


04.11.2019


Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Mir Faraz, DSP (Legal) for the respondents present. Representative of respondents submitted para-wise reply on behalf of respondents No. 1 to 3 which is placed on record. Case to come up for rejoinder and arguments on 04.12.2019 before D.B at Camp Court Swat.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Swat

04.12.2019


Lawyers are on strike on the call of Bar Association. Adjourn. To come up for further proceedings/arguments on 08.01.2020 before D.B at Camp Court, Swat.

  
Member

  
Member  
Camp Court, Swat

08.01.2020


Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Ishtaq, Head Constable for the respondents present. Appellant submitted application of withdrawal of the present service appeal on the ground that his grievance has been redressed. Application is placed on record. In this regard signature of the appellant was also obtained at the margin of order as a token of proof. Accordingly, the present service appeal is dismissed as withdrawn. File be consigned to the record room.

  
0-8.01-20

ANNOUNCED

08.01.2020

  
(Hussain Shah)  
Member  
Camp Court Swat

  
Muhammad Amin


Camp Court Swat

08.08.2019

Mr. Kamran Khan, Advocate on behalf of counsel for the appellant present.

An application for transfer of the appeal to Camp Court Swat has been submitted. It is noted in the application that the appellant belongs to Swat while some of the respondents are also performing their official duty at Swat.

The application is allowed and the office is directed to post instant appeal before Touring Bench at Swat on 04.09.2019.

  
Chairman

04.09.2019


Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Ex-Constable) has filed the present service appeal against the order dated 01.01.2019 whereby he was awarded major punishment of dismissal from service.

Points urged need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 04.11.2019 before S.B at Camp Court, Swat.

Appellant Deposited  
Security & Process Fee

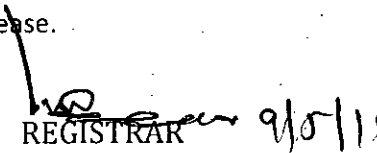
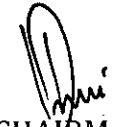

6/9/19

  
Member  
Camp Court, Swat

Form- A  
FORM OF ORDER SHEET

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

Case No. 601/2019

| S.No.      | Date of order proceedings | Order or other proceedings with signature of judge  |
|------------|---------------------------|---|
| 1          | 2                         | 3   |
| 1-         | 09/05/2019                | <p>The appeal of Mr. Saif Ullah presented today by Mr. Muhammad Javed Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p><br/>REGISTRAR 9/5/19</p> |
| 2-         | 10/05/19                  | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/06/19</u></p> <p><br/>CHAIRMAN</p>   |
| 21.06.2019 |                           | <p>None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance and preliminary hearing for 08.08.2019 before S.B.</p> <p><br/>(Muhammad Amin Khan Kundi)<br/>Member</p>        |

21/6/19

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

Service Appeal No. 601 /2019

Saifullah .....Appellant

**VERSUS**


Provincial Police Officer and others .....Respondents

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Appellant  
Through Counsel



  
Muhammad Javaid Khan  
Advocate, Supreme Court of  
Pakistan

Office: Allah-o-Akbar Masjid,  
College Colony, Saidu Sharif, swat  
Cell: 0343-9607492

BEFORE THE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 601 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 735

Dated 09/5/2019

Saifullah S/o Muhammad Karam R/o Malak Khail, Kotkay,

Post Office Kotkay, Tehsil Alpuri, District Shangla

.....Appellant

**VERSUS**

- 1) Provincial Police Officer Government of Khyber Pakhtunkhwa at Central Police Office (CPO) Peshawar.
- 2) Deputy Inspector General of Police / Regional Police Officer (RPO) Malakand Region at Saidu Sharif, Swat
- 3) District Police Officer Swat at Gulkada, Saidu Sharif, District Swat

.....Respondents

Filed to-day

Registrar  
9/5/19

Service Appeal Under Section 4 of Service Tribunal Act read with other relevant provisions against the impugned order dated 01/01/2019 issued by respondent No.3, whereby the appellant has

been dismissed from service illegally, and unlawfully and unconstitutional.

PRAYER:

On acceptance of this service appeal the impugned order dated 01/01/2019 of respondent No. 3 may be declared illegal, unlawful and the appellant may be reinstated in service with all back benefits including the salaries etc. of the intervening period.

Any other relief, deemed fit and necessary in the given circumstances of the case may also be awarded in favor of appellant against respondents.

Respectfully Sheweth:

The appellant submits as under;

1. That the appellant was appointed as constable on 24/11/2009.
2. That from the date of appointment till the date of the impugned order dated 01/01/2019, the appellant performed his

duties honestly, bravely to the utmost satisfaction of superior officers.

3. That the bad days of the appellant started when on 29/09/2018, the SMG rifle allotted to Constable Anwar Zeb No. 2854/R, disappeared. (Copy of the Mad Report No. 21 dated 29/09/2018 is attached herewith as annexure "A")
4. That thereafter, an enquiry on the back of the appellant was conducted illegally, unlawfully and unconstitutionally, without following the codal formalities.
5. That the appellant was then dismissed from service vide order dated 01/01/2019 illegally, unlawfully and unconstitutionally. (Copy of the order dated 01/01/2019 is annexure "B")
6. That the appellant then filed a departmental appeal within ten days to the respondent No.2, which has not been

decided up till now. (Copy of the departmental appeal is annexed herewith as annexure "C").

7. That the impugned order dated: 01/01/2019 is illegal, unlawful, against facts available, unwarranted inter alia on the following grounds amongst others.

**GROUND:**

i) That the impugned order dated 01/01/2019 is illegal, unlawful, unconstitutional, and base on mala fide which is very much clear from the record on file.

ii) That a criminal case FIR No. 456, dated 04/05/2018, U/S 409-PPC, P.S Khurshid Khan Shaheed Khwazakhela, District Swat is still under the investigation. (Copy of the



FIR is attached herewith as annexure

"D").

- iii) That no formal enquiry has been conducted before the imposition of major penalty of dismissal from service, which is illegal, unlawful and unconstitutional.
- iv) That the appellant has never been associated with any sort of enquiry nor given opportunity to cross examine the witnesses if any, hence the principals of natural justice as well as principals laid down in Article 10 (a) of the constitution has been blatantly violated.
- v) That from the face of the record, it is very much clear that the appellant has been made escape goat, just to save the actual accused if any.

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vi) That other grounds not specifically raised will be argued with the permission of this Honorable Court at the time of arguments.

8. That this appeal is being filed against the order dated: 01/01/2019 of respondent No. 3, against which a departmental appeal has been filed within ten days before respondent No.2, which has not been decided as yet, hence this Honorable Tribunal has got jurisdiction and this appeal is well within time.

It is therefore humbly prayed;-  
that On acceptance of this service appeal the impugned order dated 01/01/2019 of respondent No. 3 may be declared illegal, unlawful and the appellant may be reinstated in service

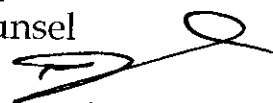
7

with all back benefits including the salaries etc. of the intervening period.

Any other remedy which is just, appropriate and efficacious may also be awarded in favor of the appellant please.



Appellant  
Through Counsel



Muhammad Javaid Khan  
Advocate, Supreme Court of  
Pakistan

8

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

Service Appeal No. \_\_\_\_\_/2019

Saifullah .....Appellant

**VERSUS**


Provincial Police Officer and others..... Respondents

*Service Appeal*

AFFIDAVIT

I, Saifullah S/o Muhammad Karam R/o Malak Khail, Kotkay, Post Office Kotkay, Tehsil Alpuri, District Shangla, do hereby solemnly affirm and declare on oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Identified by,

  
Muhammad Javaid Khan  
Advocate, Supreme Court of Pakistan

DEPONENT

  
Saifullah

**ATTESTED**  
  
WAQID ALI SHAH ADVOCATE  
District Courts Swat  
SWS Date: 07-5-2019  
OATH COMMISSIONER

9

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

Service Appeal No. \_\_\_\_\_/2019

Saifullah .....Appellant

**VERSUS**

Provincial Police Officer and others..... Respondents

**ADDRESSES OF THE PARTIES**

**ADDRESSES OF THE APPELLANT**

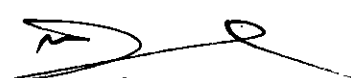
Saifullah S/o Muhammad Karam R/o Malak Khail, Kotkay,  
Post Office Kotkay, Tehsil Alpuri, District Shangla  
CNIC: 15501-3462846

Cell:

**ADDRESS OF THE RESPONDENTS**

1. Provincial Police Officer Government of Khyber Pakhtunkhwa  
at Central Police Office (CPO) Peshawar.
2. Deputy Inspector General of Police / Regional Police Officer  
(RPO) Malakand Region at Saidu Sharif, Swat
3. District Police Officer Swat at Gulkada, Saidu Sharif, District  
Swat

APPELLANT  
Through Counsel



Muhammad Javaid Khan  
Advocate, Supreme Court of  
Pakistan

(49)

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

Service Appeal No. \_\_\_\_\_/2019

Saifullah .....Appellant

**VERSUS**

Provincial Police Officer and others..... Respondents

**APPLICATION FOR CONDONATION OF DELAY OF FEW**  
**DAYS IN FILING THE INSTANT SERVICE APPEAL.**

**Respectfully Sheweth:**

The applicant / appellant submits as under:-

1. That the above Service appeal has been filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the contents of the above mentioned Service Appeal along with the contents of the annexures may be considered as an integral part of this application.
3. That there may be a few days in filing the instant service appeal, which is not deliberate.
4. That valuable rights of the appellant are involved in the present service appeal.
5. That if the condonation prayed for is not granted, then there will be an irreparable loss to the applicant / Appellant.

It is therefore respectfully prayed that on acceptance of this application an order prayed for may be passed.

Any other remedy which is just, appropriate and efficacious may also be awarded in favor of Appellant please.

APPELLANT  
Through Counsel



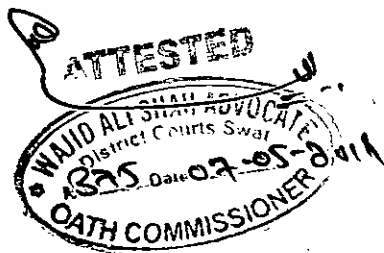
Muhammad Javaid Khan  
Advocate, Supreme Court of  
Pakistan

*Affidavit:*

*It is stated on oath that contents of this application are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Hon'ble Court.*

Deponent

Saifullah



ضلع سوات

تھانہ خورشید خان شہید

تقلید 21 روزنامہ 29.09.2018

21 آمد / رپورٹ SHO وقت 16:00 بجے مورخہ 29.09.2018 اس وقت کنسٹیبل انورزیب R/2854 متعینہ تھانہ خورشید خان شہید پر حاضر دفتر آکر یوں رپورٹ کرتا ہے۔ کہ مجھ پر تھانہ کے کوت مال خانہ سے مورخہ 08.09.2018 راینفل از قسم SMG نمبری 19055990 ڈپٹی کیلئے تقسیم تھا۔ مورخہ 09.09.2018 کو بوجہ ایمر جنسی گھر خود گیا تھا۔ راینفل منڈ کرہ کو میں نے اپنے رہائشی کمرہ نزد تھانہ پرائیویٹ بلڈنگ میں اپنے بکسہ میں رکھا تھا۔ جب گھر خود سے واپس آیا تو بکسہ کا ملاحظہ کر کے بکسہ کے اندر راینفل متذکرہ غائب پایا۔ کافی معلومات و پتہ براری کے بعد دستیاب نہ ہو سکا۔ میرے ساتھ کمرہ میں کنسٹیبلان (1) سیف اللہ R/2178، (2) برکت علی R/2103، (3) تاج محمد SPP/2910 رہائش پذیر ہیں۔ اسی طرح ہمارے اسی بلڈنگ میں دوسرے کمرہ میں کنسٹیبل سیف اللہ R/369 بھی رہائش پذیر ہے۔ میرا کسی کے ساتھ کوئی عداوت نہیں ہے، لیکن میرا شک ہے کہ راینفل متذکرہ بالا کنسٹیبلان بالا یا کسی اور نے پس و پیش کیا ہے۔ برائے اطلاع رپورٹ لکھنے آیا ہوں۔ رپورٹ لکھی جاوے غور ہوئیں۔ نشان انگوٹھا کاروائی تھانہ پس حسب گفتہ سائیکل رپورٹ درج صدر ہو کر پڑا مگر سنایا سمجھایا گیا، جس نے درنگی کا انگوٹھا مثبت کی سسکی میں تصدیق کرنا ہوں۔ تھانہ کے ساتھ پوسٹ پرائیویٹ بلڈنگ کل 6 کروں پر مشتمل ہے۔ جس میں پولیس اہلکاران کرایہ پر رہائش پذیر ہے۔ رپورٹ کنندہ کارپورٹ درج روزنامہ ہو کر تقلید علیحدہ مرتب کر کے بغرض مناسب حکم آفسران بالا کے خدمت میں ارسال ہوگی۔

جناب عالی!

نقل بمطابق اصل ہے۔

Anna A

MHC-PS-KKS

C-24  
ط



District Police Officer  
Swaraj

C.T.C  
*[Signature]*

Order announced.

The Enquiry Report reveals that the Constable under enquiry and Constable Anwar Zeb were residing in the same building. It has also been learnt that the Constable under discussion did not bear good reputation therefore his role in missing of the rifle could not be ruled out. This is blatant violation of discipline and code of conduct for a Police Officer. His behavior is detrimental to discipline and his further retention in Police is bound to affect conduct of other personnel of the force. Hence, in exercise of the powers vested in the District Police Officer, Swraj being competent authority, am constrained to award him punishment of dismissal from service with immediate effect.

He was issued show cause notice vide his office No. 455/P.A. dated 14-10-2018 to explain his position. He was summoned in orderly room and heard in person but he failed to present any cogent reason to rebut the allegations leveled against him. He was given considerable time to trace the rifle but he failed to recover the same.

This order pertains to show cause notice issued to Constable Sarfraz Khan No. 369 of this district Police. He while posted to Police Station Khwaza Khela was alleged of gross misconduct as it was reported that official rifle bearing No. 19055990 (made in China) allotted to Constable Anwar Zeb No. 2854 had been stolen away from him (Anwar Zeb) on 26-09-2018. A preliminary enquiry was carried out into the matter by SDPO Khwaza Kt. Khela Circle who reported that Constable Anwar Zeb No. 2854, being custodian of the rifle was completely responsible for missing of the same but role of the Constable under enquiry could not be ruled out as he and Constable Anwar Zeb were residing in the same building. It was also reported that role of the Constable in the incident was suspected as he did not bear good reputation.

ORDER

*[Signature]*

Copy to:-

- 1. Establishment Clerk
- 2. OSI

For necessary action, please.

O.B. No. 01

Date: 01.10.2018

Annex 11

بھنور جناب D.I.G صاحب مالا کنڈریج بمقام سید و شریف سوات

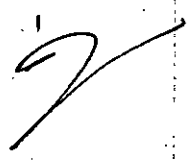
رحم و روانہ اپیل بغرض بحالی ملازمت

جناب عالی! ذیل عرض ہے۔

- ۱۔ یہ کہ بندہ سال 2009 و کشیدہ حالات کے بھرتی شدہ ہے۔
- ۲۔ یہ کہ بندہ محکمہ پولیس میں کشیدہ حالات میں بھرتی ہونے کے ساتھ دلیری کے ساتھ اور ایمان داری کے ساتھ احسن طریقے سے اپنی ڈیوٹی سرانجام دیا ہے۔
- ۳۔ یہ کہ بندہ نے تا حال انفران بالا کو کسی قسم کی شکایت کا موقع نہیں دیا ہے۔
- ۴۔ یہ کہ بندہ کے ڈسمن مورخہ 01/01/2019 OB نمبر 01 غیر قانونی اور غیر شرعی ہے اور انصاف تقاضوں کے منافی ہے۔
- ۵۔ یہ کہ بندہ کے حالات پر رحم فرما کر بندہ پر اور بندہ کے بچوں پر رحم فرما کر نوکری پر بحال کر کے کے احکامات صادر فرما کر دعا گو رہیگا۔

عریض 

آپکا نائب اعدار کنشیل سیف اللہ بیلک نمبر 369 Swat

C-2-C  


موبائل نمبر 0346 9170 249

PPC 409

معدودہ (حال اگر ہو گیا ہو۔)

تقاضے اور دست پورا ایجوویٹ ملڈ ٹر کمرہ اور ایجنسی کے ذریعے نیشنل فورسز ایس 2854 نوز (کھانا) کھانا کمرہ

|           |             |       |
|-----------|-------------|-------|
| نام       | ولدیت       | سکونت |
| CNIC نمبر | موبائل نمبر |       |
| نام (۲)   | ولدیت       | سکونت |
| CNIC نمبر | موبائل نمبر |       |
| نام (۳)   | ولدیت       | سکونت |
| CNIC نمبر | موبائل نمبر |       |

Annea "D"




ما کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو۔  
مدعی کے الوداع پر مقدمہ قائم ہوا۔

لی تاریخ و وقت  
پہ سبیل ڈاک

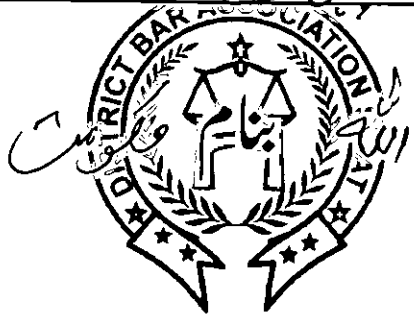
ابتدائی اطلاع نیچے درج کرو۔ کانسٹیبل انور زیب 2854 نے کوالم مدار  
 29/9/18 اور گلدرج کی پوٹھیل پتہ مدار 29/9/18 صبح 9:00 وقت 16:00  
 وقت کانسٹیبل انور زیب 2854 صحنہ کھانا کمرہ بجائے دفتر آکر یوں رپورٹ کرتا ہوا کہ  
 ماہانہ کوٹ مال خانہ سے صبح 9/9/18 کو بوجھ ایجنسی کمرہ خود لیا تھا۔ اسٹیبل از قسم SMG بڑی 05599019 کوٹھالی  
 خانہ پورا ٹیویٹ ملڈ ٹر میں اسے لکھنے میں آگیا تھا۔ جب کمرہ خود سے واپس آیا۔ تو وقت  
 40 گرتے گرتے اندر اسٹیبل منتقل ہوا۔ غائب پایا۔ ماضی معلومات، بلکہ ہماری ک لعد دستیاب  
 رہا۔ صحت ساری کمرہ میں کٹھنوں (1) 2178 (2) کمرہ کت علی 203 (3) تاج کت 2910  
 میں بڑی ہیں۔ اس طرح بھارت اس ملڈ ٹر میں دوسرے کمرہ میں کانسٹیبل سید اللہ 368  
 کو بڑی ہے۔ میرا کسی ک ساری کوئی گزارشت نہیں ہے بلکہ میرا شک ہے اسٹیبل منتقل ہوا  
 ہاں ہاں یا کسی اور نے جس شخص کو یہ حد کے اطلاع رپورٹ کی ہے کیا ہے وہ رپورٹ کی ہے  
 ہاں اسٹیشن آفٹ ماروائی کھانا کمرہ جب کھانہ سائیل الوداع درج صبح کو کمرہ کھانہ  
 پایا تھا۔ جہاں درستی کھانا کمرہ کت کی جگہ میں لکھتے کرتا ہوں۔ کھانہ ک سائے ہیروست  
 وقت ملڈ ٹر کل کے کمرہ پر مشتمل ہے جس میں پولیس اہلکاران کریم پر ایجنسی لڑ رہے  
 ک کمرہ کا رپورٹ درج اور ناچہ ہو کہ نقلہ علیحدہ ہر وقت کت میں من مناسب حکم رپورٹ ہاں  
 دست میں ارسال ہوئی۔ کھانا کت ایجنسی رپورٹ ہاں پر رپورٹ تھی انفرادی ہاں کے ک  
 تعمیر رپورٹ سے اسٹیبل سرفہ ہونا سائی کت ہے۔ جب حکم انفرادی ہاں مقدمہ مجرم ہاں دست و دست  
 فیات ہے نقلہ FIR ہر تفتیش شعبہ تفتیش کو کھانا کت ہاں کو اطلاع دی جا رہی ہے

SHO-P.S. MMS  
04-05-019

Handwritten signature and initials

|  |   |
|--|---|
|  <p>بار کونسل نمبر: 078<br/>         بار ایسوسی ایشن نمبر: 168<br/>         رابطہ نمبر: 03439607492</p> |   <p>48098<br/> <b>ڈسٹرکٹ بار ایسوسی ایشن سوات</b></p> |
|--|---|

بعدالت جناب:

|   |  |
|---|--|
| <p>منجانب: <b>سیف اللہ</b></p>  | <p>دعویٰ اور خواست: <b>سروس - ایڈیل</b></p> <p>علت نمبر: _____<br/>         مورخہ: _____<br/>         جرم: _____<br/>         تھانہ: _____</p> |
|---|--|

**بابت تحریر آگہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ


آن مقام **مٹا اور** کیلئے **محمد جاوید انان ایدوکیٹ** مھائی کورٹ کو مقرر کر کے اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ، اور درخواست برائے سروسنگ مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کر گزرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہزارہ یا اپنے بجائے تقریر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہر جانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،

لہذا وکالت نامہ لکھ دیا کہ سندر ہے


کے لئے منظور ہے۔

مقام **مٹا اور**

سیف اللہ ولد محمد کرم



ایڈوکیٹ دستخط:



المرقوم: 8/6/019

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

**Service Appeal No. 601/2019**

Saifullah S/O Muhammad Karam R/O Malak Khail, Kotkay, Post Office Kotkay  
Tehsil Alpurai, District Shangla.

..... Appellant

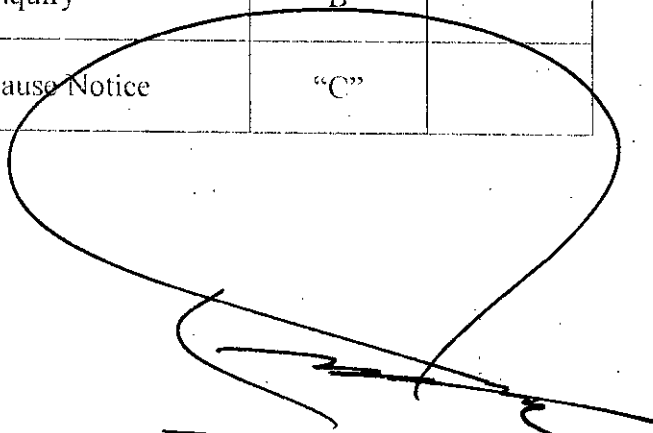
**VERSUS**

1. Provincial Police officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

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| 2            | Affidavit                       | -               | 4            |
| 3            | Authority Letter                | -               | 5            |
| 4            | Copy of list of punishment      | "A"             |              |
| 5            | Copy of Enquiry                 | "B"             |              |
| 6            | Copy of Show Cause Notice       | "C"             |              |

  
District Police Officer, Swat  
(Respondent No. 3)

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

**Service Appeal No. 601/2019**

Saifullah S/O Muhammad Karam R/O Malak Khail, Kotkay, Post Office Kotkay  
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..... Appellant

**VERSUS**

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2. Deputy Inspector General of Police, Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

**PARAWISE REPLY BY RESPONDENTS**

Respectfully Shewith,

**PRELIMINARY OBJECTIONS**

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

**FACTS:**

1. Pertains to record, hence needs no comments.
2. Incorrect. The performance of appellant during service was not satisfactory and he has been awarded 06 minor punishments for wilfull absence from official duty. List enclosed as annexure "A".
3. Correct to the extent that SMG rifle allotted to Constable Anwar Zeb was found missing/stolen from the room where appellant and Anwar Zeb & other were residing together. Furthermore, the reputation of the appellant was not good and the role of appellant in missing of rifle could not be ruled out which is blatant violation of discipline and code of conduct for Police personnel.
4. Incorrect. Preliminary enquiry through Sub Divisional Police Officer, Circle Khwazakhela was conducted wherein the appellant and others were found

responsible for missing of Government SMG rifle, subsequently Show Cause Notice under rule 5 (3) of KPK Police Rule 1975 was issued to the appellant and reply of appellant to the Show Cause Notice was found unsatisfactory. Copies of preliminary enquiry and Show Cause Notice are enclosed as annexure "B" and "C".

5. Incorrect. Appellant and other officials were awarded appropriate punishment after observing all codal formalities required under the KPK Police Rules 1975.
6. Pertain to record, hence needs no comments.
7. Incorrect: The Orders of respondents are well reasoned, speaking and based on facts and the same has been wrongly challenged before this honorable Tribunal through unsound reasons.

**GROUND:**

- i. Incorrect. Orders of the respondent are legal, lawful and based on facts and rules. There is no malafide on the part of respondents while dealing the serious misconduct of appellant.
- ii. Correct to the extent that Government property was found missing/stolen by the appellant and others, therefore besides departmental action, criminal case FIR No. 465 dated 04/05/2019 U/S 409 PPC P.S Khurshid Khan Shaheed has also been registered and the appellant and others officials have been found responsible for the offence U/S 409 PPC.
- iii. Incorrect. Enquiry through Sub Divisional Police Officer, Circle Khwazakhela was conducted against the appellant and others, wherein the charges of missing the rifle were established against the appellant and thereafter valid and legal order for imposition of punishment was passed.
- iv. Incorrect. All the opportunities of personal hearing and defence were provided to the appellant during course of departmental probe.
- v. Incorrect. The appellant and other responsible officials being custodian of rifle were given considerable time to trace the rifle but they failed to recover the same.
- vi. That the respondents may be allowed to add any other grounds at the time of hearing of the appeal.

8. Pertains to record.

**PRAYER:**

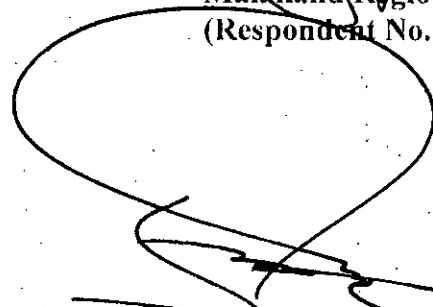
Keeping in view the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.



**Provincial Police officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No. 01)**



**Deputy Inspector General of Police  
Malakand Region  
(Respondent No. 02)**



**District Police Officer Swat  
(Respondent No. 03)**



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

**Service Appeal No. 601/2019.**

Saifullah S/O Muhammad Karam R/O Malak Khail, Kotkay, Post Office Kotkay  
Tehsil Alpurai, District Shangla.

..... Appellant

**VERSUS**

1. Provincial Police officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

..... Respondents

**AFFIDAVIT**

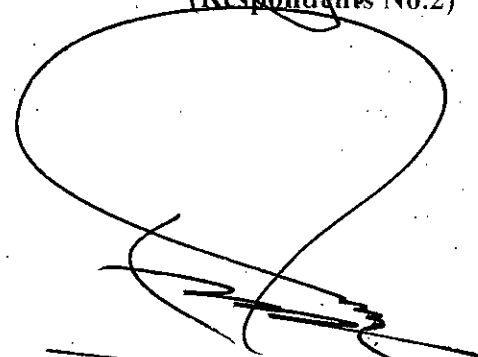
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.



**Provincial Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondents No.1)**



**Deputy Inspector General of Police,  
Malakand Region  
(Respondents No.2)**



**District Police Officer, Swat  
(Respondents No.3)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 601/2019

Saifullah S/O.Muhammad Karam R/O Malak Khail, Kotkay, Post Office Kotkay  
Tehsil Alpurai, District Shangla.

..... Appellant

VERSUS

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2. Deputy Inspector General of Police, Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.

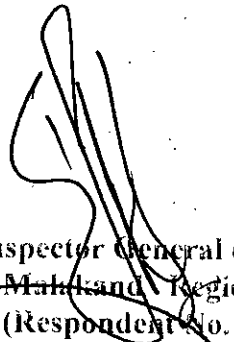
..... Respondents

AUTHORITY LETTER

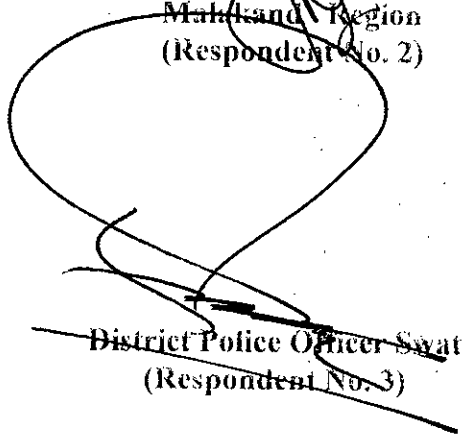
We, the above respondents do hereby authorize Mr. Mir Faraz Khan DSP/Legal  
& Mr. Khawas Khan SI Legal to appear before the Tribunal on our behalf and submit  
reply etc in connection with titled Service Appeal.



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



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



District Police Officer Swat  
(Respondent No. 3)

CHARACTER ROLL OF

Serial No.

15. CENSURES AND PUNISHMENT

Charge: Absented from duty on 30<sup>th</sup> to 1<sup>st</sup> 8/20.  
 Punishment: Three days counted as leave pay.  
 CB no 164  
 5/8/2010

Charge: Absented from duty on 21<sup>st</sup> 4/2011 to 24<sup>th</sup> 4/2011.  
 Punishment: 3 days counted as leave pay.

CB no 98  
 12-5-11

8/11-05  
 20-10-2015

8/11-05  
 14/10 15/10/20  
 20-10-2015

160 24/08/16  
 16/09/2016 one day Extra Drill

8 PFd Advan  
 302  
 06-08-14  
 19000/-  
 19000/- T.A.D.  
 07-08-2014  
 07/08/14

Serial No.

15. CENSURES AND PUNISHMENTS - Contd.

Charge Absented from duty w.e from 9/10-9/17  
 Punishment Total 10 one day Counted as L.W.P.  
 OB NO 157  
 dt 25-9-17 D/Supt

Charge Absented from duty w.e from 05-11-2017  
 Punishment extra drill for one day  
 OB NO 184  
 B-11-2017 D/Supt

Charge Absented from duty w.e from 1-10-11-2017  
 Punishment extra drill for one day  
 OB NO 188  
 20-11-2017 D/Supt

Charge Absented from duty w.e from 26-11-29-11-2017  
 Punishment extra drill for one day  
 OB NO 201  
 12-12-2017 D/Supt

Charge Absented from duty w.e from 02-12-2017  
 Punishment Green warning  
 OB NO 201  
 12-12-2017 D/Supt

Punishment Entry  
 Name & Rank  
 Absented from duty w.e from 26-11-29-11-2017  
 Punishment extra drill for one day counted as L.W.P.  
 OB NO 201 dt 12-12-2017

Punishment Entry  
 Name & Rank  
 Absented from duty w.e from 02-12-2017  
 Punishment Green warning counted as L.W.P.  
 OB NO 201 dt 12-12-2017

D.P.O. Swat.

D.P.O. Swat.



Amex B

**OFFICE OF THE SUB DIVISIONAL POLICE  
OFFICER CIRCLE KHWAZA KHELA SWAT**

Email: sdpokk@gmail.com

Ph: 0946-745106

To: The District Police Officer,  
District Swat.

No: 1656/R, Dated: 05/10/2018.

Subject: **MISSING OF OFFICIAL RIFLE SMG NO; 19055990 ALONG  
WITH 30 ROUNDS.**

**Memorandum:**

Kindly refer to the worthy DPO Swat directions dated 02.10.2018, it is submitted that as per directions preliminary enquiry conducted into the matter. During enquiry statements of the following officers and officials recorded. Relevant record also checked and attached with enquiry.

| S. No | Name and Designation           | Remarks                                    |
|-------|--------------------------------|--|
| 01    | HC Imran No; 1059              | MHC police station Khursheed Khan Shaheed  |
| 02    | HC Khan Baz No; 1339           | KHC police station Khursheed Khan Shaheed  |
| 03    | Constable Anwar Zeb No; 2854   | Driver official vehicle police station KKS |
| 04    | Constable Saifullah No; 2178   | Driver official vehicle police station KKS |
| 05    | Constable Rashid Khan No; 3124 | Driver official vehicle police station KKS |
| 06    | Constable Fazal Haq No; 3137   | AKHC police station Khursheed Khan Shaheed |
| 07    | Constable Saifullah No; 369    | Police station Khursheed Khan Shaheed      |
| 08    | Constable Barkat Ali No; 2103  | Police station Khursheed Khan Shaheed      |
| 09    | SPF Taj Muhammad No; 2910      | Police station Khursheed Khan Shaheed      |

Statements and record are showing that on 08.09.2018 official SMG No; 19055990 along with 30 rounds were issued to constable driver Anwar Zeb No; 2854 for official duty from Kot of police station Khursheed Khan Shaheed as per issuing register maintained by KHC and since then the same official SMG remained in the custody of constable Anwar Zeb No; 2854. On 29.09.2018 vide daily diary No; 21, dated 29.09.2018 at 16:00 hours constable Anwar Zeb No; 2854 reported the missing of SMG along with 30 rounds to MHC police station Khursheed Khan Shaheed.

Driver constable Anwar Zeb No; 2854 mentioned in his statement that on 06.09.2018 he officially received SMG No; 19055990 from the Kot of police station Khursheed Khan Shaheed in connection with official duty. After duty as per routine he was to put the same SMG in his personal box laying inside in his rented room.

Stated that beside him other three constables namely Barkat Ali No; 2103, Saifullah No; 2178 and Taj Muhammad No; 2910/SPF are also residing with him in the same room situated adjacent to the building of police station.

On 24.09.2018 when he checked his box he found missing his official SMG from his box he enquired from his roommates but they show their ignorance. After searching he found no clue then he reported the matter to MHC who recorded report into the daily diary vide daily diary No; 21, dated 29.09.2018.

During cross examination stated that he has doubt over one constable Saifullah No; 369 because he is also residing in the same building in another rented room and his previous reputation is not good.

MHC Imran in his statement mentioned that constable Anwar Zeb No; 2854 when the matter he lodged report into the daily diary vide daily diary No; 21, dated 2018 and a copy sent to the high ups.

Constable Saifullah No; 2178, Barkat Ali No; 2103, Taj Muhammad No; 2910/SPF, Rashid Khan No; 3124 driver constable, Khan Baz No; 139/KHC, Fazal Haq No; 3137/AKHC and constable Saifullah No; 369 also examined and their statements recorded in detail. All the above officers shown their ignorance in the subject matter.

"During enquiry statement recorded and record, obtained showing that"

- ✓ Official SMG No; 19055990 along with 30 rounds has been issued properly from police station Khursheed Khan Shaheed Kot to constable Anwar Zeb No; 2854 as per issuing register and since then remained in his personal custody.
- ✓ Constables Barkat Ali No; 2103, Saifullah No; 2178 and Taj Muhammad No; 2910/SPF verified roommates of constable Anwar Zeb No; 2854 and having their presence at the station in the cited period.
- ✓ Constable Saifullah No; 369 also residing in the same building as per statement of constable he is a suspect person in the subject matter, while general reputation of the said constable is also reportedly not good.
- ✓ KHC Khan Baz No; 1339 and AKHC Fazal Haq No; 3137 also responsible because they ignored to check record born on their charge as the missing SMG remained in the custody of constable Anwar Zeb No; 2854 for a long period and went out of the station in the subject matter.

Keeping in view the above facts, statements and record it is crystal clear that every police officer is personally responsible for the safe custody and care of every weapon, accessory there to issued to him until it is returned to the custody of the officer responsible for issuing that, hence Anwar Zeb No; 2854 is completely responsible for the missing of the cited official SMG and rounds, however the role of the rest above mentioned officials except Rashid Khan No; 3124 cannot be ignored.

It is therefore constables Anwar Zeb No; 2854, Saifullah No; 369, Barkat Ali No; 2103, Saifullah No; 2178, Taj Muhammad No; 2910/SPF, Khan Baz No; 1339/KHC, and Fazal Haq No; 3137/AKHC recommended for proper departmental proceeding to probe the matter please.

Submitted please.

  
Sub: Divisional Police Officer,  
Circle Khwaza Khela Swat.

PA.

Sen. Z. an

official price  
of SMG.

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OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 465/PA, Dated Gulkada the 19-10-2018 (1)

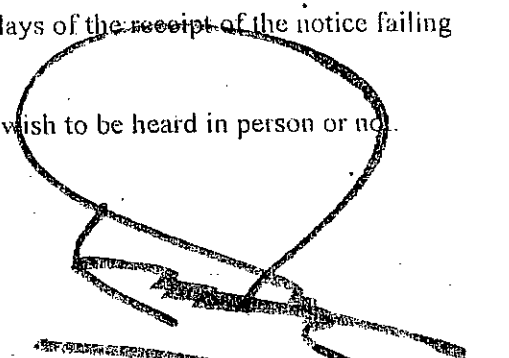
SHOW CAUSE NOTICE.


(Under Rule 5 (3) K.P.K Police Rules, 1975)

1 You Constable Saifullah No. 369 while posted to Police Station Khwaza Khela have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s;

Whereas, it was reported that official rifle, bearing No. 19055990, allotted to Constable Anwar Zeb No. 2854 had been stolen away from his post on 26-09-2018. A preliminary enquiry was carried out into the incident by SDPO Khwaza Khela Circle. The Enquiry Report revealed that Constable Anwar Zeb, being the custodian of the rifle, was completely responsible for missing of the same but your role in the incident could not be ruled out as you and Constable Anwar Zeb were residing in the same building and also you do not bear good reputation, hence your role is suspected in missing of the rifle which is against discipline and warrants strict departmental action. You are therefore issued this show cause notice.

- 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 of discipline in the Police force;
- 4 That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
- 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 for the misconduct referred to above.
- 7 You should submit reply to this show cause notice with 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.

  
 District Police Officer  
 Swat  
 2018

*Dismissed plea*  


Received by \_\_\_\_\_  
 dated \_\_\_\_\_ /2018.

Am-2020

No= 927-R-SDPOLICE

20-5-14

از دفتر SDPO سرکل منہ

فائینڈنگ رپورٹ

انکوائری بر خلاف کنشیل سیف اللہ نمبر 369/FC متعینہ تھانہ خورشید خان شہید

جناب عالی!

خلاصہ الزام:

کنشیل سیف اللہ نمبر 369/FC جس پر کارس کار میں عدم دلچسپی اور غیر اخلاقی سرگرمیوں کا الزام ہے۔ اس حرکت کے بناء پر جناب DPO صاحب سوات نے چارج شیٹ نمبری 51/E مورخہ 07-03-2014 جاری کر کے من SDPO کو انکوائری آفس مقرر کیا۔

تفصیل تحقیق:

کنشیل سیف اللہ نمبر 369/FC کو دفتر ہذا طلب کر کے جس نے ایک تحریری بیان پیش کیا۔ جس میں وہ بیانی ہے کہ وہ محکمہ پولیس میں سال 2009 کا بحیثیت کنشیل بھرتی ہے۔ اور مختلف جگہوں پر تعینات رہ کر اپنی ڈیوٹی ایمانداری کے ساتھ سرانجام دی ہے۔ اور اس نے ڈیوٹی ہمیشہ پولیس کے وقار کو مد نظر رکھ کر سرانجام دی ہے۔ اس پر لگائے گئے الزامات سر اسر جھوٹے غلط اور بے بنیاد ہے۔  
دوران انکوائری SHO / محرم تھانہ خورشید خان شہید کے بیانات بھی قلمبند کر کے جس میں وہ بیانی ہیں۔ کہ کنشیل مذکورہ کے خلاف ایک مرتبہ شکایت موصول ہوئی تھی۔ کہ اس نے ہسپتال خوازہ حیلہ میں لڑکی کی ساتھ چیڑ چاڑکی جس پر عام لوگوں میں مذکورہ کنشیل کے خلاف نفرت پیدا ہوئی تھی۔ جس پر کنشیل مذکورہ کو تھانہ خورشید خان شہید سے کسی اور تھانہ تبدیل کرنے کی تحریری درخواست کی تھی۔ جس پر کنشیل مذکورہ تھانہ خورشید خان شہید سے ٹرانسفر ہو چکا ہے۔ اور اب اپنے کرتوتوں سے توبہ تائب ہو چکا ہے۔ مذکورہ کے خلاف مذید کارروائی کرنے کے خواہاں نہیں ہے۔

نتیجہ تحقیق:

بعد از انکوائری SHO / محرم اور کنشیل مذکورہ کے بیانات کے بعد میں اس نتیجہ پر پہنچ چکا ہوں کہ کنشیل سیف اللہ نمبر 369/FC متعینہ تھانہ خورشید خان شہید کے خلاف ایک مرتبہ شکایت موصول ہوئی تھی۔ جس پر کنشیل مذکورہ کے خلاف تحریری شکایت کر کے مذکورہ کو تھانہ خورشید خان شہید سے پولیس چوکی کلیل کنڈ و تھانہ کوکاری تبدیل کیا جا چکا ہے۔ کنشیل مذکورہ نے اب اپنے کرتوتوں سے توبہ کیا ہے۔ اگر اتفاق ہو تو کنشیل مذکورہ کو وارنٹ کرنے کی سفارش کی جاتی ہے۔ فائینڈنگ رپورٹ برآمد ملاحظہ گزارش ہے۔

ایس۔ ڈی۔ پی۔ او

سرکل منہ