

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 979/2019

Date of institution ... 26.07.2019

Date of judgment ... 14.02.2020

Irfan Ex-Constable, Police Lines, Mardan ... (Appellant)

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region, Mardan.
3. The District Police Officer, District Mardan.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED ORIGINAL ORDER
DATED 17.06.2019 PASSED BY RESPONDENT NO. 3
WHEREBY APPELLANT WAS IMPOSED UPON THE
MAJOR PENALTY OF DISMISSAL FROM SERVICE
AGAINST WHICH APPELLANT FILED DEPARTMENTAL
APPEAL TO RESPONDENT NO. 2 WHICH WAS
UNLAWFULLY REJECTED BY HIM VIDE IMPUGNED
APPELLATE ORDER DATED 18.07.2019.

Mr. Khaled Rahman, Advocate. .. For appellant.
Mr. Usman Ghani, District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: -

Appellant alongwith his counsel and Mr. Usman Ghani,
District Attorney alongwith Mr. Atta-ur-Rehman, Inspector
(Legal) for the respondents present. Arguments heard and
record perused.

M. Amin
14.2.2020

2. Brief facts of the case as per present appeal are that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service vide order dated 17.06.2019 on the allegation that ASI Wisal Ahmad son of Iftikhar Ahmad was arrested in a robbery case vide FIR No. 90 dated 30.01.2019 under sections 395-342 PPC PS Shahbaz Garh and was shifted to P.P Garyala for safe custody where he fired over himself with a pistol of ASI Zubair Khan the then in-charge PP Garyala lying there on a cot, resultantly, ASI Wisal Ahmad was injured vide case FIR No. 91 dated 30.01.2019 under section 325 PPC PS Shahbaz Garh. The appellant filed departmental appeal on 19.06.2019 but the same was rejected vide order dated 18.07.2019 hence, the present service appeal on 26.07.2019.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department. It was further contended that ASI Wisal Ahmad was arrested in a robbery case vide FIR No. 90 dated 30.01.2019 under sections 395-342 PPC PS Shahbaz Garh and was shifted to P.P Garyala for safe custody. It was further contended that the ASI Zubair Khan was in-charge of the said P.P and on his direction the said Wisal Ahmad was released from the handcuff by someone for prayer. It was further contended that the said ASI Wisal Ahmad fired over himself with a pistol of ASI Zubair Khan, therefore, departmental proceedings were initiated against the

*W. Ahmad
14.2.2020*

appellant, Shakeel LHC, Constable Roohullah, Sami, Arif and Zubair Khan. It was further contended that during inquiry proceeding Shakeel LHC, Constable Roohullah, Sami and Arif were exonerated while Zubair Khan and appellant were imposed major penalty of dismissal from service but departmental appeal of Zubair was partially accepted, the impugned order of his dismissal from service was set-aside and the said Zubair Khan ASI was reinstated in service and awarded the punishment of reduction in rank to Head Constable vide order dated 15.07.2019. It was further contended that the departmental appeal of the appellant was dismissed by the departmental authority without any plausible reasons. It was further contended that the appellant was discriminated. It was further contended that the handcuff of the said Wisal Ahmad was opened by someone other on the direction of in-charge Shakeel HC and ASI Zubair for offering prayer. It was further contended that the inquiry officer has submitted his inquiry report dated 11.04.2019 against the appellant in slipshod manner and has not recorded the statement of Zubair Ahmad in-charge or other available in the said P.P. It was further contended that the inquiry officer was required to record the statement of Shakeel Ahmad HC, Zubair Khan ASI and other but the inquiry officer has neither recorded the statement of said witnesses available on spot nor has provided opportunity of cross examination. It was further contended that the competent authority was also bound to handover copy of inquiry report with the show-cause notice to

W. Ahmad
14.2.2020

the appellant but the competent authority has also not handed over copy of inquiry report with the copy of show-cause notice, therefore, the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned District Attorney for the respondents opposed the contention of leaned counsel for the appellant and contended that ASI Wisal Ahmad was arrested in a robbery case in the aforesaid FIR and was shifted to P.P Garyala for safe custody where due to his negligence the said ASI Wisal Ahmad fired over himself with a pistol of ASI Zubair Khan the then in-charge PP Garyala, resultantly, ASI Wisal Ahmad was injured vide case FIR No. 91 dated 30.01.2019 under section 325 PPC PS Shahbaz Garh. It was further contended that the appellant was properly charge sheeted and he replied to the same. It was further contended that proper inquiry was also conducted and the inquiry officer has found him guilty of negligence and recommended him for major penalty, therefore, the competent authority has rightly imposed major penalty of dismissal from service.

6. Perusal of the record reveals that the appellant was serving in Police Department. He was imposed major penalty of dismissal from service on the allegation that ASI Wisal Ahmad was arrested in case vide FIR No. 90 dated 30.01.2019 under sections 395-342 PPC PS Shahbaz Garh and was shifted to P.P Garyala for safe custody where due to negligence of the appellant ASI Wisal Ahmad fired over himself with a pistol of

M. Ahmad
14.2.2020

ASI Zubair. The record also reveals that the said ASI Wisal Ahmad was released by someone in the said P.P on the direction of high-up of said P.P for prayer. The ASI Zubair Khan was also imposed major penalty of dismissal from service but on departmental appeal his appeal was partially accepted and his dismissal from service order was converted into reduction in rank to Head Constable by the departmental authority vide order dated 15.07.2019 but the departmental appeal of the appellant was dismissed, therefore, the appellant was discriminated. Furthermore, the inquiry officer was required to record the statement of ASI Zubair Khan LHC Shakeel Ahmad and other witnesses of the said P.P but he has not bothered to record the statement of any witness of the said P.P. Moreover, as per inquiry report the said ASI Wisal Ahmad was released on the direction of LHC Shakeel but there is nothing in the inquiry report or available record to show that the said Shakeel Ahmad was departmentally proceeded or otherwise. The record also reveals that the competent authority has issued a show-cause notice to the appellant but the copy of inquiry was not handed over to the appellant with the show-cause notice meaning thereby that the appellant was condemned unheard which has rendered the whole proceeding illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order, and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the

M. Anwar
14.2.2020

appellant in inquiry proceeding, also provide him opportunity of cross examination, defence and also handover copy of inquiry report with the show-cause notice within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. In case, the de-novo inquiry is not completed within stipulated period, the appellant will be deemed to have been reinstated while the intervening period will be treated as leave of kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

m 14.02.2020



(HUSSAIN SHAH)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

14.02.2020

Appellant alongwith his counsel and Mr. Usman Ghani, District Attorney alongwith Mr. Atta-ur-Rehman, Inspector (Legal) for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of six pages placed on file, we partially accept the appeal, set-aside the impugned order, and reinstate the appellant into service with the direction to respondent-department to conduct de-novo inquiry in the mode and manners prescribed under the Police Rules 1975 with further direction to fully associate the appellant in inquiry proceeding, also provide him opportunity of cross examination, defence and also handover copy of inquiry report with the show-cause notice within a period of 90 days from the date of receipt of copy of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. In case, the de-novo inquiry is not completed within stipulated period, the appellant will be deemed to have been reinstated while the intervening period will be treated as leave of kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

14.02.2020



(HUSSAIN SHAH)
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

21.11.2019

Appellant in person and Addl. AG alongwith Attaullah, Inspector for the respondents present.

Representative of the respondents seek time to furnish the requisite reply. Adjourned to 20.12.2019 on which date reply/comments shall positively be furnished.


Chairman

20.12.2019

Junior to counsel for the appellant and Addl. AG alongwith Attaullah, Inspector (Legal) for the respondents present.

Representative of respondents has furnished the parawise comments on behalf of the respondents. Placed on record. The appeal is assigned to D.B for arguments on 15.01.2020. The appellant may furnish rejoinder, within a fortnight, if so advised.


Chairman

15.01.2020

Appellant in person present. Mr. Ziaullah, DDA for respondents present. Appellant submitted rejoinder, which is placed on file. due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 14.02.2020 for further proceedings/arguments before D.B.


Member


Member

17.09.2019

Counsel for the appellant present.

Contends that the allegations against the appellant were of a nature which required thorough probe through a regular departmental enquiry which was not resorted to in the instant case. The enquiry referred to in the impugned order dated 13.06.2019 and the appellate order dated 18.07.2019 was only a fact finding enquiry wherein appellant was not provided with any opportunity to defend his cause.

In view of arguments of learned counsel and also ~~to~~ the fact that major punishment of dismissal from service has been impugned in the appeal, it is admitted to 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 31.10.2019 before S.B.

Appellant Deposited
Security & Process Fee

17/9/19


Chairman

31.10.2019

Junior to counsel for the appellant and Addl. AG for the respondents present.



Learned AAG seeks time to contact the respondents and furnish written reply/comments on the next date. Adjourned to 21.11.2019 on which date the requisite reply shall positively be submitted.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 979/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/07/2019	<p>The appeal of Mr. Irfan presented today by Mr. Khaled Rehman 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 26/7/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17-9-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

215

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 979 / 2019

Irfan Appellant

Versus

The PPO and others..... Respondents

INDEX

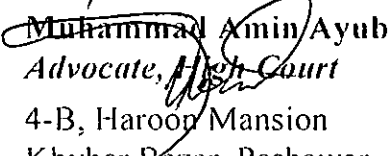
S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-5
2.	Charge Sheet and Statement of allegations		A	6-7
3.	Reply		B	8-10
4.	Application for provision of Inquiry Report	19.07.2019	C	11
5.	Impugned original order	17.06.2019	D	12
6.	Departmental Appeal		E	13-14
7.	Impugned appellate order	18.07.2019	F	15
8.	Wakalat Nama			

Through

Appellant


Khaled Rahman
Advocate,
Supreme Court of Pakistan

&


Muhammad Amin Ayub
Advocate, High Court
4-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 26 / 07 / 2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 979 /2019Khyber Pakhtunkhwa
Service TribunalDiary No. 1066Dated 26/7/19**Mr. Irfan**

Ex-Constable,

Police Lines, Mardan

Appellant

VERSUS

1. **The Provincial Police Officer**
Khyber Pakhtunkhwa, Peshawar
2. **The Regional Police Officer,**
Mardan Region, Mardan.
3. **The District Police Officer,**
District Mardan **Respondents**

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER DATED 17.06.2019 PASSED BY RESPONDENT NO.3 WHEREBY APPELLANT WAS IMPOSED UPON THE MAJOR PENALTY OF DISMISSAL FROM SERVICE AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 WHICH WAS UNLAWFULLY REJECTED BY HIM VIDE IMPUGNED APPELLATE ORDER DATED 18.07.2019.

Filed to-day**PRAYER:****Registrar** 26/7/19

On acceptance of the instant appeal, the impugned original order dated 17.06.2019 passed by Respondent No.3 and the impugned appellate order dated 18.07.2019 passed by Respondent No.2 may graciously be set aside and appellant may be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant joined the Police Force way back in the year 2017 and has rendered meritorious service for the Department. During service, the

appellant has never been departmentally proceeded against and even a minor penalty has not been imposed upon him so far, thus the service of the appellant remained unblemished, spotless throughout.

2. That the appellant while performing duties at Police Post Garyala of Police Station Shahbaz Garhi, was issued Charge Sheet and Statement of Allegations (*Annex:-A*) for the reasons mentioned therein. Since the charges were unfounded, misplaced therefore, appellant denied the same and made a detailed reply (*Annex:-B*) thereto thereby explaining his position before the Competent authority. Copy of the reply may be considered as part of this appeal.
3. That thereafter a summary and irregular enquiry was conducted by the Enquiry Officer at the back of the appellant and report was then submitted to the Competent Authority. The Enquiry Committee recommended appellant for major punishment of dismissal from service without providing him opportunity of personal hearing which was the mandatory requirements of law. It is significant to add here that inspite of repeated requests and application (*Annex:-C*), the high-ups did not provide the Enquiry Report to appellant.
4. That thereafter upon the recommendation of the Fact Finding enquiry, without issuing Final Show Cause Notice appellant was imposed upon major penalty of dismissal from service vide impugned original order dated 17.06.2019 (*Annex:-D*) against which appellant preferred Departmental Appeal to Respondent No.2 which was also unlawfully rejected vide impugned appellate order dated 18.07.2019 (*Annex:-E*). It would be momentous to add here that Incharge of Police Post Garyala ASI Zubair Khan alongwith Shakeel LHC, Constable Roohullah, Sami and Asif had also had also been issued Charge Sheet and Statement of Allegations for the same allegations. Furthermore, in light of Enquiry Report recommendation, Shakeel LHC, Constable Roohullah, Sami and Asif were exonerated while ASI Zubair Khan was dismissed from Service which he assailed before the Appellate Authority wherein his dismissal from service was converted into

reversion to lower grade. However, despite repeated requests, the orders of those officials were not provided to appellant.

5. That appellant, being aggrieved of the acts and actions of Respondents and the impugned orders *ibid*, files this appeal *inter-alia* on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That neither regular inquiry was conducted into the case nor any documentary or oral evidence was recorded in presence of the appellant nor he was provided opportunity of hearing. The entire action was taken at the back of the appellant and thus he was condemned unheard. It is a settled law that where a major penalty is to be imposed then regular inquiry is necessary which has not been done in the case in hand. Even the copy of the Enquiry Report and Show Cause Notice were not provided to appellant which were mandatory in case of major penalty.
- C. That it is admitted fact that appellant was facing enquiry alongwith other civil servants who were also charged with the same allegations but they were exonerated, while interestingly ASI Zubair Khan was dismissed from service but on his departmental appeal the same was converted into reversion to lower grade. Hence, crystal clear discriminatory treatment has been meted out to appellant. Furthermore, there is no Judicial Lockup in the Police Post Garyala, therefore, Police Administration/staff used room of ASI Zubair Khan as Judicial Lockup wherein Pistol of ASI Zubair Khan was lying.
- D. That under Article-10A of the Constitution of the Islamic Republic of Pakistan, 1973 provides the right of fair trial for the determination of every civil rights and obligation or in any criminal charges against a person shall be entitled to a fair trial and due process. Even the Enquiry Report was not provided to the appellant which was the mandatory requirement of law and


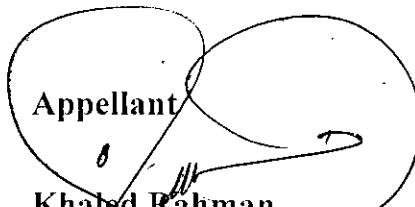

also appellant was condemned unheard, thus the impugned orders are void, ab-initio as well as against the principle of natural justice.

- E. That instead of a regular enquiry, an irregular, fact finding enquiry was conducted in a highly pre-judicial manner and without any evidence the conclusion was jumped upon suddenly on the basis mere surmises and conjectures declaring charges as proved in utter deviation of the procedure and Rules on the subject which has resulted into serious miscarriage of justice.
- F. That it is a settled legal principle that where major penalty is proposed then only a regular enquiry is to be conducted wherein the accused must be associated with all stages of the enquiry including the collecting of oral and documentary evidence in his presence and he must be confronted to the same and must be afforded an opportunity of cross-examining the witnesses. In the case in hand a summary enquiry was concluded in an irregular manner and appellant was illegally found guilty without any evidence. Thus the impugned enquiry being irregular and the impugned orders based thereupon are nullity in the eye of law and hence liable to be set aside.
- G. That not only appellant was denied association with enquiry proceedings but even copy of the same was not provided to him to prepare his defense and thus appellant was rendered defenseless in an illegal manner.
- H. That no opportunity of personal hearing was afforded to the appellant neither by the competent authority, nor by the Enquiry Officer or by the appellate authority which are the mandatory requirements of law. Thus appellant was condemned unheard as the action has been taken at the back of the appellant which is against the principle of natural justice.
- I. That the appellant served the Department, ever since 2017 and during this period, the appellant has not been ever departmentally proceeded against nor even a minor penalty has ever been imposed upon him, thus the service of the appellant remained unblemished, spotless throughout.

J. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.


Through 
Appellant
Khaled Rahman,
Advocate,
Supreme Court of Pakistan
& 
Muhammad Amin Ayub
Advocate, High Court

Dated: 26/07/2019



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230169 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



No. 57 /PA

Dated 14/2/2019

DISCIPLINARY ACTION

Annex "A" - 6

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Irfan No.1634, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

STATEMENT OF ALLEGATIONS

Whereas, Constable Irfan No. 634, while posted at PP Garyala (Now under Suspension Police Lines) Mardan, ASI Wisal Ahmad Son of Ifikhar Ahmed Resident of Kot Daulatzai Pakistan Koroon (Garhi Kapura) was arrested in a Robbery Case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC P.S Shahbaz Garh and was shifted to P.P Garyala for safe custody, where due to his (Constable Irfan) negligence, he (ASI Wisal Ahmad) fired over himself with ASI Zubair's Pistol, resultantly, he was injured vide case FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh, indicting negligence + inefficiency on his part.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP Ali Bin Tariq SDPO/City is nominated as Enquiry Officer.

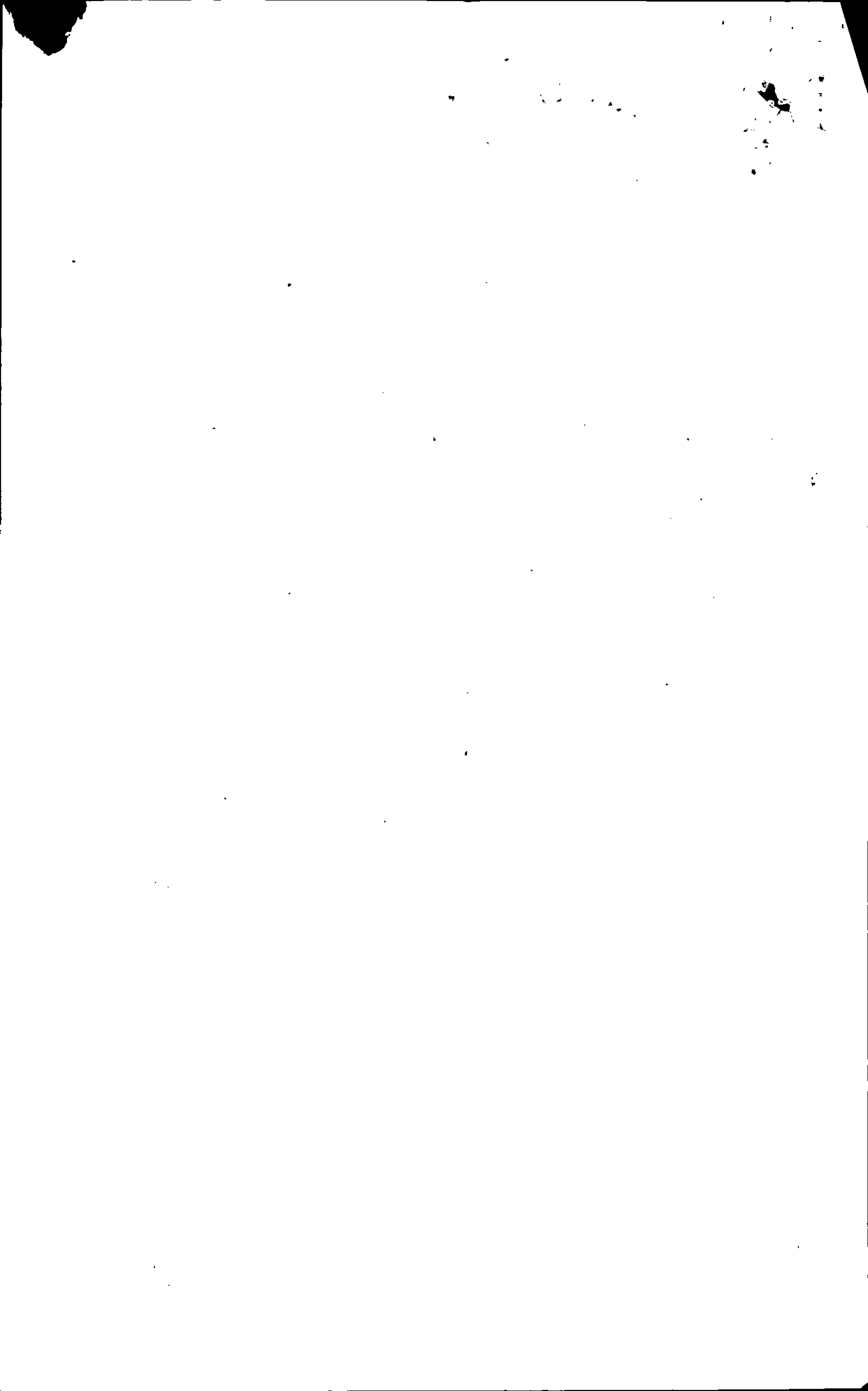
The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

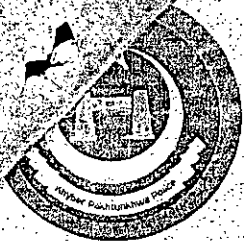
Constable Irfan is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

(SAJJAD KHAN) PSP
District Police Officer
Mardan

ATTESTED

A





OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

2019

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

CHARGE SHEET

- 7

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Irfan No.1634, while posted at PP Garyala (Now under Suspension Police Lines) Mardan, as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

(Sajjad Khan) PSP
District Police Officer
Mardan

ATTESTED

A

Before the DPO/Mardan.

Amal B¹⁴³² - 8

Subject: Reply to the charge sheet and statement of allegation NO 57-PA dated 14.2.2019

Respected Sir,

Your honor had issued the subject charge sheet to the Petitioner with the following allegations

" whereas constable irfan NO 1034 while posted at PP Gharyala (now under suspension police lines mardan) ASI wisal Ahmad s/o Istikhhar Ahmad r/o 1st Dardistan Pakistan Kourona was arrested in a Robbery case vide FIR NO 90 dated 30.1.2019 u/s 295.342 P.S. PS shahbaz Ghori and was shifted to PP Gharyala for safe custody, where due to his negligence he ASI wisal Ahmad fired on himself with ASI Zubair's Pistol. Resultantly he was injured vide case FIR NO 91 dated 30.1.2019 u/s 325 P.P. PS shahbaz Ghori, such a thing negligence + inefficiency on his part." (copy of charge sheet is enclosed)

(P) It is humbly submitted that petitioner remained P.S. at PP Gharyala for 03 days. on 30.1.019 the petitioner was on sentry duty at the main gate of PP building. There is no lock-up in this PP. At the same day at 0730 hours, ASI Zubair along with police party brought the accused (ASI wisal Ahmad) in handcuffs and tied him with charpai (cut). The ASI Zubair directed the Moharrer namely He shahbaz and the petitioner to keep watch on the said accused. At 1400 hours, accused (ASI wisal Ahmad)

" Next Page "

ATTESTED

B

took the lunch and after then wished for Prayer of "Pashed wala". The Moharwar Shaked asked me to allow the arrested accused for Prayer and thus he was released from the Chonpai and continued the Prayer in the Constable Barrack. Meanwhile the Petitioner came out from the barrack for drinking water. At the same time the arrested accused (Asi wisal Ahmad) broke down the Prayer and fired at himself by a Pistol lying in the Chonpai left by Asi Zubair. PP Enayara.

Resultantly the arrested accused was severely injured and fell down on the ground. Moharwar and other police officials present in the PP rushed to the spot. The petitioner took the Pistol from the possession of the arrested injured Asi wisal Ahmad and handed over to the Shaked.

2) Asi Zubair, He Shaked and Petitioner shifted the injured wala Ahmad to RHC Shalbaz garhi for treatment, while the Sro Shalbaz garhi also reached. The Senior Officer was informed regarding the incident. (Copy of FIR No 91 dated 30.1.2019 u/s 305/10AD is Shalbaz garhi is enclosed.)

3) The petitioner had not shown any negligence and inefficiency, while performing his official

ATTESTED

duty. On arrestal accused was released on humanitarian and Islamic ground for offering Pasheer Prayer. The Petitioner was directed by Mulkhonor Shamsul for doing so. - 10

- 4) The Petitioner remained present on daily duty from 0500 hours till 1418 hours, which is itself a lengthy period of duty. This long duration of duty had also badly affected the Petitioner.
- 5) The Petitioner belongs to a poor family. His old father is running the shop of local ironsmith and the only livelihood of the family is the Police Service of the Petitioner.
- 6) The petitioner was not dealt departmentally prior to this. The Petitioner was also not punished in his service.

Keeping in view the above facts and circumstances, it is humbly requested that Petitioner may kindly be exonerated from the charges levelled against him and the charge sheet may be filed off.

Yours obediently

[Signature]

Constable 18/Jan 10 1634

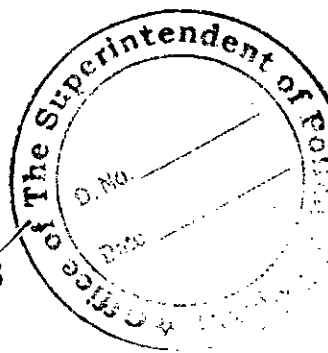
Police / Police man.

Date: 18.2.2013

ATTESTED

گنہگار - ڈسٹرکٹ پولیس آفیسر ماردان
 درج ذیل کے بارے میں
 Annex "C"
 Inquiry Report - 11

صوبہ خیبر پختونخوا کے سالانہ کوئٹہ پولیس
 نے نوٹری سے درخواست کیا تھا کہ سالانہ کوئٹہ پولیس
 میں بطور معاملات کے رجسٹر کیا گیا ہے یا نہیں
 کوئٹہ پولیس آفس سے ایک ماہ پہلے نوٹری سے
 درخواست کیا گیا تھا جس میں انکوآئری بروری
 کی ہے۔ ۲۔ سالانہ کوئٹہ پولیس آفیسر ماردان



انکوآئری رپورٹ کی کاپی (Inquiry Report copy)
 مندرجہ ذیل کے سالانہ کوئٹہ پولیس آفیسر ماردان
 کو منجورہ انکوآئری رپورٹ کی کاپی کی گئی ہے
 کے احاطہ ہا در منجورہ کوئٹہ پولیس آفیسر ماردان

19-5-2018
 (Signature)
 Date

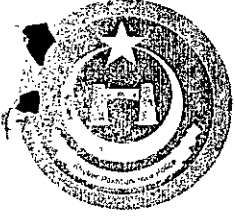
OSI/EC
 For n/Action
 as per procedure

Contact no-

16101-9477133-711

سابقہ ایس ایس پی عرفان 1634

ATTESTED District Police Officer
 Mardan



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

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



-12

Annex D¹⁰

No. 3723-25 /PA

Dated 17/6 /2019

ORDER ON ENQUIRY OF CONSTABLE IRFAN NO.1634

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Garyala (Now under suspension Police Lines Mardan) was suspended and closed to Police Lines vide this office OB No.261 dated 01-02-2019 on account of arresting of ASI Wisal Ahmad Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan Koroon (Garhi Kapura) in a robbery case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh and was shifted to P.P Garyala for safe custody, where he fired over himself with a pistol of ASI Zubair Khan, the then in-charge PP Garyala, resultantly, ASI Wisal Ahmad was injured vide case FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh.

To ascertain real facts, Constable Irfan No.1634 was proceeded against departmentally through Captain @ Ali Bin Tariq ASP/SDPO City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.57/PA dated 14-02-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.589/S dated 11-04-2019, holding responsible the alleged official of gross misconduct and recommended for major punishment.

In this connection. Constable Irfan was served with a Final Show Cause Notice. under K.P.K Police Rules-1975, issued vide this office No.123/PA dated 23-04-2019, to which, his reply was received & found un-satisfactory.

Final Order

Constable Irfan No.1634 was heard in O.R on 11-06-2019, but he could not satisfy the undersigned. Therefore, he is awarded **major punishment of dismissal from service** with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No. 1265
Dated 13/6 2019

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The DSP/HQrs Mardan.
- 2) The P.O + E.C (Police Office) Mardan.
- 3) The OSI (Police Office) Mardan with () Sheets.

ATTESTED

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE MARDAN REGION -1

MARDAN

Annex F

Subject: **APPEAL AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 1265 DATED 13-06-2019, WHERE BY THE APPELLANT WAS AWARDED MAJOR PUNISHMENT OF "DISMISSAL FROM SERVICE".**

Respected Sir,

The appellatant submits as under:-

That DPO Mardan had issued charge sheet No. 57/PA dated 14-02-2019 to the appellatant with the following allegations:-

" Whereas, you Constable Irfan No.1634, while posted at PP Garyala (Now under suspension Police Lines Mardan) ASI Wisal Ahmed son of Iftikhar Ahmed R/O Kot Daulat Zai Pakistan Koorona (Garhi Kapoora) was arrested in a robbery case vide FIR No.90 dated 30-01-2019 U/S 395-342 PPC PS Shahbaz Garhi and was shifted to PP Gharyala for safe custody, where due to your negligence, The (ASI Wisal Ahmed) fired over himself with pistol of ASI Zubair Khan, the then incharge PP Gharyala, Resultantly ,he was injured vide case FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garhi ".(Copy of Charge sheet is enclosed)

1. That in the light of the above charge sheet, a departmental enquiry was initiated against the appellatant and ASP City Mardan was appointed as EO. In response to the charge sheet the appellatant produced a detailed and comprehensive reply dated 18-02-2019 before the EO mentioning therein that he is innocent .The version of the appellatant was not considered and the EO recommended the appellatant for Major Punishment. (Copy of reply to the charge sheet dated 18-02-2019 is enclosed)
2. That on receipt of enquiry findings, the DPO Mardan issued FSC No.123/PA dated 23-04-2019 to the appellatant .The appellatant again submitted a detailed reply in response to the show cause notice but was not considered.(Copy of reply is enclosed).
3. That in the light of enquiry findings the DPO Mardan awarded major punishment of dismissal from service to the appellatant vide OB NO.1262 dated 13-06-2019 and hence the present appeal.(Copy of OB No.1265 dated 13-06-2019 is enclosed)

BRIEF FACTS OF THE INCIDENT:

- i. It is submitted that on 27-01-19, the appellatant was transferred to PP Garyala. On 30-01-19 at 0500 hrs, the appellatant was detailed on sentry duty at the main gate of PP Garyala. There is no lock up in the said PP. At the same day at 0730 hrs ASI Zubair i/c of the PP along with other Police Party brought the accused (ASI Wisal Ahmed) in handcuffs and tied him with charpoy in the barrack of constable. ASI Zubair directed the Muharrar HC Shakeel and the appellatant and to keep watch on the said Accused. The same day at 1200 hrs ,the appellatant told ASI Zubair and Muharrar Shakeel to replace him because he is performing duty since early morning and became tired. Both the officer did not pay any attention to the request of the appellatant.
- ii. At 1400 hrs, accused ASI Wisal Ahmed took the lunch and then wished for offering prayer. ASI Zubair and HC Shakeel asked the appellatant to allow the arrested accused for prayer and thus he was released from charpoy. The said accused remained busy in offering the prayer and the appellatant went out from the barrack for drinking water. At the spur of the moment the arrested accused (ASI Wisal Ahmed) broke up the prayer and fired at himself by pistol lying in the charpoy belonging to ASI Zubair. Resultantly the arrested accused was injured and felled down on the ground. HC Shakeel and other Police Official present in

ATTESTED

R

the PP rushed to the spot. The appellant took the pistol from the arrested accused and handed over to the HC Shakeel for safe custody.

- iii. ASI Zubair , HC Shakeel and the appellant shifted the injured ASI Wisal Ahmed to RHC Shahbaz Garhi for proper treatment where SHO Shahbaz Garhi also reached. The senior officer were informed accordingly .Regarding the incident a proper case vide FIR No.91 dated 30-01-2019 u/s 325 PPC/15 AA PS Shahbaz Garhi was registered. (Copy of the FIR no.91 dated 30-01-2019 is enclosed)

GROUNDS OF APPEAL:

- a. The petitioner had not shown any negligence or inefficiency while performing his official duty .The arrested accused was released on humanitarian and religious grounds for offering Zuhar Prayer on the prior permission of seniors. The petitioner was directed by ASI Zubair and Muharrar HC Shakeel for releasing him to offer prayer. Hence, there is no any kind of negligence on the part of petitioner which led to the sudden occurrence.
- b. The petitioner remained present on sentry duty from 0500 hrs till 1418 hrs on the day of occurrence which is itself was a lengthy period of duty. This long duration of strenuous nature of duty had also badly suffered the petitioner.
- c. The petitioner had never been informed by ASI Zubair regarding the presence of Pistol left on the nearby bed in the Constable's Barrack which later on proved the main cause of this unpredictable incident. The petitioner is innocent in the whole scenario.
- d. The petitioner went out for a moment out of the barrack for drinking water during the offering of prayer by the Accused ASI Wisal Ahmed , which was itself the basic human need and unavoidable human instinct. The accused never made escape from PP but the presence of pistol nearby and his abrupt decision to commit suicide out of shame/depression was almost happened in a eye blink moment.
- e. That the petitioner is enlisted as constable in Police Department on 31-12-2017 and passed out in December,2018 after completion of preliminary training at PTS Mansehra. The petitioner is educated upto FSc/ICS (Computer Science) and also declared Best of "Marshal Arts" in PTS Mansehra.
- f. The petitioner is unmarried and belongs to a poor family background. His old father is running the shop of blacksmith and the only means of livelihood of the entire family is the Police Service of the petitioner. The petitioner and his family will remain thankful till last breath for the act of kindness.
- g. The petitioner has never been dealt departmentally prior to this incident. The petitioner has also not been punished in the whole short span of service and is determined to keep the service record neat and clean in future.
- h. The EO has conducted the departmental enquiry in superficial and cursory manner. The major punishment recommended by EO may not be considered keeping in view the above facts and circumstances and the petitioner be dealt sympathetically in the beginning of his Police career. The version of the petitioner may be given due weight in the given circumstances.

Keeping in view the above facts and circumstances, it is humbly requested that the appeal of the appellant may kindly be accepted. The impugned order of DPO Mardan may be accepted by re-instating the appellant in service from the date of dismissal , please.

Your's obediently
[Signature]

(Constable Irfan No.1634)
Police Lines Mardan.

ATTESTE

Dated: 19 June 2019.

ORDER.

Amir F² -15

This order will dispose-off the departmental appeal preferred by **Ex-Constable Irfan No. 1634** of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide OB No. 1265 dated 13.06.2019.

Brief facts of the case are that the appellant while posted at Police Post Garyala on account of arresting of ASI Wisal Ahmad Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan Koroon (Garhi Kapura) involved in robbery case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh and was shifted to Police Post Garyala for safe custody, where he fired over himself with pistol of ASI Zubair Khan, the then In-charge PP Garyala, resultantly, accused ASI Wisal Ahmad sustained injuries and another case vide FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh was registered against him.

To ascertain the real facts, Constable Irfan No.1634 was proceeded against departmentally through Captain @ Ali Bin Tariq ASP/SDPO City Mardan being on watch & ward duties. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report, held him responsible of gross misconduct and recommended him for major punishment. In this connection, the District Police Officer, Mardan served him with a Final Show Cause Notice, to which, his reply was received & found un-satisfactory.

He was heard in Orderly Room on 11-06-2019 by the DPO/Mardan, but he could not satisfy him. Therefore, he was awarded major punishment of dismissal from service.

The appellant was called in Orderly Room held in this office on **11.07.2019** for defending himself. He was heard in person but did not produce any solid ground in his defence. **The departmental appeal is hereby rejected.**

ORDER ANNOUNCED.

Muhammad Ali Khan
(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.

No. 9839/ES,

Dated Mardan the 18/07 2019.

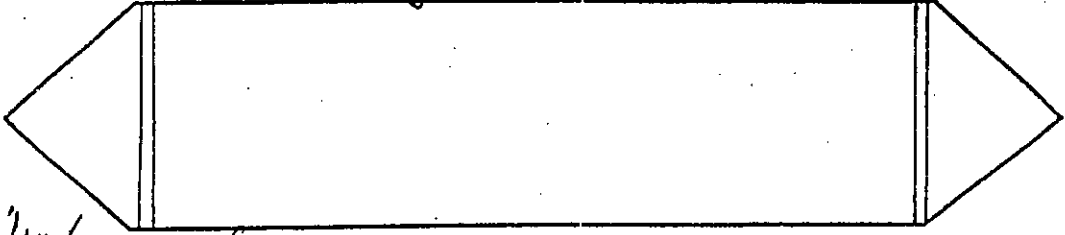
Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 288/LB dated 04.07.2019. His Service Record is returned herewith.

(*****)

F

ATTESTED

بعدالت سرسوسن سرانولہ



2019ء منجانب اسد ایلو

محمد عرفان بنام لیس

منورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کیلئے صاحب مدعی اور مدعی

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

دکیل صاحب کو راضی نامہ کرنے و تقرر ثالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بسورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانش التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 26

2018

واہ الع

بمقام

C

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 979/2019

Ex- Constable Irfan No. 1634 Appellant

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan,
3. The District Police Officer, Mardan.

..... Respondents

INDEX

S. No.	Description of Documents	Annexure	Pages.
1.	Written Reply.	----	1-3
2.	Affidavit.	----	4
3.	Copy of Final SCN	A	5
4.	Copy of SCN Reply charge sheet	B	6-15
5.	Copy of Authority Letter.	----	16

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

Service Appeal No. 979/2019

Ex- Constable Irfan No. 1634Appellant

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan;
3. The District Police Officer, Mardan.

.....Respondents

Para-wise comments on behalf of respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That Petitioner has not approached this Hon'ble Court with clean hands.
2. That petitioner has concealed actual facts from this Hon'ble Court.
3. That the petitioner has got no cause of action or locus standi to file the instant petition.
4. That the petitioner is estopped by his own conduct to file the instant writ petition.
5. That the petition is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.

REPLY ON FACTS

1. Para to the extent of enlistment in Police Department of appellant pertains to record needs no comments while rest of the Para is not plausible because every Police Officer / Official is under obligation to render meritorious service because in this department no room lies for lethargy moreover clean and neat service record does not mean a clean chit for future wrong deeds.
2. Correct to the extent that the appellant while posted at Police Post Garyala PS Shahbaz Garhi was issued charge sheet and statement of allegation on account of his negligence as an accused person namely Wisal Ahmad s/o Iftikhar Ahmad r/o Kot Dulatzai Pakistan Koroona (Ghari Kapoora) was arrested in a case vide FIR No. 90 dated 30.01.2019 u/s 395/342 P.P.C PS Shahbaz Garhi who was shifted to PP Garyala where the above name accused in order to comit suicide fired at himself with ASI Zubair's pistol. As a result of which the accused named above sustained bullet injury and a case vide FIR No. 91 dated 30.01.2019 u/s 325 P.P.C PS Shahbaz Garhi was registered against him while rest of the para is incorrect hence, denied.

3. Para to the extent of conducting irregular enquiry at the back of appellant is totally ill-founded hence, denied because during the course of enquiry the enquiry officer provided full-fledge opportunity to the appellant for defending himself but he bitterly failed to produce even a single iota of evidence therefore plea taken by the appellant has no legal footing to stand on.
4. Incorrect plea taken by the appellant is totally false because after conclusion of full-fledge enquiry, the enquiry officer recommended the appellant for punishment hence, the appellant was issued Final Show Cause Notice vide No. 123/PA, dated 23.04.2019 to which the appellant submitted his reply which was paid due consideration but found un-satisfactory. Moreover, the appellant was also provided right of self defense in Orderly Room but he again failed to justify his innocence therefore, he was awarded major punishment of dismissal from service which does commensurate with the gravity of misconduct of appellant (copy of Final Show Cause Notice along-with reply of the appellant are annexed as annexure "A" & "B").
5. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect plea taken by the appellant is not plausible because respondents have no grudges against the appellant therefore, stance of the appellant is totally ill-founded.
- B. Incorrect as discussed earlier, the appellant was issued Show Cause Notice and statement of allegation and enquiry was entrusted to ASP City Mardan who during the course of enquiry provided full-fledged opportunity to the appellant for defending himself but he failed to produce any cogent evidence in his defense therefore, guilt of the accused has been proved to the hilt.
- C. Para already explained needs no comments.
- D. As discussed earlier the respondent department had no grudges / ill-will against the appellant therefore, stance taken by the appellant has no legal footings to stand on.
- E. Para already explained needs no comments.
- F. As discussed earlier the appellant was proceeded against departmentally by properly issuing a Show Cause Notice and statement of allegations and enquiry was entrusted to ASP City Circle, Mardan who after fulfillment of all legal and codal formalities submitted his report wherein allegations against the appellant were proved and he was recommended for appropriate punishment.
- G. Para already explained needs no comments.
- H. Explained earlier needs no comments.

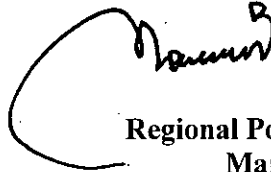
- I. Stance taken by the appellant is not plausible because every Police Officer / Official is under obligation to discharge his duty with zeal and zest. Besides neat and clear service record do not exonerate any Police Officer / Official from his future wrong deeds.
- J. That respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

It is therefore most humbly prayed that on acceptance of above submissions, appeal of the appellant may very kindly be dismissed with costs.



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



**Regional Police Officer,
Mardan**
(Respondent No. 02)



**District Police Officer,
Mardan.**
(Respondent No. 03)

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

Service Appeal No. 979/2019

Ex- Constable Irfan No. 1634Appellant

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan,
3. The District Police Officer, Mardan.

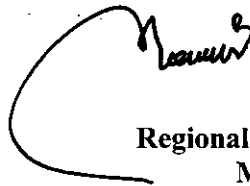
.....Respondents

COUNTER AFFIDAVIT.

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.



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



**Regional Police Officer,
Mardan
(Respondent No. 02)**



**District Police Officer,
Mardan.
(Respondent No. 03)**



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



No. 123 /PA

Dated 23/4/2019

FINAL SHOW CAUSE NOTICE

Whereas, you **Constable Irfan No.1634**, while posted at PP Garyala (Now under Suspension Police Lines Mardan) ASI Wisal Ahmad Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan, Koroona (Garhi Kapura) was arrested in a Robbery Case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC P.S Shahbaz Garh and was shifted to P.P Garyala for safe custody, where **due to your negligence, he (ASI Wisal Ahmad) fired over himself with pistol of ASI Zubair Khan, the then In-charge PP Garyala**, resultantly, he was injured vide case FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garh.

In this connection, during the course of Departmental Enquiry conducted by ASP Ali Bin Tariq SDPO/City Mardan vide his Office letter No.689/S dated 11-04-2019, in pursuance of this Office Statement of Disciplinary Action/Charge Sheet No.57/PA dated 14-02-2019, holding responsible you of gross misconduct with recommending for **Major Punishment**.

Therefore, it is proposed to impose Major/Minor penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Sajjad Khan (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

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

Received by [Signature]

Dated: 25/4/2019

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy to RI Police Lines (**Attention Reader**) to deliver this Notice upon the alleged official & the receipt thereof, shall be returned to this office within (05) days positively for onward necessary action.

OR

BEFORE THE DISTRICT POLICE OFFICER, MARDAN

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE VIDE NO.123/PA DATED 23-04-2019.

DPO/M/08/15/15

Respected Sir,

It is submitted that your honour had issued the following Show Cause Notice Vide No.123 Dated 23-04-2019 to the petitioner:

"Whereas, you Constable Irfan No.1634, while posted at PP Garyala (Now under suspension Police Lines Mardan) ASI Wisal Ahmed son of Iftikhar Ahmed R/O Kot Daulat Zai Pakistan Koorona (Garhi Kapoora) was arrested in a robbery case vide FIR No.90 dated 30-01-2019 U/S 395-342 PPC PS Shahbaz Garhi and was shifted to PP Gharyala for safe custody, where due to your negligence, The (ASI Wisal Ahmed) fired over himself with pistol of ASI Zubair Khan, the then incharge PP Gharyala, Resultantly ,he was injured vide case FIR No.91 dated 30-01-2019 U/S 325 PPC PS Shahbaz Garhi." (Copy of Show Cause Notice is enclosed)

My detailed submissions in response to the above show Cause Notice are stated as under:-

→ Head = OR
→ Complainant
→ with other
allegations
→ subject
OR → Dismissed
OR → Dismissed
OR → Dismissed

1. It is humbly submitted that petitioner remained Posted at PP Garyala since 03 days before the occurrence. On 30-01-2019 at 0500 hrs, the petitioner was detailed on sentry duty at the main gate of Police Post Garyala. There is no lock up in the said Police Post. On the very same day at 0730 hrs, ASI Zubair alongwith other Police Party brought the Accused (ASI Wisal Ahmed) in handcuffs and tied him with charpoy (bed) in the barrack of Constables. The ASI Zubair directed the Moharrar HC Shakeel and the petitioner to keep watch on the said accused. That the same day at 1200 hrs, the petitioner told the i/c PP ASI Zubair and HC Shakeel to replace him because he is performing duty since early morning (from 0500 hrs dated 30-01-2019) and feeling tired but they never paid any heed towards this request of the petitioner. At 1400 hrs, Accused (ASI Wisal Ahmed) took the lunch and then wished for offering the prayer of "Zuhar". The i/c PP ASI Zubair and Moharrar HC Shakeel asked me to allow the arrested accused for prayer and thus he was released from the charpoy and accused began to offer his prayer in the "Constables Barrack". The said Accused was in "2nd Rakaat" meanwhile the petitioner came out from the barrack inside the PP for drinking water. At the spur of moment the arrested accused (ASI Wisal Ahmed) broke down the prayer and fired at himself by a pistol lying in the nearby charpoy which was left by ASI Zubair i/c PP Gharyala. Resultantly, the arrested accused was severely injured and fell down on the ground. Muharrar and other Police officials present in the PP rushed to the spot. The petitioner took the pistol from the possession of the arrested accused ASI Wisal Ahmed and handed over it to HC Shakeel.

2. ASI Zubair ,HC Shakeel and petitioner shifted the injured ASI Wisal Ahmed to Rural Health Center Shahbaz Garhi for treatment ,where the SHO Shahbaz Garhi was also reached. The Senior Officers were informed regarding the incident. (Copy of FIR No.91 dated 30-01-2019 U/S 325/15 AA PS ShaBaz Ghari is enclosed)

3. That the petitioner had been issued charge sheet and statement of allegations vide DPO Mardan Letter No.57/PA DATED 14 -02-2019. That proper reply within stipulated period was presented on 18-02-2019 to ASP Ali Bin Tariq SDPO/City being nominated as enquiry officer. The enquiry Officer did not consider the version of the petitioner and held the petitioner responsible for gross misconduct with recommendation of major punishment vide his office letter No.689/S dated 11-04-2019. Hence the instant reply by the petitioner to the "Final Show Cause Notice" issued vide DPO Letter No.123/PA dated 23-04-2019 as follows.

In some cases = other enquiry = this incident

(Copy of charge sheet cum statement of allegations are enclosed)

GROUNDS OF PRAYER:

a. The petitioner had not shown any negligence or inefficiency while performing his official duty .The arrested accused was released on humanitarian and religious grounds for offering Zuhar

OR

- 3
- Muharrar HC Shakeel for releasing him to offer prayer. Hence, there is no any kind of negligence on the part of petitioner which led to the sudden occurrence.
- b. The petitioner remained present on sentry duty from 0500 hrs till 1418 hrs on the day of occurrence which is itself was a lengthy period of duty. This long duration of strenuous nature of duty had also badly suffered the petitioner.
 - c. The petitioner had never been informed by ASI Zubair regarding the presence of Pistol left on the nearby bed in the Constable's Barrack which later on proved the main cause of this unpredictable incident. The petitioner is innocent in the whole scenario.
 - d. The petitioner went out for a moment out of the barrack for drinking water during the offering of prayer by the Accused ASI Wisal Ahmed which was itself the basic human need and unavoidable human instinct. The accused never made escape from PP but the presence of pistol nearby and his abrupt decision to commit suicide out of shame/depression was almost happened in a eye blink moment.
 - e. That there is no room allocated for lock up in the PP Gharyala which is also the underlying causative factor behind the occurrence. The alleged accused involved in a heinous crime was kept in PP Gharyala despite of having knowledge of no lock up by the high ups which needs proper probe. Further freshly deployed and inexperience constable was detailed on high profile accused having capability of Police commando training that carries also a question of mark and resulted in the bad luck of the petitioner.
 - f. The arrested Accused (ASI Wisal Ahmed) had qualified Elite Commando Course and the feeling of ill-reputation and humiliation in society made him to take this drastic illegal step to commit suicide and unluckily the pistol of ASI Zubair nearby lying on bed made the situation favourable for the accused so the petitioner could not be held blameworthy and solely responsible in this perspective. Allah Forbid: the out come of situation could have been proved worst than the present one .
 - g. That the petitioner is enlisted as constable in Police Department on 31-12-2017 and passed out in December, 2018 after completion of preliminary training at PTS Mansehra. The petitioner is educated upto FSc/ICS (Computer Science) and also declared Best of "Marshal Arts" in PTS Mansehra.
 - h. The petitioner is having short span of service and had remained only at Police Lines Mardan for 03 months after basic training and just posted 03 days before the occurrence at PP Gharyala. The short service of the petitioner may kindly be taken into consideration and soft corner be created for the petitioner as newly inducted in Police Deptt. The career of the petitioner in this early stage may kindly be kept secured and all the allegations be filed, please.
 - i. The petitioner is unmarried and belongs to a poor family background. His old father is running the shop of blacksmith and the only means of livelihood of the entire family is the Police Service of the petitioner. The petitioner and his family will remain thankful till last breath for the act of kindness.
 - j. The petitioner has never been dealt departmentally prior to this incident. The petitioner has also not been punished in the whole short span of service and is determined to keep the service record neat and clean in future.
 - k. The EO has conducted the departmental enquiry in superficial and cursory manner. The major punishment recommended by EO may not be considered keeping in view the above facts and circumstances and the petitioner be dealt sympathetically in the beginning of his Police career. The version of the petitioner may be given due weight in the given circumstances.
 - l. That the petitioner further wishes to appear before your honour for "Personal Hearing" as per KPK Police Rules, 1975.

Keeping in view the above facts and circumstances, it is humbly requested that petitioner may kindly be exonerated from the charges levelled against him and the "Final Show Cause Notice" may kindly be filed, please.

Your's obediently,

(Constable Irfan No.1634)



۵۔ کیا وصال سے پہلے کو زیر زور سے اس نے سچھڑی کے لئے جو
ح: جی ہاں

۶۔ کیا آپ نے وصال سے پہلے کو سچھڑی کے لئے حکم دیا تھا
ح: زیر زور سے حکم دیا تھا۔

۷۔ زیر زور سے کی بیٹوں کے بارے میں کیا فرمایا تھا۔

ح:۔ زیر زور سے کی بیٹوں کے بارے میں فرمایا تھا۔ اور زیر زور سے
چھوٹے اور بڑے۔

۸۔ کیا وصال سے پہلے کو اپنے غماز کے لئے حکم دیا
سچھڑی کے لئے جو

ح:۔ زیر زور سے حکم دیا
۵۔ کیا کو زیر زور سے اس نے اس کے بیٹوں کے لئے
اصفا ۱۶۵۲ جمع الہ ۲۹۵۵۔ کو سنا تھا۔ یہ وصال سے پہلے کہا گیا؟
ح: جی نہیں آئی۔ یہ سنا تھا۔ صرف عرصہ ان کو سنا تھا
کابل عسرفال ۱۶۳۴

الہ
عسرفال کابل ۱۶۳۴
کابل عسرفال ۱۶۳۴
کابل عسرفال ۱۶۳۴
کابل عسرفال ۱۶۳۴

کابل عسرفال ۱۶۳۴



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



No. 57 /PA

Dated 14/2/2019

DISCIPLINARY ACTION

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Irfan No.1634, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.


STATEMENT OF ALLEGATIONS

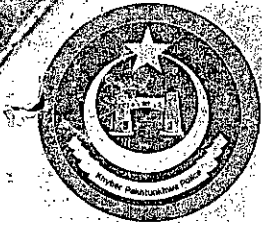
Whereas, Constable Irfan No.1634, while posted at PP Garyala (Now under Suspension Police Lines) Mardan, ASI Wisal Ahmad Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan Koroon (Garhi Kapura) was arrested in a Robbery Case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC P.S Shahbaz Garh and was shifted to P.P Garyala for safe custody, where **due to his (Constable Irfan) negligence, he (ASI Wisal Ahmad) fired over himself with ASI Zubair's Pistol**, resultantly, he was injured vide case FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh, indicting negligence + inefficiency on his part.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP Ali Bin Tariq SDPO/City is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Irfan is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.


(SAJJAD KHAN) PSP
District Police Officer
Mardan



4068
OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com



CHARGE SHEET

I, Sajjad Khan (PSP), District Police Officer Mardan, as competent authority, hereby charge Constable Irfan No.1634, while posted at PP Garyala (Now under Suspension Police Lines) Mardan, as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(Sajjad Khan) PSP
District Police Officer
Mardan

16
11

مدی 0333-9692514
15101-2421009-7

1614-2103879-37
0215-91462037

شعبہ برائے شہدائے بھارت
صفحہ 90
تاریخ 25-12-18 وقت 18:00

1-	تاریخ و وقت رپورٹ 26-12-18 وقت 02:00	کاپی ڈاک نمبر 30	وقت 10:00
2-	نام و سکونت اطلاع دہندہ مستقیم شناختی کارڈ نمبر اسو بائل نمبر	عزیز اکبر و لیزہ صاحبہ قوم اقبال پور 40 سال ساکن سنی ٹرام ضلع لہور	
3-	مختصر کیفیت جرم (محدود رقم) حال اگر چھ لیا گیا ہو۔	395-342	
4-	جائے وقوعہ یا صلا تھانہ سے اور سمت	سین صوبائی روڈ نزد باغیچہ ڈبلیو	
5-	نام و سکونت لڑم شناختی کارڈ نمبر اسو بائل نمبر	1. جمال خان و لبر افتخار احمد 2. جسر خان و لبر جہاد علی 3. ابو بکر خان و لبر نازین	اشرف علی و لبر قدیر اشرف علی و لبر نازین اشرف علی و لبر نازین
6-	کارروائی جو پیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو		مدی کی بنیاد پر 164 نمبر مقدمہ درج ہو چکا ہے
7-	تھانہ سے روانگی کی تاریخ و وقت	برسبیل	3-11

ابتدائی اطلاع نیچے درج کرو۔ مصدقیت مندرجہ خان نمبر 2 نے برائے سر 13
روز ماہ 26 12 18 قیام شہدائے بھارت میں اپنے آپ سے و سبب اسکا ایش عزیز خان وغیرہ سے رقم مبلغ 97355/-
بمبارجہ جیسے اور جیسے کہ کی رپورٹ بر صوبہ لاہور سکون کے مدعی بلا نے دوران انکوائری بر صوبہ
سازمان مندرجہ خان نمبر 1 والا لیدر تھا۔ شہدائے بھارت (روا میں) بنیاد پر 164 نمبر
مقدمہ کے ملزمان بلا تکلیف باقاعدہ دعویدار کی کہ ملزمان بلا تکلیف نمبر 164
فوق چاک کیا جائے انکوائری کا مفروضہ یہ ہے کہ
ملزمان ہیں۔ بر صوبہ لاہور (مقدمہ) - تعلقہ لاہور
SHO - P.S. Shah bagarh
30-1-2019

تعلقہ لاہور صوبہ عزیز اکبر و لیزہ صاحبہ 40 سال ساکن سنی ٹرام ضلع لہور نمبر 30
فوق چاک کیا جائے انکوائری کا مفروضہ یہ ہے کہ
ملزمان ہیں۔ بر صوبہ لاہور (مقدمہ) - تعلقہ لاہور
SHO - P.S. Shah bagarh
30-1-2019

لوگوں سے دوزی میں ایک اور آفر ہے۔ اگر میں ہمارے تمام آؤں گا کاروبار کرنے سے ہم
کے پاس لے جاتے ہیں۔ اور جو وہاں جا رہے ہیں ان میں سے ایک اور آفر ہے۔ راتے ہو
انسان نے وہیں سفر کیا ہے۔ ہماری کوششوں کو ہم سے کچھ کرنا چاہیے۔ کچھ خطا ہے
تھے۔ تو وہ لہرائیں گے۔ اور یہ سب کچھ دیکھ لیں۔ اور یہ سب کچھ دیکھ لیں۔ اور یہ سب کچھ
ہمارے لئے ہے۔ جب ہم نے اسے دیکھا تو اس سے منظر بخار دیکھا۔ تو ہماری کاروبار کے لئے
ہو جو ہے۔ ایک کنسرٹ ہائیڈرو پاور پلانٹ کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

میرے جیسے اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔
اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔ اس کے بارے میں۔

ENQUIRY AGAINST CONSTABLE IRFAN NO. 1634 PP GARYALA (NOW UNDER SUSPENSION)

The undersigned was deputed to enquire departmental proceedings against Constable Irfan No. 1634, by the Worthy District Police Officer Mardan through his office Letter No.57 / PA Dated.14.02.2019

BRIEF FACTS.

Whereas Constable Irfan No. 1634, while posted as In-charge Police Post Garyala (Now under Suspension Police Lines Mardan), ASI Wisal Ahmed Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan Koroon (Garh Kapura) was arrested in a Robbery Case vide FIR No. 90 dated 30-01-2019 u/s 395-342 PPC P.S. Shahbaz Garh and was shifted to P.P Garyala for safe custody, where due to his (Constable Irfan) negligence, he (ASI Wisal Ahmed) fired over himself with his (ASI Zubair's) pistol, resultantly, he was injured vide Case FIR No. 90 dated 30-01-2019 u/s 325 PPC PS Shahbaz Garh, indicting negligence & inefficiency on his part.

PROCEEDINGS.

The proceedings of subject enquiry have been conducted strictly in accordance with the NWFP Police Rules 1975.

STATEMENT OF ALLEGATION.

The officer under enquiry stated in his statement that on 30.01.2019, he was on sentry duty of Police Post at main gate. On the same day at about 07.30 hrs, ASI Zubair Khan brought accused ASI Wisal Khan in handcuffs and tied with camp cot and directed him and MHC Shakeel Ahmed to keep watch on the said accused. At about 14.00 hrs, accused ASI (Wisal Ahmed) took his lunch and wanted to offer his prayer, who was released on the order of MHC Shakeel Ahmed. Meanwhile, he came out of the Barrack for drinking water, wherein, in the same time ASI Wisal Ahmed fired over himself by a pistol lying on camp cot left by ASI Zubair Khan, as a result, he got seriously injured and was taken to the Hospital. He denied the allegations of negligence & inefficiency on his part, stating that on the day of occurrence, he was on sentry duty from 5:00 AM to 14:18 PM. The accused ASI was released on the direction of Moharrar Shakeel.

CONCLUSION.

According to Service Roll, the alleged official is enlisted in the department in the year 2017 and has earned neither any good nor bad entry throughout his service. During enquiry proceedings, it was noticed that, he as deployed for security purpose of accused ASI (Wisal Ahmed) charged in heinous case was required to keep vigilant eye on him, which he badly failed. This act is negligence/inefficiency on his part in official duty, indicating clear violation of security SOP issued by senior officers.

FINAL RECOMMENDATION.

In view of the above mentioned facts, the undersigned has reached to the conclusion that he may be awarded Major Punishment, if agreed, please.

No. 689/S
Dt. 11/04/2019
Encl. (1)

PA
FSCN

DP
MDN
19/4/19


Sub-Divisional Police Officer,
City Circle, Mardan

OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpo_mardan@yahoo.com

2019

-12

Annex "D"

No. 8783-25/PA

Dated 17/6/2019

ORDER ON ENQUIRY OF CONSTABLE IRFAN NO.1634

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official, under the allegations that while posted at Police Post Garyala (Now under suspension Police Lines Mardan) was suspended and closed to Police Lines vide this office OB No.261 dated 01-02-2019 on account of arresting of ASI Wisal Ahmad Son of Bilal Ahmed Resident of Kot Daulatzaai Pakistan Koroono (Garhi Kapura) in a robbery case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh and was shifted to P.P Garyala for safe custody, where he fired over himself with a pistol of ASI Zubair Khan, the then in-charge PP Garyala, resultantly, ASI Wisal Ahmad was injured vide case FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh.

To ascertain real facts, Constable Irfan No.1634 was proceeded against departmentally through Captain @ Ali Bin Tariq ASP/SDPO City Mardan vide this office Statement of Disciplinary Action/Charge Sheet No.57/PA dated 14-02-2019, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.589/S dated 11-04-2019, holding responsible the alleged official of gross misconduct and recommended for major punishment.

In this connection, Constable Irfan was served with a Final Show Cause Notice, under K.P.K Police Rules-1975, issued vide this office No.123/PA dated 23-04-2019, to which, his reply was received & found un-satisfactory.

Final Order

Constable Irfan No.1634 was heard in O.R on 11-06-2019, but he could not satisfy the undersigned. Therefore, he is awarded **major punishment of dismissal from service with immediate effect**, in exercise of the power vested in me under Police Rules 1975.

OB No. 1233
Dated 13/6/2019.

(SAJJAD KHAN) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The DSP/HQs Mardan.
- 2) The P.O + E.C (Police Office) Mardan.
- 3) The OSI (Police Office) Mardan with () Sheets.

ATTESTED D

ORDER.

Annex F-15

This order will dispose-off the departmental appeal preferred by **Ex-Constable Irfan No. 1634** of Mardan District Police against the order of District Police Officer, Mardan, whereby he was awarded Major punishment of dismissal from service vide OB No. 1265 dated 13.06.2019.


Brief facts of the case are that the appellant while posted at Police Post Garyala on account of arresting of ASI Wisal Ahmad Son of Iftikhar Ahmed Resident of Kot Daulatzai Pakistan Koroona (Garhi Kapura) involved in robbery case vide FIR No.90 dated 30.01.2019 U/S 395-342 PPC PS Shahbaz Garh and was shifted to Police Post Garyala for safe custody, where he fired over himself with pistol of ASI Zubair Khan, the then In-charge PP Garyala, resultantly, accused ASI Wisal Ahmad sustained injuries and another case vide FIR No.91 dated 30.01.2019 U/S 325 PPC PS Shahbaz Garh was registered against him.

To ascertain the real facts, Constable Irfan No.1634 was proceeded against departmentally through Captain @ All Bin Tariq ASP/SDPO City Mardan being on watch & ward duties. The Enquiry Officer after fulfilling necessary process, submitted his Finding Report, held him responsible of gross misconduct and recommended him for major punishment. In this connection, the District Police Officer, Mardan served him with a Final Show Cause Notice, to which, his reply was received & found un-satisfactory.

He was heard in Orderly Room on 11-06-2019 by the DPO/Mardan, but he could not satisfy him. Therefore, he was awarded major punishment of dismissal from service.

The appellant was called in Orderly Room held in this office on **11.07.2019** for defending himself. He was heard in person but did not produce any solid ground in his defence. **The departmental appeal is hereby rejected.**

ORDER ANNOUNCED.


(MUHAMMAD ALI KHAN)PSP
Regional Police Officer,
Mardan.
No. 9839/ES, Dated Mardan the 18/07 2019.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 288/LB dated 04.07.2019. His Service Record is returned herewith.

(*****)

F

ATTESTED

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR.

Service Appeal No. 979/2019

Ex- Constable Irfan No. 1634Appellant

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan,
3. The District Police Officer, Mardan.

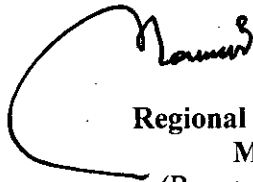
.....Respondents

AUTHORITY LETTER.

Mr. Atta-ur-Rahman Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



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



**Regional Police Officer,
Mardan**
(Respondent No. 02)



**District Police Officer,
Mardan.**
(Respondent No. 03)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 979 /2019

Muhammad Irfan Appellant

Versus

The PPO and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO
REPLY FILED BY RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous. All the relevant facts have been incorporated in the instant service appeal and nothing has been concealed. The appellant has got cause of action to file the instant appeal. Estoppel does not run against the law. Appellant is highly aggrieved from acts and omissions of the Respondents and impugned orders thereby invoked the jurisdiction on this Hon'ble Tribunal.

Facts:

1. Regarding Para No.1 of the reply it is asserted that appellant rendered meritorious service to the department and no adverse action has been taken against him.
2. Incorrect hence not admitted. It is asserted that appellant alongwith other Constables namely Mr. Sami and Mr. Shakeel were also performing duties there, wherein accused namely Wisal Khan ASI who was booked in case FIR No.90 dated 30.01.2019 Under Section 395/342 PPC was brought in to the Police Post Garyala, where the accused above named in order to commit suicide fired at himself with ASI Zubair's Pistol resultantly got injured. FIR No.91 dated

30.01.2019 Under Section 325/15 AA was registered against him. It is crystal clear from the memo of the FIR "*that due to the negligence of Zubair's ASI because he had left/placed his pistol on the (charpai) bed*". It is pertinent to add here that the name of the appellant was not mentioned in the said FIR. It is pertinent to mention here that there is no *Hawalaat* in the said Police Post keeping the culprits in.

3. Incorrect hence vehemently denied. Only fact finding inquiry was conducted that too at the back of the appellant whereby he was recommended for major penalty of dismissal from service. Moreover, the so called inquiry report was not provided to appellant rather he submitted an application for provision of the same but no heed was paid.
4. Not admitted as submitted by the Respondents because they intentionally discarded the assertion made by the appellant regarding the Incharge of Police Post Garyala ASI Zubair Khan alongwith Shakeel LHC, Constable Roohullah, Sami and Arif who had been also issued Charge Sheet and Statement of Allegations for the same allegations but all were exonerated from the charges rather only appellant and Zabiari ASI awarded major penalty of dismissal from service against which both preferred their respective departmental appeals but surprisingly vide office order dated 15.07.2019 (*Annex:- RJ/I*) the departmental appeal of Mr. Zubair ASI was accepted and he was reinstated into service while that of appellant was unlawfully rejected vide impugned appellate order dated 18.07.2019.

5. Incorrect hence not admitted.

Grounds:

- A. Incorrect. The appellant was not treated in accordance with law, rules on the subject and the impugned orders are illegal.

B-I Incorrect hence vehemently denied. The assertions made by the respondents are incorrect misplaced while Grounds-B-I of the instant appeal are correct.

J: Needs no rejoinder.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant


Khaled Rahman
Advocate, Supreme Court

&


Muhammad Amin Ayub
Advocate, High Court

Dated: 15/01/2020

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent

