

11.06.2015

Appellant with counsel and Muhammad Jan, GP for respondents present. Arguments heard. To come up for order on 3.8.2015.



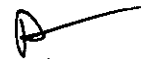
Member



Member

3.8.2015

Appellant in person and Mr. Muhammad Jan, GP for the respondents present. The learned Member (Judicial) is on leave, therefore, case to come up for order on 07-09-2015.



MEMBER

07.09.2015

Appellant with counsel (Mr. Shahid Qayum Khattak, Advocate) and Government Pleader (Mr. Muhammad Jan) for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected Service Appeal No. 756/2014, titled "Shaheed Ur Rahman Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc.", this appeal is also disposed off as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
07.09.2015



MEMBER

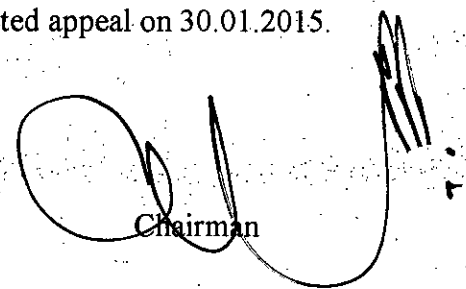


MEMBER

16.10.2014

5

Mr. Rauf Khan, Advocate on behalf of counsel for the appellant present. Respondents are not present despite their service through registered post/concerned official. However, Mr. Muhammad Adeel Butt, AAG is present and would be contacting the respondents for written reply/comments alongwith connected appeal on 30.01.2015.



Chairman

6

30.01.2015

Counsel for the appellant and learned Addl: AG for respondents present. Written reply submitted. Appeal be fixed before D.B for arguments on 28.05.2015. Rejoinder be submitted on or before the date fixed.



Chairman

28.05.2015

Appellant in person and Mr. Ziaullah, GP for the respondents present. Rejoinder received. Copy handed over to the learned GP. Appellant submitted that connected appeal No. 756/2014 is pending before this Bench and fixed for 11.6.2015. He requested that the instant appeal may also be adjourned to the same date. Therefore, case to come up for arguments on 11.06.2015.



MEMBER



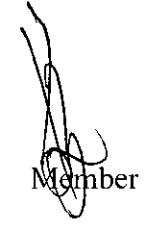
MEMBER

Appeal No. 869/20/14
Mr. Surtaj Hussain

3. 14.07.2014

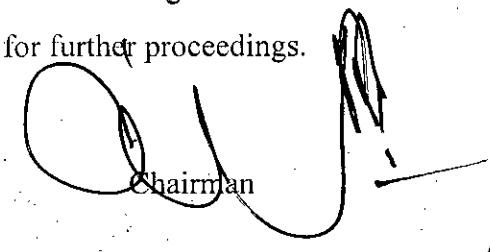
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 01.01.2014, he filed departmental appeal on 07.01.2014, which has been rejected on 10.06.2014, hence the present appeal on 18.06.2014. He further contended that the impugned order dated 10.06.2014 has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Counsel for the appellant also filed an application for interim relief. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply/comments on main appeal on 16.10.2014 as well as reply/arguments on application on 19.08.2014.

Appellant deposited
Security & process fee
Re 200/- Bank
Receipt is attached


Member

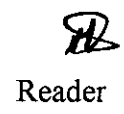
4. 14.07.2014

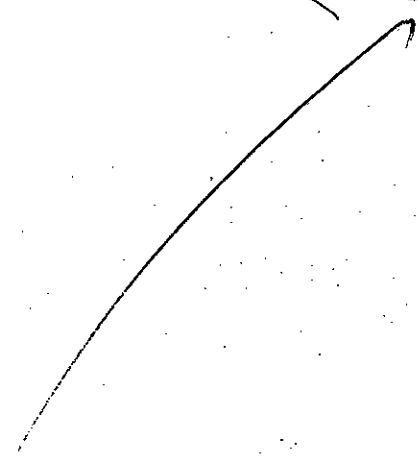
This case be put before the Final Bench 1 for further proceedings.


Chairman

19.8.2014

The Hon'ble Bench is on tour to Abbottabad, therefore, case adjourned to 16.10.14.


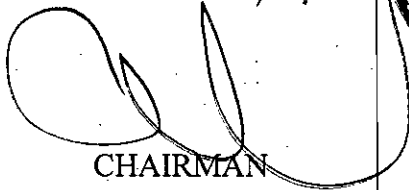

Reader



Form - A
Form of Order Sheet

Court of _____

Case No. 869/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/06/2014	<p>The appeal of Mr. Sartaj Hussain presented today by Mr. Shahid Qayyum Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	20-6-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>14-7-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 869 /2014

Sartaj Hussain Appellant

Versus

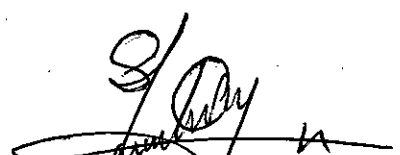
Provincial Police Officer and others..... Respondents

INDEX

S.No.	Description of Documents	Pages
1.	Memo of appeal	1-6
2.	Affidavit	6-A
3.	Stay application	7
4.	Affidavit	8
5.	Address of the parties	9
6.	Charge Sheet	10-11
7.	Reply of appellant	12
8.	Copy enquiry report.	13
9	Copy of impugned order dated 01/01/2014	14
10.	Copy of representation	15-16
11.	Copy of Impugned order dated 10/06/2014.	17
12.	Copy of Tribunal Orders.	18-20
13	Other documents	21-22
14	Wakalat Nama	23


Appellant

Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar
Mob No. 0333-9195776

Dated: 18/06/2014

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 069/2014

Sartaj Hussain S/o Syed Munir Hussain R/o Village Muhoora
Kurram Agency Appellant

Versus

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police Kohat Region, Kohat.
3. District Police Officer, Karak
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

904
18/6/2014

..... Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 01/01/2014 PASSED BY
RESPONDENT NO. 3 BY WHICH MAJOR PENALTY OF
COMPULSORY RETIREMENT FROM SERVICE HAS BEEN
AWARDED TO THE APPELLANT AND AGAINST THE ORDER
DATED 10/06/2014 OF RESPONDENT NO. 2 BY WHICH THE
PENALTY OF COMPULSORY RETIREMENT HAS BEEN MODIFIED
TO DEMOTION TO THE RANK OF CONSTABLE FROM IHC

PRAYER

On accepting this service appeal, the impugned order bearing OB No. 09 dated 01/01/2014 and order dated 10/06/2014 bearing No. 5640-41/EC, dated Kohat the 11/06/2014 may graciously be set aside by declaring it illegal, unlawful, without authority, based on mala fide, void abinitio and thus not sustainable in the eyes of law and the appellant may please be reinstated on his post with all back benefits of pay and service.

18/6/14

Respectfully Sheweth;

1. That appellant joined police department in the year, 1988 and has rendered satisfactory service in the Department for the last 26 long years and performed his duties with full zeal and enthusiasm.

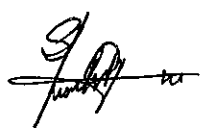
2. That respondent No. 3 issued a charged sheet to the appellant on 10/12/2013 containing the allegation of corruption and numerous bad entries in the service record which has properly been replied by the appellant on 16/12/2013. (Copies of charge sheet and reply are attached)

3. That after the reply of appellant an enquiry was conducted fully exonerated him from the allegation leveled in the charged sheet. (Copy of the enquiry report is attached)

4. That after the receipt of the enquiry report respondent No. 3 issued the impugned order dated 01/01/2014 by awarding major penalty of compulsory retirement from service contrary to the rules and regulation. (Copy Impugned order dated 01/01/2014 is attached)

5. That Appellant filed representation against the said order to respondent No. 2 on 07/01/2014 but the same has not been decided by the learned respondent No. 2 with in the statutory period thus the appellant preferred an appeal before this Hon'ble Tribunal on 09/04/2014 but after the filing of appeal, which was admitted to full hearing on 09/05/2014 and has been entrusted to bench No. 1 for disposal, the Learned Respondent No. 2 with mala fide intention passed an order vide order dated 10/06/2014 issued on 11/06/2014 on the representation of the appellant and modified the order of respondent No. 3 of compulsory retirement into reversion to the rank of Constable. The ground taken in the representation may please be considered as an integral part of this appeal (Copy of representation and impugned order dated 11/06/2014 is attached)

6. That after the passing of order dated 10/06/2014 appellant filed an application for withdrawal of appeal No. 518/2014 with request to file a fresh one which has been allowed by this Hon'ble Tribunal vide order dated 13/06/2014 hence, the petitioner filling this appeal on the following amongst other grounds inter alia: (Copy of the withdrawal order is attached)



GROUNDS:

- a. That both the impugned orders are illegal, unlawful, without authority, based on mala fide, void abinitio thus untenable in the eyes of law and is liable to be set aside.
- b. That both the impugned orders passed by respondent are very much harsh and is against the principle of natural justice.
- c. That the respondent No. 3 has not issue any show cause notice nor any proper opportunity of hearing has been provided to appellant but this aspect has not been taken by learned respondent No. 2 at all thus the impugned orders are nullity in the eyes of law and is liable to be set aside.
- d. That as per enquiry report allegation leveled in the charge sheet has not been proved but still respondents have passed an order on the basis of mere allegation based on rumors. It is pertinent to mention that casualness and irresponsible attitude of the respondent and enquiry officer has to be seen that all the proceeding has been taken against appellant mentioning his wrong name.
- e. That the case of appellant has been treated in very arbitrary manners and no evidence what so ever has been brought on record to substantiate the allegation leveled against appellant rather he has been proceeded under the rules and regulation which are not at all applicable to petitioner being a civil servant.
- f. That the impugned order has been passed in violation of law and rules of disciplinary proceedings and principles of natural justice. Enquiry officer has reported in clear terms that charges of corruption did not stand proved as evidence of any kind was not procured in support of the charges. The authority wrongly and malafidly based the impugned order on assessments and speculations, therefore the impugned order is bad in law.
- g. That the opinion of enquiry officer that there were rumors about the involvement of appellant in corruption has no legal value because enquiry proceedings are quasi judicial proceedings therefore it was incumbent upon enquiry officer to probe into

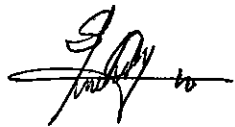
the allegations and find out the truth in the light of concrete evidence. In the absence of any proof, the opinion of enquiry officer was against the settled principles governing disciplinary proceedings.

- h. That the enquiry officer in very explicit words has reported that no evidence has been procured to establish the charge and only opined that there were rumors about the involvement of appellant in corruption. Respondent No. 3 imposed major penalty of compulsory retirement from service on appellant on basis of unfounded and baseless assessments. Under the law punishment in departmental proceedings should always be commensurate to the guilt proved through substantive piece of evidence during enquiry.
- i. That the enquiry proceedings against appellant suffered from gross infirmities, illegalities and irregularities as no evidence what so ever has been produce or cited in the enquiry report nor any witness has been examined before the appellant.
- j. That order passed is with mala fide intention as the good entries recorded in the services recorded of appellant has not been considered at all rather bad entries which with due respect are not available in the record of appellant has been discussed by the respondent. Therefore the impugned order is not sustainable under the law.
- k. That the authority went beyond the scope in accepting the opinion of enquiry officer based on assessments and speculations rather the enquiry officer explicitly stated that no evidence available against appellant. The authority did not examine the departmental file in the light of real controversy. Further more the enquiry officer has not suggest the imposition of major penalty against appellant but this aspect of the case has not been considered by learned respondent No. 2 and 3 at all thus both the order is liable to be set aside in the better interest of justice.



(S)

- l. That the impugned order has been based on hallowed and unfounded assessments of enquiry officer who was otherwise not competent to conduct enquiry, therefore the orders based on such enquiry are worth set aside.
- m. That no final show cause notice under the relevant provision of law has been issued to appellant which is mandatory under the law. Similarly appellant was not personally heard and no opportunity of defense has been provided to appellant nor proper proceeding under proper law has been carried against the appellant.
- n. That That worthy provincial police officer had issued clear order No. 6505-25/OS (Ops) dated 17.08.2013 for disposal of such enquires through committee constituted as provincial and regional level while the case of appellant was disposed of by District Police Officer in violation of above orders. (Copy attached)
- o. That finding of the enquiry officer shows that nothing has been established against appellant which could connect him with the alleged allegation of corruption as no evidence has been collected by the inquiry officer. Mere allegation or opinion does not means that the appellant was involved in corruption thus the impugned order is not tenable in the eyes of law.
- p. That impugned order dated 01/01/2014 and 10/06/2014 are suffered from gross infirmities, illegality , based on no evidence totally contradictory to the enquiry report further appellant being a civil servant has not been proceeded under relevant provision of rules and regulation.
- q. That the learned respondent has not taken into consideration that the rules under which the appellant has been charged are not applicable on him.
- r. That respondent No. 2 has not decided the representation in time but decided the same after more that 6 months contrary to rules and regulation with mala fide intention thus the act of respondent No. 2 and 3 is totally based on male fide intention which clearly shows discrimination and undue victimization.



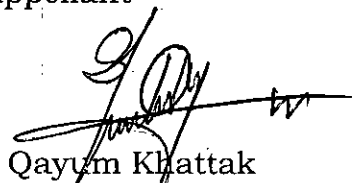
6

It is, therefore, most humbly prayed that by accepting this service appeal, the impugned order bearing OB No. 09 dated 01/01/2014 and order dated 10/06/2014 bearing No. 5640-41/EC, dated Kohat the 11/06/2014 may graciously be ^{modified or} set aside by declaring it illegal, unlawful, without authority, based on mala fide, void abinitio against the rules & regulation and thus not sustainable in the eyes of law and the appellant may please be reinstated on his post with all back benefits of pay and service.

Any other relief not specifically prayed for but deem appropriate in the circumstances of the case may also be granted.

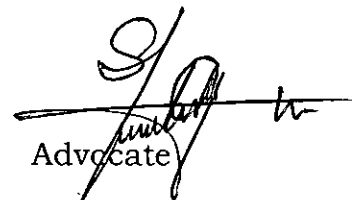

Appellant

Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar

Dated: /06/2014

Certified that as per instruction of my client no such appeal has been filed before this Hon'ble Forum.


Advocate

(6-A)

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2014

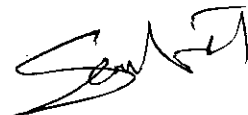
Sartaj Hussain Appellant

Versus

Provincial Police Officer and others..... Respondents

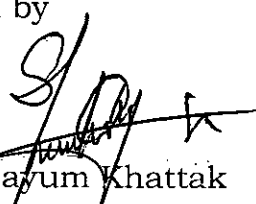
Affidavit

I, Sartaj Hussain S/o Syed Muñir Hussain R/o Village Muhoora
Kurram Agency, do hereby solemnly affirm and declare on Oath
that the contents of the above appeal are true and correct to the
best of my knowledge and belief and nothing has been kept secret
from this Hon'ble Tribunal.

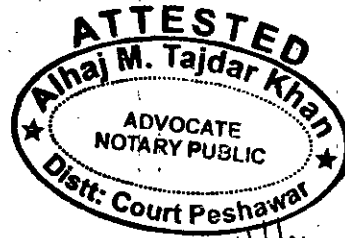



Deponent

Identified by



Shahid Qayum Khattak
Advocate




18/8/2014

7

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2014

Sartaj Hussain Appellant

Versus

Provincial Police Officer and others..... Respondents

APPLICATION FOR SUSPENSION OF THE IMPUGNED ORDER
DATED 01/01/2014 AND ORDER DATED 10/06/2014 TILL
THE FINAL DISPOSAL OF THIS CASE

Respectfully Sheweth;

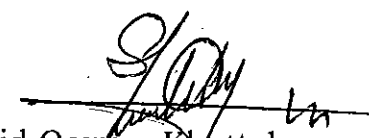
1. That the above noted case has been filed before this Hon'ble Forum in which no date of hearing is yet fixed.
2. That the applicants/appellants has got a good prima facie case in his favor and balance of convenience also lies in her favor
3. That if the order dated 01/01/2014 & 10/06/2014 has not been suspended till the disposal of this Appeal then the applicant/appellants would suffer an irreparable loss and damages.
4. That the grounds of main Petition may please also be considered as integral part of this application.

It is, therefore, respectfully prayed that by accepting this application impugned order dated 01/01/2014 & 10/06/2014 may please be suspended till the final decision of the case and applicant may please be allowed to work on his seat as IHC.



Applicant/Appellant

Through



Shahid Qayim Khattak
Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2014

Sartaj Hussain Appellant

Versus

Provincial Police Officer and others..... Respondents

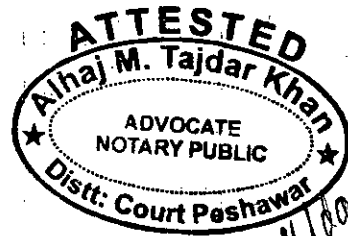
Affidavit

I, Sartaj Hussain S/o Syed Munir Hussain R/o Village Muhoora
Kurram Agency, do hereby solemnly affirm and declare on Oath
that the contents of the above application are true and correct to
the best of my knowledge and belief and nothing has been kept
secret from this Hon'ble Tribunal.

Deponent

Identified by

Shahid Qayum Khattak
Advocate



18/08/2014

9

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. /2014

Sartaj Hussain Appellant

Versus

Provincial Police Officer and others..... Respondents

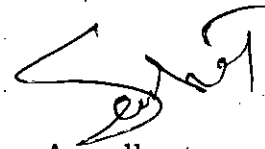
ADDRESS OF THE PARTIES

APPELLANT

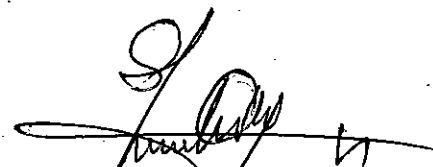
Sartaj Hussain S/o Syed Munir Hussain R/o Village Muhoora
Kurram Agency

RESPONDENTS

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police Kohat Region, Kohat.
3. District Police Officer, Karak
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar


Appellant

Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar

Dated: 18/06/2014

(10)

No: 17073
Dated: 10/12/2013

CHARGE SHEET

I, Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority hereby charge you Head Constable Sartaj Hussain No.7 Police Station Khurrani as follow:-

"You Head Constable Sartaj Hussain No.7 carry bad reputation for corruption. Furthermore your service record carries numerous bad entries, which show your inefficiency, misconduct and ill reputation."

2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary rules-1975 and have rendered your-self liable to all or any of the penalties specified in Police rules-1975 ibid.


3. You are, therefore, required to submit your written defense within 07-days of the receipt of this charge sheet to the enquiry Officer Mr. Gul Jinnat Khan, SDPO Takht-e-Nasrati Your written defense if any should reach the Enquiry Officers 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 be taken against you.

4. Intimate whether you desire to be heard in person.

5. A statement of allegation is enclosed.

03/12/13
12/12/13


District Police Officer, Karak

Allotted to be
true

Copy to be True Copy

(10-A)

BETTER COPY

Dated 10/12/2013

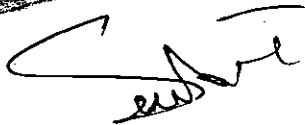
CHARGE SHEET

I Atiq Ullah Khan Wazir, District Police Officer, Karak as competent authority hereby charge you Head Constable Sartaj Hussain No. 07 Police Station Khurram as follow:

“ You Head Constable Sartaj Hussain No. 07 carry bad reputation for corruption. Furthermore your service record carries numerous bad entries which show your inefficiency, misconduct and ill reputation.

2. By reason of your commission / omission, constitute miss-conduct under Police disciplinary rules-1975 and have rendered your self liable to all or any of the penalties specified in Police rules-1975 ibid.
3. You are, therefore, required to submit your written defense within 07- days of the of the receipt of this charge sheet to the enquiry Officer Mr. Gul Jamal Khan SDPO Takt-e-Nasrati. Your written defense if any should reach the Enquiry Officers 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 be taken against you.
4. Intimate whether you desire to be heard in person.
5. A statement of allegation is enclosed.

Attested to be True Copy



District Police Officer Karak

16

No.

TEC

Dated

12/013

DISCIPLINARY ACTION

1. I, Atiq Ullah Khan Wazir Police Officer, Karak as competent authority, is of the opinion that Head Constable Sartaj Hussain No.7 Police Station Khurram has rendered him liable to be proceeded against departmentally on the charges of committing misconduct and negligence in duty.

"Head Constable Shahid Zaman No.826 carries bad reputation for corruption. Furthermore his service record carries numerous bad entries, which show his inefficiency, misconduct and ill reputation."

2. The enquiry Officer Mr. Gul Jamal SDPO Takht-e-Nasrati shall in accordance with provision of the Police disciplinary rules-1975 may provide reasonable opportunity of hearing to the accused official, record his finding and make within 10-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.

3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry committee.

[Signature]
District Police Officer, Karak.

No. 17074-75 TEC (enquiry), dated 10/12 2013

Copy to:-

1. The enquiry Officer for initiating proceeding against the accused under the Provision of Police disciplinary rules-1975.
2. Head Constable Sertaj Husain No. 7 Police Station Khurram.

[Signature]
Attester to be full copy

11-A

BETTER COPY

DISCIPLINARY ACTION

1. I, Atiq Ullah Wazir Police Officer, Karak, as competent authority is of the opinion that Head Constable Sartaj Hussain No. 07 Police Station Khurram has rendered him liable to be proceeded against departmentally on the charges of committing misconduct and negligence in duty.

“ Head Constable Sartaj Hussain No. 07 carries bad reputation for corruption. Furthermore his service record carries numerous bad entries which show his inefficiency, misconduct and ill reputation.


2. The enquiry Officer Mr. Gul Jamal SDPO Takht-e-Nasrati shall in accordance with provision of the Police disciplinary rules-1975 may provide reasonable opportunity of hearing to the accused official, record his finding and make within 10-days of the receipt of this order, recommendation as to punishment or other appropriate action against the accused.
3. The accused official shall join the proceeding on the date, time and place fixed by the enquiry committee.

District Police Officer, Karak

No. 17065-66/EC(enquiry), dated 10/12/2013

Copy to :-

1. The enquiry Officer for initiating proceeding against the accused under the provision of Police disciplinary rules-1975.
2. Head Constable Sartaj Hussain No. 07 Police Station Kurram

Attested to be true copy


الحکم جاری شدیم 17/12/13 جاری شد

صاف کر کے صرفیوں - کم سال 12/13
88

کا بھیجی ہے - اور سال سے پہلے سے
صلح کو باگت تبدیل کر کے آج صلح کر

میں لکھانہ دیں - چند سے لکھانہ دیں

تھیں صلح تبدیل ہو گئے اب لکھانہ صلح

میں لکھانہ دیں - صلح بدوان ڈیوٹی صلح

کے صلح سے لکھانہ کی عمر کافی کام میں

لکھا ہے - اور ہم ہی آئندہ کرتا - انہی صلح

میں لکھانہ دیں لکھانہ دیں - لکھانہ صلح

فریاد لکھانہ دیں لکھانہ دیں لکھانہ دیں

لکھانہ دیں لکھانہ دیں لکھانہ دیں

17.12.13

ATTESTED TRUE COPY

لکھانہ

جناب عالی :-

بھالہ چارج ٹیٹ نمبر $\frac{17073}{10.12.013}$ مجاریہ جناب DPD

صاحب کرک معروض ہوں۔ کہ سائل $\frac{13}{88}$ کا بھرتی شدہ ہے۔ اور سائل مٹی کے سینے میں ضلع کوہاٹ سے تبدیل ہو کر آب ضلع کرک میں تعینات ہوں۔ چند سینے گزارنے کے بعد تھانہ فرم تبدیل ہو چکا ہے۔ اب تک تھانہ فرم میں تعینات ہوں۔ میں بدولان ڈیوٹی ضلع کرک میں کسی قسم کی غیر قانونی کام نہیں کیا ہے اور نہ ہی آئندہ کرونگا۔ اپنی صفائی پیش کرتا ہوں بے گناہ ہوں۔ مناسب حکم فرما کر تاحیات دعا گو رہوں گا۔ بہ میرا بیان ہے۔ جو کہ درست ہے

سائل سید سرتاج حسین $\frac{7}{14C}$ حال تھانہ فرم ضلع کرک

17-12-13

Attested to be True Copy
Attested to be True Copy

Signature

فاتحہ ٹینگ

جناب عالی

بجوال آرڈر / EC / 75-17074 فیض 10:12:13 برخلقت تراج حین
حال تھانہ قسم کا داغہ ریسرچ ریکارڈ اور برہمنوئی میں ملوث ہونے کے بارے
انٹرنیٹ پر موصولہ تصدیق ہوں۔

مذکورہ پبلک انکوائری دستاویز طلب کیا گیا۔ دستاویز کے
تعمیراتی بیان بھی اسکا سرکاری پرائیویٹ لیکچر ایف اے بھی پیش کرنے جو پراہ لف اور
قابل ملاحظہ ہے۔

مذکورہ ایف اے میں بیان میں نام لیا۔ کہ وہ سال 1988 کا پوری شدہ
ماہ 13 سال 2013 میں اسکا تیار و فلم کوڈ سے ضلع کرگ اور تھانہ قسم میں
سرانجام دیا ہے۔ دوران ٹریڈ ضلع کرگ میں کیسٹیم کا غیر قانونی کام نہیں کیا ہے
معلومہ آئین مذکورہ کے اعلان نام سے ایک Good اور Bad انٹرویو
ذمہ دار کر کے جو پراہ لف اور قابل ملاحظہ ہے۔

مذکورہ پبلک انکوائری اور ٹینگ کے بارے میں حقیقت معلوم کرنے
جس کا نام کہہ سکتے ہیں یا ٹینگ بلین نہ پایا گیا۔ اور نہ ایک خلقت کرپشن
کے بارے میں تحریرہ یا ٹھوس ثبوت نہ مل سکتا ہے اس کے خلاف یہ عام
افواہ ہے۔ کہ وہ کرپشن میں ملوث پایا گیا ہے۔ انٹرنیٹ پر پراہ لف کے بارے

Handwritten signature and text in Urdu, including the name 'Jamaal' and 'Sole'.

Handwritten signature in Urdu.

ATTESTED TO BE TRUE COPY

Attested to be TRUE COPY

Handwritten signature in Urdu.

13-A

فائڈنگ

جناب عالی:-

حوالہ آرڈر نمبر EC/17074 مورخ 13-12-10 پر خلاف سرتاج حسین
حال تقاضا صرح کی داغ داریکروس ریکارڈ اور بد عنوانی میں ملوث
ہونے کے بارے میں انکوائری ہو کر معروضی عدالت ہوں۔

مذکورہ کو بسلسلہ انکوائری دفتر نڈا طلب کیا گیا۔ دفتر حاضر کر
جس نے ایک تحریری بیان جمعہ اسکی مارگرنگی پر آگرس نقول FIR
بھی پیش کھڑے ہمارے اور قابل ملاحظہ ہے۔

مذکورہ نے اپنے تحریری بیان میں ظاہر کیا کہ وہ سال 1988ء

کا ہجرتی شدہ ہے۔ چارہ حق سال 2013ء میں اسکا تبادلہ ضلع کوٹاہ
سے ضلع کرک ہوا اور تقاضا صرح میں ڈیوٹی سرانجام دے رہا ہے
بدوران ڈیوٹی ضلع کرک میں کسی قسم کی غیر قانونی کام نہیں کیا ہے
علاوہ آزیں مذکورہ کے اعمال نامہ سے اسکے Good اور Bad
اندرجات دفتر پولیس کرک سے طلب کر کے جو ہمراہ لف اور قابل

ملاحظہ ہے۔

مذکورہ کے جائیداد اور بینک بیلنس کے بارے میں مفید معلومات
کر کے جس کے نام کسی قسم کی جائیداد یا بینک بیلنس نہ پایا گیا۔
اور نہ اسکے خلاف کریشن کے بارے کوئی تحریری یا ٹھوس ثبوت
منہ ملا۔ البتہ اسکے خلاف یہ عام آفواہ ہے کہ وہ کرپشن میں
ملوث پایا گیا ہے۔ انکوائری رپورٹ گزارش ہے۔

گل جمال خان سسرل DPO
صحت لفرنی

ATTESTED TO BE TRUE COPY

Handwritten signature

ORDER

14

This Order is passed on the departmental enquiry against HC Sartaj Hussain No.07 of this District Police leading to the present departmental proceedings are as follows:-

According to the charge sheet, HC Sartaj Hussain No.07 carried bad reputation for corruption and also carries numerous bad entries in his service record, which clearly show inefficiency, misconduct and ill reputation on his part.

Charge Sheet and Statement of allegation based on above allegations were served upon the defaulter HC Sartaj Hussain No. 7. Mr. Gul Jamal Khan, SDPO Takht-e-Nasrati was appointed as enquiry Officer to scrutinize the conduct of HC Sartaj Hussain No.07 with reference to the charges leveled against him.

The Enquiry Officer conducted departmental enquiry, during the course of which he obtained land record and bank accounts in the name of defaulter H.C which proved nothing on his part. However, the enquiry officer recommended him as corrupt on the basis of general reputation and public perception for appropriate action.

From the perusal of available record, recommendations of enquiry officer and verbal information given by local Officers of special Branch and I.B about his corrupt reputation and received on transfer from Kohat District to this District on the complaint of involvement in illegal activities, smuggling and other malpractices vide Deputy Inspector General of Police, Kohat Region, Kohat Order Endst:No. 3258-63/EC, dated 02.05.2013, the undersigned being competent authority under Rule-3 of NWFP now Khyber Pakhtunkhwa Police Rules 1975, am satisfied that the defaulter H.C is an Official of ill repute and remained involved in misuse of powers during his longer service of 25- years in Police Organization, hence in exercise of powers vested in me under rule 5(5) of the rules ibid, he is awarded major penalty of compulsory retirement from service with immediate effect.

OB No. 9

Dated 01-01 /2014

Muqbil
District Police Officer, Karak

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

No. 21 /EC, dated Karak the 01-01 /2014.

Copy of above is submitted to the Deputy Inspector General of Police, Kohat Region Kohat for favour of information w/r to his Office Endst:No.1364-66/C-Cell, dated 22.08.2013.

ATTESTED TO BE TRUE COPY

Attested

Muqbil
District Police Officer, Karak

[Signature]
Inspector Legal
Karak

ATTESTED TO BE TRUE COPY

[Signature]
07/01/2014

[Signature]

(14-A)

BETTER COPY

ORDER

This order is passed on the departmental enquiry against HC Sartaj Hussain No. 07 of this District Police leading to the present departmental proceedings are as follows:-

According to the charge sheet, HC Sartaj Hussain No. 07 carried bad reputation for corruption and also carries numerous bad entries in his service record, which clearly show inefficiency, misconduct and ill reputation on his part.

Charge Sheet and Statement of allegation based on above allegation were served upon the defaulter HC Sartaj Hussain, Mr Gul Jamal Khan, SDPO Takht-e-Nasrati was appointed as enquiry Officer to scrutinize the conduct of HC Sartaj Hussain with reference to the charge leveled against him.

The enquiry Officer conducted departmental enquiry, during the course of which he obtained land record and bank accounts in the name of defaulter H.C which prove nothing on his part. However, the enquiry officer recommended him as corrupt on the basis of general reputation and public perception for appropriate action.

From the perusal of available record, recommendations of enquiry officer and verbal information given by local Officers of special Branch and I.B about his corrupt reputation, the undersigned being competent authority under Rule-3 of NWFP now Khyber Pakhtunkhwa Police Rules 1975, am satisfied that that the defaulter H.C is an officer of ill repute and remained involved in misuse of powers during his long service of 25 years in Police Organization, hence in exercise of powers vested in me under rule 5(5) of the rules ibid, he is awarded major penalty of compulsory retirement from service with immediate effect.

OB No. 9
Dated 01/01/2014

District Police Officer, Karak

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

No. 21 /EC, dated karak the 01/01/2014

Copy of above is submitted to Deputy Inspector General of Police, Kohat Region Kohat for favour of information w/r to his Office Ends: No. 1364-66/C-Cell, Dated 22.08.2013.

Attested to be True Copy

Sartaj

District Police Officer, Karak
BETTER COPY

(15)

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION, KOHAT

SUBJECT: APPEAL AGAINST THE ORDER OF DPO KOHAT BEARING OB
NO.9 DATED 01-1-2014 WHEREBY THE APPELLANT EX. HEAD
CONSTABLE SARTAJ HUSSAIN NO.7 WAS AWARDED THE
PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE
THE IMMEDIATE EFFECT.

Respectfully Sheweth,


With veneration, the instant appellant is submitted on the following facts and grounds:


Facts:

Shortly stated that the appellant was awarded the major penalty of compulsory retirement from service by DPO Karak on the charges of carrying bad reputation for corruption and also carrying numerous bad entries in his service record which showed inefficiency, misconduct and ill reputation on his part.

Grounds:

- A. That the charges leveled against the appellant were not established through solid evidence.
- B. That the impugned order was not based on sound reasons. The penalty imposed upon the appellant was based on rumour which carried no legal value.
- C. That no final show cause notice was issued to the appellant by DPO Karak prior to the imposition of penalty and thus the principles of natural justice were completely ignored.
- D. That the findings of the enquiry officer clearly indicated that the charges leveled against the appellant were not proved.

Attested



ATTESTED TO BE TRUE COPY

15-A

BETTER COPY

BEFORE THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT
REGION, KOHAT

SUBJECT: APPEAL AGAINST THE ORDER OF D.P.O KOHAT BEARING OB
NO. 9 DATED 01-01-2014 WHEREBY THE APPELLANT EX. HEAD
CONSTABLE SARTAJ JUSSAIN NO. 7 WAS AWARDING THE
PUNISHMENT OF COMPULSORY RETIREMENT PROM SERVICE
WITH IMMEDIATE EFFECT

Respectfully Sheweth;

With veneration, the instant appellant is submitted on the following facts
and ground.

FACTS:

Shortly stated that the appellant was awarded the major penalty of
compulsory retirement form service by DPO Karak on the charges of
carrying bad reputation for corruption and also carrying numerous bad
entries in his service record which showed inefficiency , misconduct and
ill reputation on his part.

Grounds:

- A. That the charges leveled against the appellant were not established through solid
evidence.
- B. That the impugned order was not based on sound reasons. The penalty imposed
upon the appellant was based on rumour which carried no legal value.
- C. The no final show cause notice was issued to the appellant by DPO Karak prior to
the imposition of penalty and thus the principles of natural justice were completely
ignored.
- D. The findings of the enquiry officer clearly indicated that the charges leveled
against the appellant were not proved.

Attested to be true copy



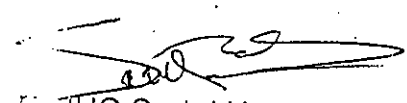
- E. That the impugned order is based on conjectures and hearsay evidence to which no legal value was attached.
- F. That awarding major punishment on flimsy grounds was not sustainable in the eye of law.
- G. That the punishment awarded to the appellant was arbitrary, unjustified and unlawful.

Pray:

It is requested that by accepting the instant appeal, the impugned order may be set aside and the appellant re-instated in service w.e.f. the date of compulsory retirement please.

Dated: 07-1-2014.

Yours obediently,



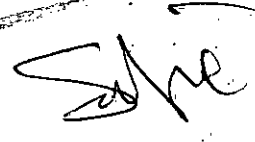
Ex-FHC Sartaj Hussain
No.7
R/O Village Muhoora Kurram
Agency.

7-1-2014



ATTESTED TO BE TRUE COPY

Attested to be True Copy



16-A

BETTER COPY

- E. That the impugned order is based on conjectures and hearsay evidence to which no legal value was attached.
- F. That awarding major punishment on flimsy grounds was not sustainable in the eyes of law.
- G. That the punishment awarded to the appellant was arbitrary, unjustified and unlawful.

Pray:

It is requested that by accepting the instant appeal, the impugned order may be set aside and the appellant re-instated in service w.e.f the date of compulsory retirement please.

Yours obediently

Dated 07/1/2014

Ex- IHC Sartaj Hussain No. 7
R/o Choorlakki, Tehsil & District Kohat.

Attested to be True Copy



POLICE DEPARTMENTKOHAT REGIONORDER

This order is passed on the appeal preferred by Ex-IHC Sartaj Hussain of Karak district Police, wherein he was awarded major punishment of compulsory retirement by DPO Karak vide O.B No. 09, dated 01.01.2014. He requested for setting aside the punishment order and reinstatement in service.

Facts are that the official earned bad-reputation for corruption and also carries 03 bad entries in his service record, which clearly shows his inefficiency, negligence and ill-reputation on his part.

On the basis of above-mentioned charges / omissions, Charge Sheet & Statement of allegations was issued to him under Police Disciplinary Rule 1975 by DPO Karak and Mr. Gul Jamal (SDPO Takht-e-Nasrati Karak) was appointed as enquiry officer to conduct proper departmental enquiry against him. The enquiry officer conducted transparent enquiry, completed all enquiry formalities and submitted findings report, in which the defaulter was found guilty of the charges.

Aggrieved from the said order, the appellant preferred the instant departmental appeal for setting aside the punishment order passed by DPO Karak.

Therefore, the defaulter official was heard in person in orderly room held in this office on 10.06.2014. He did not submit any convincing reply to his misconduct and could not satisfy the undersigned.

Going through the available record and enquiry papers, the undersigned reached to the conclusion that charges leveled against him has been established. However, the representation of the defaulter official is partially accepted and punishment order of compulsory retirement passed by DPO Karak is hereby converted into demotion to the rank of Constable. The intervening period may be treated as leave of kind due.

ANNOUNCED
10.06.2014

(DR. ISHTIAQ AHMAD MARWAT)
Dy. Inspector General of Police,
Kohat Region, Kohat.

No. 5640-41-IEC, dated Kohat the 11/06 2014.

Copy of above for information and necessary action to the District Police Officer, Karak w/r to his office Memo. No. 3146/L.E. dated 25.02.2014. His service record is enclosed herewith.

2. Ex-IHC Sartaj Hussain No. 07 of Karak district

Attested

Inspector legal
Karak

*Inspector legal
Karak
12/06/2014*

(DR. ISHTIAQ AHMAD MARWAT)
Dy. Inspector General of Police,
Kohat Region, Kohat.

17-A

BETTER COPY

POLICE DEPARTMENT

KOHAT REGION

ORDER

This order will dispose of the appeal preferred by EX-IHC Sartaj Hussain of Karak district Police, wherein he was awarded major punishment of compulsory retirement by DPO Karak vide O.B No. 09, dated 01.01.2014. He requested for setting aside the punishment order and reinstatement in service.

Facts are that the official earned bad- reputation for corruption and also carries 3 bad entries in his service record, which clearly shows his inefficiency, negligence and ill-reputation on his part.

On the basis of the above mentioned charges/ omissions, Charge Sheet & Statement of allegations was issued to him under Police Disciplinary Rule 1975 by DPO Karak and Mr. Gul Jamal (SDPO Takht-o-Nasrati Karak) was appointed as enquiry officer to conduct proper departmental enquiry against him. The enquiry officer conducted transparent enquiry, completed all formalities and submitted findings report, in which the defaulter was found guilty of the charges.

Aggrieved from the said order, the appellant preferred the instant Departmental appeal for setting aside the punishment order passed by DPO Karak.

Therefore, the defaulter officer was heard in person in orderly room held in this office on 10.06.2014. He did not submit any convincing reply to his misconduct and could not satisfy the undersigned.

Going through the available record and enquiry papers, the undersigned reached to the conclusion that charges leveled against him has been established. However, the representation of the defaulter official is partially accepted and the punishment order of DPO, Karak is hereby converted into demotion to the rank of Constable, the intervening period may be treated as leave of kind due.

ANNOUNCED

10.06.2014

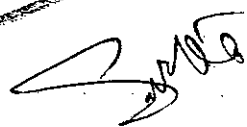
R. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police,
Kohat region, Kohat.

No. 5640-41/EC, dated Kohat the 11/06/2014

Copy of above for information and necessary action to the District Police Officer, Karak w/r to his office memo: No. 3146/L.B dated 25.02.2014. His service record is enclosed herewith.

2. Ex. IHC Sartaj Hussain of Karak District.

Attended by
13/06/2014



(DR. ISHTIAQ AHMAD MARWAT)
Dy: Inspector General of Police,
Kohat region, Kohat.

18

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR



Service Appeal No. 518 /2014

Sartaj Hussain S/o Syed Munir Hussain R/o Village Muhoora
Kurram Agency..... Appellant

Versus

1. Provincial Police Officer/ Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police Kohat Region, Kohat.
3. District Police Officer, Karak
4. Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar

09/04/14
530

..... Respondents

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

u/s-4 of Service Tribunal Act 1974.
APPEAL/AGAINST THE ORDER DATED 01/01/2014 PASSED BY
RESPONDENT NO. 1 BY WHICH MAJOR PENALTY OF
COMPULSORY RETIREMENT FROM SERVICE HAS BEEN
AWARDED TO THE APPELLANT AND THE REPRESENTATION OF
THE APPELLANT FILED ON 06/01/2014 HAS NOT YET BEEN
DECIDED BY THE RESPONDENT NO. 2

PRAYER

On accepting this service appeal, the impugned order bearing OB No. 09 dated 01/01/2014 may graciously be set aside by declaring it illegal, unlawful, without authority, based on mala fide, void abinitio and thus not sustainable in the eyes of law and the appellant may please be reinstated on his post with all back benefits of pay and service.

9/4/14

Respectfully Sheweth;

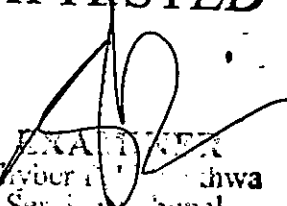
1. That appellant joined police department in the year, 1988 and has rendered satisfactory service in the Department for the last 26 long years and performed his duties with full zeal and enthusiasm.

19

11.6.2014

Counsel for the appellant present. Respondents are not present despite their service through registered post/concerned officials. However, Mr. Muhammad Adeel Butt, AAG is present and would be contacting the respondents for reply to application for interim relief and written reply on main appeal alongwith connected appeal on the date already fixed i.e. 4.8.2014.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

13.6.2014

Counsel for the appellant moved application for amendment of appeal or withdrawal of appeal with permission to file fresh one. On request of learned counsel for the appellant, the file was requisitioned. The learned counsel for the appellant stated at the Bar that the appellate authority i.e DIG of Police, Kohat Region, Kohat (Respondent No. 2) has partially accepted the departmental appeal of the appellant and has converted the penalty of compulsory retirement upon the appellant by the competent authority to that of demotion/reversion to rank of constable from IHC, while treating the intervening period as leave of the kind due vide order dated 10.6.2014. In the light of this development, the learned counsel would stress on the withdrawal of the appeal with permission to file fresh one.

Consequently, the appeal is dismissed as withdrawn with permission to file fresh one, subject to all legal restrictions and limitation, with no order as to costs.

ANNOUNCED
13.6.2014

sdl -
chairman

Certified to be true copy

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17.6.2014
No. 1200
Copy 9-00
Urgent 2-00
Total 10-00
Name of Copyholder [Signature]
Date of Completion of Copy 17.6.2014
Date of Delivery of Copy 17.6.2014

21

BETTER COPY

From : the Inspector General of Police,
Khyber Pakhtunkhwa.

To: The Capital City Police Officer,
Peshawar

All Regional Police Officers,
Khyber Pakhtunkhwa

All District Police Officers,
Khyber Pakhtunkhwa

No. 6505-25/OS(Ops)

Dated 17.08.2013

Subject:- ERADICATION OF CORRUPTION

Memo:

This is in continuation of correspondence on the subject.

2. All senior officers have powers to take disciplinary action against inefficiency, misconduct and corruption of their subordinates. Chief Minister Khyber Pakhtunkhwa has ordered strict and prompt action against all corrupt police officers / officials in line with _____ of KPK government against corruption an institutionalize mechanism has been devised by KPK Police to deal with corrupt officers/ officials. For the purpose Police Accountability Commission at CPO level and Regional Disciplinary Committees at RPOs level are established. The commission and committees will complete their task within 30 days and submit report to Provincial Police Officer.

3. Detail about composition and functions along with working mechanism of Police Accountability Commission and Regional Disciplinary Committees is as under.

a. Police Accountability Commission

Composition
Addl IG HQrs
DIG HQrs
DIG Enquiries & Inspections
AIG Establishment
AIG Legal

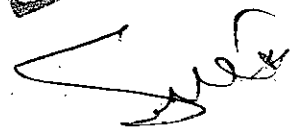
Functions

Review of recommendations of Regional Disciplinary Committees
Monitoring of all major and minor punishment including removal
retirement and lay off from service.
Review and assessment of administrative, disciplinary, appellate actions
Retention policy for inefficient and corrupt officers / officials

b. Regional Disciplinary Committees

Composition
RPO
All DPSS in the Region
SSP Special Branch

Attested to be True Copy



Functions

Report about reputation and assets from intelligence agencies
Identification of corrupt and inefficient officers / officials
Scrutiny of service, punishment and appeal record.

c. Mechanism

- Step 1: Review of service record of police officer (ASI or DSP) by RDCs
- Step 2: Seeking reports about reputation and asset from intelligence agencies by RDCs
- Step 3: Recommendation by RDCs to the commission
- Step 4: Evaluation of the recommendations by the commission and direction to disciplinary authorities.
- Step 5: Action by Disciplinary authorities.
- Step 6: Final report by the Police accountability commission and Regional Disciplinary committees

4. All concerned are required to take immediate steps for formation, functioning and reports of Police Accountability Commission and Regional Disciplinary Committees under intimation to DIG Hqrs.

5. This issues with approval of inspector General Police.

(MIAN MUHAMMAD ASIF) PSP
Addl: IGP, Ops

Attested to be True Copy



BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 869/2014 Titled

Sartaj Hussain Ex HC No 931 of District Police
Kohat..... (Appellant)

Versus

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer Kohat Region Kohat..
3. The District Police Officer, Karak
4. Government of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.

(Respondents)

REPLY / PARA-WISE COMMENTS TO APPEAL ON BEHALF OF RESPONDENTS. NO. 1 TO 4.00

Respectfully Sheweth,

The reply / Para-wise comment to Appeal on behalf of Respondents are submitted as below,

Preliminary objections

1. The appellant has got no cause of action to file the present appeal.
2. The appellant has not come to this Tribunal with clean hands.
3. The appeal is not maintainable in its present form.
4. The appeal is time barred.
5. The appeal is bad for mis-joinder and non-joinder of necessary parties.

Facts

1. Correct to the extent that appellant joined Police Department in the capacity of Constable during the year 1998. However, his stance about performance of satisfactory service with zeal and zest could not be verified. Copies of the service record regarding punishment are enclosed as Annexure "A to A2"
2. Correct, needs no comments.

3. Incorrect, instead inquiry officer Nr. Gul Jamal SDPO Takht-e-Nasrati, after conducting proper inquiry against the appellant has submitted findings to the effect that the appellant is publically known as corrupt.
4. Incorrect, proper punishment order about Compulsory retirement of appellant from service was passed by the respondent No. 3 being Competent Authority under Rule 3(i) and 5 (5) NWFP now Khyber Pakhtunkhwa Police Rules 1975. Copies of Rules enclosed and schedule –I enclosed an Annexure-B to B/4.
5. Correct to the extent that representation filed by the appellant against his punishment of Compulsory retirement from Service, before Appellate Authority i.e Respondent No.2 was partially accepted and punishment order issued vide OB No. 9 dated 01.01.2014 was modified to demotion to the rank of Constable vide order dated 11/06.2014.
6. Correct, need no comments.

GROUND

- a. Incorrect, in fact the order of compulsory retirement of appellant from Service passed by Competent Authority i.e Respondent No. 3 and order of modification to the effect of reversion in rank of appellant passed by Appellate Authority were quite legal and based on cogent reasons.
- b. Incorrect, already explained vide ground "A" above.
- c. Incorrect, the appellant was properly proceeded against departmentally in accordance with the provisions of NWFP now Khyber Pakhtunkhwa Police Rules 1975 and issued Charge Sheet and provided opportunity of hearing by the Respondent.
- d. Incorrect, the departmental inquiry about involvement of the appellant in corruption and malpractices during performance of duties was got conducted through SDPO Takht-e-Nasrati,


verbal intelligence report about misconduct of appellant were sought from local Officers of intelligence Agencies in the District, public opinion was known and Service record of appellant was examined by the Competent Authority i.e respondent No, 3 before imposition of punishment of Compulsory retirement from service of the appellant vide O.B No.9 dated 01.01.2014. Copy of the order is enclosed as Annexure "C".


- e. Incorrect, already explained vide grounds "A" and "D".
- f. Incorrect, the impugned order is according to the law.
- g. Incorrect, the misconduct and indulgence of appellant in corruption and malpractices during performance of duties were properly ascertained by respondent No. 3 being Competent Authority through different sources and perusal of service record of the appellant, punishment order was passed after proper satisfaction by the Competent Authority with the intention to expel bad characters from Police Force.
- h. Incorrect, already explained vide above paras.
- i. Incorrect, already explained vide above paras.
- j. Incorrect, already explained vide above paras.
- k. Incorrect, already explained vide above paras.
- l. Incorrect, instead proper order has been passed by the Competent Authority in accordance with the provisions of Rule 5(5) of NWFP now Khyber Pakhtunkhwa Police Rules 1975.
- m. Incorrect, no specific provision is available in the rule referred in above Para about issuance of Final Show Cause Notice to a defaulter by the Competent Authority. Copy of Rule 5(5) enclosed as Annexure "B".
- n. Incorrect, interpretation of orders issued by Respondent No. 1 is not properly made in fact order issued vide No. 6505-25/OS (OPS) dated 17.08.2013 provides procedure to be adopted and steps to be taken by the competent

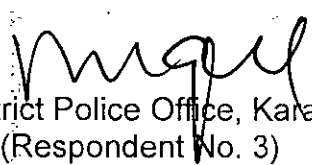
authorities for knowing involvement of their subordinates in corruption and malpractices.

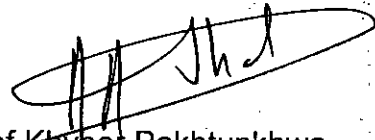
- o. Incorrect.
- p. Incorrect, already explained in above grounds.
- q. Incorrect.
- r. Incorrect.

In the light of above fact and circumstances it is submitted that Appeal filed by the applicant may very kindly be dismissed being time barred and based on flimsy grounds.


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


Dy. Inspector General of Police,
Kohat Region Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)


Govt of Khyber Pakhtunkhwa
Through
Chief Secretary
(Respondent No.4)

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 869/2014 Titled

Sartaj Hussain Ex HC No 931 of District Police
Kohat..... (Appellant)


Versus


1. The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.
2. The Regional Police Officer Kohat Region Kohat..
3. The District Police Officer, Karak
4. Government of Khyber Pakhtunkhwa, through Chief
Secretary, Peshawar.

(Respondents)

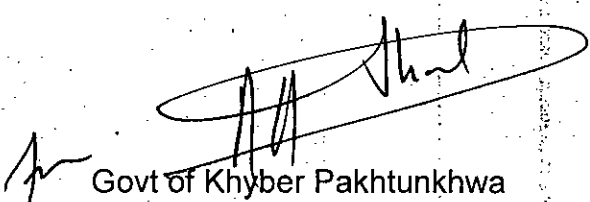
Subject: **AUTHORITY LETTER**

We, the respondents' No. 1 to 4 to hereby nominate Mr. Ghulam Hussain Inspector Legal District Karak to represent us before the Service Tribunal Khyber Pakhtunkhwa, Peshawar in the above cited service appeal. He is also authorized to submit comments / reply on our behalf before the Service Tribunal Khyber Pakhtunkhwa, Peshawar and to assist Govt: pleader/ Additional Govt: Pleader attached to August Tribunal till the decision of appeal.


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


Dy: Inspector General of Police,
Kohat Region/Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)


Govt of Khyber Pakhtunkhwa
Through
Chief Secretary
(Respondent No.4)

BEFORE THE KHYBER PAKHUTNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 869/2014 Titled

Sartaj Hussain Ex HC No 931 of District Police
Kohat..... (Appellant)


Versus


5. The Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar.
6. The Regional Police Officer Kohat Region Kohat..
7. The District Police Officer, Karak
8. Government of Khyber Pakhtunkhwa, through Chief
Secretary, Peshawar.

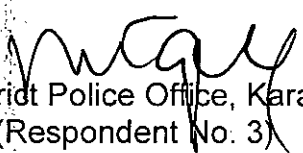
(Respondents)

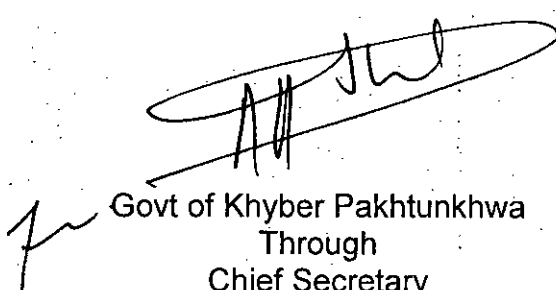
Subject: **AFFIDAVIT**

We, the respondents' No. 1 to 4 to hereby affirm
and declare on oath that the contents of reply/comments to the
above titled service appeal are true and correct to the best of
our knowledge and belief and nothing has been concealed
from the August Tribunal.


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


Dy. Inspector General of Police,
Kohat Region Kohat.
(Respondent No.2)


District Police Office, Karak
(Respondent No. 3)


Govt of Khyber Pakhtunkhwa
Through
Chief Secretary
(Respondent No.4)

①

Annex - A

Pi as Const. at Rs 720/PM
on 1-12-05.

(u)
P.Pott

Transfer to Distt. Bd. K
wale P.I.E.P. Warrant
no. 2473-25/EC
dt 23.5.09

(u)
P.Pott

Pi as Const. at Rs 7935/PM
on 1-12-06

(u)
P.Pott

S. U. C.

Revised Pay Scale 2nd
CA 5660 /PM on 1-12-07

(u)
P.Pott

Service for 12/01 to 30/09 have been
verified for pay bills & accy
rolls kept to this effect

(u)
P.Pott

Pi as Const. at Rs 5820/PM
on 1-12-07

(u)
P.Pott

2.4 He (7) on
7330 P.I.E.P. on 1-12-07

V.S. P. Pott

Revised Pay Scale 2nd
CA 6950 /PM on 1-12-08

(u)
P.Pott

Transfer to Karur Distt on Complaint
illegal activities vide DIOIP Kohat Order E
No. 3258-63/EC dt: 02/05/2013.

District Police Officer
Kohat

Pi as Const. at Rs 7140/PM
on 1-12-08

(u)
P.Pott

Stoppage of one year increment without
cumulative effect.

OB: No. 1274
dated 22.12.2008

(u)
District Police Officer
Kohat

Annual increment for the year
2009 released on 1-12-2010.

Pi as He (7)

(u)
District Police Officer
Kohat



Charge: He was directed verbally to behave and make his presence sure in PP Shikharogai. But he again found absent.

Punishment: Awarded forfeiture on one year approved service vide O/B NO. 149 dt 16-1-2002

S.P. Hangu
38/1/2002

The orders of forfeiture of one year approved service awarded to him by S.P Hangu is set-aside. Period of absence of one day is treated as casual leave vide D/S Hekit Range orders issued vide his Encls/ No. 435 dt 8-3-2002 - and this office dt No. 88 dated 16.3.02

S.P. Hangu

Censured for his inactivity & late submission of information of road Blockade right in front of Police Post.

Mohammad Ayyub
DPO Hangu

29/12/05

NAME BROUGHT ON LIST D (3)

✓
Charge: Carried bad reputation and also
Cases numerous bad entries in
Service Record.

Punishment: Compulsory Retired from Service
with immediate effect

O.B.No. 09

Dt: 01.01.2014

✓ District Officer
Karnal

OKOK.

The Major Penalty of compulsory retirement
vide O.B.No. 09, dated 01-01-2014 is converted
into major penalty of reversion to the rank
of constable vide D.O. what order andst.
No. 5640-41/EC, dated 11-06-2014. The intervening
period treated as leave of kind due and
his pay fixed @ Rs. 12840/- PM. as certified

✓ District Officer
Karnal

name:

THE POLICE RULES, 1975

(N.W.P. Gazette, 21st January, 1976)

1. Short title, commencement and application. These rules may be called Police Rules, 1975 ;

(ii) They shall come into force at once and shall apply to all Police Officers of and below the rank of Deputy-Superintendent of Police.

2. Definitions. In these rules, unless the context otherwise requires :—

(i) "Accused" means a Police Officer against whom action is taken under these rules ;

(ii) "Authority" means authority competent to award punishment as per Schedule.

(iii) "Misconduct" means conduct prejudicial to good order of discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a police officer and a gentleman, any commission or omission which violates any of the provisions of law and rule regulating the function and duty of a Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Police officer.

(iv) "Punishment" means a punishment which may be imposed under these rules by authority as indicated in Schedule-I.

3. Grounds for punishment. Where a Police Officer in the opinion of the authority—

(a) is inefficient or has ceased to be efficient ; or

(b) is guilty of misconduct ; or

(c) is corrupt, or may reasonably be considered corrupt because—

(i) he is, or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) or pecuniary resources or of property disproportionate to his known sources of income ; or

(ii) he has assumed a style of living beyond his ostensible means ; or

(iii) he has a persistent reputation of being corrupt ; or

(d) is engaged, or is reasonably suspected of being engaged, in subversive activities or is reasonably suspected of being associated with other engaged in subversive activities or is guilty of disclosures of official secrets to any unauthorised person, and his retention in service is, therefore, prejudicial to national security, the authority may impose on him one or more punishments.

(2) disqual

dischar

Competent

4 misconduct suspend

5 i.e., (a) followin under th

(1) the part by the cause to informal commiss in the O

4. *Punishment.* (1) the following are the minor and major punishments; namely:—

(a) *Minor punishments—*

- (i) Confinement of constables and head constables for 15 days to Quarter Guards;
- (ii) Censure;
- (iii) Forfeiture of approved service upto 2 years;
- (iv) Withholding of promotion upto one year;
- (v) Stoppage of increment for a period not exceeding 3 years with or without cumulative effect;
- (vi) Fine upto Rs. 1,000.

(b) *Major punishments—*

- (i) Reduction in rank/pay;
- (ii) Compulsory retirement;
- (iii) Removal from service; and
- (iv) Dismissal from service.

(2) (a) Removal from service does not, but dismissal from service does, disqualify for future employment.

(b) Reversion from an officiating rank is not a punishment.

(3) In this rule, removal or dismissal from service does not include the discharge of a person—

- (a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
- (b) appointed, otherwise than under a contract, to hold a temporary appointment on the expiration of the period of appointment; or
- (c) engaged under a contract, in accordance with the terms of the contract.

4-A. In case a Police Officer is accused of subversion, corruption or misconduct, the Competent Authority may require him to proceed on leave or suspend him.

5. *Punishment proceedings.* The punishment proceedings will be of two kinds i.e., (a) Summary Police Proceedings; and (b) General Police Proceedings and the following procedure shall be observed when a Police Officer is proceeded against under these rules:—

(1) When information of misconduct, or any act of omission or commission on the part of a Police Officer liable for punishment provided in these rules is received by the authority, the authority shall examine the information and may conduct or cause to be conducted quick brief inquiry, if necessary, for proper evaluation of the information and shall decide whether the misconduct or the act of omission or commission referred to above should be dealt with in a Police Summary Proceedings, in the Orderly Room or General Police Proceedings;

(2) In case the authority decides that the misconduct is to be dealt with in Police Summary Proceedings, he shall proceed as under :-

- (i) The accused officer liable to be dealt with in the Police Summary Proceedings shall be brought before the authority in an Orderly Room.
- (ii) He shall be apprised by the authority orally the nature of the alleged misconduct, etc. The substance of his explanation for the same shall be recorded and if same is found unsatisfactory, he will be awarded one of the minor punishments mentioned in these rules.
- (iii) The authority conducting the Police Summary Proceedings may, if deemed necessary, adjourn them for a maximum period of 7 days to procure any additional information.

(3) If the authority decides that the misconduct or act of omission or commission referred to above should be dealt within General Police Proceedings he shall proceed as under :-

- (a) The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an inquiry officer is necessary. If he decides that it is not necessary, he shall—
- (b) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action ; and
- (c) give him a reasonable opportunity of showing cause against the action :

Provided that no such opportunity shall be given where the authority is satisfied that in the interest of a security of Pakistan or any part thereof it is not expedient to give such opportunity.

(4) If the authority decides that it is necessary to have departmental inquiry conducted, through an inquiry officer, he shall appoint for this purpose an inquiry officer, who is senior in rank to the accused.

(5) On receipt of the findings of the inquiry officer, or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major or minor punishments as deemed necessary.

6. Procedure of Departmental Inquiry--(1) Where an Inquiry Officer is appointed the authority shall--

- (a) frame a charge and communicate it to the accused together with statement of the allegations explaining as the charge and of any other relevant circumstances which are proposed to be taken into consideration ;
- (b) require the accused within 7 days from the day the charge has been communicated to him to put in a written defence and to state at the same time whether he desires to be heard in person ;

(2) The Inquiry Officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the witnesses against him.

(3) T
ment shall b
journalment i

(a) it
(b) tl

(4) V
attempting
and if there
he shall rec
quiry ex-pa

(5) 7
ings or suc
grounds th

7.
under these
suit under
following :

(a) :
(b)
(c)
(d)

(2)
ings within
1860).

8. R
apply in c

(a)
(b)

9.
(1)
to any o
the borro
purpose
and of in

(2)
which ha

9. *Procedure of inquiry against officers lent to other Government or Authority.*—
(1) Where the services of a Police Officer to whom these rules apply are lent to any other Government or to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules :

(2) Provided that the borrowing authority shall forthwith inform the authority which has lent his service, hereinafter in this rule referred to as the lending authority, or the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be :

(3) If in the light of the findings in the proceedings taken against the Police Officer in terms of sub-rule (1) the borrowing authority is of opinion that any punishment should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in these rules.

10. No party to any proceedings under the rules before the authority or Inquiry Officer shall be represented by an Advocate.

11. *Appeal.*—(a) An appeal shall lie only against the orders of dismissal, removal from service, compulsory retirement, reduction in rank or time scale, forfeiture of approved service and imposition of fine ;

(b) There shall be one appeal only from the original order, and the order of the appellate authority shall be final ;

(c) The appeal shall lie to the officer one step higher than the one who passes the original order provided that in a case of orders passed by the Inspector-General of Police, only a review petition would be admissible.

12. No order passed under these rules shall be subject to review by any Court/Tribunal.

13. *Repeal.*—Any Disciplinary Rules applicable to Police Officers to whom these rules apply are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

SCHEDULE I
POWERS OF PUNISHMENT TABLE

Competent authority to award punishments	
Serial No.	Deartmental Punishment
	DSP/PDSP INSP/P.I. PSI/SI/ASI. OFFG. Constables HCs.

B/4

POLICE DISCIPLINARY RULES, 1975

1. Dismissal, removal from service, compulsory retirement.	IGP	DIG	SP	SP	SP	
2. Reduction from substantive rank to a lower rank from a higher stage to lower stage in the same time-scale of pay.	IGP	DIG	SP	SP	SP	
3. Withholding of promotion for one year or less.	IGP	DIG	SP	SP	SP	ga m
4. Fine up to Rs. 1,000 -	(i) IGP up to Rs. 1,000 (ii) DIG up to Rs. 500	DIG	SP	(i) SP up to Rs. 1,000 (ii) ASP/DSP up to Rs. 200	(i) SP up to Rs. 1,000 (ii) ASP/DSP up to Rs. 200	Fi Pi
5. Stoppage of increment	DIG	SP	SP	ASP/DSP	ASP/DSP	
6. Censure	DIG	SP	SP	ASP/DSP	ASP/DSP	
7. Forfeiture of approved service.	DIG	SP	SP	SP	ASP/DSP	oi
8. Confinement to quarter guards up to 15 days.	SP	SP	

Annex "C"

ORDER

This Order is passed on the departmental enquiry against HC Sartaj Hussain No.07 of this District Police leading to the present departmental proceedings are as follows:-

According to the charge sheet, HC Sartaj Hussain No.07 carried bad reputation for corruption and also carries numerous bad entries in his service record, which clearly show inefficiency, misconduct and ill reputation on his part.

Charge Sheet and Statement of allegation based on above allegations were served upon the defaulter HC Sartaj Hussain No.07. Mr. Gul Jamal Khan, SDPO Takht-e-Nasrati was appointed as enquiry Officer to scrutinize the conduct of HC Sartaj Hussain No.07 with reference to the charges leveled against him.

The Enquiry Officer conducted departmental enquiry, during the course of which he obtained land record and bank accounts in the name of defaulter H.C which proved nothing on his part. However, the enquiry officer recommended him as corrupt on the basis of general reputation and public perception for appropriate action.

From the perusal of available record, recommendations of enquiry officer and verbal information given by local Officers of special Branch and I.B about his corrupt reputation and received on transfer from Kohat District to this District on the complaint of involvement in illegal activities, smuggling and other malpractices vide Deputy Inspector General of Police, Kohat Region, Kohat Order Endst.No. 3258-63/EC, dated 02.05.2013, the undersigned being competent authority under Rule-3 of NWFP now Khyber Pakhtunkhwa Police Rules 1975, am satisfied that the defaulter H.C is an Official of ill repute and remained involved in misuse of powers during his longer service of 25- years in Police Organization, hence in exercise of powers vested in me under rule 5(5) of the rules ibid, he is awarded major penalty of compulsory retirement from service with immediate effect.

OB No. 9

Dated 01-01 /2014


District Police Officer, Karak

OFFICE OF THE DISTRICT POLICE OFFICER, KARAK

No. 21 /EC, dated Karak the 01-01 /2014.

Copy of above is submitted to the Deputy Inspector General of Police, Kohat Region Kohat for favour of information w/r to his Office Endst.No. 1364-66/C-Cell, dated 22.08.2013.


District Police Officer, Karak

0

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 869 /2014

Sartaj Hussain..... Appellant

Versus

Provincial Police Officer and others..... Respondents

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;

Preliminary objection

That the reply/para-wise comment has not been competently filed and the affidavit attached therewith has not been filed in accordance with law nor the same has been properly attested, hence the same has no value in the eyes of law.

Rejoinder to Preliminary objection

1. Incorrect hence denied. The appellant has been awarded punishment and being a Civil Servant has challenges the validity of the impugned orders before this Hon,ble Tribunal being the highest forum of the province to redress the grievance of government servant. Thus he has valid cause of action.
2. Incorrect hence denied. The appellant come to this court with clean hands .
3. Incorrect hence denied. Appellant being a civil servant has filed instant appeal under section 4 of the Service Tribunal Act, 1974 which is maintainable in all respect. It is pertinent to mention that act of Parliament always prevails over rules.
4. Incorrect hence denied. The appeal is well with in time.
5. Incorrect hence denied. All the necessary party has been properly arrayed as party in the appeal.

Rejoinder to Facts of Reply/ Parawise comments

1. Para No. 1 and 2 of the reply / parawise comments needs no reply as admitted correct by respondents. However it is submitted that respondent have not attached any such document which can be used against appellant to justify the allegation leveled against him. Furthermore whether it is not the duty of the respondent to prove allegation leveled against appellant and whether promotion of appellant does not show that he was performing his duties with full zeal and enthusiasm.
2. incorrect. The finding of enquiry officer is available at page No. 13 of the main appeal file which clearly shows that enquiry officer in his enquiry report clearly stated that no evidence has been found against appellant. Now the question arises that whether on the basis of presumption any person can be penalized.
3. Para No. 4 of the reply / parawise comments needs no reply. That the impugned order passed against appellant without any proof and no evidence whatsoever has been procured against him. The appellant being a Civil Servant has wrongly been proceeded with under the Police Rules 1975 nor adopted proper procedure.
4. That Para No. 5 of the reply / parawise comments need no reply being admitted correct. However it is submitted that proper procedure for disposal of appeal has not been adopted by respondent No. 2 envisages in the N.W.F.P Civil Servants (Appeal) Rules, 1986.
5. Para No. 6 of the reply / parawise comments need no reply being admitted correct by respondents. However appellant feeling aggrieved from the impugned orders preferred the appeal in hand hence he has a valid cause of action to file appeal and the appeal is liable to be accepted as the punishment awarded to the appellant is without any substance.

Rejoinder to the Grounds of Reply/ Parawise comments

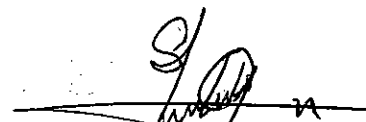
- a) Para No. a- c of the reply / parawise comments are incorrect hence denied. Both the orders are illegal, unlawful, without authority, based on mala fide, void abinitio. The appellant has been proceeded with the rules and regulation which are not applicable to him nor proper procedure has been adopted by the respondents to determine the guilt of appellant. No evidence whatsoever has been procured against appellant.
- b) Para No. d- h of the reply / parawise comments are incorrect hence denied. The enquiry report is very much clear that no evidence whatsoever were procured by the enquiry officer against appellant. The penalty imposed on appellant is only on the basis of surmises and conjunctures. As far as the allegation of corruption is concerned in this regard it is submitted that no intelligence report or statement of any person is available which could connect appellant with the allegation leveled against him. Whether a person can be penalized only on ~~hearsay~~ hearsay evidence and whether this important aspect of the case has been considered by the respondent while awarding punishment to appellant.
- c) Para No. i- m of the reply / parawise comments are incorrect hence denied. No proper procedure of enquiry or awarding of punishment has been adopted by the respondent. The appellant being Civil Servant has wrongly been proceeded with. It is the ultimate purpose of law and rights guaranteed by the Constitution that no body has to be condemned unheard but here the basic right of the appellant has been violated and he has been condemned unheard. No punishment has been suggested by the enquiry officer and still respondent No. 3 and 2 awarded punishment to appellant which is totally against the rules , regulation and natural justice, hence both the orders are liable to be set aside in the best interest of justice and the appellant is liable to be reinstated on his post with all back benefits.

d) Para No. n-r of the reply / parawise comments are incorrect hence denied. The enquiry officer in very clear cut language stated that nothing is proved against appellant through evidence but only based his opinion on alleged general perception which with due respect has no sanctity in the eye of law. The Learned respondent No. 2 has not adopted proper procedure as mentioned in the N.W.F.P Civil Servants (Appeal) Rules, 1986. The question arises that whether there is any evidence regarding corruption or malpractice against appellant and whether the punishment awarded to appellant being a civil servant is in accordance with law, rule and regulation. The procedure adopted by the respondents clearly show male fide intention, discrimination and undue victimization of the appellant and the appellant approaches this Hon'ble Tribunal being the final and highest forum of appeal. It is further submitted that rules and regulation are always in support of substantive law and substantive law always prevails over it.

It is therefore, most humbly prayed that by accepting this rejoinder and the ground of main appeal the order of respondent No. 3 may please be set aside and the appellant may please be reinstated on his post with all back benefit of pay and service by modifying the order of reversion passed by respondent No. 2.


Appellant

Through


Shahid Qayum Khattak
Advocate, High Court
Peshawar

Dated: 28/05/2015

Affidavit

I, do hereby solemnly affirm and declare on Oath that the contents of the above rejoinder are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Hon'ble Tribunal.

ATTESTED
★ Alhaj M. Tajdar Khattak
ADVOCATE
NOTARY PUBLIC
Dist: Court Peshawar
28/5/15


Deponent