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

Service Appeal No. 873/2022

Bashir Muhammad, Ex-Assistant Sub Inspector No. 840/MR, District Police
Mardan.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

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

Service Appeal No. 873/2022

Bashir Muhammad, Ex-Assistant Sub Inspector No. 840/MR, District Police
Mardan.....Appellant

VERSUS

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

Para-wise comments on behalf of respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law & limitation.

REPLY ON FACTS

1. Para to the extent of enlistment and serving in Police Department of appellant pertains to record needs no comments. While rest of para is incorrect because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, the perusal of service record of the appellant revealed that due to his lethargic attitude his entire service record is tainted with bad entries. Besides, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds **(Copy of bad entries are Annexure-A)**.
2. Correct to the extent that the appellant was dismissed from service after fulfillment of all legal and codal formalities, thereafter, he after availing departmental remedy, filed Service Appeal No. 745/2021 before the Honorable Tribunal which was decided and the case was remanded back to department for conducting denovo enquiry. In compliance of order of the Honorable Tribunal, the appellant was reinstated in service for the purpose of denovo enquiry. The Enquiry

officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense.

The appellant while performing duties as In-charge Kot PTC Hangu. On 09-01-2019 ASI Abid Ullah Law Instructor at PTC Hangu took charge of Kot from the appellant. On 14-01-2019 ASI Abid Ullah observed that large numbers of bullet rounds of 7.62 MM were missing from the Kot. Upon complaint, a preliminary enquiry was initiated on the directions of Commandant PTC Hangu. During the course of enquiry the record of Kot PTC Hangu was checked and it was noticed that 87369 (eighty seven thousand three hundred & sixty nine) bullet rounds of 7.62 MM were missing. Later-on, the appellant produced 76285 (seventy six thousand two hundred and eighty five) bullet rounds before the enquiry committee which were deposited in the Kot at PTC Hangu. It is worth mentioning that the missing rounds of 7.62 MM were original whereas the 76285 (seventy six thousand two hundred and eighty five) bullet rounds deposited by the appellant were found to be locally made as per report of arms & Ammunition Expert. However, after fulfillment of all legal and codal formalities, the Enquiry Officer recommended the appellant for awarding major punishment.

3. Correct to the extent that the appellant was reinstated into service and issued charge sheet with statement of allegations in compliance of the order of Honorable Tribunal.
4. Incorrect. Stance taken by the appellant is not plausible, as per directions of Honorable Service Tribunal the appellant was re-instated in service conditionally by Commandant PTC Hangu and de-novo enquiry was entrusted to Mr. Arshid Mehmood SP/Investigation Hangu. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense, but he failed. However, after fulfillment of all legal and codal formalities, the enquiry officer submitted his findings to the AIG Enquiries Khyber Pakhtunkhwa Peshawar with the conclusion that appellant is guilty of embezzling government property i.e. 7.62 MM original bullet rounds of PTC Hangu causing huge loss to the national exchequer. As, the appellant was not permanent employee of PTC Hangu, his name was forwarded to his home district for imposition of major punishment as per finding of the enquiry **(Copy of Denovo Enquiry is attached as annexure "B")**.

5. Correct to the extent that Final Show Cause Notice was issued to the appellant to which his reply was received but found unsatisfactory **(Copy of Final Show Cause Notice is attached as annexure-C).**
6. Correct to the extent that the appellant was dismissed from service but he was provided full-fledged opportunity of defending himself through Orderly Room held on 30-09-2021, but he failed to present any plausible reasons in his defense, therefore, he was served with a Final Show Cause Notice, to which his reply was received and found un-satisfactory, besides, once again he was heard in Orderly Room on 27-10-2021, during which, he requested to the competent authority to check the Roznamcha Reports of PTC Hangu for the period from 13th to 18th February-2019, so the same was also checked, but his plea was found baseless, hence he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant **(Copy of dismissal order is attached as annexure-"D").**
7. Para to the extent that the appellant preferred departmental appeal is correct, while rest of the para is incorrect because during the course of hearing of departmental appeal the appellant was duly summoned and heard in person in Orderly Room held on 31.03.2022 in the office of respondent No. 02, which was decided on merit because the appellant was provided full-fledged opportunity of defending himself but he bitterly failed to produce any cogent reasons in his defense. Therefore, the same was rejected and filed being devoid of merit **(Copy of departmental appeal rejection order is annexed as annexure- "E").**
8. Incorrect. Order passed by the competent authority is legal, lawful hence, liable to be maintained. Moreover, appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority is legal, lawful and according to norms of natural justice hence, liable to be maintained.
- B. Incorrect the respondents did not violate any law, rules, policy and the appellant has been treated in accordance with law and rules as per Article of the Constitution.
- C. Incorrect. The respondent department has no grudges against the appellant, therefore, stance of the appellant is devoid of legal footing.
- D. Incorrect. Stance taken by the appellant is not plausible, as per directions of Honorable Service Tribunal the appellant was re-instated in service conditionally by Commandant PTC Hangu and

de-novo enquiry was entrusted to Mr. Arshid Mehmood SP/Investigation Hangu. The enquiry officer during the course of enquiry provided full-fledged opportunity to the appellant to produce evidence/grounds in his defense, but he failed. However, after fulfillment all legal and codal formalities the enquiry officer submitted his findings to the AIG Enquiries Khyber Pakhtunkhwa Peshawar with the conclusion that the appellant is guilty of embezzling government property i.e. 7.62 MM original bullet rounds of PTC Hangu causing huge loss to the national exchequer. As, the appellant was not permanent employee of PTC Hangu, his name was forwarded to his home district for imposition of major punishment as per finding of the enquiry. Therefore, the appellant was heard in Orderly Room on 30-09-2021, but he failed to present any plausible reasons in his defense, therefore, he was served with a Final Show Cause Notice, to which his reply was received and found un-satisfactory, besides, once again he was heard in Orderly Room on 27-10-2021, during which, he requested to the competent authority to check the Roznamcha Reports of PTC Hangu for the period from 13th to 18th February-2019, so the same was checked, but his plea was found baseless, hence he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

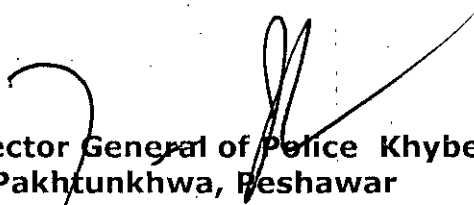
- E. Incorrect. Para already explained needs no comments.
- F. Incorrect. Para explained earlier needs no comments.
- G. Incorrect. Para already explained needs no comments.
- H. Incorrect the respondents did not violate any law, rules and norms of justice.
- I. Incorrect. The impugned order is speaking order hence tenable in the eyes of law.
- J. Incorrect. Stance taken by the appellant is not plausible, during the course of enquiry the appellant was summoned and heard in detail by providing full-fledged opportunity to the appellant to produce evidence/grounds in his defense, but he failed. Therefore, the appellant was also heard in Orderly Room on 30-09-2021, but he failed to present any plausible reasons in his defense, therefore, he was served with a Final Show Cause Notice, to which his reply was received and found un-satisfactory, besides, once again he was heard in Orderly Room on 27-10-2021, during which, he requested to the competent authority to check the Roznamcha Reports of PTC Hangu for the period 13th to 18th February-2019, so the same was checked, but his plea was found

baseless, hence he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

K. That the respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

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


**Inspector General of Police Khyber
Pakhtunkhwa, Peshawar**
(Respondent No. 04)


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


**Commandant Police Training College,
Hangu.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 873/2022

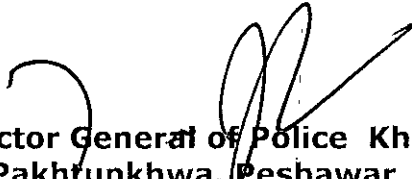
Bashir Muhammad, Ex-Assistant Sub Inspector No. 840/MR, District Police
Mardan.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

COUNTER AFFIDAVIT

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


**Inspector General of Police Khyber
Pakhtunkhwa, Peshawar**
(Respondent No. 04)


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


**Commandant Police Training College,
Hangu.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)

ORDER

He is placed under suspension
for showing cowardice during the period
of the Honk of accused Inayat Ali Shah
R/o Sarwai Abad Jalala.

OB No-635

DT 17-5-04.

DPO/madr.

ORDER

He is hereby dismissed from
Service with immediate effect in
Exercise of Power vested in me
Under N.W.F.P Removal from Ser-
vice SPL Power Ordinance 2000
for showing cowardice, unprof-
essionalism and to run away
and hiding themselves and for
not Encouraging The criminals

OB No 780

DT-7-6-2004

Jinn

DPO/Mardan.

Serial No.

Part 2

ORDER

The order of dismissal to converted into Punishment stoppage of one year increment without accumulative effect. The period of absence from date of dismissal to date is treated as leave of the kind due, vide D.G.M.R. Madan Enrolment No. 2366 dt. 27.7.04.

OB No. 917
dt 27.7.04

~~D.P.O. Madan~~

T 5/24 Drawn 11/2/16/2 encl.
18/8
Roster work from 1/6/2003
TO 31/7/2003 C 3/20 PM

~~Atchman~~
D.P.O. Madan

ORDER from

Dropped Promotion and removed from list C-I by The DPC held on 28/1/2004

ORDER

He is hereby restored in
 list: C-I from the date of his reversion
 i.e. 28-10-2008 and promoted as obf.
 Head Constable from the date of his
 reversion with his colleagues on the approval
 of Dtg/Mardan Region Mardan Prdst. No.
 3259-60/es dated 30-10-08 and
 pay fixed Rs. 6190 /pm w.e.f. 26-1-10

OB No. 342

of 28/11/2010.

[Signature]
 District Police Officer
 Mardan

Sd. (3)

ORDER

He is hereby strictly warned to
 pay particular attention to his official correspondence
 and no such negligence will be tolerated on
 his part in future.

OB No. 4021
14/10/10

[Signature]
 D/O Mardan

Order copy attached in S.R. of const. Tiffal. no. 2700

Fined Rs: 50/= for his Absence

OB No: 512

20-2-13

[Signature]
 DPO/MR


16.—LEAVE, ABSENCE AND BREAKS IN SERVICE.

All periods not counting as "approved service" to be entered in red ink.

1		2			3	4
DATE		EXTENT			No. of District Order	Description of leave i. e. privilege, hospital, sick leave, or furlough, or of absence, or forfeiture of approved service. All entries to be initialed, by Superintendent of Police.
From	To	Years	Months	Days		
5/94	25/96	-	⑨	2 days	vide SP/101 OB No 910 dt 7-6-96	leave without pay M. SP/FRP
1/95	14/95	-	⑨	1 days	OB No 8114 dt 11-6-95	leave without pay M. SP/FRP A. Kohet
8 95	18 8 95	-		10 days	OB No 124 dt 9/18/95	M/leave on full pay M. SP/FRP A. Kohet
			1	30 days	8 1/2 leave OB 1317 21-11-2000	

Period	Government to which depliable
<u>Course Certificate</u>	
<p>Have Participated and Successfully Completed two weeks Public disorder & Management Course No-44 held at police School of Public disorder & Riot Management Mardan from 6⁸/₂₀₁₈ to 17⁸/₂₀₁₈.</p>	
<p><i>[Signature]</i> Commandant Police Training College Hangu 15/12</p>	
<u>Dismissal order</u>	
<p>Dismissed from service under Police Rule 1975 amended in 2014, for being involved in the embezzlement of 76285 GOVT: SMG towards from the KOI of PTC Hangu. And on the observation of dept. enquiry committee the said official has been found guilty. (order copy attached).</p>	
<p><i>[Signature]</i> Commandant Police Training College Hangu</p>	
<p>OBNO. 90</p>	
<p>Dt. 15/03/2019</p>	
<p>Drawn Rs. 8132/- on account of 28.7.2021 to 31.07.2021</p>	

1 Name of Post	2 Whether substantive or officiating and whether permanent or temporary.	3 If officiating, state (i) substantive appointment, or (ii) Whether service counts for pension under Art. 371 C.S.R.	4 Pay in substantive post	5 Additional pay for officiating	6 Other emolument falling under the term "pay"	7 Date of Appointment	8 Signature Government
Dismissal order on De-novo Enquiry							
<p>ASI Basher Muhammad was re-instated in service conditionally by Commandant PTC Hangu vide OB/No.68/EC, dt: 26-07-2021 and de-novo enquiry was conducted by Mr. Arshed Mahmood SP-Investigation Hangu, who (EO) after completion of the said enquiry, submitted his finding to the AGH Enquiries, KPK, Peshawar with the conclusion that ASI Basher Muhammad is guilty of embezzling Govt. Property i.e. 7.62 MM original bullet rounds of PTC Hangu causing huge loss to the national exchequer. It is worth mentioning that ASI Basher Muhammad was provided fair opportunity of hearing and defense. However, he failed to prove his innocence during the course of enquiry. As the delinquent ASI Basher was not permanent employee of PTC Hangu. His name was forwarded to his home district for imposing of ^{major} punishment as per finding of the enquiry.</p> <p>In the light of decisions/directions of Honorable Service Tribunal and de-novo enquiry conducted by SP, Investigation Hangu, the Commandant PTC Hangu vide his office letter No.627/PA, dt: 27-08-2021 addressed this office for dealing with the matter according to the finding of de-novo enquiry.</p> <p>Resultantly, ASI Basher Muhammad was heard in Orderly Room on 30-09-2021, during which he failed to present any plausible reasons in his defence, therefore, he was served with a final Show Cause notice, issued vide this office No. 352/PA, dt: 30-09-2021, to which his reply was received and found unsatisfactory. So he was again heard in Orderly Room on 27-10-2021, during which, he requested to the undersigned to check the reports of PTC Hangu for the period 13 to 18-02-2019, so the same was checked, but his plea was found baseless.</p> <p>Final Order:</p>							
<p>In the light of the de-novo enquiry report of</p>							

9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer as mentioned in clause 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	13 Leave Allocation of period of leave on average pay upto four months for which leave salary is debitible to another Government		Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Period	Government to which debitible		
SP-Investigations Hangu and Personal hearing of delinquent official, the allegations of embezzlement in Government Property i.e 7.62 MM genuine rounds of PTC Hangu Kot have been proved against ASI Bashir Muhammad.							
Therefore, I being the competent authority hereby awarded him major Punishment of dismissal from Police Force with immediate effect in exercise of the power vested in me under Police Rule-1975, vide DPO							
Mardan No.1350-58/PA, dated 15-02-2022 70B/No.389, dated 14-02-2022.							
						 Commandant Police Training College	

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FINDING REPORT OF DE-NOVO ENQUIRY:

The Hon'ble AIG Enquiries, Internal Accountability Khyber Pakhtunkhwa, Peshawar the undersigned was nominated as enquiry officer to conduct Denovo enquiry against ASI Bashir Muhammad No. 840/MR, Ex-Incharge Ammunition Kot, IHC Matiullah No. 255 Ex-Reader to DSP Security and FC Sohail Ahmad of Police Training College Hangu vide his office Memo: No. 1983/CPO/IAB, dated 26.07.2021 received by this office on 02.08.2021.

Enquiry papers of previous enquiry were also received from Police Training College Hangu on 04.08.2021 vide his office Memo: No. 605/PA dated 02.08.2021 in which the final outcome was required to AIG Enquiries Peshawar on or before 12.08.2021 and the previous enquiry file was thoroughly perused by the undersigned.

BRIEF OF PREVIOUS ENQUIRY:

After perusal of the previous enquiry papers, it was found that on 09.01.2019 ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in-place of ASI Bashir Muhammad of Mardan Region. On 14.01.2019 while taking the charge of PTC Ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC, Kot as per stock register. The matter was brought into the notice of high-ups of PTC Hangu for taking proper departmental action against the defaulters.

On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.

During enquiry, the enquiry committee checked the record of PTC Kot to verify the complaint of newly posted Incharge Kot ASI Abid Ullah, it was found that 87369 (Eighty seven thousand three hundred & sixty nine) rounds of 7.62 MM short/missing. Later on accused officer ASI Bashir Muhammad Ex-Incharge Ammunition Kot and his co-accused official i.e IHC Mati Ullah District Hangu, HC Muhammad Akram No. 1193/133 District D.I. Khan and FC Sohail Ahmad produced the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export. Except this 11084 rounds of 7.62 MM are still missing. ASI Bashir Muhammad I/C Kot and Sohail Ahmad are direct custodian of Kot while IHC Matiullah Security Incharge of PTC was a facilitator of other co-accused.

On the completion of preliminary enquiry the accused officers/officials were suspended and proper departmental enquiry was initiated under the supervision of Mr. Shah Mumtaz DSP the then CLI PTC Hangu assisted by Inspector Baroz Khan and Inspector Syed Noor Shah as enquiry

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officer/ committee by the order of Commandant PTC Hangu. During enquiry the accused officers/officials were properly examined and their statements were recorded as well as the statements of witnesses also recorded. After completion of enquiry the enquiry committee submitted finding report in which the accused officers/officials are found guilty. As a result all the above named officers/officials were dismissed by Commandant PTC Hangu. /

The Dy: Commandant, Police Training, College, Hangu letter No. 695/PA/PTC dated 04.09.2019 to DPO Hangu for registration of case against the above named officers/official on their criminal act. A case was registered against accused ASI Bashir Muhammad, IHC Maitullah and FC Sohail Khan vide Case FIR No. 1073 dated 05.09.2019 U/S 408/ 409/ 414/ 420/ 424 PPC in PS City, District Hangu. In this regard a Joint Investigation Team (JIT) under the supervision of Mr. Zain Khan SP Investigation Hangu vide letter No. 2440-50/PA, dated 11.09.2019 was constituted by the then District Police Officer, Hangu and Inspector Abdur Rehman Officer Incharge Investigation Police Station City Hangu was appointed as Investigation Officer. The accused of case were escaped to their parent Districts, for their early arrest proper letters were issued to the concerned District after then they approach to the Hon'ble Courts for obtaining BBA. Similarly HC Mati ullah has also approached to the Honorable Court of District & Session Judge, Hangu for obtaining BBA upon which the Hon'ble Court ordered vide order sheet No.04, dated 08.10.2019 present placed on enquiry file

During the course of investigation of above mentioned case, District Public Prosecutor (DPP) opined that the case is trial able by Anti Corruption Court and Court directed to inform Anti-Corruption Establishment. The offence under section 409 PPC falls under the domain of Anti-Corruption Establishment.

In compliance with the direction of DPP, the then SP Investigation of District Hangu made correspondence with Anti Corruption Establishment Peshawar. After due correspondence with Anti Corruption Establishment case has been cancelled as per rules 25-7 of Police Rules 1934 vide DPO Hangu order Endst: 13623-25/GC dated 27.11.2019 the original case file i.e Judicial file 239 Pages & Police case file 68 Pages were sent to Director Anti Corruption Establishment Peshawar vide SP Investigation Hangu letter NO. 5625/Inv dated 29.11.2019, which is still pending with ACE.

The defaulter officials submitted departmental appeal to the W/IGP, Khyber Pakhtunkhwa against the order of Commandant PTC Hangu for their dismissal which was filed. Furthermore, the said defaulters approached to Khyber Pakhtunkhwa Service Tribunal Peshawar vide service appeals Nos. quoted above, which were decided by the honorable Service Tribunal vide judgments dated 23.06.2019 and reinstated the appellants into service. The matter is remanded by the August Tribunal back to the department for denovo inquiry. In compliance with the directions of worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar, the Commandant PTC Hangu conditionally reinstated the above mentioned officials for the purpose of Denovo enquiry vide order Endst: No. 681/EC dated 26.07.2021 and issued Charge Sheet along-with Summary of Allegations to all three defaulters.

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DENOVO ENQUIRY:

In the light of Denovo enquiry the accused officials/witnesses were summoned by the undersigned through the Admin PTC Hangu in order to join the enquiry proceedings. It has come to the notice of undersigned that all the witnesses/complainant and enquiry committee officer are not proper employe of PTC strength, they have been transferred to their parent District after completion of their tenure, some of them are engaged in Special duties of Muharram-ul-Harram 2021 and due to short time in enquiry they could be approached to appear before enquiry officer in these days but the defaulters officials have attended this office on 09.08.2021 and submitted their replies. Their replies were perused by the undersigned which were found unsatisfied. During pervious enquiry the defaulter officials have given chance for their self defense, they were cross examined but they failed to do so. Similarly witnesses of the case/enquiry were also examined and recorded the statements about the case. All the relevant papers are placed on file for perusal.

The undersigned perused the previous departmental enquiry of above mentioned officers/officials, the previous enquiry conducted by the then Enquiry Committee are up to the mark. As there special duties of Muharram-ul-Harram-2021 every official were engaged Muharram-ul-Harram tied schedule duties and the time given for the completion of Denovo enquiry is too short. Therefore on the available record my recommendation /Conclusion is as under:

RECOMMENDATION:

- 1) After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 MM rounds i.e 87369 (Eighty seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export of FSL.
- 2) The act of defaulter officials of two version i.e
 - (i) Being a member discipline force conducted act of negligence & dishonest.
 - (ii) Being a custodian they carried out breach of trust being a public servant. This is an act of crime which were committed intentionally.

It is worth motioning that the dismissal order of defaulter officials issued by Commandant PTC Hangu fall under the preview of first version after the departmental enquiry "Power of Commandant" Rule No. 13 PTC Manual 1982 is clear.

Similarly according to second version the act of defaulter officials still pending, the above mentioned Case FIR No. 1073 dated 05.09.2019 U/S 408/ 409/ 414/ 420/ 424 PPC in PS City, District Hangu has already been cancelled on the legal opinion and the case file sent to Anti Corruption Establishment upon which no action yet taken neither punishment awarded to the defaulter officials.

The order/Judgment passed by the Hon'ble Court of Service Tribunal Khyber Pakhtunkhwa Peshawar regarding reinstatement of defaulter official, the criminal case/act was not mentioned in order nor any directions issued to Anti Corruption Establishment neither brought into the notice of Hon'ble Service Tribunal by representative of department i.e Legal Branch, in this regard.

CONCLUSION:

1. Keeping in view of above the undersigned has come to the conclusion that that enquiry already proved against the accused officers/officials as they were found involved in embezzlement of Govt property i.e 7.62 MM genuine rounds of PTC Kot which caused to huge loss of Govt exchequer. They have provided full opportunity of cross examination during enquiry but they failed to prove/show their blamelessness/innocence and grant loss to the Govt exchequer. They being members of Police force their professionalism is condemnable and their act are not apologize. As they are not permanent employees of PTC Hangu therefore, their home district may be communicated for giving major punishment as per rules.
2. The case registered against them have been cancelled from district Hangu and were sent to Anti Corruption Establishment in the year 2019, which is not properly pursue by District Police nor the complainant party i.e PTC Hangu staff and neither ACE made any correspondence with local Police the fresh up date of the case, up till now on that way no punishment given to the defaulter official in the criminal act.

Submitted please.

AST Bashir Muhammad 804/MR

was heard in O.R on 30.09.2021.

The enquiry papers/report was perused and the officer was heard at length.

(ARSHAD MEHMOOD)

District Compliant Officer/
Superintendent of Police Investigation
Hangu

Above in view, The officer be issue a

Final Show Cause Notice in the instant demand enquiry.

30.9.2021

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Enquiry
OFFICE OF
THE COMMANDANT
POLICE TRAINING COLLEGE, HANGU
Office Phone # 0925-621886, Fax # 0925-620886
Email: kpptchangu@gmail.com

- To: (1) The Capital City Police Officer,
Peshawar.
(2) ✓ The District Police Officer,
Mardan.
(3) The District Police Officer,
Hangu.

No. 627 /PA, Dated Hangu the, 27 August, 2021.

Subject: SERVICE APPEAL NOS. 745/2019, 931/2019 & 1000/2019

Memo:

Please refer to the subject cited above.

It is intimated the following police officers of your Districts while serving in PTC, Hangu on deputation basis were found involved in misappropriation of a massive number of ammunition from PTC, Kot:

- i. ASI Bashir Muhammadi No. 840/MR of Mardan District.
- ii. FC Sohail Ahmed s/o Khan Sahib, of CCP, Peshawar.
- iii. IHC Mati Ullah of District Hangu.

After conducting departmental enquiry as per Police Rules, 1975 (amended-2014), the allegations were proved against them, and they were awarded major punishment of dismissal from service vide PTC, Hangu order endst: No. 119-34/PA, dated 15.03.2019.

To review the punishment awarded to the defaulter officers/official, they approach to Khyber Pakhtunkhwa Service Tribunal, Peshawar vide above quoted service appeals, which were decided by the honorable Tribunal in their favor with the following directions:

"A perusal of record would show that the show-cause notice, charge sheet as well as statement of allegations were issued to the appellants by Commandant Police Training College Hangu and upon receipt of the inquiry report, the order of dismissal was also passed by Commandant Police Training College Hangu, who was an officer of the rank of Deputy Inspector General of Police. In light of Schedule-I of Police Rules 1975, officer of the rank of DPO/ SSP/ SP, being Authority Competent to award punishment to the appellants, could have legally taken disciplinary action against the appellants. Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, therefore, keeping in view Schedule-I of Police Rules 1975, the action taken by him was illegal, without jurisdiction and void ab-initio. Moreover, the appellants were not at all provided any opportunity of cross-examination of the witnesses examined during the inquiry, which has caused them prejudice. The impugned order

Dismissal of the appellant is thus not sustainable in the eye of law and is liable to be set aside. In view of the above discussion, the appeal in hand as well as Service Appeal bearing No. 931/2019 titled "Sohail Ahmad Versus Provincial Police Officer and two others" as well as Service Appeal bearing No. 1000/2019 titled "Matiullah Versus Inspector General of Police Khyber Pakhtunkhwa and two others" are allowed by setting-aside the impugned orders of dismissal of the appellants. The appellants are re-instated into service and the matter is remanded back to the department for de-novo inquiry against the appellants strictly in accordance with relevant law/ rules. The de-novo inquiry proceeding shall be completed within a period of one month from the date of receipt of copy of this judgment. The issue of back benefits of the appellants shall follow the result of de-novo inquiry. Parties are left to bear their own costs. File be consigned to record room".

In the light of above judgments, all the above three defaulters were re-instated into service and the de-novo inquiry, was marked to SP: Investigation, Hangu vide AIG/Enquiry, Peshawar office Memo: No. 1985/CPO/IAB, dated 26.07.2021. After conducting the said enquiry, the EO submitted the following conclusion in his findings report:

"Keeping in view of above the undersigned has come to the conclusion that the enquiry already proved against the accused officers/officials as they were found involved in embezzlement of Govt: property i.e 7.62 MM genuine rounds of PTC, Kot which caused to huge loss of Govt: exchequer. They have provided full opportunity of cross examination during enquiry, but they failed to prove/show their blamelessness/ innocence and grant loss to the Govt: exchequer. They being members of Police force their professionalism is condemnable and their act are not apologize. As they are not permanent employees of PTC Hangu, therefore, their home districts may be communicated for giving major punishment as per rules. (Photocopy attached)."

Keeping in view the above and in response to the letter No. 2148/CPO/IAB, dated 23.08.2021 (photocopy attached), you are therefore approached to deal the matter according to the conclusion of the SP: Investigation, Hangu (Enquiry Officer) as per rules. As a court matter, may be treated on priority basis, with intimation to this office, please.

808/LB
31-8-21

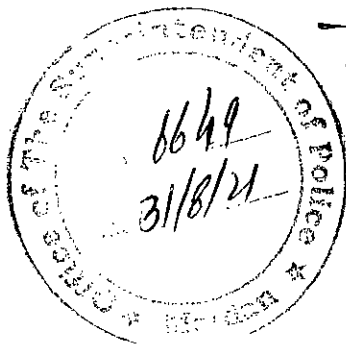
Asad
Commandant
Police Training College, Hangu
PA
For intimation

No. /PA, Dated Hangu the, ___ August, 2021.

Copy of the above is forwarded to AIG Enquires w/r to his letter No. 2148/CPO/IAB.

DSP/Kagal PA
for intimation.

L. M. S. R. A. P.
DSP/K
31-08-2021



DPO/Mardan
27/8/21

Commandant
Police Training College, Hangu

1088/08
3/9/21
OR
DPO/Mardan
02/9/21



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

118
2021

No. 352 /PA

Dated 30/8/2021

FINAL SHOW CAUSE NOTICE

ASI Bashir Muhammad No.814/MR of this District Police, now PTC Hangu on deputation basis was held responsible of gross misconduct & recommended for Major Punishment during the course of De-novo enquiry conducted by Mr. Arshid Mehmood SP/Investigation Hangu on the allegations of embezzlement of Government Properties i-e 7.62 MM genuine rounds of PTC Hangu's Kot, which caused huge loss to Government Exchequer.

In this connection, the delinquent officer was heard at length in OR on 30-09-2021, but failed to satisfy the undersigned, therefore, from his personal hearing & perusal of enquiry papers, he is being issued this Final Show Cause Notice.

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


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

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

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

Received by _____

Dated: ___/___/2021


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

by Inspector

بجوالہ شاوکاس نوٹس نمبر 352 مورخہ 30-09-2021 جناب DPO صاحب مردان
 جناب کمانڈنٹ صاحب PTC ہنگو جناب SP انوسٹی گیشن ہنگو انکوائری معروض خدمت ہوں۔ کہ عرصہ تقریباً
 17-08-2017 سے من ASI بحیثیت انچارج اور نائب انچارج محمد اکرم HC/LI ایونیشن کوت میں
 تعینات تھا دسمبر 2018 سے میرا تبادلہ انمونیشن کوت سے لاء سٹاف ہوئی اور عابد ASI انمونیشن کوت تعینات
 کیا گیا۔ انمونیشن کوت دو مختلف بلڈنگ کے کئی کمرے پر مشتمل ہے جنوری 09-01-2019 سے چارج دے
 دینا شروع کیا شروع ابراہیم کمپنی کوت سے کی گئی جس گنتی پر گنتی کچھ کم تھی اسی دوران عابد ASI نے شور مچانا
 شروع کیا گیا۔ کیونکہ PTC کے مختلف کمروں میں مزید ایونیشن موجود تھا۔ دوران شور شرابہ پر انہ چارج
 رپورٹ اور نیا چارج رپورٹ جو اس نے ذاتی طور پر تیار کیا تھا بھی ساتھ لے گئے کوت کو اپنی طرف سے تالا
 لگا کر چابیاں بھی ساتھ لے گئے اور آفسر بالا کو غلط اطلاع دے کر کہ کوت میں انمونیشن کم ہے مورخہ
 13-02-2019 پر عابد ASI کے شکایت پر مجھے آفسر بالا نے بجوالہ مد 45 مورخہ

13-02-2019 وقت 17:00 بجے بندہ کو اٹارگارڈ کر دیا گیا اور ساتھ میرے خلاف مختلف شکایات کی
 گئی مورخہ 13-02-2019 سے 26-02-2019 تک مجھ کو اٹارگارڈ میں رکھا گیا دوران کو اٹارگارڈ
 شاوکاس نوٹس اور چارج شیٹ بھی دیا گیا۔ میرے طرف سے مختلف بیانات بھی لکھے گئے حالانکہ میں بے قصور
 بندہ کو اٹارگارڈ تھا میرا خلاف جو الزامات لگائے گئے وہ بے بنیاد ہے کیونکہ چابیاں عابد ASI کے پاس تھا او
 ر میں کو اٹارگارڈ میں تھا کوت میں کسی قسم کی کمی و بیشی کا ذمہ دار عابد ASI ہے کہ چارج شیٹ جو جواب ہے وہی

میرا بیان ہے -
 Heard in detail in O.R.
 Please get details of Roznamcha (Daily Diary)
 reports from PTC Hangu to earlier
 conducted on the same PTC ASI/LI
 5-10-21

enquiry
 issue:

OR
 D.P. Khan
 06/X/21



OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2022

No 1350-56 /PA

Dated 15/12/2022

ORDER ON DE-NOVO ENQUIRY OF ASI BASHIR MUHAMMAD NO. 840/MR

This order will dispose-off a Departmental (De-novo) Enquiry under Police Rules 1975, initiated against ASI Bashir Muhammad No. 840/MR of Mardan District Police, presently serving at PTC Hangu on deputation basis.

Details of the case are that ASI Bashir Muhammad was performing duties as In-charge Kot PTC Hangu. On 09-01-2019 ASI Abid Ullah Law Instructor at PTC Hangu took charge of Kot from delinquent officer ASI Bashir Muhammad. On 14-01-2019 ASI Abid Ullah observed that large numbers of bullet rounds of 7.62 MM were missing from the Kot. Upon complaint, a preliminary enquiry was initiated on the directions of Commandant PTC Hangu. During the course of enquiry the record of Kot PTC Hangu was checked and it was noticed that 87369 (eighty seven thousand three hundred & sixty nine) bullet rounds of 7.62 MM were missing. Later-on, the delinquent officer ASI Bashir Muhammad produced 76285 (seventy six thousand two hundred and eighty five) bullet rounds before the enquiry committee which were deposited in the Kot at PTC Hangu. It is worth mentioning that the missing rounds of 7.62 MM were original whereas the 76285 (seventy six thousand two hundred and eighty five) bullet rounds deposited by the delinquent ASI Bashir Muhammad were found to be locally made as per report of arms & Ammunition Expert. After the deposition of bullet rounds by the ASI Bashir Muhammad 11084 (eleven thousand and eighty four) rounds were still found missing.

Upon the recommendation of enquiry committee, ASI Bashir Muhammad was suspended & proceeded against departmentally through a committee comprising of Mr. Shah Mumtaz, the then CLI assisted by Inspector Behroz Khan and Inspector Syed Noor Shah PTC Hangu. The enquiry committee jointly held ASI Bashir Muhammad responsible and submitted its report to Commandant PTC Hangu. Upon submission of report, delinquent ASI Bashir Muhammad was dismissed from service by the Commandant PTC Hangu vide order/endorsement No.119-34/PA dated 15-03-2019.

The delinquent officer lost his case during departmental appeal before the Worthy Inspector General Police Khyber Pakhtunkhwa. Therefore, he approached Services Tribunal for re-instatement. During court's proceedings ASI Bashir Muhammad was re-instated in service due to technical irregularities in departmental enquiry and the matter was remanded back for de-novo enquiry to be conducted by the department strictly in accordance with relevant Law/Rules.

In compliance, ASI Bashir Muhammad was re-instated in service conditionally by Commandant PTC Hangu vide order No.681/EC dated 26-07-2021 and de-novo enquiry was conducted by Mr. Arshid Mehmood SP/Investigation Hangu, who (E.O) after completion of the said enquiry, submitted his findings to the AIG Enquiries Khyber Pakhtunkhwa Peshawar with the conclusion that ASI Bashir Muhammad is guilty of embezzling government property i.e. 7.62 MM original bullet rounds of PTC Hangu causing huge loss to the national exchequer. It is worth mentioning that ASI Bashir Muhammad was provided fair opportunity of hearing and defense. However, he failed to prove his innocence during the course of enquiry. As, the delinquent ASI Bashir was not permanent employee of PTC Hangu, his name was forwarded to his home district for imposition of major punishment as per finding of the enquiry.

by Inspector Baroz Khan and Inspector Syed Noor Shah as enquiry

(13)

In the light of directions of Honorable Service Tribunal and de-novo enquiry conducted by SP/Investigation Hangu, the Commandant PTC Hangu vide his office letter No.627/PA dated 27-08-2021 addressed this office for dealing with the matter according to the finding of de-novo enquiry.

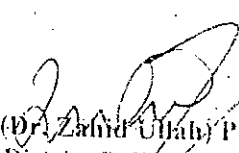
Resultantly, ASI Bashir Muhammad was heard in Orderly Room on 30-09-2021, during which, he failed to present any plausible reasons in his defense. therefore, he was served with a Final Show Cause Notice, issued vide this office No.352/PA dated 30-09-2021, to which, his reply was received and found un-satisfactory, so he was again heard in Orderly Room on 27-10-2021, during which, he requested the undersigned to check the Roznamcha Reports of PTC Hangu for the period 13th to 18th February-2019, so the same was checked, but his plea was found baseless.

Final Order

In the light of the de-novo enquiry report of SP/Investigation Hangu & personal hearing of delinquent official, the allegations of embezzlement in government property i.e. 7.62 MM genuine rounds of Kot PTC Hangu have been proved against ASI Bashir Muhammad. Therefore, I being the competent authority, hereby award him major punishment of dismissal from Police Force with immediate effect, in exercise of the power vested in me under Police Rules-1975.

QB No. 388

Dated 14/02 2022.


(D. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The Inspector General of Police (Attention AIG Legal) Khyber Pakhtunkhwa with reference to CPO Peshawar letter No.9825/Legal dated 07-10-2021, please.
- 2) The Regional Police Officer Mardan, please.
- 3) The Commandant P.T.C Hangu, please.
- 4) The Deputy Inspector General of Police, Enquiries & Internal Accountability Khyber Pakhtunkhwa Peshawar with reference to his good office letter Nos: 1985/CPO/IAB dated 26-07-2021 & 2148/CPO/IAB dated 23-08-2021, please.
- 5) The DSP/HQrs: Mardan.
- 6) The P.O & E.C (Police Office) Mardan.
- 7) The OSI (Police Office) Mardan with 143 Sheets.

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-ASI Bashir Muhammad No. 840/MR of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB No. 389 dated 14.02.2022. The appellant was proceeded against departmentally through de-novo proceedings.

He while posted as In-charge Kot Police Training College, Hangu, ASI Abid Ullah Law Instructor at Police Training College, Hangu took charge of Kot from delinquent officer on 14-01-2019 who observed that large number of rounds of 7.62 bore were missing from the Kot. Upon complaint, a preliminary enquiry was initiated on the directions of Commandant Police Training College, Hangu. During the course of enquiry the record of Kot was checked and it was noticed that 87369 (eighty seven thousand three hundred & sixty nine) rounds of 7.62 MM were missing. Later-on, the delinquent officer produced 76285 (seventy six thousand two hundred and eighty five) rounds before the enquiry committee which were deposited in the Kot. It is worth mentioning that the missing rounds of 7.62 bore were original whereas the 76285 (seventy six thousand two hundred and eighty five) rounds deposited by the delinquent Officer were found to be locally made as per report of Arms & Ammunition Expert. After the deposition of rounds by the delinquent Officer, 11084 (eleven thousand and eighty four) rounds were still found missing.

Upon the recommendation of enquiry committee, the delinquent Officer was suspended and proceeded against departmentally through a committee comprising of Mr. Shah Mumtaz, the then Chief Law Instructor assisted by Inspector Behroz Khan and Inspector Syed Noor Shah. The enquiry committee jointly held the delinquent Officer responsible and submitted its report to Commandant Police Training College, Hangu. Upon submission of report, he was dismissed from service by the Commandant Police Training College, Hangu vide order/endorsement No.119-34/PA dated 15-03-2019.

415/LR
4-2-2022
The appellant approached Service Tribunal for re-instatement into service. During proceedings the appellant was re-instated in service due to technical irregularities in departmental enquiry and the matter was remanded back for de-novo enquiry to be conducted by the department with the directions to strictly follow relevant law/rules.

In light of above, the appellant was re-instated into service conditionally by Commandant Police Training College, Hangu for purpose of de-novo proceedings and the same was entrusted to Mr. Arshid Mehmood Superintendent of Police Investigation Hangu, the enquiry Officer after completion of the said enquiry, submitted his findings to the Assistant Inspector General of Police, Enquiries, Khyber Pakhtunkhwa, Peshawar with the conclusion that the appellant was guilty of embezzling government property i.e. 7.62 bore original rounds by causing huge loss to the national exchequer. However, he failed to prove his innocence during the course of enquiry. Therefore, his case was forwarded to the landing authority for awarding punishment.

The appellant was heard in Orderly Room on 30-09-2021 by the District Police Officer, Mardan during which he failed to present any cogent reasons in his defense, therefore, he was served with a Final Show Cause Notice, to which, his reply was received and found un-satisfactory, so he was again heard in Orderly Room on 27-10-2021, during which, he requested the competent authority to check the roznamcha reports of PTC Hangu for the period from 13th to 18th February-2019, so the same was checked, but his plea was found baseless.

In the light of the de-novo enquiry report of SP/Investigation Hangu and personal hearing of delinquent Officer, the allegations of embezzlement in government property i.e. 7.62 bore genuine rounds of Kot PTC Hangu have been proved against delinquent Officer. Therefore, he was awarded major punishment of dismissal from Police Force with immediate effect.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. As the appellant had produced the missing rounds before the enquiry Committee which aspect of the matter clearly depicts the involvement of appellant in embezzlement of government property. Besides, the ammúnitions produced by the appellant were local made while the missing one were not of local made. Hence, the involvement of appellant in such-like activities is clearly a stigma on his conduct. Therefore, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification regarding his innocence.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.

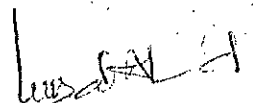

Regional Police Officer,
Mardan.

No. 2772 /ES, Dated Mardan the 05/04 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 63/LB dated 25.03.2022. His Service Record is returned herewith.

(*****)

Keep on Record



DSPIL

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

Service Appeal No. 873/2022

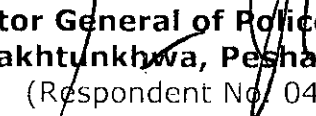
Bashir Muhammad, Ex-Assistant Sub Inspector No. 840/MR, District Police
Mardan.....Appellant

VERSUS

The Inspector General of Police , Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

AUTHORITY LETTER.

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


**Inspector General of Police Khyber
Pakhtunkhwa, Peshawar**
(Respondent No. 04)


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


**Commandant Police Training College,
Hangu.**
(Respondent No. 03)


**District Police Officer,
Mardan.**
(Respondent No. 01)