

29.04.2019

Appellant with counsel and Mr. Ziaullah, DDA alongwith Tasawar Hussain, ASI for respondents present.

Appellant requests for withdrawal of instant appeal. As a token of genuineness of his request the signature of the appellant is required to be obtained on the order sheet.

As the appellant has put his signature as required the appeal in hand is dismissed as withdrawn. File be consigned to record room.



Member



Chairman

ANNOUNCED
29.04.2019

25.04.2019

Counsel for the appellant and Mr. Ziaullah, DDA alongwith
Muhammad Zafran ASI for the respondents present.

Representative of respondents has submitted copies of
record pertaining to the departmental proceedings which are placed
on file. A complete set of the record has been also handed over to
the learned counsel for the appellant.

Adjourned to 29.04.2019 for arguments before the D.B.



Member



Chairman

11.12.2018

Counsel for the appellant present. Mr. Muhammad Irfan, ASI alongwith Mr. Ziaullah, DDA for respondents present. Learned DDA seeks adjournment due to incomplete record. Representative of the respondents is directed to submit complete record on the next date of hearing. Adjourned. To come up for arguments on 18.01.2019 before D.B.


Member


Member

18.01.2019

Counsel for the appellant present. Mr. M. Idrees, PSI alongwith Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 08.02.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

08.02.2019

Appellant in person present. Mr. Muhammad Riaz, Asst: AG alongwith Mr. Adeel, PSI for respondents present. Appellant submitted an application for condonation of delay which is placed on ~~filed~~. Case to come up for arguments on 25.04.2019 before D.B.

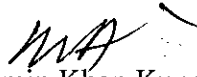

(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member


Service Appeal No. 231/2016

15.05.2018

Appellant in person present. Counsel for the appellant is absent. Appellant seeks adjournment. Mr. Kabirullah Khattak, Additional AG for the respondents also present. Adjourned. To come up for arguments on 27.06.2018 before D.B.


(Muhammad Amin Khan Kundi)


Member


(Muhammad Hamid Mughal)

Member

27.06.2018


Appellant absent. Junior to counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is busy before the Hon'ble Peshawar High Court. Adjourned. To come up for arguments on 31.07.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

31.07.2018

Junior to counsel for the appellant and Mr. Riaz Paindakheil learned Assistant Advocate General present. Junior to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 05.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member


15.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 11.12.2019.


READER

05.09.2018

Appellant absent. Learned counsel for the appellant is also absent. However, junior counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant is busy before Hon'ble Peshawar High Court. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned. To come up for arguments on 08.10.2018 before D.B.



(M. Amin Khan Kundi)
Member


(M. Hamid Mughal)
Member

08.10.2018

Appellant with counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 12.10.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

12.10.2018


Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant made a request for adjournment. Adjourned. To come up for arguments on 15.11.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

01.01.2018


Appellant with counsel present. Mr. Muhammad Jan, DDA alongwith Mr. Rehanullah, SI for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.02.2018 before D.B.



(Ahmad Hassan)
Member(E)


(M.Amin Khan Kundi)
Member (J)

27.02.2018

Appellant in person present. Mr. Usman Ghani, Learned District Attorney alongwith Rehan Ullah S.I for the respondents present. Appellant seeks adjournment as his counsel is not available. Adjourned. To come up for arguments on 18.04.2018 before D.B


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

18.04.2018

Counsel for the appellant and Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments 15.05.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

231/2016

25.05.2017

Appellant alongwith his counsel present. Mr. Farmanullah, ASI alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 17.08.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

17.08.2017

Junior to counsel for the appellant and Asstt. AG alongwith Ahmad Yar, ASI for the respondents present. Seeks adjournment as learned counsel for the appellant is busy in the august Supreme Court of Pakistan. Adjourned. To come up for arguments on 27.11.2017 before the D.B.



Member


Chairman

27.11.2017

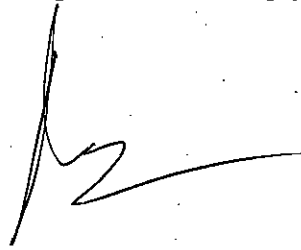
Clerk to counsel for the appellant and Addl. AG alongwith Mr. Umar Saddique, ASI for respondents present. Due to general strike of the Bar arguments could not be heard. Adjourned. To come up for arguments on 01.01.2018 before D.B.


Member


Chairman

24.08.2016

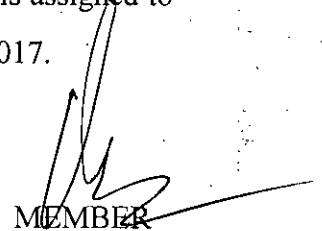
Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 1.11.2016 before S.B.



Member

01.11.2016

Counsel for the appellant and Mr. Farmanullah, ASI alongwith Mr. Ziaullah, GP for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 12.01.2017.




MEMBER

12.01.2017

Counsel for the appellant ~~present~~ and Addl: AG alongwith Muazam Shah ASI for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 25.05.2017.



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

231/2016

14.4.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as ASI when subjected to enquiry on the allegations of facilitating certain accused in securing pre-arrest bail from court and dismissed from service vide impugned order dated 04.08.2015 where-against he preferred departmental appeal wherein the impugned order of dismissal from service was modified and converted into compulsory retirement vide order dated 09.09.2015 and hence the instant service appeal on 04.03.2016.

That no regular enquiry was conducted and, moreover, one Shamsuz Zaman Constable with identical charge was spared and as such discriminatory treatment meted out with the appellant.

Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 15.06.2016 before S.B.

Chairman

15.06.2016

Counsel for the appellant present. Security and process fee not deposited. The same be deposited within a week where-after notices be issued to the respondents for submission of written reply/comments on 24.08.2016 before S.B.

Chairman




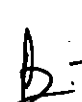
Appellant Deposited
Security & Process Fee

Form- A

FORM OF ORDER SHEET

Court of _____

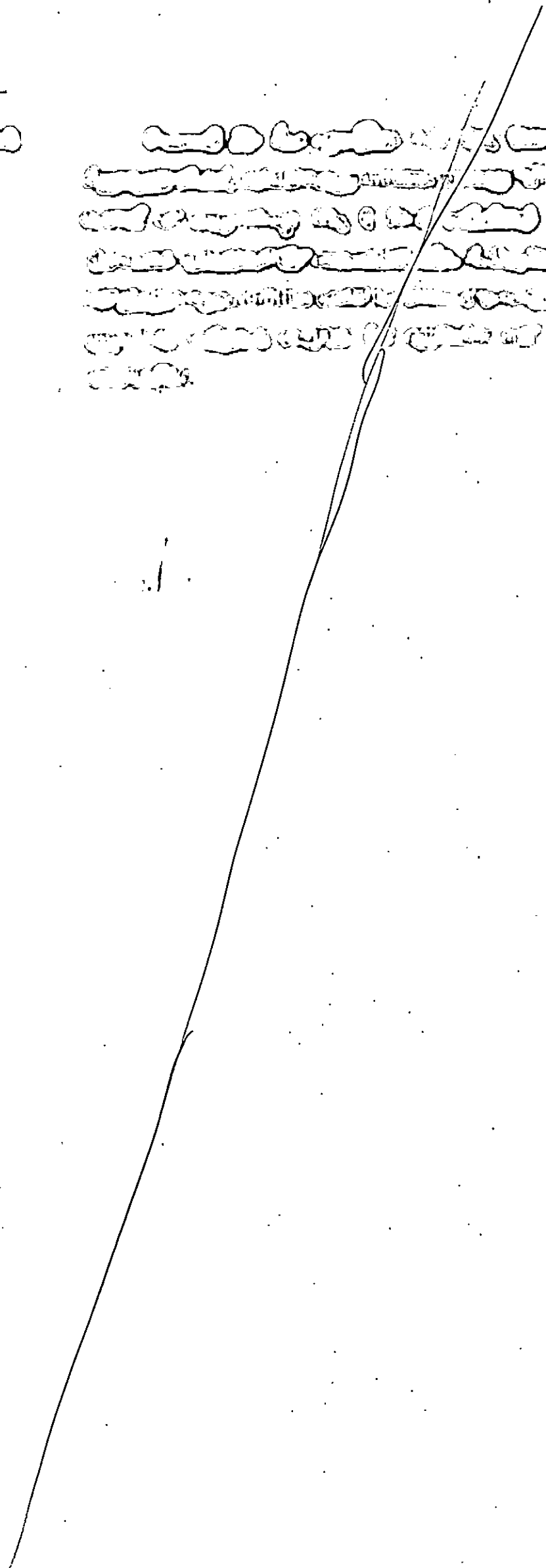
Case No. 231/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.03.2016	<p>The appeal of Mr. Noor Salahuddin resubmitted today by Mr. Saadullah Khan Marwat 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	21-3-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>22-3-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	22.03.2016	<p>Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 30.3.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	30.03.2016	<p>Junior to counsel for the appellant present. Senior counsel for the appellant is stated busy before Peshawar High Court. Adjourned for preliminary hearing to 14.4.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

12

1. The first part of the document is a list of names and titles, including the names of the members of the committee and the names of the members of the board of directors. The names are listed in two columns, with the names of the members of the committee on the left and the names of the members of the board of directors on the right. The names are written in a cursive hand and are arranged in a list format. The names of the members of the committee are: [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible]. The names of the members of the board of directors are: [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible], [illegible].

1872




The appeal of Mr. Noor Salahuddin son of Mula din r/o Azeem Kally Purana Bannu Ex-ASI Police Line Karak received to-day i.e. on 04.03.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of charge sheet and statement of allegations mentioned in para-5 of the memo of appeal are not attached with the appeal which may be placed on it.

No. 381 /S.T,

Dt. 4-3 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khab Marwat Adv. Pesh.

si
At present, charge sheet alongwith
statement of allegations, is not available, the
same will be placed on board as &
when becomes available it.

Resubmitted pl.

Ky

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 231 /2016

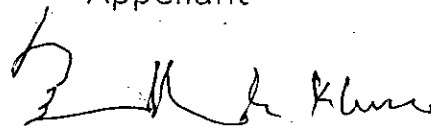
Noor Salahuddin Versus D.P.O & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-4
2.	FIR, 30.05.2015	"A"	5
3.	Application for Bail,	"B"	6
4.	Order of the Court, 12.06.2015	"C"	7-10
5.	Charge Sheet, 15.06.2015	"D"	11
6.	Reply to Charge Sheet,	"E"	12
7.	Final Show Cause Notice, 03.07.2015	"F"	13
8.	Reply to Notice,	"G"	14-15
9.	Dismissal Order, 04.08.2015	"H"	16
10.	Representation,	"I"	17-19
11.	Modified Order, 10.09.2015	"J"	20

Appellant

Through



Dated: 09.10.2015

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676
0311-9266609

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARS.A No. 231 /2016

Noor Salahuddin S/o Mula Din
 R/o Azeem Kally Purana, Bannu,
 Ex-ASI, Police Line, Karak Appellant

Versus

1. District Police Officer, Karak.
2. Regional Police Officer, Kohat Region,
Kohat.
3. Provincial Police Officer, KP, Peshawar. Respondents

**P.W.P. Province
 Service Tribunal
 Diary No. 181
 Dated 04-3-2016**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL
 ACT, 1974 AGAINST ORDER DATED
 04.08.2015 OF R. NO. 1, WHEREBY
 APPELLANT WAS DISMISSED FROM SERVICE
 OR OFFICE ORDER NO. 6457-58/EC, DATED
 10.09.2015, OF R. NO. 2 WHEREBY ORDER OF
 DISMISSAL FROM SERVICE WAS CONVERTED
 INTO COMPULSORY RETIREMENT ON
 REPRESENTATION OF APPELLANT FROM
 SERVICE BEING MAJOR PUNISHMENT FOR NO
 LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

- so-submitted to ~~the~~
and filed.
1. That appellant was initially appointed as Constable on 22.02.1978 and on satisfactory performances of the official duties, he was promoted to the rank of Head Constable in the year 1988 and served the department with the best of his ability and without any complaint.
- 11/3/16

2. That Local Bodies Election was scheduled in the Province for 30.05.2015 and appellant along with others was on duty at Govt. Primary Community School, Nusrat Abad, Karak. The Election was going on in peaceful manner. Counting of Ballet Papers was started and the doors and windows of premises were closed. In the mean while, Zarpyao, Niaz Ali, Umer Khan, Shahid alongwith 20/25 unknown culprits came in vehicles duly armed with sophisticated weapons and attacked the school. The doors and windows were broken and the poled votes were taken out from the boxes and torned. Polling material were smashed and staff was disgraced. They also attacked the police party and beated constable Shamas Uz Zaman and also took away his official rifle along with charger containing 30 rounds of 7.62 bore.
3. FIR No. 211, dated 30.05.2015 under section 17(3) Haraba, 15-AA, 7-ATA was registered in police station, Yaqoob Khan Shaheed (Takht Nusrati). (Copy as annex "A")
4. That accused Zarpyao Jan and Shahid Khan applied for grant of bail before arrest in the court of Session Judge, Kohat but the court compelled appellant regarding Section 7-ATA as per his opinion, such Section was not attracted in the case in hand and then bail before arrest of the accused was confirmed vide order dated 12.06.2015. (Copies as annex "B" & "C")
5. That on 15.06.2015, appellant was served with charge sheet, statement of allegation by R. No. 1 and not by the Inquiry Officer regarding the aforesaid incident. The said charge sheet was replied by denying the allegations. (Copies as annex "D" & "E")
6. That enquiry into the matter was perhaps initiated and appellant was recommended for award of major punishment but the enquiry proceedings were not conducted as per the mandate of law because statements of the police personals, poling staff and agents were necessary to be recorded but such mandatory provision was not complied with.

7. That on completion of the one sided enquiry, appellant was served with final show cause notice on 03.07.2015 without supply of enquiry proceedings to him which was replied in the aforesaid manner. (Copies as annex "F" & "G")
8. That on 04.08.2015, appellant was awarded with major punishment of dismissal from service with immediate effect by R. No. 1. (Copy as annex "H")
9. That after week, appellant submitted departmental appeal before R. No. 2 for reinstatement in service wherein order of dismissal from service was converted into compulsory retirement vide order dated 10.09.2015. (Copies as annex "I" & "J")

Hence this appeal, inter alia, on the following grounds:-


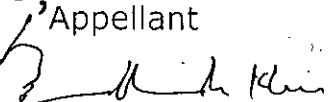
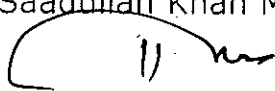
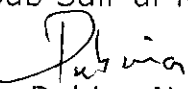
GROUND S:

- a. That appellant has passed upto 5th class and the FIR was scribed by Zain ul Abidin, Muharar of the PS.
- b. That in the charge sheet, DSP Ashraf Khan of Banda Daud Shah was appointed as Inquiry Officer and it was necessary for him to serve appellant with the charge sheet and not by R. No. 1, so gross illegality was committed in the matter.
- c. That from the record, it is quite apparent that several quarters i.e. polling staff, agents of the candidates, police personals, etc were involved in the matter but they were not put to task to establish the allegations leveled against appellant.
- d. That Shams uz Zaman Constable was even not served with any charge sheet as rifle was taken from him but he was exonerated in the matter, despite the fact, that in combat with miscreants appellant got serious injuries and he was recommended by the authority for promotion to the post of Sub Inspector on 01.09.2002.

- e. That accused were released by the competent court of law and not by the appellant, rather appellant was pressed by the court to remove some sections of law, 7-ATA.
- f. That the authorities failed to take in to consideration the seriousness of the matter by not involving the polling staff in the incident.
- g. That departmental appeal of appellant against order of dismissal was modified to the extent of compulsory retirement from service, meaning thereby that the matter was not dealt with as per law.
- h. That both the impugned orders of the respondents are against the law, so are based on malafide, discrimination and are liable to struck down.

It is, therefore, most humbly prayed, that on acceptance of the appeal, order dated 04.08.2015 or 10.09.2015 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed and just in the circumstances of the case.

Dated: 09.10.2015


 Appellant
 Through 
 Saadullah Khan Marwat

 Arbab Saif-ul-Kamal
 & 
 Miss Robina Naz,
 Advocates.

B

6

B

بعدالت جناب سیشن جج صاحب انسداد و بھت گردی کوہاٹ

از زریا و جان عرف یامین ولد میر پیا و جان
شاہد خان ولد زریا و جان

ساکنان میا کی بانڈہ تحصیل تحت نصرتی ضلع کرک

بنام

علت نمبر 211 مورخہ 30/05/2015

جرم (3) مرابہ 7-ATA 15 AA (3) 17 مرابہ

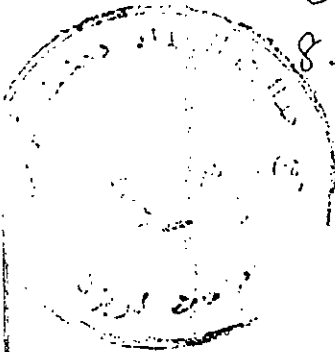
353 / 506 / 171 - F PPL

82 RUPA

سید

JUDGE,
ANTI TERRORISM COURT,
KOHAT DIVISION
01-6-15

سرکار



درخواست بمراد حاضر ضمانت ساکنان / ملزمان قبل از گرفتاری تا تصفیہ مقدمہ

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

- ۱۔ یہ کہ ساکنان / ملزمان کے خلاف مقدمہ ہذا میں دعویٰ دائری کی گئی ہے۔ (نقل ایف آئی آر لف ہے)
 - ۲۔ یہ کہ ساکنان / ملزمان نا کردہ گنا ہے جب کہ غلط دعویٰ دائری کر کے مقامی پولیس ساکنان / ملزمان کی گرفتاری کے درپے ہے۔
 - ۳۔ یہ کہ ساکنان / ملزمان کے خلاف دعویٰ دائری بد نتیجی کی مٹی ہے جب کہ سیکشن 7ATA کا اطلاق مقدمہ ہذا میں نہیں ہوتا۔
 - ۴۔ یہ کہ ساکنان / ملزمان کے خلاف کوئی لا تعلق شہادت موجود نہ ہے۔
 - ۵۔ یہ کہ ساکنان / ملزمان عدالت حضور کو ہر قسم کی ضمانت دینے کو تیار ہے۔
 - ۶۔ یہ کہ چند دیگر امور بوقت بحث زیر غور لائے جائیں گے۔
- لہذا استدعا کی جاتی ہے کہ ساکنان / ملزمان کی درخواست ضمانت قبل از گرفتاری منظور فرمائی جائے،

عرض

Handwritten signature and date 01/06/15

ساکنان / ملزمان بذریعہ ملک عماد اعظم ایڈوکیٹ کوہاٹ سلسلہ
بیان حلفی

حلفاً بیان ہے کہ جملہ مراتب درخواست درست اور سنی برحق ہے کوئی امر
پوشیدہ از عدالت نہیں رکھا گیا اور نہ ہی کوئی دروغ گوئی نہیں کی ہے

عرض

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COPY

ANTI TERRORISM COURT, KOHAT

INVESTIGATING AGENCY

C

7

IN THE NAME OF ALLAH THE MOST MERCIFUL AND THE MOST BENEVOLENT
 IN THE COURT OF MR. GOHAR REMAN JUDGE, ANTI-TERRORISM COURT
 KOHAT DIVISION KOHAT.



1. BBA NO.137/AIC-KT OF 2015
 - (i) Zar Payo Jan alias Yamin S/o Mir Payo Jan
 - (ii) Shahid Khan S/o Zar Payo Jan
R/o Mianki Banda Takht-e-Nasrati District Karak.

2. BA No.149/AIC-KT OF 2015
 - (i) Umar Khan
 - (ii) Abdul Nasir sons of Rasool Khan
Mianki Banda Takht-e-Nasrati Karak.

.....Versus.....

The State
(through Noor Salah ud Din ASI)

ORDER:

The accused/petitioners named above stand charged in Case FIR No.211, Dated 30.05.2015 U/S 17(3) Haraba/15AA/ 7ATA of P.S YKS, Karak, & seek confirmation of their pre-arrest & post arrest bail respectively in the above mentioned case.

2. At the very outset counsel for the Accused/Petitioners submitted an application for addition of section 353/506/171-F PPC and 82 ROPA as these sections of law were later on inserted by the prosecution. The application is allowed and these sections of law are also added in both these petitions.

3. Summarized facts of the case are hat the complainant reported the matter that he was on duty at a polling station of Government community Model School

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20-12-2015

Nusrat Abad. That during the polling hours, the polling were stopped and re-started after some time due to rush. That after the polling, the counting was started and the gate of the school was closed and in the meanwhile, accused Zar Payo, Niaz Ali, Umar Khan, Shahid along with 20/25 unknown accused came in vehicles duly armed and attacked the school. That doors and windows of the school were broken and the polled votes were taken out from the boxes and were torned. Smilarly, the polling boxes were broken and the polling staff was disgraced. They also attacked the police party and beat a constable Shams uz Zaman and also snatched the official rifle along with charger containing 30 rounds of 7.62 bore from him. That they also made firing when they were decamping and he (the complainant) along with police nafri chassed them arrested Umar Khan and Abdul Nasir and from the possession of Abdul Nasir a repeater of 12 bore along with a charger without any round was also recovered. Hence this case was registered.

4. I have heard the arguments and have gone through the record.

5. Complainant appeared before the court on 10.06.2015 and submitted that he has charged the accused at the instance of constable Shams uz Zaman and now he has got the knowledge constable Shams uz Zaman has some personal enmity with the Accused/Petitioners. The complainant further stated that he does not want to proceed further against the

Accused/Petitioners and they are innocent. The complainant produced affidavit Ex PA and his statement was also recorded.

6. In the light of statement of the complainant recorded before this court, this case has become of further inquiry. Even otherwise majority of sections of law are bailable.



The alleged gun which was snatched from Constable Shams uz Zaman was produced before the I.O by one person namely Din Payo Jan, therefore, the applicability of section 17 (3) Haraba against the Accused/Petitioners is a question of further inquiry. Similarly, the applicability of section 7 ATA would be determined after the submission of challan. Presently, it is a question of further inquiry that whether section 7 ATA is applicable or not against the accused/petitioners. The allegations leveled in the FIR are also punishable under KP Local Government Act 2013 but the police has not applied any of section of this Act. So, possibility can not be ruled out that police has not applied any of section of this Act with malafide intension. As the complainant has shown his no objection upon the confirmation of BBA of the Accused/Petitioners and their case is also of further inquiry, hence the case of Accused/Petitioners has become arguable for grant of pre-arrest and post arrest bail.

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7. In the circumstances, stated above both these petitions are allowed and ad-interim pre-arrest bail of the accused/petitioners namely Zar Payo Jan and Shahid Khan is confirmed on the existing bail bonds and Accused/Petitioners Umar Khan and Abdul Nasir are directed to be released on

ATTESTED TRUE COPY

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11-12-2016

post arrest subject to furnishing of bail bonds in the sum of Rs.100000/- with two sureties each in the like amount to the satisfaction of Illaqa Magistrate/ MOD at Karak.

8. File be consigned to record room after necessary completion.

[Handwritten signature]
13-6-2015

June
Qa
ORDER ANNOUNCED
~~MAY~~ 13th, 2015.

(GOHAR REHMAN)
Judge Anti-Terrorism Court,
Kohat Division Kohat

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جناب عالی!

بحوالہ چارج شیٹ نمبر 215/EC مورخہ 15.6.2015

معروض ہوں کہ مورخہ 30.5.2015 کو میں جمع کانٹینٹینٹیشن ٹیمس الزمان نمبر 309 اور ساجدا اقبال نمبر 72 گورنمنٹ کینونٹی ماڈل سکول نصرت آباد میں پولنگ ڈیوٹی پر موجود تھا۔

پولنگ کے اختتام پر کتنی کے دوران مسلح کسان پولنگ کے احاطے میں بے جا مداخلت کر کے پولنگ عملہ اور پولنگ میسرمل پر حملہ اور ہونے میں نے پولنگ سٹاف جو کہ فیمل پر مشتمل تھیں کی حفاظت اور عفت بچانے کی ہر ممکن کوشش کی مگر ملزمان کی تعداد زیادہ تھی اس لیے پولنگ کے میسرمل کے توڑ پھوڑ میں کامیاب ہوئے۔

گاؤں کے چغہ پارٹی نے دو ملزمان اور ایک بندوق اور موٹر کار تحویل میں لیے۔ اور وقوعہ کی خبر پر جناب DPO صاحب جمع نفری موقع آئے۔ اور ملزمان اور بندوق، موٹر کار اس کی نفری کو حوالہ ہوئی۔ اس دوران ٹیمس الزمان کانٹینٹینٹیشن نے اپنی سرکاری رانقل کو ملزمان کا لے جانا بھی بتلایا۔ پولنگ سے تھانہ یعقوب خان شہید واپس آ کر محرر صاحب نے وقوع کے بابت رپورٹ درج کرنے کی تلقین کی میں نے جواب عرض کیا کہ میں تا حوالہ ہوں اور جناب DPO صاحب جمع نفری موقع آئے تھے۔ اور جملہ حالات سے آگاہ ہیں۔ میں نے محرر صاحب کو نذید بتایا کہ پولنگ کی Presiding Officer پولنگ کی انچارج ہوتی ہے اور سرکار نے پولنگ کے تنازعات کا اختیار ان کو سپرد کئے ہیں میں نے محرر صاحب کو Presiding Officer کا صرف نام اور سکونت نہیں بتایا۔ اور ان کو خبردار کیا کہ دہرہ تخت نصرتی کی رہائشی ہیں لہذا اس کے ہاتھ رپورٹ کے ساتھ رابطہ کریں۔ مگر محرر صاحب نے بتایا کہ اس وقوع میں سرکاری رانقل ملزمان لے گئے ہیں لہذا رپورٹ درج کرنا ضروری ہے میں نے بتایا کہ جناب DPO صاحب کو جملہ حالات کا علم ہے مگر محرر صاحب نے رپورٹ ٹیمس الزمان کے بیان پر درج کیا اور مجھ سے دستخط کیا کہ اپ انچارج تھے۔ ملزمان اور ٹیمس الزمان کانٹینٹینٹیشن ایک ہی گاؤں کے رہائشی ہیں اور ٹیمس الزمان نے ملزمان میں سے چند کے نام محرر صاحب کو بتائے تھے میں نے اسی وقت محرر صاحب کو بتایا تھا کہ میں ملزمان کو شناخت نہ کر سکا۔

جناب والا!

جہاں تک عدالت میں ملزمان کو چارج نہ کرنے کا تعلق ہے جناب عدالت نے پہلے مجھ سے حلف اٹھانے کا کہا بیان دینے کی تلقین کی چونکہ میں نے ملزمان کو شناخت نہ کئے تھے لہذا عدالت کے سامنے سچا بیان دیا۔

جناب والا!

میں نے ملزمان کے حق میں کوئی بیان نہیں دیا ہے میں نے عدالت کے سامنے اصل صورت حال بیان کی ہے ملزمان کیساتھ میرا کوئی تعلق نہیں ہے ٹیمس الزمان کانٹینٹینٹیشن اور ملزمان ایک ہی گاؤں میں رہتے ہیں اور آپس میں جانتے ہیں۔

مندرجہ بالا امور کو مد نظر رکھ کر چارج شیٹ بالانذید کاروائی داخل دفتر فرمانے کے احکامات صادر فرما۔

Ali Akbar

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No. 254 /EC
Dated 31/7/2015

FINAL SHOW CAUSE NOTICE.

1. I, Muhammad Javaid, District Police Officer, Karak as competent authority under the Police Rule-1975 do hereby serve you, HC Noor Salah Ud Din No. 778 (suspended) Police Lines Karak as follow:-

That consequent upon the completion of enquiry conducted against you by Enquiry Officer Mr. Muhammad Ashraf, SDPO, Banda Daud Shah.

2. On going through the finding and recommendation of the Enquiry Officer, the materials on the record and other connected papers including your defense before the said Enquiry Officer, the charge against you is proved and you have committed the following acts / omission specified in Police Rule-1975: -

"On 30.05.2015, you HC Noor Salah Ud Din No. 778 was deployed at GMS Nasart Abad, made a report in the Police station to the effect that during the polling hours, the polling were stopped and re-started. After the polling, the counting was started and the gate of the school was closed. Meanwhile, Zar Payo, Naiz Ali, Umer Khan Shahid along with the 20/25 unknown accused came in vehicles duly armed attacked the school. The doors and windows of the school were broken and the polled votes were taken out from the boxes and were torped. Similarly, the polling materials were smashed and staff was disgraced. They attack Police party and beat Constable Shams Uz Zaman and also taken away official rifle alongwith charger containing 30 rounds of 7.62 bore from him. A case FIR No. 211 dated 30.05.2015 u/s 17(3) Haraba, 15-AA, 7ATA Police Station Yaqoob Khan Shaheed was registered. The case was under investigation with IO and the accused granted BBA from ATC Kohat. On the day of confirmation instead of cooperation with IO, being a responsible Police officer you HC Noor Salah ud Din given a statement on affidavit that neither you have seen the accused on the day of occurrence nor charged them for commission of offence. This damaged the case and given undue benefit to the accused party as a result their bail was confirmed vide order dated 13.06.2015.

3. As a result thereof I, as competent authority, have tentatively decided to impose upon you the penalty of major punishment under Police Rule-1975.

4. You are therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

5. If no reply to this Notice is received within Seven days of its delivery in the normal course of circumstances, it will be considered/presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. Copy of finding of the Enquiry Officer is enclosed.

Muhammad Javaid
District Police Officer, Karak

Muhammad Ashraf
District Police Officer, Karak

جناب عالی!

بجوالہ فائل شوکا ز نوٹس معروض ہوں کہ اگرچہ شوکا ز نوٹس کے ضمن نمبر 4 کے مطابق انکو آئری رپورٹ لف کیا جانا تحریر ہے۔ مگر دراصل انکو آئری رپورٹ لف نہیں ہے۔ لہذا انکو آئری رپورٹ کے عدم موجودگی میں، میں تفصیلاً بیان دینے سے قاصر ہوں۔ بہر حال شوکا ز نوٹس کے مطابق انکو آئری آفیسر صاحب نے چارج شیٹ میں بیان شدہ مبینہ الزامات کی تائید کی ہے۔ لہذا صاحب کے خدمت میں ذیل شہادت اور حقائق پیش کر کے الزامات کی دفاع کرتے ہوں۔

جناب والا!

میں نے اس سے پہلے چارج شیٹ کے جواب میں مکمل صفائی پیش کی تھی۔ کہ میں ناخواندہ پولیس ایگزیکیوٹو ہوں۔ اس میں کوئی شک نہیں کہ بوقت وقوع میں پولنگ میں موجود تھا۔ اور میں نے پولنگ سٹاف اور میٹریل کے حفاظت کی برہمکنش و شش بھی کی وقوعہ کی اطلاع پر جناب DPO صاحب موقع پر پہنچ گئے۔ انہوں نے رپورٹ کے بابت کسی قسم کی ہدایت نہیں کی کیونکہ جناب کو علم تھا کہ الیکشن کے معاملہ ذمہ داری Presiding Officer کی ہوتی ہے۔ لیکن جناب محرر صاحب تھانہ یقوت شہید نے شمس الزمان کانٹیل کے بیان پر رپورٹ درج کیا اور مجھ سے دستخط کروایا۔ دراصل شمس الزمان کانٹیل اور ملزمان کا تعلق ایک ہی گاؤں سے تھا۔ اور اسی کانٹیل سے ملزمان نے رائفل چھین لیا تھا۔ جس کی وجہ سے محرر صاحب اور شمس الزمان کانٹیل نے پولنگ آفیسر صاحب کے رپورٹ کا انتظار کئے بغیر تھانہ میں رپورٹ درج کرنی۔ میں نے عدالت میں سچا بیان دیا تھا۔ کیونکہ عدالت نے خلف دیا تھا۔

جناب والا!

انکو آئری آفیسر صاحب نے یک طرفہ کارروائی کر کے الزامات کی غلط تائید کی ہے۔ انہوں نے صرف محرر صاحب کے بیان پر اپنی رپورٹ کی بنیاد رکھی، حالانکہ محرر صاحب شمس الزمان کانٹیل کے بیان پر مجھ سے دستخط لیا۔ اور حقائق کے برخلاف کارروائی کر کے من سائل کو بے گناہ ٹھکانا الزامات کا سامنا کرنے پر مجبور کیا۔ محرر صاحب کا بیان بالکل جانبدارانہ ہے۔ لہذا اس کے بیان کو انکو آئری کا بنیاد بنانا خلاف قانون اور خلاف واقعات ہے۔

انکو آئری آفیسر صاحب نے پولنگ سٹاف اور وٹروں میں سے کسی کا بیان نہ لیا ہے۔ محرر صاحب تو موقع پر موجود نہ تھے۔ موقع پر پولنگ سٹاف اور گاؤں کے لوگ موجود تھے۔ پولنگ سٹاف اور گاؤں کے لوگوں کے بیانات قلم بند کر کے یہ نتیجہ اخذ کیا جاسکتا ہے۔ کہ میں نے ڈیوٹی میں غفلت کا ارتکاب کیا ہے کہ نہیں۔ انکو آئری آفیسر صاحب نے موقع کے حالات کے مطابق میری کارروائی پر کوئی روشنی نہیں ڈالی ہے۔ اور نہ ہی اس بابت کوئی شہادت جمع کیا ہے۔

Advised
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جناب والا!

بلدیاتی انتخابات 2015ء کے موقع پر ضلع کرک میں کافی مقدمات درج ہو چکے ہیں۔ جس میں Presiding Officer کو مدعی مقدمہ بنایا گیا ہے۔ اور اکثر FIR نامعلوم مہرمان کے خلاف درج کئے گئے مگر محرمز تھانہ یعقوب شہید قانون اور واقعات کے برعکس مقدمہ علت نمبر 211 محکمہ تھانہ میرے طرف سے درج کیا ہے۔ انکو انری رپورٹ اپنی حقائق کے بابت بالکل خاموش ہے۔ انکو انری آفیسر صاحب نے سائل کو صفائی پیش کرنے کا موقع نہیں دیا ورنہ میں پوائنٹ ایجنٹ وغیرہ پیش کر لیتا۔ کہ وقوعہ چند منٹ میں احتتام پذیر ہوا۔ لہذا مہرمان کی شناخت شکل تھی۔ انکو انری آفیسر صاحب نے خود بھی پوائنٹ ایجنٹ کا بیان قلم بند نہیں کیا ہے۔

مندرجہ بالا امور کو مد نظر رکھ کر میری حالات جملہ محکمانہ کاروائی کو داخل دفتر فرمانے کے احکامات سناؤ فرمادیں۔ اور سائل کو جملہ الزامات سے بری الزمہ فرمادیں۔

سائل نور صلاح الدین نمبر 778

0346-9262950

Attested

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ORDER

My this Order will disposed off the departmental enquiry against HC Noor Salah Ud Din No. 778 of this district Police.

Facts are that On 30.05.2015, HC Noor Salah Ud Din No 778 was deployed at GMS Nasart Abad, made a report in the Police station to the effect that during the polling hours, the polling were stopped and re-started. After the polling, the counting was started and the gate of the school was closed. Meanwhile, Zar Payo (History Sheeter of Bundle-B and well Known gambler), Naiz Ali, Umer Khan Shahid along with the 20/25 unknown accused came in vehicles duly armed attacked the school. The doors and windows of the school were broken and the polled votes were taken out from the boxes and were torned. Similarly, the polling materials were smashed and staff was disgraced. They attack on the Police party and beat Constable Shams Uz Zaman and also snatched away official rifle alongwith charger containing 30 rounds of 7.62 bore from him. A case FIR No. 211 dated 30.05.215 u/s 17(3) Haraba, 15-AA, TATA Police Station Yaqoob Khan Shaheed was registered. The case was under investigation with IO and the accused granted BBA from the ATC Kohat. On the day of confirmation instead of cooperation with IO, the defaulter HC Noor Salah Ud din visited to the court of ATC Kohat without any permission of undersigned and give a compromise statement on the stamp paper, which damaged the case and given undue benefit to the accused party as a result their bail was confirmed vide order dated 13.06.2015.

He was issued Charge Sheet and Statement of allegation based on above allegations. Mr. Muhammad Ashraf, SDPO, Banda Daud Shah was appointed as Enquiry Officer to conduct proper departmental enquiry against him and to submit his findings in the stipulated period.

From the perusal of findings of Enquiry Officer, it revealed that the allegations leveled against the defaulter official have been proved. He supported the accused party in shape of changing his statement in the court which is contrary to the rules, disloyalty and defame the Police department. Therefore, E.O recommended him for major punishment.

He was served with final show Cause Notice and the reply furnished by the defaulter HC was found unsatisfactory.

He was called and heard in person in the Orderly Room held in this office and he could not produce any satisfactory reply in his defense. He is stigma on Police department. He visited the Court of ATC Kohat without any permission of the undersigned and effected compromise on the stamp paper with the opponent party to compensate them and given benefit to the accused intentionally. He badly damaged the image of Police department in the eyes of general public. This act of the defaulter HC Noor Salah Ud Din was due to malafide intention and smell of corruption. Keeping in view the available record and facts on file, He is therefore, awarded a major punishment of dismissal from service with immediate effect

Order announced

Dt: 04.08.2015

OB No. 277
Dated 04/08/2015

M. Ashraf

District Police Officer, Karak

To:- The Deputy Inspector General of Police,
Kohat Region, Kohat

Subject:- DEPARTMENT APPEAL

Respected Sir,

With due respected humble submission, appellant submits appeal before your good office against the order of District Police Officer, Karak bearing OB No. 277 dated 04.08.2015 vides which appellant was dismissed from service.

FACTS:-

1. That appellant was serving as C-II constable (illiterate Head Constable) District Karak under your kind control, and on occasion of local Bodies election 2015, scheduled on 30.05.2015, appellant alongwith Shams-u-Zaman and Sajjid Iqbal Constables was deployed for security duty at Polling Station Community Model School Nusrat Abad Police Station Yaqoob Khan Shaheed.
2. That after polling hours, the staff started counting of ballots process, mean while armed persons committed trespass into the polling station that assaulted upon the staff and ransacked the polling materials. Appellant of the staff comprising lady teacher.
3. That the village people succeeded in arrest of two criminals, making recovery of one shot gun and motorcar of the criminals. District Police Officer, Karak accompanied by Police contingent and other polling authorities rechecked the spot. Meanwhile it also comes to light that the criminals have also forcibly deprived of Shams-u-Zaman of official rifle.
4. That on return to Police Station, the Station Clerk insisted lodging of FIR about the occurrence. He was made to understand that Presiding Officer of the Polling Station being proper authority may be approached into the matter. He was also informed about the abode of Presiding Officer situated at stone through distance with police station.
5. That the station Clerk of Police Station still stress lodging of report on ground of loss of official rifle in the occurrence Shams-u-Zaman Constable disclosed that he has identification some of the accused being his co-villager,

Accepted
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therefore, he lodged report and appellant also signed the report at the instance of Station Clerk. Appellant was quite ignorant about lodging of report the accused on his behalf and charging the accused by name.

6. That appellant was summoned by Judge Anti terrorism Kohat and was asked to submit statement on oath, therefore, appellant stated true picture on the occurrence that accused never indentified by subordinate constable.
7. That appellant was proceeded against departmentally on charges of narrating true facts of the occurrence before court and was dismissed from Service vides impugned order. Hence his appeal on the following grounds.

GROUND:-

- A. That the District Police Officer, Karak did not take into account the plausible defence of appellant before passing the impugned order.
- B. That the Enquiry Officer conducted ex-parte proceedings. He wrongly relied upon the statement of station Clerk, who was interested witness against appellant. He did not examine the Polling Staff and villagers who had witnessed the occurrence.
- C. That enquiry officer failed to collect any evidence in support of the charges leveled against appellant. No evidence was collect which may show any make file on the past of appellant in giving true statement before the Honorable Court.
- D. That appellant was summoned by the Honorable Court and the Court directed appellant to give statement on oath therefore, appellant was forced to give true facts. Appellant stated before the court that the accused were identified by Shams-u-Zaman Constable.
- E. That the Honorable Court granted bail to the accused arrested red-handed on the spot by the villagers. Furthermore, the Honorable did not summon Shams-u-Zaman Constable who had indentified the accused. All this means that the bail order has wrongly been based on statement of appellant.
- F. That neither enquiry report was supplied to appellant nor was chance of production of defence evidence provided to

appellant. Appellant was awarded major penalty of dismissal from service on the basis of no charges.

G. That the vested interests disrupt Election at about 69 Polling Station of district Karak and case was registered against unknown accused. Appellant has wrongly been charges for not identifying the accused.

H. that appellant is illiterate Head Constable and the Station Clerk malafidely registered on behalf of appellant. This is no behalf of appellant. This is on the record that complainant in almost all the cases registered regarding Election 2015 are Presiding Officer and the present case registered on behalf of appellant.

I. That the entire Service recent of appellant was unblemished and the authority did not take into account the unblemished record of service of appellant.

It is therefore, requested that on acceptance of the appeal, the impugned order may be set aside with back benefits.

Yours obediently,

SM
Noor Salah -Ud-Din
Ex- HC No. 778
District Karak
Cell # 0346-9262950

Attested
[Signature]

بعد الت جناب سرس ٹریبونل صوبہ سرحد پشاور

منجانب اسٹیلٹ

کفر صاحب الدین بنام محکمہ پولیس

دعوی اپیل

باعث تحریر ایٹک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیسٹل سید احمد خان سروتنے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعوی اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعوی اور درخواست ہر قسم کی تقلید اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بکطرفہ یا اپیل کی برآمدگی اور سوسویڈا بنیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا نگران قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقدمہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درہ پر ہو یا عدسے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المرقوم

العبد العبد العبد
Mallah

ارباب سید اسماعیل
سید اللہ خان مرقت
ایڈووکیٹ ایڈووکیٹ

Sub
من روپیہ نامہ
ایڈووکیٹ

نور علی الدین

BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 231/2016

Noor Salah ud Din Ex- ASI

..... Appellant.

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar and others

..... Respondents.

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectively Sheweth:-

Parawise comments are submitted as under:-

Preliminary Objections:-

1. That the appellant has no cause of action.
2. That the appellant has got no locus standi.
3. That the appeal is not maintainable in its present form.
4. That the appellant has not come to this Hon: Tribunal with clean hands.
5. That the appeal is **badly time barred**.
6. That the appeal is bad for mis joinder and non joinder of necessary pertains.

FACTS:-

1. Pertains to record. Hence needs no comments.
2. Correct, the appellant alongwith Police contingent was deployed for security at Polling station of Govt Primary Community School Nusrat Abad Tehsil Takht-e-Nusrati. On the day of polling a mob forcibly entered Polling station, took away ballot boxes/papers and the accused also snatched away official weapon from constable (Shams uz Zaman) on duty, but he did not resist and failed to perform his duty. However, **on his report** a case vide FIR No. 211 dated 30.05.2015 U/Ss 17 (3) OAP, 15 AA, 7 ATA PS Yaqoob Khan Shaheed was registered against the nominated and unknown accused. Copy is annexure "A".
3. Correct, the FIR was lodged upon the report of appellant.
4. The appellant without any authority /permission appeared before the Anti-Terrorism Court Kohat during hearing of accused bail before arrest, submitted an affidavit and recorded his statement in favour of accused, which is reproduced as under:-

"Complainant appeared before the court on 10.06.2015 and submitted that he has charged the accused at the instance of constable Shams uz Zaman and now he has got the knowledge constable Shams uz Zaman has some personal enmity with the accused/petitioners. The complainant further stated that he does not want to proceed further against the accused/petitioners and they are innocent".

Hence the appellant purposely favoured the accused, committed professional gross misconduct. Copies of affidavit and statement of appellant submitted in the court are Annexures "B & C".

5. The charge sheet alongwith statement of allegations was served upon the appellant (accused) accordance with the law & rules.
6. Incorrect, Proper proceedings were conducted by the inquiry officer. Furthermore, there was material evidence on record i.e he was complainant of FIR, subsequently negated the FIR, submitted affidavit in favour of accused as well as court statement and orders.

7. Incorrect, the proceedings were conducted accordance with the law/ rules, the appellant had failed to submit his defense during the entire proceedings.
8. Correct, the awarded punishment was commensurate to the charges established against the appellant.
9. Pertains to record, however, it is submitted that the respondents No. 2 had taken a lenient view keeping in mind appellant's long service.

GROUND:-

- A. Incorrect, the appellant had no defense to produce before the respondent No.1 as well as to the inquiry officer. As he had committed a professional gross misconduct as evident from the court proceedings and established in departmental proceedings.
- B. Incorrect, the charge sheet and alongwith statement of allegations was properly served upon the appellant /accused, hence there is no irregularity in the proceedings.
- C. Incorrect, the matter relates to appellant as being official complainant he was duty bound to support the prosecution case but favoured / illegally appeared and submitted affidavit before the court wherein he negated the FIR and declared the accused innocent. The fact has **never** been decide by the appellant.
- D. Irrelevant, the matter relates to his professional misconduct as stated in the above paras.
- E. Incorrect, the order of Honorable Court is very much clear regarding the act performed by the appellant, which made the case of further inquiry and thus he extended undue favour to the accused.
- F. Incorrect, the matter was seriously viewed by the respondents.
- G. The appellant was awarded a major punishment commensurate to the charge. He was not deserved for any leniency, however, the respondent No. 2 in the light of his long service took a lenient view and converted his dismissal from service to compulsory retirement.
- H. Incorrect, legal and speaking orders were passed by the respondent No. 1 & 2 after fulfilling all legal, procedural and codal formalities.

Keeping in view of the above and serious professional misconduct, it is submitted that the appeal is devoid of merits/law & badly time barred. Therefore, it is prayed that the instant appeal may kindly be dismissed with cost please.



District Police Officer
Karak
(Respondent No. 1)



Regional Police Officer,
Kohat
(Respondent No. 2)



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 3)

**BEFORE THE HONORABLE KP SERVICE TRIBUNAL,
PESHAWAR**

Service appeal No. 231/2016

Noor Salah ud Din Ex- ASI

..... Appellant.

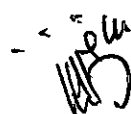
VERSUS

District Police Officer, Karak and others

..... Respondents.

COUNTER AFFIDAVIT

We, the below mentioned respondents, do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



District Police Officer
Karak
(Respondent No. 1)



Regional Police Officer,
Kohat
(Respondent No. 2)



Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar
(Respondent No. 3)

BEFORE THE HONORABLE KP SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 231/2016

Noor Salah ud Din Ex- ASI Appellant.

VERSUS

Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar and others..... Respondents.

Subject: **AUTHORITY**

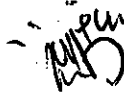
We the respondents do hereby authorize Mr. Mehir Ali DSP Hqrs: District Karak to represent us in the above cited service appeal. He is also authorized to submit comments etc on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar.



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



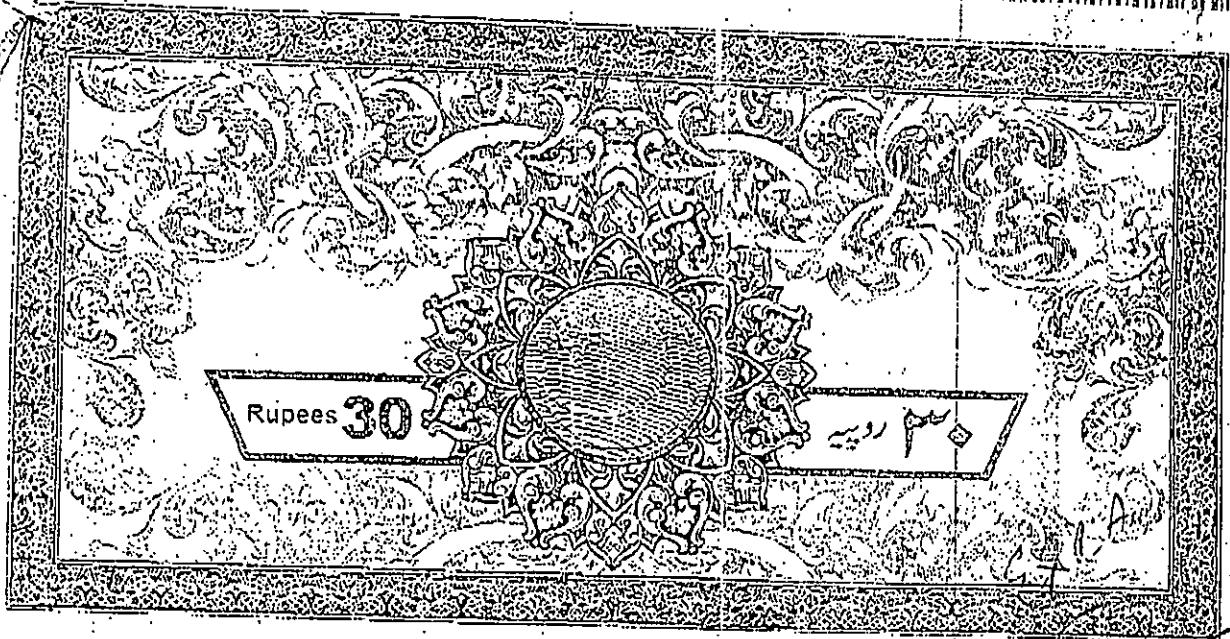
Regional Police Officer,
Kohat
(Respondent No. 2)



District Police Officer
Karak
(Respondent No. 3)

Annex B

F045636



لجہ التصاب - سید محمد حیدر صاحب البراد دہشت گردی کے خلاف

داتا 10-6-2015
ATC

1۔ زر پیاد جان عرف یا منی دہ سر پیاد جان (ساکنین میں سے ایک) ہائڈرآباد کے ایک شخص سے
د۔ شاہد دہ زر پیاد جان
میں
میلنگ / اجازت

بیان حقیقی خانب نور صلاح الدین (دہ مولاد میں) سے عظیم کلمہ پر انعام ندر جان صلہ بنوں
(آمدنی مقدم)

صفت بیان ہے کہ موافقہ دہ سر مال کا مستفید بنوں
صفت بیان ہے کہ میں دینہ ملزمان بالاد کو دہ سر میں دیکھا ہے۔ اور نہ ہی خود جان گیا
کہ میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے
کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے
ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے ناموں سے
دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں
دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔

صفت بیان ہے کہ میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں
دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی
شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے
ناموں سے دہ سر میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر
میں دیکھا گیا ہے۔ اور نہ ہی میں دہ سر کے کئی شخصوں کے ناموں سے دہ سر میں دیکھا گیا ہے۔

9
Amir B

۴) کہتا ہوں کہ اگر اللہ تعالیٰ سے دعا ہے کہ میں اپنے والد کا حق پہنچاؤں
اور میری ساری کٹنگ ہو جائے اور میری ساری سہولتیں، تو میں سزا کو
عزیز اور مستحق ہوں۔

۵) کہتا ہوں کہ میں اپنے والد کا حق پہنچاؤں
تو میں سزا کو عزیز اور مستحق ہوں۔

09 JUN 2015

11101143158602
نور علی احمد
مذکورہ

Shahid

اعظمیٰ خان زہرا آسم خان
شہول باغیچہ ملک کوٹ
14203-2063609-9
اعظمیٰ خان کفر کوٹ

شہول باغیچہ ملک کوٹ
14203-7565615-1

SHERAZ
Advocate
Oath Commissioner
Distt Courts Kohat

10024
10/6/15

(TRUE COPY) " "

**Statement of Noor Salah ud Din ASI Police Lines Karak
(R/o Purana Azeem Kalay, Bannu)**

Annex C

(On oath)

Stated that I am the complainant of case FIR No. 211, dated 30.05.2015, USs 17 (3) Haraba, 15 AA, 7ATA, which was registered at PS YKS District Karak. Neither I have seen the accused/petitioners during the occurrence nor I have charged them on my own but I have charged them at the instance of constable Shams uz Zaman. Now it came to my knowledge that the accused/petitioners have blood feud enmity with constable Shams uz Zaman. The accused/petitioners are innocent and I do not want to further proceed this case against the accused/petitioners. In the regard my affidavit is Ex-PA bear my signatures correctly.

Sd/-
**Noor Salah ud Din
S/o Mola Din
CNIC No. 11101-1431586-7**

**RO & AC
10.06.2015**

sd/-
**(GOHAR REHMAN)
Judge Anti-Terrorism Court,
Kohat Division Kohat**

such fact was not in the knowledge of appellant. As a proof copy of the said FIR is attached as "R/1"

Further it is submitted that the said constable was posted in PP

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 231/2015

Noor Salahuddin versus D.P.O & Others

RELICATIION

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

All the 6 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appellant has no cause of action, locus standi, time barred, unclean hands and bad for miss and non joinder of parties.

ON FACTS:

1. Needs no comments.
2. Admitted correct to the extent of deployment of security force to the school for polling duty. All the security staff was directed to even not resist at any occasion, if something was happened. As it was Election Day and very petty matter brings destructions which would not be coverable by any means.
3. Admitted correct by the respondents regarding lodge of FIR by appellant.
4. Not correct. Appellant was complainant in the case. Being complainant, he was issued notice to appear before the court and in pursuance of the same, he attended the same. (Copy of notice as Annex "R")

As for as constable Shams uz Zaman is concerned, he has blood feud enmity with a candidate namely Shahid Ullah who was contesting election from the constituency, who murdered uncle of the constable Shams uz Zaman way back in the year 1985. But

Note. Appellant submitted the appeal before the Hon'ble Service Tribunal on 09-10-2015 which was returned to the appellant on the said date by the registrar of the Hon'ble Tribunal with some objections. The said appeal was misplaced due to rush of work, so subsequent appeal in hand was submitted before the Hon'ble Tribunal.

AFFIDAVIT

I, Noor Salahuddin appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

نور صلاح الدین

DEPONENT

بعدالت جناب سید صاحب انید ایدہشت گردی کو باٹ

تاریخ پیشی 15/6/2015

MDK No. 144 ATC-KT - 2015

نور احمد شاہ بھاسرکان

تاریخ نمبر 11 مورخہ 30/3/2015 جوائنہ (د) ISAA-TATA - 17 (د) لکھنؤ نواز مسعود

TATA

اسٹیمپ لکھنؤ صلاح الدین ASI سر قانہ لکھنؤ نواز مسعود

SIIO لکھنؤ نواز مسعود

مقدمہ مندرجہ عنوان بالا میں شرم بالا نے عدالت خدائیں ممانعت کی درخواست گزار کی ہے جس میں تاریخ پیشی 15/6/2015 مقرر ہے۔ لہذا مستغیث بالا کی اطلاعیاتی برائے بیرونی درخواست گئی جائے۔

(شہروری تاکید کی جاتی ہے)

محمد علی
29.6.15
Judge, ATC-Kohat

عالي
مقام

سیدتی لبرلٹی

البرٹ

APC
APC
APC
APC

9/6/5


بعدالت جناب سید صاحب السید اودہ ہشت گردی کوہاٹ

سرکار بنام وزیر باہر جان وغیرہ

مقدمہ علت 211 مورخہ 5/3/77 7A/7A-15AA (3) 17 قانہ کی لا کر

کورٹ سٹیفٹ

مقدمہ عنوان بالا میں گواہ صلاح الدین صاحب سے مندرجہ ذیل حاضریا ہے۔
بعد ابعدم اداے شہادت بغیر خرچ خوراک کے رخصت کیا گیا۔


PP ATC KOHAT
13-6-15

B. Confirmed

ابتدائی اطلاعی رپورٹ

کوئی فائل :- ابتدائی اطلاع نسبت مجرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجرمہ ضابطہ فوجداری

ضلع کراچی

تعداد سزا

تاریخ وقت وقوع - ۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

نمبر 18 96

1	تاریخ و وقت رپورٹ	۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے
2	نام و سکونت اطلاع دہندہ و متنیث	خانہ ویراں پورہ، محلہ کراچی، ضلع کراچی، سندھ
3	تفصیلات کیفیت مجرم (معدومہ) حال اگر کچھ بیانیہ ہو	۱۵۲ / ۵۷ / ۱۹
4	جائے وقوع حادثہ مقام سے اور سمت	ویراں پورہ، محلہ کراچی، ضلع کراچی، سندھ
5	نام و سکونت ملزم	شیر دل ویراں پورہ ①
6	کارروائی جو تفتیش کے متعلق کی گئی اطلاع درج کرنے میں توجہ دینا ہو تو وجہ بیان کرو۔	ان کے بارے میں کوئی اطلاع نہیں ہے۔
7	مقام سے روانگی کی تاریخ و وقت	۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

ابتدائی اطلاع لینے والی کونسی شخصیت اطلاع دینے والی ہے اور اس کی شناخت کیا گئی ہے یا نہیں۔

مقام سے روانگی کی تاریخ و وقت

۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

مقام سے روانگی کی تاریخ و وقت

۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

مقام سے روانگی کی تاریخ و وقت

۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

مقام سے روانگی کی تاریخ و وقت

۱۹ / ۰۵ / ۵۷ صبح ۰۷:۵۵ بجے

سنہ ۱۲۵۵ھ
عمر بن ابی ذر

بیماریاں و علاج

۱۲۵۵ھ

عمر بن ابی ذر

کتابت و کتابت
میری اس طرح کے روبرو ۱۲۵۵ھ ۱۲۵۵ھ ۱۲۵۵ھ ۱۲۵۵ھ
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دستخط

عمر بن ابی ذر

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بیان بشری زوجہ بشر جمال ساکنہ محلہ امبال کورونہ
 تحت لخت خا ملاح .. پر لٹرا ٹرنڈ آفسر گورنمنٹ کمپوٹری
 ماڈل سکول ری سٹوبلی پانڈہ دیس کونسل گنڈری
 (45) فیمل پولنگ سٹیشن۔

بیان کیا کہ میں بطور پرنسپل آفسر درج بالا
 میں دیوکار بطور لکھی کہ فقوہ وقت کے بعد احاطہ میں موجود
 پولنگ ایجنٹ کے روبرو گئی میں مدعون لکھی کہ اچانک باہر شور
 شروع ہوا اور سکول کے مین گیٹ کو زور زور سے مار رہے
 تھے کہ اس دوران فائرننگ بھی شروع ہوئی تو سٹیشن پر موجود
 پولیس ایفکاران اور پولنگ ایجنٹ نے مجھے کہا کہ آپ سٹیشن سے
 باہر چلی جائے حالانکہ بیمار ٹرڈل سے باہر ہے اور مجھے
 سکول چھما دروزے سے باہر نکالا اور ساتھ ہی تقریباً گھر
 میں پناہ لی۔ میں نے پولنگ کا سارا سامان موجود موقع پر موجود
 پولیس کے حوالے کرتے باہر نکلی۔ اس دوران میں نے بار بار
 725 لخت نون فون پر اطلاع دیا رہی مگر کوئی بھی میری اطلاع
 پر کان نہیں دھرتا تھا۔ میرے ساتھ نزن لخت جمال بھی موجود تھا
 میں نے ان سے فون پر رابطہ کیا جو کہ سکول کے باہر تھا۔ اُس
 نے بھی بار بار پولیس سٹیشن ٹرڈل دم، لٹرنڈ آفسر حلقہ
 مذکورہ سے رابطہ کیا مگر کوئی بھی میری اطلاع نہ آتا اس
 دوران فائرننگ جارہا تھا اور خوف کا وہبہ سے دوبارہ سٹیشن نہ جاسکا۔

(1)

عمر اس قدر بیان ہے

العمر
بشریٰ برینڈ الٹرا آئینہ

Bushre

(2)

14203-4129285-5

03469123814

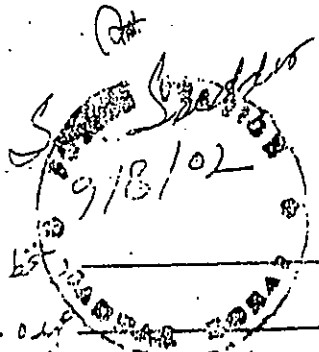
در وقت گرد قتل کسب اسم و سکن نامعلوم کو غیر مسلم کہنے سے (1) دائرہ 76 AMH
 سائنس اینڈ عدویٹ (2) حیدر آباد (3) لاہور سائنس (4) عدویٹ اینڈ عدویٹ (5) عدویٹ اینڈ عدویٹ (6)
 سائنس اینڈ عدویٹ (7) عدویٹ اینڈ عدویٹ (8) عدویٹ اینڈ عدویٹ (9) عدویٹ اینڈ عدویٹ (10)
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جنگل

Attest

فکر ایف بی طابانی

AMHL Sindh
 8/8/02



اطلاع کے لیے اطلاع دینے کا بندوبست ہوگا۔ اس کی ہر بات کا اظہار ہوگا۔ اور اس پر تحریر ہوگی۔
 یہ ایک سرکاری دستخط ہے۔ اس کے ساتھ ساتھ اس کا اظہار ہوگا۔

From: - The Senior Superintendent of Police, Kohat

To: - The Dy. Inspector General of Police,
Kohat Range, Kohat

No. 13076 : Dated Kohat the 1/12 /2002

Subject: - PROMOTION TO THE RANK OF SI/PC AS A SPECIAL CASE

Attn: -

On 03/07/2002, a deadly encounter took place between the Police party led by SSP Kohat Capt. Usman Zakria and the four hardened terrorists reportedly belonging to AL-Qaida organization vide FIR No. 477 vs 502/324/333/34/SEXP: SUB: Act/13-AAO/7 T Act. This ultimately resulted into the death of all the four terrorists. However the Police party also incurred the loss of one constable Iqbal Afidi. Furthermore, few Police officers/jawans received injuries.

During this operation ASI Noor Salahuddin exhibited extra-ordinary gallantry and great courage. He received injuries due to the explosion of hand grenade. On account of his bravery, it is hereby recommended that ASI Noor Salahuddin may be promoted to the rank of Sub Inspector.


(CAPT: USMAN ZAKRIA) PSP/PPM
SSP, KOHAT

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. _____/2019

IN

S. A. No. 231/2015

Noor Salah-ud-Din

versus

D.P.O & Others


APPLICATION FOR CONDONATION OF DELAY**IF ANY:****Respectfully Sheweth,**

1. That on 09-10-2015, applicant filed the subject appeal before this Hon'ble Tribunal which was returned on the said date being incomplete on some scores. (copy of the appeal and along with objection of the Registrar of the hon'ble Tribunal as annex "A")
2. That the subject appeal was misplaced due to rush of work and then filed subsequent appeal before the hon'ble Tribunal for disposal of the same.
3. That from the aforesaid documentary proof, it transpires that the appeal was filed will within time before the hon'ble Tribunal and if any delay exists, the same shall be condoned in the interest of justice.

It is, therefore, most humbly requested that the delay, if any, be condoned in the interest of justice and the case be decide on merit.


Applicant

Through


Saadullah Khan Marwat
Advocate

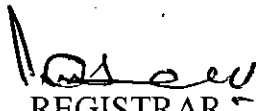
Date: 08-02-2019

The appeal of Mr. Noor Salahud Din son of Mula Din received to-day i.e. on 09.10.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. Annexures of the appeal may be attested by the appellant or his counsel.
2. Annexures of the appeal may be pagewised.
3. Five more copies of appeal alongwith annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1583 /ST,

Dated 9/10 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. SAADULLAH KHAN MARWAT ADVOCATE..

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2015

Noor Salahuddin

Versus

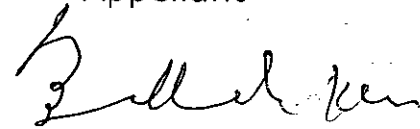
D.P.O & others

I N D E X

S.#	Description of Documents	Annex	Page
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7.	Dismissal Order, 04.08.2015	"F"	13
8.	Representation,	"G"	14-17
9.	Rejection Order, 10.09.2015	"H"	18

Appellant

Through



Dated: 09.10.2015

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

0311-9266609

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWARP.W.F. Province
Service Tribunal

Diary No. 1197

Dated 09/10/15

S.A No. _____/2015

Noor Salahuddin S/o Mula Din R/o Azeem Kally
Purana, Bannu, Ex-Head Constable No. 778,
Police Line, Karak Appellant

Versus

1. District Police Officer, Karak.
2. Regional Police Officer, Kohat Region,
Kohat.
3. Provincial Police Officer, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST ORDER dated 04.08.2015
OF R. NO. 1, WHEREBY APPELLANT WAS
DISMISSED FROM SERVICE OR OFFICE ORDER
NO. 6457-58/EC, DATED 10.09.2010, OF R.
NO. 2 WHEREBY REPRESENTATION OF
APPELLANT WAS CONVERTED INTO
COMPULSORY RETIREMENT FROM SERVICE
BEING MAJOR PUNISHMENT FOR NO LEGAL
REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That appellant was initially appointed as Constable on 22.02.1978 and on satisfactory performances of the official duties, he was promoted to the rank of Head Constable in the year 1988 and served the department with the best of his ability and without any complaint.

Filed to-100
10/10/15
K. 9/10/15

2. That Local Bodies Election was scheduled in the Province for 30.05.2015 and appellant along with others were on duty at Govt. Primary Community School, Nusrat Abad, Karak. The Election was going in peaceful atmosphere when. The counting of Ballet Papers was started and the doors and windows were closed. In the mean while Zarpayo, Niáz Ali, Umer Khan, Shahid alongwith 20/25 unknown accused came in vehicles duly armed with sophisticated weapons and attacked the school. The doors and windows were broken and the poled votes were taken out from the boxes and were torn. Polling material were smashed and staff was disgraced. They also attacked the police party and beat constable Shamas Uz Zamán and also took away his official rifle along with charger containing 30 rounds of 7.62 bore.
3. That regarding the aforesaid incident, appellant registered FIR No. 211, dated 30.05.2015 under section 17(3) Haraba, 15-AA, 7-ATA in police station Yaqoob Khan Shaheed (Takht Nusrati). (Copy of FIR as annex "A")
4. That the aforesaid accused applied for grant of bail before in the court of Session Judge, Kohat but the court compelled appellant regarding Section 7-ATA as per his opinion, such action was not attracted in the case in hand and the bail before of the accused was confirmed vide order dated 12.06.2015. (Copies as annex "B" & "C")
5. That on 15.06.2015, appellant was served with charge sheet, statement of allegation by R. No. 1 and not by the Inquiry Officer regarding the aforesaid incident. The said charge sheet was replied by denying the allegations. (Copies as annex "D" & "E")
6. That enquiry into the matter was perhaps initiated and appellant was recommended for award of major punishment but the enquiry proceedings were not conducted as per the mandate of law because statements of the police personals, polling staff and agents was necessary to be recorded but such mandatory provision was not complied with.

7. That on 04.08.2015, appellant was awarded with major punishment of dismissal from service with immediate by R. No. 1. (Copy as annex "F").
8. That after week, appellant submitted departmental appeal before R. No. 2 for reinstatement in service which was accepted and order of dismissal from service was converted into compulsory retirement from service. (Copies as annex "G" & "H")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant has passed upto 5th class and the FIR was scribed by Zain ul Abidin, Muharar of the PS.
- b. That in the charge sheet DSP Ashraf Khan of Banda Daud Shah was appointed as Inquiry Officer and it was necessary for him to serve appellant with the charge sheet and not by R. No. 1, so gross illegality was committed in the matter.
- c. That from the record it is quite apparent that several quarters i.e. polling staff, agents of the candidates, police personals, etc were involved in the matter but they were not put to task to establish the allegations.
- d. That Shams uz Zaman Constable was even not served with any charge sheet as rifle was taken from him but he was exonerated in the matter.
- e. That accused were released by the competent court of law and not by the appellant, rather appellant was pressed by the court to remove some sections of law, 7-ATA.
- f. That the authorities failed to take in to consideration the seriousness of the matter by not involving the polling staff in the incident.
- g. That departmental appeal of the appellant was accepted and order of dismissal was converted into order of compulsory

retirement from service, meaning thereby that the matter was not handled as per law.

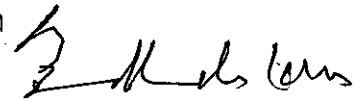
- h. That both the impugned orders of the respondents are not per the mandate of law, so are based on malafide, discrimination and are liable to struck down.

It is, therefore, most humbly prayed, that on acceptance of the appeal order dated 04.08.2015 or 10.09.2015 of the respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed and just in the circumstances of the case.



Appellant

Through



Saadullah Khan Marwat

Dated: 09.10.2015



Arbab Saif-ul-Kamal

&



Miss Robina Naz,
Advocates.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc. A. No. _____/2019

IN

S. A. No. 231/2015

Noor Salah-ud-Din

versus

D.P.O & Others

APPLICATION FOR CONDONATION OF DELAY**IF ANY:****Respectfully Sheweth,**

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Applicant

Through

Saadullah Khan Marwat
Advocate


Date: 08-02-2019

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No. 1583 /ST,

Dated 9/10 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. SAADULLAH KHAN MARWAT ADVOCATE..

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2015

Noor Salahuddin Versus D.P.O & others

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Through

Dated: 09.10.2015

Appellant



(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676
0311-9266609

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

**K.P. Province
Service Tribunal**
Diary No. 1197
Dated 09/10/15

S.A No. _____/2015

Noor Salahuddin S/o Mula Din R/o Azeem Kally
Purana, Bannu, Ex-Head Constable No. 778,
Police Line, Karak Appellant

Versus

1. District Police Officer, Karak.
2. Regional Police Officer, Kohat Region,
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3. Provincial Police Officer, KP, Peshawar. Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

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Filed to-day
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Appellant

Through



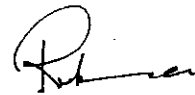
Saadullah Khan Marwat

Dated: 09.10.2015



Arbab Saif-ul-Kamal

&



Miss Robina Naz,
Advocates.