

51/16

21.12.2016

Counsel for the appellant and Mr. Mr. Farmanullah, Inspector alongwith Additional AG for the respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 25.04.2017 before D.B.

(MUHAMMAD AMIR NAZIR)  
MEMBER

25.04.2017

Counsel for the appellant and Mr. Bakht Zamin, Inspector (Legal) alongwith Ziaullah, Government Pleader for the respondents present.

Representative of the respondents pressed into service copy of order dated 03.04.2017 vide which the appellant has been reinstated in service as officiating ASI from the date of his reversion. In view of the above, learned counsel for the appellant requested for withdrawal of the appeal.

Dismissed as withdrawn. File be consigned to the record room.

*Muhammad A.*  
Member

*[Signature]*  
Chairman

ANNOUNCED  
25.04.2017

25.04.17

Appellant Deposited  
Security & Process Fee

19.01.2016

Counsel for the appellant present and heard. He submitted that by way of the impugned order dated 13.7.2015, the appellant was reverted from the substantive rank of ASI to the rank of Head Constable, which is contradictory for the reasons that the appellant was penalized on the basis of complaint registered under sections 506/342/34PPC and that he has been stigmatized. Learned counsel for the appellant further submitted that the impugned order was passed with retrospective effect and promotion of the appellant has been differed.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 19.05.2016.

  
MEMBER

19.05.2016

Appellant in person and Mr. Alamgir Khan, S.I (legal) alongwith Addl: AG for respondents present. Written reply by respondents not submitted and requested for further time for submission of written reply. To come up for written reply/comments on 05.09.2016 before S.B.

  
Member

05.09.2016



Appellant in person and Mr. Farmanullah, Inspector alongwith Additional AG for respondents present. Written reply submitted, copy whereof handed over to appellant. To come up for rejoinder and arguments on 21.12.2016 before D.B.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 51/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.01.2016	<p>The appeal of Mr. Amir Jan resubmitted today by Mr. Saadullah Khan Marwatn Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>18-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Amir Jan son of Haji Muhammad Yar Head Constable Police Line Lakki Marwat received to-day i.e. on 08.01.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- In the memo of appeal places have been left blank which may be filled in.
- 2- Copy of annexure-I is not attached with the appeal which may be placed on it.
- 3- Annexure-D of the appeal is illegible which may be replaced by legible/better one.
- 4- Annexures of the appeal may be attested.

No. 66 /S.T,

Dt. 11/1 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Peshawar.

Sir

Re-submitted after  
Completion.



13/1/16.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A. No. 51 /2016


Amir Jan Versus D.P.O & others

**I N D E X**

S.No	Documents	Annex	P.No.
1.	Memo of Appeal		1-3
2.	Mad No. 28 against accused, 09.07.2015	"A"	4-5
3.	FIR, 10.07.2015	"B"	6-7
4.	Threat Mad No. 28, 10.07.2015	"C"	8
5.	Impugned Order, 13.07.2015	"D"	9
6.	Charge Sheet/Allegation, 16.07.2015	"E"	10-11
7.	Show Cause Notice, 16.07.2015	"F"	12
8.	Reply to Allegations, 21.07.2015	"G"	13-14
9.	Reply to Notice, 21.07.2015	"H"	15-16
10.	Application for Supply of Order,	"I"	17
11.	Representation, 24.08.2015	"J"	18-19
12.	Application for Condonation of delay/ Affidavit		20-21

Dated. 08.01.2016

Through

Appellant  
  
Saad Ullah Khan Marwat  
Advocate.  
21-A Nasir Mansion,  
Shoba Bazar, Peshawar.  
Ph: 0300-5872676  
0311-9266609

**BEFORE KPK SERVICE TRIBUNAL PESHAWAR**

S.A No. 51 /2016

Amir Jan S/o Haji Muhammad Yar,  
Head Constable, Police Line, Lakki Marwat . . . . . Appellant

Versus

**A.W.P. Province  
Service Tribunal  
Diary No. 28  
Dated 08-1-2016**

- 1. District Police Officer, Lakki Marwat.
- 2. Regional Police Officer, Bannu Region,  
Bannu.
- 3. Provincial Police Officer, KP, Peshawar. . . . . Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL  
ACT, AGAINST OB No. 255, DATED  
13.07.2015 OF RESPONDENT NO. 1,  
WHEREBY APPELLANT WAS REVERTED FROM  
THE RANK OF ASI TO THE RANK OF HEAD  
CONSTABLE FOR NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**Respectfully Sheweth:**

- 1. That appellant was initially appointed as constable on 24.03.1987 and on dedicated performances, he was promoted to the rank of Head Constable in the year, 2003 and thereafter promoted to the rank of ASI on 01.01.2009.
- 2. That on 09.07.2015, Mad No. 28 was registered in PS Lakki Marwat by complainant, Irfan Rasheed S/o Muhammad Hassan to the effect that Barkat Ullah S/o Naimat Ullah and 03 others betted him for ill wishes. (Copy as annex "A")
- 3. That on 10.07.2015, complainant made report in PS Lakki Marwat under Section 506, 342/34PPC against the said accused, Barkat Ullah and Sakhwat Ullah for beating and forcibly putting him in car to abduct him and then fled away. Appellant scribed Muraslla which was converted into

**Handwritten signature and date:**  
8/1/16

**re-submitted to-day  
and filed;**  
**13/1/16**

FIR No. 444 by Imtiaz Khan ASHO of the PS. (Copy as annex "B")

4. That on the said date Asmat Ullah, Lecturer in General Science brother of accused Barkat Ullah made call to appellant through Mobile No. 0313-9108725 that he has made report against his brother for abduction of the complainant, so he will face consequences of the said report in this respect. (Copy as annex "C")
5. That at the instance and pressure of the brother of the accused, the impugned order dated 13.07.2015 was issued by R. No. 1, reverting him to the rank of Head Constable from the rank of ASI. (Copy as annex "D")
6. That it seemed that the authority was not satisfied with the aforesaid punishment, imposed upon appellant, served him with charge sheet, statement of allegation and show cause notice on 16.07.2015 simultaneously to the effect that:-
  1. Malafidly, wrongfully registered FIR and willfully misstated the facts; and
  2. He did not notify the concerned SHO/DSP regarding the registration of FIR.
 But such allegations were totally false and incorrect. (Copies as annex "E" & "F")
7. That charge sheet and show cause notice were replied on 21.07.2015 by denying the allegations. (Copy as annex "G" & "H")
8. That the impugned order dated 13.07.2015, was not served upon appellant, so he submitted application on 22.07.2015 for supply of the same which was received from the office on 28.07.2015. (Copy as annex "I")
9. That on 24.08.2015, appellant submitted representation before R. No. 2 for restoration to the rank of ASI but in vain. (Copy as annex "J")

Hence this appeal, inter alia, on the following grounds:-


**GR O U N D S:**

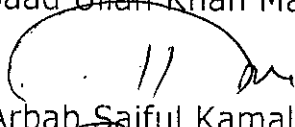
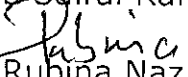
- a. That it is astonished to note that the authority succumbed before the ill wishes of the brother of accused and appellant was awarded with major punishment for no fault.
- b. That the accused Barkat Ullah took the law in to his hand to compel a poor fellow for ill wishes and due to his this subservient act, the family of the complainant left the home and shifted to Punjab.
- c. That appellant was booked for misconduct by awarding him major punishment of reversion from the rank of ASI to the rank of Head Constable without re-coursing to law as he was neither served with any charge sheet, statement of allegation, enquiry and show cause notice nor served with final show cause notice, so the impugned order is of no legal effect.
- d. That appellant was due for promotion/confirmation as ASI but due to suspension and the case, he was deferred for such benefit.
- e. That from the available record, it is quite clear that appellant was made escaped got for others and not for the welfare of the department. Such act of the respondent is based of malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, the impugned order dated 13.07.2015 of respondent No. 1 be set aside and appellant be restored to his original position of ASI with all back benefits, with such relief as may be deemed proper and just in circumstances of the case.

Dated. 08.01.2016

Through

  
Appellant  
Saad Ullah Khan Marwat

  
Arbab Saiful Kamal  
  
Miss Rubina Naz  
Advocates.



9-7-15

کتاب

صالح پور

شماره 28 روزنامہ 09 07 015

ایورٹ: فہرستیں MTR دہلی 09 07 وقت 15.22 بجے ایورٹ آئی

دہلی ایورٹ سٹیشن اور ایورٹ مین اسٹیشن پر 7 روزانہ بدست مین

حالیہ سٹیٹ مین اسٹیشن پر 7 روزانہ بدست مین اسٹیشن پر 7 روزانہ بدست مین

میں 21.30 بجے گاٹا ٹرینوں پر 7 روزانہ بدست مین اسٹیشن پر 7 روزانہ بدست مین

پر 7 روزانہ بدست مین اسٹیشن پر 7 روزانہ بدست مین اسٹیشن پر 7 روزانہ بدست مین

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Attested  
6







"C"

8

15-7-10  
کتابخانہ

لوگوں

تعداد 28 روزنامہ 10 7/15

28 روزنامہ ایمر خان خان ASI صرف 10 7/15 وقت 15: 22 بجے دہلی  
 صبح میں کتابخانہ میں موجود تھا۔ کی بوتل 22: 13 بجے صرف عدالت میں  
 4870650-4311 جو ایڈریس ہے۔ 9108725-0313 سے کال آئی  
 میں نے کال ایڈریس کی جس سے کال کر میں نجیب اللہ خان 40 کی ضرورت  
 کا بھائی شہت اللہ بات کر رہے ہیں آج ASI سے میرے بھائی  
 شہت اللہ کو ایڈریسنگی کی ضرورت ہے۔ اس میں DPO صاحب اس میں  
 آج بھی آج DPO صاحب سے شہت اللہ کو کالوں بعد میں آج  
 کے ساتھ خود دیکھو گا آج ASI کو اس پرچے کے ذریعہ کال کر رہے ہیں  
 تمام برآمد ہوئے حالانکہ جمعے سے نہیں ملے گا۔ کہ عدالت سے نجیب اللہ  
 خان 40 کی ضرورت کے بھائی پر دعویداری کیس ہے۔ اس میں  
 شہت اللہ خدوواہ کے خلاف ایڈریس وقت روزنامہ سے۔ افسران  
 ہاگ سے جکے خدوواہ کا فون کاروائی کی اسٹیڈیا کرتا ہے۔ نقل و  
 افسران ہاگ کے وقت میں قانونی کاروائی کرنے کے قاطع ارسال ہوئی۔

صالحی  
 نسر علی خان

Attest  
 by

A. Q.

14-7-10

D

9

13-7-15

Order

Officiating Amir Jan posted at PS Lakki as ASI (unconfirmed/on probation) is hereby reverted to his substantive rank of Head Constable with immediate effect vide Rule 13-18 of Police Rules 1934 (while on probation officers may be reverted without departmental proceedings) for registration of FIR u/s 506 PPC PS Lakki without notifying of the concerned SHO and DSP and for gross violation / disobedience of the orders of Section Officer on his part.

OB No. 255  
Dated 13.07.2015

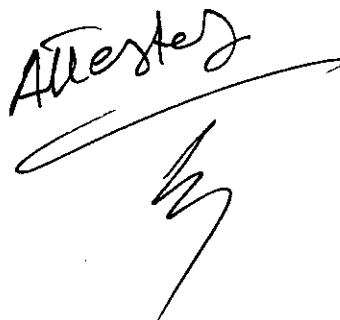
Sd/-  
District Police Officer  
Lakki Marwat.

No. 8316/

Copies to the

1. Regional Police Officer, Bannu Region, Bannu for favour of information.
2. DSP, Headquarter Lakki.
3. SHO, Lakki.
4. PO/EC/OHC for necessary action.

Sd/-  
District Police Officer  
Lakki Marwat.

Attested  


POLICE DEPARTMENTBANNU REGIONORDER

My this order will dispose off the appeal of HC Amir Jan of Lakki District Police against the order of his reversion from the rank of Offg: ASI to the substantive rank of HC passed by DPO/Lakki vide OB: No.255, dated 13.07.2015 on committing the following omissions:-

He had wrongfully registered a case vide FIR No.444, dated 07.10.2015 and did not notify the concerned SHO/DSP regarding the registration of FIR.

The said HC was proceeded against departmentally by the DPO Lakki. He was charge sheeted and DSP/HQr: Lakki was appointed as Inquiry Officer. The inquiry Officer conducted proper departmental proceedings wherein the defaulter Police officer was recommended for exoneration of the charges and the aforementioned punishment was awarded to him.

After hearing the appellant in Orderly Room, perusal of his Service Record and obtaining legal opinion I, Muhammad Ali Khan, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me, hereby set aside the order of DPO Lakki vide OB No.255, dated 13.07.2015 and reinstate him as Offg: ASI from the date of his reversion.

Order announced

(MUHAMMAD ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu

No. 1152 /EC, dated 03/10/2017

Copy to the District Police Officer, Lakki for information and n/action w/r to his office Memo: No.258, dated 10.01.2017.

(MUHAMMAD ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu

3/3/17

AMMERIVE-D

S. J. Misc. 4, 2015

D

9

13-7-15<sup>th</sup>

**ORDER**

Officiating Amir Jan posted at PS Lakki as ASI (unconfirmed on probation) is hereby reverted to his substantive rank of Head Constable with immediate effect vide Rule 13-18 of Police Rules 1934 (while on probation officers may be reverted without departmental proceedings) for registration of FIR n/a 506 PPC PS Lakki without notifying of the concerned SHO and DSP, and for gross violation / disobedience of the orders of Senior Officers on his part.

OB No. 255

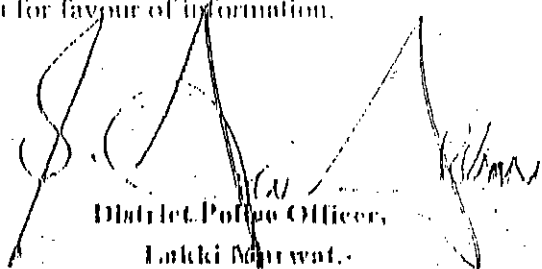
Dated 13/07/2015

District Police Officer,  
Lakki Marwat.

No. 8316 /

Copies to the:

- 1. Regional Police Officer, Bannu Region, Bannu for favour of information.
- 2. DSP, Headquarter Lakki.
- 3. SHO, Lakki
- 4. POB/COIC for necessary action



District Police Officer,  
Lakki Marwat.

*Kulsh*  
/

*Attest*  
/



E

10

ANNEXURE - E

16-7-15

DA:Charge Sheet File 2015.doc

-64-

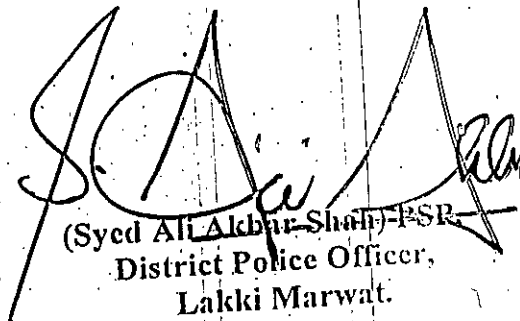
CHARGE SHEET UNDER NWFP POLICE RULES 1975.

I, Syed Ali Akbar Shah District Police Officer, Lakki Marwat as competent authority hereby charge ASI Amir Jan while posted at Police Station Lakki as follow:-

1. That you ASI Amir Jan mala-fidely, wrongfully registered an FIR and willfully misstated the facts.
2. That you ASI Amir Jan did not notify the concerned SHO/DSP regarding the registration of FIR, which is gross violation/ disobedience of the order of senior officers i.e. the worthy RPO Bannu letter No. 2104-05/Reader dated 07.04 2015.

By reason of the above, you appear to be guilty or misconduct under section - 02 (iii) of the N.W.F.P Police Rules 1975 and has rendered yourself liable to all or any of the penalties as specified in section - 04 (i) and & b of the said rules.

1. You are therefore, directed to submit your written defense within seven days (7) of the receipt of this Charge Sheet to the Enquiry Officer.
2. Your written defense if any, should reach to the enquiry officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, an ex-parte action shall follow against you.
3. Intimate whether you desired to be heard in persons.

  
 (Syed Ali Akbar Shah) PSR  
 District Police Officer,  
 Lakki Marwat.

*Handwritten notes:*  
 Discharge order in receipt  
 21.7.15

*Handwritten notes:*  
 Attestor  
 by

11

16-7-15

D:\Charge Sheet File 2015.doc

- 62 -

**OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.**

No. 8393-95

Dated: 16-07 2015

**DISCIPLINARY ACTION UNDER NWFP POLICE RULES - 1975.**

I, Syed Ali Akbar Shah District Police Officer, Lakki Marwat as competent authority am of the opinion that ASI Amir Jan while posted to PS Lakki has rendered himself liable to be proceeded against as he committed the following acts/commission within the meaning of Section-02 (iii) of N.W.F.P Police Rules 1975.,

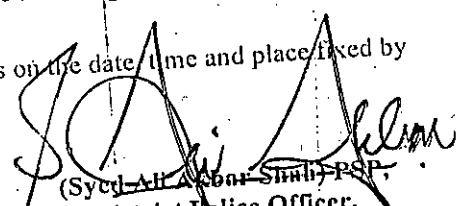
**STATEMENT OF ALLEGATIONS.**

- 1. That you ASI Amir Jan mala-fidely, wrongfully registered an FIR and willfully misstated the facts.
- 2. That you ASI Amir Jan did not notify the concerned SHO/DSP regarding the registration of FIR, which is gross violation/ disobedience of the order of senior officers i.e the RPO Bannu letter No. 2104-05/Reader dated 07.04.2015.

For the purpose of securitizing, the conduct of the said official with reference to the above allegations Mr. Khan Khel DSP/ Hqr: Lakki is appointed as Enquiry Officer.

The Enquiry Officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused official, record its finding and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.

The accused official shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

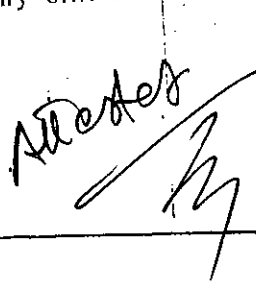
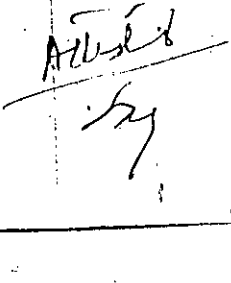
  
 (Syed Ali Akbar Shah) DSP,  
 District Police Officer,  
 Lakki Marwat.

**OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.**

No. \_\_\_\_\_ / SRC. dated Lakki Marwat the \_\_\_\_\_ /2015.

Copy of above is forwarded to the:-

- 1. The Regional Police Officer, Bannu Region, Bannu for favour of information, please.
- 2. Mr. Khan Khel DSP/ Hqr: Lakki for initiating proceedings against the accused official namely ASI Amir Jan under Police Rules 1975.
- 3. ASI Amir Jan Police Lines with the directions to appear before the Enquiry Officer on the date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings.

OFFICE OF THE DISTRICT POLICE OFFICER, LAKKI MARWAT.No. 8392/SRC.Date 16/07/2015.SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

**WHEREAS**, you ASI Amir Jan while posted to Police Station Lakki Marwat:-

1. That you ASI Amir Jan mala-fidely, wrongfully registered an FIR and willfully misstated the facts.
2. That you ASI Amir Jan did not notify the concerned SHO/DSP regarding the registration of FIR, which is gross violation/ disobedience of the order of senior officers i.e. the RPO Bannu letter No. 2104-5/Reader dated 07.04.2015.

That this all shows gross misconduct on your part and makes you liable to be punished under Police Rules-1975.

You are therefore, found guilty of misconduct, as the defined in section 2 (iii) of KPK Police Rules 1975 and as such are liable to action under section 3 of the said Rules.

Based on the above facts, I am satisfied that no enquiry is needed in this case as contained in section 5.3 clauses (a) & (c) under the said Rules.

Now, therefore, you ASI Amir Jan while posted to PS Lakki, are called upon under section 4 (1) of the KPK Police Rules 1975, to show cause within 15 days of the issuance of this notice, as to why one or more penalties including major penalty of dismissal from service should not be imposed upon you.

NOTE:-

Take note that if you failed to submit reply in compliance of this show cause notice within the stipulated time, it will be presumed that you have nothing to offer in your defense and in that case, an expert action shall straightaway be taken against you without any further notice.

(Syed Ali Akber Shah) RSP  
District Police Officer,  
Lakki Marwat.

وہو  
میں نے اس پر عمل درآمد کیا ہے  
اور اس کے مطابق  
اسی امیر جان کو  
21.07.15

Advised  
by

Ali Akber  
by









**BEFORE THE HONOURABLE REGIONAL POLICE OFFICER, BANNU  
REGION, BANNU.**

Subject: **APPEAL AGAINST THE IMPUGNE ORDER OB NO. 355 DATED 13.07.2015 OF WORTHY DISTRICT POLICE OFFICER, LAKKI MARWAT WHERE BY THE APPELLANT WAS REVERTED TO THE SUBSTANTIVE RANK OF HEAD CONSTABLE.**

**Respectfully Sheweth:**

The appellant most respectfully submit this appeal before your honourable Port-Folio brief description of the case is that the appellant, while serving as ASI PS Lakki Marwat, had recorded the report of one Irfan Rashid s/o Mohammad Hassan r/o Moh: Gulwali Abad Lakki Marwat, who had reported to the effect that on 10.07.2015 he was going to meet one Habib ur Rehman to pay him his out standing amount of Rs: 3000/-.

On the way near Moh: Mium Khel Lakki a Motor Car red in colour came for behind and blocked his way. Accused Barkatullah, Sakhawat and 2 other unknown accused de-boarded from the car, accused were armed with KK-Rifles and Pistols they belabored him and forcibly put him in the car, tightened his eyes with shawal (شال) and drove towards unknown place. After some time they opened his eyes and threw him out of car. The complainant found himself near Gambila bridge. Complainant informed his brother Haroon Rashid & consequently the Police arrived on the spot and recorded his report. A Murasla was sent to the PS for further Police proceeding.

On 13.07.2015 worthy District Police Officer, Lakki Marwat vide his OB No. 255 dated 13.07.2015 reverted the appellant to his substantive rank of HC (copy of order is attached as Annex-A).

**Grounds of Appeal:**

1. That the order of learned DPO Lakki Marwat is against law, justice & facts on record.
2. That order of learned DPO Lakki Marwat has occasioned great miscarriage of justice.
3. That on receipt of information about the occurrence the appellant rushed to the spot, where report of complainant Irfan Rashid was recorded in shape of Murasla and sent to PS and also duly informed the senior Officer of PS Lakki Marwat.
4. That if there were any interventions/ directions regarding non registers their cases u/s 506 PPC, it was the duty of duty Officer not to register the FIR before notifying the senior officers regarding the matter (registration of case u/s 506 PPC).
5. That as the complainant had earlier chronic enmity with the accused party, who forcibly wanted the friendship of complaint son Asif, therefore, non recording of his report, would have amounted to "Burking" which is always forbidden in the police department (copy attached as Annex-B).

*Attested*



- 19
6. That as per maxim of equality & justice a person cannot be fined/punished twice for one & the same fault, where as in the present case, the appellant has been punished and reverted to substantive rank of HC, while on the other hand, the appellant has been charged sheeted for further departmental enquiry, which practice has always been held "BAD" by the honorable senior court.

PRAVERS:


That the appellant had joined the Police department as constable on 24.03.1987 and after qualifying all the pre-requisite courses of Police department gradually promoted to the rank of ASI on 01.01.2009. That as an ASI the appellant has rendered valuable and spotless service & there has never been any complaint for the senior officers or for the public.

In view of the above stated grounds, it is most humbly prayed that are acceptance of this appeal, the punishment of reversion to the substantive rank of HC by the worthy DPO Lakki Marwat may very graciously be set-aside and the appellant may be restored to the original position of ASI enabling him to discharge the duty with zeal, zest, dedication and relieved of mental agonize.

I also wish to be heard in person.

Dated 24/8/2015

Your humble appellant,

  
HC Amir Jan District Police,  
Lakki Marwat.

Attested  
by

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

S.A. No. /2016

Amir Jan

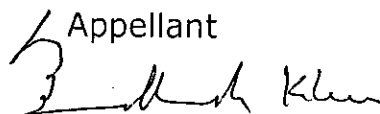
Versus

D.P.O &amp; others

**APPLICATION FOR CONDONATION OF DELAY,  
IF ANY.****Respectfully Sheweth:**

1. That petitioner filed the subject appeal on 08.01.2016 before this Hon'ble Tribunal.
2. That the subject appeal could not be filed within limitation period as he was unable to move, such long journey and got examined from District Civil Hospital, Lakki Marwat on 19.12.2015 and advised him bed rest for three weeks with effect from 19.12.2015 till 09.01.2016. (Copy attached)
3. That delay was not willful but was due to the compelling circumstances as per consultant report/advise. Even then such like matters be decided as per merit and not on technical ground of limitation.

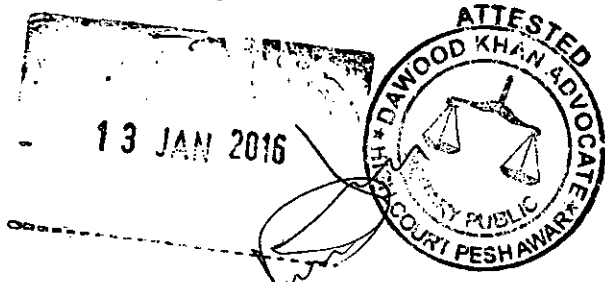
It is, therefore, most humbly requested that the delay in filing of the appeal be condoned and the same be decided on merit.

Through  Appellant  
Saad Ullah Khan Marwat  
Advocate.

Dated. 08.01.2016

**AFFIDAVIT**

I, Amir Jan S/o Haju Muhammad Yar, Head Constable, Police Line, Lakki Marwat, do hereby solemnly affirm and declare that contents of **Application** are true and correct to the best of my knowledge and belief.



  
DEPONENT

Sent To:

# OUT DOOR PATIENT TICKET

DHIS - 02 (F)

District 3

CRP No: 9197

Facility Name Jharkhand

Name Jharkhand

Age: 17/12/1015 Sex:

Father's/Husband's Name

Monthly OPD Serial No.  Date:

Provisional Diagnosis: OPD

Date

Clinical Findings / Investigations / Treatment / Referred / Test Findings

ACT (230)

Inf. Hepatitis ??

Ch. Hepatitis (30)

MS Pending (20)

Advise to Rest for 3 weeks w.e.f 12.12.2015

S.M.O



Dist: City Hospital, Lakshminarayan

Signature

یعدالت جناب سرورس ٹریبونل صوبہ سرحد پشاور

مخانب ایڈوائٹ

اسرار خان مقام

دعویٰ اپیل

باعث شکریہ ایتمکہ

مختارہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹے اسکند اڈا خان سرور سے ایڈوائٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موقوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہر قسم کی تعدد لیت اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور مستعدی نیز طرز کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی سے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا اور دوران مقدمہ میں جو ضمیمہ و ہر جانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موقوف ہوں گے نیز بقایا و ضمیمہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا عدت سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا نکالت نامہ دیکھ دیا کہ سند ہے۔

الرقوم 7 1/16

التسبید

ارباب سید اہلال ایڈوائٹ

سیدہ اللہ خان مروت ایڈوائٹ

am jar

Tabina من رویتہ تاز ایڈوائٹ

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.****Appeal No.51/2016**

Mr. Amir Jan .....

Appellant/Petitioner

**Versus**

1. District Police Officer, Lakki Marwat
2. Regional Police Officer, Bannu Region, Bannu.
3. Provincial Police Officer & other ..... Respondents

**PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS**Respectfully Sheweth:-Preliminary Objections

1. That the appeal of appellant is badly time-barred.
2. That the order of Respondent No.01 is very much legal.
3. That the appeal is not maintainable in its present form.
4. That applicant has concealed the actual facts from the honorable tribunal.
5. That the appeal is bad in law due to non joineder of necessary parties.
6. That the appellant has approached the Honorable Tribunal with unclean hands.
7. That the appeal has got no cause of action and locus standi to file the instant appeal.
8. That the appellant has been estopped by his own conduct.

Objections on facts:

1. Pertains to record. Hence no comments.
2. Pertains to record. Hence no comments
3. Incorrect. The complainant has not been reported his complaint in PS Lakki Marwat as per the version of the Appellant (ASI Amir Jan), murasla was scribed at City Hospital Lakki and then converted into FIR No.444 dated 10.07.2015 u/s 506/342/34 PPC PS Lakki which reveals that the complainant has reported at Lakki City Hospital instead of Police Station. As per law, if any one made a report in PS, there is no need to write murasla. However, in the said case murasla was written, then corporate in daily diary and malafidly converted into FIR after consultation & deliberation to create concocted story and charged the said accused.
4. Pertains to record. Hence no comments.
5. Incorrect. The instant order was issued due to his illegal act and gross misconduct.
6. Incorrect. The competent authority initiated departmental proceedings and after completion of enquiry, the appellant was found guilty therefore, he was awarded punishment.

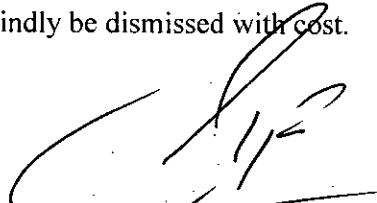
7. Pertains to record. Hence no comments.
8. Pertains to record. Hence no comments.
9. Pertains to record. Hence no comments.


**Reply on grounds.**

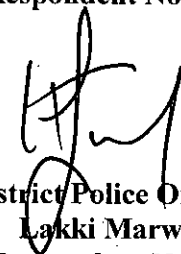
- (a) Incorrect. The punishment was awarded according to law/rules due to his misconduct, and misuse of power as well as volition of legal orders of his high ups.
- (b) Needs no comments.
- (c) Correct to the extent that the applicant was awarded punishment, rest of the para is incorrect. Proper charge sheet and summery of allegations was issued to the Appellant and DSP/HQR Lakki was appointed as inquiry officer. After departmental enquiry, the allegations were established and appellant was punished by the competent authority.
- (d) Pertains to record. Here no comments.
- (e) Incorrect. The order of the authority is quite legal. The appellant violated law/rules and malafidly registered an FIR which was proved in department inquiry. Hence, punishment of Reversion from Officiating Rank under Police Rules 13-18 was awarded. **As per Rule 13-18:- "While on probation officers may be reverted without departmental proceedings. Such reversion shall not be considered reduction for the purpose of rule 16-4."**

**Prayer:-**

Keeping in view of the above facts and circumstances, it is humbly prayed that the Appeal of the Appellant is devoid of legal force; same may kindly be dismissed with cost.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.3)

  
Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)

  
District Police Officer,  
Lakki Marwat  
(Respondent No.1)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.****Appeal No.51/2016**

Mr. Amir Jan .....

Appellant/Petitioner

**Versus**

7. District Police Officer, Lakki Marwat

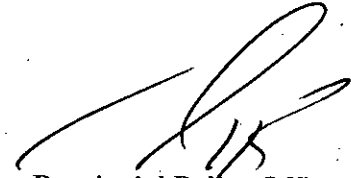
8. Regional Police Officer, Bannu Region, Bannu.

9. Provincial Police Officer &amp; other .....

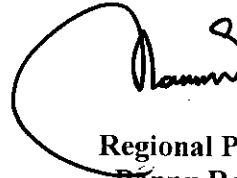
Respondents

**COUNTER AFFIDAVIT**

We, the respondents do hereby solemnly affirm and declare that the contents of the attached pare-wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honourable Tribunal.



**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.3)**



**Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)**



**District Police Officer,  
Lakki Marwat  
(Respondent No.1)**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.****Appeal No.51/2016**

Mr. Amir Jan .....

Appellant/Petitioner

**Versus**

4. District Police Officer, Lakki Marwat

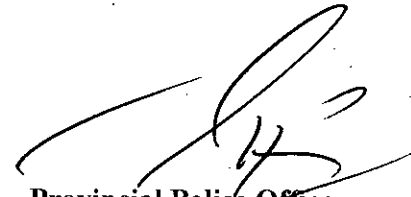
5. Regional Police Officer, Bannu Region, Bannu.

6. Provincial Police Officer &amp; other .....

Respondents

**Authority Letter**

Mr Ayub Khan SI/ Legal Lakki Marwat is hereby authorized to appear before the Service Tribunal K.P, Peshawar on our behalf in the subject cited case. He is also authorized to submit any documents pertaining to the subject case/appeal with the prior consolation of AGP, of the respective Tribunal.



**Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.3)**



**Regional Police Officer,  
Bannu Region, Bannu  
(Respondent No.2)**



**District Police Officer,  
Lakki Marwat  
(Respondent No.1)**



**BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR**

S.A. No. 51/2016

Amir Jan

versus

D.P.O &amp; Others

**REJOINDER****Respectfully Sheweth,****PRELIMINARY OBJECTIONS:**

All the 6 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, order is legal, not maintainable, concealment of facts, miss and non-joinder of parties, unclean hands, no cause of action, locus standi and estoppel.

**ON FACTS:**

1-2: Needs no comments.

3. Not correct. The para of the appeal is correct. The complainant has alleged beating, so to know the nature of injury / hurt, opinion of Medical Officer was must to inflict / impose relevant section of Law. For the said reason, it was incumbent upon the appellant to go through the prescribed process.
4. Admitted correct by the respondents regarding giving threat to appellant by the brother of complainant namely Asmat Ullah lecturer through mobile No # 0313-9108725.
5. Not correct. No illegality or misconduct was ever committed as stated in para No 3, above.

A part from the aforesaid facts, it is pertinent to bring in to the kind notice of the hon'ble court that appellant was promoted to the post of Off; ASI along with others vide order dated 07-10-2008. The Off; / probation period, being two (02) years, was successfully completed and as per Police Rules, 1934 (13.18)

Servant, who completed two years probation period, shall automatically become confirm / permanent, meaning thereby that appellant was confirmed ASI after 27-10-2010. (Copy as Annex "R")

The incumbents mentioned in order dated 27-10-2008 have by now confirmed as ASIs.

That inquiry into the matter was sub-judice before the authority and after completion of the same, R. No 1 passed order No 177, dated 16-06-2016 where in appellant was awarded written warning to be careful in future, meaning thereby that the punishment of reversion was converted into warning. (Copy as Annex "R/1")

That due to the case in hand, the department confirmed OASI as ASI, namely Shakirullah and M. Zahir Shah, being juniors vide order dated 11-08-2016 & 22-08-2016. (Copies as Annex "R/2")

6. Not correct. The authority illegally initiated proceedings against appellant for no obvious reasons and the proceedings were also not carried out as per the mandate of law.
- 7.9. Not commented upon by the respondents, so the paras of the appeal are admitted correct by the respondents.

#### **GROUND S:**

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The same are again adopted, as for Rule 13.18 of Police Rules, 1934 is concerned, appellant was not reverted for inefficiency but for misconduct, so the same punishment required thorough probe.

More so, there is no punishment of reversion in the law but of reduction.

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

*Amir Jan*  
Appellant

Through

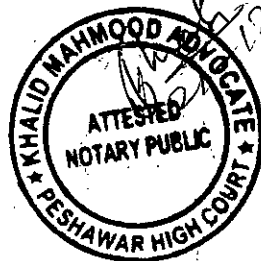
*Saadullah Khan Marwat*  
Saadullah Khan Marwat  
Advocate,

Dated: 21-12-2016

### AFFIDAVIT

I, Amir Jan appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.



*Amir Jan*  
DEPONENT

R

45

POLICE DEPTT.:

BANNU REGION.

ORDER.

The following Head Constables on promotion list "D" have been considered suitable for promotion as Offg:Asstt:Sub:Inspectors by the Range Selection Board in a Meeting, held on 25.10.2008 in Range Office, Bannu.

On promotion, they are posted to the Distts: as noted against their names:

Necessary Gazette Notification may be issued under intimation to all concerned.

S.No.	Name & No.	Place of Posting.
1)	HC, Abdul Hamid, No. 115.	Bannu Distt:.
2)	HC, Qamar Zaman, 296.	Bannu Distt:.
3)	HC, Azim Khan, 343.	Lakki Distt:.
4)	HC, Amir Jan, 282.	Lakki Distt:.
5)	HC, Mehrab Khan, 171.	Lakki Distt:.
6)	HC, Muhammad Nawaz,	Bannu Distt:.
7)	HC, Muhammad Rehman, 640.	Bannu Distt:.
8)	HC, Hamdullah Jan, 407.	Lakki Distt:.
9)	HC, Muhammad Noor, 608.	Bannu Distt:.

( M. MASOOD KHAN AFRIDI )  
P.S.P.  
Regional Police Officer,  
Bannu Region, Bannu.

No. 2994-96 / EC Dt: Bannu, the 27-10-2008  
Copy to :-

- 1). The Provincial Police Officer, N.P.F. Peshawar.
- 2). The Distt: Police Officer, Bannu.
- 3). The Distt: Police Officer, Lakki.

( M. MASOOD KHAN AFRIDI )  
P.S.P.  
Regional Police Officer,  
Bannu Region, Bannu.

ORDER.

My this order will disposed off the departmental enquiry against offg: ASI Amir Jan who while posted as ASI in PS Lakki, malafiedly, wrongfully registered a case vide FIR No. 444 dated 10.07.20145 u/s 506/342/34 PPC at PS Lakki and willfully misstated the facts. He did not notify the concerned SHO/DSP regarding the registration of FIR. On receipt of FIR the then District Police Officer, Lakki Marwat awarded him punishment of reversion from his offg: rank of ASI to substantive rank of Head Constable and also started departmental enquiry against him vide OB No. 255 dated 13.07.2015. Charge Sheet based upon statement of allegation were issued to him and DSP/Lakki was appointed as Enquiry Officer. The Enquiry Officer after conducting proper Departmental Enquiry submitted in his finding report "the allegation regarding registration of FIR wrongfully seems baseless, however penalty for not informing SDPO & SHO about the registration of case is the violation of the order of senior officer".

In view of the above facts and circumstances, he is hereby awarded written warning to be careful in future.

O.B No.

177

Dated: 16-08/2016

(Muhammad Hasan Iqbal) PSP  
District Police Officer  
Lakki Marwat

No. / Dated Lakki Marwat the .2016

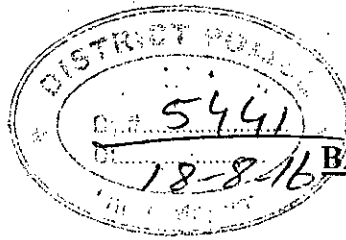
Copy of above is submitted to the Regional Police Officer, Bannu Region Bannu for favour of information w/r to his office Endst: No. 1874/EC, dated 24.08.2015 please.

(Muhammad Hasan Iqbal) PSP  
District Police Officer  
Lakki Marwat

Attested  
[Signature]

R/2

6



POLICE DEPARTMENT.

ORDER.

In continuation of this office Order Endst: No. 3829-32/EC dated 28.12.2015 and last Order Endst: No. 1839-40/EC dated 29.6.2016, on enhancement of vacancies of ASIs from 154 to 195 posts vide CPO, Peshawar Memo: No. 2500-2506/E-III dated 1.7.2016, the following OASIs of Bannu Region are hereby confirmed in the substantive rank of ASI with effect from 01.07.2016 by counting their two years officiating period towards the period of 02-years probation under Police Rules 13.18 and also brought on promotion list-E being already approved at serial No. 60 & 61 in the Minutes of the DPC-Meeting, held on 15.12.2015 in Range Office, Bannu.

They are allotted Range Numbers as noted against their names:-

S: No.	Name & Rank.	Range Nos. allotted.
1.	OASI Mir Sahib Jan No. 03.	155/B
2.	OASI Shakirullah No. 480.	156/B.

Necessary Gazette notification may be issued under intimation to all concerned.

(Muhammad Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu.

No. 2221-22 /EC, dated. 11/8/2016.

Copy to :-

- The District Police Officer, Bannu.
- ✓ • The District Police Officer, Lakki.

*Handwritten signatures and initials:*  
Ee  
m. H  
D. Khan  
16/8/16

*Handwritten signature:* Muhammad Ali Khan  
*Date:* 11/8/16

(Muhammad Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu.

POLICE DEPARTMENT.



BANNU REGION

ORDER.

In continuation of this office Order Endst: No. 3829-32/EC dated 28.12.2015 and last Order Endst: No. 2221-22/EC dated 11.8.2016, on enhancement of vacancies of ASIs from 154 to 195 posts vide CPO, Peshawar Memo: No. 2500-2506/E-III dated 1.7.2016; OASI Muhammad Zahir Shah of Bannu Region is hereby confirmed in the substantive rank of ASI with effect from 01.07.2016 by counting his two years officiating period towards the period of 02-years probation under Police Rules 13.18 and also brought on promotion list-E being already approved at serial No. 64 in the Minutes of the DPC-Meeting, held on 15.12.2015 in Range Office, Bannu.

He is allotted Range No. 157/B.

Necessary Gazette notification may be issued under intimation to all concerned.

(Muhammad Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu.

No. 2364-65 /EC, dated. 22/8/2016.

Copy to :-

- The District Police Officer, Bannu.
- The District Police Officer, Lakki.

(Muhammad Ali Khan)PSP  
Regional Police Officer,  
Bannu Region, Bannu.

15/8/16.

EC

For inf: Mr.

DP Lakki  
25/8