

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 40/2016

Date of Institution ... 28.12.2015

Date of Decision ... 12.04.2018

Mr. Masood Khan S/o Mr. Abdul Manan,
R/o Zargar Abad, Charsadda. ... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa, through Secretary Home and
Tribal Affairs Department, Peshawar and 3 others. ... (Respondents)

MR. NAVEED AKHTAR,
Advocate --- For appellant.

MR. ZIAULLAH,
Deputy District Attorney --- For respondents.

MR. AHMAD HASSAN, --- MEMBER (Executive)
MR. MUHAMMAD HAMID MUGHAL --- MEMBER (Judicial)

JUDGMENT

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

FACTS

2. The brief facts are that the appellant was serving as Investigation Officer. An
FIR under section 302 PPC was registered on 04.01.2015 at PS Tangi against
unknown accused. That the appellant including others were subjected to inquiry and
vide order dated 16.09.2015 appellant was awarded punishment of withholding one
increment where-against appellant preferred departmental representation which was
decided by the RPO vide order dated 30.11.2015. The penalty was enhanced the
punishment to of a "reduction in pay by two stages in the same time scale of pay",
hence, the instant service appeal on 28.12.2015.

ARGUMENTS

3. Learned counsel for the appellant argued that an FIR under Section 302 PPC was registered on 04.01.2015, while the appellant was on leave on that day. One Noor Ali, S.I was officiating as Chief Investigation Officer. Certain deficiencies were observed in investigation so an enquiry was conducted against the appellant and upon conclusion minor penalty of stoppage of one annual increment without accumulative effect was imposed on the appellant vide order dated 16.10.2015. However, vide letter dated 09.10.2015 directions of PPO was conveyed to RPO Mardan to review the proceedings for enhancement of punishment. Learned counsel for the appellant further argued that vide impugned order dated 30.11.2015 the minor penalty of stoppage of increments was enhanced to the major penalty of "reduction in pay by two stages in the same time scale of pay". The above mentioned impugned order was not in accordance with the procedure laid down in Rule-11 of the Police Rules, 1975. Reliance was also placed on case law reported as 2000 SCMR 75.

4. On the other hand learned Deputy District Attorney argued that as serious lacunas were observed by the PPO in investigation so directions were given to the RPO Mardan to review the proceedings. The penalty was enhanced in accordance with the procedure contained in Police Rules 1975.

CONCLUSION

5. No doubt under Rule-11 of the Police Rules 1975 the appellate authority (Competent Authority) has jurisdiction to modify the orders passed by the DPO by enhancing the penalty, but these are subject to observance of laid down procedure. The relevant proviso sub-rule(b) of Rule-11 governing this case is reproduced below:-

Provided that where the Appellate Authority or Review Authority, as the case may be proposes to enhance the penalty, it shall by an order in writing-

- (a) Inform the accused of the action proposed to be taken against him and the grounds of such action; and
(b) Give him a reasonable opportunity to show cause against the action and afford him an opportunity of personal hearing.

The DIG failed to observe the procedure highlighted above. As such his order ^{has} no legal value in the eyes of law.

6. As a sequel to above, the appeal is accepted and the impugned order is set aside. Respondents are directed to decide the departmental appeal of the appellant within a period of three months after receipt of this judgment through a speaking order. Parties are left to bear their own costs. File be consigned to the record room.



(MUHAMMAD HAMID MUGHAL)
MEMBER



(AHMAD HASSAN)
MEMBER

ANNOUNCED
12.04.2018

19.02.2018

Due to non availability of D.B. Adjourned. To
come up on 12.04.2018 before D.B.


(Gul Zohra Khan)
Member

Order

12.04.2018


Counsel for the appellant and Mr. Muhammad Jan, DDA for
respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the
appeal is accepted and the impugned order is set aside. Respondents are
directed to decide the departmental appeal of the appellant within a period
of three months after receipt of this judgment through a speaking order.
Parties are left to bear their own cost. File be consigned to the record
room.

Announced:
12.04.2018



(MUHAMAMD HAMID MUGHAL)
Member


(AHMAD HASSAN)
Member

2000SCMR75

[Supreme Court of Pakistan]

For Appellant

Present: Nasir Aslam Zahid and Mamoon Kazi, JJ

GOVERNMENT OF SINDH through the Advocate-General
Sindh---Petitioner

versus

MUHAMMAD HUSSAIN and 6 others---Respondents

Civil Petitions Nos.256-K to 259-K of 1999 and 261-K, 262-K and 267-K of 1999, decided on 8th July, 1999.

(On appeal from the judgment of the Sindh Service Tribunal, dated 10-3-1999 passed in Appeals Nos.31, 35, 49, 50, 51, 60 & 61 of 1998).

(a) Police Rules, 1934---

---R.128---Civil Servants Act (LXXI of 1973), S. 11---Discharge of probationer police officers from service before completion of their initial probation period--Reports sent by Superintendent of Police to the Deputy Inspector-General indicated that serious allegations of inefficiency were attributed to the probationers---Effect---If such allegations entailed removal of services of the probationer, they were entitled to a show-cause notice and an opportunity to defend themselves against the proposed action---Probationers being civil servants governed by Civil Servants Act, 1973, and right of appeal being provided to them under the relevant rules, the provisions of rule 12.8, Police Rules, 1934 could not prevail over the same.

Rule 12.8, Police Rules, 1934 no doubt indicates that officers referred to in the said rule are to be considered as probationers during the first three years of their appointment and they can be discharged from service during such period for any of the reasons mentioned in the said rule and no appeal would lie against an order of discharge, but evidently the present case was not a case of simpliciter discharge. Reports sent by Superintendent of Police to the Deputy Inspector-General indicate that serious allegations of inefficiency were attributed to the probationers. If such allegations entailed their removal from service, they were entitled to a show-cause notice and an opportunity to defend themselves against the proposed action. Furthermore, no doubt rule 12.8, Police Rules, 1934 lays down that the officer against whom action is taken under the said rule shall not have any right of appeal, but the probationers being civil servants, they are governed by provisions of the Civil Servants Act, 1973. The right of departmental appeal being provided to civil servants under the relevant rules, the provisions of rule 12.8, Police Rules, 1934 cannot prevail over the same.

(b) Civil service---

--- Termination of service---Appeal---Question of limitation---If question of limitation taken by the competent Authority was for other civil servants, relief could not be declined to respondents.

Muhammad Muddin, Additional Advocate-General and Miss W. M. Khan, Petitioner.

M. A. Khan, Advocate-on-Record for Respondents.

Date of hearing: 8th July, 1999.

ORDER

MAMOON KAZI, J.---The respondents were appointed Assistant Sub-Inspectors in 1995. They were sent for training to Police Training Centre, Saeedabad and after they had successfully completed their training, they were posted at different police stations. However, before the respondents could complete their initial probation period they were discharged from service under Rule 12.8 incorporated in the Police Rules, 1934. The respondents filed their respective departmental appeals and subsequently they filed their appeals before the Tribunal.

2. The respondents were ordered to be reinstated in service by the Tribunal as it found that no show-cause notice had been served upon the respondents before termination of their services by the Deputy Inspector-General of Police and neither any departmental inquiry had been held in their case nor any opportunity of personal hearing had been provided to the respondents. The orders whereby their services were terminated, were also found to be nonspeaking orders and the entire action was found to be in violation of the terms contained in section 24-A of the General Clauses Act, introduced in the said Act vide Act XI of 1997. The said section lays down that where power is conferred on any authority, it shall be exercised reasonably, fairly and justly and such authority would be required to state reasons for making any order or issuing any direction while exercising such power.

3. Mr. Ainuddin, learned Additional Advocate-General has argued that the respondents were discharged within the period of their probation as they were found to be unsuitable for service and such action was warranted under rule 12.8 of the Police Rules, 1934. It was further contended that no appeal was competent against such action. The appeals filed by respondents Muhammad Hussain and Abdul Majeed before the Tribunal, according to him, were also premature as the said respondents failed to wait for ninety days as required by section 4 (a) of the Service Tribunals Act, before filing their appeals before the Tribunal.

4. We, however, find no force in any of the said contentions. Rule 12.8 under which action has been purportedly taken, provides as follows:-----

"12.8. Inspectors, Sargents, sub-inspectors and assistant sub-inspectors, who are directly appointed will be considered to be on probation for three years and are liable to be discharged at any time within the period of their probation if they fail to pass the prescribed examinations, including the riding test, or are guilty of grave misconduct or are deemed for sufficient reason, to be unsuitable for service in the Police. A probationary inspector shall be discharged by the Inspector-General, and all other upper subordinates by Range Deputy Inspector-General, Assistant Inspector-General, Government Railways Police, and Assistant Inspector-General, Provincial Additional Police (designated as Commandant, Provincial Additional Police). No appeal lies against an order of discharge.

(2) The pay admissible to a probationary inspector, sargent, sub-inspector or assistant sub-inspector shown in Appendix 10.64, Table A."

aid rule no doubt indicates that officers referred to in the said rule are to be considered as probationers during the first three years of their appointment and they can be discharged from service during such period for any of the reasons mentioned in the said rule and no appeal would lie against an order of discharge. But evidently this is not a case of simpliciter discharge. Reports submitted by the Superintendent of Police to the Deputy Inspector-General indicate that serious allegations of misconduct were attributed to the respondents. If such allegations entailed their removal from service, the respondents were entitled to a show cause notice and an opportunity to, defend

themselves against the proposed action. Furthermore, no doubt rule 12.8 lays down that the officer against whom action is taken under the said rule shall not have any right of appeal, but the respondents being civil servants, they are governed by provisions of the Servants Act, 1973. The right of departmental appeal being provided to the civil servants under the relevant rules, the provisions of rule 12.8 cannot prevail over the same. Therefore, interference with the order of the Tribunal on the point is not warranted under the law.

5. So far as the question of limitation taken by the learned Additional Advocate-General in the case of respondents Muhammad Hussain and Abdul Majeed is concerned, even if we agree with him that the appeals respectively filed by the respondents before the Tribunal were premature, but if similar action taken by the competent Authority is found to be untenable in the case of other respondents, relief cannot be declined to respondents Muhammad Hussain and Abdul Majeed on this technical ground.

6. The upshot of the discussion is that the order passed by the Service Tribunal does not appear to be open to exception under the circumstances of the case. We are, therefore, clearly of the view that interference with the judgment of the Tribunal is not warranted.

7. In the result, the petitions are dismissed and leave is refused.

M.B.A./G-48/S

Petitions dismissed.

03.03.2017

Clerk to counsel for the appellant and Mr. Shah Jehan, SI alongwith Assistant AG for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 07.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

07.06.2017


None present on behalf of the appellant. Mr. Shah Jehan, ASI alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Notice be issued to appellant and his counsel for attendance for 09.10.2017 before D.B.



(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

09.10.2017


Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Jehan, S.I for the respondents also present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourn. To come up for rejoinder and arguments on 18.12.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

18.12.2017

Appellant in person and Mr. Muhammad Jan, DDA alongwith Shah Jehan, SI(L) for the respondents present. Learned counsel for the appellant is not in attendance. To come up for arguments on 19.02.2018 before the D.B.


Member


Chairman

40/16

31.05.2016

Agent of counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 29.06.2016 before S.B.


Chairman

29.6.2016

Appellant in person and Mr. Shah Jehan, ASI alongwith Addl. AG for the respondents present. Written reply submitted. Cost of Rs. 500/- paid and receipt obtained from the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 01.11.2016.


Chairman

01.11.2016

Counsel for the appellant and Assistant AG for respondents present. Rejoinder not submitted. Learned counsel for the appellant requested for adjournment. Request accepted. To come up for rejoinder and arguments on 3.3.17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

25.1.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Investigation Officer when an FIR under sections 302 PPC was registered on 4.1.2015 at PS Tangi against unknown accused. That the appellant including others were subjected to inquiry and vide order dated 16.9.2015 appellant was awarded punishment of withholding one increment where-against appellant preferred departmental representation which was decided by RPO vide order dated 30.11.2015 converting and enhancing the punishment to that of reduction in pay by two stages in the same time scale of pay and hence the present appeal on 28.12.2015.

Appellant Deposited
Security & Process Fee

That the appellant was neither guilty nor inefficient in discharge of his duty and that the inquiry was not conducted in the prescribed manners and penalty imposed by the respondents is against facts and law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 30.3.2016 before S.B.


Chairman

30.03.2016

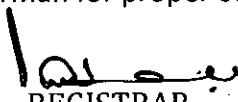

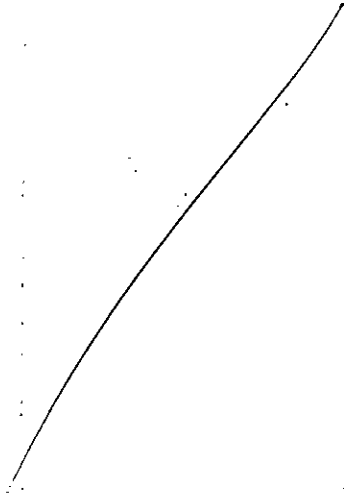
Appellant in person and Assistant A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 31.5.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 40/2016 _____


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08.01.2016	<p style="text-align: center;">The appeal of Mr. Masood Khan resubmitted today by Mr. Naveed Akhtar Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>25-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Masood Khan son of Abdul Manan r/o Zargar Abad Charsadda received to-day i.e. on 28.12.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Copy of statement of the appellant mentioned in para-7 of the memo of appeal (Annexure-C) is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal be annexed serial wise as mentioned in the memo of appeal.
- 4- Copy of impugned order dated 30.11.2015 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.

No. 2021 /S.T,

Dt. 28/12 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Naveed Akhtar Adv. Pesh.

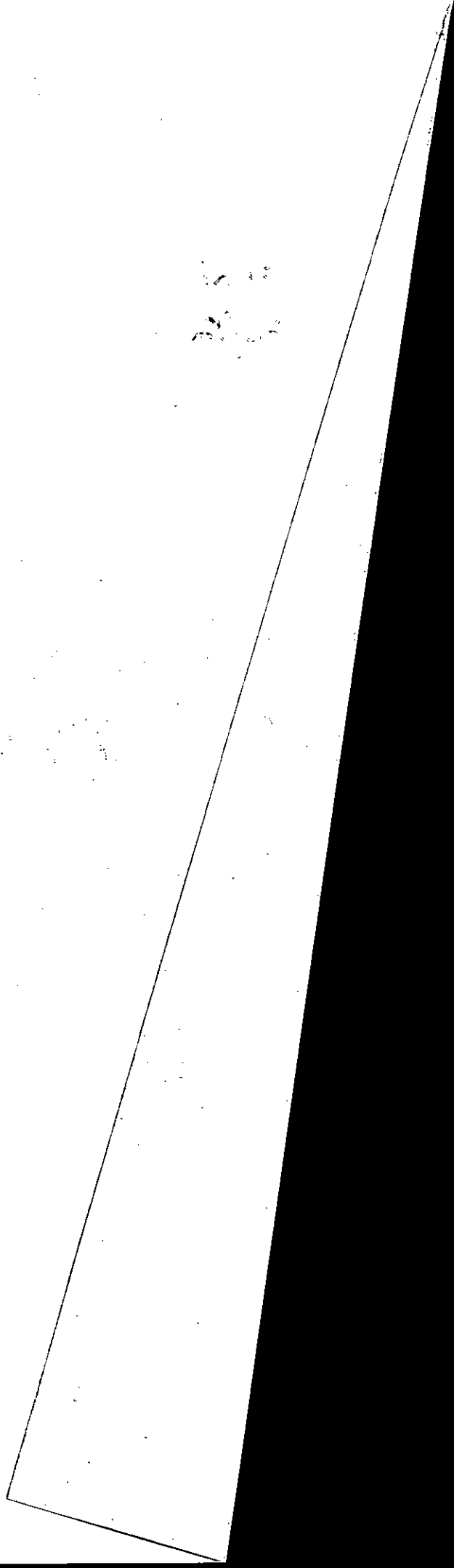
D/ Sir

Resubmitted After the necessary completion.


8.1.16

1/5/02

1/5/02



IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. 40 /2016

Mr. Masood Khan..... **Appellant**

V E R S U S

The Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department,
and others..... **Respondents**


I N D E X

S.No	Description of Documents	Annex	Pages
1.	Copy of Appeal		1---5
2.	Affidavit		0---6
3.	Addresses of Parties		0---7
4.	Copy of FIR	"A"	0---8
5.	Copy of Daily Diary No.	"B"	0---9
6.	Copies of the inquiry and suspension order	"C-D"	10---12
7.	Copy of Charge Sheet	"E & F"	13---14
8.	Copy of the final Show Cause and reply	"G & H"	15---22
9.	punishment of stoppage of one annual increment	"I"	23---24
10.	Copy of departmental representation	"J"	25
11.	Copy of the explanation order dated 09.10.2015	"K"	26
12.	Copy of suspend operation of the letter/order	"L"	27---28
13.	Copy of the petition alongwith order dated 17.12.2015	"M"	29---31
14.	Copy Impugned Order dated 30.11.2015		32
15.	Wakalat Nama		33


Appellant

Through

Date: ___/___/2015


Naveed Akhtar
Advocate Supreme Court
Cell: 0290-9596181

IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. 40 /2015

N.W.F. Province
Service Tribunal
Diary No. 1532
Dated 28/12/2015

Mr. Masood Khan S/o of Mr. Abdul Manan
R/o Zargar Abad, Charsadda **Appellant**

VERSUS

1. The Government of Khyber Pakhtunkhwa, Through Secretary Home and Tribal Affairs Department, Peshawar
2. The Inspector General of Police, Khyber Pakhtunkhwa, Central Police Office, Peshawar
3. The Regional Police Officer/DIG Mardan.
4. The District Police Officer, Charsadda..... **Respondents**


APPEAL U/S 4 OF THE SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 30.11.2015 WHEREBY ON DEPARTMENTAL REPRESENTATION BY THE PETITIONER THE MINOR PUNISHMENT OF STOPPAGE OF 01 ANNUAL INCREMENT WITHOUT ACCUMULATIVE EFFECT WITH WARNING WAS ENHANCED TO MAJOR PENALTY I.E., "REDUCTION IN PAY SCALE BY TWO STAGES IN SAME TIME SCALE OF PAY".

Filed to-day
Registrar
28/12/15

re-submitted to-day
and filed.
Registrar
8/1/16.

Respectfully Sheweth:

1. That the petitioner is serving as Sub Inspector in the Police Department at Charsadda.
2. That the petitioner was posted in Police Station Tangi when an FIR was lodged about an unseen occurrence under Section 302 PPC ON 4-1-2015. Copy of FIR is Annexure-"A".
3. That the petitioner on the date of occurrence was on leave and another official namely Noor Ali SI was officiating as Chief Investigation Officer. Copy of the Daily Diary No. 14 dated 03.01.2015 is Annexure-"B".
4. That the said Noor Ali SI was appointed as Investigation Officer in the said case while the appellant never remained associated with Investigation of the case.
5. That on certain complaints regarding lacunae in the investigation, the office of Worthy Respondent No. 2 directed an inquiry to be conducted under intimation to his office and the appellant was put under suspension. Copies of the inquiry and suspension order are Annexure "C & D". Respectively.
6. That an inquiry officer was appointed and the appellant was issued charge sheet alongwith statement of allegations. Copies thereof are Annexure "E & F".

7. That the appellant submitted his statement to the inquiry officer. 
8. That thereafter the appellant was issued final show cause notice by Respondent No. 4 which was replied by the appellant. Copy of the final Show Cause and reply thereof are Annexure "G & H".
9. That worthy Respondent No. 4 then passed an order imposing minor punishment of stoppage of one annual increment without accumulative effect and strictly warned the appellant to be careful in future. Copy of the order is Annexure "I".
10. That against the said punishment the appellant filed a departmental representation before the Worthy Respondent No. 3. Copy of the same is Annexure "J".
11. That in the meanwhile the Respondent No. 2 on receipt of the proceedings called for the explanation of Respondent No. 4 with a further direction to Respondent No. 3 to enhance the punishment awarded to the appellant. Copy of the order dated 09.10.2015 is Annexure "K".
12. That the appellant assailed the said order before the Honourable High Court Peshawar vide the Writ Petition No. 3961-P/2015 wherein the Honourable Peshawar High Court was pleased to suspend operation of the letter/order of Respondent No. 2

dated 09.10.2015 vide the order dated 26.11.2015. Copy of order dated 26.11.2015 is Annexure "L".

13. That inspite of the order dated 26.11.2015, the Respondent No. 3 passed the impugned order dated 30.11.2015 by enhancing the punishment awarded to the appellant. That thereafter the appellant's petition became infructuous and the same was disposed off. Copy of the petition alongwith order dated 17.12.2015 is Annexure "M".
14. That the appellant files the instant appeal inter-alia on the following grounds.

GROUND S:

- A. That the impugned order dated 30.11.2015 is against the law and facts on the file.
- B. That the appellant has been vexed twice for an offence which has not been proved against him.
- C. That the appellant was never an Investigation Officer in the case.
- D. That when the departmental representation of the appellant was pending, the order dated 09.10.2015 by Respondent No. 2 was un-warranted under the law.
- E. That the order dated 30.11.2015 has been passed without issuing the appellant a Show Cause Notice, rather the same has been passed on the direction of the higher authority i.e. Respondent No. 2.

- F. That nothing has been proved against the appellant in the inquiry and the impugned punishments both awarded by the Respondent No. 4 & 3 respectively are not sustainable under the law.
- G. That no opportunity of hearing was given to the appellant before passing the impugned order.
- H. That since the appellant was not associated with investigation in the case in any manner, therefore, no question of awarding punishment to the appellant arises.
- I. That appellant may kindly be allowed to bring additional documents/arguments at the time of hearing of the instant appeal.

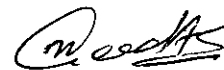
It is, therefore, humbly prayed that on acceptance of the instant appeal impugned order dated 30.11.2015 and the order of Respondent No. 4 may kindly be set aside and the appellant may kindly be exonerated from all the liabilities in the case.

Any other order / relief deemed proper and appropriate by this Honourable Tribunal, in circumstances of the case, may kindly be passed as well.



Appellant

Through

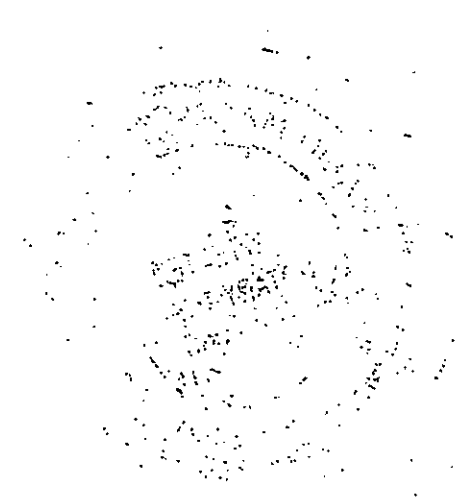


Naveed Akhtar

Advocate Supreme Court

Date: 28/12/2015

4



IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

Mr. Masood Khan..... **Appellant**

VERSUS


The Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department,
and others..... **Respondents**

AFFIDAVIT

I Mr. Masood Khan S/o of Mr. Abdul Manan Resident of Zargar Abad, Charsadda do hereby solemnly affirm and declare on oath that contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


DEPONENT

Identify by


Naveed Akhtar
Advocate Supreme Court



IN THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

ADDRESSES OF PARTIES

Mr. Masood Khan S/o of Mr. Abdul Manan
Resident of Zargar Abad, Charsadda **Appellant**

V E R S U S

1. The Government of Khyber Pakhtunkhwa
Home and Tribal Affairs Department, Peshawar
2. The Inspector General of Police,
Secretary Khyber Pakhtunkhwa,
Central Police Office, Peshawar
3. The Regional Police Officer/DIG
Mardan.
4. The District Police Officer,
Charsadda.....**Respondents**


Appellant

Through


Naveed Akhtar
Advocate Supreme Court

Date: 28/12/2015

ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 153 مجموعہ ضابطہ نو جداری

ضلع حارسوہ

تھانہ _____

تاریخ 13/05/2015 وقت 03:17-00

نمبر 13

1	تاریخ وقت رپورٹ 04/15/15 وقت 16-20
2	نام سکونت اطلاع دہندہ دستغیب حسین خان ولد یاشم خان ساکن احمد آباد تنگی
3	مختصر کیفیت جرم (مدد فہ) حال اگر کچھ لیا گیا ہو APC 302
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت ارا حیات ازان صاحب اداگان نزد ناہر باغ گل شہر بلہ نظام 2 محلہ
5	نام سکونت ملزم
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو
7	تھانہ سے روانگی کی تاریخ و وقت

ابتدائی اطلاع نیچے درج کرو۔

بھوڑ شاہ برہتہ سٹیبل آفیسر 66 موصول ہو کر ذیل کے خدمت 540 صحت تھانہ تنگی دوران جو باہل گشت سے لوری کو لے کر لے کر سول سٹیبل تنگی آیا۔ یہ لوری تنگی میں لٹش مقبول ازان مراد خان ولد یاشم خان نمبر 37/33 سال جو چھپا کر قوم افغان ساکن احمد آباد نہر باغ گل شہر بلہ تنگی پانچ لٹش کے ساتھ برادر آتش حسین خان نمبر 17/18 سال موجود پانچ لڑکیوں رپورٹ کرتا ہے کہ برادر آتم مقبول مراد خان گل چھپ کر خود سے نکل کر لڑکیوں رپورٹ کیا تھا کہ میں لڑکیوں لے کر چلے گی شہرہ جارہوں۔ آتم اطلاع ملی کہ برادر آتم مراد خان ارا حیات بالہ مقبول شہرہ لڑکی جو آتم دیکھا۔ تو واقعی برادر آتم کو کسی ملزم / ملزمان اسم دستگ سے اسلم کر دیا ہوں۔ ملزم کیوں پر کسی ملزم / ملزمان کے خلاف دوہرہ پوری کرنا ہے۔

رپورٹ بلا آئی تاہم پوری کھار دہائی کو لے کر صاحب لنگرہ مسائل رپورٹ پر 8 سالہ پورک پڑھ کر سنایا سمجھا گیا۔ درہتہ تعلیم کرنے زبیر رپورٹ اور تاہم لنگرہ سے اللہیات تہمت کھلی۔ جسکی میں لنگرہ لڑکیوں: مقبول کا کاغذ ان صورت کے لفظوں 20-04 رپورٹ زبیر حیات لنگرہ سٹیبل پر 15/04/2015 حوالہ آن ڈیوٹی ڈاکٹر صاحب کیا گیا۔ مقبول رپورٹ سے صورت سٹیبل رپورٹ اطلاع دی جاتی ہے۔ تفتیش کا بندوبست کیا جائے۔ زبیر ان بالہ لفظوں تھانہ تنگی فورم 15/04/2015 کارروائی تھانہ آدرہ لوری کی تہمتی تفتیش لگ جائے گی۔ صاحب SHO لیا جائے کہ FIR سے مراد اسلم نکل اہل لڑکیوں تفتیش جو اللہیات تفتیش لگ جائے گی۔ صاحب SHO صاحب دراندہ گشت دے لے۔ اٹھو اور انسران بالہ تو لہو سٹیبل رپورٹ اطلاع دی جائے گی۔

P.S Tangi
04-01-15

Amour & Co

OFFICE OF THE
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

10

No. 511-13 / 111 dated 11.08.2015.

To: The District Police Officer,
Charsadda.

Subject:- CASE FIR NO. 13 DATED 04.1.2015 U/S 302-PPC 25 Yansai Charsadda.

Enclosed please find herewith a copy of letter No. 9046-49/PPO, dated 11.8.2015 alongwith inquiry report of Addl: IG/Investigation on the subject-matter. Upon perusal the IG has passed the following remarks:

- Officers are placed under suspension.
- Competent authority to issue them SCM for major penalty and to finalize by 02.09.2015.

It is therefore, requested that departmental enquiry may be initiated against the defaulter officers in light of Addl: IG Inv: enquiry report. Out come of the enquiry may be communicated to this office before target date please.

(SYED FIDA HASSAN SHAH)
AIG/Establishment,
For Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. / dated

Copy to the:-

1. DIG/E&I, Khyber Pakhtunkhwa, Peshawar for information w/r to above quoted reference please.
2. DIG Mardan Region, Mardan.

HC
For further intimation
and compliance see
report
12/10/2015

AKHSD
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AKHSD
To be true copy
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Better Copy

(10)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR

Dated 11.08.2015

To,

The District Police Officer,
Charsadda

Subject: CASE FIR NO.13 DATED 04.01.2015 U/S 302-PPC
PS TANGI, CHARSADDA.

Enclose please find herewith a copy of letter No.9046-49/PPO, dated 11.08.2015 alongwith inquiry report of Addl: IG/Investigation on the subject matter. Upon perusal the IGP has passed the following remarks:

- Officers are placed under suspension
- Competent authority to issue them SCN for major penalty and to finalize by 02.09.2015.

It is therefore, request that departmental enquiry may be initiated against the defaulter in light of Addl: AGP Investigation enquiry report. Out come of the enquiry may be communicated to this office before target date please.

Syed Fida Hussain Shah
AIG/ Establishment
Fro Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

No. _____ dated _____

Copy to the:

1. DIG/E&I, Khyber Pakhtunkhwa, Peshawar for information w/r to above quoted reference please.
2. DIG Mardan Region, Mardan.

AH-SJW
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Ammlr. «D»

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OFFICE OF THE
THE INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA,
Central Police Office, Peshawar

No. 9046-49 /PPC

dated: 11-08-2015

To: The Deputy Inspector General of Police,
Enquiry & Inspection,
Khyber Pakhtunkhwa, Peshawar.

The AIG/Establishment,
C.P.O, Peshawar

Subject: Case FIR No. 13 dated: 04.01.2015 u/s 302-PPC PS Tanzi Charsadda

Dear Sir,

Please find enclosed herewith a complete enquiry report received from
Addl: IGP/Investigation Khyber Pakhtunkhwa regarding the above mentioned subject.

After perusal, the Police Chief Khyber Pakhtunkhwa has recorded the
remarks reproduced below:-

"Officers are placed under suspension.

-Competent authority to issue them SCN for major penalty & to finalize
by 02.09.2015."

(Principal Staff Officer)
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar

C.C:

- i. The W/IGP Khyber Pakhtunkhwa for favour of information please
- ii. The Addl: IGP/Investigation, Khyber Pakhtunkhwa

Ammlr.
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Ammlr.
(11)

LACUNAS NOTICED IN THE INVESTIGATION OF LOCAL I.Os NOOR ALI KHAN AND MASOOD KHAN

- i. The I.O produced the accused before the court for obtaining Police custody on the same day when the S/O arrested him. The Court granted one day Police custody of the accused and thus the I.O could not interrogate the accused thoroughly. He must know that legally Police can detain an accused for 24 hours in the custody. He should have sought his Police custody on the following day for in depth interrogation and to dig out the facts.
- ii. He did not bother for the search of weapon of offense i.e. 30-bore pistol, which the accused disclosed to have thrown in the fields after the occurrence.
- iii. The I.O did not record statements of the heirs of deceased.
- iv. He did not send the recovered empties to FSL for analysis.
- v. He did not take into possession the disputed Qingqi Motorcycle.
- vi. Both SI Noor Ali Khan and SI/OI Masood Khan failed to investigate the case properly.

In the light of above, SI Noor Ali Khan and SI Masood Khan are recommended for departmental action. Local Police may be directed to incorporate proceedings of this unit on case file.

Submitted please.

[Handwritten signature]
SSP Investigation CPO

DIG/HQRS./INVESTIGATION

[Handwritten signature]
17/10/06

W/Addl:IGP/investigation

[Handwritten signature]
All-see
Ca

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All-see
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Annex E

13

CHARGE SHEET UNDER KPK POLICE RULES 1975

I SHAFIULLAH KHAN, District Police Officer Charsadda, as competent authority hereby charge you SI Masood Khan in connection.

That you SI Masood Khan while posted as CIO at Police Station Tangi, was conducting investigation in case FIR No.13 dated 04.01.2015 u/s 302 PPC PS Tangi. During enquiry conducted by Worthy Additional Inspector investigation KPK the following lacunas noticed in your investigation.

1. That the I.O produced the accused before the court for obtaining Police Custody on the same day when the SHO arrested him. The court granted one day Police custody of the accused and thus the I.O could not interrogate the accused thoroughly. You must know that legally police can detain an accused for 24 hours in the custody. You should have sought his police custody on the following day for in depth interrogation and to dig out the facts.
2. That you did not bother the search of weapon of offence i.e 30-bore pistol, which the accused disclosed to have thrown in the fields after the occurrence.
3. That the I.O did not record statements of the heirs of deceased.
4. That you did not send the recovered empties to FSL for analysis.
5. That you did not take into possession the disputed Qingqi Motor Cycle.
6. That you both investigating officers of the case failed to investigate the case properly.

This shows your inefficiency, lack of interest in the performance of your official duty.

This amounts to grave misconduct on your part, warranting Departmental action against you as defined in section-6(I) (a) of the KPK Police Rules 1975.

1. By reason of the above, you appear to be guilty of misconduct under section 02(III) of the KPK Police Rules 1975 and has render your self liable to all or any of the penalties as specified in section 04 (I) a & b of the said rules.
2. You are therefore, directed to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.
3. Your written defense, if any should reach to the enquiry officer within the specified period, in case of failure, it shall be presumed that you have no defense to put-in and in that case an ex-parte action shall follow against you.
4. Intimate, whether you desired to be heard in person.

[Signature]
District Police Officer,
Charsadda

[Signature]

[Signature]



Government of Khyber Pakhtunkhwa
Office of the District Police Officer
Charsadda

DISCIPLINARY ACTION UNDER KPK POLICE RULES -1975

I, Shafiullah Khan, District Police Officer Charsadda, as competent authority am of the opinion that SI Masood Khan has rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of section -02 (iii) of KPK Police Rules-1975.

STATEMENT OF ALLEGATIONS

That he SI Masood Khan while posted as CIO at Police Station Tangi, was conducting investigation in case FIR No.13 dated 04.06.2015 u/s 302 PTC PS Tangi. During enquiry conducted by Worthy Additional Inspector investigation KPK the following lacunas noticed in his investigation.

1. That the I.O produced the accused before the court for obtaining Police Custody on the same day when the SHO arrested him. The court granted one day Police custody of the accused and thus the I.O could not interrogate the accused thoroughly. He must know that legally police can detain an accused for 24 hours in the custody. He should have sought his police custody on the following day for in depth interrogation and to dig out the facts.
2. That he did not bother the search of weapon of offence i.e 30-bore pistol, which the accused disclosed to have thrown in the fields after the occurrence.
3. That the I.O did not record statements of the heirs of deceased.
4. That he did not send the recovered empties to FSL for analysis.
5. That he did not take into possession the disputed Qingqi Motor Cycle.
6. That they both investigating officers of the case failed to investigate the case properly.

This shows his inefficiency, lack of interest in the performance of his official duty. This amounts to grave misconduct on his part, warranting Departmental action against him.

For the purpose scrutinizing the conduct of the said official Mr. Raza Muhammad Khan DSP Charsadda is hereby deputed to conduct proper departmental enquiry against the aforesaid official, as contained in section -6 (1) (a) of the afore mentioned rules. The enquiry officer after completing all proceedings shall submit his verdict to this office within stipulated period of (10) days. SI Masood Khan is directed to appear before the enquiry officer on the date, time and place fixed by the later (enquiry officer) a statement of charge sheet is attached herewith.

[Signature]
District Police Officer,
Charsadda

No. 8638-41 /HC, dated Charsadda the 17

Copies for Information to the:

1. Worthy Inspector General of Police, Peshawar
2. Worthy Deputy Inspector of Police, Mardan
3. Mr. Raza Muhammad Khan DSP Charsadda
4. SI Masood Khan (Police Station Charsadda)

[Signature]
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[Signature]
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Annul. "G"
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FINAL SHOW CAUSE NOTICE

Whereas, the charge of negligence, lack of interest was referred to enquiry officer for General Police Proceedings, contained u/s 5(3) Police Rules 1975.

AND

Whereas, he enquiry officer has submitted his findings, recommending you for Minor punishment.

AND

Whereas, I am satisfied with the recommendation of the enquiry officer That you SI Masood Khan while posted as CIO at Police Station Tangi, was conducting investigation in case FIR No.13 dated 04.01.2015 u/s 302 PPC PS Tangi. During enquiry conducted by Worthy Additional Inspector investigation KPK the following lacunas noticed in your investigation.

1. That the I.O produced the accused before the court for obtaining Police Custody on the same day when the SHO arrested him. The court granted one day Police custody of the accused and thus the I.O could not interrogate the accused thoroughly. You must know that legally police can detain an accused for 24 hours in the custody. You should have sought his police custody on the following day for in depth interrogation and to dig out the facts.
2. That you did not bother the search of weapon of offence i.e 30-bore pistol, which the accused disclosed to have thrown in the fields after the occurrence.
3. That the I.O did not record statements of the heirs of deceased.
4. That you did not send the recovered empties to FSL for analysis.
5. That you did not take into possession the disputed Qingqi Motor Cycle.
6. That you both investigating officers of the case failed to investigate the case properly.

This shows your inefficiency lack of interest in the performance of your official duty, thus the act amounts to gross misconduct and renders you liable for punishment, under Police Rules 1975.

Therefore, I, Shafiullah Khan, District Police Officer, Charsadda in exercise of the powers vested in me under rules 5(3) (a) (b) of Police Rules 1975, call upon you to explain as to why the proposed punishment may not be awarded to you.

Your reply should reach the undersigned within 07-days of receipt of this notice, failing which ex-parte action will be taken against you.

You are at liberty to appear in person before the undersigned for personal hearing.

Dated 09/09/2015

Shafiullah Khan

Shafiullah Khan

Shafiullah Khan
District Police Officer,

Handwritten signature or name at the top right.

فائل رپورٹ

مقدمہ علت 13 مورخہ 2015.1.4.74.302 تہ سپ تھانہنگی ضلع چارسدہ۔
اول خان عرف ولی خان ولد سید رحمان ساکن گل آباد تنگی چارسدہ۔

جناب عالی

بحوالہ چھٹی انگریزی نمبری 725-27/R/ive;Hqr: مورخہ 19.3.2015 مقدمہ عنوان بالا بعد منظوری پورہ

ذریعہ آرٹیکل (6) 18 پولیس آرڈر 2002 برائے ری انوسٹی گیشن یونٹ ہذا منتقل ہو کر مقدمہ کی تفتیش زیریگرانی محمد اجمل خان DSP صاحب، انسپٹر محمد غلام خان، سب انسپٹر محمد آواز خان مارک ہو کر فائل ملاحظہ شد۔ مورخہ 19.1.2015 کو مسماہ یاسمین زوجہ ہاشم خان سکند احمد آباد نہر غاڑہ تنگی ضلع چارسدہ نے جناب آئی جی پی صاحب خیر بختون خواہ پشاور کو بمضمون ذیل درخواست گزارہ کی ہے۔
بخدمت جناب آئی جی پی صاحب خیر بختون خواہ پشاور۔

درخواست برادر انگریزی کراٹمز برانچ انوسٹی گیشن مقدمہ علت 13 مورخہ 2015.1.4.74.302 تہ سپ تھانہنگی۔

جناب عالی سائلہ عرض رساں ہے۔

۱۔ سائلہ کہتی ہیں مراد خان ولد ہاشم خان کوٹلزم اول خان عرف ولی نے مقدمہ عنوان بالا میں بے وردی سے قتل کیا ہے اور سائلہ کے بیٹے رپورٹ بالا درج کی ہے۔

۲۔ سائلہ و ذوال سے چیخ و پکار رہی تھی کہ سائلہ کے بیٹے کوٹلزم نے اپنے رقم پر قتل کیا ہے اور کوٹلزم نے مقامی پولیس کے سامنے تسلیم بھی کیا ہے۔

۳۔ سائلہ ایک غریب خاندان سے تعلق رکھتی ہے اور کوٹلزم بااثر افراد میں شمار ہوتا ہے جس نے کئی رقم مقامی پولیس کو دیکر مقدمہ بالا کی قسمن و قسمن لگ کر تباہ و برباد کیا ہے۔

۴۔ سائلہ کے گھر میں دوسرا برادری والا نہیں ہے بلکہ صرف مقتول مراد کی کمانی سے ہم گزارہ کرتے تھے۔

لہذا استدعا ہے کہ انکو انگریزی انوسٹی گیشن کراٹمز برانچ مقدمہ بالا میں صحیح تفتیش کرنے کا حکم صادر فرمایا جائے۔

سائلہ یاسمین زوجہ ہاشم خان ساکن احمد آباد نہر غاڑہ تنگی ضلع چارسدہ

شخصی کارڈ نمبر 4-3331068-17102-3384-2503384-0301 موبائل 0346-3026948

ابتدائی اطلاعی رپورٹ کا مختصر خلاصہ یہ ہے کہ برادر مقتول مدعی مقدمہ نیب خان نے مورخہ 4.1.2015 کو بختور شاہ ASI کو موقع و اوقات پر رپورٹ کی کہ برادر اش مشمول مراد خان گل صبح گھر سے نکل کر بغرض لینے چنگی جی شہد ر جانے کا کہا تھا آج اُسے اطلاع ملی کہ برادر اش مراد خان اراخیات صاحبزادگان نزدنا صر بانگے کلبے شوبلہ میں قتل شدہ پڑا ہے۔ موقع جا کر تو واقعی برادر اش کو ہی کوٹلزم / مژمان اسم و مسکن نامعلوم نے اسلحہ آتشیں سے فائر کر کے قتل کیا۔ کسی کے ساتھ دشمنی یا ابدی بیان نہیں کی ہے۔ معلومات کے پرمویداری کریگا۔ بختور شاہ ASI کے مراسم پر مقدمہ درج رجسٹر ہوئی۔ تفتیش مقدمہ شہدہ تفتیش کے حوالہ ہو کر نور علی خان نیب انسپٹر تھانہنگی نے مقدمہ میں تفتیش کا آغاز کیا۔

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18-11-11

18-11-11

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18-11-11

تفتیش مقامی پولیس۔

نوٹری خان سب انسپکٹر انوشی گمشدہ نے تفتیش کرتے ہوئے موقع پا کر حسب نشاندہی مدعی مقدمہ ملاحظہ موقع کر کے نقشہ موقع
پا سٹیل مرتب کیا۔ قح ادارات سے قدرے مٹی خون آلود ایک عدد خول کا تو س 30 یور تازہ چلیدہ اٹھا کر بروئے فرد قبضہ پولیس
کر کے بند بہ پارسل سر بہ مہر کی۔ اسی طرح پارچات خون آلود ازاں مقتول قبضہ میں لیکر بند بہ پارسل سر بہ مہر کی۔ قح ادارات سے قدرے مٹی
مرتب کی ہے۔ ASI بختور شاہ نے نقشہ مقتول کے پارچات زیب تن سے بھی بہ تفصیل ذیل اشیاء برآمد کر کے قبضہ میں لیے ہیں۔
۱۔ ایک عدد موبائل سیٹ چائنا سم نمبری 0300-9358967 برنگ سیاہ ۲۔ شیاخی کارڈ 17102-6433141
۳۔ سید چار سدو چنگ جی موٹر سائیکل نمبر 852 بیام آفتاب خان ولد احمد جان سکندہ نصرت زکی شہید رانجن نمبر 135258 سال
2012 دو قطعات ۴۔ سرحد آٹو موبائل چنگ جی رسید نمبر 343,9190 پلام چنگ جی موٹر سائیکل نمبر 852 بیام آفتاب خان ولد مراد خان
سکندہ بازہ شہید رانجن نمبر 178106 سال 2015 جس پر گولی کے لگنے کے کٹ کے نشانات موجود ہیں۔ ۵۔ ناخن کاٹ چھوٹا سا
۶۔ دیگر کارڈ زجن بر نمبرات لکھے ہوئے ہیں۔ اشیاء بند بہ پارسل سر بہ مہر کی ہیں۔ موبائل سم نمبر 0300-9358967 ازاں
مقتول مراد خان کے CDR حاصل کرنے کے لیے تفتیش افسر نے درخواست تحریر کر کے مشل پر نقل درخواست موجود ہے۔
گواہان فردات متبوتگی کے بیانات زیر دفعہ 161 ضف قلمبند کیے ہیں۔ اشیاء قبضہ پولیس خون آلود برائے رائے ماہران
FSL چھوٹا کر رائے FSL مثبت میں موصول ہوا ہے۔ مورخہ 8.1.2015 کو سہ ماہہ شہانہ بیہ مراد خان مقتول کا بیان زیر دفعہ
161 ضف قلمبند کرنے کے جس نے اپنے خاوند کے قتل کی دعویٰ داری اول خان عرف ولی خان ولد سید رحمان ساکن گل آباد گل پر کرتے
ہوئے مذکورہ کا بیان عدالت مجاز میں زیر دفعہ 164 ضف قلمبند کروایا ہے۔

مورخہ 10.1.2015 کو بوقت 08:00 بجے 09:00 بجے حیدر خان SHO تھانہ گلشن نے ملزم گرفتار کر کے اس
بارے میں SHO نے ضمنی نمبر 4 مختصر تحریر کیا ہے۔ کارڈ گرفتاری جاری کیا۔ تفتیشی افسر نے ملزم کو مورخہ 10.1.2015
کو بوقت 09:15 بجے تھانہ سے برائے راست پولیس 14 یوم نو ذعدالت میں پیش کرتے ہوئے تھانہ ایک یوم حراست پولیس
حاصل کی۔ جس نے ملزم کو انٹرویو کرتے ہوئے مختصر انٹرویو گیشن اپنی ضمنی رپورٹ میں تحریر کرتے ہوئے ملزم نے اعتراف جرم
کے لیے تفتیشی افسر نے ملزم کو موقع واردات لے جا کر جس نے موقع واردات کی نشاندہی کرتے ہوئے وقوعہ کو تسلیم کیا۔ فرزند شاہد ہی
بر موقع موجودگی گواہان مرتب کی ہے۔ بیان ملزم زیر دفعہ 161 ضف قلمبند کیا ہے۔ جو کہ برآمدہ ہے گواہان فرد نشاندہی
ملزم قلمبند شدہ زیر دفعہ 161 ضف پولیس کی ڈیڑھ سے اراختیات میں پچھانکار بیان کیا ہے۔ جو کہ برآمدہ ہے گواہان فرد نشاندہی
کے بیانات زیر دفعہ 161 ضف قلمبند کیے ہیں۔ ملزم کو برائے قلمبندی بیان مورخہ 11.1.2015 کو مجاز عدالت میں پیش کر کے
جو کہ ملزم منحرف ہو کر حوالات جوڈیشل چھوایا گیا ہے۔ مقتول مراد خان کے موبائل نمبر کا CDR حاصل کردہ کے مطابق ملزم اول خان
نے مورخہ 3.1.2015 کو مراد خان مقتول کے ساتھ باقاعدہ رابطہ کیا ہے۔ اور اسی طرح حلیم خان نے بھی اپنے موبائل نمبر سے
اسی تاریخ کو مراد خان کے ساتھ بوقت 09:14 بجے بات چیت کی ہے۔ مقدمہ میں تفتیش کی تکمیل پر تفتیشی افسر نے مشل مقدمہ
SHO حیدر خان تھانہ گلشن نے مورخہ 13.1.2015 کو ملزم اول خان کے خلاف چالان مکمل دیا جا چکا ہے۔

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ریگرنی محمد اجمل خان DSP صاحب انسپکٹر محمد غلام خان اور محمد آریاز خان سب انسپکٹر نے ری انٹیلیجنس کرتے ہوئے یہی فرصت میں موقع جا کر موجودگی حسب نشاندہی مدنی مقدمہ منیب خان، انوشی گیشن افسر نور علی خان سب انسپکٹر مسعود خان سب انسپکٹر ملاحظہ موقع کرتے ہوئے۔ دوران ملاحظہ موقع واردات سے ایک عدد خوں کار توں رنگ آلود برآمد ہو کر بندہ پارسل سر یہ مہر کی اور نقشہ موقع مرتب شدہ میں مقام b سرخ سیاہی سے ایزادگی ہوئی۔ مدنی مقدمہ منیب خان برادر مقتول، مسماۃ شہانہ بیوہ مقتول مسماۃ یاسمین بیوہ ہاشم خان والدہ مقتول کے بیانات قلمبند کر کے جنہوں نے بھی مراد خان کی قتل کی دعویداری اول خان عرف ولی خان کی اور قازقہ رقم بابت چنگ جی بتلائی۔ فہرست و رثاء جو کہ تفتیشی افسر نے قبل ازیں۔ دران تفتیش مرتب کی تھی نام لیں، دہنے کی بنا پر دوبارہ مرتب کیا۔ بیان از اس سلیم خان ساکن قوت کالے قلمبند کر کے جس نے اپنے بیان میں واضح کیا کہ واقعی اُس نے اپنے ہوبائل نمبر سے مراد خان کے ساتھ قبل از وقوعہ بات کی تھی۔ کیونکہ اُس نے مراد خان مقتول سے ایک چنگ جی بغوض مبلغ 98 ہزار روپے خریدی تھی۔ یہ بھی وضاحت کی ہے کہ اُس نے وہی چنگ جی اول خان عرف ولی پر بدست مراد خان مقتول فروخت کر کے مبلغ ایک لاکھ دس ہزار روپے میں سے مبلغ 30 ہزار روپے مراد خان نے حوالہ کر کے اس رقم میں مراد خان نے اپنا قرض رقم 9 ہزار روپے کاٹ دی تھی اور بقایا رقم ولی خان اور مراد خان نے مشترکہ طور پر فیصلہ کرتے ہوئے ماہانہ پانچ ہزار روپے دینے کا زبانی معاہدہ ہوا تھا۔ مراد خان نے اُسے فون پر بتلایا تھا کہ اول خان عرف ولی خان اس کے ساتھ موجود ہے لہذا سلیم خان نے ولی خان کے ساتھ بھی بات کی۔ جس نے اُسے بتلایا تھا کہ مورخہ 5.1.2015 کو سلیم خان کو اپنا رقم مل جائیگا۔ دوسرے دن سلیم خان کو لوگوں کی زبانی معلوم ہوا کہ مراد خان قتل شدہ جائے وقوعہ اراضیات میں پڑا ہے۔ اور اُسے معلوم ہوا کہ مراد خان کو اول خان عرف ولی خان نے قاتل کر کے قتل کیا ہے۔ خوں کار توں برآمد شدہ برائے محفوظ کرنے FSL بھجوا یا جا چکا ہے۔ چند شہدگان کے ذمہ لے لیا گیا ہے۔ CDR حاصل کرنے کی خاطر انچارج CKC پٹنارو تھری کر چکا ہے مگر CDR موصول نہ ہے۔ ملزم برضمانت اول خان عرف ولی کو بھی سنا گیا ہے جس نے وقوعہ تسلیم کرتے ہوئے واضح کیا کہ واقعی مراد خان اور اُس کے مابین چنگ جی گاڑیوں کا کاروبار تھا۔ مگر اُس نے بتلایا کہ اس نے اُسے اپنا قرض رقم موجودگی مسماۃ اللہ محمد کامران مبلغ 47 ہزار روپے مراد خان مقتول کو حوالہ کرنا ظاہر کیا عبد اللہ محمد کامران کو طلب کیے جا کر اُن کے بیانات قلمبند کیے۔ جنہوں نے لاعلمی ظاہر کی ملزم نے یہ بھی بتلایا تھا کہ اُسے رقم 47 ہزار روپے اس کے والد صاحب نے دیکر مراد خان کو حوالہ کی ہے۔ جبکہ عیسر نامی لڑکے کو طلب کرتے ہوئے جس نے واضح کیا کہ وقوعہ سے ایک یوم قبل ولی خان ملزم نے اُسے فون کیا کہ رقم 47 ہزار روپے ہسپتال اذہ پہنچا کرتا کہ مراد خان مقتول کو حوالہ کر سکوں۔ لہذا اُس نے رقم پہنچا کر اول خان عرف ولی خان کو حوالہ کی تھی۔ نسیم خان برادر مقتول کا بیان بھی بشکل دعویداری قلمبند کیا ہے۔ تفتیشی افسر نور علی خان SI اور گواہان فرد نشاندہی موقع واردات کے بیانات بھی قلمبند کر کے جنہوں نے اپنے اپنے بیانات قلمبند شدہ کی تاخیر کی۔ گواہ چلین ماقبل ہلال احمد ولد جہان الدین ساکن قارون ڈھیری اور محمد جواد ولد گل رحمان ساکن قارون شاخ ڈڈھیری کو طلب کر کے جن کے بیانات زبردفعہ 161 ض فی قلمبند کیے۔ جبکہ بیان از اس ہلال احمد زبردفعہ 164 ض ف عدالت مجاز میں قلمبند کروایا۔ محمد جواد کو بھی برائے قلمبندی بیان مجاز عدالت میں پیش کرتے ہوئے مگر عدالت نے گواہ کا بیان قلمبند کرنا منسب نہیں

محمد جواد

محمد جواد

تھیں۔ جہاں تک Oil/SI سے متعلق ہے تو مذکورہ SI نے کشتیت انچارج انوسٹی گیشن انسٹیٹیوشن افسر نوٹس کی حالت کو مقدمہ کے کامیابی کے لیے تحریری احکامات جاری نہیں کیے ہیں اور مقدمہ جس جو کہ نہایت اہمیت کا حامل ہے کسی قسم کی دلچسپی نہیں لی ہے۔ مقتول اور ملزم کے مابین چیکنگ جی گاڑیوں کا کارڈ بار تھا۔ ایک چیکنگ جی بطور چھبوت قبضہ پولیس ہے، جبکہ دوسری چیکنگ جی ستارہ کے لیے باقاعدہ Oil/SI تھا جس کی کو تحریری پروا نہ جاری کیا گیا ہے۔ تاکہ اسے بھی مقدمہ میں بطور چھبوت قبضہ لیا جاسکے۔

فوٹو اسٹیٹ کاغذ ثابت چنگ جی پیش کردہ مدعی فریق بطور چھبوت شامل نہیں کی گئی ہے۔ جملہ تقاضات روا رکھی واپسی متعلق تفتیش مقدمہ لف ریکارڈ کی ہے۔ فوٹو ازاں مقتول مراد خان قتل شدہ حالت میں اور فوٹو زندہ حالت میں پیش کردہ برادر مقتول بطور چھبوت لف کاروائی ہے۔ اسی طرح برطابق بیان عمیر خان تنازعہ چنگ جی ماڈل 2015 بطور چھبوت تفتیش یونٹ ہذا کے روشنی میں نوٹس خان CIQ تھانہ جی نے ملزم برصنات اول خان سے بروئے فرد قبضہ پولیس کر کے اس بارے میں نمٹنی رپورٹ نمبر 8.5.2015 CIQ نے مرتب کر کے فرد قبضہ جی ہمہ ضمنی رپورٹ انٹ شامل مقدمہ کی ہے۔ یونٹ ہذا کی رومی انوسٹی گیشن سے مستعمل ہوا کہ واقعی ملزم اول خان عرف ولی نے مراد خان کو رقم کے تنازعہ پر نہایت بے دردی سے ایک سناٹا جگہ پر لے جا کر قتل کیا ہے۔ پشمارٹم رپورٹ موصول شدہ وقوعہ کی تائید میں ہے۔

فائنل ریکارڈ

یونٹ ہذا کی رومی انوسٹی گیشن کے دوران تفتیشی ٹیم اس تجر پر پہنچی کہ انوسٹی گیشن افسر نوٹس خان SI نے ذیل نقاط کو بالائے طاق رکھ کر ایک اہم مقدمہ قتل کی تفتیش حسب ضابطہ خریدہ سے نہیں کی ہے اور ساتھ ہی سعود خان SI/Oil نے کشتیت انچارج انوسٹی گیشن بھی تفتیشی افسر کو مقدمہ ہذا کے کامیابی کے لیے کسی قسم کی تحریری احکامات جاری نہیں کیے ہیں اور خاص دلچسپی نہیں لی ہے۔ لہذا ان افسران کے خلاف حکمانہ کاروائی کی بھی ستارش کی جاتی ہے۔

1. ملزم کو SHO نے مورخہ 10.1.2015 بوقت 08:00 بجے گرفتار کر کے تفتیشی افسر نے اسی روز برائے حراست پولیس پیش کر کے ایک یوم حراست پولیس حاصل کیا ہے۔ حالانکہ پولیس کے ساتھ کسی ملزم کو گرفتاری سے 24 گھنٹے اختیار حراست پولیس میں رکھ سکتا ہے۔

2. I.O نے ملزم کی انٹاروگیشن کرتے ہوئے ملزم نے اعتراف جرم کرتے ہوئے موقع واردات کی نشاندہی کر کے گرفتار قتل پستول کی برآمدگی نہیں کی ہے۔ گوکہ ملزم نے I.O کو دوران انٹاروگیشن اعتراف کرتے ہوئے بتلایا تھا کہ اس نے پستول کو ارنیٹات میں چھپے تھا مگر تفتیشی افسر نے ملزم کو اسی مقام تک نہیں لے گیا ہے اور نہ ہی خود پستول کی تلاش کی ہے۔ جو کہ ضروری تھی۔

3. I.O نے دروازہ مقتول والدہ، برادران مدعی مقدمہ فیب خان نسیم خان کے بیانات بھی لکھ بند نہیں کیے تھے جو کہ نہایت ضروری تھی۔ تاہم کارٹوس برآمد شدہ کو I.O نے برائے خطوط لرنے FSL نہیں بھیجوائے ہیں۔ جو کہ ضروری تھی۔

4. چھبوت ثابت کرنے کی خاطر صفحہ شکل پر چھبوت ستارہ کی ثبوت نہیں لایا گیا ہے۔

5. چیکنگ جی تنازعہ کو بھی I.O نے قبضہ نہیں کیا تھا۔ جو کہ ایک اہم ٹھوس ثبوت تھی۔

6. مقدمہ کی کامیابی کے لیے چلن شامل چلن باہر گواہان کی دستاویزی کے لیے بھی کسی قسم کی کوشش نہیں کی ہے۔

ملزم نسیم

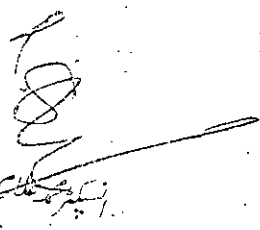
ملزم نسیم



20

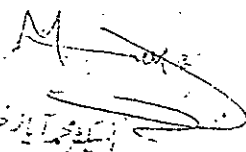
۱۵/۵/۱۵

انوشی گیشن ٹیم نے متذکرہ کی کوہنایت ایمانداری سے پورا کر کے شامل کاروائی کی گئی ہے۔ پینٹ ہڈا کی کاروائی مکمل مقدمہ کا حصہ بنا کر یہ تاکہ انصاف کے تقاضے پورے ہو سکے۔
فائل رپورٹ مرتب ہو کر گزارش ہے۔



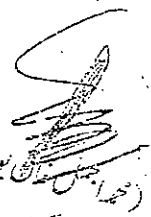
انوشی گیشن ٹیم

انوشی گیشن پونٹ سی بی او پشاور
14-5-15



انوشی گیشن پونٹ سی بی او پشاور

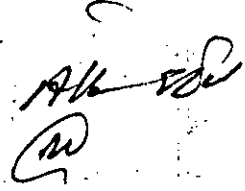
14-5-15

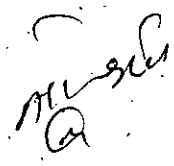


(محمد امجد علی یوسفزئی)

ڈی ایس بی انوشی گیشن پونٹ سی بی او پشاور

14/5/15







بیان اذان مسعود خان سی آئی او تھانہ تنگی حال سی آئی او تھانہ نستہ

جناب عالی!

بحوالہ چارج شیٹ نمبری 8638/41 مورخہ 15-08-13 جاریہ جناب ڈی پی او سائب چارسدہ کے متعلق معروض خدمت ہے کہ میں بحیثیت سی آئی او تھانہ تنگی میں تعینات تھا۔ نور علی خان ایس آئی میرے ساتھ بحیثیت ادا آئی تھا۔ مورخہ 15-01-3 میں حسب اجازت آفران بالا بروز ہفتہ ایک یوم شہابی پر گھر خود بحوالہ نمبر 14 مورخہ 15-1-3 بوقت 15:00 بجے روانگی کر کے گھر خود چلا گیا۔ نقل مد ہمدانف ہے۔

میرے جانے کے بعد تقریباً بوقت 17:00 بجے مقدمہ نلت 13 مورخہ 15-1-3 جرم 302 پی پی سی تھانہ تنگی درج رجسٹر ہو کر نور علی خان ایس آئی جو بطور سی آئی ادا کام کر رہا تھا میرے عدم موجودگی میں مقدمہ ہذا کی تفتیش اپنے ہاتھ میں لیکر مقدمہ ہذا میں حسب ضابطہ حسب نشاندہی نقشہ موقع بلا سکیل مرطب کر کے جائے موجودگی مشمول سے قدرے مٹن خون آلود اور جانے درادات سے ایک عدد ذول کارڈس 30 بوراٹھا کر قبضہ پولیس میں کر کے پارچا متقول بھی قبضہ پولیس میں کر کے پارچا اور مٹی خون آلود حسب ضابطہ ایف ایس ایل پشاور بعرض تجزیہ بجوائے گئے پی ایم رپورٹ حاصل کر کے جو استغاثہ کی تائید میں ہے۔ جملہ حالات و قعات واپس آنے پر ادا آئی نے زبانی بتلا کر مثل مقدمہ پیش کر کے جو کاروائی کی تھی تسلی بخش تھی۔ میں بسلسلہ پیش انوسی کمیشن ٹیم تشکیل کردہ آفران بالا مقدمہ نلت 759 مورخہ 13-09-5 جرم (3) 17 خرابہ تھانہ تنگی میں قبضہ اور دیگر اہم مقدمات زیر تفتیش، زیر تکمیل میرے ساتھ تھے۔ ادا آئی صحت کو مقدمہ ٹریس کرنے اور ملزم یا ملزمان کی گرفتاری اور اہل حقائق صفہ مثل پر لانے کیلئے زبانی ہدایات دی۔

مقدمہ ہذا میں دوران تفتیش آفران نے مشمول کی سی ڈی آر موبائل فون حاصل کر کے مزید معلومات کر کے اسلیٹ تک پہنچ کر سہما شہانہ بیوہ مشمول نے ملزم اول خان کے خلاف حسب ضابطہ دعویداری کر کے عدالت میں اپنا بیان زبردفعہ 164 قلم بندی کیا اور مقدمہ ہذا میں اہم کامیابی کی گئی۔ مقدمہ ہذا میں دقتاً نوآوا آئی کے ساتھ ڈسکس کر کے ہدایات زبانی دیتا رہا۔ مورخہ 15-1-10 بحوالہ نمبر 6 بوقت 8:20 بجے میں معہ حمید گل ایچ سی مقدمہ نلت 759 جرم 17 خرابہ بعرض تفتیش علاقہ میں گیا تھا ملزم اول خان کو جناب ایس آئی او سائب نے گرفتار کر کے اور ساتھ ہی گرفتاری ضعی حوالہ کر کے ہدایات دی کہ ملزم کو آج ہی آج عدالت میں پیش کریں جو میرے نوٹس میں لا کر ایس آئی او تھانہ کا مکمل انچارج تھا حالات و قعات کے پیش نظر ادا آئی نے ملزم کو بعرض حراست پولیس علاقہ بمشوریت کو پیش کر کے جس کا ایک یوم حراست پولیس حاصل کر کے ملزم کو ادا آئی بسعد دیگر شاف اشار دیٹ کر کے ملزم نے دوران تفتیش جرم خود کو تسلیم کر کے موقع کی ودرات کی نشاندہی تھی کی۔ فرد نشاندہی موقع مثل مقدمہ میں موجود ہے۔ جملہ گواہان اور دیگر کی بیانات قلم بندی آرتھل پستول جو ملزم نے آراضی فصل گنا میں چھینکنا بیان کی تھی ادا آئی نے بسعد دیگر تفتیش شاف کافی تلاش کی تھی بوجہ آراضیات فصل گنا دستیاب نہ ہوا۔ مقدمہ ہذا میں ملزم حسب ضابطہ بعرض قلم بندی بیان زبردفعہ 164 پیش کر کے جس کا بیان لیا گیا ہے۔

مقدمہ ہذا میں بحکمل و تفتیش مکمل ہو کر جناب ایس آئی او نے حالان مکمل دیا۔ مقدمہ ہذا میں کوئی کوتاہی نہ نور علی خان ایس آئی نے کی ہے اور نہ ہی میرا کوئی غیر ذمہ دارانہ فعل ہے بلکہ ایک انٹریس، اندھا مقدمہ کو ٹریس کر کے ایک اہم کامیابی حاصل کی اور ملزم کو عدالت کے کٹہرے میں کھڑا کیا۔ میرے خلاف جو الزام لگایا گیا ہے جو حقیقت پر مبنی نہیں ہے۔

استدعا ہے کہ چارج شیٹ کو بغیر کسی کاروائی کے داخل دفتر کرنے کا حکم صادر فرمائیں۔

(Handwritten signature)

مسعود خان ایس آئی سی آئی او تھانہ نستہ حال پولیس لائن چارسدہ

(Handwritten signature)

(Handwritten signature)

بجائے عالی! جو کہ شکر نوش کے سٹورس سروس فراہم ہوں گے مگر سیر خلاف ذیل الزامات کی تہ تک نہیں ہے

(1) کہ میں کو آپ نفسی افسر نے اسی دن عدالت میں پیش کیا جس دن SHO نے گرفتار کر کے آپ نے میں کو اسٹورس سروس فراہم کر کے آپ نے میں سے مقدمہ کی اپیل سے معلوم نہیں کی

(2) آپ نفسی افسر نے الٹ سٹورس سروس 30 روز برآمد نہیں کیا ہے

(3) آپ نفسی افسر نے سٹورس کے دربار کے بیانات تکلیف دہ نہیں کی ہے

(4) آپ نفسی افسر نے فول کارٹریس FSL نہیں بھیجا

(5) آپ نفسی افسر نے سٹورس کے بیانات کو برآمد نہیں کیا

(6) آپ دو دفعہ نفسی افسر سے مقدمہ کی تصدیق نہیں کی

بالا الزامات کے سٹورس سروس فراہم ہوں گے کہ مقدمہ قذافی نے اسی طور پر عمل کیا ہے

2. میں نے جج CIO کو "دو دو" اور عملی طور پر اسی کو مقدمہ کے بارے میں شکوک اور سنا سب

عدالت کے بیانات کے مطابق طور پر دی ہے اور ایسی UNTRACE مقدمہ کو سروس کر کے میں کو عدالت

عدالت کے مقدمہ کی تصدیق اور سٹورس سروس کر کے عدالت میں دے دیے گئے SHO حسب مقدمہ کی

اور نفسی افسر نے سٹورس فراہم کیے اور دیگر ضروری بیانات کا ذکر کیا

بیان میں نہیں ہے

3. میں نے جج CIO کو "دو دو" اور سٹورس اور بیانات فراہم کیے اور سٹورس سروس فراہم کیے

میں ان کی تصدیق کر اور روٹی والی بیانات پر سٹورس اور سٹورس سروس فراہم کیے اور سٹورس سروس فراہم کیے

دستور کے مطابق کافی ہے

اس لیے ہے کہ میں نے شکر نوش اور سٹورس سروس فراہم کیے اور سٹورس سروس فراہم کیے اور سٹورس سروس فراہم کیے

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ORDER



Amn M.R.

23

This order will dispose off the departmental enquiry against SI Masood Khan while posted as CIO at Police Station Tangi, was conducting investigation in case FIR No.13 dated 04.01.2015 u/s 302 PPC PS Tangi. During enquiry conducted by Worthy Additional Inspector investigation KPK the following lacunas noticed in his investigation.

1. That the I.O produced the accused before the court for obtaining Police Custody on the same day when the SHO arrested him. The court granted one day Police custody of the accused and thus the I.O could not interrogate the accused thoroughly. He must know that legally police can detain an accused for 24 hours in the custody. He should have sought his police custody on the following day for in depth interrogation and to dig out the facts.
2. That he did not bother the search of weapon of offence i.e 30-bore pistol, which the accused disclosed to have thrown in the fields after the occurrence.
3. That the I.O did not record statements of the heirs of deceased.
4. That he did not send the recovered empties to FSL for analysis.
5. That he did not take into possession the disputed Qingqi Motor Cycle.
6. That they both investigating officers of the case failed to investigate the case properly.

In the above allegation he was issued Charge Sheet together with statement of allegation under Sub Section 3, Section 5 of Police Rules 1975. Enquiry Officer Mr. Raza Muhammad Khan DSP Charsadda was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted findings.

Subsequently, SI Masood Khan, was issued Final Show Cause Notice U/S 5(3) Police Rules 1975 reply to it was received.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the Minor punishment of stoppage of 01-Annual Increment without accumulative effect & strictly warned to be careful in future.

O.L No 967

Date 16-10/2015

No. _____/HC, dated Charsadda the _____/2015

District Police Officer,
Charsadda

Copy for information and necessary action to the:-

1. Worthy Inspector General of Police Khyber Pakhtunkhwa Peshawar w/r to their office Endst No. 611-13/PA dated 11.08.2015 for further orders
2. Pay Officer
3. EC/i MC



24

ضابطہ

گزشتہ سال کے لئے جتنے عمرانی نووٹس آئے
 جن کی فراہمی کے لئے فراہم کرنا ہے
 اور جن کی فراہمی کے لئے فراہم کرنا ہے
 اور جن کی فراہمی کے لئے فراہم کرنا ہے

عمرانی

سود خان ری پولیس لائن کا طریقہ

Sir,

Forwoodal Pl.

DSP/HQ
9.10.15

No - 6023/25.
Dt - 12-10-15.

DP of Chusadla

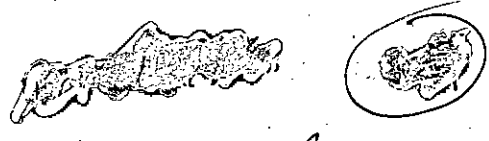
In comments plw

CJM

DP of Merat
12/10

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جناب عالی

عرض ہے کہ میں محبت ہونے سے تعلق نسبتاً تھا، اور $3\frac{1}{15}$
 کو میں ہی اہم افسران بالا میں برج سب باقی ہو کر خود صلہ کیا۔ اور
 نور علی خان زیورہ میں حاج کریم کا۔ قدم کی نسبت نور علی خان زیورہ
 نے کی۔ اور مدیح کو دربار کر کے چار ان عبداللہ سے ہو کر اہم
 ہر ایک نے نسبت کر کے جو لوگ محبت ہونے سے متوار ہو کر باقی رہے
 نے قدم قدم کے بار میں فری حد ہا جا رہے ہیں کی ہے۔ حد یہ
 ضابطہ ہر ایک سے خارج ہونے سے جو ہے وہی لالہ ان کے محبت متاف
 کیا ہے۔ حد یہ منرا اللہ فرار ہو کر جو ہے وہی متاف کیا ہے

عمر
 مودان لکھی

لکھی
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علاء اللہ
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OFFICE OF THE *Annul. K*
INSPECTOR GENERAL OF POLICE,
KHYBER PAKHTUNKHWA
CENTRAL POLICE OFFICE,
PESHAWAR.

26

No. 1885 /PA/DIG/HQ dated Peshawar the 08/10/2015.

To The Regional Police Officer,
Mardan.

Subject: Case FIR No. 13, Dated 02-01-2015 U/S 302/PPC, PS Tangi Charsadda.

The District Police Officer, Charsadda was directed vide this office letter No.611-13/PA, dated 11-08-2015 (copy enclosed) in light of the remarks of Inspector General of Police Khyber Pakhtunkhwa recorded on the enquiry report submitted by Addl: IGP/Investigation Khyber Pakhtunkhwa for compliance.

In compliance of the said remarks the DPO Charsadda placed the following Sub Inspectors under suspension and was proceeded against departmentally.

- 1) SI Noor Ali Khan.
- 2) SI Masood Khan.

After completion of departmental proceedings the DPO Charsadda awarded them minor punishment of stoppage of one annual increment with accumulative effect vide his order No.8823-26/HC, dated 17-09-2015 (copy enclosed).

The Inspector General of Police, Khyber Pakhtunkhwa after perusal of report recorded the following remarks:-

- "Pl call the explanation of DPO as to why the officers were awarded minor punishment despite they had shown criminal negligence in murder case as found by Addl: IGP/Investigation.
- RPO to review the proceedings for enhancement of punishment"

It is, therefore requested to review the proceedings for enhancement of their punishment please.

Encl as above.

Muhammad Alam Shinwari
(Muhammad Alam Shinwari)PSP
Deputy Inspector General of Police,
HQ: Khyber Pakhtunkhwa,
Peshawar.

Muhammad Masood Khan

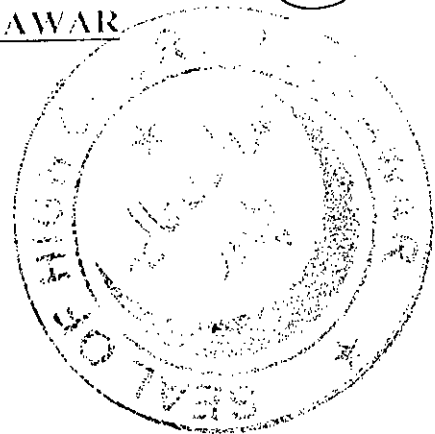
Muhammad Masood Khan

Annul. L

27

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 3961-P
/2015



Petitioner

Masood Khan Son of Abdul Manan,
Resident of Zargar Abad, Charsadda..

V E R S U S

- 1- The Government of Khyber Pakhtunkhwa,
Home and Tribal Affairs Department,
Peshawar.
- 2- The Inspector General Of Police,
Khyber Pakhtunkhwa,
Central Police Office, Peshawar.
- 3- The Regional Police Officer/DIG,
Mardan...
- 4- The District Police Officer, Charsadda.

Respondents

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

RESPECTFULLY SHEWETH

- 1- That the Petitioner is serving as Sub Inspector in the Police
Department at Charsadda.

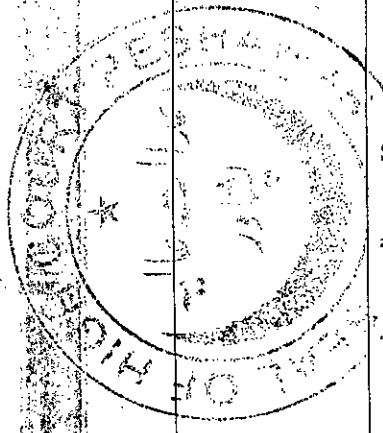
That the Petitioner was posted in Police Station Tangi when an FIR
was lodged about an unseen occurrence under Section 302 PPC on 4-
1-2015. Copy of FIR is Annexure "A".

FILED TODAY
2-
Deputy Registrar
17 NOV 2015

ATTESTED
EXAMINER
PESHAWAR HIGH COURT
27 NOV 2015

PESHAWAR HIGH COURT, PESHAWAR
FORM OF ORDER SHEET

Date of Order or Proceedings	Order of other Proceedings with Signature of Judge.
1	2
26.11.2015	<p><u>WP No. 3961-P/2015.</u></p> <p>Present: Mr. Naveed Akhtar, Advocate for the petitioner.</p> <p>*****</p> <p>Comments of respondents No. 2 and 3 be called so/as to reach this court within a fortnight.</p> <p><u>Interim Relief.</u></p> <p>Notice to the respondents for 09.12.2015. In the meanwhile, the impugned order dated 9.10.2015 is suspended.</p> <p><i>sf Qaiser Rashid Khan</i> J</p> <p><i>sf Assadullah Khan Chamkani</i> J</p> <p>JUDGE</p> <p>JUDGE</p>



CERTIFIED TO BE TRUE COPY
Examiner
Peshawar High Court, Peshawar
Authorized Signatory, Sec 87 of
The Ombudsman Act, 1987
27 NOV 2015

11150

No. _____

Date of Presentation of Application 26-11-15

No of Pages 5 Pages

Copying fee /

Urgent Fee /

Total - *Qaseem* 10.00

Date of Preparation of Copy 27-11-15

Date Given For Delivery 27-11-15

Date of Delivery of Copy 27-11-15

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IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 3961-P /2015

Masood Khan Son of Abdul Manan,
Resident of Zargar Abad, Charsadda..



V E R S U S

- 1- The Government of Khyber Pakhtunkhwa,
Home and Tribal Affairs Department,
Peshawar.
- 2- The Inspector General Of Police,
Khyber Pakhtunkhwa,
Central Police Office, Peshawar.
- 3- The Regional Police Officer/DIG,
Mardan...
- 4- The District Police Officer, Charsadda.

Respondents

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CONSTITUTION OF ISLAMIC REPUBLIC OF
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RESPECTFULLY SHEWETH

- 1- That the Petitioner is serving as Sub Inspector in the Police
Department at Charsadda.

That the Petitioner was posted in Police Station Tangi when an FIR
was lodged about an unseen occurrence under Section 302 PPC on 4-
1-2015. Copy of FIR is Annexure "A".

ATTESTED
EXAMINER
Peshawar High Court
19 DEC 2015

FILED TODAY
2-1
Deputy Registrar
17 NOV 2015

ORDER.

This order will dispose-off the appeal preferred by SI Masood Khan of Charsadda District Police against the order passed by District Police Officer, Charsadda wherein he was awarded a minor punishment of stoppage of one annual increment without accumulative effect vide District Police Officer, Charsadda vide OB No. 967 dated 16.09.2015.

The record was called under Rules 11 (4) KP Police Rules 1975 and subsequently the accused was informed for the action proposed on the grounds of misconduct and negligence displayed in case FIR No. 13 dated 04.01.2015 u/s 302 PPC Police Station Yangi District Charsadda. The accused did not put forward any new grounds for his defence, instead relayed on the same statement submitted on which the original order was passed. The accused was called in the orderly room held in this office on 25.11.2015, heard him in person but he failed to produce any cogent reason in his defence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me under above quoted rules, enhance the minor penalty imposed by District Police Officer, Charsadda to Major penalty i.e. "Reduction in pay by two stages in the same time scale of pay".

ORDER ANNOUNCED.

(MUHAMMAD SAEED) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 7121 /ES, Dated Mardan the 30-11-2015.

Copy to District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 9040/HC dated 09.11.2015.

(*****)

50
To be Frucopy
@

تہمت
10 روپے



30490

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈووکیٹ / دستخط
بارونل ابار ایسوسی ایشن
دراپ نمبر: 0322-9055964

بعدالت جناب: سر سید محمد رفیق کپک

دعویٰ:	منجانب: اشدریت
مطلوبہ:	مستطرد
مورد:	بنام
جرم:	
تھانہ:	

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 ان مقام سے سید محمد رفیق کپک کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر جانت و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست الزم ہر قسم کی تصدیق
 زریں مدد مہتمل کرنے کا اختیار ہوگا، نیز پیروی و جواب دہی کی طرف یا اپیل کی فراہمی اور منسوخ، نیز
 دائر کرنے اپیل نگرانی و نظارتی و پیروی کرنے کا اختیار ہوگا اور ضرورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا بار شمار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے ہر ذمہ منظور و قبول ہوگا دوران مقدمہ
 میں جو خرچہ ہر جانہ التوائے مقدمہ کے حساب سے ہوگا وہ وکیل موصوف و متون کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر لکھے

المرقوم: 28/12/15

العبد _____ واہ شد _____

مقام

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40/2016

2

29/6/16

29/06/16

29.06.16

Mr. Masood Khan s/o Mr. Abdul Manan r/o Zargar
.....

VS

Govt of KPK, through Secretary Home Peshawar etc:Respondents

**Reply/Parawise comments on
Behalf of Respondents Inspector
General of Police KPK, etc.**

Respectfully Sheweth:

Preliminary Objections:

1. That the appellant has not approached this Hon'able Tribunal with clean hands.
2. That appellant has suppressed the factuality and ground reality of the alleged charges.
3. That through re-investigation was conducted by the KPK Investigation CPO Peshawar, in criminal case u/s 302-PPC vide FIR No. 13/2015 PS Tangi District Charsadda and the team constituted for re-investigation has made observations / remarks, regarding delinquent acts, against the appellant and his subordinate officer SI Noor Ali Khan (report dated 14.05.2015 of KPK Team, re-investigation the case, is enclosed as annex "A").
4. That the present appeal is not entertain-able in light the provisions contained under rule 11(4) © Police Rules 1975 r/w 16.28(1) Police Rules 1934, as per these provisions, the competent authority (appellate / review authority) gets the jurisdiction / powers to modify the orders, enhance or reduce the penalty.

Reply on facts:

1. Para-1 is correct, the appellant is Sub Inspector in Police force, District Charsadda.

2. Para-2 relates to record, no comments however, relevant record can be submitted before this Court, if directs.
3. Para-3 is correct to extent that the appellant remained on leave for one night and on the following day of the occurrence, he turned up and joined the duty, he cannot be absolved from the act of misconduct on this lame excuse.
4. Para-4 is correct to the extent that investigation of case vide FIR No. 13/2015 PS Tangi was entrusted to SI Noor Ali but this fact cannot be denied rather discarded that the appellant was immediate incharge and he should have supervised the investigation of the case under issue.
5. Para-5 is correct, no comments.
6. As above.
7. As above.
8. No doubt that the appellant submitted reply to final show cause notice, issued by respondent No.4 but the same was not plausible / satisfactory, hence not considered.
9. This para is correct and minor penalty of stoppage of one increment was awarded to the appellant.
10. Correct, the appellant submitted departmental representation against the impugned order of respondent No.4 to respondent No. 3 as per rule 11 of Police Rules 1975.
11. Para 11 is correct to the extent that respondent No.2 called explanation of the respondent No.4 due to lenient view, taken against the appellant and his subordinate officer SI Noor Ali Khan because they had committed serious blunders, in investigation of the case, wherein an innocent person was brutally murdered.
12. Para 12 is correct as per record.
13. The operation order of respondent No.3 was suspended but in fact copy of order dated 30.11.2015 passed by the Hon'able Peshawar High Court Peshawar was not received by the respondent No.3 well in time and this is why the Hon'able Peshawar High Court Peshawar treated the writ petition as in-fructuous without any action against the department.
14. Reply of the grounds inter alia, are submitted as under:


Grounds:

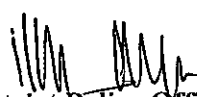
- A. Incorrect, the impugned order dated 30.11.2015 is according to law and as per provisions, contained under the Police Rules 1975/1934, cited in preliminaries, the competent authority gets the jurisdiction to modify the orders, passed by DPOs/SPs, passing the impugned orders.
- B. In correct, the penalty was enhanced as per law and within the powers of competent authority/respondent No.3.
- C. Correct to extent that he did not remain as IO of the case under issued but he was the supervisory body and he is supposed to be the investigating officer of the case and it was incumbent upon him to check the investigation, being incharge.
- D. In correct, the order was passed within legal frame of limitation and competence.
- E. The appellant remains associated with all the proceedings and there is no provision for issuance of final show cause notice to the accused officer, under the Police Rules 1975.
- F. Incorrect, the act of misconduct has been established without any shadow of doubt and the punishment, awarded to the appellant is sustainable under the law, as per investigation record, conducted by the KPK, Investigation, CPO Peshawar.
- G. Incorrect, the appellant if wished to appear for hearing before the competent authority, he should have approached through written application as, door of the competent authority are opened for their subordinates round the working house and there is no restriction or ban/bar on a meeting/hearing with him i.e the competent authority.
- H. Incorrect, the contention of the appellant through this para is not warranted under the law, rather not justified as he was the immediate incharge and he was supposed to check the investigation of his subordinate officer.
- I. The respondents may please be allowed, at the time of arguments for additional materials, if any.

In circumstances, it is humbly prayed that the instant appeal may kindly be dismissed with cost, it being without force and substance.

Respondents:


1. **Inspector General of Police,
KPK Peshawar**


2. **Deputy Inspector General of Police,
Mardan, Region-I Mardan**


3. **District Police Officer,
Charsadda**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 869 /ST

Dated 24 /04/2018


To

The Deputy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: **ORDER/JUDGEMENT IN APPEAL NO. 40/2016, MR. MASOOD KHAN.**

I am directed to forward herewith a certified copy of Judgment/Order dated 12/04/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



W.P NO. 72-P/2016

Mr. Muhammad Arshad

..... Petitioner

VERSUS

Govt of Khyber Pakhtunkhwa and others

..... Respondents

AFFIDAVIT

I, Ahmad Hassan, the then Secretary to Govt of Khyber Pakhtunkhwa Auqaf, Hajj, Religious and Minority Affairs Department (Reporting Officer), now Member Khyber Pakhtunmkhwa Service Tribunal, Peshawar do hereby solemnly affirm and declared that the contents of the Para wise Comments in the Subject writ petition on behalf of Respondent No. 3 are correct to the best of my knowledge and belief and nothing has been concealed from this Hon'able Court.

DEPONENT

AHMAD HASSAN

CNIC 17301-1251553-5

Identified by