BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL. PESHAWAR

Appeal No. 1374/2015

Date of Institution

09.12.2015

Date of Decision

19.11.2018

Misal Khan, Sub Inspector Police/Officer Incharge Investigation at Police Station Paharipur, Peshawar presently working and posted to CCPO Inspection Team, Peshawar. ... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa Central Police Office, Peshawar and two others. ... (Respondents)

SYED NOMAN ALI SHAH BUKHARI,

Advocate.

For appellant

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,

Asstt. Advocate General

For respondents.

MR. HAMID FAROOQ DURRANI,

CHAIRMAN

MR. AHMAD HASSAN.

.. MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

It is the case of the appellant that at the relevant time he was performing his duty as Investigation Officer at Police Station Paharipura, Peshawar when, in a case FIR No. 33 dated 09.01.2015, an application was moved by Gulab Khan son of Haji Gula Khan for entrustment of investigation to some officer other than the appellant. Resultantly, a departmental enquiry was ordered against him and the proceedings finally culminated into award of major punishment of forfeiture of two years approved service. Departmental appeal also could not prevail, hence the instant



Today we heard the learned counsel for the appellant and learned AAG for the respondents.

Learned counsel for the appellant contended that in the case wherein the appellant was tagged as having remained negligent in proper investigation of the matter, the accused was granted bail albeit due to compromise between the parties. It was therefore, not attributable to the defects in investigation. He took us also through the available record and argued that the allegation contained in the charge sheet qua—recording of statement of complainant was unfounded. Not only the needful was done in a proper manner but the FSL reports available on—record showed that he recovered incriminating articles, including weapon of offence as well as crime empties, in due course of investigation. He was of the view that while recording the departmental enquiry report, the said record was not examined nor referred to by the enquiry officer.

- 2. Learned AAG present for the respondents, on the other hand, vehemently argued that all the codal formalities were fulfilled before—conclusion of enquiry. Beside, the appellant was given due opportunity of participation in the enquiry, therefore, the impugned findings were warranted in the facts and circumstances of the case.
- 3. We have considered the contention of learned counsel for the parties and have also gone through the record including the findings of departmental enquiry. We are of the view that the learned enquiry officer should have considered the entire available record which was not done. It is also a fact that the order of competent authority passed on 29.07.2015 did not speak of merits or otherwise contained in the record submitted alongwith reply to the show cause notice which was all the more necessary when the competent authority preferred to enhance the recommended penalty against the appellant.

4. In the circumstances we consider it appropriate to remit the matter to the respondents for de-novo enquiry and decision within a period of three months. The appeal is disposed of accordingly. This decision shall not cause accrual of any other service related right in favour of the appellant. Parties are left to bear their own costs. File be consigned to the record room.

(HAMID FAROOQ DURRANI) CHAIRMAN

HMAD HASSAN) MEMBER

ANNOUNCED 19.11.2018

19.11.2018

Counsel for the appellant and Mr. Muhammad Riaz Khan Painda Khel, Assistant Advocate General for the respondents present.

Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is disposed of. Parties are left to bear their own costs. File be consigned to the record room.

Member

Chairman

Announced: 19.11.2018

18.05.2018

Appellant in person present. Mr. Kabir Ullah Khatak, learned Additional Advocate General present. Appellant seeks adjournment as his counsel is not available. Adjourn. To come up for arguments on 26.07.2018 before D.B.

(Muhammad Amin Kundi) Member

(Muhammad Hamid Mughal)

Member

26.07.2018

Due to sickness of learned Member (Executive), further proceedings could not be conducted. Adjourned. To come up for arguments on 19.09.2018 before D.B.

Member

19.09.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 05.10.2018 before D.B.

(Ahmad Hassan) Member

(M. Amin Khan Kundi)
Member

05.10.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Kabirullah Khattak learned Additional Advocate General present. Adjourned. To come up for arguments on 19.11.2018 before D.B.

(Hussain Shah) Member (Muhammad Hamid Mughal)

Member

28.12.2017

Appellant in person and Addl: AG for respondents present.

Arguments could not be heard due to incomplete bench.

Adjourned. To come up for arguments on 01.02.2018 before D.B.

Member

01.02.2018

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Due to general strike of the Bar, learned counsel for the appellant is not available today hence, adjourned. To come up for arguments on 21.03.2018 before D.B.

(Muhammad Amin Khan Kundi) Member (J) (Muhammad Hamid Mughal) Member (J)

21.03.2018

Appellant absent. Learned counsel for the appellant is also absent. However, clerk of the counsel for appellant present and seeks adjournment. Mr. Ziaullah, Deputy District Attorney for the respondents present. Adjourned. To come up for arguments on 18.05.2018 before D.B.

(Muhammad Amin Khan Kundi) Member (Muhammad Hamid Mughal) Member 13.03.2017

Counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Learned counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 13.06.2017 before D.B.

MAINTOWNIX ALOS MEMBER

(ASHFAQUE TÀJ) MEMBER

13.06.2017

Appellant in person present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Appellant requested for adjournment. Adjourned. To come up for arguments on 10.10.2017 before D.B.

(GUL ZEB/KHAN) MEMBER (MUHAMMAD AMIN KHAN KUNDI) MEMBER

10.10.2017

Appellant with Syed Noman Ali Bukhari, Advocate present and submitted fresh Wakalatnama. Mr. Ziaullah, Deputy District Attorney for the respondents present. Newly engaged learned counsel for appellant requested for adjournment. Adjourn. To come up for arguments on 28.12.2017 before D.B.

(Muhammad Amin Khan Kundi)
* Member

(Muhammad Hamid Mughal) Member

Appellant present in person and Mr. Aziz Shah, H.C alongwith Addl: A G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.08.2016.

18.08.2016

Appellant in person and Addl: AG for respondents present. Appellant requested for time to file rejoinder. To come up for rejoinder and final hearing on 07.11.2016.

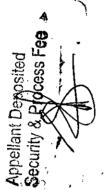
07.11.2016

Counsel for the appellant and Mr. Muhammad Raziq HC alongwith Assistant AG for respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and arguments on $13 \cdot 3 \cdot 7$

> (PIR BAKHSH SHAH) MEMBER

(MUHAMMAD A AMIR NAZIR) MEMBER

11.12.2015



Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Officer Incharge Investigation at PS Pahari Pura Peshawar when subjected to inquiry on the allegations of conducting poor investigation in a criminal case registered vide FIR No. 33 dated 9.1.2015 under sections 302/324/34 PPC at PS Pahari Pura Peshawar and vide impugned order dated 29.7.2015 penalty in the shape of forfeiture of two years approved service was passed where against the appellant preferred departmental appeal on 11.8.2015 which was rejected on 10.11.2015 and hence the instant service appeal on 9.12.2015.

That the appellant has conducted the Investigation of the said criminal case in the prescribed manners. That no opportunity of cross-examination was extended to the appellant during inquiry proceedings and that the inquiry was also not conducted in the prescribed manners.

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 23.2.2016 before S.B.

Chairman

23.02.2016

Counsel for the appellant and Mr. Hayat Muhammad, Reader alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 27.4.2016 before S.B.

Chairman

Form- A FORM OF ORDER SHEET

Court of	<u> </u>		
	·		
Case No	1374/2015		

	Case No	1374/2015
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.12.2015	The appeal of Mr. Misal Khan presented today by Mr.
		Aurangzeb Khan Advocate may be entered in the Institution
		register and put up to the Worthy Chairman for proper order.
•		REGISTRAR
		This case is entrusted to S. Bench for preliminary
2 -		hearing to be put up thereon $11-12-15$.
		CHAIRMAN
		1
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		<u>/</u> .

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No # 1374 /2015

Misal Khan

VS

Provincial Police Officer and Others

I N D E X

	2.4		
<u>S.NO</u>	Description of documents	Annexs	<u>Page</u>
1.	Memo of Appeal with Affidavit		1-5
	Addresses of Parties		6
3.	Copy of recovery memo and daily diary reports.	"A"	7-22
4.	Copies of Notice and DD report.	"B"	23-28
5.	Copies of JMIC Order dated 26/1/2015 .	"C "	29 - 30
6.	Copy of the Complaint Application.	"D,,	31 - 38
7.	Copies of Charge sheet, statement of allegation and show cause notice.	E"	33 — 35
8.	Copy of the enquiry report and appellant's reply.	"F"	36 - 39
9.	Copy of the Penalty order dated 29/7/2015.	"C3'	40
10.	Copy of Departmental Appeal and Rejection Order dated 10/11/2015.	"H"	41 - 43
11.	wakalatnama		43

Date: 09 / 12 /2015

Through

Appellant

(Aurangzeb Khan)
Advocate Peshawar
Office: 26-C Orakzai Plaza
University Town Peshawar.
Cell # 03139118116



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No #___1374____/2015

Misal Khan, Sub Inspector police/Officer Incharge Investigation at Police Station Paharipura Peshawar,
Now presently working and posted to CCPO Inspection Team

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S.W.P Province Bervice Tribune

.Appellant

VERSUS

- 1. Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office Peshawar.
- 2. Capital City Police Officer Peshawar.
- 3. Senior Superintendent of Police Operation, Peshawar.....Respondents

Appeal under section (4) of the Khyber Pakhtunkhwa
Service Tribunal Act 1974, against the impugned Order
bearing no 2871 and 813-19/PA dated 29/7/2015 passed by
the respondent no 3 whereby the Appellant was awarded
major punishment of Forfeiture of two years approved
service and also against the Order no 5324-36/PA dated
10/11/2015 passed by the respondent no 2 whereby the
departmental appeal of the Appellant was dismissed without
cogent reasons.

Crisco 9/12/1/ Prayer:

By accepting this appeal the impugned order dated 29/7/2015 and rejection order dated 10/11/2015 may graciously be set aside and the Appellant approved 2 year service may kindly be restored /counted with all back benefits.

Į,



Respectfully Sheweth:-

Shorts Facts rise to the present appeal are as under:

- 1. That the Appellant was performing his duty as investigation officer in Case FiR no 33 dated 09/1/2015 U/S 302/324/34 PPC of Police station Paharipura Peshawar with great zeal, zest and devotion with honesty.
- 2. That during the course of investigation the appellant prepared the site plane on the pointation of the eye witnesses of the case and recovered blood stained earth, two empties shells of 9MM and two empties shells of 30 bore from the spot and also taken into possession blood stained cloths of the deceased and injured in hospital. The Appellant recorded the statements of the eye witnesses and arrested the Accused and from his possession 30 bore pistol was recovered. While for the recovery of 9MM pistol the accused pointed out the place of occurrence and disclosed by one accused that he throw weapon of offence underneath the bridge of "Pakha Gullam" which was searched but not found the weapon. (Copy of recovery memo and daily diary reports are attached as Annexure "A").
- 3. That on 22/1/2015 the Appellant being I.O of the case went the house of Gulab Khan father of the deceased for recording his statement as he was abroad at the time of occurrence, but he replied that he is not felling well. Similarly on 25/1/2015 the Appellant along with ASI Qayum Khan again went to the house of Gulab Khan but he did not record his statement upon which the appellant on 26/01/2015 sent notice U/S 160 Cr.Pc to Gulab Khan for recording his statement, but even then he did not bother to appear before the Appellant for statement. (Copies of Notice and DD report are attached as Annexure "B").
- 4. That on the same day dated 26/1/2015 the father of the deceased Gulab khan appeared before the court and submitted compromised dead, on the basis of which the accused was released.

 (Copies of Court order and decease attached as Annexure "C").
- 5. That on 26/1/2015 after compromised with the accused by the father of the deceased submitted an application to the IGP KPK against the Appellant with the allegation of his rough behavior, non cooperation with the complainant and non recording the statements of the complainant and also make allegation against the Appellant for not properly investigating the case. (Copy of the Application is attached as Annexure "D").
- 6. That upon that application surprisingly an enquiry was initiated/ conducted and the inquiry officer summoned the appellant, whereas during the course of inquiry, the Appellant was surprised to get a statement of allegation coupled with a charge sheet where in the Appellant was expected/ warned to submit written defence within 7 days otherwise exparty action will be taken against him.

 (Copies of Charge sheet, statement of allegation along with show cause notice are Annexure "E").
- 7. That as per statement of allegation/ charge sheet, it was alleged that the Appellant during course of investigation in case FIR no 33 conducted irregularities and also allegedly has extended illegal favour to the accused party and not recovering the crime weapon and also not recorded the statement of the witnesses.



- 8. That the so called inquiry was conducted/ concluded where the Appellant appear before the inquiry officer and also submitted his reply but he was not given any opportunity to cross examine the applicant which is the violation of the legal rights of the Appellant and committed illegality by the inquiry officer and he forwarded the inquiry report to the respondent no 3 with the remarks and recommendation for minor punishment. (Copy of the enquiry report and appellant's reply are Annexure "\(\sigma^* \).
- 9. That the respondent no 3 did not bother to assess the evidential value of the statement of Appellant in its true prospective and legal parameters and also did not bother to tally and compare with the so called allegations which are totally rootless, frivolous, vague, ambiguous and thus the reply of the Appellant was considered unsatisfactory and also not agree with the enquiry report awarded the penalty for forfeiture of two years approved service against the appellant dated 29/7/2015.

 (Copy of the Order dated 29/7/2015 is attached as Annexure "G").
- 10. That the Appellant in the given circumstances, preferred departmental appeal before the respondent no-2 which was met with the same fate and without any prudent concentration and applying of legal wisdom, the same was filed with a single stroke of pen.
 (Copy of Departmental Appeal and Rejection Order are attached as Annexure H;").
- 11. That appellant while aggrieved of the impugned orders and having no other adequate remedy, files this appeal before this Hon, able Tribunal inter-alia on the following grounds within the statutory period of law.

Grounds:

- A. That the respondents have not treated appellant in accordance with law, rules and policy on the subject and passed the impugned orders in the exercise of colorful authority, which is unlawful, unconstitutional and against the norms of equity and natural justice.
- **B.** That admittedly the appellant has committed no misconduct whatsoever and the whole allegations are baseless and rootless one but for the reason best known to the respondent no 3 the appellant has been made a scapegoat.
- C. That even the case vide FIR no 33 if requisitioned, it also transpires that the appellant while during course of investigation time and again visited the house of the applicant for recording his statement but the applicant deny to record the statement. Even notice was issued to him U/S 160 Cr.Pc for appearing and has no fault from the part of the appellant.
- **D.** That no proper enquiry has been conducted and the Appellant has never been given any chance of cross examination and thus no credibility could be relied upon it which has no value in the eye of law.



- E. That the respondent no 3 while passing the penalty and similarly the respondent no 2 while passing the impugned order have never bothered to see the service file of the Appellant and at least should see the length of spot-less service for 25 years rendered by the Appellant and such a circumstances the penalty and subsequent impugned Order having no value in the eyes of law, is liable to be set aside.
- **F.** That the impugned order is based on conjectures and surmises hence, the same is against the legal norms of justice.
- **G.** That the impugned order is suffering from legal infirmities and as such the same is not tenable under the law.
- **H.** That the Appellant would like to seek the permission of this Hon,able Tribunal to advanced some more grounds at the time of arguments.

In view of the above narrated facts and grounds, it is therefore humbly prayed that the penalty order dated 29/7/2015 and rejection order dated 10/11/2015 passed by the respondent no 2 and 3 may very graciously be set aside and the service of the Appellant may kindly be restored/recounted along with all back benefits.

OR

Any other relief deemed proper and just in the circumstances of the case may also be granted to the Appellant.

Dated: 09/12/2015

Appellant

Through

Aurangzeb Khan

And

Wajid Khan Advocates Peshawar



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No_#_

Misal Khan

VS

Provincial Police Officer and Others

AFFIDAVIT

I, Misal Khan Sub inspector R/O Dalazak Road Peshawar (Appellant) do hereby solemnly declare that the accompanying Appeal is true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent CNIC # 17301-90735651

Identified by:

Aurangzéb Khan,

Advocate, High Court

Peshawar.





BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Service Appeal No # /2015

Misal Khan

VS.

Provincial Police Officer and Others

ADDRESSES OF PARTIES

Appellant

Misal Khan , Sub Inspector police/Officer Incharge Investigation at Police Station Paharipura Peshawar, Now presently working and posted to CCPO Inspection Team Peshawar

Respondents

- **1.** Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office Peshawar.
- 2. Capital City Police Officer Peshawar.
- 3. Senior Superintendent of Police Operation, Peshawar.

Appellant

Dated: 09/ 12/ 2015

Through

Aurangzeb Khan,

Advocate, High Court Peshawar.

Unipart. ده و ال زنه زر توریخ ازیس تقام ما كالجراه entricia fle 302-324-34 per 09 15 per 333 cuis ما و مرون روعی شاری کان می بری سال می در در در でし ひられかいいしらと الودهان دام ك حود ور حرب مردم عنوال بالاس مرفع دار دات ما Since A puebli of illowning. 0,200 mas alight and print Enough wing down elicio especial esta con B. cos cons ساربه كادى مرابرمرك ولول سرسادى ۋك درر سى مندك على دول مح الله وي كرفيني بويس مول كرك فروق ا کے مابع درس کے گوںسای سے تیل فرد آل کا اِنوہوں Engliculosk OT rigin 3 still Siksk 1531013 0/W (WIN BL 0 9-01 2015 [01,50; w/w 245) G10 Attested to be Ano roll Andrila

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King Merily 0941) Lices 15AA / 19/2/200 34 (12) - 150 China Cara China (in this is in 500 this is in the my not 6-31/2/50232001043. Che3000) 2/2/2/10 200/112/2/202 Weday 12/34 My (1) 66302/324799/2000 33/20/2012/ ما في ودل ها بران مر دود د دل ١٠٠٠ مر ما را (Wisey >18 47) in (/10 E WERLY) >18 4/2) 10/1/01x suisie Owe Stack C7/11/15/265 5267 5 (2) 1 SWE (3) Attested to be with

0336-7007779-03449249944 03 poor 5.98 of 10/26.66.2011 son 0.34 4 1 15 3 16 001/6 Jang Com فارم نمبر۲۲ ۵ (۴۴) کی ابتداني اطلاعي ربورك أبتدائي اطلاع نسبت جرم قابل دست اندازي بوليس ربورث شده زير دفه ١٥٨مج وعه ضابطه فوجداري NICOHN. تاريخ عجه وفين 17:45 19.5 chi 8.45 ch 9.5 نام ركون اللا كاد بند استيث مشى معرف و المركون فان فرح منك معرف المال المال المال المال المال المال المال المال عَرْكِفِت بِم (معدوفه) عال: رجوليا كيابو-عائدة وعدة صدقانه عاورست معان فروك سالف والم سنات فعاوس ولمذاك لعارً المَا الله المُعان دادها في تليل خان دوها الم تليل خال المان الم المنت المان ا كاروائى جِرْغَبْ كَامَعَاق كَاكُن اگراطلاع درج كرنے بين توقف بوا بوتوجه بيان كرد كريم والد ميم وفيد و زار وسور كري جاناس ابترائی اطلاع نیج درج کرور تونت مدری مران عربیرل والدمنی نما فراده منان ای انجاری ای ۱۹ میس موسول سوز زبل س کرمیت مدین از در ای دو هردا در ا ولدهو بخان فوم منك يعرو بهدسال كلنه بناكش هادس دارناك دوره عنتول والموار ودر كواب غان صر مندنس العرور المراس كان ديدرا من العرب الع يون ربورن كرنا مبن كرمس عدم فتول هائي را مبوار تتقر در بسبل خان مرادرن ممنام حالے دورم (در بوان وقع، میں صوفودندا کرزمان تکررسوز برصی ارش دار فیہ خان دردخا می متعلی خان ادر حاق شلیل ولد فلانطان سنائن در مرم مامیے مداریکی آتشن میں حم آکر در در ملام نیم میرما ڈرا دی مثل خاندائی کرے عاکم ماند میں کوروز کا میرار کی استان میں در کا در ملام میں میں میں اور در میں کا در در میں کا در اور میں را من الرسن من منول أكر رسور في من و في من و في من من و في من من من ادر ديو مرادر الوادر المع المراس والمعاكر الما عاد مورا الما معنول في كالمون الورام الما المعنول في كالمون الورام الما الم سروع سور ادرسدما ترش علرمان مرد و مرارس و وفود معذا مير ادر مرادرن ووده مادا دار دمكر عود دان صُامِتُ عدر سِ مِن رنيم أب مِر بالوارة مثل ما ترق روز في كرنداد رفعان فنول رجان عق بوز ف مرد كون ديرم أرا د ومس م تركل بر فلاف ملزمان لا در؛ ا ت ود فورد ا مؤل بوليد تلويك ميرا زميري نو رور ما دا بي ما لار العظمين التيفيد وروك مدائ بوس من كليدس من العروف درا مور مرهد من ما كردوسكي في الكولها اور مقال مارمنتيل مس مندون ريا سول معرف كانتنب ضروفرنب وكافواله طلق فقات أما واروفنول وانبواز عافدات مركة من ركيد رسير هن من الربي الربي وي وي مرده ها من XMI مجوايا حار المري دست معون وفورت مع معور 17 بالإيادي ما وحاسليم و لقشر خرر متعلنه بقاله بقي اغراب الادست كديما تأسي أنسر الإين ومان و الواع دی جا رئیسی اندر صاف اولیاتی صلی کریمی فاظر حکوم میں عامور آندی کرا حا وم دسما و از دو آند زادا قا میرای الکارت ورصفا میر وی دوانی نماند آفده فر میران و انده خرف نمر ف ادر ایما (از مور نیرمیر تمرح) دا اجاب میا جا رئیس میرونات در فو کفت حوالد مثل جان الله میروع عام می میرم بطور شیل دورد و تزارش میں استال ATTIVE ATTENTIONS



Forensic Science Laboratory

Police Investigation, Khyber Pakhtunkhwa 29-B1, Phase 5, Hayatabad, Peshawar

REPORT OF THE FIRE ARMS EXPERTS

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		j		- 224/34 PPC PS P. Pur	<u>a</u> District <u>Pesh</u>	<u>awar</u>
 1	D No. 4 Let	•				
•	P.No.4 havi containing.			Two 30 bore crime emp marked C1 and C2.	oties now	. 6
2.	P.No.3 having.	ng three se	als of SK	Two 9 MM bore crime e marked C3 and C4.	mpties now	
	•	•				
NOTE	: - The crime	empties v	vere sianed	by the experts.	The same of the sa	
i.				of the case has revealed a		
	different 30	hore worn	empties m	arked C1 and C2 were fir	ed from	
	i.e striker ni	in marks h	vosch face	v of the following major c	lissimilar points	•
ii.	The two 9 M	IM hore crie	me ampties	marks, ejector marks, etc	C. '	
	and the sam	ne 9 MM ha	re empues	marked C3 and C4 were	fired from one	
	striker pin m	narks, brea	ich face ma	in view of the following r ks, etc are similar.	najor points i.e:	
Niata			or, race in	ks, etc are similar.	~	
Note:	ine co	ments of t	ut embossii he parcei w was compl	ng marks is not genuine. ere under our immediate	custody until	·
•	1		,	/ \ \\	· · · · · · · · · · · · · · · · · · ·	7
F	(AMJAD JAV IRE ARMS EX			(MINHA) MOMA FIRE ARMS EX	MMAD) (PERT	
lo he op	/3 <i>76</i>	/FSL,	, Dated 2/	-1 (201		
he re	ceipt may be	acknowled	lged and th	warded to <u>SSP/ Inv: Pesh</u> e exhibits collected from the	<u>lawar</u> this Laboratory.	

Aurulia Aurungi

Director

Forensic Science Laboratory Police Investigation, Khyber Pakhtunkhwa, Peshawar.

© 091-9217394 🖶 091-5892825



Forensic Science Laboratory

Police Investigation, Khyber Pakhtunkhwa 29-B1, Phase 5, Hayatabad, Peshawar

REPORT OF THE FIRE ARMS EXPERTS

9000

Laboratory No. FA-21-471	-15 Doosis - 44		
Laboratory No. <u>FA-21-471</u>	TID Received the sealed	parcel on	06-02-2015
LW 21-755-	56, 218-19/15		<u> </u>

LW 21-755-56, 218-19/15	
Λt 'Fα'	S <u>Paharipura</u> District <u>Peshawar</u>
The seals on parcels were found intact.	District <u>Peshawar</u>
F.I.R No <u>.33</u> dated <u>09-01-2015</u> U/S <u>302/</u>	324/34 PPC_PS Paharipura_District Peshav/ar
 P.No.7 having three seals of S.K containing. P.No.4 having two seals of Fire Arms Expert containing. Five 30 bore live cartridges for test NOTE: - The crime empties and pistol we 	One 30 bore pistol No.32001043. Two 30 bore crime empties duly marked C1 and C2.
OPINION. Examination of the case ha	S revealed as undon
i. The one 30 bore crime empty d No. 32001043, in question, in vie pin marks, breach face marks, e similar. ii. The one 30 bore crime empty du pistol No. 32001043, in question, points i.e striker pin marks, breach	ly marked C1 was fired from 30 bore pistolew of the following major points i.e striker jector marks, chamber marks, etc are ly marked C2 was not fired from 30 bore in view of the following major dissimilar of lace marks, ejector marks, chambes
marks, etc. The 30 bore pistol No Note: - (1) One test empty is being sent (2) Any report without embossing (3) The contents of the parcel we examination was completed.	
(AMJAD JAVED) FIRE ARMS EXPERT	(AZIZ KHAN) FIRE ADMS EXPERT

The receipt may be acknowledged and the exhibits collected from this Laboratory.

isted to be

Forensic Science Laboratory Police Investigation, Khyber Pakhtunkhwa, Peshawar.

O 091-9217394 B 091-5892825

(30° 5) پولیس فارم ۲۵_۵۳ (۱) پولیس فارم نمبرس جصداة ل (بيروني) مقانه می موسول دو نیکاد قت و تاریخ مقانه سه روانگ کا دقت و تاریخ 109.01-2015 23,00000 ريون كانبرغار المرد مالات تعيش المراه الم المراه المال المراه المراع المراه المراع المراه الم المراج وعات را موال عالى مان المان على روار در 2015 الما المروان والما المروان الم JUS 7677311 1150 JES 16 18 S الما المرام المورال المورا المورا المرام الم من على وورك المراز المراز المراز المراز المراز المراز المراز والمراز المراز الم 15.31,10 1151 Sill 11 (10 0 20) 6 6 (c) 11/10/11/05-65 (2010) 18 35/6/030 63/11/19 AW Bed to ニュリタジョリ ひきょうしょうしょうらい be copy 16/10/22 Start 1/1/2010 100/0

p WZ 12.3 3 3 20 2 ZA (wis po 2002 317 (w 6 5 (w 2 A (00 6 (0) アンション A (wi 3 - w) 一次 シュー الماسيم مع وال مراي و در المال ما المال ما المراس المال ما المراس المال المراس المال المراس المال المراس المال سام لرن وال مر عام من من الله مر ما عادم ما ما وري و المعادل العرب العرب المعالم 030 30 13 CO 30 198 COUNTY SUE SUE SUE SUE ON Cours in 18 18 Contract in 18 18/10 pieroj je como si con con con como افار ورك المراب وبالوارد وران كرساب المراب ا و محتمد و المراج and the Condition MH So I Brown INVE 116's in without in fice in pid street is Us رُعِرِتُ مَا رَبِ فَعَرُكُ رَبِ وَرُدُ مِيدَ فِي جَبِينَ وَالْمِيرِينَ مِنْ الْمِيرِينِ وَمِيرُونِ مِنْ الْمِيلُ رزد المراح فون ألود فرن رود كال عادار كالم المراح فون ألود فرن المراح في المراح المرا No - US Sin - C ATTESTED to be

CHOCK 3245 WILL EM SECTION 5 产 1 5.50 M. 5.50 in the contraction of the contraction E J'S & Silver 156 115000 (15/10/11/ 15000) 5 عنوال كالمقارى كالحاش كالمرس م الراران م Siferi / Pro which and sold Many Market and the second of the second of the The state of the s and the second of the second o and the second of the second o

252/6/ pi// ju CNE 30 with a sur willing of white is o 000 1501 Jac 6 -11 00 00 sifin - 1 وَن يَرْسِ رَالِ رَسُلُ فَأَرُ مِنْ الْمَالِ اللَّهِ فَاللَّهِ مِنْ اللَّهِ الللَّهِ اللَّهِ اللَّهِ اللَّهِ اللَّهِ اللَّهِ اللَّهِ اللَّهِ اللَّهِ ا المان ت و در وال مارو المار مارو ماران و خوا المار مارو Survivore de la 1000 - 100 - 100 000 000 10 - LRH COUNT IPPON LOH IN TO STAND IN CUE SHOWE MODERALINA SING SINGER July 02 (AH 5 16) 6 - 11/893 (1) fust will site ja 245 2 600 is a ب در الراس ا = ای کی کو دورس میران و دارس しょしゅ にんりいしゃしし としゃし June 1 in cu 2 1/1 /6 July ju privisa ingam O'gibolis & a A (is inning) Julius d'3 12 5 6 6 (61/00 3 d1/6 Jul Allested to be

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ساز زالام نام وهورتي 100 SC14/15 & William Jo Unit William 40 09 11 الماران دور معدد المان من المراد المرد المراد المرا رن وزر خیاز بوقت وی عاف وقد مرح دور تمع ارزال تکدار مو ل is it in so in will in min for fire file مع براران قد م فو در جمع برارا و فاست برارا برواز عند رازی در ارسی مرز در از می مالی ای ای ده در زور الله ما المراس الما المراس المرا ادر فيم ديد ماي سيدل و عربيرو المراج حريا ما حريدا عال إنزار وتوسل ما تركم بسيل لوقت دوع ما حدد وع المره و د رف م إن درس جار على ارى درم منسط العراز درس الدها ما مادار الما المان المان المالي المالي المالية Comoso dido Allested to work On

برلیس فارم ۲۵ م۵ (۱) پایس فارم نیز 🐧 الوالط في الحال (يرون) 1100 00 1/1/6 2 16 ۲ این میر ۱۱ شانه مین موسول دو یا کاوات و تاری ابتدائی اطلاگار بورٹ نمبر 33 روں کی استرانی اطلاقی ربورٹ نمبر 33 روں کی کر استرانی اللہ اللہ میں اللہ میں اللہ تاریخ دمقام وقوعہ آرام و کا اللہ میں اللہ می تناسيروا كَنْ كاوتت وتاريخ. Poc 302-34 تاریخ مهعه دنت ' ر بپورٹ کانسرشار جس پرُوَ روانی نازان مران المران المر Joseph Miller Chillips Chillips 20_01 الارافادار الماد المرافع المرا and the will to still y 11/2/1012 0/10/2008 C 83'06 NSCM iside chickes & similar مالندار منافر المعالمة المعالم

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(1) 163 POL 302-324-34 PO 09 C/ POD 33 COS John Or war is is Stout in Sout of a ورس ورا ل دور اس من مزان الای مناس الای دوج Onlawin Stractorio violation of inter deliet co 930 6 /5 (m) / with co (a) co 1500 civily sind civil for sind (in the signification of the signification) ال أراب من من الموت وي وه ووو لل الداري ا من المعارات وزور المعارات وروا المعارات opplies in He RE 11/81/19hu 100 mi 2459 Gil Augustobe Lo Pro Frue Lo Propried

UNU 100 PM 302-324-34 1 > 05 2015 2010 333 cis النواز كا اروى دورك والديل الركوان المراديون cois of many of in 215.25 انبروش DFe der be DFE 51/0/1/Plan July Jail in foir Is flur Ales tologo proceding of the proceding o

de w. J. W. D. C. of field

باليس قارم ديم (۱) ماييس قارم فمبر تاسخ الموالط في الآل (بيرول) 119 20 -13 75, 2015 اين الى اطلاك د ميرى غبر - 33 يتيان مين موسول دوئے كاوت وتاريخ ____ ---- laborio la ---32 500 / 310 326-34 Pe-1-عالات در المان عن المان الم ربورث كانمبرهار ناریخ بهدوت جس پرکاروانی زرام عدم المراس Solvino Oslovini SCUBLED JEW ITE · vi ibus mident à ن من مناس والرفول على الانكال المعلى الله المعلى الله سار نوا نوا دو در بنیرول دور بین نون و زیر ما میل 22 2015 سرن من سے رہے سے انواز کوشل اربوفات کوونت - Militis - 2 15/ 33 Vail on pla 18.30 الماميل اورزم عاز وري فندي أخريون ماك بول ے نظری میں میں میں اور واللہ اور ای مرایق 2130 ی کرس میں طیسے ورب ہے رموس وور ن میں درس -12-18 314, 11 50 lin 11/2/2-C-الماس مراسا- عادد تعام ما فرى دنيا دنيم سيار, س -2 vinio 2 lipsq August Como Silvil Pluce SITOII/M.

ابتد اطلاع ريورك تمبر تفانه میں موصول ہونے کا وقت و تاریخ تھانہ ہے روا گئی کا دفت و تاریخ ر بپورٹ کا نمبرشار : ١١٠ بركاردال ئىڭى _ نواع : عرى سر الرساس ما كان بكرن دوار دور تام - را فهرفان وروخدر فان مائن فلاكر مان دروزان Sister is it is it is من مزرا م عادر والع جسات زرون و ما در معرب الدوز لوت مندم عاشر مورة ما ١٥٥ كالم ١١٠١ مرز لوت م ساند ش ارز المناس از از خلاس عای در الد تعوال انبواز الانم فان لالاسافال ال روی رسی وزی نوان از بار و گورو در از در ب on wie is - Sin is out survite 12. 2 8 Will Bir 2 1/2 line wis for حورت وورا نسب بحث بر با نور بنال دف عن سن بر روز ادر یا تم بولس درون در فرون میس بیان کوردراول 0. 200 03 12 11 Dich 6 213 26 Chal 15 2, 50 Land Saw Dellia 40/06 116 11 161 jollion vine Sieving - USING 164 pija. Guide Ust. E 10/164 سرس کال ا ماجات کام از ان کام

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برلس فارم ۱۵ میر (۱) پولیس فارم ۱۸ ر اول المرول) حداقل (برول) فراح كورير 15 105 ابندان اطلائل رپورٹ بمر تاریخ وستا موقوعہ ۱۰۰۰ میں اور اور نے کا وقت و تاریخ سے اور اور نے کا وقت و تاریخ سے 302-324-34 p. مالات النيش رتب مي المالات ويورث كانمبرثار يرس ع ع ت و المرسون على تائن نبي ما والأورد Binono winicio Comen, Jon's Cu iswin is our 2 عارت من کونوں تے ادار دو الف حقول بڑاز 26:01 ے والا فس الظمع الزائد على تعد جو ان بنے ك الله عادد الله عامل كوفي المناح جول س 10.30 فعنل رنوزز کاسوئم لوری ول توسی رس در سے مزام ر ول الدخوري ني ماريم در فائ 8. في وي ١١٨٠٠ رن دار نع الما ادر کارد خطید در در می از ایر ای المولیا المالا مرزال فر إل تولى زال م الما والم وفار حارى و 1119c DEC 20 Ex 20 11 181, 20 111 ل کار مرزور کا دورس نامک ما فرنزیر ا رسوم سر Ranie 2 bullar Sur die Si Missil . PD - 26 01 15-

برلیس فارم دم ۱۲۵ (۱) پایس فارم مراه حسالال (ريرون) فراح کو مر esto, w تنانه بين موسول أويك كأوقت وتاريخ تنانه <u>نظروا گ</u>ی کاونت و تاکری گیا 302 -34 -34 Page 5/011 reprint of the رام - وعاشال مراس کا بای بیشن می داندود de 16,00 videre 2 Say we counting the man sur son الي ك مارك من الله مار مارت در طاعت لفي ملاك 28-01 تے کو عافی ایک کا بھی دی سرسی حوز ان طار أراب در بين لوك دع برف - مؤلان خان كا ندر فران فالسام الحداع م ما الحداث المعالى المع 0/50/5 wings 28/2025 15/26 DFC 1061 mender SU16 30 160 pills الع حوالا ایک حت صدفاع لال رت وال راسا 1800 رسان و دراد کس علی تاکارور خاس میل - 1 (vi v) 15 i 2 6 Ca 164 1/16/11/2/2/1/ Wested to be the copy والد حقول كوال فوالله الماليان الماليان المالية 5701:1PM 2801

Lucki

01.2015

APP for the state present. Learned counsel for the accused/petitioner present, report of the local commission received which transpired that the local commission recorded the statement Irfat Khan S/o Gulab Khan and Mst Sofiha W/o Gulab Khan. Father of the deceased also appeared before the court and submitted an affidavit regarding the compromise effected between him and the petitioner outside the court. To this effect statement of Gulab Khan recorded in the court. List of legal heirs of the deceased not annexed with the record, so notice to the SHO of PS hari Pura with the direction to submit list of legal helrs of the deceased namely, Rab Nawaz after due verification on 26.01.2014

26.01.2015

APP for the state present. Counsel for the accused/petitioner present. Report of the SHO regarding the legal heirs of Rab Nawaz deceased received and placed on file.

This order is to dispose of the instant petition filed by the petitioner namely Haji Shalil. Khan S/o Gula Khan seeking therein his post arrest bail involved in case FIR No: 33 dated 09.01.2015 under section 302/324/34 PPC of PS: Phari Pura. .

Perusal of record on file reveals that the one Irfat S/o Gulab Khan had charged the present accused/petitioner alognwith other co-accused namely

Fahad Khan for the murder of his brother namely Rab Nawaz and making any

attempt at his life with fire arm which resulted injuries on his person. Parties took the plea of compromise in between the complainant party and the accused/petitioner. To this effect learned counsel for eh accused/petitioner submitted an application for the appointment of local commission to record the statement of Mst. Sofiha (mother of the deceased) and injured Irfat. The Honourable District & Sessions Judge, Peshawar appointed Miss Huma Gul Advocate as a commission to record the statement of the mother of the deceased and injured namely Irfat. Their statement were recorded by the local commission wherein they confirmed the factum of compromise effected between them and the accused/petitioner outside the court and now they. have got no objection if the accused/petitioner is released on bail. Father, of the deceased namely Gula Khan appeared before the court on 24.01.2015 and submitted an affidavit Ex-PA regarding the compromise effected between the parties (complainant and accused/petitioner) outside the court.

The compromise effected between the parties seems genuine and seems in their best interest as they are close relatives. The charged offence is compoundable as per schedule.

Keeping in view the aforementioned facts it is held that the instant bail petition is arguable for grant of bail. Hence, instant application is allowed on the basis of compromise. The accused/petitioner be released on bail provided he furnishes bail bond to the tune of Rs. 2,00,000/- with two local and reliable sureties in the like amount to the satisfaction of this court.

Requisitioned record be returned. Copy of this order be placed on judicial/police file, while file of this court may be consigned to record room.

Announced. 26.01.2015

> Muhammad Fiaz Judicial Magistrate-VI.

Peshawar∷

Jestod

Kunonon 31):

بخدمت جناب انسپکر جنرل آف پولیس، خیبر پختونخواه، پیثاور

درخواست بمراد تبدیل کے جانے تفتیش وکروائے جانے تفتیش بذریعہ کرائم برائج بمقد معلت نمبر 33، مورخہ 09/01/2015، برم 302/324/34 تھانہ پہاڑی پورہ، پیثاور

جناب عالي!

سائل حسب ذیل عرض رسال ہے۔

یہ کہ میرے حقیق بھیجے سمی فہدخان ولد شلیل خان ساکن بنگش ہاؤس، دلہ زاک روڈ، پیثاور نے میرے ایک بیٹے
رب نواز خان کو بذریعہ فائر نگ قتل جبکہ دوسرے بیٹے عرفات خان کوشد یدزخی کیا ہے جو کہ زخمی زیرعلاج ہے۔ جسکی
نسبت FIR بروئے علت نمبر 33 مور خد 09/01/2015 تھانہ بہاڑی پورہ پیثاور میں درج
نقل FIR لف درخواست ہاذاہے)۔

۲۔ یہ کر تفتیش افسرمثل خان(SI) سمین مقدمہ قبل میں سیجے خطوط پر تفتیش نہیں کررہا ہے نہ ہی مقدمہ میں منجانب استغاث دلچیس سے تفتیش کررہا ہے۔ تفتیش تا حال ست روی کا شکار ہے اس کا واضح ثبوت میہ ہے کہ آن 17/17 دن گزرنے کے باوجود تا حال مستغیث مقدمہ عرفات خان کا بیان بھی قلمبند نہیں کیا گیا ہے۔

س- ید کرتفتیشی افسرملزمان کے ساتھ ملا ہوا ہے اور مقدمہ قبل کوخراب کرنے کے دریے ہے۔ اور یوال سائل کا تفتیش بذریعہ وصال خان پرقطعی طوراعتا دختم ہوچکا ہے۔

۳- پیکتفتیش افسر کاروبیاستغاشاورگواہان استغاشہ سے تخت گیرہے۔اور ہروفت استغاشاور گواہان استغاشکو بے عزت کرتارہا ہے۔ جس سے سائل کوانصاف کی کوئی توقع نہے۔

یه کهانچارج کوچی پیخه غلام ASI ساجدخان ملزمان کا قریبی دوست اور ساتھی ہے اور براہ راست تفتیتی افسر پراثر انداز ہے۔ جس سے مقدمہ ل مذید خراب ہونے کا اندیشہ ہے۔

﴾ للندااستدعاہے کہ بمنظوری درخواست بندامقدمہ عنوان بالا میں بجرم بالا کسی غیرجانبدارافسر بذریعہ کرائم برائج تفتیش از سرنو کروائی جا کردادری فر مائی جائے۔

مورخه 26/01/2015 <u>26</u>

العارض

ملاج فأن ولد حاري ما خالعه

والدمتوفی رب نوازخان ومجروح عرفات خان ساکن بنگش باوک، وله زاک روڈ، پشاور شاختی کارڈنمبر 0446564-0374 موبائل نمبر 0304-522299 Level to copy



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

/PPO

, Dated Peshawar the 28-1-2015

Ìο:

The

SSP/Operations,

Peshawar

Subject:

Application of Mr. Gulab Khan s/o Haji Gula Khan regarding case

FIR No. 33, dated: 09.01.2015 u/s 302/324/34 PS Paharipura

Dear Sir,

Enclosed please find herewith an application submitted by Mr. Gulab Khan s/o Haji Gula Khan r/o Bangash House, Dalazak Road, Peshawar alleging partisan attitude of the I.O in subject case.

The W/IGP Khyber Pakhtunkhwa has desired for you to call the I.O and the applicant, listen to their version and identify the role of I.O.

Moreover, the competent authority has further desired for you to personally supervise the case investigation and submit weekly reports.

Encl: 01 page

DSP Inv. City J Division.

For Inspector General of Police,

Khyber Pakhtunkhwa,

Peshawar

C.C:

The W/IGP Khyber Pakhtunkhwa, Peshawar for favour of information please.

SSP-Investigation.

SSP-Investigation.

Inlaction,

Inlaction,

Concerned

Apports to Musiku Concerned

Apports to Musiku Concerned

CHARGE SHEET

- 1. Whereas I am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against you SI Misal Khan OII Police Station Paliaripura Peshawar.
- 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.

Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I Dr. Mian Saced Ahmad, Senior Superintendent of Police, Operations, Peshawar hereby charge you SI Misal Khan OII Police Station Paharipura, Peshawar under Rule 5 (4) of the Police Rules 1975 on the basis of following allegations:-

During the preliminary enquiry conducted into the complaint submitted by Gulab Khan s/o Rabnawaz, whereby you SI Misal Khan during investigation of case vide FIR No. 33, dated 09.01.2015~u/s 302/324/34 PS Paharipura conducted following irregularities:

- 1. You SI Misal Khan being investigation officer of the case failed to record statement after commission of the offence.
- 2. Till date weapon of offence has not been recovered.
- 3. 30 bore pistol has been shown as recovered weapon of offence which was infact a 9mm pistol used for commission of offence.
- 4. Investigation till date is based on statement of accused rather than statements of complainant and eye witness.
- 5. Faulty Investigation shows malafide on your part and has destroyed the case resultantly in clear cut favour of accused.
- 4. I hereby direct you further under Rule 6 (I) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why the action should not be taken against you and also stating at the same time whether you desire to be heard in person.
- 5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

SR SUPERINTENDENT OF POLICE, OPERATIONS, PESHAWAR

Allested to be cold in

0336-7007779

DISCIPLINARY ACTION

I Dr. Mian Saeed Ahmad, Senior Superintendent of Police Operations, Peshawar as competent authority, am of the opinion that SI Misal Khan OII Police Station Paharipura, Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omission within the meaning of section 03 of the Police Rules 1975.

STATEMENT OF ALLEGATIONS

During the preliminary enquiry conducted into the complaint submitted by Gulab Khan s/o Rabnawaz, whereby SI Misal Khan during investigation of case vide FIR No. 33, dated 09.01.2015 u/s 302/324/34 PS Paharipura conducted following irregularities:

1. SI Misal Khan being investigation officer of the case failed to record statement after commission of the offence.

2. Till date weapon of offence has not been recovered.

3. 30 bore pistol has been shown as recovered weapon of offence which was infact a 9mm pistol used for commission of offence.

4. Investigation till date is based on statement of accused rather than statements of complainant and eye witness.

5. Faulty Investigation shows malafide on your part and has destroyed the
 case resultantly in clear cut favour of accused.

434By doing so he has committee gross misconduct.

For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations Mr. Furgas. ASP/Fagis about is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

SR: SUPERINTENDENT OF POLICE, OPERATIONS, PESHAWAR.

Seded to copy

No. <u>272</u> E/PA, dated Peshawar the /7 / 02/2015.

Copy to the above is forwarded to the Enquiry Officer for initiating proceeding against the accused under the provision of Police Rules 1975.

0336-7007779

(34)

(35)

SHOW CAUSE NOTICE

I Sr: Superintendent of Police Operation, Peshawar, as competent authority, under the Police disciplinary Rules 1975, against You SI Misal Khan OII of PS Paharipura as follows:-

That consequent upon the completion of departmental enquiry conducted against you by <u>ASP/Faqirabad</u> Peshawar and recommended for **minor** punishment on the basis of the following allegation that:-

During the preliminary enquiry conducted into the complaint submitted by Gulab Khan s/o Rabnawaz, whereby you SI Misal Khan during investigation of case vide FIR No. 33, dated 09.01.2015 u/s 302/324/34 PS Paharipura conducted following irregularities:

- 1. You SI Misal Khan being investigation officer of the case failed to record statement after commission of the offence.
- 2. Till date weapon of offence has not been recovered.
- 3. 30 bore pistol has been shown as recovered weapon of offence which was infact a 9mm pistol used for commission of offence.
- 4. Investigation till date is based on statement of accused rather than statements of complainant and eye witness.
- 5. Faulty Investigation shows malafide on your part and has destroyed the case resultantly in clear cut favour of accused.

You are, therefore, required to show cause as to why a penalty should not be imposed upon you and also intimate as to whether you desire to be heard in person.

If no reply to this notice is received within stipulated period of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

R: SUPERINTENDENT OF POLICE,
OPERATIONS, PESHAWAR

Attaged to topically

Enquiry Report

Please refer to your office diary No.292 dt 17-02-2015. Police Capitalian Peshanu

Sermer - Lermienden

It is a departmental enquiry against SI Misal Khan posted P.S paharipura now p line ,Peshawar compliant submitted by Gulab Khan S/O. Rabnawaz vide case FIR No.33 dated 09-1-2015 u/s 302/324/34 P.S paharipura conducted following mentioned irregularities in enquiry performing his duty at P.S Michni Gate on his own will which is against the discipline of force. This acts amounts to gross misconduct and against the discipline of force.

On the basis of above allegation he was charge sheeted ,summary of allegation by the worthy SSP/Operation Peshawar, and undersigned was appointed as enquiry officer.

Proceedings of enquiry

SI Misal Khan was called listened personally and his statement was recorded.

Facts found during enquiry are appended below.

- SI Misal Khan Failed to record statements well in time which shows negligence on his part and raised doubts towards his malafide intention .
- Pistol 30 bore and 9MM were used for commission of crime but pistol 9MM has not been recovered.
- SI Misal Khan failed to recover weapon of offence (pistor 9mm) which crearly snows methiciency on his part.
- Delay in recording the statements of witnesses which could result in destruction of facts also raises suspicious towards malafide intention of IO.

Recommendation:-

Keeping in view the above mention circumstances undersigned suggested for minor punishment under

(Muhammad Furgan bylat) Finter of police Asistant Sup

W/ SSP: Operation Peshawar.

Issue final shows Senior Superintendent of Police

Lembored of the

عنوان! شو کازنوٹس بمعها نضباطی کاروائی۔

رار سابسا میں معدانضباطی کاروائی مجربیہ جناب SSP صاحب آپیشن بیثا ور ایس میں عائد کئے گئے ہیں۔ان کا جواب سلسلہ وار پیراوا کر تفصیل سے جوالزامات اس میں عائد کئے گئے ہیں۔ان کا جواب سلسلہ وار پیراوا کر تفصیل سے دیے جاتے ہیں۔جو کہ قابل غور ہے۔

سلسله نمبرا جواب! میں نے بحثیت تفتیشی افسرا بی ذبانت اور دیانتداری محیفتیش کی۔اور مقدمہ کے ساتھ جن لوگوں کا بھی تعلق تھا۔ان کے بیانات ریکارڈ کئے۔اور صفحہ ثل پرلاچکا

بیان ان لوگوں کے لیے جاتے ہیں جن کا مقدمہ کے ساتھ کسی طرح کا تعلق ہویا وہ وقوعہ کے سیسی متعلق کچھاطلاعات رکھ کرآ گے فراہم کرتے ہو۔

مقتول کاحقیقی والد گلاب خان بیرون ملک میں مقیم ہونے کی بناء پر وقوعہ کے سرز دہونے کے بعدوطن واپس آیااور درخواست دیدی جبکه درخواست د هنده نه تو ملک میں موجودتھااور نه ی واقعات کوئسی طرح دیکھ چکا تھا۔

ضروری امریہ ہے کہ سائل کے خلاف درخواست گزار نے سائل کے خلاف درخواست دینے ہے اللہ ہی اپنے بھائی ملزم شلیل کے ساتھ راضی نامہ کر کے جو کہ عدالت میں پیش ہو کرضانت یر ہوا ہے۔ (نقل آرڈ ہمراہ درخواست لف ہے)۔

کیونکہ وقوعہ کے سرز دہونے کے بعد واپس وطن پاکستان آیا۔

اس کے بیان کواتنی اہمیت نہیں دینی جا ہے۔

) سلسلہ نبر آکا جواب! یہ بیجی غلط ہے کہ اسلحہ برآ مدشدہ 30 بور جو کہ وقوعہ میں استا

ہوا تھا ملزم سمیت گرفتار کرنے کے بعداس کاعلیجدہ مقدمہ بجرم AA 15 درج رجسر ہو چکا

ہے۔جہاں تک 9MM خول چلیدہ 2 عدد بھی بڑآ مدہوئے تھے۔اسلیہ 9MM جو کہ وقوعہ میں استعال ہونا بیان ہوا بدوران تفتیش ملزم فہد بیانی ہوا تھا کہ اس نے بعد وقوعہ پستول 9MM پخہ غلام بل کے قریب بھینک دیا تھا۔ کافی کوشش کی گئی مگر پستول نیاسکی۔ملزم ہدکو سے موقع کی نشا ندہی درست طور پر کی گئی ہے جو کہ صفحہ شل پر موجود ہے اسی طرح ملزم فہدکو تھا نہ گلبہارا ورفقیر آباد پولیس نے حراست پولیس کیکراس کیلئے کوشش جاری رکھی۔کہ برآمدگی 9MM پستول برآمدہ وجائے مگر بے سود۔

اس کے علاوہ بدوران تفتیش موقع سے چار عددخول کا رتوس جبکہ دوعددتمیں بوراوردوعدد ASI میں اس کے علاوہ بدوران تفتیش موقع سے چارعددخول کا رتوس جبکہ دوعد دتمیں بوراوردوعد کی گئا اورا یک ہی پہنول 30 بور بوقت وقوعہ ملزم شکیل کے ساتھ ساجد خان المحالی نے برآ مدکیا تھا خول کا رتوس 30 بوراور MM بغرض تجزیدا نف ایس ایل لیبارٹری کیلئے بھیجا گیا تھا اور جس پررائے ایف ایس ایل رپورٹ آچک ہے۔ جس میں اس بات کا ذکر ہے کہ ایک خول اس 30 بور پہنول وقوعہ میں میں اس بات کا وقوعہ میں خول اس 30 بور پہنول وقوعہ میں استعال ہوا ہے۔ (رائے ایف ایس ایل ہمراہ درخواست لف ہے)۔

سلسلہ نبر اکا جواب! 30 بور پہتول کی برآ مدگی درست طور پر ہو چکی ہے۔ اور 9MM پہتول کے بارے میں ملزم فہد نے انکشاف کیا ہے کہ بعداز وقوع اس نے چھ بل کے قریب پہتول کے بارے میں ملزم فہد نے انکشاف کیا ہے کہ بعداز وقوع اس نے چھ بل کے قریب پہتول کی برآ مدگی کیلئے چھنکے ہوئے جگہ میں تلاش کی ہے جو کہ ضمدیات میں ذکر آ چکا ہے۔ اور صفحہ شل پر موجود ہے۔

سلسلہ نبر ۳ کا جواب! تفتیش مقدمہ محت اور جانفشانی سے کر کے احسن طریقہ سے ' نبائی گئی گواہان کے بیانات ریکارڈ کئے گئے ہیں اور ضمنیات حصہ دوئم کا حصہ ہے۔ یہ الزام بے بنیا داور غلط ہے کہ عرفات مدعی مقدمہ کا بیان نہیں لیا گیا۔وضاحت کی جاتی ہے۔ کے عرفات مجروح کی مدعیت میں مقدمہ درج رجٹر ہو چکا ہے۔ دوبارہ بیان لینے کی ضرورت نہیں ہے۔الزام غلط اور بے بنیاد ہے۔ کیونکہ وہ مدعی مقدمہ ہے۔

این ہے۔ الرام علط اور بے بیاد ہے۔ یونکہ وہ مدی صفر مہے۔

میں نے بحثیت تفتیش افسر غلظ فتیش نہیں کی محنت جانفشانی اور اپنے مطاقع میں نے بحثیت تفتیش افسر غلظ فتیش نہیں کی محنت جانفشانی اور اپنے مطابق سے پیرائے پر گامزن رہ کر اپنا کام کمل کیا۔

میر کے مطابق سے پیرائے پر گامزن رہ کر اپنا کام کمل کیا۔

میر کے مطابق سے پیرائے پر گامزن رہ کر اپنا کام کمل کیا۔

کسی ملزم کے ساتھ کوئی رعایت نہیں کی گئی۔ گرمعلوم نہیں کہ درخواست کنندہ کس بات پر ناراض

ہوکر کسی نے کس وجہ ہے اکسایا گیا ہے۔ کسی کی اکسانے پر میرے خلاف درخواست دی۔ حالانکہ
درخواست کنندہ نے سب سے پہلے ملزم شلیل جو کہ درخواست کنندہ کا حقیق بھائی ہے۔ اور ایک ہی
گھر میں دہائش پذیر ہے۔ عدالت میں پیش ہوکرراضی نامہ کر کے اس کی ضانت دہائی ہوچک ہے۔
گلاب خان درخواست کنندہ کا بیٹا مجروح عرفات جو کہ مدعی مقدمہ ہے کا حقیقی باپ ہے۔
گلاب خان درخواست کنندہ کا بیٹا مجروح عرفات جو کہ مدعی مقدمہ ہے کا حقیقی باپ ہے۔
میں بذات خوداور قائم خان ا AS اور ذاکر خان ا کا کے سمیت کا نی کوشش کی کہ اس کا بیان قام بند
آئی یا جائے حالانکہ درخواست کنندہ بوقت وقوع ملگ سے باہر تھا۔ پھرکوشش کی گئی اور علاوہ ازیں
نوٹس زیر دفعہ 160 خس ف بھی دیا گیا مگروہ میر سے سا منے ہیں آیا جو کہ شل مقدمہ میں اس کا
ذکر موجود ہے۔

جناب عالیٰ! میں نے اپنی قابلیت اور ذہانت کے مطابق تفتیش مقدمہ کو ہرمکن پایٹ کھیل تک پہنچانے کے کوشش کی گرنہ جانے درخواست کنندہ کس بات پرنا داض ہے۔

ن نہ نو ملز مان کے ساتھ کوئی رعایت کی گئی ہے اور نہ ہی کسی کوچھوڑ اگیا ہے۔ میں نے کوئی کوتا ہی نہیں ہے۔ اُلی ہے بے گناہ ہوں۔

نون: البُّنة وه خودملزم شليل كساته عدالت مين پيش موكرراضي نامه كرچكا ب اورضانت پرر ماموچكا ب-

تفصیلی بیان کی روشنی میں شوکازنوٹس بمعہ انضباطی کاروائی کوئسی مزید کاروائی کرنے کے داخل دفتر فرمایا جاوئے۔ نیز مجھے اجازت دی جاوئے کہ زبانی پیش ہوکر جملہ واقعات پر مفصل روشنی ڈال سکوں۔

نوب نقل عدالت آرڈر،رائے ایف ایس ایل ،فردنشا ندہی موقع ملزم فہداورنوٹس زیردفعہ 160 ض مراہ درخواست لف ہیں ۔

المرقوم 07/05/2015

سب انسپکرمثل خان معطل لائن پیثاور۔

Attasted to be True copy

Durok 26, (40)

SI Missal Khan OII of PS Paharipura was Charge Sheeted vide this office No.292/E/PA, dated 17.02.2015 while appointing ASP Faqirabad as Enquiry Officer. The Enquiry officer sent his finding on 31.03.2015 and recommended him for minor punishment. He was also issued Final Show Cause Notice, his written reply was received and perused he was also heard in person on 28.07.2015. I do not agree with the recommendation of enquiry officer, therefore, he is hereby awarded major punishment of forfeiture of 2 years approved service" under the Police Disciplinary Rules 1975. He is hereby re-instated in services from the date of suspension and period of suspension treated as duty.

SR: SUPERINTENDENT OF POLICE, OPERATIONS, PESHAWAR.

0.B.NO.<u>2871</u>/ dated <u>28-7-</u>/2015.

No. 8/3-19 /PA, dated Peshawar, the 29/07 /2015.

Copy for information to:

- 1. The Capital City Police Officer, Peshawar.
- 2. SP City,
- 3: ASP Faqirabad.
- 4 EC-II.
- 3. CC, Pay Officer & I/C Computer Cell
- 4. FMC with enquiry file.

Actostad to be

ت جناب چیف کیپال سٹی پولیس صاحب پشا	rety Mule And
	NY: NA: 1455
<u> 85- 18 درخواست بمرادمعانی دوساله لملازمت.</u> 261812015 خهروای	DY No. 1455 34-8-15
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الي!	جناب عالج
گزارش بحضورانور ہے۔ کہ سائل کو بحوالہ OB No.2871مورخہ 29/07/2015و	
29/07/2015 مين 20/07/2015 کي اگري جريد ديا گريد کا 29/07/2015 دي ديا گريد کا 29/07/2015 دي ديا گريد کا 29/07/2015 دي ديا گريد کا 20/07/2015 دي ديا گريد کا 20/07/2015 دي ديا گريد کا 20/07/2015 دي دي ديا گريد کا 20/07/2015 دي دي ديا گريد کا 20/07/2015 دي دي دي ديا گريد کا 20/07/2015 دي	DSA L
818-19مور خد 29/07/2015 کی جاتی ہے جس میں ذیل گراؤنڈ بھضور پیش کئے جاتے ہیں۔	For comment
	H /
برکہ سائل کے خلاف جناب اے ایس پی صاحب فقیرآ باد نے انکوائری کی تھی اور انکوائری کے متیجہ میں نہ میں سرمتیا:	
نہوں نے سائل کے متعلق Minor Punishment کی سفارش کی تھی۔	To ce
u.	101
وائری کے آنے کے بعد جناب ایس ایس پی صاحب نے اس انگوائری پر بجائے اس کے کوئی اور تھم	*
ری فر ماتے نگر سائل کی دوسال کی ملازمت کوختم کردی۔	lo.
ا دینے کے بعد مجھے محکمہ میں بحال کیا گیااور عرصہ چھے مہینے عظلی کی عرصہ کوڈیوٹی میں شار گی گئی۔	; (m
ہتمام روداد کے بارہ میں استدعا کرتا ہوں کہ سائل کی 25 سال ملازمت کو مدنظرر کھتے ہوئے اس سزا	۳) ایر
معاف فرمایا جاوئے۔ سائل زندگی بھردعا ئیں دونگاہ	
عين نوازش هوگي۔ عين نوازش هوگي۔	
مودخه 11/08/2015	ti .
F.M.C	
	·
Put up Veerel Pl. 1008-Price ()	سائل على خالا:

Dy: Supdt: of Police Legal, CCP/Peshawar

26.8.2015

ساک شخان (سباسپیش) مبر P-1008 متعینه پولیس لائن پیثاور۔ متعینه پولیس لائن پیثاور۔ موبائل نمبر 9143088-0333

Actual to be copy



OFFICE OF THE CAPITAL CITY POLICE OFFICER, PESHAWAR

42

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

ORDER

This order will dispose off departmental appeal preferred by SI **Misal Khan** who was awarded the punishment of **forfeiture of 2 years approved service** under P.R 1975 vide OB No. 2871 dated 29.7.2015 by SSP-Operations, Peshawar.

- 2. The allegations levelled against him were that he being IO of case FIR No.33 dt: 9.1.2015 u/s 302/324/34 PS Paharipura, failed to record statement after commission of the offence. Weapon of offence has not been recovered. 30 bore pistol has been shown as recovered weapon of offence which was in fact 9 mm pistol used for commission of offence. Investigation based on statement of accused Fahad Khan s/o Shalil Khan r/o Dalazak road Peshawar, rather than statement of complainant Irfan s/o Gulab Khan r/o Dalazak road Peshawar, eye witness. Faulty Investigation shows malafide intention on his part due to which the case was destroyed.
- Proper departmental proceedings were initiated against him and Mr. Fuftjan Bilal, ASP-Faqirabad was appointed as the E.O. The EO in his findings mentioned that he failed to record statements well in time which shows negligence on his part and raised doubts towards his malafide intention. Pistol 30 bore and 9 mm were used for commission of crime but pistol 9 mm has not been recovered. He failed to recover weapon of offence (pistol 9mm) which clearly shows inefficiency on his part. Delay in recording the statements of witnesses resulted in destruction of the case and also raises suspicious towards malafide intention of LO. On receipt of the findings of the E.O. The SSP-Ops: Peshawar issued him FSCN to which he replied. The same was perused and found unsatisfactory by SSP-Ops: as such awarded the punishment of forfeiture of 02 (Two) years approved service vide order No.813-19/PA dt: 29.7.2015.
- 4. The appellant was called in O.R. on 6.11.2015, and heard in person. The enquiry file was perused in detail alongwith explanation of the appellant. He was provided opportunity to defend himself but he failed to offer any plausible explanation in his favour. The allegations leveled against him stand proved during enquiry proceedings. There is no need to interfere in the order passed by SSP-Ops: Peshawar. The appeal is, therefore, rejected/filed.

CAPITAL CITY JOLICE OFFICER, PESHAWAR. 10 (1)

No. $\frac{5324}{7}$ PA dated Peshawar the 12/1/ /2015.

Copies for Information and n/a to the:-

1. SSsP-Ops: & Inv: Peshawar.

2. SsP/City/HQRs/Security Peshawar

3. PO/AS/CC/EC-I/EC-II/I MC/I-C Computer Cell & I/C Complaint Cell.

Augusto be True copy

BEFORE THE KPK Service Tribunal كافع منجاب الميليانك rt: misal Kham Provincial Police Officer باعث تحريرا نكبه مقدمه مندرجه عنوان بالامين الي طرن سے واسطے بيروي وجواب دہي وكل كارواكي متعلقه أن عام ليساور كيك اور تكريبانان اند ولحرفان المورط مفررکر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وكيل صاحب كوراضي نامه كرنے وتقرر ثالث وفيصله برحلف ديتے جواب دہی اورا قبال دعويٰ اور کی بصورات ڈگری کرنے اجراءاوروصولی چیک دروبیدارعرضی دعوی اوردرخواست ہرشم کی تقیدیق و زرایں پردسخط کرانے کا ختیار ہوگا۔ نیز صورت عدم پیروی یاؤگری میطرفہ یا پیل کی برامدگی و اورمنسوخی نیز دائر کرنے اپل نگرانی ونظر تانی و پیروی کرنے کا مخار ہوگا۔ از بصورت ضرورت مقدمه مذكور ككل ياجزوى كاروائى ك واسطے اوروكيل يا مخارقا نونى كواسيے مراه يا اسے بجائے تقرر کا اختیار ہوگا۔اورصاحب مقررشدہ کوبھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اوراس کاساختہ پر داختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا کوئی تاریخ بیثی مقام دورہ پر ہو یا صدسے باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ بیروی **ز**کور کریں۔ لہذا و کالت نامہ کھدیا کہ سندر ہے۔ الرقوم کے لئے منظور ہے۔ السيا و چۇكە مىشتكرى پىيادرى نون: 2220193 Allested Mob: 0345-9223239 Adu. rest Accepted

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1374/2015

Misal Khan SI CCP, Peshawar.....Appellant.

Versus

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- Capital City Police Officer, Peshawar.
- 3. Senior Superintendent of Police, Operation, Peshawar......Respondents.

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

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

- 1. That the appeal is badly time barred.
- 2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
- 3. That the appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the appellant has no cause of action and locus standi.
- 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 Honorable Tribunal.

FACTS:-

- (1) Para No.1 is correct to the extent that the appellant was entrusted with an investigation in criminal case vide FIR No.33 dated 09.01.2015 u/s 302/324/34 PS Pharipura, Peshawar. But he showed negligence and conducted a faulty investigation.
- (2) Para No.2 is incorrect. In fact the appellant conducted a faulty investigation. He failed to record statement after commission of the offence. Weapon of the offence has not being recovered. Faulty investigation shows malafide intention on his part due to which the case was destroyed.
- (3) Para No.3 is incorrect. The appellant did not recorded statement of father of the deceased. Thus he destroyed the case.
- (4) Para No.4 pertains to court, hence needs no comments.
- (5) Para No.5 is correct to the extent that the complainant namely Mr. Gulal Khan s/o Haji Gula Khan r/o Bangash house Dalazak road Peshawar, father of the deceased submitted an application to the IGP KPK against the partisan attitude of the IO in subject case.
- (6) Para No.6 is correct. The appellant was proceeded departmentally on allegations of conducting a faulty investigation.
- (7) Para No.7 is explained above in detail.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1374/2015

Misal	Khan	SI	CCP,	PeshawarA	ppellant
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Versus

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
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- (6) Para No.6 is correct. The appellant was proceeded departmentally on allegations of conducting a faulty investigation.
- (7) Para No.7 is explained above in detail.

- (8) Para No.8 is incorrect. In fact the appellant was given full opportunity to defend himself. He was also called and heard in person in OR on 06.11.2015, but he failed to produce any plausible reason in his defense.
- (9) Para No.9 is incorrect. The appellant being a member of a disciplined force, committed gross misconduct. He spoiled a very good case of investigation. He failed to record the statement of complainant party and other relevant persons well in time. Pistol of 30 bore and 9 MM were used for commission of the crime but pistol 9 MM has not been recovered. Which clearly shows inefficiency on his part.
- (10) Para No.10 is correct to the extent that he preferred a departmental appeal but after due consideration was rejected/filed because the charge, leveled against him were stand proved.
- (11) That appeal of the appellant being devoid of merits may kindly be dismissed with cost.

GROUNDS:-

- (A) Incorrect. The appellant was treated as per law and rules. The punishment order is in accordance with law/rules.
- (B) Incorrect. The appellant was proved guilty of misconduct and clearly shows malafide intention on his part.
- (C) Incorrect. The appellant failed to record the statement of witness well in time. Thus delay in recording the statements resulted in destruction of the case and clearly shows inefficiency on his part.
- (D) Incorrect. Proper departmental proceedings were conducted against him. He was given full opportunity to defend himself.
- (E) Incorrect. The appellant was proved guilty of misconduct. All codal formalities were fulfilled.
- (F) Incorrect. The punishment order is in accordance with law/rules.
- (G) Incorrect. The punishment order is legal and liable to be upheld.
- (H) Respondents also seek the permission of Honorable Tribunal to produce further grounds, points at the time of arguments.

PRAYERS:-

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant being devoid of merits, legal footing may be dismissed.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

> Capital City Police Officer, Peshawar.

Senior Superintendent of Police, Operation, Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1374/2015

Misal Khan SI CCP, Peshawar.....Appellant

Versus

- 1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
- 2. Capital City Police Officer, Peshawar.
- 3. Senior Superintendent of Police, Operation, Peshawar......Respondents.

AFFIDAVIT.

We respondents 1, 2 &3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

> Capital City Police Officer, Peshawar.

Senior Seperintendent of Police, Operation, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1374/2015

Misal Khan SI

VERSUS

PPO Khyber Pakhtunkhwa Peshawar & othersRespondents

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth,

Appellant humbly submits as under:

Reply of Preliminary Objections:

All the preliminary objection raised by the respondents are against the facts record, without any proof and prescribed rules and regulations.

REPLY ON FACTS:-

- Para No. 1 of the reply / comments admit to be correct to the extent of being I.O of case, but the appellant never showed any negligence and conduct fair investigation.
- **2.** Para no.2 is incorrect, the appellant conducted fair investigation and recorded the statements on time.

- 3. Para No. 3 is incorrect, in reply the para No.3 of the appeal be considered correct.
- Para No.4 of the appeal may kindly be consider correct.
- 5. In reply of Para No. 5.of the comments/reply, the para 5 of appeal be consider as real facts.
- **6.** In reply of Para No. 6 of the comments, para 6 of appeal be consider as true facts.
- 7. Para No.7 needs no explanation.
- 8. Para No.8 of comments/reply is incorrect because the appellant was not given any opportunity to cross examine the applicant regarding his allegation which violates the legal rights of appellant.
- **9.** Para No.9 is incorrect, the para no.9 of the appeal be consider true and correct.
- 10.In reply, no due considerations was given by the respondents and without any prudent

concentrations the departmental appeal of appellant was dismissed.

11.In reply of comments. The Para No.11 of appeal be consider.

Reply on Grounds:-

- A. Ground "A" of the reply is incorrect, the impugned orders are perverse, illegal and malafide and liable to be set aside.
- **B.** Ground "B" of the reply is incorrect, the appellant has committed no misconduct and the allegation are baseless and rotless.
- c. Ground "C" of the reply is incorrect, the appellant time and again visited the house of witnesses and complainant for recording their statements even the appellant issue notice U/S 160 Cr.PC for appearing but the witnesses deny to record the statement.
- **D.** Ground "D" of the reply is incorrect, because no proper inquiry was conducted against the appellant.

- E. Ground "E" of the reply is incorrect, because no codal formalities were fulfilled thus the orders are liable to be set aside.
- **F.** Ground "F" of the reply is incorrect, the order is against the law hence need to be set aside.
- **G.** Ground "G" of the reply is incorrect, the orders are against law and the same is not tenable under the law.
- H. Ground "H" needs no reply.

In view of the above narrated facts and grounds, it is therefore, humbly prayed that the penalty order and rejection order passed by the respondents may kindly be set aside and the service of the appellant may kindly be restored / recounted alongwith all back benefits.

OR

Any other relief which this Hon'ble Tribunal deems appropriate in the circumstances of the case may also be granted to the appellant.

Dated:13/03/2017

Appellant _

Through

AURANGZEB KHAN

&

WAJID KHAN

Advocates Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1374/2015

Misal Khan SI	Ap	pellant
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VERSUS

PPO Khyber Pakhtunkhwa Peshawar & othersRespondents

AFFIDAVIT

I, Misal Khan SI Peshawar (appellant), do hereby solemnly affirm and declare on oath that the contents of this accompanying rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

بعدالت جناب: _

مقام

منجانب:	1374/15-121:65,
Misel khan	علت نمبر:
بنام	مورخه:م
_ '	: ₇ ?.
Polia Depti	تقانه:

اعث تحرير آنكه

مقدمه مندرج عنوان بالا میں اپی طرف سے واسطے پروی وجواب وہی کا روائی متعلقہ

آن ستام مسل مرس کیل مقرر مسل مرس کیل کا روائی کا کا اس اختیار ہوگا ، نیز و کیل مقرر راضی نامہ کرنے و تقر را الت و فیصلہ بر صلف دیے جواب دعوی اقبال دعوی اور درخواست از ہرتم کی تصدیق راضی نامہ کرنے و تقر را الت و فیصلہ بر صلف دیے جواب دعوی اقبال دعوی اور درخواست از ہرتم کی تصدیق دریں پر دستخط کرنے کا اختیار ہوگا ، نیز بصورت عدم پیروی یا وگری کیلم فرقہ یا ایس کی برآ مدگی اور منسوفی ، نیز دائر کرنے ایس گرانی و نظر تانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدہ فیکورہ کے کل یا جزوی کا روائی کے واسطے اور وکیل یا مختار تا تونی کو اپنے ہمراہ یا ایس کا ساختہ پر داختہ منظور و قبول ہوگا وروان مقدمہ میں جو خرچہ ہر جانہ التوائے مقدہ کے سب سے ہوگا ۔ کوئی تاریخ بیشی مقام دورہ یا صد سے دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدہ کے سب سے ہوگا ۔ کوئی تاریخ بیشی مقام دورہ یا صد سے بہر ہوتو وکیل صاحب پابند نہ ہوں گے کہ پیروی ذکورہ کریں ، البذا وکالت نامہ کھے دیا تا کہ سند رہ کرائی مقدم کی مطاب ہوگا کہ کہ پیروی ذکورہ کریں ، البذا وکالت نامہ کھے دیا تا کہ سند رہ کرائی مطاب ہوگا کہ کا مطاب کی مطاب ہوگا کہ کہ کی مطاب کے کہ پیروی ذکورہ کریں ، البذا وکالت نامہ کھے دیا تا کہ سند رہ کرائی مقال کی مطاب کے کہ پیروی ذکورہ کریں ، البذا وکالت نامہ کھے دیا تا کہ سند رہ کرائی کی مطاب کی مطاب کے مطاب کے مطاب کی میروی ذکورہ کریں ، البذا وکالت نامہ کھے دیا تا کہ سند رہ کرائی کی مطاب کی مطاب کی مطاب کی مطاب کی مطاب کی میروی ذکرہ کی مطاب کی مطاب کی مطاب کی مطاب کی میروی ذکرہ کی مطاب کے مطاب کی مطاب کی مطاب کی میروی ذکر کی مطاب کی مطاب کی مطاب کی مطاب کی مدروں کی مطاب کی مطاب کی مطاب کی مطاب کی مطاب کی مطاب کی میروی کی کرنے کی میروں کی مطاب کی مرب کی مطاب کی مطاب کی مقدم کی مطاب کی مطاب کی مطاب کی مطاب کی مدروں کی مدروں کی مطاب کی

نون :اس وكالت نامه كي فو نو كاني نا قابل قبول موكى _

<u>KHYBER PAKHTUNKWA SERVICE TRIBU</u>NAL, PESHAWAR

No. 3395 /ST

Dated <u>28 / 11 / 2018</u>

To

The Senior Superintendent of Police Operation, Government of Khyber Pakhtunkhwa,

Peshawar.

Subject: -

<u>JUDGMENT IN APPEAL NO. 1374/2015, MR. MISAL KHAN.</u>

I am directed to forward herewith a certified copy of Judgement dated 19.11.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.