

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 204/2019

Date of institution ... 13.02.2019
Date of judgment ... 11.03.2020

Atta Muhammad S/o Yar Muhammad, Ex-ASI/Traffic Officer,
Peshawar, R/o Bacha Garhi, Lakarai, Kaniza, Regi, Peshawar.
... (Appellant)

VERSUS

1. Capital City Police Officer, Police Lines Peshawar.
2. Senior Superintendent of Police Traffic, Peshawar.
3. Deputy Superintendent of Police Headquarter, Peshawar.
4. SHO Police Station Traffic Police Lines, Bacha Khan Chowk,
Peshawar. ... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED
ORDER DATED 19.12.2018 WHEREBY THE APPELLANT HAS
BEEN AWARDED MAJOR PUNISHMENT OF REVERSION TO
THE RANK OF HEAD CONSTABLE AND THE PERIOD OF
SERVICE WAS TREATED AS WITHOUT PAY AND ORDER
DATED 06.02.2019 WHEREBY DEPARTMENTAL APPEAL OF
THE APPELLANT HAS BEEN REJECTED WITH NO REASON.

Miss. Naila Jan, Advocate. .. For appellant.
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. MIAN MOHAMMAD .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel and Mr. Muhammad Jan, Deputy District
Attorney alongwith Mr. Habib Khan, Inspector (Legal) for the
respondents present. Arguments heard and record perused.

M. Amin
11.3.2020

2. Brief facts of the case as per present appeal are that the appellant was serving in Police Department as ASI. He was involved in case FIR No. 431 dated 25.09.2014 under sections 409/418/420 PPC read with section 5 (2) Prevention of Corruption Act Police Station East Cantt, Peshawar. Departmental proceedings were also initiated against the appellant and he was imposed major penalty of compulsory retirement from service on the allegation that he while serving in Traffic Police issued fake/bogus challan and receiving the amount from the offenders on the photocopy of challan. After availing the remedy of departmental appeal, the appellant filed Service Appeal No. 362/2015 which was partially accepted, the impugned order was set-aside, the appellant was reinstated in service and the respondents were held at liberty to conduct de-novo inquiry vide detailed judgment dated 14.02.2017. After conducting de-novo inquiry, the appellant was again imposed major penalty of compulsory retirement vide order dated 16.05.2017. The departmental appeal of the appellant was also rejected, therefore, the appellant again filed Service Appeal No. 801/2017 which was partially accepted, the impugned order was set-aside and the respondent-department was again directed to conduct de-novo inquiry strictly in accordance with rules vide judgment dated 19.09.2018. After conducting de-novo inquiry, the inquiry officer submitted de-novo inquiry report and recommended for demotion/reversion to one step in

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11.3.2020

his basic pay scale vide inquiry report (undated) and on the basis of inquiry report, the competent authority awarded punishment of reversion to the rank of Head Constable under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect and the period he remained out of service i.e from compulsory retirement till reinstatement in service was treated as without pay vide order dated 19.12.2018. The appellant filed departmental appeal on 01.01.2019 which was rejected vide order dated 06.02.2019 hence, the present service appeal on 13.02.2019.

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 ASI in Police Department. It was further contended that the appellant was imposed major penalty of reversion from the rank of ASI to the rank of Head Constable and the period he remained out of service i.e from compulsory retirement till reinstatement in service was treated as without pay vide order dated 19.12.2018 by the competent authority. It was further contended that the departmental appeal of the appellant was also rejected by the departmental authority vide order dated 06.02.2019. it was further contended that the respondent-department was bound to fix any specific period for the period of reversion from the rank of ASI to the rank of Head Constable under FR-29 but the

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11.3.2020

respondent-department has not mentioned any specific period for reversion of the appellant from the rank of ASI to the rank of Head Constable, therefore, it was vehemently contended that the respondent-department has violated the mandatory provision of FR-29. It was further contended that the appellant was acquitted by the competent court in the aforesaid criminal case and neither the de-novo inquiry has been conducted as per direction of judgment of Service Tribunal nor the allegation against the appellant has been proved, therefore, the impugned order is illegal and the appellant is entitled to reinstatement with back benefits and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving as ASI in Police Department. It was further contended that the appellant was involved in the aforesaid criminal case. It was further contended that a separate departmental proceeding was initiated against the appellant and ultimately after fulfilling all the codal formalities, the appellant was imposed major penalty of compulsory retirement on the allegation that he while serving in Traffic Police issued illegal challan and receiving money from the offenders on the photocopy of the challan. It was further contended that the appellant filed departmental appeal which was partially accepted and the

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11.3.2020

respondent-department was directed to conduct de-novo inquiry. It was further contended that after conducting de-novo inquiry, the competent authority has taken lenient view and converted the major penalty of compulsory retirement into reduction in rank from the post of ASI to the post of Head Constable. It was further contended that since the appellant has not performed any duty, therefore, the appellant was not entitled to any back benefits of the said period, therefore the intervening period from the date of compulsory retirement till reinstatement was also rightly treated as without pay and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving as ASI in Police Department. The record further reveals that while serving in Traffic Police, he was involved in the aforesaid criminal case. The record further reveals that the competent court has acquitted the appellant from the charges leveled against him in the criminal case vide detailed judgment dated 29.11.2016. The record further reveals that separate departmental proceeding was also initiated against the appellant on the aforesaid allegation and he was imposed major penalty of compulsory retirement. The record further reveals that after availing the remedy of departmental appeal, the appellant filed service appeal which was partially accepted, the impugned order was set-aside, the appellant was reinstated in service and the respondent-department was

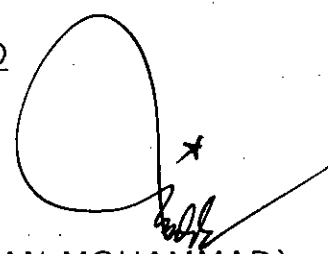
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11.3.2020

directed to conduct de-novo inquiry vide detailed judgment dated 14.02.2017. The record further reveals that after conducting de-novo inquiry, the appellant was again imposed major penalty of compulsory retirement. The appellant filed service appeal which was again partially accepted and the appellant was reinstated in service and the respondent-department was directed to conduct de-novo inquiry vide judgment dated 19.0~~9~~¹¹.2018. The record further reveals that again de-novo inquiry was conducted by the inquiry officer and concluded that the appellant be demoted/reverted into one step in his basic pay scale and period of compulsory retirement be treated as without pay vide inquiry report (undated). The record further reveals that on the basis of said inquiry report, the competent authority imposed major penalty of reversion from the rank of ASI to the rank of Head Constable, and the period he remained out of service i.e from compulsory retirement till reinstatement in service was treated as without pay vide order dated 19.12.2018. The record further reveals that the appellant filed departmental appeal which was also rejected hence, the present service appeal. Under FR-29, the respondent-department was bound to fix a specific period for his reversion from the rank of ASI to the rank of Head Constable but the respondent-department has not mentioned/fix any specific period of reversion from the rank of ASI to the rank of Head Constable, therefore, the respondent-

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11.3.2020

department has violated the mandatory provision of FR-29. Moreover, the appellant has also sufficient service ^{to} (in) his credit, therefore, the respondent-department was also required to treat the period he remained out of service i.e from the date of compulsory retirement till reinstatement in service as leave of the kind due instead of without pay. Therefore, we partially accept the appeal and modify the impugned order to the extent that the appellant is reverted from the rank of ASI to the rank of Head Constable for a period of two years with effect from the impugned order dated 19.12.2018 and also treat the period he remained out of service i.e from the date of compulsory retirement till reinstatement as leave of the kind due instead of without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.03.2020



(MIAN MOHAMMAD)
MEMBER

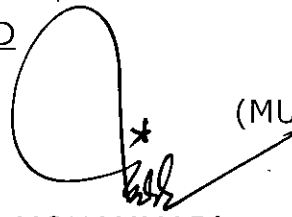
Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.03.2020

Appellant alongwith his counsel and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Habib Khan, Inspector (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of seven pages placed on file, we partially accept the appeal and modify the impugned order to the extent that the appellant is reverted from the rank of ASI to the rank of Head Constable for a period of two years with effect from the impugned order dated 19.12.2018 and also treat the period he remained out of service i.e from the date of compulsory retirement till reinstatement as leave of the kind due instead of without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.03.2020



(MIAN MOHAMMAD)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 12.02.2020 for further proceedings/arguments before D.B.



Member


Member

12.02.2020

Learned counsel for the petitioner present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant seek adjournment. Adjourned. To come up for further proceedings/arguments on 24.02.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

24-2-20

The Bench is incomplete, therefore case is adjourned to 11-3-2020


Roadar

14.10.2019

Appellant with counsel present. Mr. Usman Ghani learned District Attorney Habib Khan Inspector present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 07.11.2019 before D.B.



Member



Member

07.11.2019

Appellant in person present. Mr. Usman Ghani, District Attorney for respondents present. Appellant seeks adjournment as his counsel was not available today. Adjourn. To come up for arguments on 05.12.2019 before D.B.



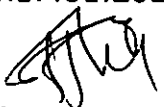
Member



Member

05.12.2019

Appellant in person present. Mr. Usman Ghani learned District Attorney for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 17.01.2020 before D.B.



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

29.05.2019

Appellant in person and Addl. AG alongwith Mr. Habib Khan Inspector for the respondents present.

Representative of respondents seeks further time for submission of requisite reply/comments. Adjourned to 03.07.2019 on which date the reply shall positively be submitted.



Chairman

03.07.2019 Appellant in person present. Mr. Muhammad Jan learned Deputy District Attorney alongwith Mr. Habib Khan Inspector representative of the respondents present and seeks further time to furnish written reply/comments. Adjourned. To come up for written reply/comments on 29.08.2019 before S.B.


Member

29.08.2019

Appellant in person present. Addl: AG alongwith Habib Khan, Inspector Legal for respondents present. V reply/comments on behalf of the respondents submitted is placed on file. Case to come up for rejoinder and appeal on 14.10.2019 before D.B.


(Ahmad
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12.04.2019

Counsel for the appellant present.

Contends, inter-alia, that Service Appeal No. 801/2017 preferred by the appellant was decided by this Tribunal on 19.09.2018. In the judgment there was clear order to respondents for conducting denovo enquiry strictly in accordance with the rules. On the other hand, the statements of witnesses recorded in the first round of enquiry were transposed to the denovo enquiry and were relied upon for imposing penalty upon the appellant. In the said manner, the judgment of the Tribunal remained un-complied in strict sense. The impugned order ensuing the subsequent proceedings and passed on 19.12.2018 was, therefore, nullity in the eyes of law, it was added.

In view of the above, instant appeal 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. To come up for written reply/comments on 29.05.2019 before S.B.

Appellant Deposited
Security & Process Fee



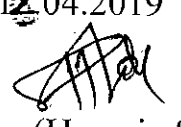
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____ 204/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/2/2019	<p>The appeal of Mr. Atta Muhammad presented today by Naila Jan 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 13/2/19</p>
2-	20.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
		<p>Due to general strike of the bar, the case is adjourned. To come up for preliminary hearing on 12 04.2019 before S.B.</p> <p style="text-align: right;"> (Hussain Shah) Member</p>

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

S.A 204 /2019

Atta Muhammad
Versus
Capital City Police Officer and others

INDEX

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5.	Copy of Mad NO.5	"B"	14
6.	Copy of the FIR	"C"	15
7.	Copy of the Anti Corruption judgment dated 29/11/2016	"D"	16-21.
8.	Copy of inquiry report the order dated 10/02/2015 and judgment of the Tribunal	"E", "F" & "G"	22-30
9.	Copy of Denovo inquiry, order dated 16/05/2017 and judgment dated 19/09/2018	"H" "T" & "J"	31-35
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Appellant

Through


Naira Jan

Advocate, High Court
Peshawar.

Dated: 12/02/2019

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A. 204 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 186

Dated 13-2-2019

Atta Muhammad S/O Yar Muhammad, Ex-
ASI/Traffic Officer, Peshawar R/O Bacha Garhi,
Lakarai, Kaniza, Regi, Peshawar.

(Appellant)

Versus

1. Capital City Police Officer, Police Lines Peshawar.
2. Senior Superintendant of police Traffic, Peshawar.
3. Deputy Superintendant of Police Headquarter, Peshawar.
4. SHO Police Station Traffic Police Lines, Bacha Khan Chowk, Peshawar.

Filed to-day

----- (Respondents).

Registrar

13/2/19

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED ORDER
DATED 19/12/2018 WHEREBY THE
APPELLANT HAS BEEN AWARDED MAJOR
PUNISHMENT OF REVERSION TO THE
RANK OF HEAD CONSTABLE AND THE
PERIOD OF SERVICE WAS TREATED AS
WITHOUT PAY AND ORDER DATED
06/02/2019 WHEREBY DEPARTMENTAL
APPEAL OF THE APPELLANT HAS BEEN
REJECTED WITH NO REASON.**

Naila Jan
Naila Jan Advocate
Peshawar High Court

PRAYERS:-

**ON ACCEPTANCE OF THIS SERVICE APPEAL
THE APPELLANT MAY KINDLY BE
RESTORED TO HIS ORIGINAL POST OF ASI
WITH ALL BACK BENEFITS AND THE
IMPUGNED ORDERS DATED 19/12/2018 AND
ORDER DATED 06/02/2019 MAY KINDLY BE
SET ASIDE BEING VIOLATION OF LAW AND
RULES VOID ABINITIO.**

Respectfully Sheweth,

The appellant submits as under:-

1. That the Appellant is an employee of police department as ASI who performed his duties with great zeal Zeast and to the entire satisfaction of the Respondents department.
2. That the appellant was deputed on rider squad duty from shama chowk to Rehman Baba square on dated 25/09/2014, when the S.P Traffic at 8:30 am arrested the appellant and was locked into Quarter guard and detained there and in this regard a proper Mad NO.26 was registered on 02/09/2014.
(Copy of Mad No.26 is annexed as

annexure "A"). and thereafter the appellant was handed over to Lal Zada S.H.O Traffic vide daily Diary No.5 dated 20/09/2014 at 8:35 Am for Lodging FIR against the appellant in PS East Cantt Peshawar. (Copy of Mad NO.5 is annexed as annexure "B")

3. That thereafter a case vide FIR No.431 dated 25/09/2014 U/S 409/418/420 PPC R/W 155 (C) (D) police order 2002 Police Station East Cantt Peshawar was registered. It is worth mentioned that time of occurrence in the FIR was shown at 8:45 am which is totally different from the time shown in Mad No.25 and Mad No.5 which makes it clear that the whole story is based on surmises and conjunctures and concocted one. **(Copy of the FIR is annexed as annexure "C")**

4. That the appellant was remained in judicial lock up in the above mentioned FIR from dated 25/09/2014 to 28/11/14 and was released on bail by Peshawar High court. However in the mean while without opportunity of defense discipline proceedings, were initiated against the

appellant. It is worth mentioned that the appellant was acquitted Hon'bly from the above mentioned changes by anticorruption Court. **(Copy of the Anti Corruption judgment dated 29/11/2016 is annexed as annexure "D")**

5. That after one sided inquiry the appellant was awarded major penalty vide order dated 10/02/2015 and the appellant after exhausting departmental remedy, challenged the impugned order before the Khyber Pakhtunkhwa Service Tribunal in appeal No. 362/2015 which was remanded to the departmental for denovo inquiry vide judgment dated 14/02/2017. **(Copy of inquiry report the order dated 10/02/2015 and judgment of the Tribunal is annexed as annexure "E, F & G")**

6. That thereafter a denovo inquiry was conducted but in utter violation of Police Rules as well as the judgment of the service Tribunal dated 14/02/2017 and the appellant was recommended for major punishment and consequently the appellant was again awarded punishment of compulsory retirement

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vide order dated 16/05/2017 and after rejection of departmental appeal dated 18/07/2017, the appellant again approach to the Hon'ble Service Tribunal in appeal No. 801/2017 which was again remanded to the departmental vide judgment dated 19/09/2018 for denovo inquiry to be conducted within 90 days. (Copy of Denovo inquiry, order dated 16/05/2017 and judgment dated 19/09/2018 are annexed as annexure "H, I & J")

7. That the appellant was reinstated again for the purpose of denovo inquiry vide order dated 23/11/2018 and was issued charge sheet along with statement of allegation which was replied by the appellant refuting all the charges reply of the appellant may be considered part of this appeal. (Copy of the reinstatement order, charge sheet statement of allegation and reply are annexed as annexure "K, L and M")

8. That second denovo inquiry was conducted but utter violation of police Rules and both the judgment of this Hon'ble Tribunal neither statement of the appellant was recorded nor did

Naila Jan
Advocate
Peshawar High Court

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statement of any witness was recorded in presence of the appellant and without affording personal hearing and opportunity of cross examination the appellant was again recommended for major penalty. **(Copy of the second denovo inquiry is annexed as annexure "N")**

9. That the appellant was again awarded major penalty of reversion to the rank of Head constable and Secondly the period remained out of service was treated as without pay, but without issuing a final Show cause Notice or personal Hearing. **(Copy of the impugned order dated 19/12/2018 is annexed as annexure "O")**
10. That feeling aggrieved from the impugned order the appellant filed departmental appeal which was rejected vide order dated 06/02/2019 for no reasons **(Copy of departmental appeal and order are annexed as annexure "P & Q")**
11. That feeling aggrieved from both the impugned orders the appellant filling

Naila Jan
Naila Jan Advocate
Peshawar High Court

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this appeal on the following grounds
inter alia:-

GROUND:-

- A. That the impugned orders are against law rules principle of Natural justice void ab-initio hence liable to be set aside.
- B. That the appellant has been condemned unheard as neither statement of the appellant has been recorded nor did the appellant has been provided opportunity of personal hearings.
- C. That the right of fair trial has not been provided to the appellant which has been guaranteed by article 10-A of the Constitution of Islamic Republic of Pakistan 1973.
- D. That neither statement of any witness has been examined in the presence of the appellant nor did the opportunity of cross examination have been provided to the appellant.
- E. That the appellant has been acquitted from the charges by the competent court

Naila Jan
Advocates
Peshawar High Court

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so he is entitled for reinstatement at his original post with all back benefit.

F. That the Denovo inquiry has been conducted beyond the periods of 90 days thus violated the judgment of the Hon'ble Tribunal.

G. That there is the following major contradiction in the whole concocted story of the department which proved malafide and discrimination on the part of the department.

- a. That daily dairy No.26 and 5 dated 25/09/2014 shows presence of the appellant at 08:30 Pm detained in the quarter guard while the FIR No. 431 dated 25/09/2014 mentioned time of occurrence as 8:45 am which is not possible.
- b. That in the FIR the appellant has shown to be arrested by Mr. lalzada SHO however Mr. Lalzada SHO in his statement before the Anti corruption court admitted the facts that the appellant was not arrested by him (SHO) similarly Mr. Fayaz Khan T.O Traffic who has been shown eye witness in the FIR has recorded his statement as PW 1 admitted that the appellant was arrested by SP Traffic and not by the SHO. **(Copy of statements are annexed as annexure "R" & "S")**

Naila Jan Advocate
Peshawar High Court

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- c. That though the appellant was charged in the charge sheets as well as in FIR of Recovery of Bogus Challan book. However the SHO Lalzada in his cross admitted that the Challan book recovered vide recovery memo is genuine. Hence there remains no charge at all.
- d. That the so called bogus Challan book etc was shown recovered in the presence of Mr. Fayaz Marginal witness of Recovery memo. However Mr. Fayaz denied recovery of anything in his presence. **(Copy of recovery Memo is annexed as annexure "T")**
- e. The most important witness is Mr. Fayaz Who's statement was even not recorded by the 2nd Denovo inquiry officer.

H. That despite the fact that Hon'ble tribunal remanded appeal of the appellant for Denovo inquiry However the Department has conducted all the inquiry against the law and rules and directions of the Hon'ble Tribunal.

I. That the appellant has been subjected to double jeopardy by awarding major punishment of reversion as well as intervening period was treated as without pay.

Naila Jan
Advocate
Peshawar High Court

J. That throughout the intervening period the appellant remained jobless.


K. That no time for punishment of reversion has been specified hence the department has violated FR 29.

It is, therefore, most humbly prayed that on acceptance of this service appeal the appellant may kindly be restored to his original post of ASI with all back benefits and the impugned orders dated 19/12/2018 and order dated 06/02/2019 may kindly be set aside being violation of law and rules void ab-initio.

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.


Appellant

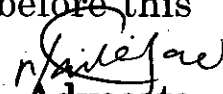
Through


Naila Jan AKC
Advocate, High Court
Peshawar.

Dated: 12/02/2019

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.


Advocate

Naila Jan Advocate
Peshawar High Court

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A _____/2019

Atta Muhammad

Versus

Capital City Police Officer and others

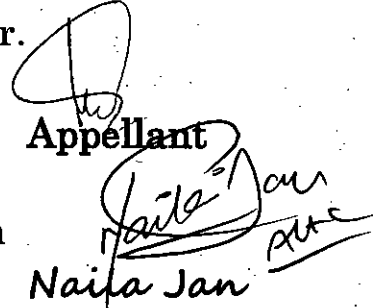
ADDRESSES OF PARTIES

APPELLANT.

Atta Muhammad S/O Yar Muhammad, Ex-
ASI/Traffic Officer, Peshawar R/O Bacha Garhi,
Lakarai, Kaniza, Regi, Peshawar.

RESPONDENTS

1. Capital City Police Officer, Police Lines
Peshawar.
2. Senior Superintendant of police Traffic,
Peshawar.
3. Deputy Superintendant of Police Headquarter,
Peshawar.
4. SHO Police Station Traffic Police Lines, Bacha
khan Chowk, Peshawar.


Appellant

Through

Naira Jan
Advocate, High Court
Peshawar.

Dated: 12/02/2019

Naira Jan Advocate
Peshawar High Court

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A _____/2019

Atta Muhammad

Versus

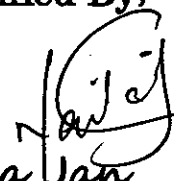
Capital City Police Officer and others


AFFIDAVIT

I, Atta Muhammad S/O Yar Muhammad, Ex-ASI/Traffic Officer, Peshawar R/O Bacha Garhi, Lakarai, Kaniza, Regi, Peshawar, do hereby solemnly affirm and declare that all the contents of the **accompanied appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.


DEPONENT

Identified By;


Naila Jan
Advocate High Court
Peshawar.


Naila Jan Advocate
Peshawar High Court

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(16)

Amjad - D¹

In the Court of Special Judge, Anti-Corruption, (Provincial), Khyber Pukhtunkhwa, Peshawar.

Case No.32 of 2016.
Date of Institution. 13.07.2016.
Date of Decision. 29.11.2016.

ATTESTED
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5/12/16
Special Judge
Anti Corruption, Peshawar

State... Versus. Atta Muhammad S/o Yar Muhammad R/o Bacha Ghari, Lakarai Kaniza, Tehsil & District Peshawar, TO/SJ, Traffic Police.

Case FIR No.21 dated 19.10.2015 of P.S. ACE, Peshawar, u/s 409/419/420 of PPC read with Section 5 (2) of Prevention of Corruption Act.

ORDER.

- 1) This judgment is being written to decide Case FIR No. No.21 dated 19.10.2015 of P.S. Anti-Corruption Establishment (ACE), Peshawar, wherein accused Atta Muhammad S/o Yar Muhammad has been charged u/s 409/419/420 of PPC read with section 5(2) of Prevention of Corruption Act.
- 2) According to the contents of FIR, Lalzada khan SHO Traffic Peshawar received a complaint that Atta Muhammad Ticketing Officer/Sub Inspector was exploiting ordinary people by using fake challan books and thereby misappropriating the amount of fine he was so receiving from them instead of depositing it in government exchequer, and hence causing loss to the government. Pursuant to said complaint on 25.09.2014 at 8.45 hours, complainant Lalzada khan along with driver and other police officials rushed to the spot i.e. main road, opposite to the Army check post, near the Provincial Assembly gate, towards Rehman Baba Squire, and on searching the said accused, recovered one challan book No.94294 containing tickets No.9429301 to 9429400. In the said book, challan No. 9429348 was found incomplete ticket mentioning fine up to Rs.500/- whereas two cash tickets No.9429346 bearing fine of Rs.500/- and No.9429347 bearing fine of Rs.400/- whereas four photo stat copies of the challan sheet were also recovered from him and the matter was brought in the notice of the DSP (Traffic) cantt: and other higher officers. As such the SHO drafted a murasila, forming basis for the case FIR No.431 dated 25.09.2014, at Police Station East Cantt: for the offences punishable u/s 409/418/420 of PPC and 155 of (C) (D) of Police Order 2002.
- 3) After completing investigation of the said case, it was sent to DPP for its submission in court, who opined that the investigation of offences punishable u/s 409 of PPC did not fall within the jurisdiction of local police, and that it may be sent to Anti-Corruption Establishment (ACE). Hence vide his letter No.1618 PA dated 05.05.2015, SSP investigation forwarded the case to DAC, ACE on whose order open inquiry No.10/2015 was conducted. After conclusion of open

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Naila Jan Advocate
Peshawar High Court

inquiry, the instant case was registered with the permission of Director Anti-Corruption Establishment contained in letter No.10797, ACE dated 19.10.2015.

4) After completing investigation the challan was submitted against the accused for trial. Provisions of section 241-A of Cr.PC were complied with and the charge was framed against the accused to which he pleaded not guilty and claimed trial. 50

5) In order to prove its case, the prosecution examined as many as Nine witnesses namely Fayaz khan, T.O. Traffic Head Quarter, Peshawar as PW-1, Lal Zada khan, Inspector Rural Investigation, Investigation Wing Peshawar as PW-2, Ajmal khan, Line Officer Traffic as PW-3, Sikandar Shah Inspector Police Line Peshawar as PW-4, Shad Muhammad Sub Inspector P.S. East Cantt: as PW-5, Shaukat Khan, C.O. ACE Mardan as PW-6, Nisar Ahmad, Incharge document cell, Traffic Head Quarter Peshawar as PW-7, Haider Ali, Additional Moharrir Traffic Head Quarter, Peshawar as PW-8, Karam Elahi, Sub-Inspector, P.S. Gulbahar as PW-9.

6) The evidence of the prosecution can be summed up as follows:-

“PW-1 Fayaz khan, T.O. Traffic Head Quarter, Peshawar has claimed to be the marginal witness of Ex.PW1/1 vide which the SHO Lalzada khan took into possession challan book and photo copies of challan from possession of the accused”.

PW-2 Lal Zada khan, Inspector Rural Investigation, Investigation Wing Peshawar being complainant, his statement is reproduced below:-“During the relevant days I was posted as SHO P.S. Traffic. It was complained against the accused Atta Muhammad that he had used bogus challan book along with the official challan book during his duty hours. On the relevant day I came to the spot i.e. main Khyber road near Provincial Assembly and found the accused on duty. During checking of the challan book of accused Atta Muhammad I recovered one challan book bearing No.94294 which consists of ticket No.9429301 to 9429400 and I found ticket No.9429348 was incomplete ticket of Rs.500/-, two other tickets bearing No.9429346 of Rs.500/- and ticket No.9429347 of Rs.400/-, four bogus photo stat copies of challan book were recovered from his possession. To this effect I prepared the recovery memo already Ex.PW1/1 in the presence of Fayaz and Zahir khan. I drafted the murasila Ex.PA and sent to the P.S. through constable Zahir for registration of case FIR. The case property mentioned in the recovery memo Ex.PW1/1 is as a whole Ex.P-1.”

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EXAMINER
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PW-3 Ajmal khan, Line Officer Traffic stated that :- “During the relevant days I was present in traffic police line and on the order of SSP Traffic I brought the accused from SSP Traffic office Gulbahar to police line quarter guard and in this respect I prepared madd report No.26 dated 25.09.2014. The same is Ex.PW3/1”.

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Peshawar High Court

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"PW-4 Sikandar Shah Inspector Police Line Peshawar was Circle Officer of P.S. ACE Peshawar in the relevant days and stated to have conducted inquiry during which he recorded statements and fulfill other legal formalities and prepared final report Ex.PW4/7. He also stated to have submitted complete challan Ex.PW4/8".

"PW-5 Shad Muhammad Sub Inspector P.S. East Cantt:stated to have registered FIR Ex.PA by incorporating the contents of murasila into it".

"PW-6 Shaukat Khan, C.O. ACE Mardan stated to have registered the case vide FIR Ex.PA/1 and made a request for investigation, which was allowed".

"PW-7 Nisar Ahmad, Incharge document cell, Traffic Head Quarter Peshawar stated that he was directed to provide computerize record of challan book and exhibited the same as Ex.PW7/1".

"PW-8 Haider Ali, Additional Moharrir Traffic Head Quarter, Peshawar claimed to be the incharge of challan book and stated to have issued the book No.94294 to accused Atta Muhammad on 29.08.2014".

"PW-9 Karam Elahi, Sub-Inspector, P.S. Gulbahar being posted as Sub-Inspector in P.S. East cantt: in the relevant days, stated to have conducted investigation, during which he prepared site plan Ex.PB and produced

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Court Of Special Judge
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accused Atta Muhammad for recording his confessional statement which Hussain submitted complete challan which was Ex.PW9/3".

- 7) All these witnesses were crossed examined by the learned counsel for the accused. Thereafter the statement of accused was recorded u/s 342 Cr.Pc wherein he reiterated his innocence. He was however not willing either to be examined on oath or to produce any defense.
- 8) Arguments of learned Public Prosecutor for state and learned defense counsel were heard and the record was gone through with their valuable assistance.
- 9) Learned public prosecutor, while elaborating his view point, contented that the prosecution version had been fully supported by the oral and documentary evidence produced by it in this case and it had been proved that the accused facing trial had committed the offence with which he had been charged and was therefore liable to be convicted according to law.
- 10) Taking strong exceptions to the view points of learned Public Prosecutor, the learned counsel for the accused vehemently contended that in fact the entire prosecution story was cooked up against the accused facing trial for ulterior motive. He stated that the falsehood of prosecution version had been exposed by the statements of material PWs who had mutually contradicted each other on vital points and had also falsified the contents of the murasila and recovery memo with regard to the time and spot of the arrest and recovery of photo copies of tickets and challan book. He confined his arguments to the analysis of the statements of PW-3 and the contents of the murasila and recovery memo by reading their contents in the light of the statements of said PWs. He contended that the contradictions in the statements

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substantial and irreconcilable and if the statement of one PW was believed the statement of other PW had to be disbelieved. As such he concluded that the prosecution having failed to establish its case against the accused, he was entitled to outright acquittal.

11) The record would reflect that as rightly pointed out by the learned counsel for the accused the time mentioned in the Murasila was crucially important in this case, and needed to be minutely taken into consideration for the purpose of determining the truthfulness or falsehood of the contents of the murasila which was forming the very foundation of this case and thus the veracity of the whole case of the prosecution substantially rested upon it. According to the contents of murasila, on 25.09.2014 the accused was present on duty at 8.45 hours at spot i.e. main road, opposite to the Army check post, near the Provincial Assembly gate, towards Rehman Baba Squire, and on his personal search the photo copies of the tickets and challan book were recovered from him. However quite contrary to it at 8.30 hours on the same day i.e. 25.09.2014 he had been shown present under detention in the quarter guard of District Police line Peshawar. In this regard the contents of daily diary No.26 dated 25.09.2014, Ex.PW3/1 are quite material and instructive, according to which the accused was brought to quarter guard by the order of SSP Traffic at 8.30 hours on that day. How come a person detained in quarter guard at police line could be present on duty on the road side and it was not humanly possible for a person to be present on both places at one and the same time. In the circumstances the falsehood of the prosecution story that the accused was arrested at 8.45 hours from the road side as mentioned above in the murasila had been completely negated by the prosecution evidence itself and needed no further material to refute it.

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12) *[Signature]*
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Similarly the factum of recovery of tickets and challan book had not only not been proved rather had been falsified by the concerned prosecution witness. The allegation of prosecution as recorded in the murasila was that on his personal search, the photo copies of the tickets and challan book were recovered from the accused and to that effect the recovery memo Ex.PW1/1 had been prepared. However PW-1 Fayaz khan who was purportedly one of the marginal witnesses of the said recovery memo had categorically falsified the episode of recovery by admitting in his cross examination that in his presence no articles whatsoever mentioned in the recovery memo had been recovered from the possession of the accused. The relevant portion of his cross examination is reproduced below:-

"It is correct that in my presence no article whatsoever mentioned in the recovery memo had been recovered from the possession of accused".

13) In view of the said admission of the PW-1 the whole story of the prosecution regarding the recovery of the said photo copies of the ticket and challan book falls on the ground.

14) Similarly the prosecution version regarding the murasila and recovery memo on the spot is also not proved and rather disproved by the prosecution witness. According to the statement of PW-2 Lalzada the recovery memo Ex.PW1/1 was prepared in the presence of Fayaz and Zahir khan and he had drafted the murasila Ex.PA and sent it to the Police Station. It would thus appear from his statement that according to him the murasila was prepared on the spot and signatures of the marginal witnesses of the recovery memo were also obtained on the spot.

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However his this assertion too has been falsified by PW-1 Fayaz khan who had categorically stated in the clearest possible terms that he had not signed the recovery memo Ex.PW1/1 either on the spot or around it and that his signature was obtained on the recovery memo at traffic head quarter by Lalzada khan. The relevant portion of the cross examination is reproduced below:-

"It is correct that no article has been sealed, packed nor any mono gram was affixed over any seal etc in my presence. It is correct that the accused facing trial was picked up by S.P. Traffic from the spot and had never been arrested by the SHO Lalzada khan. It is correct that I had not signed the recovery memo Ex.PW1/1 either on the spot or around it and that my signature was obtained on the recovery memo at traffic head quarter by SHO Lalzada khan".

- 15) Keeping in view the said portion of the cross examination the veracity of this part of the prosecution version also stands exposed to serious doubts.
- 16) It may not be irrelevant here to point out that the other marginal witnesses of the recovery memo namely Zahir khan had not been produced in the court and was abandoned by the prosecution.
- 17) Quite a new phenomenon has been introduced by PW-3 which gives a new turn to the case of prosecution. It is to be noted that PW-3 Ajmal khan line officer had made the following

statement:-

EXAMINED
Court of Sessions Judge
Anti Corruption Cell
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"PW-3 Ajmal khan, Line Officer Traffic stated that "During the relevant days I was present in traffic police line and on the order of SSP Traffic I brought the accused from SSP Traffic office Gulbahar to police line quarter guard and in this respect I prepared madd report No.26 dated 25.09.2014. The same is Ex.PW3/1".

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25.11.2014

- 18) It is clear from his statement that in fact the SSP Traffic had called Ajmal khan line officer to collect the accused from the office of SSP Traffic Gulbahar and directed him to take the accused to the police line. If the deposition made by PW-3 in his examination-in-chief is believe to be true, it would completely contradict the story of the prosecution that lalzada khan arrested the accused from the spot as mentioned in the murasila.
- 19) Keeping in view the facts and circumstances of this case, the most material witnesses of prosecution in this case are just three namely PW-1, PW-2 & PW-3 and thus the remaining witnesses are formal in nature and none of them is the witness of the occurrence, arrest and recovery. In view of the analysis of the depositions of the said PWs the court finds that statement of all these three PWs read in juxtaposition with the contents of the murasila and recovery memo are mutually contradictory and irreconcilable.

- 20) It may be also added here that though it had been claimed in the murasila that the complaint had been received about the accused about his use of fake challan book, but no evidence worth the name documentary or oral has been placed on record to support this admission. On the contrary PW-7 Incharge document cell had stated in his cross examination that no complaint against Atta Muhammad was lodged by any person in respect of the documents and he had also admitted that as per his report Ex.PW7/1 the accused facing trial had

Naila Jan Advocate
Peshawar High Court

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It committed any violation regarding the challan book issued to him. Similarly PW-8 the incharge of challan book had also stated in his cross examination that no complaint regarding the challan book issued to Atta Muhammad accused was made by any one. Hence the claim of using fake challan book also turns out to be baseless.

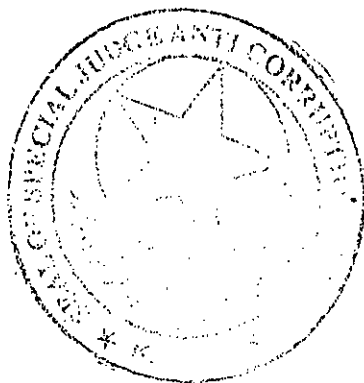
21) In view of the conflicting and contradictory nature of the prosecution evidence as discussed above where it appears that the accused was detained in the quarter guard, when he was shown present on the duty on road side; where the marginal witness of the recovery memo produced in the court had clearly denied the factum of recovery of any article from the accused in his presence; where PW-3 had introduced quite a new version about the place of arrest of the accused, leaving aside the other evidence produced by the prosecution which is formal in nature the above mentioned aspects by themselves had completely shaken the case of the prosecution to its foundation and not even the slightest doubt could be entertained to the fact that the prosecution had badly failed to substantiate its case by producing consistent and confidence inspiring evidence and viewed in the light of the statement of accused recorded u/s 342 of Cr.PC, the contention of the learned counsel for the accused that the entire case of the prosecution was concocted and cooked up against the accused for ulterior motive cannot be brushed aside conveniently.

22) Hence the prosecution appears to have miserably failed to bring the guilt home to the accused beyond reasonable shadow of doubt. As such he is acquitted of the charges leveled against him. Being on bail he and his sureties are absolved of their liabilities under the bail bonds.

23) The case property, if any, should be kept intact till the expiry of the period of limitation prescribed for appeal/revision and should be disposed of according to law if no appeal is preferred.

24) File of the case be consigned to the record room after putting it in order in accordance with rules.

Announced.
Peshawar.
29.11.2016.



(Signature)
29.11.2016
(Muhammad Bashir)
Special Judge,
Anti-Corruption (Provincial),
Khyber Pukhtunkhwa, Peshawar.

(Signature)
Naila Jan Advocate
Peshawar High Court

Certificate.

Certified that this judgment consists of six pages; each page has signed by me.

ATTESTED

(Signature)
29/11/16
Special Judge
Anti-Corruption (Provincial)
Peshawar

(Signature)
29.11.2016
Special Judge,
Anti-Corruption (Provincial),
Peshawar, Khyber Pakhtunkhwa.

ORDER.

ASI Atta Muhammad No 1992/14-Traffic was proceeded departmentally on the grounds that he while posted as Rider Khyber and as protocol officer for the Honourable Judges of Peshawar High Court Peshawar was involved in receiving illegal fines from the offender and having photo copies of challan book in his possession in order to issue illegal challans. He was caught hold red handed by SI Lal Zada, the then SHO PS Traffic Hqrs and recovered photo copies of challan book from his possession. A proper case vide FIR No 431, dated 25/9/2014 U/S 409/418/420/155 C-D Police Station East Cantt. was registered against him. He was issued Charge Sheet and Summary of Allegations and DSP/Traffic Hqrs. was appointed as Enquiry Officer to conduct departmental enquiry against the defaulter police official. The findings of the Enquiry Officer were received and were perused. He was issued final show cause notice and served upon him on 5/11/2014. The reply to the final show cause notice was received and found unsatisfactory. The undersigned personally visited Central Jail Peshawar and examined the accused official. Subsequently, legal opinion was sought from DSP/Legal who opined that enquiry has since been completed which may be finalized without waiting disposal of criminal case registered against accused official as criminal and departmental proceedings are two different entities which can run side by side. On 10/2/2015 he was called in orderly room for personal hearing and given opportunity to produce any reason in his self defense but he did not produced any reason nor satisfied the undersigned about the allegations leveled against him. Since he has been found guilty in the charges of corruption hence he is awarded a major punishment of compulsory retirement from the service under Khyber Pakhtunkhwa Police Rules-1975 with immediate effect.

Order is announced on 10/2/2015.

SENIOR SUPERINTENDENT OF POLICE,
TRAFFIC, PESHAWAR.

No 621-23/18-c dated Peshawar the 10/12/2015

Copy to:-

- 1/ The Capital City Police Officer Peshawar for favour of information, please.
- 2/ Pay Officer for necessary action.
- 3/ PA, SRC & OSI.

Naila Jan Advocate
Peshawar High Court

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Amala / - "

From : The Senior Superintendent of Police,
Coordination, CCP Peshawar.

To : The Capital City Police Officer
Peshawar.

No. 183 /R, dated Peshawar to the 14/04 /2017.

Subject: **DE-NOVO ENQUIRY AGAINST ASI ATTA MUHAMMAD.**

Memo:

Kindly refer to your office Endst: No. 02/E/PA, dated Peshawar the
24.03.2017.

ALLEGATIONS

1. It was alleged that ASI Atta Muhammad No. 14 was involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
2. He has taken the amount of fine in cash from the offenders clearly in violation of the instructions issued in this regard.
3. It was found that he was taking money from the offenders without issuing challan and was maintaining record in his personal diary (attached with his challan book) to be used in case of any complaints for saving his skin.

PROCEEDINGS

For the purpose to scrutinize the conduct of ASI Atta Muhammad, the following individuals were called on to the office. They also submitted their written statements and were heard in person.

1. ASI Atta Muhammad
2. Inspector Lal Zada Khan the then SHO Traffic.
3. SI Kifayat Khan of Traffic staff now CTD Mardan
4. ASI Zahir Ullah of Traffic staff.

STATEMENT OF ASI ATTA MUHAMMAD.

He stated that he was on rider squad duty from SHami Chowk to Rehman Baba Square on 25.09.2014 at 08.30 AM. He was locked into quarter guard by the order of SSP Traffic and in this regard a proper entry was made vide mad No. 26 dated 25.09.2014 at Police Lines Peshawar. During his detention in quarter guard, he came to know that FIR No. 431 dated 25.09.2014 u/s 409/418/420 PPC /155C-D Police order 2002 has been registered against him at Police Station East Cantt. On 25.09.2014 at

Naila Jan Advocate
Peshawar High Court

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08.45 hrs, he was shown on main road, opposite Army check post Provincial Assembly and some false allegations were leveled against him. He stated that he remained in judicial lockup from 25.09.2014 to 28.11.2014, thereafter he was granted bail in BA No: 1631/20104 by Hon'able Peshawar High Court. The local Police of PS East Cantt refused to submit challan against him and the case was sent to Anti corruption establishment on the grounds that "section 409 PPC is also leveled" which is the jurisdiction of Anti Corruption Establishment. A second FIR No. 21 dated 19.10.2015 under section 419/420/409 PPC/ 5(2) PC Act was registered at PS ACE, Peshawar, in which BBA bail of the undersigned was confirmed. The trail commenced on the same set of allegations leveled in the charge sheet and after recording statement of prosecution witnesses the Hon'able Judge Special Court anti corruption Khyber Pakhtunkhawa Peshawar acquitted him vide order dated 29.11.2016 from the charges leveled. He stated that the prosecution produced as many as 9 PWs including Lal Zada Khan Inspector Rura Fayyaz Khan TO Traffic Headquarter, Ajmal Khan Lines Officer Traffic, Sikandar Sha Inspector Police Lines, Shad Muhammad Sub Inspector PS East Cantt, Shoukat Khan C ACE Mardan, Nisar Ahmed Document's cell Traffic Headquarter Peshawar, Haidar / AMHC Headquarter Peshawar and SI Karram Elahi of PS Gulbahar. From the statements the court arrived to the conclusion that the allegations leveled are false and he was acquitted.

He further stated that while posted as Rider Khyber road, he never issued illegal challan on photocopies neither he received money from the offenders. There is no proof against him. He stated in his statement that he never took the amount of fine in cash from the offenders, but only in cases of emergency and under the rules and policy laid down by the department. He never violated the law. He never took money as bribe from the offenders and neither maintained the record in his private diary. He was acquitted from the charges leveled against him.

STATEMENT OF INSPECTOR LAL ZADA.

He stated in his statement that there was general complaint against TO Atta Muhammad that he has fake challan book and use it illegally. During duty hours along with driver came to Army check post near Provincial Assembly and took into custody incomplete ticket No. 9429348 along with 500 rupees, two cash challan books and 04 copies of ticket book without number from Atta Muhammad. The matter was brought in the notice of high ups and a criminal case vide FIR No. 431 dated 25.09.2014 u/s 409/418/420 PPC /155C-D Police order 2002 was registered at Station East Cantt against Atta Muhammad. He stated that the statements of witnesses were recorded accordingly.

Naila Jan
Advocate
Peshawar High Court

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Statement of ASI Zahir Ullah.

He stated that he was on duty at Khyber Road near High Court Gate. On 25.09.2014 SHO Traffic along with other Police contingent came there. SHO Traffic Lal Zada Inspector took in his custody challan book, tickets and four copies of tickets from Rider Atta Muhammad. He was the witness of possession memo.

Statement of SI Kifayat Khan.

He stated that during duty as Incharge Traffic Khyber Road, he received information through wireless, to come to High court. When he arrived there, he came to know through Fayyaz TO that SHO traffic arrested Rider Atta Muhammad with photo copies of tickets and cash fine. He further stated that Atta Muhammad was deputed with Judges for duty. Rider Atta Muhammad had no challan diary and he was not deputed for issuing challans.

CONCLUSION.

After thorough examination of the statements/ circumstances, it is concluded that ASI Atta Muhammad was deputed for special duty with Judges, but he was using his powers as challan officer. He was arrested red handed by SHO traffic and was confined in to quarter guard on the orders of high ups. SHO traffic also registered a criminal case against ASI Atta Muhammad at Police Station East Cantt. His bail application was rejected by Session court, while later on he was released on bail by the Peshawar High Court.

Moreover, being a member of disciplined force, he was bound to obey the orders of his seniors. He should have avoided himself from such illegal activities. But there were general complaints to high ups regarding his involvement in illegal activities. After proper enquiry he was fairly and justly awarded major punishment by the then SSP Traffic on the ground of involvement in illegal activities during duty hours.

RECOMMENDATIONS

Keeping in view all these circumstances, the punishment given to ASI Atta Muhammad is found correct and just and it may not be reduced.

Naila Jan
Advocate
Peshawar High Court

1. SSP Coordination, CCP Peshawar

2. SP Investigation PBI HQR's Peshawar

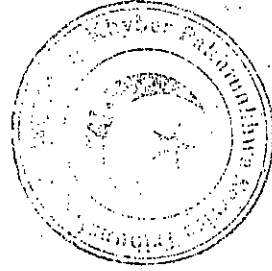
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94 (14)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 362/2015

Date of institution ... 23.04.2015
Date of judgment ... 14.02.2017



Atta Muhammad S/o Yar Muhammad, Ex-ASI/Traffic Officer, Peshawar.
R/o Bacha Garhi, Lakarai, Kaniza, Regi, Peshawar,

... (Appellant)

VERSUS

1. Capital City Police Officer, Police Lines Peshawar.
2. Senior Superintendent of Police Traffic, Peshawar.
3. Deputy Superintendent of Police Headquarter, Peshawar.
4. SHO Police Station Traffic Police Lines, Bacha Khan Chowk, Peshawar.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER ENDST NO. 657-63/PA, PESHAWAR DATED 24.03.2015 OF RESPONDENT NO. 1 VIDE WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE IMPUGNED ORDER DATED 10.02.2015 RESPONDENT. 2, VIDE WHICH THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF COMPULSORY RETIREMENT FROM THE SERVICE, UNDER KHYBER PAKHTUNKHWA POLICE RULES 1975 WITH IMMEDIATE EFFECT, WAS DISMISSED.

Mr. Shah Faisal Utmankhel, Advocate,
Mr. Muhammad Jan, Government Pleader

.. For appellant.
.. For respondents.

MR. ASHFAQUE TAJ
MR. AHMAD HASSAN

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

ASHFAQUE TAJ, MEMBER:- Atta Muhammad S/o Yar Muhammad, Ex-ASI/Traffic Officer Peshawar, hereinafter referred as appellant has preferred this service appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974

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Naila Jah Advocate
Peshawar High Court

against impugned order dated 24.03.2015 vide which he was compulsory retired from service.

2. Facts in brief are that appellant was deputed on rider squad duty and was also issued original challan book by the competent authority on 29.08.2014. That on the order of SSP Traffic he was put into quarter guard on 25.09.2014 and in this regard proper Mad No. 26 was registered on 25.09.2014 followed by FIR No. 431 dated 25.09.2014 on the report of Lal Zada Khan SHO Traffic Peshawar at Police Station East Cantt with allegation that appellant besides official challan book was also maintaining a forged plain challan book. As per report appellant was searched and recovery of a forged challan book was effected. Recovery memo was prepared and all the occurrence was incorporated in above mentioned FIR. The appellant remained in judicial lockup in above noted criminal case from 25.09.2014 to 28.11.2014 for period of two months and two days and was granted bail by Hon'ble Peshawar High Court in bail application No. 1631/14 vide order dated 28.11.2014. In the meanwhile without giving an opportunity to appellant the appellant on the basis of above mentioned criminal case was awarded major punishment, i.e. compulsory retirement vide order dated 10.02.2015 the appellant on the same date i.e. 10.02.2015 preferred a departmental appeal which was turned down on 24.03.2015, hence instant service appeal.

3. Learned counsel for appellant contended that the impugned order of compulsory retirement was illegal, null and void in the eyes of law and against material facts available on record. That the appellant was in judicial lockup in above mentioned case from 25.09.2014 till 28.11.2014 whereas charge sheet alongwith summary of allegations was served upon the appellant on 02.10.2014. In this period the appellant was confined and was never associated with any proceedings and therefore awarding of major punishment of compulsory retirement from service was illegally passed. The learned counsel for appellant also produced attested copy of judgment dated

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ATTESTED

EXAMINED
Khan (Peshawar)
Service Manual,
Peshawar

Naila Jan Advocate
Peshawar High Court

(28) (16) (20)

29.11.2016 passed by worthy Special Judge Anti-Corruption (Provincial) Khyber Pakhtunkhwa Peshawar wherein the appellant has been acquitted from the charges leveled in case FIR No. 21 dated 19.10.2015. The learned counsel for appellant contended that very base of the whole case was criminal FIR and when the appellant had been acquitted from the charge there remain no more case against appellant and that superior courts in main cases had held that when the appellant was acquitted in criminal case he be reinstated in service in this respect learned counsel for appellant placed reliance 1998 SCMR 1993 and 2001 SCMR 269 in last he requested that appellant might be reinstated into service with all back benefits.

4. Learned Government Pleader for respondents resisted the contention of the appellant counsel by submitting that appellant was properly served with show-cause notice and summary of allegations. He had been caught red handed with fake challan book and thus he had brought bad name to a disciplined force and in last he prayed that acquittal in Anti-Corruption case by the competent court was a separate issue whereas in the instant case he had been awarded punishment for committing misconduct, therefore was not entitled for any leniency, so prayed that service appeal in hand might be dismissed.

5. After weighing arguments of both the sides and perusal of the record it reflect that the charge against appellant was that he used to issue fake and bogus challans and forged challan book was recovered from him. In this respect a criminal case based on murasila framing basis for the case FIR No. 431 dated 25.09.2014 was registered. After completion of investigation, case was sent to D.P.P, who opined that case under section-409 PPC fall under the jurisdiction of Anti-Corruption Establishment (ACE). Resulting into FIR No. 21 dated 19.10.2015 of Police Station Anti-Corruption Establishment (ACE), Peshawar under sections 409/419/420 of PPC read with section 5 (2) of Prevention of Corruption Act.

ATTESTED



ATTESTED

Naila Jan Advocate
Peshawar High Court



6. At the very outset I would like to refer to judgment of acquittal dated 29.11.2016 and like to reproduce the findings of the worthy Anti-Corruption judge recorded at Para-11

"The record would reflect that as rightly pointed out by the learned counsel for the accused the time mentioned in the Murasila was crucially important in this case, and needed to be minutely taken into consideration for the purpose of determining the truthfulness or falsehood of the contents of the murasila which was forming the very foundation of this case and thus the veracity of the whole case of prosecution substantially rested upon it. According to the contents of murasila, on 25.09.2014 the accused was present on duty at 8.45 hours at spot i.e. main road, opposite to the Army check post, near the Provincial Assembly gate, towards Rehman Baba Squire, and on his personal search the photo copies of the tickets and challan book were recovered from him. However quite contrary to it at 8.30 hours on the same day i.e. 25.09.2014 he had been shown present under detention in the quarter guard of District Police Line Peshawar. In this regard the contents of daily diary No. 26 dated 25.09.2014, Ex.PW3/1 are quite material and instructive, according to which the accused was brought to quarter guard by the order of SSP Traffic at 8.30 hours on that day. How come a person detained in quarter guard at police line could be present on duty on the road side and it was not humanly possible for a person to be present on both places at one and the same time. In the circumstances the falsehood of the prosecution story that the accused was arrested at 8.45 hours from the road side as mentioned above in the murasila had been completely negated by the prosecution evidence itself and needed no further material to refute it"

7. In the light of above findings the pedestal of charge on which whole case of prosecution is standing has fallen to pieces.

8. Admittedly, appellant remained in custody from 25.09.2014 till 28.11.2014. The record is utterly silent that he was afforded a chance of personal hearing and association

ATTESTED

Khayber Pakhtunkhwa
Services Tribunal,
Peshawar

ATTESTED

Naila Jan Advocate
Peshawar High Court

with regular inquiry. Reliance in this respect was placed on 2008 SCMR 1369 wherein it has been laid down by the apex Supreme Court of Pakistan

"In case of imposing a major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defence and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting and required mandatory procedure, resulting in manifest injustice"

9. In the instant case appellant was not accorded proper opportunity of personal hearing as definitely he was behind the bar when the alleged inquiry was initiated against him.

10. The crux of aforementioned detail discussion is that when the competent court of jurisdiction has acquitted the appellant from all the criminal charges and that when no proper opportunity of regular inquiry was provided to appellant this Tribunal is constrained to accept the instant service appeal by setting-aside the impugned order dated 10.02.2015. The appellant stands reinstated into service. The respondents are however at liberty to conduct a de-novo inquiry if they deem appropriate within the span of sixty days by providing full opportunity to appellant to be associated with inquiry with right to cross-examination, if inquiry is not conducted within stipulated period appellant would be deemed to have been reinstated into service with all back benefits. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
14.02.2017

Self-Attested by Members

Self-Ahmed Hassan, Member

Certified to be true copy

Stamp: Khyber Pakhtunkhwa High Court, Peshawar

Naila Jan Advocate
Peshawar High Court

ATTESTED



OFFICE OF THE *Analyst*
CAPITAL CITY POLICE OFFICER, *H/4*
PESHAWAR

Phone No. 091-9210989
Fax No. 091-9212597

ORDER

ASI Atta Muhammad was awarded the major punishment of compulsory retirement by SSP-Traffic Peshawar vide order issued over endst: No. 681-83/EC, dated 10.2.2015.

2. Being aggrieved with the punishment order, he preferred departmental appeal which was examined and filed vide order No. 657-63/PA dated 24.3.2015.

3. Then he filed services appeal before the KPK Service Tribunal against the punishment order of compulsory retirement passed by SSP-Traffic.

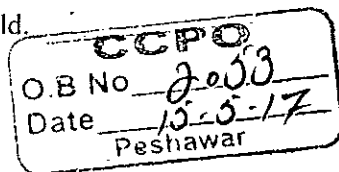
4. On 14.2.2017 the KPK service Tribunal accepted the plea of appellant and ordered that the appellant stand re-instated into service. However, the respondents are at liberty to conduct a de-novo enquiry if they deemed appropriate.

5. In pursuance of the direction of service Tribunal dated 14.2.2017, ASI Atta Muhammad was re-instated in service for de-novo proceedings and issued charge sheet and statement of allegation for de-novo proceedings on the basis of the following allegations:-

- That he while deputed for special duty with Honorable Judges of Peshawar High Court on Khyber Road Peshawar was involved in issuing fake/illegal challans and receiving the amounts from the offenders on photo copies of challans.
- He also took the amount of fine in cash from the offenders which is clear violation of the instructions issued in this regard.
- It was also found that he was taking money from the offenders without issuing challan and maintaining record in his personal diary to be used in case of any complaints for saving his skin.

6. Mr. Qasim Ali, SSP/Coordination and Muhammad Arif, SP/Investigation PBI-HQrs: were appointed as Enquiry Officers. They carried out a detailed enquiry. They recorded statements of all concerned and submitted their findings that ASI Atta Muhammad was deputed for special duty on Khyber Road with Honorable Judges, but he was using his powers as challan officer. The E.Os established the allegations against him and recommended that the punishment awarded by SSP-Traffic Peshawar vide order endst: No. 681-83/EC, dated 10.2.2015 is found correct and just and it may not be reduced.

7. On receipt of the findings of the E.Os, he was issued Final Show Cause Notice to which he replied. He was called in O.R on 10.5.2017 and heard in person. The relevant record was thoroughly examined. The allegations levelled against him stand proved. The punishment of compulsory retirement awarded to him by SSP-Traffic Peshawar is upheld.



7-12
CAPITAL CITY POLICE OFFICER,
PESHAWAR. *15*

No. 809-15 /PA, dated Peshawar the *16 / 5 / 17*
Copies for information and n/a to the:-

- SSSP-Coord./Ops: & Traffic, Peshawar.
- SP/Inv: PBI-HQrs, Peshawar
- DSP-Legal, CCP, Peshawar.
- PO/AS/EC-I/EC-II/FMC

(encl: Enquiry file)
(13)

Naila Jan
Advocate
Peshawar High Court

Amtes 4 J u

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 801/2017

Date of Institution... 25.07.2017

Date of decision... 19.09.2018



Atta Muhammad, Ex-ASI,
Traffic Police Peshawar.

... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and two
others. (Respondents)

Syed Noman Ali Bukhari,
Advocate

... For appellant.

Mr. Muhammad Riaz Paindakhel,
Assistant Advocate General

... For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI,

... MEMBER
... MEMBER

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for
the parties heard and record perused.

FACTS

2. Brief facts of the case are that major penalty of compulsory retirement was
imposed upon the appellant vide impugned order dated 16.05.2017. He filed departmental
appeal which was rejected on 18.07.2017, hence, the instant service appeal.

Naila Jan
Advocate
Peshawar High Court

ATTESTED

AS
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ARGUMENTS

3. The learned counsel for the appellant argued that in pursuance of judgment of this Tribunal dated 14.02.2017 the case was remanded back to the respondents for conducting de-novo enquiry. De-novo enquiry was conducted and after winding up major penalty of compulsory retirement was imposed on him vide impugned order date 10.02.2015. Charge sheets, statement of allegations were signed and impugned order was passed by CCPO, while the competent authority in this case was DPO/SSP/SP. As such this order is *coram-non-judice* and nullity in the eyes of law. In addition to above opportunity of cross examination was also not afforded to the appellant while conducting de-novo enquiry.

4. On the other hand, the learned Additional Advocate General argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules, hence, there was no illegality in the said order. The appeal is not maintainable and be dismissed.

CONCLUSION.

5. As charge sheet/statement of allegations contained signatures of CCPO and impugned order was also passed by him as incompetent authority, powers for proceedings the appellant under the invogue rules were vested with DPO/SSP/SP. As a result of above lacuna the impugned order is *coram-non-judice*, lacking force of law and rules, hence, nullity in the eyes of law. There is no need to comment on other loopholes noticed in the above proceedings.

6. As a sequel to above, the appeal is accepted and the impugned order 18.07.2017 is set-aside. The respondents are directed to conduct de-novo inquiry strictly in accordance with rules and conclude it within a period of ninety days. The issue of back benefits shall

Naila Jan
Naila Jan Advocate
Peshawar High Court

ATTESTED
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Subject to the outcome of the de-novo inquiry. Parties are left to bear their own cost.

File be consigned to the record room.

Announced *Sh. Ahmad Hassan,*
19.09-18 *Member*

Sh. M. Amin Khan Kandji,
Member

Certified to be true copy
[Signature]
Khyber Pakhtunkhwa
Service Commission
Peshawar

Date of Presentation of Petition 27-09-18
Number of Petitions 1200
Copies 800
Urgent 200
Total 1000
Name of Advocate [Signature]
Date of Filing 27-09-18
Date of Delivery of Copies 27-09-18

[Signature]
Naila Jan Advocate
Peshawar High Court

الشيخ محمد بن عبد الوهاب

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Auto "K"

ORDER.

In pursuance of judgment order dated 19.09.2018 passed by Hon'able Service Tribunal Khyber Pakhtunkhwa, Peshawar in service appeal No. 801/2017 filed by ex-ASI Atta Muhammad of Traffic Unit Peshawar against the punishment order of compulsory retirement by SSP Traffic Peshawar vide order endst: No. 681-83/EC, dated 10.02.2015 is hereby re-instated in service for the purpose of De-novo enquiry.


SP Hqr: City Traffic Police Peshawar is hereby directed to conduct de-novo enquiry into charges and ensure its completion within 15 days.

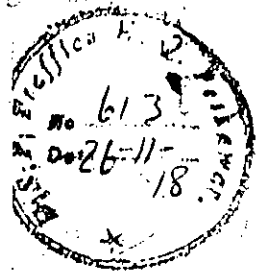

CHIEF TRAFFIC OFFICER,
PESHAWAR

No. 3378-⁸⁰ /EC, dated Peshawar the 23/11/2018.

Copy for necessary action to:-

1. The SP Hqr: City Traffic Police Peshawar.
2. The PO & OSI Traffic Peshawar.
3. The PA for further process.


Naila Jan Advocate
Peshawar High Court



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Anter Ka

CHARGE SHEET

1. WHEREAS I am satisfied that a formal enquiry as contemplated by Police Rules 1975 is necessary and expedient.

2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.

3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules I, **KASHIF ZULFIQAR**, Chief Traffic Officer, Peshawar hereby charge you ASI/TO Atta Mohammad No.14 under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:-

- i) That while posted as rider Khyber road, you were involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
- ii) That you have also taken the amount of fine in cash from the offenders clearly in violation of the instructions issued time and again in this regard.
- iii) It has also been found that you have taken money from the offenders without issuing challan and maintaining record of the offenders and their vehicles in your personal diary to be used in case of any complaint for saving your skin.

4. By doing this you have committed gross misconduct on your part.

5. AND I hereby direct you further under Rule 6 (I) (b) of the said Rules to put-in written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not taken against you and also state whether you desire to be heard in person.

6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, ex-parte action will be taken against you.

Kashif Zulfiqar
 (**KASHIF ZULFIQAR**) PSP
 Chief Traffic Officer,
 Peshawar. *26/11/18*
 (Competent Authority)

Reader
 Pl. process it.
Kashif
 26/11/18

Naila Jado
 Advocate
 Peshawar High Court

27/11/18

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DISCIPLINARY ACTION

1. I, **KASHIF ZULFIQAR**, Chief Traffic Officer, Peshawar as competent authority, am of the opinion that ASI/TO Atta Mohammad No.14 has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of Police Rules 1975.

SUMMARY OF ALLEGATIONS

2. i) That while posted as rider Khyber road, he was involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
ii) That he has also taken the amount of fine in cash from the offenders clearly in violation of the instructions issued time in again in this regard.
iii) It has also been found that he has taken money from the offenders without issuing challan and maintaining record of the offenders and their vehicles in his personal diary so that to be used in case of any complaint for saving his skin.
3. For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, an Enquiry Committee comprising of the following officer(s) is constituted:-
 - a. Mr. Fazal Ahmad Jan, SP/Traffic Hqrs. Peshawar.
 - b. _____
4. The enquiry committee/officer shall in accordance with the provision of the Police Rules 1975 provide reasonable opportunity of hearing to the accused officer/official and make recommendations as to punishment or any other appropriate action against the accused.

Naila Jan
Advocate
Peshawar High Court

Kashif Zulfiqar
(**KASHIF ZULFIQAR**) PSP
Chief Traffic Officer,
Peshawar
16/26/11/06
(Competent Authority)

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Amir "M"

BEFORE THE HON, BLE SP TRAFFIC HQRS
PESHAWAR

WRITTEN REPLY TO THE LEVELED IN THE
CHARGE SHEET OF DE-NOVO ENQUIRY ON
BEHALF OF ASI ATTA MUHAMMAD OF
TRAFFIC UNIT PESHAWAR, RECEIVED BY
UNDERSIGNED ON 27/11/2018 ARE AS UNDER:-

Respectfully Sheweth:-

1. That the undersigned is a peaceful and law abiding citizen of Pkistan, and was on duty as per duty sheet page No 5 serial No 31 on 20-09-2014 on rider squad duty from Shami Chowk to Rehman Baba square, on 25-09-2014 at 08:30 AM the undersigned was locked into quarter guard and detained there, and in this regard a proper Mad No, 26 was registered on 25-09-2014(Copy of the Mad No 26 is attached)
2. That the undersigned was not in knowledge however while in detention came to know that FIR No. 431 was registered on 25.09.2014 under section 409/418/420 PPC R/W 155(C) (D) Police order 2002 at Police Station East Cantt Peshawar and the undersigned was shown on 25.09.2014 at 09:45 Hrs at main road opposite Army check post, Provincial Assembly and some false allegations were leveled, the time when as per the above noted Mad report the undersigned was in detention. (Copy of FIR is attached)
3. That the undersigned remained in judicial lockup from 25.09.2014 till 28.11.2014, thereafter was granted bail in B.A


Naila Jan Advocate
Peshawar High Court


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No. 1631/2014 by Hon,ble Peshawar High Court Peshawar, the local police of P.s East Cantt refuse to submit Challan against the undersigned the case was sent to anti corruption establishment, on the ground "that section 409 PPC is also leveled", second FIR No. 21 dated 19.10.2015 under section 419/420/409 PPC R/W 5 (2) PC Act was registered at P.S ACE, Peshawar, I which pre-arrest bail of the undersigned was confirmed. (Copy of the FIR No 21 and BBA confirmation order are attached).

4. That trail commenced on the same set of allegations leveled in the charge sheet, and after recording statement of prosecution witnesses the Hon,ble judge special Court anti corruption (provincial) Khyber Pakhtunkhwa Peshawar acquitted the undersigned vide acquittal order datged 29.11.2016 from the charges leveled. (Copy of the challan form and acquittal dated 29.11.2016 is attached).
5. That prosecution produced as many as 9 PWs including Lal Zada Khan Inspector Rural, Fayaz Khan TO Traffic Headquarter, Ajmal Khan Line Offier Traffic, Sikandar Shah Inspector Police Line, Shah Muhammad Sub Inspector P.S Each Cantt, Shoukat Khan CO ACE Mardan, Nisar Ahmad In charge document cell Traffic Headquarter Peshawar and Haider Ali Additional Muharrar Traffic Headquarter Peshawar and in the last Karam Elahi Sub inspector P.S Gulbahar and from their statements the Hon,ble Court arrived to the conclusion that the allegations leveled are false and the undersigned was acquitted.

REPLY TO STATEMENT OF ALLEGATION:-

- i. That while _any posting as rider, Khyber Road the undersigned never issued illegal Challan on photocopies nor the undersigned received money from any offender. There is


Naila Jan Advocate
Peshawar High Court

no proof of such allegations against the undersigned and the undersigned entirely reject the allegations.

- ii. That the undersigned never took the amount of fine in cash from the offenders, but only in cases of emergency and under the rules and policy laid down by the department and the undersigned never violated in law.
- iii. That the undersigned never took money as bribe from any offender nor the undersigned kept or maintained the record in my private dairy. No such dairy was kept with the undersigned. The DSP HQ would have been satisfied, the undersigned don't know, why he has overlooked the innocence of undersigned in this specific case.

6. That the from the above noted facts it is evident that the undersigned is innocent and on acceptance of the instant written reply and keeping in view the acquittal order the charge sheet and proceedings initiated in DE-Novo Enquiry may kindly be filed/closed.

Dated: 03-12-2018

Naila Jan Advocate
Peshawar High Court

ATTA MUHAMMAD
ASI Traffic Police
No. 14

NOTE:-

All the relevant documents has been annexed with the instant written reply.

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Amir N

REFERENCE ATTACHED

The contents of charge sheet and statement of allegations issued by Mr. Kashif Zulfiqar Chief Traffic Officer Peshawar to ASI/TO Atta Muhammad No. 14 of City Traffic Police Peshawar envisages that while posted as Chips Rider Khyber Road ASI/TO Atta Muhammad involved himself in issuing illegal challans and receiving money from the offenders on the photocopies of challans. That he also took the amount of fine in cash from the offenders clearly in violation of the instructions issued time and again in this regard. That it has also been found that he has taken money from the offenders without issuing challan and maintained record of the offenders and their vehicles in his personal diary for the saving of his skin in case of any complaint. In this regard a proper De-novo Enquiry was entrusted to the undersigned in pursuance to the judgment order dated 19.09.2018 passed by Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar in Service Appeal No. 801/2017 filed by ASI Atta Muhammad of City Traffic Unit against the punishment order of compulsory order by SSP Traffic Peshawar.

In order to probe into the matter and dig out the real facts the following were summoned to the office and their statements were taken respectively as below.

- Inspector Lalzada** stated on Oath in his written statement that there was a complaint to the high-ups against ASI/TO Atta Muhammad that he prepared fake challan book and used the challan book illegally. He along-with his driver went to the Army Check Post located near Provincial Assembly building on Khyber Road and ASI Atta Muhammad was found present there. He recovered incomplete challan ticket No. 9429348, Rs. 500/-, 02 cashed challans and 04 Photostate copies of tickets of challan book having no serial numbers from the custody of ASI Atta Muhammad. The matter was brought into the notice of high-ups and the recovered items were taken into procession through recovery memo and a criminal case vide FIR No. 431 dated 25.09.2014 u/s 409/418/420 PPC/155C/D Police Order 2002 was registered in Police Station East Cantt: against him.

His statement and the recovered items 04 photostate copies of challan without serial numbers, 01 ticket of challan bearing No. 9429348, and 02 cash challans requisitioned from the original case file have been exhibited as proof at **F/A** together.

2. Alamgir Khan Sub-Inspector stated in his written statement that he was posted as Incharge Cantt. On the general complaint to the W/SSP Traffic he informed all the Chips Riders individually that as per the order of W/SSP Traffic all the chips riders to deposite/return the traffic challan books, issued to them, in office of Document Cell. All the chips riders officials returned the same but ASI/TO Atta Muhammad did not return it and continued to use it silently. He was deputed to the Honorable Judges High Court for protocol and security duty and the traffic challan book was not allowed to him but he involved himself in illegal activities. The W/SSP Traffic had clearly ordered in the orderly room to abstain from illegal activities but ASI/TO Atta Muhammad did not obey and went to the end. His written statement has been attached at **F/B**.

3. Zahir Ullah DASI) stated on Oath in his written statements that he was performing his duty at the gate of High Court and was present at the same place in routine. On dated 25.09.2018 Mr. Lalzada SHO Traffic Police Station along-with his staff came to the same place. ASI/TO Atta Muhammad who was assigned protocol duty with Honorable Judges was also present there. SHO Lalzada recovered cash and 04 photostate copies of challan book tickets from ASI/TO Atta Muhammad in his presence and took into procession through recovery memo. His signature is present there which is correct. His written statement has been attached herewith as **F/C**.

4. ASI/TO Atta Muhammad stated in his written statement that during his posting as rider on Khyber Road, he never issued illegal challan on photocopies nor he received money from any offenders. There is no proof of such allegation against him and he rejected the allegation. He did not take the amount in cash from the offenders but only in cases of emergency and under the rules as per the policy of the department. He never took money as bribe from any offenders nor he maintained the record in his private diary. He is innocent and keeping in view the acquittal order, the proceeding

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initiated in De-novo enquiry may kindly be filed/closed against him. His written statement comprising 03-pages is attached herewith as **F/D**.

FINDINGS:

The perusal of facts and statements of Inspector Lalzada, SI Alamgir Khan, DASI Zahir Ullah and ASI/TO Atta Muhammad clearly transpire that ASI/TO Atta Muhammad was assigned for the duty of protocol for Honorable Judges of High Court as Chips Rider. Upon receiving the complaints by the high-ups regarding the issuance of fake/illegal challan to the offenders by the chips rider the W/SSP Traffic ordered for the return of the challan books from chips riders and to stop the illegal and unfair activities of by chips riders. All the chips riders on duty obeyed the order and returned the said challan books to the I/C Document Cell but ASI/TO Atta Muhammad did not obey the order and kept the challan book with him for some ulterior motives which is clearly evident from his reply to the statement of allegation in sub Para-2 "**as that he has never took the amount in cash from any offenders but only in cases of emergency**".

This act of him obviously indicates, without any doubt, that he was still in the possession of challan book and he did not even bother to return it after the repeated instructions by the high-ups.

During the process of enquiry he was also cross examined in the presence of Mr. Tariq Ahmad reader to DSP/HQrs Traffic. As per questions No. 5,6 and 7 where as he was not supposed to give challan to the offenders he replied that he had given challan with the orders of high-ups. He has also admitted the possession of challan book with him. His cross examination questionnaire comprising 02-pages duly attested by the undersigned is also attached as a proof of his confession of having the challan book in his custody after the repeated orders by the high-ups. The cross examination questionnaire is also attached herewith as **F/E**. The recovery of incomplete challan ticket bearing No. 9429348 along with other 02 tickets without having the signatures of the offenders and the photocopies of 04 blank challan tickets having no serial number clearly no doubts shows his malafide intention and his involvement in issuing fake challan tickets, receiving cash amount from the offenders and taking the amount

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without issuing of challan tickets to the offenders. Due to his illegal activities two different cases vide FIR No.431 dated 25.09.2014 u/s 409/148/420 PPC/155C/D Police Order PS East Cantt Peshawar and FIR No.21 dated 19.10.2015 u/s 419/420/409/ PPC R/W 5(2) PC Act Police Station ACE Peshawar were registered against him and he has been in imprisonment for 62 days in Center Jail Peshawar.

CONCLUSION:

Being employee of discipline force ASI/TO Atta Muhammad was supposed to obey the order of the high-ups, return the challan book and should have eschewed himself from such illegal activities but he has demonstrated adversely.

Keeping in view the facts and statements of the officers as given above, and the recovery of incomplete/fake challan tickets, the allegation leveled against ASI/TO Atta Muhammad tantamount to severe mis-conduct on his part and can not be exonerated from the charges leveled against him, hence recommended to be demoted/reverted one step in his basic scale and the period since the order of his compulsory retirement uptill now be treated as without pay.

Submitted for perusal and further necessary action please.

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Naila Jan Advocate
Peshawar High Court

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Amir 0

ORDER

This is an order on the de-novo enquiry initiated against ASI/TO Atta Mohammad No.14 on direction of honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar for allegedly issuing illegal/fake traffic challans to the offenders on traffic violations and receiving money from the offenders on photo copies of challans. He was charge sheeted and the de-novo enquiry was marked to Mr. Fazal Ahmad Jan, SP/Traffic Hqrs. to finalize the enquiry within 15-days.

In reply to the charge sheet, accused officer categorically denied from the allegation and stated that he had never used and issued illegal challan to any one on traffic violation. Inspector Lalzada, the then SHO PS Traffic has however, stated that photo copies of challan book were recovered from his possession on the spot which in use for issuing fake/illegal challans to receive the amount of fine in caAsh rather than issuing proper challan to confiscate the vehicle's documents.

During the course of enquiry, statements of other relevant officials were recorded which also proved the accused ASI guilty of the charge. The Enquiry Officer, therefore, held him responsible for the charge of issuing challan on photo copies to the offenders which recovered from his possession therefore, recommended to be demoted/reverted one step in his basic scale and the period from his compulsorily retirement issued earlier till his re-instatement in service may be treated as without pay.

Keeping in view the enquiry file as well as recommendation of the Enquiry Officer, accused ASI Atta Mohammad No.14 is awarded punishment of reversion to the rank of Head constable under the Khyber Pakhtunkhwa Police Rules 1975 with immediate effect. The period he remained out of service i.e. from compulsorily retirement till re-instatement in service is treated as without pay.

Order announced.

(Signature)
(KASHIF ZULFIQAR) PSP
Chief Traffic Officer,
Peshawar.

No. 1765-70/PA, Dated Peshawar: the 19/12/2018.

Copies for information and necessary action to the:-

- CCPO/Peshawar
- SP/Hqrs. Traffic, Peshawar.
- EC
- OSI
- SRC (along-with complete enquiry file consisting of 38- pages)
- P.O

DSP-HQ
For necessary
action / updating
in personnel and
traffic line record.
19/12/18

(KASHIF ZULFIQAR) PSP
Chief Traffic Officer,
Peshawar.

Naila Jan Advocate
Peshawar High Court

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DY-CO: 21/PA-cep

DT: 3-1-2019

Amir "P"

To,

The Chief,
Capital police Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST
THE IMPUGNED ORDER NO. 1765-70/PA
DATED 19/12/2018 WHEREBY THE
APPELLANT HAS BEEN AWARDED
MAJOR PUNISHMENT OF REVERSION
TO THE RANK OF HEAD CONSTABLE
AND THE PERIOD OF SERVICE WAS
TREATED AS WITHOUT PAY

Prayer:-

ON ACCEPTANCE OF THIS
DEPARTMENTAL APPEAL THE
APPELLANT MAY KINDLY BE
RESTORED TO HIS ORIGINAL POST OF
ASI WITH ALL BACK BENEFITS AND
THE IMPUGNED ORDER DATED
19/12/2018 MAY KINDLY BE SET ASIDE
BEING VIOLATION OF LAW AND
RULES VOID ABINITIO.

Respected Sir,

The appellant submits as under.

1. That the Appellant is an employee of police department as ASI who performed his duties with great zeal Zeast and to the entire satisfaction of the Respondents department.
2. That the appellant was deputed on rider squad duty from shama chowk to Rehman Baba square on dated 25/09/2014, when the

Naila Jan Advocate
Peshawar High Court

S.P Traffic at 8:30 am arrested the appellant and was locked into Quarter guard and detained there and in this regard a proper Mad NO.26 was registered on 02/09/2014. **(Copy of Mad No.26 is annexed as annexure "A")**. and thereafter the appellant was handed over to Lal Zada S.H.O Traffic vide daily Diary No.5 dated 20/09/2014 at 8:35 Am for Lodging FIR against the appellant in PS East Cantt Peshawar. **(Copy of Mad NO.5 is annexed as annexure "B")**

3. That thereafter a case vide FIR No.43//dated 25/09/2014 U/S 409/418/420 PPC R/W 155 (C) (D) police order 2002 Police Station East Cantt Peshawar was registered. It is worth mentioned that time of occurrence in the FIR was shown at 8:45 am which is totally different from the time shown in Mad No.25 and Mad No.5 which makes it clear that the whole story is based on surmises and conjunctures and concocted one. **(Copy of the FIR is annexed as annexure "C")**

4. That the appellant was remained in judicial lock up in the above mentioned FIR from dated 25/09/2014 to 28/11/14 and was released on bail by Peshawar High court. However in the mean while without

opportunity of defense discipline proceedings, were initiated against the appellant. It is worth mentioned that the appellant was acquitted Hon'bly from the above mentioned charges by anticorruption Court. **(Copy of the Anti Corruption judgment dated 29/11/2016 is annexed as annexure "D")**

5. That after one sided inquiry the appellant was awarded major penalty vide order dated 10/02/2015 and the appellant after exhausting departmental remedy, challenged the impugned order before the Khyber Pakhtunkhwa Service Tribunal in appeal No. 362/2018 which was remanded to the departmental for denovo inquiry vide judgment dated 14/02/2017. **(Copy of inquiry report the order dated 10/02/2015 and judgment of the Tribunal is annexed as annexure "E, F & G")**

6. That thereafter a denovo inquiry was conducted but in utter violation of Police Rules as well as the judgment of the service Tribunal dated 14/02/2017 and the appellant was recommended for major punishment and consequently the appellant was again awarded punishment of compulsory retirement vide order dated 16/05/2017 and

after rejection of departmental appeal dated 18/07/2017, the appellant again approach to the Hon'ble Service Tribunal in appeal No. 801/2017 which was again remanded to the departmental vide judgment dated 19/09/2018 for denovo inquiry to be conducted within 90 days. **(Copy of Denovo inquiry, order dated 16/05/2017 and judgment dated 19/09/2018 are annexed as annexure "H, I & J")**

7. That the appellant was reinstated again for the purpose of denovo inquiry vide order dated 23/11/2018 and was issued charge sheet along with statement of allegation which was replied by the appellant refuting all the charges reply of the appellant may be considered part of this appeal. **(Copy of the reinstatement order, charge sheet statement of allegation and reply are annexed as annexure "K, L and M")**
8. That second denovo inquiry was conducted but utter violation of police Rules and both the judgment of this Hon'ble Tribunal neither statement of the appellant was recorded nor did statement of any witness was recorded in presence of the appellant and without affording personal hearing and opportunity of cross examination the appellant was again

recommended for major penalty. (Copy of the second denovo inquiry is annexed as annexure "N")

9. That the appellant was again awarded major penalty of reversion to the rank of Head constable and Secondly the period remained out of service was treated as without pay, but without issuing a final Show cause Notice or personal Hearing. (Copy of the impugned order dated 19/12/2018 is annexed as annexure "O")

10. That the appellant feeling aggrieved from the impugned order now filing the instant departmental appeal on the following grounds inter alia:-

Grounds:-

A. That the impugned order is against law rules principle of Natural justice void abinitio hence liable to be set aside.

B. That the appellant has been condemned unheard as neither statement of the appellant has been recorded nor did the appellant has been provided opportunity of personal hearings.

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C. That the right of fair trial has not been provided to the appellant which has been guaranteed by article 10-A of the Constitution of Islamic Republic of Pakistan 1973.

D. That neither statement of any witness has been examined in the presence of the appellant nor did the opportunity of cross examination has been provided to the appellant.

E. That the appellant has been acquitted from the charges by the competent court so he is entitled for reinstatement at his original post with all back benefit.

F. That the Denovo inquiry has been conducted beyond the periods of 90 days thus violated the judgment of the Hon'ble Tribunal.

G. That there are the following major contradiction in the whole concocted story of the department which proved malafide and discrimination on the part of the department.

a. That daily dairy No.26 and 5 dated 25/09/2014 shows presence of the appellant at 08:30 Pm detained in the quarter guard while the FIR No. 431

dated 25/09/2014 mentioned time of occurrence as 8:45 am which is not possible.

- b. That in the FIR the appellant has shown to be arrested by Mr. Lalzada SHO however Mr. Lalzada SHO in his statement before the Anti corruption court admitted the fact that the appellant was not arrested by him (SHO) similarly Mr. Fayaz Khan T.O Traffic who has been shown eye witness in the FIR has recorded his statement as PW 1 admitted that the appellant was arrested by SP Traffic and not by the SHO. **(Copy of statements are annexed as annexure "O" & "P")**
- c. That though the appellant was charged in the charge sheets as well as in FIR of Recovery of Bogus Challan book. However the SHO Lalzada in his cross admitted that the Challan book recovered vide recovery memo is genuine. Hence there remains no charge at all.
- d. That the so called bogus Challan book etc was shown recovered in the presence of Mr. Fayaz Marginal witness of Recovery memo. However Mr. Fayaz denied recovery of anything in his presence. **(Copy of recovery Memo is annexed as annexure "R")**
- e. The most important witness is Mr. Fayaz Who's statement was even not recorded by the 2nd Denovo inquiry officer.

H. That despite the fact that Hon'ble tribunal remanded appeal of the appellant for Denovo inquiry However the Department has conducted all the inquiry against the law and rules and directions of the Hon'ble Tribunal.

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I. That the appellant has been subjected to double jeopardy by awarding major punishment of reversion as well as intervening period was treated as without pay.

J. That throughout the intervening period the appellant remained jobless.

K. That no time for punishment of reversion has been specified hence the department has violated FR 29.

It is therefore, humbly requested that on acceptance of this departmental appeal to the appellant may kindly be restored/reinstated into his original post with all back benefits.

Appellant

Atta Muhammad,
ASI, Peshawar.

Dated: 01/01/2019


Naila Jan Advocate
Peshawar High Court



OFFICE OF THE
CAPITAL CITY POLICE OFFICER,
PESHAWAR

Phone No. 091-9210989
Fax No. 091-9212597

Amir
Q

ORDER.

This order will dispose of the departmental appeal preferred by **IIC Atta Muhammad** No.14 of Traffic Police Peshawar who was awarded the major punishment of reversion from the rank of ASI to HC.

2- The allegations leveled against him were that he while posted in Traffic Rider Khyber road as protocol officer for the Hon,ble Judges of Peshawar High Court Peshawar was involved in receiving illegal fines from the offender and having photo copies of challan book in his possession in order to issue illegal challans. He was caught hold red handed by SI Lal Zada, the then SHO PS Traffic HQrs and recovered photocopies of challan book from his possession.

3- A denovo departmental enquiry was initiated against him on the direction of Honorable Services Tribunal Khyber Pakhtunkhwa passed in his service appeal filed gainst his major penalty of compulsory retirement from service on the above allegations. He was issued proper charge sheet and summary of allegations by SSP/Traffic Peshawar and SP/HQrs Traffic Peshawar was appointed as enquiry officer. The enquiry officer after conducting proper enquiry submitted his finding and held him responsible for the charges leveled against him. The competent authority after perusal of the enquiry report demoted/reverted the ASI Atta Muhammad to the rank of Head Constable and the period he remained out of service was treated as leave without pay.

4- He was heard in person in O.R. The relevant record perused along with his explanation. During personal hearing the appellant failed to produced any plausible explanation in his defence to prove his innocence. **Therefore, his appeal to set aside the punishment order awarded by SSP/Traffic Peshawar vide order No.1765-70/ dated 19-12-2018 is hereby rejected /dismissed.**

J. Qazi

(QAZI JAMIL UR REHMAN)PSP
CAPITAL CITY POLICE OFFICER,
PESHAWAR

No 291-94 /PA dated Peshawar the 06/02/2019

Copies for information and n/a to the:-

1. SSP/Traffic, Peshawar. The service record and Fauji missal of the appellant is returned herewith for record in your office.
2. SP/HQrs Traffic Peshawar.
3. Official concerned.

Naila Jan
Naila Jan Advocate
Peshawar High Court

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Amir R

PW-2 Statement of Lal Zada Khan, Inspector Rural Investigation, Investigation Wing Peshawar, on Oath:

During the relevant days I was posted as SHO P.S. Traffic. It was complained against the accused Atta Muhammad that he had used bogus challan book along with the official challan book during his duty hours. On the relevant day I came to the spot i.e. main Khyber road near Provincial Assembly and found the accused on duty. During checking of the challan book of accused Atta Muhammad I recovered one challan book bearing No.94294 which consists of ticket No.9429301 to 9429400 and I found ticket No.9429348 was incomplete ticket of Rs.500/-, two other tickets bearing No.9429346 of Rs.500/- and ticket No.9429347 of Rs.400/-, four bogus photo stat copies of challan book were recovered from his possession. To this effect I prepared the recovery memo already Ex.PW1/1 in the presence of Fayaz and Zahir khan. I drafted the murasila Ex.PA and sent to the P.S. through constable Zahir for registration of case FIR. The case property mentioned in the recovery memo Ex.PW1/1 is as a whole Ex.P-1.

X X for accused.

It is correct that there is no date mentioned beneath my signature as well as signatures of marginal witnesses in recovery memo Ex.PW1/1. The time mentioned in the murasila of occurrence is 8.45 hours, and scribing of murasila is 9.00 hours. It is incorrect to suggest that the accused facing trial at the time of occurrence mentioned in the murasila was not present at the spot and was in the quarter guard. I cannot answer the question that accused facing trial was in the quarter guard vide madd No.26 dated 25.09.2014 at 8.30 hours on the orders of SSP Traffic and this question be asked from Ajmal khan Line Officer Traffic (LOT). It is correct that there is no written or oral complaint by name of any person available on the case file against the accused facing trial. It is correct that no aggrieved person in the present case is present in support of allegation leveled in murasila Ex.PA. It is correct that when challan book is issued, properly audit is conducted of the same. It is incorrect to suggest that as per the audit record no offence has been committed by the accused facing trial. It is correct that there is cutting and over writing on the murasila on the constable number Fayaz TFC. It is incorrect to suggest that Fayaz was never present at the time of scribing of murasila. It is incorrect to suggest that Zahir khan on 25.09.2014 was

SPECIAL JUDGE
Peshawar
11/10/16

ATTESTED

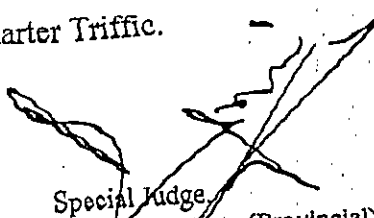
EXAMINER
Peshawar
24/11/16

Naila Jan Advocate
Peshawar High Court

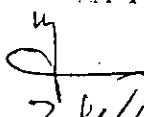
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present on duty with Kifayat khan SI incharge Khyber road at the relevant time mentioned in the murasila. I do not remember whether my statement was recorded in the departmental inquiry against accused facing trial or not. It is in my knowledge that departmental inquiry was conducted against accused Atta Muhammad. It is correct that Kifayat in his statement in the departmental inquiry stated that Zahir TFC who is marginal witness was present along with him on duty on Khyber road. It would be known Kifayat as well that on 25.09.2014 at 8.45 hours kifayat along with Zahir were present on duty at Gora Qabristan chowk "Aman chowk". It is incorrect to suggest that neither I arrested accused facing trial nor Fayaz or Zahir khan constables were present at the relevant time with me and I at the instance of SSP Head Quarter am giving false and baseless statement to falsely and malafidely prosecute accused facing trial in the present case, the whole suggestion is wrong. I have not arrested the accused on the spot. Volunteered that he was brought to quarter guard by Line Officer Traffic. It is correct that no packing, sealing or affixing of monogram has been mentioned in the recovery memo of Ex.P-1. It is correct that the four photo copies mentioned in recovery memo Ex.PW1/1 does not bear serial number, date, signature etc of any one and is blank. It is incorrect to suggest that the four photo copies has been later on copied by me for the false implication of accused facing trial. It is correct that no expert report has been obtained in respect of the photo copies. It is correct that the challan book shown recovered on the recovery memo is genuine. It is incorrect to suggest that I am falsely deposing, the whole case is false and bogus, concocted at the instance of my high ups i.e. SSP Head Quarter Traffic.

RO & AC.
Peshawar.
17.10.2016.


Special Judge,
Anti-Corruption (Provincial),
Khyber Pakhtunkhwa, Peshawar.

ATTESTED


24/11/16


Naila Jan Advocate
Peshawar High Court

Special Judge
Anti-Corruption (Provincial),
Peshawar

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Amir S

PW-1, Statement of Fayaz Khan, T.O. Traffic Head quarter, Peshawar, on Oath:

I am a marginal witness to recovery memo Ex.PW1/1 vide which the SHO Lalzada Khan took into possession Challan book alongwith some tickets and photo copies of challan from the possession of accused Atta Muhammad. Today I have seen the recovery memo Ex.PW1/1 which correctly bears my signature as well as signature of Zahir Khan. My statement u/s 161 of Cr.PC was recorded by the I.O.

XX for accused.

I have been serving in Traffic department for the last 13 years. It is correct that today I have not mentioned any date of preparation or writing of the recovery memo Ex.PW1/1 nor I am in the knowledge of the preparation or writing of the recovery memo Ex.PW1/1. It is correct that Ex.PW1/1 does not bear any date of preparation of the recovery memo Ex.PW1/1. It is correct that no date has been mentioned beneath the signature of SHO, or the recovery witness. It is correct that I had not mentioned the time of preparation or writing of recovery memo Ex.PW1/1 in my statement recorded u/s 161 of Cr.PC and also in my examination-in-chief recorded today in court. It is correct that no article has been sealed, packed nor any mono gram was affixed over any seal etc in my presence. It is correct that the accused facing trial was picked up by S.P. Traffic from the spot and had never been arrested by the SHO Lalzada Khan. It is correct that I had not signed the recovery memo Ex.PW1/1 either on the spot or around it and that my signature was obtained on the recovery memo at traffic head quarter by SHO Lalzada Khan. It is correct that in my presence no article whatsoever mentioned in the recovery memo had been recovered from the possession of accused. It is correct that no site plan has been prepared by SHO Lalzada on my pointation or in my presence in this case.

RO & AC.
Peshawar.
10.10.2016.

[Signature]
Special Judge,
Anti-Corruption (Provincial),
Peshawar

ATTESTED

[Signature]
10/10/2016
COURT OF JUDGE
ANCI-CORRUPTION

[Signature]
Naila Jan Advocate
Peshawar High Court

خیبر پختونخوا ٹریفک پولیس

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Auriz - T

تاریخ: _____

Vehicle No. _____ گاڑی نمبر

پالان نمبر: _____

(Ticket No.) ٹکٹ نمبر: _____

تلاش و دوزی کرنے والے کا نام اور پتہ:
(Particulars of Offender)

گاڑی کی قسم کا کوڈ: _____ Vehicle Type: _____

خلاف دوزی / پالان کوڈ: _____ Violation Type: _____ جرمانے کی رقم: _____ Fine Amount _____

Fine Amount in Words: _____

لئے گئے کاغذات پر ✓ کا نشان لگا کر مقررہ جگہ کے سامنے اندراج کریں

Route Permit Number: _____ روٹ پرمٹ نمبر: _____

Registration Number: _____ رجسٹریشن نمبر: _____

Computerized Licenca Number: _____ کمپیوٹرائزڈ لائسنس نمبر: _____

ٹریفک آفیسر کے تاثرات / مشاہدات:
(Traffic Officer Observations)

زیر دستخطی A2Z E-Payments کو اختیار دیتا ہے کہ وہ زیر دستخطی کی جانب سے ٹریفک جرمانہ وصول کر کے مجاز بینک میں داخل کرے

خلاف دوزی کرنے والے اسماں کا نشان آگٹ دو لکھا

ٹریفک آفیسر (نام دستخط)



E Payments

چالان کی ادا شدہ رقم کے بارے میں معلومات حاصل کرنے کے لیے www.a2zpayments.com

ویب سائٹ پر "ٹریفک رپورٹس" کلک کریں اور "Search Ticket" میں مطلوب ٹکٹ نمبر ٹائپ کریں۔

Naila Jan
Naila Jan Advocate
Peshawar High Court

وکالت نامہ

بعدالت ICP Service Tribunal Peshawar
Atta Muhammad نام Police
12/2/2019 تاریخ Appellant منجانب

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی بمقام Peshawar کے لئے

نانکہ جان ایڈوکیٹ ہائی کورٹ

کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود باذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا اگر پیشی پر من مظهر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے کسی اور جگہ ساعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظهر کو کوئی نقصان پہنچنے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داختہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و ہجرتی ہجرتی کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپرد وراثی و راضی نامہ کو فیصلہ برخلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اثنامی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادا نیگی علیحدہ مختیار نامہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزوی کارروائی کے واسطے یا بصورت اپیل، اقبال کے واسطے کسی دوسرے وکیل یا ہیرٹھ کو بجائے اپنے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل ہوں گے۔ جیسے کہ صاحب موصوف کو حاصل ہیں اور پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا یہ مختیار نامہ لکھ دیا تاکہ سند رہے مورخہ 12/2/2019 مضمون مختیار نامہ بن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

ATTESTED & ACCEPTED

نانکہ جان ایڈوکیٹ ہائی کورٹ پشاور

Atta Muhammad

BEFORE THE HONORABLE SERVICE TRIBUNAL
KHYBERPAKHTUNKHWA PESHAWAR.

Service Appeal No.204/2019.

Atta Muhammad ASI Traffic, Peshawar.....Appellant.

VERSUS

1. Capital City Police Officer, Peshawar.
2. SSP Traffic Police, Peshawar.
3. DSP Hqrs Police, Peshawar.
4. SHO PS Traffic Police, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1,2,3,&4.

Respectfully sheweth!

Preliminary objections.

1. That the appeal is badly time barred.
2. That the appeal is bad for miss-joinder of unnecessary and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no case of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Honorable Tribunal.

Facts:-

1. Para No.1 pertain to record, however the record is not up to the mark.
2. Para No.2 is totally incorrect and is based on surmise and conjecture, in fact the appellant while posted as rider and protocol officer for the honorable Judges of Peshawar high court got involved in receiving illegal fines from the offenders and having photo copies of challan book in his possession for the purpose to issue illegal challan. He was caught red handed by SI Lal Zada Khan SHO PS traffic and recovered photo copies of challan book from his possession. A proper case vide FIR No 431 dated 25-09-2014 U/S 409/418/155 C.D PS East Cantt: was registered against him.
3. Para No.3 is already explain in detail in Para No. 2.
4. Para No.4 pertain to Court hence needs no comments.
5. Para No.5 is totally incorrect and denied. In fact the appellant was proceeded departmentally on charges of his involvement in receiving

illegal fines from offenders and having photo copies of challan book in his possession in order to issue illegal challans. He was caught red handed by SHO PS Traffic SI Lal Zada Khan and recovered photo copies of challan book from his possession subsequently a criminal case vide FIR No.431 dated 25-09-2014 u/s 409/418/420/155 was registered against him in P.S East Cantt: In this regard proper departmental proceeding were initiated against him and DSP HQrs Traffic was appointed as enquiry officer. He was issued a charge sheet and Summary of allegation. On receipt of the finding of the E.O, He was issued final show cause notice in response he replied but his reply was found unsatisfactory. He was also called and heard in person in OR on 20.03.2015 but he failed to defend himself as the charges leveled against him were stand proved hence he was awarded major punishment of compulsory retirement from service under police disciplinary rule 1975.the appellant filed departmental appeal which after due consideration was rejected later he filed service appeal No. 362/2015 before the Honorable service tribunal which was accepted and sent back to the respondent department for de-novo enquiry.

6. Para No.6 is incorrect, in compliance with the judgment of Honorable Service Tribunal. The appellant was re-instated into service and was issued charge sheet and statement of allegation. SSP coordination and SSP investigation were appointed as enquiry officer. They carried out a detail de-novo enquiry as per law and rule. During the course of enquiry, the enquiry officer, found him guilty of the charges leveled against him .After fulfilling all the codal formalities, He was awarded major punishment of compulsory retirement from service. The appellant filed departmental appeal which was also rejected/filed. The appellant again approach to the Honorable Service Tribunal and Appeal No. 801/2017, which was accepted by this Honorable Court and directed the replying department to conduct the de-novo enquiry.

(Copy of the enquiry is attached as annex as A)

7. Para No. 7 is correct to the extent that in pursuance of the direction of the Service Tribunal the appellant was re-instated in service for de-novo proceedings and issue charge sheet and summary of allegation for de-novo proceedings, to which he received and replied, but his reply was found unsatisfactory.
8. Para No.8 is incorrect hence denied second de-novo inquiry was conducted under the rules. A proper charge sheet and summary of allegation was issued **(copy of charge sheet and summer of allegation as annex as B and C respectively)**. Statements of witnesses were recorded in the presence of Enquiry Officer, proper opportunity of cross examination to the appellant was also given,

but the appellant failed to defend himself, therefore the appellant was awarded major penalty of reversion from the rank of Assistant Sub-Inspector to Head Constable. (**Copy of statements of the witnesses and cross examination as in annex as D and E respectively**).

9. Para No.9 is incorrect. The punishment order was passed by the competent authority. Final show cause notice was issued to the appellant and proper opportunity was provided to the appellant but the appellant failed to defend himself.
10. Para No.10 is incorrect to the extent that the appellant filed departmental appeal which after due consideration was filed/rejected on the grounds that the charges leveled against him were proved.
11. Para No.11 the plaintiff has no cause of action to file instant appeal on the following grounds.


Grounds:

- A) Incorrect. The punishment was awarded to the appellant as per rules/law.
- B) Incorrect. The appellant was provided full opportunity of personal hearing but the appellant failed to satisfy the competent authority.
- C) Incorrect. The appellant was treated as per law/rules and no provision of law has been violated.
- D) Incorrect. The appellant was given full opportunity of personal hearing and defense but he failed to defend himself from the charges leveled against him.
- E) Incorrect, acquittal in a criminal case would not IPSO facto lead to exonerate a civil servant in departmental proceedings.
- F) Incorrect. The de-novo inquiry was conducted against him in accordance with law/rules and the light of judgment of the Honorable Service Tribunal.
- G) Incorrect, the Enquiry Officer has conducted detailed de-novo enquiry in accordance with law/rules, and proper opportunity of defense was provided to the appellant. After fulfilling all codal formalities, he was awarded major punishment. The Enquiry Officer after detailed probe into the matter reported that the charges against the appellant were proved.
- H) Incorrect, during the course of enquiry, the appellant failed to rebut the charges and the Enquiry Officer conducted through probe into the matter and found the appellant guilty of the

- I) Incorrect, the appellant has been penalized by awarding major punishment of reversion and the matter of intervening period shall be treated after closing of CPLA.
- J) Incorrect, the appellant himself is responsible for the situation by committing gross misconduct.
- K) Incorrect, the appellant was treated as per law/rules and no provision of law has been violated.

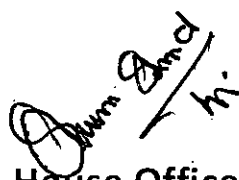
Prayer:-

It is therefore, most humbly prayed that in the light above facts and submission the appeal of appellant may kindly be dismissed with heavy cost.


Capital City Police Officer,
Peshawar.


Chief Traffic Officer,
Peshawar.


Deputy Superintendent of Police
HQrs, Peshawar.


Station House Officer, Police,
Traffic, Peshawar

Note: The address of the respondent No. 2 is wrongly mentioned in the appeal which is rectified above.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA PESHAWAR

Service appeal No. 204/2019

HC Atta Muhammad No. 188 Traffic, Peshawar..... Appellant

VERSUS

1. Capital City Police Officer, Police Lines Peshawar.
2. Senior Superintendent of Police Traffic Peshawar.
3. Deputy Superintendent of Police Headquarter, Peshawar.
4. SHO Police Station Traffic Lines, Bacha Khan Chowk, Peshawar..... Respondents.

Capital City Police Officer,
Peshawar

Chief Traffic Officer,
Peshawar.

Deputy Superintendent of Police
HQrs, Peshawar.

Station House Officer, Police,
Traffic, Peshawar

Note: The address of the respondent No. 2 is wrongly mentioned in the appeal which is rectified above.

From : The Senior Superintendent of Police,
Coordination, CCP Peshawar.

To : The Capital City Police Officer
Peshawar.

No. 183 /R, dated Peshawar to the 14/04 /2017.

Subject: **DE-NOVO ENQUIRY AGAINST ASI ATTA MUHAMMAD.**

Memo:

Kindly refer to your office Endst: No. 02/E/PA, dated Peshawar the 24.03.2017.

ALLEGATIONS

1. It was alleged that ASI Atta Muhammad No. 14 was involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
2. He has taken the amount of fine in cash from the offenders clearly in violation of the instructions issued in this regard.
3. It was found that he was taking money from the offenders without issuing challan and was maintaining record in his personal diary (attached with his challan book) to be used in case of any complaints for saving his skin.

PROCEEDINGS

For the purpose to scrutinize the conduct of ASI Atta Muhammad, the following individuals were called on to the office. They also submitted their written statements and were heard in person.

1. ASI Atta Muhammad
2. Inspector Lal Zada Khan the then SHO Traffic.
3. SI Kifayat Khan of Traffic staff now CTD Mardan
4. ASI Zahir Ullah of Traffic staff.

STATEMENT OF ASI ATTA MUHAMMAD.

He stated that he was on rider squad duty from SHami Chowk to Rehman Baba Square on 25.09.2014 at 08.30 AM. He was locked into quarter guard by the order of SSP Traffic and in this regard a proper entry was made vide mad No. 26 dated 25.09.2014 at Police Lines Peshawar. During his detention in quarter guard, he came to know that FIR No. 431 dated 25.09.2014 u/s 409/418/420 PPC /155C-D Police order 2002 has been registered against him at Police Station East Cantt. On 25.09.2014 at

08.45 hrs, he was shown on main road, opposite Army check post Provincial Assembly and some false allegations were leveled against him. He stated that he remained in judicial lockup from 25.09.2014 to 28.11.2014, thereafter he was granted bail in BA No 1631/20104 by Hon'able Peshawar High Court. The local Police of PS East Cantt refused to submit challan against him and the case was sent to Anti corruption establishment on the grounds that "section 409 PPC is also leveled" which is the jurisdiction of Anti Corruption Establishment. A second FIR No. 21 dated 19.10.2015 under section 419/420/409 PPC/ 5(2) PC Act was registered at PS ACE, Peshawar, in which BBA bi of the undersigned was confirmed. The trail commenced on the same set of allegations leveled in the charge sheet and after recording statement of prosecution witnesses the Hon'able Judge Special Court anti corruption Khyber Pakhtunkhwa Peshawar acquitted him vide order dated 29.11.2016 from the charges leveled. He stated that prosecution produced as many as 9 PWs including Lal Zada Khan Inspector Ru Fayyaz Khan TO Traffic Headquarter, Ajmal Khan Lines Officer Traffic, Sikandar S. Inspector Police Lines, Shad Muhammad Sub Inspector PS East Cantt, Shoukat Khar ACE Mardan, Nisar Ahmed Document's cell Traffic Headquarter Peshawar, Haida AMHC Headquarter Peshawar and SI Karram Elahi of PS Gulbahar. From the statement the court arrived to the conclusion that the allegations leveled are false and he acquitted.

He further stated that while posted as Rider Khyber road, he never issued challan on photocopies neither he received money from the offenders. There is no against him. He stated in his statement that he never took the amount of fine issued from the offenders, but only in cases of emergency and under the rules and policies down by the department. He never violated the law. He never took money from the offenders and neither maintained the record in his private diary. He acquitted from the charges leveled against him.

STATEMENT OF INSPECTOR LAL ZADA.

He stated in his statement that there was general complaint against Atta Muhammad that he has fake challan book and use it illegally. During duty he along with driver came to Army check post near Provincial Assembly and in custody incomplete ticket No. 9429348 along with 500 rupees, two cash challans and 04 copies of ticket book without number from Atta Muhammad. The matter was brought in the notice of high ups and a criminal case vide FIR No. 4 of 25.09.2014 u/s 409/418/420 PPC /155C-D Police order 2002 was registered at Station East Cantt against Atta Muhammad. He stated that the statements of witnesses were recorded accordingly.

S.M.O

C-2002 O.P.?

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Statement of ASI Zahir Ullah.

He stated that he was on duty at Khyber Road near High Court Gate. On 25.09.2014 SHO Traffic along with other Police contingent came there. SHO Traffic Lal Zada Inspector took in his custody challan book, tickets and four copies of tickets from Rider Atta Muhammad. He was the witness of possession memo.

Statement of SI Kifayat Khan.

He stated that during duty as Incharge Traffic Khyber Road, he received information through wireless, to come to High court. When he arrived there, he came to know through Fayyaz TO that SHO traffic arrested Rider Atta Muhammad with photo copies of tickets and cash fine. He further stated that Atta Muhammad was deputed with Judges for duty. Rider Atta Muhammad had no challan diary and he was not deputed for issuing challans.

CONCLUSION.

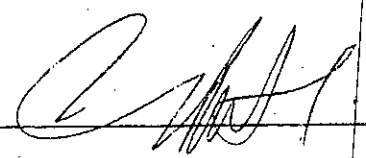
After thorough examination of the statements/ circumstances, it is concluded that ASI Atta Muhammad was deputed for special duty with Judges, but he was using his powers as challan officer. He was arrested red handed by SHO traffic and was confined in to quarter guard on the orders of high ups. SHO traffic also registered a criminal case against ASI Atta Muhammad at Police Station East Cantt. His bail application was rejected by Session court, while later on he was released on bail by the Peshawar High Court.

Moreover, being a member of disciplined force, he was bound to obey the orders of his seniors. He should have avoided himself from such illegal activities. But there were general complaints to high ups regarding his involvement in illegal activities. After proper enquiry he was fairly and justly awarded major punishment by the then SSP Traffic on the ground of involvement in illegal activities during duty hours.

RECOMMENDATIONS

Keeping in view all these circumstances, the punishment given to ASI Atta Muhammad is found correct and just and it may not be reduced.

1. SSP Coordination, CCP Peshawar



2. SP Investigation FBI HQR's Peshawar



CHARGE SHEET

(B)

613
26-11-18

1. WHEREAS I am satisfied that a formal inquiry as contemplated by Police Rules 1975 is necessary and expedient.

2. AND whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule-3 of the aforesaid Rules.

3. Now therefore, as required by Rule 5 (1) (a) & (b) of the said Rules I, **KASHIF ZULFIQAR**, Chief Traffic Officer, Peshawar hereby charge you ASI/TO Atta Mohammad No.14 under Rules 5 (4) of the Police Rules 1975 on the basis of following allegations:-

- i) That while posted as rider Khyber road, you were involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
- ii) That you have also taken the amount in cash from the offenders clearly in violation of the instructions issued time and again in this regard.
- iii) It has also been found that you have taken money from the offenders without issuing challan and maintaining register of the offenders and their vehicles in your personal diary to be used in case of any complaint for saving your skin.

4. By doing this you have committed gross misconduct on your part.

5. AND I hereby direct you further under Rule 5 (I) (b) of the said Rules to put-in written defence within 07-days of the receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state whether you desire to be heard in person.

6. AND in case your reply is not received within the stipulated period to the enquiry officer, it shall be presumed that you have no defence to offer and in that case, ex-parte action will be taken against you.

Kashif Zulfiqar
(KASHIF ZULFIQAR) PSP
 Chief Traffic Officer,
 Peshawar. *26/11/18*
 (Competent Authority)

Reader
 Pl process it.
Kashif
 26/11/18

27/11/18

11

"C" (S)

DISCIPLINARY ACTION

1. I, **KASHIF ZULFIQAR**, Chief Traffic Officer, Peshawar as competent authority, am of the opinion that ASI/TO Atta Mohammad No.14 has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of Police Rules 1975.

SUMMARY OF ALLEGATIONS

2. i) That while posted as rider Khyber road, he was involved in issuing illegal challans and receiving money from the offenders on photo copies of challans.
 - ii) That he has also taken the amount of fine in cash from the offenders clearly in violation of the instructions issued time & again in this regard.
 - iii) It has also been found that he has taken money from the offenders without issuing challan and maintaining record of the offenders and their vehicles in his personal diary so that to be used in case of any complaint for saving his skin.
3. For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, an Enquiry Committee comprising of the following officer(s) is constituted:-

- a. Mr. Fazal Ahmad Jan, SP/Traffic Hqrs. Peshawar.
- b. _____

4. The enquiry committee/officer shall in accordance with the provision of the Police Rules 1975 provide reasonable opportunity of hearing to the accused officer/official and make recommendations as to punishment or any other appropriate action against the accused.


(**KASHIF ZULFIQAR**) PSP
Chief Traffic Officer,
Peshawar.

(Competent Authority)

(9)

صفا علی

میں نے ان تمام بیان دیا ہے کہ وہ اس کا علاج کر کے اسے شہادت
افراد بالاعمال کی ہے کہ وہ چاکا کی ہے اس کے ساتھ
جس کے چاکا نے فریڈ کا بیان کیا ہے اسے اس کا علاج اور اس کا استعمال
میں اس کا علاج جو کہ میں نے اس کے اور حکیم اور اس کے دیکھ کر اس کا علاج

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جناب عالی

صیغہ خلفاً بنیاد دینا ہوتا ہے کہ صیغہ سررود ٹیپ ہائی کورٹ ٹیپ کے ساتھ
 ٹریٹ سٹاپ سے ڈیوٹ سرنگام دینے رہتا تھا۔ حسب معمول ڈیوٹ
 برصو چود تھا کہ $25 \frac{9}{14}$ کو SHo ٹریٹ لعل زادہ پمپہ لفری آکر
 جبکہ دائرہ عملہ 10 آجٹا پمپہ صاحبان کے ساتھ پورٹول
 ڈیوٹ تھی بھی موجود تھا۔ SHo صاحب ٹریٹ کے مشورہ 10
 کے قبضے سے صیغہ روپرو لقمہ برصانہ اور حالانکہ پب کے ٹیکٹ
 کے 4 عدد قایمان پرامداد جو کہ SHo ٹریٹ کے بیرون قرار
 قبضہ پولیس کر کے جس پر صیغہ دستخط موجود ہے جو کہ درست ہے

طالب اللہ
 07
 DASI

بیان اذان عالمگرفان ہو سکندریہ

۱۶ علیہ

معروفہ ہدفوں میں بطور سکندریہ ٹیسٹ ٹریننگ تفہیمات تھا۔
 کہ ظاہر ہے۔ اس کے ساتھ ساتھ ٹریننگ کو ایسی ہی تھی کہ اس کے ذریعہ محفوظ اور ایسی
 ایسی ہی رہے ہیں اور غیر قانونی کاموں میں ملوث ہیں۔ اور اس کے
 یہ بھی حکم و یا باجہ کہ جنسی بھی محفوظ اور اس کے ذریعہ ان سے جان بچانے
 ہیں۔ میں تمام انٹیلیجنس کو خطاب کر کے اس کے ساتھ ساتھ اس کے ساتھ
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(Peshawar High. court Protocol) اور اس کے ساتھ ساتھ اس کے ساتھ اس کے ساتھ
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سوال 1: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

Mirza
Qasbi
6/12/18

سوال 2: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

سوال 3: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

سوال 4: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

سوال 5: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

میں نے ان سوالوں کے جواب دیے ہیں۔

سوال 6: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

سوال 7: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

جواب: جے ایم کے خلاف ایف آئی آر کی توثیق کیلئے ضروری دستاویزات فراہم کرنے سے انکار کیا گیا ہے۔

3/3

جواب :- ...

ALE

12 سوال :- ...

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جواب :- ...

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6/12/2018

13 سوال :- ...

جواب :- ...

6/12/18

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR**

S.A No. ____/2019

Atta Muhammad

Versus

Capital City Police Officer and Others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth
Preliminary Objection:-

All the preliminary objections raised by the Respondents are incorrect.

FACTS:-

1. Para No. 1 of the appeal is correct and that of the reply is incorrect.
2. Para No.2 of the appeal is correct and that of the reply is incorrect the appellant has already been acquitted Honorably from the charges mention in the FIR No. 431 dated 25-09-2014.
3. Para No. 3 of the appeal is correct however the respondents did not properly replied

which amount to admission on the part of respondents.

4. Para No.4 of the appeal has not been properly replied hence admitted by the respondents

5. Para No.5 of the appeal is correct and that of the reply is incorrect.

6. Para No.6 of the appeal is correct and that of the reply is incorrect the denovo inquiry has not been conducted as per direction of this Hon'ble Tribunal.

7. Para No. 7 of the appeal is correct and that of the reply is incorrect.

8. Para No. 8 of the appeal is correct and that of the reply is incorrect the denovo inquiry has not been conducted as per direction of this Hon'ble Tribunal.

9. Para No. 9 of the appeal is correct and that of the reply is incorrect.

10. Para No. 10 of the appeal is correct and that of the reply is incorrect.

11. Para No. 11 of the appeal is correct and that of the reply is incorrect.

GROUNDS:-

- A. Ground A of the reply is incorrect and that of the appeal is correct.
- B. Ground B of the appeal is correct and that of the reply is incorrect.
- C. Ground C of the appeal is correct and that of the reply is incorrect.
- D. Ground D of the appeal is correct and that of the reply is incorrect.
- E. Ground E of the appeal is correct and that of the reply is incorrect.
- F. Ground F of the appeal is correct and that of the reply is incorrect.
- G. Ground G of the appeal is correct and that of the reply is incorrect.
- H. Ground H of the appeal is correct and that of the reply is incorrect.
- I. Ground I of the appeal is correct and that of the reply is incorrect.
- J. Ground J of the appeal is correct and that of the reply is incorrect.
- K. Ground K of the appeal is correct and that of the reply is incorrect.

It is, therefore, requested that the appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Petitioner

Through

Naila Jan 

Advocate, High Court
Peshawar.

Dated 14/10/2019

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1263 /ST

Dated 17-06 2020

To


The Senior Superintendent of Police Traffic,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 204/2019, Mr. Atta Muhammad.

I am directed to forward herewith a certified copy of Judgement dated 11.03.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.