

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 1368/2015

Date of Institution ... 12.10.2015

Date of Decision ... 11.12.2017

Rizwan Ullah Constable No. 3814 District, Peshawar. .. (Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and two others.
... (Respondents)

MR. YASIR SALEEM, ... For appellant
Advocate

MR. KABIRULLAH KHATTAK, ... For respondents.
Addl. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on 13.3.2014 against which he filed departmental appeal on 07.12.2015. The same was rejected on 29.4.2015. The appellant then filed a revision petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 which was decided on 14.09.2015. Thereafter the present service appeal was filed on 12.10.2015, whereby the appellant was reinstated in service,

however, he was awarded minor penalty of stoppage of increments for two years without cumulative effect. The back benefits were also denied to him. The appellant has challenged the revisional order under Rule 11 A of the rules mentioned above.

ARGUMENTS.

3. At the very outset the learned AAG objected to the maintainability of this appeal on the ground that this Tribunal in so many cases has decided that the period of limitation cannot be extended on the basis of powers exercised under Rule 11-A mentioned above.

4. To this the learned counsel for the appellant argued that the appellant was reinstated in service by the Provincial Police Officer and he is aggrieved only on that portion of revisional order whereby back benefits were refused to him.

CONCLUSION.


5. Since this Tribunal can assume jurisdiction under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for which the original or appellate order is must. This Tribunal cannot seize the jurisdiction against the revisional order. In this regard so many judgments have been delivered by this Tribunal including service appeal No. 1228/2016 entitled "*Nazir Ahmad Vs the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others*" decided on 06.12.2017.

6. At this the learned counsel for the appellant pressed in service a judgment entitled "*Inspector of Police Punjab Vs. Tariq Mahmood*" reported as 2015-SCMR-77 wherein in a similar case the police constable was denied back benefits in exercise of revisional petition and Service Tribunal granted him relief which was upheld by the august Supreme Court of Pakistan.

7. By going through this judgment, this Tribunal reaches the conclusion that this judgment of the august Supreme Court of Pakistan did not touch the jurisdictional aspect of the Tribunal nor the same was raised before the Tribunal or the august Supreme Court of Pakistan. This judgment has only discussed and decided that the back benefits should be granted to the appellant when he was reinstated. It is correct that the relief was granted to the appellant in that reported case by the Tribunal which was upheld by the august Supreme Court of Pakistan but the issue of jurisdiction was not raised or discussed. When any issue is not raised and discussed in any judgment, such judgment is jurisprudentially called "*sub silentio judgment*". Such judgment does not settle any positive *ratio* to be followed on that particular point not raised and discussed. However, an anomaly may arise in such cases that where the aggrieved civil servant shall go for justice as the maxim "*ubi jus ibi remedium*" demand that there must be some remedy for the violation of a right. Undoubtedly the matter is one of the terms & conditions of Civil Servants. But as the jurisdiction of this Tribunal is circumscribed by the presence of original or appellate order, the aggrieved civil servant can go to the High Court in writ jurisdiction.

8. Another aspect in such like cases is that of limitation. Before this Tribunal appellant shall have to bring the appeal within 120 days overall. But if a civil servant is allowed to approach this Tribunal after exhausting revisional remedy then period would be enhanced from 120 days to further 120 days after filing of revision. But section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 does not allow limitation to be beyond 120 days. In such situation of discordance amongst an Act and Rules, the former being primary legislation would prevail.

9. As a sequel to the above discussion, this Tribunal reaches the conclusion that this Tribunal has no jurisdiction to seize jurisdiction against an order passed in revision and not in appeal. The appeal is dismissed accordingly. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
11.12.2017

18.09.2017

Counsel for the appellant present. Learned Deputy District Attorney for the respondent present. Member copy of the instant appeal is not available. The appellant is directed to produce member copy of the instant appeal on or before the next date of hearing. To come up for arguments on 11.12.2017 D.B.


Member
(Executive)



Member
(Judicial)

11.12.2017

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Aziz Shah, H.C for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


MEMBER


CHAIRMAN

ANNOUNCED
11.12.2017

08.09.2016

Counsel for the appellant and Mr. Aziz Shah, Reader alongwith Additional AG for respondents present. Learned counsel for the appellant submitted rejoinder, copy whereof handed over to learned Additional AG. To come up for arguments on 13-1-17 before D.B.

Member

Member

13.01.2017

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant submitted fresh Wakalat Nama and requested for adjournment. Request accepted. To come up for arguments on 23.05.2017.

(AHMAD HASSAN)
MEMBER

(MUHAMMAD AAMIR NAZIR)
MEMBER

23.05.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 18.09.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

07.01.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving Constable when subjected to inquiry due to involvement in a criminal case registered FIR No. 687 dated 19.7.2013 under sections 302/324/34 PPC at PS Bhana Mari and initially dismissed from service vide order dated 13.3.2014 which was finally converted in review petition into minor penalty in the shape of increments for two years and deprived him of the back benefits and hence the instant service appeal on 7.12.2015.

That since the appellant was innocent and falsely implicated in the criminal case and therefore the punishment was unwarranted and, moreover, the plea of absence was introduced later on as the appellant was not subjected to inquiry on any such charge.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.3.2016 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

24.03.2016

Counsel for the appellant and Mr. Aziz Shah, Reader alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 24.5.2016 before S.B.


Chairman

24.05.2016





Agent of counsel for the appellant and Aziz Shah H.C alongwith Addl. AG for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 08.09.2016.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1368/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.12.2015	<p>The appeal of Mr. Rizwanullah resubmitted today by Mr. Sajid Amin Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	11-12-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-12-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	11.12.2015	<p>Counsel for the appellant present. Learned counsel for the appellant requested for adjournment. Adjourned to 21.12.2015 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>
	21.12.2015	<p>Agent of counsel for the appellant present. Seeks adjournment. Adjourned to 07.1.2016 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Rizwan Ullah Constable No. 3814 District, Peshawar received to-day i.e. on 12.10.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. Wakalatnama is incomplete, which may be completed.
2. The appeal is not signed by the appellant, which may be got signed from him.
3. Annexures of the appeal may be got attested by the appellant or his counsel.
4. The appeal may be got annexurewise/pagewise.
5. Affidavit has not been signed by deponent.
6. Five more copies of appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1296 /ST,

Dated 16/10 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. Ijaz Anwar Advocate, Peshawar.

- 1) Complete Wakalat Nama along with appeal
- 2) Appeal signed by the appellant
- 3) All the annex attested by the Counsel
- 4) Appeal annexure to pagewise
- 5) Affidavit attested by oth Commissioner
- 6) Complete five copy along with appeal


Ijaz Anwar
Sajid Amin Adv

0

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1368 /2015

Rizwan Ullah Constable No 3814 District Peshawar.

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.etc


(Respondents)

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3	Copies of the Charge Sheet and inquiry report.	C & D	10-11
4	Copy of the dismissal order dated 13.03.2014.	E	12
5	Copies of the Departmental Appeal and Rejection order dated 29.04.2015.	F & G	13-14
6	Copy of the Judgment/Acquittal order of ASJ-XII 10.06.2015.	H	15-17
7	Copy of order dated 14.09.2015	I	18
8	Vakalatnama		19

Appellant

Through


SAJID AMIN
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1368 /2015

Rizwan Ullah Constable No 3814 District Peshawar.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Capital City Police Officer Peshawar Khyber Pakhtunkhwa, Peshawar Superintendent of Police Khyber Pakhtunkhwa Peshawar.
3. The Superintendent of Police Headquarter, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Order dated 14.09.2015, whereby the departmental appellant/Mercy petition of the appellant has been partially accepted and the penalty of dismissal from service awarded to the appellant vide order dated 13/03/2014, has though been set aside, however, the appellant has been awarded the minor penalty of stoppage of two increments for two years without accumulative effect and the appellant has also been denied back benefits for the period he remained out of service.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 14.09.2015, , to the extent of minor penalty of stoppage of increments and stoppage of two increments for two years, and denial of back benefits to the appellant may please be set aside, and the appellant may be allowed the back benefits for the period he remained out of service.

K.P. Provincial
Service Tribunal
Diary No 1244
Extra/R-10-15

Filed
12/10/15
to-day

re-submitted to-day
and filed.

Registrar

7/12/15

Respectfully Submitted:

1. That the appellant was initially appointed in the Respondents' department as constable in the year 2003. Ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance.
2. That while serving in the said capacity, the appellant was falsely implicated in a criminal case under section 302-324/34 PPC, vide FIR No. 687 dated 30.07.2013 of Police Station Bhanā Mari, Peshawar. The appellant duly informed his department about his false implication in criminal case. Since there were serious threats to the live of the appellant from his enemies, therefore he could not join his duty. It is pertinent to mention here that on the day of occurrence the appellant was on duty as is evident from the daily diary report which clear showed that the appellant was falsely roped in the said FIR. *(Copies of the FIR and Daily Diary is attached as Annexure A & B)*
3. That the appellant was proceeded departmentally and charge sheet was though issued but never communicated to the appellant. Thereafter An ex-parte inquiry was conducted and the appellant was recommended for major punishment vide Inquiry Report dated 20.09.2013. *(Copies of the Charge Sheet and inquiry report is attached as Annexure C& D)*
4. That thereafter the appellant was awarded the major penalty of dismissal from service vide order dated 13.03.2014. *(Copy of the dismissal order dated 13.03.2014 is attached as Annexure E)*
5. That the appellant also obtained bail on 26.01.2015, thereafter he filed a departmental appeal on 07.02.2015, which was also rejected, vide order dated 29.04.2015. *(Copies of the Departmental Appeal and Rejection order dated 29.04.2015 are attached as Annexure F & G)*
6. That in the mean time the appellant was acquitted from criminal charges by the Learned ASJ-XII vide his judgment and order dated 10.06.2015. *(Copy of the Judgment/Acquittal order of ASJ-XII 10.06.2015 is attached as Annexure H)*
7. That the appellant also submitted a review/Mercy petition dated which was partially accepted vide order dated 14.09.2015 but the appellant was awarded minor penalty of stoppage of two increments for two years and was also denied back benefits for the intervening period i.e, from date of dismissal till the date of

reinstatement. *(Copy of order dated 14.09.2015 is attached as Annexure I)*

8. That the appellant prays for the acceptance of the instant appeal inter alia on the following grounds:-

GROUND OF APPEAL:


- A. That the appellant have not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding him the penalty. He has not been served with charge sheet or statement of allegations nor has he been associated with enquiry if any conducted against him.
- C. That since the absence of the appellant of the appellant was never with due to his alleged involvement in the criminal case, moreover the said period has also been regularized once by treating the same as without pay, therefore again awarding penalty to the appellant for the said charges is unwarranted under the law.
- D. That the appellant was falsely implicated in the above said FIR, because on the date of alleged occurrence the appellant was on duty which is also evident from the daily diary.
- E. That since the appellant has been Honourable acquitted in criminal case on the basis of compromise, therefore on his reinstatement he cannot be denied the back benefits of service to which he would have been entitled had he been in service.
- F. That it has also been held by the Superior courts in a number of reported cases that all acquittals are honorable and there can be no acquittal that can be termed as dis-honourable, reliance is placed on 1998 SCMR 1993 and 2001 SCMR 269.
- G. That since the absence of the appellant was not willful but was due to his false implication in criminal case, moreover the respondents were fully aware of the registration of criminal case against the appellant, therefore under the law/rules when the appellant is reinstated on his acquittal from criminal case he under no circumstance can be denied the back benefits for the period he remained out of service.

- H. That it has been held by the superior courts that the grant of back benefits after reinstatement is a rule while denial of the same is an exception subject to the prove that the employee remained in gainful employment, the appellant has since never remained in any gainful employment during the intervening period, there as a rule he is entitled for the grant of back benefits.
- I. That the appellant has never committed any act or omission which could be termed as misconduct, his absence from duty was not willful but it was due to his false implication in criminal case. Since the appellant have honorably acquitted in the criminal case, and subsequently reinstated, thereafter penalty of stoppage of two increments for two years is liable to be set aside.
- J. That the appellant has not been given opportunity of personal hearing before awarding him the penalty hence he has been condemned unheard.
- K. That during the intervening period, the appellant never remained in gainful employment, therefore on his reinstatement he is entitled for the grant of all benefits also.
- L. That the appellant also seeks permission of this honorable Tribunal to rely on additional grounds at the time of hearing of the appeal.

It is, therefore, humbly prayed that On acceptance of this appeal the impugned order dated 14.09.2015, to the extent of minor penalty of increments and stoppage of two increments for two years and denial of back benefits to the appellant may please be set aside, and the appellant may be allowed the back benefits for the period he remained out of service.


Appellant

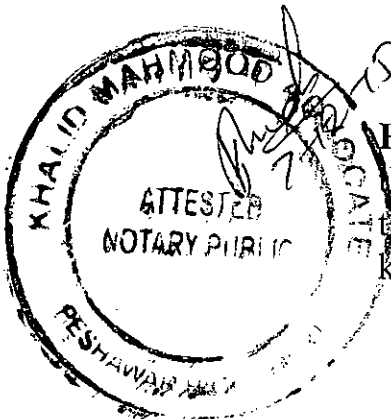
Through


SAJID AMIN
Advocate Peshawar

AFFIDAVIT

I, Rizwan Ullah Constable No 3814 District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent



ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر درجہ 152 مجموعہ ضابطہ نو جدازی

شمارہ	12	687	30/7/13	10500
تاریخ درج رپورٹ	31/7/13			
نام و سکونت اطلاع دہندہ	رضوان صاحب			
مختصر کیفیت جرم (مورد نمبر) یاں اگر کچھ لکھا گیا ہو۔	رضوان صاحب کے گھر میں توفیق ہوا ہے تو وجہ بیان کر کے			
جائے وقوع یا صاف پتہ	رضوان صاحب کے گھر			
نام و سکونت لازم	رضوان صاحب			
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توفیق ہوا ہے تو وجہ بیان کر کے				
تعمیر سے روزگاری کی تاریخ درج رپورٹ				

ابتدائی اطلاع نیچے درج کرو۔

میں نے اپنے والدین سے کہا کہ میں نے اپنے گھر میں ایک گاڑی خریدی ہے۔ یہ گاڑی ایک سال پہلے خریدی گئی تھی۔ اس گاڑی کا نمبر 302/324/34 PCC ہے۔

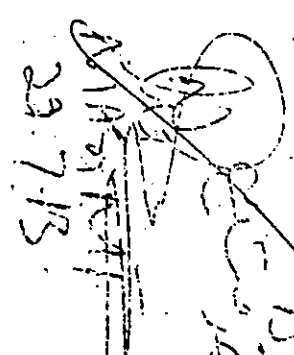
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Asif A B Morsi
30.7.13
Copying Agency (Pvt)
Law Branch
Capital Police Peshawar
31-7-13

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38	19.3.1913	<p>المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين المجلس التمسك بالدين</p>	38



 29.7.13

کبریا 365.324.380 نوٹس کارڈ جس سے صفحہ سے انگلیز کا معلق
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506 111e

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506 111e

مجموع 325 نوڈ وڈنگ کارڈ جس سے کڈنگ کارڈ جس سے اسی طرح واٹر جان پوک
506 111e

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15/05/2011

وقت 30/13 مجموعہ 30/13 سہیل 3277 (ہنگامہ) الیہ
 4827 صلح بفرضا موبائل لسٹ علاقہ بطور بیرون صلح موبائل بھیل کلاں 3913 لوسیف 1895
 صلح بفرضا لہر اجلاڈ کھواری سرکافری بن دین موبائل ڈر ایگور لڈا (ریگم) پاریس
 دے

وقت 13/07 مجموعہ 13/07 سوسیت میں دو ٹیوٹا بیان رنیمہ محمد الہ علیہ
 صبر موبائل لسٹ علاقہ کھیل دیہہ گلہ علیہ اولم صوفو لو اسی ڈیو ڈیو سے واپس آ کر
 ضرورت بہانہ ہی اسے ڈانٹتے وقت بھیل

وقت 13/07 مجموعہ 13/07 آج بھی دو ٹیوٹا بھیل کے کلاں 3065 کو بھوٹی بھیل کے علاقے
 نگران 82 میل کے پھیلاؤ میں صبر بھیل کے علاقے میں

وقت 13/07 مجموعہ 13/07 اسی وقت خان میں کلاں 3065 کو بھوٹی بھیل کے علاقے
 مفاخر لو بس لاس صلح بفرضا 919 کو بھوٹی بھیل کے علاقے میں صلح بھیل بھوٹی بھیل کے علاقے
 پاریس دے

وقت 13/07 مجموعہ 13/07 اسی وقت خان میں کلاں 3065 کو بھوٹی بھیل کے علاقے
 لفرضا موبائل لسٹ علاقہ کھواری سرکافری بن دین موبائل ڈر ایگور لڈا (ریگم) پاریس
 دے

وقت 13/07 مجموعہ 13/07 اسی وقت خان میں کلاں 3065 کو بھوٹی بھیل کے علاقے
 4396 علاقہ موبائل 1mm پکار 3931 شہر 3903 کاسر ان 3195 لفرضا 397
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ATC

کارنامہ

ANNUAL (11) 15-11-2015
محرم صواب! 2015/02/09

سی سی پی او صاحب پشاور

Dy. No. 339 PA-CCPO
Dt: 6.2.15
Encl:

(13)

ATS
VVIP

مؤدیانہ گزارش کے سائل 19¹¹/₂₀₀₃ کا بھرتی شدہ ہے جبکہ سائل

کو پینٹائیڈ بھی ہے اور 2007 میں سوات میں بھی ڈھوٹی سرانجام دی ہے۔

مورخہ 30⁰⁷/₂₀₁₃ کو بدوران ڈھوٹی دینے 302, 324, 334 کا دعوایداری ہو گیا۔ جسکی وجہ

سے سائل 2⁰⁸/₂₀₁₃ کو تھانہ متنی سے پتھر حافر ہو گیا۔ اور 13⁰³/₀₄ 825 کو

ڈھوٹی سے برخاست کیا گیا۔ اب جبکہ سائل کو 26⁰¹/₂₀₁₅ کو عدالت نے بغزت طور پر

بری کر دیا۔ آپ صاحبان سے مؤدیانہ گزارش ہے کہ اب سائل کو دوبارہ

ڈھوٹی پر بحال کرنے کا حکم صادر فرما کر سٹکوں فرمائیں۔

عین لفاز میں ہوئی

العارض

آپکا نام فرما سابقہ کنسٹبل APC ڈرائیور رضوان اللہ

2738

مورخہ 07⁰²/₀₅

سائل نمبر 9023195-0345

APC
For Comments
Rahello
6.2.2015

Fme/PC
Putul Record PC

Dy. Superintendent of Police
Legal & Prosecution
10.2.2015

MC

Arif Wazir "C"

① ② | ⑩

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Rizwan No.2738 of Capital City Police Peshawar with the following irregularities.

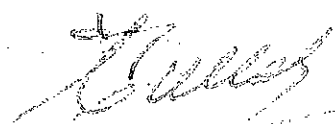
"That you Constable Rizwan No.2738 while posted at PS Mattani, Peshawar were involved in a criminal case vide FIR No.687-dated 30.07.2013 U/S 302/324/34-PPC PS Bhanamari. This amounts to gross misconduct on your part and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

DTC


LA

No. 583

25/9/13

ANNEX "D"
553
12
(4) (11)

From :-

The Deputy Superintendent of Police,
Suburb, Peshawar.

To :-

The Superintendent of Police, Hqrs,
Peshawar.

No. 411/E

/ST, Dated Peshawar the 20-9 /2013.

SUBJECT: DEPARTMENTAL ENQUIRY AGAINST CONSTABLE RIZWAN NO.2738 OF POLICE STATION MATTANI, PESHAWAR.

Memo:

Reference to your Office 553/PA, dated 29.8.2013 (reference attached).

NO 1512- CB
25/9/2013

BRIEF FACTS.

It is submitted that Constable Rizwan No.2738 while posted at PS/Mattani Peshawar was involved in the criminal case vide FIR No.687 dated 30.7.2013 U/S 302/324/34-PPC PS/Banamari . In this connection he was issued Charge sheet with Statement of Allegations by the W-SP/Hqrs,Peshawar. The undersigned was appointed as enquiry officer to conduct proper departmental enquiry against him.

FINDING.

The undersigned summoned Constable Rizwan No.2738 through written Parwana at his place of posting of PS/Mattani to appear before the undersigned in connection with the enquiry for recorded of his statement, but he does not attend this office. However the statement of Moharrer PS/Mattani also recorded in this regards and he stated in his statement that the above named constable is still absented himself from lawful duty w.e.f 02.8.2013 up till now. Beside this Moharrer of PS/Banamari also contacted on Telephone about the above named accused, but he is still absconder in the case.

During the course of enquiry the undersigned came to the conclusion that constable Rizwan No.2738 was charged in a criminal case and still absconder in the as well as remained absent from lawful duty w.e.f. 2.8.2013. However there is no hope of him that he will come back to join his duty while he is involved in a criminal and still absconder . So there is no remedy except the Ex-parte decision.

RECOMMENDATION.. In view the above facts constable Rizwan No.2738 is recommended for Ex-parte decision of Major punishment (Removal from service)

DEPUTY SUPERINTENDENT OF POLICE,
SUBURB, PESHAWAR

Mr Habibullah Asi.
Anwar Ali
25/9/13

Sir,

Perusal of Enquiry Papers
reveals that E.O. has ignored to
Record Statement of I.O. of the
Case which could show that whether Proclamation
Proceedings u/s 87/88 Cr.P.C. has been carried
out & the accused declared as P.O. or
Otherwise. Therefore the Enquiry may be returned to
the nodal.

DSP- legal

For opinion, M.

Signature of DSP-legal
24/9

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Rizwan No.2738 on the allegations/charges that he while posted at PS Mattani, Peshawar involved in criminal case vide FIR No.687 dated 30.07.2013 u/s 302/324/34-PPC PS Bhanamari and remained absent from lawful duty w.e.f 02.08.2013 till date.

In this connection, he was placed under suspension vide No.3004-O.B dated 30.08.2013. Proper departmental enquiry was initiated. SDPO Suburb Peshawar was appointed as Enquiry Officer. He conducted the enquiry proceedings & submitted his report that the alleged constable is still absconder in the above case and remained absent from lawful duty w.e.f 02.08.2013 till date. The E.O further recommended for ex-parte decision against the defaulter official vide Enquiry Report No.41-E/ST dated 20.09.2013.

Upon the finding of Enquiry Officer, the opinion of DSP Legal was sought. He opined that the E.O has ignored to record the statement of I.O of the case which show that whether proclamation proceedings u/s 87/204 Cr.Pc has been carried out & the accused declared as P.O or otherwise. He further opined that the enquiry may be returned to E.O for the needful.

The enquiry was again sent to E.O for re-enquiry. He again conducted the enquiry & submitted his report that the statement of I.O of the case was recorded. He stated that the alleged Constable is still absconder. The opinion of DSP Legal was again asked. He opined that as per report of I.O of the case, the accused Constable is still absconder, which speak that he is reluctant to surrender himself/face the enquiry proceedings. Therefore the ex-parte action may be taken & the enquiry may be disposed off accordingly.

In the light of findings of Enquiry Officer as well as DSP/Legal opinion, it has been proved beyond any shadow of doubt that he is guilty in criminal case and is still absconder. Therefore, the power vested in me under Police disciplinary rules 1975, Constable Rizwan No.2738 is hereby dismissed from service with immediate effect. Hence, the period he remained absent from 02.08.2013 till date is treated without pay.

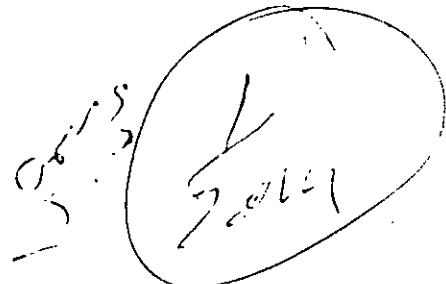

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

O.B No. 825 /dated 13-3- /2014
No. 1117-25/PA, dated Peshawar, the 13/3 /2014

Copy forwarded for information & n/action to:

1. The Capital City Police Officer, Peshawar.
2. The SSP/Operation Peshawar.
3. DSP/Hqrs, Peshawar.
4. Pay Officer/R.I, LO, Police Lines Peshawar.
5. OASI, CRC & FMC along-with complete departmental file.
6. Official concerned





ANNEXURE "E"

12

24

ORDER

ANNEXURE

(M)

This order will dispose off departmental appeal of ex-Driver constable **Rizwan Ullah No. 2738** who was awarded the major punishment of **Dismissal** from service under PR-1975 vide OB No. 825 dated 13.3.2014 by SP/HQRs: Peshawar, on the charge that he while posted at PS Mattani was involved in a criminal case vide FIR No. 687 dated 30.7.2013 u/s 302/324B4 PPC PS B/Mari. After involvement in the said criminal case he deliberately absented himself and remained absconder (from 2.8.2013 to 13.3.2014= **7-months & 11-days**).

Proper departmental proceedings were initiated against him and DSP/Suburb was appointed as the E.O. The Enquiry Officer repeatedly summoned the appellant but he did not turn up and remained absconder. On receipt of the findings of the E.O., the Competent Authority issued him SCN but he failed to submit his written reply within stipulated period. Hence the Competent Authority awarded him the above major punishment.

The relevant record was perused along with his explanation. He was also heard in person in OR on 24/4/2015. He could not defend himself. The allegations stand proved against him. He deserves no leniency. The order of SP-HQRs: is upheld and his appeal for re-instatement in service is rejected/filed.


**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2270-75 /PA dated Peshawar the 29/4/15

Copies for information and n/a to the :-

- 1/ SP-HQRs: Peshawar
- 2/ PO/OASI
- 3/ CRC along with S.Roll for making n/entry.
- 4/ FMC along with FM.
- 5/ Official concerned.

ATC
Q

ANNE O. H
(15)

IN THE COURT OF PHOOL BIBI,
ADDITIONAL SESSIONS JUDGE - XII, PESHAWAR

State Vs Arfat Ullah etc

Case File # 34/SC of 2015

Date of Institution: 11/04/2015

Date of Decsion: 10/06/2015

FIR No. 687 dated 30/07/2013 U/S 302/324/34 PPC of PS

Bhanamari

ORDER

10/06/2015

1. Accused *Arfat Ullah* alias *Ulfat & Rizwan* on bail present. Father of complainant/deceased as well as eye witness also present. APP for the State present. Commission report already received and placed on file. (4)
2. Accused facing trial were charged for effective firing at complainant as result whereof complainant *Maskeen Khan* sustained injuries and later on succumbed to injuries while other co-complainant escaped unhurt, so case FIR No. 687 dated 30/07/2013 u/s 302/324/34 PPC at PS *Bhanamari*, was registered against them.
3. After completion of investigation, complete challan against the accused was submitted and entrusted to this court for trial. Accused facing trial were summoned, who appeared and provisions of section 265-C Cr.P.C were complied with.
4. On 18/05/2015, *Muhammad Nisar*, father of the deceased/complainant and *Yaseen* (eye witness & brother of the deceased/complainant) appeared before the Court and

ATTESTED

(Examiner)
Sessions Court Peshawar

8/10/15

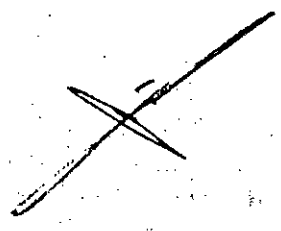
stated that due to invention of elders of locality, matter had been patched up and parties had effected compromise and legal heirs of the deceased had pardoned the accused facing trial for the sake of Almighty Allah by waiving of their right of Qisas & Diyyat etc and they were no more interested in the prosecution of the instant case. They also expressed no objection on acquittal of the accused facing trial. In this respect compromise deed produced as Ex.PA while Proforma of Qisas & Diyyat as Ex.PA/1. Photocopies of CNICs of father and brother of complainant were placed on file as Ex.PC and Ex.PD.

5. On the same date i.e. 18/05/2015, on the application of the counsel for accused facing trial, Miss: Wajeaha Irfan advocate was appointed as local commission for recording the statements of female legal heirs of deceased to verify the factum of compromise. The learned local commission after recording statements of mother of the deceased namely Mst. Shaheen Bibi and widow of deceased namely Mst Aliya, submitted her report. According to which the mother and widow of the deceased also effected genuine compromise with the accused facing trial by waiving of their right of Qisas & Diyyat and pardoned both the accused for the sake of Almighty Allah and expressed no objection on their acquittal. They also thumb impressed their statement recorded by the local commission. Learned counsel for the parties apprised the Court that deceased left behind four minor children namely Suleman, Hamza (sons), Mst. Ayesha, Salma (daughters) & for

ATTESTED

(Ex-Officio)


8/10/15



the minor legal heirs of the deceased, accused facing trial have transferred a plot measuring 15 marlas situated at Landi Arbab, Peshawar vide mutation No.9095 attested on 28/10/2014 attested copy of which is placed on file.

- 6. The offence with which the accused facing trial have been charged is compoundable in nature and the major legal heirs of the deceased have compounded the matter with the accused facing trial and waived of their right of Qisas & Diyyat etc and pardoned the accused for the sake of Almighty Allah while to the extent of minor legal heirs Diyyat in the shape of transfer of property has been paid. The compromise arrived at between the parties seems to be genuine and in the interest of the parties, therefore, by acceptance the same, accused namely Arfat Ullah and Rizwan Khan both sons of Izzat Khan, residents of Landi Arbab Peshawar, are acquitted of the charges leveled against them in case FIR No. 687 dated 30/07/2013 U/S 302/324/34 PPC of PS Bhanamari, Peshawar. They are on bail, their bail bonds stands cancelled and their sureties are discharged from their liabilities.
- 7. Case property, if any, be kept intact till the period of appeal/revision and thereafter, be disposed of according to law.
- 8. File be consigned to record room after necessary completion and compilation.

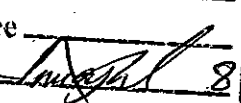
Announced
10/06/2015


Phool Bibi,
Additional Sessions Judge-XII,
Peshawar

CERTIFIED TO BE TRUE COPY

(Signature)
Copying Agency Sessions Court

8/10/15

No:	11980
Dated of Application	8-10-15
Name of Applicant	Arfat Ullah
Word	600-
Fee	Urgent/Fee
Signature of Copyist & Date	 8/10/15
Dated of Preparation	8/10/15
Date of Delivery	8/10/15

ANNEX I

18

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

ORDER

This order is hereby passed to dispose off departmental appeal under Rule 11-a of Pakhtunkhwa Police Rule-1975 submitted by Ex-Driver FC Rizwan Ullah No. 2738 of Peshawar against the Punishment Order i.e dismissal from service passed against the appellant by SP, HQrs Peshawar vide OB No. 825 dated 13.03.2014

In the light of recommendations of Appeal Board meeting held on 27.08.2015, the board examined the enquiry in detail & other relevant documents. It revealed that the appellant was served with Charge Sheet/Statement of Allegations and punishment order was announced on the basis of reply to the Charge Sheet and Statement of Allegations.

The official was called and heard in detail. Record perused. The said official was absented for the above period due to involvement in case FIR No. 587 dated: 30.07.2013 u/s 302/324/34 PPC PS Bhanja Mari Peshawar. His case was dispose off due to compromise in the court. The board accepted his appeal and his punishment of dismissal from service is converted into stoppage of increments for two years without accumulative effect. He is reinstated in service with no back benefits.

Order announced in the presence of appellant.

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

No 11331-34 E-IV dated Peshawar the 14/9 2015

Copy of above is forwarded to the:-

1. Capital City Police Officer, Peshawar. The service Roll, Fauji Missal and Enquiry File of the above named official are returned herewith.
2. PSO to GP/Khyber Pakhtunkhwa Peshawar.
3. PA to A-Idt: IGP/HQrs Khyber Pakhtunkhwa, Peshawar.
4. PA to L/G/HQrs Khyber Pakhtunkhwa, Peshawar.

(ASIF ROBAL MOHAMMAD)
AIC/Establishment
For Inspector General of Police
Khyber Pakhtunkhwa Peshawar

27/9/15

ATC

POWER OF ATTORNEY

In the Court of

K.P.K. Senior Tribunal Peshawar

Rozhian Ullah

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Provincial Police Officer

} Defendant
} Respondent
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

SAJID AMIN ADVOCATE, HIGH COURT

_____ my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Sajid Amin
SAJID AMIN
Advocate High Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No 1368/2015.

Yan Ullah Constable No.3814 Police Line Peshawar.....Appellant.

VERSUS.

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, HQrs, Peshawar.....Respondents.

Reply on behalf of Respondents No. 1, 2, & 3.

Respectfully shewth:.

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.
3. That the appellant has not come to this Hon'able Tribunal with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That this Hon'able Tribunal has no jurisdiction to entertain the appeal.

Facts:-

- (1) First part of Para No.1 pertains to record, hence needs no comments. Rest of para is for the appellant to prove.
- (2) Para No.2 is correct to the extent that the appellant while posted at PS Mathani was involved in a criminal case vide FIR No.687 dated 30.07.2013 u/s 302/324/34 PPC PS Bana Mari Peshawar. After involvement in the said criminal case he deliberately absented himself and remained absent from 02.08.2013 to 13.03.2014 (total 07 months and 11 days).

- (3) Para No.3 is incorrect. In fact the appellant was issued a charge sheet but he was absconder in the instant criminal case. Hence after fulfilling all codal formalities, he was recommended for major punishment.
- (4) Para No.4 is correct to the extent that after fulfilling all codal formalities he was awarded major punishment of dismissal from service vide OB No.825 dated 13.03.2014 by SP HQrs Peshawar.
- (5) First part of the para No.5 pertains to court while rest of part is correct to the extent that the appellant filed a departmental appeal but after due consideration was rejected/filed.
- (6) Para No.6 pertains to court. Hence needs no comments.
- (7) Para No.7 is correct to the extent that the appellant filed a mercy petition which after due consideration was partially accepted and the appellant was reinstated and his punishment of dismissal from service was converted into stoppage of increments for two years without cumulative effect.
- (8) That the appeal of the appellant being devoid of merits may kindly be dismissed with cost.


GROUND:-

- (A) Incorrect. The appellant was treated in accordance with law/rules.
- (B) Incorrect. Proper departmental proceedings were conducted against him. All codal formalities were fulfilled.
- (C) Incorrect. The appellant deliberately involved himself in a criminal case and absented himself from his lawful duty without taking permission from his high ups.
- (D) Incorrect. As above.
- (E) Incorrect. Court proceedings and departmental proceedings are two different entities and can run side by side.
- (F) Incorrect. As above.
- (G) Incorrect. Para already explained above in detail.
- (H) Incorrect. The appellant was absconder and remained absent for about 07 months and 11 days. He is not entitled for any back benefits.


- (I) Incorrect. The charges leveled against him were stand proved.
- (J) Incorrect. He was called and heard in person in OR on 24.04.2015.
- (K) Incorrect. The appellant is not entitled for any back benefits.
- (L) Respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

PRAYER.


It is therefore most humbly prayed that in light of above facts and submissions, the appeal of the appellant being devoid of merits and legal footing, may kindly be dismissed with cost.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer
Peshawar.**



**Superintendent of Police,
HQrs, Peshawar.**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No 1368/2015.

Rizwan Ullah Constable No.3814 Police Line Peshawar.....Appellant.

VERSUS.

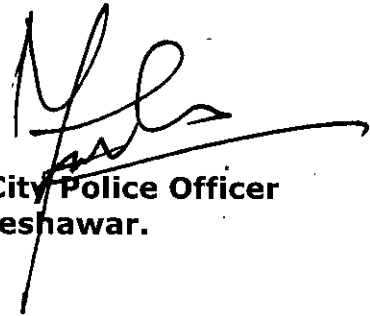
1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Capital City Police Officer, Peshawar.
3. Superintendent of Police, HQrs, Peshawar.....Respondents.

AFFIDAVIT

We respondents No. 1 ,2 & 3 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.



**Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.**



**Capital City Police Officer
Peshawar.**



**Superintendent of Police,
HQrs, Peshawar.**

No. 553
07/25/9/13
553
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(4)

From :- The Deputy Superintendent of Police,
Suburb, Peshawar.
To :- The Superintendent of Police, Hqrs,
Peshawar.
No. 411/E /ST, Dated Peshawar the 20-9 /2013.

SUBJECT: **DEPARTMENTAL ENQUIRY AGAINST CONSTABLE RIZWAN
NO.2738 OF POLICE STATION MATTANI, PESHAWAR.**

Memo:

Reference to your Office 553/PA, dated 29.8.2013 (reference attached).

No 1572-UB
25/9/2013

BRIEF FACTS

It is submitted that Constable Rizwan No.2738 while posted at PS/Mattani Peshawar was involved in the criminal case vide FIR No.687 dated 30.7.2013 U/S 302/324/34-PPC PS/Banamari. In this connection he was issued Charge sheet with Statement of Allegations by the W-SP/Hqrs, Peshawar. The undersigned was appointed as enquiry officer to conduct proper departmental enquiry against him.

FINDING.

The undersigned summoned Constable Rizwan No.2738 through written Parwana at his place of posting of PS/Mattani to appear before the undersigned in connection with the enquiry for recorded of his statement, but he does not attend this office. However the statement of Moharrer PS/Mattani also recorded in this regards and he stated in his statement that the above named constable is still absented himself from lawful duty w.e.f 02.8.2013 up till now. Beside this Moharrer of PS/Banamari also contacted on Telephone about the above named accused, but he is still absconder in the case.

During the course of enquiry the undersigned came to the conclusion that constable Rizwan No.2738 was charged in a criminal case and still absconder in the as well as remained absent from lawful duty w.e.f. 2.8.2013. However there is no hope of him that he will come back to join his duty while he is involved in a criminal and still absconder. So there is no remedy except the Ex-parte decision.

RECOMMENDATION. In view the above facts constable Rizwan No.2738 is recommended for Ex-parte decision of Major punishment (Removal from service)

DEPUTY SUPERINTENDENT OF POLICE,
SUBURB, PESHAWAR

Mr Habibullah Asi.
An n/a At: Pk
25/9/13
Sir,

Perusal of Enquiry Papers
Reveals that E.O. has ignored to
Record statement of U.O. of the
Case which could show that whether Proclamation
Proceedings u/s 87/88 Cr.P.C. has been carried
out of the accused declared as P.O. or
Otherwise therefore the enquiry may be returned to
for the needful.

Legal
For opinion, M.
Superintendent of Police,
Hqrs. Suburb Peshawar.
24/9

از دفتر محترم رسید
 رقم 29 در تاریخ 05/10/15
 مبلغ بیست و نه هزار و هشتاد و پنج تومان

بلافاصله مبلغ آن آفست 835 در حساب 05/10/15
 به حساب قرضه بیرونی شماره حساب 05 دفتر به وصول بر مبنای اصل

EX DF
 رضوان الله 2738 بحواله OB 3631 دو باره
 28-9-15

توسعه به بحال بر مبنای 05/10/15
 در حساب قرضه بیرونی

مبلغ 05 دفتر به وصول بر مبنای اصل
 دفتر 05

مبلغ عالی
 نقل به حساب قرضه بیرونی

EX-2 رضوان الله 2738
 شماره قرضه بیرونی
 3814

محمدعلی
 مدیر عامل

1784
 57515

محمدعلی
 مدیر عامل

05-10-15

17301-1522889-9
 شماره حساب

② عدد دفتر قرضه بیرونی

03459023195
 شماره حساب

دفتر رضوان الله ولد عزت الله سائن مکران لندی PS همانند کوی

EXI
 DFC

1/76
 مبلغ 19/11/03
 مبلغ 38x38

مبلغ 38x38

(6) 2-7

DISCIPLINARY ACTION

I, Superintendent of Police, -Headquarters, Capital City Police Peshawar as a competent authority, am of the opinion that Constable Rizwan No.2738 has rendered him-self liable to be proceeded against under the provision of Police Disciplinary Rules-1975

STATEMENT OF ALLEGATION

"That Constable Rizwan No.2738 while posted at PS Mattani, Peshawar was involved in a criminal case vide FIR No.687 dated 30.07.2013 U/S 302/324/34-PPC PS Bhanamari. This amounts to gross misconduct on his part and against the discipline of the force."

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations an enquiry is ordered and SP- s/d/o suburb is appointed as Enquiry Officer.

2. The Enquiry Officer shall, in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused officer, record his finding within 30 days of the receipt of this order, make recommendations as to punishment or other appropriate action against the accused.

3. The accused shall join the proceeding on the date time and place fixed by the Enquiry Officer.

[Signature]
SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 553 /E/PA, dated Peshawar the 29/8 /2012

1. SP- s/d/o suburb is directed to finalize the aforementioned departmental proceeding within stipulated period under the provision of Police Rules-1975.
2. Official concerned

stop
call the constable
[Signature]

22/8/12
31/8/12

(7) (3) |

CHARGE SHEET

I, Superintendent of Police, Headquarters, Capital City Police Peshawar, as a competent authority, hereby, charge that Constable Rizwan No.2738 of Capital City Police Peshawar with the following irregularities.

"That you Constable Rizwan No.2738 while posted at PS Mattani, Peshawar were involved in a criminal case vide FIR No.687 dated 30.07.2013 U/S 302/324/34-PPC PS Bhanamari. This amounts to gross misconduct on your part and against the discipline of the force."

You are, therefore, required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer committee, as the case may be.

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

Intimate whether you desire to be heard in person.

A statement of allegation is enclosed.


SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Appeal No. 1368/2015

Rizwanullah, Constable No. 3814, Police Lines Peshawar.
(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa, Peshawar &
others.
(Respondents)

REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
2. Contents incorrect and misleading, all the parties necessary for the disposal of the appeal are arrayed in the instant appeal.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
4. Contents incorrect and misleading, the appellant has illegally been awarded the penalty and has been denied back benefits hence he has got the necessary cause action to file the instant appeal.
5. Contents incorrect and misleading, no rule of estoppel is applicable to the instant case.

6. Contents incorrect and misleading, nothing has been concealed from this Honorable Tribunal.
7. Contents incorrect and misleading, this Honorable Tribunal has the jurisdiction to entertain the instant appeal.

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents of Para-3 of the appeal are correct, the reply submitted to the Para is incorrect, the appellant was falsely implicated in the criminal case and his absence was not deliberate but due to the his false implication in criminal case.
3. Contents of Para-3 of the appeal are correct, the reply submitted to the Para is incorrect, baseless and misleading.
4. Contents of Para-4 of the appeal are correct, the reply submitted is incorrect and misleading, no codal formalities as required under the Law and Rules has been full filled before awarding penalty to the appellant.
5. Contents of Para-5 of the appeal being admitted by the respondents in their reply hence needs no comments. However it is added that the respondents while rejecting the appeal of the appellant, never gave due consideration to the plea taken by the appellant.
6. Contents of Para-6 needs no comments. However contents of Para-6 of the appeal are true and correct.
7. Contents of Para-7 of the appeal being admitted by the respondents in their reply hence needs no comments. However it is added that the awarding minor punishment to the appellant was unjustified under the circumstances as the appellant has already been acquitted from criminal case, moreover his the alleged absence period was also treated as without pay, thus there remained no ground to award him penalty.

8. Contents of para-8 of the appeal are correct, the reply submitted to the para is incorrect and misleading.

GROUND

The Grounds (A to L) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

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

[Signature]
Appellant

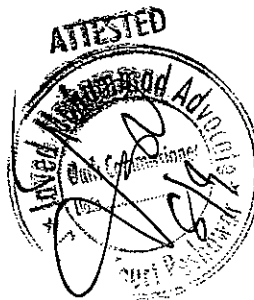
Through

[Signature]
SAJID AMIN
Advocate, Peshawar.

AFFIDAVIT

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honourable Tribunal.

[Signature]
Deponent



POWER OF ATTORNEY

In the Court of Rizwanullah } For Rizwan
Rizwanullah } Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

The P.P.O and others } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

Mr. _____ my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Yasir Saleem
Advocate High Court,
Peshawar