

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 1228/2016

Date of Institution... 13.12.2016

Date of decision... 06.12.2017

Nazir Ahmad Ex-Head Constable No. 1064, District Police, Swat.

... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and 2 others.

... (Respondents)

MR. IMDADULLAH,
Advocate

...

For appellant.

MR. KABIRULLAH KHATTAK,
Addl. Advocate General

...

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

...

CHAIRMAN
MEMBER

JUDGMENT

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

FACTS

2. The appellant was reduced in rank on 4.5.2016 against which he filed departmental appeal on 09.5.2016 which was rejected on 4.7.2016 and communicated to the appellant on 11.09.2016. Thereafter, the appellant filed revision within the meaning of Rule 11-A of the Khyber Pakhtunkhwa Police Rules, 1975 which was rejected on 18.11.2016. Thereafter he filed the present service appeal on 13.12.2016.

ARGUMENTS

3. At the very outset the learned Addl. Advocate General objected to the maintainability of the present appeal on the ground that the service appeal is time barred. He argued that the appellant filed departmental appeal on 09.5.2016 which was rejected on 04.7.2016 and communicated on 11.09.2016 and if the period of limitation is reckoned from 11.09.2016 the appellant should have filed the present service appeal on 11.10.2016 but he filed the present appeal on 13.12.2016. He next contended that under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 there is no mention of the word "revision". That filing of revision would not enlarge limitation for the purpose of the present service appeal.

4. Replying to these arguments, the learned counsel for the appellant argued that revision under Rule 11-A is a statutory right of the appellant conferred by the rules and the appellant had approached the revisional authority under mandate of rules. That in a similar case bearing appeal No. 1639/2013 entitled "*Riffat Ali Vs. Provincial Police Officer, Khyber Pakhtunkhwa Peshawar and another*" decided on 25.08.2016, this Tribunal entertained and decided the appeal on merits despite the appellant having approached the revisional authority like the present appeal. He next argued that when a legal issue is decided in favour of any person then the benefit of that judgment should also be extended to the similarly placed employees. In this regard he relied upon a judgment reported in 2005-SCMR-499. He also relied upon another judgment reported as 2013-SCMR-881 in support of his arguments that when a Tribunal has not objected to the point of limitation at the time of admission of the appeal, then the same could not be agitated at final stage.

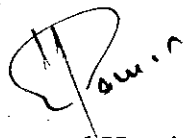
CONCLUSION

5. Section 4 of the Service Tribunal Act, 1974 clearly lays down that period of 90 days shall be given to those appellants who have the right of appeal, representation or review. There is no mention of the right of revision. Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 being part of Primary Legislation would override any subordinate legislation in case of any conflict. But there is no conflict between the Primary Legislation and the Rules. The rules have only provided an additional remedy to the concerned civil servant which has never been made a *sine qua non* for approaching this Tribunal. This Tribunal in a case entitled "*Mr. Iqrar Said Vs. Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others*" bearing appeal No. 1208/2015 decided on 01.08.2017 had specifically dealt with this question and decided that the revision under Rule 11-A would not enlarge the limitation.


6. Coming to the judgment of this Tribunal relied upon by the learned counsel for the appellant, we are to see whether the Tribunal decided the issue of limitation in terms of Rule 11-A. In para-7 of the said judgment four points for determination were framed. But no point of limitation was included in these four points, which means that in the said judgment this Tribunal did not decide this issue as is done in appeal No. 1208/2015 mentioned above. In such situation when a particular question is not raised and decided by the Court/Tribunal it is called "*sub silentio*" and would never be termed as a positive *ratio* to be followed subsequently. When there is no positive *ratio* laid down in that very judgment, the issue of limitation would not be considered to be one decided and therefore, the judgment reported as 2005-SCMR-499 would have no application. The arguments of the learned

counsel for the appellant on the point that the present appeal was admitted for regular hearing without reserving the determination of the point of limitation would mean that this Tribunal cannot enter to the issue of limitation at this stage. This Tribunal is not inclined to accept this argument of the learned counsel for the appellant because the appeals are always admitted on legal and factual points for determination. Those points are never finally determined at preliminary stage. The judgment relied upon by the learned counsel for the appellant reported as 2013-SCMR-881 never speaks about this proposition as argued by the learned counsel for the appellant.

7. As a sequel to the above discussion, this appeal being time barred is dismissed. Parties are left to bear their own costs File be consigned to the record room.



(Muhammad Hamid Mughal)
Member



(Niaz Muhammad Khan)
Chairman
Camp Court, Swat

ANNOUNCED
06.12.2017

07.04.2017

Counsel for appellant present. Mr. Khawas Khan, S.I (legal) alongwith Mr. Muhammad Zubair, Senior Government Pleader for respondents also present. Written reply by respondents submitted. To come up for rejoinder and arguments on 05.09.2017 before D.B at Camp Court Swat.



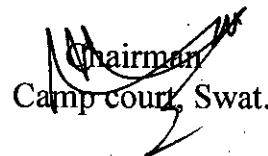
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat

05.09.2017

Counsel for the appellant and Mr. Muhammad Zubair, District Attorney alongwith Mr. Khawas Khan, S.I (Legal) for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for final hearing for 06.12.2017 before D.B at camp court, Swat.



Member



Chairman
Camp court, Swat.

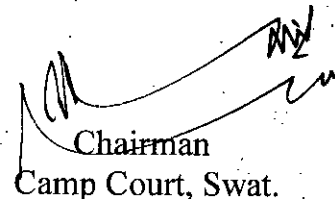
06.12.2017

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Khawas Khan, S.I (Legal) for the respondents present. Arguments heard and record perused.

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



Member



Chairman
Camp Court, Swat.

ANNOUNCED
06.12.2017

1228/2016

05.1.2017

Learned counsel for the appellant argued that the appellant was serving as Head Constable when subjected to enquiry on the allegations of involvement in illegal and immoral activities and breach the security advisory/SOP and vide impugned order dated-04.05.2016 penalty in the shape of reversion in rank from Head Constable to Constable awarded to the appellant where-against departmental appeal of the appellant dated 09.05.2016 was rejected on 04.07.2016 and thereafter representation to the appellant before Provincial Police Officer was rejected vide order dated 18.11.2016 and hence the instant service appeal on 13.12.2016.

That no enquiry in the mode and manners prescribed by rules was conducted and that no opportunity of hearing or participation in the proceedings was ever given to the appellant.

Appellant Deposited
Security & Process Fee

Points raised need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents for written reply/comments for 10.02.2017 before S.B at camp court Swat.

Chairman
Camp court, Swat

10.02.2017



Counsel for the appellant and Mr. Khawas Khan, SI (Legal) alongwith Mian Amir Qadar, GP for the respondents present. Requested for adjournment. To come up for written reply/comments of 07.4.2017 before S.B at camp court, Swat.

Chairman
Camp Court
Swat

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 1228/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/12/2016	<p style="text-align: center;">The appeal of Mr. Nazir Ahmad presented today by Mr. Aziz-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p style="text-align: center;">This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>05-01-2017</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

05.1.2017

Learned counsel for the appellant argued that the appellant was serving as Head Constable when subjected to enquiry on the allegations of involvement in illegal and immoral activities and breach the security advisory/SOP and vide impugned order dated 04.05.2016 penalty in the shape of reversion in rank from Head Constable to Constable awarded to the appellant where-against departmental appeal of the appellant dated 09.05.2016 was rejected on 04.07.2016 and thereafter representation to the appellant before Provincial Police Officer was rejected vide order dated 18.11.2016 and hence the instant service appeal on 13.12.2016.

That no enquiry in the mode and manners prescribed by rules was conducted and that no opportunity of hearing or participation in the proceedings was ever given to the appellant.

Points raised need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents for written reply/comments for 10.02.2017 before S.B at camp court Swat.

Chairman
Camp court, Swat

Learned counsel for the appellant present and heard on office objection.

The stance of the learned counsel for the appellant is that order dated 04.11.2016 passed by Regional Police Officer, Malakand is a final order and that no other order was communicated to the appellant.

In the light of the above circumstances office is directed to fix the appeal for preliminary hearing before S.B after scrutiny for 09.02.2017 at camp court, Swat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1228 of 2016

Nazir Ahmad Ex-Head Constable No. 1064, District Police District Swat.

...Appellant

VERSUS

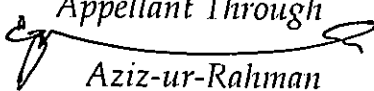
The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar and Others.

...Respondents

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Appellant Through


Aziz-ur-Rahman
Advocate Swat

Office: Khan Plaza, Gulshone Chowk,
Mingora Swat, Cell 0300 907 0671

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1228 of 2016

Nazir Ahmad Ex-Head Constable No. 1064, District
Police District Swat.

...Appellant **Khyber Pakhtukhwa
Service Tribunal**

Diary No. 1286

Dated 13-12-2016

VERSUS

1. The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer Malakand at Saidu
Sharif, District Swat.
3. The District Police Officer District Swat at
Gulkada.

...Respondents

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
ORDER OF RESPONDENT NO. 3
BEARING O.B. NO. 79 DATED
04-05-2016 OF, WHEREBY THE
APPELLANT WAS REVERTED TO THE
POST OF CONSTABLE AGAINST LAW,
RULES AND FACTS AND IS THUS
LIABLE TO BE SET ASIDE. FEELING
AGGRIEVED OF THE SAME THE
APPELLANT PREFERRED A
DEPARTMENTAL APPEAL TO THE
RESPONDENT NO. 2, BUT THE SAME
WAS ALSO REJECTED IN A
MECHANICAL MANNER AGAINST THE
LAW AND RULES VIDE ORDER NO.
5715/E DATED 04-07-2016 AGAINST
WHICH THE APPELLANT PREFERRED

Filed to-day

Registrar

13/12/16

A MERCY PETITION UNDER THE POLICE RULES TO THE RESPONDENT NO. 1, BUT THE SAME WAS ALSO REJECTED IN THE SAME MANNER, HENCE ALL THE THREE ORDERS IMPUGNED BEING VOID AND AGAINST THE LAW AND RULES ARE THUS LIABLE TO BE SET ASIDE.

PRAYER:

That on acceptance of this appeal the orders impugned may very kindly be set aside being against the law and rules on the subject and the appellant be restored to the rank of head constable from the date of issue of the impugned order with all consequential benefits.

Respectfully Sheweth:

Facts:

- i. That the appellant was appointed on 17-11-2003 as constable and since then is efficiently, vigorously and regularly performing his duties to the satisfaction of the authorities and the public as well, without any complaint whatsoever.*
- ii. That the appellant, being Head Constable, while posted as "Moharir" at Police Post Sakhra, Police Station Kalkot that he was served with Final Show Cause Notice No. 40-A/EB dated 10-03-2016, wherein charges of illegal and immoral entry to the house of one Bakht Sher was leveled as well as the charge of breach of the SOP was also leveled upon the appellant, needless to mention that the same are being done out of inala*

fide, malice and based on mere surmises and apprehensions. Copy of the Notice dated 10-03-2016 is enclosed as Annexure "A".

- iii. That the appellant submitted a very brief and concise reply to the said notice, wherein he questioned the inquiry proceedings being unilateral and with a pre-decided conclusion as the defence version of the appellant is not considered at all rather the whole proceedings were maneuvered. The appellant in his reply also requested for an impartial inquiry officer so as to reach just and fair conclusion, but the same was never attended to without any reasons. Copy of the reply is enclosed as Annexure "B".*

- iv. That waiting for the response to his reply, to the surprise of the appellant he was awarded major penalty of reversion to the post of Constable on the basis of a shame, farce and unilateral inquiry, vide order O.B. No. 79 dated 04-05-2016. Copy of the order dated 04-05-2016 is enclosed as Annexure "C".*

- v. That feeling aggrieved of the same the appellant submitted a departmental appeal to the respondent No. 2 for the redressal of his grievance in the shape of setting aside the order impugned, but the same was responded to in a very mechanical manner without observing the codal formalities required, being the appellate authority, thus the appeal of the appellant was rejected vide order No. 5715/E dated 04-07-2016. Copy of the appeal is enclosed as Annexure*

"D" and that of the order dated 04-07-2016 is enclosed as Annexure "E", respectively.

- vi. That the appellant being penalized for no act of commission or omission thus submitted mercy petition under Rule 11-A of the Khyber Pakhtunkhwa Police Rule, 1975 for the redressal of his grievance and with the hope of justice be done, but instead of sifting the actual facts and record the respondent No. 1 changed the penalty by limiting it to 3 years i.e. to be constable for three years vide order No. S/7519-25/16 dated Peshawar the 18-11-2016 without having regard for the law and rules on the subject. Copy of the mercy petition is enclosed as Annexure "F" and that of the order dated 18-11-2016 is enclosed as Annexure "G", respectively.
- vii. That feeling aggrieved of the orders impugned issued by the respondents, the appellant having no other alternative resorted this Honourable Tribunal on the following grounds for the redressal of his grievances.

Grounds:


- a. That the requirement of the law under the circumstances was that a full dressed inquiry should have been conducted so as to dig out the actual facts and fix the responsibility thereafter, but in the case of the appellant even the defence version is not considered, what to speak of a full dressed inquiry under the law and rules, thus the appellant has not been treated in accordance with the law.

- b. That the appellant in his reply to the Final Show Cause Notice has also raised the point that his defence version is not being considered and that also an impartial inquiry officer may appointed so that reality may come to front, but the same was also not done in violation of the law and rules on the subject, as the appellant has lost confidence in the inquiry officer as he being biased and partial. Thus whole of the inquiry proceedings are nullity in the eyes of law and a futile and redundant exercise.
- c. That the respondents have leveled very grave and blemish allegations which needed a thorough investigations, but are dealt in a very casual manner and made the appellant suffer on the basis of mere surmises and whims without any evidence or proof.
- d. That the respondents have misused their official authority in a very colourful and fanciful manner.
- e. That the appellant has not committed any act of commission or omission which may constitute any offence under any law.

It is, therefore, very respectfully prayed that on acceptance of this appeal the orders impugned may very kindly be set aside being void and restore the appellant to the rank of Head Constable from the date of reversion with all consequential benefits.

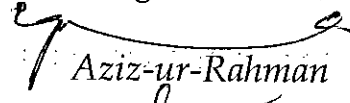
Any other relief deemed appropriate in the circumstances and not specifically prayed for may also very kindly granted.

Appellant



Nazir Ahmad

Through Counsels,



Aziz-ur-Rahman



Imdad Ullah

Advocates Swat

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2016

Nazir Ahmad Ex-Head Constable No. 1064, District
Police District Swat.

...Appellant

VERSUS

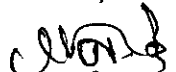
The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents


AFFIDAVIT

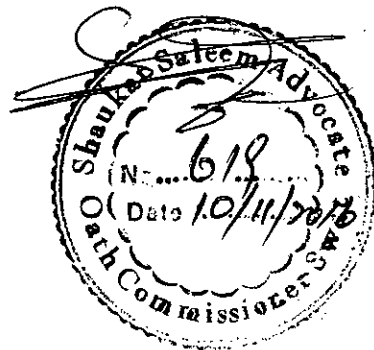
It is solemnly stated on Oath that all the contents of
this appeal are true and correct to the best of my knowledge
and belief and nothing has either been misstated or kept
concealed before this Honourable Tribunal.

Deponent


Nazir Ahmad

Identified by:


Imdad Ullah
Advocate Swat



8

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2016

Nazir Ahmad Ex-Head Constable No. 1064, District
Police District Swat.

...Appellant

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar and Others.

...Respondents

ADDRESSES OF THE PARTIES

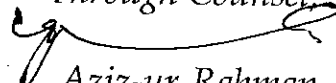
Appellant:

Nazir Ahmad Ex-Head Constable No. 1064, District
Police District Swat.

Respondents:

1. The Provincial Police Officer Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer Malakand at Saidu
Sharif, District Swat.
3. The District Police Officer District Swat at
Gulkada.

Appellant
Through Counsel


Aziz-ur-Rahman
Advocate Swat

FINAL SHOW CAUSE NOTICE

Advocate A

9

That You Head Constable Nazir Ahmad No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot:-

a) Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dherai, Sakhra for immoral and illegal activities.

b) Breach the security advisory/SOP, issued by the undersigned not to go alone.

Proper Charge Sheet No.40/EB, dated 18-02-2016 was issued to you and SDPO/Matta Circle was deputed as Enquiry Officers to conduct proper Departmental Enquiry against you.

The Enquiry Officer SDPO/Matta Circle in his findings reports intimated that the allegations leveled against you are proved during enquiry and recommended you for Major punishment.

You are, therefore, served with this Final Show Cause Notice to show reason in written within seven (07) days of the receipt of this notice as to why the proposed action, which may include your Dismissal from Service, should not be taken against you.

[Signature]
District Police Officer, Swat

No. 40-A /EB,

Dated 10-3 /2016.

[Signature]
Attested
Advocate

[Signature]
Attested
Advocate

Attested
M. S. Advocates

15/3/2016
The undersigned
being a member of the
Bar of the High Court
of Madras, do hereby
certify that the
above is a true and
correct copy of the
original as filed
in the Court of
the District Judge,
Chennai, on the
15th day of March
2016.

Signature
B

1064

Annexure C

11

ORDER

This order will dispose of the departmental enquiry against Head Constable Nazir Ahmad No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot;-

- a) Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dherai, Sakhra for immoral and illegal activities.
- b) Breach the security advisory/SOP, issued by the undersigned not to go alone.

He was issued Charge Sheets alongwith statements of Allegations and SDPO/Matta, Swat Mr. Zafar Khan was appointed as Enquiry Officer to enquire into the allegations leveled against him in the charge sheet. The Enquiry Officer conducted proper departmental enquiry. Statement of relevant persons were recorded and record was perused. After holding enquiry; the enquiry officer submitted his finding report with the conclusion that allegations leveled against the accused officer have been proved. The accused officer was also served with Final Show Cause coupled with finding report in response whereof the accused officer submitted his reply. The undersigned also heard him in person in orderly room on 04-05-2016, but he could not present any cogent reason to defend himself.

Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, I, Muhammad Saleem Marwat, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of reduction in rank from Head Constable to Constable with immediate effect.

Order announced.

O.B. No. 79

Dated 4/5/2016.

oh.
District Police Officer, Swat

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No _____/E, Dated Gulkada the _____/2016.

Copy to the:-

1. OASI Swat.
2. Pay Officer, Swat.

Attested
[Signature]
Advocate

.....

.....

.....

محوریتاً۔ کل پولیس آفیسر بلاکسڈ چین تمام سید و سوسائٹ

عنوان :- آئیٹل بمبارڈیائی بہ عمدہ ہینڈلنگ

جائے عالی!

گزارش ہے کہ آئیٹل پولیس میں کثرت ہینڈلنگ ڈیوٹی
 سرانجام دیا گیا ہے۔ آئیٹل پولیس کے تمام کاپی ڈیوٹی جس کی بعد
 آئیٹل کو عمدہ ہینڈلنگ سے آئیٹل کے عمدہ رویہ (Revert)
 کیا جس کی وجہ سے آئیٹل کو کافی صدمہ پہنچا ہے۔ آئیٹل کو جو اب
 79 جولائی 2016ء کو ہینڈلنگ سے آئیٹل (Revert) کیا ہے جو آئیٹل
 36 ستمبر ہینڈلنگ تھا اور سال 2016 میں انٹرنیشنل
 کورس کے منتجب ہونا والا تھا تو اسی آئیٹل کے خلاف
 کاپی ڈیوٹی ہینڈلنگ سے آئیٹل کو کثرت عمدہ (Revert) کیا ہے
 اسلئے تدریس دیکھ کر استرٹا لیمائی کے آئیٹل کو دوبارہ
 ہینڈلنگ سے عمدہ رویہ کے کا حکم صادر ہوا ہے۔ آئیٹل کو آئیٹل
 سیکرٹ

الطاف

تاج عثمان تدریس 1064 حال جاوید اقبال سید پولیس میں

المستقیم 09/05/16

Attested
 [Signature]
 Advocate

no 6408/E.
28/7/016

Alentia

Abaco

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND
AT SAIDULSHARU, SWAT

Annexure "E"
REGION

13

This order will dispose off appeal of Constable Nazir Ahmad No. 1064 while District Police Officer for restoration of Rank as Head Constable.

No. 1064 of Swat

Brief facts of the case are that Ex-Head Constable Nazir Ahmad No. 1064 while posted as Muharrir at Police Post Saikina Police Station Kalakot, entered in the house of one Bakht Sher Saig Mehmoood r/o Dherai, Saikina for immoral and illegal activities and bed the security isory / SOP, issued by the District Police Officer, not to go alone. He was issued charge sheet couple statement of allegations and Mr. Zahir Khan, SDPO/Malaka, Swat was appointed as Enquiry Officer. Enquiry Officer conducted proper departmental enquiry, recorded statements of Swat persons and uttered his finding report with the conclusion that allegations leveled against the accused officer have proved. The accused officer was served with Final Show Cause Notice. The District Police Officer, also heard him in person in orderly room on 04/05/2016, but he could not present cogent reason and himself. Therefore, being found guilty of the charges the District Police Officer Swat awarded punishment of reduction from the rank of Head Constable to Constable vide No. 19 dated 04/07/2016.

He was called in Orderly Room on 01/07/2016 and heard in person. The appellant could not produce any cogent reason in his defence. Therefore, his appeal is rejected. Order announced.

(AZAD KHAN) T
Regional Police Officer
Malakand, Saaidu Sh

No. 5715/E,
Date 04-7-2016.

Copy to District Police Officer, Swat for information and necessary office Memo: No. 7049/E, dated 17/06/2016. His service record is returned with original file.

FMH
-Roll
-Missal-

EC
inform for further
action and also
inform the concerned

Attested
DPO Swat
Advocate

تصویر نمبر - انسٹرکشنز آف پولیس مدیوٹیٹیو توواہ دربارہ

Annexure

عنوان: درخواست برادری عالی گریڈ / عمیدہ میڈیکل

14

ملیتوں میں کہ من سائل 17/2003 کا بطور کینسل صلح سوات کا بھرتی شدہ ہیں مختلف طور سے بارے حکمانہ مکمل کرنے کے بعد 2004 کو بطور میڈیکل ترقیا۔ ہوا۔ دونوں سروں اذیان بالا کو کسی بھی قسم کی شکایت کا موقع نہیں دیا اور اپنی ذمہ داریاں احسن طریقے سے نبھائی۔

سائل بدو ان ڈیوٹی فرائض کی سزا خانہ کالا کو طرے صلح سوات ایسے بنا کر وہ اور بے بنیاد الزام جس کا سزا سے کوئی وجود نہیں میڈیکل سے کینسل تنزیلی کا حکم صادر فرمایا گیا ہے۔ سائل اس بابت ڈی. آئی. جی. صاحب ماسٹر ریجن کو بھی آپیل کی لیکن کوئی شنوائی نہیں ہوئی اور ڈیڑھ ماہ کی درخواست کیا تو لاف سے بدریغ درخواست ایسے ماحکم سائل کے سابق لیڈر سروں اور عدت ملازمت کو عدل نظر رکھے ہوئے مذکورہ سزا کو کالعدم قرار دیا جائے اور اپنے اور کینسل / گریڈ میڈیکل و عالی کا حکم صادر فرما کر شکور فرمادیں

الد
تذیر احمد نبر 1064/حال جوگی کوکری خانہ
سید و شریف سوات سے
03479393193

Attested
Advocate



OFFICE OF THE D.P.O.
9907
30-11-2016
No. SI 7518

OFFICE OF THE
INSPECTOR GENERAL OF POLICE 3844/E
KHYBER PAKHTUNKHWA
PESHAWAR. 08-11-16
/16, dated Peshawar the 18/11/2016.

ORDER

Annexure-5

15

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Constable Nazir Ahmad No. 1064 (the then Head Constable). The appellant was awarded punishment of reduction from the rank of Head Constable to Constable by DPO/Swat vide OB No. 79, dated 04.05.2016 on the allegations that he while posted as Muharrir at Police Post Sakhra, Police Station Kakakot entered in the house of one Bakht Sher s/o Said Mehmood for immoral and illegal activities and breached the security advisory / SOP, issued by the DPO not to go alone.

His appeal was rejected by RPO, Malakand vide order Endst: No. 5715/E, dated 04.07.2016.

Meeting of Appellate Board was held on 20.10.2016 wherein appellant was heard in person. During hearing petitioner contended that he did not enter the house of Bakht Sher but he received a miss call from unknown mobile number and then he called on that number. Petitioner further contended that he has effected compromise with the family of Bakht Sher. He also gave written statement to refrain from such act in the future.

The Board decided that his punishment of reduction from the rank of Head Constable to Constable is hereby converted to reduction from the rank of Head Constable to Constable for a period of three years.

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

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

No. SI 7519-25/16,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Swat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to AdJl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: E-IV CPO Peshawar.
7. Central Registry Cell, CPO.

No 9917
Dated 28-11-2016

FECI DPO Swat
Mula

Regional Police Officer,
Malakand, at Saidu Sharif Swat.

Attested
Kund
Advocate

In the matter of:-

Wazir Ahmad Appellant
VERSUS
The PPO K.P. and Respondents
Others

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH
Advocates High Court

To be the advocate for the Appellant in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 07 day of 12 2016.

(Signature or thumb impression)

(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

Aziz-ur-Rahman
(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk
G.T. Road Mingora, District Swat.
Cell No. 0300 907 0671

Imdad Ullah
(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,
G.T. Road, Mingora, District Swat
Cell No. 0333 929 7746

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1228/2016

Nazir Ahmed Ex-Head constable No.1064, District Police, District, Swat

----- (Appellant)

Versus

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer Malakand Region at Saidu Sharif Swat
3. The District Police Officer, Swat

----- (Appellate)

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District Police Officer, Swat

(Respondent No.3)

District Police Officer,
Swat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1228/2016

Nazir Ahmed Ex-Head constable No.1064, District Police, District, Swat

----- (Appellant)

Versus

1. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar
2. The Regional Police Officer Malakand Region at Saidu Sharif Swat
3. The District Police Officer, Swat

----- (Appellate)

Parawise comments on behalf of Respondents.

Respectfully shewith:

Preliminarily objection:-

1. That the service appeal is time barred.
2. That the appellant has concealed material facts from this Honorable Tribunal.
3. That the appellant has not come to this August Tribunal with clean hands.
4. That the appellant is estopped due to his own conduct.
5. That the service appeal is not maintainable.
6. That the service appeal is bad in the present form and liable to be dismissed.

FACTS

- i. Para No.1 relates the service record of the appellant, therefore needs no comments.
- ii. Para No.2 incorrect. Before issuing final show cause notice, the appellant was served with charge sheet, statements of allegations and full fledged departmental Enquiry was conducted against him on account of allegations of immoral activities, breach of SOP and trespassing into a private house.
- iii. Incorrect. The competent authority ordered holding of Departmental enquiry against the appellant to probe into the allegations leveled against him. Charge sheet coupled with statement of allegations were issued against the appellant. The Enquiry Officer conducted proper

2

Departmental Enquiry against the appellant and allegations leveled against him were proved. Vide copies of charge sheet, statement of allegations, Enquiry papers, finding reports, final order, final show cause notice, appellate order, and order of respondent No.1 as Annexures "A", B, C, D, E, F and "G" respectively.

- iv. Incorrect. The appellant was heard in person by Respondent No.3 on 04-05-2016 but he could not produce any cogent ground in his defense. After all codal formalities and holding of full fledged Departmental Enquiry; the appellant was proved guilty of charges leveled against him and thus he was awarded punishment of reduction in rank from Head Constable to Constable.
- v. Correct to the extent that departmental appeal of the appellant was rejected by the appellate authority being devoid of merits, cogent grounds and substance. He was also heard in person by the appellate authority, but here too the appellant failed to advance any cogent reason in his defense, hence his departmental appeal was rightly dismissed/rejected.
- vi. Incorrect. The appellant was proved guilty in enquiry held against him. Appeal of the appellant was accepted to the extent that his penalty of reduction in rank was limited to a period of 3 years.
- vii. Incorrect. The orders of respondents are legal and justified, therefore no ground exists to challenge the same.

ON GROUNDS


- a. Incorrect. The appellant has been treated in accordance with law as full fledged departmental Enquiry was conducted against him and the appellant was proved guilty of charges leveled against him.
- b. Incorrect. Impartial, fair and transparent departmental enquiry was conducted against him, when enquiry was completed and finding report was submitted; the appellant raised objection over the enquiry officer, because the appellant was proved guilty and he wanted to delay the process.
- c. Incorrect. Ordinary citizens complained against the appellant for entry into their private house and violation privacy norms, therefore the appellant was charge sheeted and disciplinary action was taken against

him. The appellant was proved guilty during departmental enquiry against him.

- d. Incorrect. The respondents have not misused official authority; rather the appellant was subjected to disciplinary action which fact no way falls under misuse of authority.
- e. Incorrect. The appellant was alleged of entry into a private house with illicit intention and committed gross misconduct. His this act was liable to be probed into and was awarded penalty after he was proved guilty during enquiry proceedings.

PRAYER:-

In view of the above comment on facts and grounds it is prayed that appeal of the appellant may be dismissed with cost.


Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar

(Respondent No.1)


Regional Police Officer,

Malakand Region at Saidu Sharif Swat

(Respondent No.2)
Regional Police Officer,
Malakand at Saidu Sharif, Swat.


District Police Officer, Swat

(Respondent No.3)
District Police Officer,
Swat

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1128/2016

Nazir Ahmed Ex- Head constable No 1064 District Police, District Swat.

----- (Appellant)

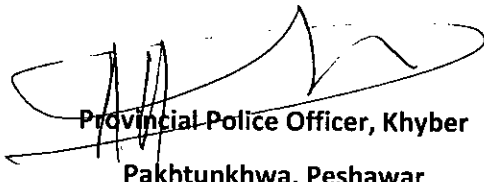
Versus

1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar
2. The Regional Police officer, Malakand Region at Saidu Sharif Swat.
3. The District Police Officer, Swat

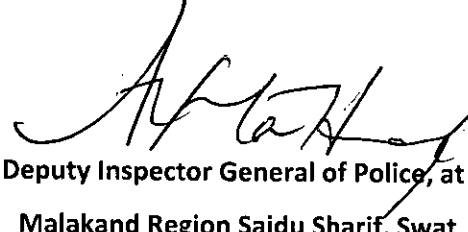
----- (Respondents)

AFFIDAVIT

We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of my knowledge/ behalf and nothing has been kept secret from the August Court.


Provincial Police Officer, Khyber
Pakhtunkhwa, Peshawar

(Respondents No.1)


Deputy Inspector General of Police, at
Malakand Region Saidu Sharif, Swat

(Respondents No.2)
Regional Police Officer,
Malakand at Saidu Sharif, Swat.


District Police Officer, Swat

(Respondents No.3)

District Police Officer,
Swat

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No.1228/2016

Nazir Ahmed Ex-head constable No. 1064 District Police District Swat

----- (Appellant)

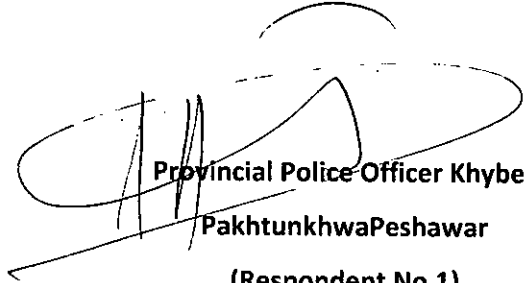
Versus

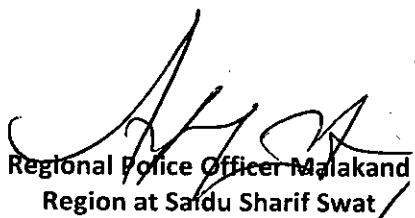
1. The Provincial Police Officer Khyber Pakhtunkhwa Peshawar
2. Regional Police Officer Malakand Region at Saidu Sharif Swat
3. The District Police Officer, Swat

----- (Respondents)

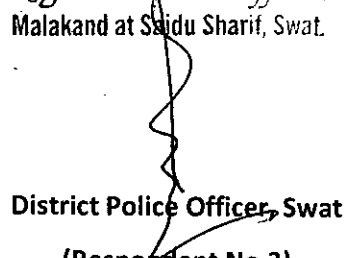
AUTHORITY LETTER

We, the above respondents do hereby authorize Mr. Khawas SI Legal Swat to appear in the Service Tribunal on our behalf on each date fixed in connection with Service Appeal and do whatever is needed.


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


Regional Police Officer Malakand
Region at Saidu Sharif Swat

(Respondent No.2)
Regional Police Officer,
Malakand at Saidu Sharif, Swat.


District Police Officer, Swat
(Respondent No.3)
District Police Officer,
Swat

CHARGE SHEET

Amexor "A"

6

I Mr. Muhammad Saleem Marwat P.S.P District Police Officer, Swat as a competent authority, hereby charge you, Head Constable Nazir No.1064 while posted as Muharrir Police Post Sakhra Police Station Kalakot as follows:-

It has been reported that you committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975.

You Head Constable Nazir No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot;-

- a) Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dherai, Sakhra for immoral and illegal activities.
- b) Breach the security advisory/SOP, issued by the undersigned not to go alone.

2. By reasons of the above, you appear to be guilty of misconduct and rendered yourself liable to all or any of penalties specified in Rule-4 of the Disciplinary Rules 1975.

3. You are, therefore, required to submit your written reply within seven (7) days of the receipt of this Charge Sheet to the Enquiry officer.

4. Your written reply, 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 in that case ex-parte action shall follow against you.

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.


District Police Officer, Swat

No. _____/E,

Dated: _____/2016.

Amexier "B"

DISCIPLINARY ACTION

I Mr. Muhammad Saleem Marwat R.S.P District Police Officer, Swat as competent authority, is of the opinion that he Head Constable Nazir No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot have rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2 (iii) of Police Rules 1975, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/ 44905. dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted as Muharrir Police Post Sakhra, Police Station Kalakot committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.


That he Head Constable Nazir No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot:-

- a) **Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dherai, Sakhra for immoral and illegal activities.**
- b) **Breach the security advisory/SOP, issued by the undersigned not to go alone.**

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, SDPO/Matta Circle, Swat is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused officer.

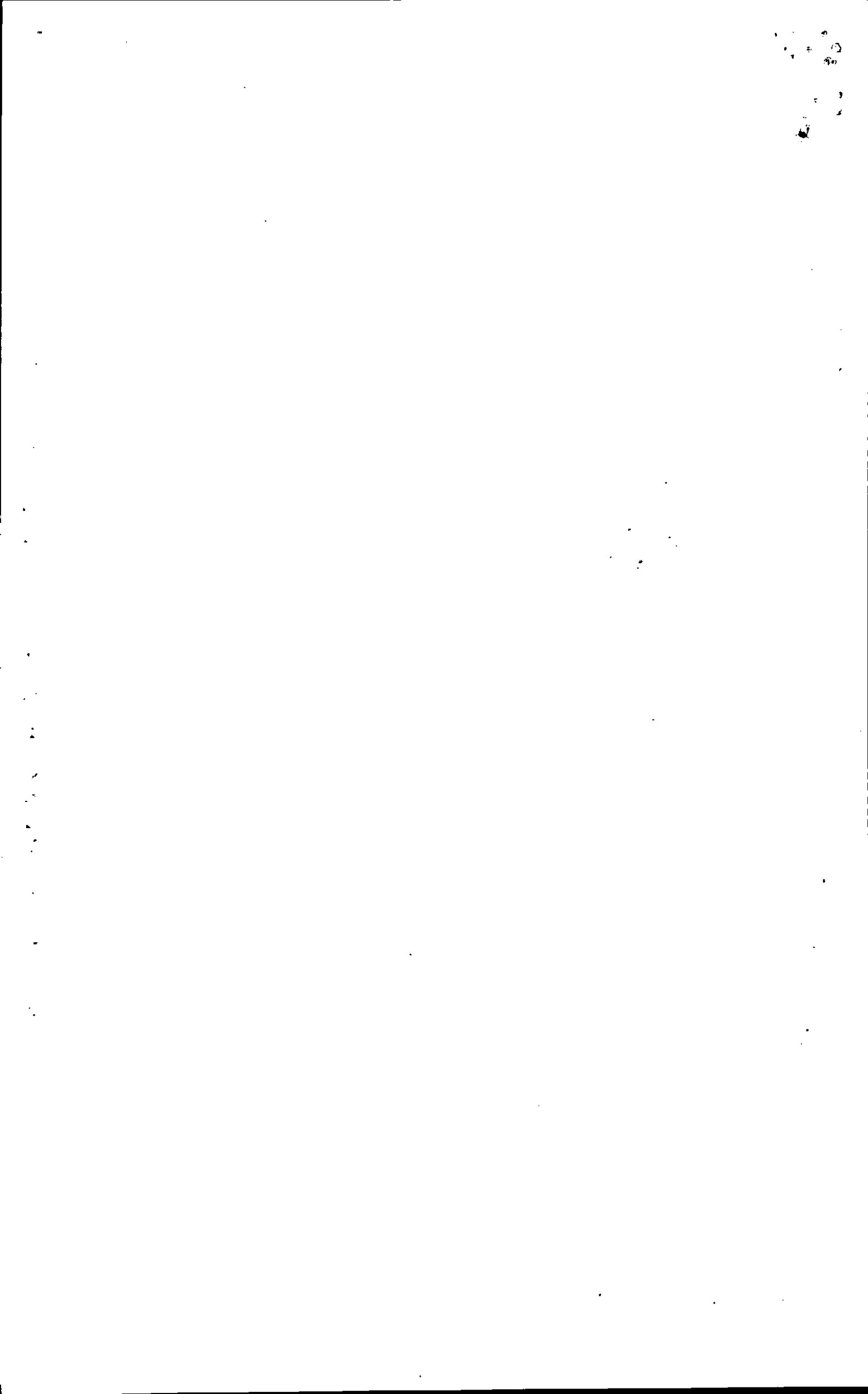
4. The accused officer shall join the proceedings on the date, time and place fixed by the enquiry officer.


District Police Officer, Swat

No. _____/EB, Dated Gulkada the, 17-2 2016.

Copy of above is forwarded to the:-

- 1. SDPO/Matta Circle, Swat for initiating proceeding against the accused Officer/ Official narnely Head Constable Nazir No.1064 under Police Rules, 1975.
- 2. HC Nazir No.1064 Muharrir PP Sakhra (Suspend JIS Police Lines).
With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.



مادہ آبان سے لاشعاع الہی جو کہ

دریافت کیا گیا۔ کہ صرف $\frac{2}{17}$ حصہ

رہی تھی۔ جبکہ علاج پر تھا۔ وقت 2:15 بجے

آدمی کے ساتھ اس دوران میں جو کہ

ملا گیا۔ جبکہ کسان جو کہ ہیں۔

کہ کسان جاؤں اور آگے لائے۔

فہم میں دوران کسان کے

تھیں۔ اس کے بعد کسان

کو مہنگے مال کوٹ جانے کی

فہم میں کو دوسرے گاڑی

مال کوٹ ہے آیا۔ علی

میں ہے آیا۔ صبح 10 بجے

کسان کے خریدی۔ کہ

Handwritten signature

Adnan Memon

Handwritten mark

ان اردو زبان میں لکھی گئی ہیں اور ان کے بارے میں
کئی چیزیں جاننے کے لیے اس پر غور کرنا ضروری ہے۔
1975-76 کا سال 444715-444716

ان کے بارے میں جاننے کے لیے اس پر غور کرنا ضروری ہے۔
ان کے بارے میں جاننے کے لیے اس پر غور کرنا ضروری ہے۔
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ان کے بارے میں جاننے کے لیے اس پر غور کرنا ضروری ہے۔

ان کے بارے میں جاننے کے لیے اس پر غور کرنا ضروری ہے۔

ان کے بارے میں جاننے کے لیے اس پر غور کرنا ضروری ہے۔

Annex C

صاعلی

موضوع میں شب گذشتہ ہیڈ ٹیسٹل نذیر محمد جو کاسمیہ سے
 بنت شیر ولد سید محمد سان ڈھنگ کاسمیہ کے گھر میں داخل ہوئے
 مہم بنت شیر سے معرکہ طرب میں ہے۔ مذکورہ ہیڈ ٹیسٹل کو بنت شیر
 کے والد سید محمد کوٹ اندر لکڑی میں موجود پارکرفٹار
 کیا۔ پورہ بوقت ۶۵۹۵۵۵ مقامہ کالا کوٹ میں موبائل ماڈم کے
 زیرے مقامہ کالا کوٹ لایا گیا ہے۔ اطلاق سہ ہے۔

18.2.2016

FC

- 1) Suspense
- 2) Transcription
- 3) Charge Sheet.
- 4) - you illegal & immorally entered in house for immoral & illegal activities
- 5) you breach in society arbitrary by SP, magistral by an order, with 1/2

10

Amexel "C"

Attestare "B"

میان اعلان - صدر کانسٹیبل نذیر احمد 1064 سال واپس
کین صلیب سوٹ

جائے 1 کوالر فیسٹیو فاسل شو کانسٹیبل نذیر احمد 401 طرح
3/10 مجاہد ملک 505 صاحب سوٹ مخصوص ہوں

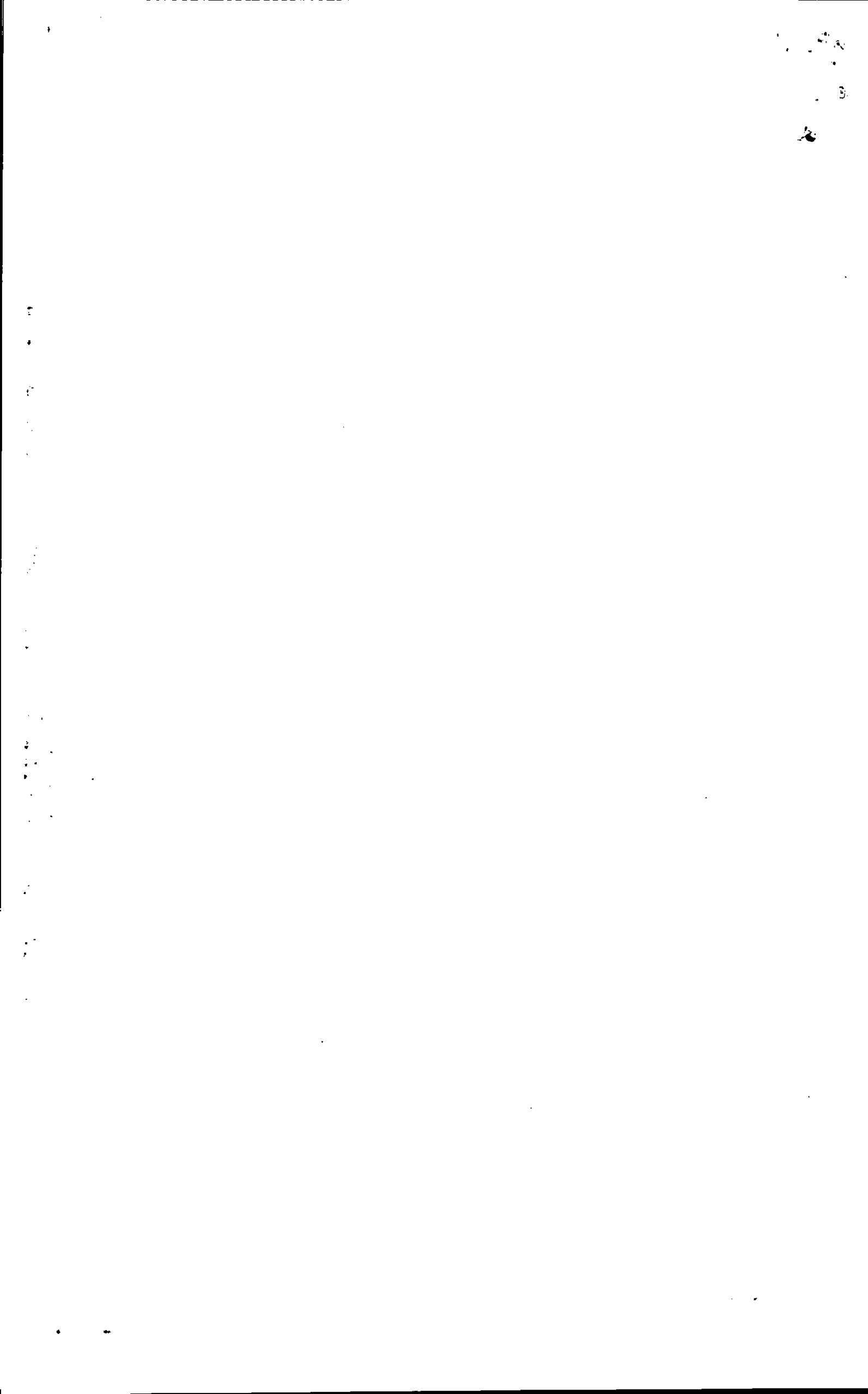
آرٹن سے کل گھنٹہ جو انعام گمانائی ہے وہ بدستوری
رہی ہے۔ کیونکہ روپوں رنڈوں کے ساتھ ساتھ ہی
صدا دے سے بیانات سائل کی ہی میں دیا گیا ہے
سائل کے خلاف صرف جاوید رفیق سوٹ نذیر احمد سے
بیان دینے اور ان کے لئے انصاف کے نقطے کو

نذیر احمد کی سزا میں ہی ہے۔ حاصل
لاؤ رہے۔ کہ سائل ہی رنڈوں کے ساتھ ساتھ
افسر کے خلاف سوٹ کی صورت میں انصاف
کو انصاف کرتے سائل کو رنڈوں کے ساتھ ساتھ
کیونکہ سائل ایک وسیع سے کا وہ سائل ہے

یہی صدر بیان ہے۔

سائل نذیر احمد 1064 سال واپس میں
112
157 3/76

Attested
Tardel
Advocate



شمار 2 اور نمبر 1061/1062

Anexur C

نمبر

13 دھورٹ سہیل خان SHO وقت 10:20 بجے حدود 13/11/18

پولیس کانسٹیبل انچارج 1061/1062. طبی طور پر چوکی بھڑہ قیادت ہے۔ اس کے متعلق شکایت ملی ہے کہ وہ گزشتہ رات رابطہ آشنائی پر علی جاوید کے ڈھیری بھڑہ کے گھر گیا تھا۔ گھروالوں کو اس پر علی کا نام ہو کر بھڑہ کے راہ گزار اختیار کیا ہے۔ چونکہ علی بھڑہ کی بھڑہ نذیر احمد پورس فورس میں ایک اہم پوسٹ پر ملازمت کر رہا ہے۔ جو چوکی فورس میں نام الیزبتا کے ساتھ

برداشت ہے۔ سابق حالات جناب DSP صاحب مدد کے دفتر میں 13/11/18 کو جناب DSP صاحب نے جناب DPO صاحب سوات کے دفتر میں یہ ساری باتیں بتائی تھیں۔ DSP صاحب مدد نے اطلاع دی کہ صحت اہلک جناب DPO صاحب سوات سے انچارج MHC چوکی بھڑہ کو منتقل اور چوکی لائی جانے کی اجازت ہے۔ ان کے خلاف شکایت آنکوائری فی شروع کیا جائے۔ جب چوکی بھڑہ کے حکم کے مطابق فور چوکی بھڑہ نذیر احمد کی مدد سے سمان سہ کاری، فی کسٹو چوکی بھڑہ روانہ کیا جاتا ہے۔ ان پر ہی بارہ فور چوکی لائی کی اطلاع دی گئی ہے۔ 7 روزہ باجوہ ہو کر حکمانہ کاروائی آفسران بالا کے حریف میں اور ان کے

جناب صاحب
ذیل مطابق
1061/1062
Shri. P.S. - K.Kot
2-3-18

RECEIVED
Sub-Inspector
Kotli

Sir
Forwarded
Shri. P.S. - K.Kot
3-03-18

Anexel C

انقرض
16/2/17

بنا طومر سے لے کر ان کے انگریزی اور اردو ناموں تک

ان کے بارے میں سب سے زیادہ جاننے والے شخص سے

ان کے بارے میں سب سے زیادہ جاننے والے شخص سے

ان کے بارے میں سب سے زیادہ جاننے والے شخص سے

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ان کے بارے میں سب سے زیادہ جاننے والے شخص سے



ان کے بارے میں سب سے زیادہ جاننے والے شخص سے

فائنلنگ رپورٹ محکمہ انکوائری بر خلاف

کنسٹیبل محمد اسحاق کیلئے پلاٹون نمبر 22

متعینہ سائنس ڈیپارٹمنٹ

کوائف بمطابق سروس ریکارڈ

Annex C

تاریخ بھرتی	تعلیم	سابقہ غیر حاضری اسراء	موجودہ غیر حاضری
15/1/83	FA	234	(5)

جناب عالی!

ملازم مذکورہ بالا نمبر 9 روز نامچ 3-5-89 کے مطابق اپنے ڈیوٹی سے غیر حاضر ہو کر مسلسل غیر حاضری کی بناء حسب احکم افسران مجاز بحوالہ آرڈر بک نمبر 1 مورثہ کو زیر بحث غیر حاضر شدہ ملازم کی تجوہ بند ہو کر چارج شیٹ جاری کرنے کا حکم صادر ہو چکا ہے۔

حکم بالا کے تحت چارج شیٹ نمبر 10 مورثہ 17-7-89 کو پیش باور 2000 کے تحت جاری ہو کر مزید انکوائری کے واسطے حسب ضابطہ انکوائری کمیٹی قائم کی گئی۔ مقررہ شدہ انکوائری کمیٹی نے موصولہ غیر حاضری کاغذات کا جائزہ لیکر معلوم ہوا کہ یہ ملازم نمبر 9 روز نامچ 3-5-89 کے تحت مسلسل (5) یوم غیر حاضری کے بعد بحوالہ نمبر 10 روز نامچ 23-6-89 کو اپنی ڈیوٹی پر حاضر ہو چکا ہے۔

حاضری رپورٹ، جاری شدہ چارج شیٹ کے جواب اور انکوائری کمیٹی کے روبرو ریکارڈ شدہ بیان میں یہ ملازم اپنی اس غیر حاضری کے وجوہات کے بارے میں یہ وضاحت کرتا ہے۔

میں نے اس سلسلہ میں مذکورہ قصور وار ملازم کے پاس کوئی موثر ثبوت یا شہادت موجود نہیں ہے۔ اور نہ بدوران غیر حاضری اپنی اس مجبوری سے آفسران بالا کو مطلع کی ہے۔ اور نہ جب تھراپلٹ عرض مسروض کے واسطے اردنی روم میں پیش ہوا ہے۔

جناب والا!

اس غیر حاضری کے دوران مذکورہ ملازم نے نہ حسب ضابطہ رخصت منظور کے واسطے کوئی کوشش کی ہے۔ اور نہ بمطابق رولز کوئی مناسب طریقہ اختیار کیا ہے۔ بلکہ اپنی ڈیوٹی سے بلاوجہ جائز اپنی مرضی سے دیدہ دانستہ غیر حاضر ہوا ہے۔ جس کا یہ فعل پولیس رولز اور ڈسپلین رولز کی خلاف ورزی ہے۔ علاوہ ازیں بدوران انکوائری اس غیر حاضری کے بارے میں کوئی موثر ثبوت پیش نہ کرنے کے وجہ سے یہ ملازم قصور وار ثابت ہوتا ہے۔

لہذا آیام غیر حاضری از مورثہ 3-5-89 تا مورثہ 23-6-89 کوٹل (5) یوم بلا تجوہ شمار کرنے تجوہ ازاد ہونے اور آئیندہ کے لیے محتاط رہنے کے واسطے وارنگ کی سزا دی جاتی ہے۔ فائنلنگ رپورٹ مرتب ہو کر برآمد مزید کارروائی پیش خدمت ہے۔

آر۔ آئی۔ ایف۔ آر۔ پی سوات

OR

لائن آفیسر آئی۔ ایف۔ آر۔ پی سوات

SP. RRP MKD
Absence period
is counted as full
and pay retained.

لائن آفیسر آئی۔ ایف۔ آر۔ پی سوات

08/11/86

Date - 12-08-89

Amexel D

اردو دفتر SDPO سرکل مد

ٹائیپڈ رپورٹ

انکوائری بر خلاف ہیڈ کنسٹیبل نذیر احمد 1064/HC متینہ محرم چوکی تڑہ تھانہ کالا کوٹ

حال JIS پولیس لائن کبل سوات۔

ہیڈ کنسٹیبل نذیر احمد 1064/HC محرم چوکی تڑہ حال JIS پولیس لائن کبل سوات پر الزام ہے۔ کہ وہ غیر قانونی اور غیر اخلاقی طور پر مسی بخت شیر ولد سید محمود ساکن ڈھیری تڑہ کے گھر میں غیر اخلاقی اور غیر قانونی سرگرمیوں کے لئے داخل ہوا ہے۔ اس حرکت کے بناء پر جناب DPO صاحب سوات نے بر خلاف نذیر احمد 1064/MHC چارج شیٹ نمبری 40/E مورخہ 18-02-016 جاری کر کے من SDPO مد کو انکوائری آفیسر مقرر کیا۔

انکوائری ہذا میں اصل حقائق منظر عام پر لانے کے لئے ہیڈ کنسٹیبل نذیر احمد MHC متینہ محرم چوکی تڑہ حال JIS پولیس لائن کبل سوات کو دفتر ہذا طلب کر کے جس نے ایک تحریری بیان پیش کیا۔ جس میں وہ بیانی ہے۔ کہ وہ چوکی تڑہ میں بحیثیت محرم موجود تھا۔ انچارج چوکی تڑہ بغرض پیدل گشت علاقہ تڑہ نکلا ہوا تھا۔ تقریباً بوقت 19:20 بجے شام کچھ کسان بحاضر چوکی آکر کہا۔ کہ تھانیدار صاحب کہاں ہے۔ تو اس نے بجا بیا کہا۔ کہ وہ گشت کے لئے نکلا ہوا ہے۔ انہوں نے دوبارہ کہا کہ اُسے بلاؤ۔ جب تھانیدار صاحب چوکی آیا۔ تو ان کسانوں نے تھانیدار صاحب کو یوں رپورٹ کیا۔ کہ محرم چوکی تڑہ اُس کے گھر آیا ہوا تھا۔ اور ان کے گھر کی بے عزتی کی ہے۔ تو انچارج صاحب نے مذکورہ کسان کو مطمئن کر کے چوکی سے رخصت کئے۔ اگلے روز صبح متذکرہ کسان بالا چوکی آکر بتلایا کہ ان کا محرم چوکی تڑہ کے خلاف کسی قسم کی دعویداری وغیرہ نہیں ہے۔ اور نہ وہ محرم کے خلاف قانونی کارروائی کرنا چاہتے ہیں۔ اُسے معلوم نہیں ہے۔ کہ آیا یہ پروپیگنڈہ ان لوگوں نے اُس کے خلاف کیوں بنائی ہے۔ وہ کسی کے گھر نہیں گیا ہے۔ رپورٹ کرنے سے پہلے بھی چوکی میں موجود تھا۔ اور دوران رپورٹ بھی چوکی میں موجود تھا۔ البتہ اتنا معلوم ہے۔ کہ کسی نامعلوم لڑکی نے اُسے بار بار کال کیا ہے۔ اور اس نے باقاعدہ آئیڈنٹ کیا ہے۔ شاید اسی رابطہ کرنے پر مذکورہ کسان نے اُس کے خلاف یہ پروپیگنڈہ بنا رکھا ہے۔ اور اب بھی وہ لڑکی مختلف نمبرات اُسے کال کرتی ہے۔ البتہ اس نے ایک مرتبہ آئیڈنٹ کیا ہے۔ اور ان کو کہا ہے۔ کہ اُسے کال مت کریں۔ لیکن پھر بھی وہ بار بار کال کرتی رہتی ہیں۔ منع کرنے سے وہ باز نہیں آتی اور مختلف نمبرات سے کال کرتی رہتی ہے۔ اُس کے خلاف انکوائری میں لگائے گئے الزام میں وہ بے بالکل بے قصور ہے۔ اور نہ اس میں اس کی کوئی غلطی ہے۔ نہ وہ چوکی سے باہر نکلا ہے۔ اور نہ کسی کے گھر گیا ہے۔ صرف اُس نے موبائل فون پر بات کی ہے۔ لہذا کال بھی اسی ہی نے کی ہے۔ اگر CDR نکالا جائے تو حقیقت معلوم ہو جائے گا۔

دوران انکوائری SI سہیل خان SHO تھانہ کالا کوٹ کا بیان قلمبند کر کے جس میں وہ بیانی ہے۔ کہ وہ تقریباً ایک مہینہ سے بحیثیت SHO تھانہ کالا کوٹ تعینات ہے۔ مورخہ 17-02-016 کو بوقت شب سمیان جاوید اور اکرم بھٹہ دیگر تین چار نفر کسان اور انچارج چوکی تڑہ سعید اللہ خان ASI بھٹہ محرم چوکی تڑہ تھانہ کالا کوٹ آکر جاوید وغیرہ نے بتلایا۔ کہ نذیر احمد محرم چوکی تڑہ ان کے گھر واقع تڑہ ڈھیری آیا تھا۔ جب انہوں نے دیکھا تو وہ گھر سے بھاگ گیا۔ جس کے ساتھ کافی بات چیت کر کے صبح تھانہ کالا کوٹ آنے کی ہدایت کی۔ متذکرہ کسان صبح تھانہ آکر حاضرہ کسان کیساتھ کافی بات چیت کی گئی۔ اور حالات واقعات آفسران بالا کے نوٹس میں لائے گئے۔ متذکرہ کسان نے بتلایا۔ کہ محرم چوکی نے اُن کی تسلی کی ہے۔ قانونی کارروائی کے حق میں نہیں ہے۔ جو باقاعدہ تحریر کے شکل میں دی ہے۔ مذکورہ نذیر احمد MHC کے خلاف رپورٹ درج روز نامہ کے بخدمت آفسران بالا بھیج دیا گیا ہے۔ جاوید وغیرہ نے نذیر احمد کے خلاف گھر میں داخل ہونے کی شکایت کی تھی۔ لیکن قانونی کارروائی نہ کرنے کی تحریر بھی دی ہے۔

دوران انکوائری سعید اللہ خان ASI انچارج چوکی تڑہ کا بیان قلمبند کر کے جس میں وہ بیانی ہے۔ کہ مورخہ 17-02-016 کو وہ مسجد دیگر تقریباً پولیس گشت علاقہ پر موجود تھے۔ کہ بوقت 21:15 بجے چوکی واپس آکر کمرہ خود چلا گیا۔ اس دوران محرم چوکی نذیر

احمد نے آکر بتلایا کہ چند کسان چوکی آئے ہیں۔ وہ باہر نکل کر مسمیان جاوید اور اکرم ساکنان تھرہ چوکی میں موجود تھے۔ ہر دونوں کسان نے بتلایا کہ نذیر احمد محرران کے گھر واقع ڈھیری تھرہ آیا تھا۔ اُس نے ہر دونوں کسان کو سمجھایا۔ اسکے بعد مزید کچھ کسان آکر اُس نے اُس کو تھانہ کالا کوٹ جانے کی ہدایت کی۔ حالات کے پیش نذر محمد نذیر احمد کو دوسرے گاڑی میں بٹھا کر تھانہ کالا کوٹ لے آیا۔ جملہ حالات SHO صاحب کے نوٹس میں لائے گئے۔ صبح ہونے پر یعنی 18-02-016 کو حاضرہ کسان نے تحریر دی۔ کہ مذکورہ نذیر احمد نے اُن کی تسلی کی ہے۔ اب وہ اُن کے خلاف قانونی کارروائی کرنے کے خواہاں نہیں ہے۔ گشت پر نکلنے وقت اور واپس چوکی آکر محرر چوکی میں موجود تھا۔ اگر دوران گشت چوکی سے نکل کر کہیں گیا ہو۔ تو اس سے وہ لاعلم ہے۔

دوران انکوائری مسکی محمد جاوید ولد میاں شیروان ساکن محلہ ڈھیری تھرہ حدود تھانہ کالا کوٹ کا بیان قلمبند کر کے جس میں وہ بیانی ہے۔ کہ وہ علاقہ ڈھیری تھرہ کالا کوٹ کا مستقل رہائشی ہے۔ اور گاڑی چلاتا ہے۔ جسکے ذریعہ وہ اپنی محنت مزدوری کرتا ہے۔ اس نے مورخہ 17-02-016 کو تھانہ کالا کوٹ میں SHO صاحب کو جو تحریر دی تھی۔ وہ درست اور حقیقت پر مبنی ہے۔ البتہ محکمہ پولیس حوالدار محمد نذیر احمد محرر چوکی تھرہ کے خلاف جو کارروائی کرنا چاہتی ہے۔ وہ ٹھیک ہے اور وہ اُن سے مطمئن ہے۔

بعد از انکوائری و قلمبندی بیانات اذان ہیڈ کنسٹیبل نذیر احمد 1064 محرر چوکی تھرہ، SI سہیل خان SHO تھانہ کالا کوٹ، سعید اللہ خان ASI انچارج چوکی تھرہ، مسکی محمد جاوید ولد میاں شیروان ساکن محلہ ڈھیری تھرہ و دیگر کاغذات لف شدہ سے میں اس نتیجہ پر پہنچ چکا ہوں۔ کہ ہیڈ کنسٹیبل نذیر احمد 1064 سابقہ محرر چوکی تھرہ تھانہ کالا کوٹ حال JIS پولیس لائن کبل سوات جو کہ مورخہ 18-02-016 کے شب رابطہ اشٹائی پر مسکی جاوید ولد میاں شیروان ساکن ڈھیری تھرہ حدود تھانہ کالا کوٹ کے گھر گیا ہوا تھا۔ جب گھر والوں کو مذکورہ نذیر احمد کی اس بد عملی کا علم ہوا۔ تو مذکورہ نے راہ فرار اختیار کی۔ جس کے اس حرکت پر مسکی جاوید وغیرہ نے چوکی تھرہ اور بعد تھانہ کالا کوٹ جا کر SHO تھانہ کالا کوٹ سہیل خان کو نذیر احمد سابقہ محرر چوکی تھرہ کی گھر خود میں غیر قانونی اور غیر اخلاقی سرگرمیوں کے نسبت داخل ہونے کا بتلایا ہے۔ جس کے نسبت SHO تھانہ کالا کوٹ نے رپورٹ بحوالہ مدد 12 روز نامچہ 18-02-016 تھانہ کالا کوٹ درج روز نامچہ کر کے قلمبند بغرض اطلاعیہ ای افسران بالا کو مرسل کی ہے۔ اگلے روز جاوید ولد میاں شیروان ساکن تھرہ ڈھیری وغیرہ نے SHO تھانہ کالا کوٹ کو ایک تحریری اقرار نامہ دی ہے۔ جس کے نسبت وہ حوالدار نذیر احمد 1064 کے خلاف مزید قانونی کارروائی کرنے کے خواہاں نہیں ہے۔ لیکن ہیڈ کنسٹیبل نذیر احمد 1064 سابقہ محرر چوکی تھرہ جو کہ پولیس فورس میں ایک اہم پوسٹ پر ملازمت کدہا تھا۔ اور پولیس لوگوں کے جان و مال اور عزت کا محافظ ہوتا ہے۔ مگر مذکورہ ہیڈ کنسٹیبل نذیر احمد MHC چوکی تھرہ نے پولیس فورس میں ہوتے ہوئے اپنے عہدے کا ناجائز فائدہ اٹھاتے ہوئے ایک شریف گھرانے کی بے عزتی اور پردہ دری کی ہے۔ جو کہ ناقابل معافی اور ناقابل برداشت ہے۔ مذکورہ نے اپنے بیان میں مان لیا ہے۔ کہ اُس کے ساتھ ایک لڑکی نے اُس کے نمبر پر بار بار رابطہ کیا ہے۔ تو بحیثیت محافظ اُس نے اپنے دامن کو بچانے کے لئے کیا کردار ادا کیا ہے۔ مگر یہ حقیقت ہے۔ کہ مذکورہ محرر کانس لڑکی کی ساتھ رابطے اور ناجائز تعلقات تھے۔ جو انکوائری وقوعہ ہذا کا سبب بنا ہے۔ لہذا انکوائری اور حالات واقعات سے ہیڈ کنسٹیبل نذیر احمد 1064 سابقہ محرر چوکی تھرہ قصور وار اور گنہگار ہے۔ لہذا اگر اتفاق ہو۔ تو ہیڈ کنسٹیبل نذیر احمد 1064 سابقہ محرر چوکی تھرہ حال JIS پولیس لائن کبل سوات کو مثالی سنگین سزا دینے کی سفارش کی جاتی ہے۔ تاکہ محکمہ پولیس میں دوسرے اہلکاران کے لئے برے کام کرنے کے وجہ سے انجام عبرت ہو۔ فائنڈنگ رپورٹ بمراد ملاحظہ و مناسب حکم پیش خدمت ہے۔

سہیل خان

سب ڈویژنل پولیس آفیسر سرکل مد

04 مارچ، سال 2016

Siem Gild
Siam Gild
Siam Gild

Anexos "E"

1064

14

ORDER

Signature

11

This order will dispose of the departmental enquiry against Head Constable Nazir Ahmad No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot:-

a) Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dherai, Sakhra for Immoral and illegal activities.

b) Breach the security advisory/SOP, issued by the undersigned not to go alone. He was issued Charge Sheets alongwith statements of Allegations and SDPO/Matta,

Swat Mr. Zafar Khan was appointed as Enquiry Officer to enquire into the allegations leveled against him in the charge sheet. The Enquiry Officer conducted proper departmental enquiry. Statement of relevant persons were recorded and record was perused. After holding enquiry; the enquiry officer submitted his finding report with the conclusion that allegations leveled against the accused officer have been proved. The accused officer was also served with Final Show Cause coupled with finding report in response whereof the accused officer submitted his reply. The undersigned also heard him in person in orderly room on 04-05-2016, but he could not present any cogent reason to defend himself.

Therefore, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules-1975, 1, Muhammad Saleem Marwat, P.S.P, District Police Officer, Swat as a competent authority, am constrained to award him the punishment of reduction in rank from Head Constable to Constable with immediate effect.

Order announced.

OK
District Police Officer, Swat

O.B. No. 79

Dated 4/5/2016.

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT

No _____/E, Dated Gulkada the _____/2016.

Copy to the:-

- 1. OASI Swat.
- 2. Pay Officer, Swat.

Attested
[Signature]
Advocate

Annexed "F"

FINAL SHOW CAUSE NOTICE

Muhammad A. Anwar

9

20

That You Head Constable Nazir Ahmad No.1064 while posted as Muharrir Police Post Sakhra, Police Station Kalakot:-

- a) Illegal & immoral entered the house of one Bakht Sher s/o Said Mehmood r/o Dheral, Sakhra for immoral and illegal activities.
- b) Breach the security advisory/SOP, issued by the undersigned not to go alone. Proper Charge Sheet No.40/EB, dated 18-02-2016 was issued to you and SDPO/Matta Circle was deputed as Enquiry Officers to conduct proper Departmental Enquiry against you.

The Enquiry Officer SDPO/Matta Circle in his findings reports intimated that the allegations leveled against you are proved during enquiry and recommended you for Major punishment.

You are, therefore, served with this Final Show Cause Notice to show reason in written within seven (07) days of the receipt of this notice as to why the proposed action, which may include your Dismissal from Service, should not be taken against you.

[Signature]
District Police Officer, Swat

No. 40-A /EB,

Dated 10-3 /2016.

[Signature]
Attested
Advocate

[Signature]
Attested
Advocate

Anexed "G"

Annexure "E"

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGION
SAIDU SHARI SWAT

(13)

This order will dispose off appeal of Constable Nazir A. for restoration of Rank as Head Constable.

Ad No. 1064 of Swat

Brief facts of the case are that Ex-Head Constable Nazir A. Ad No. 1064 while posted as Muharrir at Police Post Sakina, Police Station Kalakot, entered in the house of one Bakht Sher Said Mehmood r/o Dherai, Sakina for immoral and illegal activities and bed the security of the area. He was issued a warning SOP, issued by the District Police Officer, not to go alone. He was issued a large sheet couple statement of allegations and Mr. Zahir Khan, SDPO/Malga, Swat was appointed Enquiry Officer. Enquiry Officer conducted proper departmental enquiry, recorded statements of Enquiry Officer, and issued his finding report with the conclusion that allegations leveled against the accused officer have merit. The District Police Officer also issued a Final Show Cause Notice. The District Police Officer also heard him in person in orderly room on 01/05/2016, but he could not present any cogent reason. Therefore, being found guilty of the charges the District Police Officer awarded him punishment of reduction from the rank of Head Constable to Constable vide Order No. 19 dated 01/05/2016.

He was called in Orderly Room on 01/07/2016 and heard. He could not produce any cogent reason in his defence. Therefore, his appeal is rejected. Order announced.

(AZAD KHAN) Regional Police Officer, Malakand, Saaidu Shari Swat

No. 5715
Date 04-7-2016

Copy to District Police Officer, Swat for information and necessary office Memo: No. 7049, dated 17/06/2016. His service record is returned to his office.

EM: Roll
Missal

EC
inform for punishment
action and also
inform the concerned

Attested
DPO Swat
Advocate



9907
30-11-016
No. SI-7518

Annexure H

22

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.
16, dated Peshawar the 18/11/2016.

3844/E
28-11-16

ORDER

Annexure 5

15

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Constable Nazir Ahmad No. 1064 (the then Head Constable). The appellant was awarded punishment of reduction from the rank of Head Constable to Constable by DPO/Swat vide OB No. 79, dated 04.05.2016 on the allegations that he while posted as Muharrir at Police Post Sakhra, Police Station Karkot entered in the house of one Bakht Sher s/o Said Mehnood for immoral and illegal activities and breached the security advisory / SOP, issued by the DPO not to go alone.

His appeal was rejected by RPO, Malakand vide order Endst: No. 5715/E, dated 04.07.2016.

Meeting of Appellate Board was held on 20.10.2016 wherein appellant was heard in person. During hearing petitioner contended that he did not enter the house of Bakht Sher but he received a miss call from unknown mobile number and then he called on that number. Petitioner further contended that he has effected compromise with the family of Bakht Sher. He also gave written statement to refrain from such act in the future.

The Board decided that his punishment of reduction from the rank of Head Constable to Constable is hereby converted to reduction from the rank of Head Constable to Constable for a period of three years.

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

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

No. SI 7519-25 /16,

Copy of the above is forwarded to the:

1. Regional Police Officer, Malakand at Swat.
2. District Police Officer, Swat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: E-IV CPO Peshawar.
7. Central Registry Cell, CPO.

No 9917
Dated 28-11-2016
Recd. DPO Swat
Prula

(Signature)
Regional Police Officer,
Malakand, at Saidu Sharif Swat.

Attested
(Signature)
Advocate