FORM OF ORDER SHEET

Order or other proceedings with signature of judge

Court of Appeal No. 775 /2024

S.No. Date of order proceedings

1

1- 15/02/2024

The appeal of Mr. Aftab Ahmad resubmitted today by Mr. Mujeeb Ullah Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 16.02.2024. Parcha Peshi is given to counsel for the appellant.

3

By the order of Chairman

STRAR

The appeal of Mr. Aftab Ahmad received today i.e on 31.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexues-C&D of the appeal are illegible be replaced by legible/better one.
- 2- Annexures of the appeal are unattested.
- 3 Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.

210 /S.T, No. DI. 1/n /2024.

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Mujibullah Adv. High Court at Peshawar.

Dear Sir, Re-Submilled no show Court after Compleance nage sheet fillat 15/02/2024 appellant

藏书的第三人称单数

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 275 /2024.

Aftab Ahmad

VERSUS

Govt of Kp & Others

APPLICATION FOR FIXATION OF THE INSTANT APPEAL FOR PRELIMINARY HEARING AT PRINCIPAL SEAT.

Respectfully Sheweth,

- 1. That the above titled appeal is filed before this Hon'ble Tribunal wherein no date of hearing is yet fixed.
- 2. That the Applicant/ counsel is requesting for fixation of the instant appeal before principal as no bench is currently available at camp court Swat
- 3. That most of the contesting Respondents also belong to Peshawar.
- 4. That there is no legal impediment on acceptance of this application.

In wake of above submissions, the instant appeal may kindly be fixed before principal seat for ends of justice.

all Muiéeh

Advocate Counsel for Appellant Khalid & Law Associates 46 C, Cantonment Plaza 2nd Floor, Peshawar, Sadar. Cell No. 03018521721

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 275 /2024.

Aftab Ahmad

VERSUS

Govt of Kp & Others

INDEX OF DOCUMENTS

| S.No | Description of documents | Annexure | Pages |
|------|-----------------------------------------------------------------|----------|-------|
| 1 | Memo of Appeal | | 1-3 |
| 2 | Affidavit | | 4 |
| 3 | Address of Parties | | 5 |
| 5 | Copy of office order dated 03/06/2022 of Respondent No. 4 | Α | 6 |
| 6 | Copies of Appeal and appellate order dated \$9/09/2022 | B & C | 7-9 |
| 7 | Copies of revision petition and office order of Respondent No.2 | D & E | 10-11 |
| | Wakalatnama | · · | |

Afterbahat

Appellant -

Through

111 all Mujeeb Ullah

Advocate, High Court, Peshawar

Khalid & Law Associates 46 C, Cantonment Plaza 2nd Floor, Peshawar, Sadar. Cell No. 03018521721

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 275 /2024.

Aftab Ahmad LHC No. 1358 District Police Office, Timergara Lower Dir.

APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.

2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar

3. Regional Police Officer, Malakand.

4. District Police Officer, Timergara Lower Dir.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 03/06/2022, 19/09/2022 & 22/12/2023 COMMUNICATED TO APPELLANT ON 05/01/2024 WHEREBY MAJOR PENALTY OF **"REDUCTION IN** PAY BY THREE STAGES" WAS IMPOSED ON THE APPELLANT WITH IMMEDIATE EFFECT IMPOSE UPON APPELLANT WAS CONVERTED INTO MINOR PENALTY OF STOPAGGE OF ONE **ANNUAL INCREMENT BY RESPONDENT NO. 2.**

Prayer:

By accepting of this service appeal, the impugned order dated 22/12/2023 of Respondent No. 2 to the extent of stoppage of one annual increment may kindly be declared null and Void and kindly be set aside, consequently stoppage of one annual increment may kindly be restored. Any other relief, which this honorable court deems fit and appropriate, may also be granted in favor of appellant for the ends of justice.

Respectfully Sheweth:

Brief facts leading to the instant appeal are;

1- That appellant is an employee of the Respondents department and is performing his duties as Police Constable since 2010 at Timergara Lower Dir.

2- That the appellant is serving Respondents department with great zeal and devotion up to the entire satisfaction of their superiors and till date there is no complaint against the appellant. It is worth to note that appellant was on duty as Escort for transportation of accused to judicial complex at Balambat Lower Dir.

3- That on 20/04/2022 firing incident took place outside the judicial complex/court Balambat lower Dir for which appellant was held responsible for negligence in his official duty. In this respect disciplinary action was taken against the Appellant, and major Penalty of Reduction in pay by three stages was imposed upon appellant vide office order dated 03/06/2022.

{Copy of office order dated 03/06/2022 of Respondent No. 4 is annexed as A}

4- That feeling aggrieved from the office order dated 03/06/2022, appellant preferred an appeal before Respondent No. 3 (Regional Police Officer) the appellate authority, which was rejected vide order dated 09/09/2022.

{Copies of Appeal and appellate order dated 09/09/2022 are annexed as B & C}

5- That the appellant preferred Revision against the appellate order dated 09/09/2022. The Worthy Respondent No. 2 disposed of the said Revision Petition by converting the major penalty into minor penalty of stoppage of one annual increment for three years without cumulative effect vide office order dated 22/12/2023.

{Copies of revision and office order of Respondent No.2 are annexed as D & E}

10.That Appellant being aggrieved from the order dated 22/12/2023 whereby Revision of the Appellant was partially accepted/considered, having no other effacious remedy available except to approach this Hon'ble Tribunal inter alia on the following grounds.

GROUNDS

- A. That the impugned office orders dated 03/06/2022, 19/09/2022 & 22/12/2023 of Respondents are wrong, illegal, unfounded, unconstitutional, based on colorable exercise of power, hence, is liable to be set aside.
- B. That the impugned orders issued by Respondents are in sheer violation of the Fundamental Rights guaranteed to the Appellant as envisaged under the Constitution of Islamic Republic of Pakistan 1973.

C. That the Appellant has not been treated in accordance with law and rules by the Respondents Department on the subject noted above and

D. That no show cause notice, charge sheet, and statement of allegations has been issued to the Appellant which is mandatory under the rules before imposing major penalty of removal from service.

E.

F.

G.

- That no regular inquiry has been conducted and it is pertinent to note that no opportunity of personal hearing was given to Appellant. Which is against the principal of Natural Justice.
- That the whole proceedings took place on malafide, ill will intentions and just to harass the appellant, which is violation of fundamental rights guaranteed by Constitution of Islamic Republic of Pakistan 1973.

That any other ground will be taken at the time of arguments with the kind permission of this Honorable Court.

In wake of above submissions, it is therefore, most humbly prayed that the instant appeal may kindly be accepted and stoppage of one annual increment for three years may kindly be restored as prayed for.

Any other relief this Hon'ble Court deems appropriate which has not been specifically prayed for may kindly be awarded to appellant for ends of justice.

Appellant

Through

Mujeeb Ullah Advocate High Court,

Khalid & Law Associates 46 C, Cantonment Plaza 2nd Floor, Peshawar, Sadar. Cell No. 03018521721 Service Appeal No. /2024.

Aftab Ahmad VERSUS Govt. of KP & Others

AFFIDAVIT

I, Aftab Ahmad LHC No. 1358 DPO office, Timergara Lower Dir do, hereby solemnly affirm and declare that the contents of the instant appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.

Afferthe Alad DEPONENT





BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.____/2024.

Aftab Ahmad

VERSUS

Govt of Kp & Others

Appellant:

Aftab Ahmad LHC No. 1358 DPO office, Timergara Lower Dir.

Respondents:

- 1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.
- 2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
- 3. Regional Police Officer, Malakand.
- 4. District Police Officer, Timergara Lower Dir.

Appellant

Through

Mujeeb\Ullah

Adyocate High Court, Peshawar

Khalid & Law Associates 46 C, Cantonment Plaza 2nd Floor, Peshawar, Sadar. Cell No. 03018521721

Aniex A



OFFICE OF THE DISTRICT POLICE OFFICER DIR LOWER

• • •

ONDER

In This other will dispose of the departmental enquiry against LHC Allab Ahmad No.1358, in per-finding of profindanty enquiry conducted by DSP Legal Dir Lower, that while he posted on Escore duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. The was held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part.

2. Therefore, he was issued charge sheet/statement of allegation and Mr. Mushtaq Ahmad SP hijvestightion Dir Lower was appointed as enquiry officer, to conduct proper departmental semplify against him and submit his finding report.

 \mathbf{J}_1 The enquiry officer, during the course of enquiry recorded the statements of all concerned as well as the officient enterned and recommended from for major publishment.

4. He was called in Orderly Room on 02-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produced any cogent reason in his self-defense nor satisfy the undersigned.

5. Therefore I, Ikrain Ullich (PSP) District Police Officer, Dir Lower in exercise of powervested under (II & D) Rules 1975, with Amendment-2014, agreed with the finding of enquiry Officer and awarded a major punishment of "Reduction in pay by three stages" to LHC Aftab Ahmad No.1358, with Immediate effect.

ORDER ANNOUNCED Dated 03 + 06/2022

Copy for information and necessary action to the:-

1. Pay Officer Local Office.

2. OHC Local Office.

remaining under trial prisoners. He was c

(IKRAM ULLAH), PS District Police Officer Dir Lower

properly on every angle.

CamScanner

ان بای محدمت جنابDIG صاحب طاکندر مجن بمقام سیدو شریف موات 32/6/000 ورخواست بمراد بدرداند خور عمن سليج تنواد دباره بحال جناب عالى! سائیل ڈیل عرض اد سال ہیں۔ .1 بيرك ما تكل مال 2010 بحشيت تستبل مجرتى بوكرة حال نهايت ايالدادى = ديوتى مرانجام دب دباب -2. مديم ما تيل مرجد المادية جوذ يشل مدرين تعينات دبار 3. بيركد مود مد 2022-04-20 كا حسب معمول ندالت تيم كروب ظرَّان ذير جرابت كرركم عدالت يح من ميس مرد مدوس بابر كارى من مواركرت كيل فظ ويبل ف باان كرف وال مزمان في ليس كاذير حراست طرمان پر فائیر بیک کر کے جس سے زیر حراست قیدی طرم ظبوہ لگ کر جان بی جبکہ طرم علی دیدر شدید ر. ترجي درايه 4. سے کہ ذیر حرامت قیدیون / طریان سے جنافت پر معمود کیٹ سے باہر کمنسٹیان نے طران پر فائیر بکہ شروئ کی تویس نے باتی زیر حراست مزمان ہو کہ فائیر تک کی وجہ ہے ہما کتے کی کو منش بیں بتھے میں نے ان کو قابو کر کے حوالیات عدالت میں بند کئے ۔ پرونکہ عدا بت کے میں کیٹ پر کیمرے روڈ کے سائند پر انسب شدہ ہے اور عدالت Ľ. كى طرف ند : وف كما وجدت ما تكل كى كاد والى كمر ب من محفوظ / ويكار المد بوركار ار 5. ب DPO ماحب في بوالداد در نمبر 456 مود ند 2022-06-03 كومن سائل كى عن منه 6. یہ کہ من سائیل ایک غرب گھرانے سے تعلق رکھتاہے ۔ سائیل تیزا بچوں کا پاپ ہے اور گھر کا داخد خود کنیل باور من کال کادجہ سے سائیل کی تمن سی تو او کو آب مشکات کا سامنا ہے۔ . الدابحالت بالاابتد عاب كمه من سائيل تمن (03) منع تخوادود إدوبول كرف مع مناسب احكامات مسادو فرادي-مين دارش موكى for well 12 لعارمن تابع دارانت اب احسد LHC/1358 متعين مديس لائن تيم كرد منسلح دير لوس **CS** CamScanner

OFFICE OF THE DISTRICT POLICE OFFICER DIR LOWER No. /EC, dated 🖁 /2022 The Regional Police Officer, To: Malakand at Saidu Sharif, Swat APPLICATION Subject: Memoi Enclosed please find herewith an application submitted by LHC Aflab Ahmad No. 1358 of this District Police, requesting therein for restoration of punishment of "Reduction in pay by three stages" is forwarded here-with for your kind perusal, please. Enclosed: (02) District Police Offic Dir Lower¹ CamScanner

OFFICE OF THE POLICE OFFICER MAI REGIONAL AUSAIDUSHARIF SWA'L. PHE DUAK-0240188 & Fire No. 1046-0240100 Emoils chaulakandreyion's gmail.com

ORDER.

This order will dispose of appeal of LHC Allab Ahmad No.1358 of Dir Lower District in connection with major purishment awarded by the District Police Officer. Dir Lowervide OII No.456, dated 113-06-2022 i.e. reduction in pay by three stages. Brief facts of the case are that as per preliminary enquiry conducted

by DSF Legal Dir Lower wherein he stated that LHC Aftab Ahmad No.1358 while posted on escont duje for transportation of accused, on 20404-2022 a firling incident took place outside Judicial Complex Cours Balandial, In which 01 person was killed and one got serviusly minned. He was held responsible in his afficial duty as he failed to adopt proper security measures Which shows gross abgligence and inefficiency on his part, He was assued Charge Sheet statement of nilegation and SP Investigation Dir Liwer was appointed as Unquiry Officer to conduct proper departmental enquiry against delinquent official and submit his finding report The Enquiry (Officer, during the course of enquiry recurded sutentent of all concerned as well as the delinquent utilicial and recommended him for awarding manor punishment the was called in orderty rown by the District Police Officer. Dir Dower on 102-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produce any edgent reason in his self defense nor sulfified the District Palice Officer, Del Lower, Therefore, the District Police Officer. Lower Dir in esercise of power vested under (E&D) Rules 1975 with oniended 2014. agreed with the finding of enquiry officer and awarded han major punishment of reduction in pay by three stages side OR No 456; dated 03-06-2022.

"He was called in Orderly Roant on 07-04-2022 and heard him in person but he did not produced any cogent reason to detend the charges leveled against him therefore, his appeal is hereby rejected.

LOAS District 21-10 Off Our Lower at Timero

Enclers Rell

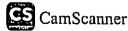
Regional Police Officer Malakand Region Sv

Copy to the District Police Unifer: Dir-Lower with reference to his office Memor Nu 61447.C, Lited 23-06-2022 and Nu 8089 F., dated 17-07-2027 the Service Roll-and Tuli Missal community enquiry file received with the memor under reference are returned herewith for record in your office.

CamScanner

ļ

Anner D بخد لمت جناب السيكثر جزل اف يوليس مباحب فيبر يخو لواا-5699 در خواست بمراد بدرداند فور عن (03) من خواددو ارد سال 38/9/12:-100 3 جنب علمان ما بيني (بل مرمن اد ماليا في . ب كرسائيل 2010 بمشيد كمنسليبان محرق ودر مرتاحال تهايت ايماندادق ب الاتى مراتجام وسند وبالب -ا) بيركرم، على عرم اي مال مع جود يش كادو على تعينات ديا-2) مدک مود او 20.04.2022 کو سب معنول عد است تیمز کروت خوان دارج است کرت عبر کمت سے تک گیت تیم کرو سے پاہر ى ولى من مواد كوت مسل الله توضي المح الدام ف والمله الزمان في توليس كا زير حرامت طومان مر فالجري عم مح جس - ومرجز است المد فالجرم فكبور كمك كرمان بحق يجد طوم على حدور شاريدا في دوار 3) یہ کہ اور جراست تدریال/مزمان کے مقاطبت پر معمور کیٹ ہے باہر تغسیبان نے مزدان مرفق میں جب جرون کی توشیر بالی دیر جراست طران جو کے فائیر کے اب سے بنائے کی و شخص شراحے شرائے ان کو 5 یو کو کے حوالت عاد المت میں بند کے بیونکے عاد الت کے جما کیے لے و کیم سے الال ت مراعد » السب شروب الدعد الت كي فمر المدور و الحكاد جرب ما عمل كاليار والكاليم من عن عنوط اردية ولا تدوير الد 4) - كد جناب DPO ساحب في محواليه آرار فم 455 مور 03.06.2022 من ما على في يعن منع مخواد كات وفي الماسط 5) بركرمن مانكل أيك فريب مرالي من تعلق وكمتاب مانتل نافي بجرار لاكاباب ب- ادد كمركادا جد كليل ب- الدوميني في وجرب ماس كى تمن سن محموا المولى - مشكار الم كاما مناسب لبدا بمالت بالااستد عاب كرمن ساتيل تين (03) من مخ ادود بارد بمال مرتب مع مناسب احكامات مساور فرم في ت ، حيات أما كور مع كا العاذمن ۲ بعد ار آلب احمد 1358 / ۱۱ اما متعینه ما لیس التن تیم ممر ومشر کت دیر او تشرب rwarded Forwarded D.m. DSI/HOm LO.p.line Dir (L) 26-09- 07-



OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND AT SAIDU SHARIF SWAT Ph: 0945-9240388 & Fax No. 0946-9240390 Email: ebmalakandregion@gmail.com

ORDER

Ť

This order will dispose of appeal of LHC Aftab Ahmad No.1358 of Dir Lower District in connection with major punishment awarded by the District Police Officer, Dir Lower vide OB No.455, dated 03-06-2022 i.e. reduction in pay by three stages.

Brief facts of the case are that as per preliminary enquiry conducted by DSP Legal Dir Lower wherein he stated that LHC Aftab Ahmad No.1358 while posted on escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat, in which 01 person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part. He was issued Charge Sheet statement of allegation and SP Investigation Dir Lower was appointed as Enquiry Officer, to conduct proper departmental enquiry against delinquent official and submit his finding report. The Enquiry Officer, during the course of enquiry recorded statement of all concerned as well as the delinquent official and recommended him for awarding major punishment. He was called in orderly room by the District Police Officer. Dir Lower on 02-06-2022 for personal hearing and full opportunity was given to him so explain his position but he badly failed to produce any cogent reason in his selfdefense nor satisfied the District Police Officer, Dir Lower. Therefore, the District Police Officer. Lower Dir in exercise of power vested under (E&D) Rules 1975 with amended 2014. agreed with the finding of enquiry officer and awarded him major punishment of reduction in pay by three stages vide OB No.456, dated 03-06-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

> Regional Police Officer, Malakand Region Swat

No.<u>9959/E</u>, Dated 19.09.2022

Copy to the District Police Officer. Dir Lower with reference to his office Memo: No.6193/EC, dated 23-06-2022 and No.8088/EC, dated 13-07-2022. His Service Roll and Fuji Missal containing enquiry file received with the memo: under reference are returned herewith for record in your office.



ORDER

This order is helder passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhlunkhwa Police Rule-1975 (amended 2014) submitted by LHC Aftab Ahmad No. 1358. The petitioner was awarded major punishment of reduction in pay by D2O Dir Lower vide OB No. 456, dated 03.06.2022 on the allegations that he while posted on escort duty for transportation of accused, on 20.04.2022 a firing incident took place outside Judicial complex/Color Balambat, in which one person was killed and one got injured. He was held responsible in his official cuty as he failed to adopt proper security measures which show gross negligence & efficiency on his part. The Appellate Authority i.e. RPO Malakand rejected his appeal vide Order Endst: No. 9958/E, dated 19/19.2022.

Meeting of Appellate Board was held on 12.12.202? wherein petitioner was heard in person. The petitioner contended that I was capturing the running detained prisoners/accused.

The Board accepted the revision petition of the petitioner and his punishment of reduction in pay by three stages is modified into minor punishment of stoppag: of one annual increment for three years without cumulative effect.

Sd/-

NUOFFICE OF THE PECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA

PESHAWAR.

93/16

AWAL KHAN, PSP Additional Inspector General of Police. HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2775-80 /23, dated Peshawar, the 22-12 - /2023.

Copy of the above is forwarded to the:

- Regional Police Officer Malakand. Service Roll alongwith Fuji Missal and Enquiry File of the above named LHC received vide your office Mimo. No. 13403-04/E, dated 01.12.2022 is returned herewith for your office record.
- 2. District Police Officer, Dir Lower.
- 3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
- 4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Pesha var.
- 5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
- 6. Office Supdt: E-IV CPO Peshawar.

(MUHAMMAD AZHART PSP

AIG/Establishment, For Li. spector General of Police, Ki yber Pakhtunkhwa, Peshawar.

بمراكرت ک. یک کے سہرو میں مطریقیںونل Appellon 15.2 Aftab Almael موزر GONOFKP Pi. متدمد رغوبي 17 باعت ترمرا تكه متدمة متدرجه عنوان بالاش الجن طراب ب واسط بيروي وجواب واي كاردان متاته آن متام مست ملك الملك طعق الم متر برت اتراركيا جاتا ب- كدما سب مدصوف كومقد مدك كل كاردال كاكال اختيار ، وكاليز ويكر بساحب كررافتي نامسكر ... في وتفرر داليت و فيصل برحلف دسي جداب دام ادرا تبال دعو كما ادر ... درت در کرتے اجرامادر صول چیک درد سیار عرض دعو کادر درخواست برسم کی تقدر ان دراي بدو منطكماند الما الشيار موجا - بمزصد در عدم بردى ماذكرى ميطرفه ما اييل كا مرامدك ادرمنسوي نیز دائر کرنے ایک نظرانی دنظر ثانی دیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقد مدیر کور مرتل باجردي كارداني محدوا سط اوروكيل بامختارتا لونى كواسية امراه بااسية بتحاسة تغزر كااختيار الموذ اورساحب مفرد شده كرجحي والاجمل فكوره بالفقيارات حاصل بوك محاوراس كاساغت کر لی جارج بیشی مقام دادره پر ابویا حد م با مرمونو دیک ساحب پابند مول کے کر بیردی اركوركر من المرد ادكالت نامد كاعديا كمستدد ب 120 24 (1)00 11 الرزل Aged Nursel Alt 1 22-5458 June scepter 17-7302 17-7302 23018521721 M316-3353553 Scanned with CamScanner