


519/2016

Nasrullah vs Police Deptt:

26.12.2016

Mr. Shaikh Iftikhar-ul-Haq learned counsel for appellant present and submitted an application for withdrawal of the appeal in hand on the ground that the government has issued a notification (copy enclosed with that application) vide which the services of the appellant has been reinstated with all back benefits. Hence in the light of that notification he do not want to press the appeal and requested for withdrawal. Signature of appellant Mr. Nasrullah is taken on the side of the margin sheet as a token of proof and this service appeal in hand stands dismissed as withdrawn for the reasons mentioned in the appeal. No order as to costs. File be consigned to the record room.

ANNOUNCED
26.12.2016




ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

Nasrullah

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 519/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17/05/2016	<p>The appeal of Mr. Nasrullah received today by Post through Sheikh Iftikhar-ul-Haq Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-05-2016	<p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>25-5-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

25.07.2016

Tour programme of D.I. Khan scheduled for 25.07.2016 and 26.7.2016 is hereby cancelled, therefore the case is adjourned to 29.8.16 for preliminary hearing. Parties be informed accordingly.



Member

29.08.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through instant appeal appellant has impugned order dated 07.03.2016 vide which the appellant was removed from service. Against the impugned order referred above, appellant preferred departmental appeal which was also rejected by the competent authority vide order dated 08.04.2016, hence the instant service appeal.

The matter under consideration required further elucidation, therefore, admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 27.12.2016 before S.B at camp court D.I Khan.

Appellant Deposited
Security Process Fee



Member

Camp court D.I Khan

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. 519 /2016

Nasrullah **VERSUS** Govt; of KPK etc

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Your Humble Appellant

Nasrullah

Nasrullah

Through Counsel

Dated: 14/05/2016

Shaikh Iftikhar Ul Haq
Shaikh Iftikhar Ul Haq
Advocate High Court,
Dera Ismail Khan.

(1)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. 519 /2016

**G.W.F. Province
Service Tribunal
Diary No. 495
Dated 17-5-2016**

Nasrullah (Ex-constable) S/o Mohammad Ayaz R/o Pai,
Tehsil & District Tank.

.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through the secretary Home and Tribal Affairs, Peshawar.
2. Provincial Police Officer (formerly I.G.P), Khyber Pakhtunkhwa, Peshawar.
3. Deputy Inspector General Police, Dera Ismail Khan.
4. The District Police Officer, Dera Ismail Khan.

.....(Respondents)

**SERVICE APPEAL UNDER SECTION 4 OF K.P.K
OF SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER BEARING NO.
OB NO. 151 DATED 07/03/2016
PASSED BY THE RESPONDENT NO. 4
(DPO) VIDE WHICH THE APPELLANT
HAS BEEN REMOVED FROM SERVICE
AND RESPONDENT NO. 3 (D.I.G) I.E
DISMISSED THE DEPARTMENTAL
APPEAL / REPRESENTATION VIDE OB
NO. 1632/ES DATED 18/04/2016.**

~~12/5/16~~
~~12/5/16~~
12/5/16

Prayer:-

On acceptance of the instant appeal the impugned order of respondent No. 4 may be set-aside and appellant may be allowed to continue his services in the incumbency of police constable BPS-5 with all back benefits.

[Handwritten signature]
Adv:

Respectfully Sheweth:-

The appellant very humbly submits as under:-

- 1- That the appellant is bonafide resident of Tehsil and District Tank.

- 2- That the appellant was appointed as a police constable in the District Police Tank on 18/07/2007 through fulfilling all codal formalities and the appellant was allotted his personal No. 559 vide order dated 18/07/2007.
- 3- That the appellant performed with full satisfaction if superiors their duties for 9/10 years with no complaint, stigma and dents on the services of the appellant.
- 4- That during service the appellant received charge sheet and statement of allegations on 12/02/2016 which was responded by the appellant on 16/02/2016. Copy of the charge sheet and statements of allegations are and reply are enclosed as Annexure "A, A/1 and A/2".
- 5- That thereafter the appellant received final show cause notice on 19/02/2016, which was responded by the appellant on 26/02/2016. Copies of final show cause notice dated 19/02/2016 and reply are enclosed as Annexure "B & B/1".
- 6- That the appellant removed from service by the respondent No. 4 vide order OB No. 151 dated 07/03/2016. Copy of order of respondent No. 4 bearing OB No. 151 dated 07/03/2016 is enclosed as Annexure "C".
- 7- That the appellant feeling aggrieved by this order submitted a departmental appeal / representation to higher authorities i.e to Deputy Inspector General on 25/03/2016 which was dismissed on 18/04/2016. Copy of departmental appeal / representation dated 25/03/2016 & dismissal order of the departmental appeal dated 18/04/2016 are enclosed as Annexure "D & D/1".
- 8- That the appellant was removed due to allegation of cowardliness, inefficiency and irresponsibility. Actually the appellant performed his duties as per spot in attendant circumstances as per Police Rules 1934 and Police Ordinance 2002 as (amended) and as per instructions in the training and superior officers from to time to time during

[Handwritten signature]

3

the service. And there is no fault on behalf of the appellant in the performance his duties. ^{negligence}

9- That in the attendance circumstances, the instant appeal on the following grounds amongst other:-

GROUND:-

- a) That the removal order is not in commence with the injunction of Esta Code and the impugned order is ^{thus} ~~the~~ inconsistency with the provision of law discordant with facts and is repugnant to the rules of equity.
- b) That the impugned order is not based on sound principle of law.
- c) That the order is against service rules and policy and it is based on improper grounds.
- d) That the Counsel of the Appellant may very graciously be allowed to add further grounds during the course of arguments.

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

Your Humble Appellant

Nasrullah

Nasrullah

Through Counsel

Dated: 14/05/2016

Shaikh Iftikhar Ul Haq
Shaikh Iftikhar Ul Haq
Advocate High Court,
Dera Ismail Khan.

4

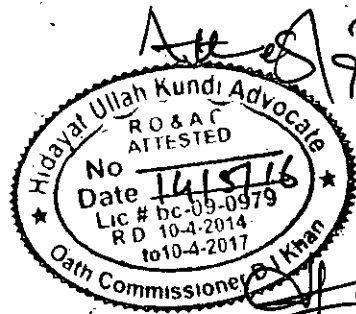
**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. _____/2016

Nasrullah **VERSUS** Govt; of KPK etc

AFFIDAVIT

I, Nasrullah (Ex-constable) S/o Mohammad Ayaz R/o Pai, Tehsil & District Tank, the appellant, do hereby solemnly affirm declared on oath that contents of the above **Appeal** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.



Nasrullah
DEPONENT

[Handwritten signature]

CHARGE SHEET.

5

Annexure - "A"

WHEREAS, I, am satisfied that a formal enquiry contemplated under Khyber Pakhtunkhwa Police Rules 1975 with amendment 2014 is necessary and expedient.

AND WHEREAS, I am of the view that the allegation(s) if established would call for a Major Penalty including Removal From Service as defined in Rules (4 (i) (B) of the aforesaid Rules.

AND THEREFORE, as required by Police Rules 6 (1) of the aforesaid Rules, I, Mr. RASOOL SHAH PSP, District Police Officer Tank being a competent authority hereby charge you Constable Nasrullah No. 559 of PP Abdul Latif Shaheed with the misconduct on the basis of statement of allegation attached to this Charge Sheet.

AND hereby direct you further under rule 6(1) of the said rules to put in written defence within Seven (7) days of receipt of this Charge Sheet as to why the proposed action should not be taken against you and also state that the same time whether you wish to be heard in person or otherwise.

In case your reply is not received within the prescribed period, without sufficient cause, it would be presumed that you have not defence to offer and ex parte action proceedings will be initiated against you.

(RASOOL SHAH) PSP
District Police Officer,
Tank

Attested to be true copy
Nees & Ullah

(6)

Annexure - A/1

STATEMENT OF ALLEGATION.

Today (12.02.2016) at about 09:20 hrs, an unfortunate incident of killing / targeting of Constable Muhammad Tariq No 638 of Police Post Abdul Latif Shaheed was taken vide case FIR No. 129 dated 12.02.2016 U/Ss 302/353/186/15AA/7A CA PS City Tank. According to information, accused Shahidullah s/o Yar Ali Khan caste Mehsud r/o Garra Pathar area of PS SMA Tank came in QINGQI Rickshwa and made indiscriminate firing upon Shaheed Constable Muhammad Tariq No. 638 of PP Abdul Latif Shaheed when he was busy in performance of his duty i.e. Checking of CNIC of suspected persons at PP Latif Shaheed. After commission of offence the accused has made his escape without any fear of presence of other police contingents on the spot which show your cowardness, negligence and inefficiency. Your following acts of cowardness negligence which encourage the Anti-State elements / Accused for commission of such like crimes is liable to be taken into consideration under the relevant disciplinary rules seriously as deterrence for others:-

1. At the time of occurrence you were present on the spot duly armed with official arms/ammunitions.
2. In your presence accused Shahidullah came there in QINGQI Rickshwa and made indiscriminate firing upon Constable Muhammad Tariq as a result Constable Muhammad Tariq was hit and became injured seriously and later on embraced martyred. The accused was succeeded in his escape from the scene of crime without any fear of your presence.
3. Neither the accused was chased nor any retaliatory firing made upon the accused for ensuring his arrest by you.
4. Being lying injured, he lion hearted Shaheed Constable made firing upon accused through his official Rifle which was not supported by you.
5. Driver Constable Farmanullah No. 452 who was also present on the spot, after commission of crime, took the official rifle from the official pickup of mobile patrolling and chased the accused. He also made firing upon the accused.
6. All such proceeding / act of cowardness and inefficiency are safe and available in CCTV Cameras already installed at PP Abdul Latif Shaheed for the security purpose.

This amounts to gross misconduct on his part and punishable under the Khyber Pakhtunkhwa Police Rule 1975 with amendment 2014.
Hence the statement of allegation.

(Signature)
(RASOOL SHAH) PSP
District Police Officer,
Tank

No. 871-72 Dated Tank the 12-02-2016
Copy to the:-

- 1- MR. UMAR DARAZ, SDPO/HQ, Tank for initiating proceeding against the defaulter under the provision of KPK Police Rules 1975 and submit findings report within stipulated period as per prescribed rules.
- 2 Constable Nasrullah No. 559 of PP Abdul Latif Shaheed with the direction to appear before the Inquiry Officer on the date, time and venue fixed by the Inquiry Officer for the purpose of inquiry proceedings.

Attested to be true copy
Nasrullah
(RASOOL SHAH) PSP
District Police Officer,
Tank

(7)

Annex - "A1"
جناب عالی!

بحوالہ مشمولہ چارج شیٹ بمعہ خلاصہ الزام گزارش بحضور انوریہ ہے کہ میری ڈیوٹی دوران شب 24:00 بجے سے 03:00 بجے تک تھی اور ڈیوٹی سے فراغت کے بعد میں چوکی کے اندر اپنے بستر پر آرام کر رہا تھا کہ باہر سے فائرنگ کی آواز سنی اور بھاگ کر نکلا۔ سفید پرچات میں تھا چوکی کے بالقابل غربی جانب کچھ گولہ پر کنسٹیبل طارق کو شدید زخمی حالت میں خون میں ات پت پایا میں نے اسے سنبھالنے کے ساتھ ساتھ اس کی SMG کو اٹھا کر اسے کاک کیا لیکن شوی قسمت کے اس میں کوئی کارتوس بقایا نہ تھا تب میں بھاگ کر چوکی کے اندر گیا تاکہ کوت سے کوئی اسلحہ لے لوں اور چوکی کے دفاع کے ساتھ ساتھ ملزم کا بھی تعاقب کروں لیکن چوکی کے اندر کوئی نہ تھا تاکہ اس سے چابی لے کر کوت سے مزید اسلحہ و ایمنیشن لیتا جاہر مجبوری کیا کرتا میں نے عصمت اللہ سپاہی کا ہاتھ بٹانا شروع کیا اور زخمی کو سنبھالنے کی کوشش کی تاکہ اسے فرسٹ ایڈ کے لئے فوری طور پر سول ہسپتال ٹانک پہنچایا جاسکے اس پاس کوئی گاڑی، چکی رکشہ وغیرہ نہ تھا کہ الحمد للہ معادن-2 بمعہ اسحاق احمد ASI و فزری آگے اور زخمی کو سنبھال کر سرکاری گاڑی میں سول ہسپتال ٹانک بھجوا دیا اور سفید پرچات میں ہوتے ہوئے چوکی و اسلحہ ایمنیشن کا دفاع کئے رکھا میں چونکہ بروقت ڈیوٹی پر نہ تھا لیکن چوکی کے عمل میں موجود ہوتے ہوئے مزید کنسٹیبلان اور انچارج کے عدم موجودگی میں اپنے فرائض احسن طریقے سے اور دلیری سے نبھائے اور عصمت اللہ کنسٹیبل جو کہ محض ڈیوٹی پر ایک اکیلا تھا اس کی معاونت کی اس کا ہاتھ بٹایا۔ زخمی طارق جو زندگی کی کشمکش میں تھا کو سنبھالا اس کی سرکاری اسلحہ SMG کو سنبھالا اور اس نے جو آگ قتل ملزم شاہد اللہ سے چھین چکا تھا کو بھی اپنی تحویل میں لیا اور ساری موقع کی کارگزاری انچارج چوکی اور بقایا عمل کی عدم موجودگی میں احسن طریقے سے نبھائی جو کہ میرا فرض اولین تھا موقع کی مناسبت سے الحمد للہ اللہ پاک نے میرے حصے میں جو کارروائی رکھی تھی اس کو سفید پرچات میں میں نے سنبھالا جس سے میں مطمئن ہوں اور اپنے بیان میں ذرا برابر بھی کسی جھوٹ کی ملاوت یا بیخ بچاؤ کا عنصر نہیں چھوڑا ہے یقیناً موقع پر موجود ہوتے ہوئے میں نے جو کارروائی کی اپنی استداد کے مطابق درست ہے اور اس پر بھی میرے افسران کو مطمئن کرنے میں نے کوئی گنجائش نہیں چھوڑی ہے اور زخمی کنسٹیبل کو اپنے ہاتھوں سے سول ہسپتال تک سرکاری گاڑی میں پہنچا کر تادقت حیات اس کی خدمت مکمل کی ہے۔

لہذا میری انتہائی متود بانہ گزارش ہے کہ میں الزام سے بری الذمہ ہوں مجھے معافی دی جائے میرے افسران بالا یا انکوٹری آفیسر صاحب کے ذہن میں میری درج بالا جملہ ساری کارروائی میری استداد سے اگر کم سوچی جا رہی ہے تو یہ بعید از انصاف ہوگا معافی چاہتا ہوں۔ 9/10 سال کو الیفائیڈ سروس کا حامل ہوں پہلے بھی کئی دو چار واقعات سے دو چار رہا ہوں اور کوئی لرزش یا شکایت سامنے نہیں آئی ہے۔ معافی چاہتا ہوں۔

مورخہ 16.02.2016

کنسٹیبل نصر اللہ نمبر 559 متعینہ حال معطل پولیس لائن ڈسٹرکٹ ٹانک

Nasrullah

Attested to be true copy
Nasrullah

FINAL SHOW CAUSE NOTICE.

8

Annexure - B

I MR. RASOOL SHAH (PSP), District Police Officer, Tank as Competent Authority, under the KPK Compulsory Retirement from Service (Police Rules 1975), do hereby serve upon you Constable Nasrullah No. 559 this Final Show Cause Notice as follow:-

1. That consequent upon the completion of Inquiry conducted against you by an Inquiry Officer for which you were given opportunity of hearing.

On going through the findings and recommendations of the Inquiry Officer and the material on record and other connected papers including your defense before the said Inquiry Officer.

I am satisfied that you have committed the following acts/omissions specified in Section-3 of the Khyber PakhtunKhwa (Police Rules 1975).

You Constable Nasrullah No. 559 were charged for serious allegations of cowardness; negligence and inefficiency in case vide FIR No. 129 dated 12.02.2016 U/Ss 302/353/186/15AA/7ATA PS City Tank. The SDPO/HQrs: Tank was nominated as Enquiry Officer. The Enquiry was conducted. The report of Enquiry Officer was received in which the allegations framed against you were stand proved.

2. As a result thereof I, Mr. RASOOL SHAH, (PSP) District Police Officer, Tank as Competent Authority, have tentatively decided to impose one of the Major Punishment Under Section-3 of the Khyber PakhtunKhwa, Police Rules 1975.

3. You are therefore required to Show Cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to the notice is received within seven days of the receipt of this Final Show Cause Notice, in the normal course of circumstances, it shall be presumed that you have no defense to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the findings of the Inquiry Officer is enclosed.

Attested to be
true copy
Nasrullah

(RASOOL SHAH) PSP
District Police Officer,
Tank

19/2/2016

ضابطہ عالی
بجواب محکمہ انکوائری ہندوستان کنسل لٹریچر 559
مفتی جوگی لطف

مہر و صلہ یوں کہ
مذکورہ کنسل کو بجواب مدت 129
12-02-16

302-353-186-15AA
7-A.T.A
871-72
12-2-16

لاٹن کتا جائز ضابطہ
مفتی جوگی لطف کے حکم صادر فرمایا

مفتی جوگی لطف کو انکوائری عمل سے
ڈان رپورٹ وقوع سے
ڈان مذکورہ کی موجودگی سے
فرار ہونا

(iii) مذکورہ ملزم کا پتہ
ڈان کنسل نے زخمی ہونے کے
ملازم کے نام پر

(iv) اس نے کوئی ملازم کی
ملازم کے نام پر فائبرنگ کی
ڈان کنسل نے

(v) ملازم کے نام پر
CCTV کے سے موجود ہے
ڈان کنسل نے

4۔ درج ذیل الزامات کے جواب سے
کنسل مذکورہ نے فری جوائن سے

کنسل کو رپورٹ وقوع وہ
کنسل نے فری جوائن سے
کنسل نے فری جوائن سے

کنسل نے فری جوائن سے
کنسل نے فری جوائن سے
کنسل نے فری جوائن سے

310
FC
Attached to be
true copy
Nasrullah
HC 4

(10) ملکوہ کی موجودگی بتلائی۔ اسی قسم کی فائبرنگ صبرہ ناز نے

کا تحریری بیان دیا۔
4 اسی طرح CCTV کے کارڈزنگ سے بھی ملکوہ کی موجودگی

واضح ہے

علاج:

کردہ انکوائری کے لئے دیئے گئے بیانات - CCTV کے کارڈزنگ
ریکارڈنگ کے مطابق ملکوہ نے بیانات غلط، لاپرواہی اور
نزدکی کا مظاہرہ کیا ہے۔ سب سے زائد پولیس کا اقرار استثنائی
قدتک شروع ہوا ہے۔
تجارتی ذمہ داریاں درست ثابت ہو چکی ہیں۔

سزا کا مستحق ہے۔

مزید حکم ایسا ہے اور مزید

4
DSP
(E-0)
19/2/16

Attested to be true copy

Nasrullah

بحوالہ فائل شوکار نوٹس مشورہ برصہ فائٹنگ انکوائری آفیسر گزارش بخند اور انور یہ ہے کہ جناب انکوائری آفیسر صاحب کی فائٹنگ سے یہ بات روز روشن کی طرح واضح ہو چکی ہے کہ انکوائری میں کوئی غیر جانبدارانہ اور منصفانہ رویہ و انٹینس رکھا گیا ہے اور ذیل پارٹنر فائل انکوائری کے جملہ تقاضے پامال کئے گئے ہیں۔ اس لحاظ سے یہ بات واضح ہو چکی ہے کہ انکوائری آفیسر اور اس کی دی گئی فائٹنگ رپورٹ سے کوئی اتفاق نہیں ہے اور کوئی اعتماد اس انکوائری آفیسر پر ہرگز نہیں کیا جاسکتا کیونکہ:-

1. جناب انکوائری آفیسر صاحب کو چارج شیٹ کا جواب مورخہ 19.02.2016 کو دیا گیا اور انہوں نے فوراً ہمیں فائل شوکار نوٹس برصہ فائٹنگ رپورٹ سے اسی روز تمہارا دیا جس کا مقصد صاف ظاہر ہے کہ انکوائری پر اسس شفاف اور غیر جانبدارانہ نہ تھا بلکہ انہوں نے پہلے سے ارادے خلاف پری پلاننگ کر کے فائٹنگ تیار کر کے رکھی ہوئی تھی۔

2. جن دو گواہان کے بیانات کا تذکرہ فائٹنگ میں درج ہے کہ HC کالو خان اور صورت خان 310 کے بیانات لئے گئے ہیں یہ بھی پہلے سے اپنی مرضی سے لئے جا کر ہمیں نہ کوئی اطلاع ہوئی اور نہ ہی ان پر کوئی کر اس کا موقع دیا گیا تاکہ اس انکوائری میں ان پر حلفیہ پاد کر لیا جاتا کہ یہ جھوٹ، پر مبنی بیان سوچے سمجھے منصوبے کے تحت اور ملی بھگت انکوائری عمل سے کر کے دیا گیا ہے تاکہ حلفاً ان پر یہ سوال ہوتا کہ بحیثیت مسلمان جس طرح ہم نے اپنے تردیدی بیان میں صاف حقیقت کو شائبہ کیا ہے تو یہ جب کہ موقع پر نہ تھے اور پھر کیوں ہماری ہر دس اور بال بچوں کی روزی زنا سے کھیل رہے ہیں۔

3. CCTV کیسہ کی بابت فائٹنگ میں تذکرہ اس بات کی مکمل دلالت کرتا ہے کہ عین وقت وقوع میں موجود نہ تھا۔ اور نہ ہی ملزم کو دیکھا اور اور نہ ہی اس کا نام وقت وہاں موجود تھا بلکہ بعد میں موقع پر فائرس کر آیا۔ اگر CCTV کیسہ کے ساتھ کسی نے پیٹری چھاپا تو ہمیں یہی CCTV کیسہ ہی ہماری ٹیکنائی اور موقع پر عدم موجودگی کا واضح ثبوت ہے اور اسی CCTV کیسہ کے ذریعے جن گواہان HC کالو خان اور صورت خان 310 کے بارے میں واضح کیا جاسکتا تھا کہ ان دو گواہان کی موجودگی کا CCTV کیسہ میں اس وقت وجود تھا یا نہ۔

4. ہم نے اپنی موجودگی وقوع میں جس انداز میں تھی اس کو اپنے بیان میں واضح کیا اور حقیقت کو ہرگز نہیں چھپایا حالانکہ جھوٹ کے پاد نہیں ہوتے دونوں گواہان موقع پر نہ تھے بلکہ صورت خان چونکہ کے اندر موجود تھا جس نے کورٹ کی چابی سے اتراف کیا اور مزید اسلئے نہ دیا گیا۔

5. جناب انکوائری آفیسر صاحب نے اتنی حد تک انکوائری کا فرضی عمل کیا کہ چونکہ لطف میں موجود جملہ نفری میں سے مزید کے بیانات کیوں نہ لئے کیونکہ لطف چونکہ بے پارو مددگار صرف اور صرف دو ڈیوٹی پر مامور کنسٹیبلان کے علاوہ اور کوئی نہ تھے نہ کوئی انچارج تھا نہ کوئی کنسٹیبل تھا محض سوئے ہوئے من FC نے فائرسٹے کے بعد جاتے ہوئے جو لس میں تھا کیا کسی چونکہ پر تعینات پولیس افسران کے بیانات نہ لئے گئے اور ایک فرضی فائٹنگ جو کہ پہلے سے تیار تھی اسی روز سوال کر دی گئی اور روز اول سے اب تک یہی زور دیا جا رہا ہے کہ تیاری جواب کے قانونی رعایت سات روز سے پہلے پہلے جواب جمع کیا جائے ان حالات میں موجودہ انکوائری آفیسر جس نے کوئی شفاف اور غیر جانبدارانہ انکوائری نہیں کی ہے اور انکوائری کے تقاضے پورے نہیں کئے سے اتفاق نہیں کیا جاسکتا جب تک ایک غیر جانبدارانہ انکوائری آفیسر اس میں حقیقتاً انکوائری رپورٹ پیش کرے۔ میں بے گناہ ہوں اللہ کے فضل سے خدا کو حاضر ناظر جان کر میرے گزارش ہے کہ بحیثیت مسلمان ہمارا ایمان ہے اللہ کیج رہا ہے میں بے گناہ ہوں۔

الزام سے معافی دی جاوے

کنسٹیبل نصر اللہ نمبر 559 محفل پولیس لائن ڈسٹرکٹ ٹانک

Nasrullah

Attached to be True copy
Nasrullah

ORDER

(12)

Annexure - C

My this order will dispose off departmental enquiry initiated against Constable Nasrullah No. 559 under Khyber Pakhtunkhwa Police Rules 1975 with amendment 2014 on the following allegations:

1. At the time of occurrence you were present on the spot duly armed with official arms / ammunitions.
2. In your presence, accused Shahidullah came there in QINGQI Rickshwa and made indiscriminate firing upon Constable Muhammad Tariq as a result Constable Muhammad Tariq was hit and became injured seriously and later on embraced martyred. The accused was succeeded in his escape from the scene of crime without any fear of your presence.
3. Neither the accused was chased nor any retaliatory firing was made upon the accused for ensuring his arrest by you.
4. Being lying injured, the lionhearted Shaheed Constable made firing upon accused through his official Rifle which was not supported by you.
5. Driver Constable Farmanullah No. 452 who was also present on the spot, after commission of crime, took the official rifle from the official pickup of Mobile Patrolling and chased the accused. He also made firing upon the accused.
6. All such proceeding / act of cowardness and inefficiency are safe and available in CCTV Cameras already installed at PP Abdul Latif Shaheed for the security purpose.

For which you was properly Charged Sheeted. The Charge Sheet alongwith statement of allegations were properly served upon delinquent official. The SDPO/HQrs: Tank was nominated as Enquiry Officer. During enquiry the defaulter official has produced his written reply before the enquiry officer with in stipulated period. The Enquiry was initiated and statement of witnesses were recorded properly. The opportunity of cross examination was provided to the accused official. The Enquiry Officer submitted his findings report which revealed that according to the statement of PWs recorded by the Enquiry Officer and CCTV Camera already installed at PP Abdul Latif Shaheed, the accused official was duly armed with weapon was present on the spot. One terrorist riding in rickshaw made indiscriminate firing upon Shaheed Constable Muhammad Tariq which became injured seriously. The injured Constable took the weapon of offence of terrorist. He also made firing upon the terrorist but succeeded in his escape. The entire circumstantial evidence is available in CCTV Cameras.

On receiving finding report of the Enquiry Officer a Final Show Cause Notice was issued to the delinquent official and properly served upon him. The reply to the Final Show Cause Notice was received which was found unsatisfactory. He was also heard in person but no any plausible reason was explained. In light of recommendation of the Enquiry Officer, statement of PWs, reply to the Final Show Cause Notice, record available in the CCTV Cameras and personal hearing of the accused official I, Mr RASOOL SHAH (PSP), District Police Officer, Tank have reached the conclusion that allegations of cowardness, inefficiency and irresponsibility were proved which encourage the terrorists for submission of such offence by causing great definition to the entire Force.

Therefore, I, RASOOL SHAH (PSP) District Police Officer Tank in exercise of Powers vested in me under Khyber Pakhtunkhwa Police Rules 1975 with Amendments 2014 awarded a Major Punishment of Removal From Service with immediate effect.

Announced.

(RASOOL SHAH) PSP
District Police Officer,
Tank

OBNO 152
07-3-2016

A Handed to
be true copy
Nasrullah

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Annexure - D

BEFORE THE WORTHY REGIONAL POLICE OFFICER DERA ISMAL
KHAN REGION.

Subject: - **DEPARTMENTAL APPEAL/REPRESENTATION OF EX-CONSTABLE NASRULLAH NO. 559 OF POLICE DEPARTMENT TANK AGAINST THE IMPUGNED ORDER OF DPO/TANK WHEREBY THE APPELLANT WAS AWARDED MAJOR PENALTY OF REMOVAL FROM SERVICE VIDE ORDER BOOK NO. 152 DT: 07.03.2016.**

PRAYER IN APPEAL: -

On acceptance of this appeal the impugned order of the Removal from Service vide Order Books No. 152 dated 07-03-2016 may kindly be set-aside and the appellant may be reinstated in service with full back benefits.

BRIEF FACTS ARE AS UNDER: -

On the 12-02-2016 at about 09:30 AM I was in bed in the rest room of Chowki Shaheed Latif earmarked for the same after performing my duties from 24.00 hours to 3.00 hours (11.00 P.M of 11-02-2016 to 3.00A.M of 12-02-2016) the duty slip to the effect is annexed as annexure "A" where I heard the sound of fire, got alert and rushed outside the room to the spot, seeing constable Mr. Tariq Injured, lying on the ground and I picked his SMG to open fire/chase/arrest the accused but unfortunately the injured Tariq had already exhausted all his rounds and ran back to the Chowki to get my weapon, deposited in Koth after completion of my duties as mentioned in Annexure "A" along with Tariq's SMG but the incharge himself was absent and the Munshi possessing the keys of weapon depository (Koth) refrained but refused to give me the weapon and willy-nilly came back at the spot to care for the injured constable as Hobson's choice and accompanied him to the hospital till he succumbed to his injuries embracing the martyrdom. (Allah may keep his soul in peace)

Reportedly, while the Shaheed Tariq was checking CNIC upon him from Qing Qi rickshaw an accused/terrorist opened indiscriminate firing with pistol which weapon was snatched from him by injured Tariq and I helped/managed taking in possession both the weapons and deposited.

Attested to be true copy
Nasrullah

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In the circumstances to chase and arrest the accused with bare hands was not even plausible and my presence at the spot in possession of the injured Tariq's SMG running back to pick my official deposited SMG from Koth could also be testified from C.C.T.V Camera photage establishing my brevity and responsibility rather than cowardice or inefficiency.

Respectfully submitted as under: -

1. That the appellant was subsequently suspended and closed to Police line Tank and the departmental proceedings on the allegations of cowardice, in efficiency and irresponsibility was initiated.
2. That the appellant was issued charge sheet containing the allegations para-I ante, with conveyance of entrusting the enquiry to DSP/H.Qrs Tank.
3. That the charge sheet was responded as reply by appellant at Annexure "B" preliminary.
4. That the enquiry officer in the preliminary investigations submitted a defective, false and fabricated report to the competent authority without going into the actual facts.
5. That consequent upon para-4 ante, a final show cause notice was served upon appellant what was replied, annex "C" of which contents even the competent authority has not taken proper consideration against all the norms of Justice.
6. That without providing personal hearing to appellant and setting apart the fulfillment of codal formalities required under the rules and law, announced a harsh major penalty of removal from service vide order book no. 152. Dt 07-03-2016.
7. That ^{the} provision of opportunity of personal hearing and the adducing of evidence of absent Kalu Khan incharge on the spot narrated in the impugned order is beyond fact and a colourful pretext to lament harsh penalty on the appellant who had done the maximum he could on the occasion as mentioned above. Thus the impugn order is tantamount to "if the appellant had shown cowardice, inefficiency and irresponsibility without rushing to the spot in civvies, he would have had been left untouched as so many others".

Attested to be true copy
Nasirullah

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establishes the very ambiguity and arbitrariness of the enquiry and consequent order of my removal from services.

8. That in my reply to the final show cause I had shown mistrust on the enquiry officer and on his fabricated preliminary report and investigation based on collusiveness to save the absent Kalu Khan he also being placed as a witness to an event happened in his absentia.
9. That the enquiry being concocted was fabricated in my absentia and also the so called witnesses were not cross examined making the whole process arbitrary and collusive to punish innocent persons to save others who could grease the palm___ is illegal and without lawful authority.
10. That impugned order dated 07-03-2016 of my removal from service, being illegal, unlawful, arbitrary, concocted and against the express provisions of law and rules en vogue, needs to be set at naught as the whole process is mere an eye wash, malicious based on personal ill will, falsehood and malafide.
11. That Munshi Soorat Khan who refrained but refused to give me back my official weapon being deposited with, is also shown a witness arbitrarily in the alleged process/proceeding wherein he was provided an opportunity thus, to save himself from the punishment at the cost of others.
12. That record of C.C.T.V Camera showing me in civvies holding a SMG of Tariq Shaheed without rounds, already exhausted by him, brought into safe custody and to take my official rifle from depository to chase and arrest the accused while running back towards depository shows my brevity not cowardice, my efficiency not inefficiency and my responsibility not irresponsibility and after refusal by Munshi of giving me the official weapon I reached back to the spot in providing help to carry injured Tariq to the hospital in patrolling official vehicle ipso facto and remained with him till he succumbed to his injuries embracing martyrdom but my same efforts were misinterpreted, if so, I would have kept myself in the rest room during my rest in off duty period on hearing of the fire. It could be said in the situation arisen otherwise, the higher one goes the harder he falls.

Attested to be true
Masood

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13. That appellant is innocent regarding the allegations leveled against him and therefore the impugned order dated 07-03-2016, being arbitrary based on mala fide etc. is to be set aside/recalled for the sake of natural justice and be reinstated in service with back benefit.
14. That appellant is Jobless consequent upon the impugned order dated 07-03-2016 after 9/10 years of qualified service.
15. That appellant has a clean service record and no such allegations or any charge is there on my service record to date except the present false ones.

Prayer: - With the great reverence it is prayed for that impugned order 152 dated 07-03-2016 passed by D.P.O Tank may please kindly be set aside/recalled and the appellant may be reinstated in service with all back benefits, please.

Obediently Yours

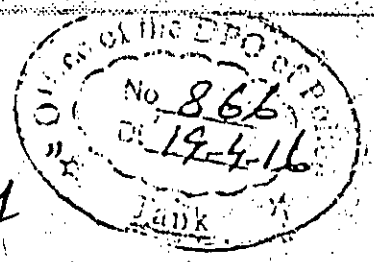
Nasarullah

**Nasarullah No. 559
Ex-Constable
Police Department
Tank**

*Attested to be true copy
Nasarullah*

11

Annexure D/1



ORDER

This order will dispose off the departmental appeal preferred by Ex-Constable Nasrullah No.559 of Tank District against the order of major punishment of Removal from Service passed by DPO/Tank vide OB No.152, dated 07.03.2016. The appellant was proceeded against on the allegations that on 12.02.2016 at about 09:20 hours, an unfortunate incident of killing/targeting of constable Mohammad Tariq No.638 of Police post Abdul Latif Shaheed took place vide Case FIR No.179, dated 12.02.2016 U/S 302-353-186/15-AA/7-ATA PS/City Tank. On the day of occurrence, the accused Shahidullah s/o Yar Ali Khan caste Mehsood R/o Gara Pathar Tank came in Qingqi Rickshwa and opened indiscriminate firing upon Shaheed constable Mohammad Tariq No.638 of PP Abdul Latif Shaheed who was busy in the discharge of official duties. After commission of the offence, the accused made his escape good without any fear of response on the part of appellant who was present on the spot which showed his cowardness, negligence and inefficiency.

A proper departmental enquiry was initiated against him by DPO Tank and Mr. Umar Daraz DSP/HQrs Tank was appointed as Enquiry Officer. On the recommendations of Enquiry Officer, the said Ex-Constable Nasrullah, 559 was awarded major punishment of Removal from Service by the DPO Tank vide his office order bearing OB No. 152 dated 07.03.2016.

The DPO Tank has based the impugned order of removal of the appellant from Service on the following facts:-

- 1) At the time of occurrence the appellant was present on the spot duly armed with official rifle/ammunition.
- 2) In the presence of appellant, accused Shahidullah came there in a Qingqi Rickshwa and made indiscriminate firing upon Constable Mohammad Tariq. As a result Constable Muhammad Tariq was hit and became seriously injured and later on got martyred. The accused succeeded to make his escape good from the scene of crime without any fear of reprisal on the part of appellant who was present on the spot. This act of appellant showed cowardness, negligence and inefficiency.
- 3) Neither was the accused chased by the appellant nor was any retaliatory firing carried out against the accused to effect his arrest.
- 4) Being lying injured, the lion-hearted Shaheed Constable made firing upon accused with his official Rifle which was not supported by appellant.
- 5) So much so the driver Constable Farmanullah, 152 who was also present on the spot, took an official rifle from the official pickup of mobile patrolling and carried out firing to effect the arrest of the accused.
- 6) All such proceedings act of cowardness and inefficiency of the

Attested to be true
CPJ
Nasrullah

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Feeling aggrieved against the impugned order of DPO Tank the appellant preferred the instant appeal. The appellant was summoned and heard in person in the Orderly Room.

Having gone through the enquiry file and other relevant documents, the undersigned is of the considered opinion that the appellant Ex-Constable Nasrullah, 559 has exhibited cowardness as a police officer being his colleague was martyred in his very presence. He was duty bound to arrest the perpetrator responsible for the ghastly act of killing a police officer busy in the discharge of official duties. During the course of personal hearing, the appellant, however, could not put forward any plausible defence for his inaction and cowardness.

Based on the appreciation of the situation painted above, I Sher Akbar, PSP, S.St, Regional Police Officer, D.I Khan, being the competent authority, do not see any cogent reason to interfere with the orders passed by DPO Tank. Hence this appeal is dismissed and filed, being meritless.

[Signature]
Regional Police Officer
Dera Ismail Khan

No. 1632 /ES dated 18-4-2016

Copy to District Police Officer, Tank for information with reference to his office Memo: No.1366, dated 29.03.2016. Service record of said Ex-Constable is also returned herewith.

[Signature]
Regional Police Officer
Dera Ismail Khan

Off. Sher Akbar Asi
For Mr. -

Attested to be true copy
Nasrullah

[Signature]
District Police Officer
Tank
19/4/16
[Signature]

وکالت نامہ

Father's Name: SH. NOOR UL HAQ
 Address: Distt Bar Dera Ismail Khan
 Office Tel: 03339983382
 Enrolmnt Dt. H.C: 10-03-2005
 Enrolmnt Dt. L.C: 30-01-2003
 Place of Practice: D.I. Khan
 Date of Birth: 02-01-1975
 Blood Group:
 1st Floor G-Block, Khyber Road Peshawar. Ph. 091-9211172
 E-mail: nwpbarcouncil@hotmail.com

N.W.F.P. BAR COUNCIL
 SH. IFTIKHAR UL HAQ
 Advocate High Court
 N.I.C: 12201-0316740-9
 S.No: 1365
 Issuing Authority

Before the K.P.K Service Tribunal Peshawar

Appellant Nasrullah

Nasrullah vs Govt of K.P.K

Service Appeal

vs K.P.K S.T. Act 1979

باعث خیر آنگہ

D. T. Khan

Sheikh Iftikhar ul-Haq Advocate High Court

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام
 مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام
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 مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام
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 مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام
 مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام
 مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہمدردی و حجاب دہی برائے پیشی یا غیر مقدمہ تمام

14
 2016

مستعمل وکالت نامہ ہے اور اس میں کوئی ترمیم یا تبدیلی نہیں کی گئی ہے اور پیشتر سے

Attested & Accepted
 Signature of Appellant
 Sh. Iftikhar ul-Haq