

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

Service Appeal No. 1227/2019

Date of Institution ... 02.10.2019

Date of Decision ... 11.04.2022

Abdul Qadir, Ex-SI, S/O Haider Khan,  
R/O Village Jammatt, P.O Kandara, Tehsil & District Charsadda.

...(Appellant)

**VERSUS**

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and  
three others.

... (Respondents)

-----  
MR. NOOR MUHAMMAD KHATTAK,  
Advocate

--- For appellant.

MR. RIAZ AHMED PAINDAKHEL,  
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)  
--- MEMBER (EXECUTIVE)

**JUDGEMENT:**

SALAH-UD-DIN, MEMBER:- Briefly stated the facts giving rise to filing of the instant service appeal are that the appellant was serving as SHO Police Station Badhber, when raid was conducted on his room on 09.06.2011. Huge quantity of arms and ammunition, Narcotics, one 05 Liter Can and one and a half bottle Alcohol, 22 KG spare parts, 39 Mobile Phones as well as 12 illegally detained persons were recovered from his room, therefore, departmental action was taken against the appellant under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000. On conclusion of the inquiry, the appellant was dismissed from



service vide order dated 29.09.2011. The service appeal of the appellant was, however allowed by this Tribunal vide judgment dated 17.12.2018 and the department was directed to conduct de-novo inquiry within a period of 90 days. On conclusion of the de-novo inquiry, the appellant was again dismissed from service vide order dated 13.05.2019 passed by Senior Superintendent of Police Coordination Peshawar. The appellant filed departmental appeal on 20.05.2019, which was rejected on 22.08.2019, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the statements of the witnesses were recorded at the back of the appellant and no proper opportunity of cross-examination was provided to him, which matter was also brought into the knowledge of CCPO Peshawar through submission of an application dated 19.03.2019, however no action was taken on the same; that inquiry proceedings were conducted in a haphazard manner, without observing the mandatory provisions of Police Rules, 1975; that the alleged recovery of arms and ammunition etc was effected in the absence of the appellant and he was falsely involved in two criminals cases on the same alleged recovery so as to penalize him for ulterior motives; that the appellant has an unblemished record of 36 years service and has already been acquitted in the criminals cases registered against him on the basis of the same issue; that the appellant was previously dismissed vide order dated 29.09.2011, which was set-aside by this Tribunal, however the competent Authority has mentioned in its impugned order that the order of dismissal of the appellant dated 29.09.2011 was upheld, which fact has made the impugned order dated 13.05.2019 as void and of no legal effect; that the alleged incriminating articles were neither recovered from personal possession of the appellant, nor the



same were recovered from any place, which was in a exclusive possession of the appellant and the whole story was fabricated with the sole aim of causing damage to the reputation and service career of the appellant; that the allegations leveled against the appellant are false and fabricated, which were not proved in the inquiry proceedings but even then the appellant was wrongly and illegally awarded major penalty of dismissal from service. Reliance was placed on 2003 SCMR 215, 2007 SCMR 192, 2008 SCMR 1369, 2020 PLC (C.S) 1291, 2003 PLC (C.S) 365, 2011 PLC (C.S) 1111, 2012 PLC (C.S) 502, PLJ 2012 Tr.C (Services) 6 and PLJ 2017 Tr.C (Services) 198.

4. On the other hand, learned Assistant Advocate General for the respondents has contended that residential quarter of the appellant was raided on 09.06.2011 and huge quantity of arms and ammunition as well as Narcotics and Cell Phones etc were recovered from the quarter, which were legally required to be kept in *Malkhana* of Police Station; that the recovered arms and ammunition etc were kept by the appellant in his custody for ulterior motives; that during the raid, 12 persons were found to have been illegally detained by the appellant without showing their arrest in the daily diary; that a proper regular inquiry was conducted into the matter and the appellant was provided opportunity of cross-examination of the witnesses examined during the inquiry; that the allegations leveled against the appellant stood proved in light of statements of the witnesses recorded during the inquiry; that the appellant was issued final show-cause notice, however his reply was found unsatisfactory as he could not put forward any plausible reason in his defense; that the inquiry officer has conducted the inquiry on merit and according to finding of the inquiry officer, the appellant was found guilty of the charges leveled against him; that criminal and departmental proceedings can run side by side, therefore, mere acquittal of the appellant in the criminal cases cannot be considered as a ground for his exoneration in the departmental proceedings; that the

appellant has been found to have committed gross misconduct, therefore, he has rightly been dismissed from service and his appeal is liable to be dismissed with cost.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations that a raid was conducted on his room on 09.06.2011 and huge quantity of arms and ammunition as well as Narcotics and Cell Phones etc were recovered, which were kept by the appellant in his room without maintaining any proper record. Beside that, 12 persons were also allegedly found to have been kept by the appellant in illegal confinement without any entry in the daily diary. The charge sheet as well as statement of allegations did not show the names of the Police Officers who conducted raid upon the room, which was allegedly in possession of the appellant. The raiding party was required to have prepared an inventory regarding the recovered articles and to have submitted a detailed report to the high-ups upon whose order, the raid was conducted. The available record, however does not show that any such exercise was made by the officers comprising the raiding party. The inquiry officer has also not mentioned in his report that any report regarding the raid was drafted by members of the raiding party. Such laxity on part of members of the raiding party has casted serious doubt regarding the allegations leveled against the appellant. While going through the record, it can be observed that the raid was conducted by Muhammad Faisal ASP, Hilal Haider DSP and Khalid Hamdani ASP on the order of their high-ups. The aforementioned Police Officers were material witnesses of the alleged episode but according to the record submitted by the respondents, none of them has been examined as witness by the inquiry officer during the inquiry, for reasons best known to the inquiry officer. The aforementioned fact has created serious dent in

J. I.

the inquiry proceedings. Furthermore, it is evident from the record, that the appellant was not at all present at the time of raid.

7. The appellant has categorically mentioned in his reply to the charge sheet that as the building of Police Station Badhber was damaged in a bomb blast, therefore, a private house was hired on rent; that the Police Officials alongwith the appellant used to reside in the said house and case properties alongwith other official record were also lying in the said house due to shortage of rooms. In his report, the inquiry officer has not given any findings regarding the aforementioned assertion so made by the appellant in his reply to the charge sheet. The said assertion of the appellant, however, stood proved during the trial of criminal case registered against him vide FIR No. 882 dated 14.10.2011 under sections 13/14-AO/9(C) CNSA/3/4 P.O. While acquitting the appellant vide judgement dated 28.04.2017 in case FIR No. 882/2011 of Police Station Badhber, the then Additional Sessions Judge-XI Peshawar has observed in para-12 of the judgement as below:-

*" P.W-4 Sahibzada Sajjad Ahmed DSP Circle Peshawar has stated during his cross examination that during the days of occurrence, he was the DSP of the area and accused facing trial was serving as SHO of Police Station Badhber. He has admitted it correct that prior to occurrence, Police Station Badhber was damaged due to bomb blast and the Police Station Badhber was being run in a private rented building. He has also admitted it correct that the recoveries in question were made from the said rented building of Police Station Badhber".*

8. According to the charge sheet as well as statement of allegations, the recovered arms and ammunition etc were not properly entered in record. The allegations that the appellant had not handed over case properties of certain criminal cases to Muharrar of the Police Station is not specifically mentioned in the charge sheet, however while going through the inquiry

record, it appears that this one is the main charge against the appellant. While scanning the inquiry record, it is evident that no such list of the cases was put to the appellant in the inquiry proceedings, the case properties of which were not handed over by the appellant to Muharrar of Police Station. According to Police Rules 1934, it is duty of Muharrar of Police Station to deposit case properties in *Malkhana*, which is under direct supervision of Muharrar. Nothing is available on the record which could show that during the tenure of the appellant as SHO of Police Station Badhber, any Muharrar had filed any complaint that any case property was not handed over to him by the appellant.

9. One of the allegations against the appellant was that during the raid, 12 persons were found to have been kept by the appellant in illegal confinement. The particulars of the alleged *detainees* have not been mentioned in the charge sheet or statement of allegations. If the raiding party had found certain persons in illegal confinement in the Police Station, proper course was to have produced them before the nearest Magistrate for recording of their statements, however the same has not been done. According to the record, the appellant was suspended and closed to Police Line on the same day of the raid i.e 09.06.2011. Some of the persons, who were allegedly kept in illegal confinement have been examined during the inquiry, however it is astonishing that they have disclosed that they were released after 07/08 days of the raid, which was conducted on 09.06.2011. It is not understandable as to why, they were not produced before the nearest Magistrate for recording their statements and releasing them promptly from illegal confinement.

10. It is an admitted fact that on the same set of allegations, case FIR No. 882 dated 29.06.2011 under Sections 13/14 A.O/9(C)CNSA/3/4 P.O Police Station Badhber as well as case FIR No. 06 dated 06.08.2014 under Sections 409/5 (2) PC Act Police Station ACE Peshawar were also registered against the appellant and he has been acquitted in

both the cases. It is by now well settled that every acquittal is honourable. Moreover, in his report, the inquiry officer has mentioned that the appellant remained incarcerated for about 14 and a half months and faced physical and mental torture as well as financial loss. In such circumstances, the competent Authority was not justified in awarding punishment to the appellant. The impugned orders are patently wrong and illegal, hence not sustainable in the eye of law.

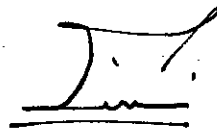
11. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

11.04.2022



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



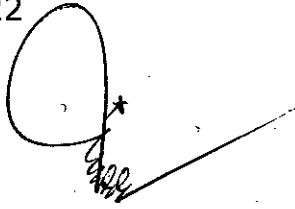
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

O R D E R  
11.04.2022

Mr. Noor Muhammad Khattak, Advocate for the appellant present and submitted fresh Wakalatnama on behalf of the appellant, which is placed on file. Mr. Muhammad Raziq, Head Constable alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
11.04.2022



(Mian Muhammad)  
Member (Executive)

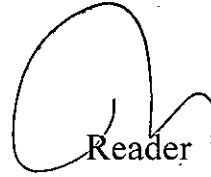


(Salah-Ud-Din)  
Member (Judicial)



19.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 11.08.2021 for the same as before.

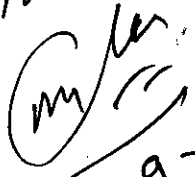
  
Reader


11.08.2021


Nemo for appellant.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 28.09.2021 for arguments before D.B.

Sir  
note for  
  
13-9-21

  
(Rozina Rehman)  
Member (J)

  
Chairman

28-9-21

DB is on Tour case to come up  
For the same on Dated. 13-12-21

\$  
Reader

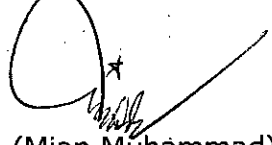
13.12-21

DB is on Tour case to come up  
For the same on Dated. 11-4-22

\*  
Reader

04.12.2020 Counsel for the appellant and Asstt. AG alongwith Muhammad Raziq, H.C for the respondents present.

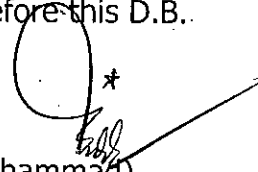
Due to paucity of time on a Friday, instant matter is adjourned to 22.12.2020 for hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

22.12.2020 Appellant alongwith his counsel (Mr. Taimur Ali Khan, Advocate) and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Muhammad Raziq, Reader for the respondents present.

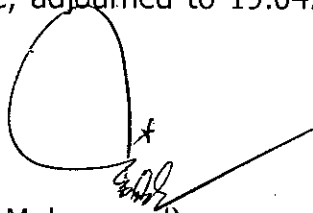
Arguments heard. To come up for order on 15.01.2021 before this D.B.


  
(Mian Muhammad)  
Member(E)

  
Chairman

15.01.2021 Appellant in person and Asstt. AG for the respondents present.

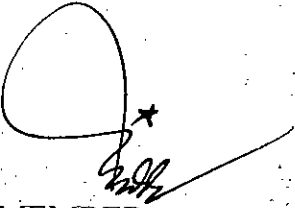
On the last date of hearing arguments were concluded by learned counsel for the appellant as well as learned Asstt. AG on behalf of the respondents. The proceedings were adjourned for today for announcement of order, however, while writing the judgment the need for some more assistance was felt. The matter is, therefore, adjourned to 19.04.2021 for re-hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

17.06.2020

Appellant in person and Asst: AG alongwith Mr. Muhammad Raziq, H.C for respondents present. Written reply submitted which is placed on file. To come up for arguments 10.09.2020 before D.B.



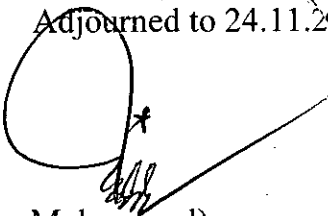
MEMBER

10.09.2020


Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Appellant submitted rejoinder which is placed on file. Requested for adjournment.

Adjourned to 24.11.2020 for arguments before D.B.



(Mian Muhammad)  
Member (E)

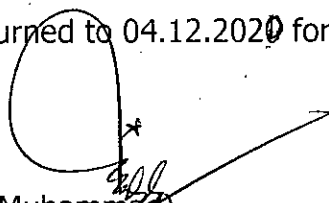


(Muhammad Jamal)  
Member(J)

24.11.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG requests for adjournment in order to lay hands on complete record already available on the appeal file. Adjourned to 04.12.2020 for hearing before the D.B.



(Mian Muhammad)  
Member



Chairman

02.12.2019

Nemo for appellant. Addl. AG alongwith Aziz Shah, Reader for the respondents present.

Representative of the respondents seeks time to furnish reply/comments. Adjourned to 14.01.2020 on which date the requisite reply/comments shall positively be submitted.

  
Chairman

14.01.2020

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

Learned AAG seeks time to furnish reply/comments. Adjourned to 10.02.2020 on which date the requisite reply/comments shall positively be furnished.

  
Chairman

10.02.2020

Appellant in person present. Written reply not submitted. Aziz Shah Reader representative of respondents present and seeks time to furnish reply. Granted. To come up for written reply/comments on 25.03.2020 before S.B.

  
Member

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before S.B.

  
Reader

02.10.2019

Counsel for the appellant present. Amended appeal has been submitted which is made part of the record.

Contends that in the first round of departmental proceedings against the appellant, he was not provided opportunity of cross examination of witnesses. On the said score the appeal was allowed by this Tribunal on 17.12.2018 with the directions to respondents to hold de-novo proceedings and provide ample opportunity of defense to the appellant. However, again in the de-novo proceedings similar treatment was meted out to the appellant and he was not allowed to cross examine the witness despite his written request/application dated 19.03.2019 to that effect. Further contends that the order imposing major penalty of dismissal from service dated 29.09.2011 was set aside by this Tribunal while the same was upheld through impugned order dated 13.05.2019.

In view of the available record and arguments of learned counsel, instant appeal is admitted for regular hearing subject to all just legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/ comments on 02.12.2019 before S.B.

Appellant Deposited  
Security & Process Fee

7/10/19

  
Chairman

PCL XL Error

Subsystem: KERNEL  
Error: IllegalOperatorSequence  
File Name: kernel.c  
Line Number: 1608

30.08.2019

Counsel for the appellant present.

An application for amendment of appeal has been submitted due to the fact that after submission of instant appeal the departmental appeal was rejected by the respondents on 22.08.2019. In order to bring on record the relevant facts and documents the requisite amendment is sought. The application is allowed. The appellant shall submit the amended appeal on next date of hearing.

Adjourned to 02.10.2019 before S.B.



Chairman



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**AMENDED APPEAL NO. 1227 /2019**

Abdul Qadir

V/S

Police Deptt:

**INDEX**

S. No.	Documents	Annexure	P. No.
01.	Memo of appeal	-----	01-05
02.	Copies of charge sheet, order dated 29.09.2011, FIR and judgment dated 17.12.2018	A,B,C&D	06-15
03.	Copies of order dated 12.02.2019, Charge Sheet & Statement of Allegation and reply to charge sheet	E,F,G,&H	16-25
04.	Copy of application	I	26
05.	Copies of Show Cause & reply to Show cause notice	J&K	27-31
06.	Copy of order dated 13.05.2019	L	32
07.	Copy of departmental appeal	M	33-35
08.	Copies of rejection order, application, and order sheet dated	N,O&P	36-39
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11.	Copies of acquittal orders	S	42-70
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13.		-----	

Put up to the court  
with relevant appeal.

**APPELLANT**

THROUGH:

*M. Asif Yousafzai*  
**M.ASIF YOUSAFZAI**  
**ADVOCATE SUPREME COURT,**

*Taimur Ali Khan*  
**(TAIMUR ALI KHAN)**  
**ADVOCATE HIGH COURT**

Room No. FR-8, 4<sup>th</sup> Floor,  
Bilour plaza, Peshawar cantt:  
Cell# 0333-9390916

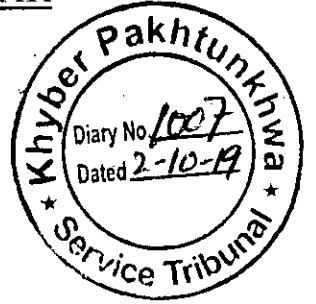
*Reader*

*2/10/19*



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

**AMENDED APPEAL NO. 1963/2019**



Abdul Qadir, Ex-SI, S/O Haider Khan,  
R/O Village Jammat, P.O Kandar, Tehsil & District Charsadda.

**(APPELLANT)**

**VERSUS**

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital Police Officer, Peshawar.
3. The Senior Superintendent of Police (Coordination), Peshawar.
4. The Senior Superintendent of Police (Operations), Peshawar.

**(RESPONDENTS)**

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**AMENDED APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.05.2019, WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS UPHELD AWARDED BY RESPONDENT NO.4 AND AGAINST THE ORDER DATED 22.08.2019, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.**

**PRAYER:**

**THAT THE ACCEPTANCE OF THIS AMENDED APPEAL, THE ORDER DATED 13.05.2019 and 22.08.2019 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWTH:**

**FACTS:**

1. That the appellant joined the police force in the year 1983 as constable and due to excellent performance, the appellant was promoted to the

post of S.I and since his appointment the appellant has performed his duty with great devotion and honesty, whatsoever assigned to him and also have good service record throughout. It is also pertinent to mentioned here that the appellant has received A reports from his superiors and thus has had unblemished record, outstanding service record for a period of 29 years at his credit.

2. That the appellant was removed from service on 29.09.2011 on the some baseless allegations and FIRs were also lodged against the appellant. The appellant challenged the order dated 29.09.2011 in the august Service Tribunal in service appeal No.1966/2011. The said appeal was finally heard on 17.12.2018, which was accepted, set aside the impugned order and reinstated the appellant into service with the direction to respondent department to conduct denovo inquiry as per rules within a period of 90 days with further direction to give opportunity of cross examination to the appellant. **(Copies of charge sheet, order dated 29.09.2011, FIR and judgment dated 17.12.2018 is attached as Annexure-A,B,C&D)**
3. That in compliance of judgment of this august Service Tribunal, the appellant was reinstated into service for the purpose of denovo inquiry vide order dated 12.02.2019 and charge sheet along with statement of allegations were issued to the appellant which was duly replied by the appellant in which he denied the allegations and gave the real facts about the situation. **(Copies of order dated 12.02.2019, Charge Sheet & Statement of Allegation and reply to charge sheet are attached as Annexure-E,F,G&H)**
4. That inquiry was conducted against the appellant in which again opportunity of cross examination on the witnesses was not provided to the appellant by the Inquiry Officer on which the appellant also filed application the respondent No. 2 for not providing chance of cross examination to the appellant, but despite that no action has been taken on that application. Even the inquiry report was not provided to the appellant. **(Copy of application is attached as Annexure-I)**
5. That on the basis of above inquiry, show cause notice was issued to the appellant which was duly replied by the appellant in which he denied allegations again and gave the real facts about the situation. **(Copies of Show Cause & reply to Show cause notice are attached as Annexure-J&K)**
6. That the respondent No. 3 passed an order dated 13.05.2019 wherein previous punishment of dismissal from service of the appellant was upheld under RSO-2000 which was already set-aside by the

Honorable Tribunal in its Judgment dated 17.12.2018. **(Copy of order dated 13.05.2019 is attached as Annexure-L)**

7. That the appellant file departmental appeal on 20.05.2019 which was not responded within the statutory period of sixty days. **(Copy of departmental appeal is attached as Annexure-M)**
8. That after the statutory period, the appellant then filed service appeal No. 7 in this august Service Tribunal which was fixed for Preliminary hearing on 30.08.2019, however the departmental appeal of the appellant was rejected on 22.08.2019 which needs to be impugned in the service appeal, therefore the appellant filed an application for amending the service appeal by impugning the rejection order dated 22.08.2019 in the instant service appeal, which was allowed on 30.08.2019. **(Copies of rejection order dated 22.08.2019, application, and order sheet dated 30.08.2019 are attached as Annexure-N,O&P)**
9. That now the appellant come to this august tribunal on the following grounds amongst others.

#### **GROUND:**

- A) That order dated 22.08.2019 and the order dated 13.05.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the inquiry was not conducted according to law and rules and judgment dated 17.12.2018 as neither statement was recorded in the presence of appellant nor give him opportunity of cross examining the witnesses, but despite that inquiry officer held the appellant responsible. Even the inquiry report was not provided to appellant despite of filling of application for provision of inquiry report, which is violation of law and rules. **(Copy of application is attached as Annexure-Q)**
- D) That the inquiry was not conducted against the appellant according to the prescribed manner as the appellant has not provided chance of cross examination of witnesses on which the appellant he also filed application to respondent No. 2 but despite that no action has been

taken on his application. Thus the respondents have violated section 5(1)(c) of the RSO-2000.

- E) That the august Service Tribunal also directed the respondents to provide opportunity of cross examination, but despite that inquiry officer did not provide opportunity of cross examination to the appellant which is violation of this Honourable Tribunal judgment as well as norms of justice and fair play.
- F) That the AIG (Complaint & Inquiry) marked the denovo inquiry to the respondent No.3 vide letter dated 20.02.2019, but he appointed Niaz Muhammad Khan DSP on his behalf, thus inquiry officer cannot legally appoint another inquiry officer, which is against the law and rules. **(Copy of letter dated 20.02.2019 is attached as Annexure-R)**
- G) That AIG (Complaint & Inquiry) nominated respondent No.3 as inquiry officer but he issued charge sheet and passed the impugned dismissal from service order dated 13.05.2019, which is not permissible under the law and rules.
- H) That the august Service Tribunal set aside the dismissal order dated 29.09.2011, which means that the impugned order of dismissal of the appellant was no more in filed, but the respondent No.3 passed the order dated 13.05.2019, wherein he upheld the previous penalty of dismissal from service, which means that impugned order dated 13.05.2019 is void and has no legal effect.
- I) That Hon'able Tribunal set aside the impugned dismissal order dated 29.09.2011 passed by respondent under RSO 2000 meaning by that previous dismissal order dated 29.09.2011 of the appellant vanished forever, but despite that appellant was proceeded under RSO 2000 and also upheld the previous dismissal order of the appellant, which means that the whole proceedings against the appellant is void ab initio.
- J) That the competent authority for appellant is SSP (Operation) while the impugned action has been taken against the appellant by SSP coordination which means that action against the appellant was taken by incompetent authority and the whole proceedings are thus void ab initio.
- K) That the appellant has already been acquitted in the criminal cases by the competent Court of law and there remains no ground to penalize

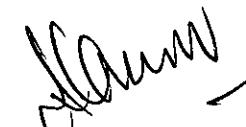
the appellant. (Copies of acquittal orders are attached is Annexure-S)

L) That in the charge sheet it was mentioned that raid was conducted on 09.06.2011 and some items were recovered from the room of the appellant, but the appellant gave in detail about the real facts of the situation and mentioned in his reply that the PS Badabher was blown by a suicide bomber, due to which the available record and building of the PS Badabher were damaged and in this respect FIR was also lodged against unknown person and due to the above mentioned reason the record of the concerned Police Station were shifted to a private house and the charge of 12 person kept in illegal confinement, he also the real facts about the issue of confinement of 12 person, but despite that he punished for no fault on his part. (Copy of FIR is attached as annexure-T)

M) That the august Service Tribunal gave 90 days for denovo inquiry in its judgment dated 17.12.2018, but the respondent department did not conduct the denovo inquiry within the specified period given by this august Service Tribunal, which is violation of the judgment dated 17.12.2018 of this Honourable Tribunal.

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

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



APPELLANT

Abdul Qadir

THROUGH:



M.ASIF YOUSAFZAI

ADVOCATE SUPREME COURT,



(TAIMUR ALI KHAN)

ADVOCATE HIGH COURT

&

(ASAD MAHMOOD)

ADVOCATE HIGH COURT

CHARGE SHEET

Annex A-0  
6  
8

Ijaz Ahmed Sr. Superintendent of Police, (Operations), Peshawar as  
authority, hereby charge you SI Abdul Qadir the then SHO PS Badaber

as follows:  
You SI Abdul Qadir the then SHO PS Badaber, Peshawar committed the  
following irregularities that:

On information dated 09-06-2011 a raid was conducted and the  
following items were recovered from your room which were hidden by you without  
maintaining proper record. Besides 12 persons were also kept in illegal confinement  
by you for some ulterior motive and did not show their arrest on record. Moreover,  
you have been placed under suspension, found involved in such illegal acts on your  
part. All this amounts to gross misconduct on your part and renders you liable for  
punishment under Removal from Service (Special Powers) Ordinance-2000. Thus you  
have been charge sheeted and is being proceeded against departmentally

- 1. Klashnikov = 13
- 2. Miscellencous rifles = 25
- 3. Pistols = 17
- 4. Mobile Phones = 39
- 5. Cartridges (Misc) = 2516
- 6. Magazines = 106
- 7. Norcotics Hashas = 217 Kg
- 8. Herion = 3\*1/2 Kg
- 9. Opium = 4 Kg
- 10. Alcohol = 1 Can 5 Liter + 1\*1/2 Bottle
- 11. Spare part (Misc) = 22 Kg
- 12. Barrels = 11 Numbers
- 13. Persons = 12 persons Kept in illegal confinement.

Note:- (Full detail of the above items are enclosed for reference).

This act is against the discipline which amount to gross miss conduct  
on your part and render you liable for minor/major punishment under the rules  
Removal from Service (Special Power ordinance) 2000.

2. By reasons the above, you appear to be 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  
the ordinance.

3 You are, therefore, required to submit your written defense within  
seven days of the receipt of this Charge Sheet to Enquiry Officer

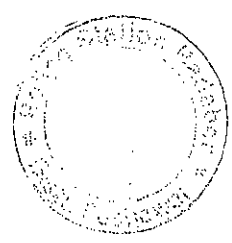
4. Your written defense, if any, should reach the Enquiry Officer within  
the specified period, failing which it shall be presumed that you have no defence to  
put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.  
A statement of allegations is enclosed.

Handwritten notes in Urdu, including "3. 1/2", "2. 1/2", "1. 1/2", and "6. 1/2".

Handwritten signature and date: "SI/11/11"

Handwritten signature: "SI PBN 18/11"



(IJAZ AHMAD)  
SR. SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

ATTESTED  
Handwritten signature

ORDER

Annex B (7)

This order will dispose off the Departmental Enquiry against SI Abdul Qadir Khan the then SHO PS Badaber on the grounds of allegations that on information dated 09-06-2011 a raid was conducted and the following items were recovered from his room which were hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension being found involved in such illegal acts on his part. Thus he has been charge sheeted and proceeded against departmentally.

- |                         |  |
|-------------------------|--|
| 1. Klashnikov           | = 13                                     |
| 2. Miscellaneous rifles | = 25                                     |
| 3. Pistols              | = 17                                     |
| 4. Mobile Phones        | = 39                                     |
| 5. Cartridges (Misc)    | = 2516                                   |
| 6. Magazines            | = 106                                    |
| 7. Narcotics Hashas     | = 217 Kg                                 |
| 8. Herion               | = 3 1/2 Kg                               |
| 9. Opium                | = 4 Kg                                   |
| 10. Alcohol             | = 1 Can 5 Liter + 1*1/2 Bottle           |
| 11. Spare part (Misc)   | = 22 Kg                                  |
| 12. Barrels             | = 11 Numbers                             |
| 13. Persons             | = 12 persons Kept in illegal Confinement |

This act on his part has badly tarnished the image of police force in the eyes of general public, which amounts to gross misconduct and liable him for punishment under Removal from Service (Special Powers) Ordinance-2000.

Accordingly, he was issued charge sheet with statement of allegations and a departmental enquiry was initiated while Mr. Shaid Ali SP/HQrs(Inv:), Mr. Saleem Riaz Khan DSP/Security & Inspector/DSP Riaz Ud. Din Khattak, Peshawar were appointed as Enquiry Officers. Findings of the Enquiry Officers were received and perused who recommended him for the following punishment:

1. Major departmental punishment should be awarded to SHO Abdul Qadir Khan.
2. A criminal case under the relevant provisions of law be registered.

*(Handwritten Signature)*

ATTESTED

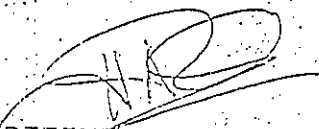
*(Handwritten Signature)*

(7) (8)

Upon the findings of the Enquiry Officers, he was issued Final Show Cause Notice, to which he submitted his reply, which was perused/considered but was found un-satisfactory.

I have gone through the enquiry file and perused the entire record. The officer was called for personal hearing. The accused officer was heard in person but he did not forward any plausible explanation, therefore, I am convinced that he is guilty of the charges leveled against him.

In light of the recommendation of the enquiry committee and the undersigned being satisfied that the charges leveled against him are proved beyond any shadow of doubts, therefore he is hereby awarded the major punishment of Dismissal from service under the NWFP Removal from Service (Special Power) Ordinance 2000 with immediate effect.

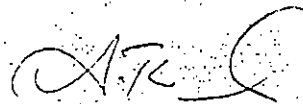
  
SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.

O.S.No. 3563 / dated 27/09 /2011.

no. 1019-25 /PA, dated Peshawar, the 27/09 /2011

Copy for information & n/action to:

1. The Capital City Police Officer, Peshawar.
2. The SP/Rural.
3. The DSP/Sadder Circle, with the direction to collect the seized items from SP/Invest./HQRS for further legal n/action.
4. SHO PS Badaber with the direction to register the case in light of the recommendation of the enquiry committee against the defaulter officer before seeking guidance from legal branch.
5. PO, EC-I, EC-II, CC & AS
6. FMC with enquiry file. (105 Encl)











9-A

11

ملفوظ پائے گئے۔ نو اس کے خلاف کیا کارروائی؟ صرف ضبط عمل اس لائی جائیگی۔  
گنتیوں ہوں۔ بیڑیہ گنتیوں ہے۔

شیر

CO. ACE Paslowar.

06.08.2013.

دستخط

عہدہ

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف یا ب سرخ روشنائی سے بالمتاب  
ایک بلزم یا مشتمل علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں، لکھنا چاہئے۔

ATTESTED

Sh

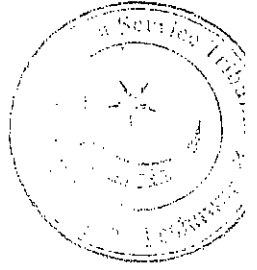
Annex D

Annex 12

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

SERVICE APPEAL NO. 1966/2011

Date of institution ... 24.12.2011  
Date of judgment ... 17.12.2018



Abdul Qadir, Ex-Sub-Inspector,  
S/O Haider Khan.  
R/O Village Jammāt, P.O Kandar, Tehsil & District Charsadda.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police (Operations), Peshawar. ... (Respondents)

SERVICE APPEAL UNDER SECTION-10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000 READ WITH SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.09.2011 ISSUED BY RESPONDENT NO. 3 WHO VIDE THE SAME AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE UPON THE APPELLANT AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO. 2 ON 03.10.2011 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 60 DAYS.

M. Amin  
17.12.2018

Mr. Khaled Rahman, Advocate. ... For appellant.  
Mr. Muhammad Jan, Deputy District Attorney ... For respondents.

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

ATTESTED

JUDGMENT

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant alongwith

his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Sub-Inspector. He was dismissed from service under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 by the competent authority vide order dated 29.09.2011 on the allegation that the higher authority conducted a raid at the quarter of the appellant and recovered from the

ATTESTED

room/quarter of him various items of case property mentioned in the charge sheet and beside it 12 persons were also kept illegally confined by him for some ulterior motive and did not shown their arrest in the record. The appellant filed departmental appeal on 01.10.2011 which was not decided hence, the present service appeal on 24.12.2011.

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

4. Learned counsel for the appellant contended that beside the departmental proceedings one criminal case vide FIR No. 882 dated 09.06.2011 under sections 9C CNSA/13/14 AO/3/4 PO/342 PPC Police Station Badabher was also registered against the appellant but the competent court has acquitted the appellant from the criminal case. It was further contended that before the alleged raid conducted by the higher police authority on the residential quarter of the appellant Police Station Badabher was blown by a suicide bomber wherein all the official record/case property available in the Police Station Badabher was damaged and the building of Police Station Badabher was also damaged and in this respect FIR No. 750 dated 16.11.2009 under section 302/324/353/109 PPC, ¼ Exp Sub Act/7 ATA at Police Station Badaber, Peshawar was also registered against the unknown persons. It was further contended that the appellant might have taken some case property to his quarter due to this reason. It was further contended that the appellant has rendered 29 years long service but the competent authority has not taken into consideration of his long 29 years service at the time of passing of impugned order of dismissal from service of the appellant. It was further contended that the appellant was also held good ACRs during long 29 years service. It was further contended that during the relevant day the higher authority directed the competent authority of Police Station Badabher to kept suspicious persons for investigation under section 154 CrPC. It was further contended that the appellant was not provided opportunity of personal hearing before the impugned order. It was further contended that the inquiry officer has recorded the statement of witnesses during the inquiry proceedings but no opportunity of cross examination was provided to the appellant although under section-5 (c) of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 it was mandatory for the inquiry officer to provide

*M. Anwar  
8.02.2018*

**ATTESTED**

*[Signature]*

*[Handwritten marks]*  
13

*[Handwritten mark]*

opportunity of cross examination therefore, the appellant was condemned unheard which has rendered the whole inquiry proceeding illegal and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the higher police officials including four gazetted officers have conducted raid at the residential quarter of the appellant wherein various items of case property including Kalashnikovs, Miscellaneous Rifles, Pistols, Mobile Phones, Cartridges, Magazines, Narcotics Hashas, Herion, Opium, Alcohol, Spare Parts, Barrels were recovered from the residential quarter of the appellant. It was further contended that beside the aforesaid recovery from the residential quarter of the appellant, 12 persons were also kept in illegal confinement by the appellant and the raided party also made recovery of 12 persons and no malafide was attributed to the raided party by the appellant at any stage. It was further contended that DSP rank officer has conducted the inquiry but the appellant also did not attribute any malafide to him. It was further contended that all the codal formalities of departmental proceedings were fulfilled by the inquiry officer therefore, it was vehemently contended that the competent authority has rightly imposed major penalty of dismissal from service upon the appellant and prayed for dismissal of appeal.

*M. Anam*  
17.12.2018

6. Perusal of the record reveals that after issuing of charge sheet, statement of allegation, the inquiry officer has conducted inquiry wherein statement of various police officials including Sajjad Hussain, Farhad Khan, Tila Muhammad, Gul Rokhan, Muhammad Jamil, Roman, Rehman, Farooq Shah, Manzoor Shah etc were recorded

ATTESTED

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

some questions have been put on the witnesses by inquiry officer but the appellant was not provided an opportunity of cross examination by the inquiry officer on the witnesses although under the section-5 (C) of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 it was mandatory upon the inquiry officer to provide opportunity of cross examination to the appellant on the witnesses. In this respect section-5 (C) of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 is reproduce here:-

ATTESTED  
*[Signature]*

18  
15

5. Power to appoint an Inquiry Officer or Inquiry Committee.----

(1)-----

(a)-----

(b)-----

(c) Enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.

7. As the appellant was not provided opportunity of cross examination on the witnesses by the inquiry officer deposed against him in the inquiry proceeding therefore, the same has rendered the whole inquiry proceedings illegal and liable to be set-aside. As such, we accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry as per rules within a period of 90 days from the date of receipt of this judgment with further direction to give opportunity of cross examination to the appellant. The issue of back benefits shall be subject to the outcome of de-novo inquiry.

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

ANNOUNCED  
17.12.2018

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

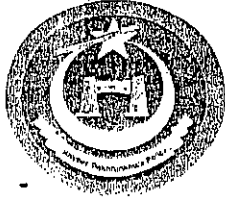
*[Signature]*  
(HUSSAIN SHAH)  
MEMBER

Certified to be true copy

*[Signature]*  
Secretary  
Peshawar

Date of Copy taken of \_\_\_\_\_ 18-12-18  
Number of Words \_\_\_\_\_ 16800  
Copying Fee \_\_\_\_\_ 70  
Urgent \_\_\_\_\_  
Total \_\_\_\_\_ 10  
Name of Copy \_\_\_\_\_  
Date of Completion of Copy \_\_\_\_\_ 03-01-19  
Date of Delivery of Copy \_\_\_\_\_ 03-01-19

**ATTESTED**  
*[Signature]*



OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
(OPERATIONS)  
PESHAWAR

E-mail: [sspoperations2448@gmail.com](mailto:sspoperations2448@gmail.com)  
Phone. 091-9210508  
Fax. 091-9213054

ORDER

Consequent upon the judgment order dated 17.12.2018 passed by the Honorable Service Tribunal Peshawar in service appeal No. 1966/2011 appellant i.e Ex-Sub Inspector Abdul Qadir is hereby reinstated in service conditionally for the purpose of conducting denove enquiry with immediate effect.

585/P

SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

No. L39-44/PA dated Peshawar the 12/02/2019.

1. Copy of the above along with relevant enquiry file is forwarded to the worthy Deputy Inspector General of Police, Enquiry & Inspection KPK Peshawar with a request to conduct denove enquiry against the above named appellant as desired by the worthy PPO vide his office letter No. 523/Legal dated 30.01.2019 (copy attached), keeping in view the period of 90 days prescribed by the Honorable Tribunal vide judgment quoted above. (u-57)
2. Copy to the Capital City Police Officer Peshawar vide his office Dy No. 735/CCPO dated 04.02.2019 for information please.
3. DSP Legal CCP Peshawar
4. EC-II, EC-I, Pay Officer
5. FMC

ATTESTED





Amer 18

**DENOVO PROCEEDINGS  
DISCIPLINARY ACTION AGAINST  
SI/SHO ABDUL QADIR POSTED OF PS BADABER**

I, Ijaz Ahmad, Sr: Superintendent of Police, Operations, Peshawar as competent authority, is of the opinion that SI/Sho Abdul Qadir posted of PS Badaber, Peshawar rendered him liable to be proceeded against. as he committed the following acts within the meaning of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance V/2000.

**STATEMENT OF ALLEGATIONS.**

SI/Sho Abdul Qadir posted of PS Badaber, Peshawar committed the following irregularities that:-

On information dated 09-06-2011 a raid was conducted and the following items were recovered from his room which were hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension, found involved in such illegal acts on his part. All this amounts to gross misconduct on his part and renders him liable for punishment under Removal from Service (Special Powers) Ordinance-2000. Thus he has been charge sheeted and is being proceeded against departmentally.

10. Klashinkov	= 13
11. Miscellencous rifles	= 25
12. Pistols	= 17
13. Mobile Phones	= 39
14. Cartridges (Mise)	= 2516
15. Magazines	= 106
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10. Alcohol	= 1 Can 5 Liter + 1*1/2 Bottle
11. Spare part (Misc)	= 22 Kg
12. Barrels	= 11 Numbers
13. Persons	= 12 persons Kept In illegal confinement.

Note: - (Full detail of the above items are enclosed for reference).

1. This act is against the discipline which amounts to gross miss conduct on his part and render him liable for minor/major punishment under the rules Removal from Service (Special Power ordinance ) 2000.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations a denovo enquiry is ordered by CPO vide memo: No. 836/E&I dated 20.02.2019, therefore Mr. Niaz Muhammad Khan DSP Coordination is hereby appointed as enquiry officer.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provided reasonable opportunity of hearing to the accused officer, record its finding within 07 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

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

13-3-2019  
SI-13-3-2019  
NO. 92

Javed Khan  
(JAVED KHAN)  
SENIOR SUPERINTENDENT OF POLICE,  
COORDINATIONS, PESHAWAR.  
/2019.

Copy to:-

SI Abdul Qadir (Dismissed) with the directions to appear before the Enquiry Officer on the date, time and place fixed by the E.O for the purpose

ATTESTED

Max

1

بیان ازین قاریخان عرف عبدالقادر سب الیکٹریسیٹی پولیس ایڈیشن لکھنؤ

محلہ حاجی شیخ صاحب - 4555 کورٹیشن لکھنؤ  
صرف خدمت ہوں کہ میں حوزہ 1-10 کو بحیثیت کنسٹیبل پولیس حکم میں آجرتی  
1983

ہو کر وقتاً فوقتاً مختلف کورس ہا میں کامیابی حاصل کی۔ عرصہ 29 سال حکم پولیس  
میں ملازمت کر کے دوران ملازمت افسران بالا سامان کو کسی قسم کی شکایت  
کا موقع نہیں دیا۔ دوران ملازمت اچھی کارکردگی کے بناء پر اور افسران بالا  
سامان سے AI کورس کے ACR حاصل کر کے ڈیپارٹمنٹل پروموشن کے  
ذریعے بحیثیت سب الیکٹریسیٹی ترقیاب ہوا۔

جیسا علاقہ تھا نہ بہہ سیر نہایت دھست لڑ  
کے لپیٹ میں ہو کر سورش شدہ قرار دیا گیا۔ اور پولیس ایڈیشنوں پر طرف  
سے طالبی و مالی عملے مشرعم ہوئے تھے اس دوران تھا نہ بڑھو پیر کا سرکاری بلڈنگ  
پر دھشت گردوں نے کارم دھاک کر کے سرکاری بلڈنگ تھا نہ کو نقصان پہنچا کر  
تبدیل جانی نقصان ہی ہوا۔ سرکاری بلڈنگ تھا نہ رپارٹس کے قابل نہیں رہا۔ تو

پولیس کے عملے۔ ریکارڈ اور حال صورتات۔ حال گورنمنٹ رکھنے اور رپارٹس لکھنے ایک  
پروٹوٹھ مکان کرایہ پر حاصل کر دیا گیا۔ جس میں عمروں کی کمی کے وجہ سے عملے  
رپارٹس اور حال گورنمنٹ و قعدات رکھنے میں دشواری کا سامنا تھا۔ اور پولیس  
ایڈیشنوں نے رات کو جو بائیل شیٹ چھوڑ کر علاقہ اور بیم کوھاٹ روڈ۔ انڈیا  
و غیرہ کو دھشت گردوں کے رحم و کرم پر چھوڑ دیا تھا۔ اور فخری پولیس تھا نہ اور

جو بیات کے اندر جسود ہو کر رہ گئے تھے۔ -

Allama

ATTESTED

ان ہی سخت ترین حالات کی نزاکت کرتے ہوئے افسران بالا صاحبان نے

حرفہ 13<sup>15</sup> کوٹھی جلیت S.H. کھانہ ٹھہر بیر میں تعینات فرمایا۔ میں نے  
2010

حالات کا مقابلہ کرتے ہوئے بنیاداً محنت۔ لگن اور محنتستانی سے کام کرتے ہوئے

پولیس نفری کو کھانہ اور حکومت کے بلڈنگ سے نکال کر دوبارہ روڈوں پر  
جوبیلانڈ کیا۔ اس دوران سٹریٹس مینٹیننس کے ساتھ کئی پولیس مقابلے ہو کر

جن میں پولیس اہلکاران اللہ تعالیٰ کے فضل و کرم سے بال بال 7 گئے ہیں اور

سٹریٹس مینٹیننس کے کافی قبضان اشتیاری بلڈنگ اور زخمی ہوئے۔ جن کے Fix کھانہ

کے ریکارڈ موجود ہیں۔ اس کے علاوہ گرفتاری قبضان اشتیاری اور برآمدگی اسلحہ

والیوسٹن و مشیات میں ہی کھانہ ٹھہر بیر عام ضلع کے کھانہ جات سے کارروائی

میں سہر فہرست رہا۔ یہاں ریکارڈ موجود ہیں۔ لیکن بد قسمتی سے میرے اس تہذیب

کامیابیوں سے کچھ بااثر فیصلہ یافتہ سمیت ناموں پر کچھ فیصلہ نقصان پہنچانے کے

درجے ہوئے۔ حرفہ 6<sup>6</sup> کو دینہ ٹھہر بیر اور ٹھہر جین کے رہائش پذیر لوگوں  
2011

کے درمیان جلیبی سیلڈی لڑیں پر سخت ترین تنازعہ کھڑا ہوا۔ اور ٹھہر جین نے جلیبی

سیلڈی لڑیں کے تاروں کاٹ کر کھجے اٹھا دیے۔ یہ دونوں گاؤں کے لوگ ایک

دوسرے کے خلاف عرصہ زین ہوئے جس سے سٹین جانی نقصان کا اندیشہ کی اطلاع

پاکر میں افسران بالا صاحبان کو درج بالا افسر کی اطلاع کے تحت اور خود فوری  
طور پر موقعہ روکنے ہوا۔ موقعہ جاتے ہوئے میں ہنر جمع واپس لیں سیت

4-3-2019

قانون شہرہ جی کے فری ساجد حسین فری کو قانون سے میرے بھائی لوی لویس

کو جانے کا اطلاع پاس کی۔ اس اطلاع پر ساجد حسین فری ASI کے لوی لویس  
بھائی کے بھائی نہایت غیر دانشمندانہ اور بد اخلاق کا مظاہرہ کرتے ہوئے لوی لویس

بھائی سے صاف ابرہہ کیا۔ اس لفظ کو جناب  $ASR$  صاحب کا نام جاننے سے خود

سن کر جناب  $ASR$  صاحب نے جوکيات اور دیگر قانونیات سے لوی لویس میرے بھائی

بھائی میں پر دوڑوں دیات کے حشران سے بات چیت کر کے معاملہ کو اتمام و تقسیم

سے حل کرنے پر متفق کرتے ہوئے عدالت  $2011$  کو واپس لے لیا اور دیگر حشران

عدالت کو بھی سپردی دینے کے بجائی بسے موقع مل گیا۔ حج حالت و احوال

احسن بنا لا عدوان کے نوٹس میں لائے گئے تھے جناب  $ASR$  صاحب نے بعد فراغت عدالت

سے مجھے اپنے دفتر لویس کیا۔ میں دفتر جناب  $ASR$  صاحب لویس میں پہنچ کر جناب

$ASR$  صاحب نے ساجد حسین فری ASI کے بد اخلاق کا نوٹس دینے سے روکے جانے کے

خلاف فری کی گیلٹ کرنے کا قلم صادر فرمایا۔ میں نے ساجد حسین فری ASI

کے خلاف فری کی گیلٹ جناب  $ASR$  صاحب کے خلاف میں پیش کیا۔ جس کے ساتھ

جناب  $ASR$  صاحب نے (Recommendation Letter) دستخط کر کے جناب  $ASR$  صاحب کو بھجوا دیا

جس پر ساجد حسین فری ASI کا تیار ہوا جواب  $08$  فر  $2140$  قانون شہرہ جی

سے  $06$  قانون شہرہ جی اس ٹرانسپورٹ آرڈر کے (Recommendation Letter)

اور گیلٹ درخواست کی نقل جو اس سبب تیار ہوا ہے

adhami

ATTESTED

*[Signature]*

ساجد حسین قریشی کا قلم نمبر پھر سے ٹرانسفر ہو گیا ہے وہ نا اشر حقیر باقہ  
 جو پیلے سے ناک میں پٹھے ہوئے۔ ساجد حسین قریشی کو ٹرانسفر آرڈر کینسل کروانے  
 کا لائحہ دیکر نے ساتھ ایک کاپی سائنس شروع کرن میں شریک کی۔

بیان آخر قابل ذکر ہے۔ جسکا ذکر میں سے بعض لڑ چکے ہوں۔ کہ قلم  
 نمبر پھر کی سرکار بلڈنگ عم دھام میں تقصیر رسید ہو کر قلم نمبر پھر کیسے  
 ایک پرنٹنگ خانہ کریم پریسا گیا تھا۔ جس میں ایڈیٹروں کے رہائش اور

دیگر مال گورنمنٹ۔ حال وقت کا پھر ایڈیٹرز آفیس گھروں کے بے حد کھلی تھی۔ اور ایک

ایسی مگرہ کو دو دو۔ تین تین کاحوں کیسے استعمال میں لگاتے۔ اس میں کوئی  
 علیحدہ کوارٹر نہ تھی۔ بلکہ جمع مگرہ ہات کو قلم نمبر کے بلڈنگ کے پورے پورے استعمال تھے  
 اسی طرح میں بھی ایسی ہی مگرہ کے برائے دفتر SAHO اور رہائش اور قلم نمبر میں

گھانوں یعنی سرکار کام کیسے آنے والے عوام۔ افسرین بالا درجہ کی  
 قلم نمبر میں آمد پر تشریف رکھنے کیسے فریڈم پھر رکھ کر استعمال کر رہا تھا۔ جس  
 میں سر کوئی بغیر روک ٹھوک کے آنا جانا تھا۔ اکثر اوقات یہ مگرہ  
 کھنڈ رہا کرتا تھا۔ کبھی کبھی عدالت میں ڈور چلتے ہوئے حقتل مگر لیا۔

06/3/2011

دینہ ٹیڈنڈ اور ڈیو جنڈن کے درمیان جلی سیدلی مدین کی طالی  
 کیسے وائٹا ایڈیٹروں اور ڈیٹران عدالت جو فورم کا وہ کیسے پہلے سے  
 حوضہ طلب کیے گئے تھے۔ میں بھی ہمراہ پولس فوری ہم سپور سے

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تھانہ ٹرہو پیر سے دیر شیلڈ بند کئے روز بروز وقت دینا مکہہ قسقل کر کے

دیر شیلڈ بند ہوا۔ وہاں پر ایلیکاران وارڈا بھی آئے۔ اور عسکر

کے عزیزین بھی حسب اللہہ آکر چین کے تعاون سے جلی سیدھی لادیں لڑھکے

بحال کر کے بعد فراغت بوقت 1600 بج تھا، ٹرہو پیر سنچ آیا۔ باقاعدہ روزنامہ

تھا، سنچ اپنے والدین کی رپورٹ بوقت 1600 بج درج کیا ہے۔ جو ایلیکار تھانہ کے

روزنامہ میں موجود ہے۔ اپنے مکہہ آکر حیدر اکبرہ اسی طرح قسقل آقا۔ جس طرح

میں نے ہم جاتے وقت قسقل کیا تھا۔ 15 منٹ ٹرہو کے بعد کنٹرول روم

تھا، سے بند رہا اور ایسی اطلاع ملی کہ آپ کو افغان بالامہاں نے قسقل

کر کے پولیس میں تبدیل کیا گیا ہے۔ آپ اپنا چھتری پولیس میں آ گیا

حسب اطلاع میں روزنامہ تھا، میں بوقت 1615 بج اپنی والدی تھا، ٹرہو پیر

سے حسب اطمینان بالا پولیس اسٹیشن کے لئے جہاں کی لوہا ریکارڈ تھا، کے روزنامہ

میں موجود ہے۔ میرا حیدر عمارت میں جو الزام تھا، اسے میں میرا سر

بے بنیاد اور گھبراہٹ ہے۔ کیونکہ حملہ اسلام والیوں نے مشیات تھا، ٹرہو پیر

کے حال تھا، میں میرے بڑے مختلف FIR کے حال قسقل تھے۔ اور سید حسین

کو ASI نے اپنے ٹرانسفر کا بدلہ کر کے حیدر عمارت میں گھبراہٹ سازش

کے تحت میرے مکہہ سے افغان بالامہاں کو میں کا سید کر کے بڑا مدلی

(سلسلہ)  
ATTESTED

ظاہر کرنے میں کامیاب ہوا۔ ایسی کمرہ جو دفتر اور رہائش دونوں کے استعمال

ہو سکتا تھا۔ یہ وقت عوام کا سہارا کا حصہ کے سہم میں بھرتی آنے جاتے

تھے۔ اور رہنمائی بااقتدارانہ جو تھانہ میں تشریف لے کر اس سے ہی دفتر

میں تشریف رکھتے تھے۔ اسے دفتر (کمرہ) میں اتنے مقدار میں اسلام و المورثہ

موجودہ سہولتیں فراہم ہوئی۔ بعد اس قسم کی اسلام و المورثہ جس میں زیادہ تر

اسلام نامہ عمل استعمال۔ دینی سہولتیں بطریق ریورٹ آرڈر پولیس میں لے کر اور

مشیت ہی ٹکڑے ٹکڑے کی گئی ہے۔ اس کے علاوہ حوالہ تھانہ میں بارہ اشخاص

غیر قانونی کمرہ سرگرمیوں کے بارے میں عرض گزار ہوں۔ کہ میں نے

حرفہ کے 9 کو بوقت 16:15 تھانہ ٹھہر کر کے روزنامہ میں روزانہ پولیس میں

نئی دن عافیت کرنا شروع کی ہے۔ جبکہ اشخاص بند شدہ بحال کی رہائی

حرفہ کے 17 کو بطریق بیانات سائلہ انکوائری تحریر کی ہے۔ میرے تبدیل ہونے

کے انورڈین بعد گرفتاری و رہائی کی ذمہ داری ٹھہرانا انصاف کے مفاد ہے

اس کے علاوہ حجم درج بالا کارروائی میرے عدم موجودگی میں کی گئی ہے۔

جو کہ عدالت کے خلاف قانون کے مطابق نہیں ہے۔ ساجد حسین حریزی

میرے حروف ایک گھنٹے کے سائز میں کامیاب ہونے کے بعد

اسی ٹرانسفر کو بحال ہے 2380 حرفہ کے 25 کے واسطے

Handwritten signature and date: 24/11/2011

ATTESTED



تعمیر فراغت سے شہر ASI قلعہ پڑھو بھر کر دینے میں لگی کامیاب  
ہوا۔ جیٹا نقش آرڈر ہی لف ہمراہ بیان بنا ہے۔

جیٹا عالی! میرے حیدر ایک گھبراہ سبازش کے وقت کارروائی ہو کر جس سے  
میں اور میرے بیٹے نہایت ذہنی کوفت کی شکار ہوئے۔ جبکہ حالی اور بہنی لفظ  
اور تکالیف اٹھانے پڑے۔ بچوں کی تعمیری ماحول پر بھی بہت اثر انداز ہوا  
میرا صرف جتنے انعامات لے سکتے تھے۔ اس میں عزیز عداوت سے بائیکاٹ  
تعمیراتی کاموں کا اہتمام ضرور ہے۔ آپ کے صفحہ میں عرض ہے۔ کہ میں  
کے تباہیوں۔ Back benefits (کے ساتھ حدت پر بحال کرنے کا حکم صادر فرمایا

*Alhina*  
51/04/3/2019

ATTESTED  


Annex I

محرمت جناب چیف جسٹس سٹیٹ لویس انٹرنیٹ اور

26

مذیلی

نظام مشمولہ فوٹو اسٹیٹس جمعیت کابی حوزہ 17-12-2018 جملہ سرورس ٹریبونل

خبر فٹورن خواہ آت در حوض خدمت ہوں۔ کہ چھٹا مشمولہ میں ڈبل پنچ کے پنج صاحبان

نے حکم صادر فرمایا ہے۔ کہ جن سائل کو دوران Denovo انکوائری زیر رقم 5-C

of K.P.K Removal from Service Special Powers ordinance 2000 - Cross examination

کا موقع فراہم کریں۔ لیکن انکوائری ایئر DSP/CO صاحب نے کئی گویان کے بیانات

دئے گئے ہیں۔ اور عدالت کے (Direction) کے مطابق Cross Examination

کا موقع فراہم نہیں کی ہے۔ اور نہ ہی تیسرا موجودگی میں گویان کے بیانات دئے گئے ہیں۔

مجھے دفتر سے یہاں کر گویان کو پریسٹریٹ کر کے چیف بیانات دئے جاتے ہیں۔

استدعا ہے کہ سائل کے حالات پر رقم فرما کر مناسب حکم صادر

فرمایاں۔

19-3-2019

اللہ

اسان

آپ کا نالہ زفان قادر خان سب انسٹا P-555 ضلع شیہور

Fanned PC

03  
R/HO 20/019

ATTESTED

Q



J (27)

**OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR,**

Phone No. 0919213757

Fax: No. 091-9212597

No. 76 /PA,

Dated Peshawar the 24 / 04 / 2019.

**FINAL SHOW CAUSE NOTICE**

I, Javaid Khan, Senior Superintendent of Police Coordination, Peshawar as Competent Authority under P.R 1975, do hereby serve you, SI Abdul Qadir Peshawar, as follow:-

2. (a) That Consequent upon the completion of **inquiry** conducted against you by enquiry officer Mr. Niaz Muhammad, DSP/Coordination Peshawar for which you were also given opportunity of hearing.

(b) On going through the findings and recommendation of the inquiry officers, the material on record and other connected papers including your defense before the said officers.

I am satisfied that you have committed the following acts/omission:-

i) That a huge quantity of arms/ammunitions and other contraband items (narcotics) were recovered from your residential quarter of Ex-SHO Abdul Qadir kept without any legal justification.

ii) You also illegally confined 12 innocent persons and put them in the lockup for about 18-days without any criminal case thus violated & misused official powers.

iii) The enquiry officer during the course of inquiry found you guilty of gross misconduct and the allegations against you stood proved.

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.

5. If no reply to this is notice received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-part action shall be taken against you.

*Javaid Khan*  
*24/4/2019*

*Javaid Khan*  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION, PESHAWAR.

**ATTESTED**  
*[Signature]*

Answer

200

K  
جانبی

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(i)

الحوالہ Final Show Cause Notice فرمی 76-PA-76 فیاریہ فیروزہ 24-4-2018 منجانب

جناب سینئر سپرنٹنڈنٹ صاحب پولیس کورڈینیشن اور عرض خدمت ہوں کہ میں نے اپنا تفصیلی بیان انٹرویو انریزیارڈ منڈان DSR کو درجیشن اور کر کے چکا ہوں۔ جو قابل مندرجہ ذیل فقرہ ہوں۔

1- بحوالہ فرمی 750 فیروزہ 16-11-2009 فرم 302-324-353-409 تھا بڑھو بیر سرکاری منڈاننگ 3/4 Exp. sub act-7 AIA

تھانہ بڑھو بیر میں نقصان رسیدہ ہو کر پولیس تھانہ کے علم اور ریکارڈ کیلئے دیکھ کر ریکارڈ کیا گیا۔ مکان کریم بیر حاصل کر دیا گیا تھا۔ جس کا کریم رقم پولیس کے بے براخ سے ادا ہوا کرتا تھا۔ جمع منڈان تھانہ کے مال گورنمنٹ۔ حال منڈان محفوظ رکھنے صورت اور تھانہ کے محلے کے ضروریات کے مطابق دفاتر درہائش کیلئے استعمال ہو رہا تھا۔ چونکہ اس منڈان میں مکروں کی نیابت مکی تھی اور محلے کے دفاتر۔ ریائش دیگر سرکاری قاعدہ کے استعمال کیلئے ناکافی تھا۔ اس وجہ سے ایک ایک مکرو کو دو دو قاعدہ کیلئے استعمال ہوا کرتا تھا۔ اسی طرح سالانہ S440 منڈان نے بھی اسی منڈان ہی میں ایک مکرو کو برائے دفتر S440 درہائش S440 استعمال کرتا تھا۔ ان کے بعد میں بھی وہی ایک مکرو کو سرکاری دفتری اور منڈان کیلئے بطور دفتر S440 گریسوں میں رکھ کر استعمال کر رہا تھا۔ جس میں منڈان کے بطور اپنے مسائل حل کرنے کیلئے بغیر روک ٹوک کے آیا جایا کرتے تھے۔ اور افسران باہر صامیان کا بھی تھانہ میں آمد پر اسی مکرو سے لینا دفتر S440 میں تشریف رکھتے تھے۔ اسی دفتر S440 تھانہ میں بعد از امتدادی آرام کرنے کیلئے صرف اپنا چارپائی رکھا تھا۔ جس کی وجہ سے دفتر S440 تھا کو کاغذات میں حالات واقعات کو توڑ پھوڑ کر ریائش کو اڑھ ظاہر کر دیا گیا ہے اگر یہ ریائش کو اڑھ تھا۔ تو پھر تھانہ میں دفتر S440 کیاں پر تھا۔ کیونکہ تشریف انہوں نے جو تھانہ بڑھو بیر کا نقشہ فوقہ مرتب کیا ہے۔ اس میں سیرے سے S440 کا دفتر نہیں ہے۔ جو منڈان نا انصافی کے حوالہ ہے۔ نقشہ فوقہ تھانہ بڑھو بیر کی فوٹو اسٹیک کا پی سیرا 05 لف منڈان

مسئلہ 29-4-2018 PTO

ATTESTED  
[Signature]

اس کے علاوہ دفتر S.H.O. تھانہ ایک معروف ترین دفتر ہوتا ہے۔ اس میں بروقت  
 علوم - معززین عدالت اور اللہ اولیات میں افراد بلا صامیان کا تھانہ جنس آجہ پرنسٹن  
 رکھے ہیں۔ اس طرح کے عدوت ترین دفتر میں اتنی بڑی مقدار میں اسلحہ و ایمونیشن  
 و منشیات کا رکھنے کا سوال پیدا نہیں ہوتا ہے۔ میرے دفتر S.H.O. / مکرہ سے کسی قسم کی  
 اسلحہ و ایمونیشن / منشیات برآمد نہیں ہوا ہے۔ بلکہ یہ جملہ کارروائی ایک ٹیکہ سازش کے  
 تحت ہوئی ہے جس میں میں کردار ساجد حسین قررازی تھانہ بڑھ میرے ادا کی ہے۔ کیونکہ  
 وقوع کے تین دن قبل حذرت کے 6 کو میں افشار بلا صامیان کو ساجد حسین قررازی کے  
 خلاف تحریر شکایت درج کی تھی جس کی نقل فریڈ اسٹیٹ کا پی ٹی سی ایل ٹیوٹری ہو چکا ہے۔  
 میرے شکایت پر ساجد حسین قررازی کا تبادلہ بحوالہ B نظر 145 تھانہ بڑھ میرے  
 کا تھانہ قرار ہوا۔ اس ٹرانسفر آرڈر کو کینسل کر دینے کے لہجے میں ساجد حسین قررازی  
 کچھ با اثر یا تو جو پیدے سے تھے لقمہ پیمانے کے تاک میں بیٹھے تھے۔ کیا تو ایک ٹیکہ سازش میں  
 شریک ہو کر تھے ایک ناکردہ بناؤ کے الزام میں پھنسے میں کامیاب ہوا۔ اس سازش میں  
 کامیابی کی صورت میں ساجد حسین قررازی کا ٹرانسفر دوبارہ بحوالہ B نظر 380 حذرت کے 25  
 والے تھانہ قرار سے قررازی تھانہ بڑھ میرے۔ جس کا فریڈ اسٹیٹ کا پی ٹی سی ایل ٹیوٹری بیان ہے  
 پیرا 1 کے سلسلے میں عدویں حذرت ہوں۔ کہ حذرت کے 9 کو حوالہ تھانہ بڑھ میرے  
 میں نے کوئی بھی فرد غیر قانونی بند نہیں کیا تھا۔ کیونکہ اگر حذرت کے 9 کو حوالہ تھانہ  
 بڑھ میرے کوئی بھی فرد غیر قانونی طور پر بند ہوتا۔ اور اس کو سزا دیا گیا ہوتا۔ تو  
 ضابطہ فرجاری کے مطابق اس افراد کو 4 لگنے کے اندر اندر عدالت ٹریٹ کے حقدار  
 میں پیش کرنا اور ان کے بیانات زیر دفعہ 164 قریب قید کرنا چاہیے تھا۔ اور پورے روز  
 ماہ 22 فقرہ 49 کے قریب H کے مطابق تمام اٹھاس ٹریٹ مراد کے تھانہ میں سونے  
 اور تھانہ سے روز ہونے کے اوقات جو اٹھاس تھانہ کی حوالہ میں داخل کیے گئے ہوں

Alamin  
5/29/2014

ATTESTED  
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De Novo - انفورمیری حسب ڈائریکشن سروس ٹریننگ خیر مطبوعہ کو آہٹ کے در Time Bound

پوشکی ہے - Fixe برات 380 - 336 - 339 - 299 - 255 - 416 - 437

478 - 417 - 374 - 341 - 456 میں کچھ سزا ہو چکے ہیں۔ اور مال خدمات

نوائے PM رپورٹ 965/2013 کے داخلہ میں اسکویشن مانیٹری ہو چکے ہیں۔ جس کی

تفصیل نفاذ کے ریکارڈ موجود ہے۔ یہ ڈیفینس گوانٹنٹور سے HCO - سرخان اللہ Fe

فارمن شاہ Fe کے بیانات ہیں کے لئے ہے۔

حالیہ درج بالا حالت و اوقات کے مطابق میں بے تباہ ہوں۔ اور کافی

عصہ 8 سال سے مختلف عدالتوں میں حیران کن ٹرائل ہو کر عدالت کا کے جج صاحبین

نے بری کرنے کے احکام صادر فرمائے ہیں بقدری شدن ججٹ کا بیان پیش خدمت

پوشکی ہے۔ دس نئے ہیں۔ جن کے تعلیمی ماحول پر گہرا اثر مٹا ہے۔

استدعا کے ساتھ کو جمع آئے Beck benefit ساتھ مددگرت پر حال کرنے کا حکم

اللہم  
29/4/2019

صدر عدالت

RECEIVED  
A



OFFICE OF THE  
SENIOR SUPERINTENDENT POLICE  
COORDINATION PESHAWAR

Phone No. 091-9213757

Fax No. 091-9212597

*Amex*  
32  
~~32~~

ORDER.

In compliance of the Services Tribunal order vide judgment dated. 17.12.2018 in service appeal No.1966/2011, received in this office from the office of DIG/E&I Khyber Pakhtunkhwa vide No. 836/E&I, dated 19.02.2019, Ex-SI Abdul Qadir was conditionally reinstated by SSP/Operations Peshawar and a Denovo Departmental Enquiry against Ex- SI Abdul Qadir was conducted by Mr. Niaz Muhammad DSP/Coordination Peshawar.

2- The allegations levelled against him were that he while posted as SHO PS Badaber, on 09-06-2011 a raid was conducted on his room and a huge quantity of arms/ammunition, narcotics and other miscellaneous items/articles mentioned in the charge sheet were recovered from his room hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motives and did not show their arrest on record. For his gross misconduct he was also placed under suspension.

3- The Enquiry officer after conducting Denovo Departmental Enquiry recommended that the charges leveled against him proved and found guilty of gross misconduct. However the enquiry officer also submitted that although the allegations against the official stand proved, but in the same allegations a criminal case vide FIR No. 882, dated 25-06-2011 u/s 9C-CNSA/13/14-AO/ ¼ PO PS Badaber was registered against him. He was arrested and remained behind the bar for a period of 14-months and 14-days. Later on the court has acquitted him of the charges leveled against him. Similarly another case vide FIR No.06, dated 06-08-2014 u/s 409/5 (2) PC Act of ACE Hayatabad also registered against him but later on acquitted by special judge Anti Corruption Khyber Pakhtunkhwa. The enquiry officer further recommended that the alleged official has suffered financially, physically as well as mentally for about 08 years in the aforesaid allegations having lengthy service of about 36 years and supported large family members. The enquiry officer provide him full opportunity of cross questions during the course of enquiry.

4- After perusal of the findings of the enquiry officer, the official was served with Final Show Cause Notice. He submitted his written reply to the final show cause notice which was examined and found unsatisfactory. The findings of the enquiry officer and other material available on record shows that he has committed a gross misconduct and the allegations stand proved beyond any doubt. He was given the opportunity of personal hearing also. Therefore, keeping in view the findings of the enquiry officer and other material available on record, the undersigned reached the conclusion that earlier order of major penalty of dismissal from service under NWFP, Removal from Service (Special Powers) Ordinance 2000 awarded by SSP/Operations is upheld.

*Jawaid*  
(JAWAID KHAN)

SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR.

OB No. 1690

Dated 13/5/2019.

No. 83-90 /PA, dated Peshawar the 13/05 2019

Copies for information and n/a to the:-

1. Capital City Police Officer Peshawar.
2. Deputy Inspector General of Police, E&I Khyber Pakhtunkhwa w.r to his office letter No. 836/E&I, dated 20-02-2019
3. SSP/Operations Peshawar.
4. PO/EC-I/EC-II for necessary action.
5.  Official concerned. /FMC

**ATTESTED**

*A*

To

The Capital Police Officer,  
Peshawar.

M. J. Khan  
3. Dary No 79333  
2015/2019

**Subject:** Departmental appeal against the impugned order dated 13.05.2019 passed by the Senior Superintendent of Police Coordination Peshawar thereby upheld the previous Major Penalty of Dismissal from Service under KP Removal from service (Special Powers) ordinance, 2000 which was once set aside by the Hon'ble Khyber Pakhtunkhwa Service Tribunal with the direction of denovo Inquiry.

Respected Sir,

1. The appellant was appointed on 01.01.1983 as constable in the Police Force and by dint of his efficient performance of his duties, he was promoted from time to time and now he was serving as Sub-Inspector and posted as SHO Police Station Badaber. During his entire service, appellant has never been penalized for any misconduct nor has there been any criminal case registered against him or found involved in any case of corruption. Moreover, appellant till date has received "A" reports from his superiors and thus has had unblemished, outstanding service record for a period of about 29 years at his credit.
2. That appellant earlier was removed from service on 29.09.2011. The appellant approached to the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.1966/2011 which was accepted vide order and judgment dated 17.12.2018. (*Annex:-A*) thereby the impugned order dated 29.09.2011 was set aside and reinstated appellant into service with the direction to the respondent department to conduct denovo inquiry as per rules within a period of 90 days with further directions to give opportunity of cross examination to appellant.
3. That the judgment of the Khyber Pakhtunkhwa Service Tribunal was received by the department on 14.01.2019 and pursuant to the same appellant was conditionally reinstated in service by Competent authority SSP/Operation for the purpose of denovo inquiry vide order dated 12.02.2019 and denovo inquiry was also initiated against appellant in regard of which a charge sheet was issued to appellant on 04.03.2019 while statement of allegation on 13.03.2019. Appellant submitted reply to the charge sheet on 04.03.2019. The inquiry was conducted in slipshard manner without providing appellant a fair opportunity of hearing. On the basis of which a show cause notice was issued to appellant but no copy of inquiry was supplied to appellant for which appellant repeatedly requested for the provision of said inquiry report to enable appellant to submit a proper reply to show cause notice.
4. That as per law Senior Superintendent Police (Operation), Peshawar is the competent authority who conditionally reinstated appellant in service for disciplinary proceedings, therefore, as per law he had to be proceeded appellant but astonishingly Charge Sheet with statement of Allegations was issued to the appellant by the Senior Superintendent of Police (Coordination), Peshawar thus all the disciplinary proceedings against the appellant are corum-non-Judice.
5. That thereafter denovo inquiry was conducted against the appellant after the lapse of 90 days. It would not be out of place to mention here that the inquiry report has not been provided to appellant; therefore, appellant submitted an application for the

ACCEPTED  
A



(30) 2 (34)

provision of inquiry proceedings before the Senior Superintendent of Police (Coordination) Peshawar on 24.04.2019 under the KP Right to Information Act, 2013(Annex:-B). Likewise, another application was also submitted for the same purpose before the AIG Legal, CPO Peshawar on the same date (Annex:-C) but no heed was paid thereto.

6. That appellant was issued final Show Cause Notice by the office of Senior Superintendent of Police (Coordination), Peshawar on 24.04.2019 to which the appellant responded by way of submitting detailed reply of even date wherein appellant explain his position, each and every aspect of the case but the same was not considered and finally impugned order dated 13.05.2019 was issued thereby the earlier major penalty of dismissal from service under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 was upheld without cogent reason and cause which was once set aside by the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
7. That now the appellant, being aggrieved of the impugned order files this departmental appeal before your good-self inter-alia on the following grounds;

**Grounds:-**

- A. That the appellant has not been treated in accordance with law and rules on subject under Article-4 of the Constitution of the Islamic Republic of Pakistan, 1973 and the impugned order has unlawfully been issued by the incompetent authority which is liable to be declared null and void.
- B. That the impugned inquiry was entrusted to Mr. Javed Khan SSP Coordination but himself failed to carry out the inquiry and he assigned the same to DSP Mr. Niaz Muhammad without any notification and order of the competent authority which is illegal and unfair and thus the report of such inquiry has no legal sanctity and not operative against the appellant rights.
- C. That clear violation of the direction of the Khyber Pakhtunkhwa Service Tribunal has been made and appellant has not been allowed to cross examine the witnesses which is clear violation of Article-10A of the constitution of the Islamic Republic of Pakistan 1973.
- D. That it would not be out of place to mention here that as per the direction of the Hon'ble Tribunal the department had to conduct denovo inquiry within a period of 90 days and the department received the judgment on 14.01.2019. While appellant was charged on 04.03.2019 and passed the impugned order of dismissal from service on 13.05.2019 after 119 days which is beyond the timeframe given by the Hon'ble Tribunal.
- E. That in case of appellant, the competent authority was Senior Superintendent of Police (Operation), Peshawar who had to proceed against the appellant in denovo inquiry while charge sheet and statement of allegation was issued by the Senior Superintendent of Police (Coordination), Peshawar which is legally not sustainable. Similarly the impugned order of dismissal from service was passed by the incompetent authority i.e. Senior Superintendent of Police (Coordination), Peshawar which is illegal, void ab-initio and ineffective upon the rights of appellant.
- F. That earlier punishment of dismissal was set aside by the Hon'ble Tribunal but without imposing any proposed penalty the incompetent authority (SSP Coordination) upheld the

**ATTESTED**  
Tg

earlier punishment in the fresh impugned order which has no legal sanctity and liable to be set aside.

- G. That the inquiry report has not been provided to the appellant inspite of the fact that the appellant has properly applied for the same, therefore, the appellant was condemned unheard.
- H. That it is pertinent to mention that with the departmental proceedings the departmental authorities also initiated criminal proceedings against the appellant and was nominated into different FIRs of same matter but later on in both the criminal cases appellant was Hon'bly acquitted of the charge by competent Court of law as the department could not proved the case against the appellant. When the criminal cases were not proved and appellant was acquitted then in such circumstances the departmental authorities have no legal justification to pass the impugned order and deprived appellant of his services as rendered by him.
- I. That appellant has put almost 29 years in the service of the Department and served to the entire satisfaction of his superior through thick and thin and the imposition of the major penalty of dismissal from service at this stage of his service is extremely humiliating, harsh and does not commensurate with the charge leveled against him.
- J. That the pervious service of the appellant is spotless and never was he found involved in any kind of misconduct including corruption.
- K. That appellant also requested to be heard in-person.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned order dated 13.05.2019 may kindly be set aside and appellant be reinstated into service with all back benefits.

Encl = 9 pages.

Dated: 20/05/2019

Yours faithfully,



Qadar Khan,  
Ex - Sub Inspector,  
No. 555 - P  
R/O Jammal,  
District Charsadda  
Cell : 0315 - 6868444

**ATTESTED**  




**OFFICE OF THE  
SENIOR SUPERINTENDENT POLICE  
COORDINATION PESHAWAR**

Phone No. 091-9213757

Fax No. 091-9212597

N 36

**ORDER.**

This order will dispose of the departmental appeal preferred by **Ex-SI Abdul Qadir No.555/P** against the order of SSP/Coordination Peshawar passed in the denovo departmental enquiry initiated on the direction of Honorable Services Tribunal. The SSP/Coordination Peshawar vide order No.1620, dated 13-05-2019 upheld the earlier major punishment of Dismissal from Service awarded to him SSP/Operations Peshawar.

2- The allegations levelled against him were that he while posted as SHO PS Badaber, on 09-06-2011 a raid was conducted on his room and a huge quantity of arms/ammunition, narcotics and other miscellenious items/articles mentioned in the charge sheet were recovered from his room hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motives and did not show their arrest on record.

3- The Enquiry officer after conducting Denovo Departmental Enquiry recommended that the charges leveled against him stand proved and found him guilty of gross misconduct. The enquiry officer provided him full apportunity of cross questions during the course of enquiry. He was served with Final Show Cause Notice to which he submitted his written reply, which was examined and found unsatisfactory, hence the competent authority upheld the earlier order of major penalty of dismissal from service awarded by SSP/Opreations.

4- He was heard in person in O.R and relevant record was perused along with his explanation. During personal hearing the appellent failed to forward any plausible explanation in self defence. Keeping in view the material available on file, **the departmental appeal for reinstatement in service is hereby rejected.**

(MUHAMMAD KARIM KHAN)PSP  
CAPITAL CITY POLICE OFFICER  
PESHAWAR.

No. 1133-401 PA dated Peshawar the 22/08 /2019.

Copy of above for information and necessary action to the :-

1. SSsP/Operations and Coordination Peshawar.
2. BO/OS/EC-I/EC-II/ CRC.
3. Official Concern

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR

37

Service Appeal No. \_\_\_\_\_/2019



Abdul Qadir

VS

Police Deptt.

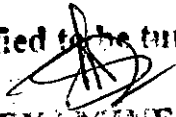
APPLICATION FOR AMENDING THE  
INSTANT APPEAL DUE TO REJECTION  
ORDER ORDER DATED 22-08-2019 PASSED  
DURING PENDENCY OF APPEAL

Respectfully Sheweth,

Applicant humbly submitted as under:

1. That captioned case is pending for adjudication before this Hon'ble Tribunal and fixed for hearing on 30<sup>th</sup> August, 2019.
2. That applicant filed departmental appeal against impugned order dated 13.05.2019 and after the lapse of statutory period of 90 day the applicant filed service appeal before this Hon'ble Service Tribunal.
3. That the rejection order dated 22.08.2019 was passed during the pendency of appeal before this Hon'ble Service Tribunal which requires amendment in the instant appeal for impugning the same. (Copy of rejection order attached as annexure-A).

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

It is, therefore, most humbly prayed that applicant may kindly be allowed to amend the instant appeal for challenging the rejection order dated 22.08.2019.

APPLICANT

THROUGH

M. ASIF YOUSAFZAI  
(Advocate Supreme Court)

TAIMUR ALI KHAN  
(Advocate High Court)

ASAD MAHMOOD  
(Advocate High Court)

AFFIDAVIT

It is solemnly affirm and declare that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

DEPONENT

ATTEST

Certified to be true copy  
EXCISE OFFICER  
Khyber Pachtunkhwa  
Service Tribunal,  
Peshawar



Date of Presentation of Copy 27-9-19  
Number of Words 800  
Copying Fee 10-00  
Urgent 4-00  
Total 14-00  
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Date of Completion of Copy 27-9-19  
Date of Delivery of Copy 27-9-19

(1) P 39

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1070

Dated 29-7-2019

Abdul Qadir, Ex-SI, S/O Haider Khan,  
R/O Village Jammal, P.O Kandar, Tehsil & District Charsadda.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital Police Officer, Peshawar.
3. The Senior Superintendent of Police (Coordination), Peshawar.
4. The Senior Superintendent of Police (Operations), Peshawar.



(RESPONDENTS)

-----

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.05.2019, WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS UPHELD AWARDED BY RESPONDENT NO.4 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF SIXTY DAYS.

30.08.2019

Counsel for the appellant present.

An application for amendment of appeal has been submitted due to the fact that after submission of instant appeal the departmental appeal was rejected by the respondents on 22.08.2019. In order to bring on record the relevant facts and documents the requisite amendment is sought. The application is allowed. The appellant shall submit the amended appeal on next date of hearing.

Adjourned to 02.10.2019 before S.B.

  
Chairman

**Certified to be true copy**  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Copy 27-9-19

Number of Words 400

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Total 8-00

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Date of Completion of Copy 27-9-19

Date of Delivery of Copy 27-9-19

Annex ~~1~~ ~~2~~

Annex B, 40  
Q

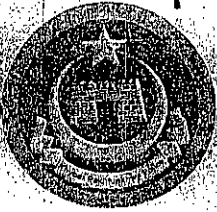
حکومت صوبہ سندھ سپرنٹنڈنٹ آف پولیس کورڈینیشن مینسٹر  
دعوت استمبراء عطا کرنے کی نوٹس پروسیڈنگ  
Under RTI Act 2013

ملاحظہ ہو گزارش ہے کہ سائیل کا Denovo انوائسری کی پروسیڈنگ  
کا۔ سائیل کو اس کے سائیل کو حضور کے طرف سے آج صبح 24/7/2013 کو  
FINAL SHOW CAUSE NOTICE پر انوائسری پروسیڈنگ کی نوٹس موصول  
ہوا ہے۔ سائیل کو انوائسری پروسیڈنگ کی نوٹس کی اجازت ہے  
استدعا ہے کہ سائیل کو انوائسری پروسیڈنگ کی مکمل نوٹس دینے کا  
تکمیل صادر فرمادیں۔  
الغرض  
24/7/2013

ایکٹا بھادر قادیان سب ڈویژن/558 پولیس سٹیشن کورڈ

ATTESTED  
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Office of the Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar.

No. 836 /E&I, dated Peshawar the 20 /02/2019

To: The Capital City Police Officer,  
Peshawar.

Subject: **DENOVO DEPARTMENTAL ENQUIRY AGAINST EX-SI  
ABDUL QADIR**

Memo:

Please refer to SSP/Operations, Peshawar order No. 139-44/PA dated 12.2.2019, on the subject cited above.

2. Denovo departmental enquiry against Ex-SI Abdul Qadir may be conducted through Mr. Javed Khan, SSP/Coordination CCP, Peshawar and final outcome be communicated to this office, on or before 10.03.2019, before issuance of formal order, for the perusal of Worthy IGP.

3. Being a court matter the proceedings shall be completed within the limitation period to avoid further legal complications.

*(Signature)*  
(ASLAM NAWAZ)  
Assistant Inspector General of Police  
Complaint & Enquiry  
Khyber Pakhtunkhwa,  
Peshawar

No: /E&I,  
Copy of above is forwarded for information to:-

1. The Senior Superintendent of Police, Operations, with reference his office order No. quoted above.
2. Mr. Javed Khan SSP/Coordination, CCP Peshawar.

*(Signature)*  
(ASLAM NAWAZ)  
Assistant Inspector General of Police  
Complaint & Enquiry  
Khyber Pakhtunkhwa,  
Peshawar

*(Handwritten mark)*

CHARGE

I, ASGHAR SHAH KHILJI, ADDITIONAL SESSIONS JUDGE-XI/JSC, PESHAWAR DO HEREBY CHARGE YOU ACCUSED NAMEDLY ABDUL QADIR S/O HAJDAR KHAN AGED ABOUT 44 YEARS R/O JAMMAT, BATAGARAM, CHARSADDA as follows.

That on 29/09/2011 at the official hours of police duty, a Police Officers Team supervised by SP/HQ, Investigation raided the premises of PS Badaber falling within the criminal jurisdiction of PS Badaber and being SHO of stated PS Badaber, from one of your living room in the premises also recovered 13 number of Kalashnikovs, 03 numbers of repeaters, 06 numbers guns, 15 rifles, 01 air gun, 16 pistols, 01 revolver, 120 magazines, 11 barrels, spare parts of 30 bore pistols weighing 22 kgs, live rounds of varios bores 3055, empty shells 193 of various bores, 25 bandoliers, 01 knife and 11 iron fists punch which you have kept in your occupied room illegally and dishonestly without any legal justification and as such you have committed an offence punishable U/S 13/14 of Arms Ordinance and within the cognizance of Sessions Court.

And I hereby direct that you be tried by me on the said charge.

Dated: 30/04/2013

Asghar Shah Khilji,  
Judge Special Court,  
Peshawar

The charge has been read over and explained to the accused.

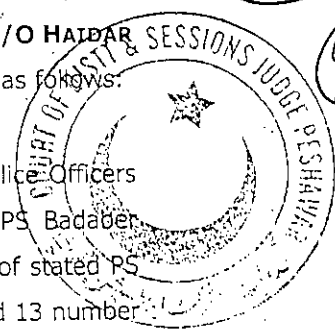
- Q. Have you heard and understood the charge.
- A. Yes.
- Q. Do you wish to plead guilty or claim trial?
- A. I do not plead guilty and claim trial.

Accused- ABDUL QADIR KHAN

Certified U/S 364 Cr.PC

Dated: 30/04/2013

Asghar Shah Khilji,  
Judge Special Court,  
Peshawar



**ATTESTED**

13 MAY 2017  
(Examiner)  
Session Court Peshawar

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IN THE COURT OF  
**MUHAMMAD SAEED AMJAD**  
ADDITIONAL SESSIONS JUDGE-XI. PESHAWAR

Case No. 58/SC of 2013  
Date of Institution 22.04.2013  
Date of Decision 28.04.2017

State through Fazal Wahid Khan then Inspector / SHO  
Police Station Badaber .....(Complainant)

VS

Abdul Qadar son of Haidar Khan resident of Jamiat  
Batagram District Charsadda .....(Accused facing trial)

FIR No. 882  
Dated: 14.10.2011  
Charge U/S 13/14 AO  
Police Station Badaber, Peshawar.

**J U D G M E N T :**

The brief facts reflected in the FIR that on 09.06.2011 a raid was conducted in a room situated in the quarter of accused Abdul Qadir, who was SHO of Police Station Badaber, by ASP Muhammad Faisal, alongwith Hilal Haider DSP, Khalid Hamdani ASP by the order of their high ups and recovered 13 Kalashnikovs, 23 rifles of different bores, 17 pistol, 39 mobile phones sets, 2516 cartridges of different bore, 106 magazines, 217 KGs charas, 3½ KGs heroin, 4 kg opium, one cane 5 liter besides 2 bottles of liquor, 22 KGs of spare parts of the arms, 11 barrels and 12 persons kept in the police lock up were also recovered. Upon which after conducting the inquiry

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into the matter beside registration of the criminal case major penalty in term of dismissal from services was also imposed.

2. On completion of investigation, complete challan u/s 13/14 AO was submitted before the court of learned Sessions Judge, Peshawar on 20.04.2013, which was entrusted to this court for trial on 22.04.2013. Accused was produced in custody on the same date and provisions U/S 265-C Cr. PC were duly complied with, in compliance whereof, the signature of the accused was taken on the margin of the order sheet. On 30.04.2017, the accused was formally charged U/S 13/14 AO to which charge, the accused pleaded not guilty and claimed trial. The prosecution was invited to produce its evidence. The statements of the witnesses in brief are reproduced as under:



PW-1 Bakhtiar Khan DFC P.S Faqirabad then posted as DFC P.S Badaber deposed that he was entrusted with warrant of arrest u/s 204 Cr.PC against the accused facing trial which is Ex.PW1/1. He searched for the said accused on the given address and in the surrounding areas but could not find him out and came to know that the said accused after the commission of offence alongwith his family members had gone to some unknown place and was avoiding his lawful arrest in the instant case, therefore he returned the said warrant unexecuted with his detailed report given on the back of the said warrant which is Ex.PW1/2. Similarly he was also entrusted with proclamation notice issued against the said accused which is Ex.PW1/3. He proceeded to the same according to law and retained one copy of the same and

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submitted his detail report on the back of the said notice wherein he has stated the facts of the proceedings conducted by him to the extent of said notice which is Ex.PW1/4.

PW-2 Sajid Hussain ASI/Moharrir P.S Badaber deposed that on 5.10.2011, during the inquiry proceedings on the direction of Saleem Riaz Khan DSP and Shahid Ali Khan SP Security, he alongwith Shakir Ullah visited Police Lines, Peshawar and in their presence the seal lock of the room was de-sealed and the above mentioned police officers handed over them the case property mentioned in the memo, memo is Ex.PW2/1. He verified it correct and correctly bears his signature.

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PW-3 Fazal Wahid Khan DSP Saddar Circle, Peshawar then posted as Inspector/SHO P.S Badaber deposed that with reference to a letter bearing No. OB3563/1019-25/PA dated 29.9.2011 of SSP Operation, Peshawar wherein the inquiry against the ex-SHO (accused facing trial Abdul Qadir) was conducted. After receiving that letter, he sought the opinion of DPP, Peshawar vide his application Ex.PW3/1 and after obtaining their opinion the instant case was registered accordingly which is Ex.PA. The letter of SSP, Peshawar is Ex.PW3/2. After drafting the FIR, the investigation was entrusted to SI Fazal ur Rehman. He has seen the contents of FIR Ex.PA which he verified to be in his hand writing and correctly bears his signature.

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PW-4 of Sahibzada Sajjad Ahmed DSP Traffic Headquarter, Peshawar deposed that during the days of occurrence he was posted as DSP Saddar Circle, Peshawar. On 09.06.2011, he telephonically contacted by PW Hilal Haider, Khalid Mehmood Hamdani, Faisal Kamran regarding the arrival of the high ups to P.S Badaber and for the search of P.S

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Badaber and office of SHO Badaber. On the arrival of high ups to the P.S, the SHO was telephonically called. He came to P.S. On the arrival of the SHO, the office of SHO was searched and the Articles mentioned in the recovery memo were taken into possession and were lying in scattered condition and thereafter Hilal Haider DSP prepared the recovery memo in connection of inquiry. The same materials were taken from the P.S in a vehicle to police Lines, Peshawar. They accordingly informed our high ups including SSP. And probably one Shahid Khan was called and the same were handed over to him in Police Lines, Peshawar for inspection and safe custody. Thereafter he know nothing regarding proceedings, however my statement was recorded after four months after registration of case.

PW-5 Syed Khalid Mehmood Hamdani SSP Traffic, Peshawar then posted as ASP Investigation, Cantt Circle, Peshawar deposed that during the days of occurrence, he was posted as ASP Cantt Investigation Cantt circle, Peshawar. On 9<sup>th</sup> of June, 2013, he alongwith ASP Cantt PW Faisal Kamran, Hilal Haider were deputed by CCPO Peshawar to conduct raid/informal inspection of P.S Badaber and attached quarters of the official concerned. On their arrival to the P.S, they called DSP and SHO concerned to come to P.S concerned. On their arrival and in their presence, they took into possession record of the P.S and thereafter they inspected the lock up of the P.S and residential quarters attached to the P.S. During our search, they recovered Kalashnikovs, pistols and different kinds of riffles, ammunicions, different kinds of narcotics and thereafter one PW Hilal Haider prepared the memo in this respect and he signed the same as a token of its correctness. All the articles were stored / kept in a scattered condition. Thereafter the recovered materials were brought to Police Lines, Peshawar. Thereafter the recovered materials were

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handed over to the official concerned in Police Lines, Peshawar. On the following day they again checked, weighed, numbered and examined the whole case property in the presence of high ups/DSP security. Later on inquiry was conducted and in light of inquiry proper FIR was registered and he was examined as witness in the case.

PW-6 Khaliq Dad Inspector (Rtd), R/O Bannu deposed that during the days of occurrence, he was posted as CIO at PS Badha Ber, Peshawar, deposed that after the registration of the case, investigation was entrusted to and conducted by Fazal ur Rehman SI. He forwarded the case under 173/512 Cr. PC against the accused facing trial. Today he has seen the challan form Ex. PW-6/1 which he verified to be correct and correctly signed by him.

PW-7 Syed Liaqat Ali Shah Armourer (Rtd) R/O Mian Wali, Punjab deposed that during the days of occurrence, he was posted police lines Peshawar as armourer. On 18/10/2011, on the written application of the IO of the instant case, he examined different kind of weapons and ammunition alongwith chargers and submitted my report to this effect which is Ex. PW-7/1, which consists of five sheets. His report is self-explanatory which contains his signature. He has seen the above said exhibit which he verified to be correct and correctly bears his signature.

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PW 8 Fazle Rahman Khan Inspector deposed that he posted as Sub Inspector / IO in Police Station Badaber. After registration of the case FIR, the investigation of the case was handed over to him. Copy of FIR was received by him. The same was gone through carefully. As the intant case was registered on the basis of inquiry, therefore, he wished to requisition the inquiry and requested through application for

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the requisition of the inquiry, which he received. He also gone through the said inquiry report. As the case property was already taken by the recovery officer through recovery memo, therefore, the recovered items alongwith the recovery memo were returned to him vide memo already exhibited as Ex PW 6/1. Vide his application vide Ex PW 8/1, he got examined the arms and ammunition mentioned therein and placed on file the report of armourer, which is already exhibited as Ex PW 7/1. In this very case some persons were kept in illegal confinement, the numbers of which were 12. Out of 12, 7 appeared before him, he recorded their statement under section 161 Cr.PC and produced 05 of them before the court of learned Judicial Magistrate for recording their statements under section 164 Cr.PC. He also prepared the samples for FSL analysis from the whole lot of narcotics consisting of charas, opium, liquor and heroin and sent the same to FSL, after receiving the FSL report he placed the same on file which is Ex PZ. Later on he also prepared site plan in the case Ex PB at the instance of PWs. He also recorded the statements of the PWs. As the recovered arms and ammunition were consisted of official weapons as well as properties of other cases, therefore, he obtained the report of the concerned Muharar Sajid Hussain, which is placed on file as Ex PW 8/2. As the accused was at large, therefore, he proceeded against the accused under section 204 / 87 Cr.PC. After proceedings 204 / 87 Cr.PC, he handed over the case to the SHO for submission of challan. He verified that the investigation, conducted by him is correct and correctly bear his signature.

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PW-9 Haji Granuliah DSP Regi Circle, Peshawar deposed that during the days of occurrence, he was posted as SHO Police Station Badha Ber. After arrest of accused, he submitted supplementary challan against the accused, which is Ex.

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PW9/1. He has seen the above said exhibit which he verified to be correct and correctly bears his signature.

PW-10 Jan Muhammad Khan SI Police Station West Cantt, Peshawar, deposed on 11/1/2013, he was posted as ASI in Police Station Badha Ber, Peshawar. On 11/1/2013 he vide his application Ex. PW10/1, applied for issuance of Zamima bay of the accused Abdul Qadar Khan which was accordingly issued by the JMIC, thereafter he vide his application Ex. PW10/2, applied for the physical custody of the accused to the concerned court but the same was turned down by the JMIC and he was remanded to the judicial lock up. He has seen the above mentioned exhibit, which he verified to correct and correctly bears his signature.

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PW-11 Liaqat Ali SI/OII PS Badha Ber, Peshawar deposed that he is marginal witness to the recovery memo already Ex. PW-6/1 vide which the ASI Sajid Hussain brought recovery memo signed by the SP Security Shahid Ali, Ghulam Rasool Armour, Salim Riaz Khan DSP Investigation, Muhammad Iqbal SI, Muhammad Israr SI, Fazal Raziq ASI which consists of 13 Kalashnikov, 03 repeaters, 06 rifles, one air-gun, 15 rifle, 16 pistols, one revolver, 120 magazine, 11 barrels, spare parts of 30 bore pistil weighing 22 K.Gs, 3055 live rounds of different bores, 193 empties of different bores, cartridges of different weapons 25 in numbers, one knife without handle, charas pukhta 98 K.Gs and 700 grams, Opium 34 K.Gs, wine 6 ½ liter, 11 iron gloves (Panja) and 25 CNIC. The ammunition was examined on the spot by the armorer expert. Similarly the charas which was registered in the FIR, 217 K.Gs which after inquiry came out to be 198 K.Gs and 700 grams. Similarly the opium weighing 34 K.Gs which was registered in the FIR as 04 K.Gs, after the examination of the inquiry committee came out to 34 K.Gs. ASI Sajid Hussian handed over the same to the

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Fazal Rehman SI. 5/5 grams of charas pukhta packets and from pieces of charas two sacks were separated for FSL purpose and were sealed into parcels No: 1 to 106 while the remaining charas were sealed into parcel No: 107 to 110 (Present before the court and exhibited as Ex. P-1 to Ex. P-4, respectively). Likewise, 5/5 grams were separated from opium and were sealed into parcels No: 111 to 144 respectively while the remaining opium were sealed into parcel NO; 145 (Present before the court and exhibited as Ex. P-5). Similarly, one gram was taken from heroin powder and was kept into parcel No: 146 for the purpose of FSL while the remaining were sealed into parcel No: 147 (present before the court and exhibited as Ex. P-6). Similarly, from the wine 05 milliliter was taken and were sealed into parcel NO: 148 while the remaining wine were sealed into parcel NO: 149 (present before the court and exhibited as Ex. P-7). Similarly, from one bottle wine, 5 milliliter were separated for FSL purpose and were kept in parcel No: 150 while the remaining were sealed into parcel No: 151 (Present before the court and exhibited as Ex. P-8). Similarly, from one bottle wine, 5 milliliter were separated for FSL purpose and were kept in parcel No: 152 while the remaining were sealed into parcel No: 153 (Present before the court and exhibited as Ex. P-9) by affixing 3/3 monograms on all the parcels while one/one monograms were put inside the parcels. My 161 CR.PC statement was recorded by the IO. He has seen the above mentioned exhibit, which he verified to be correct and correctly bears his signature.

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3. The prosecution closed it evidence on 08.11.2016. To this effect statement of APP for the State recorded. On the close of evidence of the prosecution, the statement of the accused U/S 342 Cr. PC was recorded on 29.11.2016, wherein he pleaded his innocence. He neither wished to be examined on oath nor desired to produce evidence in his defence.

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4- Arguments heard and record perused.

5- It is cardinal principle of law that each criminal case has its own peculiar facts and circumstances and that has to be weighed on the judicial parlance while taking in to consideration all the facts and circumstance brought forth.

6. The gist of the prosecution's story is that, on the day of occurrence a raid was conducted by some of the police officials, on the direction of their high-ups, at P.S Badaber and the alleged recovery of narcotics , liquor and arms ammunition was effected from the residential room of the accused facing trial /the then SHO of the PS concerned.

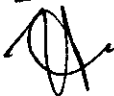
7. The scanning of prosecution evidence shows that the prosecution in support of his case produced only one member of the said raid party, S.S.P Syed Khalid Mahmood Hamdani, (PW-5), who in his whole statement never stated that the alleged recoveries were made from the residential room of the accused facing trial even he had not uttered a single word to the effect that from which part of the P.S Badaber the recoveries in question were effected. Whereas The sole alleged eye witness of the occurrence, namely Sajjad Ahmed, the DSP circle, in whose presence the recoveries were effected, has contradicted the prosecution's stance ,by stating in his examination in chief that the alleged recoveries were effected from the SHO's office

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8. The S.S.P Syed Khalid Mahmood Hamdani, (PW-5), has also referred to a recovery memo, allegedly prepared by one Hilal Haider at the time of occurrence qua the recoveries in question but neither the said recover memo ha been produced or exhibited before the court nor the said Hilal Haider, alleged scribe of the same, has been produced as a witness.

9. PW-2 Sajid Hussain ASI /Muharrir of P.S Badaber has stated during his cross examination that in each P.S there is a register No 02, which used for the visitors of the P.S, including the high ups of the police. He has admitted it correct that if any high police officer visited the PS and inspected anything in the P.S or peruse the record of the P.S the same must be mentioned in the register No 02. He has further stated that under the law he being Muharrir of the P.S was bound to enter in the relevant register that what type of case properties were taken by the high ups with themselves. He has admitted it correct that he has not made any entry in any record of the P.S regarding the taking of articles from the P.S on the day of occurrence. The investigating Officer, Fazal Rehman Khan Inspector police lines Peshawar (PW-8) has admitted it correct that in each police station registered No 19 is maintained for the purpose of handing and taking over of case properties, while register No 16 is maintained in the P.S for maintaining the record of official arms and ammunition etc. he has further admitted it correct that if any person including police Officer visited the PS and taken some case property from the PS the same must be entered in register No 19 as

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well as in the daily diary of the P.S . He has also admitted it correct that , in the whole case file he has not placed on file any extract of registered No 16 and 19 and of daily diary of the P.S concerned qua the day of occurrence.

10. The record also divulges that the quantity of allegedly recovered articles is also remained un-ascertained. PW-4 Syed Khalid Mehmood Hamdani has not specified the quantity of any alleged recovered article, while during his cross examination he has stated that so far he remembered, they took into possession chars wheighing around 200 kg, Opium  $\frac{3}{4}$  Kg, few litters of liquor, 13 Kalashnikovs, 39 riffles ,30 pistols, around 2000 aminunitions of different caliber, few dozens of barrels and repeater guns of 12 bore. Whereas according to FIR ,217 kg Chars, 3/1/2 kg Heroin, 4kg Opium , one cane of 5kg along with two bottles of 1/1 kg liquor, 22 kg arms spear parts, 11 Earrels, and eleven detunes ,is stated to be recovered from the spot. While as per recovery memo Ex-PW 6/1, the investigating officer has taken into possession the alleged recovered articles of the following kind and quantity, 198 kg and 700 grams of chars, 34 kg of Opium and 6-1/2 liter of liquor, 13 Kalashnikovs, 03 repeaters, 06 riffles, 01 air gun, 16 pistols , 01 revolver , 120 magazines, 11 barrels, spear parts of pistols 30 bore weighing 22 kg, 3055 cartridges of different bores, 193 empty shells of different bores, one knife without handle , 11 iron gloves and 25 CNIs. Thus the above referred statement of the star prosecution witness as well as the two important above stated documents,

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clearly shows a huge contradiction regarding the kinds and the quantity of the alleged recovered articles.

11. It has also been established on record that the contraband and arms, ammunition etc allegedly recovered from the spot were not sealed on the spot and remained lying in open condition since its alleged recovery on 09/06/2011 till its alleged handing over to the investigation officer on 18/10/2011. The investigating officer (PW-8), during his cross examination, has admitted it correct that the case properties in question were lying in open condition and were not sealed and the same were also handed over to them in open condition on 05/10/2011. According to the statement of Fazal Wahid Khan DSP Sadder Circle (PW-3) at the time of registration of FIR <sup>No</sup> case property was handed over to him, that is why he did not hand over the same to the investigation branch. It is also undisputed fact that the alleged occurrence took place on 09/06/2011 the report is made on 29/09/2011, the FIR IS registered on 14/10/2011 and the investigation officer of the case allegedly taken in to possession the case property on 18/10/2011, i.e after 4/5 months of the occurrence and after 5 days of the registration of FIR. Whereas there is nothing cogent and convincing on record that during the intervening period the case properties in question were remained in safe and proper custody and no tempering etc was done with the same. These lapses on the part of the prosecution have cut the roots of the case of prosecution, thus, rendering the entire episode

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shrouded in doubt. These facts by itself are enough to disbelieve the prosecution version.

12. Apart from this there are material contradictions and inherent defects in the evidence of the prosecution witnesses. According to the statement of Syed Khalid Mehmood Hamdani (PW-5) when they arrived to the P.S Badaber, they called the SHO concerned (accused facing trial) and DSP circle and after their arrival to the PS and in their presence they conducted the search. The PW-3, Sahibzada Sajjad Ahmed, the then DSP circle also stated that at the time of search and recoveries the SHO/ accused was present. While investigation officer of the case (PW-8) has stated that the accused facing trial was not shown in the site plan because he was not present there, at the relevant time. The PW-4 Sahibzada Sajjad Ahmed DSP circle Peshawar has stated during his cross examination that during the days of occurrence, he was the DSP of the area and accused facing trial was serving as SHO of the P.S Badaber. He has admitted it correct that prior to occurrence the P.S Badaber was damaged due to bomb blast and the P.S Badaber was being run in a private rented building. He has also admitted it correct that the recoveries in question were made from the said rented building of PS Badaber. He has also stated that although he is the marginal witness of the recovery memo referred in his examination if chief but does not know that who had prepared the same. The investigating Officer Fazal Rehman Khan Inspector police lines Peshawar (PW-8) has stated during his cross examination that he

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13 MAY 2017

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Section Court Peshawar

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has not mentioned in the site plan Ex-PB ,that on whose instance the same was prepared. He has also stated that the case property was handed over to him in open condition on 18/10/2011. He has admitted it correct that according to report Ex-PW 8/2 the case property of the present case were already case properties of the different cases mentioned therein.

13. For the forgoing reasons, I am of the firm view that prosecution has miserably failed to bring home the guilt of accused through cogent and confidence inspiring evidence beyond shadow of doubt. The prosecution evidence is pregnant of doubts and according to golden principle of benefit of doubt one substantial doubt would be enough for acquittal of the accused. The rule of benefit of doubt is essentially a rule of prudence, which cannot be ignored while dispensing justice in accordance with law. Conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case,2 must be resolved in favor of the accused.

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14. The said rule is based on the maxim "it is better that ten guilty persons be acquitted rather than one innocent person be convicted". which occupied a pivotal place in the Islamic Law and is enforced strictly in view of the saying of the Holy prophet(PBUH) "That the mistake of Qazi (judge) in releasing a criminal is better that his mistake in punishing an innocent". Wisdom in this regard can also be derived from the judgment of the apex Court in

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(Examiner)  
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case titled Muhammad Khan and another v. The State (1999 SCMR 1210) and case titled Muhammad Ikram v. The State 2009 SCMR 230.

15- Summing up in light of above while extending the benefit of doubt the accused facing trial namely Abdul Qadir is hereby acquitted from the charges leveled against him . He is on bail , he and his sureties are discharged from the liability of bail bonds. The case property be disposed of in accordance with law but after expiry of period of appeal/ revision File be consigned to Record Room after necessary completion and compilation.

Announced.  
28.04.2017

*(Signature)*  
(Muhammad Saeed Amjad)  
Addl: Sessions Judge-XI,  
Peshawar.

CERTIFICATE:

It is certified that this judgment comprising fifteen (15) pages. Each page has been checked, corrected and signed by me wherever it was necessary.

CERTIFIED TO BE TRUE COPY

13 MAY 2017  
*(Signature)*  
(Examiner)  
Copying Agency Session Court  
Peshawar

*(Signature)*  
(Muhammad Saeed Amjad)  
Addl: Sessions Judge- XI,  
Peshawar.

No:	6680
Dated of Application	12/5/17
Name of Applicant	ابن قدير
Word	6680-1-16
Fee	Thread/Fee
Sit. No.	
Dated of the	13/5/17
Date of Delivery	13/5/17

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In the Court of Special Judge, Anti-Corruption, (Provincial), Khyber Pakhtunkhwa,  
Peshawar.

Case No.77 of 2013.

Date of Institution. 17.12.2013.

Date of Decision. 24.05.2017.

State...Versus.

Abdul Qadir khan S/o Haider khan, R/o Jumbat Batgram, District Charsadda, Ex-SHO, P.S.  
Badhber, Peshawar.

Case FIR No.06 dated 06.08.2013 of P.S. ACE, Peshawar, u/s 409 of PPC read with Section 5  
(2) of Prevention of Corruption Act.

ORDER.

- 1) Vide FIR No.06 dated 06.08.2013, P.S. ACE, Peshawar, accused Abdul Qadir khan S/o Haider khan was charged for the offences punishable u/s 409 of PPC read with section 5(2) of Prevention of Corruption Act and his case was forwarded to this court for trying him for the said offences.
- 2) According to the contents of FIR, accused, being the SHO of P.S Badhber abusing his official position, had kept in his personal room the weapons, Ammunitions, and narcotics etc, besides putting 12 persons in illegal custody in the lock up. Learning about it, on 9.6.2011 the senior officers of police conducted raid on the police station, and from the room in the personal occupation of the accused recovered as many as 13 Kalashinkoves, 3 Repeaters, 6 Rifles, one Air gun, 15 Rifle, 16 Pistols, one Revolver, 120 Magazine, 11 Barrels, Spare parts of 30 bore pistol weighing 22 KG in all, 3055 Catridges of various bores, 193 Empties, 25 Bandolier, one Knife, 198 KG & 700 gm Charas, 34 KG Opium, 3 1/2 KG Herion, 6 1/2 liters Liquor, 11 Iron punch, 26 National Identity Cards and 39 Mobile phones. After inquiry, the case FIR No.882 was registered on 14.10.2011 in police station Badhber for the offences punishable u/s 9/CNSA, 3/4 PO, 409 & 342 of PPC, and 13 AO. After investigating the case and obtaining the opinion of the DPP the CCPO, vide his office letter No. 2005-R dated 23.7.13 directed Director ACE for registration of case.
- 3) Pursuant to said letter, an open inquiry No.6.2013 was ordered by the Director ACE, and in view of the inquiry report, vide his office letter No. 5240 dated 6.8.2013, he ordered the registration of case, and accordingly the instants case was registered and the earlier inquiry and investigation carried out by the police was made part and parcel of the instant case.
- 4) After completing investigation, challer was submitted against the accused for trial. Provisions of section 241-A of Cr.PC were complied with and the charge was framed against the accused to which he pleaded not guilty and claimed trial.

COURT OF SPECIAL JUDGE  
ANTI-CORRUPTION  
PESHAWAR

SPECIAL JUDGE  
ANTI-CORRUPTION  
PESHAWAR

ATTORNEY GENERAL  
KHYBER PAKHTUNKHWA  
PESHAWAR  
31/5/2017  
D. S. H. T.

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5) In support of its case the prosecution produced and examined Fazal Wahid DSP Sadker Circle Badhber as PW-1, Liaqat Ali S.I. P.S. Badhber as PW-2, Syed Liaqat Ali Shah Armorer as PW-3, Muhammad Maroof Khan, C.O. ACE Peshawar as PW-4, Khaliq Dad, Inspector as PW-5, Shaukat Ali S.I. P.S. ACE Peshawar as PW-6 and Sajjad Khan DSP Operation hashtnagri as PW-7. All these witnesses except PW-3 & PW-6 were cross-examined. PWs Bakhtiar, Sattar Gul, Samiullah, Shahid, Walayat Khan & Saleem Khan were abandoned by the prosecution. While the remaining evidence was yet to be recorded, the learned counsel for accused applied for acquittal of accused u/s 249-A of Cr.P.C. It may be mentioned that an application for similar relief was also submitted on 03.11.2015 whereas the instant application has been submitted on 15.05.2017.

6) Notice was given to the learned Public Prosecutor.

7) Arguments of learned counsel for accused and learned Public Prosecutor heard and file perused with their assistance.

8) The record reflects that the main and the only allegation against the accused is that being SHO of P.S Badhber he kept the weapons Ammunitions, narcotics and liquor etc mentioned in the FIR above in his residential room instead of admitting the some in regular Malkhana of the police station.

9) In this regard, it may be stated that regarding the weapons, ammunitions, narcotics, and liquor mentioned above, a separate case No.882 dated 14.10.2011 was registered at P.S Badhber as mentioned above, and the attested copy of the judgment dated 28.4.2017, regarding the same FIR, handed down by the learned Additional Sessions Judge-XI Peshawar would reflect that after facing complete trial the accused has been acquitted of the charged leveled against him in the said FIR.

10) The contention of the learned counsel for the accused has all along been that in fact the building of the P.S Badhber had been destroyed in the Bomb blast and an ordinary house was obtained on rent for the purpose of running the business of the police station and that the residential room and spaces of the said building were used for various purpose of police station including the "Police Malkhana". He has claimed that in fact the entire property mentioned above was case property of various criminal cases registered in the said P.S and was lying there as stop gap arrangement due to non-availability of regular Malkhana. He refuted that the said items were recovered exclusively from the residential room of the accused, who was then the SHO of said police station. In this regard he referred to certain part of the cross examination of PW-5 & PW-7 and claimed that his said contention had been fully substantiated by the said PWs and as such the whole case of the prosecution had fallen down on the ground and there were least probability of the success of the prosecution case in the presence of the referred depositions of the of the said PWs. He also claim that the instant case has been manipulated due to the animosity of the other officials of police with the accused which was apparent from the fact that even the initial case against the accused had been registered more than four months after the recovery of articles in question.

ANTI CORRUPTION  
Court of Additional Sessions Judge  
Peshawar

ADDITIONAL SESSIONS JUDGE  
Anti Corruption  
Khyber Pakhtunkhwa Peshawar  
24.5.17

ATTESTED  
[Signature]

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- 11) The learned Public Prosecutor opposed these contentions and claimed that the prosecution had a good case against the accused who had misused his official position as SHO of the P.S. and had kept the case property of various cases in his personal possession instead of keeping it in the police malkhana according to rules. He therefore requested that let the remaining PWs be examined and then the case be decided after full trial.
- 12) The record has been examined in the light of the above contention of the learned counsel for the accused and of the public prosecutor. The cross examination of PW-5 & PW-7 have been specifically perused.
- 13) It appears that PW-5 Khaliq Dad the then Inspector investigation of P.S. Badhber who, after completion of investigation had submitted complete challan in the initially registered Case FIR No.882 dated 14.10.2011 of P.S. Badhber had stated in his cross examination:-

"It is correct that according to police rules the case property of the criminal cases are lying in the direct control of Moharrir of the P.S. It is correct that during the days of occurrence one Sajid Khan was moharrir of the P.S. who is now dead. It is correct that the accused facing trial being SHO of the P.S. has made written complaint against said Sajid Khan due to his inability being moharrir of the P.S. It is correct that during the days of occurrence there was no official P.S. of Badhber rather the P.S. was established in a rented house because the original P.S. was damaged/destroyed in a bomb blast. It is correct that being a rented house the case property of different cases were lying in different parts of the house i.e. varendra, bath room and other rooms".

- 14) Similarly PW-7 Sajjad khan the then DSP Saddar Circle who had accompanied the raiding team to the P.S. Badhber and had appeared as marginal witness of recovery memo Ex.PW7/1 vide which the above mentioned ammunition and narcotics etc were taken into possession by the police had stated in his cross examination that:-

"It is correct that the place from where the recovery was effected of the above mentioned articles in the memo in my examination in chief was a rented house which was used as P.S. Badhber.... It is correct that none of the police official of the concerned P.S. are cited as PWs on the memo mentioned in my examination in chief.... It is incorrect to suggest that the case property taken into possession in instant case were the case property of different criminal cases registered at P.S. Badhber. It is also incorrect to suggest that as there was no police station building that is why the same were lying in a rented house and the same were taken into possession from the moharrir of the P.S."

JUDGE  
 Corruptio  
 Khyber Pakhtunkhwa Peshawar  
 Court of Special Judge  
 Anti Corruption KPK Peshawar

24.5.12  
 31/3/2012  
 ATTESTED  
 EXAMINER

**ATTESTED**  


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15) The excerpts of the cross examination of the PWs reproduced above support the contention of the learned counsel for the accused. It is clear from the above excerpts of the cross examination of these witnesses that the building of the P.S. Badhber had been destroyed in the bomb blast and an ordinary house was rented to run the business of the police station and the articles in question were lying in the rented building used as the police station and thus the allegation that the same were recovered from residential room exclusively occupied by the accused which would have made him liable to be punished u/s 409 of PPC, are completely falsified. It may be mentioned here that it is not the case of the prosecution that the accused had misappropriated any case property. It is also worth noting that the questioned articles were allegedly recovered on 09.06.2011 whereas even the initial case FIR No.882 was registered on 14.10.2011 i.e. more than four months after the recovery. This inordinate delay has not been explained, which in the given circumstances, where the senior police officers had conducted the raid, creates serious doubts about the whole case. In view of the above mentioned cross examination of the two material witnesses, coupled with the fact of unexplained inordinate delay in registration of the case, it appears that the prosecution has failed to establish its case against the accused beyond reasonable shadow of doubt. As such there seems to be no probability of the accused being convicted of any offence, no matter what other evidence is lying in the stock with and produced by the prosecution in this case. In the circumstances while invoking the provision of section 249-A Cr.PC, the accused named above is acquitted of the charges leveled against him. Being on bail he and his sureties are absolved of their liabilities under the bail bonds.

16) The case property, if any, should be kept intact till the expiry of the period of limitation prescribed for appeal/revision and should be disposed of according to law if no appeal is preferred.

17) File of the case be consigned to the record room after putting it in order in accordance with rules.

Announced.  
Peshavar,  
24.05.2017.



*(Signature)*  
24.5.17  
(Muhammad Bashir)  
Special Judge,  
Anti-Corruption (Provincial),  
Khyber Pakhtunkhwa, Peshawar.

Certificate.

Certified that this order consists of four pages: each page has been corrected where necessary and signed by me.

ATTESTED  
*(Signature)*  
31/5/2017  
Peshawar

*(Signature)*  
24.5.17  
Special Judge,  
Anti-Corruption (Provincial),  
Peshawar, Khyber Pakhtunkhwa.

ATTESTED  
*(Signature)*

انڈس

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بعد الت جناب ناصر خان صاحب JMIC پشاور  
بنام خیر القادر

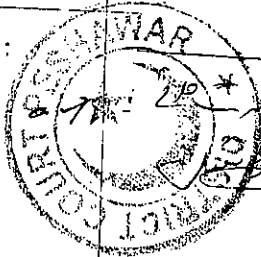
Serial No. of Order  
or Proceedings

47

21/6/13

مقدمہ 40 رجوعہ 17/6/17 فیصلہ 16/08/17 قطعات (47)

توعیت کاغذات



شمار	تعداد	توضیحات
119	14	انڈس - اورب - خیر القادر - دروازہ
20/31	12	سین ورنڈ پشاور - وکالت سہیل
32/49	16	انڈس سین ورنڈ پشاور (16) قطعات

ATTESTED

21. 6. 2017

(Examiner)  
Civil Court Peshawar

Alam

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ASGHAR SHAH KHILJI  
Additional District & Sessions Judge  
Peshawar.

ATTESTED

[Signature]



IN THE COURT OF MUHAMMAD ILYAS KHAN JUDICIAL  
MAGISTRATE-VI, PESHAWAR

FORMAL CHARGE

I, Muhammad Ilyas Khan Judicial Magistrate-VI, Peshawar do hereby charge you accused Abdul Qadir Khan s/o Haider Khan r/o Jamat Batagram, Charsadda, as follows:

That you on 09/06/2013 at duty hours within the limits of P.S Badhbait were found in possession of intoxicant, which you kept in your personal room for the purpose of selling, and thereby you committed an offence punishable under article 3 of the Prohibition of Hadd Order, 1979.

Secondly; at the said date and time, you accused owned, possessed and kept in your custody the intoxicant, and thereby you accused committed an offence punishable under Article 4 of the Prohibition of Hadd Order, 1979 and within my cognizance and I hereby direct that you be bound by this Court on the said charge.

Muhammad Ilyas Khan,  
Judicial Magistrate-VI,  
Peshawar.

- 16
- Q. Have you heard and understood the charge?  
A. Yes.  
Q. Do you plead guilty or claim trial?  
A. I do not plead guilty and claim trial.

Accused: \_\_\_\_\_  
RO & AC: \_\_\_\_\_  
29/06/2013

Muhammad Ilyas Khan,  
Judicial Magistrate-VI,  
Peshawar.

*Chams*

ATTESTED

23 SEP 2013

(Examiner)  
Civil Court Peshawar

ATTESTED



لبرارت قبا۔ جوڈیس محمد دین صاحب لبرارت  
عدت عدت 882 صفحہ 14<sup>10</sup> 2011 جم 05/3/14 نقانہ نمبر  
سکار بنام عبد القار

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درخواست زیر دفعہ 249A  
CPLC بابت بری کیے جانے سائل / مقدم  
درقدم عنوان بالا۔

ضابطہ  
سائل حسب ذیل عرض درسان ہے۔

1. یہ کہ مقدم پڑا آج کیسے عدالت حضور میں زیر تجویز ہے۔

2. مقدم بالا میں دفعات 9-C C.N.S.A 13-14 A.D میں عدالت اپریشن سیشن آج کا ہے سے  
28<sup>9</sup>/<sub>2017</sub> کو بری ہو چکا ہے (نقل پیغام پیرا 17 ہے) 17

3. یہ کہ مقدم بالا میں سائل دفعات 409/5(2) میں عدالت اپریشن سیشن ہو جائے  
دفعہ 245 2017 کو بری ہو چکا ہے (نقل پیغام پیرا 17 ہے)

4. یہ کہ عدت بالا میں سائل دفعہ 342 P.C 409 جو عدالت پیرا 17 سول آج کا ہے میں  
زیر تجویز تھی۔ پرم گورنر سیشن نہ ہونے کی وجہ سے دفعہ 248 سٹاپ ہو چکا ہے۔  
(نقل پیغام پیرا 17 ہے)

5. یہ کہ مقدم بالا میں سائل پر دفعہ 29<sup>6</sup>/<sub>2013</sub> کو Formal Charge ہو گیا ہے  
لیکن چار سال گزرنے کے باوجود ایک گواہ بھی عدالت حضور میں پیش نہ ہوا۔

6. یہ کہ مقدم بالا میں عدالت اپریشن سیشن آج کا ہے۔ لیکن ٹرائل کے بعد مشیادت  
استقامت کو مسترد کر چکی ہے۔ اس لیے مقدم پڑا میں اب سائل کی سزا پائی  
ممکن نہ ہے۔ اور مقدم ہذا کا مزید جاری رکھنا صرف عدالت حضور کا قیمتی  
وقت کا ضیاع ہے۔

ATTESTED

20 SEP 2017

*(Signature)*

5-9-A

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ج یہ کہ سب سے زیادہ مدت میں زیر دفعہ 249A CrPc کے تحت بری کرنا  
میں کوئی قانونی اور صالح نہ ہے بلکہ ایسا کرنا قانون و انصاف  
کے مین خلاف ہے

استدعا کے لئے منظور شدہ درخواستیں

کو 249A CrPc کے تحت مدت میں بری کرنے کے احکامات

17/6/2017

صدر فریادہ دار

محمد القادر

جوگات المدعوین کے لئے

(Handwritten signature)

ATTESTED  
(Signature)  
Civil Court Peshawar

ATTESTED

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In the court of  
NASIR KHAN JUDICIAL MAGISTRATE-VIII,  
PESHAWAR

Order --- 10  
16/09/2017

APP for State while accused on bail present. Arguments over application u/s 249-A Cr.PC already heard and record perused.

Brief facts are that the accused was sitting SHO of P.S Badbher who was complained against that he has in his possession ammunicions liquor, charas, heroine and that he is involved in business of stated narcotics. On such information a raid was conducted in a room situated in the quarter, in possession of accused Abdul Qadir. On search, the raiding party recovered 13 Kalashnikov, 23 rifles of different bores, 17 pistols, 39 mobile phone sets, 2516 cartridges of different bores, 106 magazines, 217 K.G charas, 3 1/2 K.G heroine, 4 K.G of Opium, one cane five liters besides two bottles/liquor, 22 K.G of spare parts of arms, 11 barrels whereas 12 persons were also found in confinement who were recovered. The high-ups of District Police initiated inquiry whereas in a departmental inquiry major penalty was also proposed against accused. After completion of inquiry the subject FIR No.882 dated 14/10/2011 u/s 9C-CNSA/ 3/4 P.O/13/14 AO/342/409 PPC was registered against accused at P.S station Badbher. Separate challan was submitted against accused under section 9C-CNSA, 13/14 AO, 342/409 PPC respectively before the competent Courts whereas the subject separate challan u/s 3/4 P.O was submitted before this Court. The accused was summoned and after compliance with provision of section 241-A Cr.PC, charge was framed against accused to which he claimed trial. PW's were summoned but unfortunately the prosecution failed to

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16.9.17

ATTESTED  
16/09/2017  
(Signature)  
Court Peshawar  
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(61)

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Cont' Order --- 10  
16/09/2017

procure the attendance of any single witness. The accused filed subject application u/s 249-A Cr.PC and requested for his acquittal.

The learned counsel for accused submitted that the accused in all other offences, which are separately tried by competent Courts, has already been acquitted. It was next contended that the building of police station Badbher had been destroyed in a bomb blast where after the police station was shifted to a rented house to run the business of police station. That due to limited space one residential room in the quarter under possession of accused was declared where house and the case property of different criminal cases being already in possession of local police was shifted to the said room. It was next voiced that all case properties recovered with reference of subject case is in fact case properties of various criminal cases whereas the accused being SHO of the said police station had no direct connection with it. It was further stated that accused is facing trial since 29/5/2013 but despite lapse of more than four years the prosecution failed to even procure the attendance of any single witness. The learned counsel hence requested for the acquittal of accused.

Conversely, the learned APP strongly opposed the application with submission that accused is directly charged for having in his possession narcotics which he kept in his possession for sale purpose beside of other incriminating material which also resulted the implication of accused under different provisions of special statutes. The learned APP also apprised that no doubt, till now no PW could have been examined but the none production of PW's doesn't entail any consequences u/s 249-A Cr.PC rather, at the most,

16.9.17

ATTESTED

20 SEP 2017

(Examiner)  
Civil Court Peshawar

ATTESTED

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Cont' Order --- 10  
16/09/2017

the proceeding could be stayed under section 249 Cr.PC. Hence, she requested for the rejection of application.

The record available transpires that accused being SHO of police station Badbher implicated in the subject case u/s 3/4 P.O for having in his possession liquor which he allegedly kept in his residential quarter for sale purpose. But, as evident from the judgments of the Hon'ble Courts while disposing of the connected criminal cases registered via same FIR but tried separately, the police station was completely destroyed in a bomb blast and thereafter the entire case properties, involved in various criminal cases, were shifted to one room situated in the quarter under possession of accused/SHO. It is worth material to note that as per contents of FIR one can of five liters and two bottles of one liter each liquor recovered from the possession of accused but the recovery memo shows that total 6 1/2 liters liquor were recovered from the residential quarter in possession of accused. It is also notable that subject property was taken into possession by local police on 09/06/2011 whereas the same was handed over to investigation Officer on 18/10/2011 after delay of 4 months. Likely the recovered liquor were not sent to the FSL for examination, therefore, in view of delay in handing over of case property by operational wing to the Investigation Officer and the non examination of recovered alleged liquor from FSL has shattered the entire case of prosecution. The Investigation Officer also failed to investigate and collect detail of case properties which being case properties of various criminal cases were actually in possession of local police. In absence of such a material evidence and drawing a line

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ATTESTED

20 SEP 2017

(Examiner)

Notary Court Sealholder

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Cont' Order --- 10  
16/09/2017

between the actual case properties and that anything incriminating recovered from the personal possession of accused, this Court is not inclined to hold and declare the alleged recovered liquor as personal ownership of the accused/SHO. Adding more, the subject case is pending since 2013 and PW's were repeatedly summoned but the process serving agency failed to execute the process of Court whereas the prosecution also failed to procure the attendance of any single witness.

In view of above facts as the probability of conviction of accused does not exist in the case, therefore, further proceeding in the case would be just a futile exercise. Resultantly, the accused facing trial namely Abdul Qadir son of Haider Khan is hereby acquitted under Section 249-A Cr.PC from charges under section 3/4 P.O. Sureties for the accused stands discharged from the liabilities of bail bonds. Case property, if any; be disposed of according to law.

File after completion and compilation be consigned to record room.

Announced  
16/09/2017

(Signature)  
16.9.17  
**NASIR KHAN**  
Judicial Magistrate-VIII,  
Peshawar

No.	21471
Dated of Application	19/9/17
Name of Applicant	
Word	P.O.
Fees	6
Signature of Copyist & Date	(Signature) 23/9/17
Dated of Preparation	23/9/17
Date of Delivery	23/9/17

CERTIFIED TO BE TRUE COPY  
(Signature)  
Copying Agency: Civil Court  
Peshawar  
23/9/17

ATTACHED  
(Signature)




This is an appeal filed by Abdul Qadir today on 29/07/2019 against the order dated 13.05.2019 against which he preferred/made departmental appeal/ representation on 20.05.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act. 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1357/ST,

Dt. 31-7-2019

  
REGISTRAR -  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Pesh.

Respected Sir,  
That order dated 13/5/2019 was passed under RSO 2000, for which the mandatory period for filing appeal before august Tribunal is 60 days and as such the instant is not premature.

Resubmitted after removing objection.




Sir

The objection of this office and reply of counsel for the appellant is submitted for order please.

5/08/2019.

Humble  
clerk

  
5/8/19

P10



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1227 /2019

Abdul Qadir

V/S

Police Deptt:

**INDEX**

S.No.	Documents	Annexure	P. No.
01.	Memo of appeal	-----	01-04 (A)
02.	Copies of charge sheet, order dated 29.09.2011, FIR and judgment dated 17.12.2018	A,B,C&D	5-13
03.	Copies of order dated 12.02.2019, Charge Sheet & Statement of Allegation and reply to charge sheet	E,F,G,&H	14-23
04.	Copy of application	I	24-
05.	Copies of Show Cause & reply to Show cause notice	J&K	25-29
06.	Copy of order dated 13.05.2019	L	30
07.	Copy of departmental appeal	M	33
08.	Copy of application	N	34
09.	Copy of letter dated 20.02.2019	O	35
10.	Copies of acquittal orders	P	36-63
11.	Copy of FIR	Q	64
12.	Vakatlama	-----	65

*Ramno*  
APPELLANT

THROUGH:

*M. Asif*  
M.ASIF YOUSAFZAI  
ADVOCATE SUPREME COURT,

& *Taimur Ali Khan*  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT

Room No. FR 8, 4<sup>th</sup> Flour,  
Bilour plaza, Peshawar cantt:  
Cell# 0333-9390916

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 1227/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1070

Dated 29-7-2019

Abdul Qadir, Ex-SI, S/O Haider Khan,  
R/O Village Jammata, P.O Kandar, Tehsil & District Charsadda.

(APPELLANT)

**VERSUS**

1. The Provincial Police Officer, KPK, Peshawar.
2. The Capital Police Officer, Peshawar.
3. The Senior Superintendent of Police (Coordination), Peshawar.
4. The Senior Superintendent of Police (Operations), Peshawar.

(RESPONDENTS)

-----

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.05.2019, WHEREBY THE PENALTY OF DISMISSAL FROM SERVICE WAS UPHOLD AWARDED BY RESPONDENT NO.4 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF SIXTY DAYS.

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 13.05.2019 MAY KINDLY BE SET ASIDE AND THE RESPONDENTS MAY BE DIRECTED TO REINSTATE THE APPELLANT INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWTH:**

**FACTS:**

1. That the appellant joined the police force in the year 1983 as constable and due to excellent performance, the appellant was promoted to the post of S.I and since his appointment the appellant has performed his

**Filed to-day**

**Registrar**

29/7/19

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duty with great devotion and honesty, whatsoever assigned to him and also have good service record throughout. It is also pertinent to mentioned here that the appellant has received A reports from his superiors and thus has had unblemished record, outstanding service record for a period of 29 years at his credit.

2. That the appellant was removed from service on 29.09.2011 on the some baseless allegations and FIRs were also lodged against the appellant. The appellant challenged the order dated 29.09.2011 in the august Service Tribunal in service appeal No.1966/2011. The said appeal was finally heard on 17.12.2018, which was accepted, set aside the impugned order and reinstated the appellant into service with the direction to respondent department to conduct denovo inquiry as per rules within a period of 90 days with further direction to give opportunity of cross examination to the appellant. **(Copies of charge sheet, order dated 29.09.2011, FIR and judgment dated 17.12.2018 is attached as Annexure-A,B,C&D)**
3. That in compliance of judgment of this august Service Tribunal, the appellant was reinstated into service for the purpose of denovo inquiry vide order dated 12.02.2019 and charge sheet along with statement of allegations were issued to the appellant which was duly replied by the appellant in which he denied the allegations and gave the real facts about the situation. **(Copies of order dated 12.02.2019, Charge Sheet & Statement of Allegation and reply to charge sheet are attached as Annexure-E,F,G&H)**
4. That inquiry was conducted against the appellant in which again opportunity of cross examination on the witnesses was not provided to the appellant by the Inquiry Officer on which the appellant also filed application the respondent No. 2 for not providing chance of cross examination to the appellant, but despite that no action has been taken on that application. Even the inquiry report was not provided to the appellant. **(Copy of application is attached as Annexure-I)**
5. That on the basis of above inquiry, show cause notice was issued to the appellant which was duly replied by the appellant in which he denied allegations again and gave the real facts about the situation. **(Copies of Show Cause & reply to Show cause notice are attached as Annexure-J&K)**
6. That the respondent No. 3 passed an order dated 13.05.2019 wherein previous punishment of dismissal from service of the appellant was upheld under RSO-2000 which was already set-aside by the

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Honorable Tribunal in its Judgment dated 17.12.2018. **(Copy of order dated 13.05.2019 is attached as Annexure-L)**

7. That the appellant file departmental appeal on 20.05.2019 which was not responded within the statutory period of sixty days. **(Copy of departmental appeal is attached as Annexure-M)**
8. That now the appellant come to this august tribunal on the following grounds amongst others.

**GROUND:**

- A) That not taking action on the departmental appeal of the appellant within the statutory period of 60 days and the order dated 13.05.2019 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the inquiry was not conducted according to law and rules and judgment dated 17.12.2018 as neither statement was recorded in the presence of appellant nor give him opportunity of cross examining the witnesses, but despite that inquiry officer held the appellant responsible. Even the inquiry report was not provided to appellant despite of filing of application for provision of inquiry report, which is violation of law and rules. **(Copy of application is attached as Annexure-N)**
- D) That the inquiry was not conducted against the appellant according to the prescribed manner as the appellant has not provided chance of cross examination of witnesses on which the appellant he also filed application to respondent No. 2 but despite that no action has been taken on his application. Thus the respondents have violated section 5(1)(c) of the RSO-2000.
- E) That the august Service Tribunal also directed the respondents to provide opportunity of cross examination but despite that inquiry officer did not provide opportunity of cross examination to the appellant which is violation of this Honourable Tribunal judgment as well as norms of justice and fair play.
- F) That the AIG (Complaint & Inquiry) marked the denovo inquiry to the respondent No.3 vide letter dated 20.02.2019, but he appointed Niaz

Muhammad Khan DSP on his behalf, thus inquiry officer cannot legally appoint another inquiry officer, which is against the law and rules. **(Copy of letter dated 20.02.2019 is attached as Annexure-O)**

- G) That AIG (Complaint & Inquiry) nominated respondent No.3 as inquiry officer but he issued charge sheet and passed the impugned dismissal from service order dated 13.05.2019, which is not permissible under the law and rules.
- H) That the august Service Tribunal set aside the dismissal order dated 29.09.2011 which means that the impugned order of dismissal of the appellant was no more in filed, but the respondent No.3 passed the order dated 13.05.2019, wherein he upheld the previous penalty of dismissal from service, which means that impugned order dated 13.05.2019 is void and has no legal effect.
- I) That hon'ble Tribunal set aside the impugned dismissal order dated 29.09.2011 passed by respondent under RSO 2000 meaning by that previous dismissal order dated 29.09.2011 of the appellant vanished forever, but despite that appellant was proceeded under RSO 2000 and also upheld the previous dismissal order of the appellant, which means that the whole proceedings against the appellant is void ab initio.
- J) That the competent authority for appellant is SSP (Operation) while the impugned action has been taken against the appellant by SSP coordination which means that action against the appellant was taken by incompetent authority and the whole proceedings are thus void ab initio.
- K) That the appellant has already been acquitted in the criminal cases by the competent Court of law and there remains no ground to penalize the appellant. **(Copies of acquittal orders are attached is Annexure-P)**
- L) That in the charge sheet it was mentioned that raid was conducted on 09.06.2011 and some items were recovered from the room of the appellant, but the appellant gave in detail about the real facts of the situation and mentioned in his reply that the PS Badabher was blown by a suicide bomber, due to which the available record and building of the PS Badabher were damaged and in this respect FIR was also lodged against unknown person and due to the above mentioned reason the record of the concerned Police Station were shifted to a private

4 (A)



house and the charge of 12 person kept in illegal confinement, he also the real facts about the issue of confinement of 12 person, but despite that he punished for no fault on his part. **(Copy of FIR is attached as annexure-Q)**

M) That the august Service Tribunal gave 90 days for denovo inquiry in its judgment dated 17.12.2018, but the respondent department did not conduct the denovo inquiry within the specified period given by this august Service Tribunal, which is violation of the judgment dated 17.12.2018 of this Honourable Tribunal.

N) 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 may be accepted as prayed for.

*Alam*

APPELLANT  
Abdul Qadir

THROUGH:

*Amir*  
M.ASIF YOUSAFZAI  
ADVOCATE SUPREME COURT,  
*Ali*  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT

&  
(ASAD MAHMOOD)  
ADVOCATE HIGH COURT

*S. Noman Ali Bukhari*  
(Advocate High Court)

**CHARGE SHEET**

*Annex A*

*5*

Ijaz Ahmed Sr. Superintendent of Police, (Operations), Peshawar as  
competent authority, hereby charge you SI Abdul Qadir the then SHO PS Badaber  
Peshawar as follows:-

You SI Abdul Qadir the then SHO PS Badaber, Peshawar committed the  
following irregularities that:-

On information dated 09-06-2011 a raid was conducted and the  
following items were recovered from your room which were hidden by you without  
maintaining proper record. Besides 12 persons were also kept in illegal confinement  
by you for some ulterior motive and did not show their arrest on record. Moreover,  
you have been placed under suspension, found involved in such illegal acts on your  
part. All this amounts to gross misconduct on your part and renders you liable for  
punishment under Removal from Service (Special Powers) Ordinance-2000. Thus you  
have been charge sheeted and is being proceeded against departmentally

- 1. Klashnikov = 13
- 2. Miscellencous rifles = 25
- 3. Pistols = 17
- 4. Mobile Phones = 39
- 5. Cartridges (Misc) = 2516
- 6. Magazines = 106
- 7. Norcotics Hashas = 217 Kg
- 8. Herion = 3\*1/2 Kg
- 9. Opium = 4 Kg
- 10. Alcohah = 1 Can 5 Liter + 1\*1/2 Bottle
- 11. Spare part (Misc) = 22 Kg
- 12. Barrels = 11 Numbers
- 13. Persons = 12 persons Kept in illegal confinement.

Note:- (Full detail of the above items are enclosed for reference).

This act is against the discipline which amount to gross miss conduct  
on your part and render you liable for minor/major punishment under the rules  
Removal from Service (Special Power ordinance) 2000.

2. By reasons the above, you appear to be 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  
the ordinance.

3. You are, therefore, required to submit your written defense within  
seven days of the receipt of this Charge Sheet to Enquiry Officer

4. Your written defense, if any, should reach the Enquiry Officer within  
the specified period, failing which it shall be presumed that you have no defence to  
put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person.

A statement of allegations is enclosed.

*[Signature]*  
**Attested**

(IJAZ AHMAD)  
SR. SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR



*Handwritten notes and signatures:*  
Received  
SI BBN  
18/6-11  
*[Signature]*

ORDER

Annex B (6)

This order will dispose off the Departmental Enquiry against SI Abdul Qadir Khan the then SHO PS Badaber on the grounds of allegations that on information dated 09-06-2011 a raid was conducted and the following items were recovered from his room which were hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension being found involved in such illegal acts on his part. Thus he has been charge sheeted and proceeded against departmentally.

- |                         |   |
|-------------------------|---|
| 1. Klashinkov           | = 13                                      |
| 2. Miscellencous rifles | = 25                                      |
| 3. Pistols              | = 17                                      |
| 4. Mobile Phones        | = 39                                      |
| 5. Cartridges (Misc)    | = 2516                                    |
| 6. Magazines            | = 106                                     |
| 7. Norcotics Hashas     | = 217 Kg                                  |
| 8. Herion               | = 3 1/2 Kg                                |
| 9. Opium                | = 4 Kg                                    |
| 10. Alcohol             | = 1 Can 5 Liter + 1*1/2 Bottle            |
| 11. Spare part (Misc)   | = 22 Kg                                   |
| 12. Barrels             | = 11 Numbers                              |
| 13. Persons             | = 12 persons Kept in illegal Confinement. |

This act on his part has badly tarnished the image of police force in the eyes of general public, which amounts to gross misconduct and liable him for punishment under Removal from Service (Special Powers) Ordinance-2000.

Accordingly, he was issued charge sheet with statement of allegations and a departmental enquiry was initiated while Mr. Shaid Ali SP/HQrs(Inv:), Mr. Saleem Riaz Khan DSP/Security & Inspector/DSP Riaz Ud. Din Khattak, Peshawar were appointed as Enquiry Officers. Findings of the Enquiry Officers were received and perused who recommended him for the following punishment.

1. Major departmental punishment should be awarded to SHO Abdul Qadir Khan.
2. A criminal case under the relevant provisions of law be registered.

AFC

Attested



7



Upon the findings of the Enquiry Officers, he was issued Final Show Cause Notice, to which he submitted his reply, which was perused/considered but was found un-satisfactory.

I have gone through the enquiry file and perused the entire record. The officer was called for personal hearing. The accused officer was heard in person but he did not forward any plausible explanation, therefore, I am convinced that he is guilty of the charges leveled against him.

In light of the recommendation of the enquiry committee and the undersigned being satisfied that the charges leveled against him are proved behind any shadow of doubts, therefore he is hereby awarded the major punishment of Dismissal from service under the NWFP Removal from Service (Special Power) Ordinance 2000 with immediate effect.

SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR.

O.R.No. 3563 /dated. 29/09 /2011.

no. 1019-25 /PA, dated Peshawar, the 29/09 /2011

Copy for information & n/action to:

1. The Capital City Police Officer, Peshawar.
2. The SP/Rural.
3. The DSP/Sadder Circle, with the direction to collect the seized items from SP/Invest./HQRS for further legal n/action.
4. SHO PS Badaber with the direction to register the case in light of the recommendation of the enquiry committee against the defaulter officer before seeking guidance from legal branch.
5. PO, EC-I, EC-II, CC & AS
6. FMC with enquiry file. (165 Sub)

~~Attested~~





C-1-A

ملوث پائے گئے۔ تو اس کے خلاف کیا کارروائی حسب ضابطہ عمل میں لائی جائے گی۔  
کونٹینٹس ہوں۔ برحیہ گزارش ہے۔

شیر

CO. ACE Peshawar.

06.08.2013.

دستخط

عہدہ

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف با ب سرخ روشنائی سے بالمشابہ  
ایک ملزم یا مشتہر علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغان نشان جہاں موزوں ہوں، لکھنا چاہئے۔

Annex

D

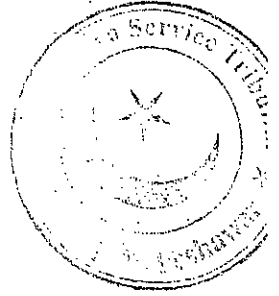
10  
Annex

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

SERVICE APPEAL NO. 1966/2011

Date of institution ... 24.12.2011

Date of judgment ... 17.12.2018



Abdul Qadir, Ex-Sub-Inspector,  
S/O Haider Khan.  
R/O Village Jammāt, P.O Kandar, Tehsil & District Charsadda.

... (Appellant)

**VERSUS**

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer, Peshawar.
3. The Senior Superintendent of Police (Operations), Peshawar. ... (Respondents)

SERVICE APPEAL UNDER SECTION-10 OF THE KHYBER PAKHTUNKHWA REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000 READ WITH SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29.09.2011 ISSUED BY RESPONDENT NO. 3 WHO VIDE THE SAME AWARDED MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE UPON THE APPELLANT AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO. 2 ON 03.10.2011 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 60 DAYS.

Mr. Khaled Rahman, Advocate.

.. For appellant.

Mr. Muhammad Jan, Deputy District Attorney.

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI  
MR. HUSSAIN SHAH

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

ATTESTED

JUDGMENT

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant along with

his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Sub-Inspector. He was dismissed from service under Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 by the competent authority vide order dated 29.09.2011 on the allegation that the higher authority conducted a raid at the quarter of the appellant and recovered from the

Attested

room/quarter of him various items of case property mentioned in the charge sheet and beside it 12 persons were also kept illegally confined by him for some ulterior motive and did not shown their arrest in the record. The appellant filed departmental appeal on 01.10.2011 which was not decided hence, the present service appeal on 24.12.2011.

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

4. Learned counsel for the appellant contended that beside the departmental proceedings one criminal case vide FIR No. 882 dated 09.06.2011 under sections 9C CNSA/13/14 AO/3/4 PO/342 PPC Police Station Badabher was also registered against the appellant but the competent court has acquitted the appellant from the criminal case. It was further contended that before the alleged raid conducted by the higher police authority on the residential quarter of the appellant Police Station Badabher was blown by a suicide bomber wherein all the official record/case property available in the Police Station Badabher was damaged and the building of Police Station Badabher was also damaged and in this respect FIR No. 750 dated 16.11.2009 under section 302/324/353/109 PPC, ¼ Exp Sub Act/7 ATA at Police Station Badaber, Peshawar was also registered against the unknown persons. It was further contended that the appellant might have taken some case property to his quarter due to this reason. It was further contended that the appellant has rendered 29 years long service but the competent authority has not taken into consideration of his long 29 years service at the time of passing of impugned order of dismissal from service of the appellant. It was further contended that the appellant was also held good ACRs during long 29 years service. It was further contended that during the relevant day the higher authority directed the competent authority of Police Station Badabher to kept suspicious persons for investigation under section 154 CrPC. It was further contended that the appellant was not provided opportunity of personal hearing before the impugned order. It was further contended that the inquiry officer has recorded the statement of witnesses during the inquiry proceedings but no opportunity of cross examination was provided to the appellant although under section-5 (c) of Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 it was mandatory for the inquiry officer to provide

*M. Amin  
17.12.2018*

*Attested*

*[Signature]*

*Attested*

5. Power to appoint an Inquiry Officer or Inquiry Committee.----

(1)-----

(a)-----

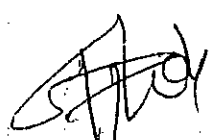
(b)-----

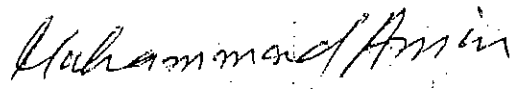
(c) Enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.

7. As the appellant was not provided opportunity of cross examination on the witnesses by the inquiry officer deposed against him in the inquiry proceeding therefore, the same has rendered the whole inquiry proceedings illegal and liable to be set-aside. As such, we accept the appeal, set-aside the impugned order and reinstate the appellant into service with the direction to the respondent-department to conduct de-novo inquiry as per rules within a period of 90 days from the date of receipt of this judgment with further direction to give opportunity of cross examination to the appellant. The issue of back benefits shall be subject to the outcome of de-novo inquiry.


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

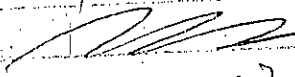
ANNOUNCED  
17.12.2018

  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

Certified to be true copy

  
Secretary  
Peshawar

Date of Reception of Application 18-12-18  
Number of Words 1600  
Copying Fee 70  
Urgent \_\_\_\_\_  
Total 10  
Name of Clerk   
Date of Completion of Copy 03-01-19  
Date of Delivery of Copy 03-01-19

  
Attested



OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
(OPERATIONS)  
PESHAWAR

E-mail: [sspoperations2448@gmail.com](mailto:sspoperations2448@gmail.com)  
Phone. 091-9210508  
Fax. 091-9213054

14

ORDER

Consequent upon the judgment order dated 17.12.2018 passed by the Honorable Service Tribunal Peshawar in service appeal No. 1966/2011 appellant i.e Ex-Sub Inspector Abdul Qadir is hereby reinstated in service conditionally for the purpose of conducting denove enquiry with immediate effect.

  
SENIOR SUPERINTENDENT OF POLICE,  
OPERATIONS, PESHAWAR

No. 139-44/PA dated Peshawar the 12 / 02 / 2019.

1. Copy of the above along with relevant enquiry file is forwarded to the worthy Deputy Inspector General of Police, Enquiry & Inspection KPK Peshawar with a request to conduct denove enquiry against the above named appellant as desired by the worthy PPO vide his office letter No. 523/Legal dated 30.01.2019 (copy attached), keeping in view the period of 90 days prescribed by the Honorable Tribunal vide judgment quoted above. (u-sr)
2. Copy to the Capital City Police Officer Peshawar vide his office Dy No. 735/CCPO dated 04.02.2019 for information please.
3. DSP Legal CCP Peshawar
4. EC-II, EC-I, Pay Officer
5. FMC

~~Attested~~





Amey G

16

**DENOVO PROCEEDINGS  
DISCIPLINARY ACTION AGAINST  
SI/SHO ABDUL QADIR POSTED OF PS BADABER**

I, Ijaz Ahmad, Sr: Superintendent of Police, Operations, Peshawar as competent authority, is of the opinion that SI/SHo Abdul Qadir posted of PS Badaber, Peshawar rendered him liable to be proceeded against, as he committed the following acts within the meaning of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance V/2000.

**STATEMENT OF ALLEGATIONS.**

SI/SHo Abdul Qadir posted of PS Badaber, Peshawar committed the following irregularities that:-

On information dated 09-06-2011 a raid was conducted and the following item were recovered from his room which were hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension, found involved in such illegal acts on his part. All this amounts to gross misconduct on his part and renders him liable for punishment under Removal from Service (Special Powers) Ordinance-2000. Thus he has been charge sheeted and is being proceeded against departmentally.

- 10. Klashinkov = 13
- 11. Miscellencous rifles = 25
- 12. Pistols = 17
- 13. Mobile Phones = 39
- 14. Cartridges (Mise) = 2516
- 15. Magazines = 106
- 16. Norcotics Hashas = 217 Kg
- 17. Herion = 3\*1/2 Kg
- 18. Opium = 4 Kg
- 10. Alcohol = 1 Can 5 Liter + 1\*1/2 Bottle
- 11. Spare part (Misc) = 22 Kg
- 12. Barrels = 11 Numbers
- 13. Persons = 12 persons Kept in illegal confinement.

Note: - (Full detail of the above items are enclosed for reference).

1. This act is against the discipline which amounts to gross miss conduct on his part and render him liable for minor/major punishment under the rules Removal from Service (Special Power ordinance ) 2000.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations a denovo enquiry is ordered by CPO vide memo: No. 836/E&I dated 20.02.2019, therefore Mr. Niaz Muhammad Khan DSP Coordination is hereby appointed as enquiry officer.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provided reasonable opportunity of hearing to the accused officer, record its finding within 07 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

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

Handwritten notes and signatures in Urdu, including "13-3-2019" and "SI-13-3-2019 NO. 92".

**Javed Khan**  
(JAVED KHAN)  
SENIOR SUPERINTENDENT OF POLICE,  
COORDINATIONS, PESHAWAR.  
/2019.

**Attested**

Copy to:-

SI Abdul Qadir (Dismissed) with the directions to appear before the Enquiry Officer on the date, time and place fixed by the E.O for the purpose

بیان ازین قارئین عرف عبدالقادر سید الیکٹرک پولیس ٹریننگ انسٹاوریٹ

محلہ خارجہ سٹیٹ خارجہ سٹیٹ - SSB کورڈینیشن سٹیٹ ور

معرض خدمت ہوں کہ میں عرصہ 01 کو بحیثیت کنسل پولیس حکم میں فہرتی 1983

ہو کر وقتاً فوقتاً مختلف کورس ہا میں کامیابی حاصل کی۔ عرصہ 29 سال حکم پولیس

میں مددزمت کر کے دوران مددزمت افسران بالا اصحاب کو کسی قسم کی شکایت

کا موقع نہیں دیا۔ دوران مددزمت اچھی کارکردگی کے بناء پر اور افسران بالا

اصحاب سے AI فہدس کے ACR حاصل کر کے ڈیپارٹمنٹل پروموشن کے

ذریعے بحیثیت سب الیکٹرک ترقیاں ہوا۔ جیسا علاقہ تھا نہ پڑھو سیر نیابت دھشت کر

کے لپیٹ میں ہو کر سورش شدہ قرار دیا گیا۔ اور پولیس ریٹیکاروں پر طرف

سے جانی و مالی عملے شروع ہوئے تھے اس دوران تھا نہ پڑھو سیر کا سرکاری بلڈنگ

پر دھشت گردوں نے کاربم دھماکہ کر کے سرکاری بلڈنگ تھا نہ کو نقصان پہنچا کر

شدید جانی نقصان ہی ہوا۔ سرکاری بلڈنگ تھا نہ رپارٹس کے قابل نہیں رہا۔ تو

پولیس کے عملے۔ ریکارڈ اور مال نقصانات۔ حال گورنمنٹ رکھنے اور رپارٹس کیسے ایک

سیر ایویٹ حکمان کراہہ پر حاصل کر دیا گیا۔ جس میں عمروں کی کمی کے وجہ سے عملے کی

رپارٹس اور حال گورنمنٹ و نقصانات رکھنے میں دشواری کا سامنا تھا۔ اور پولیس

ریٹیکاروں نے رات کو جو بائیل سٹھت چھوڑ کر علاقہ اور ریم کھوات روڈ۔ انڈیا روڈ

وغیرہ کو دھشت گردوں کے رحم و کرم پر چھوڑ دیا تھا۔ اور فہرتی پولیس تھا نہ اور

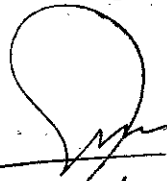
چوکیت کے اندر محدود ہو کر رہ گئے تھے۔ - - - - -  
مسلسل 4/31/2018

Attested

(47)

3  
Mee

استاذ  
مدرسة  
الاسلام  
ب  
المنصورة  
مصر

  
2/3/19

~~المنصورة~~

ان ہی سخت ترین حالات کی نزاکت کرتے ہوئے افسران بالا صاحبان نے

حرفہ 13-10 کوٹھے بھیتیا S.H.O. کھانا بڑھویر میں تعینات فرمایا۔ میں نے

2010

حالات کا مقابلہ کرتے ہوئے بنیاداً صحت۔ لگن اور جانفشانی سے کام لیتے ہوئے

پولیس نفری کو کھانا اور سوکھات کے بلڈنگ سے نکال کر دوبارہ روڑوں پر

جوبلائنڈ کیا۔ اس دوران شہر سینڈ مناسٹر کے ساتھ کئی پولیس تعابلی ہو کر

جن میں پولیس ایگوارڈن اللہ تعالیٰ کے فضل و کرم سے بال بال لگے ہیں اور

شہر سینڈ مناسٹر سے کافی فوجی اشیاء بلڈنگ اور زخمی ہوئے۔ جن کے Fire کھانا

کے ریکارڈ پر موجود ہیں۔ اس علاوہ گرفتاری فوجی اشیاء اور برآمدگی اسلح

والموشن و مشیات میں بھی کھانا بڑھویر عام صنف کے کھانوں سے کارروائی

میں سرفہرست رہا۔ جیکار ریکارڈ موجود ہیں۔ لیکن بد قسمتی سے میرے اس تیز ترین

کامیابیوں سے کچھ بااثر عقیدہ سکتا ناموں ہو کر چھے عقیدہ نقصان پہنچانے کے

درجے ہوئے۔ حرفہ 6-6 کو دینہ ٹھنڈ اور ٹرھی جنڈن کے رہائش پذیر لوگوں

2011

کے درمیان جلی سیلنگی لگنے پر سخت ترین تنازعہ کھڑا ہوا۔ اور لوگوں نے جلی

سیلنگی لگنے کے تاریں کاٹ کر کھینے اٹھا دیے۔ یہ دونوں گاؤں کے لوگ ایک

دوسرے کے خلاف مورچہ زن ہوئے۔ جس سے سٹیٹن جانی نقصان کا اندیشہ کی اطلاع

پاکر میں افسران بالا صاحبان کو درج بالا افسر کی اطلاع دی گئی اور خود فوراً

طوریہ موقعہ اور نہ ہوا۔ موقعہ جاتے ہوئے میں بندر صم وائر پولیس سٹیشن

(مسئلہ)

Attested

M. Anwar  
4-3-2019

قانون ٹرہو میر کے قریب ساہو حسین Asi کو قانون سے میرے نیچے لوزی لوزی

کچھ ان کا اطلاع پاس کی۔ اس اطلاع پر ساہو حسین قریب Asi نے لوزی لوزی

بھونانے کے بجائے نہایت غیر دانشمندانہ اور بد اخلاق کا مظاہرہ کرتے ہوئے لوزی لوزی

بھونانے سے صاف انکار کیا۔ اس انکار کو جواب R صاحب کا نام جان نے خود

سن کر جواب R صاحب نے جو کلمات اور دیگر قانونیات سے لوزی لوزی میرے نیچے

بھجوا دیا۔ میں یہ دونوں دیہات کے مشران سے بات چیت کر کے معاملہ کو اختتام و تقسیم

سے حل کرنے پر متفق کرتے ہوئے صرف 2011 کو واپس آئی کارڈ اور دیگر مشران

عدالت کو طبی سیدھی دین کے بجائے کسی موقع طلب کیا۔ جمع حالت و اوصاف

افتدراں بالا صوبان کے نوٹس میں لائے گئے تھے۔ جواب R صاحب نے بعد فراغت عدالت

سے جلی اپنے دفتر طلب کیا۔ میں دفتر جواب R صاحب لوزی دینے پہلے کر جواب

R صاحب نے ساہو حسین قریب Asi کے بد اخلاق کا نوٹس دینے پر مجھے ان کے

صرف قریبی کمپین کرنے کا حکم صادر فرمایا۔ میں نے ساہو حسین قریب Asi

کے صرف قریبی کمپین جواب R صاحب کے دفتر میں پیش کیا۔ جس کے ساتھ

جواب R صاحب نے (Recommendation Letter) دستخط کر کے جواب R صاحب کو بھجوا دیا

جس پر ساہو حسین قریب Asi کا تیارہ جواب OB نمبر 2140 قانون ٹرہو میر

6-6-2011

سے GD قانون فزانہ سوا۔ اس ٹرانسفر آرڈر کے (Recommendation Letter)

اور کمپین درخواست کی نقل خود اسٹیٹ سمراہ لفٹا میں

Allamw 4.3.2018

مسلسل

Attested



تھانہ پڑھو پیر سے دیر ٹیڈ بند کئے روز پڑھو وقت اپنا مکہہ ققتل کر کے

دیر ٹیڈ بند ہوا، جہاں سر ایگاردان واپس آیا تھا۔ اور عدالت

کے ججزین میں حسب طلبیدہ آکر جین کے تعاون سے جیسی سیدھی لادیں لکھی گئی

جہاں کر کے بعد فراغت بوقت 1600 بج تھانہ پڑھو پیر سنچ آیا باقاعدہ روزنامہ

تھانہ میں رہنے والیسی گا رپورٹ بوقت 1600 بج درج لگا ہے جو ریگارد تھانہ کے

روزنامہ میں موجود ہے۔ رہنے مکہہ آکر حیرا مکہہ اسی طرح ققتل تھا جس طرح

میں ہم جاتے وقت ققتل کیا تھا۔ کیا منٹ گزرنے کے بعد کنٹرول روم

تیار سے بذریعہ پولیس اطلاع ملی کہ آپ کو امنڈن بالا مہمان نے ققتل

کر کے پولیس میں تبدیل کیا گیا ہے۔ آپ اپنا جہاز پولیس میں رہا

حسب اطلاع میں روزنامہ تھانہ میں بوقت 1615 بج اپنی عدالتی تھانہ پڑھو پیر

سے حسب اظہار افراں بالا پولیس اسٹیشن کے جہاں گا جہاں ریگارد تھانہ کے روزنامہ

میں موجود ہے۔ میرا حریف جارج شیٹ میں جو الزام لگائے ہیں میرا سر

بے بنیاد اور گھبرائش ہے۔ کیونکہ مجھ اسلم و اموشین و مشیات تھانہ پڑھو پیر

کے خال خانہ میں پڑے ہوئے مختلف FIR کے حال ققتل تھے۔ اور نا حد صین

شر آسی نے اپنے ٹرانسفر کا بدلہ کر کے حیرا حریف اپنا گھبرائش

کے تحت میرے مکہہ سے امنڈن بالا مہمان کو میس کا ٹیڈ کر کے برا عدالتی

(مسلسل)

Attested





ظاہر کرنے میں کامیاب ہوا۔ ایسی کمرہ جو دفتر اور رہائش دونوں کے استعمال  
 ہونا تھا۔ ہر وقت موسم کا سہارا کا حصہ کے موسم میں ہر وقت آتے جاتے  
 تھے۔ اور دفتر باہر کا حصہ جو مکان میں تشریف لائے ہر اس ہی دفتر  
 میں تشریف رکھتے تھے۔ ایسے دفتر کمرہ میں اتنے مقدار میں اسلم و الموریشن  
 رکھنا سہولت پیدا ہی نہیں ہوتا۔ پھر اس قسم کی اسلم و الموریشن جس میں زیادہ تر  
 اسلم ناقابل استعمال۔ دسی سداقت لطائف رپورٹ آرہور پولیس میں پہلے اور  
 منشیات بھی ٹکڑے ٹکڑے کی ہے۔ اس کے علاوہ حوالہ مکان میں سے بارہ اشخاص  
 غیر قانونی کمرہ سرگمراں و بندش کے بارے میں عرض گزار ہوا۔ کہ میں  
 حوزہ 6/9 کو بوقت 16:15 بجے مکان پھر پیر کے روزنامہ میں روزانہ نوٹس دین  
 جس دن عاقر اگر عاقری کی ہے۔ جبکہ اشخاص بند شدہ بحالیت کی رہائی  
 حوزہ 6/17 کو لطائف بیانات سابقہ انکوائری تحریر کی ہے۔ میرے تبدیل ہونے  
 کے آٹھ دن بعد گرفتاری و رہائی کی ذمہ داری چھوڑا دانا ایضاً کے متفقہ ہے  
 اس کے علاوہ جب درج بالا کارروائی میرے عدم موجودگی میں کی گئی ہے۔  
 جو صحیح منالہ خودداری قانون کے مطابق نہیں ہے۔ شاہد حسین حوزہ 4/3  
 میرے حروف ایک گھنٹے سے ساتش میں کامیاب ہونے کے بعد  
 اپنی شہر سفر کو بحال 08 مہ 2380 حوزہ 6/25 والی  
 2011

allan  
4/3

Atesca

تھانہ فزانہ سے ٹرور ASI تھانہ پڑھو بیروں کر رہے ہیں اسی کامیاب  
نہوا۔ جیٹا نقل آرڈر ہی لف ہمراہ بیان ہذا ہے۔

جناب عالی! میرے صدف ایک گیس سازش کے تحت کارروائی ہو کر جس سے  
میں اور میرے بیٹے نہایت ذہنی کوفت کا شکار ہوئے۔ صدمہ حالی اور بہت ہی نقصان  
اور تکالیف اٹھانے پڑے۔ بچوں کی تعلیمی ماحول پر بھی بہت اثر انداز ہوا  
میرے صدف جتنے الزامات لگائے گئے تھے۔ اس میں عزیز مدد انت سے بائیکاٹ  
پر بھی سزا کا احکام صادر ہو گیا ہے۔ آپ کے حضور میں عرض ہے۔ کہ میں  
بے تباہ ہوں۔ (Back benefits) کیساف حدت پر بحال کرنے کا حکم صادر فرمائیں

Signature  
si/04/3/2019

~~Attested~~

محرمیت جناب چیف جسٹس سٹیٹ لویس انیسٹریٹ اور

منابع عالی

توالم مشمولہ فوٹو اسٹیٹ چیف جسٹس کاپی حوالہ 17-12-2018  
جلد 1 سرورس ٹریبونل

حیرتوں خواہ آپ در عرض خدمت ہوں۔ کہ چیف جسٹس مشمولہ میں ڈیل پنچ کے صحیح مطابق

نے حکم صادر فرمایا ہے۔ کہ من سائل کو دوران Denovo انوائری زیر رقم 5-C

of K.P.K Removal From Service Special Powers  
Ordinance 2000 - Cross examination

کا موقع فراہم کریں۔ لیکن انوائری ایئر DSP/CO صاحب نے کئی گویان کے بیانات

لیئے گئے ہیں۔ اور عدالت کے (Direction) کے مطابق چیف Cross Examination

کا موقع فراہم نہیں کیا ہے۔ اور نہ ہی حیرتوں خواہ میں گویان کے بیانات لیئے گئے ہیں۔  
چیف دفتر سے نکال کر گویان کو در پتیرا کر کے چیف بیانات لیئے جاتے ہیں۔  
استدعا حیرتوں خواہ کے حالات پر رقم فرما کر مناسب حکم صادر

فرمائیں۔

19-3-2019

اللہ

اسی

آپ کا نالہ رفان قادر خان سب انسٹریٹ P-555 صلح سٹاؤر

Forwarded PC

03  
R/HO 20/019

Attested



Annex "J" (25)

OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR,  
Phone No. 0919213757  
Fax: No. 091-9212597

No. 76 /PA, Dated Peshawar the 24 / 04 / 2019.

**FINAL SHOW CAUSE NOTICE**

I, **Javaid Khan, Senior Superintendent of Police Coordination, Peshawar** as Competent Authority under P.R 1975, do hereby serve you, **SI Abdul Qadir Peshawar**, as follow:-

2. (a) That Consequent upon the completion of inquiry conducted against you by enquiry officer Mr. Niaz Muhammad, DSP/Coordination Peshawar for which you were also given opportunity of hearing.
- (b) On going through the findings and recommendation of the inquiry officers, the material on record and other connected papers including your defense before the said officers.

I am satisfied that you have committed the following acts/omission:-

- i) That a huge quantity of arms/ammunitions and other contraband items (narcotics) were recovered from your residential quarter of Ex-SHO Abdul Qadir kept without any legal justification.
- ii) You also illegally confined 12 innocent persons and put them in the lockup for about 18-days without any criminal case thus violated & misused official powers.
- iii) The enquiry officer during the course of inquiry found you guilty of gross misconduct and the allegations against you stood proved.

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.

If no reply to this is notice received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-part action shall be taken against you.

Received Reply  
of SI Qadir's  
13 pages  
30/4/19

Under Officer  
24/4/2019

*Javaid Khan*  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION, PESHAWAR.

Attested

جناب عالی

الحوالہ Final Show Cause Notice نمبری 76-PA-4 جاری حوضہ 24-4-2019 جناب

جناب سینئر سپرنٹنڈنٹ پولیس کورڈینیشن اور حوضہ حریف ہوں کہ میں نے اپنا تفسیلی بیان انٹرویو اور نیاز محمد خان DSJ کورڈینیشن اور کورس چکا ہوں جو قابل مندرجہ ذیل فقرہ ہوں۔

۱۔ بحوالہ Fi 750 نمبر 16-11-2009 رقم 302-324-353-409 تھا بڑھ بیر سیکاری بلڈنگ 3/4 Exp. sub act-7 AIA 2009

تھانہ بڑھ بیر بم دھماکہ میں نقصان رسیدہ ہو کر پولیس تھانہ کے علم اور ریکارڈ کیے گئے ایک سرٹیفکیٹ مکان کرایہ پر حاصل کر دیا گیا تھا۔ جس کا کرایہ رقم پولیس کے بے براخ سے ادا ہوا کرتا تھا۔

جمع بلڈنگ تھانہ کے مال گورنمنٹ۔ حال جردمان محفوظ رکھنے حوالہ اور تھانہ کے محلے کے ضروریات کے مطابق دفاتر درپیش کیے استعمال ہو رہا تھا۔ چونکہ اس بلڈنگ میں مکروں کی بنیاد لگی تھی اور محلے کے دفاتر۔ ریاستیں دیگر سیکاری تھانہ کے استعمال کیے ناکافی تھیں۔ اس وجہ سے ایک ایک مکرو کو دو حصہ کیے استعمال ہوا کرتا تھا۔ اسی طرح سالانہ SHO تھانہ نے بھی اسی بلڈنگ ہی میں ایک مکرو کو برائے دفتر SHO ریاستیں SHO استعمال کرتا تھا۔ ان کے بعد میں نے بھی وہی ایک مکرو کو سیکاری دفتری اور تھانہ کیے بطور دفتر SHO کر سیاں مینز رکھ کر استعمال کر رہا تھا۔

جس میں عدالت کے عہدہ سے مسائل حل کرنے کیے بغیر روک ٹوک کے آیا جایا کرتے تھے۔ اور افسران بالا صاحبان کا بھی تھانہ میں آمد پر اسی مکرو سے یعنی دفتر SHO میں تشریف رکھتے تھے۔ اسی دفتر SHO تھانہ میں بعد فراغت فیوٹی آرام کرنے کیے صرف ایک چارپائی رکھا تھا۔ جس کی وجہ سے دفتر SHO تھانہ کو کاغذات میں حالات واقعات کو توڑ کر ریاستیں کو اور ظاہر کر دیا گیا ہے اگر یہ ریاستیں کو اور تھانہ۔ تو پھر تھانہ میں دفتر SHO کیاں ہو گا۔ کیونکہ تفسیلی افسر نے جو تھانہ بڑھ بیر کا نقشہ حوضہ مرتب کیا ہے۔ اس میں سیر سے SHO کا دفتر نہیں ہے۔ جو سیر افسر نا انصافی کے مترادف ہے۔ نقشہ حوضہ تھانہ بڑھ بیر کی فوٹو اسٹاپ کا پی نمبر E-I لف سب ان پرام

PTD مسلسل 29-4-2019

Attested

(2)

اس عملدوہ دفتر 5440 تقانہ ایک معروف ترین دفتر ہوتا ہے۔ اس میں بروڈت  
عوام ہونے کے بعد اور ان کے اوقات میں ان کے بلا صامیان کا قہار ہے جس کا نام احمد پور شریف  
رہتا ہے۔ اس طرح کے معروف ترین دفتر میں اتنی بڑی مقدار میں اسلحہ و ایوریشن  
و منشیات کا بھرتہ کا سوال پیدا نہیں ہوتا ہے۔ میرے دفتر 5440/مکہ سے کسی قسم کی  
اسلحہ و ایوریشن / منشیات براہِ مدینہ نہیں ہوا ہے۔ بلکہ یہ جملہ کارروائی ایک ٹیکہ سازش کے  
تحت ہوئے ہیں جس میں میں کردار ساجد حسین قریشی تھا، بڑھیرت ادا کی ہے۔ کیونکہ  
و قیوم کے تین دن قبل مزید 2011 کے کو میں انڈین بلا صامیان کو ساجد حسین قریشی کے  
خلاف تحریری شکایت درج کی تھی جس کی نقل خود اسٹیشن کالی سٹیشن انکواری ہو چکا ہے۔  
میرے شکایت پر ساجد حسین قریشی کا تبادلہ بحوالہ 08 مہ 145/2011 تھا، بڑھیرت سے  
6D تقانہ خزانہ ہوا۔ اس ٹرانسفر آرڈر کو کینسل کر دینے کے لہجہ میں ساجد حسین قریشی  
کو بے اثر یا تو جو سید سے مجھے نقصان پہنچانے کے تاک میں بیٹھے تھے۔ کیا تو ایک ٹیکہ سازش میں  
شہری کی ہو کر مجھے ایک ناکردہ گناہ کے الزام میں پھنسانے میں کامیاب ہوا۔ اس سازش میں  
کامیابی کی صورت میں ساجد حسین قریشی کا ٹرانسفر دوبارہ بحوالہ 08 مہ 380/2011 مزید 25  
والس تقانہ خزانہ سے قریشی آئی بڑھیرت ہوا۔ جس کی نقل اسٹیشن کالی 4-E بھراہن بیان ہوا  
پیرا 1 کے سلسلے میں عرضِ خدمت ہوں۔ کہ مزید 9 کو حوالہ تھا، بڑھیرت میں  
میں نے کوئی بھی فرد غیر قانونی بند نہیں کیا تھا۔ کیونکہ اگر مزید 9 کو حوالہ تھا  
بڑھیرت میں کوئی بھی فرد غیر قانونی طور پر بند ہوتا۔ اور اس کو براہِ مدینہ کیا ہوتا۔ تو  
ضابطہ فرجیاری کے مطابق اس افراد کو 4 گھنٹہ کے اندر اندر عدالت کی طرف لے کر جھڑ  
میں پیش کرنا اور ان کے بیانات زیر دفعہ 164 میں قلمبند کرنا چاہئے تھا۔ فوراً  
باب 22 فقرہ 49 کے فن 11 کے مطابق تمام اشیاء زیر حراست کے تقانہ میں سمجھنے  
اور تقانہ سے روزانہ پتوں کے اوقات جو اشیاء تقانہ کی حوالہ میں داخل ہوتی ہیں

Alam  
5/29/2011

Attested

(3)

یا نکلے گئے ہوں۔ خواہ عارضی طور پر یا دیگر کسی وجہ سے ہر ایک حالت میں  
 میں ٹھیک وقت درج کیا جائے گا۔ جو ایسی کوئی اندراج روزنامہ تھا جس میں  
 نہیں کی گئی ہے۔ اور نہ ہی پولیس روز باب 22 فقرہ 48 جن کے مطابق وقوع  
 پذیر حالت کی اندراج موجود ہے۔ اور نہ ہی انٹرویو کیا تو کوئی نقل حد موجود ہے۔  
 انٹرویو میں جن افراد کے بیانات دیے گئے ہیں۔ ان کے بیانات میں تاریخ گرفتاری  
 و تاریخ رہائی کا کوئی اندراج موجود نہیں ہے، ان افراد کے بیانات میں عدم موجودگی  
 میں دیے گئے ہیں۔ اور سرس شریوئل ٹریبونل کے <sup>خواہ</sup> جج مہاشن کے (Direction)  
 کے مطابق جج کراس ایگزامینیشن کا موقع نہیں دیا گیا ہے۔

جیسا کہ اس کے بعد میں عرض کر رہا ہوں کہ جو کارروائی مندرجہ بالا میں ہو چکی ہے  
 اس دوران میں مقدمہ میں تھا اور ہم کارروائی میں عدم موجودگی میں ہوئی ہے  
 میرا روزنامہ اور واپسی تقریرات 16 - 31 روزنامہ کا 9 کے خوراسٹ کا 65 کا 65 - E6  
 پھر ان بیانات پر ہے۔ میرے حریف جو الزام میرا ہے اور اس میں لگائے گئے ہیں۔ ہم الزام میں  
 میرا مکمل ٹرائل مختلف عدالتوں میں ہو کر ہم عدالت کے جج مہاشن نے جج باعدت اور  
 میری کیا گیا ہے۔ عدالت کے تصدیق شدہ نقول فیصلہ حالت کی خوراسٹ کا 65 کا 65 میں  
 اس مقدمہ انٹرویو کرنے کے جج دوران انٹرویو اسے دفتر سے باہر نکال کر حالت پولیس  
 گورنمن کو پریس رائزر کے ان سے اپنے دہنی کے مطابق بیانات دیے گئے ہیں۔ جو اس مقام میں  
 میں نے ایک قریب درپوشت جانب ہے۔ کے حریف میں پیش کیا گیا تھا جس کی نقل  
 خوراسٹ کا 65 کا 65 میں لیا گیا ہے۔ سرس شریوئل کے ڈائریکشن کے مطابق گورنمن  
 سجاد اللہ مراد۔ جیل 14۔ جمع اللہ۔ جاوید۔ سید زین کے بیانات پر کراس ایکزامینیشن  
 کا موقع نہیں دیا گیا ہے۔ اس کے Denove انٹرویو کو 90 کے اندر ایک مکمل  
 کرنے کے احکامات صادر کیے گئے۔ جو 90 دن کے اندر مکمل نہ ہو کر

29-4-2019  
 محمد علی

Attested

DeNove - انگریزی حسب ڈائریکشن سروس ٹریبونل خیرطوبہ کوآہ لکھنؤ کے Time Bound

موضوع ہے - Fixe برات 380 - 336 - 339 - 299 - 255 - 416 - 437

478 - 341 - 374 - 459 میں کچھ سزا سوجھکے ہیں۔ اور مال قدمات

خواجہ امیر رفیق 965/2013 کے داخل مرسلکوشن حالیہ سوجھکے ہیں۔ جس کی

تفصیل تھانہ کے ریکارڈ موجود ہے۔ حیرت نغینس گوان منظور سہا 420 - عرفان اللہ Fe

فاروق شاہ Fe کے بیانات ہیں لکھے۔  
ضابطہ درج بالا حالت واقعات کے مطابق میں بے تباہ ہوں۔ اور کافی

عصم 8 سال سے مختلف عدالتوں میں حیران کن سزا سوجھکے اور عدالت کے جرم میں

نے بری کر کے احکام صادر فرمائے ہیں بقدرت شہرہ محمد کا بیان پیش خدمت

سوجھکے ہیں۔ دس لکھے ہیں۔ جن کے تعلق ماحول پر گہرا اثر پڑا ہے۔

استدعا کے سائز کو جمع Beck benefits کیا وہ ملازمت پر مال کر کے کا حکم

Attestation  
29/4/2019

مدار و خادیں

Attested





OFFICE OF THE  
SENIOR SUPERINTENDENT POLICE  
COORDINATION PESHAWAR

Phone No. 091-9213757  
Fax No. 091-9212597

Annex

30

ORDER

In compliance of the Services Tribunal order vide judgment dated. 17.12.2018 in service appeal No.1966/2011, received in this office from the office of DIG/E&I Khyber Pakhtunkhwa vide No. 836/E&I, dated 19.02.2019, Ex-SI Abdul Qadir was conditionally reinstated by SSP/Operations Peshawar and a Denovo Departmental Enquiry against Ex- SI Abdul Qadir was conducted by Mr. Niaz Muhammad DSP/Coordination Peshawar.

2- The allegations levelled against him were that he while posted as SHO PS Badaber, on 09-06-2011 a raid was conducted on his room and a huge quantity of arms/ammunition, narcotics and other miscellaneous items/articles mentioned in the charge sheet were recovered from his room hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motives and did not show their arrest on record. For his gross misconduct he was also placed under suspension.

3- The Enquiry officer after conducting Denovo Departmental Enquiry recommended that the charges leveled against him proved and found guilty of gross misconduct. However the enquiry officer also submitted that although the allegations against the official stand proved, but in the same allegations a criminal case vide FIR No. 882, dated 25-06-2011 u/s 9C-CNSA/13/14-AO/ ¼ PO PS Badaber was registered against him. He was arrested and remained behind the bar for a period of 14-months and 14-days. Later on the court has acquitted him of the charges leveled against him. Similarly another case vide FIR No.06, dated 06-08-2014 u/s 409/5 (2).PC Act of ACE Hayatabad also registered against him but later on acquitted by special judge Anti Corruption Khyber Pakhtunkhwa. The enquiry officer further recommended that the alleged official has suffered financially, physically as well as mentally for about 08 years in the aforesaid allegations having lengthy service of about 36 years and supported large family members. The enquiry officer provide him full opportunity of cross questions during the course of enquiry.

4- After perusal of the findings of the enquiry officer, the official was served with Final Show Cause Notice. He submitted his written reply to the final show cause notice which was examined and found unsatisfactory. The findings of the enquiry officer and other material available on record shows that he has committed a gross misconduct and the allegations stand proved beyond any doubt. He was given the opportunity of personal hearing also. Therefore, keeping in view the findings of the enquiry officer and other material available on record, the undersigned reached the conclusion that earlier order of major penalty of dismissal from service under NWFP, Removal from Service (Special Powers) Ordinance 2000 awarded by SSP/Operations is upheld.

*Javaid Khan*  
(JAVAI D KHAN)

SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR.

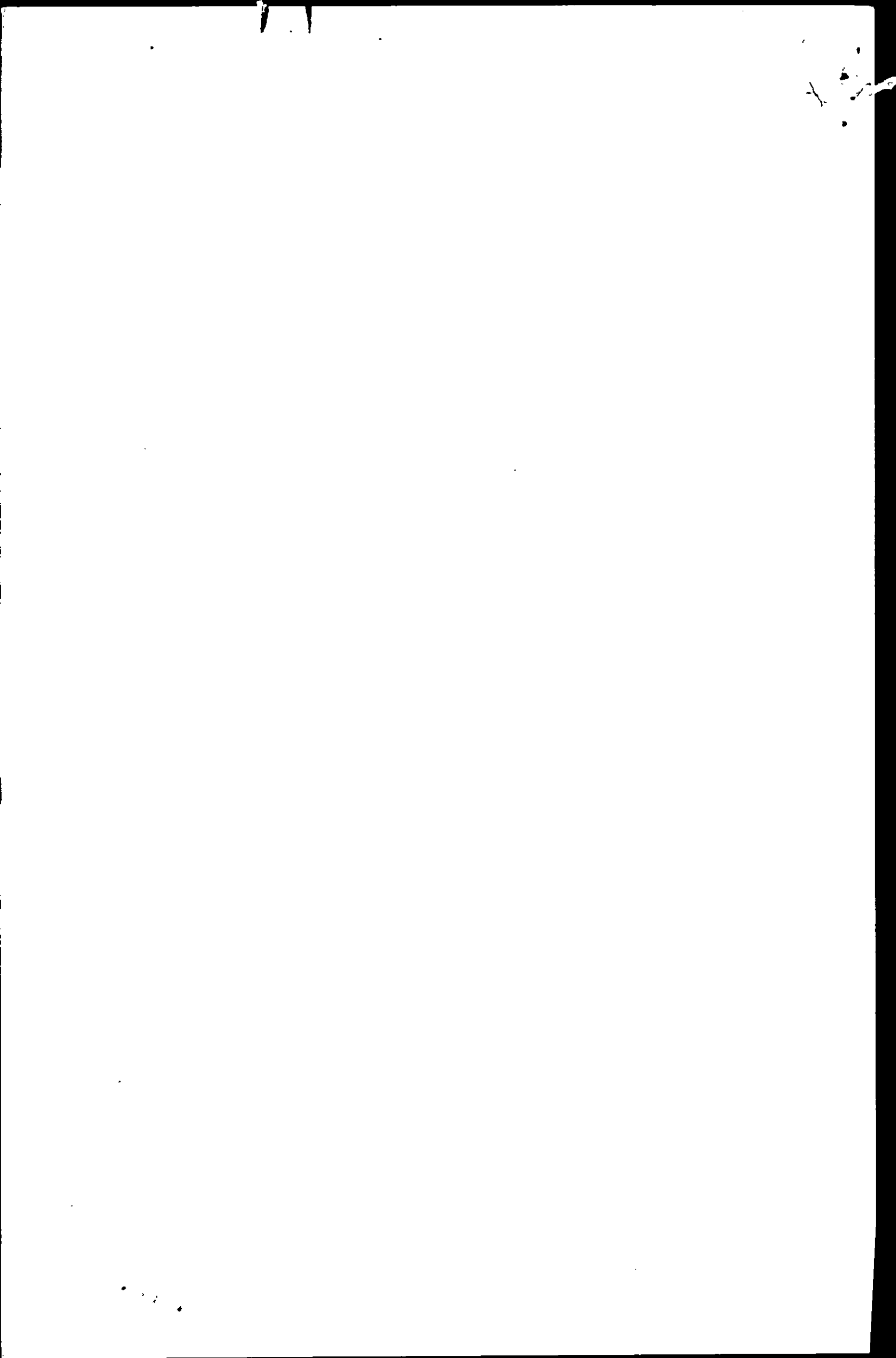
OB No. 1620  
Dated 13/5/2019.

No. 83-90 /PA, dated Peshawar the 13/05 2019

Copies for information and n/a to the:-

1. Capital City Police Officer Peshawar.
2. Deputy Inspector General of Police E&I Khyber Pakhtunkhwa w/o to his office letter No. 836/E&I, dated 20-02-2019
3. SSP/Operations Peshawar.
4. PO/EC-7/EC-II for necessary action.
5. Official concerned. /FME

Attested



To

The Capital Police Officer,  
Peshawar.

Annex M-31  
Dary No 793

2015/2019

**Subject: Departmental appeal against the impugned order dated 13.05.2019 passed by the Senior Superintendent of Police Coordination Peshawar thereby upheld the previous Major Penalty of Dismissal from Service under KP Removal from service (Special Powers) ordinance, 2000 which was once set aside by the Hon'ble Khyber Pakhtunkhwa Service Tribunal with the direction of denovo Inquiry.**

Respected Sir,

1. The appellant was appointed on 01.01.1983 as constable in the Police Force and by dint of his efficient performance of his duties, he was promoted from time to time and now he was serving as Sub-Inspector and posted as SHO Police Station Badaber. During his entire service, appellant has never been penalized for any misconduct nor has there been any criminal case registered against him or found involved in any case of corruption. Moreover, appellant till date has received "A" reports from his superiors and thus has had unblemished, outstanding service record for a period of about 29 years at his credit.
2. That appellant earlier was removed from service on 29.09.2011. The appellant approached to the Khyber Pakhtunkhwa Service Tribunal in Service Appeal No.1966/2011 which was accepted vide order and judgment dated 17.12.2018. (**Annex:-A**) thereby the impugned order dated 29.09.2011 was set aside and reinstated appellant into service with the direction to the respondent department to conduct denovo inquiry as per rules within a period of 90 days with further directions to give opportunity of cross examination to appellant.
3. That the judgment of the Khyber Pakhtunkhwa Service Tribunal was received by the department on 14.01.2019 and pursuant to the same appellant was conditionally reinstated in service by Competent authority SSP/Operation for the purpose of denovo inquiry vide order dated 12.02.2019 and denovo inquiry was also initiated against appellant in regard of which a charge sheet was issued to appellant on 04.03.2019 while statement of allegation on 13.03.2019. Appellant submitted reply to the charge sheet on 04.03.2019. The inquiry was conducted in slipshard manner without providing appellant a fair opportunity of hearing. On the basis of which a show cause notice was issued to appellant but no copy of inquiry was supplied to appellant for which appellant repeatedly requested for the provision of said inquiry report to enable appellant to submit a proper reply to show cause notice.
4. That as per law Senior Superintendent Police (Operation), Peshawar is the competent authority who conditionally reinstated appellant in service for disciplinary proceedings, therefore, as per law he had to be proceeded appellant but astonishingly Charge Sheet with statement of Allegations was issued to the appellant by the Senior Superintendent of Police (Coordination), Peshawar thus all the disciplinary proceedings against the appellant are corum-non-Judice.
5. That thereafter denovo inquiry was conducted against the appellant after the lapse of 90 days. It would not be out of place to mention here that the inquiry report has not been provided to appellant; therefore, appellant submitted an application for the

**Attended**

provision of inquiry proceedings before the Senior Superintendent of Police (Coördination) Peshawar on 24.04.2019 under the KP Right to Information Act, 2013(Annex:-B). Likewise, another application was also submitted for the same purpose before the AIG Legal, CPO Peshawar on the same date (Annex:-C) but no heed was paid thereto.

- 6. That appellant was issued final Show Cause Notice by the office of Senior Superintendent of Police (Coordination), Peshawar on 24.04.2019 to which the appellant responded by way of submitting detailed reply of even date wherein appellant explain his position, each and every aspect of the case but the same was not considered and finally impugned order dated 13.05.2019 was issued thereby the earlier major penalty of dismissal from service under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance,2000 was upheld without cogent reason and cause which was once set aside by the Hon'ble Khyber Pakhtunkhwa Service Tribunal.
- 7. That now the appellant, being aggrieved of the impugned order files this departmental appeal before your good-self inter-alia on the following grounds;

**Grounds:-**

- A. That the appellant has not been treated in accordance with law and rules on subject under Article-4 of the Constitution of the Islamic Republic of Pakistan,1973 and the impugned order has unlawfully been issued by the incompetent authority which is liable to be declared null and void.
- B. That the impugned inquiry was entrusted to Mr. Javed Khan SSP Coordination but himself failed to carry out the inquiry and he assigned the same to DSP Mr. Niaz Muhammad without any notification and order of the competent authority which is illegal and unfair and thus the report of such inquiry has no legal sanctity and not operative against the appellant rights.
- C. That clear violation of the direction of the Khyber Pakhtunkhwa Service Tribunal has been made and appellant has not been allowed to cross examine the witnesses which is clear violation of Article-10A of the constitution of the Islamic Republic of Pakistan 1973.
- D. That it would not be out of place to mention here that as per the direction of the Hon'ble Tribunal the department had to conduct denovo inquiry within a period of 90 days and the department received the judgment on 14.01.2019. While appellant was charged on 04.03.2019 and passed the impugned order of dismissal from service on 13.05.2019 after 119 days which is beyond the timeframe given by the Hon'ble Tribunal.
- E. That in case of appellant, the competent authority was Senior Superintendent of Police (Operation), Peshawar who had to proceed against the appellant in denovo inquiry while charge sheet and statement of allegation was issued by the Senior Superintendent of Police (Coordination), Peshawar which is legally not sustainable. Similarly the impugned order of dismissal from service was passed by the incompetent authority i.e. Senior Superintendent of Police (Coordination), Peshawar which is illegal, void ab-initio and ineffective upon the rights of appellant.
- F. That earlier punishment of dismissal was set aside by the Hon'ble Tribunal but without imposing any proposed penalty the incompetent authority (SSP Coördination) upheld the

**Attested**

earlier punishment in the fresh impugned order which has no legal sanctity and liable to be set aside.

- G. That the inquiry report has not been provided to the appellant inspite of the fact that the appellant has properly applied for the same, therefore, the appellant was condemned unheard.
- H. That it is pertinent to mention that with the departmental proceedings the departmental authorities also initiated criminal proceedings against the appellant and was nominated into different FIRs of same matter but later on in both the criminal cases appellant was Hon'bly acquitted of the charge by competent Court of law as the department could not prove the case against the appellant. When the criminal cases were not proved and appellant was acquitted then in such circumstances the departmental authorities have no legal justification to pass the impugned order and deprived appellant of his services as rendered by him.
- I. That appellant has put almost 29 years in the service of the Department and served to the entire satisfaction of his superior through thick and thin and the imposition of the major penalty of dismissal from service at this stage of his service is extremely humiliating, harsh and does not commensurate with the charge leveled against him.
- J. That the pervious service of the appellant is spotless and never was he found involved in any kind of misconduct including corruption.
- K. That appellant also requested to be heard in-person.

It is, therefore, humbly requested that on acceptance of this departmental appeal, the impugned order dated 13.05.2019 may kindly be set aside and appellant be reinstated into service with all back benefits.

Encl = 9 pages.

Dated: 20/05/2019

Yours faithfully,

*Qadar Khan*

Qadar Khan,  
Ex - Sub Inspector,  
No. 555 - P  
R/O Jammal,  
District Charsadda  
Cell : 0315 - 6868444

**Attested**

Annex N (34)

Annex B,

خدمت ضابطہ سینئر سپرنٹنڈنٹ آف پولیس گورنمنٹ سٹیشن ماٹلہور

درخواست ملبراد عطا کیس کی نوٹس پروسیڈنگ

Under RTI Act 2013.

ملاحظہ ہو گزارش جس کے سبب کا Denovo نوٹس پروسیڈنگ کی

ماہ 24/4/2019 کو

FINAL SHOW CAUSE NOTICE بغیر نوٹس پروسیڈنگ کی نوٹس موصول

ہوا ہے۔ سبب کو نوٹس پروسیڈنگ کی نوٹس کی ضرورت ہے۔

استدعا جس کے سبب کو نوٹس پروسیڈنگ کی نوٹس دینے کا

تاریخ 24/4/2019

Alam

حکم صادر ہوا ہے۔

آپ کا نام بھاری قاری خان سب ڈیو/م/558 پولیس سٹیشن ماٹلہور

~~Attested~~

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Annex 0

Office of the Inspector General of Police  
Khyber Pakhtunkhwa, Peshawar.

No. 836 /E&I, dated Peshawar the 20 /02/2019

35

To: The Capital City Police Officer,  
Peshawar.


Subject: **DENOVE DEPARTMENTAL ENQUIRY AGAINST EX-SI  
ABDUL QADIR**

**Memo:**

Please refer to SSP/Operations, Peshawar order No. 139-44/PA dated 12.2.2019, on the subject cited above.

2. Denovo departmental enquiry against Ex-SI Abdul Qadir may be conducted through Mr. Javed Khan, SSP/Coordination CCP, Peshawar and final outcome be communicated to this office, on or before 10.03.2019, before issuance of formal order, for the perusal of Worthy IGP.

3. Being a court matter the proceedings shall be completed within the limitation period to avoid further legal complications.

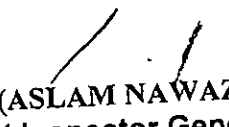
  
(ASLAM NAWAZ)  
Assistant Inspector General of Police  
Complaint & Enquiry  
Khyber Pakhtunkhwa,  
Peshawar

No: /

/E&I,

Copy of above is forwarded for information to:-

1. The Senior Superintendent of Police, Operations, with reference his office order No. quoted above.
2. Mr. Javed Khan SSP/Coordination, CCP Peshawar.

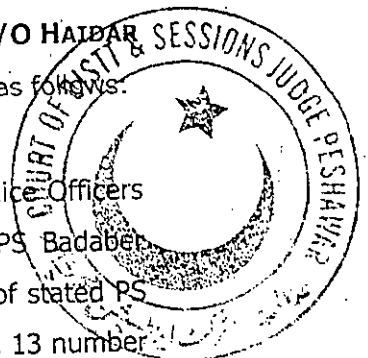
  
(ASLAM NAWAZ)  
Assistant Inspector General of Police  
Complaint & Enquiry  
Khyber Pakhtunkhwa,  
Peshawar

  
**Attested**

CHARGE

Handwritten notes and a circled number '36' in the top right corner.

I, ASGHAR SHAH KHILJI, ADDITIONAL SESSIONS JUDGE-XI/JSC, PESHAWAR DO HEREBY CHARGE YOU ACCUSED NAMEDLY ABDUL QADIR S/O HAIDAR KHAN AGED ABOUT 44 YEARS R/O JAMMAT, BATAGARAM, CHARSADDA as follows.



That on 29/09/2011 at the official hours of police duty, a Police Officers Team supervised by SP/HQ, Investigation raided the premises of PS Badaber falling within the criminal jurisdiction of PS Badaber and being SHO of stated PS Badaber, from one of your living room in the premises also recovered 13 number of Kalashnikovs, 03 numbers of repeaters, 06 numbers guns, 15 rifles, 01 air gun, 16 pistols, 01 revolver, 120 magazines, 11 barrels, spare parts of 30 bore pistols weighing 22 kgs, live rounds of various bores 3055, empty shells 193 of various bores, 25 bandoliers, 01 knife and 11 iron fists punch which you have kept in your occupied room illegally and dishonestly without any legal justification and as such you have committed an offence punishable U/S 13/14 of Arms Ordinance and within the cognizance of Sessions Court.

And I hereby direct that you be tried by me on the said charge.

Dated: 30/04/2013

Signature of Asghar Shah Khilji, Judge Special Court, Peshawar.

The charge has been read over and explained to the accused.

- Q: Have you heard and understood the charge.
- A: Yes.
- Q: Do you wish to plead guilty or claim trial?
- A: I do not plead guilty and claim trial.

Signature of Accused - ABDUL QADIR KHAN

Certified U/S 364 Cr.PC

Dated: 30/04/2013

Signature of Asghar Shah Khilji, Judge Special Court, Peshawar.

**ATTESTED**

13 MAY 2017  
(Examiner)  
Session Court Peshawar

**Attested** (handwritten)

Handwritten notes on the left margin: 98/SC, 22/4/13, 22/4/17.



37

IN THE COURT OF  
MUHAMMAD SAEED AMJAD  
ADDITIONAL SESSIONS JUDGE-XI. PESHAWAR

Case No. 58/SC of 2013  
Date of Institution 22.04.2013  
Date of Decision 28.04.2017

State through Fazal Wahid Khan then Inspector / SHO  
Police Station Badaber .....(Complainant)

VS

Abdul Qadar son of Haidar Khan resident of Jamat  
Batagram District Charsadda .....(Accused facing trial)

FIR No. 882  
Dated: 14.10.2011  
Charge U/S 13/14 AO  
Police Station Badaber, Peshawar.

J U D G M E N T :

The brief facts reflected in the FIR that on 09.06.2011 a raid was conducted in a room situated in the quarter of accused Abdul Qadir, who was SHO of Police Station Badaber, by ASP Muhammad Faisal, alongwith Hilal Haider DSP, Khalid Hamdani ASP by the order of their high ups and recovered 13 Kalashnikovs, 23 rifles of different bores, 17 pistol, 39 mobile phones sets, 2516 cartridges of different bore, 106 magazines, 217 KGs charas, 3½ KGs heroin, 4 kg opium, one cane 5 liter besides 2 bottles of liquor, 22 KGs of spare parts of the arms, 11 barrels and 12 persons kept in the police lock up were also recovered. Upon which after conducting the inquiry

ATTESTED

13 MAY 2017

(Examiner)  
Session Court Peshawar

Attested

into the matter beside registration of the criminal case major penalty in term of dismissal from services was also imposed.

2. On completion of investigation, complete challan u/s 13/14 AO was submitted before the court of learned Sessions Judge, Peshawar on 20.04.2013, which was entrusted to this court for trial on 22.04.2013. Accused was produced in custody on the same date and provisions U/S 265-C Cr. PC were duly complied with, in compliance whereof, the signature of the accused was taken on the margin of the order sheet. On 30.04.2017, the accused was formally charged U/S 13/14 AO to which charge, the accused pleaded not guilty and claimed trial. The prosecution was invited to produce its evidence. The statements of the witnesses in brief are reproduced as under:

*li*

PW-1 Bakhtiar Khan DFC P.S Faqirabad then posted as DFC P.S Badaber deposed that he was entrusted with warrant of arrest u/s 204 Cr.PC against the accused facing trial which is Ex.PW1/1. He searched for the said accused on the given address and in the surrounding areas but could not find him out and came to know that the said accused after the commission of offence alongwith his family members had gone to some unknown place and was avoiding his lawful arrest in the instant case, therefore he returned the said warrant unexecuted with his detailed report given on the back of the said warrant which is Ex.PW1/2. Similarly he was also entrusted with proclamation notice issued against the said accused which is Ex.PW1/3. He proceeded to the same according to law and retained one copy of the same and

**ATTESTED**

13 MAY 2017

(Examiner)  
Session Court Peshawar

~~Attested~~

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submitted his detail report on the back of the said notice wherein he has stated the facts of the proceedings conducted by him to the extent of said notice which is Ex.PW1/4.

PW-2 Sajid Hussain ASI/Moharrir P.S Badaber deposed that on 5.10.2011, during the inquiry proceedings on the direction of Saleem Riaz Khan DSP and Shahid Ali Khan SP Security, he alongwith Shakir Ullah visited Police Lines, Peshawar and in their presence the seal lock of the room was de-sealed and the above mentioned police officers handed over them the case property mentioned in the memo, memo is Ex.PW2/1. He verified it correct and correctly bears his signature.

PW-3 Fazal Wahid Khan DSP Saddar Circle, Peshawar then posted as Inspector/SHO P.S Badaber deposed that with reference to a letter bearing No. OB3563/1019-25/PA dated 29.9.2011 of SSP Operation, Peshawar wherein the inquiry against the ex-SHO (accused facing trial Abdul Qadir) was conducted. After receiving that letter, he sought the opinion of DPP, Peshawar vide his application Ex.PW3/1 and after obtaining their opinion the instant case was registered accordingly which is Ex.PA. The letter of SSP, Peshawar is Ex.PW3/2. After drafting the FIR, the investigation was entrusted to SI Fazal ur Rehman. He has seen the contents of FIR Ex.PA which he verified to be in his hand writing and correctly bears his signature.

ATTESTED

13 MAY 2017

(Examiner)  
Session Court Peshawar

PW-4 of Sahibzada Sajjad Ahmed DSP Traffic Headquarter, Peshawar deposed that during the days of occurrence he was posted as DSP Saddar Circle, Peshawar. On 09.06.2011, he telephonically contacted by PW Hilal Haider, Khalid Mehmood Hamdani, Faisal Kamran regarding the arrival of the high ups to P.S Badaber and for the search of P.S

ATTESTED

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Badaber and office of SHO Badaber. On the arrival of high ups to the P.S, the SHO was telephonically called. He came to P.S. On the arrival of the SHO, the office of SHO was searched and the Articles mentioned in the recovery memo were taken into possession and were lying in scattered condition and thereafter Hilal Haider DSP prepared the recovery memo in connection of inquiry. The same materials were taken from the P.S in a vehicle to police Lines, Peshawar. They accordingly informed our high ups including SSP. And probably one Shahid Khan was called and the same were handed over to him in Police Lines, Peshawar for inspection and safe custody. Thereafter he know nothing regarding proceedings, however my statement was recorded after four months after registration of case.

PW-5 Syed Khalid Mehmood Hamdani SSP Traffic, Peshawar then posted as ASP Investigation, Cantt Circle, Peshawar deposed that during the days of occurrence, he was posted as ASP Cantt Investigation Cantt circle, Peshawar. On 9<sup>th</sup> of June, 2013, he alongwith ASP Cantt PW Faisal Kamran, Hilal Haider were deputed by CCPO Peshawar to conduct raid/informal inspection of P.S Badaber and attached quarters of the official concerned. On their arrival to the P.S, they called DSP and SHO concerned to come to P.S concerned. On their arrival and in their presence, they took into possession record of the P.S and thereafter they inspected the lock up of the P.S and residential quarters attached to the P.S. During our search, they recovered Kalashnikovs, pistols and different kinds of rifles, ammunitions, different kinds of narcotics and thereafter one PW Hilal Haider prepared the memo in this respect and he signed the same as a token of its correctness. All the articles were stored / kept in a scattered condition. Thereafter the recovered materials were brought to Police Lines, Peshawar. Thereafter the recovered materials were

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handed over to the official concerned in Police Lines, Peshawar. On the following day they again checked, weighed, numbered and examined the whole case property in the presence of high ups/DSP security. Later on inquiry was conducted and in light of inquiry proper FIR was registered and he was examined as witness in the case.

**PW-6 Khaliq Dad Inspector (Rtd), R/O Bannu** deposed that during the days of occurrence, he was posted as CIO at PS Badha Ber, Peshawar, deposed that after the registration of the case, investigation was entrusted to and conducted by Fazal ur Rehman SI. He forwarded the case under 173/512 Cr. PC against the accused facing trial. Today he has seen the challan form Ex. PW-6/1 which he verified to be correct and correctly signed by him.

**PW-7 Syed Liaqat Ali Shah Armourer (Rtd) R/O Mian Wali, Punjab** deposed that during the days of occurrence, he was posted police lines Peshawar as armourer. On 18/10/2011, on the written application of the IO of the instant case, he examined different kind of weapons and ammunition along with chargers and submitted my report to this effect which is Ex. PW-7/1, which consists of five sheets. His report is self-explanatory which contains his signature. He has seen the above said exhibit which he verified to be correct and correctly bears his signature.

**PW 8 Fazle Rahman Khan Inspector** deposed that he posted as Sub Inspector / IO in Police Station Badaber. After registration of the case FIR, the investigation of the case was handed over to him. Copy of FIR was received by him. The same was gone through carefully. As the instant case was registered on the basis of inquiry, therefore, he wished to requisition the inquiry and requested through application for

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the requisition of the inquiry, which he received. He also gone through the said inquiry report. As the case property was already taken by the recovery officer through recovery memo, therefore, the recovered items alongwith the recovery memo were returned to him vide memo already exhibited as Ex PW 6/1. Vide his application vide Ex PW 8/1, he got examined the arms and ammunition mentioned therein and placed on file the report of armourer, which is already exhibited as Ex PW 7/1. In this very case some persons were kept in illegal confinement, the numbers of which were 12. Out of 12, 7 appeared before him, he recorded their statement under section 161 Cr.PC and produced 05 of them before the court of learned Judicial Magistrate for recording their statements under section 164 Cr.PC. He also prepared the samples for FSL analysis from the whole lot of narcotics consisting of charas, opium, liquor and heroin and sent the same to FSL, after receiving the FSL report he placed the same on file which is Ex PZ. Later on he also prepared site plan in the case Ex PB at the instance of PWs. He also recorded the statements of the PWs. As the recovered arms and ammunition were consisted of official weapons as well as properties of other cases, therefore, he obtained the report of the concerned Muharrar Sajid Hussain, which is placed on file as Ex PW 8/2. As the accused was at large, therefore, he proceeded against the accused under section 204 / 87 Cr.PC. After proceedings 204 / 87 Cr.PC, he handed over the case to the SHO for submission of challan. He verified that the investigation, conducted by him is correct and correctly bear his signature.

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PW-9 Haji Granuliah DSP Regi Circle, Peshawar deposed that during the days of occurrence, he was posted as SHO Police Station Badha Ber. After arrest of accused, he submitted supplementary challan against the accused, which is Ex.

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PW9/1. He has seen the above said exhibit which he verified to be correct and correctly bears his signature.

PW-10 Jan Muhammad Khan SI Police Station West Cantt, Peshawar, deposed on 11/1/2013, he was posted as ASI in Police Station Badha Ber, Peshawar. On 11/1/2013 he vide his application Ex. PW10/1, applied for issuance of Zamima bay of the accused Abdul Qadar Khan which was accordingly issued by the JMIC, thereafter he vide his application Ex. PW10/2, applied for the physical custody of the accused to the concerned court but the same was turned down by the JMIC and he was remanded to the judicial lock up. He has seen the above mentioned exhibit, which he verified to correct and correctly bears his signature.

PW-11 Liaqat Ali SI/OII PS Badha Ber, Peshawar deposed that he is marginal witness to the recovery memo already Ex. PW-6/1 vide which the ASI Sajid Hussain brought recovery memo signed by the SP Security Shahid Ali, Ghulam Rasool Armour, Salim Riaz Khan DSP Investigation, Muhammad Iqbal SI, Muhammad Israr SI, Fazal Raziq ASI which consists of 13 Kalashnikov, 03 repeaters, 06 rifles, one air-gun, 15 rifle, 16 pistols, one revolver, 120 magazine, 11 barrels, spare parts of 30 bore pistil weighing 22 K.Gs, 3055 live rounds of different bores, 193 empties of different bores, cartridges of different weapons 25 in numbers, one knife without handle, chars pukhta 98 K.Gs and 700 grams, Opium 34 K.Gs, wine 6 ½ liter, 11 iron gloves (Panja) and 25 CNIC. The ammunition was examined on the spot by the armorer expert. Similarly the charas which was registered in the FIR, 217 K.Gs which after inquiry came out to be 198 K.Gs and 700 grams. Similarly the opium weighing 34 K.Gs which was registered in the FIR as 04 K.Gs, after the examination of the inquiry committee came out to 34 K.Gs. ASI Sajid Hussian handed over the same to the

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Fazal Rehman Sl. 5/5 grams of chars pukhta packets and from pieces of charas two sacks were separated for FSL purpose and were sealed into parcels No: 1 to 106 while the remaining charas were sealed into parcel No: 107 to 110 (Present before the court and exhibited as Ex. P-1 to Ex. P-4, respectively). Likewise, 5/5 grams were separated from opium and were sealed into parcels No: 111 to 144 respectively while the remaining opium were sealed into parcel NO; 145 (Present before the court and exhibited as Ex. P-5). Similarly, one gram was taken from heroin powder and was kept into parcel No: 146 for the purpose of FSL while the remaining were sealed into parcel No: 147 (present before the court and exhibited as Ex. P-6). Similarly, from the wine 05 milliliter was taken and were sealed into parcel NO: 148 while the remaining wine were sealed into parcel NO: 149 (present before the court and exhibited as Ex. P-7). Similarly, from one bottle wine, 5 milliliter were separated for FSL purpose and were kept in parcel No: 150 while the remaining were sealed into parcel No: 151 (Present before the court and exhibited as Ex. P-8). Similarly, from one bottle wine, 5 milliliter were separated for FSL purpose and were kept in parcel No: 152 while the remaining were sealed into parcel No: 153 (Present before the court and exhibited as Ex. P-9) by affixing 3/3 monograms on all the parcels while one/one monograms were put inside the parcels. My 161 CR.PC statement was recorded by the IO. He has seen the above mentioned exhibit, which he verified to be correct and correctly bears his signature.

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3. The prosecution closed it evidence on 08.11.2016. To this effect statement of APP for the State recorded. On the close of evidence of the prosecution, the statement of the accused U/S 342 Cr. PC was recorded on 29.11.2016, wherein he pleaded his innocence. He neither wished to be examined on oath nor desired to produce evidence in his defence.

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4- Arguments heard and record perused.

5- It is cardinal principle of law that each criminal case has its own peculiar facts and circumstances and that has to be weighed on the judicial parlance while taking in to consideration all the facts and circumstance brought forth.

6. The gist of the prosecution's story is that, on the day of occurrence a raid was conducted by some of the police officials, on the direction of their high-ups, at P.S Badaber and the alleged recovery of narcotics , liquor and arms ammunition was effected from the residential room of the accused facing trial /the then SHO of the PS concerned.

7. The scanning of prosecution evidence shows that the prosecution in support of his case produced only one member of the said raid party, S.S.P Syed Khalid Mahmood Hamdani, (PW-5), who in his whole statement never stated that the alleged recoveries were made from the residential room of the accused facing trial even he had not uttered a single word to the effect that from which part of the P.S Badaber the recoveries in question were effected. Whereas The sole alleged eye witness of the occurrence, namely Sajjad Ahmed, the DSP circle, in whose presence the recoveries were effected, has contradicted the prosecution's stance ,by stating in his examination in chief that the alleged recoveries were effected from the SHO's office

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8. The S.S.P Syed Khalid Mahmood Hamdani, (PW-5), has also referred to a recovery memo, allegedly prepared by one Hilal Haider at the time of occurrence qua the recoveries in question but neither the said recover memo has been produced or exhibited before the court nor the said Hilal Haider, alleged scribe of the same, has been produced as a witness.

9. PW-2 Sajid Hussain ASI /Muharrir of P.S Badaber has stated during his cross examination that in each P.S there is a register No 02, which used for the visitors of the P.S, including the high ups of the police. He has admitted it correct that if any high police officer visited the PS and inspected anything in the P.S or peruse the record of the P.S the same must be mentioned in the register No 02. He has further stated that under the law he being Muharrir of the P.S was bound to enter in the relevant register that what type of case properties were taken by the high ups with themselves. He has admitted it correct that he has not made any entry in any record of the P.S regarding the taking of articles from the P.S on the day of occurrence. The investigating Officer, Fazal Rehman Khan Inspector police lines Peshawar (PW-8) has admitted it correct that in each police station registered No 19 is maintained for the purpose of handing and taking over of case properties, while register No 16 is maintained in the P.S for maintaining the record of official arms and ammunition etc. he has further admitted it correct that if any person including police Officer visited the PS and taken some case property from the PS the same must be entered in register No 19 as

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well as in the daily diary of the P.S . He has also admitted it correct that , in the whole case file he has not placed on file any extract of registered No 16 and 19 and of daily diary of the P.S concerned qua the day of occurrence.

10. The record also divulges that the quantity of allegedly recovered articles is also remained un-ascertained. PW-4 Syed Khalid Mehmood Hamdani has not specified the quantity of any alleged recovered article, while during his cross examination he has stated that so far he remembered, they took into possession chars wheighing around 200 kg, Opium 3/4 Kg, few litters of liquor, 13 Kalashnikovs, 39 riffles ,30 pistols, around 2000 ammunitions of different caliber, few dozens of barrels and repeater guns of 12 bore. Whereas according to FIR ,217 kg Chars, 3/1/2 kg Heroin, 4kg Opium , one cane of 5kg along with two bottles of 1/1 kg liquor, 22 kg arms spear parts, 11 Barrels, and eleven detunes ,is stated to be recovered from the spot. While as per recovery memo Ex-PW 6/1, the investigating officer has taken into possession the alleged recovered articles of the following kind and quantity, 198 kg and 700 grams of chars, 34 kg of Opium and 6-1/2 liter of liquor, 13 Kalashnikovs, 03 repeaters, 06 riffles, 01 air gun, 16 pistols , 01 revolver , 120 magazines, 11 barrels, spear parts of pistols 30 bore weighing 22 kg, 3055 cartridges of different bores, 193 empty shells of different bores, one knife without handle , 11 iron gloves and 25 CNIs. Thus the above referred statement of the star prosecution witness as well as the two important above stated documents,

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clearly shows a huge contradiction regarding the kinds and the quantity of the alleged recovered articles. }

11. It has also been established on record that the contraband and arms, ammunition etc allegedly recovered from the spot were not sealed on the spot and remained lying in open condition since its alleged recovery on 09/06/2011 till its alleged handing over to the investigation officer on 18/10/2011. The investigating officer (PW-8), during his cross examination, has admitted it correct that the case properties in question were laying in open condition and were not sealed and the same were also handed over to them in open condition on 05/10/2011. According to the statement of Fazal Wahid Khan DSP Sadder Circle (PW-3) at the time of registration of FIR <sup>NO</sup> case property was handed over to him, that is why he did not hand over the same to the investigation branch. It is also undisputed fact that the alleged occurrence took place on 09/06/2011 the report is made on 29/09/2011, the FIR IS registered on 14/10/2011 and the investigation officer of the case allegedly taken in to possession the case property on 18/10/2011, i.e after 4/5 months of the occurrence and after 5 days of the registration of FIR. Whereas there is nothing cogent and convincing on record that during the intervening period the case properties in question were remained in safe and proper custody and no tempering etc was done with the same. These lapses on the part of the prosecution have cut the roots of the case of prosecution, thus, rendering the entire episode

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13 MAY 2017

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shrouded in doubt. These facts by itself are enough to disbelieve the prosecution version.

12. Apart from this there are material contradictions and inherent defects in the evidence of the prosecution witnesses. According to the statement of Syed Khalid Mehmood Hamdani (PW-5) when they arrived to the P.S Badaber, they called the SHO concerned (accused facing trial) and DSP circle and after their arrival to the PS and in their presence they conducted the search. The PW-3, Sahibzada Sajjad Ahmed, the then DSP circle also stated that at the time of search and recoveries the SHO/ accused was present. While investigation officer of the case (PW-8) has stated that the accused facing trial was not shown in the site plan because he was not present there, at the relevant time. The PW-4 Sahibzada Sajjad Ahmed DSP circle Peshawar has stated during his cross examination that during the days of occurrence, he was the DSP of the area and accused facing trial was serving as SHO of the P.S Badaber. He has admitted it correct that prior to occurrence the P.S Badaber was damaged due to bomb blast and the P.S Badaber was being run in a private rented building. He has also admitted it correct that the recoveries in question were made from the said rented building of PS Badaber. He has also stated that although he is the marginal witness of the recovery memo referred in his examination if chief but does not know that who had prepared the same. The investigating Officer Fazal Rehman Khan Inspector police lines Peshawar (PW-8) has stated during his cross examination that he

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13 MAY 2017

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Session Court Peshawar

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has not mentioned in the site plan Ex-PB, that on whose instance the same was prepared. He has also stated that the case property was handed over to him in open condition on 18/10/2011. He has admitted it correct that according to report Ex-PW 8/2, the case property of the present case were already case properties of the different cases mentioned therein.

13. For the forgoing reasons, I am of the firm view that prosecution has miserably failed to bring home the guilt of accused through cogent and confidence inspiring evidence beyond shadow of doubt. The prosecution evidence is pregnant of doubts and according to golden principle of benefit of doubt one substantial doubt would be enough for acquittal of the accused. The rule of benefit of doubt is essentially a rule of prudence, which cannot be ignored while dispensing justice in accordance with law. Conviction must be based on unimpeachable evidence and certainty of guilt and any doubt arising in the prosecution case, must be resolved in favor of the accused.

14. The said rule is based on the maxim "it is better that ten guilty persons be acquitted rather than one innocent person be convicted", which occupied a pivotal place in the Islamic Law and is enforced strictly in view of the saying of the Holy prophet(PBUH) "That the mistake of Qazi (Judge) in releasing a criminal is better that his mistake in punishing an innocent". Wisdom in this regard can also be derived from the judgment of the apex Court in

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13 MAY 2017

(Examiner)  
Sessions Court Peshawar

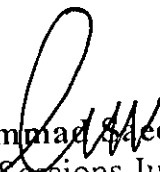
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case titled Muhammad Khan and another v. The State (1999 SCMR 1210) and case titled Muhammad Ikram v. The State 2009 SCMR 230.

15- Summing up in light of above while extending the benefit of doubt the accused facing trial namely Abdul Qadir is hereby acquitted from the charges leveled against him . He is on bail , he and his sureties are discharged from the liability of bail bonds. The case property be disposed of in accordance with law but after expiry of period of appeal/ revision File be consigned to Record Room after necessary completion and compilation.

**Announced.**  
28.04.2017

  
(Muhammad Saeed Amjad)  
Addl: Sessions Judge-XI,  
Peshawar.

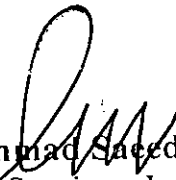
**CERTIFICATE:**

It is certified that this judgment comprising fifteen (15) pages. Each page has been checked, corrected and signed by me wherever it was necessary.

**CERTIFIED TO BE TRUE COPY**

13 MAY 2017

(Signature)  
Copying Agency Session Court  
Peshawar

  
(Muhammad Saeed Amjad)  
Addl: Sessions Judge- XI,  
Peshawar.

**Attested**

No:	6690
Dated of Application	12/5/17
Name of Application	ابن قدير
Word	6690-1-16
Fee	Urgent/Fee
Signature of Applicant	(Signature)
Dated of Preparation	13/5/17
Date of Delivery	13/5/17





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5) In support of its case the prosecution produced and examined Fazal Wahid DSP Saddar Circle Badhber as PW-1, Liaqat Ali S.I. P.S. Badhber as PW-2, Syed Liaqat Ali Shah Armorer as PW-3, Muhammad Maroof Khan, C.O. ACE Peshawar as PW-4, Khaliq Dad, Inspector as PW-5, Shaukat Ali S.I. P.S. ACE Peshawar as PW-6 and Sajjad Khan DSP Operation hashtnagri as PW-7. All these witnesses except PW-3 & PW-6 were cross-examined. PWs Bakhtiar, Sattar Gul, Samiullah, Shahid, Walayat Khan & Saleem Khan were abandoned by the prosecution. While the remaining evidence was yet to be recorded, the learned counsel for accused applied for acquittal of accused u/s 249-A of Cr.PC. It may be mentioned that an application for similar relief was also submitted on 03.11.2015 whereas the instant application has been submitted on 15.05.2017.

6) Notice was given to the learned Public Prosecutor.

7) Arguments of learned counsel for accused and learned Public Prosecutor heard and file perused with their assistance.

8) The record reflects that the main and the only allegation against the accused is that being SHO of P.S Badhber he kept the weapons Ammunitions , narcotics and liquor etc mentioned in the FIR above in his residential room instead of admitting the some in regular Malkhana of the police station.

9) In this regard, it may be stated that regarding the weapons, ammunitions, narcotics, and liquor mentioned above, a separate case No.82 dated 14.10.2011 was registered at P.S Badhber as mentioned above, and the attested copy of the judgment dated 28.4.2017, regarding the same FIR, handed down by the learned Additional Sessions Judge-XI Peshawar would reflect that after facing complete trial the accused has been acquitted of the charged leveled against him in the said FIR.

10) The contention of the learned counsel for the accused has all along been that in fact the building of the P.S Badhber had been destroyed in the Bomb blast and an ordinary house was obtained on rent for the purpose of running the business of the police station and that the residential room and spaces of the said building were used for various purpose of police station including the "Police Malkhana". He has claimed that in fact the entire property mentioned above was case property of various criminal cases registered in the said P.S and was lying there as stop gap arrangement due to non-availability of regular Malkhana. He refuted that the said items were recovered exclusively from the residential room of the accused, who was then the SHO of said police station. In this regard he referred to certain part of the cross examination of PW-5 & PW-7 and claimed that his said contention had been fully substantiated by the said PWs and as such the whole case of the prosecution had fallen down on the ground and there were least probability of the success of the prosecution case in the presence of the referred depositions of the of the said PWs. He also claim that the instant case has been manipulated due to the animosity of the other officials of police with the accused which was apparent from the fact that even the initial case against the accused had been registered more than four months after the recovery of articles in question.

Anti Corruption  
Court of Sessions Judge  
Peshawar  
ATTESTED  
31/5/17  
S. ALI  
Khyber Pakhtunkhwa Peshawar  
24.5.17  
S. ALI  
Corruption  
Peshawar

Attested

11) The learned Public Prosecutor opposed these contentions and claimed that the prosecution had a good case against the accused who had misused his official position as SHO of the P.S. and had kept the case property of various cases in his personal possession instead of keeping it in the police malkhana according to rules. He therefore requested that let the remaining PWs be examined and then the case be decided after full trial.

12) The record has been examined in the light of the above contention of the learned counsel for the accused and of the public prosecutor. The cross examination of PW-5 & PW-7 have been specifically perused.

13) It appears that PW-5 Khaliq Dad the then Inspector investigation of P.S. Badhber who, after completion of investigation had submitted complete challan in the initially registered Case FIR No.882 dated 14.10.2011 of P.S. Badhber had stated in his cross examination:-

"It is correct that according to police rules the case property of the criminal cases are lying in the direct control of Moharrir of the P.S. It is correct that during the days of occurrence one Sajid Khan was moharrir of the P.S. who is now dead. It is correct that the accused facing trial being SHO of the P.S. has made written complaint against said Sajid Khan due to his inability being moharrir of the P.S. It is correct that during the days of occurrence there was no official P.S. of Badhber rather the P.S. was established in a rented house because the original P.S. was damaged/destroyed in a bumb blast. It is correct that being a rented house the case property of different cases were lying in different parts of the house i.e. varena, bath room and other rooms".

14) Similarly PW-7 Sajjad khan the then DSP Saddar Cirele who had accompanied the raiding team to the P.S. Badhber and had appeared as marginal witness of recovery memo Ex.PW7/1 vide which the above mentioned ammunition and narcotics etc were taken into possession by the police had stated in his cross examination that:-

"It is correct that the place from where the recovery was effected of the above mentioned articles in the memo in my examination in chief was a rented house which was used as P.S. Badhber.... It is correct that none of the police official of the concerned P.S. are cited as PWs on the memo mentioned in my examination in chief.... It is incorrect to suggest that the case property taken into possession in instant case were the case property of different criminal cases registered at P.S. Badhber. It is also incorrect to suggest that as there was no police station building that is why the same were lying in a reated house and the same were taken into possession from the moharrir of the P.S."

AL JUDGE  
Corruption  
Khyber Pakhtunkhwa Peshawar  
24.5.17  
EXAMINER  
Court of Special Judge  
Anti Corruption KPK Peshawar

ATTESTED

Handwritten signature and date: 24/5/2017

Attested

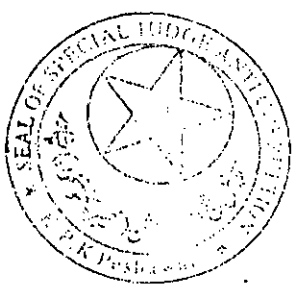
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15) The excerpts of the cross examination of the PWs reproduced above support the contention of the learned counsel for the accused. It is clear from the above excerpts of the cross examination of these witnesses that the building of the P.S. Badhber had been destroyed in the bomb blast and an ordinary house was rented to run the business of the police station and the articles in question were lying in the rented building used as the police station and thus the allegation that the same were recovered from residential room exclusively occupied by the accused which would have made him liable to be punished u/s 409 of PPC, are completely falsified. It may be mentioned here that it is not the case of the prosecution that the accused had misappropriated any case property. It is also worth noting that the questioned articles were allegedly recovered on 09.06.2011 whereas even the initial case FIR No.882 was registered on 14.10.2011 i.e. more than four months after the recovery. This inordinate delay has not been explained, which in the given circumstances, where the senior police officers had conducted the raid, creates serious doubts about the whole case. In view of the above mentioned cross examination of the two material witnesses, coupled with the fact of unexplained inordinate delay in registration of the case, it appears that the prosecution has failed to establish its case against the accused beyond reasonable shadow of doubt. As such there seems to be no probability of the accused being convicted of any offence, no matter what other evidence is lying in the stock with and produced by the prosecution in this case. In the circumstances while invoking the provision of section 249-A Cr.PC, the accused named above is acquitted of the charges leveled against him. Being on bail he and his sureties are absolved of their liabilities under the bail bonds.

16) The case property, if any, should be kept intact till the expiry of the period of limitation prescribed for appeal/revision and should be disposed of according to law if no appeal is preferred.

17) File of the case be consigned to the record room after putting it in order in accordance with rules.

Announced.  
Peshawar.  
24.05.2017.



*(Signature)*  
24.5.17  
(Muhammad Bashir)  
Special Judge,  
Anti-Corruption (Provincial),  
Khyber Pakhtunkhwa, Peshawar.

Certificate.

Certified that this order consists of four pages: each page has been corrected where necessary and signed by me.

**ATTESTED**  
*(Signature)*  
31/5/2017  
Special Judge,  
Anti-Corruption (Provincial),  
Peshawar, Khyber Pakhtunkhwa.

*(Signature)*  
24.5.17  
Special Judge,  
Anti-Corruption (Provincial),  
Peshawar, Khyber Pakhtunkhwa.

**Attested**

انڈس

56

بعدالت جناب ناصر خان ایچ جی ایم سی جی پشاور

نام عبدالقادر

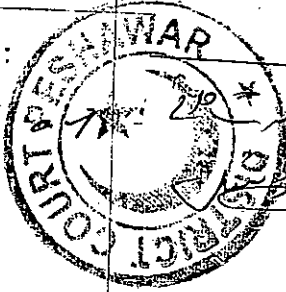
Serial No. of Order or Proceedings

(47)

مقدمہ 27/50 رجسٹرڈ 17/6/17 فیصلہ 16/08/17 قطعات (47)

21/6/13

توعیت کاغذات



شمار	تعداد	توضیحات
119	12	انڈس - اوربٹ - خارجہ خارجہ - دروازہ
20/31	12	سین ورنڈ - وکارت - دروازہ
32/47	16	انڈس - دروازہ - قطعات (16) قطعات

ATTESTED

21 SEP 2017

(Examiner)  
Civil Court Peshawar

Handwritten signature/initials.

(47)

ASGHAR SHAH KHILJI

Additional District & Sessions Judge-XI  
Peshawar,

Attested



IN THE COURT OF MUHAMMAD ILYAS KHAN JUDICIAL  
MAGISTRATE-VI, PESHAWAR.

58

FORMAL CHARGE

I, Muhammad Ilyas Khan Judicial Magistrate-VI, Peshawar do hereby charge you accused Abdul Qadir Khan s/o Haider Khan i/o Jamat Batagrami Charsadda, as follow:

That you on 09/06/2013 at duty hours within the limits of P.S Badhbair were found in possession of intoxicant, which you kept in your personal room for the purpose of selling, and thereby you committed an offence punishable under article 3 of the Prohibition of Hadd Order, 1979.

Secondly; at the said date and time, you accused owned, possessed and kept in your custody the intoxicant, and thereby you accused committed an offence punishable under Article 4 of the Prohibition of Hadd Order, 1979 and within my cognizance and I hereby direct that you be tried by this Court on the said charge.

Muhammad Ilyas Khan,  
Judicial Magistrate-VI,  
Peshawar.

- Q. Have you heard and understood the charge?  
A. Yes.  
Q. Do you plead guilty or claim trial?  
A. I do not plead guilty and claim trial.

Accused: \_\_\_\_\_  
RO & AC: 1  
29/06/2013

Muhammad Ilyas Khan,  
Judicial Magistrate-VI,  
Peshawar.

**ATTESTED**

25 SEP 2013

(Examiner)  
Civil Court Peshawar

Attested



5-9-A

جی ایم ای سیل کو مقدم پڑا میں زیر دفعہ 249 A CrPc کے تحت بری کرنا  
میں کوئی قانونی امر مانع نہیں ہے بلکہ ایسا کرنا قانون و انصاف  
کے مابین مطابقت ہے۔

استدعا کے مطابق درخواست در خواست ہے اس میں

کو 249 A CrPc کے تحت مقدم پڑا میں بری کرنے کے احکامات

تاریخ 17-6-2017

صدر فریادہ جج

عبدالغفار

پرمکات  
المدیریت

(Signature)

ATTESTED  
(Examiner)  
Civil Court Peshawar



In the court of  
**NASIR KHAN JUDICIAL MAGISTRATE-VIII,**  
PESHAWAR

**Order --- 10**

**16/09/2017**

APP for State while accused on bail present. Arguments over application u/s 249-A Cr.PC already heard and record perused.

Brief facts are that the accused was sitting SHO of P.S Badbher who was complained against that he has in his possession ammunitions liquor, charas, heroine and that he is involved in business of stated narcotics. On such information a raid was conducted in a room situated in the quarter, in possession of accused Abdul Qadir. On search, the raiding party recovered 13 Kalashnikov, 23 rifles of different bores, 17 pistols, 39 mobile phone sets, 2516 cartridges of different bores, 106 magazines, 217 K.G charas, 3 ½ K.G heroine, 4 K.G of Opium, one cane five liters besides two bottles/liquor, 22 K.G of spare parts of arms, 11 barrels whereas 12 persons were also found in confinement who were recovered. The high-ups of District Police initiated inquiry whereas in a departmental inquiry major penalty was also proposed against accused. After completion of inquiry the subject FIR No.882 dated 14/10/2011 u/s 9C-CNSA/ 3/4 P.O/13/14 AO/342/409 PPC was registered against accused at P.S station Badbher. Separate challan was submitted against accused under section 9C-CNSA, 13/14 AO, 342/409 PPC respectively before the competent Courts whereas the subject separate challan u/s 3/4 P.O was submitted before this Court. The accused was summoned and after compliance with provision of section 241-A Cr.PC, charge was framed against accused to which he claimed trial. PW's were summoned but unfortunately the prosecution failed to

14

16.9.17  
 11.8.91

**ATTESTED**

20 SEP 2017

(Examiner)  
 Civil Court Peshawar

Cont' Order --- 10  
16/09/2017

procure the attendance of any single witness. The accused filed subject application u/s 249-A Cr.PC and requested for his acquittal.

The learned counsel for accused submitted that the accused in all other offences, which are separately tried by competent Courts, has already been acquitted. It was next contended that the building of police station Badbher had been destroyed in a bomb blast where after the police station was shifted to a rented house to run the business of police station. That due to limited space one residential room in the quarter under possession of accused was declared where-house and the case property of different criminal cases being already in possession of local police was shifted to the said room. It was next voiced that all case properties recovered with reference of subject case is in fact case properties of various criminal cases whereas the accused being SHO of the said police station had no direct connection with it. It was further stated that accused is facing trial since 29/5/2013 but despite lapse of more than four years the prosecution failed to even procure the attendance of any single witness. The learned counsel hence requested for the acquittal of accused.

Conversely, the learned APP strongly opposed the application with submission that accused is directly charged for having in his possession narcotics which he kept in his possession for sale purpose beside of other incriminating material which also resulted the implication of accused under different provisions of special statutes. The learned APP also apprised that no doubt, till now no PW could have been examined but the none production of PW's doesn't entail any consequences u/s 249-A Cr.PC rather, at the most,

**ATTESTED**

23 SEP 2017

(Examiner)  
Civil Court Peshawar

Cont' Order --- 10  
16/09/2017

the proceeding could be stayed under section 249 Cr.PC. Hence, she requested for the rejection of application.

The record available transpires that accused being SHO of police station Baddher implicated in the subject case u/s 3/4 P.O for having in his possession liquor which he allegedly kept in his residential quarter for sale purpose. But, as evident from the judgments of the Hon'ble Courts while disposing of the connected criminal cases registered via same FIR but tried separately, the police station was completely destroyed in a bomb blast and thereafter the entire case properties, involved in various criminal cases, were shifted to one room situated in the quarter under possession of accused/SHO. It is worth material to note that as per contents of FIR one cane of five liters and two bottles of one liter each liquor recovered from the possession of accused but the recovery memo shows that total 6 1/2 liters liquor were recovered from the residential quarter in possession of accused. It is also notable that subject property was taken into possession by local police on 09/06/2011 whereas the same was handed over to investigation Officer on 18/10/2011 after delay of 4 months. Likely the recovered liquor were not sent to the FSL for examination, therefore, in view of delay in handing over of case property by operational wing to the Investigation Officer and the none examination of recovered alleged liquor from FSL has shattered the entire case of prosecution. The Investigation Officer also failed to investigate and collect detail of case properties which being case properties of various criminal cases were actually in possession of local police. In absence of such a material evidence and drawing a line

15

16.9.17

ATTESTED

20 SEP 2017

(Examiner)  
Civil Court Peshawar

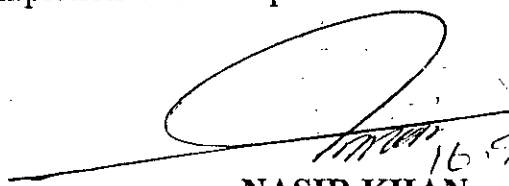
Cont' Order --- 10  
16/09/2017

between the actual case properties and that anything incriminating recovered from the personal possession of accused, this Court is not inclined to hold and declare the alleged recovered liquor as personal ownership of the accused/SHO. Adding more, the subject case is pending since 2013 and PW's were repeatedly summoned but the process serving agency failed to execute the process of Court whereas the prosecution also failed to procure the attendance of any single witness.

In view of above facts as the probability of conviction of accused does not exist in the case, therefore, further proceeding in the case would be just a futile exercise. Resultantly, the accused facing trial namely Abdul Qadir son of Haider Khan is hereby acquitted under Section 249-A Cr.PC from charges under section 3/4 P.O. Sureties for the accused stands discharged from the liabilities of bail bonds. Case property, if any; be disposed of according to law.

File after completion and compilation be consigned to record room.

Announced  
16/09/2017



16.9.17

**NASIR KHAN**  
Judicial Magistrate-VIII,  
Peshawar

No.	21471
Dated of Application	18/8/17
Name of Applicant	Abdul Qadir
Word	P.O. (Police Officer)
Fee	6 Urgent Fee
Signature of Copyist & Date	[Signature] 23/9/17
Dated of Preparation	23/9/17
Date of Delivery	23/9/17

CERTIFIED TO BE TRUE COPY

(Examiner)  
Copying Agency Civil Court  
Peshawar

23/9/17



65

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal Peshawar

Abdul Badie (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Dept. (Respondent)  
(Defendant)

I/We, Abdul Badie

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our 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.

Dated \_\_\_\_\_/20

[Signature]  
(CLIENT)

ACCEPTED

[Signature]  
Taimur Ali Khan  
Advocate High Court

[Signature]  
M. ASIF YOUSAFZAI  
Advocate Supreme Court  
Peshawar.  
B.C NO# 10-7327  
CNIC # 17301-5106574-3

**OFFICE:**  
Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar  
Cell: (0333-9103240)

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

**Service Appeal No.1227/2019.**

Abdul Qadir Ex-S.I, of CCP Peshawar.....Appellant.

**VERSUS.**

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer Peshawar.
3. Senior Superintendent of Police/Coordination Peshawar.
4. Senior Superintendent of Police/Operation Peshawar. ....Respondents.

**Reply on behalf of Respondents No. 1, 2, 3& 4.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS.**

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant concealed the material facts from Honorable Tribunal.

**FACTS:-**

1. Para No.1 pertains to record, hence no comments.
2. Para No.2 is incorrect. In fact the appellant was served with charge sheet on the allegations that the then SSP/Operation on receiving information of alleged irregularities conducted by the appellant, constituted a raid party comprising of gazetted officers. The raiding party after conducting the raid over the residential quarter of the appellant situated in PS Badabher recovered the following articles:

1-	Kalashnikov	=	13
2-	Miscellaneous rifles	=	25
3-	Pistols	=	17
4-	Mobile Phones	=	39
5-	Cartridges (Misc)	=	2516
6-	Magazines	=	106
7-	Narcotics Hashes	=	217 Kg
8-	Heroin	=	3+1/2 Kg
9-	Opium	=	4 Kg
10-	Alcohol	=	1 Can 5 Liter +1-1/2 Bottle
11-	Spare part (Misc)	=	22 Kg
12-	Barrels	=	11 Numbers
13-	Persons	=	12 persons Kept in illegal confinement.

Under the law, the articles were supposed to be kept at Police Station Malkhana, but the appellant by misusing his powers kept the same under his custody for some ulterior

motives. Besides, 12 persons were also kept in illegal confinement by the appellant and their arrest was not shown in the daily diary. Proper departmental enquiry was initiated and an enquiry committee comprising of SP/Investigation, DSP/Security and DSP/KMC was constituted. After fulfilling all the codal formalities he was awarded major punishment. The appellant then filed Service Appeal No.1966/2011, which was accepted by the august Service Tribunal with the direction to the department to conduct de-novo enquiry against the appellant as per rules. In compliance with the judgment of august Service Tribunal de-novo enquiry was initiated against him.

3. Para No.3 is incorrect. In fact in compliance with the judgment, the appellant was reinstated into service and de-novo enquiry was initiated and he was issued charge sheet and statement of allegation to which he replied, but his reply was found unsatisfactory.
4. Para No.4 is incorrect. In fact, proper de-novo enquiry was conducted against him in accordance with law/rules. The enquiry officer after conducting enquiry recommended that the charges leveled against him proved and found guilty of misconduct. The enquiry officer provided full opportunity of cross question during the course of enquiry. The de-novo enquiry was conducted against him on merit.
5. Para No.5 is incorrect. After completion of the enquiry proceedings, the appellant was issued final show cause notice to which he replied, but his reply was also found unsatisfactory.
6. Para No.6 is incorrect. Infact after fulfilling all the codal formalities, the charges leveled against him were proved, hence he was awarded major punishment of dismissal from service.
7. Para is incorrect. In fact appeal of the appellant was thoroughly examined and disposed of on its own merit within stipulated period.
8. Para No. 8 is incorrect. Appellant without waiting to dispose of his departmental appeal, which was rejected/filed within stipulated period, filed the instant service appeal before the Service Tribunal.
9. That appeal of appellant being devoid of merits may kindly be dismissed on the following ground.

**GROUND:-**

- A) Incorrect. Punishment orders passed by the competent authority as per law/rules, hence liable to be upheld.
- B) Incorrect. The appellant was treated as per law/rules. The appellant was fully associated with the enquiry proceedings. The appellant was provided full opportunity of personal hearing.
- C) Incorrect. The enquiry was conducted against him in accordance with law/rules. All the statement of concerned were recorded and the appellant was provided full opportunity to defend himself, but the appellant failed to defend himself.
- D) Incorrect. The enquiry against him was purely conducted on merit as per the law/rules and no violation of law has been done.
- E) Incorrect. The appellant was provided full opportunity of cross questions during the course of enquiry. The enquiry officer conducted the enquiry as per law/rules.
- F) Incorrect. There is no legal bar on conduct of enquiry by the DSP Niaz Muhammad. SSP Coordination being competent authority issued charge sheet and statement of allegations and




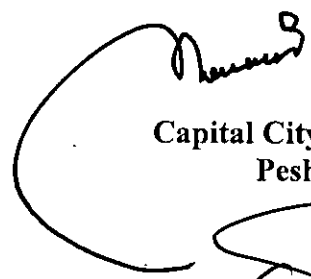
appointed DSP coordination as enquiry officer strictly in accordance with Disciplinary Rules. If charge sheet and statement of allegation were issued by the AIG or DIG (complaint & enquiry) then SSP Coordination could not appoint or mark enquiry to other officer.

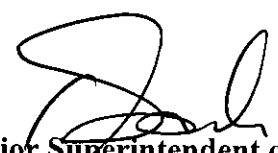
- G) Incorrect. SSP Coordination being competent authority was only directed to conduct de-novo enquiry proceedings. Therefore SSP Coordination issued charge sheet and statement of allegations.
- H) Incorrect. De-novo enquiry means to see whether the allegations were true or false. As the allegations leveled were correct, therefore competent authority upheld the earlier decision.
- I) Incorrect. De-novo enquiry proceedings were conducted under the relevant law and rules. (copy of charge sheet and statement of allegations is annexure as "A" and "B")
- J) Incorrect. SSP Coordination Peshawar is competent authority. DIG (enquiry & complaint) at the receipt of the judgment of this Honorable Tribunal directed SSP Coordination to initiate de-novo enquiry proceedings.
- K) Incorrect. Criminal and departmental proceedings are two separate things and can run side by side and decided on its own merits.
- L) Incorrect. The appellant was found guilty of misconduct.
- M) Incorrect. In compliance of this Service Tribunal judgment, the appellant was reinstated in service and proper departmental enquiry was initiated within time and no violation has been done by the department.
- N) That the respondents also seek permission of this Hon able Court to raise additional grounds at the time of arguments.

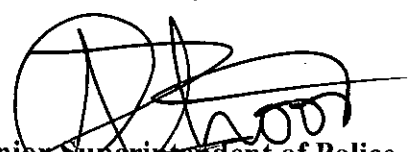
**PRAYERS:-**

It is therefore most humbly prayed that in light of above facts, submissions the appeal of the appellant devoid of merits, legal footing may be set aside/ dismissed.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Senior Superintendent of Police,  
Coordination, Peshawar.

  
Senior Superintendent of Police,  
Operations, Peshawar.

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

**Service Appeal No.1227/2019.**

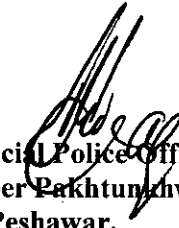
Abdul Qadir Ex-S.I, of CCP Peshawar.....Appellant.

**VERSUS.**

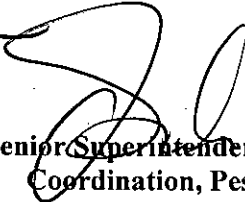
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer Peshawar.
3. Senior Superintendent of Police/Coordination Peshawar.
4. Senior Superintendent of Police/Operation Peshawar. ....Respondents.

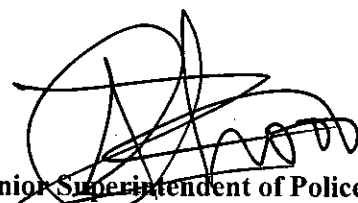
**AFFIDAVIT.**

We respondents 1, 2, 3&4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

  
Capital City Police Officer,  
Peshawar.

  
Senior Superintendent of Police,  
Coordination, Peshawar.

  
Senior Superintendent of Police,  
Operations, Peshawar.

**DENOVO PROCEEDINGS**

**CHARGE SHEET**

329

22

I, Javed Khan Sr. Superintendent of Police, (Coordination), Peshawar as competent authority, hereby charge you SI Abdul Qadir the then SHO PS Badaber Peshawar as follows:-

You SI Abdul Qadir the then SHO PS Badaber, Peshawar committed the following irregularities that:-

On information dated 09-06-2011 a raid was conducted and the following item were recovered from your room which were hidden by you without maintaining proper record. Besides 12 persons were also kept in illegal confinement by you for some ulterior motive and did not show their arrest on record. Moreover, you have been placed under suspension, found involved in such illegal acts on your part. All this amounts to gross misconduct on your part and renders you liable for punishment under Removal from Service (Special Powers) Ordinance-2000. Thus you have been charge sheeted and is being proceeded against departmentally

- |                         |   |
|-------------------------|---|
| 1. Klashinkov           | = 13                                      |
| 2. Miscellencous rifles | = 25                                      |
| 3. Pistols              | = 17                                      |
| 4. Mobile Phones        | = 39                                      |
| 5. Cartridges (Mise)    | = 2516                                    |
| 6. Magazines            | = 106                                     |
| 7. Norcotics Hashas     | = 217 Kg                                  |
| 8. Herion               | = 3*1/2 Kg                                |
| 9. Opium                | = 4 Kg                                    |
| 10. Alcohol             | = 1 Can 5 Liter + 1*1/2 Bottle            |
| 11. Spare part (Misc)   | = 22 Kg                                   |
| 12. Barrels             | = 11 Numbers                              |
| 13. Persons             | = 12 persons Kept in illegal confinement. |

Note:- (Full detail of the above items are enclosed for reference).

1. This act is against the discipline which amount to gross miss conduct on your part and render you liable for minor/major punishment under the rules Removal from Service (Special Power ordinance) 2000.
2. By reasons the above, you appear to be 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 the ordinance.
3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to Enquiry Officer
4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defence to put in and in that case exparte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

جدا علیٰ تعین سید محمد طاہر آف ایڈیشن و ڈسٹری بیوٹن  
الکے صرف ایک قلم جارح شہادت  
4-3-19



(JAVED KHAN)  
SR. SUPERINTENDENT OF POLICE,  
COORDINATION, PESHAWAR

29/11/19  
27

**DENOVO PROCEEDINGS  
DISCIPLINARY ACTION  
SI/SHO ABDUL QADIR POSTED**

**AT  
BADABER**

I, Javid Khan Sr. Superintendent, Peshawar as competent authority, is of the opinion that SI/SHO Abdul Qadir posted of PS Badaber, Peshawar rendered him liable to be proceeded against within the meaning of Section 3 of the NWFP Removal from Service (Special Powers) Ordinance V/2000. He has committed the following acts

**STATEMENT OF ALLEGATIONS.**

SI/SHO Abdul Qadir posted of PS Badaber, Peshawar committed the following irregularities that:-

On information dated 09-06-2011 a raid was conducted and the following items were recovered from his room which were hidden by him without maintaining proper record. Besides 12 persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension, found involved in such illegal acts on his part. All this amounts to gross misconduct on his part and renders him liable for punishment under Removal from Service (Special Powers) Ordinance-2000. Thus he has been charge sheeted and is being proceeded against departmentally.

10. Klashinkov	= 13
11. Miscellaneous rifles	= 25
12. Pistols	= 17
13. Mobile Phones	= 39
14. Cartridges (Misc)	= 2516
15. Magazines	= 106
16. Narcotics Hashas	= 217 Kg
17. Herion	= 3*1/2 Kg
18. Opium	= 4 Kg
10. Alcohol	= 1 Can 5 Liter + 1*1/2 Bottle
11. Spare part (Misc)	= 22 Kg
12. Barrels	= 11 Numbers
13. Persons	= 12 persons Kept in illegal confinement.

Note: - (Full detail of the above items are enclosed for reference).

1. This act is against the discipline which amounts to gross misconduct on his part and render him liable for minor/major punishment under the rules Removal from Service (Special Power ordinance ) 2000.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations a denovo enquiry is ordered by CPO vide memo: No. 836/E&I dated 20.02.2019, therefore Mr. Niaz Muhammad Khan DSP Coordination is hereby appointed as enquiry officer.

3. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provided reasonable opportunity of hearing to the accused officer, record its finding within 07 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

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

  
(JAVED KHAN)

**SENIOR SUPERINTENDENT OF POLICE,  
COORDINATIONS, PESHAWAR.**

NO. 42 /PA, dated Peshawar, the 04/03 /2019.

Copy to:-

SI Abdul Qadir (Dismissed) with the directions to appear before the Enquiry Officer on the date, time and place fixed by the E.O for the purpose

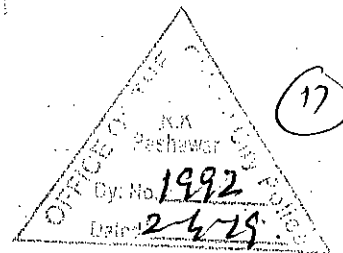
Handwritten notes in Urdu:  
13/31/2019  
13/31/2019  
13/31/2019  
13/31/2019

**REFERENCE ATTACHED**

Dy No  
Daed

Coordi.

1-19



Subject: **ENQUIRY AGAINST SI BADABER**

**DUL QADIR POSTED AT PS**

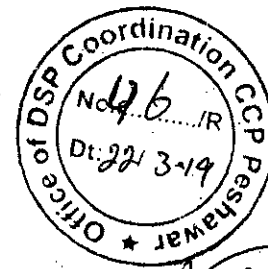
el 324  
Pages

Please refer to the attached enquiry papers received from your good office vide: No.42/E/PA, dated 2019 against SI/SHO Abdul Qadir posted at PS Badaber on the allegations; Two  
grie

**ALLEGATION**

"On information dated 09.06.2011 a raid was conducted and the following items were recovered from his room which were hidden by him without maintaining proper record. Beside this, 12-persons were also kept in illegal confinement by him for some ulterior motive and did not show their arrest on record. Moreover, he has been placed under suspension, found involved in such illegal acts on his part. All this amount to gross misconduct on his part and renders him liable for punishment under removal from service.

- |                         |                                 |
|-------------------------|---------------------------------|
| 1. Klashinkov           | = 13                            |
| 2. Miscellaneous rifles | =25                             |
| 3. Pistols              | =17                             |
| 4. Mobile Phones        | =39                             |
| 5. Cartridges (Misc)    | =2516                           |
| 6. Magazines            | =106                            |
| 7. Narcotics Hashes     | =217 kg                         |
| 8. Herion               | =3*1/2 kg                       |
| 9. Opium                | =4 Kg                           |
| 10. Alcohol             | =1 can 5 liter +1*1/2 bottle    |
| 11. Spare Part (Misc)   | =22 Kg                          |
| 12. Barrels             | =11 Nos                         |
| 13. Persons             | =12 kept in illegal confinement |



**PROCEEDINGS**

In order to dig-out the real facts, he was called, charge sheet & summary of allegation served upon him. He was appeared and submitted his written reply. The following witnesses were also called, heard in person, their statement recorded & cross examined in the presence of Ex-SHO SI Abdul Qadir. }

- i. SI Sami Ullah (Ex-Muharrar Investigation PS Badaber)
- ii. ASI Gul Rokhan (Ex-MM PS Badaber)
- iii. SI Abdul Sattar (Ex-Muharrar PS Badaber)
- iv. HC Fasih Ullah (Ex-MM PS Badaber)
- v. FC Muhammad Jamil
- vi. HC Yasin Shah (Ex-MM PS Badaber)
- vii. SPO Roman 758
- viii. HC Mukamil Shah 1178 (Ex-MM Badaber)
- ix. HC Farhand (Ex-MM PS Badaber)
- x. IHC Sajjad Ullah (MM PS Badaber)
- xi. Walayat s/o Khan Muhammad r/o Orakzai presently living Shiekh MUhammadi
- xii. Sami Ullah s/o Walayat Khan r/o Shiekh Muhammadi
- xiii. Javid s/o Said Marjan r/o Shiek Muhammadi
- xiv. Said Zameen s/o Muhammad Akbar r/o Shiekh Muhammadi

During course of enquiry, the undersigned pointed out following facts which need considerations;

1. During raid on the residence of Ex-SHO Abdul Qadir of PS Badabher, recovery of huge quantity of arms/ammunition, contraband items i.e CHARS, Opium, heroin & vine by raid team consisting of ASP Investigation, ASP Gulbahar, DSP Saddar & Shaheed DSP Investigation Hilala Haider Khan without registration of FIR & adopting legal procedure was un logical & amazing being a responsible Police officer.
2. It is worth mentioning that according to Police Rules Chapter 22-70, entries of case properties is made in Register No.19 of the Police Station but the Ex-SHO kept seized arms/ammunition and narcotics in his residential quarter without any legal obligation for mala-fide intentions.
3. The responsibility of Station House Officer (SHO) has been clearly defined in Police Rules Chapter 22-01 while the Ex-SHO mis-used his official authority which is against laid down adopted procedure.
4. It is astonishing that the Ex-SHO Abdul Qadir illegal confined 12 persons for a period of 18-days without showing in any criminal case or daily diary which reflects his bad intention and mis-use official powers delegated to him under the rules and also violated basic human rights which is evident from the recorded statements & personal hearing of Sami Ullah, Walayat Khan, Said Zarin and Javed Khan.
5. The undersigned personally visited and checked the relevant record in presence of Muharrir PS Badabher ASI Sajjad Ullah. The register No.19 reveals that case properties of the under mentioned FIRs are still pending against the Ex-SHO which shows his irresponsibility and negligence being senior officer.
  - a. FIR No.299/2011 u/s 13AO PS Badbher
  - b. FIR No.329/2011 u/s 13AO PS Badbher
  - c. FIR No.416/2011 u/s 13AO/5-Exp PS Badbher
  - d. FIR No.417/2011 u/s 13AO PS Badbher
  - e. FIR No.459/2011 u/s 13AO PS Badbher
  - f. FIR No.336/2011 u/s 399/400/402/13AO PS Badbher
  - g. FIR No.341/2011 u/s 9B CNSA PS Badaber
  - h. FIR No.349/2011 u/s 9C CNSA PS Badaber
  - i. FIR No.374/2011 u/s 9C CNSA PS Badaber
  - j. FIR No.380/2011 u/s 9C CNSA PS Badaber
  - k. Fir No.437/2011 u/s 9C CNSA PS Badaber

Attested copies of the FIRs & pages of register-19 are enclosed with enquiry filed.

6. The undersigned also visited the old building of PS Badaber which shows that the main gate of PS Badaber is separated from the gate of SHO quarter, while SHO Quarter contained 03-rooms & small gate is also present for entry/exist. Likewise, Police Station having own Malkhana for safe keeping official arms/ammunition & case properties (07-pictures of PS Badaber building & quarter of SHO captured attached with enquiry file) reveals that Ex-SHO used residential quarter for dubious activities with mala-fide intentions.

- 7. During cross examination the alleged official refused the recovery of arms/ammunitions & narcotics etc from his residence & put all the responsibility on Operation Muharrar. Mere refusal from allegation is not sufficient. An ample opportunity was given to the alleged official to defend himself & produced evidence in his defence but he failed and could not produce any solid evidence to rebut the allegation.
- 8. Furthermore, the alleged official also made cross upon the witnesses which is annexed the signature of the alleged official also obtained.

**RECOMMENDATIONS**

After going through the enquiry papers, source report, statements recorded of the witnesses, Police Station Badabher record, it is clear crystal that huge quantity of arms/ammunitions and other contraband items (narcotics) was recovered from residential quarter of Ex-SHO Abdul Qadir kept without any legal obligation. Furthermore, he also illegal confined 12-innocent persons and put them in the lockup for about 18-days without any criminal case thus violated & misused official powers. The allegation levelled against him proved & found guilty of gross misconduct.

Although the allegation against him proved, however in the same allegations a criminal case vides FIR No.882 dated 29.06.2011 u/s 9C-CNSA/13/14-AO/ 3/4-PO PS Badabher was registered against him, he was arrested & remained behind the bar for a period of 14-months and 14-days. The court has been decided the case & acquitted him from the charges levelled against him (court order is appended). Another Case FIR No.06 dated 06.08.2014 u/s 409/5 (2) PC Act of ACE Haytabad in which the alleged was acquitted by special judge Anti Corruption KPK (judgement copy atached) Furthermore, he has been enlisted as Constable in Police department in 1983 and remained posted mostly in rural Police stations. From the rank of constable to the promotion as SI he served in hard areas in testing times.

In view of the above discussion, the undersigned came to the conclusion that the alleged official has been tortured financially, physically as well as mentally for about 08-years in the aforesaid allegation. He has lengthy services at about 36-years and supported large family members.

Submitted please

(NIAZ MUHAMMAD)  
DY: SUPERINTEDENT OF POLICE  
COORDINATION, CCP PESHAWAR

SSP Coord:

In response to letter 837-38/E4I dt 20/02/2019 from AIG Comptroller and Enquiry, KPK Peshawar, the above mentioned enquiry was conducted (this case matter). The same is required to be sent to AIG (CTI) KPK Pesh for onward submission to the concerned court.

25/3/2019

Submitted for approval, Sir. JAWAD 01/04/2019

W/CCPO:

Pls discuss

Discussed. Issue final show cause notice  
JAWAD



(16)

**OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE  
COORDINATION PESHAWAR,**

Phone No. 0919213757

Fax: No. 091-9212597

No. 76 /PA,

Dated Peshawar the 24/04 /2019.

**FINAL SHOW CAUSE NOTICE**

I, **Javaid Khan, Senior Superintendent of Police Coordination, Peshawar** as Competent Authority under P.R 1975, do hereby serve you, **SI Abdul Qadir Peshawar**, as follow:-

2. (a) That Consequent upon the completion of inquiry conducted against you by enquiry officer Mr. Niaz Muhammad, DSP/Coordination Peshawar for which you were also given opportunity of hearing.

(b) On going through the findings and recommendation of the inquiry officers, the material on record and other connected papers including your defense before the said officers.

I am satisfied that you have committed the following acts/omission:-

i) **That a huge quantity of arms/ammunitions and other contraband items (narcotics) were recovered from your residential quarter of Ex-SHO Abdul Qadir kept without any legal justification.**

ii) **You also illegally confined 12 innocent persons and put them in the lockup for about 18-days without any criminal case thus violated & misused official powers.**

iii) **The enquiry officer during the course of inquiry found you guilty of gross misconduct and the allegations against you stood proved.**

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.

5. If no reply to this is notice received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-part action shall be taken against you.

*Signature*  
*24/4/2019*

*Signature*  
**SENIOR SUPERINTENDENT OF POLICE  
COORDINATION, PESHAWAR.**

*o/c.*

2019

*Signature*

*P.T.O.*

*24/4/19*





س 0 آ - کاورا نام، عمیدہ اور آپ کی سے پولیس سروس میں لگنا ہے۔  
 جواب - قادر خان سب انسپکٹر حیدرآباد نام ہے۔ حوضہ 1/10 سے حکم پولیس میں ہوئی سوانہ  
 1983

سوال 2: آپ پولیس فورس کون کون عمیدوں پر فائزرہ رکھے ہیں؟

جواب - ریشل سے بیکر سب انسپکٹر تک۔ مدحور۔ حور۔ نائب ریڈر۔ لاء انسپکٹر۔ ریڈر۔ ریجنل سوبر  
 ریڈر۔ ریجنل وکریاں۔ اور کئی S.H.O کے عمیدوں پر فائزرہ رکھا ہوا۔

سوال 3: کھانا بڑھو بر آپ کھیت S.H.O رہ چکے ہیں؟

جواب - کھانا بڑھو بر میں حوضہ 13<sup>10</sup> سے بیکر 6/9 تک S.H.O رہ چکا ہوں  
 2010 2011

سوال 4: آپ کی جگہ لکھنوال میں جو اسلم ایجوکیشن برآمد ہوئے ہیں کیا

یہ جگہ اسلم مال مقدمہ تھا۔ اور اسٹریٹنگ 19 میں اسلم  
 اندراج موجود ہے۔ یا نہ؟

جواب - میرے مکہ سے کوئی اسلم ایجوکیشن برآمد نہیں ہوئے۔ اور اسٹریٹنگ

19 میں اندراج فرم کھانا کی ذمہ داری پولیس ریڈر با 22 حوضہ 2 کے تحت ہے

س 5: آپ کی کمرہ ریاستی سے جس مقدار (217) کوگرام برآمد ہوئے

کیا یہ مال مقدمہ تھا۔ اگر مال مقدمہ تھا تو ان کی FIR بمعہ نام  
 ملزمان تحریر کریں۔

جواب - میرے مکہ سے ریاستی سے کسین قسم کی چرسا برآمد نہیں ہوئے

11/3/19  
 لکھنوال

ایر ٹوفی ایلوویا  
صی ایلوویا  
ایر ٹوفی ایلوویا

سوال 13 = آپ کے ریٹنی ٹمرہ سے جو اسلم المیرین اور منشیات  
برآمدے کئے گئے ہیں۔ اس واقعہ سے یہ مال مقدمات جمع  
تو منشیات پارسل اور اسلم پر مقدمات کیوں زنج نہیں؟  
جیسے تعمیر سے واضح ہیں؟

جواب :- جیسا کہ سید میں نے عرض کی ہے کہ میرے ٹمرہ ریٹنی سے  
کوئی اسلم والویشن یا منشیات برآمد نہیں ہوئے۔ یہ صرف  
کامیابی کارروائی میں ظاہر کیا گیا ہے۔

س 14 :- آگسٹ کے یاس اپنے صفائی میں جو کچھ مواد یا ثبوت ہے۔ تو جو دن  
کے اندر اندر پیش کریں۔؟  
149

جواب :- اس سے زیادہ صفائی کا آمد کو ثبوت ہو سکتا ہے۔ جو حضرت  
نے مکمل طور پر کرنے کے بعد مجھے باعزت طور پر بری کرنے کا  
حکم صادر فرمایا ہے۔

س 15 :- جن افسران نے آپ کے ٹمرہ ریٹنی سے اسلم و منشیات وصول کئے  
برآمدے جمع۔ وہ کون کون سے افسران پر مشتمل ٹیم تھی۔ ذرا وضاحت کریں؟  
جواب :- میرے ٹمرہ ریٹنی سے اسلم و منشیات وصول کئے افسران  
تو افسران مہمان کے نام کہاں سے آئے۔

س 16 :- جب مذکورہ ٹیم آپ کی ڈارٹر (ٹمرہ ریٹنی) سے مل گیا۔ تو آپ  
موقع پر موجود تھے؟

جواب :- میں قفانہ سے صبح 0600 بجے میرے ریسیم شدہ بند روم میں موجود تھا  
اور بوقت 1600 بجے قفانہ والے آچکے تھے۔ میرے موجودگی میں  
کسی قسم کی کارروائی نہیں ہوئی ہے۔  
11/3/19

س 9: آپ کے جو (12) عدد کسان غیر قانونی طور پر حراست میں رکھے تھے۔ کیا یہ

روزنامے میں ان اشخاص کی کوئی خط و کتابت تھا۔ وضاحت کریں؟

جواب: میں کوئی بھی شخص کو غیر قانونی طور پر حراست میں نہیں رکھا ہے۔  
جس نے برآمدگی کے بارے میں پوچھا ہے؟ فوراً 6-9-2011 کی روزنامہ تھا  
تھا۔ قہانہ کے ریکارڈ پر موجود ہے۔ اس میں برآمد کنندہ اہلکار نے ان اشخاص کی برآمدگی  
یا برآمدگی کے بارے میں کوئی اندراج نہیں کیا ہے۔

س 10:

تعدادات کی جانچ پڑتال وغیرہ کس کی ذمہ داری بنتی ہے۔؟

جواب: قہانہ میں موجود رقم رشوتوں کی تکمیل حصر قہانہ کی ذمہ داری ہوتی ہے  
جو پولیس رولز باب 22 میں اس سلسلہ میں درجہ اولیٰ احکامات موجود ہیں

س 11:

شہید ساجد حسین علیہ السلام عمر آپ کے ساتھ آج وہم سے مخالف تھے، آپ نے  
آپ کے خلاف افسران بالا کو ٹھیکہ کیا تھا۔ لیکن دیگر ملازمان نے انہیں اس کی  
کے دوران آپ کے خلاف جرمیانات ٹھیکہ کیے ہیں۔ آپ کے ساتھ ان  
کی کیا عناد ہو سکتی ہے۔؟

جواب:-

دیگر ملازمان میں سے کسی نے بھی بطور گواہ چشم دید بیان  
قبضہ نہیں کیا ہے۔ نہ قہانہ کے کسی ملازم نے فرد برآمدگی پر  
دستخط کیا ہے۔ نہ انکو ٹھیکہ ثبت کیا ہے۔

س 12:

آپ کے خلاف جو مقدمہ درج ہوا تھا۔ عدالتی کارروائی کے بعد  
کیا منضبط آچکا ہے۔؟

جواب:-

میرے خلاف جو مقدمہ درج ہوا تھا۔ عدالت نے بعد  
حکمل ٹریل کے باعزت طور پر بری کیا ہے۔  
11/3/19

س: 17: فرزند مقبولگی سے صاف واضح ہے کہ آپ موقع پر موجود

اور تلمذی آپ کے موجودگی میں لڑنے لگی تھی جس پر ASP صاحبہ اور ASP صاحبان دستخط کرتے ہیں۔ کیا پوری ہی پوری کارروائی غلط تھی؟

جواب: فرزند مقبولگی میں میرا کوئی دستخط موجود نہیں ہے۔ نہ ہی میں موقع پر موجود تھا۔ اور نہ ہی میری موجودگی میں کارروائی ہوئی ہے کیونکہ اسٹریٹرز نے دفتری اوقات کا ذکر کیا ہے۔ جبکہ دفتری اوقات میں موقع ملتا ہے اس میں تھا۔ تھانہ کا پتہ ہے 2 روزانہ ریکارڈ پر موجود ہے اور یہ تھانہ کے ڈپٹی ایف ایس آئی ریکارڈ کا دستخط ہے۔  
11/3/19

18 میں دہائی گھنٹے افراد پر مشتمل ہے

2: میرے گھر میں ایک بوی - تین بیٹے - سات بیٹیاں کل میرے ساتھ بارہ افراد پر مشتمل ہیں۔

**BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.**

**Service Appeal No. 1227/2019**

Abdul Qadir

VS

The PPO KPK & etc

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**PRELIMINARY OBJECTIONS:**

(1-6) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

1. The service records of the appellant hence no comments.
2. Incorrect the appellant clearly mention in the charge sheet reply that P.S badber was blown by suicide bomber due to which available record and building of P.S badber was damaged and this respect the FIR was lodged against unknown person and due to the above mention reason in the record of concerned Police Station were shifted to private house and illegal confinement of 12 persons the appellant clearly mentioned in the reply to charge sheet that there is no release record of that 12 persons of confinement in the concerned Police Station. Moreover the muharir of concerned Police station gave written statement that all the case property are present in the police station according to relevant register. (Copy of statement is attached as Annexure-R-1)
3. Incorrect the appellant gave the real situation about the facts in the reply to Charge Sheet in which he denied all the allegations.
4. Incorrect while Para-4 of the appeal is incorrect.

7. Incorrect while Para-7 of the appeal is correct.
8. Incorrect while Para-8 of the appeal is correct.
9. Incorrect the appellant has good cause of action to file the instant appeal which is liable to be accepted on the following grounds.

**GROUND:**

- A. Incorrect the punishment order passed by authority is against the law, fact and material on record therefore liable to be set aside.
- B. Incorrect no proper opportunity was defense to the appellant
- C. Incorrect While Para-C of the appeal is correct.
- D. Incorrect While Para-D of the appeal is correct.
- E. Incorrect While Para-E of the appeal is correct
- F. Incorrect While Para-F of the appeal is correct.
- G. Incorrect the SSP *Operation* (Respondent No. 4) was the competent authority while the impugned order is passed by the SSP Coordination (Respondent No. 3) which is not permissible under the law & Rules.
- H. Incorrect While Para-H of the appeal is correct.
- I. Not replied according to Para-I of the appeal moreover Para-I of the appeal is correct.
- J. Incorrect While Para-J of the appeal is correct.
- K. Incorrect the allegation on which the appellant was dismissed from service was not proved during trial by the competent court of law therefore the remaining no ground to penalize the appellant on those allegations.
- L. Not replied according to Para-L of the appeal moreover Para-L of the appeal is correct.

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

  
APPELLANT

Through:

  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT.

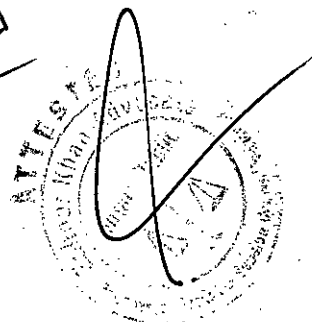
  
(TAIMUR ALI KHA)  
ADVOCATE HIGH COURT

&  
(S.NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.

  
DEPONENT





R-1

سید محمد سعید

ضابطہ

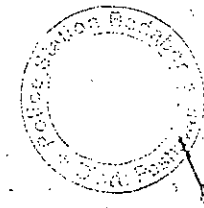
جسٹس محمد عثمان بٹو، سپریم کورٹ، لاہور  
 پیش کرتا ہوں کہ میرے پاس قاضی اعجاز  
 میں حال گورنمنٹ وصال خدمات کے مطابق  
 رول نمبر 6 اور رول نمبر 19 درست وجود میں  
 ہیں۔ تمام اہل طبع شدہ S23/550 قریب درستی  
 جمع نہیں کرتا ہے، میں سرٹیفکیٹ وصول  
 گزارش ہے



M.A. 91/PS B.B. 08  
 9-6-2011  
 صاحب

Attested

Sd/- BBN  
 187K



ATTESTED  
 C. J. ...



# WAKALATNAMA

(Power Of Attorney)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR

Abdul Qadir

(Petitioner)  
(Plaintiff)  
(Applicant)  
(Appellant)  
(Complainant)  
(Decree Holder)

**VERSUS**

The Provincial Police Officers etc

(Respondent)  
(Defendant)  
(Accused)  
(Judgment Debtor)

I/ We, \_\_\_\_\_ The undersigned appeallant in the above noted Service Appeal No 1227/2019 do hereby appoint **Mr. Muhammad Ijaz Khan Sabi, Fazal-e-Wahid, Nasir Naeem Umar Khaili & Adnan Aman**, Advocates to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my /our counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/Counsel at my/our matter.

Attested & Accepted By.

*23*  
*23.11.2020*

**Muhammad Ijaz Khan Sabi (bc-10-7578)**

**Fazal-e-Wahid**

**Nasir Naeem Umar Khaili**

**Adnan Aman (bc-13-4253)**

Advocates High Court, Peshawar  
B-15, Haroon Mansion, Khyber Bazar,  
Peshawar Office: 091-2551553

Signature of Executants

*Alam*

**Abdul Qadir**

**S/o Haider Khan,**

**( Ex-Sub-Inspector)**


**R/o Village Jammal**

**P.O Kandiar**

**Tehsil & Distt; Charsadda-**

**VAKALATNAMA**

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

APPEAL NO: 1227/19 

Abdul Qadir (APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

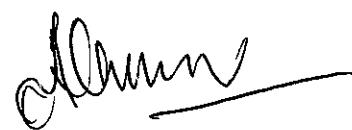
**VERSUS**

Police & others (RESPONDENT)  
(DEFENDANT)

I/We Abdul Qadir

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

Dated.        /        / 2021

  
\_\_\_\_\_

**CLIENTS**

**ACCEPTED**

**NOOR MUHAMMAD KHATTAK**

**KAMRAN KHAN**

**UMER FAROOQ MOHMAND**



**& Haider Ali**  
**HAIDER ALI**  
**ADVOCATES**



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1020 /ST

Dated: 13-5 /2022

All communications should be  
addressed to the Registrar KPK Service  
Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

To

The Senior Superintendent of Police Operations,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1227/2019 MR. ABDUL QADIR.

I am directed to forward herewith a certified copy of Judgement dated  
11.04.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above

  
REGISTRAR

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR