inspector
		General of Police.
		3. D.I.G Kohat District Kohat.
		4. D.P.O, Hangu
		H ID CAMEA IT
9,		JUDGMENT
१	5	MUHAMMAD HAMID MUGHAL, MEMBER: - Learned
		*
		counsel for the appellant and Zia Ullah on behalf of the respondents
-		
		present.
		2. • The appellants has filed the present service appeals u/s 4 of
		2 - 7 - appearance has fired the present service appears as 4 of
		Khyber Pakhtunkhwa Service Tribunal Act 1974 against the
		respondents and made impropried the order detect 17.02.2015
	•	respondents and made impugned the order dated 17.03.2015
-		whereby he was awarded major penalty of dismissal from service.
	1/2	3. At the very outset learned DDA raised objection that the
'	3.5	present appeals is hopelessly time barred as the impugned final
		Process appears to hopercool, time carroa as the impugned that
		order was issued on 17.03.2015 while the present service appeal was
		As a second seco

- As against that learned counsel for the appellants argued that against the impugned order dated 17.03.2013 the appellant filed departmental appeal which was not responded and the appellant then approached the Honorable Peshawar High Court Peshawar and filed Writ Petition against the impugned order, however the same was dismissed being not maintainable, consequently the appellant approached this Tribunal with application for condonation of delay with the same reason.
- 5. Arguments heard. File perused.
- It has now become a settled proposition of law that time spent in litigation before the wrong forum would neither extend period of limitation nor the delay in filing the appeal can be condoned for such reason. Judgment dated 29.06.2017 in service appeal bearing No189/2015 of this Tribunal may be quoted as a reference. The appellant is aggrieved from the order-dated 17.03.2015 against which he approached this Tribunal on 13.06.2016 i.e after one year and almost three months of the issuance of the impugned order, hence the present service appeal is hopelessly time barred and consequently the same is dismissed as such. Parties are left to bear their own costs. File be consigned to the record room after its completion.

<u>ANNOUNCED</u> 29.01.2018

Muhammad Amin Kundi)

(Muhammad Hamid Mughal)
MEMBER

11.08.2017

Counsel for the appellant present. Mr. Zahid-ur-Rehman, Inspector (legal) alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 04.12.2017 before D.B.

Member (J)

(Muliammad Hamid Mughal) Member (J)

04.12.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Mr. Zahid ur Rehman, SI for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 29.01.2018 before D.B.

(Executive)

(Judicial)

29.01.2018

Learned counsel for the appellant present. Mr. Zia Ullah, Learned Deputy District Attorney for the respondents present. Vide our separate judgment of this Tribunal of today placed on file the present service appeal is hopelessly time barred and consequently the same is dismissed as such. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Muhammadfinin (Muhammad Amin Kundi)

MEMBER

(Muhammad Hamid Mughal) **MEMBER**

28.09.2016

Appellant in person and Mr. Abdur Rehman, Inspector alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and final hearing on 23.12.2016.

R

Member

23.12.2016

> (Muhammad Amir Nazir) Member

(Ashfaque Taj)
Member

15 2017

Counsel for the appellant and Mr. Zahid ur Rehman, Inspector alongwith Mr. Muhammad Jan, GP respondents present. Due to transfer of one of the undersigned as reported in daily "Aaj" dated 10.05.2017, arguments could not be heard. To come up for final hearing on 11.08,2017 before D.B.

teniber

Clairman

18.07.2016

Counsel for the appellant present and requested for adjournment. Adjourned for preliminary hearing to 28.07.2016 before S.B.



28.07.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as Constable when removed from service vide impugned order dated 17.3.2015 on the allegations of involvement in corrupt practices where-against he preferred departmental appeal on 30.3.2015 which was not responded constraining the appellant to prefer Writ Petition No. 2582-P/2015 before the august Peshawar High Court Peshawar which was disposed of vide judgment dated 12.04.2016 directing the appellant to approach competent forum for redressal of his grievances and hence the instant service appeal on 13.06.2016.

That the appellant has not been treated in the mode and manners prescribed and appellant condemned unheard as he was neither associated with the enquiry nor opportunity of hearing afforded to him and that the allegations were neither substantiated nor proved during the enquiry.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.09.2016 before S.B.





Form- A FORM OF ORDER SHEET

Court of			
Case No.		640/2016	-

	Case	No. 640/2016
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/06/2016	The appeal of Mr. Amal Badshah presented today by
-		Mr. Hidayatullah Khattak Advocate may be entered in the
		Institution Register and put up to the Worthy Chairman for
		proper order please.
		REGISTRAR
2-	14-6-15	This case is entrusted to S. Bench for preliminary hearing
	,	to be put up there on. 20.6-/L.
·i		
	-	CHAIRMAN
	-	
;		
	5.2016.	Counsel for appellant present. Learned counsel
- 1	0.2010.	
. !		for the appellant seeks time to assist the court on next date.
		To come up for preliminary hearing on 18.7.2016.
-		
		Manufactura
		Member
-		

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 640 /2016
Amal Badshah
Versus
Govt of Khyber Pakhtunkhwa through Secretary Home & Tribal Affaira and others

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5	Copy of inquiry report	В	11-16
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8.	Copy of dismissal order	E	19
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Appellant

Through

Dated: __/__/2016

High Mullah Khatak Advocate, Peshawar Cell No.0300-9357757

<u>BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,</u> <u>PESHAWAR</u>

Service Appeal No. 640 /2016

Diary No. 623

Dated 13-6-20/6

Amal Badshah S/O Neek Badshah EX-constable NO. 3831/Ex-Servicemen Police Line, Hangu...... Appellant Versus

- Govt of Khyber Pakhtunkhwa through Secretary
 Home & Tribal Affaira.
- 2. Govt of kp through inspector general of Police.
- 3. D.I.G Kohat District Kohat.
- 4. D.P.O, Hangu..... Respondents

U/S 4 OF THE SERVICES TRIBUNAL ACT, SERVICE APPEAL AGAINST THE ORDER DATED 17.03.2015 OF RESPONDENTS WHERELNY THE APPELANT HAS BEEN REMOVED/DISMISSED FROM SERVIEC.

Prayer

On acceptance of the service appeal the impugned and order dated 17.03.2015 of the removal/of the appellant by the respondent No.3 may please be set aside and the appellant may please be re-which service with all back benefits.

Respectfully Sheweth:

- 1. That the appellant is the bonafide resident of Khyber Pakhtunkhwa Province (Pakistan) who joined the service on contract basis in police Department (Respondents) as constable being retired from Pakistan Army.
- 2. That the appellant performed his duties to the entire satisfaction of his seniors since his appointments.
- 3. That on the report of one namely Sakhee Rehman a person from the locality of appellant (for the reasons best known to him) Filed numerous applications against the appellants, the applications were referred for inquires.(Annexure A).
- 4. That 02 to 03 inquiries were conducted but no evidence was procured against the appellant. That Inquiry Officer recommended that inquiry may be failed. (ANNEXURE B).
- 5. That later on formal inquiry was initiated against the appellant under Police Rules (Annexure C) slip shod inquiry was conducted (Annexure D) wherein

recommended for cancellation of contractual period of the appellant contact was recommended.

- 6. That thereafter, the respondents No 3 vide impugned order having OB NO 154 dated 17/03/2015 awarded major penalty of dismissal from service with immediate effect.(Annexure E).
- 7. That being aggrieved of the same, the appellant preferred a departmental appeal before respondent NO 2 which is still yet not been replied since 17/03/2015 (Annexure F).
- 8. That the appellant approached honorable Peshawar high court through a constitutional petition number 2582-P/2016 which was decided by the honorable divisional bench on the ground of maintablilty copy of W.P NO 2582-P/2016 and order/judgment dated 12.04.2016 (Annexure F).
- That now the appellant approached this honorable tribunal for the same relief on the following ground.

GROUNDS:

A. That the appellant was not been treated in accordance with law nor equal protection of law has been extended to him.

- B. That the appellant has been awarded a major penalty of dismissal from service on the allegations leveled by one private person, which have not yet been proved and any one of the respondents have not bothered to find out the a hidden hands behind the whole conspiracy.
- C. That otherwise too the alleged occurrence is reported to be of mandi Bahauddin which does not fall the territorial jurisdiction of the respondents.
- D. That the officials of respondents during the inquiry proceeding reached to the conclusion that allegations leveled against the appellant are to be proved civil court of competent jurisdiction.
- E. That the appellant has awarde major penalty of dismissal from service on the allegation leveled by some private whose authenticity yet to be proved.

 That alleged concocted story is reported to be in the area beyond the jurisdiction of respondents.
- F. That any other ground can also be taken during the arguments with permission of this honorable court.

It is, therefore most humbly prayed that on acceptance of the service appeal the impugned and order dated 17.03.2015 of the removal/of the appellant by the respondent No.3 may please be set aside and the appellant may please be re-which service with all back benefits.

Through

Dated: __/_/2016

Hiday at Ullah Khatak Advocate, Peshawar

<u>PESHAWAR</u>

Service Appeal No/20)]	1	6
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5. Govt of Khyber Pakhtunkhwa through Secretary

Home & Tribal Affaira and others.....Respondents

<u>AFFIDAVIT</u>

I, Amal Badshah S/O Neek Badshah EX-constable NO. 3831/Ex-Servicemen Police Line, Hangu, do hereby solemnly affirm and declare on oath that the contents of the 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 Court.

YWAR HIGH

DEPONENT

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No/2016				
Amal Badshah				
Versus				
Govt of Khyber Pakhtunkhwa through Secretary Home & Tribal Affaira and others				
ADDRESSES OF THE DARTIES				
ADDRESSES OF THE PARTIES				
APPELLANT:				
Amal Badshah S/O Neek Badshah EX-constable NO. 3831/Ex-Servicemen Police Line, Hangu.				
RESPONDENTS:				
1. Govt of Khyber Pakhtunkhwa through Secretary				
Home &Tribal Affaira.				
2. Govt of kp through inspector general of Police.				
3. D.I.G Kohat District Kohat				
4. D.P.O,Hangu				
, じっこしこ Appellant				
Through				
Dated://2016 Hidewittellah Khatak Advocate, Peshawar				

معادرهاب مع مر ماه على فعراف المرسيماب المعان المعان المعالية الم De enjuy and when انی لو مهری ما تعانہ کرا موديان دران الحالية - كرسائل الني د في وفي دل في اردو أب صاحا كوران رون بن رايون - سائل عن و تقل رد كاريد والأون اوريا موج من 46 مال مروم كا مراهه دوس سورت على المعالم الم ساته جائن ميم ها عبدة إلا - أم فابل ه وال الدر مسوشل كامون كانجر فركفنا لا المال -جا عالی. میں نہ تایا، سرفرادی اور بع الیما نہو کر پیش جاؤں۔ برطالع آئیے جائے مَ مَعُ مِعَامِدَ عِبَاسَ مُ الْوَفِينَ الْوَفِينَ الْوَفِينَ الْوَفِينَ الْوَفِينَ الْمِنْ الْوَفِينَ الْمُؤْمِنِينَ الْمُؤْمِنِينَ الْمُؤْمِدِ عَلَيْهِ عَلَي الم الم الم الم المارك و ١١٥٥ مين المك يرافيان الم المارك الم المارك و ١١٥٥ مين المك يرافيان الم آب لوگول از سون . لین شرطیم این آب ای مالاکوسیکورنی سراجیک کے الذي شرره ع مع رفاسه سي في تنايا بسيط شرط ميروري عيدا ب تا المرسام ميس الما تراج قرن الحام عمد أله وي . قران كالمريروم مين ف سى سادفارى دولارى إن عنا بالى اس دورال بعارف ساعد ل مجرياض جسما مملا فون عبد 0321-775135 0346-0673597 «ومراعتمر جوكم تح عرصے كالعد شركردما. و كورة مرفال مول كريا ب 💬 مبعرمام كابلامن عيماً أم على في فون مرده 27086-3440 ون سر 87466478-3030 والمسكورية المستريضات السريد كليران ال مام على بادشاه الميل فرق فرق و 1793 362 و 1793 و 1979 - 1980 0342-8844807 - 60th - 5844807 D مِنْ عِلَى سَائِلَ عَ الْحَيْثَ Fir مَنْ مِنْ كَانِ اللهِ مِنْ اللهِ مِنْ اللهِ مِنْ اللهِ مِنْ مِنْ مُنْ اللهِ ما ماما سرى مرورس مر براميلي ديما نردين فيداني رهم وال مراس مرا الم المراد و موسام من الرفال والمراز المراه من المراد عن منه والمراد المراد المرد المراد المراد المراد المراد المراد المراد المراد المراد المر سياس على بارتنا عاديد خور من بين مجد على بارتا عديد الله خور المن بين مجد على بارتا عديد الماديد الما

فرريار ما يرف س المنت من المنتا ورف المنا المركور الما الماد Solo Dpo " " 9 Sible st en Dpo " " 14 - 1 2 10 Charles 10 10 Chief 25 13 Stron 0-15 جريران مرايس ع - مهال ايل في على مولى ول ك الدورك عاميان لوندولية دروراست ينش كراي سائل في المفوا من لقر بابع فال من من قالون سى كو فالله من المبن دياس - اورة دول قا مَا قَالَا: الْإِلْمُ 12-2012 مِنْ الْمُوسِلُونَ عَلَى الْمُولِينَ قَافَلَ مُولِيلِينَ عَافِلِينَ عَافِلَ الْم فور مای ورفواست محسافق ملسلات سائل اید سریب عامران مطالعا کانتا سے مراس الله ایک کیشہ موں - مزمر آسی شرعم مے ساتھ کوئی رال فی عے - میر مے چونے سے جر کم ریر لیم جیس - تھ اور سرا : بخون كوسارى عركيد مقوض كرويا كيا- اور ليلم عاص كرن سے دو حار سو كيك -مَابِ والا: بين عام سرطرى أ دروس تو مرض كرما سوى حس مندو في النه تحويد مترى بهاوالدين ما و تُومِرِ عَكِما تَمَا وه عِنْ لَولِس ربله في نورس (x ع) روس مِن عِنَا مَا كُمْل باد ت و في في الرس المداماس اردر سے رینا کرد ماندم کے حمیت سادہ لی جو میرسا کو فراخ کی جے جس میں مع مام معرماض تبايا تعا- يواك وورك مة تعليد اس والوكا ما) الترق وهود لكلا-اس عماقه سرادسیان بر اور شای مارد و لولای و جا۔ والا۔ عال دور ص میں نے ایک لاکو 8 کرار دیسے جڑے ہوا ہے ورقم اس کے اس کے سرونا کیا ہے۔ مَا سِعَالًا - يه خَالُو فِي دهين ن حَدرا سِي - رَاّ رَابِ عِرقُم فَى مَالَيْهِى - ثَوَا سَالِسُ مُرَّ لِأَنْ الْمِ ولي رورياس عسد دونها - محيداس مان كا حدة ع المربيك على عفو للسرس ض دالا - اگر میرکرین مه فارف ۱۹۵۷ می طری از الستانگر میر هوش کیس سی ما فران (۵۵) مندی بیاطامین دستی مساسعا حقاع کریگ - فراخد ارته ما خوشگواروا قدات بمیش موت کاروایس ا my: En a low subside the subject the subject of the way of 13 July 1/2014 0 00 15/63 0010 MUST AUGUST 11/2014 9 العربيرا الما العالى والبرا عن المراد عن المراد عن المراد عن المراد الم . HOFSTED

Grand State DSP/100 وعه الما المعادي من المرابع من المرابع من المرابع الم اللا ورفر 210 م. 12. مع كوسال ما ما فوصل مدي ما واللون ما ون كوفورس ووالمرسون عام والو كاي درواست كه سائه مسلك مين . سائل الله عريب فالدان سے لعلق ركھا ہے . بيس جوز رسامين محادر سر حرا يحل كرسارى عرع كامور ص كردياسة صاب دالا میں نمام سرقاری بردوں تواہی کی سوں برمصی سرہ نے اپنی گھے منام على المرام الم على المتعادي عبي بنوه كا مام بجراماض شايا عنا · عار وولي ما المرامن ر المهام الله المواقع المسرف وصوفي الله الموف المن على و ميرا في سيارته الدار شاي كان صاب وال الله على المرعند من الكراب الله المراب الله المرابعة عن المركبين المرابعة المرابعة المادي المرابعة المادي المرابعة المر 2 2014 900 10 29 F/2-1/2013/KP4/PAY/MapA/77/ effice of the District Comtination office Mandi Bahaculdin No 1415/11/45/19) Dutod 17/6/2013

5A-173 9826. 1) Deputy Commissioner Kurch No Gos/Oc/Hc/Greneral Dated Karaly 31-1-2016 جنا۔ والد کے مالے (pig) من ب مراب کی کانروں ہر آباد کو مواؤل ماری کم مرابط کی ا جنابوالم المروري عمل كراب معلى كرافك كرون وأرابك عافر الروس وال ربع فخوالوك مساكودا رفع كراع عربب لوك كولوك كراج . مين ايد مامان تر عرض را عون من منظري مناولان الراس كان وط D صنكو سياني Produce line things of the control o

بان، ان على اد ناه المسرس مران على المان المعالم المعا ے بنان کیا کہ بہ می الرف کی حرک مرصوفلوف بار بار اعلیٰ صا م کودرات المرياب اور في المال كال المريد المري طرخ کا بیان کیا ہے وک، دو ترے در فورسد صری الگ طرخ کا بیان کیا ہے۔ جن عالم 101 (2) cisí 1 200 0 1/2/2 (2) L'andion. 11 (21-12.013 (b) 2/2/20 Segue de 206-013 de 2010 (100) - Esque de 206-013 de مال ہے ۔ الطی الوقے ماذکر در فورسٹ میں آباہ ، آگری الوما فعوں لوہر فی ایک سے کے مقر مارم کور سے مادق کیسے لیے جا سکن معرب خالہ تکرر دستور انس کے کادمی لرؤ کے کھ @ مورید برزردید ما دنوی - بران بی و فورد نوی کری ہے . کر سال ان ملع المعتما برزروس مع الولور ال عرفي المعلى الموري كرون على كرافي 9 در در الا کوروسے کا دکوی . در فرائ می ای ای نور کر برکیا ہے کہ کہی وبي محروث وي عبرات مو دفران ي خالر بي أفع عيم كي ما الويرية وير دى لولوقا دورى كيدكر ناب، على ازين جين عرب الذرك موق برجركه بحثان كبيل كيا البكى ده عرك برقاع كيك رافي منهرا وادور براه كوكي طراقيون سے ڈرا کا دفای کی اور ای ہی کر پر گررو دی کہا ، اور بی فلرف کی باربيل في ورعز رت به يحدي الناص بين فل أولي برح فرا في عرب ما لما و را برا برا الم فرون ها لا في المرا برا الم فرون ها لا في المرا برا المحالية المرا برا الم برمر عن مرا فان دلد مراص فان عوك من الراع في المرام على با فذكره الحفي سر الكيريان الري للاي الحرك ورمي أست لخ يعميه مناب عرب المرام المرا 50,7950,46,10- Gen DuGil Sil Poline in position ور المرام المرام والمرام والم والمرام Sp. pologop. polocio de Dia volo Dia de Dia على الما برأ باق الما برك ، كو <u>المو ١٥٠ كو يو ارئ كو يوبي</u>وا دى بش ليرز وراه برافل فرما الإطاق 27+U-2014 AHWESTED

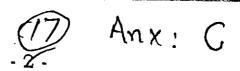
· 22-12-14 + رون بيان، زون سيان، زون الملكي على المروسي م 3 2 3 8 3 1 3 2 2 3 8 3 1 Toles 36 in Commo old Mos on the Court مي كي منها إلى اوركي د نه مرسر الوسل أن من كي الله والمعلى المراعم المراعم المراد المرد المرد المرد المراد المرد ال دوين النرون والله مع المرويان المي الله والمروي المعالي المروي المعالي المروي المعالي المروي المعالية النائل الما يم من المعالم المرا ورواسك وما مريده المعالم فالرا الم در فرانسیا می درن ورن موسرار اندار جال نا مجرمیا فريس هي رينداس نا قرر يا شي الريام مي رين ع سی کے لیں دیں ہے اس کو کوسی فرائی کی برانورس کونیار بری ATTED

على درورس أزن موسيار عن الحن دار المراد والديس عدم عام عابيًا لا على كالم على الم Local 1829 (Ch. 18 - 1829) (829) (829) روس جربرتع فاخ سعاراد مع موران الما ورفورسا ما ما مورسا معالم مورسا معالم مورسا مورس Ex 36 Course بالن المرابع المرابع ورفوست كنيد ورفوس مين كاردال من شكر الحكيدي - ولف رود فيدا ريخ سِيدَ كَنْ اللَّهُ عَلَى مِنْ اللَّهِ اللَّهِ عَلَى مِنْ اللَّهِ اللَّهِ عَلَى مِنْ اللَّهِ اللَّهُ اللَّالِي اللَّهُ اللَّا اللَّالَّا اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّهُ اللَّا اللَّهُ اللَّهُ اللَّهُ الل كاران تحديث درفرامت مين وقدع قرارات عربي الم معنى ما ما كالما على الما على ما علم مای موج سے معارفرق موس Diver property and -1 ساتم دیم است میں مباح 5000 کر روس ملکھا ہے۔ Ordersing of les con cignished ماح ١٥٠ فيل اولا توسي كور ليو الموسي الا ليوسي الموسي المو مر مروع على منا والبين من الوعا البيطام ا - 6 2 3 W NGOS

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بقرنا دفوع منرى ما والمرب كا ولارثاء رحره س مرا على معرسرار سی را ب ۱۰ در الع ۱۰ در برار در با میر ریام ای شعم وروم سه وع سا . لبر سرت لر توله ک کیونا علیادیاه ایک مروسیا مین مِ رَاحِ عَالِي مِن اوْمَا وَمَا وَمَا وَمَا وَمَا وَمَا وَمَا مِن الْمُولِينَ بِرَامِ مِ فَرَيْدُ معامل المناه لا المناه لا المناه لا المنا المنا المنا المناه للما المناه للما المناه للما المناه للما المناه المنا عند المراق المراق المراق الراق المراق نوشارس عراب در ال عداد عراب ومه المراس الرامرى - Ur 13 Più 1 - 520 Jelo



DISCIPLINARY ACTION.

I, Mr. Anwar Saeed Kundi, D.P.O, HANGU as competent authority, am of the opinion that Constable Amal Badshah No. 3831/Ex-Servicemen has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975: -

STATEMENT OF ALLEGATIONS.

- a). An application received which was marked to R.I Police Lines for enquiry. After the completion of enquiry it has been found that your service is doubtful and you are also involved in illegal activities.
- b) Your above act shows criminal gross misconduct on your part which cannot be ignored.
- 2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules:
 - i. Mr. Aslam Khan Inspector Legal.
- 3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
- 4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

DISTRICT POLICE OFFICER,

HANGI

A copy of the above is forwarded to: -

- 1. Mr. Aslam Khan Inspector Legal.. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
- 2. <u>Constable Amal Badshah No. 3831/Ex-servicemen.</u> The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

AHVESTED

انگوائری آفیسرانیگراسلم خان

ي ولا النروم عرب والم

ORDER

This order of mine will dispose of the departmental enquiry initiated against Constable Amal Badshah No. 3831/Ex-servicemen on the allegation that an application received which was marked to R.I Police Lines for enquiry. After the completion of enquiry it has been found that your service is doubtful and you are also involved in illegal activities. His above act shows criminal gross misconduct on his part which cannot be ignored.

He was served with Charge Shect and Statement of Allegations vide No. 4879/PA, dated 11.12.2014 under Police Disciplinary Rules, 1975 to which he submit his reply. Mr. Aslam Khan Inspector Legal was appointed as Enquiry Officer to conduct departmental enquiry against him. After the completion of enquiry, the enquiry officer submitted his findings in which he strongly recommended him for major punishment of cancelation of his contract, if approved.

Therefore, delinquent constable was called and heard in person in the Orderly Room held on 17.03.2015 in the office of the undersigned. During hearing the defaulter constable found guilty.

Keeping in view of above and having gone through available record, the undersigned came to the conclusion that he, being a member of disciplined force, had acted criminal gross misconduct, indisciplined and irresponsible manner. Therefore, I, Anwar Saced Kundi (PSP), District Police Officer, Hangu in exercise of the powers conferred upon me, awarded him major punishment of Dismissed from service with immediate effect.

Order Announced.

OB No. _ 154

Dated __/7 / /03/2015.

DISTRICT POLICE OF .729 HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

/PA, dated Hangu, the 17/3/2015.

Copy of above is submitted for favour of information to the:-1. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar w/r to his office Memo: No. 1223/C.Cell, dated 24.04.2014 and 6796/C.Cell, dated

2. Regional Police Officer, Kohat w/r to his office Endst: No. 626/C.Cell, dated 10.04.2014, Endst: No. 761/C.Cell, dated 30.04.2014 1073/C.Cell, dated 04.06.2014

3. District Police Officer, Karak w/r to his office Endst: No. 68/C.Cell, dated

4. Pay Officer, Reader, SRC & OASI for necessary action-

5. Ex-Constable Amal Badshah No. 3831/Ex-servicemen.

DISTRICT POLICE OFFICER HANGU

Annea F

20 کفور جناب DIG کوہاٹ پولیس ریخ کوہاٹ عنوان: درخواست بمراد فیصلہ برخاشگی کے خلاف

جناب عالی! مئود بانہ گزارش ہے کہ فدوی سپاہی عمل بادشاہ 1831 No. 3831 سپاہی سال 2009ء سے تحسشیت سپاہی ضلع ھنگو جیسے حساس ضلع میں ڈیوٹی سرانجام دے رہا ہوں لیکن دوران ملازمت اپنے علاقے کے ایک آدمی تخی الرحمٰن کے بغیر کہی شبوت سے جھنگا ہوں سے نگ کرنے کی کوشش کرتا رہا ، تا کہ میں ملازمت میں بدنام ہوجاؤں ۔ اس سے پہلے فدوی افسران بالاکواپنے موضوع کی بابت اگاہ کر بچے ہیں لیکن بدشمتی سے فدوی کوکل مورخہ 2015-03-17 بحوالہ نمبر 27/PA مورخہ 2015-03-17 کو DPO ھنگونے نوکری سے برخاست کردیا۔ چونکہ فدوی ایک غریب شخص ہے۔ چھوٹے چھوٹے بچے ہیں۔

لہذا فدوی کی مجبوریوں کو مدنظرر کھتے ہوئے اور ضلع ھنگومیں سال 2009ءخوش اسلوبی سے اپنے فرائض انجام دیتار ہا فدوی کو بحال

كرواياجائے۔

کیونکہ ایک سول شخص کی ایما پرفدوی کو برخاست کیا گیا۔ حالانگہ حقیقت اس کے برعکس ہے فدوی اس معاملے کو درخواست کے ہمراہ مورخہ 2014-10-25 کو بذر کی بحدرجسٹری نمبر 239 ارسال کی جا چکی ہے ہمراہ لف ہے۔

لہذا مہرابانی فرما کرفدوی کی ملازمت پر بحال کرایا جائے۔

عین نوازش ہوگی

مورخه 2015-17-17

N. T.

دعا گورہوں گا آپیا تابعداز عمل بادشاہ سیاہی نمبر 3831متیعنہ ھنگو

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BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

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W.P. No. 25/2015

Amal Badhsh Ex-Constable No. 3831/Ex-Servicemen Police
Line, Hangu___(Petitioner)

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary
 Home & Tribal Affairs.
- 2. D.I.G Kohat Division, Kohat.
- 3. District Police Officer, Hangu......(Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth:

是一句。 的海峡

1. That the petitioner is the bonafide resident of Khyber Pakhtunkhwa Province (Pakistan) who joined the service on contract basis in Police Department

Diputy Registrar

09 JUL 2015

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JUDGMENT SHEET PESHAWAR HIGH COURT, PESHAWAR JUDICIAL DEPARTMENT)

WP No. 2582-P/2015

<u>JUDGMENT.</u>

Date of hearing: 12.4.2016

Petitioner: (Amal Badshah) by Mr. Hidayatullah Khattak,

Advocate.

Respondent: (Govt. of Khyber Pakhtunkhwa and others) by

Mr. Rab Nawaz Khan, AAG.

WAQAR AHMAD SETH, J:- Amal Badshah,

petitioner herein, through the instant constitutional petition, has prayed for issuance of an appropriate writ declaring the impugned order No. 154 dated 17.3.2015 passed by respondent No.3 as unlawful authority, void and ineffective upon his rights. He further prayed that the concerned respondents be directed to reinstate him on the post with all back benefits.

2. Facts, in brief, are that the petitioner, on retirement from Pakistan Army, joined the service on contract basis in the police department as Constable and performed his duties to the satisfaction of his seniors but

ATTESTED
Peshawar High Court
20 APR 2016

(25)

one Sakhee Rehman filed numerous applications against him, which were referred to inquiries and after completion of inquiry, he was awarded major penalty of dismissal from service vide order dated 17.3.2013, against which, the petitioner filed departmental appeal but no response was given to him; hence, the instant Writ Petition.

- 2, which they accordingly furnished and denied by the assertion of petitioner by stating that numerous complaints were filed against the petitioner for his involvement in illegal activities and after initiation of proper departmental inquiry, he was awarded major punishment of dismissal from service.
- Advocate General raised objection regarding maintainability of instant Writ Petition that the petitioner being a civil servant, the jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, to which, the learned

ATTESTEL EXAMINER eshawar High Cour

20 APR 2016

counsel for the petitioner sought time to prepare the case. Today, when the learned counsel for the petitioner was confronted with the above objection raised by the learned Additional Advocate General, he argued the case at some length but could not give a positive response.

In view of the above, this Writ Petition being 5. not maintainable is hereby dismissed with direction to the petitioner to approach the competent forum for redressal of his grievance along with application for condonation of delay.

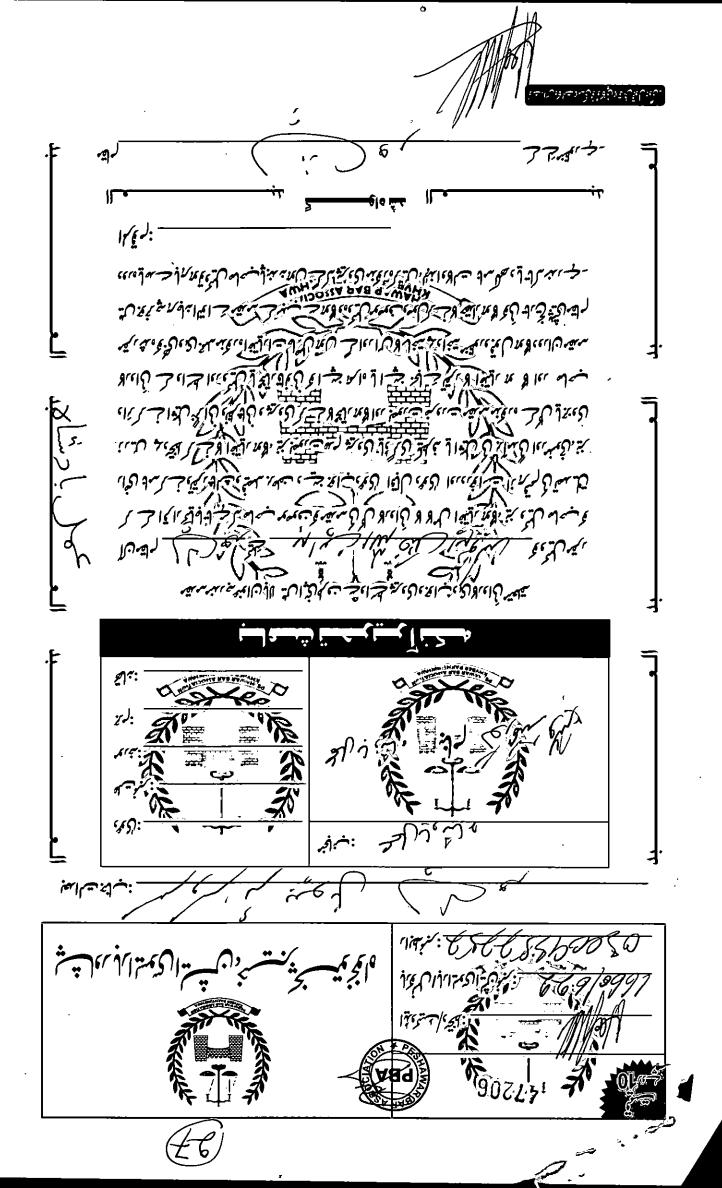
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BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR.

Service Appear No. 040/2010	
Amal Badshah Ex-constable No. 3831/Ex-Servicemen	Appellant.
VER\$U\$	•
Govt of Khyber Pakhtunkhwa, through	

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4.

. Respondents.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary objections:-

1. That the appellant has got no cause of action.

Secretary Home & TAs and others

- 2. That the appellant has got no locus standai.
- 3. That the appellant was inducted purely on contract basis as ex-servicemen constable, hence his appeal is not maintainable in its present form.
- 4. That the appellant has not come to this Hon: Tribunal with clean hands.
- 5. That the appeal is badly time barred.

Reply on Facts:-

- 1. Correct, the appellant was enrolled in Police department as constable as ex-servicemen.
- Incorrect. Numerous complaints were received against the appellant regarding his involvement in criminal activities, as well as disinterest in discharge of his lawful duty.
- 3. Numerous complaints from Subidar Sakhi ur Rehman were received against the appellant regarding his involvement in illegal activities from different quarters, upon which departmental proceedings were initiated and the charged leveled aginst the appellant was established.
- 4. Incorrect, the inquiry officer appointed in departmental inquiry has held him guilty of the charge and recommended for cancellation of his contract.
- 5. The Respondent No. 4 carried out proper departmental proceedings; he was awarded ample opportunity of defence, but failed hence the inquiry officer recommended for cancellation of his contract.
- 6. Pertains to record, hence no comments.
- 7. Incorrect, there is no provision in rules regarding right of departmental appeal of employ recruited on contract basis.
- 8. Pertains to record, hence no comments.
- 9. No comments.

Grounds:-

A. Incorrect, the appellant was treated in accordance with the law /rules and all codal formalities were completed during the departmental proceedings.

- The allegation/charge leveled against the appellant was established during the course of inquiry beyond any shadow of doubt. Furthermore, the conduct of appellant was also remained suspicious /indifferent during his posting.
- C. The appellant was serving in district Hangu, being suspicious conduct he was dealt with departmentally, hence falls under the jurisdiction of Respondent No. 4.
- D. Incorrect, the inquiry officer has established the charge leveled against him and recommended for cancellation of his contract.
- E. Incorrect, the inquiry officer proved the charge leveled against him.
- F. No comments.

Keeping in view of the above, conduct of the appellant, the appeal is devoid of merits / law, without any substantiate and badly time barred. It is prayed that the instant appeal of the appellant may kindly be dismissed with cost.

Govt of Khyber Pakhtunkhwa, Home & TAs Department (Respondent No. 1)

> Deputy Inspector General of Police, Kohat Region, Kohat (Respondent No. 3)

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

(Respondent No. 2)

District Police Officer,

Hangu

(Respondent No. 4)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No 6 70 of 2016	
Amal Badshah	Appellant
VERSUS	
The Inspector General of Police, Khyber Pakhtunkhwa Peshawar.	
	Respondents

AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare that contents of **Reply/Parawise Comments** are correct and true to the best of our knowledge and nothing has been concealed from this honorable tribunal.

Govt of Khyber Pakhtunkhwa, Home & TAs Department (Respondent No.1) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

(Kespondent No.2)

Dy: Inspector General of Police Kohat Region Kohat

(Respondent No.3)

District Police Officer, Hangu.

(Respondent No.4)

فائين تك الكوترى ربورك

جناب عالى!

اکواله محکمه ندا نکوائری برخلاف کانشیمل نمل با دشاه نمبر 383 'الالا معروض خدمت موں که کانشیمل نمل با دشاه نمبر کانشیمل ندکور د بالا کو جواله جارت شف نمبری 4879/PA مورجه 11.12.2014 ایشو موکر جس میں اُس کوغیر تا نونی سرگرمیوں کا حصہ : و نے پرمحکماندا ککوائیری کا سامنا ہے اورش انسیکٹر لیگل گوائکوائری آفیسرمقرر کیا۔

کنٹیبل نہ کورہ برائے اکوائری طلب کر کے ندکور کنٹیبل نے تحریری جواب س اکوائری آفیسر کو پیش کیا جس میں جملے الزامات سے انکاری ہوکرخود کو بے گنا ظاہر کیا فہ کورہ کلٹیبل پر جرح کرنے کی ضرورت محسوس نہیں کی کیونکہ اور کا ہے۔ ایک اگر کی کرنے کے دوران اس جواب پرتفصیلاً جرح کی ہے۔

ملادہ ازیں درخواست کنندہ تخی رحمٰن کی دوبارہ بیانات لینے کی بھی ضرورت محسوں نہیں کی کیونکہ اس معاملہ اس کے بیانات پہلے ہی صفحہ انکوائری پرموجود ہیں۔ مزید یہ کہ اہم صاحب منکو نے انکوائری کے سوادرخواست کنندہ کی درخواست پر جناب OPO صاحب نے بخوالہ پھٹی آگریزی نمبری 2729 مورخہ 21.07.2014 مفسل طوری۔ جناب آصاحب خیبر پختو انخواہ کو برائے چھٹی آگریزی جواب دیاہے۔ جس میں میجرریاض نا می شخص اور کسٹیبل عمل بادشاہ کو معاملہ بنوامیں فراؤ کا حصہ بتایاہے۔

اس معامله میں کانی در وگذا بست اور بیمبلی بھی الگوائری ہوچکی ہیں اور ندکورہ ایکسروس میں والعی صاف اللہ

نہیں ہے۔ منہیں آتے۔

رتوم کے لین دین کی نبیاداُن کی ذاتی تعلقات ہیں تا ہم فورس کا حصہ ہونے کی بنا ، پراپنے کر دار بھی شفاف نوعیت کا ہونا بھی ضروری ہیں۔رقم کا تناز عہاور وقوی منڈی بہاؤالدین پنجاب کا ہے۔

ابذا درخواست کننده ندکوره ضات کا افسران یا مدلیه کو در این استان کروات ناجم بیام بھی تابل ذکر ہے کہ ندکور دکنسٹیل کنٹریکٹ کی بنیاد پر سروس کررہا ہے اوراس طرح کے کردار کے ساتھ محکمہ پولیس کی بدنا می پاکستان کے سطح پر ہورہی ہے اور کنٹریکٹ پر ہوتے ہوئے بہتر ہوگا کہ اس کے کنٹریکٹ کومنسوخ کیا جائے اور نوکری سے فار ن کیا جائے تا کرمزید باعث بدنا می نہ ہو۔ انکوائری ہذا ہیں کنٹیبل ممل بادشاہ کے کردار کوغیر شفاف پایا جا کراکاوائری ہدا ہیں کنٹیبل ممل بادشاہ کے کردار کوغیر شفاف پایا جا کراکاوائری ربورٹ گزارش ہے۔

مر المرازي آفيراني آف

CHARGE SHEET.

- I, Mr. Anwar Saeed Kundi, D.P.O, HANGU as competent authority, hereby charge you Constable Amal Badshah No. 3831/Ex-Servicemen while posted at Police Lines Hangu committed the following irregularities:-
- a). An application received which was marked to R.I Police Lines for enquiry.

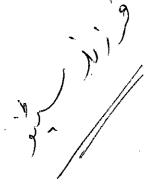
 After the completion of enquiry it has been found that your service is doubtful and you are also involved in illegal activities.
- b) Your above act shows criminal gross misconduct on your part which cannot be ignored.
- 2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.
- 3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.
- 4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
- 5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

DISTRICT POLICE OF ICER,

HANGU

No. <u>4879</u>/PA,



MAIN GROUPS

- 1. Maulana Muhammad Nabi (Taliban Group Commander) of Orakzai Agency presently residing in Boland Khel, Orakzai Agency.
- 2. Hafiz Daulat Commander Group (Orakzai Agency, Hangu) r/o Khaidad Khel, Spir Kait, Kurram Agency.
- 3. Fazal Saeed Commander Group (Kurram Agency) Markaz at Ouchat Kurram Agency.
- 4. Hafiz Saeed Commander Group (Orakzai Agency) Markaz at Orakzai Agency.
- 5. Mufti Shakirullah @ Peer Shakir r/o Buland Khel, Orakzai Agency.

DISCIPLINARY ACTION.

I, Mr. Anwar Saeed Kundi, D.P.O, HANGU as competent authority, am of the opinion that Constable Amal Badshah No. 3831/Ex-Servicemen has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975: -

STATEMENT OF ALLEGATIONS.

- a). An application received which was marked to R.I Police Lines for enquiry.

 After the completion of enquiry it has been found that your service is doubtful and you are also involved in illegal activities.
- b) Your above act shows criminal gross misconduct on your part which cannot be ignored.
- 2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

i. <u>Mr. Aslam Khan Inspector Legal.</u>

- 3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
- 4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

DISTRICT POLICE OFFICER, HANGU

A copy of the above is forwarded to: -

- 1. Mr. Aslam Khan Inspector Legal. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
- 2. <u>Constable Amal Badshah No. 3831/Ex-servicemen.</u> The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

BEFORE THE COURT OF SERVICES TRIBUNAL, PESHAWAR

Service Appeal NO. 640 /2016

Se.	4
Diary No. 575	٠,
4=)-1	\mathcal{L}

Amal Badshah A	ppellant
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Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary Home & Tribal Affair.....Respondents

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:-

- 1. That the above titled service Appeal has been field by the petitioner and next date of hearing is 18.07.2016.
- 2. That appellant approached the Hon'ble Peshawar High Court Peshawar through constitution petition No.2582/2015 which was disposed off with direction to approach the proper forum i.e. Services Tribunal.
- 3. That hence this service appeal before this Honourable Tribunal
- 4. That delay in filing the title service appeal is neither willful nor deliberate but due to reason mentioned above.

It is, therefore most humbly prayed that on acceptance of this application, the delay, if any, in filing the above tiled Service Appeal may kindly be condoned in the interest of justice.

Petitioner

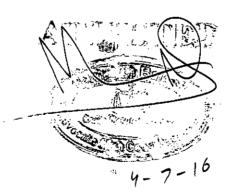
Through

Dated 04/07/2016

Advocate, Peshawar

AFFIDAVIT

1, Hidayatullah Khattak Advocate High Court as per instructions of my client, do hereby solemnly affirm and declare on oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Service Titled	e Appeal No	· · · · · · · · · · · · · · · · · · ·	/2016			
Amal l	Badshah	•••••			Appella	nt
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Govt.	of Khyber Pak	htunkh	wa		,	
Throug	gh Secretary H	ome &	Tribal Affo	air,Res	ponden	ıts
	REJOINDER	ON BE	HALF OF	APPELLAN	IT IN	
	RESPONSE	TO	REPLY	FILED	BY	
	RESPONDEN	TS				
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Respectfully Sheweth:

Preliminary Objections:

All the preliminary objections raised by the answering respondents are erroneous and frivolous hence not correct. The appeal is within time, appeal being aggrieved civil servant has got cause of action, has got locus standi appointment as permanent employee in police department, has come to this Hon'ble Tribunal with clean hands and nothing has been concealed important material facts from this Hon'ble Tribunal and the appeal of appellant is well within time



ON FACTS:

- 1. That reply to Para No.1 of the appeal has been admitted correct by the answering respondents hence proved needs no rejoinder.
- That reply to Para No.2 of the appeal by the answering respondent is incorrect both on factual as well as on legal side, hence denied.
- 3. That reply to Para No.3 of the appeal by the answering respondent is incorrect, hence denied. furthermore, the impugned order has been issued on mere allegations without any substance and no proper departmental codal formalities has been adopted and the impugned order has been issued at the back of the appellant.
- 4. That reply to Para 4 of the appeal by the answering respondent is incorrect, hence denied, all the inquiry proceedings has been carried out at the back of the appellant, no opportunity of personal hearing has been afforded to the appellant.
- 5. That reply to Para-5 of the appeal by the answering respondent is also not correct. No proper departmental proceedings has been taken by the respondent, as stated in Para No.4 of the rejoinder, no defense opportunity has been given by the I.O to the appellant and has been condemn unheard.

3

- 6. That reply to Para No.6 of the appeal, no reply has been given hence need no rejoinder.
- 7. That Para No.7 of the reply to the appeal is misleading hence denied. Appellant is not a contract employee rather civil servant.
- 8-9 That reply to Para No.8 and 9 to the appeal, pertains to record and no reply has been given hence proved and needs no rejoinder.

ON GROUNDS:

A to F That all the replies to grounds A to F of the appeal are mere repetition of the facts, hence no need of further elucidation and also denied in toto. Appellant rely on his grounds already explain in his memo of appeal. Moreover, the answering respondents have not placed any proper document with this reply of the appellant.

It is, therefore humbly prayed that the reply of the answering respondents may graciously be accepted with cost.

Appellant

Through

Hidayarullah Khattak Advocate High Court

Dated 22/12/2016



ervice Appeal No/2016 tled
mal BadshahAppellant
Versus
Sovt. of Khyber Pakhtunkhwa
hrough Secretary Home & Tribal AffairRespondents

AFFIDAVIT

I, Amal Badshah, Ex-Constable No.383/Ex-Senivemen, do hereby solemnly affirm and declare on oath that the contents of the accompanying **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

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DEPONENT

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Service / Titled	Appeal No		/2016			
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Respectfully Sheweth:

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- 6. That reply to Para No.6 of the appeal, no reply has been given hence need no rejoinder.
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It is, therefore humbly prayed that the reply of the answering respondents may graciously be accepted with cost.

Appellant

Through

Hidayatullah Khattak Advocate High Court

Dated 2**2**/12/2016

Service Appeal No/2016 Titled	
Amal Badshah	Appellant
Versus	
Govt. of Khyber Pakhtunkhwa Through Secretary Home & Tribal Affair	Respondents

AFFIDAVIT

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DEPONENT

Service Titled	Appeal No		/2016			
Amal B	adshah				Appella	ınt
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Respectfully Sheweth:

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ON FACTS:

- That reply to Para No.1 of the appeal has been admitted correct by the answering respondents hence proved needs no rejoinder.
- 2. That reply to Para No.2 of the appeal by the answering respondent is incorrect both on factual as well as on legal side, hence denied.
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 - 4. That reply to Para 4 of the appeal by the answering respondent is incorrect, hence denied. all the inquiry proceedings has been carried out at the back of the appellant, no opportunity of personal hearing has been afforded to the appellant.
 - 5. That reply to Para-5 of the appeal by the answering respondent is also not correct. No proper departmental proceedings has been taken by the respondent, as stated in Para No.4 of the rejoinder, no defense opportunity has been given by the I.O to the appellant and has been condemn unheard.

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It is, therefore humbly prayed that the reply of the answering respondents may graciously be accepted with cost.

Appellant

Through

Hidayarullah Khattak Advocate High Court

Dated 22/12/2016

Service Appeal No Titled	/2016
Amal Badshah	Appellant
*	Versus
Govt. of Khyber Pakhtunkt	nwa & Tribal Affair Respondents

AFFIDAVIT

I, Amal Badshah, Ex-Constable No.383/Ex-Senivemen, do hereby solemnly affirm and declare on oath that the contents of the accompanying **rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT

54/2

IN THE COURT OF MR. HAROON RASHID CIVIL JUDGE - I KARAK

Civil Suit No 117/1 of 2015 SAKHI REHMAN VS AMAL BADSHAH ETC

Order - 31: 15.01.2018

Parties present. Vide my detailed judgment of today consisting of seven (06) pages, which is separately placed on file, the instant suit is hereby dismissed with no order as to costs. Order announced. File be consigned to record room after its necessary completion and compilation.

<u>ANNOUNCED</u> 15.01.2018

> HAROON RASHID Civil Judge-I, Karak

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لسريطاب أسواع على حواد رميررسني العن ولد اجمرارساه سائن لومرميم في ليدا فيلع لأك (ملي) ر ما ما مرا موجود المراق المر 1,80000 80 SKU101, W 2) المستدعمى لعرض كورطينس entro _1/12 La, his 1 21 12 de Vologes la ~ (12) SN (12) Seif Light of 162 كورلفش منع رى خود مط مشر لطب لسملكا اور ما بها صالد الرام - evisive piso de pied .ole is ارى مى ما دارى كار مارد بعد اور ما مندا ، مرى كا دوست فري E piu bould (1/2 se Sin flitte) - 65 cisto to mays ما من مناه منها و كوه من المال المناه المن ما المال الموقع و ماده لوخ 1 20 mg 5 30 wo 60 - - 365 20 50 to

في في عنى الول من منول و مع المرضة من والله وولد كان ما ميري سري على غراه ام وزور كا فرها مع رفاها شعار على بروه معا فروا معاوندرا مر ع میت به طور مرمی کوشید مرای عافل کا در می کویم و تا می اور 1/2 - 1 2 (10 1 - Walline / 2 - 20 1 60 / 10 1/2 1/2 0/2 رائع لله مور را ما برام و مورد الما المورد ا . Les étits de la les con cis estres jes messe its et . d be sob Tare Obs Com to sup steen of it the al ا من ي رقم ورني ردى عبيم مركان المعامل المعامل مركان مركان ورا وران المورد في الم من كة فعوز عدد كرون م سهاك را مرب نون كافك فورم من كالمعالي و مرب الم 2) (to (Pe) or sulabis) (Post uni or of (Pl) point (P) - de ورا معدان کارا معاوات مع رای مروره ی وزروی کارام ماره ورون این مروره ی وزروی کارام ماره دوره می این مروره ی مورده می مروره ی مورده می مروره می مر e is a long whereof or soll of الله رشدعا هے ، وی کا مان مستون دماخر مان روج کی ما کوند - to Blinds en El ofer the The state of the s

IN THE COURT OF HAROON RASHID CIVIL JUDGE-I, KARAK

Suit No. 117/1 of 2015

SAKHI REHMAN SON OF AJMEER BADSHAH RESIDENT OF LAWAGHAR CHINI KHEL TEHSIL AND DISTRICT KARAK. ...(PLAINTIFF)

... VERSUS ...

AMAL BADSHAH SON OF NAIK BADSHAH RESIDENT OF SARAT KHEL TEHSIL AND DISTRICT KARAK.
RIAZ ALIAS KAMRAN SON OF ASHRAF DOOD RESIDENT OF MANDI BAHA UD DIN PUNJAB.(DEFENDANTS)

 Date of Institution
 04.09.2015

 Date of Decision
 15.01.2018

SUIT FOR RECOVERY

JUDGMENT:

This judgment of mine is going to decide a civil suit for recovery of Rs. 12,10,000/- including 1,80,000/- as expenditure, filed by the plaintiff against the defendant.

Brief facts of the case are as under:

The plaintiff contended that he is retired personnel of Pakistan Army. He and defendant No 01 were close friends and when defendant found that the plaintiff has got his pension he insisted upon the plaintiff for running a progressive project in shape of opening a private school. That defendant No 01 introduced one person Major Riaz to the plaintiff who pretended to have vast experience in running projects and plaintiff on the responsibility of defendant No 01 gave Rs. 10.30,000/- to the defendants on

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12.12.2012. That up till now no project was formed nor the above mentioned amount was returned to the plaintiff. He also contended that he spent Rs. 1,80,000/- in searching of defendant No 01 & 02. That time and again defendants were asked to accept the claim and contention of the paltiniff but in vain, hence, the present suit.

Defendants were summoned amongst whom defendant No 01 appeared and contested the suit by submitting his written statement, wherein he refuted the contentions of the plaintiff. He also contended that there is no agreement between the parties in black and white. That plaintiff moved an application to DCO Faisalabad Punjab in which he contended that on 21.12.2013 he gave money to the defendants and in the last prayed for dismissal of the suit. Defendant No 02 was summoned but did not appeared, hence he was placed and proceeded against exparte.

The pleadings of the parties were reduced to the following issues.

ISSUES:

- 1. Whether plaintiff has got a cause of action?
- 2. Whether the suit of the plaintiff is bad in its present form?
- 3. Whether suit of the plaintiff is filed within time?
- 4. Whether the defendants defrauded plaintiff by falsely opening a joint business?

Jana John S.

Whether plaintiff is entitled to the decree as prayed

સુંગાગમુ

Thereafter, defendant No 01 also closed his evidence. My statement and supported the version of the defendant. Ros Jan who is the brother of the plainfiff. He recorded his appeared and recorded his statement as DW-1. DW-2 was Mitnesses. Defendant No. 01 Amal Badshah himself. evidence. On the other hand defendant also produced two version of the plaintiff. Thereafter, plaintiff closed his Khan who recorded his statement and supported the stance as put forth in the plaint. PW-2 was one Noor Javed cid beneated this statement and reiterated his as 02 witnesses. PW-4 was one Sakhi Rehman plaintiff evidence, which they availed. Plaintiff produced as many Parties were given a chance to produce their desired

IZZOE NO 05:

its present form, hence, the issue is decided in negative. of the record to prove that the suit of the plaintiff is bad in defendant but he did not produce anything on the surface The burden of proof of this issue was on the

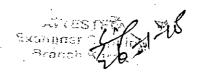
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ISSUE NO 04:

The burden of proof of this issue was on the plaintiff.

Plaintiff contended that he gave Rs. 10,30,000/- to the defendants on 12.12.2012 in his village but the document which the defendant no 1 produced while recording the statement as DW I which were placed on file by the said witness not objected by the plaintiff but even admitted by the plaintiff as evident from the cross examination of the plaintiff PW-1) from which it is cleared that plaintiff move application dated 03.06.2013 to the DCO Faisal Abad Punjab wherein he had mentioned that he handed over the amount to the defendants in his house on 21.12.2013 which is major contradiction and a fatal blow to the plaintiff, Similarly, plaintiff when he appeared as PW I he stated that he gave the above mentioned amount to the defendants in his house, whereas, the application which the plaintiff moved to Hon'ble Chef Justice of Pakistan, he mentioned that fraud was committed with him on 21.12.2012 in village Gujra of District Mandi Bahaud Din'. Plaintiff in his statement stated that he gave the above amount in front of his nephew namely Noor Javed Khan but the stance of the plaintiff is not supported by the plaint as plaint does not



16

service is of no help to the plaintiff in getting decree in the that defendant No 01 is compulsory retired from his appointing linga for want of evidence. In the last the fact searching the whereabouts of the defendants and also Alike amithragas as mid any yd barnuari -\000.08, l.z S amount. Similarly, plaintiff also failed to prove the amount any agreement deed or stamp paper for profecting his of prudent mind to hand over such a huge amount without plaintiff to the defendants and it is not appealable to a man banding over the amount mentioned in the plaint by the Moreover, there is nothing in written form regarding the pension book to substantiate that he got his pension. pension, neither in the shape of the service record nor any zid gnibasgor gnidayns oouborg ton bib osls Hinnislg improvement on the part of the plaintiff. Moreover, mention the name of the above person which is the

instant case in his favor.

Hence, in the Hight of the above discussion, this

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IZZAE NO 03:

Burden the burden of proof of this issue was on the plaintiff. Plaintiff stated that he gave money to the defendants on 12.12.2012, whereas, the instant suit has been instituted on 04.09.2015 and as per Limitation Act

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plaintiff is well within time. This issue is decided in of the plaintiff is not within time, hence, the suit of the Moreover, defendant did not produce anything that the suit 1908, the suit for recovery is to be filed within three years.

1220E NO 01 & 02: .9vifileq

to the decree as prayed-for. Both these issues are decided cause of action in his favor and therefore, he is not entitled issue. No 0,4 it is decided that plaintiff has failed to prove a In view of the discussion above and especially, in

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FETTEE:

Order announced. File be consigned to record room after [instant suit is hereby dismissed with no order as to costs. As sequel to my detailed discussion above, the

its necessary completion and compilation.

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Civil Judge-L, Karak HAROON RASHID **CEKLILICYLE**

making necessary corrections therein. Singlis nood and agad has Leaged (00) xiS To striked that my instant judgment is solvent

HARMON RASHID

Civil Judge-L Karak

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IN THE COURT OF MR. HAROON RASHID CIVIL JUDGE - I KARAK

Civil Suit No 117/1 of 2015 SAKHLREHMAN VS AMAL BADSHAH ETC

Order - 31: 15.01.2018

Parties present. Vide my detailed judgiment of today

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file, the instant suit is hereby dismissed with no order as to costs. Order announced. File be consigned to record room after its necessary completion and compilation.

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<u>ANNOUNCED</u> 15.01.2018

HAROON RASHID Civil Judge I, Karak

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