# BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1735/2023.

Title: "Muhammad Shafiq VS DIG CTD KP etc"

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# BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1735/2023.

Si .	ervice Appear No. 1733/2023.	
Muhammad Shafiq s/o Umer D	Deen Ex Constable NO. 1269 r/o P.O Risa	ılpur Behram
Tehsil and District Nowshera.		
	······································	(Petitioner)
	VERSUS	
1. Deputy Inspector Gene	eral of Police, CTD, KPK, Peshawar.	
2. Superintendent of Poli	ce, CTD Mardan Region.	
		(Respondents)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

# Service Appeal No. 1735/2023.

Subject:- COMMENTS ON BY RESPONDENTS (1 & 2).

Khyber Faldworkhwa Service Tribunal

Respectfully Sheweth

Preliminary Objections:-

Diary No. 11590

- a) The appellant has no cause of action or locus standi.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is estopped to file the appeal by his own conduct.
- c) The appeal is barred by law and limitation.
- f) The appellant has not come to this Honorable Tribunal with clean hands.

#### FACTS:-

- Incorrect, the appellant was appointed/enlisted as Constable by the Deputy Commandant Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar, vide O.B No. 936 dated 28.10.2013 and later on he was transferred/posted to CTD KP vide order No. 5559-60/E-IV dated 28.05.2019 (appointment/enlistment order & transfer order are annexed as annexure "A" & "B" respectively).
- Incorrect, the appellant was absented from his lawful duty from 20.02.2022, in this regard a proper report in Daily Diary of Police Station CTD Mardan Region vide DD No. 25 dated 25.02.2022 was entered against him. Later on, it was informed that the appellant has been directly charged/arrested in case vide FIR No. 67 dated 27.02.2022 u/s 41A CNSA by PS Sheikh Maltoon District Mardan. Moreover, the appellant has been recently directly charged/arrested again in case vide FIR No. 127 dated 16.02.2023 u/s 9D & 41B CNSA (with huge recovery of Hashish/Chars =9540 grams & Ice 375 grams) by PS Risalpur District Nowshera (DD No. 25 dated 25.02.2022 & copy of FIR No. 67/2022 PS Sheikh Maltoon, Mardan & copy of FIR No. 127/2023 PS Risalpur, Nowshera are annexed as annexure "C", "D" & "E" respectively).
- Incorrect, the appellant was directly charged/arrested in case vide FIR No. 67 dated 27.02.2022 u/s 11A CNSA by PS Sheikh Maltoon District Mardan. In this connection he was dealt departmentally in accordance with KP Police. Rules, 1975. He was suspended vide order No. 438/CTD/Mardan-Region, dated 03.03.2022 and a proper charge sheet vide No. 450-455/CTD Mardan Region & summary/statement of allegation vide No. 444-49/CTD Mardan Region, dated 03.03.2022 was served as him.

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DSP Investigation Akbar Khan was appointed as enquiry officer. During

course of enquiry, the appellant was called, heard him in person and recorded his statement. During further course of enquiry, the enquiry officer visited PS Sheikh Maltoon wherein he meet with SHO PS Sheikh Maltoon namely Darwesh Khan & SI Iqbal Mishwani IO of the case. Whereby, it was revealed by the IO that the accused namely Muhammad Shafiq (now appellant) is found guilty of the crime during course of investigation of the case, he further added that the accused has already been admitted his guilt/crime in his statement u/s 161 Cr.P.C. accordingly, the written statement of the IO was recorded and placed on the enquiry file. Moreover, during enquiry, the appellant and IO of the case were cross examined. On completion of the enquiry the E.O found him guilty and recommended him for major punishment. After completion of all codal formalities the appellant was dismissed from service vide order No. 1044/CTD/Mardan-Region dated 20.05.2022 by SP CTD Mardan Region. but it is noteworthy here that, the appellant is a habitual offender and professional ice & narcotics smuggler/dealer as he has recently been directly charged/arrested in another case vide FIR No. 127 dated 16.02.2023 u/s 9D & 11B CNSA (with huge recovery of Hashish/Chars =9540 grams & Ice 375 grams) by PS Risalpur District Nowshera. (complete enquiry till dismissal order & copy of acquittal order dated 04.01.2023 are annexed as **annexure "F" & "G"**).

- Pertains to record, hence needs no comments. 4.
- Incorrect, the appellant did not submit departmental appeal on 10.01.2023. 5. However, actually upon his dismissal from service, he filed departmental appeal. During disposal of his departmental appeal, the competent authority called him. Whereby, he was personally heard but failed to provide any plausible grounds to convince high ups regarding his innocence. Moreover, his appeal was also time barred. Hence, the competent authority filed his departmental appeal vide order No. 13845-46/PA/CTD dated 14,09.2022 (order No. 13845-46/PA/CTD dated 14.09.2022 is annexed as annexure "H").
- 6. Not relevant to the answering respondents, hence needs no comments.
- 7. Incorrect, as already explained in above Para 5.
- 8. The instant appeal is bereft of merits and facts, therefore, the stance of the appellant cannot be entertained due to the following grounds.

#### **GROUNDS:-**

Incorrect, the appellant was directly charged/arrested in case vide FIR No. Α. 67 dated 27.02.2022 u/s 11A CNSA by PS Sheikh Maltoon District Mardan. In this connection he was dealt departmentally in accordance with KP Police Rules, 1975. Prior he was suspended vide order No. 438/CTD/Mardan-Region, dated 03.03.2022 and a proper charge sheet vide No. 450-455/CTD Mardan Region & summary/statement of allegation vide No . 444-49/CTD Mardan Region, dated 03.03.2022 was served upon him. DSP Investigation Akbar Khan was appointed as enquiry officer. During course of enquiry, the appellant was called, heard him in person and recorded his statement. During further course of enquiry, the enquiry officer visited PS Sheikh Maltoon wherein he meet with SHO PS Sheikh Maltoon namely Darwesh Khan & SI Iqbal Mishwani IO of the case. Whereby, it was revealed by the IO that the accused namely Muhammad Shafiq (now appellant) is found guilty of the crime during course of investigation of the case, he further added that the accused has already been admitted his guilt/crime in his statement u/s 161 Cr.P.C. accordingly, the written statement of the IO was recorded and placed on the enquiry file. Moreover, during enquiry, the appellant and IO of the case were cross examined. On completion of the enquiry the E.O found him guilty and recommended him for major punishment. After completion of all codal formalities the appellant was dismissed from service vide order No. 1044/CTD/Mardan-Region dated 20.05.2022 by SP CTD Mardan Region, which is a valid and convincing order. Later on he was acquitted by the Judicial Magistrate-I, Mardan on 04.01.2023, but it is noteworthy here that, the appellant is a habitual offender and professional ice & smuggler/dealer as he has recently been charged/arrested in another case vide FIR No. 127 dated 16.02.2023 u/s 9D & 11B CNSA (with huge recovery of Hashish/Chars =9540 grams & Ice 375 grams) by PS Risalpur District Nowshera.

Incorrect, he was dealt departmentally in accordance with KP Police Rules, 1975. Prior he was suspended vide order No. 438/CTD/Mardan-Region, dated 03.03.2022 and a proper charge sheet vide No. 450-455/CTD Mardan Region & summary/statement of allegation vide No. 444-49/CTD Mardan Region, dated 03.03.2022 was served upon him. DSP Investigation Akbar Khan was appointed as enquiry officer. During course of enquiry, the appellant was called, heard in person and recorded his statement. During further course of enquiry, the enquiry officer visited PS Sheikh Maltoon wherein he meet with SHO PS Sheikh Maltoon namely Darwesh Khan & SI Iqbal Mishwani IO of the case. Whereby, it was revealed by the IO that the accused namely Muhammad Shafiq (now appellant) is found guilty of the crime during course of investigation of the case, he further added that

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the accused has already been admitted his guilt/crime in his statement u/s 161 Cr.P.C. accordingly, the written statement of the IO was recorded and placed on the enquiry file. Moreover, during enquiry, the appellant and IO of the case were cross examined. On completion of the enquiry the E.O found him guilty and recommended him for major punishment.

Incorrect, a proper charge sheet vide No. 450-455/CTD Mardan Region & summary/statement of allegation vide No. 444-49/CTD Mardan Region, dated 03.03.2022 was served upon him & DSP Investigation Akbar Khan was appointed as enquiry officer. During course of enquiry, he was heard in person and recorded his statement but failed to prove himself as an innocent. Moreover, show cause notice is not mandatory as he was properly dealt departmentally in accordance with law/rules i.e. Police Rules, 1975. Moreover, later on, upon his dismissal from service he filed departmental appeal. During disposal of his departmental appeal, the competent authority called him. Whereby, he was personally heard but failed to provide any plausible grounds to convince high ups regarding his innocence and his appeal was also time barred. Hence, the competent authority filed his departmental appeal. Thus ample of opportunities were given to the appellant to prove himself as innocent but he always badly failed.

Incorrect, during course of enquiry the appellant was called by the enquiry officer and heard him in person. Hence, he is not condemn unheard.

Incorrect, during course of enquiry, the appellant was called, heard him in person and recorded his statement. During further enquiry, the enquiry officer visited PS Sheikh Maltoon wherein he meet with SHO PS Sheikh Maltoon namely Darwesh Khan & SI Iqbal Mishwani IO of the case. Whereby, it was revealed by the IO that the accused namely Muhammad Shafiq (now appellant) is found guilty of the crime during course of investigation of the case, he further added that the accused has already been admitted his guilt/crime in his statement u/s 161 Cr.P.C. accordingly, the written statement of the IO was recorded and placed on the enquiry file. Moreover, during enquiry, the appellant and IO of the case were cross examined.

Incorrect, as per page 217 under chapter **Departmental Proceedings vis-** à-vis Judicial Proceedings of Esta Code KPK both the criminal and departmental proceedings can run parallel to each other against an accused officer/official and such proceedings are not dependent on each other vide (Authority: Circular letter No. SOR.II9S&GAD)/869JC)M dated 08.01.1990) the contents of the aforementioned Esta Code KPK are strongly supported by the authorities of Supreme Court of Pakistan vide

SCMR 2018 of 2001 & SCMR 562 of 2007 (Authority: Circular letter No. SOR.II9S&GAD)/869JC)M dated 08.01.1990, SCMR 2018 of 2001 & SCMR 562 of 2007 are annexed as Annexure "I").

Correct to the extent that, he was acquitted vide order dated 04.01.2023 by G. the Judicial Magistrate-I, Mardan but the respondents relied upon the Esta Code KPK, SCMR 2018 of 2001 & SCMR 562 of 2007, wherein it is crystal clear that both the criminal and departmental proceedings can run parallel to each other against an accused officer/official and such proceedings are not dependent on each other. Moreover, the appellant is a habitual offender and professional ice & narcotics smuggler/dealer as he has recently been directly charged/arrested in another case vide FIR No. 127 dated 16.02.2023 u/s 9D & 11B CNSA (with huge recovery of Hashish/Chars =9540 grams & Ice 375 grams) by PS Risalpur District Nowshera.

Incorrect, mostly the accused are acquitted from criminal cases on the basis Н. of technical grounds or due to lack of evidence and in the case of appellant he was acquitted on technical grounds, hence, can not absolve him from his liability as he was declared guilty in the departmental enquiry. As per reliance upon the Esta Code KPK, SCMR 2018 of 2001 & SCMR 562 of 2007, wherein it is crystal clear that both the criminal and departmental proceedings can run parallel to each other against an accused officer/official and such proceedings are not dependent on each other. The appellant is a habitual offender and professional ice & narcotics smuggler/dealer as he has recently been directly charged/arrested in another case vide FTR No. 127 dated 16.02.2023 u/s 9D & 11B CNSA (with huge recovery of Hashish/Chars =9540 grams & Ice 375 grams) by PS Risalpur District Nowshera.

That the respondents may also be allowed to raise additional grounds at the Ĭ. time of hearing.

#### J. Prayer:

In view of the above comments on facts and grounds, it is humbly prayed that the instant petition being not maintainable under the law, may kindly be dismissed with costs.

> Superinterident of Police, CTD Mardan Region.

(Respondent No. 2)

Deputy Inspector General of Police. Imran CTD KP, Peshawar. Shahle

(Respondent No. 1)

Autoros Khan

#### BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA.

Service Appeal No. 1735/2023.

### **AFFIDAVIT**

We, the below mentioned respondents, do here by solemnly affirm and declare on oath that the contents of reply submitted are correct and true to the best of our knowledge and belief and that nothing has been concealed from this Honorable Court. It is fall stated an oath that the consuming respondents have

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nerther place en-porte nor
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Superintendent of Police, CTD Mardan Region. (Respondent No. 2)

Deputy Inspector General of Police, CTD KP, Peshawar. (Respondent No. 1)



# OFFICE OF THE DEPUTY INSPECTOR GENERAL OF POLICE, COUNTER TERRORISM DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR.

#### **AUTHORITY LETTER**

We, the undersigned, do hereby authorize DSP Legal Syed Aamir Abbas having CNIC No. 17301-8836248-7, and ASI Wajid Khan having CNIC No. 17301-1515976-9, to submit reply in Service Appeal No. 1735/2023 titled "Muhammad Shafiq VS DIG CTD KP etc" and to pursue the matter on behalf of the undersigned.

Superintendent of Police, CTD Mardan Region. (Respondent No. 2)

Deputy Inspector General of Police, CTD KP, Peshawar. (Respondent No. 1) Iles oddr Ameaun

#### ENLISTMENT ORDER

Mr. Mulemmad shefty SIO Umar Din
R/ORisalpia
PS_ Risal par Distt:_ Nousles
Is hereby enlisted as Constable (BPS-05) w.e.from 22-/0-/3 and
allotted Constabulary No. 1881
Height 5-9 Chest 34 & 36
Education 1044 D/O Birth 11-08-1993
Age on EnrolmentYearsMonthsDays
His Service is purely on temporary basis and liable for termination at any time without any notice.
without any nonce.

Deputy Commandant Frontier Reserve Police, Khyber Pakhtunkhwa, Peshawar

O.B No. 936

Dated. 28/10/13

Affected

OSP LEGAL

CTD HQ PESHAWAR







# OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA CENTRAL POLICE OFFICE, PESHAWAR

#### <u>ORDER</u>

Constable Muhammad Shafiq No. 1881 of FRP HQrs: Peshawar is hereby transferred and posted to his CTD, Khyber Pakhtunkhwa, Peshawar with immediate effect.

(\$ 0 V NO 4 V OT 28-05-18 \*)

(SADIQ BALOCH)PSP

AIG/Establishment For Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

No. 5558-60 /E-IV dated Peshawar the 28/5 /

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

Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar w/r to his office Memo: No. 7754/EC/CTD, plated 23.05.2019.

Commandant FRP Khyber Pakhtunkhwa, Peshawar.

SR4EC/048 /Accountant

DIGICTO

Attested

AMERICAL

CTD HO PESHAWAR

سروانا دبجن

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186 LE MAPS CIDING 25/2/22

Abbested

CTD HQ PESHAWAR

وجزل وليس موبه فيبر الخوانواه فارم فبرسك

فارم (بر۱۲ ـ د (۱) 1724-7998650-7

ابتدائى اطلاعى ربورث

فائيل

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شده زیرد لعیم ۱۵ مجمومه ضابط فو جداری تارخ وفت ومؤعم عند 27 وفت ٥٠٠ : ١١ : ٢٠ نارغ ورت ربورك ميري مرور 13 ايم نام دسکونت الحلاح د مهنده مستنغیث مخقرکیفیت جرم (معدنعه) حال اگر پچولیا گیا ہو۔ (1) 75 SUP. MAKPENSA

نوستره ای ماس رود نوسرح د مسری بل ليفا در نفن دلد مردبن سكنه مبراح طال ي رماليور الله لوم کاروائی جوننیش کے متعلق کی گی اگراطلاع درج کرنے می توقف ہوا ہوتو وجہ بیان کرو بسر مرسس مرکزی حرار سلم حدث مرح رح تمانے روائل کی اریخ ورقت

برسب<u>ل</u> ځاک

ابتدائی اطلاع بنیج درج کرو- اس وقت *لیک بخری دا*مله ی سر درو<sup>ر</sup>ت المان الماس 100 - حماولات موید، ما معن 1561 با مع لسلسله ما که سری برایها و توعم بالار بودوری کوفوق سے ضلی گارفیوں کی جنگ کرت برخ نومٹین باق یا س روز نوردے کو هری کی طوب سا ایک جوان الولولی کی سودی و مورد کا کار کروس نا برایا می اماروز در کار میں نا برایا کی اماروز در کار کروس نا برایا می ایور در کار کروس نا برایا می اورد در کار میں نا برایا کا مورد کار کروس کا برایا میں نا برایک کار میں نا برای کار میں کار در کار کار کار کار کار کار کروس کا برای کار کروس فين طرف لغلى صب مسير ملاحك سُما بربراً بربور كوديك رنة براً من ن بي بنيام الدي موسلام ديميل سايرسيب وزن كون بر 75 ورم أكس لغلى معمله أقل من 1 رام الله علي كرك مريح بنكم ملزى مالاتك ساعة خورط سافيها از معتم يونا تنابع يماء جميس عر 17 14841- مركا اين عزى درولين عمن طان ولا حقالم في رون مورد حدد كاردائي ها مي أدره راسا حرف رود درج بسرريوكم بردم بجرم عنوف رنب مور معنول All معراسلم وكالمدات بوه العني حوام الجارح سنعم لفيتي في الم اس - برجم گرارش به مرج

Siutifich si-ps-sont

LEGAL CTO HO PESHAWAR

# اطلاع جوموصول ہوتے ہی فورادرج کی جائے گی۔

بقیجه مقدمه بصورت سزایا بی یابریت نام عدالت دهم کی تاریخ تفصیل در ناکرا <sub>نه</sub>	جرم جس میں سرایاب یابری ہوا۔	عدالت میں جالان کے وینچنے کی تاریخ
4-1-23 4-1-23 1/2011/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/1/3-1/2 1/301/3-1/3 1/301/3-1/3 1/301/3-1/3 1/301/3-1/3 1/301/3-1/3 1/301/3-1/3 1/3	11.27 16.4.23	

# اطلاع دوباره ممل حالات لزمان معرجالان ومال مقدمات وغیره ی خانه پُری کرنی چاہئے۔

	•	*			•
کاروائی جوبرخلاف مشتبه گان مثلا (۱۰۰۳) پرش	اندراج متعلقه کاروا کی حفظ امن	اگر پر چەملكوكى بجوايا كيا ہے۔ تو حواله نمبروتاریخ	حوالدرجنونبر(۹)اگرقایل اعدان رجنونبر(۹) ہو	حواله دجشر(۲۰)ادر نمبر(۲۱) مال مقدمات ا	جالدتارخ ددنامچددباره باليدگي چه
فاكل بسئرى ثيث		103 12 Gnot 12 - 4-22 18-4-22		1820 11/20 - confresco	27 26
	Am	· ·		2.3	p 658

پولیس فارم نمبر 24-5(1)

سيريل نمبر:--000066



## ابتدائی اطلاعی دیورث نسبت جرم قابل دست اندازی بولیس دیورث شده زیر دفعه 154 مجموعه ضابطه فوجداری

نمبر: <u>67/22</u> نقانه: شخ ملتون ضلع: مردان اي فيگ نمبر: 00000 <u>تاريخ ووقت و قومه: 12:50 PM 12:50 202-27-27</u>

<u> </u>	ا. طردان آن میک هر. 1000	0 P101 300000000000000000000000000000000	<u> </u>
الان 7°4مه قرص رام الموري في ا	بحالددیث نمبر(27) 40PM: 27-02-202-27	6 تھاندہےروا گی کی تاریخ بوقت	
2 نام وسكونت اطلاع د بهنده مستغيث		<u>RWISH HASSAN SI</u> فون نمر : 03005728575	<u>DA پېټه: تھاند،</u>
3 مخضر كيفيت جرم (معد دفعه) ومال اكر پچه كھ	کھ کھو گیاہے	: (-)%:	
	·	PAKHTUNKHWA OL OF NARCOTIC ES ACT, 2019 - 11-a	<u>CONTR</u>
4 جائے و قوعہ و فاصلہ تھانہ سے اور سمت		نوشهره بائی پاس روژنهج سرخ ژهیری پل	) بفاصله 3/4 کلو میشراز تھانہ
کاروائی متعلقہ تفتیش اگراطلاع درج کرنے ؟ وجہ بیان کی جاوے	نے میں کچھ تو قف ہوا ہو تواس کی	به رسیدگی مر اسله مقد مه درج رجسٹر ک	يا جاتا ہے '

وستخط: JAN PARVEZ بيك نمبر: 379/MR بيك نمبر: JAN PARVEZ بيك نمبر: 03439164429 (ابتدائي اطلاع فيج درج كري)

> SI JAN PARVEZ 27-02-2022

Attested

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ے مول ہوگیس نیمر ہنٹو نخواد فارم فمبر ۳ے۔ یہ برزل ہوگیس نیمر ہنٹو نخواد فارم فمبر ۳ے قارم نبرمه فر(۱) \_ بز فائمل ابتذا فی اطلاح نسبت جرم قافل دست اندازی دلیس دیورت شده زیردندی ۱۵ محور منابط و بداری ا وقت كها :13 كبر جاكبد كي وره <del>(2)</del> 16 ونت 14:25 كبر 03/2-9812338 نم كينيت جرى (معدلد ) مال اگر پكوليا كيا بور (1) 9.5% is in the gold of 10 CNSA/ 118CNSA خطاب كرود بالنابل سور ومدرس ابو كرمدين مزر مان كي رد ژ 17301-5130924-3 🛈 عابد الله ولراعظ خان سائن ماسوگر برو برلشاور 🕲 ارشیق ولر در سائل میرای می رساله ر كادال بونسيش كاستلىك كي اكراطلاح درج كرف عى أوقف دوا وتوجه بيان كرد فبرسيدر في مخربرى سراس مقد سرورج رجر مراكباكيا نانه بردا کی ک<sup>ی درخ</sup> درخت سمرلى دُاك ا ما دمث ایک مخرور مراس فران الحرب خان ۱۱۰ مدش کرال وزرف من ۱۱۵۵ مرمول مرکز سارت من ده ۵-۵۸ اکر مکنگ کا فرر کوایا ماکر در افرر ید و براد زیران یک و بری برا از ار برا درد ا ایران دا النا اكالد الله ولدا مكم خان سك النز كريم لا بعرائيل باج دوس من النا باكد النا والدين ولدع و ب الراع درابي الد مارة لله على بين سرعارى لذي جب سه اكب عدوسر باكن ساد وارفع لزكيا برنك كالا اور المي دوت في كار في اكام را الري ارتيان الم ولا ي الما من المروس المن المروسان كاروبا و دو مدو ١٨٦٨ كاروفان بك الماسر لاكس ورروبل المارون

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بوليس فارم نمبر 24-5(1)

يريل نمبر:--000460

ابتدا في اطلاعي ربورث نسبت جرم قابل وست اعدازي بوليس ربورث شدوزير دفعه 154 مجموعه ضابط فوجداري

تاريخووقت وقري: 16-02-2023 12:45 PM

نير: 127/23 تماند: رسال يور صلع: نوشره اي تيك نبر: 000000

6 قائدے روائل کی تاریخ بوقت برسیل ڈاک

بوالدريث نبر(14) 16-02-202302:25PM

ا تاريخ دوقت ريورت

<u>AYUB KHAN SI ية: تمانُ نورشد خان ثميد،</u> نون نمبر : <u>03129812338</u>

2 نام وسكونت اطلاع د مند ومستغيث

جري:

3 مخفر كفيت جرم (معدونعه) وبال اكر كجم يوكياب

9D-CNSA 11B-CNSA

منی نمبر: 1 تاریخ: 2023-02-16

: 11B-CNSA ايزاد:

خطاب کلے روڈ باالقابل سعید ویدر سه ابو بکر صدیق نزد بائی پاس روڈ

4 حائے و قوعہ وفاصلہ تھانہ سے ادر سمت

بدرسيد كى تحريرى مراسله يرمقدمه درج رجسٹر كياجات

کار دائی متعلقہ تنتیش اگراطلا گادرج کرنے میں کچھ تو قف ہوا ہو تواس کی دجہ 5

ئىلى نون نمبر: : : : <u>03005876</u>776

عيده: ASI

دستخط: Iftikhar Hussain بيك نمبر:

(ابتدائی اطلاع نیجے درج کریں)

اس وقت ایک تحریری مراسله منجانب ایوب خان SHO بدست کنسٹیبل حضرت علی 1266 موصول ہو کربہ مضمون ذیل ہے محرر HC تھاندر سالپور و دران گشت میں مع كنسشيبلان حفزت على 1266 عزيز 69 وديگر نفري يوليس بمسلح علاقه گشت بمقام شرين كوشے موجود تھے۔ كه مخبر خاص نے اطلاع دى كه آج كسى مجى وقت سوزوكى ميں خشيات از متم چری وآکس دیبہ خطاب کلے لایاجائے اطلاع کو مصدقہ جان کر فوراً نفری کو ترتیب دے کر بمقام جائے وقوعہ بالا آکر گاڑیوں کی چیکنگ کر رہاتھا کہ اس دوران ایک سوز دگ نمزریCAA-872 آکر چیکنگ کے خاطر رکوایا جاکر ڈرائیورسیٹ پر اور فرنٹ سیٹ پر بیٹے ہوئے اشخاص کو گاڑی ہے آثار کر ڈرائیور نے بدریا نت اپنانام عابداللہ ولد اعظم خال ساکن ہاستو مگریدھ بیر پشاور بتلایا جبکہ دومرے مخص نے اپنانام محمد شنیق ولد عمردین سکنہ بہرام کلے رسالپور بتلایا جامہ تلاشی لینے پرعابد کی بغلی جیب سے ایک عدد مو ہائیل سادہ ، از تسم نو کیا برنگ کالاادرایک عدد شاختی کار ڈبتام خوداسطر جمعه شفق کی جامه تلاشی لینے پر بغلی جیب سے ایک عدد شاختی کار ڈبتام خودد وعدر ATM کارڈ مختلف بینک ایک عدد لائسن 30 طور پستول، ایک عدد ڈرائیونگ لائسنس ایک عدد سروس کارڈ CTD ڈیپارٹمنٹ دوعد د موبائیل ایک از قشم نوکیاسادہ ایک عدد ٹیج سسٹم از تسم سمنگ 12 - A برآیہ ہو کر جبکہ گاڑی نہ کورہ کی تلاش لینے پر سونچ بورڈ سے سفید شاہر میں آئس اور گاڑی کاغذاسطرح ڈرائیور کے سیٹ کے پیچیے بوستہ کیبن حفیہ خانہ سے دو شاپر برنگ نیلا برآیہ کر کے پڑیل کرنے پر 1، شاپر، 5، پیک چرس اور و سرے شاپر سے 5، پیک چرس بر آمد ہو کر بر موقع بذریعہ ڈیجیٹل سکیل باالترتیب آئس وزن کرنے پر 375 کرام نگلی منعملہ آئں میں نے 🛈 گرام علیحہ وکر کے پارسل نمبر 🛈 بغرض تجزیہ FSL جبکہ بتایا آئس 374 گرام بمع سفید شاہر پارسل نمبر ② بند سر بمبر کر کے اسطرح چرس پیک وزن كرنى (1) يك 1015) يك 1015 (كېك 975) يك 1000 (كېك 1015) يك 1010 (كېك 1015) يك 1015 (كېك 1015) يك 1015

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کرام یعنی کل 9540 کرام نگل منجد چری بی ہرا یک پیکٹ ہے 5/5 کرام علیحہ وکر کے پارسل فہر 1213 بخرید FSL جبکہ بقایاج س 9490 کرام بی دونیلا شاہ برس نبر 13 ابند سر بمبر کر کے پارسلوں ہے اعرا 1/1 عدو نمونہ مبرا کی SH مخوظ رکھ کر جبکہ 3/3 عدد مواہر اس کی SH پارسلوں پر شب کر کے جملہ پارسل ہے 13 تا ہے 13 اس نبر 13 ابند سر تر کر کے پارسلوں ہے اعرا 18 برسلوں کے جملہ پرسل ہے 13 کا مورس خواب کا کا پاک موسس خوابط کر انارکر کے مراسلہ بغر فی آئی اشیاء اور سوز وکی گاڑی نبر 274 - 24 مورس خوابط ہو تھیں کر کے جر دوکسان بالاکو مر بھب جرم بالاکا پاک حسب خوابط کر آثار کر کے مراسلہ بغر ان ایج ب خان 1100 کے موابد شعبہ تعیش بجاد سے دستوں مورس خوابط کو ان 1260 مورس کے جوالہ شعبہ تعیش بجاد سے دستوں موران تعیش حوالہ شغب خان 1101 کا دوائی تعاند آ مدہ تحریری مراسلہ حرف بحرف ورج بالا بوکر برچہ بجرم بالا باک کیا گیا نبتول FTR معمر اسلہ بمر اد تعیش حوالہ شغب خان 1010 کے جاتے ہیں بہ چہ کرارش ہے

ASI Iftikhar Hussain 16-02-2023

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Om

DSP LEGAL

CTD HQ PESHAWAR





#### OFFICE OF THE SUPERINTENDENT OF POLICE COUNTER TERRORISM DEPARTMENT MARDAN REGION

Ph & Fax No.0923-568815 Email: spetdmrd@gmail.com

No. 438/CTD/Mardan-Region dated

03/03/2022

#### ORDER

FC Muhammad Shafiq No. 1269 posted in RIU regional head quarter CTD Mardan is hereby placed under suspension and closed to CTD HQr Mardan Region on the account of involving in case FIR No.67 dated 27-02-2022 u/s 11AKPCNSA PS Shaikh Maltoon with immediate effect. Charge sheet and summary of allegation are being issued to him.

Superintendent of Police, CTD Mardan Region

No: 438-43/CTD-Mardan Region Copy to; Dated 03/03/2022

1. Worthy Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

2. DSP Operation CTD Mardan Region

3. SHO PS CTD Mardan Region

4. Account Branch CTD Mardan Region

5. FC Muhammad Shafiq No. 1269

Superintendent of Police, CTD Mardan Region

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### SUMMARY / STATEMENT OF ALLEGATION U/R 6(1)(a) KPK POLICE RULE 1975

FC Mohammad Shafiq No. 1269 posted in RIU regional head quarter CTD Mardan is involved in case FIR No.67 dated 27-02-2022 u/s 11AKPCNSA PS Shaikh Maltoon District Mardan.

DSP Investigation Akbar Khan is hereby appointed an enquiry officer in order to ascertain the factuality of alleged charge and to conduct the proceeding with in span of 15 days and to submit finding report.

Superintendent of Police, CTD Mardan Region

No: 444-49/CTD Mardan Region

Dated 03/03/2022

Copy to:

- 1. Worthy Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
- 2. DSP Operation CTD Mardan Region
- 3. SHO PS CTD Mardan Region
- 4. Account Branch CTD Mardan Region

5. FC Muhammad Shafiq No. 1269

Superintendent of Police, CTD Mardan Region

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## CHARGE SHEET U/R 6(1)(a) KPK POLICE RULE 1975

You accused FC Muhammad Shafiq No. 1269 posted in RIU regional head quarter CTD Mardan hereby charged from communicating the following omissions/ commissions.

You FC Muhammad Shafiq No. 1269 posted in RIU regional head quarter CTD Mardan are involved in case FIR No.67 dated 27-02-2022 u/s 11AKP CNSA PS Shaikh Maltoon District Mordan

The undersigned hereby calls upon you to submit your written statement/ defence against the above charge before the enquiry officer.

Your reply must reach to the enquiry officer within 7 days from date of receipt of this charge sheet, failing which ex-parte proceedings shall be initiated.

Summary of allegation are enclosed herewith.

Superintendent of Police, CTD Mardan Region

No: 450-455CTD Mardan Region

Dated 03/03/2022

Copy to:

- 1. Worthy Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.
- 2. DSP Operation CTD Mardan Region
- 3. SHO PS CTD Mardan Region
- 4. Account Branch CTD Mardan Region
- 5. FC Muhammad Shafiq No. 1269

Superintendent of Police, CTD Mardan Region

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#### Respectfully submitted as:-

That Mr. Shafiq was serving as constable in CTD Mardan and had always performed his duties properly and honestly and did not made any mistake while performing his duties that there is no single complaint available on his police record and not even censured by his officers. That Mr. Shafiq perform his duties with great diligence and did not committed any un-lawful act, that so for is Fir No. 67,27-02-22 under section 11AKPCNSA, is concerned Mr. Mohammad Shafiq was charged by complainant due to malafidy and dishonest intention that Mr. Shafiq is today innocent and has been charged due to the ill will of the complainant and because of other ulterior motives. So for as the Alleged motorbike is concerned. It has not been recovered from the possession of Mohammad Shafiq nor the some motorbike is registered on the name of M. Shafiq. That so for as the Alleged narcotics / ice is concerned. It has never been recovered from the personal possession of M. Shafiq but infect Mr. Shafiq has been forcedly implicated in the above mentioned Fir.

That is Mr. Shafiq was innocent that is why he was been admitted to bail by honorable Judicial Magistrate the innocence and non involvement of Mr. Shafiq. That is Mr. Shafiq is innocent and very soon will be acquitted from the baseless charges levered against Mr. Shafiq in the court of law at the stage of trial.

It is therefore very humbly prayed that on acceptance of this written reply Mr. Shafiq may kindly actuated from the baseless and illegal charges and said inquiry may kindly be filed.

Mohammad Shafiq (1269) FC, CTD, Mardan Region

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# بان ازان ا قرمان قرر کھانہ مات روالی دفیق

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أشخ ملتول

فیدافیال متوالی ۱۱/۱۵ عقابر کے ملتول بیال کیا کرمیں بحیت ۱۱/۱۵ عقابر کے ملتول بیال کیا کرمیں بحیت ۱۱/۱۵ عقابر کے ملوق سے نقول ۶۱/۱۸ عقابر کی میں موجود تھا کرمال بردیز حال ای کیا در مقدومتی دوالدف مادیم موجول بیورس کی مقرر مقدومتی دوالدف مادیم موجول بیورس کی مقدر مدیر کی مقدر می کرد کردین کی مدیر کردین ک

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Commander

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CTD HQ PESHAWAR

ا مشمولہ چارج شیٹ نمبری438مور خد 03.2022 03.03.202 جاریہ از وفتر جناب ایس پی صاحب کی ٹی ڈی مر دان ریجن بر خلاف نمبر 1269 متعینہ RIU ہیڈ کوارٹر کی ٹی ڈی مر دان ریجن معروض خدمت ہوں کہ ند کورہ کنسٹیبل کے خلاف صاف شفاف اکوائری کر کے جلد از جلد رپورٹ پیش کریں۔

ا نکوائری کے سلسلہ میں ایک قط چارج شیث کنسٹیبل مذکورہ بالاکو حوالہ کر کے ھدایت کی کہ پندرہ یوم کے اندر اپنے اوپر لگائے گئے الزامات کے صفائی بیان پیش کرے۔

#### خلاصه FIR :-

## 1\_ مقدمه علت 67مور فد 227.02.2022م 11 AKPCNSA تقانه شيخ ملتون مروان

رايعه: درويش حسن SHO تقانه شيخ ملتون مر دان

بنام: ـ تحسنيبل محد شفق ولد عمر دين ساكن بهرام خان كلے رسالپور ضلع نوشهره

برآمرگی۔ آئیس75g

روز و قوعہ SHO بمعہ پولیس پارٹی بسلسلہ ناکہ بندی بمقام نوشہرہ بائی پاس روڈ پر موجود تھا کہ ای دوران جانب سُر خڈ ھیری سے ایک جوان العمر لڑکا بسواری موٹر سائیکل آتا ہوا کھڑا کر کے جس نے دریافت پر اپنانام بالا بتلا کر جس کی شک کی بناء پر جامہ تلاشی لینے پر دائیں طرف بغلی جیب سے آئیس وزنی 75 گرام بر آمد ہو کربر وئے فر دقیضہ پولیس میں کر کے جس کے خلاف مقد مہ بالا درج رجسٹر کی گئی ہے۔

2۔ انگوائزی کے سلسلہ میں مذکورہ کنسٹیبل طلب کرے حاضر ہوا۔ مذکورہ سے الزام کی نسبت یو چھ سیحھ کر کے گویاں ہوا۔

2-الموائزی نے سلسلہ میں قد نورہ سیسیس طلب کرنے عاصر ہوا۔ مد بورہ سے الرام کی سبت ہو تھے ہرے کو یاں ہوا۔
کہ من کنسٹیبل محمد شفیق بحیثیت کنسٹیبل تھانہ ہی ٹی ڈی مر دان ریجن میں تعینات ہوں اور اپنی ڈیوٹی خوش اسلوبی اور نہایت دیانتداری کے ساتھ سر انجام دے رہا ہوں۔ دوران ملازمت من سائل ڈیوٹی میں کسی بھی موقع پر نخفلت کا مر تکب نہیں ہوا ہوں اور نہ افسران بالا کو شکایت کا موقع دیا ہے۔ میرے خلاف FIR نمبر 67 مور نے 27.02.2022 مر 27.02.028 میں کہ موقع پر نخفلت کا مر تکب نہیں ہوا ہوں اور ذاتی عناد پر درج ہوئی ہے۔ کیونکہ مجھ سے کوئی غیر قانونی شے بر آمد نہیں ہوئی ہے۔ اور میرے قبضہ سے جعلی طوز پر 175 آئیس ریکوری ظاہر کی ہے۔ حالا نکہ میری ہے گناہی کی وجہ سے علاقہ مجسٹریٹ نے ضانت پر رہائی دی ہے۔ اور اُمید ہے کہ ٹر اکل مکمل ہو نے پر مقد مہ سے بھی بری ہوجاؤ تگا۔

تب صاحبان کو اپنی صفائی کا تحریری بیان پیش کر تاہوں۔ برائے مہر بانی میرے خلاف انکوائری واضل دفتر فرمائی جائے۔

آپ صاحبان کو اپنی صفائی کا تحریری بیان پیش کر تاہوں۔ برائے مہر بانی میرے خلاف انکوائری واضل دفتر فرمائی جائے۔

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كيانيد درست بكروزو قومد لوشره باكى پاس دوژيوس خدهرى پر يوليس نے تم كو كر فاركيا تھا؟

قى الدرست ، كر بوليس في محص كر فاركيا تقار

كيال ليس في كر فآرى كونت تم سے آئيس وغيره برآ مدكيا تها؟

جي نبيل ڳھير آيد نبيس کيا تھا۔

کیا تھانہ مقامی پولیس سٹیٹن کے ریکارڈپر تمہارایادیگر خاند ان کے کی فرد کے خلاف مقدمہ وغیرہ درن ہے یا نہیں؟

جی نہیں ندمیرے خلاف اور نہ میری فیلی کے خلاف کوئی مقدمہ درج ہوئی ہے \_:

کیاتم کوئی نشہ وغیرہ کرتے ہو؟ \_**:**l

جی نہیں کی قشم کانشہ نہیں کر تاہوں البتہ نبوار کر تاہوں۔ ۔

كيا تمهارے خلاف دوران مروس كوئى الكو ائرى موئى ہے يا نہيں؟

جي نہيں

تم نے جیل میں کتنے دن گزارے تھے؟

تین دن جیل میں گزارنے کے بعد پہلے تاری پر عد الت سے ضانت پر رہالی ملی تھی۔

کیا تھانہ فی ملتون سٹاف کے ساتھ کوئی عنادیادلبدی تھی؟

جی نہیں۔

چرتم كول آئيس برآمدگى سے الكارى بو؟

خاموش ہو کر لاعلمی بیان کی۔

كيابوليس في آئي خلاف مقدمه غلط درج كى ب الركى ب توكون؟

بدنتی پر درج کیاہے۔ لاعلم ہوں۔

كيايد درست بكرتم يح س بحى پيتے مواور نشر آورا تجشن محى لكاتے مو؟

جی نہیں غلطہ۔

دستظ كنستيبل محمه شفق

Abtested DSP LEGAL CTD HO PESHAWAR Written statement / defence on behalf of FC Shafiq Muhammad 1269

Respectfully submitted as:-

That Mr. Shafiq was serving as constable in CTD Mardan and had always performed his duties properly and honestly and did not made any mistake whereforming his duties that there is no single complaint available on his polar record and not even consured by his officers. That Mr. Shafiq perform his dut with great diligence and did not committed any un-lawful act, that so for is No. 67.27-02-22 under section TTAKPCNSA, is concerned Mr. Mohamm Shafiq was charged by complainant due to malafidy and dishonest intention the Mr. Shafiq is today innocent and has been charged due to the ill will of the complainant and because of other ulterior motives. So for as the Alleg motorbike is concerned. It has not been recovered from the possession Mohammad Shafiq nor the some motorbike is registered on the name of its Shafiq. That so for as the Alleged narcotics / ice is concerned. It has never be recovered from the personal possession of M. Shafiq but infect Mr. Shafiq is been forcedly implicated in the above mentioned Fir.

That is Mr. Shafiq was innocent that is why he was been admitted to be by honorable Judicial Magistrate the innocence and non involvement of N Shafiq. That is Mr. Shafiq is innocent and very soon will be acquitted from the baseless charges levered against Mr. Shafiq in the court of law at the stage trial.

It is therefore very humbly prayed that on acceptance of this written repl Mr. Shafiq may kindly actuated from the baseless and illegal charges and sai inquiry may kindly be filed.

> Mohammad Shafiq (1269) FC, CTD, Mardan Region

Abbested

DSP LEGAL

CTD HQ PESHAWAR

واڑی کو جاری رکھتے ہوئے اس سلسلہ میں تھانہ شخ ملتون مردان آکر تفتیش آفیسر محد اقبال مشوانی SI/Oii کے ساتھ ملا قات کرکے سیل کے خلاف درج مقدمہ کی نسبت اصل حقیقت معلوم کرنے کی کوشش کر کے گویاں ہوا کہ مقدمہ میں عائد شدہ الزام بابت 75 گرام آئیس ۔ آ مدگی ملکل حقیقت ہے اس میں کو کی شک نہیں ہے۔ ساتھ ہی تفقیش آفیسر نے تحریری بیان پیش کر کے لف انکوائر کی صدا ہے۔

# بيان ازان محمد اقبال مشواني OII

محمد اقبال مشوانیSI/OII تصانه شیخ ملتون مر دان بیان کیا که میں بحیثیت SI/OII تھانہ شیخ ملتون تعینات ہوں۔بروز و توعہ مور خه 27.02.2022 تھانہ ھذامیں موجود تھا کہ جان پرویز خان SIکیطرف سے نقول FIR بمعہ مراسلہ و کارڈ گر فناری، فرد مقبوضگی، ڈاکٹ FSI موصول ہو کر پڑتال سے پایا گیا کہ ملزم محمد شفیق مقدمہ علت ، 67 مور نہ 727.02.2022 جرم 11AKPCNSA تھانہ شیخ ملتون ملزم کے قبضہ سے آئیس 75 گرام بر آ مد ہو کر بروئے فرد SHO صاحب دوریش حسن نے قبضہ پولیس میں کر کے ملزم من SI کو حوالہ ہو کر ملزم کو بذریعہ حراست پولیس پیش عدالت میں كر مے جوڈیشل مجسٹریٹ صاحب نے حراست بولیس نامنظور كر كے جیل وارنٹ حوالد كر كے ملزم كا بیان زیر دفعہ 161 ض ف لیاجاكر ملزم كو انثارو گیٹ کر کے طزم حالات واقعات سے گنمگار ہے۔اور طزم کو با قاعدہ مور ند 28.02.2022 کو بذریعہ وارنٹ داخل مروان جیل کیا گیا تھا۔ رپورٹ عرض ہے۔

### جرح سوالات: ـ

كي تمهار ع تفيش مرم تنهار يا يأكياب-يانس؟

جی ہاں ملزم بالکل گنہگارہے۔ ئ:ـ

كيابيدورست ہے كد ملزم محد شفق سے دوران جامد طاشى كوئى غير قانونى شے بر آ مد نہيں ہوئى تھى؟ س:ر

بالكل غلط ب ملزم سے 75 گرام آئيس برآ مد ہوئی تھی۔ J:-

ر مر دستخط محمرا قبال مشوانیSI/OII

Affected CTD HQ PESHAWAR اس کے علاوہ مثل مقدمہ کامطالعہ کر کے پایا گیا کہ نہ کورہ نے بیان ا ﴿ ا صِ ف میں خود اعتراف جرم کیا ہے۔ بیان ازان ملزم 161 م ض ف لف انکوائر کی ھذا ہے۔

## بيان زير وفعه 161 ض ف ازان ملزم محمد شفق ولد عمر دين

نے بدریافت پولیس بیان کیا کہ میں کانی عرصہ ہے آئیس پینے کا عادی ہو چکا ہوں۔ میرے پاس آج نشہ ختم ہو چکا تھا۔ تو میں نے ایک ناوا قف کا رشخص ہے اپنی پینے کی خاطر تقریباً 75 گرام آئیس حاصل کر کے اپنے پاس اپنی پاکٹ میس رکھا ہو اتھا۔ اور بجھے کچھے ذاتی کام کیوجہ نے ذہن ہے بہات لگلی کہ میرے پاس آئیس موجود ہے۔ میں اپنی ذاتی کام کے سلسلہ میں اپنے ذاتی موٹر سائیکل پر سوار ہو کر نوشہرہ بائی پاس روڈ پر مر دان آرہا تھا۔ مرخ ڈھری پل پر آکر تو بولیس دالوں نے بجھے کھڑ اکر کے میری حل اتی ہے دائیں طرف بنلی جیب سے برآ مد ہو کر جو دزن کرنے پر آرم تھی نگلی۔ اور یہ آئیس میں نے اپنے ذاتی استعمال کے لئے رکھا تھا۔ کیونکہ خود آئیس کا عادی ہوں۔ یہی میر ایبان ہے۔

- 6۔ سزید تسلی و تصدیق کے خاطر SIIO محد درویش حسن سے اصل حقیقت معلوم کرنے کی خاطر ملا تات کر کے انہوں نے FIR میں نہ کورہ محد شفیق سے 75 گرام آئیس بر آ مد گی کا قرار کیا۔
  - 7۔ مزید براں نہ کورہ کامقای ہولیس سٹیشن رسالپور کار پکارڈ چیک کر کے نہ کورہ کے خلاف ریکارڈ خاموش ہے۔

## فائنل الكوائرى ربورك:\_

دوارن انکوائری حالات داتعات اور مکو اہان بیانات کے علادہ نہ کورہ کنسٹیبل کے اعتراف جرم بیان زیر د فعہ 161 ض ف سے ٹھوس ثبوت جو الزام کے لئے کانی ہے ذیل سامنے آئی ہے۔

- 1. تفتیش آفیسر محداقبال مشوانی SI نے اپنی آفتیش سے ملزم کو صحیح گنهگار گرواند جاکر مزید درویش خان SHO نے FIR میں جو الزام بر خلاف کنسٹیبل درج کیا ہے وہ درست اور حقیقت پر بنی بیان کیا ہے۔
  - 2. ندكوره كنسيبل في اعتراف جرم بيان ذير د نعد 161 ض ف من اقرار كياب ـ
- 3. ندکورہ کنسٹیبل کے بیان، جرح سے روز وقوعہ جانے وقوعہ پر گر فقاری کی تصدیق وتھانہ کی ٹی ڈی روزنامچہ بحوالہ معرد ند2502.2022 سے غیر حاضر رپورٹ بطور جُوت کانی ہے۔
- 4. ندکورہ کنسٹیبل نے جرح سوالات میں SIO کے ساتھ کوئی عنادیا، لبدی بیان نہ ہونا ۱۶۱۸ میں درن الزامات کو تقویت دیتا ہے۔ ادرج بالاصورت حال سے ندکورہ کنسٹیبل قصور وارپایا جاکر جس کے خلاف (میجر پنٹینٹ) دی ٹی ڈی یونٹ سے ٹرانسفر کرنے کی سفارش کی جاتی ہے۔ انکوائری رپورٹ مرتب ہو کر پیش خدمت ہے۔

PSP/Ihv/CTD/MR

**\$1,05.2022** 

Aboested

John DSP LEGAL

CTD HQ PESHAWAR

الزير شدا لمسيس المستان مشتملتان

يب السيروت المستحملون

RISTE,

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27.02.022

CELL BANGEL

Abtested

OSPLEGATI

OTD HO PESHAWAR



# OFFICE OF THE SUPERINTENDENT OF POLICE COUNTER TERRORISM DEPARTMENT MARDAN REGION

No.1044/CTD/Mardan-Region

dated 20 / 05/2022

#### **ORDER**

The departmental proceedings against Constable Muhammad Shafiq No. 1269 of CTD Mardan Region, while posted at RIU regional head quarter CTD Mardan was initiated due to involvement in FIR No.67 dated 27-02-2022 u/s 1 IAKPCNSA ps Shaikh Maltoon District Mardan. On the receipt of this information, the said official was placed under suspension vide order No. 438-43/CTD-Mardan region dated 03.03.2022 and was also served with proper charge sheet, summary of allegations as per prevailing rules. DSP Investigation CTD Mardan region Mr Muhammad Akbar Khan was appointed as enquiry officer and was directed to probe into the allegations by steering proper enquiry and to submit his report as per rules accordingly.

The enquiry officer initiated proper departmental proceedings in the light of the allegations as described in the innards of charge sheet, whereas he summoned all the concerned, including the aberrant official and recorded statements of the concerned as well which are placed in the enquiry file.

The enquiry officer submitted his report that case of the above-mentioned constable is under trail in the court. Background of the case was that constable Muhammad Shafiq was on the way somewhere on his motorcycle on Nowshera bypass road towards Surhdheri, where SHO PS Sheikh Maltoon district Mardan Inspector Muhammad Darwesh Hassan along with other Police staff were busy in routine search of other vehicles passing by Police check post, stopped him and during his routine body search they recovered 75-gram narcotics / ice from his pocket, upon which the abovementioned FIR was registered against him. Investigation officer of the case Sub Inspector Muhammad Iqbal marked the allegations on the said constable as true in his statement; SHO Darwesh Khan also stated about the allegation of the FIR as fact; the said constable also committed the allegations upon him u/s 161 in his statement. The statement of the constable, confirmation of his arrest at the place of occurrence and the absentee report of the said constable via DD No. 25 dated 25-02-2022 PS CTD Mardan are the enough evidences against him. Moreover, the alleged constable didn't express any personal clashes with SHO PS Sheikh Mattoon Mardan, which is also strengthening the allegations. Enquiry officer after analysing all the reports and the whole situation, marked the said constable guilty in his final report and recommended 'Major punishment'.

DSP LEGAL
TO THE PESHAWAR

In the light of the finding report and perusal of enquiring papers, I agreed with the recommendations of the enquiry officer, whereas the delinquent official has been found guilty of the allegations levelled against him.

The delinquent official is therefore awarded major punishment of dismissal from service.

> Superintendent of Police, CTD, Mardan Region

No. 1044-47 CTD/Mardan-region Dated 10-05-202 3

Copy to

- 1. Worthy Deputy Inspector General of Police, CTD KP Peshawar
- 2. Account Branch CTD, Mardan Region
- 3. All Concerned

Superintendent of Police, CTD, Mardan Region

Abtested CTD HQ PESHAWAR 1061/243 ANDER

Order 08 04.01.2023 Colomic Spirano

10/3 - 10

Presence:

Lubna Kamil, SPP for the State;

Accused in person.

Today's proceedings were fixed for attendance of the accused as well as prosecution evidence. However, owing to the following reasons State was notified u/s 249-A Cr.PC and SPP for the State heard accordingly.

The case of the prosecution is that 75 grams of ice was recovered from the accused.

Leaving the other factors at bay for the time being, it is sufficient for making the case of the prosecution doubtful that at the time of submitting final report/challan the Investigating Officer had not received FSL report as final report had been signed on 29.02.2022 and the FSL report forwarded to the Investigating Officer on 14.03.2022. Hence, the question for consideration is that how come the Investigating Officer had been firm in his opinion without FSL report that the liquor recovered from the accused is Icc. This fact creates many doubts in the case of the prosecution.

In addition to above, record suggests that allegedly the ice had been recovered from the accused on 27.02.2022 and the FSL report prepared on 10.03.2022 but no explanation had been put to forth that in whom custody the alleged ice and its sample were lying during the given time. Meaning thereby that safe custody of the sample as well as the contraband recovered is not established which is fatal for the case of the prosecution.

In view of above there is no probability of the conviction of the accused Muhammad Shafeeq in case FIR No. 67/2022 of Police Station Sheikh Maltoon. Hence, he is hereby acquitted under section 249A Cr.PC.

Case property, if any, shall be dealt in accordance with the law.

File shall be consigned to record room.

Announced in open Court; 04.01.2023

DSP LEGAL
CTD HO PESHAWA

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Name of Application
No.of Application: 1258
Date of presentation of application 20/2/2
Date of preparation of copies 25/0//24
Gumber of Pages: 04
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(Muhammad Anwas Kean) Judicial Magistrate-I, Museum

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Examiner Copying Branch
Session Court Mardan





OFFICE OF THE, DY: INSPECTOR GENERAL OF POLICE, COUNTER TERRORISM DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR.

#### <u>ORDER</u>

Ex-Constable Shafiq No. 1269 was serving in CTD Mardan Region who was arrested by local Police of PS Sheikh Maltoon vide FIR No. 67 dated 27-02-2022 u/s 11AKPCNSA PS Sheikh Maltoon after recovering 75 gms narcotics ICE (Crystal Methamphetamine) from his possession, at Police Check Post in their Jurisdiction. He was charge sheeted and summary of allegations were served upon him. DSP Investigation CTD Mardan Region Muhammad Akbar Khan was appointed as enquiry officer.

The enquiry officer submitted his findings and found the official guilty. He had been awarded with major punishment of "Dismissal from service" by SP CTD Mardan Region vide order No. 1044-47/CTD/Mardan-Region dated 20-05-2022.

The applicant submitted a departmental appeal before the Worthy Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa for consideration. The competent authority called the applicant for personal hearing, accordingly he was personally heard but he failed to provide plausible grounds to convince high ups regarding his involvement in the aforementioned case. His appeal is time barred.

Hence, the competent authority has filled his appeal

SP/HQrs:

For Deputy Inspector General of Police, CTD Khyber Pakhtunkhwa, Peshawar.

No./3845-46/PA/CTD Dated Peshawar the 14 / 09/2022

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

1. Superintendent of Police, CTD Mardan Region.

2. Ex-Constable Muhammad shafiq No. 1269.

CTD HQ PESHAWAR

- (7) The enquiry proceedings once started should be held without interruption, as far as possible, on day to day basis.
- (8) On receipt of the enquiry report the case should be processed expeditiously.
- (9) It should be impressed upon the Enquiry Officer that the quality of work produced by him will reflect on his efficiency, which will be recorded in his ACR.
- (10) The initiating officer should record his assessment of the Enquiry Officer's performance in the ACR.

(Authority: Circular letter No.SORII (S&GAD)3(4)/78, dated 3rd October, 1984)

# Stoppage of increment under Government Servants (Efficiency & Discipline) Rules, 1973.

Instances have come to the notice of the Government where the penalty of stoppage of increment under the NWFP Government Servants (Efficiency & Discipline) Rules, 1973, has been imposed on Government Servants, who have reached the maximum of the pay scale, thus making the penalty ineffective. I am accordingly directed to request that the competent authorities may, in future, kindly keep in view the stage of the pay scale at which a Government servant is drawing pay before imposing the penalty of stoppage of increment on him under the above rule.

(Authority: Circular letter No.SORII(S&GAD)5(29)/86, dated 27th December, 1986).

# Departmental Proceedings vis-a-vis Judicial Proceedings.

The question as to whether or not a departmental inquiry and judicial proceedings can run parallel to each other against an accused officer/official has been examined in consultation with the Law Department.

- 2. It is hereby clarified that Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other. They can take place simultaneously against an accused on the same set of facts and yet may end differently without affecting their validity. Even departmental inquiry can be held subsequently on the same charges of which Government servants has been acquitted by a Court. The two proceedings are to be pursued independent of each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings.
- 3. It may also be clarified that Court Proceedings also include criminal proceedings pending against a civil servant.
- 4. The above instructions may please be brought to the notice of all concerned.

tAuthorny:Circular letter No.SOR.II(S&GAD)5(29)/86(KC), dated 8.1.1990)

Abtested

CTD HQ PESHAWAR

2001 SCMR 2018

[Supreme Court of Pakistan]

Present: Iftikhar Muhammad Chaudhry, Qazi Muhammad Farooq and Hamid Ali Mirza, JJ

Messrs HABIB BANK LTD,---Petitioner

versus

SHAHID MASUD MALIK and others---Respondents

Civil Petitions Nos.564 and 565 of 2001, decided on 8th May, 2001.

(On appeal from the judgment dated 9-12-2000 passed by the Federal Service Tribunal. Islamabad in Appeals Nos. 117(R)C/E of 2000 and 1886(R) of 1999).

(a) Civil Servants Act (LXXI of 1973)---

---S.16---Departmental proceedings and criminal proceedings---Difference and distinction---Departmental proceedings are different and distinct from criminal charge which if has been levelled simultaneously against civil servant.

#### (b) Service Tribunals Act (LXX of 1973)-

---Ss. 2-A & 4---Constitution of Pakistan (1973), Art. 185(3)---Dismissal from service---Findings of Service Tribunal based upon findings recorded by other forums---Validity----Acquittal from criminal charge---Effect--Employee of Banking Company was dismissed from service----Labour Court reinstated the employee and Criminal Court acquitted him of the charge---After insertion of S.2-A, in Service Tribunals Act, 1973 matter was transferred to Service Tribunal and the Tribunal on the basis of findings recorded by Labour Court as well as by the Criminal Court allowed appeal of the employee and he was reinstated in service---Legality---Instead of basing its decision on finding of a forum which had no jurisdiction to decide the case, the Service Tribunal should have examined the case independently on the basis of material collected during departmental inquiry including show cause notice and inquiry report---Conclusion drawn by Criminal Court would have no bearing on the departmental proceedings as the latter had to be decided independently ----Where the Tribunal had not applied its independent mind, such findings of the Tribunal were not sustainable----Petition for leave to appeal was converted into appeal, and judgment passed by Service Tribunal was set aside----Case was remanded to Service Tribunal for decision afresh.

Ajmal Kamal Mirza, Advocate Supreme Court and Ejaz Muhammad Khan, Advocate-on-Record for Appellants.

Respondents in person.

Date of hearing: 8th May, 2001.

07-Jun-23, 12:14 PM

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http://www.plsbeta.com/LawOnline/law/casedescription.asp?...

- , Case Judgement

#### ORDER

We have heard learned counsel for the appellants and have also gone through the impugned judgment, dated 9-12-2000 passed by the Federal Service Tribunal, Islamabad. It is noteworthy that the Service Tribunal had based its judgment on the findings of Presiding Officer Labour Court recorded while disposing of application under section 25-A of the I.R.O., 1969 filed by the respondent, the order of the Criminal Court acquitting the respondent-employee from the criminal charge has also been considered as one of the factor for his reinstatement. It is well-settled that the departmental proceedings are different and distinct from the criminal charge which if has been levelled simultaneously against an employee. Likewise the Tribunal may have not taken into consideration the findings recorded in favour of the, respondent by the Labour Court because after the amendment in the Civil Servants Act by means of section 2-A for the purpose of the Service Tribunal the respondent employee had been treated to be a civil servant with a right to approach Service Tribunal for his redressal of grievance. Therefore, the Service Tribunal will examine his case independently on the basis of material collected during the departmental inquiry including show cause notice and Inquiry Report etc., instead of basing its decision on the finding of a forum which firstly had no jurisdiction to decide the case secondly any finding recorded by the criminal Court regarding criminal charges against an employee arising out of the same transaction because no conclusion drawn in this behalf by a Criminal Court will have any bearing on the departmental proceedings which ought to have decided independently. It may be noted that in fact impugned orders have not been passed by the Service Tribunal by applying its judicial mind and had disposed of the appeals in a mechanical manner just observing that as Presiding Officer of Labour Court had recorded finding in favour of the respondent and the Criminal Court has also acquitted him of the charge, therefore, he is ordered to be reinstated. Such findings, however, are not sustainable in law thus deserves interference by this Court.

As a result of above discussion, these petitions are converted into appeals and allowed. Both the cases are remanded to the Federal Service for decision of the appeals expeditiously as far as possible within a period of three months preferably. No order as to costs.

Q.M.H./M.A.K./H-38/S

Case remanded.



Case Judgement

http://www.plsbeta.com/LawOnline/law/casedescription.asp?cased

2007 S C M R 562

[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar and Mian Shakirullah Jan, JJ

SUPERINTENDENT OF POLICE, D.I. KHAN and others----Petitioners

Versus

IHSANULLAH----Respondent

Civil Petition No.384-P of 2005, decided on 14th November, 2006.

(On appeal from the judgment, dated 10-5-2005 of the N.-W.F.P. Service Tribunal Peshawar in Appeal No.180 of 2004).

#### North-West Frontier Province Service Tribunals Act (1 of 1974)---

Executive Engineer and others v. Zahid Sharif 2005 SCMR 824 and Sami Ullah v. Inspector-General of Police and others 2006 SCMR 554 ref.

Khushdil Khan, Additional Advocate-General N.-W.F.P. and Altai, S.-I. (Legal) for Petitioners.

Abdul Aziz Kundi, Advocate Supreme Court for Respondent.

**ORDER** 

ABDUL HAMEED DOGAR, J.--- This petition is directed against judgment, dated 10-5-2005 passed by learned N.-W.F.P. Service Tribunal, camp at D.I. Khan whereby Appeal No.180 of 2004 filed by respondent was allowed and he was reinstated into service without back-benefits.

2. Brief facts leading to the filing of instant petition are that respondent was dismissed from service on the allegation that on 12-7-2001 he was found in possession of 225 grams of Charas. Case was registered against him in which he was arrested and sent up to face the trial. According to learned counsel for the respondent he made representation to the competent authority but did avail the remedy of filing appeal before the learned Tribunal challenging his dismissal. According to him after his acquittal from the criminal case which took place on 9-10-2003 he filed instant appeal before Tribunal on 18-3-2004 mainly

on the ground that he was acquitted from criminal charges as such be reinstated in service. The appeal before the Tribunal was filed belatedly from date of his dismissal and after five months from the date of his acquittal from the criminal charges. This being so, respondent has lost his right and cannot agitate for reinstatement. By now it is the settled principle of law that acquittal of civil servant from criminal charges would have absolutely no bearing on the merits of the case as the disciplinary proceedings are to be initiated according to service rules independently. Reliance can be made to the cases of Executive Engineer and others v. Zahid Sharif 2005 SCMR 824 wherein it has been held that acquittal of civil servant from Court would not impose any bar for initiation of disciplinary proceedings as his acquittal would have no bearing on disciplinary proceedings at all. In case of Sami Ullah v. Inspector-General of Police and others 2006 SCMR 554 it has been held that acquittal of petitioner from criminal case would have absolutely no bearing on the merits of the case and in the case of N.E.D. University of Engineering and Technology v. Syed Ashfaq Hussain Shah 2006 SCMR 453 it has been held that departmental representation of civil servant was barred by limitation and on the basis of such representation Service Tribunal could not reinstate him in service.

3. In view of what has been discussed hereinabove and the case-law referred (supra) the impugned judgment reinstating the respondent in service after acquittal from the criminal charge is not sustainable in law hence the same is set aside. The petition is converted into appeal and allowed. The order of dismissal from service of respondent is maintained.

M.H./S-81/SC

Appeal allowed.

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