


FORM OF ORDER SHEET

Court of _____

Appeal No. 256/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/02/2024	<p>The appeal of Mr. Irfanullah resubmitted today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Irfan Ullah received today i.e on 01.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Page Nos. 16 to 21, 32 & 43 of the appeal are illegible be replaced by legible/better one in the original appeal as well as in spare copies.

No. 222 /S.F.


Dt. 2/2 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Bukhari Adv.
High Court at Peshawar.

- ① Requested all objection Recd
- ② Page no. 16 to 21-32-43 better copy and all objection closed


12/2/24

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. 256 /2024

Irfanullah

V/S

Police Deptt.:

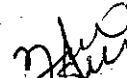
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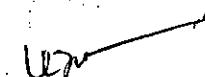
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APPELLANT

Irfanullah

Through


SYED NOMAN ALI BUKHARI
Advocate High Court
Peshawar


UZMA SYED

1

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

Appeal No: 256 /2024

Mr. Irfanullah No.686/SB,
Police Head Quarter, Peshawar.

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G. Special Branch, Peshawar.
3. The S.S.P, Special Branch, Peshawar.

RESPONDENTS

.....

**SERVICE APPEAL UNDER SECTION-4 OF THE
KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDER DATED 11.04.2011
WHEREBY THE APPELLANT HAS BEEN REMOVED
FROM THE SERVICE AND THE ORDER DATED
29.01.2016 WHEREBY THE APPEAL OF THE
APPELLANT HAS BEEN REJECTED FOR NO GOOD
GROUNDS IN VIOLATION OF SERVICE TRIBUNAL
JUDGMENT.**

PRAYER:

**THAT ON ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 11.04.2011 AND 29.01.2016 MAY BE SET
ASIDE AND THE APPELLANT MAY BE REINSTATED
INTO SERVICE WILL BACK BENEFITS. OR THE
BENEFITS OF THE JUDGMENTS DATED 02/01/2019
PASSED IN SERVICE APPEAL NO: 256/2016 MAY**

SIMILAR FOOTING IN LIGHT OF SUPREME COURT JUDGMENT CITED AS 2023 SCMR 1313, 2018 SCMR 380, 1985 SCMR 1185 ON THE PRINCIPLE OF CONSISTENCY. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS

1. That the appellant was recruited as Constable in the Special Branch on 16.02.2008 for .Canine Unit. The appellant duly joined the course under Army Personal but he returned the appellant without completing course. After returned, the appellant reported to the Establishment Section who referred the appellant to I.T. Section and then the appellant was remained on duty. All these facts are narrated in the reply of show cause notice, The copy of which is already attached.
2. That on 22.9.2010, the show cause notice was issued to the appellant in which he was charged for not assuming the duty in Canine Unit, the appellant filed reply to the show cause notice wherein he explained the whole position. **Copy of show cause notice is attached as Annexure-A.**
3. That on 18.10.2010, the appellant along with colleague Mr. farid was directly discharged form service under Police Rules 12-21 which was set aside vide order dated 22.10.2010 by AIG Special Branch with the directions for issuing of fresh show cause with summary of allegations. **Copies of Orders are attached as Annexure-B and C.**
4. That thereafter charge sheet and statement of allegations was issued to the appellant on 26.10.2010 wherein the appellant was charged for absented himself without prior permission and was failed to comply with the order of superior officers. The appellant file details reply to the charge sheet and then enquiry was conducted in which the inquiry officer clearly stated that the allegations for non-compliance and absented from duty are not based on facts and the appellant is proved

(3)

innocent. **Copy of Charge sheet and Statement of Allegations and Inquiry Report are attached as Annexure-D, E and F.**

5. That the respondents kept mum on the findings of the inquiry officer (Muhammad Iqbal Khan) and issued another charge-sheet and statement of allegations on 31.1.2011 in which the appellant was charge sheeted for not qualifying the prescribed training for dog handling, not properly handle and look after the snuffer dogs, not taking interest in the professional duty in Canine Unit and having no knowledge about Dog handling and lastly failure and assuming in Canine Unit. **That copy of Charge-sheet and Statement of allegations are attached as Annexure-G and H.**
6. That on 18.2.2011, the final show cause notice was issued to the appellant which was properly replied / but despite of that the appellant was removed from service under RSO, 2000 vide order dated 11.4.2011. The appellant filed appeal against the impugned order on 12.4.2011 and waited for 60 days but no reply has been received within stipulated period. **Copies of Final Show cause Notice, Reply , Order and Departmental Appeal are attached as Annexure-I, J, K and L.**
7. That against the above impugned order, the appellant filed Appeal No.1314/2011 in the Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar. The Honourable Service Tribunal decided the case on 23.12.2015 through its Judgment dated 23.12.2015 in which the appeal of appellant was remitted to the appellate authority to examine the case and decide the departmental appeal of the appellants on merit strict in accordance with law and rules within 45 days of the receipt of the Judgment. **Copies of Judgment are attached as Annexure-M.**
8. That after more than two months of the announcement of the Judgment of this Honourable Tribunal, the respondent without examining the case, the department rejected the appeal of the appellant for no good on 29.01.2016. **Copy of Rejection Order is attached as Annexure-N.**
9. That the other colleague of the appellant namely Farid Khan, filed service appeal no: 256/2016 who are hire and fire together with the appellant, which was accepted by the Hon'able tribunal vide

was reinstated in to service, with the same prayer as that prayed by the appellant in the instant appeal. **(Copy of the judgment is attached as Annex-O).**

10. That the appellant also filed application from time to time but the deptt: not taking any action on the application of the appellant. The appellant being aggrieved and having no other efficacious remedy except to file the instant appeal for the redressal of his grievance before this Hon'able Tribunal on the following grounds amongst others. **Copy of the applications are attached as annexure-P.**

GROUND:

- A. That the impugned orders dated 11.04.2011 and 29.01.2016 are against the law, facts, material on record and therefore, liable to be set aside.
- B. That the charge sheet was served on the appellant directly by the authority and not by the inquiry committee and as such the respondents have violated Rules-5(1) (a) of the RSO 2000.
- C. That the appellant was not associated with the inquiry proceedings nor the appellant was allowed to cross examine and witness against him. Therefore the respondents have violated Section-5(1) (c) of the RSO.
- D. That the appellant was condemned un-heard and was not given any chance of personal hearing to the appellant despite of proper request which is against the principle of justice.
- E. That the appellant was remained on duty throughout the period and never remained absent from duty nor denied to perform any kind of duty rather the appellant is always remained obedient to the order of his superior and vigilantly performed his duty. This was proved from the recommendation.
- F. That the appellant had joined the training at Army Dog Breeding Training Centre, Rawalpindi and remained there for 9 days but then Lt. Col./ Incharge of the Centre sent back the appellant from training by showing that the training is meant for Ex-Army Personal. After returned from training center from Rawalpindi the appellant remained

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- G. That the appellant is innocent but despite of that the respondents are bent upon to remove the appellant from service in a illegal and arbitrary manner because neither the absence proved against the appellant nor the appellant refused to perform the duty in the Canine Unit and even the charge sheet was issued on 31.1.2010 which was made after 3 years of the recruitment of the appellant which is baseless because if they found that the appellant has not enough knowledge in dog breeding then he can be deputed to other branch for some other duty.
- H. That other colleagues of the appellant named Farid khan, with the same prayer as that prayed by the appellant in the instant appeal, had filed a service appeal before this honorable Tribunal and this honorable Tribunal graciously accepted his appeal through judgment dated 02/01/2019 and they are re-instated in the light of that judgment. That under the Rule of Consistency the appeal of the appellant may also be accepted as prayed for as being a similarly placed person, as principal enumerated in Superior Court Judgment cited as 1985 SCMR 1185, 2003 SCMR 1030, 2009 SCMR -1, 2018 SCMR 380, 2015 PLC (C.S) 1406, 2021 SCMR 1313, 2022 PLC (C.S)94 AND 2022 PLC (C.S) 288. Copy of record is attached as annexure-Q.
- I. That in similar circumstances the Honorable Tribunal accepted the appeal no:2013/2017 titled as Arisf Shah vsC&Wdeptt: vide judgment dated 06.08.2019 and the same was also upheld by the Supreme Court of Pakistan. And in light of that judgment Honorable Tribunal also accepted Aizaz Khan vsC&W. **(Copy of judgment is attached as annexure-R).**
- J. That the Honorable Tribunal already set-aside the impugned order dated 29/01/2016 which is one and same order which is no more in field.
- K. That the impugned order has passed on malafide and to save skin of high ups at the cost of appellant.
- L. That the appellant has not been treated fairly and justly and has been discriminated.

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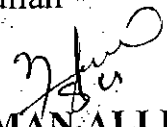
M. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

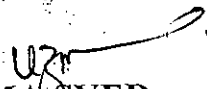
It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.


~~Appellant~~

Irfanullah

Through:


SYED NOMAN ALI BUKHARI
Advocate High Court
Peshawar


UZMA SYED
Advocate High Court ,Peshawar

(7)

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. _____/2024

Irfanullah

V/S

Police Deptt.

CERTIFICATE:


It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

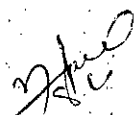
LIT OF BOOKS:


1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.

Appellant


Irfanullah

Through


SYED NOMAN ALI BUKHARI
Advocate High Court
Peshawar


UZMA SYED
Advocate High Court, Peshawar

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BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR.

SERVICE APPEAL NO. _____/2024

Irfanullah

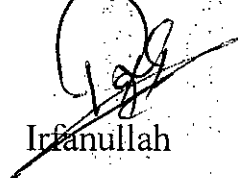
V/S

Police Deptt.

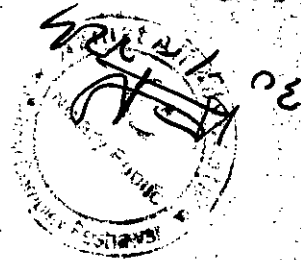
AFFIDAVIT

I, Irfanullah(Appellant), do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honourable Tribunal.

DEPONENT


Irfanullah

ATTESTED



(9)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____/2024

Irfanullah

V/S

Police Deptt:

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**APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL IF ANY.**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honourable Tribunal in which no date has been fixed.
2. That the relief was already granted to similar placed person, so in the light of the Superior Court Judgment reported as 2018 SCMR380, 2021 SCMR 1313, 2022 PLC cs 94 and 2022 PLC cs 288, laches losses force in matter where similar relief granted to similar placed person. So limitation no run in the instant appeal.
3. That the same principal followed in the appeal no: 2013/2017 decided on 06.08.2019 and delay was condoned and the appeal was accepted and the same was also upheld by the Supreme Court of Pakistan.
4. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.


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It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.


APPELLANT

Irfanullah

Through


SYED NOMAN ALI BUKHARI
Advocate High Court
Peshawar


UZMA SYED
Advocate High Court, Peshawar

SHOW CAUSE NOTICE

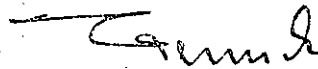
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You constable Irfan Ullah No.686/SB of Canine Unit Special Branch was directed by the then Addl: IGP Special Branch KPK Peshawar through DSP/HQ: on 26.08.2010 to assume your duty (in Canine Unit/SB) but you have failed to comply the superior orders inspite of clear direction.

You are therefore, called upon show cause notice for your mis-conduct as to why you should not be dealt with departmentally.

Your reply should reach to the undersigned within 7 days of the receipt of this notice failing which it shall be presumed that you have nothing to say and exparte action will be taken against you.



SSP/Admn:
SPECIAL BRANCH KPK PESHAWAR

No. 5279/EB

Dt: 22/9/2010

ORDER

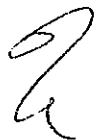
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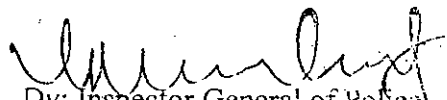
B

The following constables were enlisted for Canine Unit Special Branch to look after the Snifer Dogs wef 16.02.2008. They have been send to Dog Breeding and Training Center Rawalpindi where they completed two week training.

1. Farid Khan./ No.685/SB
2. Irfan Ullah. 685/SB

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that both the constables are absented without prior permission. On the compliant of AIG/BDU they were served with show cause notices. The replies of show cause notices found unsatisfactory and they have been found guilty of gross misconduct. Therefore, they are hereby "Discharge" from service under Police Rules 12.21 with immediate effect.




Dy: Inspector General of Police
Special Branch Khyber Pakhtunkawa
Peshawar

No. 5793-97 /EB, dated Peshawar, the 18-10-2010
Copy forwarded to all concerned.

ORDER

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C

Having perused the record and office order issued vide No.5793-97/EB, dated 18.10.2010, I set aside the impugned order and reinstate constable Irfan Ullah No.686/SB with immediate effect.

It is directed that fresh show cause with summary of allegations shall be issued and enquiry conducted into allegations. The enquiry shall be on day to day basis.

(Syed Ahtar Ali Shah)
Addl. Inspector General of Police
Special Branch KPK Peshawar

No. 5975-78 /EB

Date 12-10-2010

Copy forwarded to all concerned

CHARGE SHEET

D

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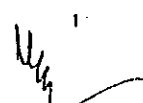
I, Waheed ur Rahman SSP/Admn: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Irfan Ullah No.686/SB of Canine Unit Special Branch KPK Peshawar. as follows:-

That you were enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. You were selected for Dog Breeding and Training Center Rawalpindi where you completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that you are absented without prior permission. You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite of clear direction.

By reasons of the above you appear to be guilty of misconduct under section (3) of the KPK, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore, directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Enquiry Officer as the case may be.
3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case, exparte action shall follow against you.
4. Intimate whether you desire to be heard in person.
- 5 Statement of allegation is enclosed.


(Waheed ur Rahman)
SSP/Admn:
Special Branch KPK Peshawar.

E 15

SUMMARY OF ALLEGATIONS

I, Waheed ur Rahman SSP/Admn: Special Branch KPK Peshawar am of the opinion that constable Irfan Ullah No.686/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the KPK Removal from Service(Special Power) Ordinance 2000.

STATEMENT OF ALLEGATIONS


That he was enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. He was selected for Dog Breeding and Training Center Rawalpindi where he completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that he has absented without prior permission. He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite of clear direction.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

i. Mr. Muhammad Iqbal DSP/HQ/SB

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.


(Waheed ur Rahman)
SSP/Admn:

Special Branch KPK Peshawar.

NO. 6014-16 /EB, Dated Peshawar the, 26/X /2010.

Copy of above is forwarded to the:-

1. Mr. Muhammad Iqbal DSP/HQ/SB for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.
2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.

(5)
F (16) F

DEPARTMENTAL ENQUIRY AGAINST CONSTABLE
IRFANULLAH NO. 686/SB OF CANINE UNIT SPECIAL
BRANCH, KHANBER PUKHTUNKHWA, PESHAWAR.

The above mentioned departmental enquiry was entrusted to the undersigned vide letter No. 6014-16/EB dated 26.10.10.

It has been alleged that constable Irfanullah absented himself from duty without prior permission. He was directed time and again to assume duty in Canine Unit but he failed to comply with the orders of superior officers in true spirit despite of clear direction.

To probe in the matter, the defaulter constable Irfanullah along with PA to AD/BDU Niaz Wali Stenographer, Inamullah Establishment Clerk and Aurangzeb Khan SI (Rtd) the then Line Officer Special Branch were examined and their statements were recorded which are as under:

Constable Irfanullah No. 686/SB stated that he was enlisted as constable on 16.02.2008 in Canine Unit of Special Branch. After enlistment he along with constable Farid Khan was sent to Dog Breeding and Training Center, Rawalpindi for training where they spent mere nine (09) days without getting any kind of training and then released with a movement order issued from the Center with the Officer Incharge's conclusion of being unfit for Canine unit. After arrival at Special Branch HQRs, Peshawar, he was handed over to JIT Section where he served only one month and afterwards he was deputed on the Bungalow of the then worthy Addl: IGP Special Branch Amir Hamza Mehsood situated in Gulbahar, Peshawar where he spent one year. Afterwards, he started performing security duties in the Security Section of Special Branch besides working as Orderly to the office DSP HQRs/SB. In the mean while on 22.09.10, he received Show Cause Notice for non compliance and on 18.10.10 he was discharged along with constable Farid Khan from service under Police Rules 12: 21. On 22.10.10, worthy Addl: IGP Special Branch set aside the impugned discharge order and reinstated him with immediate effect.

departmental inquiry against constable Irfan Ullah No. 686/ SB have gaining Canine Unit Special Branch Khyber Pakhtunkhwa Peshawar.

The above mentioned departmental inquiry was entrusted to the undersigned vide letter No. 6014 dated 26.10.10.

It has been alleged that constable Irfan Ullah absented himself from duty without prior permission he was directed time and again to assume duty in Canine unit but he failed to comply with the orders of superior officers in true spiritual despite of clear direction.

To probe in the matter the defaulter constable Arfan Ullah along with PA to A/BDU stenographer Niaz Wali Stenographer Inam Ullah establishment clerk and aurangzeb Khan SI retired the then Line officer Special Branch were examined and their statements were recorded which are is under.

Constable Irfan Ullah Lab No 686/ SB stated that he was enlisted as constable on 16.02.2008 in Canine Unit of Special Branch after enlistment he along with constable Farid Khan was sent to dog breeding and training centre Rawalpindi for training where the spent mere 9 days without getting any kind of training and then released with movement order issued from the centre with the officer incharge's so conclusion for being unfit for canine unit. After arrival at Special Branch HQ RS Peshawar he was handed over to JIT when he served only one month and afterwards he was deputed on the Bengalow of the then worthy additional IGP Special Branch Amir Hamza Mehsud situated in Gul Bahar Peshawar where he spent one year afterwards he started performing security duties in the security section of Special branch beside working as orderly to office DSP headquarters SB. In the meanwhile on 22.09.2010 he received show cause notice for non compliance and on 18.10.2010 he was discharged along with constable Farid Khan from service under police rules 12/2021. On 22.10.2010 worthy additional IGP Special branch set aside the impugned discharge order and reinstated him with immediate effect.

He further stated that the Officer Incharge of Dog Breeding and Training Center Rawalpindi declared him along with constable Farid Khan not fit/suitable for this training/job and did not give course completion certificate rather only handed over movement order for returning back. Further stated that it came to his knowledge at the Center that the said course duration is at least six (06) months and on qualifying one can get completion certificate. After arrival from Rawalpindi, he made it clear to Inamullah Establishment Clerk to bring this fact in to the notice of High-ups but the same was not conveyed. However recently after Constable Farid Khan was reinstatement, he along with Constable Farid Khan was summoned/interviewed by AIG BDU where they narrated the whole episode and AIG BDU also agreed that they are not fit for the specific job of Canine Unit as being untrained to handle these precious dogs. AIG BDU also directed his PA Niaz Wali to write a letter in this regard to High-ups of Special Branch for accommodating/transferring both to some other section of Special Branch being unfit/untrained. He further stated that when dogs were provided to Canine Unit, three Army retired soldiers (Punjab Domicile) were employed for the specific job of handling these precious dogs. He once again stressed on the point that he never absented himself from duty and being residing in Special Branch premises as he is native of District Bannu how it could be possible to made himself absent.

Niaz Wali Stenographer, PA to AIG BDU Special Branch stated that on 26.10.2010 two constables named Farid Khan 685/SB and Irfanullah 686/SB (enlisted for Canine Unit Special Branch on 16.02.2008) reported their arrival for duty from Security Section. Both the constables have been examined by AIG BDU/SB who after listening their plea ordered that they are not fit for Canine Unit as untrained and be accommodated in Security Section or any other section of Special Branch.

Better Copy

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He further stated that the officer in charge of dog breeding and training Centre Rawalpindi declared him along with Constable Farid Khan not fit/suitable this training job and did not give course completion certificate to rather only handed over movement order for returning back. Further stated that it came to his knowledge at the centre that the said course duration is at least six months and on qualifying one can get completion certificate. After arrival from Rawalpindi he made it clear to Inam Ullah establishment Clerk to bring this fact into the notice of high ups but the Same was not conveyed however recently after reinstatement he along with constable Farid Khan was summoned/ interviewed by a AIG/BDU where they narrated the whole episode and a AIG BDU also agreed they are not fit for the specific job of canine unit as being untrained to handle these precious dogs AIG BDU also directed his PA Niaz Wali to write a letter in this regard too high ups a Special Branch for accumulating/ transferring both to some other section of Special Branch being unfit/ untrained. He further stated that when dogs were provided to Canine unit three army retired Soldiers (Punjab domiciled) were employed for the specific job of handling these precious dogs he once again stressed on the point that he never absented himself from duty and being residing in special branch premises as he is native of district bannu how it could be possible to made himself absent.

Niaz Wali Steenographer, PA to AIG BDU Special Branch stated date on 26/10/2010 two constables named Farid Khan 685/SB and Irfan Ullah 686/SB in listed for Canine Unit Special Branch on 16.02.2008 reported their arrival for duty from security section. Both the constables have been examined by AIG/BDU/SB who after listening their plea ordered that they are not fit for Canine unit as untrained and be accommodated in security section or any other Section of Special Branch.

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Both the constables have been examined by AIG BDU SB who after listening their peal ordered that they are not fit for Canine Unit as untrained and be accommodated in Security Section or any other section of Special Branch.

Inamullah Establishment Clerk Special Branch stated that he handed over the services of constable Fa'id Khan 685/SB and Irfanullah 686/SB to the then Line Officer SI (Rtd) Aurangzeb Khan for security duties on the verbal order of the then SSP Admn/SB.

Aurangzeb Khan SI (Rtd) the then Line Officer Special Branch stated that both constables Fa'id Khan 685/SB and Irfanullah 686/SB performed their duties in Special Branch HQRs.

FINDINGS:

After going through the statements of the witnesses and defaulter Constable Irfanullah No. 686/SB it was established beyond any doubt that he was condemned unheard as he served more than two (02) years (his entire service is 02 year and 10 months) in JIT and Security Section of Special Branch which is in the knowledge of High-ups. He is an untrained constable for this specific job of Canine Unit and reverted back from Dogs Breeding and Training Center Rawalpindi as unfit for the job. After arrival from Rawalpindi, he informed Inamullah Establishment Clerk about this but no heed was paid. It is also on record that he was interviewed by AIG BDU/SB who also declared him unfit for Canine Unit and recommended to be adjusted/accommodated in some other section unit of Special Branch. The allegations/charges leveled against him for hour compliance or absenteeism are not based on facts and he is proved innocent. If approved, the said enquiry must be filed and the defaulter constable be adjusted in some other unit/section of the Special Branch besides sending him for basic policing recruit course.

Submitted please.


(MUHAMMAD IQBAL KHAN)
DSP-HQRs/SB

Both the constable have been examined by AIG BDU/SB who after listening their peal ordered but they are not fit for Canine unit is untrained and be accommodated insecurity section or any other section of special branch.

Inam Ullah Establishment Clerk stated that he handed over the services of constable Farid Khan 685/SB and Irfan Ullah 686/SB to the then Line officer SI (retired) Aurangzeb Khan for security duties on the verbal order of the then SP admin/ SB.

Aurangzeb Khan SI retired the then line officer Special Branch stated that both constables Farid Khan 685/SB and Irfan Ullah 686/ SB performed their duty in Special Branch headquarters.

Findings

after going through the statements of the witness and defaulter constable Irfan Ullah 686/SB it was established beyond any doubt that he was condemned unheard as he served more than two years (his entire service is two years and ten months) in JIT and security section of Special Branch which is in the knowledge of high ups. He is an untrained constable for this specific job of Canine unit and reverted back from dogs breeding and training centre Rawalpindi is unfit to for the job. After arrival from Rawalpindi, he informed Inam Ullah establishment clerk about this but no he was paid. It is also on Record that he was interviewed by worthy AIG BDU/USB who also declared him unfit for Canine unit and recommended to be adjusted/ accommodated in some other section unit of Special Branch. The allegations/ charges levelled against him for hour complaints are absentia here and not based on facts and he is proved innocent. If approved the said inquiry may be filed and the defaulter constable be adjusted in some other unit section of the Special Branch besides the sending him for basic policing recruit course.

Submitted please.

Muhammed Iqbal Khan
DSP headquarters the SB

19
عنوان ال

CHARGE SHEET.

1. Abdul Ghafoor Afridi SSP/Admn: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Irfan Ullah No.686/SB of Canine Unit Special Branch KPK Peshawar. as follows:-

i) That you were recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008. You could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, you are unfit to perform the duties of dog handling for which you had been recruited.

ii) That you while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but you failed to perform the said job as reported by I/C Canine Unit Special Branch.

iii) As per report of DSP Tanveer Ahmad supervisory officer of Canine Unit Special Branch you did not take interest in your assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties.

vi) You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite clear direction but you failed to take interest in the job assigned to you, therefore you are no more fit to remain in force.

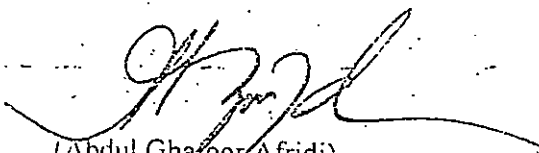
By reasons of above acts of omission and commission you are guilty of misconduct under section (3) of the NWFP. Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance ibid.

2. You are therefore directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee Enquiry Officer as the case may be.

3. Your written defence if any should reach the Enquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case. Exparte action shall be taken against you.

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

5. Statement of allegation is enclosed.


(Abdul Ghafoor Afridi)

SSP/Admn:
Special Branch KPK Peshawar:

Charge Sheet

I Abdul Ghafoor Afridi SSP/Admin Special Branch KPK Peshawar as competent authority hereby charge you constable Irfan Ullah No 686/SB of Canine unit Special Branch KPK Peshawar as follows.

- ii. That you while posted at canine unit BDU Special Branch to properly handle and look after the sniffer dogs but you failed to perform the said job is reported by I/C Canine Unit Special Branch.
- iii. As per report of DSP Tanveer Ahmad supervisory officer of canine unit Special Branch you did not take interest in your assigned professional duties in canine unit/ SB and have no knowledge whatsoever regarding dog handling duties.
- iv. You were directed time and again to assume duty in Canine unit but you failed to comply with the orders of your superior officers in true spirit despite clear direction but you failed to take interest in the job assigned to you therefore you are no more fit to remain in force.

By reasons of above acts of omission and Commission you are guilty of misconduct under section 3 of the NWFP removal from service (special power ordinance 2000) and have rendered yourself liable to all or any of the penalties specified in section (3) of ordinance ibid.

2. you are therefore directed to submit your written defence within seven days of the receipt of this charge sheet to the committee inquiry Officer as the case may be.
3. You are written defence if any should reached the inquiry officer committee within the specified period failing which it shall be presumed that you have no defence to put in instant case experte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.

Abdallah Afridi
SSP Admin
Special Branch KPK
Peshawar

H do

SUMMARY OF ALLEGATIONS

I. Abdul Ghafoor SSP/Admn: Special Branch KPK Peshawar am of the opinion that you constable Irfan Ullah No.686/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts omissions within the meaning of section (3) of the NWFP Removal from Service(Special Power Ordinance 2000.

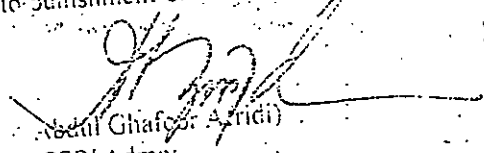
STATEMENT OF ALLEGATIONS

- i) That he was recruited for purpose of dog handling in the Canine Unit and sent for one month training from 01.03.2008 to 31.03.2008. He could not qualify the prescribed training for dog handling therefore returned as unqualified. As per available evidence on record, he is unfit to perform the duties of dog handling for which he had been recruited.
- ii) That he while posted at Canine Unit BDU Special Branch to properly handle and look after the sniffer Dogs, but he failed to perform the said duties as reported by IC Canine Unit Special Branch.
- iii) As per report of DSP Tanveer Ahmad supervisor, officer of Canine Unit Special Branch he did not take interest in his assigned professional duties in Canine unit/SB and have no knowledge what-so-ever regarding dog handling duties.
- vi) He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite clear direction but he failed to take interest in the job assigned to him, therefore he is no more fit to remain in force.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

- i. DSP Mohammed Riaz (Dsp Analysis)
- ii. DSP Abdul Rasheed (Cst)

3. The Enquiry Officer/Committee shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.


Abdul Ghafoor (Afridi)
SSP/Admn:
Special Branch KPK Peshawar.

NO. 739-41 /EB. Dated Peshawar the 31/1/2011.

Copy of above is forwarded to the:-

- 1. _____ for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.
- 2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings
- 3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.

Summary of allegation

I Abdul Ghafoor SSP/Admin Special Branch KP Peshawar of the opinion that you constable Irfan Ullah No 686/SB while posted to canine unit have rendered himself liable to be proceeded against as you committed the following acts omissions within the meaning of section (3) of the NWFP removal from service special power ordinance 2000.

statement of allegations

- i. That he was recruited for purpose of dog handling in the Canine Unit and sent for one month training from 03.03.2008 to 31.03.2008 he could not qualify the prescribed training for dog handling therefore returned is unqualified as per available evidence on record he is unfit to perform the duties of dog handling for which he had been recruited.
- ii. That he while posted at canine unit BDU Special Branch to properly handle and look after the sniffer dogs but he failed to perform the duties as reported by I/C Canine unit special branch.
- iii. As per report of DSP tanveer Ahmad supervisor Officer of Canine unit Special Branch he did not take interest in his assigned professional duties in canine/ SB and have no knowledge whatsoever regarding dog handling duties.
- vi. He was directed time and again to assumed duty in Canine unit, but he failed to comply with the orders of his superior officers in true spirit despite clear direction but he failed to take interest in the job assigned to him, therefore he is no more remain in force.
2. For the purpose of scrutinize the conduct of the said accused with reference to the above allegations as enquiry officer named above is appointed under section (3) of the Ordinance.
 - i. DSP Mohammad Riaz (DSP Analysis).
 - ii. DSP Abdur Rashid.
3. The Enquiry Officer /Committee in accordance with the provisions of the Ordinance. Provide reasonable opportunity of hearing to the accused record its findings and make 25 days of the receipt of this order recommendation is to punishment action against the accused.

Abdul Ghafoor Afridi

SSP/Admin

Special Branch KPK, Peshawar

No. 739-41/EB, Dated Peshawar the 31/01/2011

Copy forwarded to the.

1. _____ for initiating departmental proceedings against the accused under the provisions of KPK removal from Service (Special Power) Ordinance 2000.
2. Constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of enquiry proceedings.
3. Establishment Clerk with the direction to assist the inquiry Committee during the enquiry proceedings.

FINAL SHOW CAUSE NOTICE

1. Abdul Ghafoor Afridi SSP/Admn Special Branch Khyber Pakhtunkhwa Peshawar, as competent authority under Removal from service (Special-Power) Ordinance 2000, do hereby charge you constable Irfanullah No. 686/SB of Canine Unit Special Branch Khyber Pakhtunkhwa Peshawar on the following omission/commission.

That you were recruited for proper handling and look after of sniffer Dogs in the Canine Unit Special Branch but you failed to perform your duty in true spirit.

That you while deputed to Army Dog Breeding Centre and School Rawalpindi for proper Dog handling training vide this office letter No. 216 BK, dated 23/02/2008, where from you returned back as unqualified on 12.03.2008.

That as per report of Incharge Canine Unit DSP/Laweer Ahmad you are not willing to serve in the Canine Unit as you were not taking interest in the look after of sniffer dogs and proved your self inefficient.

That you were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers but you have not taking interest in the duty assigned to you.

i. That consequent upon the completion of enquiry conducted against you by DSP/JT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn, Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance.

3. You are therefore, directed through this final show cause with in 15 days as to why the aforesaid penalty should not be imposed upon you.

4. In case your reply is not received within the stipulated period, it shall be presumed that you have no defense to put, in that case an ex parte action shall be taken against you.

Also state as to whether you desired to be heard in person.

5. The copy of the finding of the Enquiry Officer is enclosed.

(Constable Irfanullah No. 686/SB)

No. 1260/EB

Dt 18-2-2011

(Abdul Ghafoor Afridi)
SSP/Admn
Special Branch, KPK Peshawar.

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(I) (21)

FINAL SHOW CAUSE NOTICE

I Abdul Ghafoor SSP Admin Special Branch Khyber Pakhtunkhwa Peshawar competent authority under removal from service Special Power Ordinance 2000 do hereby charge you Constable Irfan Ullah No. 686/SB of Cannon Special Branch Peshawar as follows.

(i). That you were recruited for proper handling and lookafter of sniffer dogs in the Canine Unit Special Branch but you failed to perform in true spirit.

That you while recruited to Army dog breeding centre and School Rawalpindi for proper dog handling vide this office letter No. FB dated 28.02.2010 where from you returned back as unqualified 12.03.2008.

That as per report of incharge Canine DSP Tanveer Ahmad you are not willing to serve in the Canine Unit as you were not taking interest in the look after of sniffer dogs and proved you self inefficient.

That you were directed time and assumed duty in Canine Unit but you failed to comply with the orders of superior officers but you have not taking interest in the duty assigned to you.

- i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP Research and Analysis Special Branch you were full opportunity of hearing but you could not be advanced any cogent reason in your self defence. Hence the charges levelled against you weren proved beyond any shadow of doubt.
- ii. After going through the finding and recommendation of the enquiry officer the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section 3 of the said Ordinance as a result thereof, I Abdul Ghafoor SSP admin Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you major penalty of removal from service under services rules and ordinance.
- iii. You are therefore directed within 15 days as to why the aforesaid penalty should not be proposed upon you.
4. In case your reply is not received with period it shall be presumed that you have no defense to put, in that case in exparte action shall be against you.
Also state as to whether you desire heard in person.
5. The copy of the finding of the Enquiry officer enclosed.
(Constable Irfanullah No. 686/SB)

(Constable Irfan Ullah)
Abdul Ghafoor
SSP/Admin
Special Branch KPK Peshawar

جناب عالی

بحوالہ فائل شوکاژ نوٹس بذریعہ چھٹی انگریزی نمبر 1260/EB مورخہ 18/2/2011 معروض ہوں کہ سائل مورخہ 16-02-2008 سیشن
 براچ کینائن (Canine) پونٹ میں بھرتی ہونے کے بعد سائل کو ہمراہ کانشیل فرید خان ڈاگ بریڈنگ اینڈ ٹریننگ سنٹر اولڈ پلنڈی بھیجا گیا جہاں ہم نے
 9 دن گزارے اور ٹریننگ کئے بغیر ہی انچارج ٹریننگ سنٹر نے ہمیں واپس بھیج دیا۔ ٹریننگ سنٹر سے واپس آنے کے بعد اسٹیمپلڈ کلرک انعام نے یہ کہا کہ
 اب انہیں بیسک ریکورٹ کورس کے لیے پولیس ٹریننگ سنٹر ہنگو بھیجا جائے گا لیکن اس کے برعکس انعام نے ہمیں جے آئی ٹی سیکشن کے حوالے کیا اور سائل نے
 یہاں تقریباً ایک مہینہ جے آئی ٹی میں گزارا۔ اسکے بعد سائل سابقہ ایڈیشنل آئی جی سیشن براچ امیر حمزہ محمود صاحب کے ہنگو واقع گل بہار نمبر 5 نزد رنگ روڈ
 پشاور میں تقریباً ایک سال ڈیوٹی سرانجام دی اور ہنگو سے کلوز ہو کر باقی کا عرصہ سائل نے سکیورٹی سیکشن سیشن براچ میں اپنی ڈیوٹی سرانجام دی ہے اور اس بابت
 سکیورٹی براچ کے افسران باحج رہیں۔ حال ہی میں سائل کو اللہ تعالیٰ نے ڈی آئی خان میں وزیر اعظم کی سکیورٹی ڈیوٹی سرانجام دینے کے دوران ایک بڑے
 ٹریفک حادثے میں زخمی ہونے سے بچایا جب سیشن براچ کی گاڑی ڈی آئی خان سے واپسی پر ٹریفک حادثے کا شکار ہوئی اور اس میں سیشن براچ کے متعدد
 اہلکاران شدید زخمی ہوئے تھے۔ سائل نے یہ تمام واقعہ صرف اور صرف اس لیے لکھا کہ سائل نے اپنے ذمے تمام ڈیوٹیاں نہایت ایمانداری اور خوش اسلوبی سے
 سرانجام دی ہیں۔ آپ صاحبان اگر چیک کرنا چاہتے ہیں تو سیشن براچ کے کورٹ سے اسلحہ تقسیم رجسٹر سے اس بات کو چیک کر سکتے ہیں کہ مجھے اسلحہ دیا گیا ہے اور
 آپ صاحبان اس بات سے بھی باخبر ہونا چاہیے کہ میں نے کوئی باقاعدہ پولیس یا کسی اور قسم کا ٹریننگ نہیں کیا ہے۔ اس ضمن میں یہ عرض ہے کہ مورخہ
 10-08-27 اے آئی جی بم ڈسپوزل پونٹ کے حضور ہمراہ فرید، لائن آفیسر خالد خان، اسٹیمپلڈ کلرک انعام اور ڈی ایس پی ہیڈ کوارٹر محمد اقبال خان معروض
 رپورٹ ڈیوٹی حاضر ہوئے۔ سائل اور فرید کانشیل ضلع ہونوں کے رہائشی ہیں اور یہ چونکہ یہاں اپنا ذاتی رہائش گاہ نہیں تھی بدیں وجہ شروع دن سے سیشن براچ
 میں رہائش پذیر ہیں۔ اسی دوران مورخہ 10-09-22 بذریعہ چھٹی انگریزی نمبر 5279/E سائل کو شوکاژ نوٹس بابت حکم عدولی موصول ہوا۔ شوکاژ نوٹس
 وصول ہونے کے بعد سائل نے اپنا جواب مورخہ 10-09-24 افسران بالا کو دیا۔ مورخہ 10-10-18 سائل ہمراہ فرید کانشیل کے بغیر عرض معروض بیک
 جنیشن قلم پولیس روٹر 12:21 کے زیر تحت ملازمت سے ڈسچارج کیا گیا۔ جناب عالی نہایت دلگیر انداز میں گزارش ہے کہ سائل نے تاہر خاتلی اپنی ڈیوٹی سیشن
 براچ میں (چاہے وہ سکیورٹی سیکشن ہو یا جے آئی ٹی یا آفسران بالا کے ساتھ ہو) نہایت جانفشانی سے سرانجام دی ہے۔ حیران و پریشان اس بات پر ہوں کہ کیا
 سائل اتنا گناہ گار و خطا کار ہے کہ آفسران بالا جائز عرض معروض نہیں سن سکتے۔ جب سے سائل کو بم ڈسپوزل پونٹ میں حاضری کا حکم ملا ہے سائل سیشن براچ
 میں ہی مقیم تھا اور بم ڈسپوزل پونٹ میں جناب اے آئی جی کے PA کے سامنے روزانہ حاضر ہوتا تھا۔ اب سائل کو اپنے قصور کا علم نہیں کہ فرائض کی سرانجامی
 میں حکم عدولی کیسے سرزد ہوئی۔ یہاں ایک بات پھر آپ جناب کی نوٹس میں لانا چاہوں گا کہ کئی مواقع پر اسٹیمپلڈ کلرک انعام نے سائل اور کانشیل فرید بیسک
 ریکورٹ کورس کے لیے جیجے کے بارے میں بتایا اور اس کی وجہ یہ بیان کی کہ چونکہ سائل غیر تربیت یافتہ ہے اس لیے سب سے پہلے بیسک پولیس ٹریننگ ضروری
 ہے مورخہ 10-10-22 بذریعہ چھٹی انگریزی نمبر 5975-78/EB جناب ایڈیشنل انسپٹر جنرل صاحب سیشن براچ پشاور نے مہربانی فرماتے سائل کو
 ملازمت پر دوبارہ بحال کر دیا اور جناب ڈپٹی انسپٹر جنرل سیشن براچ کے آرڈر ڈسچارج کو منسوخ کر دیا اور ساتھ ہی از سر نو اگوائری کا حکم صادر فرما دیا۔ اب کے
 بارچارج شیٹ دسمری آف ایلکیشن میں سائل پر غیر حاضری کا الزام عائد کیا گیا ہے۔

جناب عالی ایک دفعہ پھر عرض ہے کہ سائل نے کسی قسم کی غیر حاضری نہیں کی اور تاحال ڈیوٹی پر حاضر ہے۔ اس لیے آپ صاحبان سے التماس ہے
 کہ سائل کے ناکردہ جرم کو معاف فرما کر اگوائری فائل کی جائے۔ سائل تاعمر دعا گو رہے گا۔
 نوٹ: سائل آپ صاحبان کے روبرو پیش ہو کر عرض معروض کرنا چاہتا ہے۔

العارض

آپکا فرمانبردار کانشیل
 عرفان اللہ خان نمبر 686/SB

متعینہ کینائن (Canine)

ORDER

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23

This is a departmental proceedings initiated against constable Irfanullah No.686/SB of Canine unit Special Branch under the Govt. of NWFP Removal from Service (Special Power) Ordinance 2000 as he rendered himself to be proceeded against on the following charges

i. That consequent upon the completion of enquiry conducted against you by DSP/JIT and DSP/Research and Analysis Special Branch you were given full opportunity of hearing, but you could not be advanced any cogent reason in your self defence. Hence the charges leveled against you were proved beyond any shadow of doubt.

ii. After going through the finding and recommendation of the Enquiry Officer, the material available on record and other connected papers, I am satisfied that you have committed the omission/commission specified in section (3) of the said Ordinance. As a result thereof, I Abdul Ghafoor Afridi SSP/Admn: Special Branch KPK Peshawar as competent authority has tentatively decided to impose upon you Major penalty of Removal from service under section (3) of the said Ordinance.

A charge sheet with statement of allegation has been served upon him and for the purpose of scrutinizing the conduct of said delinquent constable with the reference of the above allegations, the Enquiry Committee comprising Mr: Abdur Rashid DSP/JIT/SB and Mr: Riaz Ahmad DSP/Analysis/SB has been constituted with the direction to submit a report within 25 days of the receipt of the order alongwith their recommendation for appropriate action.

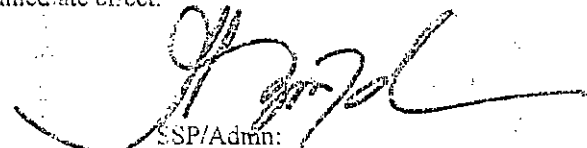
From Enquiry conducted by the above Committee, statements of the witnesses as well as the defaulter constable Irfanulah of Canine Unit Special Branch, the charges leveled against him has been proved beyond any shadow of doubt who is not ready to perform a specific job of dog handling/look after in the Canine Unit/SB. The Enquiry Committee in his findings has also made recommendation for major punishment under the afore-stated Ordinance.

Final show cause notice was not received. However after publishing the final Show Cause notice in the News Papers he immediately came from their native village and appeared before the undersigned. He was heard personally who admitted that he can not manage the Canine Unit

Foregoing in view, the recommendation of the Enquiry Committee, statement of witnesses and other relevant record place on file it is concluded that the delinquent constable is not ready to perform duty at Canine Unit though he was enlisted as constable to properly handle and lookafter the expensive dogs, therefore in exercise of legal powers under the said Ordinance, the delinquent constable Irfanullah No.686/SB is hereby "REMOVED" from service with immediate effect.

Order announced.

Umar S


SSP/Admn:
Special Branch Khyber Pukhtunkhwa Peshawar

OB.No. 53 /EB

Dated 11/4 /2011

No. 2439-44/EB dated Peshawar the, 11 / 04 /2011

Copy above is forwarded for information and necessary action to the:-

1. Addl: Inspector General of Police Special Branch Khyber Pukhtunkhwa Peshawar
2. AIG/BDU/SB
3. DSP/HQr/SB ✓
4. Acctt:/SB
5. LO/SB
6. EA/SB
7. Official concerned.

03/15

بخدمت جناب عالی شام ڈپٹی انسپکٹر جنرل آف پولیس سپیشل برانچ خیبر پختونخواہ پشاور

عنوان :- محکمانہ اپیل برخلاف حکم نمبر 44-2439 مورخہ 11/04/2011 جس کی رو سے سائل

کوڈ سمس کیا گیا

جناب عالی!

سائل مودبانہ طور جناب عالی کی خدمت میں مندرجہ ذیل معروضات عرض کرتا ہے۔

- 1- سائل مورخہ 16/02/2008 بطور کانیشیل Canine Unit سپیشل برانچ میں بھرتی ہوا۔
- 2- بھرتی ہونے کے بعد سائل کو ہمراہ کانیشیل عرفان اللہ ڈاگ بریڈنگ اینڈ ٹریننگ سنٹر اور اپنڈی بھیجا گیا جہاں ہم نے 9 دن گزارے اور ٹریننگ کے بغیر ہی انچارج تربیتی مرکز نے ہمیں واپس موومنٹ آرڈر کے ہمراہ بھیج دیا۔
- 3- ٹریننگ سنٹر سے واپس آنے کے بعد اسٹیبلشمنٹ کلرک نے یہ کہا کہ اب انہیں بیسک ریکورٹ کورس کے لیے پولیس ٹریننگ ہنگو بھیجا جائے گا لیکن اس کے برعکس کلرک نے ہمیں جے آئی ٹی سیکشن کے حوالے کیا اور سائل نے یہاں ایک مہینہ جے آئی ٹی میں گزارا۔
- 4- اس کے بعد سائل نے سابقہ ایڈیشنل آئی جی سپیشل برانچ امیر حمزہ محمود صاحب کے بنگلہ واقع گل بہار نمبر 5 نزد رنگ روڈ پشاور میں تقریباً ایک سال ڈیوٹی سرانجام دی اور بنگلے سے کلوز ہو کر باقی کا عرصہ سائل نے سیکورٹی سیکشن سپیشل برانچ میں اپنی ڈیوٹی سرانجام دی ہے اور اس بابت سیکورٹی برانچ کے افسران باخبر ہیں۔
- 5- بعد ازاں سائل نے سیکورٹی برانچ میں ڈیوٹیاں سرانجام دینے شروع کی اور اس بارے میں سیکورٹی برانچ کے افسران باخبر ہیں۔ حال ہی میں سائل کو اللہ تعالیٰ نے ڈی آئی خان میں وزیراعظم کی سیکورٹی ڈیوٹی سرانجام دینے کے دوران ایک بڑے ٹریفک حادثے میں زخمی ہونے سے بچایا جب سپیشل کی گاڑی ڈی آئی خان سے واپسی پر ٹریفک حادثے کا شکار ہوئی اور اس میں سپیشل برانچ کے متعدد اہلکاران شدید زخمی ہوئے تھے۔ سائل نے یہ تمام واقعہ صرف اور صرف اس لیے لکھا کہ سائل نے اپنے ذمے تمام ڈیوٹیاں نہایت ایمانداری اور خوش اسلوبی سے سرانجام دی ہیں۔
- 6- اس ضمن میں یہ عرض ہے کہ مورخہ 27/08/2010 آئی جی بم ڈسپوزل یونٹ کے ہمراہ کانیشیل عرفان اللہ، لائن آفیسر خالد خان، اسٹیبلشمنٹ کلرک انعام اور ڈی ایس پی ہیڈ کوارٹر محمد اقبال خان بغرض رپورٹ ڈیوٹی حاضر ہوئے۔ سائل اور فرید کانیشیل ضلع بنوں کے رہائشی ہیں اور یہ چونکہ یہاں اپنا ذاتی رہائش گاہ نہیں تھی بدیں وجہ شروع دن سے سپیشل برانچ میں رہائش پذیر ہیں۔ اسی دوران مورخہ 22/09/2010 بذریعہ چھٹی انگریزی نمبر 5279/E سائل کو شوکاز نوٹس بابت حکم عدولی موصول ہوا۔ شوکاز نوٹس وصول ہونے کے بعد سائل نے اپنا جواب مورخہ

24/09/2010 آفران بالا کو دیا۔ مورخہ 18/10/2010 سائل ہمراہ فریڈ کانسٹیبل کے بغیر عرض و معروض بیک جنبش قلم پولیس رولز 12:21 کے زیر تحت ملازمت سے ڈسچارج کیا گیا۔

7- مورخہ 22/10/2010 بذریعہ چھٹی انگریزی نمبر EB/78-5975 جناب ایڈیشنل انسپکٹر جنرل صاحب سیشل براچ پٹاورد نے مہربانی فرماتے سائل کو ملازمت پر دوبارہ پر بحال کر دیا۔ اور جناب ڈپٹی انسپکٹر جنرل سیشل براچ کے آرڈر ڈسچارج کو منسوخ کر دیا اور ساتھ ہی از سر نو انکواری کا حکم صادر فرما دیا۔ اب کے بار چارج شیٹ دوسری آف ایگیشن میں سائل پر غیر حاضری کا الزام عائد کیا گیا ہے۔

8- سائل کو بعد ازاں بغیر کسی وجہ کے دوبارہ چارج شیٹ بحوالہ چھٹی انگریزی نمبر EB/41-739 مورخہ 31/01/2011 دیا گیا جس میں اس دفعہ الزام بدل کر نوکری کے لیے نا اہل قرار دیا گیا۔

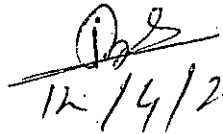
9- سائل کی اس الزام کے تحت DSP ہیڈ کوارٹر اقبال خان نے انکواری کی اور سائل کو مکمل طور پر بے گناہ تسلیم کیا لیکن حکام نے بغیر کسی وجہ کے اس انکواری رپورٹ کو تسلیم نہیں کیا اور دوبارہ دوسری انکواری ٹیم جناب DSP صاحبان عبد الرشید خان اور ریاض خان پر مشتمل تھی اور اس انکواری رپورٹ میں سائل کو قصور وار قرار دیا گیا۔

10- جناب عالی! سائل کو نا کردہ جرم کی بناء مختلف انداز سے ستایا گیا ہے کبھی الزام لگا کہ سائل نے حکم عدولی کی ہے جب اس بابت تحقیقات کی گئی تو بے گناہ قرار دیا گیا۔

بعد ازاں نا اہلی کا الزام لگا۔ سائل اس بات کو سمجھنے سے قاصر ہے کہ جب نا اہل تھا تو تین سال 2 مہینے نوکری میں کیوں رکھا گیا۔

اس لیے مندرجہ بالا معروضات کو مد نظر رکھ کر سائل کو نوکری یہ بحال کیا جائے۔ سائل تا عمر دعا گورہیگا۔

آپ کا فرمانبردار

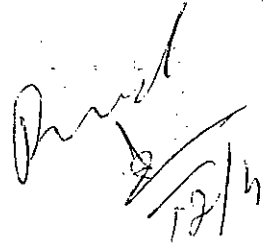


سابقہ کانسٹیبل عرفان اللہ خان 686/SB لاہور 12/4/2011

ایڈریس: کوئٹہ غازی مرجان داخلی کفشی خیل مظفر خان منڈان بنوں ڈاکخانہ فیض طالب عباس منڈان بنوں

موبائل نمبر: 0334-9208144

فون نمبر: 0928-614530



M 26



S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL NO.1314/2011

(Irfanullah-vs-Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others).

JUDGMENT

ABDUL LATIF, MEMBER.

23.12.2015

Appellant with counsel (Mr. Mohammad Asif Yousafzai, Advocate) and Mr. Muhammad Asif, Inspector (Legal) along with Mr. Muhammad Jan, GP for respondents present.

2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 11.04.2011 whereby the appellant has been discharged from service and against not taking any action on the departmental appeal of the appellant within the statutory period of 60 days. He prayed that on acceptance of this appeal the impugned order dated 11.04.2011 may be set aside and the appellant may be reinstated with all back benefits.

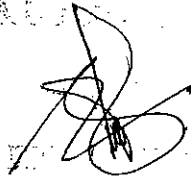
3. Brief facts giving rise to the instant appeal are that appellant was recruited as Constable in the Special Branch on 16.02.2008 for Canine Unit. The appellant duly joined the course

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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under Army Personnel but he returned to the Establishment Section Who referred the appellant to Security Section, Special Branch and the appellant performed the duty at the Bungalow of Additional I.G. for one year and later on posted at the Bungalow of SSP (Admn). That on 22.09.2010 the show cause notice was issued to the appellant in which he was charged for not assuming the duty in Canine Unite, the appellant filed reply to the show cause notice wherein he explained the whole position. That on 18.10.2010 the appellant alongwith colleague Mr. Faridullah was directly discharged from service under Police Rules 12-21 which was set aside on 22.10.2010 by Additional I.G Special Branch with the directions for issuing of fresh show cause with summary of allegations. That charge sheet and statement of allegations was issued to the appellant on 26.10.2010 wherein the appellant was charged for absenting himself without prior permission and was failed to comply with the order of superior officers. The appellant filed details reply to the charge sheet and then enquiry was conducted in which the inquiry officer clearly stated that the allegations for non compliance and absence from duty are not based on facts and the appellant is proved innocent. That the respondents kept mum on the findings of the inquiry officer (Mhammad Iqbal Khan,) and issued another charge sheet and statement of allegation on 31.01.2011 in which the appellant was charge sheeted for not qualifying the prescribed training for dog handling, not properly handling and look after the sniffer dogs, not taking interest in the professional duty in Canine Unit and having no knowledge about Dog-handling and lastly failure and assuming in Canine Unit. That

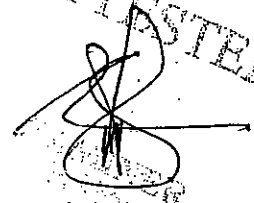
ATTESTED

K. V. S. S. S.
30/11/2011

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on 18.02.2011 the final show cause notice was issued to the appellant and then publication was made on 21.03.2011 for assuming the duty despite of the fact that the appellant was performing the duty in the Security Section in Special Branch and there was no need of such publication. That on 11.04.2011 the appellant was removed from service under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 against which the appellant filed departmental appeal on 12.04.2011 which was not responded, hence the instant appeal.

4. The learned counsel for the appellant argued that impugned order dated 11.4.2011 and non action on the departmental appeal of the appellant was against the law, facts and material on record therefore, not tenable. He further argued that appellant had not been associated with the enquiry proceedings nor was he allowed to cross examine any witness against him hence impugned orders were in violation of Section-5(1)(c) of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. He further contended that the appellant was condemned unheard which was against the principle of justice and not maintainable under the law. He further argued that the appellant remained on duty in different Sections of Special Branch and at residences of different authorities and never absented from duty, hence the charge of absence was not fair and impugned order had been passed on mala fide and to save skin of high ups at the cost of the appellant. He prayed that impugned order dated 11.04.2011 may be set aside and the appellant may be reinstated into service with all back benefits.

ATTESTED


Khyber Pakhtunkhwa
Tribunal,
Peshawar

5. The learned Government Pleader resisted the appeal and argued that the appellant was appointed specifically for the Canine Unit of Special Branch where he failed to get the requisite training from the Army Training Center at Rawalpindi from where he returned unqualified and there-after avoided to work in the Canine Unit for one pretext or other. He further argued that the appellant alongwith his other colleague Faridullah, Constable was proceeded against and were discharged from service by the DIG Special Branch vide order dated 18.10.2010. The said orders were set aside by Additional Inspector General of Police and fresh proceedings were initiated against them by issuing of proper charge sheet and statement of allegation. An enquiry committee comprising of DSP, Muhammad Riaz and DSP, Abdur Rashid was constituted who conducted the enquiry and submitted their separate enquiry report in respect of both constables Irfaanullah and Faridullah on 12.02.2011. The enquiry committee established the charges of misconduct, inefficiency and failure to perform duty in the Canine Unit on the part of both the constables and the committee recommended them to the competent authority for major punishment under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. He further argued that all codal formalities were duly fulfilled by the competent authority while imposing on them the major penalty of removal from service and prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and

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record perused with their assistance.

7. From perusal of the record, it transpired that the appellant was enlisted for the Canine Unit who did not take any interest in the assigned duty and was in the first instance discharged from service under Police Rules 12-21 by the DIG Special Branch vide his order dated 18.10.2010. The said orders were set aside by the Additional Inspector General of Police on 22.10.2010 and fresh formal enquiry was conducted against the appellant by an enquiry committee comprising DSP Muhammad Riaz and DSP Abdur Rashid who submitted their report wherein charges leveled against the appellant in the charge sheet and statement of allegations were established and major penalty of removal was recommended to the competent authority. From perusal of the record, it transpired that the appellant deliberately avoided to work in the Canine Unit for which he was specifically enlisted and instead wanted to take shelter of different quarters in the Police Department by keeping himself posed in different Sections/Branches other than the unit of his original assignment. In spite of his being away from the designated position, he remained in the receipt of salary for performance of duty in different Sections/Positions other than the Canine Unit till his removal from service vide the impugned order dated 11.04.2011. The contention of the appellant that he remained on duty and was not heard by the relevant authorities before his removal from service terming the same as malafide on part of the competent authority could have been addressed by the appellate authority but no such orders of the said authority are available on the record. In view of the foregoing, the Tribunal deem it

ATTESTED



Inspector
Police

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appropriate to remit the case to the appellate authority to examine and decide the departmental appeal of the appellant on its merits strictly in accordance with law/rules within a period of 45 days from the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record.

8. Our this single judgment will also dispose of in the same manner appeal No. 1315 2011 titled Faridullah, where common question of law and facts have been raised.

Sd/- Abdul Latif, Member
Sd/- Pirs Bakhtish Shah, Member

Original copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
ANN
23.12.11

Date of Presentation 08-01-2016
Number of Pages 2400
Cost of Proceedings 14
Date of Filing 9
Date of Disposal 16
Date of Judgment 08-01-2016
Date of Execution 08-01-2016

ORDER

N

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This single order is passed on the departmental appeals of Irfanullah and Farid Khan Ex-constables of Canine Unit, Special Branch. Facts forming the back ground of the departmental appeals are as follows:-

Irfanullah and Farid Khan (herein after only referred to appellants) were recruited as constables in Canine Unit Special Branch on 16.02.2008 and were selected for training at Army dog breeding and Training Centre, Rawalpindi for Canine Training, and both of them were returned unqualified by the Army authorities. They flatly refused serving Canine Unit of Special Branch and accordingly they were proceeded against departmentally. Irfanullah was removed from service and Farid Khan was discharge from service vide order dated 11.04.2014. The departmental appeal of appellants were not decided within statutory period of ninety days therefore they filed Service Appeal Nos. 1314/2011 and 1315/2011 which were disposed of vide consolidated judgment dated 23.12.2015 and the case was remitted to the appellate authority to examine the case and decide the departmental appeal of appellants on merit strictly in accordance with law and rules within 45 days of the receipt of the judgment.

In pursuance of the directions of the Service Tribunal Khyber Pakhtunkhwa, Peshawar the appellants were summoned and heard in detail on 26.01.2016. The available record was examined and gone through.

The appellants are unqualified and still do not know how to handle the dogs which prove their lack of interest of serving in the Canine Unit. The Government of Khyber Pakhtunkhwa has managed costly sniffer dogs for prevention and control of the terrorist activities. The appellants being unqualified and untrained will not only spoil the utility of the sniffer dogs but will also cause losses to the government if the leash of the dogs went to their hands.

In view of the above, the undersigned see no ground, substance and force in the departmental appeal of appellant, therefore, both the appeal stands rejected.

Additional Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar

No. 577-79/EB dated, the Peshawar
Copy of the above is forwarded to the:-

29/1/2016

1. Registrar Khyber Pakhtunkhwa, Service Tribunal Peshawar with reference to their letter No. 25/ST dated 05.01.2016.
2. Irfanullah Ex-Constable r/o Kotka Ghazi Marjan inside Kafshi Khel Muzafar Khan, Mardan PO Faiz Talab Abbas Mandan, District Bannu.
3. Farid Khan Ex-Constable r/o House No. 539/D-C, Muhallah Aabkari near Ghazni Khel Mosque, Bannu City, District Bannu.

Order

This single order is passed on the departmental appeals of Irfan Ullah and Farid Ullah Khan Ex-Constable of Canine, Unit Special Branch. Facts forming the back ground of the Departmental appeal are as follows:

Irfan Ullah Khan (herein after only referred to appellants were recruited as Constables in Canine Special Branch on 16.02.2008 and were selected for training at Army Dog breeding and Training Centre, Rawalpindi for Canine Centre, and both of them were returned unqualified by the Army authorities. They flatly refused serving Canine Unit of Special Branch and accordingly they were proceeded against departmentally. Irfanullah was removed from service and Farid Khan was discharge from service vide order dated 11.04.2011. the Departmental appeal of appellants were not decided within statutory period of ninety days therefore they filed Service Appeal Nos. 1314/2011a and 1315/2011 which were disposed of vide consolidated judgment dated 23.12.2015 and the case was remitted to the appellate authority to examine the case decided the Departmental appeal of appellant authority to examine the case and decide the Departmental appeal of appellant on merit strictly in accordance with law rules within 45 days of the receipt of the judgment.

In pursuance of the directions of the Service Tribunal Khyber Pakhtunkhwa Peshawar the appellants were summoned and heard in detail on 26.01.2016. the available record was examined and gone judgment.

The appellants are unqualified and still do not know to handle the dogs which prove their lack of interest of serving in the Canine Unit. The Government of Khyber Pakhtunkhwa has managed costly for prevention and control of the terrorist activities. The appellants being unqualified and untrained will not only spoil the utility of the sniffer dogs but will also cause losses to the Government if the leash of the dogs went to their hands.

In view of the above, the undersigned see no ground, substance and force in the Departmental appeal of appellant, therefore, both the appeal stands rejected.

Additional Inspector General of Police
Special Branch Khyber Pakhtunkhwa
Peshawar

No. 577-79/EB, dated the Peshawar 29/01/2016

Copy of the above is forwarded to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to their letter No. 25 ST dated 05.01.2016.
2. Irfanullah Ex-Constable r/o Kotka Ghazi Marjan inside Kafshi Khel Muzafar Khan, Mardan P.O Faiz Abad Talab Abbas Mardan, District Bannu.
3. Farid Khan Ex-Constable r/o House No. 539/DC Muhjallah Aabkari near Ghazni Khel Mosque, Bannu City District Bannu.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No.256/2016

Date of Institution ... 18.02.2016

Date of Decision ... 02.01.2019

Farid Khan, Constable No. 685/SB, Police Head Quarter, Peshawar,
... (Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 2 others.
... (Respondents)

Present.

MR. TAIMUR ALI SHAH,
Advocate.

... For appellant

MR. ZIAULLAH,
Deputy District Attorney

... For respondents.

MR. HAMID FAROOQ DURRANI,
MR. HUSSAIN SHAH,

... CHAIRMAN
... MEMBER

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

The facts as laid in the memorandum of appeal are that the appellant was recruited as Constable on 16.02.2008 in Special Branch Canine Unit of Police Department. He was sent for training but returned before its completion. He reported to the Establishment Section of Special Branch and was referred to I.T Section. Thereafter, the appellant performed different duties including as Gunner with AIG Special Branch, and as Security personnel at the residence of SSP (Admn) etc. He was issued a show cause notice on 22.09.2010, wherein, it was noted that the appellant

aside by A.I.G Special Branch with directions for issuance of fresh show cause notice and summary of allegations to the appellant. It was also noted that an enquiry be conducted into allegations. On 26.10.2010, the appellant was issued charge sheet and statement of allegations, wherein, it was alleged that he absented himself without prior permission and failed to comply with the order of superior officers. A detailed reply to the charge sheet was submitted where-after enquiry was conducted. The enquiry officer recommended that the allegations of non-compliance and absence from duty were not based on fact. Without any reference to the said enquiry report, yet another charge sheet and statement of allegations was issued on 31.1.2011 against the appellant, wherein, the appellant was stated to have not qualified the prescribed training for dog handling nor could handle and look after the sniffer dogs, not taking interest in his assigned professional duties in the said Unit, was also included. The appellant filed detailed reply to the charge sheet, wherein, he denied all the allegations and prayed for shelving the enquiry. Ultimately, the appellant was discharged from service under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 vide order dated 11.04.2011. An appeal was preferred against the said order which remained un-responded, therefore, the appellant filed Appeal No. 1314/2011 before this Tribunal. The Tribunal decided the case on 23.12.2015, in terms, that the appeal of appellant was remitted to the departmental appellate authority in order to examine the case and decide it on merits strictly in accordance with law within 45 days of the receipt of judgment. On 29.01.2016 the appeal of appellant was rejected, purportedly, on account of having no substance and force.

3. We have heard learned counsel for the appellant, learned Deputy District

It was contended by the former that the findings of enquiry dated 07.12.2010 were totally disregarded by the respondents. Similarly, the reply to charge sheet submitted by the appellant was not given due consideration. In view of learned counsel the case of appellant was not at all of absence as he was performing duty under the orders of his superiors at different places upon unsuccessful return from the Dog Handling Course. He was being regularly paid his salary all along, it was added. It was also contended that the proceedings against the appellant were taken under the provisions of Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, however, he was awarded punishment of 'discharge' from service which was a term alien to the provisions of the Ordinance.

As against that, learned Deputy District Attorney stated that the appellant, at the relevant time when he was issued charge sheet and statement of allegations, was under probation and had to remain as such upto 16.02.2011. Therefore, the penalty awarded to him was very much in line with the provisions of Rule 12.21 of Police Rules, 1934. He further contended that the allegations against the appellant stood proved and the impugned order was not exceptionable on that score.

4. It shall be useful to reproduce hereunder the relevant portion of judgment passed by this Tribunal on 23.12.2015:-

"From perusal of the record, it transpired that the appellant deliberately avoided to work in the Canine Unit for which he was specially enlisted and instead wanted to take shelter of different quarters in the Police Department by keeping himself posted in different Sections/Branches other than the unit of his original assignment. In spite of his being away from the designated position, he remained in the receipt of salary for performance of duty in

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termining the same as malafide on part of the competent authority could have been addressed by the appellate authority but no such orders of the said authority are available on the record. In view of the foregoing the Tribunal deem it appropriate to remit the case to the appellate authority to examine and decide the departmental appeal of the appellant on its merits strictly in accordance with law/rules within a period of 45 days from the receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room."

It is clear from above reproduction that the aspect of claim of appellant regarding performance of duty at different places other than the Canine Unit and the fact that he kept receiving monthly salary for the performance of duty; was also required to have been considered by the departmental appellate authority while deciding the appeal in pursuance to judgment by this Tribunal.

5. We consider that the argument of learned counsel regarding penalty of discharge from service not provided in the Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance 2000, has much force. In the said context, it is clearly noticeable that the impugned order dated 11.4.2011 itself spoke to have been passed under the Ordinance *ibid* while, on the other hand, Section 3 of the said Ordinance provided major punishment in the form of 'dismissal' or 'removal' from service and, compulsory retirement or reduction to lower post or pay scale. The penalty of 'discharge' from service does not find any mention in the Ordinance, 2000. The impugned order is, therefore, liable to be struck down on the said score alone.

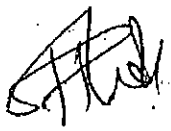
6. It is not denied that the appellant was recruited on 16.02.2008. In such case,

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impugned order of discharge the appellant had clearly completed the period of three years. In the said context, even otherwise, a discharge order could not be issued against the appellant. Here it shall be of use to make a reference to the findings of enquiry officer as noted in his report dated 07.12.2010. It was, inter-alia, noted therein that the appellant was an untrained constable for the specific job of Canine Unit. After arrival, he reported for duty where-after A.I.G BDU/S.B recommended him to be adjusted/accommodated in other Section/Unit of Special Branch. It was concluded that the allegations/charges levelled against the appellant for non-compliance or absentia were not based on facts and that he was proved innocent. The enquiry officer recommended that the enquiry be filed and appellant be adjusted in some other unit/section of the Special Branch, besides, sending him for basic policing recruit course.

7. In view of the above, the appeal in hand merits acceptance which is accordingly allowed. Impugned orders dated 11.04.2011 and 29.01.2016 are set aside and the appellant is reinstated into service. The period interregnum his impugned discharge from service and reinstatement shall be treated as leave of the kind due.

Parties are left to bear their respective costs. File be consigned to the record room.


(HUSSAIN SHAH)
MEMBER(E)


(HAMID FAROOQ DURRANI)
CHAIRMAN

بخدمت جناب SSP برانچ پشاور

درخواست بمراد بحالی

جناب عالی:

گزارش ہے کہ میں سال 2008 سے محکمہ سپیشل برانچ میں بطور کنسٹیبل کام کر رہا تھا اور خوش اسلوبی سے اپنے فرائض سرانجام دے رہا تھا۔ کہ مورخہ 11.04.2014 کو مجھے غیر حاضری ہمراہ کنسٹیبل فرید خان (جو کہ میرے ساتھ ایک ہی تاریخ پر بھرتی ہوا تھا) کو نوکری سے نکال دیا گیا تھا جبکہ ہم اپنی ڈیوٹی پوری ایمانداری سے سرانجام دے رہے تھے جس کے خلاف ہم دونوں نے سروس ٹریبونل میں اپیل نمبر 1314/2011 جمع کی تھی جو کہ ہمارے حق میں منظور ہوئی تھی اور محکمہ کو دوبارہ بھیجوا دیا گیا۔ کہ ہم دونوں کی محکمانہ اپیل پر فیصلہ کریں۔ پھر محکمہ نے ہمیں سنے بغیر ہماری محکمانہ اپیلوں کو ایک ہی حکم سے خارج کر دیے تھے۔ یہ کہ فرید خان نے دوبارہ اس آرڈر کو سروس ٹریبونل میں چیلنج کیا اور میں گھریلو مسائل (زمینی / تنازعات / دشمنی) کی وجہ سے عدالت نہ جاسکا کیونکہ میری جان کو خطرہ تھا۔ (کاغذات لف ہیں) فرید خان کا کیس نمبر 1256/2016 اس کے حق میں منظور کر کے اسے بحال کر دیا گیا ہے۔ لہذا میری استدعا ہے کہ آپ صاحبان سپریم کورٹ کے فیصلوں کو مد نظر رکھتے ہوئے مجھے بھی اس فیصلہ کی روشنی میں بحال کیا جائیں۔ کیونکہ اس فیصلہ میں سروس ٹریبونل ہمارے آرڈر مورخہ 29.01.2016 کو ختم کر دیا ہے۔

آپکا تاجدار
کنسٹیبل عرفان اللہ نمبر 68B/SB
12/12/19

Special Branch

بخدمت جناب SSP برانچ پشاور

درخواست بمراد بحالی

جناب عالی:

گزارش ہے کہ میں سال 2008 سے محکمہ سپیشل برانچ میں بطور کنسٹیبل کام کر رہا تھا اور خوش اسلوبی سے اپنے فرائض سرانجام دے رہا تھا۔ کہ مورخہ 11.04.2014 کو مجھے غیر حاضری ہمراہ کنسٹیبل فرید خان (جو کہ میرے ساتھ ایک ہی تاریخ پر بھرتی ہوا تھا) کو نوکری سے نکال دیا گیا تھا جبکہ ہم اپنی ڈیوٹی پوری ایمانداری سے سرانجام دے رہے تھے جس کے خلاف ہم دونوں نے سروس ٹریبونل میں اپیل نمبر 1314/2011 جمع کی تھی جو کہ ہمارے حق میں منظور ہوئی تھی اور محکمہ کو دوبارہ بھیجا دیا گیا۔ کہ ہم دونوں کی محکمہ اپیل پر فیصلہ کریں۔ پھر محکمہ نے ہمیں سنے بغیر ہماری محکمہ اپیلوں کو ایک ہی حکم سے خارج کر دیے تھے۔ یہ کہ فرید خان نے دوبارہ اس آرڈر کو سروس ٹریبونل میں چیلنج کیا اور میں گھریلو مسائل (زمینی / تنازعات / دشمنی) کی وجہ سے عدالت نہ جاسکا کیونکہ میری جان کو خطرہ تھا۔ (کاغذات لف ہیں) فرید خان کا کیس نمبر 256/2016 اس کے حق میں منظور کر کے اسے بحال کر دیا گیا ہے۔ لہذا میری استدعا ہے کہ آپ صاحبان سپریم کورٹ کے فیصلوں کو مد نظر رکھتے ہوئے مجھے بھی اس فیصلہ کی روشنی میں بحال کیا جائیں۔ کیونکہ اس فیصلہ میں سروس ٹریبونل ہمارے آرڈر مورخہ 29.01.2016 کو ختم کر دیا ہے۔ اس بابت میں پہلے بھی مورخہ 12.12.2019 اور مورخہ 12.02.2020 کو درخواستیں دے چکا ہوں لیکن اس پر ابھی تک کوئی کارروائی نہیں کی ہے۔ لہذا استدعا کرتا ہوں کہ مجھے فرید خان کے فیصلہ کی روشنی میں بحال کیا جائے مسائل تمام عمر دعا گور ہے گا۔

آپ کا تابعدار

سابقہ کنسٹیبل عرفان اللہ نمبر SB/38B

ایڈریس: کوئٹہ غازی خان مرجان داخلی راستہ کفشی خیلمظفر خان

منڈال بنوں ڈاکخانہ فیصل طالب عباس منڈال بنوں

موبائل نمبر: 03355831433

بخدمت جناب SSP برانچ پشاور

درخواست بمراد بحالی

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SHOW CAUSE NOTICE

You constable Farid Khan No.685/SB of Canine Unit Special Branch was directed by the then Addl: JGP Special Branch KPK Peshawar through DSP/HQ: on 26.08.2010 to assume your duty (in Canine Unit/SB) but you have failed to comply the superior orders inspite of clear direction.

You are therefore, called upon show cause notice for your mis-conduct as to why you should not be dealt with departmentally.

Your reply should reach to the undersigned within 7 days of the receipt of this notice failing which it shall be presumed that you have nothing to say and exparte action will be taken against you.

[Handwritten Signature]

SSP/Admn:
SPECIAL BRANCH KPK PESHAWAR

No. 5278/EB

DC: 22/8/2010

[Handwritten Signature]
ATTESTED

~~_____~~
ATTESTED

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ORDER

Having perused the record and office order issued vide No.5793-97/EB, dated 18.10.2010, I set aside the impugned order and reinstate constable Farid Khan No.685/SB with immediate effect.

It is directed that fresh show cause with summary of allegations shall be issued and enquiry conducted into allegations. The enquiry shall be on day to day basis.

(Syed ~~Abdullah~~ Ali Shah)
Addl. Inspector General of Police
Special Branch KPK Peshawar

22-10-2010

No. 5770-74/EB

Copy forwarded to all concerned

[Signature]
ATTESTED

[Signature]
ATTESTED

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(Handwritten scribbles)

CHARGE SHEET

1, Waheed ur Rahman SSP/Admn: Special Branch, KPK, Peshawar as competent authority hereby charge you constable Farid Khan. No.685/SB of Canine Unit Special Branch-KPK Peshawar. as follows:-

That you were enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. You were selected for Dog Breeding and Training Center Rawalpindi where you completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that you are absented without prior permission. You were directed time and again to assume duty in Canine Unit, but you failed to comply with the orders of your superior officers in true spirit despite of clear direction.

By reasons of the above you appear to be guilty of misconduct under section (3) of the KPK, Removal from Service (Special Power) Ord:2000, and have rendered yourself liable to all or any of the penalties specified in section (3) of Ordinance, ibid.

2. You are therefore, directed to submit your written defence within 7 days of the receipt of this Charge Sheet to the Committee/Inquiry Officer as the case may be.
3. Your written defence if any should reach the Inquiry Officer/Committee within the specified period failing which it shall be presumed that you have no defence to put in instant case, exparte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. Statement of allegation is enclosed.

(Signature)
(Waheed ur Rahman)
SSP/Admn:
Special Branch KPK Peshawar.

ATTESTED

(Handwritten signature in Urdu)

(Handwritten signature)

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~~SECRET~~

SUMMARY OF ALLEGATIONS

1. Waheed ur Rahman SSP/Admn: Special Branch KPK Peshawar is of the opinion that you constable Farid Khan No.685/SB while posted to Canine Unit have rendered him self liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the KPK Removal from Service(Special Power) Ordinance 2000.

STATEMENT OF ALLEGATIONS

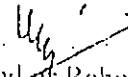
That he was enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. He was selected for Dog Breeding and Training Center Rawalpindi where he completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Section reported that he has absented without prior permission. He was directed time and again to assume duty in Canine Unit, but he failed to comply with the orders of his superior officers in true spirit despite of clear direction.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, named below is appointed under section (3) of the Ordinance:-

1. Mr. Muhammad Iqbal DSP/HQ/SB

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, Provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.


(Waheed ur Rahman)
SSP/Admn:
Special Branch KPK Peshawar.

NO. 6027-17 /WB, Dated Peshawar the, 26/11/2010.
Copy of above is forwarded to the:-

1. Mr. Muhammad Iqbal DSP/HQ/SB for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ord:2000.

2. constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of the enquiry proceedings.

3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.


ATTESTED


ATTESTED

SUMMARY OF ALLEGATIONS

I, Waheed Ur Rehman SS/P/Admin Special Branch KPK Peshawar am of the opinion that you constable Farid Khan 685/SB while posted to Canine Unit have rendered himself liable to be proceeded against as you committed the following acts/omissions within the meaning of section 3 of the KPK Removal from Service (Special Power) Ordinance 2000.

STATEMENT OF ALLEGATION

That he was enlisted on 16.02.2008 for Canine Unit Special Branch to look after the Sniffer Dogs. He was selected for Dog Breeding and Training Centre Rawalpindi where he completed two weeks training.

On 28.08.2010 AIG/BDU Incharge of Canine Selection reported that he has absented without prior permission. He was directed time and again to assume duty in Canine Unit, but he failed to comply the orders of his superiors officers in true spirit of clear direction.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations an Enquiry Officer, name below is appointed under section (3) of the Ordinance.

i. Mr. Muhammad Iqbal DSP/HQrs ISB

3. the Enquiry Officer shall, in accordance with the provisions of the Ordinance Provide reasonable opportunity of hearing to the accused, record its findings and make 25 days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

(Waheed Ur Rehman)

SS/Admn

Special Branch KPK Peshawar

No. 6012/17/EB, dated 26/2010

Copy of the above is forwarded to the

1. Mr Muhammad Iqbal DSP/HQrs for initiating departmental proceedings against the accused under the provision of the KPK Removal from Service (Special Power) Ordinance 2000.
2. Constable concerned with the direction to appear before the Enquiry Committee on the date, time and place fixed by the Committee for the purpose of Enquiry proceedings.
3. Establishment Clerk with the direction to assist the Enquiry Committee during the enquiry proceedings.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 869/2022

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)
MISS FAREEHA PAUL ... MEMBER(E)

Mr. Aizaz Khan son of Akhtar Qiaz Khan, Ex-Lab Attendant, O/O
Chief Engineer C&W Department, Peshawar..... (*Appellant*)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary
Communication & Works Department, Peshawar.
2. Chief Engineer, Central Design Office, C&W Department, Peshawar.
..... (*Respondents*)

Syed Noman Ali Bukhari,
Advocate

For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney,

For respondents

Date of Institution..... 27.04.2022
Date of Hearing..... 12.04.2023
Date of Decision..... 12.04.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 10.07.2015, whereby service of the appellant was dispensed with. It has been prayed that on acceptance of the appeal, the impugned order might be set aside and the appellant might be reinstated in service with all back benefits and any other remedy as deemed appropriate by the Tribunal.


ATTESTED

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Lab. Attendant (BPS-02) vide order dated 11.07.2014, after going through the proper procedure and upon recommendation of the Departmental Selection Committee. Since then he was performing duties at the office of Research Officer, RRMT Lab, C&W Department. Services of the appellant alongwith other colleagues were dispensed with vide impugned order dated 30.07.2015 without observing the codal requirements. Other colleagues of the appellant, including Mussarrat Nazir, filed service appeals before the Service Tribunal with the prayer as prayed by the appellant in the instant appeal. Those appeals were accepted vide judgment dated 18.08.2017 in Service Appeal No. 1171/2015 and they were appointed in the light of that judgment. Under the Rule of Consistency, the appellant, alongwith one namely Khuzaf Shah, filed applications for reinstatement. In response to those applications, the Administrative Officer/B&A Officer wrote a letter to the Chief Engineer (Centre) C&W Department Peshawar wherein request was made for early action in the matter. Thereafter another letter was written by the Section Officer-(Opinion-11) of Law Department to the Secretary to Government of Khyber Pakhtunkhwa, C&W Department, according to which the administrative department was advised to decide the case under good governance being an administrative issue. In compliance to those letters, the colleague of the appellant was reinstated in to service under the rule of consistency and law of good governance vide order dated 14.05.2018 but the appellant was discriminated which was a clear violation of Article 25 of the




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Constitution of Islamic Republic of Pakistan. On 07.05.2018 the appellant again requested for reinstatement with reference to Khuzaf Shah's case, in response of which Administrative Officer/B&A Officer through his letter dated 14.06.2018 addressed to Section Officer (Establishment), C&W Department, Peshawar informed that there was no vacant post of Lab. Attendance in that wing to accommodate the appellant. Thereafter, the appellant filed several applications and after filing application dated 26.02.2020, the Superintendent (PMBC) wrote letter to the Executive Engineer (PMBC) C&W Department, Peshawar with the directions to submit the admissibility regarding the adjustment of the appellant against any suitable post in (PMBC) C&W Department for further necessary action. The department again did not take any action on the application of the appellant. The appellant filed another departmental appeal on 31.12.2021 which was also not responded within the statutory period of 90 days,; hence the present appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail argued that the impugned order dated 30.07.2015 was against the law and facts and was discriminatory, hence liable to be set aside. He further argued

~~that the appellant was appointed in the service after completing the duc~~



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process. He stated that the respondents, before filling the subject post, got No Objection Certificate from the office of Deputy Commissioner Peshawar on 14.01.2015, hence the plea taken in the Inquiry Report of not observing codal formalities had been negated with the NOC of Deputy Commissioner. According to him, the appellant had been made victim of discrimination, partiality and favoritism offending his fundamental rights as provided in Article 25 of the Constitution of 1973. He quoted the example of another colleague of the appellant, Mussarrat Nazir, whose appeal was accepted by the Service Tribunal and argued that under the Rule of Consistency the appeal of the appellant might also be accepted as prayed for as being a similarly placed person, in the light of the principle enumerated in august Supreme Court's judgment cited as 1985-SCMR-1185. In similar circumstances the Service Tribunal accepted the appeal No. 213/2017 titled "Arif Shah Vs. Government of Khyber Pakhtunkhwa through Secretary C&W Department, Peshawar and others", vide judgment dated 06.08.2019, which was also upheld by the august Supreme Court of Pakistan. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant argued that an inquiry was conducted by then Chief Engineer (Central Design Office) into the matter of 07 number appointments of Class-IV during 2013 to 2015. It was noted that the appointments were made without observing codal formalities and procedures as given in ESTA Code. According to him, the Inquiry Report stated that neither proper procedure had been followed nor representatives of



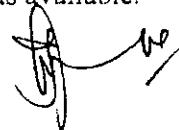
ATTESTED

Deputy District Attorney
Peshawar

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Administrative Department i.e C&W Department participated in those appointments, hence the services of those employees were terminated under Rule 11(i) of the Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rule 15 of Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989. The learned DDA further stated that Khuzaiif Shah was reinstated based on the availability of sanctioned post in the department and the appellant was a Lab. Attendant and no vacancy was available to accommodate him. He requested that the appeal might be dismissed.

6. Arguments and record presented before us transpires that in the year 2013 to 2015 certain appointments of class-IV were made in the C&W Department, which were found to be made without adopting proper procedure, in an inquiry conducted in that matter in 2015, as a result of which services of those employees were dispensed with. Some of those employees knocked the door of this Tribunal in 2015 and 2016 and got the remedy of reinstatement in service vide order dated 18.08.2017 and 17.11.2017. The present appellant alongwith another colleague, Khuzaiif Shah, had not submitted appeals before the Service Tribunal at that time but when the judgment came in favour of their other similarly placed colleagues, they filed applications for reinstatement under the rule of consistency. All the seven cases whose services were dispensed with, were processed by the C&W Department and in the first instance five of those who were decided by this Tribunal were reinstated. Later on, Khuzaiif Shah was also reinstated, on his request, being a similarly placed affectee but the present appellant was left on the ground that no vacant post of Lab: Attendant was available.



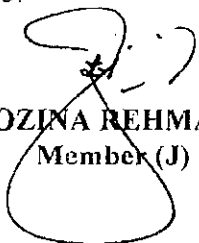
ATTESTED

7. As various judgments of the Apex Court are available which clearly mention that similar relief is to be extended to similarly placed affectees of an impugned order, in the present case, the present appellant had also to be treated in the similar way in which his other colleagues were treated as a result of judgments of this Tribunal. Availability of post cannot be made an excuse in this case. Letters dated 11.01.2018 and 14.06.2018 of Administrative Officer of the office of Chief Engineer (CDO) C&W, addressed to the Chief Engineer (Central) and Section Officer (Establishment) C&W Department respectively, mention that two Naib Qasids had been adjusted on two posts of Lab. Attendants for drawing their salary, which clearly indicates that post of Lab. Attendant was very much available for the present appellant for his appointment but two wrong adjustments had been made on those posts by the department.

8. In view of the above discussion, the appeal is allowed as prayed for and the respondent department is directed to reinstate the appellant from the date when his similarly placed colleagues were reinstated in service with all back benefits. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 12th day of April, 2023.*


(FAREEHA PAUL)
Member (E)


(ROZINA REHMAN)
Member (J)

Fazal Subhan PS

Date of Presentation of Application 17-1-24
Number of Words 6-p
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Urgent 17/1/24
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VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Izferullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt (Respondent)
(Defendant)

I Izferullah (Appellant), Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI, Advocate High Court** 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us.

Dated ___/___/2023

[Signature]
(CLIENT)

ACCEPTED

[Signature]
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

[Signature]
Uzma Syed