

S.No	Date of order proceeding	Order or other proceedings with signature of judge or Magistrate
1	2	3
	22-06-2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.298 of 2015</p> <p>(Sarfaraz Khan-vs-Inspector General of Police/PPO, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Appellant with counsel (Mr. Inyat Ullah Khan, Advocate) and Mr. Muhammad Farooq Khan, Inspector alongwith Mr. Muhammad Jan, GP for respondents present.</p> <p>2. Incharge casualty at DHQ Bannu at the relevant time, the appellant, Sarfaraz Khan, ASI of the Police Department was charged as follows:-</p> <p style="padding-left: 40px;">“That a deceased with apparent fire arm injuries with two more individual in injured condition were brought to DHQ Hospital but ironically neither any autopsy was conducted of the dead body nor investigation conducted as per 174 CrPC which is an indicator that you have committed gross misconduct and rendered liable to be proceeded against”</p> <p>Accordingly he was issued a show cause notice to which he submitted his detail reply, which is available on record. Vide impugned order dated 29.08.2014 the following penalty was imposed on him</p> <p style="text-align: center;"><u>“major punishment of reduction to the lower position in the seniority</u></p>

list of substantive rank of Assistant Sub Inspector with immediate effect.” His departmental representation was also rejected vide order dated 16.03.2015, hence this appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974..

3. Arguments heard and record perused.

4. According to the appellant he had duly informed the concerned police station and Muhammad Aslam, Addl: SHO had also reached to the hospital. On file there is copy of under taking procured by the Medical Officer concerned from the legal heirs of the deceased that they do not want postmortem of the deceased. It is the contention of learned counsel for the appellant that the concerned Medical Officer thus refused to conduct autopsy on the dead body for which the appellant cannot be held responsible. He also took plea that according to section-174 CrPC SHO concerned only was competent for initiation of proceedings under the said section. The above facts and circumstances in view, it was also observed that the penalty imposed on the appellant is not provided in the police rules-1975. Consequently, the Tribunal is constrained to set aside the impugned orders dated 29.08.2014 and 11.03.2015. Parties are left to bear their own cost. File be consigned to the record room.

  
(AHMAD HASSAN)  
MEMBER

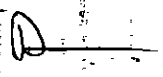
  
(PIR BAKHSH SHAH)  
MEMBER

ANNOUNCED  
22.06.2016

25.11.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. To come up for arguments on

25/3/16

  
Member

25.03.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 22.06.2016 for arguments.

  
MEMBER

  
MEMBER

3,

15.04.2015

Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing to 28.04.2015 before S.B.

  
Chairman

4. 28.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as ASI when vide impugned order dated 29.8.2014 he was awarded the punishment of reduction to lower position in the same rank regarding which he preferred departmental appeal on 22.9.2014 which was rejected on 11.3.2015 and hence the instant service appeal on 7.4.2015.

That the appellant was neither at fault nor he could be held responsible for violation of the provisions of 174 Cr.P.C. That no inquiry was conducted in the prescribed manners and opportunity of hearing was not extended to appellant.

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 for 27.7.2015 before S.B.

Appellant Deposited  
Security & Process Fee

  
Chairman

5 27.07.2015

Appellant in person and Mr. Mir Faraz Khan, Inspector (legal) alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 25.11.2015.

  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No. 298/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.04.2015	<p>The appeal of Mr. Sarfaraz Khan presented today by Mr. Inayatullah Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>15-4-15</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
2		

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. 298/2014

**Sarfaraz Khan** ..... Appellant

Versus

I.G.P/ PPO, Peshawar & others..... Respondents

**I N D E X**

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-8
2	Affidavit.		9
3	Addresses of the parties.		10
4	Copy of service card	A	11
5	Copy of show cause notice	B	12-13
6	Copy of reply	C	14
7	Copy of impugned original order dated 29.08.2014	D	15
8	Copy of departmental appeal with Naqal Mad	E	16-20
9	Copy of impugned final order dated 11.03.2015	F	21
10	Copy of injury sheet.	G	22
11	Copy of inquest report referred to the doctor.	H-I	23-24
12	Wakalatnama.		25



Appellant

through



**Inayat Ullah Khan**  
Advocate High Court  
LL.M (U.K)  
Cell: 0333-9227736

Dated: 06.04.2015

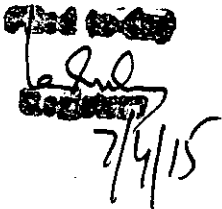
BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.Service Appeal No. 298 /2015N.W.F. Province  
Service Tribunal  
Diary No. 314  
Dated 07-4-2015**Sarfaraz Khan** son of Sher Daraz Khan  
Assistant Sub Inspector, Police Department, Khyber Pakhtunkhwa  
R/O Walkhi Mama Khel, Tehsil and District Bannu..... Appellant.**Versus**

- 1) Inspector General of Police/ PPO, Peshawar.
- 2) Regional Police Officer, Bannu Region, Bannu.
- 3) District Police Officer, Bannu..... Respondents

Appeal u/s 4 of the N.W.F.P Service Tribunal Act, 1974 against the impugned original order No.2287EC dated 29.08.2014, whereby the appellant preferred his departmental appeal on 22.09.2014 which was rejected/ filed on 11.03.2015 vide No.S/1611/15 which was received by the office of Regional Police Officer, Bannu on 16.03.2015 and received by the appellant on 03.04.2015. The appellant prefers the instant appeal before this Hon'ble Tribunal against the impugned orders within the stipulated period of 30 days from the date of final impugned order mentioned above.

Prayer:

On acceptance of this appeal, the impugned orders dated 29.08.2014 and

  
7/4/15

11.03.2015 may kindly be set aside and the punishment of reduction and the major penalty/ punishment of reduction to the lower position in the seniority list of substantive rank of Assistant Sub Inspector may kindly be set aside with all back benefits.

Any other relief consequential relief which this hon'ble Tribunal deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.

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***Respectfully Sheweth;***

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was appointed as Constable on 11.10.1983 in police department and later on after crossing various stages of promotion and presently working on the post of ASI Police Station Kaki. (Copy of service card is attached as Annex: "A").
- 2) That the appellant has more than 31-½ years service at his credit at the time of imposition of major penalty of reduction to the lower position in the seniority list of substantive rank of Assistant Sub Inspector.
- 3) That prior to the punishment inflicted on the appellant no complaint or show cause notice was ever served upon him, which itself indicates the outstanding service career of the appellant, hence the allegations leveled in the show cause are baseless, against facts and law, therefore, cannot be sustainable in the eyes of law.



- 4) That the appellant was served with a show cause notice by the office of respondent No.2 vide show cause notice No.2218/EC dated Bannu 22.08.2014 wherein it was alleged ***"that a deceased, with apparent firearm injuries with two more individual in injured condition were brought to DHQ Hospital, but ironically neither any autopsy was conducted on the dead body nor investigation conducted as per section 174 Cr.P.C. which is an indicator that you have committed gross misconduct and rendered liable to be proceeded against"***. (Copy of show cause notice is attached as Annex: "B").
  
- 5) That the appellant in response to the show cause notice submitted/ filed his detailed reply whereby he has categorically denied the allegations contained therein by explaining his position that it is the responsibility of Station House Officer (SHO) to register a report or in case of any suspicion to investigate and probe the matter under section 174 Cr.P.C. He further explained his position that I dispatched the murasila to P.S. Saddar for registration of case or to conduct the inquiry u/s 174 Cr.P.C. or to depute any other officer who was duty bound to do the needful according to law on the receipt of murasila but the SHO incorporated the content of murasila in Naqal Mad No.28 dated 10.08.2014 for which the appellant is not responsible and accountable because the duty which is usually assigned to A.S.I casualty staff DHQ Hospital, Bannu was fully performed and all the formalities as per law were complied with. (Copy of reply is attached as Annex: "C").
  
- 6) That office of respondent No.2 by not considering the reply submitted to the show cause notice by the appellant passed impugned original order dated 29.08.2014 whereby the major penalty of reduction to the lower position in the seniority list of

substantive rank of Assistant Sub Inspector was imposed upon him. (Copy of impugned original order dated 29.08.2014 is attached as Annex: "D")

- 7) That the appellant being aggrieved and dissatisfied with the impugned original order dated 29.08.2014, preferred his departmental appeal before the office of respondent No.1 being the appellate authority by refuting/ denying all the allegations contained in the show cause notice, which was dismissed vide impugned final order dated 11.03.2015 against which the instant service appeal files before this Hon'ble Tribunal within stipulated period of 30. (Copy of departmental appeal is attached as Annex: "E" and impugned final order dated 11.03.2015 is attached as Annex: "F").

GROUND OF APPEAL:

That the appellant being aggrieved and dissatisfied from the impugned original order and final order dated 29.08.2014 and 11.03.2015 referred above, prefers the instant service appeal on the following amongst other grounds for setting aside the impugned orders.

- a) That the impugned orders are against law, facts and material available on record.
- b) That the office of respondent No.2 himself admitted in the contents of show cause notice that there is no need of regular inquiry and the allegations leveled in the show cause notice is sufficient and "**sufficient material is placed before the undersigned therefore, it is decided to proceed against you in general police proceeding without aid of inquiry officer**". It is pertinent to mention that whenever there are serious allegations leveled against civil servant which are controverted and denied by the Civil Servant then regular inquiry shall be conducted to provide an opportunity to the

appellant to defend and rebut the allegations and material, which had used to the detriment of civil servant, therefore, non-holding of regular inquiry has materially prejudiced the case of appellant and the major penalty of reduction mentioned above without inquiry and without adhering to the established principles of natural justice cannot be sustainable in the eyes of law, consequently most solemn proceedings stand vitiated.

- c) That the appellant duly prepared injury sheet, inquest report and was handed over to the doctor for the purpose of postmortem examination and the doctor was duty bound to conduct P.M Examination on the dead body, therefore, non-holding of P.M. examination on the dead body is not the fault of appellant and in no way could be held responsible for the same. (Copy of injury sheet, inquest report referred to the doctor are attached as Annex: "G, H and I")

It is pertinent to reproduce in verbatim the hand written remarks of the doctor regarding P.M. examination on the dead body of the deceased "***Father, wife and other relatives of the deceased Arshad do not want to do post mortem. Therefore, the dead body is handed over to the relatives and father, without doing post mortem***".

- d) That it was also alleged in the show cause notice that the appellant failed to comply with the provisions of section 174 Cr.P.C. It is pertinent to mention in this regard and it is more appropriate to reproduce the wording of section 174 Cr.P.C. which indicates "***police to inquire on suicide, etc. (1) The Officer Incharge of a police station or some other police officer specially empowered by the Provincial Govt. in that behalf, on receiving information that a person (a) has committed suicide or (b) has been killed by another, or by an animal or by machinery or by an accident, or (c) has***

***died under circumstances raising a reasonable suspicion that some other persons has committed an offence shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless directed by any rule prescribed by the provincial government....."***

The ingredients of above section of law clearly and unambiguously states that it is the responsibility of Incharge of Police Station or some other police officer empowered by the Provincial Government to comply with the requirement of section 174 Cr.P.C. and does not in any way fix responsibility on a police officer who is performing his duties in casualty of hospital.

- e) That the office of respondent No.2 i.e. Regional Police Officer is the appellate authority of the appellant while the office of respondent No.3 i.e. District Police Officer is the competent authority for passing any punishment therefore, the impugned penalty order is also liable to be set aside on this ground alone since the same has not been passed by competent lawful authority. It is time and again held by the superior court of this country that when law requires a particular act to be done in a particular manner it had to be done in that manner otherwise the same would be illegal and void.
- f) That the impugned order is also violative of fundamental rule 29 which states ***"if a Govt. servant is, on account of misconduct or efficiency, reduced to a lower grade or post, or to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective ....., to what extent"***.
- g) That the impugned orders are also violative of section 24-A of General Clauses Act as the competent authority failed to pass

a speaking order with sound reasoning and to substantiate allegation in the light of admissible evidence on record, there is no discussion at all to this effect.

- h) That the authority failed to serve the final mandatory "**show cause notice**" upon the appellant before imposition of major penalty, which is violative of the principles of natural justice and also offends the established norms of justice. The word "**show cause**" means to make clear or apparent, as by evidence, testimony, or reasoning to prove. Even on merit no credible evidence was brought on record to sustain the impugned orders. The authority failed to make out/ establish the alleged charges leveled in the show cause notice, therefore, the superstructure raised thereupon was bound to crumble down, hence it is settled and mandatory provision and principle of law that show cause notice cannot be bartered away or contracted out. Section 5(4) Efficiency and Disciplinary Rules.

It is also pertinent to mention that even no meaningful opportunity of personal hearing was afforded to the appellant before imposition of major penalty.

- i) That the punishment awarded to the appellant does not commensurate with the charges, hence the penalty imposed is excessive and harsh. Reliance has been placed on **2008 SCMR 214** and **2002 SCMR 584**, which lays down the following principle.

**"punishment should always commensurate to the guilt proved"**

Keeping in view, what has been stated above, it is, therefore, the impugned orders dated 29.08.2014 and 11.03.2015 may kindly be set aside and the punishment of reduction and the major penalty/ punishment of reduction

to the lower position in the seniority list of substantive rank of Assistant Sub Inspector may kindly be set aside with all back benefits.

Any other relief, which has not been specifically asked for and to whom the appellant found entitled may also be granted.

Dated: 06.04.2015



Appellant  
**Sarfaraz Khan**  
Assistant Sub Inspector  
Belt No.150/B

Through



Inayat Ullah Khan  
Advocate High Court  
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. \_\_\_\_/2014

**Sarfraz Khan** ..... Appellant

Versus

I.G.P/ PPO, Peshawar & others.....Respondents

**AFFIDAVIT**

I, **Sarfraz Khan** son of Sher Daraz Khan Assistant Sub Inspector, Police Department, Khyber Pakhtunkhwa R/O Walkhi Mama Khel, Tehsil and District Bannu, do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Deponent

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No.\_\_\_\_/2014

**Sarfraz Khan** ..... Appellant

Versus

I.G.P/ PPO, Peshawar &amp; others..... Respondents

ADDRESSES OF THE PARTIESAPPELLANT:

**Sarfraz Khan** son of Sher Daraz Khan  
 Assistant Sub Inspector, Police Department, Khyber Pakhtunkhwa  
 R/O Walkhi Mama Khel, Tehsil and District Bannu

RESPONDENTS:

- 1) Inspector General of Police/ PPO, Peshawar.
- 2) Regional Police Officer, Bannu Region, Bannu.
- 3) District Police Officer, Bannu



Appellant

through



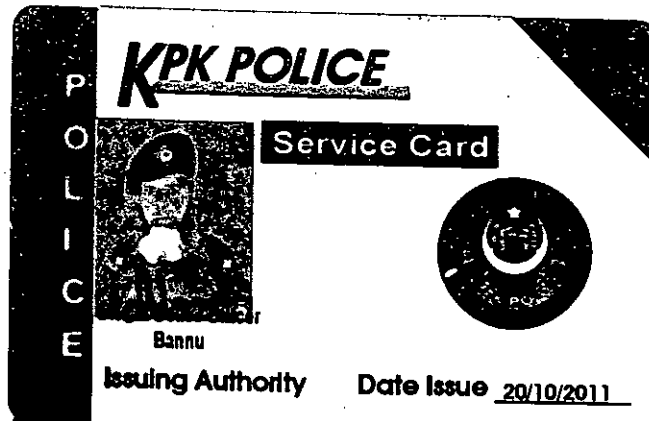
Inayat Ullah Khan  
 Advocate High Court  
 LL.M (U.K)

Dated: 06.04.2015



Annex - "A4"

(11)



**KPK POLICE**

Name: Sarfaraz Khan Height: 5-7"  
F/Name: Sher Daraz Khan Eyes: Black  
Designation: A.S.I B/Group: \_\_\_\_\_  
Visible Mark: \_\_\_\_\_  
Add: Vill: Walkhi Mamam Khel P.S Haved Distt: Bannu

**NIC: 11101-7379035-7**

Annex "B" 12

OFFICE OF THE REGIONAL POLICE OFFICER, BANNU REGION, BANNU.

SHOW CAUSE NOTICE

(Under rules 5 (03) KPK Police Rules, 1975

I That you Mr. Sarfaraz Khan while posted as Incharge casualty staff Bannu have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:

1. That a deceased with apparent fire arm injuries with two more individual in injured condition were brought to DHQ hospital but ironically neither any autopsy was conducted of the dead body nor investigation conducted as per section 174 CrPC which is an indicator that you have committed gross misconduct and rendered liable to be proceeded against.

That by reason of above, as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding without aid of enquiry officer:

That the misconduct on your part is prejudicial to good order of discipline in the police force

That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers:

That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against your by awarding one or more of the kind punishments as provided in the rules.

You are, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.

You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.

You are further directed to inform the undersigned that wish to be heard in person or not.

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.

Received by [Signature]  
Dated 22.8.14/2014

No. 2218 /EC dated Bannu, the 22/08/2014.

Copy to DPO/Bannu for information..

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.

[Signature]

اجناسی

حوالہ شوکار نوٹس نمبر 2218/22/08 مؤرخ 22/08/08 جاریہ جناب D.I.C صاحب یس بنوں  
 معروض بنوں کہ مورخہ 09/08/08 کویر ما 21:30 بجے مقتول ارشد خان ولد ضمیر الزمان بم  
 محمد حسین ثاقب خان، برادر مقتول، مساعہ ساجدہ بی بی، بیوہ مقتول، سناٹے شہباز  
 غنیمت خیل سول سپنل بنوں لہ نے لٹے تھے جو کہ قتل کی مقدمات، دیگر جوری، انوائٹنگی  
 نمبر 5 جیسے اسٹین فوڈ مات کلب، ہمیشہ مکانہ جات کے مجاز انسپر SHO صاحبان یا مکانہ  
 کے دیگر عمہ دران اکرا پورٹ درج کرتے، اس سبب معمول اس وقت کی اطلاع ہی مکانہ  
 صدر کو دی گئی جو مکانہ 188 سے محمد اسلم خان ASHO ہم نفی پولیس سول پھال بنوں  
 آیا۔ اور مقتول کے ورثا کو ساتھ تقریباً ڈو ڈھائی گھنٹے بات چیت کر کے شکر کوئی  
 بھی نہ دوقوم ہذا کی رپورٹ کلب تیار نہ تھا۔ بدیں وجہ محمد اسلم خان ASHO نے مجھے مقتول  
 کے ورثا سے تقریری رپورٹ لینے اور مکانہ بھوانے کی ہدایت کر کے وہ ہم نفی مکانہ جلد  
 گیا۔ جو میں نے حکم کی تعمیل کرتے ہوئے بوقت 00:30 بجے مقتول کے والد ضمیر الزمان  
 اور دیگر قریبی رشتہ دران سے رپورٹ قسیر کر کے مکانہ 188 بھجوا یا اور مقتول کے کانڈرات  
 نہ کر تیار کر کے بعض پوسٹ مارٹم حوالہ ڈاکٹر صاحب کے ڈاکٹر صاحب سے مقتول کے والد اور  
 رشتہ دران نے پوسٹ مارٹم نہ کرنے کی بات کر کے ڈاکٹر صاحب نے بعض پوسٹ مارٹم لغتیں  
 ورثا کو حوالہ کی اور کانڈرات سرگ پسر ڈاکٹر صاحب کی قسیر بطور وجہ ثبوت موجود ہے۔  
 اس طرح مکانہ صدر میں کیوٹی کی جانب سے ارسال کر دہ رپورٹ بحوالہ مد نمبر 28 روزنامہ  
 10/08/08 بوقت 01:30 بجے جناب SHO صاحب یسین لہال کی طرف سے درج روزنامہ  
 ہوا ہے۔ مزید تفتیش، دریافت زیر دفعہ 174 ض ف ماجاز انسپر اچارج مکانہ ہوا ہے۔  
 جو خود یا بذریعہ دیگر عمہ ہوا کر کے گیا۔ کیوٹی سٹاف کام رپورٹ قسیر کرنا اور تعلقہ مکانہ  
 جات کو ارسال کرنا ہے۔ جو سائل نے جملہ ذمہ داری پوری کر کے اپنی کیوٹی مس انجام دی ہے  
 چونکہ شوکار نوٹس میں سائل پر لگائے ہوئے الزام بے بنیاد ہے۔ اور سائل گناہ نہ کر دہ  
 ہے۔ لہذا ارشد خان سے شوکار نوٹس ہذا بلکہ مزید کارروائی داخل دفتر نہ کرنا کہ شکور زماویں  
 سائل دعا گور رہے گا۔

سائل دستخط از خان ASI کیوٹی سٹاف حال مدخل لندن بنوں

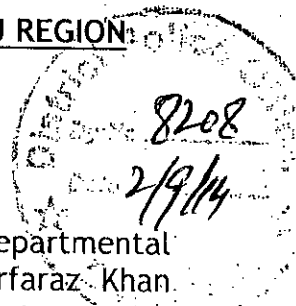
نوٹ: مقتول کے کانڈرات ہم جس پر ڈاکٹر صاحب حالہ محمد صاحب صاحب بطور ثبوت موجود ہے  
 اور تقلمبر نمبر 28 روزنامہ 10/08/08 ہمراہ لف جواب ہذا ہے۔ مزید سائل انجناب کو  
 پیش ہونا چاہتا ہے۔

Arshad Khan

Annex: D 15

POLICE DEPARTMENT.

BANNU REGION



ORDER

This order of the undersigned will dispose off the departmental proceedings initiated against confirmed Assistant Sub Inspector Mr. Sarfaraz Khan Incharge casualty staff DHQ Hospital Bannu by issuing him Show cause notice (Under rules 5 (03) KPK Police Rules, 1975, for committing the following misconduct:-

1. That a deceased with an apparent fire arm injuries with two more individual in injured condition were brought to DHQ hospital but ironically neither any autopsy was conducted of the dead body nor investigation conducted as per section 174 CrPC which is an indicator that he had committed gross misconduct and rendered liable to be proceeded against.

He was served with show cause notice, on dated 22-08-2014, to this effect and submitted reply to the show cause notice within stipulated period which was perused and found implausible

Keeping in view the grave misconduct and followed by its establishing/proving against him, I have come to the conclusion that he is not fit to serve in the higher rank of Assistant Sub Inspector, hence the undersigned has got no other option except to reduce him to the lower position in Rank of ASI.

Therefore, I, SAJID ALI KHAN, REGIONAL POLICE OFFICER, BANNU REGION, BANNU, in exercise of the powers vested in me under NWFP Police rule 1975 hereby impose upon him major punishment of reduction to the lower position in the seniority list of substantive Rank of Assistant Sub Inspector with immediate effect.

Order announced

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.

No. 2287 /EC, dated Bannu the 29/8 /2014

Copy of above along with relevant papers are sent to the District Police Officer, Bannu for necessary action.

SRC

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.

For information & further action is directed

لینڈ الٹھر سٹیشن کو اطلاع دی گئی

3-9-2014

Handwritten signature and date 2-8-14

Handwritten signature and number 29/8/14

Handwritten signature

Handwritten signature and date

Annex: "E" 16

To,

The Provincial Police Officer,  
Khyber Pakhtunkhwa Peshawar.

Through: PROPER CHANNEL

Subject: REPRESENTATION AGAINST THE ORDER OF R.P.O NO. 228/EC DATED 29-08-2014 VIDE WHICH THE PETITIONER WAS PUNISHED FOR REDUCTION TO THE LOWER POSITION IN THE SENIORITY LIST OF SUBSTANTIVE RANK OF ASSISTANT SUB INSPECTOR.

Respected Sir,

With reference to the order of RPO No. 2287/EC dated 29-08-2014, the petitioner prayed as under:-

1. The petitioner recruited in police deptt: as CONSTABLE and after under going basic training in the training institution, reported back in the District for performance of duty and discharged the duty efficiently, devotedly and co-heartedly. The petitioner was then deputed for the training of different courses which was successfully completed and thereafter the petitioner has assigned various sensitive duties which were performed to ought most satisfaction of Superior Officer.
2. That during posting of petitioner under the command of any Police Officer, I have performed the duty with great zeal and zest and has not given a chance to my superior for any kind of complain what so ever against the petitioner and the officer where happy from the performance of duty. The petitioner has made several encounters with the criminals / militant which can be ascertained form the service recodes of the petitioner.
3. That the petitioner's duty has been appreciated by all the officers of Police Deptt; and in this respect the petitioner has been awarded so many commendation certificates with cash as evident form the service recode of the petitioner.

Approved  
[Signature]

4. That while petitioner posted as ASI in Causality Staff DHQ Hospital Bannu was duty bound to record the statement of complainant regarding charging of any person for the commission of offence and in this regard on 10-08-2014 when deceased Arshad Khan, injured Saqib and Mst Sajida were brought to DHQ Hospital Bannu, the concerned PS was informed accordingly and ASHO Aslam Khan of the same PS came to Hospital, but he could not draft the report and advised to the petitioner to record the statement of the legal heirs and send to the PS Saddar than I drafted the report of complainants Khair-ul-Zaman Khan and sent to PS concerned.
5. On the same night I also prepared the injury sheet and inquest report of the deceased and handed over to the constable Bakhtiar Ali No. 427 for escorting with the dead body for the purpose of Post Mortem Examination. The Doctor endorsed a report on the inquest report that the legal heirs do not want the Post Mortem Examination of the dead body, therefore, dead body was handed over to the relatives without PM examination.
6. That I dispatched the Murasila to PS Saddar for registration of the case against the deceased for the purpose of inquiry U/S 174 CrPC and the SHO or any other Officer was duty bound to do the needful according to law on the receipt of Murasila but the SHO incorporated the content of the Murasila in Naqal Mad No. 28 dated 10-08-2014 for which I am not responsible and accountable because what duty has been assigned to me, I have performed the same.
7. That similarly the injury sheet and inquest report of the dead body was prepared and handed over to the Doctor for the purpose of PM examination and the Doctor was duty bound to

Arshad  
by

conduct Post Mortem Examination on the dead body because no order of exemption from the competent court was received to the Doctor. Non conducting of PM examination of the dead body is not my fault but it depends upon the Doctor to do on receipt of documents from Police.

8. That show cause notice has been given to me on the point that Post Mortem Examination has not been conducted on the dead body and inquiry U/S 174 CrPC has not been initiated as per the report of complainant. As explained above that the Police Officer posted in Causality is under obligation to draft the report of complainant and to prepare the documents of the dead body for handing over the same to Doctor for the purpose of PM examination which has done by me as evident from the attached documents and in this regard detail reply has been given to the authority.
9. That on the receipt of my reply to the show cause notice, the authority was duty bound to initiated proper departmental inquiry into the matter for thrashing out the allegation in light of the evidence but the authority without entrusting the matter for inquiry straight away passed the subject order whereas according to law major penalty upon the Official / Officer without proper departmental enquiry is against the spirit of law.
10. That RPO is the appellate authority of the petitioner for any kind of punishment and DPO is the initial authority for initiation of any action against ASI / SI but the petitioner has been deprived from one step of appeal in the situation facing by me.
11. That while assessing the charges of the show cause notice as well as my reply to the show cause notice, the worthy RPO

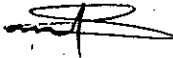
Accepted  
Only

has not gone to the real facts and awarded major penalty of reduction in rank in the seniority list.

12. That according to the dicta of Tribunals and Higher courts, no major penalty can be imposed upon any Official / Officer without proper departmental inquiry and final show cause notice but in my case all the above procedure has been ignored which is against the spirit of law and natural justice.
13. That the Authority has imposed major penalty upon the petitioner inspite of the fact that the petitioner has got very clean record throughout the service which can be ascertained from the service record of the petitioner.

In light of the above facts and circumstances, it is requested that the order of RPO dated 29-08-2014 may kindly set-aside and my seniority may be restored to me keeping in view my lengthy and devoted service. I may also be heard in person.

Yours Obediently,



Sarfaraz Khan ASI

No. 150/B

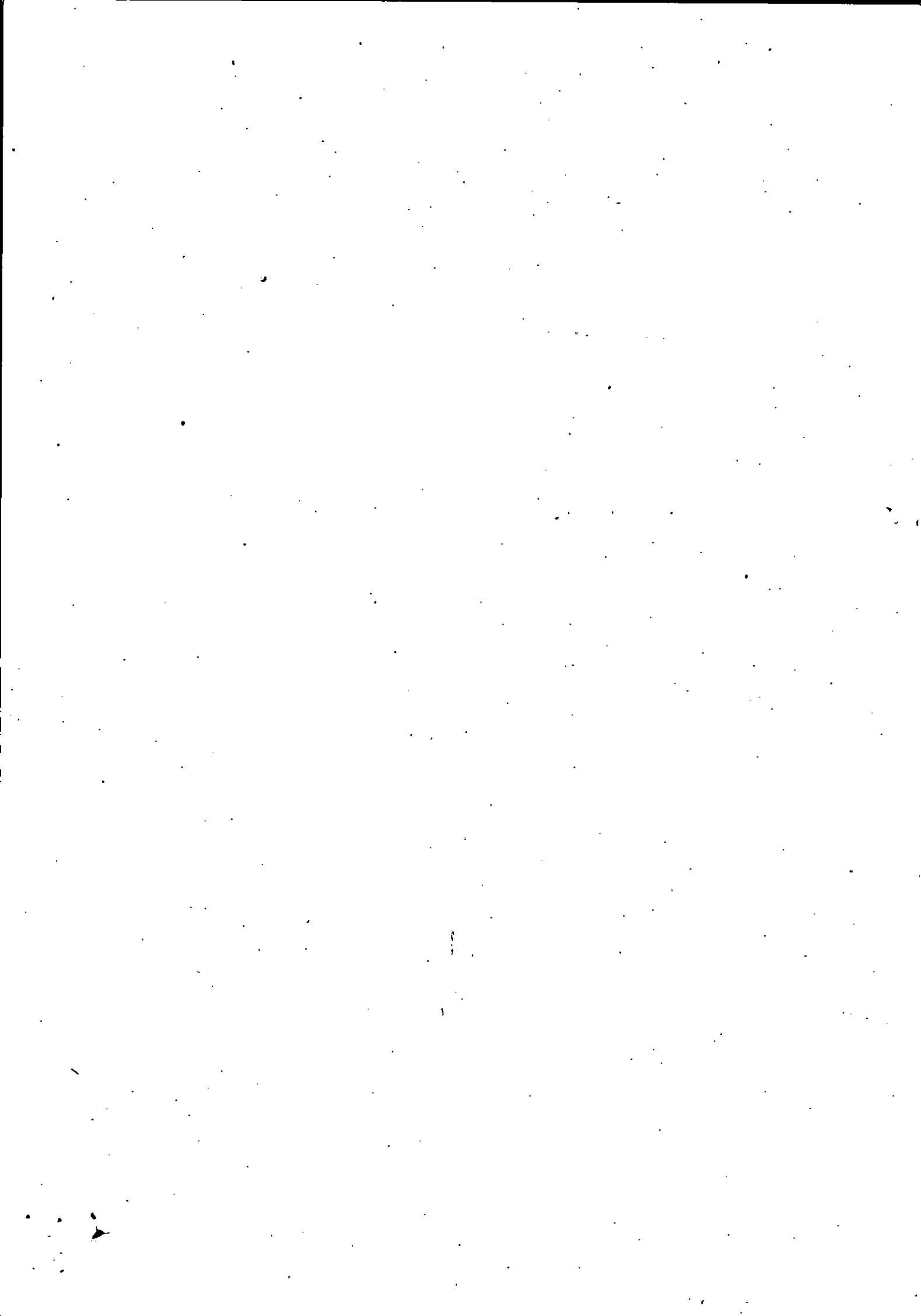
22-9-014

نوٹ ذیل مقدمات کے ساتھ ہے

۱۔ نقلیہ 28 روزہ نام 8 ستمبر 2014ء کو  
 2۔ فوری طور پر حال میں ہرگز نہیں لایا گیا  
 3۔ اس کے بعد اس کا نام RPO ہے

Attested  
 Copy











Annex F 21

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar



No. S/ 1611 /15, Dated Peshawar the 11/03/2015.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Asstt: Sub-Inspector Sarfaraz Khan. The appellant was awarded punishment of reduction to the lower position in the seniority list of substantive rank of ASI with by DIG/Bannu vide order No. 2287/EC, dated 29.08.2014.

In the light of recommendations of Appeal Board meeting held on 25.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Show Cause Notice. The reply of Show Cause Notice was perused and found implausible.

He was also heard in person. He failed to offer any plausible grounds/reasons in his defense. The enquiry papers were perused. The charges stands established against him. Therefore, the appeal of ASI Sarfaraz Khan regarding punishment of reduction to the lower position in the seniority list has no substance; hence his appeal is hereby rejected and filed.

Sd/-  
NASIR KHAN DURRANI  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar

No. S/ 1612-19/15

Copy of the above is forwarded to the:

1. Regional Police Officer, Bannu w/r to his office memo: No.2990/EC, dated 25.11.2014.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-III, CPO Peshawar.

Fe 3/10/15

(MUBARAK ZEB)  
DIG/HQrs:

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No 657-13c  
Dt 16/3/15

DDO - Bannu for inf.  
Two copies of - S: roll  
are sub being for record.  
for with DDO - Bannu

AM 18/3/15



" G Annex

22

بقلمہ صورت

09/08/14

6

5

3

رابطہ نام

ڈاکٹر صاحب

میں نے اپنے پاس سے  
کچھ نسخے ڈاک کے ذریعے بھیج دیے ہیں

جو آپ کو  
میں نے اپنے پاس سے بھیج دیے ہیں

میں نے اپنے پاس سے بھیج دیے ہیں  
جو آپ کو بھیج دیے ہیں

میں نے اپنے پاس سے بھیج دیے ہیں  
جو آپ کو بھیج دیے ہیں

میں نے اپنے پاس سے بھیج دیے ہیں  
جو آپ کو بھیج دیے ہیں

ABU  
10-8-14

تعمیراتی

تعمیراتی

تعمیراتی کاموں کے لئے  
جو آپ کو بھیج دیے ہیں

تعمیراتی کاموں کے لئے  
جو آپ کو بھیج دیے ہیں

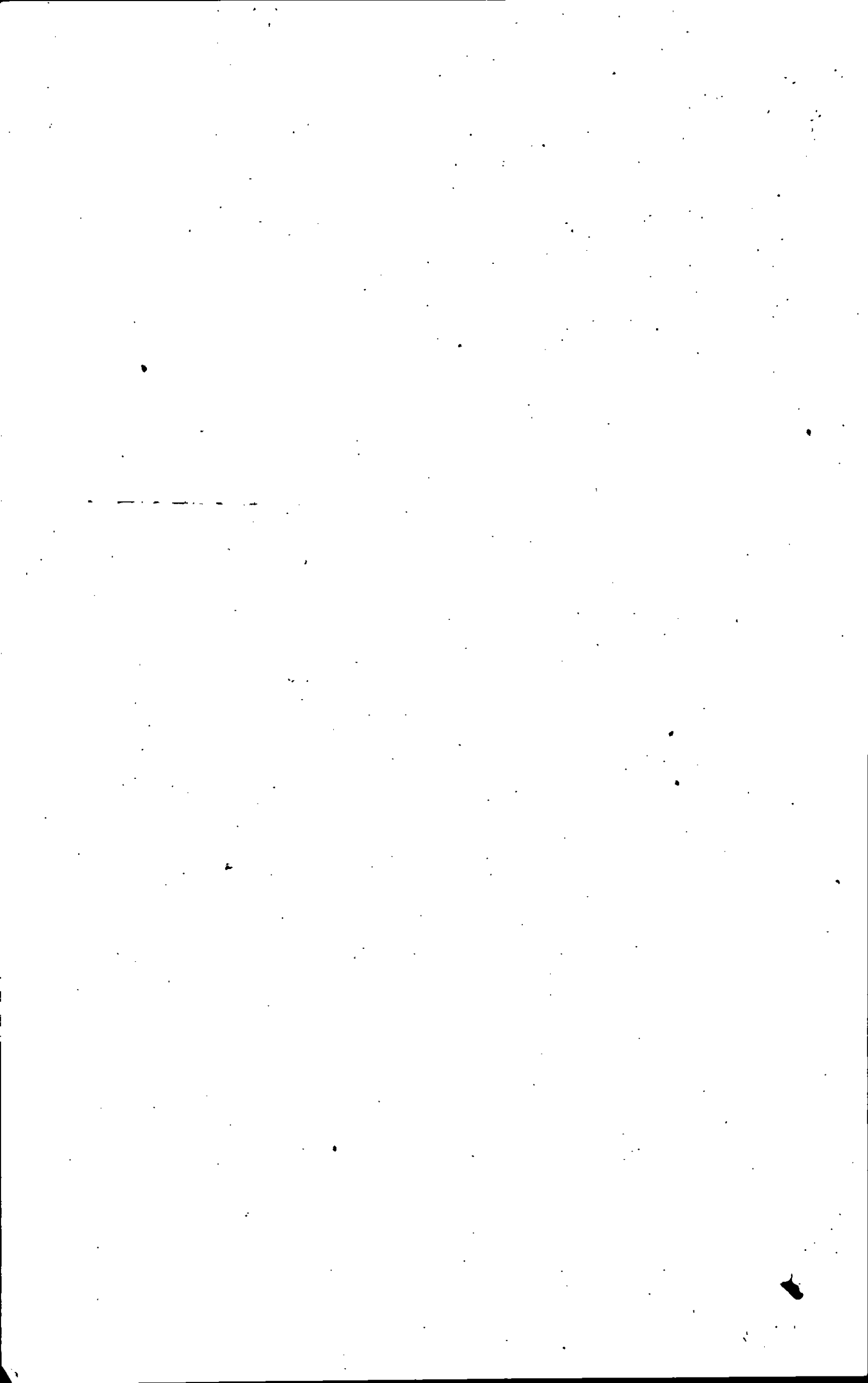
تعمیراتی

تعمیراتی کاموں کے لئے  
جو آپ کو بھیج دیے ہیں

تعمیراتی کاموں کے لئے  
جو آپ کو بھیج دیے ہیں

8- ڈیڑھ اعطاء و تحسیم و دینا

تعمیراتی کاموں کے لئے  
جو آپ کو بھیج دیے ہیں



Amex  
H  
23

13- ...	...
12- ...	...
11- ...	...
10- ...	...
9- ...	...
8- ...	...
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3- ...	...
2- ...	...
1- ...	...

Amex  
H  
23



۱۶۔ کیا کبھی کسی یاد دہانی سے گلا گھونٹنے کے واسطے استعمال کیا گیا تھا۔ یا اگر دیکھ کر اس سے دکھایا گیا تھا تو یہ اس قدر مضبوط ہے کہ اسے ہمارے کسی ہونگے اسکی دروازہ سرادھری طرف کھینچ کر سنبھال کر اس طرح باندھا گیا تھا۔

۱۷۔ کیا کوئی شخصہ خارجیہ مثلاً سناس بھون و غیرہ یا کوئی بیگیا یا متوفی کی دستھی میں پکڑا گیا ہے یا کسی کوئی کسی بیڑوں میں لگا ہوا تھا۔

۱۸۔ کیا کبھی کوئی تارے اور طاقتور شخصہ کے پاس لگا ہوا ہے جنہیں

۱۹۔ کیا وہ مضبوط ہے یا لالہ ہے یا مٹری ہوئی ہے۔

۲۰۔ ہلکے سرتے یا ہلکے ہلکے

۲۱۔ کیا یہ شاختہ خلوہ خلوہ یا فاعل زعم و غیرہ اور بیچہ و کور

۲۲۔ کیا یہی باعلت مرگ

۲۳۔ کیا کوئی ایسے حالہ موجود ہیں یا اقراہ یا کراہ ہے جس سے منہم پر کہ متوفی نے خود کشتی کی۔

نارہ طاقتور  
مہر ط  
دیکھ لقمہ  
عمر القتل لقمہ  
اسلم الشہین

### تشریح ہر ایک شے پر جو نقش یا اس کے نزدیک دستیاب ہو۔

۲۲۔ جو نقش پر واقع ہے دستیاب ہون پر ایک شے پر یہی لگا کر ہر دکھائی جائیگی نقش کے ساتھ لگا ہوا ہے کبھی کبھی پر علیہ پورے لوز میں لکھی گئی۔

۲۳۔ جو نقش کے نزدیک دستیاب ہوا ہے ایک شے پر یہی لگا کر لگا ہوا ہے۔

۱۷۔ لفظ کسٹزہ ہر جو اوپر لگائی گئی  
۱۸۔ لفظ خروہ کی مقام کا یہاں نقش دستیاب ہے۔

قبضت میں ایک ڈاکٹر صاحب سے مل کر  
کے ساتھ

تو میں ارشد خان کے والد صاحب سے مل کر  
اسلام آباد میں سے خود کئی دن پہلے  
کہہ کر وہیں پہنچا، مگر وہیں سے  
کہہ کر وہیں سے خود کئی دن پہلے

Alis Caat  
10-8-14

Father, wife and other relatives  
of the deceased wished do not  
want to post mortem?  
Therefore the dead body is handed  
over to the relatives and father, without  
doing post mortem.

1:00 AM  
10/8/14

Alis Caat

# WAKALATNAMA

(Power of Attorney)

IN THE COURT

Provincial Service Tribunal,  
KPK, Peshawar.

Sarfaraz Khan

(Petitioner)  
(Plaintiff)  
(Applicant) ✓  
(Appellant)  
(Complainant)  
(Decree Holder)

VERSUS

IGP / PPO, & others

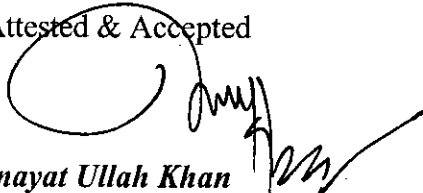
(Respondent) ✓  
(Defendant)  
(Accused)  
(Judgment Debtor)

I/We, Sarfaraz Ichan s/o Sher

Daraz Ichan

in the above noted Service Appeal, do hereby appoint and constitute **Inayat Ullah Khan** Advocate Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/ us as my/ our Counsel in the above noted matter, without any liability for that default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted



**Inayat Ullah Khan**  
Advocate High Court, Peshawar.  
LL.M (UK)  
House No.460 Street No.12,  
E/4, Phase-VII, Hayatabad Peshawar.  
Cell: 0333-9227736



CLIENT

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

**Appeal No. 298/2015.**

Sarfraz Khan son of Sher Daraz Khan

Assistant Sub-Inspector, Police Department, Khyber Pakhtunkhwa

R/O Walkhi Mama Khel, Tehsil and District Bannu.....

(Appellant)

**VERSUS**

- 1) Inspector General of Police/PPO, Peshawar.
- 2) Regional Police Officer Bannu Region, Bannu.
- 3) District Police Officer Bannu..... (Respondents)

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS No.1, 2 & 3.**

Respectfully Sheweth:

**PRELIMINARY OBJECTIONS:**

- 1) That the appeal of appellant is barred by law & time.
- 2) That the order of respondent No.3 is very much legal.
- 3) That the appeal is not maintainable in its present form.
- 4) That the appellant has concealed the material facts from the Honorable Tribunal.
- 5) That the appeal is bad in law due to mis-joinder and non-joinder of necessary parties.
- 6) That the appellant has approached the Honorable Tribunal with unclean hands.
- 7) That the appellant 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 to file the appeal.

**OBJECTIONS ON FACTS**

- 1) Pertains to record hence need no comments.
- 2) Pertains to record hence need no comments.
- 3) Incorrect, Proper show cause notice under Rule 5(03) KPK Police Rules 1975 was served upon the appellant. Record is silent to show any extraordinary performance of appellant during service career. The punishment awarded to appellant is in consonance with law. Photocopy of show cause notice enclosed as annexure A.
- 4) Pertains to record needs no comments.
- 5) Correct to the extent that the reply of appellant was found unsatisfactory and unconvincing. As an incharge of Police causality DHQ; Hospital Bannu, he was duty bound to put up the dead body to medical officer for autopsy but the same was not done for the reasons best known to him.
- 6) After observing all codal formalities and taking into consideration the facts, legal order dated 29.08.2014 was passed in accordance with law and rules.
- 7) Pertains to record. The Department appeal of appellant was examined by Appeal Board and was found implausible and rejected.

**OBJECTIONS ON GROUNDS OF APPEAL.**

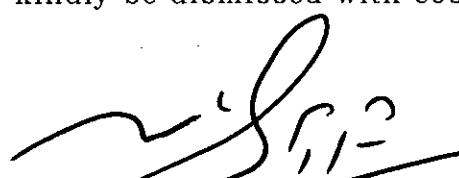
- a) Incorrect. The orders of the respondents are based on facts, justice and in accordance with law/ rules.
- b) Incorrect. Under the KPK Police rules 1975 rule 5(3) a self explanatory show cause notice with grounds of action was issued to appellant and reply of appellant was found unsatisfactory to the facts.


The respondents are authorized to pass order on receipt of reply of appellant and providing opportunities of hearing. Moreover, under the said rules, a regular inquiry is not mandatory.


- c) Incorrect. The Medical Staff can nor reject the report of casualty Police Staff nor can take action on casualty of firearm without Police Consent. The appellant can not claim immunity only on the score that legal heirs of the deceased were not willing to conduct Postmortem of dead body but he remained lip tightened by taking legal action.
- d) Incorrect. The appellant has failed to perform the legal duty and to pay proper attention to the heinous crime.  
After inquiry, the incident was found to be a case of Murder.  
Photocopy of FIR enclosed as annexure "B".
- e) Incorrect. The respondent No.2 is competent to take notice of negligence of his subordinate staff and to impose punishment after observing legal formalities. The action taken by Respondent No.2 is in consonance with law and no illegality or in justice has been done with the appellant.
- f) Incorrect. The orders have been passed in accordance with law/rules.
- g) Incorrect. The orders are based on reasons and material allegations of gross negligence against the appellant which are speaking and in accordance with rules.
- h) Incorrect. Police Rules 1975 is applied to Police force wherein issuance of final show-cause notice is not mandatory. Opportunities of defense and hearing have been provided to appellant as evident from the show-cause notice already annexed as annexure "A" and order of 11-03-2015 as Annexure "C".
- i) Incorrect. Keeping in view the misconduct committed by appellant by burking the heinous crime, the punishment commensurate with the charges and is not excessive/harsh.

**Prayer:**

In view of the above facts and stated reasons, it is humbly prayed that the appeal of appellant is devoid of legal force, may kindly be dismissed with costs.

  
Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.1)

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

  
District Police Officer,  
Bannu.  
(Respondent No.3)

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

**Appeal No. 298/2015.**

Sarfraz Khan son of Sher Daraz Khan  
Assistant Sub-Inspector, Police Department, Khyber Pakhtunkhwa  
R/O Walkhi Mama Khel, Tehsil and District Bannu..... (Appellant)

**VERSUS**

- 1) Inspector General of Police/PPO, Peshawar.
- 2) Regional Police Officer Bannu Region, Bannu.
- 3) District Police Officer Bannu..... (Respondents)

**COUNTER AFFIDAVIT**

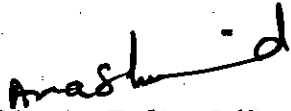
We, do hereby solemnly affirm and declare that the contents of the attached comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honorable Tribunal.



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.1)



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



District Police Officer,  
Bannu.  
(Respondent No.3)

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

**Appeal No. 298/2015.**

Sarfaraz Khan son of Sher Daraz Khan  
Assistant Sub-Inspector, Police Department, Khyber Pakhtunkhwa  
R/O Walkhi Mama Khel, Tehsil and District Bannu..... (Appellant)

**VERSUS**

- 1) Inspector General of Police/PPO, Peshawar.
- 2) Regional Police Officer Bannu Region, Bannu.
- 3) District Police Officer Bannu..... (Respondents)

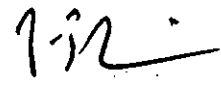
**AUTHORITY LETTER.**

Mr. Mir Faraz Khan Inspector Legal Bannu is hereby authorized to appear before The Service Tribunal Khyber Pakhtunkhwa Peshawar on behalf of the undersigned in the above cited case.

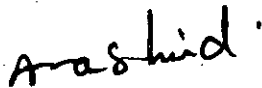
He is authorized to submit and sign all documents pertaining to the present appeal.



Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No.1)



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



District Police Officer,  
Bannu.  
(Respondent No.3)

# Annexure 'A'

OFFICE OF THE REGIONAL POLICE OFFICER, BANNU REGION, BANNU.

## SHOW CAUSE NOTICE

(Under rules 5 (03) KPK Police Rules, 1975)

I That you Mr. Sarfaraz Khan while posted as Incharge casualty staff Bannu have rendered yourself liable to be proceeded under Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 for the following misconduct:

1. That a deceased with apparent fire arm injuries with two more individual in injured condition were brought to DHQ hospital but ironically neither any autopsy was conducted of the dead body nor investigation conducted as per section 174 CrPC which is an indicator that you have committed gross misconduct and rendered liable to be proceeded against.

That by reason of above; as sufficient material is placed before the undersigned; therefore it is decided to proceed against you in general police proceeding without aid of enquiry officer:

That the misconduct on your part is prejudicial to good order of discipline in the police force

That your retention in the police force will amount to encourage in efficient and unbecoming of good police officers:

That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against your by awarding one or more of the kind punishments as provided in the rules.

You are, therefore called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above.

You should submit reply to this show cause notice within 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.

You are further directed to inform the undersigned that wish to be heard in person or not.

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.

Received by mt  
Dated 22/8 /2014

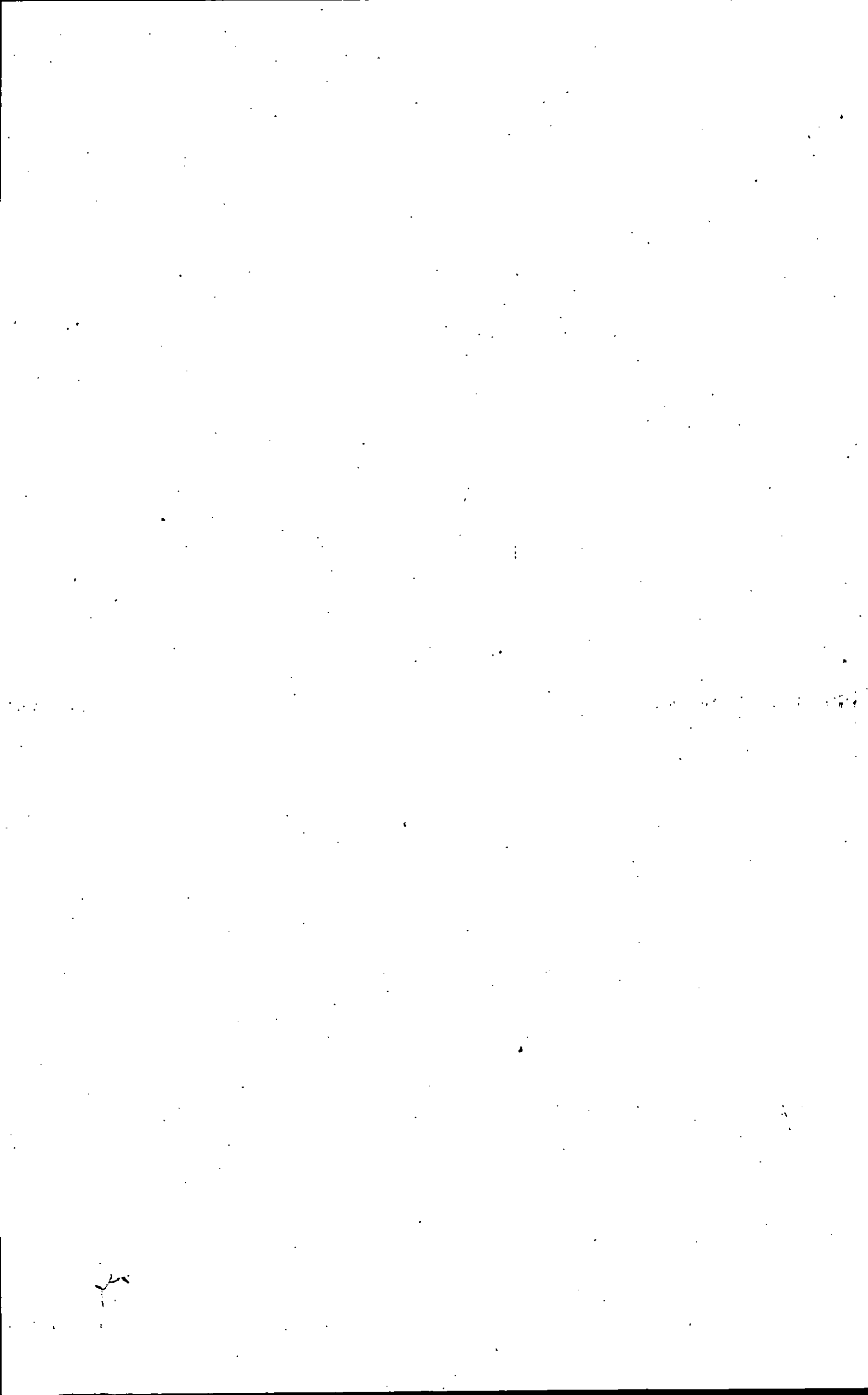
No. 2218 /EC dated Bannu, the

Copy to DPO/Bannu for information..

22/08/2014.

(SAJID ALI KHAN) PSP  
Regional Police Officer,  
Bannu Region, Bannu.





# Annexure B

فائل نمبر ۲۲-۵۰-۱

انسپیکٹر جنرل پولیس صوبہ سرحد فائل نمبر ۷۳

۱۵-۷۷

8

## ابتدائی اطلاعی رپورٹ

(فائل) ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

تھانہ	نمبر	تاریخ و وقت وقوعہ	مذکورہ
تھانہ	47	تاریخ و وقت وقوعہ 8/9 وقت 21:50 بجے	مذکورہ
1	489	تاریخ و وقت رپورٹ 8/10 وقت 05:30 بجے	صاحب مکہ گی 10/14 وقت 09:30 بجے
2		نام و سکونت اطلاع دہندہ و مستغیث	فدائ اللہ خان S.H.O
3		مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	APR 302-324-201-202-148-149
4		جائے وقوعہ فاصلہ تھانہ سے اور سمت	ضامن عدیش واقعہ شہباز عظیمی محل صاحب شرق کینا سید 7/8 مکہ سید از
5		نام و سکونت ملزم	صبر اللہ خان ولد سید حسن 2 عابد ولد صبر اللہ خان صبر گواخان لاد عوی نامہ سید نبی کثرت نامہ
6		کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو۔	کچھ معمول وارے سر پر دہا
7		تھانہ سے روانگی کی تاریخ و وقت	بسنزل سٹیشن رپورٹ

ابتدائی اطلاع نیچے درج کردہ صبر اللہ خان ولد سید حسن مکہ شہباز عظیمی محل  
 نمبر 55/53 سال سے کنسٹبل ازان ارشد خان، مجبور ضمنی شاقب خان، سیران ایش، عسماہ ساجدہ  
 پوراش DHQ بیٹیاں بہن لاکر کچھولیش ایچارج سیران ازان AS کے گورنر رپورٹ کی جسکی رپورٹ  
 سیران ازان AS لکھوئی سٹاف نے ضبط محرم میں لاکر متوفی ارشد خان کا خود کشی کرنے اور اس  
 کے خاتمہ سے شاقب خان و عسماہ ساجدہ کا زمین بیونا جلا کر کنسٹبل ازان ارشد خان کا پوہن فارم  
 نہ کرنے اور مجبور ضمنی شاقب خان و عسماہ کا MLC نہ کرنے چاہتا تھا اور کنسٹبل کو تفتیشی ریشم  
 مجبور ضمنی کو تفتیشی MLC وہیں لے چاکر تفتیشی پوسٹارٹم کنسٹبل ازان ارشد خان جن کتا گیا  
 رپورٹ عدیش کو سیران ازان AS کچھولیش سٹاف نے ارسال تھا کہ عسماہ اور رپورٹ کو بسین کمال خان  
 S.H.O نے درج روز نامہ کر کے سیران ازان ایش کی حسب الحکم سیران ازان بہا حسن S.H.O نے درج وقت 174  
 صرف شروع محرم کے فوراً متوفی سے دلا عوی نامہ اور سیران علاقہ سے پہنچا کہت نامہ سہرتب کر کے ان  
 کے بیانات قلمبند کیے اور عسماہ ساجدہ، بیوہ ارشد خان کا بیان بھی قلمبند کر کے بیانات میں  
 تصدیق کیا جا کر حقیقہ حاکم واقعات سیران ازان کے فون میں لاکر متوفی ارشد خان کے مہر  
 کشالی کی اسٹریٹ کی جوسوں چھ صہب سہا، سہرنگل سیران کے موجودگی میں متوفی ارشد خان  
 کا مہر کشالی کر کے پوسٹارٹم کیا اور مجبور ضمنی شاقب خان، ساجدہ کا MLC رپورٹ حاصل کر کے  
 دریافت میں فائل رپورٹ دیا جا کر پوسٹارٹم سیران ازان DPP صاحب ارسال کیا اور رائے طلب کی  
 جس پر DPP نے جی ایف کے ساتھ ساتھ سیران ازان DPP صاحب ارسال کیا اور رائے طلب کی  
 سیران ازان عدیش مہر سیران ازان کے ساتھ ساتھ سیران ازان کے ساتھ ساتھ سیران ازان کے ساتھ ساتھ  
 کیے جانے میں تفتیشی کے ساتھ ساتھ سیران ازان کے ساتھ ساتھ سیران ازان کے ساتھ ساتھ  
 قلمبند کر کے S.H.O نے 28 جولائی 10/14 کو رپورٹ میں کمال خان S.H.O نے 8/14 کو  
 وقت 01:30 بجے اس وقت ایک محرم کی سرسہ رپورٹ نہیں لیا جا رہا ہے سیران ازان P.T.O

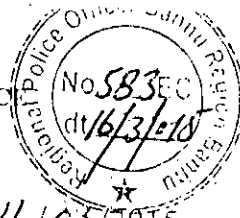
ف (۱۱۰۰۳)  
ری شیٹ





Annexure C, File

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar



No. S/ 1611 /15, Dated Peshawar the 11/05/2015.

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Khyber Pakhtunkhwa Police Rule-1975 submitted by Asstt: Sub-Inspector Sarfaraz Khan. The appellant was awarded punishment of reduction to the lower position in the seniority list of substantive rank of ASI with by DIG/Bannu vide order No. 2287/EC, dated 29.08.2014.

In the light of recommendations of Appeal Board meeting held on 25.02.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Show Cause Notice. The reply of Show Cause Notice was perused and found implausible.

He was also heard in person. He failed to offer any plausible grounds/reasons in his defense. The enquiry papers were perused. The charges stands established against him. Therefore, the appeal of ASI Sarfaraz Khan regarding punishment of reduction to the lower position in the seniority list has no substance; hence his appeal is hereby rejected and filed.

Sd/-  
**NASIR KHAN DURRANI**  
Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar

No. S/ 1612-19 /15,

Copy of the above is forwarded to the:

1. Regional Police Officer, Bannu w/r to his office memo: No.2990/EC, dated 25.11.2014.
2. District Police Officer, Bannu.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to AIG/Establishment CPO, Peshawar.
8. Office Supdt: E-III, CPO Peshawar.

(MUBARAK ZEB)  
DIG/HQrs:  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

Ac 2003  
10/15

No 657 Bc  
Dt 16/3/15

DDO - Bannu for inf.  
Two. S.rolls mac of S. roll  
are sent hereby for review.  
for MHR D. Bannu



BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.  
PESHAWAR.

S.A.No. \_\_\_\_/2014

**Sarfaraz Khan**..... Appellant

Versus

I.G.P/ PPO, Peshawar & others..... Respondents

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REJOINDER ON BEHALF OF APPELLANT  
WITH REGARD TO THE PARA-WISE  
COMMENTS SUBMITTED ON BEHALF OF  
RESPONDENTS NO.1,2 AND 3.

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*Respectfully Sheweth;*

Reply Preliminary objections:

- 1) Objection No.1 is incorrect, hence denied. The appeal is well within time. The instant appeal has been preferred against the final impugned order dated 11.03.2015, which was received by the appellant on 03.04.2015, hence presented the service appeal within 30 days, therefore, the same is well within time.
- 2) Objection No:2 is incorrect, hence denied. No liability, legally speaking can be fixed on the shoulders of appellant in terms of section 174 Cr.P.C. therefore, the objection raised is a misconceived one, not tenable in the four corners of law.
- 3) Objection No.3 is incorrect, hence denied. Nothing has been specifically stated in the objection raised that how the appeal is

not maintainable in its present form. Mere raising objection with no explanation carries no weight in law.

- 4) Objection No.4 is incorrect, hence denied. Nothing has been concealed from the knowledge of Hon'ble Tribunal and all the material facts are brought to the notice of this Hon'ble Tribunal to do justice in accordance with law.
- 5) Objection No.5 is incorrect, hence denied. proper parties have been arrayed in the heading of appeal, therefore, this objection is devoid of substance.
- 6) Objection No.6 is incorrect, hence denied. The appellant has approached this Hon'ble Tribunal against the impugned action which was taken by the respondents in violation of section 174 Cr.P.C., therefore, the entire action and proceeding taken is tainted with malafide, hence this objection is devoid of substance, therefore, be dismissed outrightly.
- 7) Objection No.7 is incorrect, hence denied. The appellant has good prima facie case and approached this Hon'ble Tribunal to strike down the impugned orders which were passed in utter violation of section 174 Cr.P.C. and other enabling provisions of law.
- 8) Objection No.8 is incorrect, hence denied. Rule of estoppel is not applicable in the given facts and circumstances of the case, therefore, this objection along with the objections mentioned above are baseless and may be dismissed outrightly during the course of regular hearing.

#### REPLY ON FACTS:

- 1) Para-1 needs no reply, which has been sufficiently and specifically stated in para No.1 of the appeal with regard to the appointment of the appellant.

- 2) Para-2 needs no comments.
- 3) Para-3 is incorrect, hence denied. sufficient explanation has been provided in para No.3 of the appeal.
- 4) Para-4 needs no reply. Para No.4 of the appeal explain the charge against the appellant.
- 5) Para-5 is incorrect, hence denied. Para No.5 of the appeal sufficiently explains the legal position in terms of section 174 Cr.P.C. and it was not responsibility of the appellant but instead it was responsibility of the SHO concerned police station to register a report or in case of any suspicion to investigate and probe the matter u/s 174 Cr.P.C. The appellant further explained his position that the appellant dispatched the murasila to P.S. Saddar for registration of case or to conduct the inquiry u/s 174 Cr.P.C. or to depute any other officer who was duty bound to do the needful according to law on receipt of murasila report but the SHO incorporated the contents of murasila in Naqal Mad No.28 dated 10.08.2014 for which the appellant cannot be held responsible because the duty which is usually assigned to Assistant Sub Inspector Casualty Staff DHQ Hospital, Bannu was accordingly performed and all the formalities as per requirement of law were complied with, therefore, the explanation provided by the respondents is not in consonance with the requirement of law, hence, reached to an erroneous conclusion on the point of fixing responsibility.
- 6) Para No.6 is incorrect, hence denied. The impugned final order which was received by the appellant on 03.04.2015 was passed in violation of the provisions of section 174 Cr.P.C. as no plausible reasons were enumerated to justify the impugned order, hence the same was passed in violation of law, which can be termed as tainted with malafide. Furthermore, no speaking



order was passed which the law requires to pass a well reasoned order in terms of section 24 of the General Clauses Act.

- 7) Para No.7 is incorrect, hence denied. The competent authority including the appellate authority failed to apply their judicial mind to the nature of controversy and the law on the subject, therefore, reached to a conclusion alien/ erroneous to law. No plausible reasons were cited in the impugned orders.

REPLY ON GROUNDS:

- A. Para-a is incorrect, hence denied.
- B. Para No.b is incorrect, denied. No mandatory show cause notice or final show cause notice was served, therefore, the entire action culminating in shape of the impugned order is illegal, hence liable to be set at naught on this ground alone. Even, no regular inquiry was conducted in order to substantiate the allegations viz-a-viz the provisions of section 174 Cr.P.C therefore, the entire action taken in violation of the principle of natural justice cannot be sustainable in the eyes of law. It is settled law that any order or proceeding taken in violation of the principles of natural justice shall stand vitiated as most solemn proceeding undertaken by the authority in violation of the principle of natural justice would have no sanctity in law.
- C. Para-c is incorrect, hence denied. The appellant was not in a position to forcefully compel the Medical Officer who supposed to conduct postmortem examination on the dead body which was brought to the hospital and particularly, when the legal heirs refused and forbid the medical officer to conduct post mortem examination/ autopsy on the dead body, so, the appellant in no way could compel the medical officer to conduct P.M. examination on the dead body. The appellant duly prepared the injury sheet and

dispatched the murasila to the P.S. Saddar and thereafter, if there was any suspicion in the matter the same could be probed by the concerned SHO P.S. in terms of section 174 Cr.P.C. or at least referred his report to the concerned Magistrate or as required by law.

- D. Para-d of the grounds is incorrect, hence denied. The appellant has explained his position in ground No.c above, all the assigned duties were performed and complied with and the reasonability of some one else could not be fixed on the shoulders of the appellant as the law and even Islamic Law specifically states that everyone is responsible for his own acts, actions, deed and mis-deeds, no one shall be vexed for the fault of others.
- E. Para-e is incorrect, hence denied. Only competent person authorized by law can take necessary legal action, therefore, any action taken in violation of law can be termed as malafide, illegal, coram non judice. If the law requires to take a particular action in a particular manner it had to be done in that manner otherwise, the same shall be void and will have no consequences in terms of the provisions of law.
- F. Para-f is incorrect, hence denied. The impugned orders were passed in violation of the mandatory provisions of law, hence liable to be set at naught.
- G. Para-G is incorrect, hence denied. The impugned orders are devoid of substance, reasons, therefore, are violative of the section 24 of the General Clauses Act.
- H. Para-H is incorrect, hence denied. Police Rules are subservient to the Efficiency and Disciplinary Rules as embodied in the Civil Servant Act and all other enabling acts passed by the legislature, therefore, no primacy is attached to Police Rules instead E&D

Rules and other enabling provisions of law would be taken care-of by the respondent while passing or taking impugned action/ orders.

- I. Para-I is incorrect, hence denied. In terms of F.R 29, *“if a Govt. servant is, on account of misconduct or inefficiency, reduced to a lower grade or post, or to a lower stage in his time scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, it shall operate to postpone future increments .....*”. Therefore, the impugned order whereby the penalty of reduction to a lower position in the seniority list of substantive rank of ASI is illegal, hence not tenable. The authority must state the period in terms of FR 29.

In view of the above submissions, it is, most humbly prayed that the legal points raised in the rejoinder are to be considered in its true perspective and the appeal of the appellant may please be accepted.

Appellant



Through

Inayat Ullah Khan

Advocate High Court

LL.M (U.K)

Dated: 25.11.2015

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.

PESHAWAR.

S.A.No. \_\_\_/2014

Sarfaraz Khan..... Appellant

Versus

I.G.P/ PPO, Peshawar & others..... Respondents

AFFIDAVIT

I, Sarfaraz Khan son of Sher Daraz Khan Assistant Sub Inspector, Police Department, Khyber Pakhtunkhwa R/O Walkhi Mama Khel, Tehsil and District Bannu, do hereby affirm and declare on oath that the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



  
Deponent

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Nö. 1101 /ST

Dated 29/6/2016

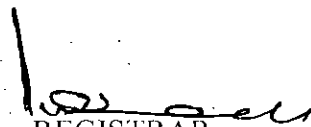
To

The Regional Police Officer,  
Bannu Region Bannu.

Subject: - **JUDGMENT**

I am directed to forward herewith a certified copy of Judgement dated 22.6.2016 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.