

FORM OF ORDER SHEET

Court of _____

Appeal No. _____

360/2024

S No.

Date of order
proceedings

Order or other proceedings with signature of judge

3

1

11/03/2024

The appeal of Mr. Fahad Ali presented today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 12.03.2024. Parcha Peshi is given to counsel for the appellant.

By the order of Chairman


REGISTRAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 360 /2024

Fahad Ali

VS

Police Department

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THROUGH:

APPELLANT



TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

Cell# 0333-9390916

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL NO. 360 /2024

Fahad Ali, Ex-Constable No. 1225, *District Police Kohat*
R/O Dhoda Sharif, District Kohat.

(APPELLANT)

VERSUS

1. The Regional Police Officer, Kohat Region, Kohat.
2. The District Police Officer, Kohat.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
AGAINST THE ORDER DATED 04.10.2023, WHEREBY
MAJOR PUNISHMENT OF DISMISSAL FROM
SERVICE WAS IMPOSED UPON THE APPELLANT
AND AGAINST THE ORDER DATED 28.02.2024,
WHEREBY THE DEPARTMENTAL APPEAL OF THE
APPELLANT WAS REJECTED FOR NO GOOD
GROUNDS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE
ORDERS DATED 04.10.2023 AND 28.02.2024 MAY
KINDLY BE SET ASIDE AND THE APPELLANT MAY
BE REINSTATED INTO HIS SERVICE WITH ALL
BACK AND CONSEQUENTIAL BENEFITS. ANY
OTHER REMEDY, WHICH THIS HONORABLE
TRIBUNAL DEEMS FIT AND APPROPRIATE THAT,
MAY ALSO, BE AWARDED IN FAVOUR OF
APPELLANT.

RESPECTFULLY SHEWETH:
FACTS:

1. That the appellant was appointed in the respondent department as Constable in the year 2013 and has completed all mandatory training and courses. The appellant since his appointment has performed his duty with great devotion and honesty, whatsoever, assigned to him.
2. That charge sheet was issued to the appellant on baseless allegations that he is equally involved in smuggling of Charas as well as embezzlement of recovered narcotics being gunner with SDPO Kurram. The appellant submitted proper reply to the charge sheet in which he denied the allegations and clearly mentioned in his reply that baseless allegations have leveled against him. **(Copies of charge sheet and reply are attached as Annexure-A&B)**
3. That on the basis of baseless allegations, inquiry was conducted against the appellant in which no opportunity of defense was provided to the appellant as neither statements were recorded in the presence of the appellant nor gave him opportunity of cross examination. Moreover, the inquiry officer did not conduct proper and regular inquiry to dig out the reality about the allegations, even the inquiry report was not handed over to the appellant.
4. That show cause notice was issued to the appellant which was replied by the appellant in which he again denied the allegations leveled against him and clearly mentioned in his reply to show cause notice that no opportunity of defense was provided to him during inquiry proceeding as statements of different officials were taken by the inquiry officer but they were not recorded in the presence of the appellant nor gave him opportunity of cross examination on witnesses and one sided inquiry was conducted against him by the inquiry officer. **(Copies of show cause notice and reply are attached as Annexure-C&D)**
5. That on the basis of baseless allegation, the appellant was dismissed from service vide order dated 04.10.2023. The appellant filed departmental appeal on 02.11.2023 against the dismissal order dated 04.10.2023, which was rejected on 28.02.2024 for no good grounds. **(Copies of dismissal order dated 04.10.2023, departmental appeal and rejection order dated 28.02.2024 are attached as Annexure-E,F&G)**
6. That the appellant wants to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:

- A) That the impugned orders dated 04.10.2023 and 28.02.2024 are against the law, facts, norms of justice and material on record. therefore, not tenable and liable to be set aside.
- B) That no proper and regular inquiry was conducted against the appellant as no opportunity of defense was provided to the appellant because neither statements were recorded in the presence of the appellant during the inquiry proceeding nor gave him opportunity of cross examination of witnesses, which is violation of law and rules and such the impugned orders are liable to be set aside on this ground alone.
- C) That the charge levelled against the appellant in the charge sheet is that the appellant is equally involved in smuggling of Charas as well as embezzlement of recovered narcotics being gunner with SDPO Kurram, but the inquiry officer did not conduct regular and proper inquiry to dig out the reality about the allegation leveled against the appellant, but he was him for punishment only on presumption basis being the gunner of SDPO Kurram, which means that the appellant has been punished for no fault on his part, which is against the norms of justice and fair play.
- D) That the charge levelled against the appellant in the charge sheet is that the appellant is equally involved in smuggling of Charas as well as embezzlement of recovered narcotics being gunner with SDPO Kurram but without specification of any occurrence or event which shows that the appellant is involved in smuggling of Charas as well as of recovered narcotics, which means that the appellant was punished on presumption basis which is not permissible under the law and rules.
- E) That the inquiry officer did not conducted inquiry against the appellant according to the prescribed procedure and even inquiry report was not provided to the appellant which is violation of law and rules.
- F) That the appellant has right of fair defence under Article-10-A of the Constitution of Pakistan which was not observed by the inquiry officer during inquiry proceeding, which is clear violation of Article-10-A of the Constitution of Pakistan.
- G) That the appellant clearly denied the allegation leveled against him in his reply to charge sheet and show cause notice, but without observing the reply to charge sheet and show cause notice, the appellant was dismissed from service on presumption basis without conducting regular and proper inquiry, which is against the law and

(4)

rules and as such the impugned orders dated 04.10.2023 and 28.02.2024 are liable to be set aside.

- H) That the appellant has right of fair defence under Article-10-A of the Constitution of Pakistan which was not observed by the inquiry officer during inquiry proceeding, which is clear violation of Article-10-A of the Constitution of Pakistan.
- I) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- J) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that on the acceptance of this appeal, the impugned orders dated 04.10.2023 and 28.02.2024 may kindly be set aside and the appellant may be reinstated into his service with all back and consequential benefits. Any other remedy, which this Honorable Tribunal deems fit and appropriate that, may also, be awarded in favour of appellant.


APPELLANT
Fahad Ali

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2024

Fahad Ali

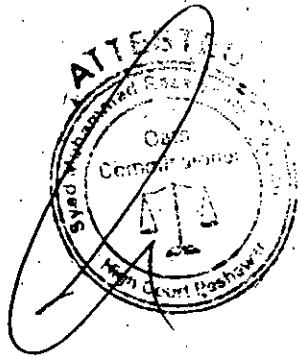
VS

Police Department

AFFIDAVIT

I, Fahad Ali, Ex-Constable No.1225, R/O Dhoda Sharif, District Kohat, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.

Fahad
DEPONENT



11/3/2024



No. 2013-14 /PA

Office of the
District Police Officer,
Kohat

Dated 11-4-2023

CHARGE SHEET

i. **SHAHZADA UMAR ABBAS BABAR PSP, DISTRICT POLICE OFFICER, KOHAT**, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Fahad No. 1225** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

As per preliminary enquiry conducted by SP Investigation Kurram, that you constable Fahad No. 1225 is equally involved in smuggling of charas as well as embezzlement of recovered narcotics being gunner with SDPO Kurram.

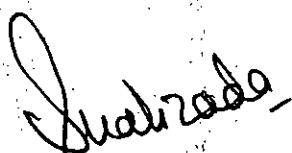
ii. Your above act shows inefficiency, irresponsibility and professional gross misconduct on your part.

By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

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

A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT

جناب عالی!

بشمولہ چارج شیٹ نمبری PA/14-2013 مورخہ 11.04.2023 مجاز یہ جناب ڈسٹرکٹ پولیس آفیسر کوہاٹ کی روشنی میں عرض ہے کہ چارج شیٹ ہذا میں جو الزامات مجھ پر لگائے گئے ہیں وہ بالکل غلط اور بے بنیاد ہیں۔ تاہم کچھ وضاحت یوں کروں گا کہ میں تقریباً 02 ماہ تک SDPO کرم کیساتھ بطور گنر تعینات رہا ہوں۔ اب PS گسٹ میں بطور جنرل ڈیوٹی سرانجام دے رہا ہوں۔ SDPO کیخلاف کسی نے ایک گناہ ڈاری کی تھی جس کے برعکس جناب SP انوسٹی گیشن کرم نے ابتدائی انکوآری عمل میں لائی مگر اب مجھے بھی علم ہوا ہے کہ وہ ضلع کرم میں کچھ PPis ہیں جنہوں نے مل کر ایک خود ساختہ منسوبہ SDPO کرم کیخلاف تیار کیا اور اس ابتدائی انکوآری میں بھی وہ بیان قلمبند کیا گیا تھا۔ دو ماہ کے عرصہ میں تو بندہ علاقے سے بھی واقفیت نہیں رکھ سکتا اور پھر اس طرح کی حرکت ضلع کرم میں تو ایک روایت قائم ہے اور وہ پولیس ریگولر پولیس کو بالکل برداشت نہیں کرتی وہ اپنی سن مانی کرتے ہیں اگر وہاں کوئی بھی کام کرے اور ان کے حرکات سے واقفیت ہو جاوے تو اس کی خلاف طرح طرح کے منسوبے بناتے ہیں جس کی مثال سابقہ SDPO کریمان علی کی انکوآری جو کہ ریکارڈ پر موجود ہیں۔ اگر اس کا ملاحظہ کیا جائے تو بہتر ہو گا۔ یہ سازش کے طور پر انہوں نے SDPO کو بدنام کرنے کی غرض سے یہ ڈاری کی تھی۔

جو میرے خلاف الزامات ہیں اگر کوئی گواہ جو میرے روبرو بیان دے کوئی ٹھوس ثبوت، آئیڈیو ویڈیو ریا کرڈنگ پیش کرے کوئی وقت تاریخ کا تعین کرے تو بندہ جواب دہ ہو گا۔ مجھے اندر میں بارہ کوئی علم نہیں جو الزامات لگائے ہیں لہذا استدعا ہے کہ ان الزامات میں کوئی حقائق نہیں ہے۔ لہذا انکوآری ہذا فائل فرمائی جاوے تو بندہ جناب کی ماتحت پر وری اور اقبال بلندی کے لئے دعا گو رہے گا اور بہتر ہو گا کہ اس بارے میں SDPO کرم کا بیان بھی قلمبند ہو جاوے تو اسل حقائق سامنے آسکتے ہیں۔ یہ میرا بیان ہے۔

کانشیل فہد علی نمبر 1225 متعینہ تھانہ گسٹ ضلع کوہاٹ



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-920116 Fax 920125

No 3684 /PA dated Kohat the 11/7/2023

FINAL SHOW CAUSE NOTICE

1. I, **Mr. Farhan Khan PSP, District Police Officer, Kohat** as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, **Constable Fahad Ali No. 1225** as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 2013-14/PA dated 11.04.2023.
 - ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.
- I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

- a. ***As per preliminary enquiry conducted by SP Investigation Kurram, that you constable Fahad No. 1225 is equally involved in smuggling of charas as well as embezzlement of recovered narcotics being gunner with SDPO Kurram.***
- b. ***Your above act shows inefficiency, irresponsibility and professional gross misconduct on your part.***

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules **ibid**.

3. 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.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.


DISTRICT POLICE OFFICER,
KOHAT

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جناب عالی!

بجوالہ فائل شوکاژ نوٹس نمبری 3684/PA مورخہ 11.07.2023 معروض خدمت ہوں کہ انکوآری کے مکمل ہونے پر جس میں من سائل کو سننے کا موقع دیا گیا اور انکوآری آفیسر کی سفارشات اور دیگر ریکارڈ کو مد نظر رکھتے ہوئے آپ جناب کی طرف سے یہ قرار دیا گیا کہ من سائل نے درج ذیل افعال کا ارتکاب کیا ہے۔

بمطابق ابتدائی انکوآری جو کہ ایس پی صاحب انوسٹیگیشن کرم نے من سائل کے خلاف عمل میں لائی ہے جس میں من سائل پر چرس کی سنگنگ اور برآمد شدہ منشیات کی خورد برد میں بطور Gunman ڈی ایس پی کرم کے ساتھ برابر کا حصہ دار ٹھہرایا ہے۔ اور یہ کہ من سائل کی نااہلی، غیر ذمہ داری اور "Misconduct" کا مرتکب ہوا ہے۔

جناب عالی! بجواب آخری نوٹس اظہار وجوہ نہایت ہی موذبانہ معروض خدمت ہوں کہ فائل شوکاژ میں لگائے گئے الزامات غلط اور بے بنیاد ہیں۔ اس سلسلے میں آپ جناب کی خدمت میں اس بات کی نشاندہی ضروری تصور کرتا ہوں کہ جب ابتدائی انکوآری برخلاف من سائل کا آغاز کیا گیا تو اس وقت میں نے بمشکل دو ماہ ضلع کرم میں گزارے تھے اور بطور Gunner جناب DSP عظمت خان تعینات تھا اور من سائل بمشکل 15/20 دن مذکورہ SDPO کے ساتھ بطور Gunner ڈیوٹی سرانجام دیتا رہا جب کہ باقی ایام میں من سائل

SDPO صاحب کے ساتھ ڈرائیونگ کرتا رہا یا پھر مختلف نوعیت کی گھریلو ذمہ داریاں جیسے سودہ سلف وغیرہ لانے کی ذمہ داریاں ادا کرتا رہا جناب عالی اتنے مختصر ایام میں ایک اہلکار علاقے کی جغرافیائی اور سماجی شخصیت کا ادراک بھی نہیں کر سکتا تو کیسے من سائل اتنے مختصر عرصہ میں چارج شیٹ میں لگائے گئے غیر قانونی وغیر اخلاقی افعال کرنے کے قابل ہو گیا۔ لہذا یہ بات مشاہدہ میں آیا ہے۔ کہ جب بھی کوئی غیر قانونی اور غیر اخلاقی فعل کرنے کا ارادہ کرتا ہے تو وہ سب سے پہلے علاقے کی جغرافیائی حیثیت کے بارے میں معلومات حاصل کرتا ہے اور پھر وہاں کے لوگوں کے بارے میں معلومات اکٹھی کرتا ہے۔ اور اس کے بعد وہ اسی قابل ہو جاتا ہے کہ وہ فعل کر گزرے من سائل کو ضلع کرم میں تعیناتی کے 15/20 دن کے قلیل عرصے میں چرس کی سنگنگ اور منشیات کا خورد برد کے الزامات کا سامنا کرنا پڑا جو کہ یقیناً ایک انسان کی دسترس سے باہر ہے اور اتنے مختصر عرصہ میں ایسے افعال اس کو کسی بڑے شلخے میں جھکڑ سکتے ہیں اور اس کو ناقابل تلافی نقصان پہنچ سکتا ہے۔ من سائل ایک زہی ہوش اور ایک متحرک پولیس اہلکار ہے اور اس قسم کے غیر قانونی اور قوی فیل کے کرنے کا سوچ بھی نہیں سکتا۔

من سائل اپنے دوران تعیناتی اکثر و بیشتر SDPO صاحب کے بنگلے میں ڈیوٹی سرانجام دیتا تھا۔ اور نہ تو منشیات از قسم چرس کی سنگنگ کا علم تھا اور من سائل کا اس سے بلواسطہ یا بلاواسطہ کوئی تعلق نہ ہے اور نہ ہی منشیات کا خورد برد میں ملوث ہے۔ ابتدائی انکوآری جو کہ SP انوسٹیگیشن کرم نے برخلاف عمل میں لائی اس میں بھی من سائل نے اپنے آپ کو بے گناہ ثابت کیا ہے۔ اور انکوآری میں کوئی ایسا شخص سامنے نہیں آیا۔ جو کہ من سائل کے خلاف بیان دیں۔ کہ اس کا چرس کی سنگنگ یا منشیات کی خورد برد میں بلواسطہ یا بلاواسطہ کوئی کردار ہے۔ جناب عالی! اگرچہ ڈوران انکوآری PPI واجد علی شاہ، PPI حیدر حسین، کانٹیلبل حامد حسین اور سب انسپکٹر زاہد حسین کے بیانات قلمبند کئے گئے۔ لیکن یہ بیانات خلاف قانون، خلاف انصاف ہیں کیوں کہ یہ بیانات من سائل کی غیر موجودگی میں قلمبند کی گئے۔ بلکہ یہ من سائل کی پشت پر قلمبند کئے گئے اور نہ قانون کے مطابق من سائل نہ تو ان گواہان پر کوئی جرح کر سکا۔ لہذا ان حالات میں کہا جاسکتا ہے کہ من سائل کو جرح کا موقع نہ دینے کی وجہ سے یہ بیانات یکطرفہ ہیں اور جھوٹ کا پالندہ بھی ہے اگر من سائل کو جرح کا موقع ملتا تو وہ یقیناً دودھ کا دودھ اور پانی کا پانی اور حقیقت منظر عام پر لانے کی کوشش کر کے گواہان کی شہادت کے معیار کے سامنے لاتا لیکن بد قسمتی سے من سائل کو گواہان مذکورہ پر جرح کرنے کا موقع نہ دیا گیا جو بدیں وجہ قرار دیا جاسکتا ہے کہ من سائل کے خلاف انکوآری کو یکطرفہ طور پر چلایا گیا جس کی کوئی قانونی وقعت نہیں ہے اور نہ ہی اس قسم کے یکطرفہ بیانات پر قانون مطابق سزا دی جاسکتی ہے۔

جناب عالی نہ صرف یہ کہ پولیس رولز 1975 انکوآری برخلاف پولیس اہلکاران شفاف اور غیر جانبدار بنانے پر زور دیتا ہے۔ بلکہ آئین

پاکستان 1973 کا آرٹیکل 10-A بھی اس بات پر زور دیتا ہے کہ کسی ملزم یا اہلکار کے خلاف مقدمہ کی سماعت یا انکوائری شفاف اور غیر جانبدارانہ ہونی چاہیے۔ اور ملزم/اہلکار کو اپنی صفائی کا پورا پورا موقع فراہم کرنا چاہیے اور اسی آرٹیکل کے مطابق ملزم یا اہلکار کو صفائی کا موقع دینا اس کے بنیادی حقوق میں آتا ہے۔ جس سے اس کو محروم کرنا نہ صرف آئین پاکستان کے خلاف ورزی ہے۔ بلکہ اس کے بنیادی حق کی بھی نفی ہے۔

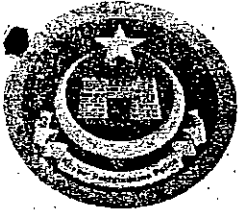
جناب عالی! مندرجہ بالا ناقابل تردید شواہد کی روشنی میں یہ نتیجہ اخذ کیا جاسکتا ہے۔ کہ انکوائری آفس نے من سائل کے خلاف انکوائری کر کے دوران اس کی پشت پر گواہان کے بیانات ریکارڈ کر کے اور من سائل کو جرح کا حق نہ دیکر تمام انکوائری کو قانون کے نظر میں بری طرح داغدار کر دیا ہے۔ اور اس بنیاد پر من سائل کوئی چھوٹی یا بڑی سزا نہیں دی جاسکتی ہے۔ جناب عالی۔ من سائل سال 2013ء کا بھرتی شدہ ہے اور کم و بیش محکمہ پولیس میں 10 سال ملازمت کر چکا ہے۔ اور اس دوران کوئی ایسا کام نہ کیا ہے۔ جو کہ قانون اور ضابطہ کی خلاف ورزی اور ہمیشہ قانون اور ضوابط کی پاسداری کی ہے اور اپنے مفاد سے محکمہ پولیس کے مفاد کو عزیز رکھا ہے اور اولیت دی ہے اور اسی وجہ سے من سائل پر اس کے افسران صاحبان نے غیر متذلل اعتماد کا اظہار کیا ہے اور من سائل کو انتہائی حساس قسم کے معاملات تفویض کئے ہیں جن کو اللہ کی مدد سے اور آپ صاحبان کی دست شفقت کی وجہ سے کامیابی سے پایہ تکمیل تک پہنچایا ہے۔ من سائل آپ صاحبان کو یہ پیشکش کرتا ہے کہ غیر جانب دار ذرائع سے جو کہ آپ صاحبان کی دسترس میں ہے کہ ذریعے من سائل کے بارے میں ایک نہایت ہی باریک بینی سے چھان بین کی جائے اور من سائل کو اس انکوائری میں قانون کے مطابق صفائی کا موقع دیا جائے۔ تو انشاء اللہ جس طرح موجودہ انکوائری میں من سائل کے خلاف کوئی الزام ثابت نہ ہو سکے گا تو اس انکوائری میں بھی من سائل کے خلاف کوئی الزام ثابت نہیں ہو سکے گا من سائل پوری یقین سے یہ کہتا ہے کہ من سائل بلکل بے گناہ اور بے قصور ہے۔ اور من سائل کو یہ احساس ہے کہ وہ ایک قانون نافذ کرنے والا ادارے کا اہلکار ہیں اور اس قسم کے غیر قانونی اور غیر اخلاقی افعال میں ملوث ہونا نہ اس کے فرائض منصبی کا تقاضہ ہے اور نہیں ایسے افعال زیب دیتے ہیں، نہ تو پہلے اور نہ آج اور نہ ہی آنے والے نکل میں من سائل محکمہ پولیس کے لئے کوئی بدنامی کا سبب بنے گا۔ من سائل نے اپنی ملازمت کے دوران ہر ممکن کوشش کی ہے۔ کہ وہ محکمہ پولیس کے لئے نیک نامی کا باعث بنے اور وہ اس مقصد میں کامیاب رہا ہے۔ لیکن ضلع کرم میں نجانے کن عوامل میں بناؤ پر من سائل کے خلاف خود ساختہ اور من گھڑت، بے بنیاد الزامات کھڑے جا کر من سائل کو ملوث کر کے اس کی نیک نامی، شہرت اور ملازمت کو نقصان دینے کی کوشش کی گئی ہے لیکن انکوائری ہذا کے مندرجات سے ثابت ہے کہ اس قسم کے حاسد عناصر اپنے مذموم مقاصد میں ناکام رہے ہیں اور من سائل کے خلاف انکوائری میں کچھ بھی ثابت کرنے میں ناکام رہے ہیں۔

جناب عالی من سائل کے مندرجہ بالا بیان کئے گئے حقائق کی روشنی میں یہ ناقابل تردید نتیجہ اخذ کیا جاسکتا ہے۔ کہ وہ بلکل بے گناہ ہے اور انکوائری کے دوران سے کے خلاف کوئی بھی جرم ثابت نہیں ہوا لہذا انکوائری داخل دفتر کی جائے۔

سائل تاحیات دعا گورہیگا

آپ کا تابع دار کا نیشنل فہد علی نمبر 1225 متعینہ تھانہ گمبٹ

24/7/23



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

Tel: 0922-920116 Fax 9260125

E (11)

ORDER

This order is passed on the departmental enquiry against Constable Fahad Ali No. 1225 under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendments 2014).

Brief facts of the case are that as per preliminary enquiry conducted by SP Investigation Kurram, constable Fahad No. 1225 is equally involved in smuggling of charas as well as embezzlement of recovered narcotics being gunner with Azmat Ali the then SDPO Kurram.

The above act shows inefficiency, irresponsibility and professional gross misconduct on his part.

He was served with charge sheet & statement of allegations. SP Investigation Kohat was appointed as enquiry officer to conducted proper departmental enquiry against him and to submit finding within stipulated period. From the perusal of available record / statement of PPI Wajid Ali Shah recovered i.e 83 / 84 packets of charas from a motor car which was later revealed to be only 45 packets and passed the said information to DSP Azmat Khan the then SDPO Kurram, who come to the Police post and forcibly took away all the drugs (45 packet) with the help of gunner Fahad Ali. Later on he sold 40 packets of charas to a drug dealer. It is further stated that in the entire deal constable Fahad Ali was on in front line and received a huge amount. The delinquent constable has become tools of the same drug paddlers / smugglers and is providing facilities to the drug dealers. The act of the defaulter constable is embarrassment of entire Police department.

The defaulter constable was served with Final Show Cause Notice, his reply is received and found un-satisfactory. He was called in orderly room held in this office on 03.10.2023 and heard in person but he could not produce any plausible explanation in his defense.

Record gone through which indicates that the accused was associated with the enquiry proceedings afforded opportunity of defense / cross examination. The accused being member of a disciplined force bring bad name to the department by indulging himself in smuggling of charas as well as embezzlement of recovered narcotics. Therefore, I reached to the conclusion that the charges / allegations leveled against him have been established beyond any shadow of doubt and he is held guilty of the charges. Therefore, in exercise of powers conferred upon me under the rules ibid. I Farhan Khan PSP, District Police Officer, Kohat award him a **major punishment of dismissal from service** with immediate effect, kit etc issued be collected and report.

DISTRICT POLICE OFFICER,
KOHAT

Q3 No. 821
Date 04-10-2023

No. 5822-24 PA dated Kohat the 04-10-2023.

Copy of above is submitted to Regional Police Officer, Kohat for favor of information w/r to his office. Endst: No. 3851-52/PA dated 29.03.2023.

2. Reader/R.I/SRC/ OHC for necessary action

DISTRICT POLICE OFFICER,
KOHAT

F (12)

THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION
KOHAT

Appeal Under Rule 11 of the Police Rules 1975 (Amended 2014) against order of dismissal of appellant from service by the Worthy District Police Officer Kohat issued vide order dated 04-10-2023 without any lawful justification.

Respected Sir,

With great Respect, the appellant may kindly be allowed to submit the following for your kind and sympathetic consideration.

Facts of the Case:

1. That the appellant was enrolled as constable, in the year 2013.
2. That since his enrollment, the appellant was discharging his official function with zeal and zest.
3. That throughout his service, the appellant never provided opportunity to his seniors to prefer complaint against the appellant.
4. That the appellant during his more or less ten years service carrier served the Police Department with devotion and upto the satisfaction of his senior officers.
5. That the appellant during hi service was assigned a number of risky and sensitive duties which the appellant at the risk of his life had successfully accomplished/fulfilled.
6. That the appellant for his good work has earned a number of commendation certificates besides the cash rewards.
7. That the appellant has always kept his official interests above the self interests and always preferred to follow law, rules and merits.
8. That while posted as gunner with the DSP Azmat Khan SDPO Hqrs. Kurram, the worthy DPO Kohat served charge sheet and the

statement of allegation to the effect that the appellant is equally involved in smuggling of Charas as well as embezzlement of recovered narcotics being gunner with DSP Kurram.

9. That after conclusion of enquiry the appellant was awarded major punishment of dismissal from service with immediate effect vide order bearing OB No.821 dated 04-10-2023.

10. That upon the impugned order of dismissal, the appellant has a number of reservations and legal/factual objections. Hence the appellant moved the instant appeal to which following are some of the grounds of appeal among other:-

Grounds of Appeal:

- A. That the impugned punishment order of dismissal of the appellant from service is not in accordance with law, rules and evidence on record, hence it is liable to be set aside.
- B. That an ambiguous, speculative, presumptive and imaginary charge sheet was served upon the appellant which has got no concern with reality, hence it has got no legal value in the eyes of law.
- C. That reply to the charge sheet was submitted by the appellant wherein the appellant categorically denied the allegation. The appellant pointed out that he was not directly or indirectly involved in narcotics smuggling, embezzlement and selling of narcotics. The appellant further contended that on the basis of anonymous diary PPIs Kurram had hatched conspiracy wherein the appellant and SDPO Kurram were made target, but unfortunately submissions of the appellant were badly ignored and the appellant was made target of a unilateral and arbitrary decision by virtue of which the appellant was unjustifiably dismissed from service.
- D. That in the charge sheet appellants, place of posting has not been mentioned.

- E. That for sending the appellant without proper order, to the District Kurram, the relevant authorities cannot escape responsibility.
- F. That being at the relevant time in the district Kurram, the DPO Kurram in exercise of his jurisdiction, should have proceeded against the appellant but the question of jurisdiction was ignored in case of the appellant. Hence order of the competent authority is quorum non judice.
- G. That legally speaking the DPO Kurram should have initiated departmental proceedings and when the stage of decision would have arrived, enquiry along with his recommendations should have been sent to the DPO Kohat for announcement of decision but instead of adopting legal way, short cut was adopted which always prove to be a bad cut.
- H. That in the charge sheet it is not mentioned that:
 - i. Where the alleged Charas was smuggled / embezzled.
 - ii. How much Charas was smuggled / embezzled.
 - iii. Where and when it was smuggled / embezzled.
- I. That the most important fact is that smuggling of Charas is a cognizable offence. If the allegation would have been true then definitely criminal case should have been registered. By not doing so an inference can be drawn that there is no iota of truth in the allegation against the appellant. Hence at this score too case against the appellant does not stand on sound footings and hence the appellant did not deserve minor or major punishment.
- J. That even the final show cause notice has not mentioned quantity, time, date and place of the alleged smuggling of narcotics by the appellant. Final Show Cause Notice is a mere repetition of the charge sheet already served before commencement of enquiry. Undoubtedly Final Show Cause Notice is served after conclusion of

(15)

enquiry; hence it was mandatory for the competent authority to have mentioned all facts appeared during enquiry so that to justify punishment but no such material was made part of the Final Show Cause Notice, hence no punishment whatsoever can be awarded on such a legally defective instrument.

K. That in the findings, the enquiry officer referred to the statement of PPI Kurram district Wajid Ali Shah wherein he recovered 83/84 packets of Charas which were later on revealed to be only 45 packets and according to him when he informed the SDPO, he came to the police post and forcibly took away 45 packets with the help of his gunner Fahad Ali (appellant) and SI Zahid Hussain and subsequently sold 40 packets of Charas to a drug dealer namely Shakeel and five packets were handed over to SI Zahid Hussain and that in the entire deal constable Fahad Ali (appellant) also handed over the alleged motor car to the drug dealer.

However, the above facts were not verified by the enquiry officer. the appellant has following reservations on the findings;

- i. The enquiry officer did not make effort to clarify that whether packets of Charas were 83/84 or 45. Exact number of packets of Charas still lies in mystery.
- ii. On which time and date SDPO Azmat Khan forcibly took away 45 packets of Charas.
- iii. The enquiry officer has not ascertained that which of the officer i.e. Azmat Khan or Fahad Ali (appellant) had sold 40 packets of Charas.
- iv. Role of the appellant has not been highlighted by the enquiry officer.
- v. From where the alleged motor car was recovered and at which place, time date and before whom the alleged motor car was

handed over by the appellant to the drug dealer. Here too name of the alleged drug dealer has not been ascertained by the enquiry officer.

- L. That the appellant has got no direct or indirect role relating to Charas. The appellant most of the time remained at residence of the SDPO Azmat Khan. There he used to deal with the domestic affairs of the SDPO Azmat Khan. The appellant is unaware of the alleged transaction and he is absolutely innocent.
- M. That the entire enquiry is based on hearsay evidence. Each and every aspect of enquiry is based on presumption and speculation. Facts highlighted in the enquiry and the impugned order have no concern with the reality. Under the well established principles of law, no punishment can be awarded on speculations and presumptions.
- N. That no witness was examined in presence of the appellant nor he was given right to defence himself during the enquiry proceedings.
- O. That unilateral, one sided and arbitrary enquiry in nature was conducted which is in fact violation of Art. 10-A of the constitution of Pakistan which has guaranteed fair, impartial and transparent enquiry / trial of defaulters.
- P. That the appellant is a law abiding citizen. Appellant is very much aware that being member of law enforcing agency, he is supposed to prevent offences instead of encouraging them.
- Q. That the appellant belongs to a respectable family and he cannot imagine to involve himself in such illegal and unethical activities.
- R. That the impugned order of punishment has deprived the appellant and his family for the only source of income and it is likely to land family in starvation and the appellant apprehends that he may not face irreparable loss.

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- S. That the appellant is innocent and he has no concern with the alleged transaction of narcotics.
- T. That the allegations leveled against the appellant have never been established nor substantiated.
- U. That If deemed proper the appellant may kindly be heard in person.

Prayer:

It is therefore, requested that since, the order of punishment is based on hearsay evidence, speculations, presumptions and whims on one hand while the appellant was never provided opportunity to defend himself on the other, therefore, the impugned order of dismissal being not in accordance with law, rules and principles of justice may kindly be set aside the appellant may kindly be reinstated in service with all back benefit. The appellant will be very thankful to you for this act of kindness and will pray for your long life and prosperity throughout his life.

Dated: 31-10-2023.

Yours Obediently,


2/11/23
FAHAD ALI
(Ex- Constable No.1225)
R/o Dhoda Sharif District Kohat.
Cell # 0331-5115290.

9 (18)

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Constable Fahad Ali No. 1225 of district Kohat against the order of District Police Officer, Kohat whereby he was awarded major punishment of dismissal from service vide OB No: 821 dated 04.10.2023. Brief facts of the case are that as per preliminary enquiry conducted by SP Investigation Kurram the delinquent constable was involved in smuggling of charas as well as embezzlement of recovered narcotics. From the perusal of available record and statement of Incharge Police Post Wajid Ali Shah recovered 83/84 packets of charas from a motorcar which was later revealed to be only 45 packets. He passed the said information to DSP Azmat Ali Khan, the then SDPO Headquarters Kurram, who came to the Police Post and forcibly took away all the 45 packet of charas with the help of his gunman delinquent Constable Fahad Ali. Later on, he sold 40 packets of Charas to a drug dealer. It is further stated that in the entire deal Constable Fahad Ali was on the forefront and received a huge amount. The delinquent Constable has become a tool for the drug paddlers/smugglers and providing facilitation to the drug dealers.

Proper departmental enquiry proceedings were initiated against him by District Police Officer, Kohat. SP Inv: Kohat was appointed as enquiry officer. After the enquiry proceedings, the Enquiry Officer submitted his findings wherein the delinquent officer was found guilty of the misconduct.

On the recommendations of the Enquiry Officer and keeping in view the circumstances of the case, the delinquent officer was awarded major punishment of dismissal from service under the relevant rules by the District Police Officer, Kohat vide OB No. 821 dated 04.10.2023.

Feeling aggrieved from the order of District Police Officer, Kohat, the appellant preferred the instant appeal. On 20.02.2024, he was summoned and heard in person in Orderly Room held in the office of the undersigned. During hearing, the appellant could not present any plausible grounds to justify his misconduct.

Foregoing in view. I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of the considered opinion that the charges leveled against him have fully been established. The punishment of dismissal from service, awarded by the District Police Officer, Kohat to the appellant is justified and, therefore, warrants no interference. Hence, appeal of Ex-Constable Fahad Ali No.1225 of district Kohat is hereby rejected, being devoid of substance and merit.

Order Announced
20.02.2024

DSP Legat/SRC/CHC
For n/a/c/tion

District Police Officer
Kohat

Regional Police Officer,
Kohat Region

No. 1804 IEC, Dated Kohat the 20/2/2024

Copy forwarded to District Police Officer, Kohat for information and necessary w/c to his office Memo: No. 7820/LB, dated: 30.11.2023.

10/661
01/3/24

ORDER

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Order Announced

20.02.2024

Sd/-
Regional Police Officer,
Kohat Region

No. 1804/EC, Dated Kohat the 28/02/2024

Copy forwarded to District Police Officer, kohat for information and necessary w/r to his office Memo: No. 7820/LB, dated 30.11.2023.

VAKALAT NAMA

NO. _____/2024

IN THE COURT OF KP Service Tribunal, Peshawar

Fahad Ali

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Department

(Respondent)
(Defendant)

I/We, Fahad Ali

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

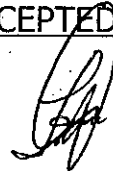
I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2024



(CLIENT)

ACCEPTED



TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916