

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1065/2019

Date of Institution ... 20.08.2019

Date of Decision ... 21.07.2020

Mr. Naveed Gul, Ex-ASI #.768/P, Police Lines, District Charsadda.

... (Appellant)

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & 02 others.

... (Respondents)

Mr. Noor Muhammad Khattak,  
Advocate

... For appellant.

Mr. Riaz Khan Paindakheil  
Assistant Advocate General

... For official respondents.

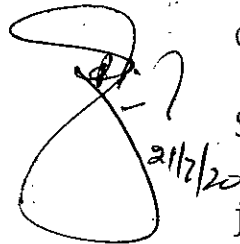
MRS. ROZINA REHMAN  
MR. ATTIQ UR REHMAN

... MEMBER (J)  
... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER :- Pithy facts of the case are that

appellant Naveed Gul was inducted as an ASI. During service he was charged in case FIR #.183 dated 19.07.2014 registered at Police Station Nisatta, U/S 302/324/148/149 PPC. He was arrested and sent to judicial lockup. In the meanwhile, he was dismissed from service vide impugned order dated 03.12.2015. Later on, he was acquitted by the Trial Court vide order dated 08.04.2019, therefore, he filed

 21/7/20

departmental appeal which was rejected. He preferred Revision Petition but that was not attended to, hence the present service appeal.

2. Learned counsel for appellant contended that the impugned order dated 03.12.2015 is against law and facts as the appellant was not treated in accordance with law and rules on the subject. He submitted that charge sheet and statement of allegation was not issued to the appellant before the issuance of impugned order and lastly, he submitted that appellant was dismissed from service without waiting for the final decision of the Trial Court in the murder case which order is, therefore, not maintainable in the eyes of law and liable to be set aside. Reliance was placed on 1988 PLC (C.S) 179; 2003 SCMR 215 and PLD 2010 Supreme Court 695.

3. Conversely, learned AAG argued that the impugned order is in accordance with law on the subject and that the appellant was rightly dismissed from service. He argued that he did not inform the department and remained absent. He remained absconder for a long period, therefore, it was not possible to conduct proper inquiry and that he was involved in a heinous crime, therefore, he was dismissed from service and lastly, he submitted that departmental appeal was time barred, therefore, appeal before the Tribunal is not maintainable. Reliance was placed on 2006 SCMR 554; 2006 SCMR 1005 and 2006 SCMR 1876.

4. After hearing the learned counsel for parties and going through the record of this case with their assistance and after perusing

the precedent cases cited before us, we are of the opinion that Naveed Gul was removed from service vide impugned order dated 03.12.2015 by respondent #.3 on account of being involved in a murder case and being fugitive from law since the commission of offence. His departmental appeal met the same fate at the hands of respondent #.2 where after he preferred revision petition before respondent #.1 which was not attended to, so the present appeal was filed. During service he was charged in case FIR #.183 dated 19.07.2014 registered at Police Station Nisatta, U/S 302/324/148/149 PPC. He, alongwith co-accused were arrested and tried. It was on 08.04.2019, when he alongwith one Abid S/O Taj Wali were acquitted of the charges leveled against them. Soon after earning acquittal, he filed departmental appeal which is undated, however, the order passed by the Regional Police Officer Mardan shows that appeal was filed on 18.04.2019 which was decided on 02.05.2019.

5. The assertion of the learned AAG regarding the departmental appeal being barred by time does not find support from any document.

The appellant had been acquitted in the criminal case on 08.04.2019 and he had filed his departmental appeal on 18.04.2019 i.e. within 10 days of his acquittal in the criminal case. It would have been a futile attempt on the part of appellant to challenge his removal from service before earning acquittal in the criminal case and it would be unjust to penalize the appellant for not filing his departmental appeal before earning his acquittal in the criminal case which had formed the foundation of his removal from service. Relevant para from the order

8  
in?  
21/7/22

of Regional Police Officer Mardan is hereby reproduced for ready reference:

*"The appellant was dismissed from service on 03.12.2015 being **involved in a criminal case**. Therefore, I find no grounds to intervene into the order passed by the then District Police Officer, Charsadda. His appeal is also time barred for four (04) years"*

6. It has been held by the superior forum that all acquittals are certainly honorable. There can be no acquittals, which may be said to be dishonorable. Conviction of the appellant in the case of murder was the only ground on which he had been removed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue with his service.

7. It is established from the record that charges of murder and attempted murder etc. ultimately culminated in honorable acquittal of the appellant by the competent court of law in the above mentioned criminal case. In this respect, we have sought guidance from 1988 PLC (C.S) 179; 2003 SCMR 215 and PLD 2010 Supreme Court 695.

8. For what has been discussed above, this appeal is accepted and the impugned order dated 03.12.2015 is set aside alongwith other orders on the appeal/review petition of the appellant and the appellant is reinstated in service with back benefits from the date of his arrest in

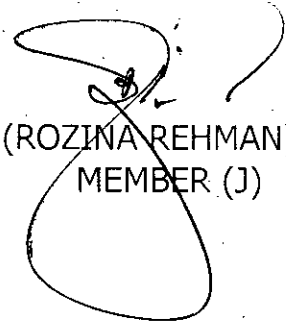
criminal case. No order as to costs. File be consigned to the record room.

ANNOUNCED.

21.07.2020



(ATTIQ UR REHMAN)  
MEMBER (E)



(ROZINA REHMAN)  
MEMBER (J)


21.07.2020.

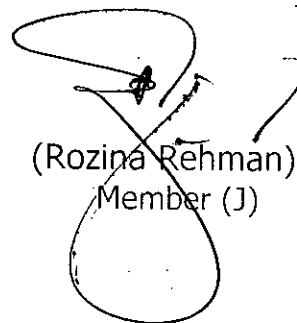
Appellant in person present.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Shah Jehan S.I (Legal) for respondents present.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the impugned order dated 03.12.2015 is set aside alongwith other orders on the appeal/review petition of the appellant and the appellant is reinstated in service with back benefits from the date of his arrest in criminal case. No order as to costs. File be consigned to the record room.

ANNOUNCED.  
21.07.2020

  
(Attiq ur Rehman)  
Member (E)

  
(Rozina Rehman)  
Member (J)

09.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 13.07.2020 before D.B.


  
Reader

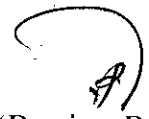
13.07.2020

Appellant with counsel present.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Shahi Jehan S.I (Legal) for the respondents present.

Arguments heard. To come up for order on 21.07.2020 before D.B.

  
(Attiq ur Rehman)  
Member (E)


  
(Rozina Rehman)  
Member (J)

1065/2019

13.01.2020

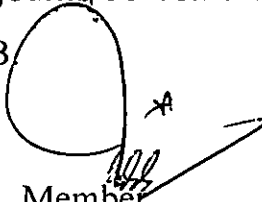
Appellant in person and Addl. AG alongwith Shah Jehan, ASI for the respondents present.

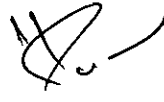
Representative of the respondents has furnished reply on behalf of respondents No. 1, 2 and 3 which is placed on record. The appeal is assigned to D.B for arguments on 20.02.2020. The appellant may furnish rejoinder, within a fortnight, if so advised.

  
Chairman

20.02.2020

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned To come up for arguments on 24.03.2020 before D.B.

  
Member

  
Member

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.

  
Reader



20.11.2019

Counsel for the appellant present.

Learned counsel has provided additional documents pertaining to the criminal case against the appellant which are made part of file.

Contends that the dismissal of appellant from service through order dated 03.12.2015, was solely on the ground that he stood charged for a criminal offence through FIR dated 19.07.2014. In juxtaposition, learned counsel referred to Rule 3 of the Khyber Pakhtunkhwa Police Rules, 1975 wherein in sub-rule(b) the officials of Police can be awarded punishment, inter-alia, on the ground of being guilty of misconduct. The guilt of appellant was yet to be established at the relevant time. The impugned punishment was, therefore, not supported by any legal provisions or the rules applicable to appellant, it was argued.

Attending to a question regarding delay in submission of departmental appeal, it was argued that the appellant was acquitted by a court of competent jurisdiction on 08.04.2019 and preferred appeal immediately thereafter. However, the period interregnum the registration of FIR and arrest of appellant on 24.08.2017, could not be justified.

Instant appeal is, therefore, admitted for regular hearing subject to all just and legal objections. 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 13.01.2020 before S.B.

Appellant Deposited  
Security & Process Fee

20/11/19

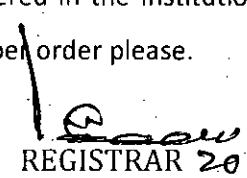


Chairman



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 1065/2019 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/08/2019	<p>The appeal of Mr. Naveed Gul 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 20/8/19</p>
2-	20/9/2019.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/10/2019.</u></p> <p style="text-align: right;"> CHAIRMAN.</p>
	01.10.2019	<p>Counsel for the appellant requests for time to further document the brief by placing the record pertaining to arrest of appellant in pursuance to FIR dated 19.07.2014.</p> <p>May do so on or before the next date of hearing. Adjourned to 20.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

P.S.  
abrar

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

APPEAL No. 1065 /2019

NAVEED GUL

VS

POLICE DEPARTMENT

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	.....	1- 3.
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3.	Impugned Order	B	5.
4.	Judgment	C	6- 17.
5.	Departmental appeal	D	18.
6.	Rejection	E	19.
7.	Revision petition	F	20- 21.
8.	Vakalat nama	.....	22.

**APPELLANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

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

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 1065 /2019

Diary No. 1176

Dated 20/8/2019

Mr. Naveed Gul, Ex-ASI No.768/P,  
Police Lines, District Charsadda.....

**APPELLANT**

**VERSUS**

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Mardan Region.
- 3- The District Police Officer, District Charsadda.

.....**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 03.12.2015 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND NO ACTION TAKEN ON THE REVISION PETITION OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 03/12/2015 may very kindly be set aside and the respondents 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:**

*Briefs facts giving rise to the present appeal are as follows:-*

- 1- That appellant was inducted in the respondent Department as ASI under the deceased employee son's quota and after induction the appellant served the respondent Department quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during service the appellant was charged in case FIR No.183, under section 302/324/148/149 PPC, dated 19/7/2014 in Police Station Nisatta. Copy of the FIR is attached as annexure.....**A.**

Filed to-day  
Registrar  
20/8/19

- 3- That after chalking the above mentioned FIR the appellant was arrested by the local Police and sent to the judicial lock up. That during the said period the appellant was dismissed from service vide impugned order dated 03.12.2015 without waiting till the final decision of the Trial Court. Copy of the impugned order is attached as annexure.....**B.**
- 4- That vide judgment dated 08.04.2019 the appellant was acquitted by the learned Trial Court from all the charges leveled against him. That after acquittal the appellant filed Departmental appeal before the appellate authority which was rejected vide order dated 02.05.2019 on no good grounds. Copies of the judgment, Departmental appeal and rejection order are attached as annexure.....**C, D & E.**
- 5- That then after the appellant preferred revision petition before the respondent No.1 but no reply has been received so far. That appellant feeling aggrieved and having no other remedy but to file the instant service appeal before this august Tribunal on the following grounds amongst the others. Copy of the revision petition is attached as annexure.....**F.**

**GROUND:**

- A- That the impugned order dated 03.12.2015 is 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 no charge sheet and statement of allegation has been issued to the appellant before issuing the impugned order dated 03.12.2015.
- D- That no show cause notice has been served on the appellant before issuing the impugned order dated 03.12.2015.
- E- That no chance of personal hearing/defense has been provided to the appellant and as such the appellant condemned unheard.
- F- That the respondent Department without waiting of the final decision of the Trial Court, and straight away issued the impugned order dated 03.12.2015 which is not tenable in the eye of law and liable to be set aside.

G- That no regular/fact finding inquiry has been conducted in the matter before issuing the impugned order dated 03.12.2015.

H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 19.08.2019

  
**APPELLANT**

**NAVEED GUL**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**&**

  
**MIR ZAMAN SAFI**  
**ADVOCATES**

313-9447319

310-9627710

تعمیراتی

4

پولیس رپورٹ نمبر 2280/13، تاریخ 06.2011ء، سیکشن 420، ضلع جہلم، پاکستان

نمبر (1) 5-3

### ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نمبر جرم قابل دست اندازی پولیس رپورٹ شدہ زبردستی 153 مجموعہ ضابطہ فوجداری 5-134

لغت	ضلع	چار سدرہ
20	تاریخ وقت وقوعہ	19/30

تاریخ وقت رپورٹ	19/30	وقت وقوعہ	20:35
مقام وقوعہ اطلاع دہندہ	فلان الدین ولد بیرون	مقام وقوعہ اطلاع دہندہ	378 سال ساکن لغت خانہ
تفصیلات جرم (معدومہ) مال اگر کوئی کیا گیا	32/324 / 148/149		
جائے وقوعہ کا مقام سے درست	راستہ روزہ شبانہ نزد مکان آزان بیرون		
مقام وقوعہ لڑکا	غلام محمد ولد غلام محمد	مقام وقوعہ لڑکی	عابدہ ولد غلام محمد
کارروائی جو تفتیش کے متعلق کی گئی	اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرنا		
مقام وقوعہ کی تاریخ وقت	بیلے ڈان		

**ابتدائی اطلاع نیچے درج کرو۔** لہذا وقت بعد سہرا کیے تھری مراسلہ منانہ البرارہ

گوشہ شبانہ چار سدرہ سے بدست کنٹریل سیٹے آگے 100 یوں بیرون بیرون زون ہے۔ عمرتے 340 سالہ مکانہ لغت خانہ سے اطلاع گوشہ شبانہ چار سدرہ آگے بیرون فلان الدین بلیو بیو خان، طفیل خان بلیو 45/46 سال، راشد بلیو 34/41 سال لڑکے بیرون دین ساکن لغت خانہ شبانہ نوٹسایت جی راد آسن وہ پندرہ ستر داران نے جائے وقوعہ گوشہ شبانہ چار سدرہ لڑکے جائے جگہ بیرون دست کوشہ حوامی میں ہے۔ لڑکے فلان الدین بلیو بلیو کرتا ہے۔ کہ آج میں ہم طفیل خان، راشد، برادران آرم بلیو غلام محمد سے نکل کر گھر چار سدرہ سے جائے وقوعہ بالا پیر لہو لڑکے فلان الدین بلیو، راشد، شہزاد بلیو دست کوشہ، اجمار ولد خاویج، عابدہ ولد تاج ولد، طفل محمد ولد غلام محمد گلیہ مسلح ہوا اسلحہ آتش موجود ہے۔ ہمیں، عین حسی دہم پیر برادران سے نکل کر شرم کت تین ماہ تک سے میں سے راشد، طفیل برادران آرم لڑکے کوشہ بیو۔ وقوعہ ہذا چار سدرہ سے 500 فٹ دیکھنے لگے جہم دید ہمیں۔ وہ بعد غلام محمد خان کیا تو زمانے نظر ہے۔ میں اپنے اور طفیل، راشد کی کوشہ شبانہ تا بر خلاف قدرہ انسان دلویدار بیوں۔ راشد بلیو محمد طفیل ولد بیرون میں نے برادران باکی کت سبقت لڑکے نامہ لڑکے بلیو سے گفتہ مسائل ریورٹ درج اسے ہو کہ بڑا قدر سنایا سمجھا یا گیا۔ درست تسلیم کر کے زبردستان کو انکو نمائندہ بنا گیا۔ اور تا قید بندہ سے ہیں انکو نمائندہ بنا۔ جس میں بقدرت کرتا بیوں۔ گھر و سنا مال لڑکے سے منجہ لڑکے بلیو خان سے لڑکے زبردستان کت کنٹریل اہل 392 دیوانہ ڈال کر شاہان مان ہا سے بنا گیا۔ میں نے البرار مانا AS 34 نہ چار سدرہ 19/30 کا وہ دن تھا کہ آبدہ تھری مراسلہ حرف کرنے درج ہوا کہ بلیو بلیو 45/46 کی یاد تھا کہ لغت خانہ 34/34 سے مراسلہ لڑکے بلیو سوالہ شہزاد بلیو نے بنا گیا تھا۔ بلیو کہتا ہے

AS 34  
 34/34  
 197-14

Attest  
 [Signature]

## ابتدائی اطلاعی رپورٹ

(فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

ضلع: چارسدہ

تھانہ: نئے

تاریخ و وقت وقوع: 19/07/2014 وقت نامعلوم

بم: 183

1	تاریخ و وقت رپورٹ: تاریخ 19/07/2014 وقت 20:35 بجے چاکیدگی پرچہ 19/07/2014 وقت 21:20 بجے
2	نام و سکونت اطلاع دہندہ و مستغیث: ملاں الدین ولد میوہ دین بھر 37/38 سال ساکن نئے شیانہ
3	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہے 302/324/148/149 PPC
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت: راستہ روندہ شہانہ نزد مکان آذان میوہ دین
5	نام و سکونت ملزم: (۱) نوید گل (۲) شہزاد بصران محبت گل (۳) اعجاز ولد خارے (۴) عابد ولد تاج ولی (۵) فضل مولاد ولد جہانگیر ساکنان محلہ شہانہ نئے
6	کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو۔ بہ سیدگی تحریری مراسلہ مقدمہ قائم کیا جاتا ہے۔
7	تھانہ سے روانگی کی تاریخ و وقت: بطور پیشل رپورٹ

## ابتدائی رپورٹ نیچے درج کرو

بوقت صدر بچہ ایک تحریری مراسلہ منجانب اسرار کچولٹی ہسپتال چارسدہ سے بدست کنسٹیبل حیات 155 موصول ہو کر بہ مضمون ذیل ہے۔ بخدمت جناب SHO صاحب تھانہ نئے کے اطلاق کچولٹی ہسپتال چارسدہ آک مجروحین ملاں الدین بھر 31/30 سال، طفیل جان بھر 45/46 سال، راشد بھر 30/31 سال بصران میوہ دین ساکن محلہ شہانہ کو عنایت چچا زاد اش و دیگر رشتہ داران نے حالت مجروحیت کچولٹی ہسپتال چارسدہ لائی جا کر مجلہ مجروحین درس حوش و حواصل میں ہے مجروح ملاں الدین یوں رپورٹ کرتا ہے۔ کہ آج میں مع طفیل جان، راشد، برادران ام بعد نماز مغرب مسجد سے نکل کر گھر خود جا رہے تھے جب جائے وقوعہ بالا پر پہنچے تو وہاں ہر مسمیان نوید گل، شہزاد بصران مست گل، اعجاز ولد خارے، عابد ولد تاج ولی، فضل مولاد ولد جہانگیر مسلح بہ اسلحہ آتش موجود تھے۔ ہمیں دیکھتے ہی ہم پر بہ ارادہ قتل فائر شروع کی لیکن فائرنگ سے میں مع راشد طفیل برادران ام لگ کر زخمی ہوئے۔ وقوعہ ہذا ہمارے علاوہ ریت اللہ کی چشم دید ہیں۔ وجہ عناد عدنان کیساتھ زبانی تکرار ہے۔ میں اپنے اور طفیل، راشد کی مجروحیت کا برخلاف متذکرہ بالا کسان دعویدار ہوں۔ انگوٹھا مجروح طفیل ولد میوہ دین نے رپورٹ بالا کی ثابت کی انگوٹھا شب کیا گیا۔ اور تائید کنندہ سے بھی انگوٹھا مثبت کیا۔ جسکی میں تصدیق کرتا ہوں۔ مجروحین کا مرتب کر کے بغرض علاج معالجہ زیر حفاظت کنسٹیبل اجمل 592 حوالہ ڈاکٹر شاہ خان صاحب کیا گیا۔ مضمون سے صورت جرم بالا پائی جا کر مراسلہ خطفی قابل مقدمہ بدست کنسٹیبل حیات 155 ارسال تھانہ ہیل ابرار خان ASI تھانہ چارسدہ 19-07-2014 کا بدون تھانہ آمدہ تحریری مراسلہ حرف بحرف درج بالا ہو کر پرچہ چاک کیا جاتا ہے نقول FIR مع مراسلہ بغرض تفتیش حوالہ متعلقہ تفتیش کیا جاتا ہے

attested  


جناب عالی

نقل برطابق اصل ہے۔

ASI, PS NSA

19-07-2014



Atten In  
Anwar Khan

B-5

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

**ORDER**

This order will disposed off the departmental enquiry against ASI Naveed Gul, while posted at Geo-Tagging Charsadda, was charged in case vide FIR No. 183, dated 19.07.2014 u/s 302/324/148/149-PPC PS Nisatta. Being a member of discipline force, his this act is highly objectionable & against the rules/regulations of the discipline force. This shows his negligence, lack of interest in the performance of official duty.

The above allegation he was issued Charge Sheet together with statement of allegation u/s 6(1)(a) Police Rules 1975. Enquiry Officer Mr. Izhar Khan, the then DSP Tangi was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted his findings that the defaulter official is still fugitive from justice since the commission of crime & recommended him for major punishment.

Subsequently, ASI Naveed Gul, was issued Final Show Cause Notice u/s 3(3) Police Rules 1975 reply to which was not received so far.

After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded the major punishment of dismissal from service with immediate effect.

OB No. 1317

Dated 12/12/2015

No. 1234-69/11A, dated Charsadda the 03/12/2015.

*[Signature]*  
District Police Officer,  
Charsadda

Copy for information and necessary action to the:-

1. Head of Investigation, Charsadda.
2. DSP HQs: Charsadda.
3. Pay Officer/HC.
4. EC/FMC

Attested  
*[Signature]*

BETTER COPY OF PAGE-5

OFFICE OF THE DISTRICT POLICE OFFICER,  
CHARSADDA

ORDER

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In the above allegation he was issued Charge sheet together with statement of allegation u/s 6(l)(a) Police Rules 1975. Enquiry Officer Mr. Izhar Khan, the then DSP Tangi was nominated for conducting departmental enquiry against him. The enquiry officer after conducting proper departmental enquiry submitted his findings that the defaulter official is still fugitive from justice since the commission of crime & recommended him for major punishment.

Subsequently, ASI Naveed Gul, was issued Final Show Cause Notice u/s 3(3) Police Rules 1975 reply to which was not received so far.

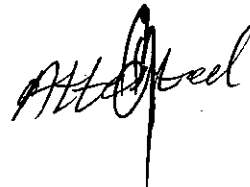
After going through the enquiry papers & recommendation of the enquiry officer, he is hereby awarded major punishment of dismissal from service with immediate effect.

District Police Officer,  
Charsadda

OB No. 1319

Dated 3/12/2015

No.12364-69/PA, dated Charsadda the 03/12/2015



In the Court of Azhar Khan

Sessions Judge, Charsadda

Sessions Case No 234/SC

Date of institution: 15.09.2017

Date of Decision 08.04.2019



STATE . . . . . VERSUS . . . (1) Abid son of Taj Wali,  
(2) Naveed Gul son of Janat Gul residents of Shpana Nisatta, Tehsil & District Charsadda  
(Accused facing trial)

CASE FIR NO : 183  
DATED : 19.07.2014  
CHARGE U/S: : 302/324/148/149 PPC  
REGISTERED AT P.S: Nisatta

Judgment:

Accused Abid and Naveed Gul are charged for the offence u/s 302/324/148/149 PPC, registered at Police Station Nisatta vide FIR No.183, dated 19.07.2014.

2. Laconic facts of the case, as per FIR, are that on 19.07.2014 at 20:35 hours, deceased then injured Falah-ud-Din reported at Casualty DHQ Hospital Charsadda to the effect that after offering *Maghrib* prayer, he along with Tufail Khan and Rashid were proceeding to their house. At 19:30 hours when they reached near the house of Mewa Din i.e. place of occurrence, Naveed Gul, Shehzad Gul, Ijaz, Abid and

Fazal Maula duly armed with firearms were present there who on

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seeing the complainant party started firing at them with the intent of killing, resultantly the complainant and his companions Tufail and Rashid got hit and injured. Motive disclosed by the complainant was an altercation took place between his nephew Adnan and accused Naveed Gul. Report of the complainant duly affirmed by the injured Tufail was inked into Murasila, on the basis of which the FIR was initially chalked u/s 324/148/149 PPC, however, on the following day of occurrence, when complainant succumbed to injuries, section 302 PPC was inserted in the FIR.

3. Initially, challan u/s 512 Cr.PC was submitted against all the five accused. After arrest of accused Shehzad and Fazal Maula, supplementary challan was submitted against them and following trial, they were acquitted by the then learned ASJ-V, Charsadda whereas accused facing trial and co-accused Ijaz were declared proclaimed offenders.

After the arrest of accused facing trial, supplementary challan was submitted against them in court for trial. On fulfillment of codal formalities the accused were indicted and during the trial prosecution produced and examined 15 PWs.

The gist of the prosecution evidence is as under:

**PW-1, Maazullah Khan ASI** incorporated the contents of Murasila into FIR Ex: PA.

**PW-2, Momin S/o Mewa Din** is marginal witness to the

**ATTESTED** recovery Ex: PW.2/1 vide which the IO took into possession blood

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stained clothes of the deceased. He stated that the clothes were brought by him to the IO from KMC Peshawar.

**PW-3, Shad Muhammad DFC No.1093**, executed warrants u/s 204 Cr.PC and proclamation notices u/s 87 Cr.PC issued against the accused facing trial. The warrants, notices and reports of PW.3 are Ex: PW.3/1 to Ex: PW.3/8, respectively, upon which he claimed his signatures to be correct.

**PW-4, Murad Ali No.88** is marginal witness to the pointation memo Ex: PW.4/1 vide which accused Abid led the police party to the spot and pointed out various points. He is also witness to the pointation memo Ex: PW.4/2 vide which accused Naveed Gul made pointation of the spot. He claimed his signatures to be correct on both the memos.

**PW-5, Yar Muhammad S/o Fanoos Khan** is marginal witness to the recovery memo Ex: PW.5/1 through which the IO took into possession blood stained earth from the place of deceased and sealed in a parcel. He is also marginal witness to the recovery memos Ex: PW.5/2 and Ex: PW.5/3 vide which the IO took into possession blood through cotton from the place of injured Tufail and blood stained earth from the place of injured Rashid, respectively. He also stood as witness to the recovery memos Ex: PW.5/4 to Ex: PW.5/6 vide which the IO took into possession two empties of 30 bore and one empty of 7.62 bore from the place of accused; blood stained garments of injured Tufail; and blood stained garments of injured Rashid, respectively. He is also witness to the house search memo Ex: PW.5/7. His statement

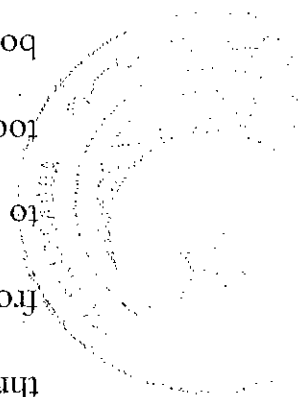
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was recorded by the IO u/s 161 Cr.PC. He admitted his signatures to be correct on the above memos.

**PW-6, Farhad Khan R.I.A** submitted complete challan u/s 512 Cr.PC Ex: PW.6/1 against all the accused.

**PW-7, Ibrar Khan SI** reduced the report of deceased then Injured Falahuddin in the shape of murasila Ex: PW-7/1 which was read over and explained to him and after admitting it to be correct he thumb impressed the same as a token of its correctness while injured Tufail also thumb impressed the report as verifier. He prepared the injury sheets Ex: PW.7/2 to Ex: PW.7/4 of all the injured and sent them to doctor for medical treatment under the escort of constable Ajmal No.592 while the murasila was sent to police station. He admitted his signatures as correct on the above mentioned documents.

**PW-8, Dr. Muhammad Waseem MO** stated that Dr. Shadman has examined injured Tufail, Rashid and Falahuddin deceased then injured. That since Dr.Shadman has gone abroad and has not returned back yet therefore, he being well conversant with his hand writing and signature, verified the medico legal reports Ex: PW.8/1 to Ex: PW.8/3 of the injured and the deceased then injured to have correctly bore his signatures.

**PW-9, Fazle Hadi Khan SI (Rtd)** vide application Ex: PW.9/1 produced the accused facing trial before the court for obtaining custody and two days police custody was granted. He prepared pointation memo Ex: PW.4/1 as a result of pointation of the spot of occurrence made by the accused. Through application Ex: PW.9/2 he produced the

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accused facing trial Abid for obtaining his further custody which was refused and the accused was sent to judicial lock up. He recorded statements of PWs as well as accused facing trial u/s 161 Cr.PC and after completion of investigation, handed over the case file to the SHO for onward submission of challan.

**PW-10, Jauhar Shed SI** arrested the accused facing trial Abid and issued his arrest card Ex: PW.10/1. After completion of investigation, he submitted supplementary challan against the accused.

**PW-11, Amir Nawaz SI/CIO** through arrest card Ex: PW.11/1 arrested the accused Navid Gul. After completion of investigation, he handed over the case file to the SHO Samiullah Khan who submitted supplementary challan against the accused.

**PW-12, Shah Wali Khan SI** was posted at Casualty Hospital LRH, Peshawar. That after the death of Salahuddin deceased, he prepared inquest report Ex: PW.12/1 and sent the dead body for P.M examination under the escort of Sirajul Amin No.5250.

**PW-14, Muhammad Fazil Inspector** conducted investigation in the instant case. He prepared the site plan Ex: PB on the instance of eye witnesses in the light of the mobile vehicle; he recovered and took into possession some blood stained earth Ex: P-1 from the place of deceased then injured Falahuddin vide recovery memo Ex:PW.5/1; vide memo Ex: PW.5/2 recovered and took into possession blood through cotton Ex: P-2 from the place of injured Tufail and vide recovery memo Ex: PW.5/3 recovered some blood stained earth Ex: P-3 from the place of injured Rashid. Vide memo Ex: PW5/4, he took into possession from

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the place of the accused 02 empties of 30 bore Ex P-4 and one empty shell of 7.62 bore Ex P-5 lying scattered on the spot; that he took into possession clothes of the injured Tufail vide recovery memo Ex: PW.5/5; blood stained clothes of injured Rashid vide recovery memo Ex: PW.5/6. He prepared house search memo of the accused as Ex: PW.5/7. He took into possession blood stained clothes of the deceased then injured Falahuddin vide memo Ex: PW.2/1. That as Falahuddin deceased then injured who was admitted in LRH Peshawar succumbed to his injuries on the information written in Mad No.30 dated 20.7.2014, he added section 302 PPC accordingly which is Ex: PW.14/1. Vide application Ex: PW-14/2, he sent the recovered empties to FSL, the result whereof is Ex: PZ; that vide application Ex: PW.14/3 he sent clothes of the deceased and injured Tufail and Rashid to the FSL, the result whereof is Ex: PZ/1; that the empties and blood stained articles were sent to FSL vide road certificates No.348/21 and 350/21 which are Ex: PW.14/4. As the accused were avoiding their lawful arrest so vide applications Ex: PW.14/5 and Ex: PW.14/6, he obtained warrants and proclamation notices and entrusted to the DFC concerned for execution; that he prepared the list of the legal heirs of the deceased then injured Falahuddin as Ex: PW.14/7; that vide application Ex: PW.14/8 he applied for proceedings u/s 88 Cr.PC against the accused; that vide application Ex: PW.14/9 he applied to CKC Charsadda for obtaining mobile data of Navid Gul and Fazle Maula accused; that he received information of Patwari Halqa vide memo Ex: PW.14/10; drew photographs of the crime spot as Ex: PW.14/1 to Ex PW.14/15;

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collected mobile data consisting of five sheets about accused Fazle Maula, Navid Gul as Ex: PW.14/16. After completion of investigation, he handed over the case file to SHO PS concerned for onward submission. He admitted his signatures as correct on the documents he prepared.

**PW-15, Tufail** is the injured of instant case who deposed in support of the contents of Murasila report. He charged the accused for the commission of offence. He also stated that Falahuddin injured succumbed to his injuries in LRH Peshawar at 03:00 AM at night and he remained in the hospital for about 05 days; that his statement was recorded on the following morning in LRH Peshawar and that he was taken to the spot for its verification after discharge from the hospital.

4. After close of prosecution evidence, statements of accused facing trial were recorded u/s 342 Cr.PC. The accused neither wished to produce evidence in their defence nor opted to be examined on oath u/s 340(2) Cr.PC.

5. Learned counsel for the complainant duly assisted by Dy.PP for the state argued that the accused facing trial are directly charged in the FIR lodged with promptitude excluding the possibility of consultation, deliberation and false implication; that ocular evidence fully corroborates the documentary evidence; that circumstantial evidence in the shape of site plan, medical evidence and recoveries supports the prosecution version; recovery of blood from the scene of occurrence,

blood stained garments of the deceased and injured, crime empties besides positive FSL reports also strengthen the charge of prosecution.

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to of Distt & Sessions Judge

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That a strong motive is mentioned by the complainant in his report and duly reiterated by the injured eye witness in his court statement; that the accused facing trial remained willful absconder for a considerable period. He requested for awarding capital punishment to the accused facing trial.

6. In rebuttal, learned defence counsel argued that the accused are innocent being not involved in any manner in the alleged crime; that case of prosecution is full of doubts; that the so called report has not been made in the mode and manner as alleged by the prosecution; that the codal formalities essential for dying declaration have not been complied with; that site plan and medical evidence do not support the prosecution case; that non production of injured Rashid and PWs Inayat and Zaitullah in the court amounts to withholding of best available evidence within the meaning of Article 129-g of the Qanoon-e-Shahdat Order, 1984; that co-accused with identical role have already been acquitted in the instant case and as such principle of consistency is attracted to the case of accused facing trial. He requested for acquittal of the accused facing trial.

7. I have considered the respective submissions of both the sides and minutely perused the case file with their able assistance.

8. As per the Murasila, the complainant Falah-ud-Din alongwith his brother Rashid and Tufail, after offering *Maghrib* prayers were coming to their home and near the house of Mewa Din were simultaneously fired upon by the accused facing trial including the acquitted and absconding accused numbering five assailants, already present on the

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spot and standing at a distance of a few feet apart, resultantly all the three brothers sustained injuries and fell on the spot. The accused after the commission of offence decamped from the spot. The site plan Ex: PB which indicate the precise positions of assailants, the complainant party and the witnesses at the time of occurrence. The distance between the assailants and complainant party was not more than couple of feet and the nearest was 2/3 feet apart. Allegedly, the accused emptied their magazines in firing from deadly firearms, but the description of weapons used in the offence has not been mentioned. The IO recovered only three empties two of 30 bore and one 7.62 bore, with no bullet holes detected on the opposite wall of Mewa Din's house, directly in line with the firing party. The FSL report Ex: PZ hold that the two 30 bore empties were fired from one weapon while the other recovery of 7.62 bore empty is of separate weapon. This further belies the contention of firing by five persons simultaneously as put forward by the prosecution.

9. As per medical report, injured Falah-ud-Din received one injury on his buttock, the entry and exit wounds are on the same side, whereas injured Rashid received a single entry wound on the front of the forehead and as per opinion of the doctor the wound may be due to severe blunt trauma or it may be due to bullet graze but highly unlikely. Hence, the medical evidence is in contradiction with the ocular account particularly the accused party being face to face with the injured party.

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10. Similarly, as per the prosecution contention the statement of Falah-ud-Din may be taken as a dying declaration because at the time

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of recording his statement he was conscious and well oriented in time and space.

11. The murasila is inked by police official without complying with the required conditionalities. In this respect I refer to 2002 MLD 1698 (Lahore), wherein it is held that that the dying declaration whenever is possible should be recorded by a Magistrate and when Magistrate is not available, injured should be examined by a Medical Officer to ascertain fact that he was fit to make statement---If Magistrate could not be obtained and a Gazetted Police Officer was also not present, then statement should be recorded in presence of two or more reliable witnesses unconnected with parties to the case---If presence of two independent witnesses was not possible then it should be recorded in presence of two or more police officials.

*R*  
12. In support, I also refer to 1997 SCMR 449 which holds that police had not obtained certificate from the doctor before recording statement of deceased in injured condition that he was in a fit condition to give statement, nor he had given a plausible explanation for such omission and fitness of the deceased to make the statement, thus, remained doubtful.

13. The prosecution relies on the abscondence of accused to be a contributing factor in establishing their guilt though it is settled principle that abscondence could not be made based as a sole ground for conviction of accused, when the other prosecution evidence was doubtful. It is simply a corroborative piece of evidence. Reliance is placed on 2006 SCMR 1886 and 2017 SCMR 144. More so, the

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warrants u/s 204 Cr.PC and proclamation notices u/s 87 Cr.PC against the accused facing trial were not issued by the Sessions Court. Being a murder case, it had to be issued by the Sessions Court u/s 190(2) Cr.PC. Hence, the proceedings of declaring the accused facing trial as absconders were ab-initio against the law.

14. The prosecution even failed to establish through cogent evidence the motive for the occurrence allegedly being altercation between accused Naveed Shah and nephew of the complainant, namely Adnan.

15. Similarly, despite availability of independent witnesses of the occurrence, the prosecution did not examine them and withheld best corroborative evidence within the meaning of Article 129-g of the Qanoon-e-Shahadat Order, 1984. Moreover, on the same set of evidence, co-accused have been acquitted and under the principle of consistency fate of this trial has to follow the earlier verdict. The accused facing trial, after their arrest, did not confess their guilt. No weapon of offence was recovered from their possession or upon their pointation.

16. If one believes the prosecution version of the mode and manner of the positioning of the accused and the simultaneous firing of their deadly firearms emptying full magazines, it is simply beyond comprehension that how the injured party escaped from receiving multiple injuries. The prosecution version is also questionable in view of the recovery of only three empties from the spot with no bullet

marks on the opposite wall and nature of injuries. The improvement

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made by the eye witness Tufail in his statement also create doubt as to his veracity.

17. For what has been discussed above, it is held that the prosecution version is full of doubt, the benefit of which is extended to the accused. Thus, the accused facing trial are acquitted of the charges leveled against them. They are in custody, be released forthwith if not required in any other case. Case property be kept intact till the arrest and trial of the absconding accused who had already been declared proclaimed offender.

Announced  
08.04.2019



*(Signature)*  
(Azhar Khan)

Sessions Judge, Charsadda

C E R T I F I C A T E

Certified that this judgment consists of twelve (12) pages, each and every page(s) has been read, checked and signed by me.

Certified to be True Copy

*(Signature)*

Examiner / Moharrir  
Copying Agency Branch  
Court of Distt & Sessions Judge  
Charsadda

*(Signature)*

Sessions Judge, Charsadda

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*(Signature)*

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Charsadda

No. 2797  
Date of Application 11-4-19  
Name of Applicant محمد علی  
Words 4800  
Fee nil  
Urgent Fee \_\_\_\_\_  
Signature of Copyist & Date *(Signature)* 11/4/19  
Date of Preparation \_\_\_\_\_  
Date of Delivery 11/4/19

خدمت صہارن ڈپٹی انسپکٹر جنرل اف لو ایس مردان لکھنؤ  
منوان " درخواست براد جانی سروں "

(18)

ضلع عالی

گڈ آرڈر ہے۔ کہ سائل صلح چار سیدہ میں جیت ASI میں ڈپٹی  
جس اسٹوں سے اقام دے ریافتا۔ کہ فقہہ  $\frac{07}{19}$  کو سائل کو  
2014  
ایں نے سیاد اور جمعوں فقہہ 302 میں ملوث کیا گیا۔ اور اس 19  
سے سائل کو فقہہ  $\frac{12}{03}$  کو نوٹری سے برخواست  
2015  
ایا گیا۔

ایاں یہ اندر واقعہ ہے۔ کہ سائل پر نہ تو چارج شپ کسٹم سہرا  
ہے اور نہ ہی کوئی شوکار نوٹس دیا گیا ہے۔ اس کے علاوہ  
سائل کو صفائی کا موقعہ نہیں دیا گیا ہے۔ اور اس طرح سائل  
کو نوٹری سے برخواست کیا گیا ہے۔ جو کہ برعین بالاصلی ہے۔

چونکہ سائل نے گناہ تھا اس لئے عدالت سینج چار سیدہ سے  
302 کے فقہہ کے حوالہ حکم (Judgment) فقہہ  $\frac{04}{08}$  کو  
2019  
باعث طور پر بری کیا ہے۔ (عدالت منظم سہرا لکھنؤ) ہے  
جس کے ریائی کے لئے سائل کو معلوم ہوا کہ سائل کو جو  
ہر اسے برخواست کیا گیا ہے۔ میں برخواستگی کی کافی سائل کو  
اس وقت مہیا نہیں کلتی ہے۔

چونکہ سائل کے جیو ٹی کے اور ضعیف العمر والدین قدر میں موجود  
ہے۔ اور سائل بے روزگار ہے۔ اور کوئی ذریعہ معاش نہیں  
رکتا ہے۔ اس کے علاوہ سائل کو عدالت 302 کے فقہہ سے  
باعث طور پر بری کیا ہے۔

Attest

انہ ایسڈ ہے۔ کہ سائل کو تاریخ برخواستگی سے  
جلد مداعت کے ساتھ نوٹری پر دوبارہ بحال کرنے  
کا حکم صادر فرمایا گیا۔  
میں نوٹری  
اللہ  
سائل کو لکھنؤ ضلع عالی ASI ڈسٹرکٹ لو ایس چار سیدہ

DIG - Order

2/5/2019. (2)

E - (19)

**ORDER.**

This order will dispose-off the departmental appeal preferred by Ex-PASI Naveed Gul No. 768/P of Charsadda District Police against the order of the District Police Officer, Charsadda, wherein he was awarded Major Punishment of dismissal from Service by the then District Police Officer, Charsadda, vide his office OB: No. 1319 dated 03.12.2015.

Brief facts of the case are that the appellant while posted at Geo-Tagging Charsadda, was charged in case FIR No. 183 dated 19.07.2014 u/s 302/324/148/149PPC Police Station Nisatta. Being a member of discipline force his this act was highly objectionable and against the rules/regulations of the discipline force. This shows his negligence, lack of interest in the performance of official duty. Consequently he was issued Charge Sheet alongwith statement of allegations u/s 6 (I)(a) Police Rules 1975 and Mr. Izhar Shah Khan the then Deputy Superintendent of Police Tangi was nominated for conducting departmental enquiry against him. The Enquiry Officer after conducting proper departmental enquiry and submitted his findings, suggested that that the defaulter official is still fugitive from justice since the commission of crime and recommended him for Major punishment. Subsequently, ASI Naveed Gul was issued Final Show Cause Notice reply to which was not received so far.

After going through the enquiry papers & recommendation of the enquiry Officer, therefore he was awarded Major Punishment of dismissal from service by the District Police Officer, Charsadda vide his office OB: No. 1319 dated 03.12.2015.

The appellant was dismissed from service on 03.12.2015 being involved in a criminal case. Therefore, I find no grounds to intervene into the order passed by the then District Police Officer, Charsadda. His appeal is also time barred for four years. Hence field.

ORDER ANNOUNCED.

*Muhammad*  
(Signature)

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

No. 7705-6/ES,

Dated Mardan the 02/05/2019

Copy forwarded for information and necessary action to the:-

1.  
✓

Capital City Police Officer, Peshawar.  
District Police Officer, Charsadda for information and necessary action w/r to his office Memo: No. 744/EC dated 18.04.2019. His Service Record is returned herewith.

*Attested*  
(Signature)

(\*\*\*\*\*)



محترم جناب پراڈیشن پریس آفیسر صاحب صوبہ خیبر پختونخواہ، ضلع پشاور

عنوان :- اپیل

جناب عالی :-

F-26

بذریعہ اپیل، معروضی خدمت پر نکر سائیل شہداء کوٹہ پر بہ منظوری  
جناب وزیر اعلیٰ KPK حسب الحکمہ CCPO پشاور بحوالہ نوٹیفیکیشن نمبری 16307/ مورخہ  
24/09/10 بطور ASI بھرتی ہو کر بہ احسن طریق کار سرکار سرانجام دیتا رہا۔

حوالہ مقدمہ علت نمبر 183 مورخہ 19/07/14 بجرم PPC 302/324/148/149

قائمہ نسبتہ ضلع چارسدہ سائیل و دیگر چہار تفرکی خلاف سمتی فلاں الین ولد میوہ دین ساکن  
نسبتہ نے اپنی و دیگر انتظامی کی مجروحیت کی دیوداری کر ڈالی جو ایک دن بعد راہی ملک عدم  
ہوا لہذا صورت جرم تبدیل ہوئی۔ سائیل نے حسب ضابطہ گرفتاری دیدی اور باقاعدہ طور سے اپنی

بے گناہی رو بروئے عدالت ثابت کی نتیجتاً سائیل مورخہ 08/04/19 از عدالت جناب اظہار خان SJ

چارسدہ باعزت بری ہوا۔ اندر ہی عرضہ سائیل کی خلاف DSP تنگی جناب اظہار خان نے یکطرفہ  
و غیر منصفانہ انکوائری کر کے سائیل کو بدی و جہ قصودار گردانا کہ سائیل نے بعد از قاضی مقدمہ  
قوری گرفتاری نہ دی اور بدوران انکوائری پیشی ہونے میں تامل کرتا رہا۔ اور یوں ایک

منظم فورس کا جبر ہوتے ہوئے خلاف ضابطہ طریق اپنایا اور سائیل کو سنگین سزا

کا مستحق گردانتے ہوئے اپنی یکطرفہ رپورٹ بلا استوائی و صفائی کا موقع دینے اور سائیل کی

ملزومیت کا ثبوت جمع کئے بغیر D.P.O چارسدہ کو سفارشات بجا دیں اور یوں سائیل کو

جیل میں محبوس رہنے کے دوران ہی جناب D.P.O چارسدہ نے بحوالہ OBNO. 1319

مورخہ 03/12/2015 سنگین سزا دیتے ہوئے نوکری سے برخاست کر دیا۔

Attached

سائیل نے جیل سے رہائی پاتے ہی محضو رجاہ۔ R.P.O. مردان ایبل دائیر کی لیکن اس کو  
میں بنیاد بحوالہ حکم نمبر 6/ES-7705 مورخہ 02/05/19 صرف اور صرف زائد المعیار  
ہونے کے سبب بلا تحقیق داخل دفتر فرما دیا اور یوں میری قسمت کا فیصلہ میری عدم موجودگی  
میں جبکہ میں جیل کی سلاخوں کے پیچھے تھا، بلا شوائی و صفائی کا موقعہ دینے کر دیا گیا۔

نہ تو سائیل کو کوئی شوکارا چارج شیٹ اور نہ ہی Summary of Allegations  
دیا گیا اور نہ ہی اردنی روم میں پیش ہونے کا موقعہ دیا گیا۔

اسی طور سے سائیل جسکا والد جنت گل مرحوم ASI بھی اسی حکم میں کارسکار سرانجام دیتے ہوئے  
داعی لقمہ اجل بنا اس کو جمعہ اہل عیال خلاف ضابطہ و قانون رزق حلال سے محروم کر دیا گیا۔  
یہ اثر مائل ذکر ہے کہ سائیل کی Appointing authority محترم DIG صاحب ہی جبکہ سائیل  
کی برخواستگی کا غیر قانونی حکم D.P.O چارجر کر چکے ہیں۔

مذکورہ حالات کو مد نظر رکھتے ہوئے التماس ہے کہ اسلینڈ کو بذریعہ بخشی جا کر

سائیل کو بشمول سابقہ مراعات بر ملازمت بحال کئے جانیکا حکم صادر فرمایا جاوے۔  
سائیل تالبر مہنون و احساند رسیدگا۔

التماس

Attested  


ایک تالبدار  
علا

نوید گل سابقہ PASI NO 768

والد جنت گل مرحوم (شہید) ساکن لستہ

مورخہ 13/05/2019

# NO 0300-9321991

**VAKALATNAMA**

*Before the KP Service Tribunal, Peshawar*

1065

OF 2019

Naveed Gul

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Police Department

(RESPONDENT)  
(DEFENDANT)

I/We Naveed Gul

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. \_\_\_/\_\_\_/2019

  
CLIENT

  
ACCEPTED

NOOR MOHAMMAD KHATTAK

  
SHAHZULLAH YOUSAFZAI

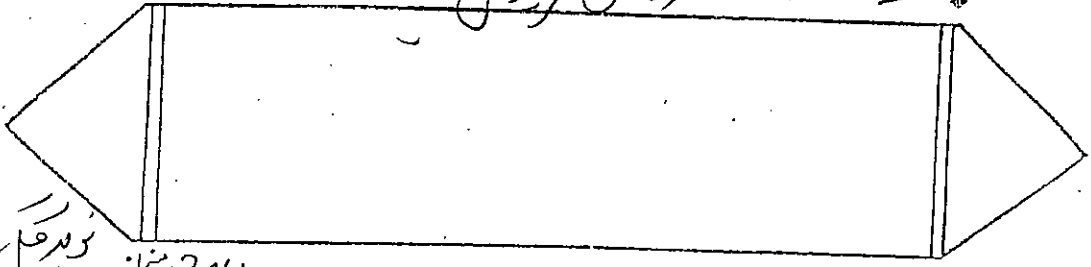
  
&  
MIR ZAMAN SAFI  
ADVOCATES

OFFICE:

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

Mobile No.0345-9383141

# بعدالت سرورسن ٹریبونل سے



2019 مہینہ جنوری

بنام لویس ڈی سیگنڈا رینز  
لویس ڈی سیگنڈا رینز

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام لویس ڈی سیگنڈا رینز کے لئے فاضل شاہ حمید ASC  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر مستحق 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 لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو کبھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر واختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ نہ ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم \_\_\_\_\_ ماہ \_\_\_\_\_ 2019

\_\_\_\_\_ واہ العبد \_\_\_\_\_

بمقام لیسٹنر کے لئے منظور ہے۔

Ady  
Adepted

893/1119  
3/1/2020

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

**Service Appeal No.1065/2019**

**Ex-ASI Naveed Gul No.768/P**

**VS**

**Inspector General of Police, Khyber Pakhtunkhwa**

**INDEX**

<b>S.No</b>	<b>Documents</b>	<b>Annexure</b>	<b>pages</b>
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2	Copy of final show Cause Notice	A	3
3	Affidavit	---	4

**RESPONDENTS**

**Through**

  
**Jehangir Khan, SI Charsadda**

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

**Service Appeal No. 1065/2019**

Mr. Naveed Gul, Ex-ASI No.768/P,  
Police Lines Charsadda, District Charsadda.

.....Appellant

**V E R S U S**

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region.
3. The District Police Officer, District Charsadda.

.....Respondents

**REPLY ON BEHALF OF RESPONDENTS No. 1, 2 & 3**

**Respectfully Sheweth: -**

**PRELIMINARY OBJECTIONS**

1. That the appellant has got no cause of action.
2. That the appellant has been estopped by his own conduct to file the appeal.
3. That the appeal is not maintainable in its present form.
4. That the appellant has not come to the Honourable Tribunal with clean hands.
5. That appellant has suppressed actual facts/factual position from this Hon'ble Tribunal.
6. That the instant appeal is badly time barred for about 4 years.

**On Facts**


1. Para pertains to initial enlistment in the Police Department as ASI hence, needs no comments. Moreover, each & every Police officer/official is duty bound to perform duty upto the entire satisfaction of high ups.
2. Para correct that the appellant while posted at Geo-Tagging Charsadda was charged in a criminal case vide FIR No. 183 dated 19.07.2014 u/s 302/324/148/149-PPC Police Station Nisatta.
3. Incorrect, that departmental proceeding was initiated against the appellant and he was issued Charge Sheet and Statement of allegations. Mr. Izhar Khan, the then DSP Tangi was nominated as enquiry officer with the direction to conduct proper departmental enquiry. The enquiry officer after conducting departmental enquiry, submitted his findings wherein he recommended the appellant for major punishment. Furthermore, departmental & criminal proceedings can run side by side.
4. Correct to the extent that appellant was acquitted vide judgment dated 08.04.2019 by the learned Sessions Judge Charsadda by extending him benefit of doubt. While rest of the para incorrect because appeal of the appellant was rejected on its being time barred.

5. That the appeal of the appellant is liable to be dismissed on the following grounds.

Grounds

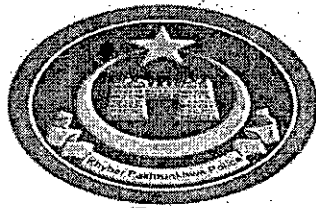
- A. Incorrect, order passed by the respondent No.3 vide order dated 03.12.2015 is in accordance with law and rules.
- B. Incorrect. The appellant was treated by the respondents in accordance with law & rules and after conducting proper departmental enquiry, he was awarded major punishment of dismissal from service.
- C. Incorrect. Charge Sheet and Statement of allegations had been served upon the appellant.
- D. Incorrect. Before issuance of final order of punishment, Final Show Cause notice had been served on appellant (enclosed as annexure A)
- E. Incorrect. As after the commission of offence, in order to avoid his lawful arrest, appellant had gone into hiding and he had also been declared as PO therefore, opportunity of personal hearing is out of question.
- F. Incorrect. As discussed earlier, appellant after the commission of offence went into hiding and subsequently was declared as PO therefore, waiting for the final decision of the Court was not justifiable.
- G. Incorrect. Proper departmental enquiry was conducted through Mr. Izhar Khan, the then DSP Tangi who after conducting departmental enquiry, submitted his findings wherein he recommended the appellant for major punishment.
- H. The respondents also reserve rights of the additional arguments or other submissions during the course of arguments.

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

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

  
Regional Police Officer,  
Mardan  
(Respondent No. 2)

  
District Police Officer,  
Charsadda.  
(Respondent No. 3)



Annexure "A"

(3)

**FINAL SHOW CAUSE NOTICE**

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

AND

Whereas, the enquiry officer has submitted his findings, recommending major penalty.

AND

Whereas, I am satisfied with the recommendation of the enquiry officer that you **ASI Naveed Gul**, while posted at Geo-Tagging Charsadda, were charged in case vide FIR No. 183, dated 19.07.2014 u/s 302/324/148/149-PPC PS Nisatta. Being a member of discipline force, your this act is highly objectionable & against the rules/regulations of the discipline force. This shows your negligence, lack of interest, in the performance of official duty, thus the act amounts to gross misconduct and renders you liable for major punishment, under Police Rules 1975.

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

Your reply should reach the undersigned within 07-days of receipt of this notice, failing which disciplinary action pertaining to your dismissal from service will be taken ex-parte.

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

Dated 20/10 2014

  
District Police Officer,  
Charsadda



(4)

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

**Service Appeal No.**  
**1065/2019**

Mr. Naveed Gul, Ex-ASI No.768/P,  
Police Lines Charsadda, District Charsadda.

.....Appellant

**V E R S U S**

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region.
3. The District Police Officer, District Charsadda.

.....Respondents

**AFFIDAVIT**

I, Jehangir Khan, Sub-Inspector (representative of the department), do hereby solemnly affirm and declare on Oath that contents of the accompanying parawise comments/reply are true and nothing has been concealed from this Hon'ble Court.



**DEPONENT:**

Identified by

CNIC No. 17101-5004223-7

Government Pleader  
Khyber Pakhtunkhwa,  
Services Tribunal

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1953 /ST

Dated 29/7/2020


To

The District Education Officer Female,  
Government of Khyber Pakhtunkhwa,  
Karak.

Subject: - JUDGMENT IN APPEAL NO. 1129/2019, MR. MANSOOR AHMAD.

I am directed to forward herewith a certified copy of Judgement dated 22.07.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.