

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
(CAMP COURT D.I.KHAN)

Appeal No.525 of 2013

Date of Institution ... 22/02/2013

Date of Decision ... 25/11/2021

Zakir Hussain S/o GHulam Bashir R/O Haji Mora D.I.Khan Constable
No. 7645 FRP D.I.Khan ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary and others
...(Respondents)

Present.

Mr. Muhammad Ismail Alizai,
Advocate ... For appellant.

Mr. NOOR ZAMAN KHATTAK,
District Attorney, ... For respondents.

MR AHMAD SULTAN TAREEN ... CHAIRMAN
MR. SALAH-UD-DIN, ... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named above invoked the jurisdiction of this Tribunal through service appeal described above in the heading with the prayer as follows:-

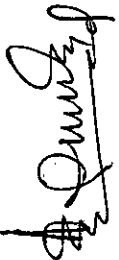
“On acceptance of instant appeal this honourable Court may be pleased to declare that the order dated 19/07/2011 and 27/10/2011 issued in the absence and back of appellant were illegal void and of no legal effect and respondents may pleased be directed to reinstate the appellant with all back benefits”

2. Facts of the appeal in short are that the appellant was appointed as Constable; that after taking charge, the appellant performed his official duties regularly; that on the basis of political victimization, a criminal case vide FIR No. 121 dated 22.04.2011 under section 324/452 PPC was registered in Police Station Gomal University in which he was arrested on the same day; that in his absence, a charge sheet was issued by the respondent No. 3; that despite the fact that he was in judicial lockup, an inquiry was conducted and enquiry report was submitted to respondent No. 3, who issued final show cause notice to the appellant; that by taking *ex-parte* action against the appellant, major penalty of removal from service was imposed upon him; that the appellant after his acquittal in the said criminal case, filed an appeal dated 05/04/2012 before the respondent No. 2 but the same was not disposed of, hence this appeal.

3. After admission of appeal for regular hearing, notices were issued to the respondents and they after entering into proceedings, submitted written reply with several legal and factual objections with the request for dismissal of appeal with cost.

4. We have heard the arguments and perused the record.

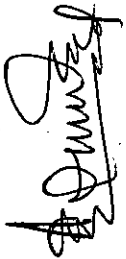
5. Learned counsel for the appellant argued that the appellant was not treated in accordance with law and the action taken against the appellant is based on malafide; that appellant has never been served with any notice for joining the inquiry proceedings; that a



charge sheet was issued by the respondent No. 3 and in absence of the appellant an inquiry was conducted and as per inquiry report the appellant was removed from service; that the appellant was penalized without giving him any opportunity of hearing. While concluding his arguments, learned counsel submitted that impugned order is wrong, erroneous, against the facts and law on the subject and request for acceptance of appeal as prayed for.

6. Learned District Attorney while rebutting the arguments of learned counsel for the appellant stated that the appellant absented himself from his lawful duty without any prior permission or leave; that departmental appeal submitted by the appellant was thoroughly examined and rejected under due course; that the order of the respondents is in accordance with law/rules having regard to gravity of misconduct; that charge sheet alongwith statement of allegations were issued and were served upon the appellant; and after proper inquiry and fulfillment of all the codal formalities, the competent authority removed him from service. While concluding his arguments, Learned District Attorney requested for dismissal of appeal with cost.

7. According to the charge sheet as well as statement of allegations issued to the appellant, disciplinary action was taken against him on the sole ground of his involvement in Case FIR No. 121 dated 22.04.2011 under Sections 324/412 PPC registered at P.S Gomal University, D.I.Khan. It is however, astonishing that while issuing final show cause notice to the appellant, charge of absence



from duty w.e.f. 28.01.2011 was also mentioned therein as one of the charge levelled against the appellant. Moreover, charge sheet as well as statement of allegations were issued to the appellant on 31.05.2011, when he was admittedly in custody at that time. The respondents have mentioned in their comments that charge sheet as well as statement of allegations were served upon uncle of the appellant. It is thus an admitted fact that charge sheet as well as statement of allegations were not served personally upon the appellant. The aforementioned material dents in the enquiry proceedings have rendered the same as nullity in the eye of law. The alleged absence of the appellant from duty was not mentioned as a ground in the charge sheet or statement of allegations, therefore, the competent authority was legally not justified in awarding a penalty to the appellant on the said ground. According to charge sheet as well as statement of allegations, disciplinary proceedings were initiated against the appellant on the ground of his involvement in case FIR No. 121 dated 22.04.2011 U/S 324/452 PPC. The disciplinary action was taken against the appellant under Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 and in view of Section 3-A and Section 4 of the said Ordinance, the competent authority was not justified in awarding penalty to the appellant prior to his conviction in the concerned criminal case. It is an admitted fact that the appellant has been acquitted in the concerned criminal case vide judgment dated 13.03.2012 passed by the then learned Sessions




Judge, D.I.Khan, therefore, the competent authority was not justified in awarding penalty to the appellant on the ground of his involvement in the criminal case. While going through material available on record, we are of the view that the impugned orders are not sustainable in the eye of law and are liable to be set aside.

8. For what has gone above, the appeal in hand is accepted. Consequently, the impugned orders are set aside and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

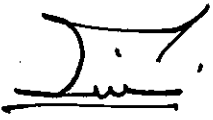



(SALAH-UD-DIN)
Member(J)
(Camp Court, D.I.Khan)



(AHMAD SULTAN TAREEN)
Chairman
(Camp Court, D.I.Khan)

ANNOUNCED
25.11.2021


S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	25.11.2021	<p><u>Present.</u></p> <p>Mr. Muhammad Ismail Alizai, ... For appellant Advocate</p> <p>Mr. Noor Zaman Khattak, District Attorney, ... For respondents.</p> <p>Vide our detailed judgment, the appeal in hand is accepted. Consequently, the impugned orders are set aside and appellant is reinstated into service with back benefits. Parties are left to bear their own costs. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (SALAH-UD-DIN) Member(J) (Camp Court D.I.Khan) </div> <div style="text-align: center;">  (AHMAD SULTAN TAREEN) CHAIRMAN (Camp Court D.I.Khan) </div> </div> <p><u>ANNOUNCED</u> 25.11.2021</p>

28.10.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Muhammad Zubair H.C for respondents present.

During arguments, a request was made for adjournment by learned counsel for appellant in order to submit certain relevant documents necessary for the disposal of the list, therefore, adjournment is allowed and file to come up for arguments on 25.11.2021 before D.B at Camp Court, D.I.Khan.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I.Khan



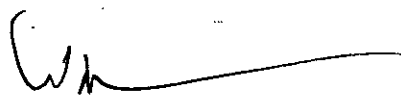
(Rozina Rehman)
Member(J)
Camp Court, D.I.Khan


23.11.2020

Junior counsel for appellant present

Muhammad Jan learned Deputy District Attorney present.

A request for adjournment was made as issue involved in the present case is pending before a Larger Bench of this Tribunal. Adjourned. To come up for arguments on 25.01.2021 before D.B at Camp Court, D.I Khan.


(Atiq-ur-Rehman Wazir)
Member (E)
Camp Court, D.I Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I Khan

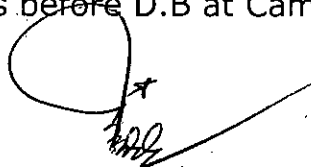
25.1.2021 *due to COVID 19, the case is adjourned to 24.3.2021 for the same.*




24.03.2021

Appellant present. Mr. Rajab Ali, Senior Clerk alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Perusal of order sheet dated 23.11.2020 would show that adjournment was granted on the ground that the issue involved in the present appeal is pending adjudication before a Larger Bench of the Tribunal, hence, adjourned. To come up for arguments before D.B at Camp Court D.I.Khan on 26.07.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

26.7.21

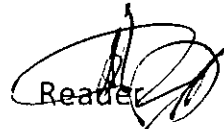
due to COVID-19, the case is adjourned to 28.10.2021 for the same.



25-9 .2020

Due to COVID19, the case is adjourned to

21/4 /2020 for the same as before.

Reader 

27.4.2020

Due to COVID 19, The case is adjourned
to 23.9.2020 for the same.



23.09.2020

Counsel for appellat present.

Mr. Muhammad Jan, learned Deputy District Attorney for respondents present.

Counsel for appellat request for adjournment as issue involved in the present case is pending before Larger Bench of this Tribunal.

Adjourned to 23.11.2020 before D.B at Camp Court D.I Khan.



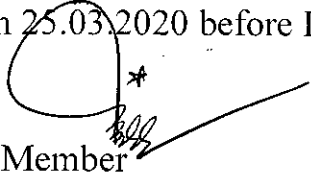
(Atiq-ur-Rehman Wazir)
Member(E)
Camp Court, D.I Khan

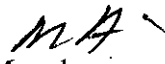


(Rozina Rehman)
Member.(J)
Camp Court, D.I Khan

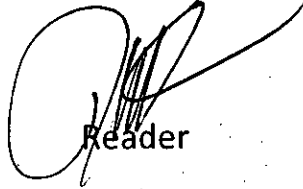
24.02.2020

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 25.03.2020 before D.B at camp court D.I.Khan.


Member


Member
Camp Court D.I.Khan

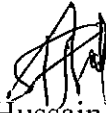
21/10/2019 Since tour to D.I.Khan has been cancelled .To come for the same on 25/11/2019.



Reader

25.11.2019

Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 27.01.2020 for arguments before D.B at Camp Court D.I.Khan.



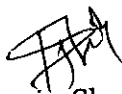
(Hussain Shah)
Member
Camp Court D.I.Khan




(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

27.01.2020

Due to strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani, District Attorney for the respondents present. Adjourned to 24.02.2020 for arguments before D.B at Camp Court D.I.Khan.



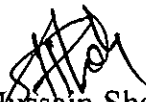
(Hussain Shah)
Member
Camp Court D.I.Khan



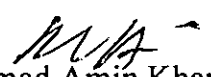
(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

24.06.2019

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Attaullah, S.I (Legal) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 26.08.2019 for arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)

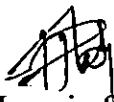
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)


Member
Camp Court D.I.Khan

26.08.2019

None present on behalf of the appellant. Mr. Farhaj Sikandar, District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 24.09.2019 for arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)

Member
Camp Court D.I.Khan



(Muhammad Amin Khan Kundi)

Member
Camp Court D.I.Khan

24.09.2019

Counsel for the appellant present. Mr. Farhaj Sikandar, learned Deputy District Attorney for respondents present. Learned counsel for the appellant seeks adjournment as he has not prepared the brief. Adjourned on the payment of cost of Rs.3000/- to be paid by the appellant to the respondents. To come up arguments on 21.10.2019 before D.B at Camp Court, D.I.Khan.


Member


Member
Camp Court, D.I.Khan

525/2013

25.03.2019


Mr. Muhammad Ismail Alizai Advocate for applicant and Mr. Farhaj Sikandar, District Attorney for the respondents present..

Instant application is with the prayer for restoration of Appeal No. 525/2013 which was dismissed for non-prosecution on 21.06.2018.

It is noted in the grounds of application that on the date previous to the date on which the appeal was dismissed in default, the Tribunal was non-functional due to the retirement of the then Chairman and there was some confusion regarding the next date of hearing.

The application is duly supported by an affidavit and has been submitted within the time prescribed for the purpose. The reasons noted therein also appear to be genuine. It is, therefore, allowed on payment of costs of Rs. 1000/- The Appeal No. 225/2013 shall be restored to its original number and shall come up for arguments before a D.B on 24.06.2019 at camp court, D.I.Khan.


Member


Chairman
Camp Court, D.I.Khan


19.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 19.12.2018 has been rescheduled and the case is re-fixed for 28.12.2018.

Reader

28.12.2018


Clerk of counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on restoration application on 23.01.2019 before S.B.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

23.01.2019

Mr. Tanveer Abbas, Advocate for appellant present.

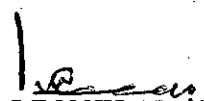
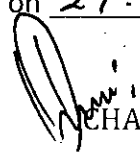

Notice of restoration application be given to respondents for 25.03.2019 before S.B at camp court, D.I.Khan. Original record of appeal shall also be made available on the next date.


Chairman
Camp Court, D.I.Khan

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 218/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	04.07.2018	<p>The application for restoration of appeal no. 525/2013 submitted by Mr. Muhammad Ismail Alizai may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 4/7/18</p>
2	20.11.18	<p>This restoration application is entrusted to Touring S. Bench at D.I.Khan to be put up there on 29.11.18</p> <p style="text-align: right;"> CHAIRMAN</p>
	29.11.2018	<p>Appellant in person present and requested for adjournment on the ground that his counsel is busy before the Hon'ble Peshawar High Court D.I.Khan Bench. Adjourned. To come up for arguments on restoration application on 19.12.2018 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p>

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL,
PESHAWAR**

Restoration Appd No 218/18

APPEAL NO.525/2013

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 245

Zakir HUSSAIN

V/S

Health Deptt. 04/07/2018

**APPLICATION FOR RESTORATION OF APPEAL NO.
525/2013 WHICH WAS DISMISSED ON DEFAULT VIDE
ORDER DATED 21.06.2018.**

RESPECTFULLY SHEWETH:

1. That the instant appeal No. 525/2013 was filed before this Honourable Tribunal against the order dated 01.04.2010 whereby the appellants was dismissed from service.
2. That the instant appeal was in Argument stage at camp court DI Khan on previous date the tribunal is non-functional and the appellants is not informed about the next date, i.e 21.06.2018 and on the date of hearing, the council for the appellants was not appeared and the petitioner, was also unaware, therefore the counsel for appellants and appellants in person could not appear before the Tribunal and the instant appeal was dismissed on default on 21.06.2018. (Copy of the order is attached)
3. That it is in the interest of justice that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 525/2013 may be restore on the acceptance of this application.

4/7/18
Javed Muhammad
Advocate High Court
Qath Commissioner
Distt. Court Peshawar.

Through:

APPELLANT
Zakir Hussain

Ismail Alizai
ADVOCATE, HIGHCOURT

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no... 525.. of 2013.

Restoration Appl: No. 218/12

Zakir Hussian S/O Ghulam Basshir R/O Haji Mora
D.I.Khan Constable No.7645 FRP D.I.Khan.



VERSUS

Home

483
22/2/13

1. Govt; of KPK through Secretary, Peshawar.
2. Commandant frontier Reserve Police KPK Peshawar.
3. Superintendent of Police District Frontier Reserve Police D.I.Khan.

APPEAL AGAINST ILLEGAL AND MALAFIDE
TERMINATION ORDERS DATED 19-07-2011 FROM
SERVICE ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

DA = 5-4-12
= 010-13

ATTESTED

1- That appellant being eligible and qualified was appointed as Constable after due process of law.

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

2- That after taking the charge, the appellant performed his official duties regularly and to the satisfaction of there superior. During the period of service the appellant remained up to the mark and no irregularity of appellant was reported.

3- That on the basis of political victimization, inquiry a case FIR No. 121 Dated 22-04-2011 under Section 324/452 PPC was register on police station Gomal University in which appellant arrested on the same day.

In the absence of appellant from service, charge sheet was issued by respondent no 3 on the basis of alleged FIR. The respondent no 3

22/2/13

with out informing the appellant appointed Gulmanan khan line officer

re-submitted to
and filed;

FRP D.I.Khan as inquiry officer who also knowing the fact that appellant is in judicial lockup, conducted alleged and submit final

12/3/13

report before respondent no 3. The respondent no 3 issued final

Appeal No. 525/2013
Zakir Hussain vs Govt



21.06.2018

Neither the appellant nor his counsel present. Mr. Khalid Nawaz Inspector (Legal) alongwith Mr. Usman Ghani District Attorney for the respondents present.

Case was called time and again till 2.30 P.M but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Tribunal is left with no option but to dismiss the appeal in hand in default. File be consigned to the record room.

U. Amin
Member

Q. Khan
Chairman
21.6.2018
Camp court, D.I.Khan

ANNOUNCED
21.06.2018

Certified to be true copy

U. Amin
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application: 04-07-18
Number of Words: 1260
Copying Fee: 8-
Urgent: 2-
Total: 10-
Name of Copyist: [Signature]
Date of Completion of Work: 04-07-18
Date of Delivery of Copy: 04-07-18



25.05.2018

Due to retirement of the worthy Chairman, the Tribunal is non-functional. To come up for the same on 20.06.2018. Notices be issued to the parties accordingly.

MA
Member

20.06.2018

Neither the appellant nor his counsel present. Mr. Usman Ghani, learned District Attorney for the respondents present. Being an old case of 2013, adjourned for tomorrow i.e. 21.06.2018 for arguments before the D.B. at camp court D.I.Khan.

[Signature]
Member

[Signature]
Chairman
Camp Court, D.I.Khan

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

[Faint, mostly illegible text, possibly bleed-through from the reverse side of the page]

Appeal No. S25/2013
Zakir Hussain vs Govt


21.06.2018

Neither the appellant nor his counsel present. Mr. Khalid Nawaz Inspector (Legal) alongwith Mr. Usman Ghani District Attorney for the respondents present.

Case was called time and again till 2.30 P.M but none appeared on behalf of the appellant. On previous date too, none was present on his behalf. This conduct of the appellant clearly manifests that he is not interested to pursue the case. As such, the Tribunal is left with no option but to dismiss the appeal in hand in default. File be consigned to the record room.



Member

 21.6.2018

Chairman
Camp court, D.I.Khan

ANNOUNCED
21.06.2018

25.05.2018

Due to retirement of the worthy Chairman, the Tribunal is non-functional. To come up for the same on 20.06.2018. Notices be issued to the parties accordingly.


Member

20.06.2018

Neither the appellant nor his counsel present. Mr. Usman Ghani, learned District Attorney for the respondents present. Being an old case of 2013, adjourned for tomorrow i.e. 21.06.2018 for arguments before the D.B. at camp court D.I.Khan.


Member


Chairman
Camp Court, D.I.Khan

~~Due to retirement of the worthy Chairman, the Tribunal is non-functional. To come up for the same on 20.06.2018. Notices be issued to the parties accordingly.~~


~~Neither the appellant nor his counsel present. Mr. Usman Ghani, learned District Attorney for the respondents present. Being an old case of 2013, adjourned for tomorrow i.e. 21.06.2018 for arguments before the D.B. at camp court D.I.Khan.~~


~~Member~~

~~Chairman
Camp Court, D.I.Khan~~

27.12.2017


Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Imtiaz Ali, DSP (legal) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.01.2018 before D.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan


(Muhammad Hamid Mughal)
Member
Camp Court D.I.Khan

24.01.2018

Junior counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Imtiaz Ali, DSP (legal) for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 21.02.2018 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

21.02.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Khalid Nawaz, Inspector (legal) for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 23.04.2018 before D.B at Camp Court D.I.Khan.

(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

23.10.2017

Bench incomplete. Adjourned. To come up on 25.10.2017 before D.B at camp Court D.I.Khan.

Reader

25.10.2017

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Imtiaz Ali, DSP(Legal) for respondents present. Counsel for the appellant seeks adjournment to prepare the case on the point of limitation. Adjourned. To come up for arguments on 28.11.2017 before D.B.



Member
(Executive)



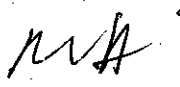
Member
(Judicial)
Camp Court D.I.Khan

28.11.2017

Counsel for the appellant present. Mr. Farhaj Sikandar District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.



(Gul Zeb Khan)
Member




(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

525/2013


26.12.2016

Appellant in person and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Arguments could not be heard due to non-availability of learned counsel for the appellant as well as incomplete bench. To come up for arguments on 20.02.2017 before D.B at Camp Court D.I.Khan.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

20.02.2017

Appellant with counsel and Mr. Farhaj Sikandar, Government Pleader for respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 25.04.2017 before D.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

25.4.17

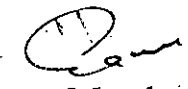
Since Tax is hereby cancelled, therefore the case is adjourned for the same to 25.9.17.


Khan

25.09.2017

Junior to counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith for the respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 23/10/2017 before DB at Camp Court D.I.Khan.


Member
(Executive)


Member
(Judicial)
Camp Court D.I.Khan

25.01.2016

Appellant with counsel and Mr. Farhaj Sikandar, GP with Mushtaq Ahmad, SI (Legal) for the respondents present. Member copy of the appeal was not found. Similarly, copy of the enquiry report was also not on record. The same be provided on the next date. To come up for arguments on 25.4.16 at camp court, D.I.Khan.



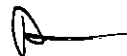
MEMBER



MEMBER
Camp Court, D.I.Khan

25.04.2016

Agent to counsel for the appellant and Mr. Farhaj Sikandar, GP for respondents present. Agent to counsel for the appellant submitted an application for adjournment. Adjourned for arguments on 29.08.2016 at Camp Court D.I.Khan.



Member



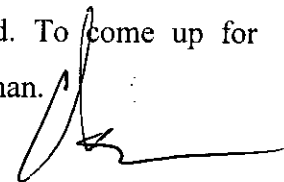
Member
Camp Court D.I. Khan

29.08.2016

Counsel for the appellant and Mr. Mushtaq, SI alongwith Mr. Farhaj Sikandar, GP for respondents present. Representative of the respondents submitted copy of the enquiry report, copy of which is placed on file. Learned counsel for the appellant requested for time to go through the record. To come up for arguments on 26.12.2016 at camp court D.I. Khan.



Member



Member
Camp court D.I. Khan

31.3.2015

Appellant in person and Mr Farhaj Sikander, GP with Nazir Ahmad HC for respondents present. To come up for rejoinder on on 26.5.15. at Camp Court D.I.Khan..



MEMBER
Camp Court, D.I.Khan

26.05.2015

Appellant in person and Farhaj Sikandar, GP for the respondents present. Appellant stated that he does not want to file rejoinder. To come up for arguments on 28.09.2015 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

28.09.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. The Bench is incomplete, therefore, case is adjourned to 29-11-15 for arguments at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

24.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with for the respondents present. Since D.B for touring Bench, D.I.Khan is incomplete, therefore, case is adjourned to 27-1-16 for arguments at camp court, D.I.Khan.



MEMBER
Camp Court, D.I.Khan

27-5-14.

Appellant with counsel present. G.P. for respondents present and requested for adjournment to file written reply. To come up for written reply on 30-9-2014 at Camp Court, D.I. Khan.

Member
Camp Court D.I.K.

30-9-14.

Counsel for the appellant present. G.P. also for respondents present. Case adjourned to 29/12/14 for written reply at Camp Court, D.I. Khan.

Legal
Registrar
Camp Court, D.I.K.

29-12-14.

Appellant in person and Nazir Ahmed HC for respondents present. Case adjourned to 27-1-2015 for reply at Camp Court, D.I. Khan.

Legal
Registrar
Camp Court, D.I.K.

27-1-2015

Present as before on 29-12-14 with G.P. Written reply received, copy whereof is handed over to appellant for rejoinder, if any. To come up for rejoinder on 31-3-2015 at Camp Court D.I. Khan.

Member
Camp Court, D.I.K.

25.11.2013

Tour to Camp Court D.I.Khan has been discontinued vide order dated 31.10.2013. Therefore, notices be issued to the parties for written reply on 16.1.2014 before Final Bench-II at Peshawar.


Registrar

16.1.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Ihsanullah, H.C for the respondents present. . Counsel for the appellant requested for transfer of the case to touring Bench D.I.Khan as the main parties belong to that district. As such the appeal is entrusted to Touring Bench D.I.Khan. To come up for written reply on 24.2.2014 at camp court, D.I.Khan.

MEMBER

MEMBER

24-2-2014.

Appellant in person present. No one is present on behalf of respondents. G.P. present. Notices be issued to the respondents for submission of written reply on 24-3-2014 at Camp Court, D.I.Khan.

Member
Camp Court, D.I.Khan,

24-3-2014

Appellant in person present. No one is present on behalf of respondents. G.P. is directed to ensure attendance of respondents on next date positively, otherwise they will be proceeded against ex parte. To come up for written reply on 27-5-2014 at Camp Court, D.I.Khan.

Member
Camp Court, D.I.K.

27-5-2013-

Appellant in person present.
The 1/Bench could not proceed to
D.I. Khan owing to promulgation of KPK
ordinance no. 11 of 2013. Case adjourned to
23-9-2013 for preliminary hearing at Camp
Court, D.I. Khan.

Legal
Registrar
Camp Court D.I. Khan

23-9-13.

No one is present on behalf of appellant
due to strike of the Bar. Case adjourned for
tomorrow i.e. 24-9-2013 for preliminary hearing.

Member
Camp Court D.I. Khan

24.9.2013

Appellant with counsel present and heard. The learned
counsel for the appellant contended that appellant has not been
treated in accordance with law. Points raised in the memo of appeal
would require consideration. Admit, ^{subject to limitations & legal objections.} Process fee and security be
deposited within 10 days. Thereafter, notices be issued to the
respondents for submission of written reply
on 26-11-13, at Camp Court D.I. Khan.

Member

Camp Court D.I. Khan

The appellant deposited
security & process fee
Rs 180/- Bank receipt
attached on file

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 525 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12/03/2013	<p>The appeal of Mr. Zakir Hussain resubmitted today by Mr. Muhammad Anwar Awan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	22-3-2013	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>25-3-2013</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
3	25-3-2013.	<p>No one is present on behalf appellant notice be issued to appellant/counsel for preliminary hearing on 22-4-2013 at Camp Court, D.I.Khan.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court, D.I.Khan</p>
4	22-4-2013	<p>counsel for the appellant present and heard. The w/counsel is directed to produce a copy of previous appeal with drawing on 27-5-2013 at Camp Court, D.I.Khan.</p> <p style="text-align: right;"><i>[Signature]</i> Member Camp Court, D.I.Khan.</p>

The appeal of Mr. Zakir Hussain son of Ghulam Bashir received today i.e. on 22/02/2013 is incomplete on the following scores which is returned to the counsel for appellant for completion and resubmission within 15 day.

- 1- Copy of impugned order dated 27/10/2011 mentioned in prayer of the appeal is not attached with the appeal which may be placed on it.
- 2- Address of respondent No.1 is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 329/S.T.

Dt. 22/02/2013.

Lawson
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. MUHAMMAD ANWAR AWAN ADV.
HIGH COURT DERA ISMAIL KHAN.

Respected Sir,

That word " dated 27-10-2011 " is wrongly and inadvertently mentioned in the prayer of Appeal, may kindly be deleted and complete address of respondent No 1 is given below:

1- Govt. of KPK through Secretary Home Peshawar.

Anwar Adv.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no 525 of 2013.

Zakir Hussain

VERSUS

Govt; Of KPK and others

INDEX

No.	Particulars	Annexure	Pages
1	Appeal		1 - 3
2	Copy of Card of arrest	A	4
3	Copy of Charge Sheet	B	5
4	Copy of Final Show Cause notice	C	6
5	Copy Termination order	D	7
6	Copy of Departmental Appeal	E	8
7	Wakalat Nama	F	9

Your humble Petitioner

Zakir

Zakir Hussain

Dated; 20-02-2013.

Anwar adi

Muhammad Anwar Awan
Advocate High Court.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal no... 525.. of 2013.

**Zakir Hussian S/O Ghulam Basshir R/O Haji Mora
D.I.Khan Constable No.7645 FRP D.I.Khan.**

VERSUS

Home

1. Govt; of KPK through Secretary, Peshawar.
2. Commandant frontier Reserve Police KPK Peshawar.
3. Superintendent of Police District Frontier Reserve Police D.I.Khan.

**APPEAL AGAINST ILLEGAL AND MALAFIDE
TERMINATION ORDERS DATED 19-07-2011 FROM
SERVICE ON THE BACK OF APPELLANT.**

That the brief facts of the case are as under:

- 1- That appellant being eligible and qualified was appointed as Constable after due process of law.
- 2- That after taking the charge, the appellant performed his official duties regularly and to the satisfaction of there superior. During the period of service the appellant remained up to the mark and no irregularity of appellant was reported.
- 3- That on the basis of political victimization, inquiry a case FIR No. 121 Dated 22-04-2011 under Section 324/452 PPC was register on police station Gomal University in which appellant arrested on the same day. In the absence of appellant from service, charge sheet was issued by respondent no 3 on the basis of alleged FIR. The respondent no 3 with out informing the appellant appointed Gulmanan khan line officer FRP D.I.Khan as inquiry officer who also knowing the fact that appellant is in judicial lockup, conducted alleged and submit final report before respondent no 3. The respondent no 3 issued final

*DA = 5-4-12
= 22/2/13*

Answer
22/2/13
**re-submitted to-
and filed;**

12/3/13

show cause notice to the appellant. Copy of card of arrest, charge sheet and final show cause notice are annexure A, B & C.

- 4- The respondent no 3 by taking ex-parte action against appellant awarded major punishment of removal from service. Copy of order is annexure D.
- 5- That after acquittal from the charges level against the appellant in FIR No. 121 from session Judge D.I.Khan through order dated 13-03-2012, the appellant filed an appeal dated 05-04-2012 before respondent no 2 but he did not dispose off the same. Copy of departmental appeal is annexure E.
- 6- That petitioner filed an appeal before this Hon'ble court on 07-05-2012 but later on withdraw the same with permission.
- 7- That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:

GROUND:

1. That the appellant are not treated in accordance with law and the actions of the respondents are malafide besides being discriminatory and harsh.
2. That the appellant had never been served with any charge sheet issued by respondent no 3 nor any notice for joining of inquiry was served. It is were to mention that during period of issuance of charge sheet and conducting of inquiry, the appellant was in judicial lockup in alleged FIR No 121 and this fact was with in the knowledge of respondent no 3 as well as inquiry officer.
3. That the alleged charge sheet which was issued by respondent no 3 consist of involvement of appellant in FIR no 121 and on this charge sheet an alleged inquiry was conducted in the absent of appellant while appellant was

Amway

}

removed from the service on the basis of absence of appellant from duty as well as on the basis of FIR No 121.

4. That appellants are being penalized without giving them any opportunity of hearing, they were neither associated with the proceeding of standing committee nor have given any show cause notice by the department, which is against the principal of natural justice.

In view of the above, It is, therefore, most respectfully prayed that on acceptance this appeal this honorable court may please to declare that the order dated 19-07-2011 and dated 27-10-2011 issued in the absence and back of appellant were illegal void and of no legal effect and respondents may please be directed to reinstate the appellant with all back benefits.

YOUR HUMBLE APPELLANT

Zakir
Zakir Hussain
Through Counsel

Dated; 20-02-2013.

Anwar
Muhammad Anwar Awan
Advocate Supreme court

AFFIDAVIT

Zakir Hussain do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Zakir
Deponent

A 4

کار و فرستاری
مکاتیب و اسناد

مقامی ۱۲۱۱ مورخ ۱۱/۲۲ جم ۳۲۴
۳۳۷۴۵۲

نام ذکورین در کتب و اسناد
مکتوبه و اسناد

۳۲۴
مکتوبه و اسناد
کار و فرستاری

Accepted
Johnny ad

۲۲-۴-۱۱
مکتوبه و اسناد

کتابخانه مکتوبه و اسناد
مکتوبه و اسناد

۱۲۱۰۱-۲۳۰۹۴۲۴-۱

۲۴-۴-۱۱
مکتوبه و اسناد

ORDER
24.4.11

Accused produced in c
Be sent to judicial
up and be produced
before concerns
7/5/11

CHARGE SHEET

B 5

I, MR. AMAN ULLAH KHAN, SUPERINTENDENT OF POLICE

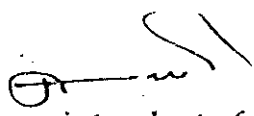
FRP D.I.KHAN RANGE, D.I.KHAN, as competent authority, hereby charge you

Constable Zakir Hussain No.7645 /FRP as follow:

It has been reported by District Police Officer, D.I.Khan vide his office memo: No.6555, dated 18.05.2011, that you have been involved/Charged in Case FIR No.121, dated 22.04.2011, U/S 324/452 PPC Police Station Gomal University.

This act on your part reflects lack interest towards the performance of your duties and also gross misconduct, which is punishable under the rules.

2. By reasons of the above, you appear to be guilty of misconduct under section-3 of the NWFP (Removal From Service) Special Powers, Ord: 2000 and have rendered yourself liable to all or any of penalties in section-3 of the ordinance ibid.
3. You are therefore required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer.
4. Your written defence, if any should reach the enquiry officer/committee within the specified period failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.


Superintendent of Police,
FRP, D.I.Khan Range D.I.Khan.

W/

Attended

Answer

Readed

C.6 **B**

FINAL SHOW CAUSE NOTICE.

I, MR. AMAN ULLAH KHAN, Superintendent of Police, FRP, D.I.Khan as competent authority under the NWFP, removal from service (Special Powers) Ordinance-2000 (Amendment 2005), do hereby served you Constable Zakir Hussain No.7645/FRP as follow :-

1. (i) That consequent upon the completion of enquiry conducted against you by the Enquiry Committee/ Officer for which you were given opportunity of hearing, vide this office Communicator No. 945-16/FRP, dated 31.05.2011.
(ii) On going through the findings and recommendation of the enquiry officer, the material on record and other connected papers including your defense before the said committee.

I am satisfied that you have committed the following acts/ omissions specified in section-3 of the said ordinance.

(i) According to Daily Diary report vide Mad No.26, dated 28.01.2011 of Police Station, City, Distt: D.I.Khan, you absented yourself from law-full duties with effect from 28.01.2011 to till-date, with-out any leave or permission.

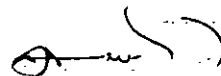
(ii) It has been reported by District Police Officer, D.I.Khan, vide his office memo: No.6555, dated 18.05.2011, that you have been involved/ Charged in Case FIR No.121, dated 22.04.2011, U/S 321/ 152 PPC Police Station Gomal University, D.I.Khan.

This act on your part reflect lack of interest towards the performance of official duties, which is punishable under the rules.

2. As a result thereof, MR. AMAN ULLAH KHAN, Superintendent of Police, FRP, D.I.Khan Range, D.I.Khan as competent authority have tentatively decided to impose upon you the penalty of Major/ Minor punishment U/S 3 of the said ordinance.

Attested Aman

3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.
4. If no reply to this notice is received within 15-days of its deliver, in the normal course of circumstances. It shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. The copy of finding of the Enquiry Officer is enclosed.


Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

ORDER:-

7 D B

This Order will dispose off departmental enquiry conducted against Constable Zakir Hussain No.7645/ FRP, of FRP, D.I.Khan Range, on the Charges that

1. According to Daily Diary report vide mad No.26, dated 28.01.2011 of Police Station City, Distt: D.I.Khan, he absented himself from law-full duties with effect from 28.01.2011 to till date, with-out any leave or permission.
2. It has been reported by District Police Officer, D.I.Khan, vide his office memo No.6555 dated 18.05.2011, that he has been Involved/ Charged in case FIR No.121 dated 22.04.2011 U/S 324/452 PPC, PS Gomal University D.I.Khan.

On the basis of his above, he was Suspended and closed to Police Line FRP D.I.Khan vide this office OB No.423 dated 19.05.2011, and served with proper Charge Sheet and Statement of allegations but his reply not received with stipulated period of 7 days.

Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.KHAN, was appointed as Enquiry Officer. After completion of all codal formalities, the Enquiry Officer submitted his finding report along-with other relevant papers, where in he recommended the said Constable for Major Punishment i.e Removal from service from the date of absence i.e 28.01.2011. He was served with Final Show Cause Notice on 27.06.2011, but he failed to submit his reply with the stipulated period of 15-days.

Attested
Amman

Keeping in view the facts stated above, as well as recommendation of enquiry officer, I MR. AMAN ULLAH KHAN, Superintendent of Police FRP D.I.Khan Range, D.I.Khan, in exercise of powers conferred upon me under the NWFP Removal from Service (Special Powers) Ord:- 2000 Amendment Act- 2005, by taking ex-parte action hereby award Constable Zakir Hussain No.7645/FRP, Major Punishment of Removal from service from the date of absence i.e 28.01.2011, and his period of absence i.e 28.01.2011 to till date, is treated as leave with-out pay.

ORDER ANNOUNCED.

Dated 19.07.2011.

OB No. 646 /FRP

Dated 19 /07/2011.

(AMAN ULLAH KHAN)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

E (5)

بھنور جناب والا شان کمانڈنٹ FRP پولیس صوبہ خیبر پختونخوا، پشاور

(بوساطت جناب SP صاحب FRP ڈیرہ اسماعیل خان)

اپیل برائے بحالی ملازمت بطور کنشیل

جناب عالی!

گذارش بھنور انور یہ ہے کہ مجھے بسلسلہ ملوث ہونے مقدمہ نمبر 121 مورخہ 24.4.11 جرم

324/452 PPC تھانہ گوئل یونیورسٹی محکمہ سے بغیر کسی غیر جانبدار انکوائری کے محکمہ سے برطرف کیا گیا تھا۔

یہ کہ دوران محکمانہ انکوائری مجھ پر کوئی چارج شیٹ وغیرہ تقسیم نہ ہوا اور نہ ہی مجھے سنا گیا۔ محض ایک

فائل شوکا ز جاری ہو کر جسکا جامع تردیدی جواب پیش کر دیا گیا اور واضح کر دیا گیا کہ اس پر سیاسی سطح پر ناجائز دعویٰ جاری ہو کر خواہ
مخوہ بے گناہ طور پر مقدمہ میں پھنسا یا گیا ہے تاکہ میری ملازمت کو نشانہ بنا کر نقصان عظیم پہنچایا جائے۔

اس ڈیپارٹمنٹل انکوائری کے دوران عدالتی فیصلہ کی جانب کوئی توجہ نہ دی گئی اور نہ ہی میری آہ بکا

کی طرف؟ مقدمہ عنوان بالا جسمیں مجھے سزا دی گئی تھی کا فیصلہ بتاریخ 13.3.2012 کو عدالت جناب ASJ-IV ڈیرہ

اسماعیل خان میں ہو چکا ہے جسمیں فریق مخالف بری طرح ناکام ہو کر میں باعزت بری ہو چکا ہوں اور میری سابقہ دی گئی

عرضداشت بابت بے گناہی واضح ہو چکی ہے۔ فیصلہ عدالت ASJ-IV ڈیرہ اسماعیل کی کاپی ہمراہ لف ہے۔

لہذا بذریعہ درخواست استدعا ہے کہ مجھے عدالت کے حکم لف شدہ ہمراہ اپیل کی روشنی میں اپنی

ملازمت پر روز بروائگی سے بحال کیا جائے۔

تاجیات دعا گور ہوں گا۔

مخرفہ = $\frac{55}{12}$

العارض

ذاکر حسین سابقہ کنشیل نمبر 7645/FRP ولد غلام بشیر سکنہ حاجی مورہ، تھانہ گوئل یونیورسٹی، ڈیرہ اسماعیل خان

رابطہ نمبر: 0343-944-8300

Zakir Hussain

19-7-2011

5-4-11
5-8-12

VAKALATNAMA

IN THE COURT OF *KPK Service Tribunal comp* D.I.KHAN

Zakir Hussain **VERSUS** *KPK*

SUIT/OFFICE..... *Appeal*

I/WE..... *Zakir Hussain*

The above named..... *Appellant*hereby appoint

MUHAMMAD ANWAR AWAN ADVOCATE, HIGH COURT D.I.Khan, in the above mentioned case to all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceedings.
To do all other acts and things, which may deemed necessary or advisable during the court of Proceedings.

AND hereby agree:

- a) To ratify whatever advocates may do the proceedings.
- b) Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence form the court when it is called for hearing.
- c) That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remain UN-paid.
- d) That advocates may be permitted to argue any other point at the time of arguments.

In witness whereof I/we have signed this vakalatnama here under the contents of which have been read / explained to me/us fully understood by me/us this.

Date *20/2/2013*

Accepted by:

Anwar adu
MUHAMMAD ANWAR AWAN
ADVOCATE
HIGH COURT
Distt: Courts, D.I.Khan.
Ph.# (off) 0966-730828

Signature of executant (s)

Zakir Hussain

IN THE COURT OF SHAIKH IHLAN AKHUNDZADA,
SESSIONS JUDGE, PIRA ISMAIL, KILAN

SESSIONS CASE NO. 63 W.P.O. 2011

The State *VERSUS* Zakir Hussain son of Bashir Hussain,
aged about 23/24 years, caste Baloch,
resident of Haji Mora, D.I.Khan
.....(Accused)

Case FIR No. 121 dated 22.04.2011
U/Ss: 324/452/337-E(ii) P.P.A., P.S Gomal University, D.I.Khan.

Date of receipt of case file (30.06.2011)
Date of decision of case (13.03.2012)

Present: Mr. Qadir Bakshi, D.P.P for the State
Mr. Qurban Ali Khan, advocate/ counsel for
complainant,
Mr. Ghulam Huz Baboch, advocate/counsel for defence

J U D G M E N T

Brief facts of the present case are that on 24.04.2011 at
23.40 hours, complainant Nasrullah son of Mehرداد aged about
24/25 years in injured condition made report before Emergency
Room of District Headquarter Teaching Hospital, D.I.Khan to the
effect that on the eventful night at 11.00 p.m he heard dogs barking
outside his house. He got up and went to his father's adjacent house
where Zakir Hussain (accused facing trial) was present who opened
fire at him and resultantly he got injured on right thigh and on his

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Handwritten signature and date: 13.3.2012

Sessions Judge
Pira Ismail Khan

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Examiner

report case F.I.R # 121 dated 22.04.2011 under Sections 324/452
P.P.C was registered at Police Station Gomal University, D.I.Khan.

After completion of the investigation, case file was sent
to this Court for trial.

On 09.7.2011, provisions of section 265-C Cr.P.C were
complied with against accused.

On 23.07.2011, formal charge against the accused was
framed, to which he did not plead guilty and claimed trial.

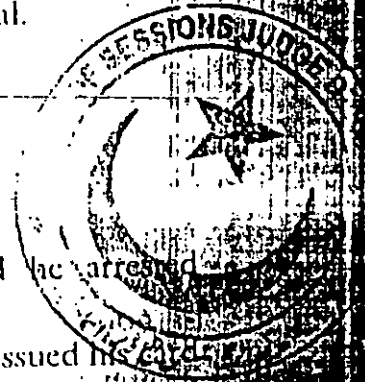
Prosecution in all examined test witnesses.

The resume of their evidence is as under:-

PW-1 is Abdul Latif S.I, who deposed he arrested
accused Zakir Hussain son of Bashir on 22.4.2011 and issued his
of arrest. After completion of investigation, he submitted complete
Challan on 26.4.2011.

PW-2 is Muhammad Saleem 1015, who deposed that
on the receipt of Murasila through wireless from Rehmat Ullah ASI,
he correctly incorporated its contents into FIR Ex. PA, which
correctly bears his signature.

PW-3 is Abdullah Khan A.S.I, who deposed that he is
marginal witness to recovery memo Ex. PC, vide which the I.O in his
presence took into possession bloodstained Shalwar belonging to
injured Nasrullah sent by the doctor brought by constable Faizullah
627 and sealed the same in parcel No.2 by the I.O. The memo



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correctly bears his signature of that of Allah Nawaz 1617, as marginal witnesses,

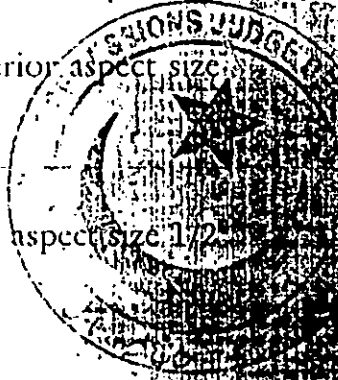
PW-4 is Dr. Mehmood Jan Bhitani, who deposed that on 21-9-2011, he examined the injured Nasrullah son of Mehr Dad aged about 24/25 years cast Baloch, r/o Haji Mohra, D.I.Khan at the found the following:

Patient was conscious and oriented.

Fire arm entry wound over the right mid thigh posterior aspect size 1/4 inches dia rounded in shape and inverted margins.

Fire arm exit wound over the right upper thigh medial aspect size 1/2 x 1/2 inches dia rounded in shape inverted margins.

Patient was kept under observation. Probable duration of injury 1 to 2 hours. Kind of weapon fire arm injury MLC report along with blood stained Shalwar signed and handed over to the police.



M. Jan
17.3.11
Sessions Judge
D.I. Khan

He has seen the MLC report which is correct and correctly signed by him and is Ex: PW 4/1. He also issued discharge slip which is Ex: PW 4/2 and he has also endorsed the injury sheet. Nature of injury Ghair Jafah Badiah, X-Ray right thigh no bony lesion.

PW-5 is Nasrullah son of Mehرداد (complainant), who deposed that on 21.01.2011 at 11.30 P.M he went to the house of his father where he found the shoes/chappal of a person lying outside the cattle room. He called his brother namely Faiz Ullah, who came and

Allah Nawaz

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Examiner *2/10/11*

went inside the said room and found none there. When he then went to the same room, he found the accused Zakir Hussain there. Accused made firing upon him with which he was hit but he overpowered him and caught hold of him. That thereafter Zakir Hussain called his sister for his rescue. Then his sister came there and started quarrelling. The pistol was thrown outside the house in the landed property by her. He then informed the police and they came there. The accused was at that time with them and they had caught hold of him. He handed over the accused to the police. Then he was taken to the hospital where he lodged the report in shape of Murasila in Emergency Room. Today he has heard the contents of his report which is correct and correctly bear his thumb impression. The Murasila is correct. Motive behind the occurrence is dispute over work. He has charged the accused for the commission of offence.

J. Khan
Secty Judge
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PW-6 is Jahangir son of Mehrdad, who deposed that the complainant Nasrullah is his brother. On 21.04.2011 he with his father were asleep in the courtyard while his sister Mst Pathano Bibi and mother Mst Saddo Bibi were asleep inside the room of their house. At 09.30 p.m his brother and his wife namely Mst Irshad Bibi came to their house but since the outer door of the courtyard of their house was locked from inside, therefore, the same was unlocked by him and got them entered inside the house. His brother who entered their house at 09.30 p.m went to the cattle room and searched through search light and found accused facing trial there, in standing

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position. As soon as his brother saw accused, both of them grappled with each other. Accused being armed with pistol fired at his brother Nasrullah/complainant as a result of which he was hit and got injured. After firing he and his brother overpowered accused Zakir Hussain and took him into their custody while the wife of his brother/complainant went back to the house of elder brother Faiz Ullah and brought him back after informing him about the present occurrence. Thereafter Zakir Hussain threw away his pistol. Pathano Bibi, their sister took the same in her hands and threw it away in the fields. He charged accused for the commission of offence. Site plan has been prepared by the IO at his instance. Motive for the occurrence is that prior to the occurrence, the accused had contracted marriage with Pathano Bibi but later on she was divorced by the accused and the hands of the accused and was sent back to her parents and then again there was an agreement one and that is why he came to their house to make/carrying on illicit relations with his sister.

Signature
Sessions Judge
13-3-2012

PW-7 is Mst Saddo Bibi, who deposed that on the night of occurrence she was asleep in the room of their house. When she was awakened at that time her son/complainant Nasrullah had got injured by fired. He was fired at by Zakir Hussain with his pistol.

PW-8 is Muhammad Nawaz, who deposed that during the days of occurrence he was incharge Inv: Police Station Gomal University. After receiving the copy of F.I.R, he proceeded to the

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spot where he prepared the site plan at the point of eyewitness which is Ex PB, the same is correct with all its footnotes. He recorded the statements of PWs. He also took into possession one bloodstained Shalwar belonging to injured brought by constable Faiz Ullah sent by the doctor and sealed the same into parcel-2 P-1 and prepared recovery memo which is already Ex PC. He also took into possession one lady Cladar bearing black colour having blood stained and sealed the same into parcel-1 P-2 and prepared the recovery memo Ex PC/L. He also recorded the statements of PWs. Accused was produced before the Court of learned Judicial Magistrate for custody, only one day was granted vide his application Ex PW 8/1. On 24.04.2011 he then again produced the accused before learned Judicial Magistrate but his application was turned down and accused sent to the Jail. He also filed his application Ex PW 8/2. One bloodstained printed Dopatta and one bloodstained Khakhi color Shalwar were sent to the FSL for chemical analysis the report of which is Ex PW 8/3. After the completion of investigation, the case file was handed over to the SPIO for submitting complete Challan against the accused facing trial.

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Sessions Judge
Kuala Kemaman

PW-9 is Allah Nawaz FC-1617, who deposed that during the days of occurrence, he was FC in Police Station Gomal University. He is marginal witness to recovery memo already exhibited PC vide which the IO in his presence took into possession one bloodstained Shalwar belonging to complainant Nasrullah and

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sealed the same into parcel-2 which is already P-1. He is also marginal witness to recovery memo already Ex PC/1 vide which in his presence the IO took into possession one lady Chadar/Dopatta bloodstained having black color and sealed the same into parcel-1 P-2. Both the memos correctly bear his signatures as marginal witness.

PW-10 is Rahmat Ullah, who deposed that during the days of occurrence, he was posted as Incharge Reporting Centre, District Headquarter Teaching Hospital, D.I.Khan. On 21.04.2011 he reduced into writing the report of complainant/ injured Nasrullah son of Mehrdad caste Baboch resident of Haji Morra, D.I.Khan in shape of Murasila already Ex PA. After reducing into writing the same, it was read over to him, who after admitting its contents thumb impressed the same as a token of its correctness. He then completed it by affixing the signatures over it and dictated the Murasila to Police Station Gomal University through wireless to MHC Muhammad Saleem. He has also prepared injury sheet Ex PW 10/1, which is in his handwriting and correctly bears his signature and sent the injured for his medical examination in safe custody of Constable Faiz Ullah.

Thereafter prosecution closed its evidence and on 17.12.2011 statement of accused was recorded under Section 342 Cr.P.C, wherein he denied all the allegations levelled against him by prosecution; however, he neither opted to be examined on Oath, nor opted to produce defence evidence.

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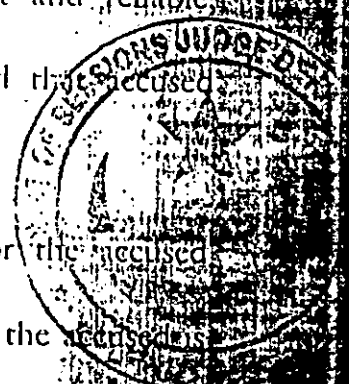
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I have heard arguments of D.P.P for the State assisted by Mr. Qurban Ali Advocate/ private counsel for the complainant and Mr. Ghulam Hur Khan Baloch Advocate/learned counsel for the accused and record was gone through.

Learned D.P.P for the State assisted by private counsel for complainant argued that the F.I.R was promptly lodged by the complainant charging the accused directly for causing injuries to him with fire arm. They further stated that the offence with which accused is charged is heinous in nature, PWs have supported the prosecution case. According to him, prosecution has established its charges levelled against accused facing trial through cogent and reliable ocular and circumstantial evidence, so he contended that accused facing trial be convicted.



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Sesl. Judge
for all Khan

On the other hand, learned counsel for the accused argued that it is night occurrence and thus identity of the accused is doubtful in absence of any source of light. Neither crime employ nor crime weapon has been recovered by the Investigating Officer. He further stated that the star witness of prosecution namely Nasrullah complainant has not deposed in the mode and manner as alleged by him in the F.I.R. Moreover, statements of complainant and his brother Jahangir PW-7 are contradictory inter-se and there are material and deliberate improvements in their statements which cast serious doubt on their veracity and make their testimony unbelievable. Prosecution has also failed to produce father of the

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complainant in the witness box in support of the complaint whose name finds place in the contents of F.I.R. Ex PA. According to him, had he been produced ^{he} would not have supported the prosecution case. Lastly counsel for accused contended that no reliable and truthful evidence is forthcoming on record to warrant conviction of accused. Hence due to lack of any reliable, ocular and circumstantial evidence on record against accused facing trial, he is entitled to be acquitted.

Record of the case and evidence on file shows that prosecution case mainly hinge upon the ocular account of complainant Nasrullah (PW-5), eyewitness Jahangir (PW-6), Investigating Officer Muhammad Nawaz (PW-8) and medical evidence furnished by Dr. Mehmood Jan Bhitani PW-4.

First of all, I would like to take up alleged eye seen account furnished by complainant Nasrullah and PW Jahangir.

Perusal of the statements of above named witnesses

reveals that the arguments advanced by learned counsel for the accused, "that the statements of above named witnesses are totally contradictory inter-se and with the contents of F.I.R. and are also full of deliberate improvements", have substance in it. Let me allow to reproduce the contents of report, extract from the examination-in-chief of complainant Nasrullah and extract from the examination-in-chief PW of Jahangir for the perusal of reader of this judgment, so as to go through the above mentioned pointed out glaring

*Session Judge
17/11/16*

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Nawaz*

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Examiner
20/11/16

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contradictions, and deliberate improvements in it. Hence, those extracts and contents of the F.I.R are reproduced in the following paragraph of this judgment.

"In the contents of report, the complainant has stated that on 21.04.2011 at about 11.00 p.m at night time, on the barking of dogs, he went to the house of his father which was adjacent to his house and found Zakir Hussain son of Bashir Hussain caste Baloch, resident of Haji Morrah, D.I.Khan standing there. As soon as he reached near him, he with intention to kill him, fired at him, with lethal weapon, as a result of which, he was hit on his right thigh and got injured. After the occurrence accused went away. He further stated that the occurrence has been witnessed by his father and other inmates of the house. Motive for the occurrence was stated to be relation dispute. However, when the complainant namely Nasrullah appeared in the witness box he introduced quite a new story regarding the present occurrence. In this regard, extract from his examination-in-chief is reproduced which is as follows:-

"On 21.04.2011 at 11.30 p.m he went to the house of his father where he found shoes/chappal of a person lying outside the cattle room. He called his father namely Mehrdad, who came and went inside the room

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but found none there. Then he went to the said room himself and found accused Zakir Hussain there. Accused made firing upon him with which he was hit but he overpowered him and caught hold of him thereafter Zakir Hussain called his sister for his rescue, on which his sister came there and started quarreling with him. She threw away the pistol outside the house. Then he informed the police and the police came there and he handed over the accused to police. Then he was taken to hospital where he lodged the report in shape of Murasila in emergency room of the hospital".

PW-6 Jahangir while appeared in the witness box of this Court has uttered a quite different story regarding the present occurrence. Extract from his examination-in-chief is reproduced which is as follows:-

"That on 21.04.2011 he along with his father was asleep in the courtyard of his house while his sister Mst. Pathano Bib and Mst. Saddo Bibi (mother) were asleep inside the room of their house. At about 09.30 p.m his brother and his wife namely Ishaad Bibi came to their house but since the outer door of his house was locked from inside, therefore, the same was unlocked by him and got them entered into the said house. His brother went to the cattle room and searched him through search

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 Examiner

light and found accused facing trial Zakir Hussain there in standing position. As soon as his brother saw accused facing trial Zakir Hussain they grappled with each other. Accused being armed with pistol fired at his brother Nasrullah as a result of which he got hit and injured. After firing, he and his brother Nasrullah overpowered accused facing trial and took him into their custody while the wife of his brother went to the house of Faiz Ullah and brought him back after informing him about the present occurrence. Thereafter Zakir Hussain threw away his pistol. Mst. Pathano Bibi took the same in her hands and threw it away in the fields".

Contents of the report, extract from the examination-in-chief of complainant as well as extract from the examination-in-chief of PW Jahangir shows that there are so many glaring contradictions in their statements regarding the actual time of occurrence and actual episode of the occurrence. Nasrullah in his report has narrated the time of occurrence to be 11.00 p.m but in his statement he has deposed the time of occurrence to be 11.30 p.m and PW Jahangir has shown the time of occurrence to be 09.30 p.m. Moreover, statements of Nasrullah and PW Jahangir are contradictory inter-se and full of deliberate improvements. Each one has tried to make improvement of his choice in his statement to strengthen his version. I need not want to rewrite those deliberate improvements which were made by these

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two PWs in their statements and to re-mention those contradictions one by one, however; bare reading of extract of their statements and contents of the report leads me to hold that the version put forth by both the witnesses regarding the instant occurrence are quite different from one another and their statements are full of deliberate improvements.

It is well settled principal of law that one deliberate improvement and one material contradiction is sufficient to create doubt in the prosecution case and make dent in it. In the case ^{L &} I find numerous glaring contradictions and numerous deliberate improvements in their statements which casts serious doubts on the veracity of their statements and make it sufficient to discard and shatter their testimony. Hence, in view of the above glaring contradictions and deliberate improvements, statement of Nasrullah even if he has the stamp of injury and PW Jahangir are neither true nor worth consideration and contradictory versions put-forth by both the witnesses i.e. complainant and PW Jahangir regarding the occurrence when they appeared in the witness box further leads me to hold that there is every probability and possibility that the occurrence has not taken place in the mode and manner as alleged by prosecution. Hence, statements of above two witnesses being highly unbelievable and shaky are brushed aside. Moreover, complainant has only shown his father by name to have witnessed the occurrence but he could not produce him in support of his contention. However, he

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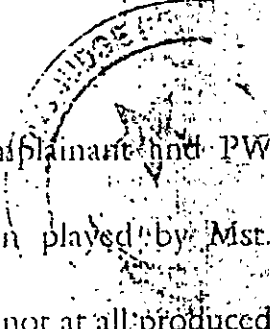
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opted to produce his mother Mst. Saddo Bibi as witnesses in support of his version but she when appeared in the witness box did not at all support the version of the complainant rather said in his statement that "on the night of occurrence she was asleep in a room of her house and when she awakened she saw her son in injured condition. She in cross-examination also admitted that she has not seen the actual occurrence"

According to the statements of complainant and PW Jahangir, major role in the occurrence has been played by Mst. Pathano Bibi, but it is strange to note that she was not at all produced by prosecution to cement the version of the complainant and PW Jahangir. Furthermore, PW Jahangir and Nasrullah/ complainant have stated in their statement that after firing they overpowered the accused and handed over him to the police when the police arrived at the spot. But in the contents of report complainant himself stated that after the occurrence the accused went away while police has also shown the accused arrested at the second day of occurrence and the Investigating Officer has not at all stated in his statement that the accused was handed over to him by the complainant. Thus in view of the above facts and circumstances I am of the considered view that no reliable eye seen account of the present occurrence is forth coming on record to warrant conviction of accused. There is also no reliable circumstantial evidence to support the version of the complainant. The police has neither recovered the empty shell nor the crime



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weapon either from the spot or from the possession of the accused or from the landed property outside the house of the complainant where the crime weapon was allegedly thrown by Mst. Pathano Bibi as per version of the complainant. Similarly, the source of light which was allegedly "the torch" due to which the accused was got indentified by the complainant was also not either shown to the Investigating Officer nor taken into possession by him. Likewise, no other source of light in the shape of bulb, lantern, moon-light or torch was brought on record to fortify the identification of accused in pitched dark. Moreover, stamp of injury on the body of any person in the absence of other reliable ocular or circumstantial is not sufficient for warrant conviction of an accused.

Thus the accumulative effects of the above discussion, is that the prosecution has bitterly failed to establish its case against the accused beyond any reasonable shadow of doubt. Hence, by giving benefit of doubt, accused Zakir Hussain is acquitted from the charges levelled against him. Accused is on bail and his sureties are discharged from the liability of bail bonds. Case property, if any, be kept intact till expiry of period of appeal revision and thereafter be dealt with in accordance with law.

Announced
 Dt: 13.03.2012

(Signature)
 (Shah Jehan Akhundzada)
 Sessions Judge, D.I. Khan
 13.3.12

Attested

(Signature) ATTESTED TO BE TRUE COPY

District And S...
 Examiner
 Judge

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No.525/ 2013.

Constable Zakir Hussian No. 7645 S/o Ghulam Bashir R/o Haji Mora D I K.....
.....Appellant

1. **Govt: of K.P.K through Secretary, Peshawar.**
2. **Addl: IGP/Commandant,**
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.
3. **Superintendent of Police FRP,**
D I Khan Range, D I Khan.....**Respondents**

WRITTEN REPLY ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has no cause of action.
4. That the appellant has not come to this Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.

FACTS

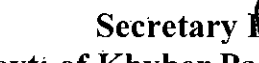
1. Para No.1 pertains to the Appellant record need no comments.
2. Explained as above.
3. Incorrect, that the Appellant was absented himself from lawful duty with out any prior permission or leave vide Daily Dairy Report No. 26 dated 28.01.2011 from Police Station City District D I Khan and subsequently involved in Criminal case vide FIR No. 121 dated 22.04.2011 U/s 324/452/PPC Police Station Gomal University D I Khan. He was issued Charge Sheet alongwith statement of allegations and served upon his Uncle namely Maqbool Hussain S/o Ghulam Sadiq on his Home address through special messenger, but the Appellant failed to submit his reply of Charge Sheet with in stipulated period. The Enquiry Officer found him guilty of the charges leveled against him in his findings: After receiving the findings of Enquiry Officer the Competent Authority issued the Appellant Final Show Cause Notice and served upon his Brother on his home address through special messenger on 27.06.2011. (Copy of Charge Sheet, Final Show Cause Notice are attached as annexure A,B)
4. Incorrect, that the Appellant failed to submit his reply of Final Show Cause Notice or appear before the Competent Authority to defend himself and after fulfilled all the codal formalities the Competent Authority removed him from Service.
5. Incorrect, that Departmental Appeal submitted by the Appellant was thoroughly examined and rejected by Addl:IGP/Commandant FRP/KPK on sound ground and a copy of the same was already, conveyed to the Appellant vide endorsement No. 7665-67 dated 29.10.2011(copy of the order attached as annexure 'C')
6. Pertains to record of Hon'ble Court, need no comments.
7. Incorrect, that the Appellant has not come to this Hon'ble Court with clean hands.

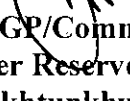

GROUND

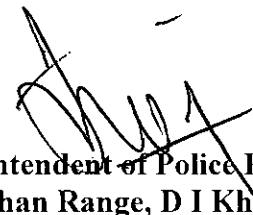

1. Incorrect, that the Order of respondents is, in accordance with law/Rules as commensurate with the gravity of the Appellant gross misconduct.
2. Incorrect, as a Charge Sheet along with statement of allegation was issued and served upon the Uncle of the Appellant through special messenger on his home address. Subsequently the Appellant was issued Final Show Cause Notice and served upon the brother of the Appellant on his home address through special messenger on 27.06.2011. It is pertinent to mention here that the Appellant was released from the Judicial Lockup on bail by the Peshawar High Court D I Khan Bench vide his judgment dated 08.06.2011 which is attached herewith as annexure "D". Moreover, after releasing from Judicial Lockup the appellant supposed to make his arrival report in the responding Department immediately or to be appeared before the Competent Authority to defend himself.
3. Incorrect, the allegations are false and baseless as the Appellant was charge sheeted as involved in criminal case, absented himself from lawful duties without any information or prior permission hence he was dealt with proper Departmental Enquiry and after fulfillment of all the codal formalities the Competent Authority removed him from service.
4. Incorrect, that the Appellant was served with Charge Sheet and Final Show Cause Notice accordingly, but the Appellant failed to associate with the Enquiry proceedings as he was found less interested to submit the replies of Charge Sheet and Final Showcase Notice or availed the opportunity of personal hearing and remained absent from duty with effect from 28.01.2011 till to the date of removal from Service i-e 19.07.2011 for the total period of (06) month and (19) days without prior permission of his Superior, therefore the Competent Authority compelled to remove him from service.

PRAYERS:

Keeping in view of the above mentioned facts/submission the instant Appeal may very kindly be dismissed with cost.


Secretary Home,
Govt: of Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 1)


Addl:IGP/Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.
 (Respondent No. 2)


Superintendent of Police FRP,
D I Khan Range, D I Khan.
 (Respondent No. 3)

"A"

CHARGE SHEET

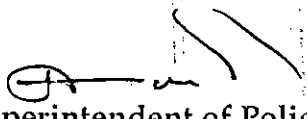
I, MR. AMAN ULLAH KHAN, SUPERINTENDENT OF POLICE

FRP D.I.KHAN RANGE, D.I.KHAN, as competent authority, hereby charge you
Constable Zakir Hussain No.7645 /FRP as follow:

It has been reported by District Police Officer, D.I.Khan vide his office memo: No.6555, dated 18.05.2011, that you have been involved/Charged in Case FIR No.121, dated 22.04.2011, U/S 324/452 PPC Police Station Gomal University.

This act on your part reflects lack interest towards the performance of your duties and also gross misconduct, which is punishable under the rules.

2. By reasons of the above , you appear to be guilty of misconduct under section-3 of the NWFP (Removal From Service) Special Powers, Ord: 2000 and have rendered yourself liable to all or any of penalties in section-3 of the ordinance ibid.
3. You are therefore required to submit your written defence within seven days of the receipt of this charge sheet to the Enquiry Officer.
4. Your written defence , if any should reach the enquiry officer/committee within the specified period failing which if shall be presumed that you have no defence to put in and in that case ex-parte action shall follow against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegation is enclosed.


Superintendent of Police,
FRP, D.I.Khan Range D.I.Khan.

D
N.J.P.
2-6-11

A/2nd B^o

DISCIPLINARY ACTION

I, MR. AMAN ULLAH KHAN SUPERINTENDENT OF

POLICE FRP, D.I.KHAN RANGE, as competent authority am of opinion that

You Constable Zakir Hussain No.7645 /FRP, have rendered yourself liable to be proceeded against and committed the following acts/ omissions within the meaning of section-3 of the NWFP removal from service (Spl: power) Ord: 2000.

STATEMENT OF ALLEGATION.

It has been reported by District Police Officer, D.I.Khan vide his office memo: No.6555, dated 18.05.2011, that you have been involved/Charged in Case FIR No.121, dated 22.04.2011, U/S 324/452 PPC Police Station Gomal University.

This act on your part reflects lack interest towards the performance of Your duties and also gross misconduct. which is punishable under the rules.

Hence the statement of allegation.

2. For the purpose of scrutinizing the said defaulter with reference to the above allegation Mr. GUL MANAN KHAN LINE OFFICER/FRP D.I.Khan is appointed as Enquiry Officer to conduct proper Departmental Enquiry under section-3 of the ordinance.
3. The enquiry officer shall in accordance with the provision of the ordinance, provide reasonable opportunity of the hearing to the defaulter, record its findings and make with in twenty five days of the receipt of this order recommendations as to punishment or other appropriate action against the defaulter.
4. The defaulter and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the Enquiry Officers.

Superintendent of Police,
FRP,D.I.Khan Range, D.I.Khan.

No. 945-46 /FRP, dated D.I.Khan the 31-05- /2011.

Copy to:-

1. Mr. GUL MANAN KHAN LINE OFFICER /FRP D.I.Khan, the enquiry officer Initiating proceedings against the defaulter under the provision of NWFP Removal from Service Special Ordinance-2000, enquiry papers counting _____ pages are enclosed.
2. Constable Zakir Hussain No.7645 /FRP with the direction to appear before the E.O on the date, time and place fixed by the E.O for the purpose of enquiry proceeding.

Superintendent of Police,
FRP, D.I.Khan Range D.I.Khan.

Read
Aliy

ORDER.

1077
2-11-11

This order shall dispose off on the appeal of Ex- constable Zakir Hussain No. 7645 of FRP DIKhan Range against the order of SP FRP DIKhan Range wherein he was removed from service.

Brief facts of the case are that he while posted at Police Station City District D I Khan but absented himself from duty w-e-f 28.01.2011 till the date of removal from service for a total period of 06 months and 01 day without any leave/permission of the competent authority. Moreover as reported by DPO DIKhan that the said EX-Constable involved in Criminal case vide FIR No. 121 dated 22.04.2011 U/s 324/452/ PPC PS Gomal University DIKhan. He was issued Charge Sheet/Statement of allegation and LO FRP DIKhan Range was appointed as Enquiry officer. After Enquiry the enquiry officer submitted findings wherein he recommended the said defaulter for major punishment. He was issued final show cause notice but he could not bother to reply. Therefore he was removed from service by the SP FRP DIKhan Range vide his OB No.646 dated 19.07.2011.

However from the perusal of record and finding of enquiry officers there are no cogent reason to interfere in the order of SP FRP DIKhan Range. Therefore his appeal is rejected.

Add: IGP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.

27-10-2011
29/10/2011

① S/Kelly received

PPS attached
2-11-11

SRK/SPIC
for info

① Fuzaimussal
Rama
Attas
2-11-11

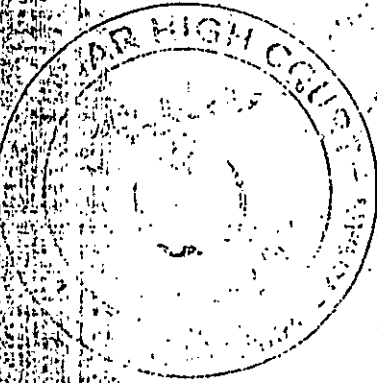
ASREYRD
D. 2/11/2011

No. 7665-68 IEC dated Peshawar the

OB No. 1092
dt-4-11-2011

Copy of above is forwarded to the Superintendent of Police FRP DIKhan Range for information and necessary action w/r to his Memo: No. 1780 dated 20.10.2011. His service record alongwith departmental files are returned herewith.

To: Ex-FC Zakir Hussain s/o Ghulam Bushir R/o Hajinur Desh: D.I.Khan



Zakir Hussain son of Bashir Hussain
Caste Baloo-Khel Resident of near village
Haji Mora, situated in the limits of
Village Noon Tehsil and District D.I. Khan.
(Accused).

... Petitioner.

Versus

1. Nasrullah son of Mehar Dad caste Baloch
Resident of village Haji Mora Tehsil and
District Dera Ismail Khan.
(Complainant).

2. The State. ... Respondents.

Petition under sections 497/498

Cr.P.C, for the release of the accused/petitioner
on bail, in case FIR No. 121 dated 22/4/2011
registered under sections 324/452 PPC at Police
Station Gomal University, Dera Ismail Khan.

ATTESTED

EXAMINOR

Peshawar High Court
D.I. Khan Bench

Annexure-A.

Respectfully Sheweth:-

1. That a case under sections
324/452 PPC was registered against the
accused/petitioner at Police Station, Gomal
University D.I. Khan on 22/4/2011 vide FIR No. 121
on the strength of the report lodged by the
Complainant/Respondent. The copy of the FIR
is enclosed as Annexure-A.

JUDGMENT SHEET
PESHAWAR HIGH COURT, D.I. KHAN BENCH
JUDICIAL DEPARTMENT

Cy: MB No. 198 of 2011.

Date of hearing 8-6-2011.

Appellant-petitioner Zakir Hussain) by M/s Ghulam Husein Baloch &
Abdullah Khan Gadoke Advocate.

Respondent State) by Miss Farhana Johar Advocate
vs. Abdul Latif Khan Baloch Advocate for Com. Pkt.

ATTAULLAH KHAN J.- Petitioner,

Zakir Hussain, having failed to secure his release on bail in the lower Courts, has approached this Court for seeking the same relief.

2. Facts as narrated in the FIR are that on 21.04.2011 at 2340 / 1140 hours in injured condition, complainant Nasrullah, reported to the police in Emergency Room of Civil Hospital, DIKhan that on the eventful day at 1100 hours he heard dogs barking outside his house, he got up and went to his father's adjacent house where Zakir Hussain was present who opened fire at him and resultantly he got injured on right thigh and on his report case FIR No.121 dated 22.04.2011 under

ATTESTED

EXAMINOR

Peshawar High Court
D.I. Khan Bench

11/6/11

Banner

sections 324/452 PPC was registered at police station, Gomal University, Dikhan.

3. Learned counsel for the petitioner contended that it is a case of night occurrence and identity of the accused / petitioner is doubtful. He further argued that nothing has been recovered from the accused / petitioner. According to learned counsel for accused / petitioner no empty has been recovered from the spot. He referred to the statement of some of the PWs who shown different times of occurrence.

4. On the other hand, learned state counsel assisted by private counsel of the complainant / respondent No.1 argued that the FIR was promptly lodged and the accused / petitioner is directly charged for causing

ATTESTED

injury to the complainant.

EXAMINOR
Peshawar High Court
Dikhan Bench

5. Arguments heard and record perused.

6. Record reveals that the complainant has received one injury on right thigh which is on non-vital part of the body. In the FIR the timing of occurrence is shown as 11 p.m. while

some of PWs have disclosed the time is quarter to ten and some has disclosed as 09.00 p.m. Shafqat Hussain was examined on 25.04.2011 he disclosed the time 1045 hours. Similar time is given by Ghulam Shabir, Jehangir were also examined on 25.4.2011 and 22.04.2011 who disclosed the time 09.00 p.m. Another witness Naseem Bibi has disclosed the time of occurrence as 10:00 p.m. So different timing in the FIR as well as in the statement of four witnesses create doubt in the prosecution case unless these factors are examined by the trial Court. Furthermore, in spite of firing in the house of complainant no recovery of empty has been effected from the house of the complainant. The injury is on non-vital part of the body of complainant. The investigation in the case is complete and the accused is no more required for further investigation.

ATTESTED

EXAMINOR

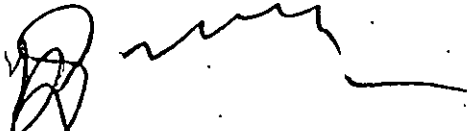
Peshawar High Court
O.J. Khan Bench

11/6/11

7. In the light of the above circumstances, the case of accused / petitioner requires further inquiry into his guilt. Therefore, he is allowed to be released on bail provided he furnishes bail bonds in the

4
sum of Rs.1,00,000/- (one lac) with two sureties, each in the like amount to the satisfaction of Illaqa / Duty Magistrate, DIKhan. The sureties must be local, reliable and men of sufficient means.

ANNOUNCED.
08.06.2011.


JUDGE.

8/6/11

ATTESTED

EXAMINOR
Peshawar High Court
DI Khan Bench

11/6/11


9/6/11

گعدالت - ضاب - KPK سرروس ٹرمینل ایک ڈیڑھ بجھل خان

اپیل نمبر 525/2013

ڈاکٹر حسین اسم KPK دفتر

اپیل

درخواست - سرمد ایضا انزادنی بیٹی امروز

ضاب عالی! ~~جسٹس~~ / ایڈووکیٹ صاحبہ ذیل عرض رسان ہے

1۔ یہ کہ اپیل عنوان بالا ذمہ سہی عدالت حضور امروز ہے

تاریخ پیشی امروز مقدر ہے

2۔ یہ کہ مقدمہ عنوان بالا میں ویل پیشتر گعدالت عالیہ پشاور بمقامی کورٹ

میں مصروفیت کی وجہ سے بحث تیار نہیں کر سکے ہیں وہ

انزادنی بیٹی مطلوب ہے

انزادنی بیٹی مقدمہ عنوان

بالا میں انزادنی بیٹی عنایت کی جاوے

سورج 5/9/16

ڈاکٹر حسین اسم
پشاور ایڈووکیٹ
M.A.

PESHAWAR HIGH COURT DERA ISMAIL KHAN BENCH

Before

CAUSE LIST OF DB CASES FOR MONDAY 25-04-2016

Hon'ble Mr. Justice Muhammad Ghazanfar Khan - Judge
Hon'ble Mr. Justice Haider Ali Khan - Judge

S.No.	Case No	Title of the Case	
<u>Motion Cases.</u>			
1	Cr.Rev.4-D/16	Shaukat (Saifur Rehman Khan)	VS Masood Khan
2	CM 326-D/16 in WP 536-D/15	Qazi Abdur Rashid (Saifur Rehman Khan) (Inam Ullah Khan Kundi) (Inayat Ullah Baloch)	VS Govt of Khyber Pakhtunkhwa (AAG)
3	CM 355-D/15	Dr. Mirza Jan (Chaudhry Javed Akhtar)	VS Gomal University
4	CM 311-D/16 (12/2) in WP 332-D/15	Daud Shah (Saleem Ullah Khan Ranazai)	VS Inam Ullah
5	WP 268-D/10 (Direction)	Ehsan Ullah (Shaukat Hayat Khakwani)	VS Govt of NWFP etc
6	WP 848/11 (M) and Interim Relief (N) (Direction)	Haji Ehsan Ullah (Saleem Ullah Khan Ranazai)	VS Executive Officer (Salahuddin Khan Gandapur AAG) (Burhan Lateef Khaisori)
7	WP 150-D/12	Soba Khan (Pir Amjid Ali Shah) (Malik Hidayat Ullah Malana)	VS Govt of Khyber Pakhtunkhwa (AAG)
8	WP 411-D/12	Abu Sufian (Khuda Bakhsh Baloch) (Salah Ud Din)	VS Govt of Khyber Pakhtunkhwa (AAG) (Saleem Ullah Khan Ranazai)
9	WP 325-D/13	Mehrban Ali (Malik Hidayat Ullah Malana)	VS Govt of Khyber Pakhtunkhwa (AAG)
10	WP 860-D/15	Sh: Asif Nazir (Muhammad Anwar Awan)	VS Govt of Khyber Pakhtunkhwa
11	WP 71-D/16 (Direction)	Shaukat Mehmood Khan (Matee Ullah Rind)	VS Govt of Khyber Pakhtunkhwa

- 12 WP 340-D/13
(Directions) Ghulam Qasim
(Saleem Ullah Khan Ranazai) VS Gomal University
(Akbar Ali Khan)
- 13 WP 132-D/14
(Direction) Samina Parveen
(Burhan Latif Khaisori) VS Gomal University
(Muhammad Anwar Awan)
- 14 WP 364-D/14
(Direction) Sumaira Yasmin
(Matee Ullah Rind) VS Govt of Khyber Pakhtunkhwa
- 15 WP 428-D/14 Hafiz Habib Ullah
(Ahmad Ali Khan) VS Gomal University
(Muhammad Ismail Alizai)
- 16 WP 567-D/14 Haji Fazal Rehman VS Govt of K.P.K etc
- 17 WP 575-D/14
(Direction) Rehana Bibi
(Muhammad Yousaf Khan)
(Noman Akbar Khan) VS Govt of Khyber Pakhtunkhwa
(AAG)
- 18 WP 682-D/14 Muhammad Khalid
(Matee Ullah Rind) VS Govt of Pakistan etc
- 19 WP 155-D/15 Ghulam Abbas
(Muhammad Anwar Awan) VS Govt of Khyber Pakhtunkhwa
(AAG)(Saleem Ullah Khan
Ranazai)
- 20 WP 191-D/15 Najeeb Ullah
(Sadaf Ali Jan) VS Govt of Khyber Pakhtunkhwa
- 21 WP 232-D/15 with
Interim Relief Wajahat Ali
(Salahuddin Khan Gandapur) VS Home Secretary
- 22 WP 256-D/15 Sh: Muhammad Shakil
(Malik Hidayat Ullah Malana) VS Gomal University
- 23 WP 448-D/15
(Direction) Syed Wasim Abbas
(Muhammad Imran Gandapur)
(Kaneez Batool) VS Govt of Khyber Pakhtunkhwa
(AAG)
- 24 WP 627-D/15 Yasmin Bibi
(Tariq Abbas Qureshi)
(Matti Ullah Rind) VS Govt of Khyber Pakhtunkhwa
(AAG)

	WP 708-D/15	Mst Najma Parveen (Ahmad Ali Khan) (Miss Shumaila Awan)	VS Govt of K.P.K etc
27	WP 838-D/15 (M) and Interim Relief (N)	Iqbal Hussain (Saleem Ullah Khan Ranazai)	VS Project Director (AAG) / (Rustam Khan Kundi)
28	CM 89-D/16 (COC)	Iqbal Hussain (Saleem Ullah Khan Ranazai)	VS Saad Akbar (Rustam Khan Kundi)
29	WP 73-D/16	Salahuddin (Burhan Latif Khaisori) (Yasir Jibran)	VS Govt of Khyber Pakhtunkhwa
30	WP 77-D/16 (M) with Interim Relief (N) (Direction)	Abdullah Khan (Salahuddin Khan Gandapur) (Muhammad Waheed Anjam) (Abdullah Khan Gandapur)	VS Govt of Khyber Pakhtunkhwa (AAG)(Muhammad Yousaf Khan) (Saleem Ullah Khan Ranazai) (Ghulam Muhammad Sappal)
31	WP 98-D/16	Siraj Uddin (Saleem Ullah Khan Ranazai) (Tanveer Ahmad Baloch)	VS Federation of Pakistan
32	WP 154-D/16 (M) and Interim Relief (Direction)	Haji Khan Zaman (Haji Muhammad Shakeel) (Muhammad Waheed Anjam)	VS D.I.G (AAG)
33	WP 155-D/16 (Direction)	Mst Zarina Bibi (Muhammad Waheed Anjam)	VS State (AAG)
34	WP 184-D/16	Akhtar Gul (Muhammad Mohsin Ali) (Sajid Ahmad)	VS Govt. of Pakistan
35	WP 210-D/16 with Interim Relief (Direction)	M/S Daewoo (Muhammad Yousaf Khan) (Nouman Akbar Khan) (Asad Aziz)	VS Govt of Khyber Pakhtunkhwa (AAG)
36	WP 237-D/16	Muhammad Jamsheed Iqbal (Muhammad Ismail Hani) (Saleem Ullah Khan Ranazai)	VS Govt of Khyber Pakhtunkhwa
37	WP 274-D/16	Muhammad Muqadim (Saifur Rehman Khan) (M.Adnan)	VS Gomal Univesity

- | | | | |
|----|--|---|---|
| 38 | WP 276-D/16
(Direction) | Muhammad Yaar
(Farooq Akhtar Khan) | VS State
(AAG) |
| 39 | WP 315-D/16
(Direction) | Abdur Rauf etc
(Muhammad Ghazanfar Ali) | VS Govt of K.P.K etc
(AAG)
(Muhammad Yousaf Khan) |
| 40 | WP 316-D/16 (M) and
Interim Relief (N)
(Direction) | Rehmat Ullah
(Saleem Ullah Khan Ranazai) | VS Govt of KPK etc
(AAG) |
| 41 | WP 323-D/16
(Direction) | Sherullah
(Saifur Rehman Khan)
(Iftikhar Ali Marwat)
(Sameen Ullah Khan) | VS Gomal University |
| 42 | WP 327-D/16 (M) and
Interim Relief
(Direction) | Ehsan Ullah Dinsh
(Saleem Ullah Khan Ranazai) | VS Gomal University
(Ahmad Ali Khan)
(Miss Shumaila Awan) |
| 43 | WP 331-D/16 | Muhammad Rashid Zafar
(Fazalur Rehman Baloch) | VS Govt of Khyber Pakhtunkhwa
(AAG) |
| 44 | WP 333-D/16 | Juma Khan
(Nouman Akbar Khan) | VS State
(AAG) |
| 45 | WP 347-D/16 | Muhammad Farooq
(Nouman Akbar Khan) | VS Govt of Khyber Pakhtunkhwa
(AAG) |
| 46 | WP 349-D/16 | Muhammad Farooq
(Nouman Akbar Khan) | VS Govt of K.P.K etc |
| 47 | RFA 47-D/15 | Qamar Zaman
(Malik Muhammad Asad)
(Muhammad Abid Bhattani) | VS Mst Zawar Bibi |

Old Notice Cases

- 1 RFA 3-D/2002
Handai
(Arif Rahim Ustrana)
VS H. Khanzaman
(Muhammad Waheed Anjam)
(Haji Muhammad Shakeel)
- 2 RFA 4-D/2002
(Remand Case)
Chief Engineer
(Arif Rahim Ustrana)
VS H. Khanzaman
(Muhammad Waheed Anjam)
(Haji Muhammad Shakeel)
- 3 WP 876-D/10
(Direction)
Nasir Muhammad
(Saleem Ullah Khan Ranazai)
VS Jehangir etc
- 4 FAB 12/10
ZTBL
(Arif Rahim Ustrana)
VS Maazullah

Pre-Admission Notice Cases.

- 1 CR 4-D/12
Sher Zaman
(Ilyas Ahmad Damani)
(Abdul Qayyum Kundi)
VS Essa Khan
(Muhammad Yousaf Khan)
- 2 CR 12-D/12 with
CM 14-D/12
Abdur Rehman
(Abdur Rashid Khan)
(Syed Mastan Ali Zaidi)
VS HBL
(Muhammad Aslam Khan)
(Muhammad Ishaq Khan)
(Malik Muhammad Asad)
- 3 FAB No 3-D/13
Abdur Rehman
(Abdur Rashid Khan)
(Syed Mastan Ali Zaidi)
(Muhammad Ghazanfar Ali)
VS HBL
(Muhammad Aslam Khan)
(Muhammad Ishaq Khan)
(Malik Muhammad Asad)
- 4 CM 18-D/15 (COC)
Abdur Rehman
(Abdur Rashid Khan)
(Syed Mastan Ali Zaidi)
(Muhammad Ghazanfar Ali)
VS Muhammad Ibrahim
(Muhammad Ishaq)
(Muhammad Aslam Khan)
(Malik Muhammad Asad)
- 5 WP 619-D/14
(Direction)
Mst Noreen Bibi
(Muhammad Aslam Khan)
(Khuwaja Nawaz Khan)
VS Qamar Zaman

Notice Cases

- | | | | |
|-------|--|--|--|
| 1 | Cr.A.No.41-D/15
(Death Case) | Haq Nawaz
(Shah Shuja Ullah Khan) | VS State
(AAG) |
| 2 | M.Ref.No.2/D/15
(Death Case) | State
(AAG) | VS Haq Nawaz
(Shah Shuja Ullah Khan) |
| 3 | Cr.A.No.170-D/11
(Life) | Chiragh Hussain
(Ghulam Hur Khan Baloch) | VS Rozi Khan
(AAG)(Sana Ullah Khan
Gandapur) |
| 4 | Cr.Rev.No.51-D/11
(Life) | Rozi Khan
(Sana Ullah Khan Gandapur) | VS Chiragh Hussain
(Ghulam Hur Khan Baloch) |
| 5 | CM 300-D/15 (COC)
(Direction) | Mukhtiar Hussain
(Ahmad Ali Khan) | VS Waqar Ali |
| 6 | CM 352-D/15 with
CM 353-D/15
(Restoration) | Aamir Mehmood
(Dil Awaiz Baloch)
(Sareeh Ul Ehsan) | VS Govt of Khyber Pakhtunkhwa
(AAG) |
| 7 | CM 381-D/15 (COC) | Adnan Khan
(Saleem Ullah Khan Ranazai) | VS Maj:(G) Ret: Hamid Shafiq |
| 8 | CM 578-D/15 (Rev) (N) | Jamil Akhtar
(Muhammad Ayaz Chaudhry) | VS Dr. Ahmad Waheed
(Salahuddin Khan
Gandapur)(Muhammad Waheed
Anjam) |
| 9 | CM 618-D/15
(COC) | Rifat Ullah
(Sana Ullah Shamim Khan
Gandapur) | VS S.Hassan Fazil
(Jehanzeb Ahmad Chaughtai) |
| 10 | CM 743-D/15 (COC) | Safeer Hussain
(Muhammad Anwar Awan) | VS Azra Bibi |
| <hr/> | | | |
| 11 | WP 859-D/11 | Allah Dad
(Rustam Khan Kundi) | VS T.M.A
(AAG)
(Syed Abid Hussain Shah) |
| 12 | WP 144-D/13 | Irfan Ullah
(Shaikh Iftikharul Haq) | VS Govt of KPK etc
(AAG)(Muhammad Abdullah
Baloch) |

- WP 6-D/14
Khalid Saleem
(Rustam Khan Kundi)
VS Govt of K.P.K etc
(AAG)
- 15 WP 86-D/15
(Direction)
Muhammad Waqas
(Fahim Ahmad Baloch)
VS Govt of Pakistan
(Standing Counsel)
(Salah Ud Din Gandapur)
- 16 WP 804-D/15
Muhammad Noor Sultan
(Saleem Ullah Khan Ranazai)
VS Govt of K.P.K etc
(AAG)
(Muhammad Yousaf Khan)
- 17 W.P 262-D/16
M/S Muhammad Aslam etc
(Muhammad Anwar Awan)
(Asghar Ali / Nasir Mehmoom)
VS Add: Chief Secretary
-
- 18 T.Ref: 1-D/12
Dr. Sohail Rehman
(Haji Saleem Jan Khan)
(Muhammad Abu Bakkar Usman)
VS Commissioner Inland
(Ishtiaq Ahmad Standing
Council)
- 19 T.Ref: 1-D/14
Commissioner in Land Revenue
(Standing Counsel)
(Ishtiaq Ahmad)
(Muhammad Haroon Durrani)
(Habeeb Ur Rehman)
VS Ghazi Nawaz
(Haji Saleem Jan)
(Jahanzeb Mehsood)
- 20 FAB 4/11
Muhammad Javed Iqbal
(Syed Abid Hussain Shah)
VS HBL
(Khuda Bakhsh Baloch)

PESHAWAR HIGH COURT DERA ISMAIL KHAN BENCH

40

Before

DB SUPPLEMENTARY CAUSE LIST FOR MONDAY 25-04-2016

Hon'ble Mr. Justice Muhammad Ghazanfar Khan - Judge
Hon'ble Mr. Justice Haider Ali Khan - Judge

S.No.	Case No	Title of the Case
<u>Motion Cases.</u>		
1	WP 147-D/14	Muhammad Nadim (Matee Ullah Rind) VS Govt of K.P.K etc
2	WP 620-D/15 with Inteirm Relief	Muhammad Zainul Abideen (Muhammad Waheed Anjam) (M.Usman Ali) VS Govt of K.P.K etc (AAG)(Muhammad Yousaf Khan)
3	WP 864-D/15 with Inteirm Releif	Mujtaba Hussain (Muhammad Anwar Awan) VS Govt of K.P.K etc
4	WP 865-D/15	Sana Ullah (Zainul Abideen) (Muhammad Mohsin Ali) VS Govt of K.P.K etc
5	WP 872-D/15 (M)	Muhammad Yousaf Khan (Muhammad Waqar Alam) VS Govt of K.P.K etc (AAG)
6	WP 874-D/15 with Iterim Relief	Muhammad Arif (Muhammad Anwar Awan) VS Govt of K.P.K etc
7	WP 876-D/15	Mehrban Khan (Saleem Ullah Khan Ranazai) (Muhammad Waheed Anjum) (Muhammad Usman Ali) VS Govt of K.P.K etc
8	WP 877-D/15 with Interim Relief	Syed Muhammad Amir Ali Shah (Muhammad Waheed Anjum) (Muhammad Usman Ali) VS Govt of K.P.K etc
9	WP 879-D/15 with Interim Relief	Farid Ullah (Muhammad Mohsin Ali) VS Govt of K.P.K etc
10	WP 881-D/15 with Interim Relief	Sher Ali Khan (Muhammad Anwar Awan) VS Govt of K.P.K etc
11	WP 882-D/15 with Interim Relief	Muhammad Tufail (Muhammad Anwar Awan) (Muhammad Ismail Hani) VS Govt of K.P.K etc
12	WP 883-D/15 with Interim Relief	Asghar Abbas (Muhammad Anwar Awan) VS Govt of K.P.K etc

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|----|------------------------------------|---|----------------------|
| 13 | WP 886-D/15 | Iqtadar Ali Shah
(Muhammad Ismail Hani)
(Tanveer Abbas Mehdi) | VS Govt of K.P.K etc |
| 14 | WP 889-D/15 with
Interim Relief | Aamir Abbas
(Zahid Mohib Ullah) | VS Govt of K.P.K etc |
| 15 | WP 1-D/16 with
Interim Relief | Inayat Ullah
(Zahid Mohibullah Khan) | VS Govt of K.P.K etc |
| 16 | WP 2-D/16 | Muhammad Zubair
(Syed Tehsin Alamdar)
(Ehsan Ullah Gandapur) | VS Govt of K.P.K etc |
| 17 | WP 10-D/16 | Muhammad Iqbal
(Shah Fahad Ansari) | VS Govt of K.P.K etc |
| 18 | WP 15-D/16 with
Inteirm Relief | Fakhar Zaman
(Saleem Ullah Khan Ranazai) | VS Govt of K.P.K etc |
| 19 | WP 23-D/16 | Muhammad Adil
(Shah Fahad Ansari) | VS Govt of K.P.K etc |
| 20 | WP 24-D/16 | Gul Zaman
(Malik Hidayat Ullah Malana) | VS Govt of K.P.K etc |
| 21 | WP 25-D/16 | Muhammad Jawad Saleem
(Malik Hidayat Ullah Malana) | VS Govt of K.P.K etc |
| 22 | WP 27-D/16 | Abdul Shakoor
(Shah Fahad Ansari) | VS Govt of K.P.K etc |
| 23 | WP 31-D/16 | Aamir Gul
(Noor Gul Marwat) | VS Govt of K.P.K etc |
| 24 | WP 32-D/16 | Muhammad Tahir Shah
(Noor Gul Khan Marwat) | VS Govt of K.P.K etc |
| 25 | WP 34-D/16 | Muhammad Haris
(Muhammad Ilyas Marwat) | VS Govt of K.P.K etc |

- 26 WP 48-D/16 Sana Ullah
(Shah Fahad Ansar) VS Govt of K.P.K etc
- 27 WP 58-D/16 with Jalal ud Din
(Matee Ullah Rind) VS Govt of K.P.K etc
- 28 WP 72-D/16 with Interim Relief Muhammad Imran
(Zahid Mohibullah Khan) VS Govt of K.P.K etc
- 29 WP 76-D/16 Muhammad Anwar Shah
(Ziaur Rehman Qazi)
(Muhammad Ghazanfar Ali) VS Govt of K.P.K etc
- 30 WP 79-D/16 Irfan Ahmad
(Bahadar Khan Marwat)
(HashmatUllah Kundi) VS Govt of K.P.K etc
- 31 WP 120-D/16 Ikram Ullah
(Muhammad Anwar Awan) VS Govt of K.P.K etc
-
- 32 WP 143-D/16 Irfan Ullah
(Saifur Rehman Khan)
(Sardar Ayub Nawaz) VS Govt of K.P.K etc
- 33 WP 148-D/16 Muhammad Imran
(Matee Ullah Rind) VS Govt of K.P.K etc
- 34 WP 149-D/16 Jehangir Khan
(Matee Ullah Rind) VS Govt of K.P.K etc
- 35 WP 204-D/16 Tasawar Hidayat
(Sajjid Nawaz Saddozai) VS Govt of K.P.K etc
- 36 WP 225-D/16 Muhammad Khalil
(Zahid Mohib Ullah) VS Govt of K.P.K etc
- 37 WP 233-D/16 Muhammad Imran
(Syed Tehsin Alamdar)
(Syed Arif Ali Zaidi) VS Govt of K.P.K etc
- 38 WP 250-D/16 Muhammad Haroon
(Matee Ullah Rind) VS Govt of K.P.K etc
- 39 WP 317-D/16 Mesri Khan
(Sana Ullah Shamim Gandapur)
(M.Imran Gandapur)
(Kaniz Batool) VS Govt of K.P.K etc
- 40 WP 357-D/16 Amir Hussain
(Muhammad Yousaf Khan)
(Nouman Akram Khan) VS Govt of K.P.K etc

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.



Appeal no... 6/3... of 2012.

Zakir Hussian S/O Ghulam Basshir R/O Haji Mora
D.I.Khan Constable No.7645 FRP D.I.Khan.

525
9-5-2012

VERSUS

1. Govt; of KPK through Secretary *Interim Peshawar.*
2. Commandant frontier Reserve Police KPK Peshawar.
3. Superintendent of Police District Frontier Reserve Police D.I.Khan.

APPEAL AGAINST ILLEGAL AND MALAFIDE
TERMINATION ORDERS DATED 19-07-2011 FROM
SERVICE ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

- 1- That appellant being eligible and qualified was appointed as Constable after due process of law.
- 2- That after taking the charge, the appellant performed his official duties regularly and to the satisfaction of there superior. During the period of service the appellant remained up to the mark and no irregularity of appellant was reported.
- 3- That on the basis of political victimization, inquiry a case FIR No. 121 Dated 22-04-2011 under Section 324/452 PPC was register on police station Gomal University in which appellant arrested on the same day. In the absence of appellant from service, charge sheet was issued by respondent no 3 on the basis of alleged FIR. The respondent no 3 with out informing the appellant appointed Gulmanan khan line officer FRP D.I.Khan as inquiry officer who also knowing the fact that appellant is in judicial lockup, conducted alleged and submit final report before respondent no 3. The respondent no 3 issued final

ATTESTED
[Signature]
Chairman
KPK Service Tribunal
Peshawar

9/5/12
Submitted to...
and filed.
6/6/12

show cause notice to the appellant. Copy of charge sheet and final show cause notice are annexure A & B.

- 4- The respondent no 3 by taking ex-parte action against appellant awarded major punishment of remover from service. Copy of order is annexure C.
- 5- That feeling aggrieved from the above said order, the appellant conducted responded no 2 for redressal of his grievances but he rejected the same with out intimating the appellant. Copy of order is annexure D.
- 6- That after acquittal from the charges level against the appellant in FIR No. 121 from session Judge D.I.Khan through order dated 13-03-2012, the appellant filed an appeal before respondent no 2 but he refused the same on basis of previous order. Copy of judgment of Session Judge is annexure E.
- 7- That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:

GROUND:

1. That the appellant are not treated in accordance with law and the actions of the respondents are malafide besides being discriminatory and harsh.
2. That the appellant had never been served with any charge sheet issued by respondent no 3 nor any notice for joining of inquiry was served. It is were to mention that during period of issuance of charge sheet and conducting of inquiry, the appellant was in judicial lockup in alleged FIR No 121 and this fact was with in the knowledge of respondent no 3 as well as inquiry officer.

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Answer

3. That the alleged charge sheet which was issued by respondent no 3 consist of involvement of appellant in FIR no 121 and on this charge sheet an alleged inquiry was conducted in the absent of appellant while appellant was removed from the service on the basis of absence of appellant from duty as well as on the basis of FIR No 121.
4. That appellants are being penalized without giving them any opportunity of hearing, they were neither associated with the proceeding of standing committee nor have given any show cause notice by the department, which is against the principal of natural justice.

In view of the above, It is, therefore, most respectfully prayed that on acceptance this appeal this honorable court may pleased to declare that the order dated 19-07-2011 and dated 27-10-2011 issued in the absence and back of appellant were illegal void and of no legal effect and respondents may pleased be directed to reinstate the appellant with all back benefits.

YOUR HUMBLE APPELLANT

Zakir Hussain

Zakir Hussain
Through Counsel

Anwar Adv.

Dated; 07-05-2012.

Muhammad Anwar Awan
Advocate High court

Certified to be true copy
EX-100-2012
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 827 /ST

Dated: 31-3-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

The Superintendent of Police FRP,
Government of Khyber Pakhtunkhwa
D.I.Khan Range D.I.Khan.

Subject: JUDGMENT IN APPEAL NO. 525/2013 MR. ZAKIR HUSSAIN.

I am directed to forward herewith a certified copy of Judgement dated 25.11.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above.


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR