

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	13.12.2018	<p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p style="text-align: center;">Appeal No. 1251/2016 Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi.</p> <p style="text-align: center;">Date of Institution ... 09.12.2016 Date of Decision ... 13.12.2018</p> <p style="text-align: center;">Jehanzeb Khan and One other -----Appellant</p> <p>1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. 2. The Deputy Inspector General of Police, Mardan Region-I, Mardan. 3. The District Police Officer, Swabi. -----Respondents</p> <p style="text-align: center;">Mr. Hamid Farooq Durrani.....Chairman Mr. Hussain Shah.....Member</p> <p style="text-align: center;"><u>JUDGMENT</u> <u>HUSSAIN SHAH, MEMBER:</u> - Appellant, learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney on behalf of the respondents present.</p> <p>2. This judgment also disposes off the service appeal No. 1250/2016 preferred by Fida Khan, having the same facts and grounds with similar prayer.</p> <p>3. The appellant was proceeded by serving charge sheet and statement of allegation vide order dated 02.12.2015 which was replied by the appellant. Final Show Cause notice was served after conducting an inquiry where after the competent authority awarded the major penalty of dismissal from service vide order 13.01.2016.</p>

The departmental appeal dated 26.01.2016 was rejected by the appellate authority on 25.04.2016. While review petition dated 03.05.2016 to the respondent No.1 was pending decision the appellant preferred service appeal No. 528/16 before this Tribunal. During the pendency of the service appeal the review petition was partially accepted vide order dated 10.11.2016 and the appellant was re-instated in service, the penalty of dismissal from service was converted to reduction in time scale for Four (04) years to the extent of three (03) stages while in case of the other appellant Fida Khan the penalty of dismissal from service was converted into reduction in time scale for three (03) years to the extent of three (03) stages. The intervening period between the dismissal from service and their respective re-instatement was declared in service without pay. Both the appellants were put under special watch for one (01) year. Subsequent to the decision of the respondent No.1 dated 10.11.2016 their respective service appeal No. 528/2016 and service appeal No.527/2016 were withdrawn, on their application with permission to file fresh appeal, hence the present appeal was preferred with the prayer that the order of respondent No.1 dated 10.11.2016 may be partially set aside to the extent of reduction in time scale and denial of salary and the appellant be re-instated in service with full wages and benefit of service.

4. The learned counsel for the appellant argued that the appellant has not been treated in accordance with the law. He was awarded the penalty without following the proper procedure as the appellant

was not properly associated with the inquiry procedure, he was not given the opportunity to cross examine the witnesses and the opportunity of personal hearing was denied to him.

5. The learned Deputy District Attorney contested the facts and grounds of the appeal as well as the arguments of the learned counsel for the appellant's and argued that the appellant had been treated in accordance with the law and rules. The penalty was imposed after proper departmental procedure in accordance with the rules and fulfillments of all codal formalities. The charges against the appellant's have been proved during the inquiry proceeding and they were given opportunity of defense but they failed to prove themselves innocent. However the respondent No.1 has taken lenient view and re-instated the appellant into service with a modified penalty purely on compassionate grounds. As regarding the pray of the appellant for the pay of the intervening period between their dismissal from service and re-instatement the learned DDA cited the establish principal of "No Work No Pay" hence, appeal of the appellant may be dismissed with costs, being devoid of the merits and without any legal substance.

6. Arguments heard. File perused.

7. The incident occurred on 30.11.2015 is an admitted fact which resulted in to the death of Constable Imtiaz Gul No 250 on the Spot and Constable Guhlan Abbas No 1356 seriously injured. The accused in the Criminal Case took away Official Rifle of 7.62 bore. The appellant failed to place on record any substantive and

self speaking evidence of their innocence contrary to their alleged act of cowardice and failed to respond to the call of duty resulting into the safe escape of the miscreants from the crime scene. The respondent No.1 has already converted the penalty of dismissal from service into the re-instatement with modified penalty.

8. In view of the above discussion this tribunal reaches to the conclusion that the appeal carries no merits hence is dismissed accordingly. Parties are left to bear their own costs. File be consigned to the record room.



(HAMID FAROOQ DURRANI)
MEMBER




(HUSSAIN SHAH)
MEMBER

ANNOUNCED
13.12.2018

Service Appeal No. 1251/2016

07.09.2018

Appellant with counsel and Mr. Riaz Ahmad Painsakhel, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 25.10.2018 before D.B.


(Shah Hussain)
Member


(Muhammad Amin Khan Kundi)
Member

25.10.2018


Due to retirement of Hon'ble Chairman, the tribunal is defunct. Therefore, the case is adjourned. To come up for same on 13.12.2018.


READER

13.12.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Vide separate judgment of today of this tribunal the present service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.

(Hamid Farooq Durmi)
Chairman



(Hussain Shah)
Member

ANNOUNCED

13.12.2018


09.04.2018

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Due to incomplete Bench, arguments could not be heard. To come up for arguments on 22.05.2018 before the D.B.


(M.Amin Khan Kundi)
Member

22.05.2018

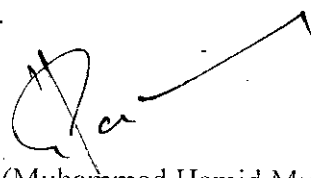
Counsel for the appellant and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 18.07.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

18.07.2018

Counsel for the appellant present. Mr. Sardar Shoukat Hayat, Addl: AG for all respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 07.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

14.03.2017

Clerk to counsel for the appellant and Mr. Fazal Subhan, HC
alongwith Addl. AG for respondents present. Written reply submitted.
To come up for rejoinder and arguments on 09.06.2017 before D.B.


(AHMAD HASSAN)
MEMER

09.06.2017

Clerk of the counsel for appellant present. Mr. Muhammad Adeel
Butt, Additional AG for the respondents also present. Clerk of the counsel
for appellant submitted rejoinder and requested for adjournment. Adjourned.
To come up for arguments on 05.10.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

05.10.2017

Counsel for the appellant and Mr. Ziaullah, DDA for
respondents present. Counsel for the appellant seeks adjournment.
Adjourned. To come up for arguments on 21.12.2017 before D.B.


(MUHAMMAD HAMID MUGHAL)
MEMBER


(AHMAD HASSAN)
MEMBER


21.12.2017

Due to Judicial Officer's Conference today, case is
adjourned to 22.02.2018 for the same before the D.B.


Reader

22.02.2018

Due to none availability of D.B the case is adjourned. To come up
on 07.04.2018 before D.B


Member

26.12.2016

Learned counsel for the appellant argued that the appellant is serving as constable and vide impugned final order dated 10.11.2016, the punishment awarded to the appellant by the competent authority in the shape of dismissal from service was converted into time scale for 4 years to the extent of three stages and intervening period from dismissal to reinstatement in service was also considered as without pay and as such the present service appeal.

That the impugned order is against facts and law and therefore liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 31.01.2017 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

31.01.2017




Counsel for the appellant ^{and} Mr. Rashid Ali HC, alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 14.03.2017 before S.B


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1251 /2016


S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2016	<p>The appeal of Mr. Jehanzeb resubmitted today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-12-2016 	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26-12-2016</u></p> <p style="text-align: right;"> MEMBER</p>

The appeal of Mr. Jehanzeb Ex-Constable No. 72 Police Station Zaida Swabi received today i.e. on 09.12.2016 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 application and order mentioned in para-12 of the memo appeal are not attached with the appeal which may be placed on it.
- 2- In the memo of appeal places have been left blank which may be filled up.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Appeal may be page marked according to the index.
- 6- Copy of order dated 10.11.2016 is illegible which may be replaced by legible/better one.
- 7- Five more copies/sets of the appeal along with the annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2074 /S.T,


Dt. 13/12 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Yasir Saleem Adv. Pesh.

R/s

It is requested that we have corrected
all no errors & omissions as directed

Yasir Saleem
Adv


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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1251/2016

Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi.

(Appellant)

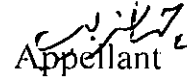
VERSUS

The Provincial Police Officer, Khyber Pakhtunkhuwa, Peshawar and others.


(Respondents)

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3	Copy of FIR	A	7
4	Copies of Charge sheet & statement of allegations dated 02.12.2015	B	8-9
5	Copy of the reply to the charge sheet	C	10-12
6	Copies of inquiry report dated 28.12.15 & statements of witnesses	D & E	13-20
7	Copies of final show Cause Notice and reply thereof	F & G	21-22
8	Copy of the dismissal order dated 13.01.2016	H	23
9	Copies of the departmental appeal dated 26.01.2016, rejection order 25.04.2016 and review dated 03.05.2016	I, J & K	24-29
	Copy of service appeal	L	30-36
	Copy of the order dated 10.11.2016	M	37
10	Copy of the order order dated 27.11.16 is attached as Annexure N 20	N (R.U)	38-39
11	Vakalatnama		


Appellant

Through


YASIR SLEEM
Advocate High Court

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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

**Khyber Pakhtunkhwa
Service Tribunal**

Appeal No. 1251/2016

Diary No. 1280

Dated 09-12-2016

Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. The District Police Officer, Swabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 10.11.2016, whereby, the departmental appeal of the appellant has been partially accepted and the appellant has been re-instated in service but, the penalty of reduction of time scale for 4 years to the extent of 03 stages has been imposed upon him and also he has been denied the salary for the intervening period.

Prayer in Appeal: -

On acceptance of this appeal impugned order dated 10.11.2016, may please be partially set-aside to the extent of reduction of time scale and denial of salaries and the appellant may please be re-instated in service with full back wages and benefits of service.

Filed to-day

Registrar

9/12/16

Re-submitted to -day
and filed.

Registrar

20/12/16

Respectfully Submitted:

1. That the appellant was initially appointed/ enlisted as Constable in the Police Department in the year 1989-90.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance. The appellant was lastly posted at Police station Zaida.
3. That while serving in the said capacity, on 30.11.2015 the appellant along with his fellow Constable/ rider namely Fida Khan was on routine Gusht on Motorcycle in the local limits of Police Station Zaida. An unfortunate occurrence took place, when some unknown terrorists attacked other rider squad by opening indiscriminate firing upon them, in the area of Village Thankhoi, which resulted in the death of one Constable namely Imtiaz and injury to other Constable namely Ghulam Abbas. The appellant and his fellow Constable opened fire on the assailants and also tried hard to chase them, unfortunately they managed to flee away. A case vide FIR No. 89 dated 30.11.2015 U/S 302,324,353,404,34 PPC along with Section 7 of the ATA was also registered against the unknown persons. *(Copy of the FIR is attached as Annexure A)*
4. That due to the above mentioned incident, later the appellant was proceeded departmentally and departmental proceedings were initiated against him. He was served with a charge sheet and statement of allegations vide order dated 02.12.2015, containing the baseless allegations of cowardice and gross misconduct. *(Copy Charge Sheet and statement of allegation dated 02.12.2015 is attached as Annexure B)*
5. That the appellant duly replied the charge sheet and refuted the allegations leveled against him. *(Copy of the reply to the charge sheet is attached as Annexure C)*
6. That a partial inquiry was conducted and the inquiry officer submitted his report dated 28.12.2015, wherein quite wrongly he held the appellant guilty of the charges and recommended him for major punishment vide his report dated 28.12.2015. *(Copies*

of the inquiry report dated 28.12.2015 and statement of the witnesses are attached as Annexure D & E)

7. That thereafter the appellant was served with final show cause notice which he duly replied. *(Copies of the show cause notice and reply thereof are attached as Annexure F & G)*
8. That the competent authority without considering his defence reply, quite illegally awarded the appellant awarded the major penalty of **Dismissal from Service** vide order dated 13.01.2016, *(Copy of the order dated 13.01.2016, is attached as Annexure H)*
9. That feeling aggrieved from the dismissal order, the appellant duly submitted his departmental appeal on 26.01.2016 before the respondent No. 2, however it has also been rejected vide order dated 25.04.2016. It is pertinent to mention here that the appellant had also filed an appeal/review petition dated 03.05.2016 to the Respondent No.1. *(Copies of the departmental appeal and rejection order dated 25.04.2016 and review petition dated 03.05.2016 are attached as Annexure I, J & K).*
10. That the appellant after rejection of his departmental appeal approached this Honorable Tribunal in Service Appeal No.528/2016. *(Copy of service appeal is attached as Annexure L)*
11. That during the pendency of the service appeal, the review petition of the appellant has been partially accepted vide order dated 10.11.2016 whereby though the appellant has been re-instated in service, however the penalty of dismissal from service has been converted into reduction of time scale for 4 years to the extent of 3-stages, the appellant has also been denied the salaries for the intervening period. *(Copy of the order dated 10.11.2016 is attached as Annexure M)*
12. That due to the new development/ modification of penalty, the appellant filed application for the withdrawal of his earlier appeal with the permission to file fresh appeal, the application has been accepted vide order dated 23-11-2016 *(Copy of the ~~order~~ order dated 23-11-16 is attached as Annexure N & ~~Q~~)*
13. That the penalty imposed upon the appellant is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:


GROUND SERVICE OF APPEAL:

- A. That the appellant has not been treated in accordance with law hence his rights secured and granted under the law are badly violated.
- B. That no proper procedure has been followed before awarded the penalty to the appellant, the appellant has not been properly associated with the inquiry proceedings, the statements of the witnesses were never recorded in his presence nor he was given opportunity to cross examine those who may have deposed against him. Moreover the appellant has not been given proper opportunity of being heard. Thus the whole proceedings are thus defective in the eye of law.
- C. That the appellant has not been given the opportunity of personal hearing. Thus he has been condemned unheard.
- D. That by partially accepting the appeal/review petition dated 03.05.2016 and thereby re-instating the appellant, the respondent himself admitted the innocence of the appellant.
- E. That the charges leveled against the appellant were never proved during the inquiry, the inquiry officer gave his findings on mere surmises and conjunctures.
- F. That the whole proceedings conducted against the appellant were biased and with malafide intention, there was no evidence against the appellant, but quite illegally the charges were alleged to have been proved.
- G. That the appellant had shown extreme bravery while chasing the assailants/ terrorists. In order to facilitate the arrest of the assailants dead or alive firing was also opened at them, which fact has been admitted by the witnesses in their statements before the inquiry officer. But taking the opportunity of village population, the assailants succeeded in decamping from the spot.
- H. That the facts relating to the action taken by the appellant in relation to the attack by the terrorists have been verified by the concerned investigating officer.
- I. That the people of the locality have also witnessed the efforts made by the appellant for the arrest of the assailants at the

time of occurrence. The version of the appellant has been verified and supported by witnesses of the locality before the inquiry officer and there statements have been recorded at the time of inquiry. Even the injured constable recorded his statement wherein he admitted that the rider squad was firing at the assailants. However the inquiry officer had completely ignored the statements of the eye witnesses and had based his findings on mere surmises and conjunctures.

- J. That during the inquiry the statements of the witnesses have not been recorded in presence of the appellant nor he has been given opportunity to cross examine the witnesses, rather the inquiry officer himself cross examined the witnesses and appellant has not been given opportunity to cross examined the witnesses.
- K. That the appellant has at credit spotless service career. The penalty impose upon him is harsh and liable to be set-aside.
- L. That the appellant was jobless and he was never in a gainful employment during the intervening period i.e, period in between his illegal dismissal from service up to his re-instatement vide order dated 10.11.2016, so he is also entitled for the back benefits of the intervening period.
- M. That the appellant seeks permission to relay on additional grounds at time of hearing of the appeal.

It is, therefore, humbly prayed that on acceptance of this appeal impugned order dated 10.11.2016, may please be partially set-aside to the extent of reduction of time scale and denial of salaries the appellant may please be re-instated in service with full back wages and benefits of service.


Appellant

Through


YASIR SALEEM
Advocate High Court

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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. _____ /2016

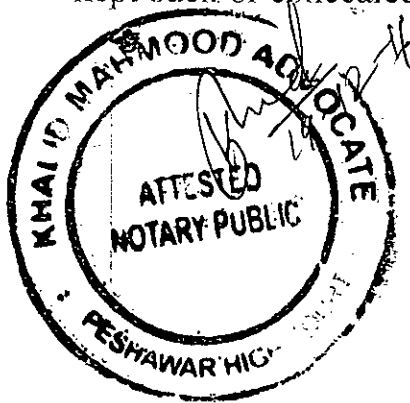
Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi.
(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhuwa,
Peshawar and others.
(Respondents)

AFFIDAVIT

I, *Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Jehanzeb
Deponent

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تفیس آفسر عدو خان ان پورٹ
تاریخ نمبر (1) 5-11

MO-0343-9572234

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ پروفہ ۱۵۴ مجموعہ ضابطہ نوحداری

مردان برجن

فعلی

C.T.D

تاریخ وقت وقوعہ 30/15 وقت 15:30 بج

89

تاریخ وقت رپورٹ 30/15 وقت 16:25 بج	جاگید گئی پیر چر 30/15 وقت 18:20 بج
نام و سکونت اطلاع دہندہ مستفیث غلام عباس 1356 ولد محمد رفیق قسیر ساکن گلی باغ مردان (حال پولیس ملازم کڈا زمین	
مختصر کیفیت جرم (مدونہ) حال اگر کچھ لیا گیا۔ 404347ATA	302-324-353
جائے وقوعہ و فاصلہ تھانہ سے اور سمت ٹھکانہ کڑی پورے الزم نزدیکی کھارہ شاہ صاحب شرقی لہذا اصلہ تقریباً 15/15 مونسٹرا زمین	
نام و کنیت لہزم	
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	پیر سید صاحب صاحبہ حضور جروج رحمت کڈا خان شاہ
تھانہ سے روانگی کی تاریخ و وقت	بطور پیشل رپورٹ

ابتدائی اطلاع نیچے درج کردہ۔ جو وقت صدر آفک تحریری میں ملانے میں ملایا
آفک پینل رمضان 339 موصول ہو کر پہلی ہے۔ خدمت SHO صاحب تھانہ C.T.D مردان خروج
غلام عباس 1356 ولد محمد رفیق قسیر قوم افغان بھر قریب 34 سال ساکن گلی باغ مردان حال
پولیس ملازم کڈا زمین کالٹ قحری و حسین و یونس جنکون پینل امتیاز 250 سوار سوار سوار
سرکاری جہاز BMC لائن حاکم خروج 2 پینل غلام عباس چونکہ درست پیشرواں میں ہے
موجودہ CMO صاحب رپورٹ کرنا جسکے امیدوار میں صدر پینل امتیاز 250 راجہ سوار سوار
سائل سرکاری علیحدہ اور کشیدان چھانڈہ 72 خدا 1100 آفک سوار سوار سوار سوار
سرکاری رائیڈر گشت علاقہ پیر موجود ہے۔ جب قسط گوی پورے ونڈ لارے پیر و این اپنے
پورے کشیدان چھانڈہ 72 خدا 1100 سوار سوار پیر سے آگے جہنگہ ہم ایک
جنگہ جاری ہے۔ جب نزدیکی کھارہ شاہ صاحب پیر پیر پیر پیر پیر پیر پیر
موجودہ پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر
خاطرنگ سے پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر
کی خاطرنگ سے لگ کر موقع پر عاقل ہوا جہنگہ پیر پیر پیر پیر پیر پیر پیر پیر
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ملازمان نے جگہ وقت سید پینل امتیاز 250 کے سرکاری کڈا شکوفہ پیر پیر پیر پیر
لوڈ شدہ جس 30 سرد کارلوں میں نمایاں ہے۔ جو توجہ پیر پیر پیر پیر پیر پیر پیر پیر
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ملازمان سے موٹر سائیکل بلڈ پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر
میں جہد و حقیقت خود پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر پیر

Nice
0-0313-9578131

حضور استوار کا دفتر صورت حال، گفتگو، ضرورت، جرم و عدوم عناصر کو
لیجنس پولیس مراد ٹیم عدویہ و معاملہ و رائے ڈاکٹری زیر حفاظت پولیس
حوالہ ڈاکٹر صاحب کیا گیا۔ مضمون رپورٹ سے صورت جرم بالا پائی جانے
لیجنس پولیس رپورٹ بہت کچھ ریمانڈ 339 ارسال ہو جانے سے
حضور ڈاکٹر نزیٰ حضرت باجی ای. ایچ آر 2 BMC سنا سنہ مورخہ 30-11-2015
کا حوالہ نمائندگی میں آدھہ عدویہ حروف بحرف درجے 4 عدویہ پیکر نزیٰ جرم
توقیہ مذمتی نوٹر حضور FIR عدویہ اسلئے پیکر نزیٰ حوالہ ایچ آر 2
سندھ لٹیشن کے جہانے ہیں۔ پیکر نزیٰ رپورٹ گواہی

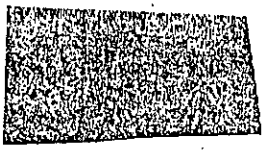
SIR B.O.D
30-11-2015

سیدنا

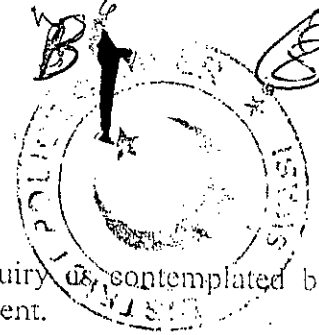
دستخط

دستخط

اطلاع کے نیچے اطلاع دیندہ کا دستخط ہوگا یا اس کی مہر یا نشان لگایا جائے گا۔ اگر اس پر کوئی ہتھیار یا اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الفبائی سرخ روشنائی سے ایک لٹرم یا مشہر علی الترتیب واسلئے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں سوزوں ہوں، لکھنا چاہئے۔



ANNEXURE B



CHARGE SHEET

Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I Javed Iqbal PSP, District Police Officer, Swabi charge you Constable Jehanzeb No.72 on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

Certified to be true

[Signature]

District Police Officer,
Swabi.

ATTESTED

[Signature]
District Police Officer, Swabi.

Date of Presentation of Application: 29/4/16
Copying Fee: - Nil -
Total Pages: 17
Name of Copying: Arshed HC
Date of Completion of Copy: 29/4/16
Date of Delivery of Copy: 29/4/16

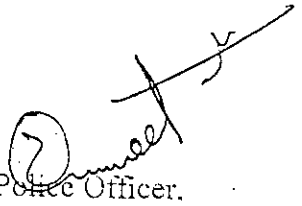
ATTESTED *[Signature]*

9

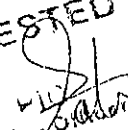
SUMMARY OF ALLEGATIONS

It is alleged that on 30.11.2015, two rider squads were on routine gasht in the area of village Thand Koi, PS Zaida. At 15:30 hours, when they reached Poory Lar near the house of Alamzaib, 02 motorcyclists opened indiscriminate fire upon them. As a result constables Imtiaz Gul No.250 was hit and died on the spot, while Ghulam Abbas No.1356/Ex hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased constable. Constable Jehanzeb No.72, who was riding on the second motorcycle and was present on the spot, showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from the crime scene, which is highly against the discipline and amounts to gross misconduct, hence statement of allegation.

Mr. Arab Nawaz Khan, DSP, Swabi is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 178 /CC/PA,
Dated. 02/12 /2015

ATTESTED

District Police Officer, Swabi

ATTESTED


بیانے ازان کنٹیل میں انزیب سے 72 حال پوئس کا این بعد اچے

بطفہ بیان کیا کہ سائل کے خلیزے ہار 2 شیت میں ماید انزامت
 بابے بزوکے / غفلت برتے برومومورم پورٹ شد، بحوالہ مقدمہ 89 سا
 3-11-15
 جو الزا کی ہے - وجہ بنیاد اور نفی ظہر مکتے ہے - سائل در 2 ذیل معروضہ عرض
 کہ سائل کا تریبہ میں بطورم انڈر ڈیوٹے پر تعینات ہے گا - کہ در 15
 اے نافوٹلو اور موقعہ رونما ہوا جس میں سائل نے اپنے ملاء ہیٹ سا ہر
 فہ پور کیا - مگر اس سے باوجود سائل کے خلیزے کا تریبہ شروع ہوا
 کہ سائل بطور کنٹیل پوئس ڈیپارٹمنٹ میں تقریباً 27 سال ملزریٹ
 درج ہے - اور جو وقتے اس ڈیپارٹمنٹ میں مدد کے دل سے ملزریٹ

Certified to be true

DSP No. 20/11/15

ATTE District Police

کہ سائل کے خلیزے جو Cowardice کہ انزامت آگوا تری سے
 Summary of Allegations میں گھلتے ہیں - وہاں کھلے بنیا و خلیزہ
 کے ہیں - اس کیس کے FIR کے متن کو دیکھیں - تو اس کے
 میں سہیت ظلم میاں سے 1356 اور لکھا ہے کہ سارے پوئس کے مسز
 خود اختیار فی میں ملزبان پر مائرتفک اور مکتے سے لکھا تھا تو اس سے
 نفش اور طلامے کو دیکھیں - تو سائل نے مجھ سے لکھے خوب ملزبان / در
 کا پتیا کیا ہے - اور اپنے معترضیت خوب استعمال کیا ہے - اور
 کہ سائل کی جگہ سے 7.62 پورے 6 کو قول اور مکتے کنٹیل فراہ
 کی جگہ سے اور حوالے پر اس سے ہے - جو کہ سائل / سائلڈن کے کارروائی کا

لکھا تھا اس کیس میں نفش بھی جاری ہے اور نفش کے دوران اس کی کوئی
 موجود نہیں - جی سے سائل کی غفلت / Cowardice اس کیس یا کسی اور
 میں ظاہر ہے لکھا تھا اس کیس میں سائل اپنے ساتھی فراخان کے پیچھے خوف
 وقوعہ پیشا ہوا تھا - اور دوران مائرتفک فراخان کنٹیل بھی دست برد
 مائرتفک سے بے گناہ تھا - اس سے سائل نے ڈر لوگے کا نظارہ کیا ہے - لوگ
 ملزبان کا پتیا نہ کرتے - بلکہ بھاگ جاتے - اور سب بارہ میں نفشی افسر کو خوب ملز
 سہیت کنٹیل اور عرفے (میں) کنٹیل ہم سے لکھے ہے - جو نبی ہم مائرتفک شروع ہو
 گو ہم نے پوری قوت اور جاہل سستی کہا ہے دست برد و کا و ما کا

Handwritten signature

11

Certified to be True

دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 کیا۔ شہت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 ملک دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 ان سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 کے دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
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 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
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 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔
 سائبر سائبر دہشت گردوں کا قتل کیا۔ سائبر سائبر دہشت گردوں کا قتل کیا۔

Attest
 DSP / Swabi
 20/12/15

ATTESTED
 District Police Officer, Swabi

ATTESTED

(12)

نیز معاملہ میں میرے ساتھ ساتھ کی خبریں بھی مانتی تھی۔ سب سے پہلے یہاں
تعمیر ہوئی۔ ایک یہ مطلب بھی ہے کہ دہشت گردوں نے اپنی کارکردگی
میں دکھانے کے لیے اس طرح کی سرگرمیوں کو دہشت گردوں کا معاملہ کیا۔ اور ایسا
تعمیر کاروں کو دکھانے اور دہشت گردوں کے لیے پر محسوس کرنے کے لیے
یہ مطلب بھی ہے۔ کہ اگر دہشت گرد مارے نہ گئے۔ تو ہم نے کارکردگی
کو روکنے میں بھی کوشش کی۔ اور اس پر الزام زدگانے کا بھی حکم دیا گیا۔

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جو نیک معاملہ میں گفتنی جا رہی ہے۔ تاکہ ساتھ ساتھ دہشت گردوں کی موجودگی
میں۔ اور ساتھ ساتھ یہ قسمیں بھی ہرگز۔ کہ دہشت گردوں کو کچھ بھی نہیں
ہوگا۔ کہ ہم پر یا وجود خوف کے اور ایسی ہے۔ ڈرلوں کے کا حصہ ہے
جو کہ سرسری طور پر بنیادوں سے 27 سالہ سروس میں شامل
مہذبہ کے خلاف Adverser Remark موجود ہے۔

DSP/Swabi
28/1/11

لیجے اندر میں بالاقابلت کے روشنی میں شامل ہے خلاف
بلا مزید کارروائی کے قابل کرنے کے احکامات کے معاد فی مابقی

ATTESTED
District Police Officer, Swabi.

کنٹرول جوائنٹ 72 پولیس ایجنسی ہوائی

مردوں... آج کے اور دہشت گردوں کے مابین کتنا فاصلہ تھا؟
2۔ 309 تقریباً

سوال: اگر اس کے صحیح رائیڈ پر فائر ہو گا تو 4 اور یہ کاری اور لگنے کے لیے اپنے ساتھ لے جائے گا
کتابا علیم ہوگا، اگر ایسا واقعہ دہشت گردوں کے ساتھ ہوا تو کیا
نہ: تقریباً 100 میٹر ہے

گواہی ہے 72

ATTESTED



13

ANNEXED³

DY: No. 1448 /SB.
DATED: 28 /12 /15.

SUBJECT: DEPARTMENTAL ENQUIRY AGAINST CONSTABLE JAHANZAIB NO 72 CONDUCTED BY MR. IZHAR SHAH KHAN.

It is submitted that a departmental enquiry against the above named constable was entrusted to the undersigned vide Endst:No.178/CC/PA, dated 02.12.2015 on the following allegations:-

ALLEGATIONS.

It is alleged that on 30.11.2015, two rider squads were on routine gasht in the area of village Thand Koi, PS Zaida. At 15:30 hours, when they reached poori Lar near the house of Alamzaib, 02 motorcyclists opened indiscriminate fire upon them. As a result constables Imtiaz Gul No 250 was hit and died on the spot, while Ghulam Abbas No 1356/Ex hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased constable. Constable Jehanzeb No 72, who was riding on the second motorcycle and was present on the spot, showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from the crime scene, which is highly against the discipline and amounts to gross mis-conduct, hence statement of allegation.

PROCEEDING:-

During the course of enquiry the delinquent Police official was called for recording statement and provision of relevant record.

01. STATEMENT OF CONSTABLE JEHANZEB NO 72 PS ZAIDA.

He stated in his statement that on the day of occurrence he along with his fellow fought with bravery and compelled the miscreants to escape. He further added that he along with his fellow were on forward rider and approximately distance of 30ft. while reaching to spot the miscreants opened fire on them hitting sweater of his rider and there after he along with his fellow followed the miscreants to long distance, but not succeeded and he further stated that after a long struggle for chasing they came to know that miscreants hit the second rider squad and take away their Kalashnikov.

Further he was cross questioned and he showed the distance between both rider squad at about 30ft and showed that about 8/9 minutes after occurrence he came to know about the incident with second rider squad.

02. STATEMENT OF INJURED CONSTABLE GHULAM ABBAS No.1365/EX PS ZAIDA.

He stated in his statement that spot facts he already interned in FIR, which are true and he further added that he made his level best efforts for chasing terrorists but due to injures he didn't succeeded, while he heard fire sound from other rider squad while chasing.

03. STATEMENT OF SI QAMAR ZAMAN KHAN SIO PS ZAIDA.

He stated in his statement that on 30.11.2015 he along with DSP Circle Swabi were present on spot vide Case FIR No. 88 dated 30.11.2015 u/s 302/34-7A/TA PS CTD Mardan, wherein Doctor Yaqoob was shot by miscreants. At that time constable Jehanzeb rider squad informed him that unknown miscreant's opened fire on them resultanty constable Imtiaz no.250 was shot killed on the spot while constable/Ex Ghulam Abbas got injured. On that information he directed constable Jehanzeb to follow

ATTESTED

District Police Officer Swabi

ATTESTED

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14



miscreants and shoot them if possible and he was ordered to follow the police party approached, but when he along with police party rushed towards the spot immediately the miscreants were gone in hiding due to their extreme cowardice and negligence. He further stated that miscreants escaped were not possible if the defaulters timely followed the culprits and properly guide police party.

To ascertain facts of the spot statements of the eye witnesses were taken but nothing was found that showed his bravery and efforts against terrorists. (Statements enclosed)

FINDINGS OF THE ENQUIRY:

After viewing the spot facts and ground realities the undersigned reached to following points.

- > Four riders 02 on each equipped with SMGs formation was that defaulter at advance rider with a distance of about 20/25 ft but he (the defaulter) not heard the incident wherein 01 Jawan lost his life while the other got serious injuries.
- > The defaulter didn't guide the approaching police party exactly where the miscreants hides because he didn't follow them in open fields in day light.
- > After approaching other police parties to spot the defaulters came to know about taking Kalashnikov from Shaheed Jawan and occurrence.

On the above points the undersigned stands him guilty and recommends him for "**MAJOR PUNISHMENT**" and to be set as a sample for entire police force, if agreed

Certified to be true copy

ATTESTED

District Police Officer, Swabi

(Signature)
(IZHAR SHAH KHAN)

Sub-Divisional Police Officer,
Swabi.

Date of Presentation of Application: 29/4/16
 Copying Fee: Nil
 Total Pages: 12
 Name of Copying: Ashard H C
 Date of Completion of Copy: 29/4/16
 Date of Delivery of Copy: 29/4/16

~~ATTESTED~~

(15)

نے برائیت بیان کر کے حورم 30/11/2015 روز وقوعہ جو کچھ میں نے
کے ساتھ ذکر PIN میں موجود ہے حقیقت یہ سب ہے۔

Certified to be True Copy

اور مزید یہ کہ میں یادوں میں بھی چونے کے بار وجود دیکھ کر میں
کا تعاقب کرنے کا کوشش کی اور صحیح طور فائر بھی ہے۔ لیکچر زخمی
ہونے کے بعد سے وہ تھپہ ہینا لگا رکھا تھا۔ اس وجہ سے اسے
کا مریاں حاصل ہینا ہوئی۔ یہی حقیقت ہے۔

Asst. Insp.
DSP/Lahore
20/12/15

Abulhasan
عقائز

مخبر عدس نمبر 1356/عقائز زمرہ

سجل۔ وقت وقوعہ صبا ایکرا سید سکوار میر فاسر پھول کو آگہ رائیڈ سکوار
آریا سے تریبہ تھپہ فامیہ ہینا؟
(2) : 29/12/15

سجل۔ وقت وقوعہ آگہ رائیڈ سکوار دیکھتے رہیں تعاقب کرنا تھا یا اس پر فائر
کیا گیا تھا؟

ATTESTED

District Police Officer, Swabi.

(2) چکیاں آگہ سکوار سائید سے فائر کرنا تھا

Abulhasan
عقائز

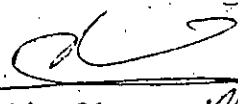
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1385-ع
Mobile: 8343-9572 975

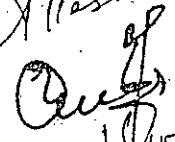
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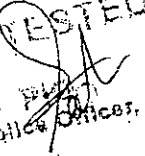
بیان از ان مقامین فی سرگامہ زبیرہ

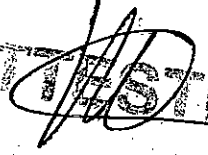
کے پیرا گراف بیان ہے کہ میں نے سرگامہ زبیرہ میں تقریباً 30/15 سے 35/15
 31/11 سے 12/12/15 کے درمیان میں 72 سے 75
 امتیاز سے 1338 کو مسلح قزاقوں کے ساتھ سرگامہ زبیرہ
 میں پوری قوت کے ساتھ اپنے پورے علاقہ میں پیرا گراف میں
 میں نے سرگامہ زبیرہ میں پوری قوت کے ساتھ اپنے پورے علاقہ میں
 اور اس میں سرگامہ زبیرہ میں پوری قوت کے ساتھ اپنے پورے علاقہ میں

Certified to be True COPY.


 MHCPS
 21-12-15

Attested

 DSP / Swabi
 28/12/15

ATTESTED

 District Police Officer, Swabi.

ATTESTED


(موقع گواہ)

بیان ازالہ محمد فاضل ولد محمد خالد سنگھ گندہ کون

(18)

نے بددیانتی بیان کیا ہے وہ اپنے گفتگوں میں فضل کے بارے میں کہا کہ اس کا
حصہ خاں صاحب کے دفتر میں ہے۔ یہ دعویٰ کر رہا ہے جو کہ عدالت نے اس کا
بھیجا گیا لیکن دہشت گرد قرار دیا ہے۔ بعد میں ملے کہ اس کو گورنمنٹ ہسپتال میں
موقع پر بھیج دیا گیا۔ یہی بیان ہے جو کہ دہشت گرد ہے۔

محمد فاضل
DSP
28/12/11

محمد فاضل ولد محمد خالد سنگھ گندہ کون

سوال: کیا گواہ جو کہ عدالت کے سامنے آئے گا فاضل سنگھ کا نام
50 روپے یا اس سے گھرا زیادہ۔

سوال: ایک گواہ کہ جو فاضل ولد محمد خالد سنگھ گندہ کون کا
کے طرف گیا جہاں ایک جرنل شہید اور ایک زخمی تھا، وہ بھیج کر
گواہوں کے خلاف دہشت گردی کا بھیجا گیا تھا۔ وہ دہشت گردوں کے ساتھ
دہشت گردوں کے خلاف گیا تھا اور وہ بھیج کر گندہ کون کے خلاف

محمد فاضل
DSP

محمد فاضل ولد محمد خالد سنگھ گندہ کون

NIC: 42000-5755762-3
MOB: 0845-9561869

ATTACHED

(موقع ڈاؤن)

19

بلال ازان محمد سید ولد محمد خان ملتان ٹفٹہ کول

نے بارہ ماہت سارا 30/11/2015 کو ہم اپنے ختیوں میں ٹفٹہ کا سارا کر رہے تھے۔ سارا
اننا فائرننگ کن ایڈمنسٹرائٹو کول فائرننگ کن وجہ سے ہم سارا
سے ہوئے۔ ہم نے دیکھا کہ کچھ ہوئے سارا سارا فائرننگ ہوئی۔
اس دوران اپنا فائرننگ کے دوران آگ ہوئے سارا سارا فائرننگ ہوئی۔
سارا ہوئے کچھ ہوئے سارا سارا فائرننگ سے آگ ہوئے سارا فائرننگ

بعدہ علاقے کے دوستوں کو بھی موقع مل رہا ہے اور وہ بھی موقع مل رہا ہے
ہی تصدیق ہے جو میں نے بیان کیا۔

Attest
DSP/15/15
28/11/15

محمد
محمد سید ولد محمد خان ملتان ٹفٹہ کول

سارا :- فائرننگ کرتا ہوں اور میں جو ان کے سارا کے اجازت تو آگے سارا سارا
ہے۔ یہ سارا فائل کا کافی تھا سارا سارا

سارا :- آگے سارا واقعہ اپنا سارا سے دیکھ رہے تھے تو یہ بھی دیکھا جو گارڈ سارا سارا
تو یہ سارا جو آگ ہوئے سارا سارا سارا نے اسکا دیکھا ہوا سارا

ATTESTED
District Palki

محمد سید ولد محمد خان ملتان ٹفٹہ کول

CNIC: 16202-8638321-5
MOS: 0313 8018256

ATTESTED

بیان ازل قمر خان سان 840 زیدہ

نے بددیانتی بیان کیا کہ مورخہ 30 گومیس DSP صاحب سرکل سرالی

عرب نواز خان کے ساتھ حوالہ عدد 88 مورخہ 30 صدم 302/34 2015
7AVA

کھانہ CTD حردان موقع واردات پر موجود تھے جس میں ڈاکٹر محمد یعقوب
قتل ہو چکا تھا اور CTD پولیس کے آمد کے انتظار میں تھے کہ اس دوران
جہانزیب 72 رائیڈ سکوٹر جو کہ علاقہ میں گشت کرتے پبزر ٹریفون اطلاع دیا کہ
ہم سر عقیلم آرافات ہسٹو کوئی نامعلوم رجسٹرڈ دوں نے فائرنگ کے جھگڑا
فائرنگ سے ایکسپل اسیار 250 گڈر ہسٹو ہو چکا ہے جیہ عیاش خان EX آرمی
رجھی ہے اطلاع پر فوری طور پر صحابہ DSP صاحب و دیگر پولیس کے روانہ ہو
کر جانے جاتے کٹل جہانزیب 72 کے ساتھ رابطہ میں تھا اور یہ بات بار
بار دہرائی گئی کہ مذکورہ رجسٹرڈ دوں کا پتہ سچھا جاری رکھو اور فائرنگ نہ رکھو اور
ان کو مارو۔ ہم توڑی در میں آ رہے تھے پتہ پتہ حاشیے جو ہم رکھو اور
ساعتیوں کو جو ہم دوں۔ جب ہم موقع پتہ پتہ کے کو مذکورہ رجسٹرڈ دوں کو فرار ہو چکے تھے
مذکورہ کٹل جہانزیب 72، ذراخان 1150 نے ہم ہماری اور دوسری پولیس
پولیس کے درست رہنا ہی اور نہ ہی رجسٹرڈ دوں کا صحیح پتہ سچھا کیا ہے
ہمایت بندی کے مترتب ہیں کیونکہ رجسٹرڈ دوں نے ہمارے اور گھلے
علاقہ میں ان کی غفلت سے فرار ہوئے۔ یہی صریح بیان ہے جو کہ درست ہے

Deyman
540/Zaida
21-12-15

ATTESTED
District Police Officer, Sahiwal

Attested
DSP / Sahiwal
20/12/15

ATTESTED

Annex F

(21)

FINAL SHOW CAUSE NOTICE

It is alleged that on 30.11.2015, two rider squads were on routine gasht in the area of village Thand Koi, PS Zaida. At about 15:30 hours, when they reached Poory Lar near the house of Alamzaib, 02 motorcyclists opened indiscriminate fire upon them. As a result constable Imtiaz Gul No.250 was hit and died on the spot, while Ghulam Abbas No.1356/Ex hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased constable. You Constable Jehanzeb No.72, while riding on the second motorcycle and were present on the spot, showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from crime scene, which is highly against the discipline and amounts to gross mis-conduct.

In this connection you were charge sheeted and served with summary of allegation and DSP, Swabi was appointed to conduct proper departmental enquiry. The enquiry officer held enquiry and submitted his findings, wherein, he held you Constable Jehanzeb No.72 guilty for the miss-conduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence I Javed Iqbal PSP, District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to offer.

You are also at liberty to appear for personal hearing before the undersigned.

ATTESTED
District Police Officer, Swabi

[Signature]
District Police Officer,
Swabi.

[Signature]

certified to be true copy.

بیان قصائد نمبر 72 پر لیں سوال (92)

میں نے قصائد نمبر 72 سے لے کر 72 تک کے تمام سوالوں میں
 صرف بیان کیا ہے کہ میں نے اس سلسلہ میں
 سو گانوں کو خارج کر دیا ہے جو کہ
 کتب میں دیئے گئے۔ وہ صرف بیان ہے
 اس کے ساتھ ساتھ اس کے ساتھ ساتھ

Certified Copy

قصائد نمبر 72

ATTESTED
 District Police Officer, Swabi.

ATTESTED



OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ANWAR AH

(25)

ORDER

It is alleged that on 30.11.2015, two rider squads were on routine gash in the area of village Thand Koi, PS Zaida. At about 15:30 hours, when they reached Poory Lar near the house of Alamzaib, 02 motorcyclists opened indiscriminate fire upon them. As a result constable Imtiaz Gul No.250 was hit and died on the spot, while Ghulam Abbas No.1356/Ex hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased constable. Constable Jehanzeb No.72, while riding on the second motorcycle and was present on the spot, showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from crime scene, which is highly against the discipline and amounts to gross misconduct.

Therefore, he was served with Charge Sheet and Summary of allegations. DSP, Swabi was appointed as Enquiry Officer. The Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings wherein he found Constable Jehanzeb No.72, guilty for the misconduct and recommended him for major punishment. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officer issued him Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and he was heard in orderly room, but was found un-satisfactory.

Therefore, I, **Javed Iqbal, PSP**, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Jehanzeb No.72 Major Punishment of dismissal from service, with immediate effect.

O.B No. 74

Dated 13.1 /2016

(Signature)
(JAVED IQBAL) PSP
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.
No. 185-89 /PA, dated Swabi, the 13/01 /2016.

- Copies to the: -
1. DSP, H.Qrs, Swabi.
 2. Pay Officer.
 3. Establishment Clerk.
 4. Fauji Missal Clerk.
 5. Official concerned.

ATTESTED
(Signature)
District Police Officer, Swabi.

Date of Presentation of Application: 29/4/16
Applying Fee: N/A

Number of Pages: 17

Name of Applicant: Asghar HC

Date of Complaint: 29/4/16

Date of Enquiry: 29/4/16

(Handwritten notes and signatures)

(Handwritten signature)

① Connect's file 1

ADMITTED

(26)

**BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE,
MARDAN REGION, MARDAN.**

Subject: **DEPARTMENT APPEAL AGAINST THE ORDER VIDE O.B
NO.54 DATED 13/01/2016 WHEREBY THE DISTRICT
POLICE OFFICER, SWABI, AWARDED MAJOR PUNISHMENT
OF DISMISSAL FROM SERVICE TO THE APPELLANT
JAHANZAIB NO.72.**

Respected sir,

The appellant most humbly submits as under;

FACTS.

1. That the appellant was enrolled in police department as a constable in the year 2012 and since then was performing his official duties to the best of his abilities and to the satisfaction of the high-ups.
2. That on 30-11-2015 an unfortunate incident of terrorist attack on a police party took place in the area of village Thankoi, falling within the jurisdiction of police station Zaida, when two unknown terrorists attacked the police party as a result whereof one constable namely Imtiaz Gul No.250 was hit and died on the spot while another constable namely Ghulam Abbas sustained injuries.
3. That the appellant was proceeded against departmentally on the basis of allegations that the appellant had showed cowardice at the time of the said terrorist attack. Resultantly the appellant was dismissed from service. Hence the present appeal.

GROUND FOR APPEAL.

1. That the impugned order is against the law, facts and material available on record as well as natural justice and as such not tenable in the eyes of law.
2. That the inquiry officer has not taken into consideration the material facts and as such recommended the appellant for major punishment. Similarly the District Police Officer, Swabi, has also ignored the material facts of the case and awarded major punishment of dismissal from service to the appellant.
3. That the appellant has shown extreme gallantry at the time of occurrence in chasing the assailants. In order to facilitate the arrest of the assailants dead or alive, firing was also opened at them. But taking opportunity of the village population the assailants succeeded in decamping from the spot. Furthermore the appellant while apprehending the loss and injuries to the innocent people of the locality could not continue with firing at the assailants.

25

25

- 4. That the facts relating to the action taken by the appellant in retaliation of the attack by the terrorists have been verified by the concerned investigating officer, which are available on case file.
- 5. That the people of locality have witnessed efforts made by the appellant for the arrest of the assailants at the time of occurrence. The version of the appellant has been authenticated during the inquiry as some persons from the locality were summoned by the inquiry officer and their statements were recorded wherein the said persons supported the version advanced by the appellant as well as the injured constable namely Ghulam Abbas.

In the light of above it is, therefore, humble requested that the impugned order may kindly be set aside and appellant may be re-instated into service with all back benefits.

Appellant

[Signature]

JAHANZAIB,

Ex Constable No.72

No. 773/ES,
dt: 26-1-16

[Signature]
Ev Commits

[Signature]
Ev Commits

[Signature]
27/1

[Signature]
Ev Commits

[Signature]
Ev Commits

[Signature]
27/1

607
27/1/16

[Signature]

ANNEX. J
26

ORDER.

This order will dispose-off the appeal preferred by Ex-Constable Jehanzeb No. 72 of Swabi District Police against the order of District Police Officer, Swabi wherein he was awarded Major punishment of Dismissal from service vide OB: No. 74 dated 13.01.2016.

Brief facts of the case are that, on 30.11.2015, two rider squads were on routine gasht in the area of village Thand Koi, Police Station Zaida, at about 15:30 hours, when they reached Poory Lar near the house of Alamzeb, 02 Motorcyclist opened indiscriminate fire upon them. As a result Constable Imtiaz Gul No. 250 was hit and died on the spot, while Ghulam Abbas No. 1356/Ex hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased constable. The appellant namely Ex-Constable Jehanzeb No. 72 while riding on the second motorcycle and was present on the spot showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from crime scene, which is highly against the discipline and amounts to gross misconduct. Therefore he was served with charge sheet and summary of allegations and Deputy Superintendent of Police, Swabi was appointed as enquiry Officer. The Officer conducted proper departmental enquiry collected the evidence and recorded statements of all concerned. He submitted his findings wherein he found the appellant guilty of misconduct and recommended him for Major punishment. The District Police Officer, Swabi perused the enquiry papers, findings and by agreeing with the enquiry Officers, issued him Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and he was heard in orderly room, but was found unsatisfactory, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 20.04.2016, but he failed to justify his innocence and could not produce any cogent reason about his innocence. Therefore, I Muhammad Tahir Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed forthwith.

ORDER ANNOUNCED.

M. Tahir
(Muhammad Tahir) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan

No. 3355 /ES, Dated Mardan the 25-4 /2016.

Copy to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 95/Insp: Legal dated 08.04.2016. His service record is returned herewith for record in your office.

(*****)

ATTACHED

(27)

ADMITTED

To

The Provincial Police Officer,
Government of KPK. Peshawar.

Subject: -

Appeal against the orders dated 13/1/16 passed by DPO Swai vide which the appellant was awarded major punishment, dismissal from the service and order No. 3355 dated 25/4/16 passed by DIG Police, Mardan Region-I, vide which the appeal of the appellant was rejected.

Prayer: -

On acceptance of this appeal, the above orders passed by DPO Swabi and DIG Mardan Region-I may kindly be set-aside and the appellant may be re-instated in service.

.....

Respected Sir,

It is submitted as under: -

1. That the appellant was serving as constable in Police Department and was posted at PS. Zaida, District Swabi.
2. That some false and baseless allegations were leveled against the appellant that he did not chase the terrorists and also did not fire at terrorists.
3. That an enquiry was conducted against the appellant, in which the appellant was held guilty and the enquiry officer submitted his report against the appellant.
4. That in the light of the report of the enquiry officer, the appellant was dismissed from service vide DPO Swabi order referred to above.

ADMITTED

5. That feeling aggrieved from the above order, the appellant preferred an appeal before the DIG Mardan Range-1, but the said appeal was rejected vide order mentioned above.

7. That now the appellant prefers this appeal before your honour on the following grounds inter-alia: -

GROUNDS.

A. That both the above orders passed by DPO Swabi and DIG Mardan Range-1 are against justice and facts on record.

B. That no weight was given to the statements given in favour of the appellant by the enquiry officer.

C. That the statements of injured constable Ghulam Abbas reveals the appellant and his companion made firing on the terrorists and also chased them and making good their escape.

D. That Fazle Sharaf and Muhammad Fazil were examined by the enquiry officer as eye witnesses to the occurrence who deposed in their statements that the terrorists were chased by the appellant and his companion constable and they also made firing at the terrorists and put their lives in danger. Moreover empty shells were also recovered from the spot of the appellant, and taken into possession, which is evident from the site plan.

ATTESTED

- E. That the appellant performed his duty efficiently and there is no fault on the part of appellant.
- F. That the appellant showed extreme gallantry at the time of occurrence in chasing and making firing at the terrorists.
- G. That the appellant has 28 years spotless service into his credit.
- H. That the punishment awarded to the appellant is harsh one and liable to be set-aside.

It is, therefore, requested that on acceptance of this appeal, the appellant may kindly be re-instated in service with all back benefits.

Dated: - 3/5/16.

Appellant


Jehanzeb,

Ex-constable No. 72,

District Swabi.

Mobile No. 03145517307.


ATTESTED

(39)

ANWAR L

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____ /2016

Jehanzeb Khan Ex-Constable No.72, Police Station Zaida Swabi

(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar an others

(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal		1-5
2.	Affidavit		6
3.	Copy of FIR	A	7
4.	Copies of Charge Sheet & statement of allegations dated 02.12.2015	B	8-9
5.	Copy of the reply to the Charge Sheet	C	10-12
6.	Copies of inquiry report dated 28.12.2015 & statements of witnesses	D&E	13-20
7.	Copies of final show Cause Notice and reply thereof	F&G	21-22
8.	Copy of the dismissal order dated 13.01.2016	H	23
9.	Copy of the departmental appeal dated 26.01.2016 and rejection order 25.04.2016	I&J	24-26
10.	Wakalat Nama		27

Dated:-

Through

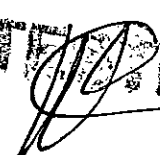
Appellant

Ijaz Anwar

&

Sajid Amin

Advocates, Peshawar

ATTORNEY


BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2016

Jehanzeb Ex-Constable No.72, Police Station Zaida, District Swabi.

(Appellant)

VERSUS

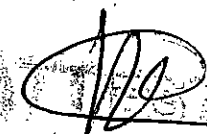
1. The Provincial Police Officer, Khyber Pakhtunkhuwa, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. The District Police Officer, Swabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 13.01.2016, whereby the appellant has been awarded the major Punishment of **DISMISSAL FROM SERVICE** against which the departmental appeal dated:26.01.2016 has also been rejected vide order dated: 25.04.2016.

Prayer in Appeal: -

On acceptance of this appeal impugned orders dated 13.01.2016 and 25.04.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.


ACCEPTED

Respectfully Submitted:

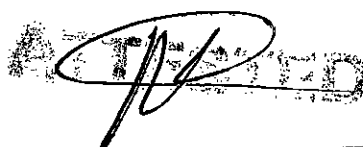
1. That the appellant was enlisted as Constable in the Police Department in the year 1989-90.
2. That ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance. The appellant was lastly posted at Police Station Zaida District Swabi.
3. That while serving in the said capacity, on 30.11.2015 the appellant along with his fellow Constable/ rider namely Fida Khan was on routine Gusht on Motorcycle in the local limits of Police Station Zaida. An unfortunate occurrence took place, when some unknown terrorists attacked another rider squad by opening indiscriminate firing upon them, in the area of Village Thankhoi, which resulted in the death of one Constable namely Imtiaz and injury to other Constable namely Ghulam Abbas. The appellant and his fellow Constable opened fire on the assailants and also tried hard to chase them, unfortunately they managed to flee away. A case vide FIR No. 89 dated 30.11.2015 U/S 302,324,353,404,34 PPC along with Section 7 of the ATA was also registered against the unknown persons. *(Copy of the FIR is attached as Annexure A)*
4. That due to the above mentioned incident, later the appellant was proceeded departmentally and departmental proceedings were initiated against him. He was served with a charge sheet and statement of allegations vide order dated 02.12.2015, containing the baseless allegations of cowardice and gross misconduct. *(Copy Charge Sheet and statement of allegations dated 02.12.2015 is attached as Annexure B)*
5. That the appellant duly replied the charge sheet and refuted the allegations leveled against him. *(Copy of the reply to the charge sheet is attached as Annexure C)*
6. That a partial inquiry was conducted and the inquiry officer submitted his report dated 28.12.2015, wherein quite wrongly he held the appellant guilty of the charges and recommended him for major punishment vide his report dated 28.12.2015. *(Copies of the inquiry report dated 28.12.2015 and statement of the witnesses are attached as Annexure D & E)*

ACCEPTED

7. That thereafter the appellant was served with final show cause notice which he duly replied. *(Copies of the show cause notice and reply thereof are attached as Annexure F & G)*
8. That the competent authority without considering his defence reply, quite illegally awarded the appellant awarded the major penalty of **Dismissal from Service** vide order dated 13.01.2016. *(Copy of the order dated 13.01.2016, is attached as Annexure H)*
9. That feeling aggrieved from the dismissal order, the appellant duly submitted his departmental appeal on 26.01.2016 before the respondent No. 2, however it has also been rejected vide order dated 25.04.2016. *(Copies of the departmental appeal and rejection order dated 25.04.2016, are attached as Annexure I & J).*
10. That the penalty imposed upon the appellant is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND SERVICE OF APPEAL:

- A. That the appellant has not been treated in accordance with law hence his rights secured and granted under the law are badly violated.
- B. That no proper procedure has been followed before awarded the penalty to the appellant, the appellant has not been properly associated with the inquiry proceedings, the statements of the witnesses were never recorded in his presence nor he was given opportunity to cross examine those who may have deposed against him. Moreover the appellant has not been given proper opportunity of being heard. Thus the whole proceedings are thus defective in the eye of law.
- C. That the appellant has not been given the opportunity of personal hearing. Thus he has been condemned unheard.
- D. That the charges leveled against the appellant were never proved during the inquiry, the inquiry officer gave his findings on mere surmises and conjunctures.

A handwritten signature in blue ink is written over a rectangular stamp. The stamp contains the word "ATTACHED" in a bold, sans-serif font.

- E. That the whole proceedings conducted against the appellant were biased and with malafide intention, there was no evidence against the appellant, but quite illegally the charges were alleged to have been proved.
- F. That the appellant had shown extreme bravery while chasing the assailants/ terrorists. In order to make sure the arrest of the assailants dead or alive firing was also opened at them, which fact has been admitted by the witnesses in their statements before the inquiry officer. But taking the opportunity of village population, the assailants succeeded in decamping from the spot.
- G. That the facts relating to the action taken by the appellant, in relation to the attack by the terrorists have been verified by the concerned investigating officer.
- H. That the people of the locality have also witnessed the efforts made by the appellant for the arrest of the assailants at the time of occurrence. The version of the appellant has been verified and supported by witnesses of the locality before the inquiry officer and there statements have been recorded at the time of inquiry. Even the injured constable recorded his statement wherein he admitted that the rider squad was firing at the assailants. However the inquiry officer had completely ignored the statements of the eye witnesses and had based his findings on mere surmises and conjunctures.
- I. That during the inquiry the statements of the witnesses have not been recorded in presence of the appellant nor he has been given opportunity to cross examine the witnesses, rather the inquiry officer himself cross examined the witnesses and appellant has not been given opportunity to cross examined the witnesses.
- J. That the appellant has at credit 27 years of spotless service career. The penalty impose upon him is too harsh and liable to be set-aside.
- K. That the appellant is jobless since his illegal dismissal from service.

ATTACHED

L. That the appellant seeks permission to relay on additional grounds at time of hearing of the appeal.

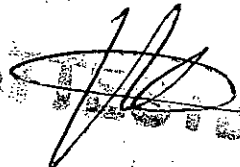
It is, therefore, humbly prayed that on acceptance of this appeal impugned orders dated 13.01.2016 and 25.04.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

Appellant

Through

IJAZ ANWAR
Advocate Peshawar
&

SAJID AMIN
Advocate Peshawar


ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2016

Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi
(Appellant)

VERSUS

The Provincial Police Officer, Khyber Pakhtunkhwa
Peshawar and others.
(Respondent)

AFFIDAVIT

I, *Jehanzeb Ex-Constable No.72, Police Station Zaida Swabi*, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.

Deponent

ATTESTED



(37) ANWAR M

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. SI 7072 /16, dated Peshawar the 10/11/2016.

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Jehan Zeb No. 72. The appellant was dismissed from service by DPO/Swabi vide OB No. 74, dated 13.01.2016 on the allegation that on 11.11.2015, two riders squads were on routine gasht in the area of village Thand Koi Police Station Mardan, at about 15:30 hours, when they reached Pooray Lar near the house of Alam Zeb, 02 motorecyclist opened indiscriminate fire upon them. As a result Constable Imtiaz Gul No. 250 was hit and died on spot, while Ghulam Abbas No. 1356 hit and seriously injured. While escaping the accused also took away official rifle 7.62 bore from the deceased Constable. The above named ex-official while riding on second motorcycle and was present on the spot showed extreme cowardice in the entire episode, which resulted in safe escape of the accused from crime scene.

His appeal was filed by RPO/Mardan vide order Endst: No. 3355/ES, dated 25.04.2016.

Meeting of Appellate Board was held on 22.09.2016 wherein appellant was heard in person. During hearing petitioner contended that he did not display cowardice and also retaliated the firing of the criminals and made all efforts for chasing the criminals. Petitioner has served the department for long period of about 29 years.

Therefore, the Board decided that Ex-Constable Jehan Zeb No. 72 is hereby re-instated in service and the penalty of dismissal from service is converted into time scale for 04 years to the extent of 03 stage. The intervening period be considered as period in service but not on duty and he will not be entitled for salary of the intervening period. He will remain under special watch for one year.

This order is issued with the approval by the Competent Authority.

(NAJEEB)
(NAJEEB-UR-REHMAN BUGVD)
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

SI 7073-79 /16.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan.
2. District Police Officer, Swabi.
3. DPO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: B-IV CPO Peshawar.
7. Central Registry Cell, CPO.

(Signature)



1 (38)

A N M - a "N"

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 527/2016



P.W.P Provincial
Service Tribunal
Diary No. 505
dated 19-5-2016

Fida Khan Ex-Constable No.1100, Police Station Zaida Swabi.

(Appellant)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhuwa, Peshawar.
2. The Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. The District Police Officer, Swabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 13.01.2016, whereby the appellant has been awarded the major Punishment of dismissal from service against which the departmental appeal dated:26.01.2016 has also been rejected vide order dated: 25.04.2016.

Prayer in Appeal: -

On acceptance of this appeal impugned orders dated 13.01.2016 and 25.04.2016, may please be set-aside and the appellant may please be re-instated in service with full back wages and benefits of service.

19/8/16

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

39

Appeal No. 527/2016
Fida Khan vs Govt



23.11.2016

Counsel for the appellant present and submitted application for early hearing of the appeal. Appeal be requisitioned for today. Learned counsel for the appellant submitted before the court that since the penalty of the appellant has been converted from dismissal from service to reduction of time scale, therefore, the appellant be allowed to withdraw the instant appeal so that he could challenge the fresh order. Request accepted. The appeal in hand is hereby dismissed as withdrawn. The appellant is at liberty to challenge the fresh order as per law. File be consigned to the record room.

ANNOUNCED
23.11.2016

(ABDUI
MEM

self-
(Abdul Latif) (M. Asim Nazir)
Member Member

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 02-12-16
Number of Words 800
Copying Fee 600
Urgent Yes
Total 600
Name of Copyist [Signature]
Date of Completion of Copy 14-12-16
Date of Delivery of Copy 14-12-16

23/11/16

POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa Service Tribunal
Jahanzai } For Peshawar

} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

P.P.O and others

} Defendant
} Respondent
} Accused
}

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

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

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

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

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

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

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

YASIR SALEEM
Advocate High Courts

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0331-8892589

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1251/2016.

Jehanzeb Khan Constable..... Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
& Others..... Respondents.

WRITTEN REPLY ON BEHALF OF RESPONDENTS.

1. **Preliminary Objections.**

1. That the appellant has got no Cause of action and locus standi to file the present appeal.
2. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
3. That the appeal is time barred.
4. That the appellant has not come to the Tribunal with clean hands.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the present appeal.
6. That the instant appeal is not maintainable in its present form.
7. That the appellant concealed the material facts from this Hon'ble Tribunal.
8. That the appellant has been estopped by his own conduct to file the appeal.

2. **REPLY ON FACTS.**

1. Para No. 01 of appeal pertains to record, hence need no comments.
2. Para No. 02 of appeal pertains to record, hence need no comments.
3. Para No. 03 of appeal is correct to the extent of registration of FIR No. 89/2015, however appellant and his fellow constable showed extreme cowardice in the incident which results in the safe escaped of accused from the spot.
4. Para No. 04 of appeal is correct to the extent of departmental proceedings against appellant on account of his cowardice in the incident reported in the above FIR.
5. Para No. 05 of appeal is correct to the extent of reply of appellant, however the reply of appellant was not satisfactory nor convincing.
6. Para No. 06 of appeal is incorrect. Proper departmental enquiry in accordance with rules was conducted during which appellant was found guilty and recommended for major punishment.
7. Para No. 07 of appeal is correct to the extent of service of Final Show Cause Notice, the reply of which was found unsatisfactory, however, keeping in view the principle of natural justice, appellant was provided opportunity of personal hearing and heard in Orderly Room, but he could not prove himself innocent, therefore dismissed from service vide order dated 13.01.2016.
8. Para No. 08 of appeal is incorrect. Reply already given vide para above.

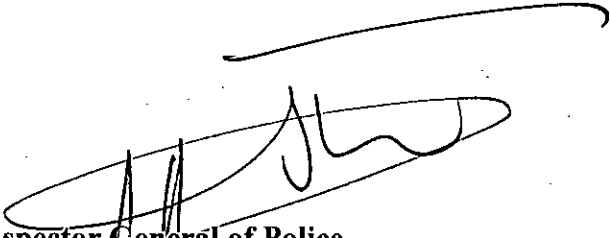
9. Para No. 09 of appeal is correct to the extent of rejection of departmental appeal and filling of review petition before the respondent No. 01, however, the review petition was properly entertained and partially allowed by converting order of dismissal into reduction in pay, keeping in view his long service.
10. Para No. 10 of appeal relates to Tribunal, hence need no comments.
11. Para No. 11 of appeal is correct to the extent of partial acceptance of review petition vide order dated 10.11.2016, however the charges against appellant has already been proved in departmental proceedings, therefore the respondent No. 01 modified the major penalty of dismissal into reduction in pay i.e. time scale for 04 years upto 03 stages, while the intervening period was considered as period in service but not on duty, hence not entitled for salary on the principle of "No work no pay".
12. Para No. 12 of appeal relates to Tribunal, hence need no comments.
13. That the respondent No. 01 by taking lenient view, keeping in view long service of appellant partially accepted the review petition by converting major penalty of dismissal into reduction in pay vide order dated 10.11.2016 which is speaking order, hence the instant appeal may be rejected.

GROUND.

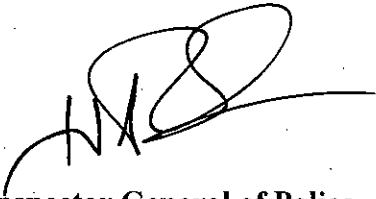
- A. Incorrect. Appellant has been treated in accordance with law & rules.
- B. Incorrect. After proper departmental enquiry in accordance with rules, appellant was awarded punishment. Moreover, all codal formalities were fulfilled before awarding punishment to appellant.
- C. Incorrect. Reply already given vide para above.
- D. Incorrect. The charges against appellant has already been proved during enquiry proceedings, however respondent No. 01 partially allowed the review petition of appellant and modified the punishment of dismissal from service into major penalty of reduction in pay.
- E. Incorrect. The charges against appellant have already been proved during enquiry.
- F. Incorrect. Reply already given vide paras above.
- G. Incorrect. The appellant and his colleague shown extreme cowardice in the incident.
- H. Incorrect. The appellant has shown cowardice due to which the terrorist decamped from the spot.
- I. Incorrect. The charges against appellant has been proved during enquiry on the basis of which he was awarded major punishment which was later on modified by the respondent No. 01, however he was not totally exonerated from the charges.
- J. Incorrect. Proper opportunity of personal hearing and defence has been provided to appellant during enquiry proceedings but he could not prove himself innocent.
- K. Incorrect. The respondent No. 01 has already taken a lenient view and partially accepted the review petition of appellant vide order dated 10.11.2016 which is quite legal and in accordance with rules.

- L. Incorrect. The appellant has not performed any duty for the department, hence not entitled for any salary on the principle of "No work no pay".
- M. The respondents also seek permission to rely on additional grounds at the time of hearing of appeal.


It is therefore prayed that the appeal of appellant may kindly be dismissed with cost being devoid of merits and without any legal substance.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)**



**Deputy Inspector General of Police,
Mardan Region-I Mardan.
(Respondent No. 2)**



**District Police Officer, Swabi.
(Respondent No. 3)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No. 1251/2016.

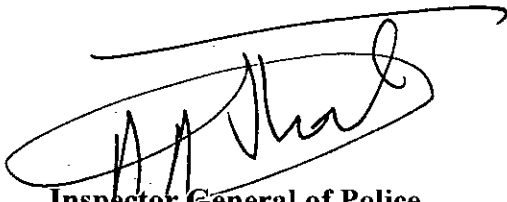
Jehanzeb Khan Constable..... Appellant


VERSUS

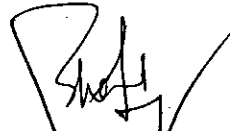
1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
& Others..... Respondents.

AFFIDAVIT:-

We the respondent No. 1 to 3 do hereby solemnly affirm and declare on oath that the contents of the written reply are correct/true to the best of our knowledge / belief and nothing has been concealed from the honorable Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)**


**Deputy Inspector General of Police,
Mardan Region-I Mardan.
(Respondent No. 2)**


**District Police Officer, Swabi.
(Respondent No. 3)**

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
 Appeal No. 1251/2016

JehanZeb Khan Ex- Constable 72 Police Station Zaida Swabi
(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa & Others
Respondents

REJOINDER TO THE PARA WISE REPLY ON
BEHALF OF THE APPELLANT

Respectfully submitted:

The appellant submits his rejoinder as under:

ON PRELIMINARY OBJECTIONS:

1. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of reduction of time scale for three years, hence he has got the necessary cause of action and locus standi to file the instant appeal.
2. Contents incorrect and misleading, all the parties necessary for the disposal of the appeal are arrayed in the instant appeal.
3. Contents incorrect and misleading, the instant appeal is filed well within the prescribed period of limitation.
4. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
5. Contents incorrect and misleading, the appellant is an aggrieved civil servant, and moreover the matter relates to its term and condition of his service hence only this honorable tribunal has got jurisdiction to entertain and adjudicate the instant appeal.
6. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rule and procedure hence maintainable in its present form and also in the present circumstances of the case.
7. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed.

8. Contents incorrect and misleading, no rules of estoppel is applicable to the instant case.

ON FACTS

1. Contents need no reply, however contents of Para-1 of the appeal are true and correct.
2. Contents need no reply, however contents of Para-2 of the appeal are true and correct.
3. No comments to the extent of admission, rest of the para is incorrect and misleading. Contents of para No. 3 of the appeal are true and correct.
4. No comments to the extent of admission, however rest of the para is incorrect and misleading, the allegations are baseless. Contents of para No. 4 of the appeal are true and correct.
5. No comments to the extent of admission, rest of the para is incorrect and misleading. Contents of para No. 5 of the appeal are true and correct.
6. Contents of Para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
7. No comments to the extent of admission, rest of the para is incorrect and misleading. Contents of para No. 7 of the appeal are true and correct.
8. Contents need no reply, however contents of Para-8 of the appeal are true and correct.
9. No comments to the extent of admission, rest of the para is incorrect and misleading. Contents of para No. 9 of the appeal are true and correct.
- 10.No Comments.
- 11.No comments to the extent of admission, rest of the para is incorrect and misleading. Contents of para No. 11 of the appeal are true and correct.
- 12.No Comments.
- 13.Contents of Para-13 of the appeal are correct; the reply submitted to the Para is incorrect and misleading.

GROUND

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

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

Appellant

Through

Yasir Saleem
YASIR SALEEM
Advocate High Court.

AFFIDAVIT

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

جہا نوریب
.Déponent

