

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 247/2015

Date of Institution ... 24.03.2015

Date of Decision ... 27.02.2019

Mr. Qamar Zaman, Ex: Sub Inspector, Presently posted as Assistant Sub-Inspector,
Police Line Haripur, District Haripur. (Appellant)

VERSUS

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

MR.MIR ZAMAN,
Advocate

--- For appellant.

MR. M. RIAZ KHAN PAINDAKHEL
Assistant Advocate General

--- For respondents.

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER(Executive)
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the
parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that he was appointed as
Constable in the Police Department vide order dated 01.09.1996. On certain
allegations departmental proceedings were conducted against the appellant and
thereafter, major punishment of reduction in rank from the post of Sub-Inspector
to Assistant Sub-Inspector was imposed on him vide impugned order dated
06.05.2014. Feeling aggrieved, he preferred departmental appeal on 07.05.2014.
On receipt of departmental appeal respondent no.2 ordered to conduct de-novo

enquiry. After conclusion of de-novo enquiry the punishment earlier awarded was maintained vide order dated 17.07.2014. It was followed by service appeal no. 1045/2014 filed in this Tribunal, but during the pendency of the said appeal impugned order dated 20.11.2014 was passed by the respondents through which major punishment of reduction in pay for one stage was imposed on the appellant. To get his grievance redressed, he filed the present service appeal. Enquiry was not conducted in the mode and manner prescribed in the rules. Proper opportunity of defense was denied to the appellant. Moreover, charges leveled against him were not established during the course of enquiry.

3. On the other hand learned Assistant Advocate General argued that the appellant was proceeded departmentally and after winding up of the process major punishment was awarded to him. Charges leveled against the appellant were established during the enquiry proceedings. To meet the ends of justice and to provide opportunity of fair trial de-novo enquiry was conducted against the appellant and penalty earlier awarded was maintained. However, taking lenient view of the situation major punishment of reduction in pay for one stage was awarded to him.

CONCLUSION

4. Perusal of inquiry proceedings revealed that these were conducted in accordance with the procedure laid down in Police Rules 1975. Charges contained in the charge sheet and statement of allegations were established/proved against the appellant. The only deficiency noticed in the impugned order dated 20.11.2014

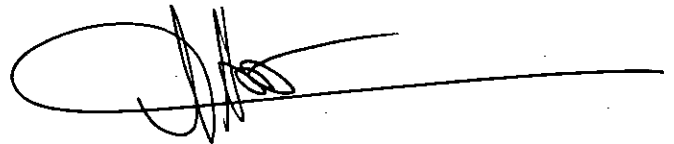
was that time span given in F.R-29 was not reflected. As per provision of F.R-29 penalty has to be awarded for a specific period.

5. As a sequel to above, the appeal is partially accepted and the impugned order dated 20.11.2014 is modified to the extent that reduction of pay for one stage would be effective for a period of one year. Parties are left to bear their own costs.

File be consigned to the record room.



(HAMID FAROOQ DURRANI)
CHAIRMAN



(AHMAD HASSAN)
MEMBER

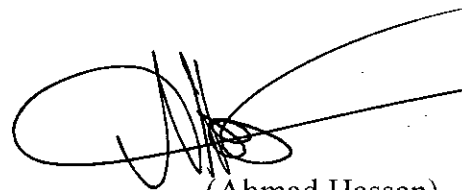
ANNOUNCED
27.02.2019

Order


27.02.2019 Counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, Asst: AG for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is partially accepted and the impugned order dated 20.11:2014 is modified to the extent that reduction of pay for one stage would be effective for a period of one year. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
27.02.2019




(Ahmad Hassan)
Member




(Hamid Farooq Durrani)
Chairman

25.09.2018

Learned counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Israr Shah, Reader for respondents present. Learned counsel for the appellant made a request for adjournment. Granted. Case to come up for arguments on 05.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 28.12.2018.


READER

28.12.2018

Nemo for appellant. Mr. Muhammad Jan, DDA alongwith Mr. Misal Khan, Reader for the respondents present.


On the last date, the matter was adjourned through Reader note. Let fresh notices be issued to appellant/counsel. for 27.02.2019 for arguments before the D.B.

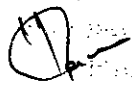

Member


Chairman

02.01.2018

Agent to counsel for the appellant and Mr. Usman Ghani, Learned District Attorney for the respondents present. Agent to counsel for the appellant seeks adjournment as counsel for the appellant is not available. Adjourned. To come up for arguments on 03.04.2018 Before D.B



(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

03.04.2018


Junior to counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General for respondents present. Junior counsel for the appellant seeks adjournment as senior counsel for the appellant is not available. Adjourn. To come up for arguments on 04.06.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

04.06.2018


Junior to counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourned. To come up for arguments on 01.08.2018 before D.B.

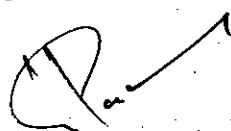

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

01.08.2018

Appellant absent. Learned counsel for the appellant and Mr. Riaz Ahmad Pinda Kheil, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.09.2018 before D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Hamid Mughal)
Member (J)


247/2015

16.08.2017

Counsel for the appellant and Mr. Kabirullah Khattak, Asstt. A.G for the respondents present.

The Bench considered the matter and it was decided that the case may be fixed before the D.B. To come up for arguments before the D.B on 27.11.2017.


Chairman


(M. Amin Khan Kundi)
Member


(M. Hamid Mughal)
Member


(Ahmad Hassan)
Member

27.11.2017

Clerk to counsel for the appellant and Addl: AG for respondents present. Due to general strike of the Bar arguments could not be heard. Adjourned. To come up for arguments on 02.02.2018 before D.B.


Member



Chairman

10.01.2017

Counsel for the appellant and Mr. Pervaiz, H.C alongwith Additional AG for respondents present. Since learned counsel for appellants are not available today in other similar cases, therefore, this appeal is also adjourned for final hearing to 11.05.2017 before the Larger Bench.


(MUHAMMAD AAMIR NAZIR)
MEMBER

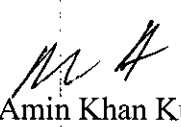

(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN


(ASHFAQUE TAJ)
MEMBER


(AHMAD HASSAN)
MEMBER

11.05.2017

Agent to counsel for the appellant and Mr. Israr, Reader alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Due to incomplete larger bench the case is adjourned. To come up for arguments on 16.08.2017 before Larger Bench.


(M.Amin Khan Kundi)
Member



(Gul Zeb Khan)
Member



(Ahmad Hassan)
Member

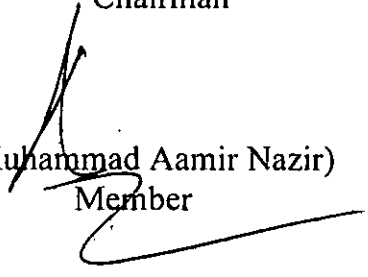
29.09.2016

Counsel for the appellant and Addl. AG for the respondents present. Seeks adjournment. Adjourned for final hearing before the larger bench on 14.12.2016.


(Pir Baksh Shah)
Member


(Muhammad Azim Khan Afridi)
Chairman


(Abdul Latif)
Member



(Muhammad Aamir Nazir)
Member

14.12.2016

Counsel for the appellant and Addl. AG for respondents present. Arguments could not be heard due to non-availability of learned Member Executive. Adjourned for final hearing before the larger bench on 10.01.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN


(ASHFAQUE TAJ)
MEMBER

16.08.2016


Appellant with counsel and Mr. Muhamamad Zahoor, Inspector (Legal) alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Arguments heard and record perused.

Brief facts of the case of the appellant are that appellant was subjected to departmental enquiry and vide order dated 20.11.2014 reverted from the post of Sub Inspector to Assistant Sub Inspector where-against he preferred departmental appeal on 07.05.2014 which was decided vide order dated 29.5.2015 with the directions of conducting denovo departmental enquiry which was accordingly conducted and, finally, appellant was awarded major punishment in the shape of reduction in pay for one stage.

During hearing of appeal learned counsel for the appellant apart from agitating other legal and factual pleas, also argued that the impugned order was not in consonance with the provisions of the rules as time for reduction in pay for one stage has not been specified. He also referred to Rule-29 of Fundamental Rules in support of his arguments.

According to Government Servants (E&D) Rules, 2011 the reduction in pay for one stage is a major penalty while withholding of one increment for a specified period is minor penalty. A question therefore arises as to whether major penalty in the mode and manners awarded to the appellant would require the relevant authority to specify period for the said penalty as well or it shall be in perpetuity. We are of the view that this question is to be placed before a larger bench for determination. As such it is directed that this appeal be heard by a larger bench at provincial headquarter Peshawar to be constituted by the Chairman for arguments on 29.09.2016.


Member


Chairman
Camp court, A/Abad


30.07.2015

Counsel for the appellant and Mr. Sher Afzal, Head Constable alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 19.10.2015 at Camp Court Abbottabad as the appeal pertains to the territorial limits of Hazara Division.


Chairman

09.10.2015

Counsel for the appellant and Mr. Muhammad Zahoor, Inspector (legal) alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 15.2.2016 at Camp Court A/Abad.


Chairman
Camp Court A/Abad

15.02.2016

Appellant with Junior counsel and Mr. Muhammad Zahoor, Inspector Legal alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Rejoinder submitted. Senior counsel for the appellant has not turned up from Peshawar. To come up for final hearing before D.B on 16.08.2016 at Camp Court A/Abad.


Chairman
Camp Court A/Abad


Member

27.04.2015

Counsel for the appellant present. Seeks adjournment.
Adjourned for preliminary hearing before S.B to 11.5.2015.


Chairman

11.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as SI when vide impugned order dated 06.05.2014 he was awarded major punishment in the shape of reduction to lower grade regarding which he preferred departmental appeal on 07.05.2014 wherein denovo enquiry was ordered vide order dated 29.05.2014. That vide order dated 17.07.2014 the same punishment in the shape of reduction to lower grade was upheld by the appellate authority where-after appeal No. 1045/2014 was preferred and that during the proceedings of the said appeal another order dated 20.11.2014 was passed vide which appellant was awarded the punishment of reduction of pay for one stage.

That the punishment is novel to law and hence not tenable.

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 30.07.2015 before S.B.


Chairman

Appellant Deposited
Security & Process Fee






Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 247 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24.03.2015	<p>The appeal of Mr. Qamar Zaman presented today by Mr. Noor Muhammad Khattak 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>
2	26-3-15	<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up thereon <u>31-3-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	31.03.2015	<p>Agent of counsel for the appellant present. Learned counsel for the appellant is stated busy at Dar-ul-Qaza Swat. Adjourned to 27.4.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 247 /2015

Qamar Zaman

VS

Police Department

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APPELLANT


QAMAR ZAMAN

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWR

Appeal No. 247 /2015

A.W.F. Province
Service Tribunal

Diary No. 250

Dated 24-3-2015

Mr. Qamar Zaman, Ex: Sub Inspector,
Presently posted as Assistant Sub Inspector, Police line Haripur,
District Haripur **Appellant**

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Hazara Region at Abbottabad.
3. The District Police Officer, District Haripur.

..... **Respondents**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 20-11-2014 WHEREBY THE MAJOR PENALTY OF REDUCTION IN RANK HAS BEEN CONVERTED TO ANOTHER UNLAWFUL PENALTY OF REDUCTION IN PAY FOR ONE STAGE AND AGAINST THE IMPUGNED ORIGINAL ORDER DATED 06-05-2014 WHEREBY MAJOR PENALTY OF REDUCTION IN RANK FROM THE RANK OF SUB INSPECTOR TO THE RANK OF ASSISTANT SUB INSPECTOR HAS BEEN IMPOSED ON THE APPELLANT WITH OUT CONDUCTING REGULAR INQUIRY IN THE MATTER

PRAYER:

That on acceptance of this service appeal the impugned orders dated 20.11.2014 and 06-05-2014 may very kindly be set aside and the respondents may be directed to restore the pay of the appellant on his original post of Sub Inspector with all consequential benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was enrolled in respondent Department as constable vide order dated 01-09-1996 and during service the appellant qualified several professional and Departmental courses. That on 25-06-2007 the appellant was selected as **PASI** on the recommendation of Khyber Pakhtunkhwa Public Service Commission.

- 2- That right from appointment the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. That appellant while posted as Additional SHO police station KTS District Haripur, a charge sheet and statement of allegations was served on the appellant in which it was alleged that the appellant while posted at police station KTS district Haripur, took into possession a Motor cycle Number 4455/RIM under section 523/550 Cr P.C vide daily dairy No 25 dated 14-03-2014. That it was further added that the said Motor cycle was found missing from the police station on 16-03-2014. Copies of the charge sheet and statement of allegations is attached as annexure **A.**
- 3- That in response to the charge sheet and statement of allegation the appellant denied the allegation which was leveled against him with documentary proofs and justification. That in the said reply the appellant clarified his position, that the subject motor cycle when took into possession by the appellant brought into the notice of SHO Police station KTS district Haripur, the fact was duly incorporated in daily dairy of police station KTS vide No.25 dated 14-03-2014, under police rule No. 3, 4, 7, and 22.16 mandatory held responsible station house clerk for the custody of property. So it was the duty of Moharrar staff who ought to manage the custody, moreover Sentry were present on duty who are responsible for and ward inside the police station and not the appellant. Copy of the reply is attached as annexure **B.**
- 4- That the respondent Department with out conducting fact finding inquiry and Departmental inquiry straight away awarded major punishment of reduction in rank from the post of Sub Inspector to Assistant Sub Inspector vide order dated 06-05-2014. Copy of the original impugned order is attached as annexure **C.**
- 5- That feeling aggrieved from the impugned order dated 06-05-2014 the appellant filed Departmental appeal vide dated 07-05-2014 before the respondent No.2. That on the said Departmental appeal the respondent No.2 conducted denovo Departmental inquiry in the matter vide order dated 29-05-2014. Copies of the Departmental appeal and order are attached as annexure **D & E.**
- 6- That in the light of order dated 29-05-2014 a denovo inquiry was conducted which was concluded vide dated 30-06-2014 by the inquiry officer, with the findings that " According to report of SHO role of EX: Sub Inspector Qamar Zaman is suspicious as he was more concerned about the motorcycle

than any one else and unreasonably delayed the process of official possession of motorcycle but there is no witness or clear evidence which shows his involvement". Copies of denovo inquiry report and statement of officials are attached as annexure **F & G.**

7- That on the said ambiguous Departmental denovo inquiry the respondent No.2 passed/issued the appellate order dated 17-07-2014 whereby the punishment awarded by the respondent No.3 to the appellant has been upheld and the appeal of the appellant has been rejected vide order dated 17-07-2014. Copy of the appellate order is attached as annexure**H.**

8- That then after the appellant knocked the door of this august Tribunal in appeal No.1045/2014 but during the pendency of appeal the respondents handed over another appellate order dated 20.11.2014 communicated to the appellant on 5.3.2015 whereby the punishment of reduction in rank has been set aside but astonishingly another strange penalty i.e. reduction in pay for one stage has been imposed on the appellant. Copies of the memo of appeal and impugned appellate order are attached as annexure **I and J.**

9- That hence the present appeal inter alia on the following grounds amongst the others.

GROUND:

A- That the impugned orders dated 6-05-2014, 17-07-2014 and 20-11-2014 are against law, facts, norms of natural justice and materials on the record, therefore not tenable and liable to be set aside.

B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That no show cause notice has been served on the appellant by the respondent Department before issuing the impugned original order dated 6.5.2014.

D- That no regular inquiry has been conducted by the respondent Department against the appellant before issuing the impugned order dated 6.5.2014, which is as per Supreme Court judgment is necessary in cases of punitive actions.

- E- That no chance of personal hearing /defense has been given to the appellant which is mandatory under the amended E & D rules 2011.
- F- That action has been taken by the respondents against the appellant under a wrong law.
- G- That under the police Rules 1975 chapter 22 rule 3, 4, 7 and 22.16 mandatorily held responsible the station house Clerk for the custody of property, in no imagination of law the appellant could be liable for the custody of the disputed motor cycle, it was handed over to Moharrar staff who ought to manage the custody, moreover sentry who is on duty is bestowed with the responsibility of watch and ward inside the police station, therefore the appellant should not be punished on the fault of Moharrar staff.
- H- That the respondent Department discriminated the appellant on the subject noted above, because after possession of the said disputed Motor Cycle the appellant handed over the same to Moharrar staff having informed SHO Police station KTS, it is the duty of Maharrar and sentry to arrange safe custody and ensure safety of properties, there failure made the appellant scape goat.
- I- That appellant has been declared as innocent in the impugned review appellate dated 20.11.2014 but inspite of that the respondent No.2 imposed the penalty of reduction in pay for one stage against the appellant which is not tenable in eyes of law and prevailing Rules.
- J- That the appellant had not been treated according to law and had been condemned unheard.
- K- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated:16.3.2015

APPELLANT



QAMAR ZAMAN

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2015

QAMAR ZAMAN

VS

POLICE DEPARTMENT

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.

B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT


QAMAR ZAMAN

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

A (6)

CHARGE SHEET

(1) I, Muhammad Ijaz Khan (PSP), District Police Officer, Haripur as competent authority, hereby charge you Si Qamar Zaman as enclosed statement of allegations.

(2) You appear to be guilty of misconduct under Police Efficiency & Discipline Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the said Rules.

(3) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Committee/Enquiry Officer as the case may be.

(4) Your written defense, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

(5) Intimate whether you desire to be heard in person or otherwise.

(6) A statement of allegations is enclosed.

(Muhammad Ijaz Khan) PSP
District Police Officer
Haripur

ATTESTED

[Handwritten signature]

DISCIPLINARY ACTION

7

I, Muhammad Ijaz Khan (PSP), District Police Officer, Haripur as competent authority of the opinion that you SI Qamar Zaman have rendered yourself liable to be proceeded against as you committed the following acts/omissions within the meaning of Police Efficiency & Discipline Rules 1975.

STATEMENT OF ALLEGATION

That you while posted at PS KTS, you took into police custody a Motorcycle bearing registration No. 4455/RIM u/s 523/550 vide DD No. 25 dated 14.03.2014, which is now missing from the police station vide DD No. 30 dated 16.03.2014 received from Police Station KTS. This is an act of gross misconduct on your part.

(2) For the purpose of scrutinizing the conduct of the said accused officer with reference to the above allegations, an Enquiry Committee consisting of the following is constituted.

Wahid Mehmood ASP Haripur

Kashif Zulqarnain ASP Saddar

(3) The Enquiry Officer/Committee shall in accordance with the provision of this Ordinance, provide reasonable opportunity of hearing to the accused, record finding and make within 25 days of the receipt of this order, recommendation as to punishment or the appropriate action against the accused.

(4) The accused and a well conversant representative of departmental shall in the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

(Muhammad Ijaz Khan) PSP
District Police Officer
Haripur

No: 795-77 /PA, dated Haripur the 24/03 /2014.
Copy of above is submitted to the

- 1) Regional Police Officer Hazara Region, Abbottabad please.
- 2) Enquiry Officer for initiating proceedings against the said accused under Police Efficiency & Discipline Rules 1975.
- 3) SI Qamar Zaman with the direction to submit his defense within 7 days of the receipt of this statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purpose of departmental proceedings.

ATTESTED

District Police Officer
Haripur

بحوالہ چارج شیٹ / نوٹس معروض ہوں کہ مورخہ 14/03/2014 کو ایک موٹر سائیکل نمبری RIM4455 HONDA 125 ماڈل 2013 برنگ سیاہ کو مشتبہ اسرقتہ بان کر زبردفعہ 523/550 ض ف بروئے فرد قبضہ پولیس کیا اور ہمراہ لا کر بحوالہ مد نمبر 25 مورخہ 14/03/2014 احاطہ تھانہ میں کھڑا کر کے محرر کو ہدایت ہوئی کہ اس بارے نقل رپٹ علیحدہ مرتب کر کے زبردفعہ (1) 157 ض ف میرے حوالے کرے (نقل مدلف ہے)

جناب عالی موٹر سائیکل مذکورہ کا تھانے میں لا کر کھڑا کرنا اور محرر کے حوالے کا ذکر خود رپورٹ غلام عباس مد محرر LHC تھانہ KTS میں موجود ہے۔ جس کے مطابق موٹر سائیکل مذکورہ بالا مورخہ 16/03/2014 تک تھانہ کے احاطے میں زیر نگرانی حسب ضابطہ و قانونی محرر شاف تھا جس بارے میں مد نمبر 30 روز نامچہ 16/03/2014 بالکل صاف اور عیاں ہے (نقل مدلف ہے)

جناب عالی موٹر سائیکل مذکورہ کی نسبت کہ وہ 15/03/2014 کو اور 16/03/2014 کی درمیانی رات کو جب کہ بارہ بجے رات تک موجود تھا۔ علی الصبح غلام عباس مد محرر LHC کی رپٹ مد نمبر 30 کے مطابق صبح موٹر سائیکل غائب پایا۔

اس ضمن معروض ہوں کہ 15/03/2014 بحوالہ مد نمبر 24 مورخہ 15/03/2014 میں مع شاہد شاہ LHC و ڈرائیور میز زمان کے بغرض موبائل گشت 23:45 بجے روانہ حدود تھانہ ہوا جب بحوالہ مد نمبر 30 بالاس وقت تک موٹر سائیکل تھانہ ہی میں موجود تھا۔ (نقل مد مورخہ 15/03/2014 لف ہے)

یہ کہ بحوالہ مد نمبر 27 روز نامچہ 16/03/2014 تھانہ KTS میں مع ہر ایمان کے واپس تھانہ 05:45 بجے آیا اور جملہ کارروائی گشت مد نمبر 27 میں درج کی گئی (نقل مد نمبر 27 لف ہے)

جناب عالی موٹر سائیکل مذکورہ بالا کے تھانہ سے غائب ہونے میں میری کوئی کوتاہی یا غفلت نا ہے از روئے ضابطہ میں نے موٹر سائیکل کی رپورٹ مد نمبر 25 روز نامچہ 14/03/2014 میں باقاعدہ اندراج کیا جس کے بعد تمام مال مقدمات کی حفاظت کی ذمہ داری محرر شاف کی ہوتی ہے کیونکہ تمام مال مقدمات محرر شاف کی تحویل میں ہوتے ہیں۔ مزید برآں کوئی بھی مال مقدمہ یا دیگر شے تھانہ کی حدود سے بغیر کسی قانونی حکم یا اجازت سے باہر نہیں لے جانی جاسکتی تا وقتکہ ڈیوٹی پر موجود سنتری کسی غفلت اے احتیاطی یا جان بوجھ کر ایسی اشیاء کو باہر نالے جانے دے۔

ATTESTED



جناب عالی نقل رپٹ نمبر 30 روزنامہ 16/03/2014 بھی اس بارے میں بالکل واضح ہے کہ موٹرسائیکل مذکورہ بالا محرر شاف کی تحویل میں تھا اور رات 12:00 بجے کے بعد تھانہ کی حدود سے باہر لے جایا گیا جس بارے میں کسی بھی سنتری نے کوئی رپورٹ نہیں کی کہ موٹرسائیکل کون اور کس کے حکم سے تھانہ حدود سے باہر نکالا گیا۔

اندریں حالات تمام حقائق کو مد نظر رکھتے ہوئے دستاویزی ثبوت بشکل مدات منسلکہ واضح ہے کہ موٹرسائیکل کے تھانہ کی حدود سے باہر نکلنے اور لے جانے میں سائل کا کوئی کردار نہ ہے۔ جناب عالی سائل کا سابقہ ریکارڈ ملازمت واضح ہے کہ آج تک کبھی بھی سائل کے خلاف کوئی محکمانہ انکوائری میں سزا نہیں ہوئی اور نہ ہی ایسے امور میں ملوث رہا ہوں۔ یہ میری ملازمت اور خاص کر پروموشن کا سوال ہے۔ اور صرف اس انکوائری کی وجہ سے سائل کو کنفرمنس سے محروم رکھا گیا ہے۔ جناب سے استدعا کی جاتی ہے کہ حالات و واقعات کے پیش نظر چارج شیٹ / محکمانہ کارروائی کو ختم کر کے سائل کو ان الزامات سے مکمل طور پر بری فرمایا جاوے۔

ارضی

قمر زمان ASHO.PS-KTS

ATTESTED

M
Q

C-10

ORDER

Sub Inspector Qamar Zaman No. 91/H while posted at Police Station KTS as ASHO, he took into Police custody a Motorcycle bearing registration No.4455/RIM u/s 523/550 vide DD No:25 dated 14.03.2014, Consequently the said Motorcycle was found missing from police station. The mishandling and removal of motorcycle from police station on part defaulter police official being ASHO holding of responsible seat in Police Station was highly objectionable and misconduct under police rules 1975.

On the basis of misconduct the accused official was charge sheeted and served with summery of allegation, an enquiry committee was constituted comprising of ASP/HQ Mr. Wahid Mehmood and Mr. Kashif Zulfiqar ASP/Circle Saddar, to probe the matter, the enquiry committee conducted the enquiry proceedings and all the procedural formalities were observed, having completed the enquiry the committee submitted the enquiry findings vide No.62 dated 14.04.2014 recommending therein for major punishment being proved guilty of charges leveled against the accused police official.

The entire record of enquiry was perused and deeply appreciated, the delinquent official was called in orderly room on 30.04.2014, heard in person and the undersigned came to conclusion that the charges of misconduct are proved, I Muhammad Ijaz Khan District Police Officer Haripur being competent authority under police rule 1975 am satisfied that Sub Inspector Qamar Zaman failed to discharge official duties with ulterior motives by not recording in roznamcha the taking into possession of motorcycle U/S 523/550 which was subsequently theft out from police station, Hence being proved guilty in exercise of power under police rules 1975 he is hereby awarded the major punishment of Reversion of Rank from SI to ASI with effect from 30.04.2014.

Order announced in his presence.
OB No.268/30.04.2014.

with retrospective

District Police Officer
Haripur

No: 3796

DT. 06-05-14

Copy of above is submitted to the Regional Police Officer, Hazara Region Abbottabad for favour of information please.

ATTESTED

District Police Officer
Haripur

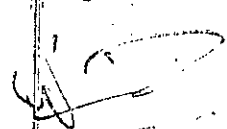
From: The District Police Officer,
Haripur

To: The Regional Police Officer
Hazara Region, Abbottabad

No: 3875 ^{SRC} /RK, dated Haripur the 7/5/2014.

Subject: APPEAL

Memo:
Enclosed kindly find an appeal in respect of ASI Qamar Zaman of
this District for further necessary action please.


District Police Officer
Haripur

ATTESTED



opportunity of personal hearing by the inquiry committee. Similarly I was not

(11) (12)

BEFORE THE REGIONAL POLICE OFFICER
HAZARA REGION ABBOTTABAD

Through:- Proper Channel

Subject:- Appeal against the order of DPO Haripur Vide OB No 268 Dated 30-04-2014, whereby the appellant was awarded the Major Punishment of demotion from the Rank of Sub Inspector to Assistant Sub Inspector.

Respected Sir,

With due respect it is submitted that I have been awarded the subject punishment by DPO Haripur Vide OB No 268 Dated 30-04-2014 copy attached at (Ann-A).

2. The charges against me are that while posted at PS Khalabat, I took into police custody a motor cycle bearing registration No 4455/RIM u/s 523/550 vide DD No 25 dated 14-03-2014 which is now missing from the Police station vide DD No. 30 dated 16-03-2014 received from Police Station KTS.
3. That I was served with charge sheet and summery of allegation in response to which I submitted a detailed and fully rebuttal explanation, copy attached at (Ann-B).
4. Mr Wahid Mehmood ASP Hqrs and Mr Kashif Zulfiqar ASP Saddar were appointed as inquiry officer/committee for conducting regular departmental proceeding against me. The committee only obtained my explanation and had not recorded the statement of any PW in my presence and given no chance of defense to me or chance of cross exmn. on the PWs which was my fundamental right and this was a major legal violation under the rule. The inquiry committee blindly proved me guilty of the allegation and recommended me for legal action as well as departmental action and subsequently I was awarded the subject mentioned punishment.
5. That as already explained in my initial statement, after taking into custody the alleged Motor Cycle, it was handed over to Mohrrir PS KTS vide DD No 25 dated 14-03-2014 and I started action/ inquiry against the owner of the Motor Cycle u/s 157(1) CrPC. The Motorcycle was present in the police station under the responsibility of the Mohrrir till 16-03-2014 which is clear Vide DD No.30 dated 16-03-2014. At the end of same report in the DD the Mohrrir concluded that the Motorcycle is missing. This report was added by him in same DD report No 30 at morning time. Copy of DD report No 30 is attached at (Ann-C).
6. That except my explanation I was not given any chance of defense nor given the opportunity of personal hearing by the inquiry committee. Similarly I was not

ATTESTED

A

given final show cause Notice for award of the subject punishment by DPO Haripur which is mandatory under the rule.


- 7. That the entire process of inquiry and orders thereof is full of defection and devotion of rule and regulation. Thus the episode behind the order / action is wrong, perverse, arbitrary, illegal, malafide, in humanitarian and without legal authority.
- 8. That I have undergone 18 years service with excellent record. Initially I was appointed as constable and qualified lower Class course. I am graduate, and in 2007 I was appointed as Probation ASI and later on I was promoted as Sub Inspector on merit due to my good service and record. Now I am due for confirmation but due to this punishment I have been ignored from confirmation, which is a great set back to my future carrier.

In view of above facts and circumstances it is earnestly prayed that the subject punishment order may kindly be set a side and I may be promoted from the date of demotion and confirmed as Si with my collogues in order to protect me form irreparable loss in my service carrier.

I shall be thankful for this act of kindness and pray for your long life and prosperity.

Dated _____ / 2014

Yours Obediently


 (Qamar Zaman)
 ASI (Police Line
 District Haripur)

ATTESTED




E-14

ORDER

Today on 28/05/2014. The Police Official Ex. SI Qamar Zaman, and Ex.HC Khanwaiz No. 340 appeared before the undersigned in Orderly Room. Both the officials were heard in person. I have gone through the record and observed the following shortcomings:-

1. As per statement of Ex-SI Qamar Zaman he seized the motor cycle No.4455/RIM on 08/03/2014 but he was verbally ordered by the then SHO not to record in the Daily Diary. On 14/03/2014, the said motor cycle was officially seized by recording an entry into the Daily Diary of the PS KTS. This was also done as an application was already submitted for Superdari of the same motor cycle. By all this narration, the malafide and inefficiency of the then SHO PS KTS can not be ruled out. However, he was held responsible of any laxity during the departmental enquiry.
2. The enquiry remained focused only to two officials while leaving the then SHO, Maddad Moharrar and constable on Sentry duty who should have been equally brought into the fold of departmental proceedings, being jointly responsible for the incident of theft within the premises of the Police Station.
3. The then SHO failed to register the case U/s 409/PPC as the motor cycle was under his supervision.

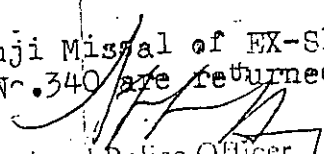
In the light of above mentioned shortcomings, the undersigned is satisfied that the enquiry so conducted has inherent flaws. In order to scrutinize the conduct of all the police officials, Mr. Khurshid Khan DSP/Mirpur Abbottabad is appointed as an Enquiry Officer to conduct de-novo departmental enquiry into the matter and submit report containing correct facts and figures.


Regional Police Officer,
Hazara Region, Abbottabad

No. 4907-8 APA DSP/Mirpur 29.5.14

Copy forwarded to:-

1. The District Police Officer, Haripur to issue charge sheets to all concerned including submission of draft charge sheet against the then SHO PS KTS, to this office.
2. Mr. Khurshid Khan DSP/Mirpur Abbottabad, for initiation of enquiry and report.
3. The Service Record and Fauji Missal of EX-SI Qamar Zaman and Ex-HC Khan-Wez No.340 are returned herewith.


Regional Police Officer,
Hazara Region, Abbottabad

ATTESTED



De-novo Enquiry

From: Deputy Superintendent of Police
Circle Mirpur


To: Regional Police Officer
Hazara Region, Abbottabad

No: 350 /dated 30.6.2014

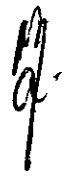
SUBJECT: ENQUIRY AGAINST EX. SI QAMAR ZAMAN AND EX. HC
KHANWAIZ NO. 340

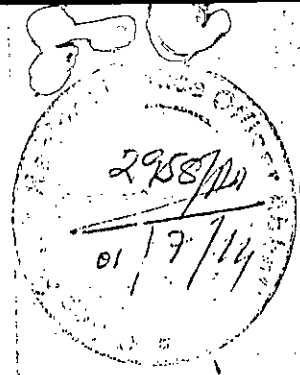
Memo:

Kindly refer to your office End: No. 4907-S/A dated 29-05-14
Findings of the enquiry against Ex. SI Qamar Zaman and Ex. HC Khanwaiz
No. 340 are submitted herewith for your kind perusal and suitable order please.


Deputy Superintendent of Police
Circle Mirpur Abbottabad

ATTESTED





F-15

(E.22)

(16)

**FINDINGS OF DEPARTMENTAL ENQUIRY AGAINST EX.SI
QAMAR ZAMAN AND EX.HC KHANWIZ NO.340**

BACKGROUND:-

Ex. SI Qamar Zaman while serving as Additional SHO PS KTS and Ex. HC Khanwaiz while working as Moharar PS KTS, were proceeded against departmentally under Police Efficiency and Disciplinary Rules 1975 by the District Police Officer Haripur, followed by proper departmental enquiry through an enquiry committee. Both the officials were awarded major punishment of Reversion to preceding ranks.

Above mentioned officers submitted an appeal before the Regional Police Officer Hazara Region against the order of DPO Haripur. The Regional Police Officer Hazara Regional ordered for de novo enquiry and undersigned was appointed as enquiry officer vide his office lndst No. 4907-8 dated 29-05-14

BRIEF OF ALLEGATIONS

Following are the allegations against both the officials.

"You while posted at PS KTS, you took into police a Motorcycle bearing registration No. 4455/RIM u/s 523/550 vide DD No. 25 dated 14-03-14, which is now missing from the police station vide DD No. 30 dated 16-03-14 received from Police Station KTS. This is an act of gross misconduct on your part"

The appellate authority in its order had observed the following under mentioned procedural flaws in the enquiry proceeding conducted against the appellant.

1. As per statement of Ex.SI Qamar Zaman he seized the motor cycle No. 4455/RIM on 08-03-14 but he was verbally ordered by the then SHO not record in the Daily Diary. On 14-03-14, the said motorcycle was officially seized by recording an entry into the Daily Diary of the PS KTS. This was also done as an application was already submitted for Superdari of the same motorcycle. By all this narration, the malafide and inefficiency of the then SHO PS KTS cannot be ruled out. However, he was held responsible of any laxity during departmental enquiry.
2. The enquiry remained focused only to two officials, while leaving the then SHO, Maddad Moharar and Constables on Sentry duty who should have been equally brought into the folds of departmental proceedings, being jointly responsible for the incident of theft within the premises of the Police Station.
3. The then SHO failed to register the case u/s 409 PPC as motorcycle was under his supervision.

ATTESTED



(17)

ENQUIRY PROCEEDING:-

Since the allegation mentioned in charge sheet, summary of allegation and have not been found to be supported by incriminating material, therefore delinquent officials and other related persons were called and their statements were recorded. In this connection following officials were included in enquiry proceedings.

1. Ex SI Qamar Zaman
2. Ex HC Khanvaiz No. 340
3. SHO Inspector Raja Mehboob
4. Ghulam Abbass 26/LIC PS KES
5. Ghareeb Nawaz MM 131/FC
6. Khanvaiz Constable 340
7. Adil Khan Constable 47031/FRP
8. Constable Muhammad Arif 753
9. Constable Muhammad Sabar 534/FC

Above mentioned officials were thoroughly questioned about the stolen Motorecycle. Besides this Copies of daily dairy were also obtained from the police station. As per brief facts of the case Ex. SI Qamar Zaman seized the motorecycle No. 4455/RIM on 08-03-14 but it was officially seized by recording an entry into the Daily Dairy on 14-03-14 vide DD No. 25 u/s 550/523 CrPC. The said motorecycle was reportedly found missing from the Police Station between night of 15/16- 03-14 upon which report in DD No. 30 dated 16-03-14 was made. SHO Raja Mehboob informed the concerned officers regarding this entire episode and initiated an inquiry.

CONCLUSION

Motorecycle was standing in courtyard of the Police Station and there is one main gate for entrance and exit in police station and sentry on duty supposed to be the major person who keeps an eye on the things which come in and out. They took motorecycle as routine type entity as there are no special instructions from Moharar staff for its safety. Constable Adil No.4731 FRP was on duty from 10:00 PM to 02:00 AM, who affirmed during cross questions about the presence of said motorecycle when he commenced his duty. Constable Muhammad Sabar commenced his duty at 02:00 AM to 06:00 AM according to his statement there is no special directions regarding said motorecycle. At the time of occurrence Moharar Khanvaiz was on permission leave (Copies of DD attached). Madad Moharar and Add. Madad Moharar went to sleep after performing their routine work but Madad e Moharars took little interest and did not properly informed the sentries about the motorecycle. As per statement of SHO when he inquired about the motorecycle from SI

ATTESTED



Qamar Zaman. he stated that the motorcycle was standing near his room excluded from other motorcycles when went for patrolling , when SHO asked that whether he informed Moharar Staff about the motorcycle. he responded negatively. SHO informed the senior officers about the incidence after instantly after report was registered in Daily Dairy. However he was the responsible person of Police Station and this fact cannot be ruled out.

FINDINGS:-

Keeping in view the above circumstance following are findings of enquiry.

1. The major responsibility lies on the shoulders of Sentries who were on duty namely Adil Khan No 4731/ FRP and Muhammad Sabar No. 534.
2. "According to the report of SHO role of Ex.SI Qamar Zaman is suspicious as he was more concerned about the motorcycle than anyone else and he unreasonably delayed the process of official possession of motorcycle but there is no witness or clear evidence which shows his involvement."
3. As far as role of SHO is concerned. he informed the senior officers instantly after report was registered in Daily Dairy. However credit of both good work and bad goes to SHO and to that extent his negligence was also found.
4. In the absence of Moharar. Senior Madad Moharar Ghulam Abbass No. 26, was the responsible person as he was also the guard commander and it was the responsibility of Madad Moharar to check guards whether they are performing their duties in right manner or not.
5. Charges leveled against Ex. HC Khanwaiz are not proved as he was on permission leave (copies of DD are attached) there is no possibility of his involvement in this matter.

Submitted for suitable order please.

PA
Call him in DR

Appellant was on leave. Seize goat.

Khursheed Ahmed Tanoli
Deputy Superintendent of Police.
Mirpur Abbottabad.

[Signature]
RPO 14930597

ATTESTED

[Signature]

G -

بیان ازین صدر حضور عدیم عباس

صدر حضور عدیم عباس / LHC 26/ 31/ 1975 بیانی میں کہ میں لکھنویہ نواز انا در حضور
 حوریم 3/ 15 کو تھا میں موجود تھے اور جان دینر حضور صاحب 23 گیت اہارن
 پیرنگر خود گیا تھا میں اور میرا بیٹی صدر در رات 12 بجے تک اپنے دفتر میں
 کارس کار سے صرف رہے جو رات 12 بجے کارس کار فم ٹرک صاحب
 میر تمام ماکسٹر گاڑیاں حضور سائیکل پر 4455/ موجود تھا رات 12 بجے کہ بعد
 ہم سرگے جمع 3/ 16 کو جاگ کر علی الج دیکھا کہ حضور سائیکل قبیلہ 2/ 10 لڑا
 یکدم دریافت کہ 25 روز راجح 3/ 14 تھا میں موجود نہ تھا اس واقعے سے متعلق
 یہاں کہ 30 روز راجح 3/ 16 میں مفضل رہی راجح 3/ 14 سے چکی میں
 تاہم کہتا ہوں: میرا ہی بیان ہے

میر حضور سائیکل پر 4455/ 4455 قرآن 1975 صاحب سے حوریم 3/ 15 کو کر
 تھا میں گھبرا گیا تھا اور پھر 28 روز راجح 3/ 14 کو زبردست 23/ 5
 میں قبیلہ لڑا میں گیا تھا یعنی کہ 3/ 14 کو صبح وقت میر حضور سائیکل
 راجح 3/ 15 کو زبردست 23/ 5 تھا لکھا گیا تھا کہ 3/ 15 کو حضور سائیکل غائب ہوا

mm P. S. L. S.
 31/3/75

Attested

Attested

ASP - Sadlan

[Signature]

ASP - HO

ATTESTED

[Signature]

بیان ازان کس عارف 753 گمان 145

کس عارف 753 گمان 145 بیانی ہوگا جو ہم 15/14 کو میری ۱۱ ملائین ڈیوٹی
 پرچہ نمبر ۱۰۱ اول ڈیوٹی سے ۱۰ سے تک گمان میں تھا تو طاعت ۱۰ سے
 میری ڈیوٹی تم پرچہ نمبر ۱۰۱ سے ۱۰۱۱۱ گمان میں موجود تھا اور ہم
 ماکہ ۱۱ گمان میں سے ۱۱۱۱۱ سے ۱۱۱۱۱ کے حوالہ کی گئی۔ اور جو ہم
 14/3 کو ہم سے میری ڈیوٹی سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ میں تھا
 جو ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے
 ان کو سیکرٹ کے آج سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے
 میری ڈیوٹی کے بعد ان غائب میں ہے اور ہم سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے
 کوئی علم ہے۔ یہاں بیان ہے جو ہم سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے ۱۱۱۱۱ سے

31-03-074

Attested

ASD - Sakilana

Attested

ASD - H8

ATTESTED

Handwritten mark

بیان ازاں نیشنل عادل 4731 حدقنہ خانہ KAS

بدریافت بیان کیا کہ حوزہ $15 \frac{3}{4}$ کو صوبی عسقلان ڈیوٹی سرچم پہرہ 10:30 =
 دوئم ڈیوٹی 10 سے 12:50 بجے تک عسقلان میں تھی، جب صبح 11 بجے ڈیوٹی پر آیا
 تو ڈیوٹی سرچم جو دستری اوٹل نے تھی ہارنج میں رائنل بحکم سرنگڑاں، پورٹ
 حدقنہ، دیا۔ اور جے ہارنج دینے کے لئے آئے۔ اس وقت 10 بجے ڈیوٹی پر
 کم 12:50 بجے گشت سرنگڑاں، اور کوئی گاڑی یا اور ڈیوٹی کے لئے نہ آئے۔
 نے درست طور پر ہارنج ڈیوٹی متبادل دستری مہارنگڑاں کے حوالہ کی جس
 کی فہرست لکھی گئی ہے۔ پھر حوالہ سے تمام ڈیوٹی کے لئے جب میں صبح فریب لوٹ کر
 اے۔ ون کا اطمینان دینے اور عسقلان آباد ہارنج آیا۔ تو اس وقت فہرست کے لئے
 احمد، وارہان، عباس، ذریعہ جمعہ وقت میں نے دفتر اسٹیشنل حدقنہ میں 12:50
 دیکھا تھا۔ جب میں اطمینان دینے کے لئے گیا تو پتہ چلا کہ ترچھت راستہ کو فریب
 عباس حدقنہ میں نے کوئی اسٹیشنل کی نسبت پوچھا اور کہا کہ میری ڈیوٹی کے
 دوران کوئی کوئی اسٹیشنل عسقلان کو آیا۔ گیا ہے۔ تو میں نے کہا کہ میری ڈیوٹی میں
 صرف ایک سرکاری اسٹیشنل راستہ 12 بجے ڈیوٹی بکال ہوئی ہے۔ اور اسے
 عسقلان کوئی گاڑی / کوئی اسٹیشنل نے اندر عسقلان میں آیا ہے۔ اور نہ کوئی کوئی
 اسٹیشنل نہ میری ڈیوٹی کے دوران غائب ہوا ہے۔ اور نہ جے کوئی علم اس بار میں ہے
 میرا یہ بیان ہے۔ جو صحیح درست ہے۔

P. Dilkhani

نیشنل عادل 4731
0346-9599786

Attested

Attested

ASP - Saad Khan

ASD HA

ATTESTED

[Signature]

بیان کنیشن ڈرائیور سے زمان 467 قلم KTS

کنیشن ڈرائیور سے زمان 467 قلم KTS: بیانی ہوں کہ جوڑ 15³/₁₄ کو مری میں
گشت وقت 18:00 بجے تا 24:00 بجے تک جوڑ احمد اس کے ہمراہ تھی جوڑ 12 بجے
رات کو ختم کے قلم اپنے گشت درم قرمان ASP اس کے ساتھ تھی اور گشت 11 بجے
بھارت 24:00 بجے تا صبح 05:30 بجے تک دوران گشت قرمان ASP اس کے ساتھ ہمراہ
موجود تھے صبح 05:30 بجے واپس قلم پہنچ کر اس کے گاڑی احاطہ قلم میں کوڑی
کر کے گمراہ خود میں چلا گیا۔ گشت درم کے دوران قرمان ASP اس کے ساتھ موجود
رہے۔ میرا ہی بیان ہے جو درست ہے۔

محمد
18-10-11

Attested

ASP Spalden

Attested

ASP - HA

ATTESTED

MP
of

بیان شاہد شاہ 479/444 منبغہ تقارن 1475

بیان ہوا کہ مورخ 15/3 کو صبر کی گنت لکھی گئی اور باقی گنت جو ہم ہمراہ
مخبر زمان ASHO صاحب یعنی رات 24000 تک تا صبح 0530 تک دوران
گنت مخبر زمان ASHO صاحب ہمراہ موجود تھے صبح 0530 تک واپس
تھانہ جا کر میں بارن گنت لکھ کر لایا گیا گنت دو گم کا دوران مخبر زمان ASHO
نہارے ساتھ مو باقی گنت ہم موجود رہے یہی ہمراہ بیان ہے

دیکھو

Attested

ASD - Siddhan

Attested

ASD M.A

ATTESTED

67

نمبر شمار	تفصیل خدمات	اوقات کار	نام نمبر کنٹریل	آف انچارج
1	ہریا سٹیل گھنٹ	17:30	4732	...
2	ڈھنڈہ ڈریسٹل		4542	...
3	رائیڈر گھنٹ		4483	...
4	میں چوک	24:00		...

پولیس اسٹیشن اول

نمبر شمار	تفصیل خدمات	اوقات کار	نام نمبر کنٹریل	آف انچارج
1	ہریا سٹیل گھنٹ	24:00	4731	...
2	ڈھنڈہ ڈریسٹل			...
3	رائیڈر گھنٹ			...
4	میں چوک	06:00		...

نمبر شمار	تفصیل خدمات	اوقات کار	نام نمبر کنٹریل	آف انچارج
1	سیکرٹری ڈپٹی سیکرٹری			...
2	ABLA انکوائری			...
3	UBL میڈیا ڈیپارٹمنٹ			...
4	IBL بین بینک			...
5	NBP پیپرل چوک			...

ATTESTED

[Signature]

تقدیر سے منسوب ہے۔ 25 مارچ 14-3 (14-14) منسلح ہتھیار

والدی محمد عمران خان صاحب 3-14-14 رجسٹرڈ 06:05 صبح سے
پسرانستان کے رجسٹرڈ جوڑام نمبر 22 مارچ 14-3 کے تحت وارنٹ جاری کیا گیا ہے۔
میں سے منسلک ہتھیاروں میں سے ایک منسلک ہتھیار جو کہ جاگیرداروں کی
یکمراں ہتھیاروں کی صورت میں موجود ہے۔ اس کے تحت ایک تفصیلی ریمانڈ نامہ
آباد چوہدری بھائی سنگھ کو جاری کیا گیا ہے۔ ریمانڈ نمبر RIM 4455

مورخہ 125 مارچ 2013 بزرگ شاہ شکر علی خان
ریمانڈ نمبر 3838759 مورخہ 21-05-14 مارچ جوڑام
کو منجملہ اسلحہ خان کے زبردستی 523 اسلحہ بزرگ شاہ شکر علی خان
کو منجملہ اسلحہ خان کی RIM 4455 کو منجملہ اسلحہ خان
کے ساتھ منجملہ اسلحہ خان کے ساتھ منجملہ اسلحہ خان
میں سے کئی کئی ہتھیاروں کو منجملہ اسلحہ خان
کے ساتھ منجملہ اسلحہ خان کے ساتھ منجملہ اسلحہ خان
ریمانڈ نمبر 157 مورخہ 14-3-13

محمد عمران خان
رجسٹرڈ
RIM 4455
14-3-13

ATTESTED

[Signature]

/

تھامس ریٹنڈ مد پمپ ۳۵ روزہ ۱۶/۱۴

تھامس ریٹنڈ مد پمپ

ایئر پورٹ غلام عباس سٹا ۱۶/۱۴ mm ۰۷:۵۵ بجے (ایئر پورٹ تھامس)

میں عدیہ الفیج سپر ایئر کی کمرہ سے باہر آیا اور دیکھا تو موٹر سائیکل ٹھہری

۱۶/۱۴ ۱۲۵ مائیکل ۲۰۱۳ جوڑے اور ۲۵ روزہ ۱۶/۱۴ RIM

سپر ڈھنگ ۵۲۳ ۵۵۰ (حاملہ تھامس میں کمرہ ۱۳ بجے)

تھامس ریٹنڈ مد پمپ پر موجود سٹوری کنٹینر عمارت ۷۵۳ سے ریٹنڈ مد پمپ

۵۵۰ نے لائسنس کا اظہار کیا اور سٹوری کنٹینر سے لے کر ۱۵ بجے

تھامس ریٹنڈ مد پمپ ۱۶/۱۴ ۱۲۵ مائیکل ۲۰۱۳ جوڑے اور ۲۵ روزہ ۱۶/۱۴

کی سٹوری کنٹینر ۵۵۰ بجے رات ۱۲ بجے کارڈ کارڈ فٹم اور ایک ٹیکسٹ

مالف ریٹنڈ مد پمپ ۱۶/۱۴ ۱۲۵ مائیکل ۲۰۱۳ جوڑے اور ۲۵ روزہ ۱۶/۱۴

میں تھامس ریٹنڈ مد پمپ کی ڈیوٹی کے دوران جوڑے سٹوری کنٹینر سے لے کر

گمشدگی سے بہتر کنڈیشن میں سٹوری کنٹینر سے لے کر تھامس ریٹنڈ مد پمپ

تھامس ریٹنڈ مد پمپ ۱۶/۱۴ ۱۲۵ مائیکل ۲۰۱۳ جوڑے اور ۲۵ روزہ ۱۶/۱۴

تھامس ریٹنڈ مد پمپ ۱۶/۱۴ ۱۲۵ مائیکل ۲۰۱۳ جوڑے اور ۲۵ روزہ ۱۶/۱۴

جا علی

تھامس ریٹنڈ مد پمپ

mm ۱۲۵ tets 24/13/014

Sit Forwarded pls 24/13/014

ATTESTED

[Signature]

تعمیر کا نام

تعمیر شدہ عینہ 24 روز نامہ 15 3/14

صفحہ نمبر 11

درائگی قرعہ خان ASHO 3/14 15 صحت 23:45 بجے میں تھیں جس کا حد 44.0

کے برفی جو بائبل گنت روانہ کردہ تھیں گا جو تاجوں گھاری سروای

حے ڈرائیور خورشید احمد آہ سے عہدہ رکھی جا سکی اس طرح 2 مہرے

عہدہ ڈھنڈہ جو بائبل میں فرسٹین آہ سے رقم 4 ماصلاح

ادریس گنت پر عہدہ نام 50 کی بھی روانہ کردہ تھیں جو

عنا علی

گزار شدہ لہج

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M.M. S. Khatun

26/3/014

ATTESTED

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تمام 1015

تقریباً 16³/₁₄ 27 روز تا 16³/₁₄ صلح فرمایا

ذالہجرت زمان 16³/₁₄ وقت 5:45 بجے میں حرم اہلبیت
 کا وقتہ پورا ہو گیا 24 مارچ کو کعبہ از گشت کے دورے سے
 والی عبادتوں کے لئے جو ان کے لئے گنت گنت گنت
 تھیں سوئے تھیں یہ ہاں گنت گنت گنت گنت گنت
 دوران گنت جو کعبہ ان بازار میں سکونگے اور ان کے
 گنت گنت گنت گنت گنت گنت گنت گنت گنت گنت
 موجود تھے ان کو گنت گنت گنت گنت گنت گنت گنت
 حرم ان کے گنت گنت گنت گنت گنت گنت گنت گنت
 آئے اس کے بعد حرم اہلبیت سے داخل کیا گیا اور

صاحب عالی

تقریباً 16³/₁₄

mm p's 1015

26/3/014

ATTESTED

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H- (29)

ORDER


This is an order on the representation of *Ex-SI Qamar Zaman No.91/H* of Haripur District against the order of major punishment i.e. Reversion of Rank from SI to ASI by the District Police Officer, Haripur vide his OB No.268 dated 30-04-2014.

Facts leading to his punishment are that he while posted at Police Station KTS as ASHO, he took into Police custody a motorcycle bearing registration No.4455/RIM U/S 523/550 vide DD No.25 dated 14-03-2014, consequently the said motorcycle was found missing from Police Station. The mishandling and removal of motorcycle from Police Station on part defaulter Police Official being ASHO holding of responsible sea in Police Station was highly objectionable and misconduct under Police Rule 1975.

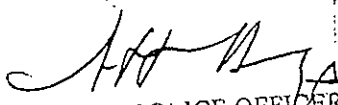
Proper departmental enquiry was conducted by Mr. *Wahid, Mehmood ASP/Hqrs & Kahsif Zulfiqar ASP/Circle Saddar*. After conducting a detail enquiry, the Enquiry Committee proved him guilty. On the recommendation of Enquiry Committee, the District Police Officer Haripur awarded him major punishment of reversion of rank from SI to ASI under the relevant law.

After receiving the appeal, the comments of DPO Haripur were obtained. The enquiry file, appeal & the comments of the DPO were perused. The appellant was also heard in person in the orderly room who explained his version.

The undersigned also ordered for denovo enquiry in the said case in which he was again held guilty of charges. He brought the motorcycle an allegedly stolen and did not record in daily dairy. The punishment awarded by DPO Haripur is upheld and his appeal is filed.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 6815 /PA Dated Abbottabad the 17/7 2014. ✓
Copy of above is forwarded to the District Police Officer, Haripur of information and necessary action with reference to this Memo No.4138/SRC dated 20-5-2014.
The Service Roll containing enquiry file of the appellant are returned herewith.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

ATTESTED


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWR

I-30

Appeal No. 1045 /2014

Withdrawn
29/4/2015

Mr. Qamar Zaman, Ex: Sub Inspector,
Presently posted as Assistant Sub Inspector, Police line Haripur,
District Haripur **Appellant**

VERSUS

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
 2. The Regional Police Officer, Hazara Region at Abbottabad.
 3. The District Police Officer, District Haripur.
- **Respondents**

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE APPELLATE ORDER DATED 17-7-2014 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE IMPUGNED ORIGINAL ORDER DATED 06-05-2014 HAS BEEN REJECTED ON NO GOOD GROUNDS AND AGAINST THE ORDER DATED 06-05-2014 WHEREBY MAJOR PENALTY OF REDUCTION IN RANK FROM THE POST OF SUB INSPECTOR TO ASSISTANT SUB INSPECTOR HAS BEEN IMPOSED ON THE APPELLANT WITH OUT CONDUCTING REGULAR INQUIRY IN THE MATTER

PRAYER:

That on acceptance of this service appeal the impugned orders dated 06-05-2014 and 17-07-2014 may very kindly be set aside and respondents may be directed to restore the appellant on his original post of Sub Inspector with all consequential benefits and seniority. Any other remedy which this august Tribunal deems fit may also be awarded in favor the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the appellant was enrolled in respondent Department as constable vide order dated 01-09-1996 and during service the appellant qualified several professional and Departmental courses. That on 25-06-2007 the appellant was selected as **PASI** on the recommendation of Khyber Pakhtunkhwa Public Service Commission.

ATTESTED

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2- That right from appointment the appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. That appellant while posted as Additional SHO police station KTS District Haripur, a charge sheet and statement of allegations was served on the appellant in which it was alleged that the appellant while posted at police station KTS district Haripur, took into possession a Motor cycle Number 4455/RIM under section 523/550 Cr P.C vide daily dairy No 25 dated 14-03-2014. That it was further added that the said Motor cycle was found missing from the police station on 16-03-2014. Copies of the charge sheet and statement of allegations is attached as annexure **A.**

3- That in response to the charge sheet and statement of allegation the appellant denied the allegation which was leveled against him with documentary proofs and justification. That in the said reply the appellant clarified his position, that the subject motor cycle when took into possession by the appellant brought into the notice of SHO Police station KTS district Haripur, the fact was duly incorporated in daily dairy of police station KTS vide No.25 dated 14-03-2014, under police rule No. 3, 4, 7, and 22.16 mandatorily held responsible station house clerk for the custody of property. So it was the duty of Moharrar staff who ought to manage the custody, moreover Sentry were present on duty who are responsible for and ward inside the police station and not the appellant. Copy of the reply is attached as annexure **B.**

4- That the respondent Department with out conducting fact finding inquiry and Departmental inquiry straight away awarded major punishment of reduction in rank from the post of Sub Inspector to Assistant Sub Inspector vide order dated 06-05-2014. Copy of the original impugned order is attached as annexure **C.**

5- That feeling aggrieved from the impugned order dated 06-05-2014 the appellant filed Departmental appeal vide dated 07-05-2014 before the respondent No.2. That on the said Departmental appeal the respondent No.2 conducted denovo Departmental inquiry in the matter vide order dated 29-05-2014. Copies of the Departmental appeal and order are attached as annexure **D & E.**

6- That in the light of order dated 29-05-2014 a denovo inquiry was conducted which was concluded vide dated 30-06-2014 by the inquiry officer, with the findings that " According to report of SHO role of EX Sub Inspector Qamar Zaman is suspicious as he was more concerned about the motorcycle

ATTESTED

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than any one else and unreasonably delayed the process of official possession of motorcycle but there is no witness or clear evidence which shows his involvement". Copies of denovo inquiry report and statement of officials are attached as annexure **F & G.**

7- That on the said ambiguous Departmental denovo inquiry the respondent No.2 passed/issued the appellate order dated 17-07-2014 whereby the punishment awarded by the respondent No.3 to the appellant has been upheld and the appeal of the appellant has been rejected vide order dated 17-07-2014. Copy of the appellate order is attached as annexure **H.**

8- Hence the present appeal inter alia on the following grounds amongst the others.

GROUND:

A- That the impugned orders dated 6-05-2014 and 17-07-2014 are against law, facts, natural justice and materials on record, therefore not tenable and liable to be set aside.

B- That the appellant has not been treated in accordance with law and rules by the respondents on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That no show cause notice has been served on the appellant by the respondent Department before issuing the impugned original order dated 6.5.2014.

D- That no regular inquiry has been conducted by the respondent Department against the appellant before issuing the impugned order dated 6.5.2014, which is as per Supreme Court judgment is necessary in cases of punitive actions.

E- That no chance of personal hearing /defense has been given to the appellant which is mandatory under the amended E & D rules 2011.

F- That action has been taken by the respondents against the appellant under a wrong law.

G- That under the police Rules 1975 chapter 22 rule 3, 4, 7 and 22.16 mandatorily held the responsible station house Clerk for the custody of property, in no imagination of law the appellant could be liable for the custody of the disputed motor cycle, it was handed over to Moharrar staff who ought to manage the

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custody, moreover sentry who is on duty is bestowed with the responsibility of watch and ward inside the police station, therefore the appellant should not be punished on the fault of Moharrar staff.

- H- That the respondent Department discriminated the appellant on the subject noted above, because after possession of the said disputed Motor Cycle the appellant handed over the same to Moharrar staff having informed SHO Police station KTS, it is the duty of Maharrar and sentry to arrange safe custody and ensure safety of properties, there failure made the appellant scape goat.
- I- That the appellant had not been treated according to law and had been condemned un heard.

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

APPELLANT


QAMAR ZAMAN

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

ATTESTED



ORDER

J-34

This is an order on the revision petition submitted by *ASI Qamar Zaman No.91/II (Now offg: SI)* to worthy Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. In compliance with the Worthy PPO directives issued vide his letter No.S/3480/14 dated 21-10-2014 his case was reviewed.

The allegations against him were that he while posted at Police Station KTS as ASHO, he took into Police custody a motorcycle bearing registration No.4455/RIM U/S 523/550 vide DD No.25 dated 14-03-2014. consequently the said motorcycle was found missing from Police Station. The mishandling and removal of motorcycle from Police Station on part defaulter Police Official being ASHO holding of responsible seat in Police Station was highly objectionable and misconduct under Police Rule 1975.

He was awarded major punishment of reversion in rank from SI to ASI by DPO Haripur after conducting departmental enquiry. Prior to this revision petition he preferred an appeal to the undersigned and punishment awarded by the DPO was upheld and his appeal was filed vide this office Endst: No.6815/PA dated 17-07-2014.

Now on receipt of revision petition the undersigned thoroughly examined the record and came to the conclusion that the incident was not occurred merely by the said ASI but this was occurred due to the negligence of the whole PS. Staff for which the SHO, Moharrars & Sentries etc have also been awarded punishment keeping in view their guilty.

Keeping in view the previous performance/record of service of the said ASI, I take lenient view and convert the punishment of reversion of the said ASI and award him major punishment of reduction in pay for one stage. His pervious rank of SI and seniority with his colleagues is restored.

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time

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 10195-97 /PA Dated Abbottabad the 90/11 /2014.

Copy of above is forwarded for favour of information to the:-

1. ✓ The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. The District Police Officer Haripur with reference to this office Endst: No.6815/PA dated 17-07-2014.

REGIONAL POLICE OFFICER
Hazara Region Abbottabad

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar
OF 2015

Ramar Zaman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Police Department

(RESPONDENT)
(DEFENDANT)

I/We Ramar Zaman

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2015



CLIENT



ACCEPTED

NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar

Service appeal No. 247/2015

Inspector Qamar Zaman No. 91/H, Ex-posted in District Haripur
presently posted in CTD Abbottabad

.....(appellant)

Vs.

The Inspector General of Police, , Khyber Pakhtunkhwa, Peshawar & others
.....(respondents)

RESPECTFULLY SHEWETH:

The Para-wise comments on behalf of respondents are as under:-

PRELIMINARY OBJECTIONS:

1. That the instant appeal is badly time barred and not maintainable under the law.
2. That the appellant has not come to the honorable Tribunal with clean hands.
3. That the appellant has no locus standi to file the appeal.
4. That the appellant has suppressed material facts from the Honorable Tribunal.
5. That the appellant is estopped by his own conduct.
6. That the instant appeal is bad for mis-joinder/non-joinder of necessary parties.

OBJECTIONS ON FACTS.

1. Pertains to record.
2. Incorrect, the appellant Inspector Qamar Zaman No. 91/H during his service committed misconduct and he was awarded punishment of forfeiture of 01 increment vide OB. No. 64, dated 04.02.2006 by the District Police Officer, Abbottabad, similarly, the appellant while posted as ASHO PS KTS took into possession a motorcycle bearing registration No. 4455/RIM, u/s 523/550 CrPC on 08.03.2014, whereas he got the entry made in Daily Diary of Police Station KTS on 14.03.2014 vide Daily Diary No. 25 of PS KTS. The said motorcycle was found missing from police station KTS regarding which the entry was incorporated vide Daily Diary No. 30, dated 16.03.2014 (copy of daily diary No. 30 dated 16.03.2014 is attached as annexure "A"). Deliberate and intentional non-entry in daily diary of police station casted doubt which led to the missing of motorcycle, the motorcycle was taken away from police station, the acts/omissions of appellant were misconduct in term of Police Rules 1975 as he held a responsible seat as ASHO of Police Station. The appellant was served with charge sheet and statement of allegations by the then District Police Officer, Haripur and proper departmental enquiry was conducted by constituting enquiry committee comprising on Assistant Superintendent of Police, HQrs: Mr. Wahid Mehmood and Assistant Superintendent of Police, circle Saddar, Haripur Mr. Kashif Zulfiqar in which

he was found guilty of charges and was recommended for punishment, therefore, he was called in Orderly Room and was heard in person by the then District Police Officer, Haripur and being proved guilty of charges, the appellant was awarded major punishment of reversion in rank from SI to ASI vide OB No. 268, dated 30.04.2014 (copy of order is attached as annexure "B").

3. Incorrect, the appellant could not discharge his lawful duty under the law, he did not promptly enter the fact of seizure of motorcycle bearing registration No. 4455/RIM u/s 523/550 CrPC, which was subsequently taken away from Police Station, all the facts signified after thought, malafidey and dishonesty on behalf of appellant, therefore, he was rightly proceeded against departmentally under the law, section 523/550 of CrPC have laid down certain procedure for taking into possession/seizure of suspected or stolen property, section 550 CrPC states that **"Any Police Officer may seize any property which may be alleged or suspect to have been stolen or which may be found under circumstances which create suspicion of the commission of any offence such police officer, if subordinate to the officer incharge of police station, shall forthwith report the seizure to that officer"** the appellant was subordinate to SHO he did not report the matter to SHO on 08.03.2014 such intentional omission of entry regarding the said motorcycle in Daily Diary and later on after delay of 06 days i.e. 14.03.2014 the entry was made and thereafter its missing from Police Station highlights the misconduct of appellant which cannot be justified. The rest of Para is concocted and planed for absolving himself from responsibilities.
4. Incorrect, proper departmental enquiry was conducted and on recommendation of enquiry committee the appellant was awarded lawful punishment of reversion in rank from SI to ASI.
5. Correct, to the extent of filing of appeal by the appellant before the Regional Police Officer, Hazara Region, Abbottabad which was considered and denovo enquiry was ordered by Regional Police Officer, Hazara Region, Abbottabad, Deputy Superintendent of Police, Mirpur, Abbottabad Mr. Khurshid Khan was appointed as Enquiry Officer who also held the character of appellant as suspicious, the appellate authority i.e. Regional Police Officer, Hazara Region, Abbottabad agreed with the denovo enquiry and upheld the original punishment, moreover, the rest of the police staff of PS KTS who were found connected with the matter were also dealt with in accordance with law and they were also awarded lawful punishments as per their assigned role.
6. As explained above.
7. Incorrect, the departmental denovo enquiry was quite legal which also clarified each and every fault of involved police officials in the relevant issue, moreover, the appellant was also held guilty, there were 02 concurrent findings of enquiry officers in which the charges of misconduct were held proved, therefore, the appellate authority i.e. Regional Police Officer, Hazara Region, Abbottabad up held the punishment passed by the then District Police Officer, Haripur.
8. In reply to this Para, It is submitted that the appellant filed a revision petition before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar which was entertained and entrusted to the Regional Police Officer, Hazara Region, Abbottabad for disposal, who took lenient view and punishment of reduction in rank was set-aside and punishment of reduction in pay for 01 stage was awarded to the appellant by the Regional Police Officer, Hazara Region, Abbottabad vide Order Endst: No. 10195-97/PA, dated 20.11.2014 (copy of

order is attached as annexure "C") the instant appeal is badly time barred and not maintainable as the punishment was passed on 20.11.2014.

9. Incorrect, the instant appeal is not maintainable.

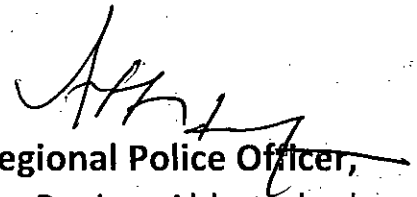
GROUNDS:

- A. Incorrect, the order of punishment is legal, in accordance with law, natural justice and maintainable.
- B. Incorrect, the appellant has been treated in accordance with law and quite legal punishment was awarded.
- C. Incorrect, the appellant was issued charge sheet and statement of allegations, he was associated with the enquiry proceedings as well as he was also heard in person, hence, all the principles of natural justice were observed.
- D. Incorrect, proper enquiry was conducted in which the charges were proved.
- E. Incorrect, the appellant was provided every opportunity to defend himself, similarly, the enquiry proceedings were carried as per Police Rules 1975.
- F. Incorrect, the punishment is quite legal and maintainable under the law.
- G. Incorrect, the primary responsibility rested on the shoulders of appellant who delayed the entry in the daily diary, which caused the taken away of motorcycle from police station, as negligence and malafide is crystal clear which was apparent misconduct, beside this the police station KTS's staff who were found negligent were also proceeded against departmentally and they were also awarded lawful punishments as per their roles.
- H. Incorrect, as narrated above.
- I. Incorrect, the appellant was not held innocent rather lenient view was taken towards him, the custodian of life and property of public could not ensure save custody of motorcycle which negates the version of appellant.
- J. Incorrect, the appellant was treated in accordance with law and was given right of personal hearing and self defense, the appellant was promoted from the rank of SI to Inspector on 25.05.2015 vide Order No. 1332-45/E-III, the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, hence, no injustice has been done to him. The punishment awarded to the appellant commensurate with the gravity of charges.
- K. Any other point may be argued during the hearing of the case on behalf of respondents with the permission of Hon'ble tribunal.

It is, therefore, requested that the instant appeal does not hold any legal force which may kindly be dismissed with costs.



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 01)



Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No. 02)



District Police Officer,
Haripur
(Respondent No. 03)

Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar

Service appeal No. 247/2015

Inspector Qamar Zaman No. 91/H, Ex-posted in District Haripur
presently posted in CTD Abbottabad

.....(appellant)

Vs.

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others
.....(respondents)

Reply of application for condonation of delay

RESPECTFULLY SHEWETH:

1. In reply to this Para, It is submitted that the appellant Inspector Qamar Zaman No. 91/H, while posted as ASHO PS KTS, District Haripur he committed gross misconduct for which he awarded the punishment of reversion in rank from SI to ASI by the then District Police Officer, Haripur, vide OB No. 268, dated 30.04.2014, the appellant filed an appeal against the punishment order to the Regional Police Officer, Hazara Region, Abbottabad, in which denovo enquiry was ordered by the Regional Police Officer, Hazara Region, Abbottabad and the punishment passed by the District Police Officer, Haripur was upheld, the appellant filed a revision petition before the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar which was entrusted to the Regional Police Officer, Hazara Region, Abbottabad for disposal, he took a lenient view and the punishment of reversion in rank from SI to ASI was converted into reduction in pay for 01 year vide the Regional Police Officer, Hazara Region, Abbottabad office Endst; No. 10195-97/PA, dated 20.11.2014, the instant service appeal has been filed after statutory period which is liable to be dismissed.
2. In reply to this Para, It is submitted that instant service appeal/application is not maintainable on the following grounds.

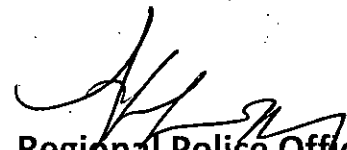
GROUNDS:

- A. Incorrect, the appellant committed gross misconduct for which lawful punishment was passed under the law, hence, the instant appeal being badly time barred is liable to be dismissed.
- B. In reply to this Para, It is submitted that the instant application does not hold any legal force as valuable rights have accrued to the respondent department.

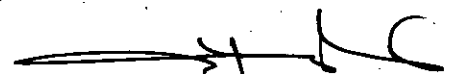
In view of above, it is, therefore requested that the application for condonation of delay is not maintainable under the law, which may kindly be dismissed with costs.



Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar
2/10/15 (Respondent No. 01)



Regional Police Officer,
Hazara Region, Abbottabad
(Respondent No. 02)



District Police Officer,
Haripur
(Respondent No. 03)

Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar

Service appeal No. 247/2015

Inspector Qamar Zaman No. 91/H, Ex-posted in District Haripur
presently posted in CTD Abbottabad

.....(appellant)

Vs.

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar & others

.....(respondents)

COUNTER AFFIDAVIT

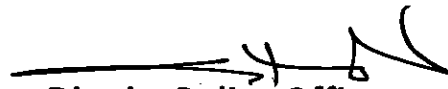
We the following respondents do hereby solemnly affirm and declare that all the contents of reply/comments are true and correct to the best of our knowledge and belief and nothing has been concealed from the Hon'ble Tribunal.



Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar
Respondent No. 01/10/15



Regional Police Officer
Hazara Region, Abbottabad
Respondent No. 02



District Police Officer,
Haripur
Respondent No. 03

ایئر پورٹ عمارت نمبر 16 $\frac{mm}{CHC}$ 16 $\frac{3}{14}$ صحت 07:00 بجے (ایئر پورٹ ہسپتال)

میں طبی اکتعاب سید ارمین سے برسرِ پاؤں دیکھا اور جوڑا سہ ماہی نمبر 10

4455 نمبر 125 مارچ 2013 جوڑا جوڑا اور 30 روزہ سہ ماہی $\frac{3}{14}$

نمبر 525 (حاملہ کھانسی) کھانسی (حاملہ کھانسی) کھانسی

تعمیر کاروں کی موجودگی سے ستر کی کنکریں عمارت کے کتبے سے روکنا پڑا

صوبہ کے راجسٹی کے نام سے 10 سے 2 بجے

سٹر کی کنکریں (مارچ 4731) جبکہ 2 سے 4 بجے تک کتبے کے

کے پستروں کے ساتھ ساتھ رات کے دوران کتبے کے کتبے کے

سال کے ساتھ ساتھ کتبے کے ساتھ ساتھ کتبے کے ساتھ ساتھ

میں کتبے کے ساتھ ساتھ کتبے کے ساتھ ساتھ کتبے کے ساتھ ساتھ

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آئی آر ڈی عمارت

11/13/014

Forwarded

11/13/014

ATTESTED

64

Annexure "B"

ORDER

Sub Inspector Qamar Zaman No. 91// while posted at Police Station KTS as ASHO, he took into Police custody a Motorcycle bearing registration No. 4455/RIM u/s 523/550 vide DD No. 25 dated 14.03.2014, Consequently the said Motorcycle was found missing from police station. The mishandling and removal of motorcycle from police station on part defaulter police official being ASHO holding of responsible seat in Police Station was highly objectionable and misconduct under police rules 1975.

On the basis of misconduct the accused official was charge sheeted and served with summery of allegation, an enquiry committee was constituted comprising of ASP/HQ Mr. Wahid Mehmood and Mr. Kashif Zulfiqar ASP/Circle Saddar. To probe the matter, the enquiry committee conducted the enquiry proceedings and all the procedural formalities were observed, having completed the enquiry the committee submitted the enquiry findings vide No. 62 dated 14.04.2014 recommending therein for major punishment being proved guilty of charges leveled against the accused police official.

The entire record of enquiry was perused and deeply appreciated, the delinquent official was called in orderly room on 30.04.2014, heard in person and the undersigned came to conclusion that the charges of misconduct are proved, I Muhammad Ijaz Khan District Police Officer Haripur being competent authority under police rule 1975 am satisfied that Sub Inspector Qamar Zaman failed to discharge official duties with ulterior motives by not recording in roznameha the taking into possession of motorcycle U/S 523/550 which was subsequently theft out from police station, Hence being proved guilty in exercise of power under police rules 1975 he is hereby awarded the major punishment of Reversion of Rank from SI to ASI with effect from 30.04.2014.

Order announced in his presence.
OB No. 268/30.04.2014.

District Police Officer
Haripur

No: 3796

DT. 06.05.14

Copy of above is submitted to the Regional Police Officer, Hazara Region Abbottabad for favour of information please.

District Police Officer
Haripur

Annexure "C"

J-34

ORDER


This is an order on the revision petition submitted by ASI Qamar Zaman No.91/II (Now offg: S) to worthy Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. In compliance with the Worthy PPO directives issued vide his letter No S/3480/14 dated 21-10-2014 his case was reviewed.

The allegations against him were that he while posted at Police Station KTS as ASHO, he took into Police custody a motorcycle bearing registration No.4455/RIM U/S 522/550 vide DD No.25 dated 14-03-2014, consequently the said motorcycle was found missing from Police Station. The mishandling and removal of motorcycle from Police Station on part defaulter Police Official being ASHO holding of responsible seat in Police Station was highly objectionable and misconduct under Police Rule 1975.

He was awarded major punishment of reversion in rank from SI to ASI by DPO Haripur after conducting departmental enquiry. Prior to this revision petition he preferred an appeal to the undersigned and punishment awarded by the DPO was upheld and his appeal was filed vide this office Endst: No.6815/PA dated 17-07-2014.

Now on receipt of revision petition the undersigned thoroughly examined the record and came to the conclusion that the incident was not occurred merely by the said ASI but this was occurred due to the negligence of the whole P.S. Staff for which the SHO, Moharrars & Sentries etc. have also been awarded punishment keeping in view their guilty.

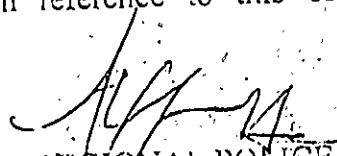
Keeping in view the previous performance/record of service of the said ASI, I take lenient view and convert the punishment of reversion of the said ASI and award him major punishment of reduction in pay for one stage. His previous rank of SI and seniority with his colleagues is restored.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

No. 10195-97 /PA Dated Abbottabad the 9th /11 /2014.

Copy of above is forwarded for favour of information to the:-

1. ✓ The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
3. The District Police Officer Haripur with reference to this office Endst: No.6815/PA dated 17-07-2014.


REGIONAL POLICE OFFICER
Hazara Region Abbottabad

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 247/2015

QAMAR ZAMAN

VS

POLICE DEPTT:

REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO THE REPLY SUBMITTED BY
THE RESPONDENTS

R/ SHEWETH:

PRELIMINARY OBJECTIONS:

(1 TO 6):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Admitted correct, hence need no comments.
- 2- Incorrect and not replied accordingly. That appellant while posted as Additional SHO Police Station KTS District Haripur, a charge sheet and statement of allegations was served on the appellant in which it was alleged that the appellant took into possession a motor cycle No.4455/rim under section 523/550 Cr P.C vide daily dairy No.25 dated 14-03-2014. that the said motor cycle was found missing from the the police station on 16-03-2014.

- 3- Incorrect and not replied accordingly. That in reply of the charge sheet and statement of allegations the appellant clarified his position, that the subject motor cycle when took into possession by the appellant brought into the notice of SHO police station KTS Haripur, the fact was duly incorporated in daily dairy of police station KTS vide No.25 dated 14-03-2014, under police rule No.3, 4, 7, and 22.16 mandatory held responsible station house clerk for the custody of property. So it was the duty of Moharrar staff who ought to manage the custody, moreover Sentry were present on duty who are responsible for and ward inside the police station and not the appellant.
- 4- Incorrect and not replied accordingly. That with out conducting fact finding and Departmental inquiry the respondents straight away awarded major punishment of reduction in rank from Sub Inspector to Assistant Sub Inspector vides order dated 06-05-2014.
- 5- Incorrect and not replied accordingly. That feeling aggrieved the appellant filed Departmental appeal vided dated 07-05-2014 before the appellate authority who conducted denovo Departmental inquiry in the matter with finding that " According to report of SHO role of Ex: Sub Inspector Qamar Zaman is suspicious as he was more concerned about the motor cycle.
- 6- Incorrect and not replied accordingly hence denied.
- 7- Incorrect and not replied accordingly. That on the said ambiguous denovo inquiry the appellate authority upheld the punishment of DPO Haripur and Departmental appeal of the appellant rejected vide order dated 17-07-2014.
- 8- Incorrect and not replied accordingly. That the appellant knocked the door of this august Tribunal in appeal No.1045/2014 but during pendency of appeal the respondents issued another appellate order dated 20-11-2014

communicated to the appellant on 05-03-2015 whereby the punishment of reduction in rank has been set aside and another penalty was imposed i.e. reduction in pay for one stage has been imposed on the appellant.

9- Incorrect and not replied accordingly hence denied.

GROUND:
(A TO K):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless hence denied. That the action of the respondents is against the law, facts and norms of natural justice. That no show cause notice has been served on appellant or regular inquiry has been conducted by the respondent Department against the appellant and no chance of personal hearing/defense has been given to the appellant which is mandatory under the amended E & D rules 2011 before issuing the impugned order dated 06-05-2014 which is as Supreme Court judgment is necessary in cases of punitive actions. That the action has been taken by the respondents against the appellant under a wrong law. That the appellant had not been treated according to law and had been condemned unheard.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT

QAMAR ZAMAN

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 373 /ST

Dated 6-3- / 2019

To


The District Police Officer,
Government of Khyber Pakhtunkhwa,
Haripur.

Subject: -

JUDGMENT IN APPEAL NO. 247/2015, MR. QAMAR ZAMAN.

I am directed to forward herewith a certified copy of Judgement dated 27.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.