

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

**SERVICE APPEAL NO. 547/2019**

Date of institution ... 29.04.2019

Date of judgment ... 22.11.2019

Saddiqullah Constable No. 370 District Police Kohat.

... (Appellant)

**VERSUS**

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General of Police Kohat Region Kohat.
3. The District Police Officer, Kohat.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT AGAINST THE IMPUGNED ORDER OF THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT DATED 11.04.2019 VIDE WHICH ORDER OF REVERSION FROM THE RANK OF HEAD CONSTABLE TO THE SUBSTANTIVE RANK OF CONSTABLE AWARDED BY THE DISTRICT POLICE OFFICER KOHAT WAS UP HELD WHILE APPEAL OF THE APPELLANT WAS REJECTED.

Mr. Qazi Sajid ud Din, Advocate

.. For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Arif Saleem, ASI for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department. He was imposed major penalty of reversion from the rank of Head Constable to the rank of Constable vide order dated 08.01.2019 on the allegation that he while posted as Incharge Police Post Summari Bala was called and enquired about most wanted/notorious PO Anwar

*M. Amin*  
22-11-2019

Hayat of his area but the appellant totally shown ignorance about PO even he stated that the PO is not known to him. The appellant filed departmental appeal on 16.01.2019 which was rejected vide order dated 11.04.2019 hence, the present service appeal on 29.04.2019.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving as Head Constable. It was further contended that the appellant was transferred to the police post of Summari Bala only two months before the impugned order. It was further contended that the record of the said police post was lying in the Police Station Lachi. It was further contended that the said police post Summari Bala is situated at some distance from Police Station Lachi. It was further contended that the appellant has joined the Police Department in the year 2002 and no complaint whatsoever was filed by anyone against the appellant. It was further contended that neither charge sheet, statement of allegation was served upon the appellant nor proper inquiry was conducted nor the appellant was provided opportunity of personal hearing. It was also contended that punishment of reduction from the rank of Head Constable to the rank of Constable is very harsh. It was further contended that the impugned order has also been passed in violation of FR-29, therefore, it was contended that the impugned order is illegal and liable to be set-aside.

5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Head Constable. It was further contended that the appellant was issued a show-cause notice on 07.01.2019 by the competent authority regarding the aforesaid allegation. It was further contended that the appellant also submitted reply to the same but the competent authority found his reply unsatisfactory, therefore, after fulfilling all the codal formalities in the shape of summary proceeding, the

*M. Amin*  
22-11-2019

competent authority has rightly imposed major penalty of reversion from the rank of Head Constable to the rank of Constable and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant joined the Police Department as Constable in the year 2002. He was performing his duty regularly, efficiently and the appellant was promoted from the rank of Constable to the rank of Head Constable. The record further reveals that the appellant was imposed major penalty of reduction in rank from Head Constable to the rank of Constable by the competent authority vide order dated 08.01.2019 but the record reveals that before passing the impugned order neither charge sheet, statement of allegation was framed and served upon the appellant nor regular inquiry was conducted nor the competent authority has dispensed the regular inquiry in the show-cause notice nor any reason for dispensing the regular inquiry was mentioned by the competent authority in the show-cause notice. Furthermore, the major penalty of reversion from the rank of Head Constable to the rank of Constable was passed by the competent authority in violation of FR-29. Furthermore, the record reveals that the appellant was having unblemished service record since 2002 therefore, the major penalty of reduction in rank from Head Constable to the rank of Constable appear to be very harsh. Therefore, we deem it appropriate to partially accept the appeal, set-aside the impugned order and convert the major penalty of reduction in rank from Head Constable to Constable into major penalty of reduction in pay scale for two years with effect from the date of impugned order i.e 08.01.2019. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.11.2019

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

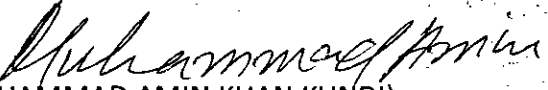
22.11.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General alongwith Mr. Arif Saleem, ASI for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we deem it appropriate to partially accept the appeal, set-aside the impugned order and convert the major penalty of reduction in rank from Head Constable to Constable into major penalty of reduction in pay scale for two years with effect from the date of impugned order i.e 08.01.2019. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
22.11.2019

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

547/19

26.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Qazi Sajidud Din, DSP (Legal) for the respondents present.

Representative of respondents requests for time to submit reply. May do so positively on next date of hearing.

Adjourned to 12.09.2019 before S.B.

Chairman 

12.09.2019

Counsel for the appellant and Addl. AG alongwith Arif Saleem, S.I for the respondents present.


Representative of respondents furnished written reply of the respondents. To come up for arguments on 19.11.2019 before a D.B. The appellant may submit rejoinder, within a fortnight, if so advised.

Chairman 

19.11.2019

Appellant Learned counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Arif Saleem Stenographer for the respondents present. Arguments heard. To come up for order on 22.11.2019 before D.B.

(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

12.06.2019

Counsel for the appellant present.

It is argued by learned counsel that the appellant was imposed upon major punishment in terms of reversion from the rank of Head Constable to substantive rank of Constable through order dated 14.01.2019 by DPO Kohat/respondent No.3. The contents of impugned order itself suggest that no proper /legal inquiry was conducted against the appellant. The show cause notice dated 07.01.2019 reflects that the competent authority was pleased to dispense with proper inquiry, however, no cogent or good reason was provided for the purpose. It is further contended that in case where major penalty is imposed upon a civil servant proper inquiry is all the more necessitated.

The appellant in hand is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 26.07.2019 before S.B.

  
Appellant Deposited  
Security & Process Fee

14/6/19

  
Chairman

26.07.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Qazi Sajidud Din, DSP (Legal) for the respondents present.

Representative of respondents requests for time to submit reply. May do so positively on next date of hearing.



Adjourned to 19.09.2019 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 547/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/04/2019	<p style="text-align: center;">The appeal of Mr. Saddiqullah presented today by Qazi Sajid-ud-Din 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 29/4/19</p>
2-	30/04/19	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/06/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

0-7

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Appeal No. 547/2019.

Saddiqullah Constable No.370 District Police Kohat. (Appellant)

Versus

The Inspector General of Police KPK etc. (Respondents)

Appeal

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Saddiqullah  
Constable No.370.

Dated: 29.4./2019.

Through

  
Qazi Sajid ud Din Advocate



I

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Appeal No. 547/2019

Diary No. 675

Dated 29/4/2019  
(Appellant)

Saddiqullah Constable No.370 District Police Kohat.

Versus

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. The Deputy Inspector General of Police Kohat Region Kohat.
3. The District Police Officer, Kohat. (Respondents)

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT AGAINST THE IMPUGNED  
ORDER OF THE DEPUTY INSPECTOR GENERAL OF  
POLICE KOHAT REGION KOHAT DATED 11-4-2019  
VIDE WHICH ORDER OF REVISION FROM THE RANK OF  
HEAD CONSTABLE TO THE SUBSTANTIVE RANK OF  
CONSTABLE AWARDED BY THE DISTRICT POLICE  
OFFICER KOHAT WAS UP HELD WHILE APPEAL OF HE  
APPELLANT WAS REJECTED.

Respectfully Sheweth:-

Filed to-day

Registrar

29/4/19

Respectfully, the appellant may be allowed to submit the following for your kind and sympathetic consideration:

FACTS:

1. That the appellant joined the Police Deptt: as constable in the year 2002.
2. That due to his keen interest and devotion to duty, the appellant qualified necessary courses and trainings.
3. That due to the hard work and efficiency, the appellant was promoted to the rank of Head Constable.
4. That the appellant during his service performed on sensitive and risky assignments / places on account to which, the appellant earned confidence of his seniors and was awarded a number of commendation certificates and cash rewards.

5. That to the utter surprise of the appellant, the appellant was served with show cause notice from the DPO Kohat which contained the allegation that the appellant did not know nor he knew details that Anwar Hayat P.O had martyred four policemen. (Show cause notice is annexure-A.
6. That the appellant was forced by the competent authority to submit reply on the following day i.e. 08-1-2019 which the appellant accordingly done (Copy is enclosed as Annexure-B)
7. That on 07-1-2019, show cause notice was served upon the appellant while with the gap of only one day i.e. on 08-01-2019 the appellant was awarded major punishment of reversion from the rank of Head constable to the rank of constable. (Order of the DPO Kohat is annexure-C)
8. That the appellant lodged departmental appeal against the order of the DPO Kohat to the deputy Inspector General of Kohat Region
9. That the departmental appeal was rejected by the DIG Kohat and order of the DPO Kohat was upheld vide order dated 11-4-2019. (Copy is annexure-D)
10. That the impugned order has aggrieved the appellant, hence following are some of the grounds of appeal for your kind and sympathetic consideration:-

GROUND:

- a. That the impugned order is against law, facts and evidence on record.
- b. That the impugned order is based on misreading of evidence on one hand and misunderstanding on the others.
- c. That the DPO Kohat neither served the charge sheet nor statement of allegations upon the appellant which is pre-requisite for initiation of the departmental enquiry and inflicting punishment by not doing so the competent authority has fell into a material error which is not sustainable in the eyes of law.

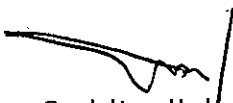
- d. That the appellant has never been given the legal rights of his defence due to which the inquiry and order of the DPO has become legally defective and not sustainable in the eyes of law.
- e. That the appellant has never been apprised by the competent authority that summary departmental proceedings were intended to be initiated against the appellant. Under the Police Rules 1975, it is required under the said rules that the competent authority shall apprise the defaulter that summary proceedings were intended to be initiated against him but no such information was conveyed by the authority to the appellant which is undoubtedly deviation from the rules and has made the impugned orders legally defective.
- f. That in support of the allegations not a single witness was examined which is again a legal defect which is not curable.
- g. That under the Rules 5 Sub Rule 2 clause (ii) of the Police Rules 1975 (Amended 2014), in case of the summary proceedings the competent authority is barred from awarding major punishment but inspite of the clear cut legal provision, the competent authority awarded major punishment of reduction from the rank of Head Constable to the rank of constable. Hence the order of punishment has lost legal sanctity and thus not operative on the appellant.
- h. That under the Fundamental Rules, Rules 29, it has been envisaged the competent authority is required to mention in the punishment order that for how long the punishment order will remain in force / operative but the competent authority has not mentioned the period and thus the punishment order at this score alone has become legal defective.
- i. That the order of punishment does not fulfill the legal requirements, hence it is legally not sustainable.
- j. That the allegations were not of emergent nature hence initiation of summary proceedings were unwarranted.

- k. That the competent authority even in this case too (summary proceedings) has not fulfilled the legal requirements.
- l. That the impugned order is based on misreading of evidence, arbitrary, one sided and is result of misunderstanding.
- m. That by deciding fate of the appellant in one day the competent authority has hurriedly administered justice, which has proved the proverb as true that "Justice Hurried is justice buried".
- n. That the impugned order of the Deputy Inspector General of Police is a stereo type order because neither it is self-explanatory nor has underlined the reasons on the basis of which the appeal was rejected by him.

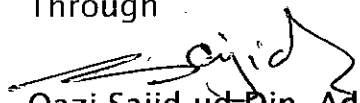
PRAYER:

That keeping in view of the above legal and factual grounds, the impugned order has got no legal force and legally the same is not sustainable, hence it deserves to be set aside.

The appellant very respectfully pray that the impugned order in the interest of law, rules and justice may be set aside and the concerned may be directed to restore the appellant on his old position i.e. head Constable with all perks and privileges.

  
Saddiqullah  
Constable No.370

Dated: 29.4. /2019.

Through  
  
Qazi Sajid ud Din Advocate

SHOW CAUSE NOTICE

(Under Rule 5(3) KPK Police Rules, 1975)

5  
Annex (A)

1. That You IHC Sadiq Ullah Incharge PP Sumari have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014) for following misconduct;
  1. When you was called by the undersigned and asked you who is Anwar Hayat. You said that you do not know nor he knew details that Anwar Hayat PO had killed / martyr 04 Police men. Your this act shows gross misconduct on your part.
  2. That by reason of above, as sufficient material is placed before the undersigned, therefore it is decided to proceed against you in general Police proceeding without aid of enquiry officer.
  3. That the misconduct on your part is prejudicial to good order & discipline in the Police force.
  4. That your retention in the Police force will amount to encourage inefficient and unbecoming of good Police officers.
  5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules.
  6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 (Amendment 2014) for the misconduct referred to above.
  7. You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex-parte action shall be taken against you.
  8. You are further directed to inform the undersigned that you wish to be heard in person or not.
  9. Grounds of action are also enclosed with this notice.

No. 208 / PA

Dated 07-1-2019

DISTRICT POLICE OFFICER  
KOHAT

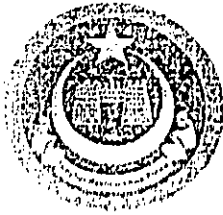


(B)

ان کے بارے میں  
یہ کہیں سے اس کے بارے میں جان کر بھی نہیں مارا سو نہیں رہا  
ان کے بارے میں  
ان کے بارے میں

۱۳۲۰  
۱۳۲۰  
۱۳۲۰





7

OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT  
Tel: 0922-9260116 Fax 9260125

Annex (C)

ORDER

This order is passed on the Show Cause Notice Under Rule 5 (3) of KP Police Rules (amended 2014) is served upon the defaulter official IHC Sadiq Ullah No. 370.

The defaulter official while posted as Incharge, Police Post Summari Bala was called and enquired about most wanted / notorious PO Anwar Hayat of his area of responsibility. The defaulter was totally shown ignorance about PO, even he stated that the FO, is not known.

The defaulter official filed reply to the Show Cause Notice, wherein he repeated/admitted the allegation framed/issued against him.

Therefore, the defaulter official was heard in person in orderly room on 08.01.2019.

From the above circumstances, I reached to the conclusion that the official while posted on higher responsibility was totally unaware about his area of jurisdiction and notorious, who was also wanted in target killing of 04 Police officers. This speaks of his dis-interest in discharge of his lawful duty and inefficiency.

Therefore, in view of above, I Capt @ Wahid Mehmood, District Police Officer, Kohat in exercise of the powers conferred upon me, under the ibid rules, dispensed with the conduct of general proceedings hereby imposed a punishment of reversion from the rank of Head Constable to substantive rank of Constable on defaulter Sadiq Ullah No. 370 with immediate effect.

Announced  
08.01.2019

DISTRICT POLICE OFFICER,  
KOHAT

OB No. 66.  
Date 11-01-2019

No 407-08/PA dated Kohat the 14-1-2019.

- Copy of above is submitted for favour of information to the Regional Police Officer, Kohat please.
2. Reader/Pay officer/SRC/OHC for necessary action.
  3. Defaulter official.

DISTRICT POLICE OFFICER,  
KOHAT



THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE  
KOHAT REGION KOHAT

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975 (AMENDED 2014)  
AGAINST ORDER OF THE WORTHY DPO KOHAT DATED 14-01-2019,  
WHERE IN THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF  
REVERSION FROM THE RANK OF HEAD CONSTABLE TO THE  
SUBSTANTIVE RANK OF CONSTABLE.

Respected Sir,

Respectfully, the appellant may be allowed to submit the following for you kind and sympathetic consideration:-

FACTS:

1. That the appellant joined Police Deptt: as constable in the year 2002.
2. That due to his keen interest and devotion to duty, the appellant qualified necessary courses and trainings.
3. That due to the hard work and efficiency, the appellant was promoted to the rank of Head Constable.
4. That the appellant during his service performed on sensitive and risky assignments/places on account of which, the appellant earned confidence of his seniors and was awarded a number of commendation certificates and cash rewards.
5. That to the utter surprise of the appellant, the appellant was served with show cause notice which contained the allegation that the appellant did not know nor he knew details that Anwar Hayat P.O had martyred four Policemen.
6. That on 07-1-2019, show cause notice was served upon the appellant while with the gap of only one day i.e. on 08-01-2019, the appellant was awarded major punishment of reversion from the rank of Head Constable to the rank of constable.

7. That the impugned order has aggrieved the appellant, therefore, following are some of the grounds of appeal amongst the others:-

GROUNDS:

- a. That the impugned order of punishment is not in accordance with law, facts and evidence on record.
- b. That the impugned order is based on misreading of evidence on one hand and misunderstanding on the other.
- c. That the appellant has never been given the legal rights of his defence due which the impugned order has become legally defective and not sustainable in the eyes of law.
- d. That the appellant has never been apprised by the competent authority that summary departmental proceedings were intended to be initiated against the appellant. Under the Police Rules 1975, it is required that the competent authority shall apprise the defaulter that summary proceedings were intended to be initiated against him but no such information was conveyed by the authority to the appellant which is undoubtedly deviation from the rules and has made the impugned orders defective.
- e. That in support of the allegations not a single witness was examined which is again a legal defect which is not curable.
- f. That under the Rule 5 Sub Rule 2 Clause (ii) of the Police Rules 1975 (Amended 2014), in case of the summary proceedings the competent authority is barred from awarding major punishment but inspite of the clear cut legal provision, the worthy competent authority awarded major punishment of reduction from the rank of Head Constable to the rank of Constable. Hence the impugned order of punishment has lost legal sanctity and thus not operative on the appellant.

- g. That under the Fundamental Rules, Rule 29, it has been envisaged that the competent authority is required to mention in the punishment order that for how long the punishment order will remain in force / operative but the worthy competent authority has not mentioned the period and thus the impugned order at this score alone has become legal defective.
- h. That the impugned order of punishment does not fulfill the legal requirements, hence it is legally not sustainable.
- i. That the allegations were not of emergent nature hence initiation of summary proceedings were unwarranted.
- j. That the worthy competent authority even in this case too (summary proceeding) has not fulfilled the legal requirements.
- k. That the impugned order is based on misreading of evidence, arbitrary, one sided and is result of misunderstanding.

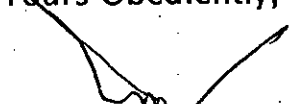
PRAYER:

That keeping in view of the above legal and factual grounds, the impugned order has got no legal force and legally the same is not sustainable, hence it deserves to be set aside.

The appellat very respectfully pray that the impugned order of punishment in the interest of law, rules and justice may be set aside and the concerned may be directed to restore the appellat on his old position i.e. Head Constable. The appellat will be highly thankful and pray for you long life and prosperity for this act of kindness.

Yours Obediently,

Dated 16-01-2019.

  
SADDIQ ULLAH (Constable)  
No.370, P.P Sumari Bala  
P.S Lachi, Kohat

11

Annex (D)

POLICE DEPTT:

KOHAT REGION

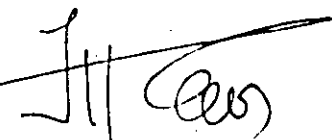
ORDER.

This order will dispose of a departmental appeal, moved by Constable Sadiq Ullah No. 377 of Operation Staff Kohat against the punishment order, passed by DPO/Kohat vide OB No. 66, dated 11.01.2019 whereby he was awarded major punishment of reduction from the rank of Head Constable to Constable for the allegations of negligence and showing disinterest in official jobs being IC of PP Sumari, PS Lachi Kohat.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Kohat and his service record perused. He was also heard in person in Orderly Room, held in this office on 11.04.2019. During hearing, the appellant failed to submit any cogent reason in his defense.


I have gone through the available record and came to the conclusion that the punishment order, passed by DPO Kohat is justified which is upheld. The appeal of appellant FC Sadiq Ullah No. 377 is hereby rejected.

Order Announced  
11.04.2019

  
(TAYYAB HAFEEZ CHEEMA) PSP  
Region Police Officer,  
Kohat Region

No. 3948 /EC, dated Kohat the 16/04 2019.

Copy for information and necessary action to the District Police Officer, Kohat w/r to his office Memo: No. 3664/LB, dated 21.02.2019. His Service Roll & Fauji Missal / Enquiry File is returned herewith.

  
(TAYYAB HAFEEZ CHEEMA) PSP  
Region Police Officer,  
Kohat Region.

9/11

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Saddiqullah Constable No.370 District Police Kohat. (Appellant)


Versus

The Inspector General of Police KPK etc. (Respondents)

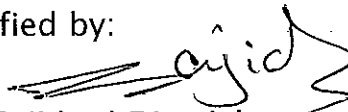
Appeal


AFFIDAVIT

I, Saddiqullah son of Hameed Ullah Resident of  
Parachgan Kohat City do hereby solemnly affirm  
and declare that the contents of the Appeal are  
true and correct to the best of my knowledge  
and belief and nothing has been concealed  
from this honorable Tribunal.

  
Deponent

Identified by:

  
Qazi Sajid ud Din Advocate  
Advocate

**ATTESTED**  
  
29.04.2019  
MIAN SIDRAAT ULLAH SHAH  
ADVOCATE  
Notary Public/Oath Commissioner  
Peshawar High Court Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR

Saddiqullah Constable No.370 District Police Kohat. (Appellant)

Versus

The Inspector General of Police KPK etc. (Respondents)

Appeal


ADDRESS OF THE APRTIES

Appellant:

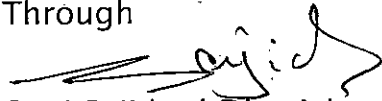
Saddiqullah Constable No.370  
Resident of Parachgan Kohat City.

Respondents:

1. The Inspector General of Police Khyber Pakhtunkhwa Peshawar, Central Police Office Peshawar.
2. The Deputy Inspector General of Police Kohat Region Cantt: Kohat.
3. The District Police Officer, District Courts Kohat

  
Saddiqullah  
Constable No.370

Dated: 29.4. /2019.

Through  
  
Qazi Sajid ud Din Advocate



14

465

20

Qazi Sejid ud-Din

ایڈووکیٹ ادھتختا:

بار کونسل ابار ایسوسی ایشن نمبر: LC 29

رابطہ نمبر: 03368050002

کوہاٹ بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: خیبر پختونخواہ سروسز ٹریڈنگ کمپنی

منجانب: صدر کلبہ کالنگز 370 ایبٹ آباد

دعویٰ: اسل

علت نمبر

مورخہ

تھانہ

بنام

الٹیکر جنرل آف ایڈمینیسٹریٹو سروسز

## باعت تحریر آنکہ

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

آن مقام لفساڈر کیلئے قاضی صاحب (م) صاحب (م) کے واسطے پیروی و جواب دہی کاروائی متعلقہ  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرنات و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ  
میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام  
دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المقوم 29.4.19

المقدمہ گواہ شد

المقدمہ لفساڈر مقام

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

Service appeal No. <sup>1597</sup>347-P/2019

Saddiqullah No. 370

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa, & others

..... Respondents

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DISTRICT POLICE OFFICER,  
KOHAT  
(Respondent No. 3)



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

---

**Service appeal No. 347-P/2019**

Saddiquallah No. 370

..... Appellant

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa, & others

..... Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**Respectively Sheweth:-**

Parawise comments on behalf of respondents are submitted as under:-

**Preliminary Objections:**

- i. That the appellant has got no cause of action or locus standi.
- ii. That the appellant is estopped due to his own conduct to file the instant appeal.
- iii. That the appeal is not maintainable in its present form.
- iv. That the appellant has not come to this Honorable Tribunal with clean hands.

**FACTS:-**

1. Pertains to record, hence no comments.
2. Para No. 2 is subject to proof.
3. Incorrect, promotion in Police departmental is being made on fulfilling the required criteria under the Police rules and standing orders.
4. Incorrect, the appellant remained inefficient, as it is evident that previously, a punishment of reduction from the rank of Head Constable to the lower rank was imposed upon the appellant. Subsequently, the punishment was converted into minor penalty by the respondent No. 1. Copies are **annexure A & B**.
5. The appellant was posted as Incharge Police Post Sumari of Police station Lachi. The post is most important / sensitive in view of village/hub of most wanted proclaimed offender wanted to Police in number of heinous cases including target killing of four Police officers. The appellant being incharge of the PP was asked about present status of the proclaimed offender Anwar Hayat by respondent No. 3, but the appellant straight away stated that he does not know PO Anwar Hayat. Therefore, the appellant was served with show cause notice under the rules. Crime list of proclaimed offender is **annexure C**.
6. Incorrect, the appellant asked to submit reply to the show cause notice as per prescribed period mentioned in para No. 7 of the notice.

7. The appellant filed reply to the show cause notice within prescribed period mentioned in the above para, which was found unsatisfactory. Therefore, the appellant was heard in person in orderly room held on 08.01.2019, by the respondent No. 3, but the appellant failed to submit any plausible explanation to the charge.
8. Pertains to record, hence no comments.
9. Pertains to record.
10. The appellant is estopped to file the instant appeal for his own act, thereby not maintainable on the following grounds.

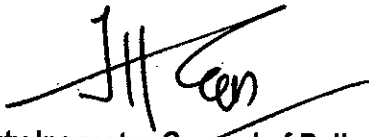
**Grounds.**


- a) Incorrect, the orders passed by respondents No. 2 & 3, are in accordance with law and rules.
- b) Incorrect, the orders were passed on the basis of facts and material available on record.
- c) It is submitted that the respondent No. 3 had issued show cause notice to the appellant under the provision of KP Police Rules (Amended 2014) 1975.
- d) Incorrect, the appellant filed reply to the show cause notice to respondent No. 3 and the appellant was personally heard in orderly room, but he appellant failed to defend himself.
- e) Incorrect, the show cause notice served upon the appellant was self-explanatory.
- f) This para is incorrect, the matter directly related to the appellant, as he being incharge of a sensitive Police Post would have in knowledge of the criminals, notorious and most wanted proclaimed offenders of his area of responsibilities.
- g) The appellant was found inefficient for holding a senior post therefore, the appellant was reduced from the high post to the lower post.
- h) The appellant has admitted his guilt, which has been established against him. However, the punishment order is passed in accordance with rules.
- i) Incorrect, legal and speaking orders were passed by the respondents No. 2 & 3.
- j) Incorrect, the departmental proceedings were conducted in accordance with law & rules.
- k) Incorrect, all the codal formalities were fulfilled by the respondent No. 3.
- l) Incorrect, legal and speaking orders were passed by the respondents No. 2 & 3.
- m) The matter was directly related to the appellant, as the appellant asked about the notorious PO, to which the appellant stated that he does not know the proclaimed offender. Therefore, there was no other formalities were

required, except issuance of show cause notice and personal hearing of the appellant.

- n) Incorrect, the order of the respondent No. 2 passed in departmental appeal is speaking one.

In view of the above, it is submitted that the appeal of the appellant is devoid of merits and graciously prayed that the appeal may be dismissed with cost.

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

  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
(Respondent No. 1)

  
District Police Officer,  
Kohat  
(Respondent No. 3)

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

---

Service appeal No. 347-P/2019

Saddiqullah No. 370

..... Petitioner

**VERSUS**

Inspector General of Police,  
Khyber Pakhtunkhwa, & others

..... Respondents

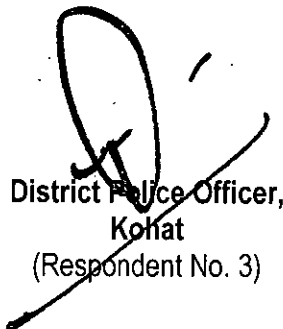
**COUNTER AFFIDAVIT**

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



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

Inspector General of Police,  
Khyber Pakhtunkhwa,  
(Respondent No. 1)



District Police Officer,  
Kohat  
(Respondent No. 3)



Office of the  
District Police Officer,  
Kohat

No \_\_\_\_\_ /PA

Dated \_\_\_\_\_ /2017

**ORDER**

This order is dispose of departmental enquiry conducted against IHC Sadiq Ullah No. 370, the then Moharir Police station Shakardara (**hereinafter referred accused official**) under Khyber Pakhtunkhwa Police Rules 1975 (amendment 2014).

The brief and essential facts of the proceedings are that OGDCL, Kohat requested for character verification of its employees named Shah Jehan, Muhammad Hamayoun and Rehan Mujtaba r/o Shakardara. They were reported as convicted persons in case FIR Nos 29 dated 05.03.2013 u/s 4 PO, FIR No. 259 dated 01.05.2014 u/s 9 A CNSA and FIR No. 67 dated 05.05.2012 u/s 13 AO PS Shakardara respectively. The concerned authorities asked for re-verification, upon which the accused official while posted as Moharir HC submitted reports as **"PS register/record is silent"**. This contradiction was enquired and the subsequent report of accuse official was found false/bogus.

Therefore, the accused official was served with proper charge sheet alongwith statement of allegations and ASP UT Kohat was appointed as enquiry officer. The accused official was held guilty of the charge. He was served with Final Show Cause Notice and heard personally in OR but he failed to submit plausible reply/explanation.

I have gone through inquiry papers and relevant record, which transpires that the accused official was posted at responsible position. He submitted a false/bogus verification reports despite the persons were convicted and previously reported as per record. from the above, I have came to the conclusion that the charge leveled against the accused official has been established beyond any shadow of doubt. Therefore, I **Javed Iqbal, District Police Officer**, in exercise of powers conferred on me under the **ibid Rules** hereby impose a major punishment of reduction from the rank of IHC to the rank of constable on accused official IHC Sadiq Ullah No. 370 with immediate effect.

*OBNO 889*  
*Decl: 23-10-17*

(Javed Iqbal) PSP  
DISTRICT POLICE OFFICER,  
KOHAT *24/10/17*

No *2226-28* /PA *Decl 26-10-17*

Copy of above is forwarded to the Reader/Pay Officer/SRC/OHC for information & necessary action



INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. S/ 1941 /18, dated Peshawar the 15/05/2018 4264  
18-5-1

ORDER

This order is hereby passed to dispose of departmental appeal under Rule-11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by **Constable Sadiq Ullah No. 370 (the then HC)**. The petitioner was awarded penalty of reduction from the rank of IHC to the rank of Constable by District Police Officer, Kohat vide OB No. 889, dated 23.10.2017 on the charges that OGDCL Kohat requested for character verification of its employees named Shah Jehan, Muhammad Hamayoun and Rehan Mujtaba r/o Shakardara. They were reported as convicted persons in case FIR Nos. 29 dated 05.03.2013 u/s 4-PO, FIR No. 259 dated 01.05.2014 u/s 9 A CNSA and FIR No. 67 dated 05.05.2012 u/s 13 AO Police Station Shakardara respectively. The concerned authorities asked for re-verification, upon which the above named official while posted as Moharir HC submitted reports as "PS register/record is silent". This contradiction was enquired and the subsequent report of above named official was found false/bogus.

His appeal was rejected by Regional Police Officer, Kohat vide order Endst: No. 126/EC, dated 04.01.2018.

Meeting of Appellate Board was held on 10.05.2018 wherein petitioner was heard in person. During hearing petitioner denied the allegation leveled against him.

There is long service of 16 years, 03 months and 02 days at the credit of petitioner, therefore, the Board decided that penalty of reduction from the rank of IHC to the rank of Constable is hereby converted into minor punishment of stoppage of increment for one year without cumulative effect.

**This order is issued with the approval by the Competent Authority.**

No 6236 /ec  
dated 1/05/2018

(IRFAN ULLAH KHAN)  
AIG Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

No. S/ 1942-46 /18,

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. Service Record alongwith Fauji Missal of the above named Constable received vide your office Memo: No. 4264/EC, dated 02.04.2018 is returned herewith for your office record.
2. District Police Officer, Kohat. The appellant may please be informed accordingly.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

DPO Kohat

For information along with  
Service Record up to  
office Endst: No. 6148/  
dated 18/5/18.

Encls: S/Roll - 0  
R/Missal - 0

Other SRE/PO  
for mention in  
his Service Record

DIG POLICE  
KOHAT

**LIST OF CRIMINAL CASES REGISTERED AGAINST  
MOST WANTED PROCLAIMED OFFENDER ANWAR HAYAT**

<b>S #</b>	<b>CASE FIR NO. DT: U/S &amp; PS</b>
1.	FIR No. 235 dt 18.09.2006 u/s 302/34 PS Lachi
2.	FIR No. 48 dt 25.03.2007 u/s 13AO PS Lachi
3.	FIR No. 133 dt 14.07.2007 u/s 506/355/149 ps Lachi
4.	FIR No. 148 dt 02.08.2007 u/s 302/324/34 ps Lachi
5.	FIR No. 61 dt 26.02.2016 u/s 302/324/148/149 Ps Lachi
6.	FIR No. 308 dt 27.09.2016 u/s 302/324/34 PPC PS Lachi
7.	FIR No. 77 dt 21.03.2017 u/s 324/353/148/149 PS Lachi
8.	FIR No. 09 dt 20.05.2017 u/s 302/324/148/149/7ATA PS CTD Kohat
9.	FIR No. 137 dt 25.05.2017 u/s 324/353/ ¼ Exp Act/427 PS Lachi
10.	FIR No. 126 dt 14.05.2017 u/s 302/324/34 PPC PS Lachi
11.	FIR No. 425 dt 09.12.2017 u/s 302/324/34 PPC PS Lachi
12.	FIR No. 447 dt 23.12.2017 u/s 302/324/148/149 PPC PS Lachi
13.	FIR No. 196 dt 24.04.2018 u/s 302/324/148/149 PS Lachi
14.	FIR No. 43 dt 27.01.2019 u/s 302/324/34 PPC PS Jarma
15.	FIR No. 100 dt 12.02.2019 u/s 15AAO PS Lachi

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2245 /ST

Dated 20-12- / 2019

To


The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Kohat.

Subject: -

JUDGMENT IN APPEAL NO. 547/2019, MR. SADDIULLAH.

I am directed to forward herewith a certified copy of Judgement dated 22.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.