

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 832/2019

Date of Institution ... 25.06.2019

Date of Decision ... 07.07.2021

Jan Muhammad, Ex-Constable No. 516,
Police Lines, Hangu.

... (Appellant)

Versus

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
two other.

... (Respondents)

MR. NOOR MOHAMMAD KHATTAK,
Advocate

... For appellant.


MR. RIAZ AHMAD PAINDAKHEIL,
Assistant Advocate General

... For respondents.

MR. SALAH-UD-DIN,
MS. ROZINA REHMAN,
MR. ATIQ-UR-REHMAN WAZIR,

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

JUDGMENT

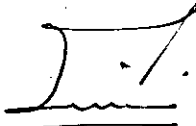

SALAH-UD-DIN, MEMBER:- The appellant has filed the instant Service Appeal against the order dated 03.06.2019, whereby the departmental appeal of the appellant was rejected and the impugned order of dismissal of the appellant dated 17.01.2019, passed by the competent Authority, was kept maintained.

2. Brief facts of the case are that the appellant who was serving as Constable and posted as DFC in Police Station Hangu, was proceeded against departmentally under the Khyber Pakhtunkhwa Police Rules,

1975 on the allegations that he was charged in criminal case FIR No 963/2018 U/Ss 9CNSA/489-C PPC read with Section 15AA registered in Police Station Hangu. On conclusion of the inquiry, the appellant was dismissed from service by the competent authority vide impugned order dated 17-01-2019. The departmental appeal of the appellant was rejected vide order dated 29-05-2019, hence the instant appeal.

3. Respondents submitted their comments, wherein they mainly alleged that huge quantity of contraband, arms and ammunition as well as fake currency was recovered from the room of the appellant, therefore, proper inquiry was conducted against the appellant and he was rightly dismissed from service.

4. The instant appeal was heard by a Division Bench of this Tribunal comprising Mr. Muhammad Hamid Mughal, the then Member Judicial and Mr. Ahmad Hassan, the then Member Executive, however in view of difference in their opinion rendered in their judgments in the appeal, the matter was referred to the larger bench for its decision.

 5. Learned counsel for the appellant has argued that neither any opportunity of personal hearing was afforded to the appellant nor any show-cause notice was issued to him, therefore, the inquiry proceedings were not held in accordance with relevant rules; that the appellant was proceeded against on the ground of his involvement in the criminal case, however the appellant has already been acquitted by the learned trial court in the said criminal case; that the appellant was proceeded against departmentally on the same allegations, which were leveled against him in the criminal case, therefore, upon acquittal of the appellant, the allegations leveled against him are no more in field. Reliance was placed on PLD 2003 Supreme Court 724, 2004 SCMR 468, 2008 SCMR 1369, 2015 PLC (C.S) 501, 2015 PLC (C.S) 537 and PLD 2017 Supreme Court 173.

6. On the other hand, learned Assistant Advocate General for the respondents has argued that huge quantity of contraband as well as arms and fake currency were recovered from the room occupied by the appellant; that regular inquiry was conducted into the matter and the allegations against the appellant stood proved, therefore he was rightly

dismissed from service; that there is no concept of issuance of final show cause notice in Police Rules, 1975; that the appellant has brought bad name to the police department and the allegations against him were proved during the inquiry, therefore, he was rightly dismissed from service. Reliance was placed on 2006 SCMR 554, 2006 SCMR 453, 2010 SCMR 195 and 2013 PLC (C.S) 1071.


7. We have heard learned counsel for the parties and have perused the record.

8. A perusal of the record would show that the appellant was charged and arrested in case FIR No 963/2018 U/Ss 9 (C) CNSA and 489-C PPC read with Section 15AA registered in Police Station Hangu, therefore disciplinary action was initiated against the appellant. Charge sheet as well as statement of allegations were issued to the appellant and on receipt of the finding of the inquiry officer, the appellant was straight away dismissed by the competent authority vide the impugned order dated 17-01-2019, without issuing of show cause notice. Contention of the learned attorney on behalf of official respondents to the effect that there is no concept of show cause notice under Police Rules 1975 does not hold any force, as this tribunal has already delivered numerous judgments, wherein it has been held that the issuance of final show cause notice along with the inquiry report is must under these rules. Reliance is also placed on the famous case of Syed Muhammad Shah delivered by august Supreme Court of Pakistan (PLD 1981 SC-176) wherein it has been held that rules devoid of provision of final show cause notice along with inquiry report were not valid rules. Non issuance of the show cause notice and non-supply of copy of the findings of the inquiry officer to the appellant has caused miscarriage of justice as in such a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him. The disciplinary action was taken against the appellant on the ground that he was charged in case FIR No 963/2018 U/Ss 9 (C) CNSA/489-C PPC read with Section 15AA registered in Police Station Hangu, however the appellant has been acquitted in the said criminal case by learned trial court vide judgment dated 02-03-2019. The learned trial court has categorically observed that in view of testimony

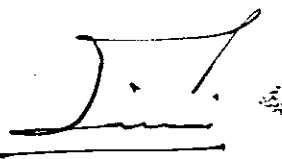
of material witnesses of the prosecutions, the alleged raid and recovery had not taken place in the mode and manner as alleged by the prosecution and that the case of the prosecution is not free of doubts. Nothing is available on the record, which could show that the acquittal of the appellant has been challenged by the department through filing of appeal before the higher forum. In this situation, the acquittal order of the appellant has attained finality. It is settled law that acquittal of an accused in a criminal case even if based on benefits of doubt would be considered as honourable. In case of dismissal of civil servant/employee on charges of registration of a criminal case, if the civil servant/employee is later on acquitted, then the dismissal cannot remain in field.

9. In view of the above discussion, the instant appeal is allowed. The impugned order of dismissal of the appellant stands set aside and he is re-instated into service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
07.07.2021



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)



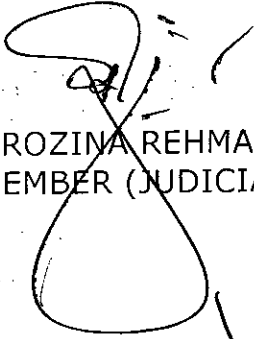
(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

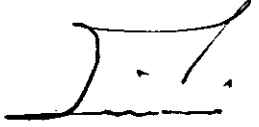
ORDER
07.07.2021

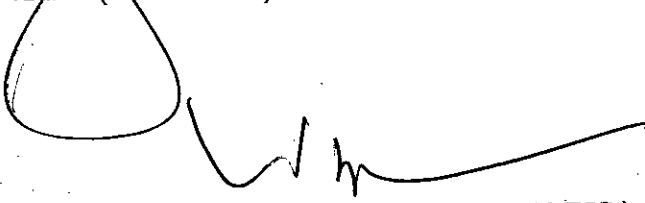
Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is allowed. The impugned order of dismissal of the appellant stands set aside and he is re-instated into service with all back benefits. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
07.07.2021


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

29.06.2021

Mr. Said Khan, junior of learned counsel for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

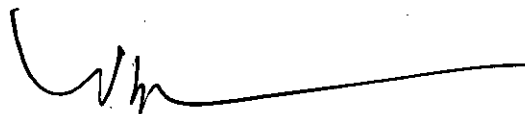
Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant has proceeded to home ^{due to} for some domestic engagements. Adjourned. To come up for arguments before the Larger Bench on 07.07.2021.



(ROZINA REHMAN)
MEMBER (JUDICIAL)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

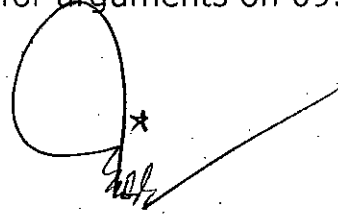


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

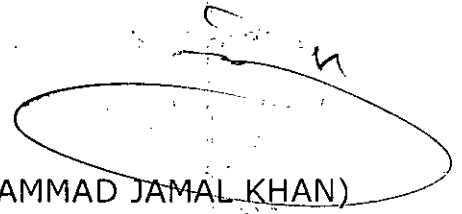
03.12.2020

Mr. Mir Zaman Safi, Advocate, for appellant is present. Mr. Muhammad Jan, Deputy District Attorney, for the respondents is also present.

Learned counsel representing appellant requested for adjournment for not preparing the brief. Request is allowed with the direction to prepare the brief well before the next date. File to come up for arguments on 09.03.2020 before Larger Bench.



(MIAN MUHAMMAD)
(MEMBER EXECUTIVE)




(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

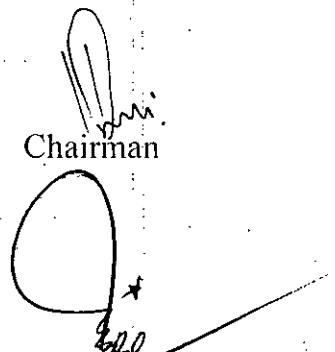
09.03.2021

(ATIQU-UR-REHMAN WAZIR)
~~Counsel for the appellant and~~ Muhammad Rashid, DDA for respondents present.

Former requests for adjournment due to his indisposition today. Adjourned to 29.06.2021 for hearing before the Larger Bench.



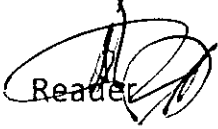
(Atiq-ur-Rehman Wazir)
Member(E)



Chairman
(Mian Muhammad)
Member(E)

20.8.2020

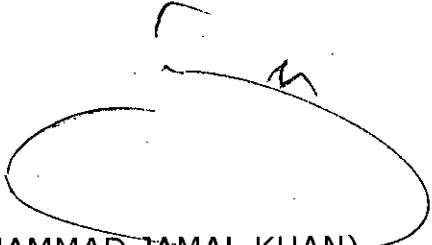
Due to COVID19, the case is adjourned to
10/11/2020 for the same as before.



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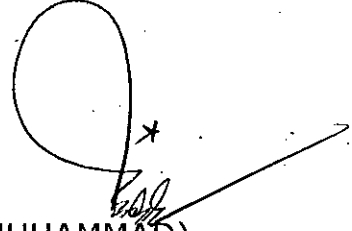
10.11.2020

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

Since the Members of the High Court as well as of the District Bar Associations, Peshawar, are observing strike today, therefore, learned counsel for appellant is not available today. Adjourned to 03.12.2020 on which date to come up for arguments before the Larger Bench.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

832/19

03/02/2020

Be laid before a larger bench minus the honorable members having the difference of opinion. To come up for further proceeding/arguments on 12/03/2019.

Notices to the parties be issued accordingly.


Chairman

12.03.2020

Counsel for the appellant present. Mr. Ziaullah; DDA alongwith Zahidur Rahman, Inspector for the respondents present.

The Worthy Chairman is on leave, therefore, the bench is incomplete. The matter is adjourned to 11.06.2020 for arguments before the Larger Bench.



(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

11.06.2020

Counsel for the appellant and Mr. Kabirullah Khattak Addl. AG for the respondents present.

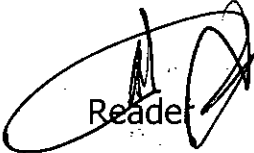
Due to incomplete Bench, the matter is adjourned to 20.08.2020 for arguments before the Larger Bench.


Chairman


(M. Amin Khan Kundi)
Member

20.08.2020

Due to summer vacation case to come up for the same on 10.11.2020 before Larger Bench.


Reader

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 832/2019

Date of Institution ... 25.06.2019

Date of Decision ... 07.01.2020

Jan Muhammad, Ex-Constable(no.516), Police Lines, Hangu.

... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

MR. MIR ZAMAN SAFI,
Advocate

For appellant.

MR. ZIAULLAH,
Deputy District Attorney

For respondents

MR. AHMAD HASSAN
MR. MUHAMMAD HAMID MUGHAL

MEMBER(Executive)

MEMBER(Judicial)

JUDGMENT:

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

ARGUMENTS:

02. Learned counsel for the appellant argued that while serving as Constable in the respondent-department, he was charged in FIR no. 963 under Section-9 CNSA/15-AA/489-C dated 16.11.2018 and was arrested by the Police. He was placed under suspension and disciplinary proceedings were conducted against him. Upon winding up of the proceedings major penalty of dismissal from service was imposed on him vide impugned order dated 17.01.2019. He was acquitted by the Additional Sessions Judge, Hangu vide judgment dated 02.03.2019. Upon release from jail, he filed departmental

appeal which was rejected on 03.06.2019 followed by the present service appeal. Enquiry was not conducted in the matter according to the procedure prescribed in the rules. Show cause notice was not served on the appellant and resultantly, he was condemned unheard. Having been acquitted of the criminal charge there was no justification of imposition of penalty and this act of the respondents was patently illegal and unlawful. 2007 SCMR 229, 2008 SCMR 1369, 2003 PLC (C.S) 353, 2010 PLC (C.S) 471, 2002 SCMR 57 and 2006 SCMR 55.

03. Learned DDA argued that appellant was involved in smuggling of contraband items and an FIR was lodged against him. Disciplinary proceedings were initiated and upon culmination major penalty of dismissal from service was awarded to him after observance of all codal formalities. Departmental and criminal proceedings can run parallel and criminal proceedings will have no impact on departmental proceedings.

CONCLUSION:

04. The appellant serving as Constable in Police Department was arrested after registration of FIR no. 963 under Section-9 CNSA/15-AA/489-C dated 16.11.2018 and contraband items were also recovered from his possession. After placing him under suspension, disciplinary proceedings were initiated and upon winding up major penalty of dismissal from service was awarded to him vide impugned order dated 17.01.2019. It merits mentioning here that the appellant was immediately arrested after registration of FIR. Though, it is mentioned in the note sheet appended with the enquiry report that he was regularly brought from the judicial lockup to participate in the enquiry proceedings but nothing in black and white was available from the record of jail authorities so as to ascertain the veracity of the claim of the enquiry officer. Furthermore, 75 grams chase, 32 grams heroin purportedly recovered from the possession of the appellant and it was a big question mark whether such quantity could be used for drug trafficking?

05. Serving of show cause notice though not mentioned in the Police Rules 1975 but was mandatory requirement of principle of natural justice having support of numerous judgments of the august Supreme Court of Pakistan followed by this Tribunal. In the present case show cause notice was not served on the appellant, which snatched the opportunity of offering proper defense from him. Having not seen contents of the enquiry report, how could he defend himself? Being an inalienable fundamental right of the appellant it, amounts to miscarriage of justice. This Tribunal has been consistently following this yardstick almost in all cases so departure from the set pattern and that too without any cogent reasons in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such enquiry/disciplinary proceedings could not be termed as fair, just and reasonable and in nutshell the appellant was condemned unheard (2007 SCMR 1860), 2008 SCMR 1369.

06. As a sequel to the above, the instant appeal is accepted, impugned order dated 17.01.2019 is set aside and the appellant is reinstated in to service. The respondents are directed to conduct de-novo enquiry strictly in accordance with law and rules. The issue of back benefits shall be outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member

(MUHAMMAD HAMID MUGHAL)
Member

Not agreed, dissenting note is attached

ANNOUNCED
07.01.2020

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	07.01.2020	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> Service Appeal No. 832/2019</p> <p style="text-align: right;">Date of Institution 25.06.2019 Date of Decision 07.01.2020</p> <p>Jan Muhammad Ex-Constable No.516 Police Lines, Hangu. Appellant</p> <p style="text-align: center;">Versus</p> <p>1. The Inspector General of Police, Khyber Pakhtunkhwa Peshawar. 2. The Regional Police Officer, Kohat Region, Kohat. 3. The District Police Officer, District Hangu. Respondents</p> <p>Mr. Muhammad Hamid Mughal-----Member(J) Mr. Ahmad Hassan -----Member(E)</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>MUHAMMAD HAMID MUGHAL, MEMBER:</u> Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney present.</p> <p>2. The appellant (Ex-Constable) has filed the present service appeal against the order dated 17.01.2019 whereby he was awarded major punishment of dismissal from service on the ground that huge quantity of Charas, heroin, arms and fake currency was recovered from his room. The appellant has also</p>

Handwritten signature and date:
7.1.2020

assailed the order dated 03.06.2019 of the appellate authority in relation to rejection of his departmental appeal.

3. Learned counsel for the appellant argued that the appellant joined the Police Department as Constable and during his service; he was charged in case FIR No.963 dated 16.11.2018 U/S 9-C-CNSA/15AA/489C Police Station City District Hangu and remained behind the bar since his arrest and then acquitted by the learned Trial Court vide judgment dated 02.03.2019; that due to the involvement of appellant in criminal case, he was placed under suspension; that the respondent department without fulfilling the codal formalities and waiting for the decision of the learned Trial Court, straight away issued the impugned order of dismissal of the appellant from service. Further argued that the impugned orders are against law, facts and norms of justice; that no regular inquiry was conducted; that no Show Cause Notice has been issued nor any chance of defense/personal hearing was provided to the appellant. Further argued that the order of dismissal of the appellant from service could not sustain any more upon the acquittal of the appellant in the criminal case got registered against him; that the respondents have acted in arbitrary and malafide manner while issuing the impugned orders.

4. As against that learned DDA argued that the appellant being a member of disciplinary force, indulged himself in unlawful activities and contraband in the shape of Charas,

7.1.2020

heroin and arms as well as fake currency was recovered from his room and resultantly criminal case was registered against the appellant, more so departmental action was also initiated against him in the shape of regular inquiry; that proper charge sheet/statement of allegation was issued and inquiry officer was appointed to conduct inquiry; that during the inquiry proceeding, the appellant was produced from judicial lockup and he also submitted reply to the charge sheet; that the inquiry officer recorded the statement of witnesses in presence of the appellant and the appellant was also provided opportunity of cross-examination; that the statement of the appellant was also recorded; that upon submission of inquiry report, the authority also called and heard the appellant in person in the orderly room and while considering the record and circumstances of the case, awarded punishment to the appellant; that there is no provision in the Police Disciplinary Rules 1975 for issuance of Show Cause Notice to the delinquent official and that the appellant was heard by the inquiry officer as well as by the competent authority during the course of regular inquiry; that the decision of Trial Court, in the criminal case, has no bearing upon the fate of departmental inquiry as both are distinct; that in the departmental proceedings reasonable grounds are required for holding the appellant guilty of misconduct whereas before the Criminal Trial Court, the prosecution has to prove its case beyond any shadow of doubt.

7.1.2020

5. Arguments heard. File perused.

6. Criminal case in the shape of FIR mentioned above was registered against the appellant by the S.H.O in the same Police Station where the appellant was performing his duty as DFC.

7. Perusal of FIR mentioned above would show that more than six kilograms contraband Charas, 32 gram contraband heroin, one Kalashnikov, one 9MM pistol with 9MM rounds and fake currency of Rs.96000/- was recovered from the room occupied by the appellant.

8. It is well settled that criminal trial as well as departmental action on the same charges can go parallel/side by side, independent of each other and acquittal of accused official in the criminal case has no bearing on the fate of departmental action/regular inquiry.

9. Charge sheet/statement of allegation, reply of the appellant to the charge sheet, statements of witnesses recorded by the inquiry officer and inquiry report holding the appellant guilty of the charges is available on file.

10. This Tribunal however noticed that upon the receipt of inquiry report, the competent authority instead of issuing to the appellant Show Cause Notice alongwith inquiry report, awarded him the punishment. Hence the impugned orders are set aside. The departmental action against the appellant shall be deemed pending and the competent authority (respondent No.3) is directed to proceed with the departmental action next from

7.1.2020

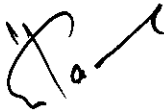
the stage of receiving the inquiry report. The appellant is reinstated for the purpose of participation in the departmental proceeding. The present service appeal is disposed of in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

(Ahmad Hassan)
Member

(Dissenting Judgment Attached)

ANNOUNCED

07.01.2020

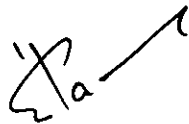

(Muhammad Hamid Mughal)
Member

07.01.2020


Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Zahid Rehman, Inspector for respondents present. Arguments heard and record perused.

The appeal was heard on today, however, after hearing members of the Divisional Bench failed to arrive at a consensus judgment. Separate judgments written by us be placed before the worthy Chairman for appropriate orders.

Announced:
07.01.2020



(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

S.A No. 832/2019

23.09.2019

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahid-ur-Rehman, Inspector (Legal) for the respondents present.

Written reply on behalf of respondents not submitted. Representative of the respondents seeks further time. Adjourned to 18.10.2019 for written reply/comments before S.B.

CHAIRMAN 

18.10.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG requests for further time to obtain and submit the reply/comments from the respondents. May do so positively on next date of hearing.

Adjourned to 20.11.2019 before S.B.

Chairman 

20.11.2019

Appellant in person and Addl. AG alongwith Abdur Rauf, H.C for the respondents present.

Representative of the respondents has furnished reply of the respondents. Placed on record. The appeal is assigned to D.B for arguments on 07.01.2020. The appellant may submit rejoinder to the comments of official respondents, within a fortnight, if so advised.

Chairman 

24.07.2019

Counsel for the appellant present.

Contends that the appellant was proceeded against departmentally and was awarded penalty of dismissal from service on the ground of registration of a case against him under Sections 9(c) CNSA, 489(c) and 15-AA P.S City, Hangu. On 02.03.2019, the appellant was acquitted from the criminal charges by a court of competent jurisdiction and the said fact was brought into the notice of departmental appellate authority through the departmental appeal submitted by appellant. On the other hand, the departmental appellate authority did not even consider the factum of acquittal of appellant and dismissed the appeal in a slipshod manner. In the circumstances valuable service rights of the appellant were put in jeopardy, it was added.

Appellant Deposited
Security & Process Fee

gij
5/8/19

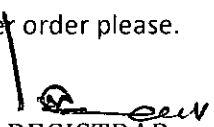

In view of the available record and arguments of learned counsel, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.09.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- _____ 832/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/06/2019	<p>The appeal of Mr. Jan Muhammad presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/6/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/07/19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 832 /2019

JAN MUHAMMAD

VS

POLICE DEPTT:

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5	Reply	D	8.
6	Impugned order	E	9.
7	Judgment of trial Court	F	10- 50.
8	Departmental appeal	G	51- 53.
9	Rejection	H	54.
10	Vakalat nama	55.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 832 /2019

Diary No. 892

Dated 25-6-2019

Mr. Jan Muhammad, Ex: Constable (No.516),
Police Lines, Hangu **APPELLANT**

VERSUS

- 1) The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2) The Regional Police Officer, Kohat Region, Kohat.
- 3) The District Police Officer, District Hangu.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17.01.2019 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE APPELLATE ORDER DATED 03.06.2019 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS

PRAYER:

That on acceptance of this appeal the impugned orders dated 17.01.2019 and 03.06.2019 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

1. That the appellant was the employee of the respondent Department and had served the respondent Department as Constable quite efficiently and up to the entire satisfaction of his superiors.
2. That during service the appellant was charged in case FIR No. 963 dated 16.11.2018 U/S 9C-CNSA/15AA/489-C. That the appellant was sent behind the bar in the above mentioned FIR and remained behind the bar since from the date of his arrest. Copy of the FIR is attached as annexure.....**A.**

Filed to-day
Registrar
25/6/19

3. That due to alleged involvement in the above mentioned criminal case the appellant was placed under suspension vide order dated 23.11.2018. Copy of the suspension order are attached as annexure **B.**
4. That the respondent Department without fulfilling the codal formalities and waiting of final decision of the Learned Trial Court straight away issued the impugned order dated 17.01.2019 whereby the appellant has been dismissed from service. Copies of the charge sheet and statement of allegation, reply and impugned order are attached as annexure.....**C, D & E.**
5. That after dismissal from service the appellant has been acquitted by the Learned Additional Session Judge-I, Hangu in the above mentioned case vide judgment dated 02.03.2019. Copy of the judgment is attached as annexure..... **D.**
6. That after acquittal in the above mentioned case the appellant filed Departmental appeal against the impugned order dated 17.01.2019 which was rejected by the concerned authority vide appellate order dated 03.06.2019. Copies of the Departmental appeal and rejection order are attached as annexure.....**G & H.**
7. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 17.01.2019 and 03.06.2019 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner while issuing the impugned dismissal order dated 17.01.2019.
- D- That the respondents dismissed the appellant in a hasty manner without waiting the outcome of the trial which was pending before the Sessions Court at that relevant time.

- E- That no show cause notice has been issued nor chance of personal hearing/ defense has been provided to the appellant before issuance of the impugned order dated 17.01.2019.
- F- That no regular inquiry has been conducted against the appellant which is as per Supreme Court judgments is necessary in punitive actions against the Civil servant.
- G- That appellant has been discriminated on the subject noted above and as such the impugned order dated 17.01.2019 is not tenable in the eyes of law.
- H- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 21.06.2019

APPELLANT


JAN MUHAMMAD

THROUGH:


NOOR MOHAMMAD KHATTAK


SHAHZUELAH YOUSAFZAI

&


MIR ZAMAN SAFI
ADVOCATES

اینجانب اطلاع می‌دهم که این اسامی در سیستم ثبت شده است و در صورت نیاز می‌تواند از طریق سامانه دسترسی داشته باشید. همچنین به اطلاع می‌رسانم که این اسامی در سامانه ثبت شده است و در صورت نیاز می‌تواند از طریق سامانه دسترسی داشته باشید. همچنین به اطلاع می‌رسانم که این اسامی در سامانه ثبت شده است و در صورت نیاز می‌تواند از طریق سامانه دسترسی داشته باشید.

1	اسم: ...	شماره: ...
2	اسم: ...	شماره: ...
3	اسم: ...	شماره: ...
4	اسم: ...	شماره: ...
5	اسم: ...	شماره: ...
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8	اسم: ...	شماره: ...
9	اسم: ...	شماره: ...
10	اسم: ...	شماره: ...

تاریخ ثبت: 1398/06/18
 شماره ثبت: 963
 اینجانب اطلاع می‌دهم که این اسامی در سیستم ثبت شده است و در صورت نیاز می‌تواند از طریق سامانه دسترسی داشته باشید. همچنین به اطلاع می‌رسانم که این اسامی در سامانه ثبت شده است و در صورت نیاز می‌تواند از طریق سامانه دسترسی داشته باشید.

Handwritten text at the top of the page, possibly a header or title, written in Urdu.

A table with multiple rows and columns containing handwritten entries, possibly a ledger or record book. The text is written in Urdu.

Handwritten notes or signatures on the right side of the page, including some numbers and dates.

Large handwritten text block at the bottom of the page, containing detailed notes or a report in Urdu.

A vertical column of handwritten numbers and symbols on the far right edge of the page, possibly a margin or index.



B-5

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU

ORDER

Constable Jan Muhammad No. 516 while posted as DFC Police Station City Hangu is hereby suspended & closed to Police Lines Hangu with immediate effect as he is directly charged in case FIR No. 963 dated 16.11.2018 u/s 9C-CNSA, 489C PPC, 15AA Police Station City Hangu.

OB. No. 470

Dated 19 / 11 / 2018.

DISTRICT POLICE OFFICER, HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU

No. 4088-91 /PA, dated Hangu the 23 / 11 / 2018.

Copy to all concerned for necessary action and information.

*3Re
For information & link with
the enquiry paper of 18 Jan Mohammed.*

ATTESTED

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P.T.O

C-6

CHARGE SHEET.

I, **Mr. PIR SHAHAB ALI SHAH, D.P.O, HANGU** as competent authority, hereby charge you **Constable Jan Muhammad No. 516** while posted as DFC at **Police Station City Hangu** committed the following irregularities:-

- a). You are directly charge in case FIR No. 963 dated 16.11.2018 u/s 9C CNSA, 489C PPC, 15AA Police Station City Hangu, as huge quantity of Charas as well as Arms etc have been recovered from your possession .
- b). Your above act shows your negligence, disinterest and also amount to gross misconduct on your part.

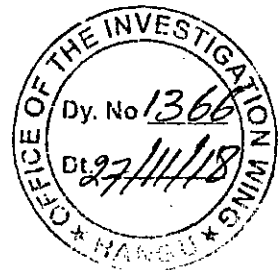
2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.



**DISTRICT POLICE OFFICER,
HANGU**

ATTESTED

No. 130 /PA,
Dated 26/11 /2018.

SRC
 To dis app's
 27/11

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DISCIPLINARY ACTION.

1. **Mr. PIR SHAHAB ALI SHAH, D.P.O, HANGU** as competent authority, am of the opinion that Constable Jan Muhammad No. 516 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

- a). You are directly charge in case FIR No. 963 dated 16.11.2018 u/s 9C CNSA, 489C PPC; 15AA Police Station City Hangu, as huge quantity of Charas as well as Arms etc have been recovered from your possession .
- b) Your above act shows your negligence, disinterest and also amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

Superintendent of Police Investigation, Hangu.


3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.


**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to: -

1. Superintendent of Police Investigation, Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
2. Constable Jan Muhammad No. 516. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.


ATTESTED

(24)

ضلع علی

توالی کے لئے جانچ سہ ماہی 130-PA 26-11-18 حوض حویلی بم سن سالک ٹھانہ میں
 صنوں میں لیڈر کا لاشہ لاشے کا اور اپنی لاشوں کے دوران اپنی ڈھلیوں
 اسی طرح سے کرتا ہے اور ساتھ ساتھ لیڈر کا کافی حد تک
 ماحولیاتی رپورٹ کے ساتھ ساتھ اور بروقت ساتھ ساتھ ماحولیاتی
 گورنمنٹ پالیسی کے تحت لاشوں کی دی ہے۔ جس پر کارروائی
 ہو کر کافی کارروائی کے دوران زیر دست پرائیویٹ ہو گیا ہے جس پر لاشوں
 سرکاری کو مطلع کیا گیا ہے اور ساتھ ساتھ کو بھی اطلاع دیا گیا ہے
 تے لاشوں کی اسناد بھی دی ہے۔ اور اپنے ڈھلیوں کے دوران ان کے ساتھ
 ہر خطراتی کہیں گروہ بھی متاثر ہو چکی ہیں۔

جنابو الہ جیوں تک الزام کا دعوی ہے۔ سن سالک میں کسی قسم کا کوئی
 ریکارڈ نہیں ملے گا۔ اور نہ ہی لاشیں تے جو ماحولیاتی برائیاں
 اور نہ ہی لاشیں سرکے اور نہ ہی وہ غیر قانونی سامان، سیٹھ، اسلحہ
 حاصل کرتے ہیں، پیروں میں ہے اور نہ ہی وہ لاشیں تے۔ گورنمنٹ
 سوچے سمجھے کسی شخص کے مطابق پراسرار کارروائی ہو رہی ہے۔ اور یہ
 سن گزشتہ مہینہ رپورٹ ہے۔ ان کے ساتھ ساتھ الزام کے
 مابین عدالت میں دعویٰ نہیں کروں گا۔ اور عدالت سے سرحد
 ہو کر لاشوں کا - انصاف کا طلب کار ہوں۔ اور ساتھ ساتھ اس سوچے سمجھے
 سازش کو بدلے قاتلین کے لئے عدالت کی آغوش کا اہلکار بھی کرتا ہوں۔

جانچ ڈیو
 ڈیو جانچ ڈیو
 ڈیو جانچ ڈیو

To be
 Placed on
 File

(20)

Sir
 Forwarded

Msp. 1/c Local Hamya
 5. 12. 018

ATTESTED

Police Station

Superintendent of Police
 Investigative Branch
 Multan 57000

ORDER

E-9

This order of mine will dispose off the departmental enquiry against Constable Jan Muhammad No. 516 on the basis of allegations that he while posted as DFC at Police Station City Hangu, he was directly charged in case FIR No. 963 dated 16.11.2018 u/s 9C-CNSA, 489C PPC, 15AA Police Station City Hangu, as huge quantity of Chars, Heroin as well as arms and fake currency were recovered from his possession. His above act shows his involvement in criminal activities, negligence, disinterest and also amount to gross misconduct on his part.

He was served with Charge Sheet along-with Statement of Allegations vide No. 130/PA, dated 26.11.2018. Mr. Mian Imtiaz Gul Superintendent of Police, Investigation Bureau, Hangu was appointed as Enquiry officer, to which he submitted his reply on 05.12.2018. The Enquiry Officer did not satisfied with the reply and after the completion of enquiry, he submitted a detail finding report on 28.12.2018, in which he found him guilty of the charges leveled against him and recommended him for major punishment.

Thereafter, he was called in orderly room on 08.01.2019 and heard in person in which, he disclosed that SI Shah Dauran the than SHO Police Station City was well known about all of this, while the high-ups were unaware.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter constable is involved in criminal act and he conceal the facts from his high-ups. In these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Pir Shahab Ali Shah, District Police Officer, Hangu in exercise of the powers conferred upon me, **awarded him major punishment of Dismissal from Service.**

OB No. 43
Dated 17/01/2019


DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 194-95 /PA, dated Hangu, the 22/01 /2019.

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OHC for necessary action.

ATTESTED




DISTRICT POLICE OFFICER,
HANGU

F-10

IN THE COURT OF AJMAL SHAH,
ADDITIONAL SESSIONS JUDGE-I, HANGU.

C.N.S.A CASE No.61/18
Date of Institution.....06-12-2018
Date of decision02-03-2019,

State.....through.....Fazal Muhammad Khan SHO
PS City.....(Complainant)

V E R S U S

Jan Muhammad S/O Hazrat Khan
R/O: Mamo Zai Banda, District Hangu.
(Accused Facing Trial)

FIR # 963 Dated 16-11-2018 U/Ss 9 (c)
CNSA/15.AA/489-(c) PPC, Police Station City

State's Counsel..... Dy. PP Mr. Ibad-ur-Rehman
Defense Counsel..... Mr. Aurangzeb Khan Adv.
Mr.Hassan Ahmed Khan Adv.

J U D G M E N T

- 1) Accused Jan Muhammad s/o Hazrat Khan is facing trial in case FIR No. 963 dated 16-11-2018, registered for offences under sections 9 (c) CNSA/15.AA & 489-(c) PPC at PS City (District Hangu).
- 2) Brief facts of the case as disclosed in the FIR are that on 16.11.2018, District Police Officer, Hangu

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had information regarding presence of huge quantity of contraband in rental room of accused facing trial Jan Muhammad s/o Hazrat Khan, situated at Raja market, Muslim Abad, Hangu. In pursuance whereof, SHO complainant Fazal Muhammad Khan obtained search warrant from concerned Illaqa Magistrate for raid and recovery proceedings. Accordingly, he alongwith Awal Zaman SHO, constable Umer Habib, Wajid and other police contingent under the supervision of DSP Umer Hayat Khan, conducted raid upon the reported room where accused facing trial Jan Mohammad was present; hence, search proceedings of the said room were initiated by the police party and during the course whereof, a locked box was found there which was claimed by the accused to be his property. The box in question was opened by the accused facing trial Jan Muhammad. Upon search of the said box, SHO complainant recovered 05 packets of chars garda wrapped in colour weighing each parcel 1245

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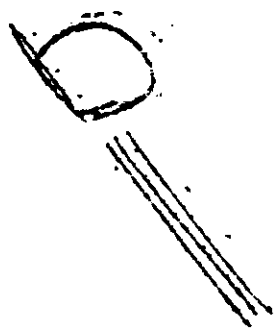
grams, 1326 grams, 1267 grams, 1270 and 1136 grams respectively. Upon its further scrutiny, he also recovered a plastic bag having chars garda weighing 75 grams while another envelope having heroin in shape of Sashay packets 76 in number weighing 32 grams. Accordingly, SHO complainant named above separated 10/10 grams chars from each packet of chars garda & 01 gram from heroin for the purpose of chemical analysis. Upon further search of the said box, SHO complainant also recovered a Kalashnikov folding butt without rounds and a pistol 9.MM bore alongwith fixed charger containing 06 live rounds of the same bore (referred in murasila Ex.PA), 03 packets having forge currency to the tune of Rs.96,000/- consisting of the note in denomination of 1000/1000 grams alongwith one bag camouflaje, one coat camouflaje, one cap with 02 shoulder badge, 02 bluish official Jarsi, one box alongwith bluish colour chadar. To this effect, SHO complainant Fazal Muhammad Khan prepared the recovery memo Ex.PW 1/1 in

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to him via 222-C Cr.P.C. He was formally charge
Court through Samima-Bay. Copies were supplied
Accordingly, accused was produced before the
by the Court of learned sessions Judge, Hangu.

2) Thereafter, challan was sent up to this Court for trial
trial.

submission of challan against the accused facing
matter, he handed over the case file to SHO for
case. After completion of investigation into the
thoroughly conducted investigation in the present
entrusted to Nazmat Ullah Khan SI (PW-3) who
Muhammad, investigation in the case was

3) After lodging report against the accused for
the commission of offence.

the accused Jan Muhammad s/o Nazmat Khan for
strength whereof, FIR Ex.PA 11 was registered against
through Wajid constable No. 2220 and on the
Police Station City for registration of the case
He drafted the muraqiba Ex.PA and sent the same to
accused facing trial vide card of arrest Ex.PW 115.
presence of marginal witnesses. He arrested

(Signature)

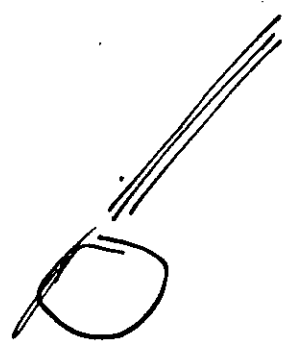
sheeted by this Court; however, he pleaded not guilty and claimed trial. Thereafter, prosecution was directed to produce evidence in support of its case. In pursuance whereof, prosecution produced as many as (07) witnesses in the present case and remaining were abandoned being unnecessary. Gist of the prosecution evidence are as under:-

- (i) **PW-1 Fazal Khan SHO PS City Hangu** deposed that on 16.11.2018, upon receiving information from DPO Hangu that accused Jan Mohammad s/o Hazrat Khan r/o Mamo Zai Banda is present alongwith huge quantity of contraband in his residential room situated at Raja Market Muslim Abad. He after receiving search warrant from the Illaqa Magistrate arranged the police party consisting of Awal Zaman SHO,

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constable Umer Habib, Wajid and other police contingent under the command of DSP Umer Hayat Khan rushed to the spot where Jan Mohammad was present and he started search. From the box lying in the room which was the ownership of Jan Mohammad searched by him and he recovered 05 packets of chars garda enroped in yellow tape. Upon his further scrutiny, he recovered a plastic bag having chars garda alongwith another envelope having heroin in shape of Sashay packets 76 in number. He conducted weighment of the contraband which were 05 in number having the weighed 1245 grams, 1326 grams, 1267 grams, 1270 and 1136 grams respectively.



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The further chars garda was 75 grams as well as heroin was 32 grams. He separated 10/10 grams from each packet as well as 01 gram from heroin and 10 grams from the separate garda for the purpose of analysis. Likewise, he also recovered Kalashnikov folding butt without rounds with a pistol of 9 mm having fixed charger having 06 live rounds with one digital scale, 03 empty packets with forge currency 96,000/- consisting of the note of denomination of 1000/1000 grams alongwith bag one camouflage, one coat camouflage, one cap shoulder badge, one cap, two shoulder badge, bluish Jarsi, one box alongwith the chadar. To this effect,

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(17)

he prepared the recovery memo Ex.PW 1/1 in the presence of marginal witnesses. He drafted the murasila Ex PA and sent the same to PS for registration of the case through Wajid. He issued card of arrest Ex PW 1/2. The IO prepared the site plan at his instance. He applied vide his application Ex.PW 1/3 to the Armorer regarding the made and function with arms and pistol. After completion of investigation, he submitted complete challan Ex.PW 1/4 against the accused Jan Mohammad. The case property containing in parcel No.06 is Ex P-1 consisting of 6194 grams chars, parcel No.08 containing 65 grams chars Ex P-2 and parcel No.10, 31

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grams heroin ExP-3, the
Kalashnikov Ex P-4, 9 mm pistol Ex
P-5. The bag camouflage s Ex P-6,
coat camouflage Ex P-7, the cap is
Ex P-8, 02 badges P-9. The forge
currency in parcel No.13 is P-8.

- (ii) PW-2 Sakhi Badshah HC
deposed that on 16.11.2018 a
written application was addressed
by SHO of PS City with the request
for the examination of the case
property i.e. Kalashnikov folding
butt. No.1954010416 with fixed
charger having no rounds in it.
Similarly, the SHO also requested to
examine a pistol 9 MM bore No. F &
B 120 with fixed charger containing
06 rounds of 9 mm. He on
20.11.2018 examined the case
property and furnished his report.

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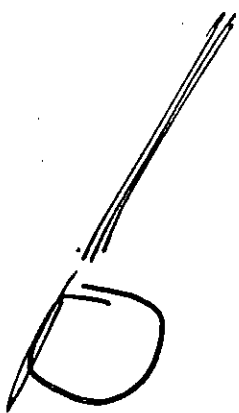
The application is already Ex PW
1/3 while his report is Ex PW 2/1
which correctly bore his signatures.

- (iii) PW-3 Naimat Ullah SI deposed that
after registration of the case,
investigation of the instant case was
entrusted to him. He straight away
proceeded to the spot, where he
prepared site plan Ex.PB at the
instance of SHO Fazal Mohammad
in the presence of witnesses to the
memo. The parcels in sealed
condition was shown to him by the
seizing officer on the spot. He
recorded statements of PWs u/s 161
Cr.P.C. on the spot. At the same
time, He searched the market, but
the rooms of the market were
locked and the owner was not
present there. After spot inspection,

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he came back to PS, where he recorded statements of official PWs u/s 161 Cr.P.C. He interrogated the accused facing trial who was already present in police lock up of PS City. He vide his application Ex PW 3/1 produced the accused facing trial to the Court of Magistrate for obtaining his 07 days police custody, two days was granted to him accordingly. He interrogated the accused. On 18.11.2018, accused pointed out the spot to him regarding which he made the pointation memo Ex PW 3/2 in presence of witnesses to the memo. (However, upon pointation memo, learned defense counsel objected and this piece of evidence is not admissible under



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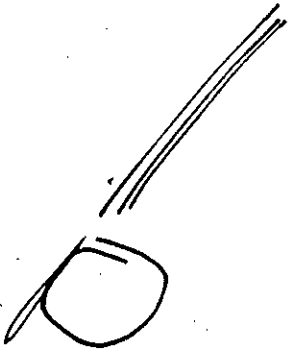
Article 40 of Qanoon-e-Shahadat Order 1984). He vide his application Ex.PW 3/3 produced the accused facing trial again to the court of Magistrate for obtaining his further 05 days police custody which was turned down and accused was committed to judicial lockup. Prior to that he recorded statement of accused u/s 161 Cr.P.C. He recorded the statement of Armorer u/s 161 Cr.P.C. He sent the samples of contraband to FSL vide his application Ex PW 3/4. Report of which is Ex PZ placed on file by him. He vide his application Ex.PW 3/5 sent the fake currency notes to State Bank of Pakistan, the report of which is Ex PZ/1 consisting of 03 pages. He placed on file the copies

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of DDs Nos. 18, 25 of 17.11.2018 and 09, 16, 17, 18 and 23 of 18.11.2018 regarding the arrival and departure of the police officer in the instance case. He also placed on file DDs No.23, 09, 15 and 20 and 44 of 16.11.2018. After completion of investigation, he handed over the case file to SHO for submission of complete challan against the accused. He saw the relevant documents which correctly bore his signatures.

- (iv) PW-4 Zulqarnain Haidar constable No.45 deposed that he was handed over 13 parcels containing contraband and forged currency notes alongwith relevant documents by the Moharrir for taking the same to FSL as well as to



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State Bank of Pakistan which he took accordingly. He was examined by the IO.

- (v) PW-5 Irshad Hussain IHC is marginal witness to the pointation memo Ex PW 3/2 vide which the accused facing trial correctly pointed out the spot to the IO in his presence and presence of PW Asif Khan. He saw the same which correctly bore his signature as well as signature of PW Asif Khan. He was examined by the IO u/s 161 Cr.P.C.
- (vi) PW-6 Anar Gul deposed that upon receiving the Murasila, he chalked out FIR Ex.PA/1 which correctly bore his signature.
- (vii) PW-6-A Shafi Ullah MASI Moharrir that Fazal Muhammad SHO handed over case property consisting of

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11/6/19 EXAMINEE
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parcel No. 6, 8, 10, 11 & 12 with a box which he kept in Malkhana after making due entry in the relevant register. He was examined by the IO under section 161 CrPC.

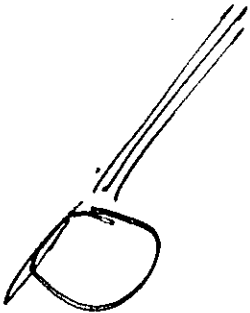
(viii) PW-7 Umar Habib Constable No.590

deposed that he was accompanied with the SHO at the time of occurrence, in his presence the SHO searched residential room of accused facing trial situated at Raja market and during search a box was lying whose lock were broken and upon scrutiny the box was containing 05 packets of chars garda which was enveloped in yellow tape. On further scrutiny of the box, a plastic shopping bag having chars garda with another plastic shopping bag containing

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heroin in the shape of Sashay packets which were counted and were founded 76 in number which was consolidated. The SHO weighed each packet of chars separately through digital scale and was found 1245 grams, 1326 grams, 1267grams, 1270 grams and 1136 grams respectively. The SHO separated 10/10 grams from each packet for the purpose of analysis through FSL and sealed the same into parcel No.01 to 05, whereas the remaining 6194 grams was sealed into parcel No.06. likewise, the chars containing in plastic shopping bag was found 75 grams from which 10 grams was also separated for FSL and sealed the same into parcel No.07, whereas



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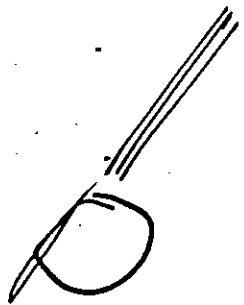
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the remaining 65 grams into parcel No.08. Similarly, the heroin was also weighed and was found 32 grams, from which 01 gram was separated for analysis of FSL and sealed the same into parcel No.09 whereas the remaining was sealed into parcel No.10 respectively. Likewise, a Kalashnikov folding butt with fixed charger without rounds having a number mentioned in the recovery memo with a pistol 9 mm with fixed charger containing 06 live rounds a digital scale, empty sashay packet were also sealed into parcel No.11. Besides, this a camouflage bag a camouflage coat, an official cap with shoulder badge, two official jerseys were also sealed into parcel No.12. Similarly, forged currency



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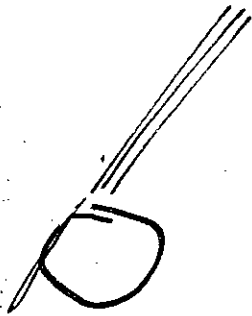
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notes of Rs.96000/- consisting of the notes of denomination of Rs.1000/- /1000/- recovered and sealed into parcel No.13. The above mentioned recoveries were taken into possession vide recovery memo already Ex.PW 1/1 in his presence as well as in presence of PW Awal Zaman. He was examined by the IO u/s 161 Cr.PC.

- 5) After closure of prosecution evidence in the case in hand, statement of accused was recorded within the meaning of Section 342 Cr.PC, wherein he denied all the charges leveled against him by the SHO complainant and with regard to the room in question, he stated in the words that:-

"I never rented out any room in any market. I was police official and used to reside in the police station being posted there".



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Besides, when a question i.e. What is your statement and why are you charged? was put to accused facing trial, he answered in the words that:-

" I am police official serving since many years in police department with clear record and has never been involved in any criminal case. In the instant case, I have been booked by the complainant/SHO at the instance of DSP due to strained relation and personal grudges by the then SHO of Police Station City. As, I remained DFC of police station City with the then SHO. The alleged place of recovery is never remained in my possession nor rented in my name, nor I have paid any rent to the owner. Similarly, the alleged box room of the building did not disclose my identity/name

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plate/ my belt number, personal badge to show my connection with the alleged recovery".

At the end of his statement, accused Jan Muhammad claimed that he is innocent and falsely charged by the local police in the instant case, however he neither wished to be examined on oath as his own witness nor to produce any defense evidence.

- 6) I have heard learned Dy.PP Mr. Ibad-ur-Rehman for the state as well as learned defense counsel at length and have gone through the case file carefully with their able assistance.
- 7) Learned Dy.PP for State submitted that accused Jan Muhammad herein has been directly nominated in the FIR Ex.PA/1 by SHO complainant Fazal Muhammad Khan for possessing narcotics, heroin, weapons and forged currency notes referred above, so no question of concoction could arise. That the recovery proceedings are fully supported by prosecution witnesses. That though,



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they are police official but their testimony may not be discarded on this factum alone, particularly, when no-ill will or grudges etc has been brought on record, against the accused on their part. That all the witnesses are fully consistent on material aspect of the case and no contradiction whatsoever arise in their testimony. He further contended that on the basis of available evidence, prosecution has succeeded in proving charge against accused and he deserved maximum punishment. He argued that venue of occurrence was not disputed as site plan Ex.PB was prepared by the I.O Naimat Ullah SI on the pointation of SHO complainant wherein points have been assigned to the recovery of above referred articles, police party and accused Jan Muhammad etc which fully corroborates the version of prosecution. Moreso, the recovered narcotics had been subjected through FSL and the report whereof Ex.PZ is in positive. Besides, report of Station Bank of Pakistan Ex.PZ/1 to the extent of forged currency notes referred above is also in

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positive; so, the prosecution has fully established the charge against the accused beyond shadow of any reasonable doubt, as such warranting his conviction.

- 8) On the other hand, learned defence counsel submitted that accused facing trial is innocent and has falsely and malafidely been charged in the present case by SHO complainant Fazal Khan SI for possessing the above referred articles i.e. narcotics, heroin, weapons and currency note, as neither the box in question is owned by him, nor he is owner of the above referred alleged articles and nor the room was hired by him on monthly rent from the owner which factum is evident from the testimonies of prosecution witnesses. Since, accused facing trial was DFC in police department; therefore, on the fateful day, he was not present on the spot rather he was busy in service of summon/warrant but despite the fact he has been shown present at the reported place. They further contended that he is serving in police department since long but he is

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not involved in such like activities in the past. Thus, he has got no connection with such activities as claimed by the SHO complainant and likewise, he is not at all owner of the above referred alleged articles as claimed by the prosecution. That likewise, no private person has been associated at the time of recovery proceedings by the local police in order to make it most fair and transparent, which factum further makes dents and doubts in the case of prosecution. That there is no criminal history of the accused regarding his indulgence in similar nature cases. That though, accused remained in police custody, but despite the fact, he did not confess his guilt for the commission of offence. Besides, presence of accused on the spot has also not been established by the prosecution, which factum is evident from the testimonies of prosecution witnesses. They pointed out various contradictions in the statements of PWs as well as site plan, recovery evidence and maintained that story of prosecution is doubtful. They further

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contended that accused has not recorded any confessional statement before learned Judicial Magistrate despite his lengthy interrogation etc. Apart from this, site plan is in contradiction which factum further makes the instant case highly doubtful. They concluded their arguments by maintaining that present accused facing trial is innocent and thus, he deserved to be acquitted.

9) I have considered the arguments of learned counsel for the parties and perused the record.

10) **The breakup of the present case is as follow:**

- FIR;
- Recovery memo;
- Site plan;
- Statements of Pws &
- FSL report.

11) Case of the prosecution hinges on FIR Ex.PA/1 which was chalked out on receipt of murasila Ex.PA, sent by SHO complainant Fazal Muhammad o police station City wherein he claimed that on 16.11.2018, District Police Officer, Hangu had

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information regarding presence of huge quantity of contraband in rental room of accused facing trial Jan Muhammad s/o Hazrat Khan, situated at Raja market, Muslim Abad, Hangu. In pursuance whereof, SHO complainant Fazal Muhammad Khan obtained search warrant from concerned Illaqa Magistrate for raid and recovery proceedings. Accordingly, he alongwith Awal Zaman SHO, constable Umer Habib, Wajid and other police contingent under the supervision of DSP Umer Hayat Khan, conducted raid upon the reported room where accused facing trial Jan Mohammad was present; hence, search proceedings of the said room were initiated by the police party and during the course whereof, a locked box was found there which was claimed by the accused to be his property. The box in question was opened by the accused facing trial Jan Muhammad. Upon search of the said box, SHO complainant recovered 05 packets of chars garda wrapped in colour weighing each parcel 1245 grams, 1326 grams,

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1267 grams, 1270 and 1136 grams respectively. Upon its further scrutiny, he also recovered a plastic bag having chars garda weighing 75 grams while another envelope having heroin in shape of Sashay packets 76 in number weighing 32 grams. Accordingly, SHO complainant named above separated 10/10 grams chars from each packet of chars garda & 01 gram from heroin for the purpose of chemical analysis. Upon further search of the said box, SHO complainant also recovered a Kalashnikov folding butt without rounds and a pistol 9.MM bore alongwith fixed charger containing 06 live rounds of the same bore (referred in murasila Ex.PA), 03 packets having forge currency to the tune of Rs.96,000/- consisting of the note in denomination of 1000/1000 grams alongwith one bag camouflage, one coat camouflage, one cap with 02 shoulder badge, 02 bluish official Jarsi, one box alongwith bluish colour chadar. To this effect, SHO complainant Fazal Muhammad Khan prepared the recovery memo Ex.PW 1/1 in

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presence of marginal witnesses. He arrested accused facing trial vide card of arrest Ex.PW 1/2. He drafted the murasila Ex.PA and sent the same to Police Station City for registration of the case through Wajid constable No. 5250 and on the strength whereof, FIR Ex.PA/1 was registered against the accused Jan Muhammad s/o Hazrat Khan for the commission of offence.

- 12) No doubt, murasila Ex.PA contains all the necessary details i-e the date, time, place of recovery of above referred alleged articles, name of the accused, mode and manner of recovery; however, it is worth noting that with regard to proof/disproof of an incident, testimonies of prosecution witnesses has got tremendous significance/importance. Accordingly, testimony of SHO complainant Fazal Muhammad Khan SHO (seizing officer) as Pw-1, Sakhi Badshah (Armourer) as Pw-2, Naimat Ullah SI (I.O) as Pw-3, Irshad Hussain IHC (marginal witness of pointation memo) as Pw-5 and Umar Habib

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constable No. 590 as Pw-7 (marginal witness of above referred articles) are worth perusal:-

- 13) No doubt, SHO complainant Fazal Muhammad Khan (Pw-1) has claimed in his initial report reduced into writing vide murasila Ex.PA that he after obtaining search warrant from the Court of competent jurisdiction, conducted raid upon the reportedly room and during the course whereof, he recovered the above referred articles **(as referred in Para # 02 of the judgment)** from the box owned by the accused. This witness has though fully supported case of prosecution while recording his examination in chief; however, when this witness was cross examined, he admitted in the words by stating that:-

"It is correct that as per search warrant issued by the competent Judicial Magistrate, I was permitted to conduct search the house of accused situated at Mamo Zai Banda.

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Volunteered that the search warrant issued is not according to my application. It is correct that I did not apply again for correction of search warrant to Illaqa Magistrate. The alleged box from which the alleged recovery has been effected is not the government/official box. The box was already locked but after de-locking the lock the same has not taken into possession by me. It is correct that neither any documentary proof regarding the ownership of the said room in the name of the accused has been procured by me nor any name plate or

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the accused has been annexed outside the room. It is also correct that neither any CNIC of the accused nor any rented document in the name of the accused has been recovered/ procured by me. It is correct that in search warrant issued by the I/Magistrate, I was permitted to conduct raid at the house of accused situated at Mamo Zai Banda and not Raja Market. It is correct that the alleged occurrence took place in Raja Market. It is correct that the accused facing trial is neither previous history sheeter nor involved

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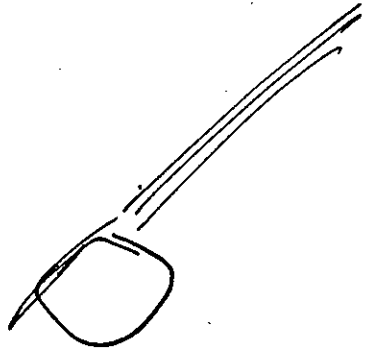
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**any criminal case prior to
this occurrence".**

Hence, suffice it to say that raid and recovery proceedings had not taken place in the mode and manner as claimed by the prosecution as there are material contradictions in the testimony of prosecution witnesses which factum has made out case of prosecution highly doubtful.

- 14) Besides, during cross examination of SHO complainant, learned counsel for accused had requested for de-sealing of narcotics in question which was allowed by this Court and accordingly, Naib Court was directed to de-seal the case property.

**"Thereafter de-sealing of
the case property, this
Court observed that the
box is not an official box.**



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Neither there is any name written on the said box of the accused facing trial, nor the lock of the box is available. The contrabands on its de-sealing is found in powder form giving no smell of chars. Similarly, the Kalashnikov is not found in working condition. After these observation, this Court again directed Naib Court for its re-sealing:-

Hence, keeping in view condition of the above referred case property, it can be safely held that raid and recovery proceedings has not taken place in the mode and manner as claimed by the prosecution.



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15) Apart from testimony of SHO complainant, one Umar Habib constable No. 590 was examined as Pw-07 who has been cited by the prosecution as marginal witness to the raid and recovery proceedings. He though fully supports case of prosecution while recording his examination in chief but when he was cross examined, he admitted in the words that:-

"There was no name plate on the alleged room of accused facing trial situated at Raja market. The room was opened at the time of our entrance. I cannot tell as to who had disclosed the said room to the ownership of the accused. it is correct that nobody else had accompanied us who could show that the said room is the

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ownership of the accused. It is correct that neither any informer nor anybody else from the private person have pointed out the said room to the ownership of the accused. It is correct that even the owner of the Plaza Raja market had not pointed out the said room to be the ownership of the accused. The alleged box was having no identification regarding his name belt number or official number to prove the same as it of the accused facing trial. I do not know that how many cots and cupboard were lying in the said room. I do not remember that whether

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**the box was lying under the
cot or not.**

Hence, the recovery in question allegedly owned by the accused is highly doubtful keeping in view the testimony of material witnesses of the episode and clearly suggests that alleged raid and recovery had not taken place in the mode and manner as claimed by the prosecution.

- 16) No doubt, in a criminal case, testimony of Investigating Officer has got tremendous importance. In the present case, Naimat Ullah SI as Pw-03 whom too fully supported case of prosecution while recording his examination in chief but when he was cross examined; he admitted in the words that:-

***"I did not collect any criminal
history of the accused facing
trial regarding involvement in
such like case from any PS of
District Hangu. It is correct that***


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S.D. JUDGE

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as per search warrant issued by the Illaqa Magistrate the seizing officer was permitted to conduct the search of house of accused situated in village Mamozai Banda only. It is correct that the seizing officer conducted the search of a market situated in Raja market/the alleged place of occurrence upon the mentioned search warrant. I cannot say that from which date the accused facing trial was allegedly availed the accomrdation in the Raja Market. It is correct that as per recovery memo lock has been taken into possession by the seizing officer. It is correct that

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nothing has been recovered/
discovered upon the pointation
of the accused as per my
investigation. It is correct that
accused did not confess his
guilt before the Court. It is
correct that no private person/
owner of the Raja market as
well as any other next door
neighbor has been associated
as witness to the occurrence by
the seizing officer. It is correct
that accused did not confess his
guilt before me during
investigation.

Hence, suffice it to say that prosecution has
failed to establish its case against accused facing
trial. Apart from this, accused has neither confessed
his guilt for the offences charged, nor anything else
had been recovered on his pointation during the

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course of interrogation etc and nor there exists any criminal history regarding his indulgence in similar nature cases.

17) The site plan in a criminal case though not constituting substantive piece of evidence but is of great significance. As per prosecution, the IO has claimed to have prepared the site plan Ex.PB in the present case on the pointation of SHO complainant but astonishingly prosecution has not established the same; hence, in such a situation site plan loses its significance. In other words, it is of no help to the prosecution to connect the accused facing trial with the alleged offence.

18) Besides, the prosecution has claimed sending of the above referred narcotics & heroin to FSL while forged currency to State Bank of Pakistan Peshawar and examining the weapons in questions through Armourer and obtained reports of FSL Ex.PZ, report of State Bank of Pakistan Ex.PZ/1 and report of Armourer Ex.Pw 2/1; however, the same looses its significance in the eye of law particularly when

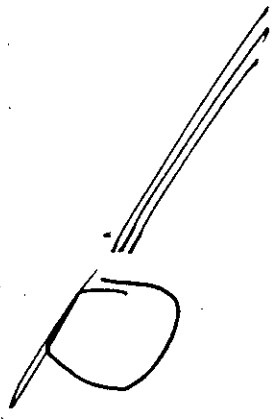
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recovery of above referred articles has not been established by the prosecution as ownership of accused.

19) The nut shell of my above discussion is that the prosecution case is not free from doubts. It is an axiomatic principle of law that in case of doubt the benefit therefore must accrue in favour of accused is a matter of right and not of grace. It is not necessary that there should be many circumstances creating doubts if there is circumstance which creates reasonable doubt in a prudent mind about the guilt of the accused then the accused would be entitled to the benefit of doubt, is not as a matter of grace and concession but as a matter of right. Conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case must be resolved in favour of the accused. Findings of guilt against accused must not be based on probabilities inferred from evidence. Such findings must rest surely and firmly on the evidence of



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unimpeachable character otherwise the golden rule of benefit of doubts would be reduced to naught. Absolute certainty is seldom in forming in opinion regarding guilt or innocence of person. Court is duty bound to properly appreciate evidence and must be vigilant to dig out truth of the matter to ensure that no injustice is caused to either party.

20) Crux of the above discussion is that prosecution has badly failed in bringing home charge against the accused facing trial Jan Muhammad s/o Hazrat Khan; therefore, he is hereby honorably acquitted of all the charges leveled against him beyond shadow of reasonable doubt. He is in custody, be released forthwith if not required in any other criminal case.

21) The case property i.e. narcotics, heroin be destroyed while weapons in question be confiscated in favor of state and forged currency notes etc be dealt according to law after expiry of period of appeal/revision.

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22) File be consigned to Record Room after its completion and compilation.

ANNOUNCED

02-03-2019

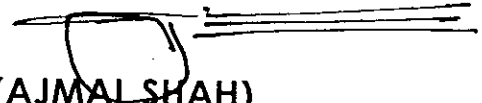


(AJMAL SHAH)

Additional Sessions Judge-I
Hangu.

CERTIFICATE:

It is certified that this Judgment consists of **(41)** pages, each page has been read, corrected, where so required and signed by me.



(AJMAL SHAH)

Additional Sessions Judge-I
Hangu.

11/6/19

1496	
Date of presentation of Judgment	11/6/19
Date on which copy completed	11/6/19
Date on which copy was checked	11/6/19
Number of Pages	41
Original Fee	
Stamp of Registrar	
Stamping Fee	
Name of delivery	11/6/19

To:

The Regional Police Officer,
Kohat Region, Kohat.

G-51

Subject:- **DEPARTMENTAL APPEAL**

With due respect appellant submits departmental appeal against the Order of Learned District Police Officer, Hangu dated 22.01.2019 vide which appellant was dismissed from service.

Facts:

1. That in the year 2010, appellant joined District Hangu Police as Constable and appellant qualified recruit course and other professional courses.
2. That in the year 2018, appellant was posted as Detective Foot Constable (DFC) in Police Station City, Hangu.
3. That difference developed in between Sub Divisional Police Officer, Hangu and SHO Police Station City Hangu. Appellant being direct subordinate to SHO was under departmental obligations to work under the command of SHO which annoyed the SDPO and he also developed grudges against appellant.
4. That on transfer of SHO, the SDPO with connivance of newly posted SHO implicated appellant in false and concocted criminal case FIR No. 963, dated 16.11.2018 under section 9 CNSA (C) 15AA and 489-C PPC Police Station City Hangu.
5. That recovery of huge quantity of narcotics, arms and Pakistani currency was planted against appellant.
6. That appellant was arrested and put on trial to face charges of possession of narcotics arms and Pakistani currency.
7. That appellant was honourary acquitted of the criminal charges by the trial court i.e Additional Session Judge Hangu vide Order dated 02.03.2019. Copy of the judgment of the Honourable Court is enclosed.
8. That in addition to implication of appellant in criminal charges, appellant was also rendered to disciplinary proceedings whereas appellant was behind the bar and facing trial and was eventually dismissed from service vide impugned order which is against law hence ab initio void.
9. That on release from Judicial custody vide Order of Trial Court dated 02.03.2019, appellant managed grant of copy of impugned order, hence the present appeal on the following grounds:-

ATTESTED



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Grounds:-

- a. That appellant was falsely implicated in criminal charges and was proceeded against departmentally on same set of allegation. The trial court recorded acquittal order in the criminal charge therefore the very foundation of departmental charges is no more existing hence the impugned order is worth set aside.
- b. That the Honourable Trial Court has pointed out in clear terms in the Judgment that the prosecution failed to prove that the box from which the alleged recovery was made belonging to appellant. In the same vein prosecution failed to prove that the room where the box was lying hired on rent by appellant. Furthermore, the Honourable Court has observed in Para 14 Page 31 of the Judgment that on de-sealing the box the powder was not giving smell of chars and the Kalashnikov was also not in working condition. Therefore it is cleared that the recovery was planted and appellant was falsely implicated in the criminal case, hence the departmental order is groundless and worth set aside.
- c. That appellant being Police Officer was implicated in false criminal charge and was detained in judicial custody for long period. The dismissal from service order based on false charges added salt to the burning injuries of appellant.
- d. That the Law & Rules do not allow double jeopardy. Appellant as rendered to criminal and departmental charge on set of allegations. The trial court recorded acquittal order therefore the departmental order lost its value.
- e. That appellant was in judicial custody and ex-parte departmental proceedings were initiated against appellant. No opportunity of defending the charge was provided to the appellant. Appellant was in custody therefore impugned order based on ex-parte proceedings is worth set aside.
- f. That appellant was compulsorily ousted from service and was incarcerated in judicial lockup for long period and also paid the expenses of defending criminal charges therefore appellant is entitled for all back benefits and the impugned order is worth set aside.
- g. That the departmental proceedings were carried in the absence of appellant, therefore the impugned order is void ab-initio.
- h. That the Honourable Trial Court has passed remarks in the acquittal judgment that there is no criminal history of appellant. The record of service of appellant is unblemished. Furthermore,

ATTESTED



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appellant has earned twenty one (21) commendation certificates with cash reward including one granted by worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar. The commendation certifications granted to appellant prove the efficiency and professionalism of appellant.

- i. That one of the brothers of appellant was killed by terrorists vide FIR No. 563, dated 20.09.2011 u/s 302 PPC P.S City Hangu therefore appellant is entitled for re-instatement in service on humanitarian grounds.

It is therefore, requested that the impugned order may be set aside and appellant may be re-instated in service with all consequential back benefits.

Appellant

Jan Muhammad Ex-Constable No. 516,

District Hangu.

Mobile # 0333-9337845
0315-9014300

Jan Muhammad
13/03/019

ATTESTED



H-54

POLICE DEPTT:

KOHAT REGION

ORDER.

This order will dispose of a departmental appeal, moved by Ex-Constable Jan Muhammad No. 516 of Operation Staff Hangu against the punishment order, passed by DPO/Hangu vide OB No. 43, dated 17.01.2019 whereby he was awarded major punishment of dismissal from service for the allegations of his involvement in a criminal case vide FIR No. 963, dated 16.11.2018 u/s 9-CNSA, 489 C PPC / 15-AA PS City Hangu and recovering huge quantity of Charas, Heroin, arms / ammunition as fake currency from his possession.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record perused. He was also heard in person in Orderly Room, held in this office on 29.05.2019. During hearing, the appellant failed to submit any cogent reason in his defense.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved and the authority has passed a legal and speaking order. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
29.05.2019

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

No. 4861 /EC, dated Kohat the 8/06 /2019.

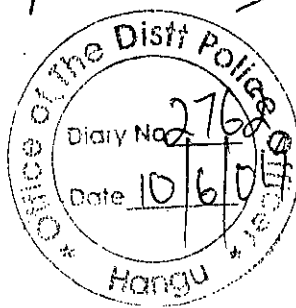
Copy for information and necessary action to the District Police Officer, Hangu w/r to his office Memo: No. 2633/LB, dated 28.03.2019. His Service Roll & Enquiry File is returned herewith.

SRE/08

En action

D.P.O Hangu
21/06/19

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



VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2019

Jan Muhammad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Jan Muhammad

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2018

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

MIR ZAMAN SAFI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Mobile No.0345-9383141

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

Service Appeal No. 832/2019
Jan Muhammad Ex-Constable

.....Appellant

VERSUS

Inspector General of Police
Khyber Pakhtunkhwa, & other

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

- a) That the appellant has got no cause of action.
- b) That the appellant has got no locus standi.
- c) That the appeal is not maintainable in the present form.
- d) That the appellant has not come with clean hands to this Honorable Tribunal.

FACTS:-


1. Pertains to record, hence no comments.
2. The appellant being member of a discipline force indulged himself in illegal activity and contraband mentioned in the FIR No. 963 dated 16.11.2018 U/Ss 9-c CNSA, 15 AA, 489-C was recovered and the appellant was arrested accordingly.
3. The appellant was arrested in a case of moral turpitude and earned bad name to the department. Therefore, the Respondent No. 4 being a competent authority initiated a legal action against him under the law / rules.
4. Incorrect, criminal and departmental proceedings are distinct in nature, which can run side by side therefore, the appellant was proceeded against departmentally under the relevant law / rules and after fulfilling all the codel formalities the impugned order were issued (copy of the inquiry is "A").
5. As submitted in the above para, it is submitted that decision of the criminal court of law is not binding upon the departmental authority as acquittal him criminal charges by criminal court does not affect departmental proceedings. Therefore, para No. 5 of the appeal is not relevant. In departmental proceedings reasonable grounds are required whereas in criminal trial, a charge has to be proved beyond shadow of doubt.
6. The departmental appeal of the appellant was rejected by the departmental appellate authority on merits.
7. The appellant is estopped to file the instant appeal for his own act.

Grounds:-

- A. Incorrect, the appellant was proceeded against departmentally in accordance with law & rules. Further all codal formalities were fulfilled during the departmental proceedings conducted against the appellant.
- B. Incorrect, the appellant was proceeded departmentally in accordance with law & rules.
- C. Incorrect, reply is submitted in the above paras.
- D. As submitted in the above para, criminal and departmental proceedings are different in nature and can run side by side.
- E. Incorrect, the appellant was provided proper opportunity of defense during the departmental proceedings, but he failed to advance any defense.
- F. Incorrect, regular inquiry was conducted against the appellant in accordance with law & rules, wherein the appellant was associated and afforded opportunity of witness.
- G. Incorrect, no discrimination was made. The appellant was proceeded with departmentally in accordance with law and rules.
- H. The respondents may also be allowed to advance other grounds during the course of arguments.

Keeping in view of the above, it is prayed that the appeal may graciously be dismissed.


Regional Police Officer,
Kohat
(Respondent No. 2)


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


District Police Officer,
D.P.O. Hangu
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 832/2019
Jan Muhamamd No. 516

..... Appellant

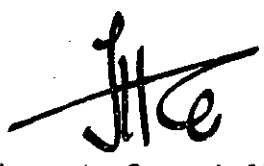
VERSUS

District Police Officer, Hangu & others

..... Respondents

COUNTER AFFIDAVIT

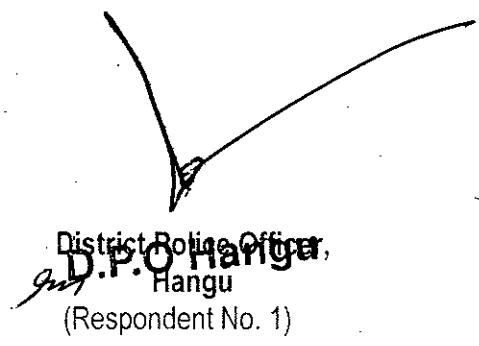
We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



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



Provincial Police Officer,
Khyber Pakhtunkhwa,
(Respondent No. 3)



District Police Officer,
Hangu
(Respondent No. 1)

POLICE OFFICE

KOHAT REGION

ORDER

This order will dispose of a departmental appeal, moved by Constable Jan Muhammad No. 516 of Operation Staff Hangu against the punishment order, passed by DPO/Hangu vide OR No. 43, dated 17.01.2019 whereby he was awarded major punishment of dismissal from service for the allegations of his involvement in a criminal case vide FIR No. 963, dated 16.11.2018 u/s 9-CNSA, 489 C PPC / 15-AA PS City Hangu and recovering huge quantity of Charās, Heroin, arms / ammunition as fake currency from his possession.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record perused. He was also heard in person in Ordinary Room, held in this office on 29.05.2019. During hearing, the appellant failed to submit any cogent reason in his defense.

I have gone through the available record and came to the conclusion that the allegations leveled against the appellant are proved and the authority has passed a legal and speaking order. Therefore, his appeal being devoid of merits is hereby rejected.

Order Announced
29.05.2019

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

No. 4561 /EC, dated Kohat the 5/10 /2019.

Copy for information and necessary action to the District Police Officer, Hangu w/r to his office Memo: No. 263/M.R. dated 28.03.2019. His Service Roll & Enquiry File is returned herewith.

SRE/ott
On file

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

D.P. J Hangu



ORDER

This order of mine will dispose off the departmental enquiry against Constable Jan Muhammad No. 516 on the basis of allegations the he while posted as DFC at Police Station City Hangu, he was directly charged in case FIR No. 963 dated 16.11.2018 u/s 9C-CNSA, 489C PPC, 15AA Police Station City Hangu, as huge quantity of Chars, Heroin as well as arms and fake currency were recovered from his possession. His above act shows his involvement in criminal activities, negligence, disinterest and also amount to gross misconduct on his part.

He was served with Charge Sheet along-with Statement of Allegations vide No. 130/PA, dated 26.11.2018. Mr. Mian Imtiaz Gul Superintendent of Police, Investigation Bureau, Hangu was appointed as Enquiry officer, to which he submitted his reply on 05.12.2018. The Enquiry Officer did not satisfied with the reply and after the completion of enquiry, he submitted a detail finding report on 28.12.2018, in which he found him guilty of the charges leveled against him and recommended him for major punishment.

Thereafter, he was called in orderly room on 08.01.2019 and heard in person in which, he disclosed that SI Shah Dauran the than SHO Police Station City was well known about all of this, while the high-ups were unaware.

Keeping in view of above and having gone through available record, the undersigned has come to the conclusion that the defaulter constable is involved in criminal act and he conceal the facts from his high-ups. In these circumstances his retention in Police Department is burden on public exchequer, therefore, I, Pir Shahab Ali Shah, District Police Officer, Hangu in exercise of the powers conferred upon me, **awarded him major punishment of Dismissal from Service.**

OB No. 43

Dated 17/01/2019.

**DISTRICT POLICE OFFICER,
HANGU**

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 194-95 /PA, dated Hangu, the 22/01/2019.

Copy of above is submitted to the Regional Police Officer, Kohat for favour of information please.

2. Pay Officer, Reader, SRC & OHC for necessary action.

DISTRICT POLICE OFFICER



OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION, HANGU

Office Tele: 0925-623887
Office Fax: 0925-622887
Email: spinvestigationhangu@yahoo.com

P6

To : The District Police Officer,
Hangu.

No. 5623 /Inv: dated Hangu the 28 / 12 /2018.

Subject: DEPARTMENTAL ENQUIRY AGAINST CONSTABLE JAN MUHAMMAD NO. 516.

Memorandum:

Please refer to your office Endst: No. 130/PA dated 26.11.2018 and subsequent reminder No. 5176/PA dated 13.12.2018 on the case noted above in the subject.

Departmental Enquiry conducted against Constable Jan Muhammad No. 516. Finding report along with enquiry documents and Service Roll is submitted herewith for further necessary action please.

Encl: Service Roll = 01
Enquiry File = 01 (23-Pages)

(MIAN IMTIAZ GUL)
Superintendent of Police,
Investigation, Hangu.

W DPO

Sir,
Submitted for file
of perusal D.S.

OR.

Pending till final
decision

PA - DPO
1/1/2019

(2)

OFFICE OF THE SUPERINTENDENT OF POLICE, INVESTIGATION, WING, HANGU

S.NO.	DATED	NOTE SHEET
1.	27.11.2018	Enquiry papers against Constable Jan Muhammad No. 516 received from the office of DPO, Hangu, vide No. 130/PA, dated 26.11.2018. Inspector Saeed Khan I/C Judicial Lockup was informed telephonically in connection with departmental enquiry against defaulter Constable Jan Muhammad No. 516 and directed to produce him before the undersigned on 29.11.2018. Enquiry Officer
2.	29.11.2018	Defaulter Constable Jan Muhammad No. 516 produced from Judicial Lockup. The defaulter Constable is directed to submit his reply till 05.12.2018 and issued letter to DPO, Hangu regarding requisition of Service Record of defaulter constable, vide this office Memo: No. 5172/Inv: dated 29.11.2018. Enquiry Officer
3.	05.12.2018	Defaulter constable submitted reply to charge sheet which was placed on file. SHO Fazal Muhammad, SI Naimat Ullah (I.O), ASHO Awal Zaman, Constable Umar Habib No. 590 and Fazal Rehman s/o Rajab Ali R/O Pass kalay be summoned on 11.12.2018. Enquiry Officer
4.	11.12.2018	Defaulter Constable Jan Muhammad No. 516 is present in custody. SHO Fazal Muhammad, ASHO Awal Zaman, Constable Umar Habib No. 590 and Fazal Rehman s/o Rajab Ali R/O Pass kalay are present and examined. SDPO/HQrs and SI Naimat Ullah be summoned. To come up on 20.12.2018. Enquiry Officer
5.	20.12.2018	Defaulter Constable Jan Muhammad No. 516 is present. DSP Umar Hayat and SI/I.O Naimat Ullah appeared before the undersigned. Their statements recorded and placed on file. To come up on 21.12.2018. Enquiry Officer
6.	21.12.2018	Defaulter Constable produced in custody. His statement recorded and placed on file. To come up on 28.11.2018. Enquiry Officer
7.	28.12.2018	Finding report is submitted herewith for favour of perusal and further necessary action please. Enquiry Officer

FINDING REPORT

This departmental enquiry was conducted against constable Jan Muhammad No. 516 under Police disciplinarily Rules 1975 with amendment in 2014 on the following charges:-

- (i) You are directly charge in Case FIR No. 963 dated 16.11.2018 U/S 9C-CNSA/ 489C PPC/15AA PS City Hangu, as huge quantity of Charas as well as arms etc have been recovered from your position.
- (ii) Your above act shows your dishonesty, negligence, disinterest and also amount to gross misconduct on your part.

2. On receipt of enquiry papers defaulter constable was summoned in this office and on his attendance he was asked to submit reply to charge sheet. After submission of reply by him, the following Police officials and private person were summoned and their statements were recorded in presence of defaulter Constable.

1. DSP Umar Hayat.
2. SI Fazal Muhammad (SHO PS City)
3. SI Naimat Ullah (I/O of the Case)
4. SI Awwal Zaman (ASHO PS City)
5. Const: Umar Habib No. 590
6. Mr. Fazal-ur-Rehman (Owner of the Market)

Thereafter statement of defaulter Constable was recorded wherein he denied all the allegation leveled against him and stated himself to be falsely implicated in this case.

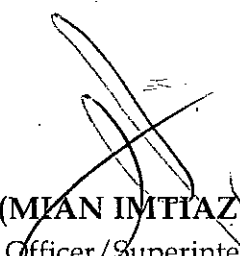
His service record was checked. It revealed that he was appointed as constable on 23.02.2010. There are 16 good entries in his credit while previously he was awarded minor punishment of forfeiture of one annual increment with cumulative effect by DPO Hangu vide OB No. 442 dated 25.07.2017 but it was set aside by the appellent authority.

From the statements recorded so far it has been established that defaulter constable has committed a gross misconduct by involving himself in such like activities which are not expected from a Police official. Although defaulter constable has denied to have occupied any private room in the Raja Market, from where the contraband articles i.e Charas (75gm), Heroin (32gm), Local currency notes (Rs 96000 "1000/1000"), one Kalashnikov were recovered which were kept in his box but on the other hand owner of Raja Market Fazal Rehman has stated that he had rented one room to Jan Muhammad (the present defaulter official) at the rate of Rs. 1500/- per month who was living in that room for the last two years.

Defaulter official has also taken the plea that he has been granted commendation certificate on account of good performance. It is correct that certificates were granted to him for doing good work but it doesn't mean that he will involve himself in such illegal activities under the cover of these certificates.

Statement of all witnesses were recorded in the pursuance of defaulter official and he was provided full opportunity of defense but he did not produce any evidence in his favour and also failed to justified keeping of contraband articles in his possession. From the statements recorded so far defaulter Constable is found guilty of the charges leveled against him and is recommended for major punishment.

Submitted please.


(MIAN IMTIAZ GUL)
Enquiry Officer/Superintendent of Police
Investigation Hangu

بیان ازان جان محمد کنسٹبل مطابق حال جو ڈسٹریکٹ لائن اپ

بیان کیا کہ میں نے چارٹ شیڈ کے متعلق جو جان جمع کیا ہے سہرا وہی بیان ہے
مجھے اس وقت میں غلط طور پر ملوث کیا ہے

XXXX
سختی زنگو لکھی اس پر

س۔ ابا تھے عمر وہ بڑے کھانا سٹی میں DFCL کھتے ۲۔

۲۔ میں سال ۱۹۵۲ سے کھانا سٹی میں DFCL کھا

س۔ اس دوران اپنی کبھی تبدیلی اس کھانا سے ہوئی تھی یا نہیں ۲۔

ج۔ جب کبھی سہرا تیار ہوتا تھا تو اس وقت کا GHG سہرا تیار روکوانے کی سفارش کرتا تھا اور
سہرا تیار روکا جاتا۔

س۔ اس دوران آپ نے پھر DFCL ڈیوٹی کیا DFCL ۲۔

۲۔ میں نے پھر DFCL ڈیوٹی کیا ۲۔

س۔ شاہ دوران GHG کے ساتھ کھانا سٹی میں کتنا خرچہ کیا ۲۔

۲۔ تقریباً ایسا حال اس کے ساتھ ڈیوٹی نہ انجام دیا تھی

س۔ اس نے جو آپ میں لکھا ہے، تم میں نے کوئی کمرہ کرائے پر نہیں کیا ہے۔ جیہ وقت لگے
مائل راج مارٹینڈے بیان دیا ہے کہ آپ نے مبلغ ۱۵۰۰ روپے کرائے پر عمر وہ ۲ سال سے
کیا تھا ۲۔

۲۔ یہ غلط ہے

س۔ اس نے چارٹ شیڈ کے جو آپ میں ذکر کیا ہے، تم میرے خلاف سوچے سمجھے سیکم کے

کھانا کاروائی لکھی ہے، اور میرے خلاف منڈل ڈیوٹی صدام درج رہے ہوئے ہے، کیا اس کے

اس کے متعلق کوئی خیرالتہ تھا کوئی درخواست والی ہے، یا اپنی لولیاں آن پرائز کو

کو کوئی درخواست پیش کی ہے ۲۔

۲۔ نہیں

کیا یہ درست ہے کہ آپ نے جملہ برآمد شدہ غیر مالوی اشیاء
نے گناہ لوگوں کو جوڑے مقدمات میں پھنسانے کیلئے اپنے پاس
رکھی تھی؟

یہ غلط ہے

2

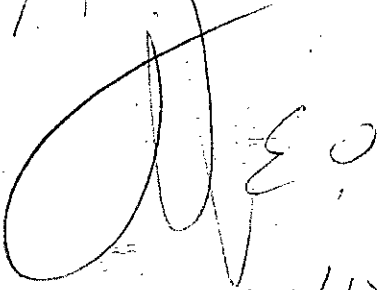
سکر ڈسٹ سیم لیا

حاجہ

خان محمد نیر 516

21-12-2018

Attested



21/12/2018

میان اراکین شریعت ۵۵۲۰ پیوسته

مقدم ۱۶^{۱۱}/_{۰۱۸} کو قریب حالت میں نقل کرنا ۵۱۵

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں جاننے سے

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں FIR مقدمت ۹۶۳

مقدم ۱۶^{۱۱}/_{۰۱۸} کے بارے میں (CASA) ۹۶۳ کے بارے میں

تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں مقدمت ۹۶۳ کے بارے میں

مقدمت ۹۶۳ کے بارے میں

Defendant Court کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

میں نے تقریباً ۱۶^{۱۱}/_{۰۱۸} کے بارے میں

(7)

۱۶/۱۱/۲۰۱۸

Attested
20/12

بیان اذان نفل محمد SHO گھانہ سٹی پٹیگو

جناب DPO صاحب کو انفارمیشن تھی کہ ٹکرہ رہائشی واقع راجہ مارکیٹ
 مسلم آباد اذان جان محمد ولد حفرت خان سکنا ماہوزئی بازارہ میں بجاری
 قندار میں منشیات از قسم چرس موجود ہے۔ علاقہ مجسٹریٹ سے باہمیہ
 سرچ وارنٹ حاصل کرنے میں مع اول زمان خان ASHO کینڈلن ٹرہیب 590
 واحد $\frac{5250}{FRP}$ ڈیپارٹمنٹ پولیس زیر قیادت جناب DSP/HQ صاحب ٹکرہ رہائشی
 واقع راجہ مارکیٹ واقع بالائی منزل پر جا کر جان محمد مذکورہ بالا موجود
 یا کر ٹکرہ کی سرچ کرنے پر پڑا بکس جو مقفل تھا جو جان محمد مذکورہ نے
 بکس اپنی ملکیت بتلائی۔ تالا کھولنے پر بکس کی پڑتال کرنے پر 5 بلیک
 چرس گروہ فزیر علیدرہ پلاسٹک سفافہ چرس گروہ وزنی 75 گرام میں
 برآمدہ بلیک چرس کل 6243 گرام فزیر 76 پوزی بیروٹن برآمد کرنے
 یکجا کرنے پر 32 گرام فزیر ایکٹو فلاشکوف 1954010416 فوڈنگ
 بٹ والا مع فیکس چارج ایکٹو پستول 9MM مع فیکس چارج فزیری
 F&B 120 6 عدد کارٹوس 9MM ایکٹو ڈیجیٹل ترازو خالی بلیک
 چرس سفافہ پرنٹرز 3 عدد جعلی کرنسی مبلغ 96 نزار $\frac{1000}{1000}$ نوٹ
 ایک عدد بیگ ٹیو فلج ایک عدد کوٹ ٹیو فلج ایک عدد لوہی ریکاری مع کوزے
 بیج دو عدد، چرسی سرکاری پرنٹ نیلا دو عدد، ایک عدد بکس ڈار
 پرنٹ نیلا چار چرس بیروٹن، اسلیم واپوشن، جعلی کرنسی دو ٹیکسٹاں
 تالا چابی پروٹے فرد قلم پوین میں کنگی، بر خلاف جان محمد فراسا
 جرائم $\frac{9C.C.H.S.A. 489C}{15AA}$ درست کینڈل واحد $\frac{5250}{FRP}$ ارسال گھانہ سٹی
 میں پر مقدمہ عدالت 903 مورخ $\frac{11}{18}$ ص 16 $\frac{9C.C.H.S.A. 489C}{15AA}$ گھانہ سٹی جج
 رٹرنڈ ہے ہے۔ علم جان محمد کو جس ضابطہ گرفتار کیا گیا ہے
 مقدمہ میں تعینات BH اسٹاف نے بھی ہے۔ مقدمہ میں تحریر کردہ فراسا
 پر درج رٹرنڈ ہے۔ یہ بیان ہے

444
 11/12/18

Attested
 11/12/18

(8)

بیان اذعان لغت الکر 10/5/15 بجانبہ سے سٹو بیان کیا کہ میں
 نے مقدمہ بڑا کے تفتیش پر خلاف جان محمد (کسیٹل) جو حوالہ
 ہوئی تھی بیوان تفتیش لغتہ موقع / خانہ برآمدی حسب نشان دی
 SHO صاحبہ نے موجودگی گویاں فرد کے فریب کی گئی گویاں فرد
 کے بیانات پر موقع لیکے ملزم جان محمد کو سب سے عدالت
 کرتے روزیوم حراست پولس ماقبل کرتے وقتاً فوقتاً (Interrogate)
 کیا گیا بیوان (Interrogate) ملزم جان محمد نے مکرہ ریاستی واقعہ راجہ
 عمارت تسلیم کرتے مکرہ کے نشاندہی کی گئی ہے مکرہ کے مالک
 اور مکرے کا کرایہ جمع گذرہ کے بیانات لیکے گئے ہیں مقدمہ
 بڑا میں حملہ متعلقین گویاں کے بیانات لیکے گئے ہیں
 ہر س گزیرہ ہیرین بعض شجر یا FSL شادر اور : Ch. 10/5/15
 بعض راجے کر تھی آفسر ~~پولس~~ نیک پاکستان جوائی گئی ملزم
 جان محمد مزید حراست پولس کے طاہر سب سے عدالت کرتے
 حراست آفسر ما نر منطور ہو کر بعد لیکے بیان کے داخلے
 جو ڈسٹریکٹ حوالات ننگو کیا گیا۔ مقدمہ میں تفتیش
 کرتے بعض چالان حوالہ SHO کیا گیا FSL رپورٹ اور کر تھی
 آفسر رپورٹ موصول ہو کر شامل شدہ مقدمہ لیکے

xxxxx
 مغایب Defaulted Constable

نہرا راجہ موقع دیالپورہ

XX محکمات و تلواریں آج سے
من - کراہتیں / Defaulter Contable / ڈی فاولٹرز کے بارے

میں - جو کہ گنتیوں میں آتے ہیں
میں - سٹانڈرڈس کے بارے میں
میں - پیرہ لوگوں کے بارے میں جو کہ گنتیوں میں آتے ہیں

میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں

میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں

میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں

میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں
میں - ان کے بارے میں جو کہ گنتیوں میں آتے ہیں

Hertal
20/12

Hanab
20/12

بیجان اڈان اول ریفرال SHC کے تحت

میں ہمراہ SHC کا ہیڈ برگٹ علاؤ الدین موجود ہے کہ زیر تجزیہ دسپ ڈسٹریٹریٹ ہاوس
 ہمارے SHC کا ہیڈ برگٹ ڈاکٹر داؤد کوٹوالی ہیں تاکہ جان مگر موجود ہے کہ
 آج کرتے ہیں لیکن جو حقیقت ہے، جان مگر جو کورہ ہے اس کے خلاف
 کی تیار کر کے ہمیں بھی ارسال کرن ہم پانچ ہیکٹ ہم سے آرٹ سے ہرگز غورہ یا اسٹیک
 وزن کم ہیں 32 گرام ایک ہیکٹ اور 75 گرام ٹوٹل ہم میں 6243 گرام اور ہرگز میں کل
 ایک ہیکٹ ہے 9mm ہے ہیکٹ میں چار ہیکٹ کا عدد کا ٹوٹل 9mm ایک
 عدد ڈیجیٹل ترازو حالی ہیکٹ ہم سے پانچ ہیکٹ آرڈر اور جیس کے کری 96
 ہزار $\frac{100}{1000}$ ٹوٹل ایک عدد ہیکٹ کے چند ایک عدد کوٹ کے چند ایک
 عدد ٹوٹی رہتا ہے کہ درج ہے پانچ عدد اور ہم سے اس کا ہیڈ برگٹ ہرگز اور
 ایک عدد ہیکٹ چار ہیکٹ ہرگز اور ہم سے اس کا ہیڈ برگٹ ہرگز اور
 کمرے و دیگر سٹاف ان کے خلاف ہم سے اس کے ارسال ہے اور ہم سے اس کے ارسال
 جان مگر جو کورہ کے خلاف ہم سے اس کے ارسال ہے اور ہم سے اس کے ارسال
 ڈسٹریٹریٹ ہرگز ہے ہم سے اس کے ارسال ہے اور ہم سے اس کے ارسال

آئی ایچ ڈی
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11-12-018

سید سہراہ SHC منجانب گشت ملاقات پر موجود ہے۔ گڈز پر لٹری ڈسٹری بیوٹرز
 لٹری ڈسٹری بیوٹرز SHC سید سہراہ صاحبہ کی طرف سے بلڈنگ پر چیک، جان محمد
 موجود بلڈنگ کے ساتھ ساتھ بلڈنگ پر چیک، جان محمد
 نے اپنے بلڈنگ کا پورے کونٹریکٹ پر چیک، جان محمد
 گڈز مندرجہ علیحدہ علیحدہ تفصیلات سے گڈز کی وزن 5 ڈیگرم کولڈ چیس
 3 ڈیگرم کولڈ چیس پر چیک، جان محمد کی وزن 35 ڈیگرم کولڈ چیس
 بلڈنگ پر چیک، جان محمد کی وزن 9 ایم ایم کولڈ چیس کی تفصیلات
 بلڈنگ پر چیک، جان محمد کی وزن 9 ایم ایم کولڈ چیس کی تفصیلات
 بلڈنگ پر چیک، جان محمد کی وزن 9 ایم ایم کولڈ چیس کی تفصیلات
 بلڈنگ پر چیک، جان محمد کی وزن 9 ایم ایم کولڈ چیس کی تفصیلات
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 بلڈنگ پر چیک، جان محمد کی وزن 9 ایم ایم کولڈ چیس کی تفصیلات

11/12/2018

محمد حیدر صاحب

Attested

11/12/2018

(11)

بیان اذان قصل الرحمان ولد رحیب علی نسکنہ پاسکے بیٹو بیان کیا
 کہ ٹن بیٹو روڈ پر ٹنزد FC (افس) مسلم آباد دادا صاحب مارکیٹ
 میں 2 روپے تقریباً 30/35 روپے ہو کر سے نہ کھرا بیٹو پر دی ہوئی
 ان میں سے ایک مگرہ خان محمد کسٹل کو دیا گیا۔ وہ بیٹو
 خان سے کرایہ 1500 روپے دیا کرتا تھا۔ مذکورہ کسٹل خان محمد
 تقریباً دو سال سے رہ رہا تھا۔ میرا اس طرح بیان ہے

شہین کریم ڈسٹ شہین کریم



قصل الرحمان ولد رحیب علی
 نسکنہ پاسکے بیٹو

CNIC No. 14101-2690452-9
 Mob No. 0334-5526043

Attested
 4/12/2018

صنعتی سیکورٹی

مباح SHO تمام مہنگی ہنگاموں

میروانہ اطلاع دیا گیا

نمبر سرکاری جاتا ہے سلسلہ انکوائری (ٹیلی فون نمبر) ذیل اہلکاران
کسانی کو مطلع کریں کہ فوراً 12/18 بروز جمعہ کو وقت 10.00
دفتہ SP/INV عزیزان قلمبندی بیانات 10/12/18

(1) مفضل محمد SHO تمام مہنگی ہنگاموں 03333999008

(2) نعمت احمد 51/1814 03348284203

(3) اول زمان ASHO 03335876304

(4) کنیل عمر صیب 590 03355190703

(5) مفضل الرحمن دار حاجی رحیب علی سکینہ باسکول - 5526043 - 0334

935
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SRC Inv: Hangu
05/12/2018

DR. V. 12/18

06/12/18
01/12/18

حضرت عالی

فضل محمود خان 540، اول زمان خان 540، عمر حبیب 590

لمت اللہ ای . فضل احمد خان باغی کو نذر لہ زالی
وہاں فونہ ہاں . فقیر احمد خان لہی سے جملہ کتاباں رلوٹ

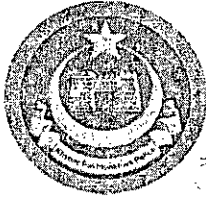
عمر حبیب
اسکالہ د ۱۲ / ۱۲۴۰

حضرت عالی

دلوٹ ک باغ ۱۲۴۰ فضل حبیب آہل فقہاء ہذا زہرا والی

اور باغ حضرت

اسکالہ د ۱۲ / ۱۲۴۰



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-623026 & Fax No. 0925-620135
Email: dpo_hangu@yahoo.com

No. 5176 /PA,

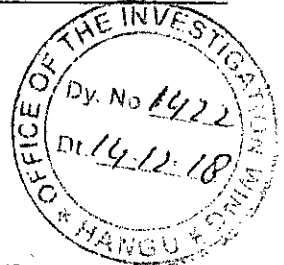
Dated 13/12 /2018.

To: The Superintendent of Police,
Investigation Bureau, Hangu.


Subject: - DEPARTMENTAL ENQUIRY.

Memorandum

Charge Sheet alongwith summary of allegation issued against Constable Jan Muhammad No. 516 vide this office No. 130/PA, dated 26.11.2018. Enquiry of the said official be completed immediately and its finding report be sent to this office for further necessary action please.




DISTRICT POLICE OFFICER,
HANGU


Superintendent of Police
Investigation Bureau
Hangu 17-12-2018



OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION, HANGU

Office Tele: 0925-623887
Office Fax: 0925-622887
Email: spinvestigationhangu@yahoo.com

P-19

To : The District Police Officer,
Hangu.

No. 5172 /Inv: dated Hangu the 29/11/2018.

Subject: SERVICE RECORD OF CONSTABLE JAN MUHAMMAD
NO.516.

Memorandum:

Kindly refer to your office Endst: No.130/PA, dated
26.11.2018.

The Service record of Constable Jan Muhammad No.516 is
required for the purpose of departmental Enquiry.

It is therefore requested that, the service record of above
mentioned constable may be sent to this office, for completion of enquiry please.


Superintendent of Police,
Investigation, Hangu.

بیان SHO گمانہ سنگھ

پروانہ اطلاعاتی

مخبر کا بیان ہے کہ اس وقت (سپیشل جج) کے پاس ایک بیان ہے کہ
گمانہ سنگھ نے 12/18 بروز منگل کو وقت 10.00 بجے
دعوت SP/177 کے تحت ملزمان کے بیان کا سامنا کیا ہے۔

(1) فضل محمد SHO قائمہ

(2) نعت اللہ SA 16H

(3) اول زبان ASHO

گمانہ سنگھ کے حوالے سے

0334-5526043 - 05/12/18

[Signature]

SRC / Mr. Hanger
05/12/18

[Signature]
m.m.f. 07.12.18

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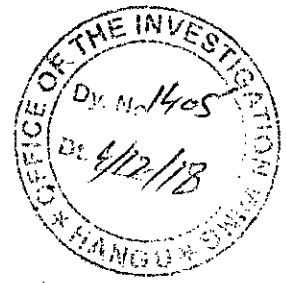
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مبلغ 96 روپے کے لئے ایک نوٹ لکھنا اور ان نوٹس کو منسوخ کرنا
 اور ان نوٹس کو منسوخ کرنے کے لئے ایک نوٹ لکھنا اور ان نوٹس کو منسوخ کرنا
 اور ان نوٹس کو منسوخ کرنے کے لئے ایک نوٹ لکھنا اور ان نوٹس کو منسوخ کرنا

16.11.11

گورنر ایئر لائنز پاکستان
 اسلام آباد

کوہہ ایئر لائنز پاکستان
 اسلام آباد



From: The District Police Officer, Hangu.

To: The Superintendent of Police,
Investigation, Hangu.

No. 1136D /EC, dated Hangu the 3 / 12 / 2018.

Subject:- **SERVICE RECORDS.**

Memorandum:

Please refer to your office Memo: No. 5171/Inv: dated 29.11.2018 & No. 5172/Inv: dated 29.11.2018. =

The service records in respect of the following constables are sent herewith for the said purpose, which may be return, if no longer required please:-

1. Constable Abdul Qadir No. 79
2. Constable Jan Muhammad No. 516

Incl:

S/Roll = 02

Signature

Superintendent of Police,
Investigation, Hangu
Hangu 4/12/2018

Signature

DISTRICT POLICE OFFICER,
HANGU

جناب عالی مدد

خواجہ صاحب چارج سب ڈپٹی ڈائری 130-PA
26-11-18

صوبہ میں لیٹر 26 لکھنا تھا اور اپنی لکھنا کے دوران اپنی ڈپٹی
اپنے نظر سے کرنا چاہا اور سن سائے لکھنا کافی حد تک

صاحبان کی اور ڈپٹی سب انجام دے چکا ہے۔ اور بروقت ڈپٹی صاحبان
کو اطلاع دینا پابست کرنا تھا اسٹیشن دی ہے۔ میں پر کارروائی

پورے کافی کارروائی کے دوران زبردستی پورے ہی ہے۔ ہوا پر لکھیں
فرسٹ کی جو مہلے انزل ہو گیا ہے۔ اور میں سائے کو بھی اسٹیشن یا اصحاب
تے لکھنے اسٹیشن دی ہے۔ اور اپنے ڈپٹی کے دوران اطلاع دینا
پر ضرورتی کرنا ہے جو بھی مختار ہے۔

جناب عالی جہاں تک الزام کا تعلق ہے۔ میں سائے کے کسی قسم کا کوئی
پر لکھنے کے نہ کرنا ہے اور نہ ہی کسی سے جو صاحبان پر اور لکھتے
اور نہ ہی کسی سے لکھتے اور نہ ہی وہ لکھتے قانونی سائے سائے، اسلم

صاحبان لکھتے، ہمیں صریح ہے اور نہ ہی کسی سے لکھتے۔ میں خود
سوچے سمجھے سب سے مطالب پر ساری کارروائی ہو گیا ہے۔ اور نہ ہی
تین گھنٹہ سب سے زبردستی ہے۔ اس کے ساتھ میں الزام کے

یابین عدالت میں لکھتے ہیں کہوں گا۔ اور عدالت سے سرحد
پورے لکھنا۔ انصاف کا طلب کار ہوں۔ اور سائے اس سوچے سمجھے
سازش کو بے نقاب کرنا چاہیے اور عدالت کی کارروائی کرنا چاہیے

اسٹیشن

جانور ڈپٹی ڈائری
576
کالکٹ، جانور ڈپٹی ڈائری

To be
Noted

میا عالی

جو اسٹیٹ جارج تھی 130-PA 26-11-18
 صلیبی ڈی آر ایف کے تحت اسٹیٹ جارج کا دورہ اسٹیٹ جارج
 اور اسٹیٹ جارج سے کرنا چاہا اور اس میں اسٹیٹ جارج کافی عرصہ
 صلیبی ڈی آر ایف کے تحت اسٹیٹ جارج کے ساتھ اور اسٹیٹ جارج کے ساتھ
 گورنمنٹ ہسپتال میں اسٹیٹ جارج دی ہے۔ اس پر کارروائی
 ہو کر کافی کارروائی کے دوران اسٹیٹ جارج اسٹیٹ جارج کے ساتھ
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 کے لئے اسٹیٹ جارج کی ہے اور اسٹیٹ جارج کے ساتھ اسٹیٹ جارج
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جانور ڈی آر ایف
 کاٹیج جارج

Sir
 Forwarded.
 msp. i/c. j. Local of Hanay
 5-12-018.

To be Placed on File
 Superintendent of Police
 Investigator Begus
 Huzar 57/12/2018
 22

(20)

P-25

- 1 -

CHARGE SHEET.

I, Mr. PIR SHAHAB ALI SHAH, D.P.O, HANGU as competent authority, hereby charge you Constable Jan Muhammad No. 516 while posted as DFC at Police Station City Hangu committed the following irregularities:-

- a) You are directly charge in case FIR No. 963 dated 16.11.2018 u/s 9C CNSA, 489C PPC, 15AA Police Station City Hangu, as huge quantity of Charas as well as Arms etc have been recovered from your possession.
- b) Your above act shows your negligence, disinterest and also amount to gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

**DISTRICT POLICE OFFICER,
HANGU**

No. 1/307 /PA,

Dated 26/11/2018.

(26)

DISCIPLINARY ACTION.

I, Mr. PIR SHAHAB ALI SHAH, D.P.O, HANGU as competent authority, am of the opinion that Constable Jan Muhammad No. 516 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

- a). You are directly charge in case FIR No. 963 dated 16.11.2018 u/s 9C CNSA, 489C PPC, 15AA Police Station City Hangu, as huge quantity of Charas as well as Arms etc have been recovered from your possession.
- b) Your above act shows your negligence, disinterest and also amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

Superintendent of Police Investigation, Hangu.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.



**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to: -

1. Superintendent of Police Investigation, Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
2. Constable Jan Muhammad No. 516. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

ابتدائی اطلاعی رپورٹ

کونٹر

(ذاتی) ابتدائی اطلاع نسبت مجرم قابل دست اندازی پولیس رپورٹ شروع زیر دفعہ ۵۲ مجموعہ منایط فوجیاری

منبع سنیگو

تھانہ سنی

تاریخ و وقت وقوع ۱۶/۱۱/۲۰۲۰ وقت ۱۲:۳۰

نمبر ۹۶۳

1	تاریخ و وقت رپورٹ	۱۶/۱۱/۲۰۲۰ وقت ۱۳:۱۵	جالیڈی پر جہد ۱۶/۱۱/۲۰۲۰ وقت ۱۳:۵۰
2	نام و سکونت اطلاع دہندہ و مصیبت	فعل محمد خان SHO تھانہ سنی	14101-0791510-7 0333-3999008
3	مختصر کیفیت مجرم (موجودہ) حال اگر کچھ یا گیا ہو	9C-CNSA / 4189C ISAIA	
4	جائے وقوع فاصلہ تھانہ سے اور سمت	مکہ رہائشی ملزم واقع راجہ فارکیٹ میل آباد بقامہ تقریباً ۲۰ کلومیٹر ہائٹ	
5	نام و سکونت ملزم	جان محمد ولد حضرت خان سکنہ مافوزنی یا نڈہ سنیگو	14101-0358130-9 0333-9337845
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وجہ بیان کرو۔	برسیدگی فرسٹہ پر جہد دیا جاتا ہے	
7	تھانہ سے روانگی کی تاریخ و وقت	۲ سبیل ڈاکے	

ابتدائی اطلاع نیچے درج کرو اس وقت ایک تحریری فرسٹہ مہیا ہے

فعل محمد خان SHO تھانہ سنی برست کنسپل واجد FRP/5250 وصول ہو کر درج ذیل ہے۔
 حضرت خان سنیگو جناب DPo صاحب کو انفارمیشن ہے کہ مکہ رہائشی اذان جان محمد ولد
 حضرت خان سنیگو مافوزنی یا نڈہ میں بھاری مقدار میں منشیات از قسم ہیرس موجود ہے
 اطلاع کے پیش نظر فوراً علاقہ محسبہ بیٹ صاحب سے باضابطہ طور پر سرچ وارنٹ حاصل
 کرتے ہیں مع اول زمان ASHO، ٹینٹیلان عمر جمیدہ 590، واجد FRP/5250 ڈیٹرنری
 پولیس زیر قیادت جناب DSP/HO عمر حیات خان فوراً جائے وقوعہ بالا پر آ کر مکہ
 واقع بالائی منزل پر جا کر جان محمد ولد کو روک لیا اور پھر وہ کی سرچ شروع کرتے ہوئے
 میں پڑا بکس جو معطل تھا۔ جو جان محمد ولد کو روک لیا بکس اس کی ملکیت بتلائی گئی
 پر بکس کی پڑتال کرنے پر (5) بیگ ہیرس گروہ برآمد ہو کر جو زرڈ رنگ پیکٹوں میں بند
 تھے۔ ہڈ پڑتال کرنے پر ایک پلاسٹک لفافہ برنگ سفید جس میں ہیرس گروہ برآمد
 ہو کر اسٹریٹ ایک ہڈ پڑتال پلاسٹک لفافہ برنگ سفید جس میں ہیرس گروہ کاغذ پورٹوں
 کی شکل میں کل 76 عدد پورٹی برآمد کرتے جو ہیرس کو یکجا کر کے ہیرس بالترتیب پر
 ایک بیگ وزن کرنے پر نمبر (1) 1245 گرام، نمبر (2) 1326 گرام، نمبر (3) 1267 گرام، نمبر (4) 1270 گرام
 نمبر (5) 1136 گرام، لفافہ سے برآمد ہیرس وزن کرنے پر 75 گرام اس طرح ہیرس وزن
 کرنے پر 32 گرام نکلی۔ چھ ماہ برآمد ہیرس میں سے ہر ایک بیگ سے 10/10 گرام جبکہ
 لفافہ میں بند ہیرس سے 10 گرام اس طرح ہیرس میں سے ایک گرام علیحدہ علیحدہ پارسلوں
 میں بند سر پھر بیگز میں تجزیہ FSL کرتے ہڈ پڑتال سے ایک گرام کلا شنگوف فوڈ ٹینگ بیٹ والا
 مع فیکس چار ہیر 1954010416 Δ بغیر کارٹوس 7.62 لور، ایلفریڈ استول 9MM
 مع فیکس چار ہیر نمبر FB12 مع 6 عدد کارٹوس 9MM ایک عدد ڈیجیٹل ڈرازو برنگ
 سفید نمبر SCA-301 خالی بیگ ہیرس لفافہ برنگ زرڈ 3 عدد، جعلی کرنسی مبلغ 96 ہزار
 1000/1000 روپے والے نوٹ، ایک عدد بیگ کیمو قلع ایک عدد کوٹ کیمو قلع ایک عدد لٹوٹی

P-T-0

سرکاری معتمدی بیچ 2 عدد - جرسی سرکاری برنٹ نیلا دو عدد

ہادر برنٹ نیلا، جلد جرس، بیرون، اسٹیک ایجویشن، جہلی کرنسی، دیڈ سامان

مذکورہ بالا کو بروئے فرد قبضہ میں لیگی۔ مذکورہ جان محمد ولد ہوت خان سلمہ

ماہوزئی بانڈہ جو جودہ کو مرتبہ جرائم بالا کا پانچواں حساب ضابطہ گرفتار کرنے

مراسلہ بدست کینٹنل واجد FAP/5250 ارسال تھا ہے۔ اس پر چالہ گی پرچہ

تے بغیر من قبضہ ہوا IBH مشاف کیا جاوے۔ دستخط انڈر مینی جنرل محمد خان

SHC خانہ منی ورثہ 18/11/18 کا کارروائی خانہ آمدہ مراسلہ عرف عرف ج.ج. بالا کو کہ

پرچہ جرائم بالا جاگ کیا گیا۔ نقل FIR جو مراسلہ بغیر من قبضہ ہوا

IBH مشاف کیا جانا ہے۔ بدست گرفتار من ہے

Asi. Ps. cits

16.11.018

دستخط

عہدہ

اطلاع کے نیچے اطلاع دینے کو دستخط ہو گیا۔ اس کی ہر بائشان لگایا جائے گا اور اہم تر رکنہ ایٹمی اطلاع کا دستخط بطور تصدیق ہوگا۔

23



**OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU**

ORDER

Constable Jan Muhammad No. 516 while posted as DFC Police Station City Hangu is hereby suspended & closed to Police Lines. Hangu with immediate effect as he is directly charged in case FIR No. 963 dated 16.11.2018 u/s 9C-CNSA, 489C PPC, 15AA Police Station City Hangu.

OB. No. 470

Dated 19 / 11 / 2018.

**DISTRICT POLICE OFFICER,
HANGU**

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU

No. 4088-91 /PA, dated Hangu the 23 / 11 / 2018.

Copy to all concerned for necessary action and information.

*SRE
For information & link with
the enquiry paper of ^{PC} Jan Mohammed.*



OFFICE OF THE
SUPERINTENDENT OF POLICE
INVESTIGATION, HANGU

Office Tele: 0925-623887
Office Fax: 0925-622887
Email: spinvestigationhangu@yahoo.com

P-29

To : The District Police Officer,
Hangu.

No. 5049 /Inv: dated Hangu the 19 / 11 / 2018.

Subject: REQUEST FOR ARREST OF ACCUSED CONSTABLE JAN MUHAMMAD NO. 516.

Memorandum:

It is intimated that the accused Jan Muhammad s/o Hazrat Khan r/o Mamozai Banda Hangu, ~~was~~ serving as constable under your kind command, has been charged/arrested in the Case FIR No. 963 dated 16.11.2018 U/S 9C-CNSA/489C PPC/15AA:FS City. (Copy of FIR is enclosed)

It is therefore requested that departmental action may kindly be initiated against the above mentioned accused under intimation to this office, please.

Superintendent of Police,
Investigation, Hangu.

No. 5050 /Inv:

Copy to:-
I.O PS, City for information.

PA.

For Compliance.

D.P.O Hangu

28/11/18.

5278

20/11/18

29

ORDER.

This order is passed on a departmental appeal, moved by Constable Jan Muhammad No. 516 of Hangu district Police against the punishment order, passed by DPO Hangu vide OB No. 442, dated 25.07.2017, whereby he was awarded minor punishment of stoppage of one annual increment without cumulative effect for the allegations of not executing the summon / warrant upon PW.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record was perused. He was also heard in person in Orderly Room, held on 03.01.2018.

I have gone through the available record and came to the conclusion that punishment order passed by DPO Hangu is too harsh and is not commensurate with the gravity of offense. Therefore, by taking a lenient view, I set aside the punishment order passed by DPO Hangu and restore his one annual increment. He is warned to be careful in future.

Order Announced
03.01.2018

Awal Khan

(AWAL KHAN)
Regional Police Officer,
Kohat Region.

No. 121 /EC, dated Kohat the 26/01 2018.

Copy to the District Police Officer, Hangu for information w/r to his office Memo: No. 8627/LB, dated 07.12.2017. His service record and Fauji Missal is returned herewith.

Awal Khan

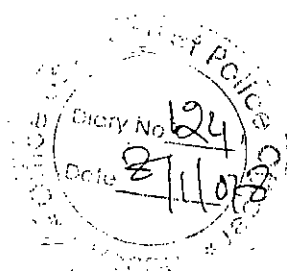
(AWAL KHAN)
Regional Police Officer,
Kohat Region.

o.h.c.
SRE / DPO / Reader

En Waleem

[Signature]

CB-No: 16
DT: 09.1.18



ORDER

This order of mine will dispose of the departmental enquiry initiated against DFC Jan Muhammad No. 516 on the basis of allegations that he while posted at P.S City Hangu he did not informed SI Khan Ullah who was required to the Hon'ble Courts in Case FIR No. 871 dated 06.10.2014 U/S 9(B) CNSA Police Station City Hangu, he just faxed the summons/warrants and did not properly execute upon SI Khan Ullah any summons/warrants issued by the Hon'ble courts of law. The main target of this case does not bother to deny due compliance vide SP Investigation Hangu Office Letter No. 1870/Inv: dated 21.04.2017. His above act shows his negligence, disinterest and also amount to gross misconduct on his part.

He was served with charge sheet together with statement of allegations vide No. 1994/PA, dated 26.04.2017 under Police Disciplinary Rules-1975, to which he submitted his reply. Mr. Zahid Rehman Inspector Legal Hangu was appointed as Enquiry Officer to conduct departmental enquiry against him. After the completion of enquiry, the enquiry officer submitted his finding on 17.07.2017 in which defaulter DFC Jan Muhammad No. 516 held guilty from the charges leveled against him and recommended him for appropriate punishment under the rules.

Keeping in view of above and having gone through available record, the undersigned come to the conclusion that he being a member of disciplined force had acted an indisciplined and irresponsible manner. Therefore, I, Ihsan Ullah Khan, District Police Officer, Hangu in exercise of the powers conferred upon me, disposed of the enquiry in hand-with order that *award him minor punishment of stoppage of one annual increment without cumulative effect.*

Order Announced.

OB No. 442
Dated 25/7/2017.

DISTRICT POLICE OFFICER,
HANGU

OFFICE OF THE DISTRICT POLICE OFFICER, HANGU.

No. 4812 /PA, dated Hangu, the 26/07/2017.

Copies to the Pay Officer, Reader, SRC & OIHC for information and necessary action.

فائنڈنگ رپورٹ

- 1- بحوالہ چارج شیٹ نمبر PA/1999 مورخہ 25.4.2017 ازاں DFC غلام فاروق نمبر 442/DFC
- 2- چارج شیٹ نمبر PA/1993 مورخہ 26.4.2017 ازاں کنشیل سفیر الرحمن 71/DFC
- 3- چارج شیٹ نمبر PA/1992 مورخہ 26.4.2017 ازاں کنشیل عبدالقادر نمبر 79/DFC
- 4- چارج شیٹ نمبر PA/1995 مورخہ 26.4.2017 ازاں کنشیل خلیل وزیر نمبر 565/DFC
- 5- چارج شیٹ نمبر PA/1998 مورخہ 25.4.2017 ازاں کنشیل نورز علی نمبر 609/DFC
- 6- چارج شیٹ نمبر PA/1996 مورخہ 26.4.2017 ازاں کنشیل عبدالوحید نمبر 430/DFC
- 7- چارج شیٹ نمبر PA/2000 مورخہ 25.4.2017 ازاں کنشیل جمال حسین نمبر 25/DFC
- 8- چارج شیٹ نمبر PA/1994 مورخہ 26.4.2017 ازاں کنشیل جان محمد نمبر 516/DFC
- 9- چارج شیٹ نمبر PA/1997 مورخہ 26.4.2017 ازاں کنشیل نور محمد نمبر 320/DFC

معروض ہو کہ متذکرہ کنشیل ازاں DFCs پر الزام ہے کہ DFCs بالانے مقدمہ علت 871 مورخہ 16.10.2014 جرم BCNSA 99 تھانہ ٹی ضلع ہنگو مدعی مقدمہ خان اللہ خان SI جو کہ ضلع کرک / کوہاٹ وغیرہ میں تعینات تھا اور مقدمہ بالا میں برائے شہادت اطلاق عیابی نہ ہو کر DFCs کی تعمیل نہ کرنے پر مقدمہ بذالعدالت جناب سیشن جج صاحب ہنگو نے ملزم کو بے عدم ثبوت بری کیا ہے اندر میں سلسلہ جناب SDPO صاحب ہنگو نے خان اللہ خان SI کی جاری شدہ چارج شیٹ پر انکو آڑی پر خان اللہ خان SI نے DFCs کو فوراً الزام ٹھہرا کر وضاحت کی کہ DFCs بالانے نہ اسے تحریری طور پر اطلاع دی ہے اور نہ زبانی طور پر یاد دہانی کرائی ہے۔ جس کی وجہ سے وہ تاریخ پیشی پر شہادت سے غیر حاضر رہ کر عدالت نے اس کی مسلسل غیر حاضری پر مقدمہ بری کیا گیا ہے۔

امروز سلسلہ انکو آڑی DFCs متذکرہ بالا کو طلب کیے کہ فرزند فرزند استفسار کیا گیا جنہوں نے بتلایا کہ SI خان اللہ خان ایک منکبر لیس آفسر تھا اس لئے وہ براہ راست سمن پر دستخط انوث کرنا پڑا تو ہیں سمجھتا ہوں اور سیدھی منہ بات بھی نہیں کرتا تھا۔ اسلئے براہ راست خان اللہ خان SI سے سمن کی نیل نہیں کی گئی اور فیکس کے ذریعے رابطہ کیا گیا مگر جناب DPO صاحب کی طرف سے تحریر چھٹی انگریزی جاری نہ کی گئی اسلئے انہوں نے حکم عدالت کی تعمیل کی نہیں کی ہے DFCs نے صرف فیکس کا سہارا لے کر تعمیل کا آسان طریقہ اختیار کیا ہے۔ اندر میں سلسلہ نہ موجود الوقت SHO کے نوٹس میں لایا ہے۔ اور نہ زناچہ میں کوئی اندراج کی ہے۔ DFCs کے فرانسز میں شامل تھا کہ وہ سمن کی تعمیل نہ ہونے کے صورت میں بر موقع آفران بالا کے نوٹس میں لاتے اور اسی رخ SI خان اللہ خان کی تعمیل کا طریقہ کار وضع کر دیتے تو DFCs کی عدم تعمیل کی وجہ سے ملزم کو یاد دہانی کا موقع نہ ملتا DFCs کے ساتھ خان اللہ خان SI کی بل حکم نہ کرنے کے متعلق کوئی دستاویز موجود نہیں جو بطور ثبوت پیش کر کے SI خان اللہ خان کی قلمبند شدہ بیان کی انہی ہو سکے۔ مقدمہ ہذا میں ملزم کی بری ہونے کی مترجمہ داری DFCs متذکرہ بالا پر عائد ہوتی ہے۔ جنہوں نے ضابطے کے مطابق سماعت کی تعمیل نہیں کی ہے۔ اور ملزم کی بری ہونے کے قصور وار ٹھہرائے تے ہیں۔ رپورٹ انکو آڑی مرتب ہو کر بمراہ ملاحظہ گزارش ہے۔

elvis

زاہد الرحمن انسپکٹر لیگل ضلع ہنگو

17/7/17

stoppage
in no. 4

of one
with out

Qari

ذوالحجہ

NO. 1994/PAT/17
DI: 26-04-17

سرکار محترم پاکستان فنانس منسٹر آفس اسلام آباد
مبارکباد - وارنٹ چارج ہونے پر توجہ فرمائی جا رہی ہے

کہ جس سے ضرورتاً یہ فیصلہ نہیں آسکتا ہے۔

اس ضمن میں لکھنا چاہتا ہوں کہ اس بارے میں کوئی فیصلہ نہیں ہو سکتا

یا اس وقت اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

اس ضمن میں اس بارے میں کوئی فیصلہ نہیں ہو سکتا ہے۔

315/17

(3)

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خوبی و در آنجا که سر کارهای

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CHARGE SHEET.

I, **Mr. IHSAN ULLAH KHAN, D.P.O, HANGU** as competent authority, hereby charge you DFC Jan Muhammad No. 516 while posted at Police Station City Hangu committed the following irregularities:-

a) You did not informed SI Khan Ullah who was required to the Hon'ble Courts in Case FIR No. 871 dated 06.10.2014 U/S 9(B) CNSA Police Station City Hangu, you just faxed the summons/warrants and did not properly execute upon SI Khan Ullah any summons/warrants issued by the Hon'ble courts of law. The main target of this case does not bother to deny due compliance vide SP Investigation Hangu Office Letter No. 1870/Inv: dated 21.04.2017.

b) Your above act shows your negligence, disinterest, non-professionalism and also amount to gross misconduct on your part.

2. By reasons of the above, you appear to be guilty of misconduct Under Police Disciplinary Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in the above rules.

3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/Committees, as the case may be.

4. Your written defence, if any, should reach to the Enquiry Officer/Committees within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

**DISTRICT POLICE OFFICER,
HANGU**

No. 1994/PA,

Dated 26/04/2017.

DISCIPLINARY ACTION.

I, **Mr. IHSAN ULLAH KHAN, D.P.O, HANGU** as competent authority, am of the opinion that DFC Jan Muhammad No. 516 has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning Under Police Disciplinary Rules, 1975:

STATEMENT OF ALLEGATIONS.

- a) You did not informed SI Khan Ullah who was required to the Hon'ble Courts in Case FIR No. 871 dated 06.10.2014 U/S 9(B) CNSA Police Station City Hangu, you just faxed the summons/warrants and did not properly execute upon SI Khan Ullah any summons/warrants issued by the Hon'ble courts of law. The main target of this case does not bother to deny due compliance vide SP Investigation Hangu Office Letter No. 1870/Inv: dated 21.04.2017.
- b) Your above act shows your negligence, disinterest, non-professionalism and also amount to gross misconduct on your part.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Enquiry Officer consisting of the following is constituted in the above rules: -

- i. Mr. Zahid Rehman, Inspector Legal, Hangu.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

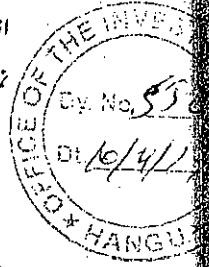
**DISTRICT POLICE OFFICER,
HANGU**

A copy of the above is forwarded to :-

1. Mr. Zahid Rehman, Inspector Legal, Hangu. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Disciplinary Rules, 1975.
2. DFC Jan Muhammad No. 516. The concerned officer with the directions to appear before the Enquiry Officer, on the date, time and place fixed by the Officer, for the purpose of the enquiry proceedings.

از دفتر SDPO ہنگو

نمبر SDPO/568



مورخہ 10/4/2017

انکوائری بر خلاف SI خان اللہ متونہ SHO تھانہ شی ضلع ہنگو

قائمہ رپورٹ

جناب عالی!

بحوالہ چارج شیٹ نمبر سی (H) 1259/Inv مورخہ 14.03.2017 بجاریہ جناب SP صاحب انوسٹی گیشن ہنگو بر خلاف SI خان اللہ متونہ

خدمت ہوں۔ کہ چارج شیٹ ہذا میں مذکورہ SI پر ذیل الزامات لگائے گئے ہیں۔

(1) کہ مورخہ 06.10.2016 کو آپ نے دو موٹر سائیکل سواروں کو روک کر تلاشی لینے پر ان سے 270 گرم جس ریکوری میں پر مقدمہ علت 871 مورخہ 06.10.2014 جرم CNSA (B) 9 تھانہ شی درج رجسٹر کی۔ مقدمہ تفتیش مکمل کرنے کے بعد ملزمان کی خلاف چالان زیر دفعہ 173/CRPC متعلقہ عدالت میں دیا گیا۔ دوران 27 ماہ عدالتی کارروائی مکمل ہونے کے بعد تمام پرائیویٹ گواہان عدالت میں حاضر ہوئے مگر آپ SHO بحیثیت چشم دید گواہ عدالت میں حاضر نہ ہوئے باوجود اسکے آپ کی حاضری کیے بہت سے کمن وارنٹ جاری کئے گئے آپ کی عدالت میں باوجود اتنی انتظار کے حاضر نہ ہوئے اور عدالت نے باہج شک ملزم کو بری کیا۔

(2) مورخہ 04.02.2015 کو بائی پاس روڈ نزد زمین خاوری میں ملزم میر اکبر نامی شخص سے 150 گرام جس برآمد کی جس پر مقدمہ علت 155 مورخہ 14.02.2015 جرم CNSA (B) 9 تھانہ شی درج رجسٹر کی بعد تفتیش کے ملزمان کے خلاف چالان زیر دفعہ 173/CRPC دیا گیا۔ دوران عدالتی کارروائی آپ کو کئی مرتبہ بذریعہ کمن عدالت میں حاضر ہونے کی اطلاع دی گئی۔ لیکن عرصہ 23 ماہ عدالتی کارروائی آپ چشم دید گواہ عدالت کو حاضر نہ ہو سکے آپ نے اپنے اختیارات کا نیا نیا استعمال کیا۔

(1) اس سلسلے میں SI خان اللہ کو حسب طلبی آ کر جس نے اپنا تحریری بیان دیکر جو ہمراہ الف انکوائری ہذا ہے۔

SI خان اللہ اپنے بیان میں گویاں ہوا کہ مقدمہ علت نمبر 871 مورخہ 06.10.2014 جرم CNSA (B) 9 تھانہ شی ہنگو اور علت نمبر 155 مورخہ 14.02.2015 جرم CNSA (B) 9 تھانہ شی ہنگو میں من SHO سے نہ تو کوئی کمن انوسٹی گیشن سرکاری البکار نے بغرض تفتیش پیش کیا ہے اور نہ تو انکوائری کیے ساتھ لف کئے گئے عدالتی کمن یا انوسٹی گیشن پر من۔ اصل کارروائی دستخط موجود نہیں اور نہ کسی نے من مسائل کے نوٹس میں لایا ہے صرف متعلقہ DFC نے کارروائی میں ٹیکس کا ذکر کیا ہے مجھے کسی نے اند میں بالاحسب ضابطہ کوئی اطلاع نہیں دیا ہے عدالت کے حکم کا تعیل کرونگا اور تمام سر دس کرتا آیا ہوں

(2) اس سلسلے میں DFC محبت علی حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

DFC محبت علی اپنے بیان میں گویاں ہوا کہ مورخہ 15.11.2016 کو جو کمن مارک ہو کر اس نے حسب تعیل کر کے کنسٹیبل اشفاق 442 ضلع کوہاٹ جو کہ SI خان اللہ خان کے ساتھ کمن تھا۔ کو نقل کمن حوالہ کر کے باقاعدہ طور اس سے دستخط لیا ہے۔ جو کہ ہمراہ الف انکوائری ہذا ہے۔

(3) اس سلسلے میں DFC جان محمد حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

(4) اس سلسلے میں DFC غلام فاروق حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

(5) اس سلسلے میں DFC جمال حسین حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

(6) اس سلسلے میں DFC عبدالقادر حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

(7) اس سلسلے میں DFC سفیر الرحمن حسب طلبی آ کر جس کا تحریری بیان لیا جا کر جو ہمراہ الف انکوائری ہذا ہے۔

جہاں تک انکوائری کا تعلق ہے SI خان اللہ پر لگائے الزامات میں حسب ضابطہ انکوائری شروع کر کے SI خان اللہ حسب طلبی آ کر جس سے یہ الزامات عائد ہوئے ہیں ان کے بارے میں بیان میں ان کے اوپر لگائے گئے الزامات کی تردید کی اور گویا ہوا کہ ان کو کسی بھی DFC یا عدالتی الیکار نے شہادت کیلئے مطلق نہیں کیا اور SI خان اللہ کو مطلع کرنے کے مطابق کوئی بھی DFC خان اللہ سے حسب ضابطہ قبیل کا ثبوت فراہم نہ کر سکا سب اپنے اپنے بیانات میں گویا ہوئے کہ انہوں نے بذریعہ ٹیکس SI خان اللہ کو مطلع کیا ہے۔ اگرچہ ضابطہ فوجداری میں گویا ہوا کہ عدالت طلب کرنے کے متعلق ایک واضح طریقہ کار موجود ہے لیکن پھر بھی SI خان اللہ سے کسی بھی سن یا وارنٹ پر اس نارگٹ کیس میں حسب ضابطہ قبیل نہیں ہوئی ہے۔ اس لئے SI خان اللہ کے خلاف لگائے گئے الزامات ثابت نہیں ہوتے اس کے علاوہ ازیں جناب DPP صاحب منگہ کو چاہئے تھا کہ وہ اس طرح کے نارگٹ کیس میں گواہ کے اطمینان کے مطابق ایک ایئر بذریعہ جناب DPO صاحب جاری کرتے جس کی بنا پر اگر گواہ حاضر نہ ہوتا تو اس کے خلاف کارروائی کی جاسکتی۔ لیکن مذکورہ SI کے اطمینان کیلئے کسی بھی ایئر انگریزی کے ایئر کرنے کا کوئی ثبوت بھی موجود نہیں ہے۔ بالآخر تحقیق سے معلوم ہوتا ہے کہ تمام DFCs نے SI خان اللہ سے قبیل کے دوران صرف ٹیکس پر اکتفا کیا ہے کسی بھی DFC نے SI خان اللہ سے اس نارگٹ کیس میں حسب ضابطہ قبیل کرنے کی زحمت گوارا نہیں کی۔ جس سے تمام DFCs کی غفلت ثابت ہوتی ہیں کیونکہ اگر SI خان اللہ سے کسی بھی سن پر حسب ضابطہ قبیل کی جاتی تو ان کے پاس مطلع نہ ہونے کا بذریعہ ثبوت نہ رہتا۔ بدیہی SI خان اللہ کو مطلع نہ کرنے کی تمام تر ذمہ داری اے۔ سیر الرحمن DFC پر لگائی ہے۔

- ۱۔ عبدالقادر DFC/79
- ۲۔ نال DFC/25
- ۳۔ غلام فاروق DFC/442
- ۴۔ جان محمد DFC/516
- ۵۔ خلیل وزیر
- ۶۔ عبدالرحیم DFC
- ۷۔ ڈورزالی DFC
- ۸۔ نور محمد DFC/320

پر عائد ہوتی ہے۔

سب ڈویژن پولیس ایفیسر منگہ

HC
 issue request letter to
 DPs to proceed dept
 against above DFC matter
 the + in 7 DSP/HQ

From : The Superintendent of Police,
Investigation, Hangu.

To : The District Police Officer,
Hangu.

No. 1870 /Inv: dated Hangu the 21 /04 /2017.

Subject: DEPARTMENTAL ENQUIRY AGAINST SI KHAN ULLAH.

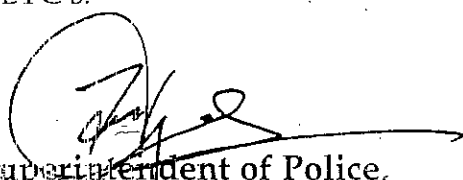
Memorandum:

Please refer to the subject cited above.

It is submitted that the Final report of departmental enquiry against in the above subject official. In this connection the Enquiry Officer (SDPO, HQR: Hangu)- recommended departmental action against DFCs which are as under: (Copy of Final Report is enclosed)

- 10. DFC Jan Muhammad
- 11. DFC Ghulam Farooq
- 12. DFC Jamal Hussain
- 13. DFC Abdul Qadir
- 14. DFC Safeer ur Rehman
- 15. DFC Khalil Wazir
- 16. DFC Abdul Waheed
- 17. DFC Noor Zali
- 18. DFC Noor Muhammad

It is therefore requested that, the departmental proceeding may kindly be initiated against above mentions DFC's.


 Superintendent of Police,
 Investigation, Hangu.

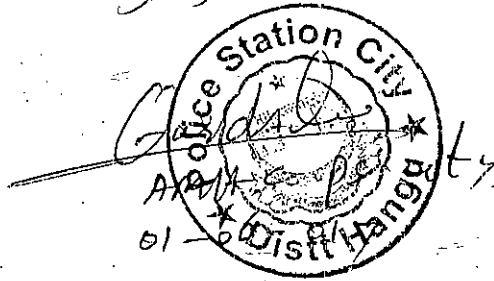
PA
 For all action


 DISTRICT POLICE OFFICER
 HANGU


(42)

بیان رقبان قاصد علی AMHC تقاضہ مسیح
777

میں خلیفہ بیان کریں کہ متعلقہ DFCS تحلیل فریڈ 565، نورزالی 609
عبدالوصد 436، جمال حسین 252، عبدالقادر 29، نور محمد 320، بان محمد 516
مقدم فاجوی 442، سفید الرحمن DFCS کو فان اللہ اوصاف کی اطلاع
کی سہولت اور وارنٹ لمیٹڈ بطریقہ ریسٹ فرم 5 سہن وارنٹ وقتاً فوقتاً
مارک ہو چکے ہیں جو ریکارڈ پر موجود ہے یہ صراحتاً بیان ہے۔



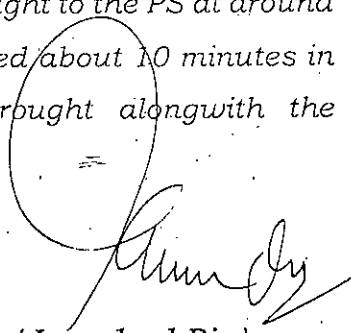
State Vs Umar Sadique

**PW.1 Statement of Nasrullah Khan SI Line Officer,
Police Lines, Hangu.**

Stated that during the days of occurrence, I was posted as ASHO, PS City, Hangu. On receipt of murasila, I correctly incorporated its contents into case FIR EXPA. Today, I have seen the copy of FIR, which is correct and correctly bears my signature.

XXn.....The murasila was brought to the PS at around 1135/1137 AM. I might have consumed about 10 minutes in writing the FIR. No chars was brought alongwith the murasila.

RO & AC
12.01.2016


**(Jamal-ud-Din)
Sessions Judge,
Hangu.**

CERTIFIED TO BE TRUE COPY

01/18/12

EXAMINE
COPYING AGENCY HANGU

(u)

a

عدالت عالیہ ہنگو
 ڈسٹرکٹ انچارج جج صاحب مدد
 18-2-17
 8-11-14
 CNSA = $\frac{45}{14}$

باسم عمر مدد و غیر
 سبھا

عدالت 871 فورم 6 $\frac{10}{14}$ CNSA(B)

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O-----17


18.02.2017.

Learned DPP for the State and accused Muhammad Israfeel on bail present while accused Umar Siddique has gone abroad.

2. Vide detailed judgment of today consisting of 02 pages and the reasons mentioned therein, accused facing trial are acquitted of the charge w/s 265-K CrPC. They are on bail, their bail bonds stand cancelled and their sureties are discharged from liabilities of bail bonds. Case property i-e 420 grams be kept intact till expiry up period of appeal/revision and thereafter be destroyed.

3. Case file be consigned to Record Room after completion and compilation.

ANNOUNCED
 18.02.2017.


 (Syed Asghar Ali Shah)
 Sessions Judge,
 Hangu.



CERTIFIED TO BE TRUE COPY
 18/2/17
 EXAMINEE
 COPYING AGENCY HANGU

State VS Umar Sadique etc

PW.2 Statement of Zakim Khan SI (R) r/o District Karrak.

Stated on oath that during the relevant days, I was posted as SI in Police Station, City, Hangu and on receipt of relevant documents in present case, it was marked to me for investigation. So, I went to the spot wherein on the instance of SHO complainant. I prepared the site plan EXPB. I obtained custody of the accused, interrogated him and recorded his statement u/s 161 Cr.P.C. I had also recorded the statements of PWs in present case and had sent the sample of chars, recovered from the accused to the FSL, the report of which is EXPZ. Then on completion of investigation, I submitted the case file to SHO for submission of complete challan in the case. I see the relevant documents which are correct and correctly bear my signatures.

XXn..... I had received the copy of FIR in present case at 11:55 AM and reached the spot at 12:30 noon. First I had prepared the site plan when I reached there at the instance of the SHO. Then I had recorded the statements of PWs in present case. I might have consumed about 02 hours on the spot. Sample of chars, separated by the SHO, were handed over to me on the spot. These were packed in parcels. On the same very day, I had delivered the samples to Moharrir alongwith my application regarding analysis to the FSL. It is correct that according to FSL report, the FIR-date has been mentioned as 06.10.2014, whereas, the receipt of samples in laboratory is given as 10.10.2014. The samples were handed over to Moharrir on that very day alongwith my application to the FSL

(9)

(Signature)

(46)


CERTIFIED TRUE COPY
18/11/17
COMMISSIONER

18/11/17

Continued statement of PW.2 Zakim Khan SI (R)

for analysis. It is incorrect to suggest that I had not visited the spot and I have conducted all the proceedings in the Police Station.

RO & AC
23.11.2016


(RAFI ULLAH KHAN)
Sessions Judge,
Hangu.

CERTIFIED TO BE TRUE COPY

18/11/17

EXAMINED
COPYING AGENCY HANGU

47



State VS Umar Sadique

PW.3 Statement of Farhan Ullah No.76/FC Police Station, Thall.

Stated on oath that during the relevant days, I was posted at Police Station, City, Hangu. I am marginal witness to the recovery memo EXPC, vide which in my presence, the SHO Khan Ullah had taken into his possession from accused Umar Sadique 270 grams chars gerda P.1 while from another accused namely Mohammad Israfeel, both of them were riding on motor cycle bearing No.0037, chars gerda weighing 150 grams P.2. 10/10 grams from both the recovered chars were separated for the FSL while the remaining chars was packed/sealed into separate parcels. The sample for chars was also packed/sealed in separate parcel. Similarly, the motor cycle 70 CC was also taken on present recovery memo. The memo was prepared on the spot, on which, I alongwith constable Khan Alam had put our signatures thereon.

XXn..... We had gone to the spot from Police Station with SHO. We reached the spot at about 10:45 hours. It is correct that Shahoo Road is a busy road. On the day, it was Eid and we had searched about 08/09 vehicles, no rush was there on the road because of Eid on the day of occurrence. We were standing on the right side of the road. The vehicles were stopped by me and also by my other companion Khan Alam in presence of SHO who was standing in front of mobile pickup on the spot. The motor cycle of

77

Signature

CERTIFIED TO BE TRUE COPY

07/18/17

EXAMINED
BY COPYING AGENCY HAND...



408

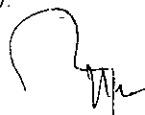


Continued statement of PW.3 Farhan Ullah constable

accused in present case was stopped by me. The riders were
 deboarded from the motor bike and then were searched. First, Umar
 Sadique was searched. The chas were weighed on the spot
 alongwith the paper, in which it was wrapped. The SHO remained
 on the spot for about 01 and 01 1/2 hours. The IO had reached the
 spot at around 12:00 noon. After the arrest of present accused, we
 had also searched further 04/05 vehicles. It is correct that the entire
 contents of recovery memo were tehri, when I had signed the same
 including FIR number. It is incorrect to suggest that nothing was
 recovered in my presence. It is also incorrect to suggest that the
 recovery memo was prepared in the Police Station. It is also
 incorrect to suggest that the recovery is fake and concocted one.

(The whole suggestions are incorrect).

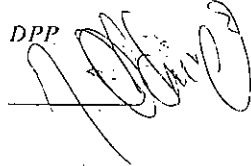
RO & AC
29.11.2016


 (RAFI ULLAH KHAN)
 Sessions Judge,
 Hangu.

Statement of DPP

I abandon PW Constable Khan Alam, being unnecessary.

DPP




 (RAFI ULLAH KHAN)
 Sessions Judge,
 Hangu.

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 RECEIVED TO THE...
 18/7/17
 COORDINATE...

18-7-17
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