

Sr. No.	Date of order proceeding	
1	2	<p>Order or other proceedings with signature of Judge or Magistrate</p>
		<p>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</p> <p>Service Appeal No. 1323/2013</p> <p>Date of Institution 25.07.2013</p> <p>Date of Decision 21.09.2017</p> <p>Mr. Fawad Ali, Constable No. 1107, Frontier Reserve Police, Headquarter, Khyber Pakhtunkhwa, Peshawar.</p> <p>Appellant</p> <p>Versus</p> <p>1: The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar. 2: The CCPO Peshawar. 3: The Commandant, Frontier Reserve Police, Peshawar. 4: The Deputy Commandant, Frontier Reserve Police, Peshawar. 5. Mr. Nasrullah Khan Khattak, Additional Secretary (Admn); Provincial Assembly, Khyber Pakhtunkhwa, Peshawar.</p> <p>Respondents</p> <p>JUDGMENT</p> <p>MUHAMMAD HAMID MUGHAL, MEMBER: - Appellant</p> <p>with counsel present. Learned Deputy District Attorney for the respondents present.</p> <p>2. This single/common judgment in the above captioned case shall also dispose of appeal titled Tilwat Shah Constable No. 900 Versus The Provincial Police Officer Khyber Pakhtunkhwa and others bearing No. 1322/2013 being identical in nature, arising out of the same facts and circumstances.</p> <p>3. The appellant Fawad Ali, Constable has filed the present</p>
	21.09.2017	

Handwritten mark/signature

appeal u/s.4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents and made impugned therein order dated 26.03.2013 of respondent No. 4 whereby the appellant was removed from service on the charge that he was deployed as Guard for security duty of Provincial Assembly, Peshawar and during the performance of his duty he misappropriated electric appliance i.e two Nos printers and two Nos UPS from Assembly and a criminal case F.I.R No. 381 dated 04.12.2012 u/s 354/380 PPC-14 IL was registered at Police Station East Cantt. Peshawar. The appellant also challenged the order dated 10.07.2013 whereby the departmental appeal of the appellant was dismissed.

4. Learned Counsel for the appellant argued that the appellant has been acquitted by the criminal court in the criminal case. Further argued that the appellant was removed from service without observing the codal formalities. Further argued that the impugned order is illegal, unjustified and harsh. Further argued that the appellant was condemned unheard and has been punished for no fault on his part. Learned Counsel for the appellant argued that charge against the accused was not proved in the departmental proceedings which were carried out in violation of relevant rules. Learned Counsel for the appellant stressed that impugned order be set aside and the appellant be reinstated.

5. Learned Deputy District Attorney resisted the present appeal, defended the impugned order and argued that proper departmental action was initiated against the appellant on the charge of stealing

Done

electric appliances from the Provincial Assembly Khyber Pakhtunkhwa. Further argued that during the departmental proceedings the appellant was found guilty of charges leveled against him. Further argued that the stolen ^{Property} was recovered at the pointation of appellant. Further argued that the inquiry officer also appended the statement of officials with the inquiry report who have implicated the appellant in the commission of crime of theft. Further argued that acquittal of the appellant in the criminal trial faced by him is no ground for the acceptance of the appeal in as much as the respondent department has conducted proper departmental proceedings against the appellant as a result of which, he was removed from service. Further argued that the impugned orders do not warrant any interference.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was deputed as guard for security duty at the Provincial Assembly Khyber Pakhtunkhwa Peshawar on the relevant days of the occurrence of theft as mentioned above. Departmental proceeding was initiated against the appellant. Charged sheet and statement of allegation were served upon the appellant which he replied. Inquiry officer conducted the inquiry. Show Cause Notice was issued to the appellant which the appellant also replied. Charge against the appellant is of serious in nature. Many other FRP Personnel were also posted at Provincial Assembly as a guard besides the civilian watchmen, however only the Constable Fawad Ali (Appellant) and Constable Tilawat Shah

Dr. Amin

(appellant of connected appeal No. 1322/13) were held responsible for committing theft and learned counsel for the appellant remained unable to point out any malafide on the part of respondent department for the false implication of the appellant.

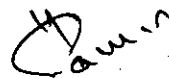
8. It is also settled that the ~~acquittal~~ acquittal of a civil servant in a criminal trial by itself is no ground of absolving civil servant from the departmental proceedings on the same charge.

9. No case was made out for the interference in the departmental action against the appellant.

10. In the light of above discussion, the present appeal and the connected appeal bearing No. 1322/13 are dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(GUL ZEB KHAN)
MEMBER



(MUHAMMAD HAMID MUGHAL)
MEMBER

ANNOUNCED
21.09.2017

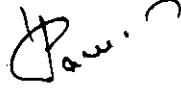
21.09.2017

Appellant with counsel present. Learned Deputy District Attorney on behalf of respondents present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

21.09.2017


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

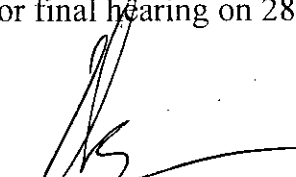
20.06.2016

Counsel for the appellant and Mr. Ihsanullah, ASI, alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard ^{as} due to learned Member (Judicial) is on leave. To come up for arguments on 27.10.2016.


Member

27.10.2016

Counsel for the appellant and Addl. AG for the respondents preset. Learned Addl. AG requested for adjournment as record of CCT would not be traced out. Adjourned for final hearing with the direction to produce the said record, if available for final hearing on 28.2.2017 before the D.B.


Member


Chairman

28.02.2017

Counsel for the appellant and Mr. Muhammad Jan, GP alongwith Mr. Ihsanullah, ASI for respondents present. Representative of the respondents requested for time to produce the relevant record. Request accepted. To come up for such record and arguments on 01.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMER

29.07.2015


Counsel for the appellant and Mr. Ihsanullah, ASI (Legal) alongwith Asst: AG for the respondents present. Arguments could not be heard as learned Member (Judicial) is on official tour to camp court D.I. Khan, therefore, the case is adjourned to 19-10-2015 for arguments.


Member

19.10.2015

Counsel for the appellant and Mr. Ihsanullah, ASI (Legal) alongwith Assistant A.G for respondents present. Due to shortage of time therefore, case is adjourned to 18-3-16 for arguments.


Member


Member

18.03.2016

Counsel for the appellant and Ihsanullah, ASI-(Legal) alongwith Asstt: AG for respondents present. Learned counsel for the appellant submitted that the appellants have been penalized on the ground of a case of theft committed on 04.12.2012 in Provincial Assembly and that the CCTV record of the same day may be produce before the Tribunal. Since the incident has taken place in 2012 therefore if the record is still available with the respondent No.5 then the same may produce. To come up for such record and arguments on 26.6.2016

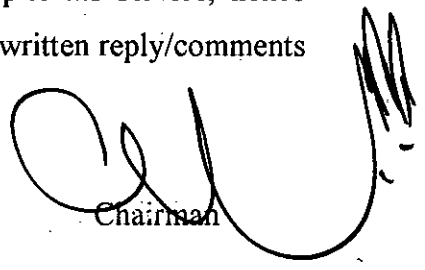

Member


Member

6-

13.6.2014

Counsel for the appellant and Mr. Ihsanullah, ASI(Legal) on behalf of respondents No. 1 to 4 with AAG present. No one is present on behalf of respondent No. 5 despite his service, hence proceeded against ex-parte. To come up for written reply/comments on 26.9.2014.


Chairman

7-

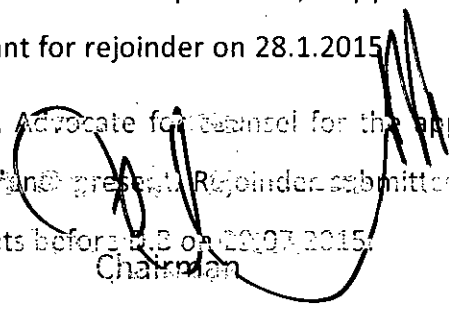
26.09.2014

Appellant in person M/S Muhammad Yaseen Inspector (Legal) and Ihsanullah, S.I (Legal) with Mr. Muhammad Adeel Butt, AAG for the respondents present. Written reply received on behalf of the respondents, copy whereof is handed over to appellant for rejoinder on 28.1.2015

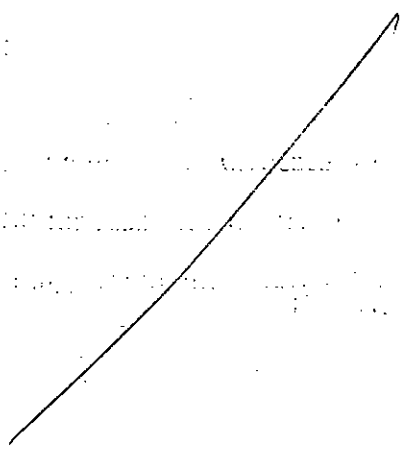
28.01.2015

alongwith connected appeal

~~Mr. Ihsanullah, Advocate for counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted. To come up for final hearing/arguments before D.B on 29.07.2015.~~


Chairman

Chairman



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28.01.2015

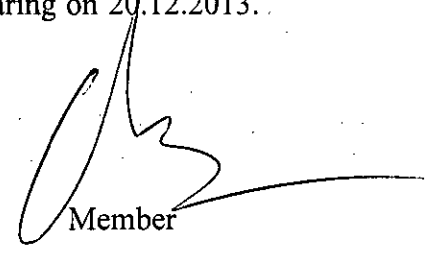
Mr. Taimur Khan, Advocate for counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted. To come up for final hearing/arguments before D.B on 29.07.2015.


Chairman

Appeal No. 1323/2013
Mr. Fawaz Ali

03.12.2013

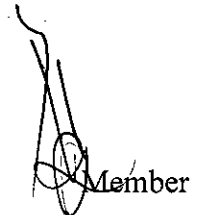
Clerk of counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 20.12.2013.


Member

20.12.2013

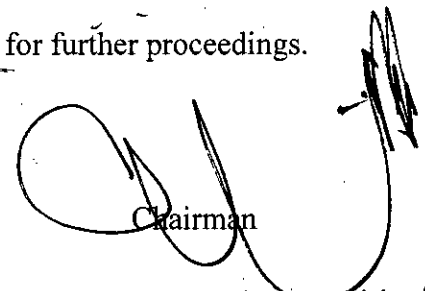
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The impugned appellate order dated 10.07.2013, whereby the Departmental Appeal of the appellant against the Removal from Service order dated 26.03.2013 has been rejected. He further contended that the impugned order has been issued in violation of Rule-5 of the Civil Servants (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 19.03.2014.

Appellant Deposited
Security & Process Fee
Rs. 220/- Bank
Receipt is Attached With File.


Member

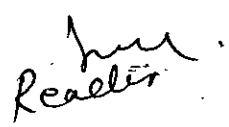
20.12.2013

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


Chairman

19-3-14

The Hon'ble Bench is on tour to Abbottabad.
To come up for further proceedings on 13-6-14.


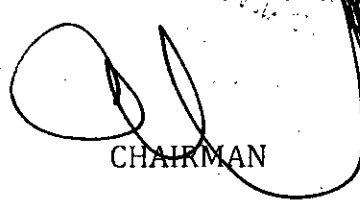


Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1323 /2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/09/2013	<p>The appeal of Mr. Fawad Ali resubmitted today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	20-9-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-12-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Fawad Ali Constable No. 1107 FRP Headquarter Peshawar received today i.e. on 25/07/2013 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 2- Annexure-B, F & I of the appeal are illegible which may be replaced by legible/better one.

No. 1096 /S.T,

Dt: 25/07 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M.Asif Yousafzai Adv. Peshawar.

Sin objection removed and resubmitted

However, the dept: appeal was submitted in original, which may be requisitioned from the dept: Pl: place before the bench.

Re-submitted.

M. Asif

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

Appeal No. 1323 /2013

Mr. Fawad Ali

V/S


Police Department.

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4.	Copy of FIR	- B -	07
5.	Copy of Charge sheet	- C -	08
6.	Copy of Statement of Allegation	- D -	09
7.	Copy of Reply	- E -	10
8.	Copy of Enquiry Report	- F -	11-12
9.	Copy of Show Cause Notice	- G -	13
10.	Copy of Reply	H	14-15
11.	Copy of Order	I	16
12.	Copy of Judgment/Order	J	17-22
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14.	Vakalat Nama	-----	24

APPELLANT
Fawad Ali

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 1323 /2013

Mr. Fawad Ali, Constable No.1107,
Frontier Reserve Police, Headquarter,
Khyber Pakhtunkhwa, Peshawar.

~~1183~~
25/7/13

APPELLANT

VERSUS

Respect,
N.O. S. Peshawar
ajant. Peshawar
dt. 13.6.14
Reid

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The C.C.P.O. Peshawar.
3. The Commandant, Frontier Reserve Police, Peshawar.
4. The Deputy Commandant, Frontier Reserve Police, Peshawar.
5. Mr. Nasrullah Khan Khattak, Additional Secretary (Admn:).
Provincial Assembly, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 10.7.2013 WHEREBY
THE DEPARTMENTAL APPEAL OF THE APPELLANT
AGAINST THE REMOVAL FROM SERVICE ORDER
DATED 26.3.2013 HAS BEEN REJECTED.

~~1183~~
25/7/13

PRAYER:

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE
IMPUGNED ORDERS DATED 10.7.2013 AND
26.3.2013 MAY BE SET ASIDE AND THE APPELLANT
MAY BE REINSTATED WITH ALL BACK BENEFITS.
ANY OTHER REMEDY, WHICH THIS AUGUST
TRIBUNAL DEEMS FIT AND PROPER THAT MAY
ALSO BE AWARDED IN FAVOUR OF APPELLANT.

re-submitted to
and filed.

10/9/13

.....

2
1

RESPECTFULLY SHEWETH:

1. That while performing duty in the Provincial Assembly, Khyber Pakhtunkhwa along-with other colleagues, theft of Printers and UPS was reported. The appellant along-with other colleagues on the basis of that report suspended the appellant from his service vide order dated 10.12.2012. Copy of Suspension Order is attached as Annexure-A.
2. That an FIR was also lodged on 4.12.2012 due to which the appellant was arrested on 4.12.2012 and remained behind the bar till the acquittal which he earned on 4.5.2013. Copy of FIR is attached as Annexure-B.
3. That while behind the Bar, the appellant was served with the charge sheet and statement of allegations under Police Rules, 1975. The appellant straight-away refused all the allegations leveled against him. Copies of Charge sheet and Statement of allegations and reply are attached as Annexure-C, D and E.
4. That at the back of the appellant an enquiry was conducted and the enquiry officer recommended the appellant for major punishment vide its report dated 2.1.2013. Copy of Enquiry Report is attached as Annexure-F.
5. That final show cause notice was issued to the appellant which was also replied by the appellant in time, despite of facts the appellant was behind the bar. However, the appellant again denied all the allegations leveled against him. Copies of Show-cause notice and reply are attached as Annexure-G and H.
6. That on 26.3.2012, the appellant was removed from service without taking into consideration the criminal case was pending under trial before the competent Court. Copy of Order is attached as Annexure-I.
7. That in the meanwhile, the appellant was acquitted from criminal charges being innocent on 4.5.2013 and after attaining acquittal the appellant filed Departmental Appeal against the removal from service order but that was also rejected on 10.7.2013. Hence, the present appeal on the following grounds amongst the others. Copies of

3
✓

Judgment/order and Rejection Order are attached as annexure-J and K.

GROUND:

- A) That the orders dated 10.7.2013 and 26.3.2013 are against the law, rules and norms of justice, therefore, not tenable.
- B) That no doubt, the appellant was having the status the status of civil servant and he should have been proceeded against under KPK Civil Servant, E&D Rules, 2011, but despite that the appellant was dealt under Old Police Rules 1975.
- C) That the appellant has not been treated according to law and rules made for the civil servants.
- D) That an enquiry was conducted at the back of appellant because the appellant was behind the bars and the statement of other officials were not recorded in the presence of appellant and those official were also not cross examined by the appellant.
- E) That the charge of theft was leveled against the appellant for which was also arrested and trialed in Criminal Court but despite of clear provision of 194-A CSR, the respondent department had not ready till the decision of competent criminal court.
- F) That the appellant was condemned unheard and no chance of personal hearing was provided to the appellant.
- G) That the appellant was innocent and falsely implicated in the case and this fact has fully ascertained by the competent trial court.
- H) That the Honourable Tribunal is also requested to requisition the CCTV record of the particular day of occurrence from the respondent No.5 to met the end of justice because there is nothing in the CCTV recording which could connect the appellant with offence.
- I) That the appellant has been punish for no fault on his part and that too in slipshod manner without fulfilling codal formalities as required under the law.

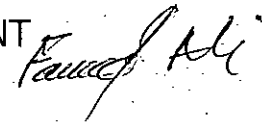
3

J)

That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT
Fawad Ali



THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

5

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

Appeal No. _____/2013

Mr. Fawad Ali

V/S

Police Department.

.....

APPLICATION FOR REQUISITIONING THE CCTV RECORDING WHICH IS MENTIONED IN THE CHARGE SHEET AND STATEMENT OF ALLEGATIONS AND ON THE BASIS OF WHICH THE APPELLANT HAS BEEN PENALIZED.

Respectfully Sheweth:

1. That the appellant has filed Service Appeal along-with this application in which no date has been fixed so far.
2. That the appellant has been penalized on the basis of CCTV recording of the day of occurrence but neither the said CCTV recording was shown to the appellant during the inquiry proceedings nor provided before the trial Court and the requisition of the said CCTV recording is necessary to meet the end of justice and to arrive at a just decision.

It is, therefore, most humbly prayed that the respondent No.5 may be directed to produce the CCTV record of the occurrence day before this Honourable Tribunal to meet the end of justice and to dig-out real truth.

Appellant/Applicant.

Fawad Ali

Fawad Ali

THROUGH:

Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT:

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

Fawad Ali

3-00 PM

A

6

ORDER.

The following personnel posted at Provincial Assembly Guard have communicated serious negligence during Performance of duty. They are immediately closed to line and suspended till further order.

S: No	Name & No.
1.	SI/PC Hakeem Khan
2.	HC Amin-ul-Haq, 864
3.	HC Ghuncha Khan, 1507
4.	FC Zarshad, 1551
- 5.	FC Kamil Shah, 2114
6.	FC Javid Iqbal, 1509
7.	FC Sana Ullah, 3548/Mkd
8.	FC Noor Jamal, 280
- 9.	FC Khaista Rehman, 87
10.	FC Asad, 1258
- 11.	FC Tilawat, 900
* 12.	FC Fawad Ali, 1107

Accordingly they are Charge Sheeted and Mr. Mubarak Khan, DSP/FRP/HQrs is appointed as Enquiry Officer to conduct enquiry into the matter and submit his findings.

[Handwritten Signature]

**Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.**

No. 1256-59 /PA, dated Peshawar the 10/12/2012.

Copy of above is forwarded for information & necessary action to:-

- 1- The Superintendents of Police, FRP Malakand Range & Bannu Ranges.
- 2- The Dy Superintendent of Police, FRP/HQrs, Peshawar
- 3- The Reserve Inspector, FRP Peshawar Range Peshawar.

Enc (12) papers in original

930
10/12/2012

ATTESTED

[Handwritten Signature]

پولیس ڈیپارٹمنٹ

پولیس ڈیپارٹمنٹ، لاہور، پاکستان۔ فون: 354019، 354020، 354021، 354022، 354023، 354024، 354025، 354026، 354027، 354028، 354029، 354030، 354031، 354032، 354033، 354034، 354035، 354036، 354037، 354038، 354039، 354040، 354041، 354042، 354043، 354044، 354045، 354046، 354047، 354048، 354049، 354050، 354051، 354052، 354053، 354054، 354055، 354056، 354057، 354058، 354059، 354060، 354061، 354062، 354063، 354064، 354065، 354066، 354067، 354068، 354069، 354070، 354071، 354072، 354073، 354074، 354075، 354076، 354077، 354078، 354079، 354080، 354081، 354082، 354083، 354084، 354085، 354086، 354087، 354088، 354089، 354090، 354091، 354092، 354093، 354094، 354095، 354096، 354097، 354098، 354099، 354100

فارم نمبر (1)

ابتدائی اطلاع رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 152 مجموعہ ضابطہ نو بندازی

7

تاریخ وقت رپورٹ	381
نام و سکونت اطلاع دہندہ مستفیث	3
تفصیلات جرم (معدومہ) حال اگر کچھ لیا گیا ہو۔	
جائے وقوعہ فاصلہ تھانہ سے اور سمت	
نام و سکونت ملزم	
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع دہن کرنے میں وقت نہ ہو تو درج کیا جائے	
تھانہ سے روانگی کی تاریخ و وقت	

ابتدائی اطلاع نیچے درج کرو۔

میں نے اطلاع دی کہ میری کمپنی کے دفتر میں ایک پرنٹر (HP Laser jet 2055) اور ایک پاور سپلائی (UPS) کے ساتھ ساتھ ایک فائرنگ اسلحہ بھی رکھی ہے۔ اسلحہ کی شناخت اور اس کے بارے میں مزید جاننے کے لیے پولیس کو اطلاع دینی چاہیے۔

To the S.H.O. East Cantt. Peshawar, Punjab, Pakistan. I have reported the theft of a printer, HP Laser jet 2055, a UPS power Com 2100 and a self explanatory F.I.R. and decided to receive here with a self explanatory report for lodging F.I.R. regarding theft from the Assembly Street.

میں نے اطلاع دی کہ میری کمپنی کے دفتر میں ایک پرنٹر (HP Laser jet 2055) اور ایک پاور سپلائی (UPS) کے ساتھ ساتھ ایک فائرنگ اسلحہ بھی رکھی ہے۔ اسلحہ کی شناخت اور اس کے بارے میں مزید جاننے کے لیے پولیس کو اطلاع دینی چاہیے۔

شمارہ میں حال سی
 Si-P.S. East Cantt.
 01-10-18

ATTESTED

(Signature)

ابتدائی اسلامی رپورٹ

ضلع پشاور

تھانہ شرقی

تاریخ: 12/12/2012 وقت: 5:50 تا 6:00 بجے

نمبر: 381

تاریخ و وقت رپورٹ: 4.12.2012 18:20 بجے جاگید کی مراسلہ

نام سکونت اطلاع دہندہ: لفرانڈ ضلع ایڈیشنل سیکرٹری (ایڈمن) صوبائی اسمبلی

454/380/14.I.L

تفتیشی رقم

حالی وقوعہ

PA/KP/Admin/202/1450

سٹر صوبائی اسمبلی پشاور

تفتیشی مندرجہ خانہ نمبر 2 نے چھٹی انٹرنیٹ / انٹرنیٹ رپورٹ

مدرسہ 4.12.12 کو ہول ہو کر جس میں تقریباً 8 بجے فعل کریم سٹر سپروائزر نے سٹر کھولا تو سٹر کی پچھلے سائڈ کی کھڑکی ٹوٹی ہوئی تھی۔

تعمیراتی - پتہ مال کرنے پر دو عدد HP LaserJet 2055 Printer اور 2 عدد Power UPS Com. 21V عدم موجود پائے گئے۔

جسپر انٹرنیٹ کی گنج۔ بعد انکوائری صوبائی رپورٹ بجھوائی گئی۔ Subject: LOGGING

TO THE SHO EAST CANTT PESHAWAR

FIR I am directed to enclose herewith a self explanatory

دستخط انٹرنیٹ لفرانڈ ضلع ایڈیشنل سیکرٹری (ایڈمن) صوبائی اسمبلی غیر منقولہ لغرض کارروائی تھانہ مہول شد۔ تقریباً 8 بجے صوبائی رپورٹ صرف ہوا کہ صوبائی اسمبلی پشاور سے جوائنٹ ملا کام آیا جا کر ہر جگہ ٹرم چاک کیا جا کر نقول پر حالات مندرجہ مغذات لغرض تفتیش حوالہ عبدالحمید خان ASI کے جانے ہیں ہر جگہ گزارش ہے

شاہد حسین خان
ASI

P.S. E. Cantt

11/8

CHARGE SHEET U/S 6(1) (A) NWFP (Now Khyber Pakhtunkhwa)
POLICE RULES 1975

You Constable Fawad Ali No.1107, Posted at FRP, HQrs: Peshawar is hereby charged for committing the following Omission/Commissions.

"You Constable Fawad Ali No.1107, while deployed for security duty at Provincial Assembly has misappropriated government property during your duty hours as shown/recorded in CCTV camera. Your this act not only speak of your criminal attitude but also brought bad name for the whole department.

You are hereby called upon to submit your written defense against the above charges before the Enquiry Officer.

Your reply should reach the Enquiry Officer within seven (7) days from date of receipt of this Charge Sheet, failing which ex-parte action shall be taken against you.

Summary of Allegations is enclosed herewith.

[Handwritten Signature]

Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

(No - 1056-59/PA)
dated - 10-12-12

Fawad Ali

Nic No :- 16202 - 158327-3


Date 14-12-2012

5301 - 2006792 *[Handwritten Signature]*

RECEIVED
[Handwritten Signature]

SUB. STATEMENT OF ALLEGATIONS U/S 6(1) (A) NWFP (Now
Khyber Pakhtunkhwa) POLICE RULE 1975

"You Constable Fawad Ali No.1107, while deployed for security duty at Provincial Assembly has misappropriated government property during your duty hours as shown/record^{ed} in CCTV camera. Your this act not only speak of your criminal attitude but also brought bad name for the whole department. Your this act of Omission/ Commission constitutes gross misconduct as contained u/s 2 (iii) of NWFP (Now Khyber Pakhtunkhwa) Police Rule 1975."


Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

ATTESTED


صنات عالی

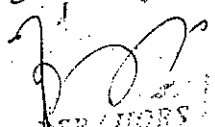
E

10

مؤرخانہ گزارش کی طاقی حث کہ پیڑہ قشی تہہ میں
شفت ہوا ہے صنات عالی سڈہ کو اس عمل میں
صحیح طرح پر ہوتے ہیں کہ صنات عالی تہہ ہوا ہے
تہہ اس عمل میں کہیں ہیں

Attested

EO


ASP / IORS
Frontier Reserve Office
N.W.F.P. Peshawar

ایمانتدار کانسٹیبل خواجہ علی بیگ عدہ 1107

FRP HD پشاور

Forward All

NIC-16202-7158329-3

REGISTERED
A

(انکوائری رپورٹ)

جناب عالی! بحوالہ مشمولہ انکوائری کاغذات برخلاف کنٹینیل نواد علی غر 1107

لشکر FRP HQ

معرض خدمت ہوں کہ کنٹینیل مذکورہ مورخہ 12/12 کو برلین FRP میں لہری ہو چکا ہے۔ صوبائی اسمبلی لہنیاور میں سیکورٹی ڈیوٹی پر تعینات ہو کر مورخہ 12/12 کو مذکورہ کنٹینیل کی پیمراہ کنٹینیل تلاوت شاہ ذ FRP 988 لہنیاور صبح 2:00 بجے تا 6:00 بجے تک ڈیوٹی تھی۔ اس روز صوبائی اسمبلی لہنیاور کے سٹور سے 2 عدد (HP 2055) (تلفظ صحیحاً) اور 2 عدد (UPS lower Com 2KVA) چوری

مورخہ 12/12 4 مقدمہ درج ہو چکا ہے۔ جبکہ گارڈ انچارج حکیم خان 381 ص 454/388/14 ای.ا. پی. دفتر انورشاہی FRP/HQ لہنیاور آئی آر پورٹ کی مورخہ 12/12 کو صوبائی اسمبلی لہنیاور کے سٹور سے چوری والی چوری کے سلسلے میں صوبائی اسمبلی میں لقب نصیب کھپو والی مورخہ 12/12 کو صوبائی اسمبلی لہنیاور کے سٹور سے چوری کی افغانی کے ہمراہ دیکھ کر معلوم ہوا ہے کہ کنٹینیل تلاوت شاہ 909 اور نواد علی 1107

کی رپورٹ پر جناب لارڈن آفیسر صاحب FRP/HQ ملحد لہنیاور کے نواد علی 33 انورشاہی ص 51 حکیم خان درج انورشاہی کر کے نقلہ نغرض اطلاع یابی افغانی بلا صاحبان کی خدمت میں پیش کی۔ اور حسب احکام افغانی باہر صاحبان صوبائی اسمبلی لہنیاور سے ~~جہاں~~ لہنیاور کے دو مہری گارڈ تعینات کی گئی۔ جبکہ نقلہ پر جناب ڈی پی مکا نوڈت صاحب FRP صوبہ لہنیاور سے جہاں گارڈ کو معطل لارڈن FRP/HQ لہنیاور کر کے ماحول کے لئے دوران انکوائری معلوم ہوا کہ

909 اور نواد علی 1107 کو حسب اجازت افغانی بلا صاحبان لہنیاور سے جہاں گارڈ کو معطل لارڈن FRP/HQ لہنیاور کر کے ماحول کے لئے دوران انکوائری معلوم ہوا کہ دو مہری گارڈ تعینات کی گئی۔ جبکہ نقلہ پر جناب ڈی پی مکا نوڈت صاحب FRP صوبہ لہنیاور سے جہاں گارڈ کو معطل لارڈن FRP/HQ لہنیاور کر کے ماحول کے لئے دوران انکوائری معلوم ہوا کہ

سروقت نقل ہوا۔ اور اس سلسلے میں بیان آئی حکیم خان تعانہ مشرقی نقل لہنیاور سے نقل FIR 381 مورخہ 12/12 4 بکرم 454/388/14 PPL تعانہ مشرقی بیان اور قابل ملاحظہ ہیں۔ مورخہ 12/14 کو چارج شیٹ دوسری آف الیکشن ہزاریم 161 نقل بیان تات 161 نقل فرد ہزاریم لہنیاور قابل ملاحظہ ہیں۔ مورخہ 12/14 کو چارج شیٹ دوسری آف الیکشن ہزاریم 161 نقل بیان تات 161 نقل فرد ہزاریم لہنیاور قابل ملاحظہ ہیں۔ مورخہ 12/14 کو چارج شیٹ دوسری آف الیکشن ہزاریم 161 نقل بیان تات 161 نقل فرد ہزاریم لہنیاور قابل ملاحظہ ہیں۔

مذکورہ کنٹینیل کے عقب منقول جیل لہنیاور چھوڑا گیا۔ جو مذکورہ کنٹینیل نے بذات خود وصول کر کے چارج شیٹ پر مہری بیان پیش کیا۔ بیان میں مذکورہ کنٹینیل نے اپنے ایک کو بے خبر بتایا۔ اور مزید بتایا کہ اس کو وہ جگہ تک معلوم نہیں تھا۔ بیان میں مذکورہ کنٹینیل نے اپنے ایک کو بے خبر بتایا۔ اور مزید بتایا کہ اس کو وہ جگہ تک معلوم نہیں تھا۔ بیان میں مذکورہ کنٹینیل نے اپنے ایک کو بے خبر بتایا۔ اور مزید بتایا کہ اس کو وہ جگہ تک معلوم نہیں تھا۔

Handwritten signature and stamp.

عائزہ نازک

میں بطور انٹرنیٹ آفیسر دوران انٹرنیٹ آفیسر کی حیثیت سے بھرتی ہوئی۔

1107 چارج 15⁰²10 تو فہم پولیس گلشن میں بھرتی ہو گئی تھی۔

پھر میں سیکیورٹی ڈیوٹی میں تعینات تھا، فورسز میں بھی کیا گیا۔

1107 چارج 02⁰²10 سے 02⁰²10 تک فہم پولیس میں بھرتی رہی۔

(02⁰²10 سے 02⁰²10) اور 02⁰²10 (UPS Power 2000) کا چارج پانچ ماہ کے لیے دیا گیا۔

میں پھر لاہور میں (سیکیورٹی ڈیوٹی) کے دوران (سیکیورٹی ڈیوٹی) کے دوران فہم پولیس میں بھرتی رہی۔

پھر پانچ ماہ کے لیے فہم پولیس میں بھرتی رہی۔

پھر پانچ ماہ کے لیے فہم پولیس میں بھرتی رہی۔

پھر پانچ ماہ کے لیے فہم پولیس میں بھرتی رہی۔

Arrested = 4-12-12
acquittal = 4-5-13
removal = 26-3-13
appeal rejected - 10-7-13

(MUBARRA K KHAN)
FSP / HQRS
Frontier Reserve Police
N.W.F.P. Peshawar
02/01/2013

[Handwritten signature]

جی

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13

FINAL SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

I, Deputy Commandant, Frontier Reserve Police, Khyber Pakhtunkhwa Peshawar, as competent authority do hereby serve you Constable Fawad Ali No. 1107 of FRP HQrs: Peshawar.

(1) i- That consequent upon the completion of Enquiry conducted against you by DSP /FRP HQrs: for which you were given full opportunity of hearing.

ii- On going through the findings/recommendations of the Enquiry Officer, the material available on record and other connected papers I am satisfied that you have committed the following acts/omissions per Police Rules 1975.

Whereas Constable Fawad Ali No. 1107 of FRP HQrs: while posted as Security Guard at Provincial Assembly Peshawar. On 05.12.2012 some electrical appliance was mis-placed from the Provincial Assembly Peshawar vide this office DD NO. 32, dated 05.12.2012. Therefore, you were placed under suspension vide this office Order No. 1056-59/PA dated 10.12.2012.

(2) Therefore, I, Deputy Commandant of Frontier Reserve Police, Khyber Pakhtunkhwa as competent authority has tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said Rules.

(3) You are, therefore, required to Show Cause as to why not the aforesaid penalty should not be imposed upon you.

(4) If no reply to this Final Show Cause Notice is received within the fifteen days of it delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently ex-parte action shall be taken against you.

The copy of the findings of the Enquiry Officer is enclosed.

Handwritten notes in Urdu: "کاپی کے ساتھ منسلک ہے" (Copy is attached), "نوٹس وصول کر کے" (After receiving notice), "ممبر سبک داری" (Member resignation), "ممبر سبک داری" (Member resignation), "ممبر سبک داری" (Member resignation).

Mobile: 0342 8624236
NIC: 16202 120 80784

Handwritten signature of the Deputy Commandant.

**Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar**

ATTESTED
Handwritten signature

TO

THE DEPUTY COMMANDANT,
FRONTIER RESERVE POLICE,
KPK PESHAWAR

H

14

SUB:- SHOW CAUSE NOTICE UNDER POLICE RULES 1975

REPLY TO FINAL SHOW CAUSE NOTICE GIVEN TO THE
UNDER SIGNED CONSTABLE FAWAD ALI NO 1107 OF FRP
HQrs. PESHAWAR

R/Sir,

Reply of the Final Show Cause Notice is as under:-

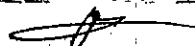
That the DSP/ FRP HQrs : have verbally asked and inquired regarding the occurrence in which I was implicated in case FIR no 381 dated 4/12/12 U/S 380/454 PPC and 14 Isl registered in PS Sharqai. I have categorically stated to the concerned inquiry officer as well as to the investigating officer that I along with constable Tilawat have falsely been implicated in the instant case .

The offence which has been referred by Fazl e Karim store supervisor regarding printer and Ups was the sole responsibility of the concerned store supervisor ,even no detail was given by the store keeper that when the above mentioned articles were found missing .similarly the other personnels of Police who were also deployed for security in Provincial Assembly KPK have not been interrogated to know about the real story .Beside the Police officials there are also three civilian watchmen etc namely Raja Javed, Iqbal, Tariq Nawaz and Qamar Shehzad who were permanently and regularly posted on the main entry gate of Provincial Assembly KPK, who have not been interrogated or inquired regarding the alleged occurrence too.

The initial inquiry conducted by Nasrullah Khan Additional Secretary "A" and Amjad Ali Additional Secretary "PAC" is very much clear in which it was recommended that the case should properly be investigated and departmental action should be taken against all staff of secretariat on duty .

It is very important to note that no CCTV photage has been shown to me or to co-accused Tilawat which has been made the main accusation point of the so called theft. It is also very important that the recovery of the alleged theft articles

ATTESTED



(9)

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has been wrongly shown from Matloob Ali shopkeeper of Distt Swabi as nothing has been recovered from the above mentioned shopkeeper and the so called recovered articles have been wrongly shown.

On the basis of the above mentioned summary inquiry I have wrongly been made accused and suspended lateron which needs further probe .

I am innocent and falsely been made accused in the so called theft case & to save the skin of the blue eyed Police personnels as well as civil watchmen posted on the main gate I along with Tilawat constable have been made scapegoat in the instant case.

Moreover, I had joined Police department with a zeal and good spirit and commitment to my Motherland to save and protect the innocent people in the present Era of Terrorism.

I will also prove my innocence in the Court of Justice Insha Allah.

Yours Obediently

Fawad Ali
No. 1107 FRP
presently confined in
Central Jail, Peshawar.

Fawad Ali
Bell No 1107
FRP HQ Peshawar
NIC - 16202-7458329-3

ASST
Central Jail
Peshawar

Received by post
FA signed

O.R.D.E.R

I
16

This Office Order relates to the disposal of departmental enquiry against Constable Fawad Ali No. 1107 of FRP/HQrs who was deployed as guard for security duty at Provincial Assembly Peshawar. During the performance of duty he misappropriated some electrical appliance i.e. (2) Nos Printers & (2) Nos UPS from the Assembly as shown/recorded in CCTV Camera. On receipt of this information he was placed under suspension and a Criminal Case vide FIR No. 381 dated 1.11.2012/458/80-14 D.L PPC has been registered against him in Police Station East Cantt Peshawar.

Accordingly he was Charge Sheeted & DSP, FRP, HQrs was nominated as Enquiry Officer to conduct enquiry into the matter and submit his findings. After completion of all codal formalities, the Enquiry Officer submitted his findings wherein he mentioned that the delinquent official Constable Fawad Ali No. 1107 was deployed as security guard at Provincial Assembly Peshawar who misappropriated some electrical appliance i.e. (2) Nos Printers & (2) Nos UPS as shown/recorded in CCTV Camera already installed in the Provincial Assembly. During investigation he pleaded his guilty and the misappropriated electrical appliance have been recovered from him by the local Police. His conduct clearly shows that he is not become a loyal Police officer for the state. His case not only speaks of his Criminal attitude but also debar name for the Police Force.

Upon the findings of the Enquiry Officer Constable Fawad Ali Peshawar was issued Final Show Cause Notice, which was duly delivered upon him through Head Constable Shakir Ullah at Central Jail Peshawar. His signature was taken as taken receipt. His reply to Final Show Cause Notice received and found in its favour.

In view of the finding/recommendation of the Enquiry Officer and other material available on record the accused official Constable Fawad Ali No. 1107 stand responsible without any shadow of doubt.

In view of the above circumstances the delinquent Constable Fawad Ali No. 1107 is hereby removed from Service under Police Rule 1975 with immediate effect.

ORDER ANNOUNCED

Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa Peshawar

203-08 FRP/HQrs dated Peshawar dt. 26.03.15

Copy of the above is forwarded for information & attention to:

- 1. The Addl. ICP/Commandant, FRP Khyber Pakhtunkhwa.
- 2. The Accountant, FRP/HQrs, Peshawar.
- 3. The OIC, FRP/HQrs, Peshawar.
- 4. The OIC, FRP/HQrs, Peshawar.
- 5. The OIC, FRP/HQrs, Peshawar.
- 6. The OIC, FRP/HQrs, Peshawar with original Enquiry file.

ORDER

This Office Order relates to the disposal of departmental enquiry against Constable Fawad Ali No.1107 of FRP/Hors who was deployed as guard for security duty of Provincial Assembly, Peshawar. During the performance of duty he misappropriated some electrical appliance i.e two Nos Printers and (2) Nos UPS from the Assembly as shown/recorded in CCTV Camera. On receipt of this information he was place under suspension and a Criminal Case vide FIR No.301 dated 1.12.2012 / S 454/380-14 L.L. PPC has been registered against him in Police Station, East Cantt, Peshawar.

Accordingly he was charge sheeted and DSP FRP HQrs was nominated as Enquiry Officer to conduct enquiry into the matter and submit his finding. After completion of all codal formalities, the enquiry Officer submitted his findings wherein he mentioned that the delinquent official constable Fawad Ali No.1107 was deployed as security guard at Provincial Assembly Peshawar was appropriated some electrical appliance i.e. (2) Nos Printer and (2) UPS as shown / recorded in CCTV Camera already installed in the Provincial Assembly. During investigation he pleaded his guilty and the misappropriated electrical appliance have been recovered from him by the local police. His this act clearly shows that he is not become a loyal police officer for the state. His act not only speaks of his criminal attitude but also bad name for the police force.

Upon the findings of the Enquiry Officer Constable Fawad Ali Peshawar was issued Final Show Cause Notice, which was duly delivered upon him through Head Constable Shakir Ullah at Central Jail Peshawar. His signature was taken on token of its receipt. His reply to Final show cause notice received and found un satisfactory.

Keeping in view the findings / recommendation of the Enquiry Officer and material available on record the accused official constable Fawad Ali No.1107 stand responsible without any shows of doubts.

In view of the above circumstances the delinquent Constable Fawad Ali No.1107 is hereby removed from service under Police Rules, 1975 with immediate effect.

Order announced.

Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

No.203-08/FRP/HQs;

Dated Peshawar, the 26.03.2013

ATTESTED


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17

IN THE COURT OF ZAFARULLAH MOHMAND
JMIC-IX, PESHAWAR.

Order.....17
4/5/2013

APP for the state present. Accused produced in custody. Arguments on the application under section 249-A Cr.P.C and objection raised by the learned APP during the cross examination of PW-4 to declare him as hostile witness already heard and file perused.

Brief facts of the case in hand are that on 3/12/2012 at 08:00 AM, Fazle Karim Store Supervisor opened the door of store branch, the backside window of store branch was found broken and printers HP Laser Jet and UPS were found missing. Thereafter an inquiry was conducted and with the help of CCTV footages Cameras the accused facing trial were seen coupled with duty roaster of the Provincial Assembly KPK, the accused facing trial were nominated in the commission of offence. Hence the instant FIR.

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7/1/13

4/5/13

Case was put in court on 22/1/2013 and the accused were summoned through Zamima Bay. Accused produced before the court on 9/2/2013 and 241-A Cr.P.C complied and formal charge was framed on 15/2/2013 to which the accused did not plead guilty and claimed trial. Hence prosecution was directed to produce evidence in support of their stance.

The prosecution examined seven witnesses whose statement recorded from PW-1 to PW-7 and hence the accused counsel moved the present petition.

The brief account of prosecution evidence is as under:-

Statement of Muhammad Ishaq Moharrir Investigation recorded as PW-1, who in his examination in chief stated that am the marginal witness to the recovery memos which is Ex. PW 1/1 and Ex. PW 1/2.

ATTESTED

ATTEST

Examin
Distt: Court Peshawar

13/5/13

information that it
is posted on
is also
with

Today I have seen the same which is correct and correctly bears my signature.

The witness was cross examined and during the cross examination he stated that it is correct that my signature on CNIC and recovery memos are different. It is correct that both the signatures on the recovery memo Ex. PW 1/1 and Ex. PW 1/2 are different from each other.

Statement of Nasrullah has recorded as PW-2 who support the prosecution version and his statement also and also seen the FIR and declared its contents correct and also stated that FIR has registered by him. the recommendation and inquiry report which was submitted to the Secretary PAC KPK also endorsed by the witness. The recommendation, inquiry report, FIR exhibited from Ex. PW 2/1 to Ex. PW 2/3 respectively and declared his signature correctly on the exhibited documents.

The witness was cross examined and during cross examination he stated that it is correct that during the whole inquiry we have not specifically mentioned the name of the accused. we have not attempted to ask any body to record his statement during the course of said inquiry. On the main Assembly gate usually two employee other then police official performed their duties for 08 hours in three shifts. We have not mentioned the name of those two watchman civil employee who were posted on the main gate at the time of occurrence. Self stated that the two employees which were on duty at that time have already been terminated.

[Handwritten signature]

11/9/13

ATTESTED
Exhibits
Distt. Court Peshawar
13/5/13

18

The witness further stated in his cross examination that it is the duty of civilian watchman/employer who is posted on the main gate to open and lock the main gate and it is also their duty to keep the keys of the main gate with themselves. I have no knowledge that who was in-charge of the police official at the time of occurrence.

Statement of Fazal Karim Store Supervisor of KPK Assembly recorded as PW-3, who stated that on 3/12/2012 at 8:00 AM being supervisor of the store of KPK assembly when opened the door of the store branch the back side window of the store branch was found broken and I found that 02 printers HP Laser Jet 2055 and two UPS Power COM-02 KVA were found missing. Thereafter I reported the matter to the Secretary Provincial Assembly Secretariat KPK vide my report is Ex. PW 3/1 duly signed by me. Today I have seen the report which is correct and correctly bears my signature. On 4/12/2012 the IO prepared site plan on my pointation. I have also given my report regarding the purchase cost of the stolen articles to the IO vide my memo is Ex. PW 3/2 along with copy of supply order, I have also presented to the IO two empties boxes from which the printers were stolen.

The witness was cross examined and during cross examination he stated that my statement was not recorded and during the course of inquiry.

Statement of Masab Ali recorded as PW-4, who stated in his examination in chief that I am the owner of Ali computer and Services Center situated at Shewa Adda and deal and sale and purchase of computers. Fawad ali who is my near relative gave me one UPS and two printers for keeping the same in safe custody as Amanat. I did not

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know the same to be stolen property. On 6/12/2012 I handed over these articles to police official. The printers were having number P2055HP Laser Jet and UPS SC 620.

The witness was cross examined and during the cross examination he stated that it is correct that two printers were already lying in the police mobile which were shown to me at the time when police party came to my shop in Shawa Adda.

Statement of Fazal Muhammad Constable

recorded as PW-5, who in his examination in chief stated that I am marginal witness to the recovery memo which is Ex. PW 5/1 vide which the IO took to his possession two empty boxes presented by Store Keeper Farid, from which the accused has stolen the articles. I am also marginal witness to the recovery memo Ex. PW 5/2 vide which the IO took in to his possession the stolen articles consisting of two printers and one UPS on the pointation of accused Fawad Ali from the owner of Ali computer Center namely Masab Ali in my presence. Similarly I am also marginal witness to recovery memo already exhibited as Ex. PW 1/1 and Ex. PW 1/2. Today I have seen both the recovery memos which are correct and correctly bears my signatures.

Handwritten signature and date: 4/5/13

The witness was cross examined and during cross examination he stated that Siraj Nabi the other marginal witness have not signed the same recovery memo in my presence

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Exhibits
Distt. Court Peshawar
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Statement of Abdul Hameed Khan SHO

Chamber recorded as PW-6, who in his chief examination stated that I have conducted inquiry into the instant case and on 6/12/2012 spot and prepared site plan on the

pointation of Fazal Karim, the site plan is Ex. PW-6/1. similarly I took into possession the recovered articles vide recovery memo which is Ex. PW 6/2 and two boxes exhibited as Ex. P-1 and P-2. similarly the accused were arrested and their arrest card were Ex. PW 6/3 and Ex. PW 6/4. The statement of Masad Ali was also recorded u/s 161 Cr.P.C and printers produced before the court are exhibited as Ex. P-3 and Ex. P-4 while the UPS is Ex. P-5. The accused were produced before the court vide application Ex. PW 6/5 and Ex. PW 6/6.

The witness was cross examined and during cross examination he stated that it is correct that the initial report by one Fazal Karim Store keeper which is Ex. PW 3/1 it is mentioned that the back side window of the store branch was found broken while in the inquiry report which is Ex. PW 2/2 conducted by Nasrullah Khan Additional Secretary of KPK Assembly and Amjid Ali Additional Secretary PMC it is mentioned in the 3rd line of paragraph under the head of proceedings it was found that the window at the back side of the room was opened. It is also correct that the recommendation of the said inquiry no one has been charge by name. it is correct that initially on the application dated, 5/12/2012 two other names of constables Kamal Shah and Khaista Rehman have been fluid and the names of the present two accused has been written by me. It is correct that I have mentioned in the said application duty time from 5 to 6:30. It is correct that usually on every case property we write the number of FIR along with section of law but on both the produced boxes that is Ex. P-1 and Ex.P-2 I have not mentioned the number of FIR and section of law.

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ATTESTED
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13/5/13

It is correct that except HP laser Jet, 2055. I have not mentioned more details of printers which is available today before the court. It is correct that both the laser printers are having serial No. CNC 79848 and serial No. CNC JN 77408 are china made. It is correct that in recovery memo except smart UPS SC 620 I have not mentioned other details present on the said UPS that is USAID etc. It is correct that the UPS shown to me in the court room as case property is having printed No. Smart UPS 750. At this moment the UPS and two laser Jet printers and two boxes Ex. P-1 and Ex.P-2 were shown to the honourable court for perusal on the request of defense counsel. it is correct that one civilian watchman who open and close the main gate of KPK assembly is present round the lock of the main gate who is accompanied by two other civilian. One of them is bound to search any body who comes in while the other member endorses his details and NIC in the relevant register. It is correct that footage of CCTV camera has not been placed on file by me. It is correct that twice I have obtained the fingers printers of both the accused facing trial. It is also correct that I have given no reference regarding figure printers in my investigation.

Statement of Ghuncha Gul constable recorded as PW-7, who stated in his cross examination that during the days of occurrence I was posted Guard Commander of KPK Assembly Peshawar. that I along with platoon commander Hakeen Khan along with other police official have seen the CCTV footage of the camera installed near the main gate. Accused namely Tilawat and Fawad were seen in the CCTV footage wearing black chadar and brown chadar.

ZAFARULLAH MOHAMMAD
JUDGE IN CHARGE

ATTESTED

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Distt. Court Peshawar
13/5/13

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Both have chadars around their selves and something under the chadar were noticeable. The CCTV footage reveals the same has been committed between 5:30 AM to 6:00 AM. I recognized the accused Tilawat and Fawad as they were on duty at that time.

The witness was cross examined and during cross examination he stated that I do not remember the exact date on which I along with other police officials saw the CCTV footage. Three civilian performed their duty on one time on the main Gate of KPK Assembly. It is correct that I have not identified any articles whatsoever in the CCTV footage.

From perusal of record and arguments of the learned counsel this court came to the conclusion that the accused facing trial have been charged for committing lurking house trespass and committing theft from the store of Provincial Assembly and the report was lodged by the Additional Secretary Admn of KPK Assembly with the allegation that the accused facing trial have stolen two HP laser Jet Printers and UPS. It was also alleged that the accused facing trial were recognized after getting CCTV footage. In this respect the prosecution examined witnesses and from perusal of their evidential value this court came to the conclusion that there are clear cut contradictions in the statements of the PWs recorded. PW-1 in his cross examination categorically admitted that his signature on both the recovery memos i-e Ex. PW 1/1 and Ex. PW-2 are different from each other which makes doubtful the preparation of recovery memo and its authenticity.

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ZAFAR KHAN
MAND

TESTED

Examiner
Distt: Court Peshawar
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Moreover from the complainant statement it is clear that during his inquiry he has not examined any single person nor he charge specifically any person involved in the commission of offence. Even the present accused facing trial were not nominated by him in his inquiry report. It is also clear from the PW-2 statement that two private persons were on duty on the main gate at the time of occurrence and it is also admitted by him that those two person employee were terminated. When the two persons were terminated what were the reason for their termination but the same has not been brought on record and ~~the~~ inference ^{can} ~~will~~ be drawn that the two private persons were involved in the occurrence and therefore they were terminated and the present accused facing trial were made scape goat only to show progress. Similarly the two private persons were absolve from criminal liability. It is also clear from his cross examination that the duty of civilian watchman is to open and lock the main gate and side gates of the Provincial assembly then how it is possible that the accused were carrying two printers and one UPS and they were left unattended at the main gate. Similarly the In-charge of police official at the time of occurrence is also not made any accused nor his statement is available on the case file. There is also contradictions in the statement of PW-2 and PW-3 regarding the window as PW-3 has stated that when he checked the store the window was broken but the IO and PW-2 categorically stated that the window was open and not broken.

Record further transpires that the recovery of the alleged stolen articles were effected from the shop of Masaab Ali and his statement also recorded as PW-4,

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Exhibit
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but during cross examination he categorically stated that the two printers were already lying in the police mobile which were shown to me at the time when the police party came to my shop. This admission of the PW-4 totally shatter the whole story of the prosecution and make the recovery highly doubtful and it clearly reflect that the stolen articles were planted and in reality the same were not recovered from the shop of Masaab Ali. Therefore the ~~story~~ ^{Prosecution} ~~statement~~ of ~~prosecution~~ can not be relied upon.

Moreover the recovery memos Ex PW 5/1 and Ex. PW 5/2 also become doubtful when Fazal Muhammad in his cross examination admitted that constable Siraj-Nabi have not signed the recovery memo in his presence and he also admitted in his cross examination that his signature are different from each other on both the recovery memos i.e Ex. PW 5/1 and Ex. PW 5/2. Even the bear perusal of the signature of Fazal Muhammad clearly reveals that both are different from each other. When the signatures are different on both the recovery memo Ex. PW 5/1 and Ex. PW 5/2 and admittedly Siraj Nabi has also not signed the recovery memos Ex. PW 5/1 and Ex. PW 5/2 in presence of Fazal Muhammad how it can be relied upon.

Moreover record further transpires that the IO statement as recorded as PW-6 and from his statement it is very much clear that the case property which was produced in the court and were examined were not the same as alleged to have been stolen one. Moreover no detail whatsoever of the alleged stolen property mentioned in the recovery memo by the Investigation Officer and this fact has been admitted by the IO in his cross examination.

ZAFERULLAH BOHMAND
DISTRICT JUDGE

ATTESTED

Ex. PW-4
Distt. Court Penawar

13/5/13

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Similarly the alleged UPS Number shown in chief examination as UPS SC-620 when in the court room it was examined on the UPS it was written Smart UPS NO. 750 which are not in consonance to each other and clearly reveals that the recovery has been planted against the accused facing trial.

Record further transpires that it is alleged that the accused were arrested after they were recognized in the CCTV footages and it is the main and moot point in the whole instant case but ironically, the said CCTV footage has not been produced on the main case file and this fact is ^{admitted} categorically/ by the Investigation Officer in his cross examination. The foundation of the instant case was to produce the CCTV footage but unfortunately the said CCTV footages has not been produced then how a structure can be built upon when there is no foundation.

Record further transpires that the IO has taken finger prints and sent to Expert Opinion but ironically, the same was also not placed on record and no reason whatsoever has been given. On the other hand it will be presumed that the accused were innocent that is why the CCTV footages and finger Prints is not placed on record.

So far the objection raised by the learned APP that PW-4 be declared as hostile witness during cross examination is not a valid objection. As a witness can be declared hostile only when he resiles from his statement in his chief examination. The purpose of cross examination is dig out truth to shatter the credibility of a witness, to test his veracity. Whenever a witness cross examined and during his cross examination same facts unfavourable to

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4/5/13

TAJANIL K. S. CHANDRAN

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Examined
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13/5/13

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prosecution came to surface and the prosecution is allowed to declared that witness as hostile witness then what is the purpose of cross examination. Moreover if such practice is allowed this will open a new Pandora box in the shape of applications and will lead to an unending litigation. Hence the plea of the learned APP is not justifiable in the eyes of law, hence rejected.

It is the duty of the prosecution to prove its case against the accused beyond any shadow of doubt and even a single circumstance creating doubt is sufficient for acquittal of the accused. In the instant case there are many doubts and circumstances which create doubts.

Thus keeping in view the above discussion it is clear that there is no probability of the conviction of the accused rather the ultimate fate of the case would be acquittal rather conviction. Proceedings in the instant case will be a mere a futile exercise and wasted precious time of the court.

Keeping in view the above stated reasons, the prosecution has miserably failed to prove its case against the accused beyond reasonable shadow of doubt, therefore, the application under section 249-A Cr.P.C is hereby accepted and both the accused are hereby acquitted in the instant case from the charges, so levelled against them. As the accused are in custody, therefore they be released forthwith if not required in any other case. Case property be kept intact till the expiry date of appeal/revision whereafter be returned to its lawful owner. File be consigned to Record Room after its completion.

Announced
4/5/2013.

CERTIFIED TRUE COPY

Copying Agent
Peshawar Court

ZAFARULLAH MOHMAND
(Zafarullah Mohmand)
JMJC-IX, Peshawar.

Handwritten signature and date 4/5/13

ZAFARULLAH MOHMAND
JMJC-IX, PESHAWAR

Handwritten mark

No. 8757
Dated of Application 13/5/13
Name of Applicant
Word / Page 8 - 13
Fee
Signature of Copyist & Date
Dated of Preparation 13/5/13
Date of Delivery 13/5/13

ORDER

23 K

This order shall dispose off on the appeal of Ex-Constable Fawad Ali No. 1107 of FRP HQrs: Peshawar against the order of Deputy Commandant FRP Khyber Pakhtunkhwa wherein he was removed from service.

Brief facts of case are that he was deputed as guard for security duty at Provincial Assembly Khyber Pakhtunkhwa Peshawar, has mis-appropriated some electrical appliance i.e. Two Nos Printers & two Nos UPS from the Assembly as shown/recorded in CCTV Camera. On receipt of information he was placed under suspension and a criminal case vide FIR No. 381 dated 04.12.2012 u/s 454/380-14 Islamic Law PPC has been registered against him in Police Station East Cantt: Peshawar.

He was charge sheeted & DSP FRP HQrs: was appointed as Enquiry Officer to conduct enquiry. After enquiry the I.O. submitted findings stating therein that during investigation the mis-appropriations items have been recovered by the Local Police and recommend the said ex-constable for Major punishment.

Upon the findings the Enquiry Officer, he was issued Final Show Cause Notice, which was duly delivered upon him through HC Shakir Ullah at Central Jail Peshawar and his signature was taken as token of its receipt, but his reply was found not satisfactory. Therefore he was removed from service by the then Deputy Commandant FRP Khyber Pakhtunkhwa Peshawar vide his Order Endst: No. 203-08/PA dated 26.03.2013.

As such he committed gross mis-conduct by mis-appropriating official property from Provincial Assembly during duty hours. His misdeed has been recorded on CC Camera and later recovery made from him. The court has acquitted him due to weak investigation/prosecution. Criminal case and departmental action are two different processes which have no bearing on each other. The gross misconduct of the applicant is too grave to deserve any leniency. However from the perusal of record and finding of Enquiry Officer there is no cogent reason to interfere in the order of Deputy Commandant FRP Khyber Pakhtunkhwa. Therefore his appeal is rejected.

Add: IGP/Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

No. 4499-SJ - A.C dated Peshawar the

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5-7-2013

Copy of above is sent for information and necessary action to the

1. SRC FRP HQrs: Peshawar.

2. Ex-Constable Fawad Ali S/o Hamrah Ali R/o Muslihabed Kafi Khan District Swabi.

Impressed

VAKALAT NAMA

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NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Fawad Ali (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Solie Sepi (Respondent)
(Defendant)

I/We Fawad Ali (Appellant)

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

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

Dated _____/20

Fawad Ali
(CLIENT)

ACCEPTED

M. Asif Yousafzai
M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

Appel 1986 - Rule 5

Service Appeal No. 1323/2013.

Ex- Constable Fawad Ali No. 1107.....Appellant

VERSUS

1. **Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.**
2. **Capital City Police Officer, Peshawar.**
3. **Add:IGP/Commandant FRP/KPK/Peshawar.**
4. **Deputy Commandant FRP/KPK/Peshawar.Respondents.**

PRELIMINARY OBJECTIONS:

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

WRITTEN REPLY ON BEHALF OF RESPONDENTS IS AS UNDER:-

ON FACTS.

1. Correct to the extent that the appellant along with others were deputed for Security guard duty at Provincial Assembly Peshawar. During the performance of official duty the appellant and ex constable Tilawat Shah have stolen some Electronic appliance i.e Two numbers of Printers and two numbers of UPS from the Store of Provincial Assembly as shown/recorded in CCTV Camera, therefore he was suspended for enquiry proceedings as per law.
2. Correct that a criminal case has been registered against the appellant vide FIR No. 381 dated 04.12.2012 U/s 454/380 PPC 14 ISL Police Station cantt: Peshawar.
3. Correct to the extent that on the allegations mentioned above, the appellant was served with Charge Sheet along with Summary of allegations which he replied.
4. Incorrect a proper departmental enquiry was conducted against the appellant and the enquiry officer found him guilty of the charges leveled against him.
5. Correct to the extent that appellant was served with Final Show Cause Notice which he replied.
6. Incorrect, that after fulfillment of all the codal formalities, required as per law the appellant was removed from Service, however criminal case and departmental proceedings are two deferent entries and can run side by side.
7. Incorrect, that during departmental proceedings the appellam was found guilty of the charges leveled against him and the enquiry officer recommended him for major punishment.
Moreover, the appellant being a custodian of public lives as well as property, he was supposed to secure Govt: Property as included in his official duty but he himself has stolen the Govt: Property. However departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.

GROUND.


- a. Incorrect, that orders of the respondents are legally justified and accordance with law/Rules.


- b. Incorrect, the Ministerial Staff of Police Department are proceeded with E & D Rules while the appellant was in category of executive Staff. Therefore, he was correctly dealt with 1975 Police Rules by the Competent Authority.
- c. Incorrect, the allegations are false and baseless.
- d. Incorrect, Proper departmental enquiry was already conducted against the appellant and all codal formalities have been full filled during the enquiry proceedings.
- e. Incorrect, that the appellant was equated by the court of law, but during the enquiry proceedings the appellant was found guilty of charges leveled against him therefore, he was correctly removed from service by the competent authority.
- f. Incorrect, an opportunity of personal hearing was also provided to him but the appellant did not bother to avail the opportunity of personal hearing.
- g. Incorrect, that CCTV potages clearly shown that the appellant alongwith other Constable Fawad have stolen the above mentioned Electronic equipments from the Store of Khyber Pakhtunkhwa Provincial Assembly, as the guard Commander Ghuncha Gul Khan, during the examination of CCTV Camera Potages identified both the ex- constables . Moreover the stolen property was also recovered through identification of appellant. The statement of SI/PC Hakeem Khan and Ghuncha Gul Khan are attached as "A & B".
- h. That the Honorable Service Tribunal is competent to make an order for requisition the CCTV recording or otherwise.
- i. Incorrect that in spit , the appellant being a member of discipline Force(Police)was involved in a criminal case and moral turpitude during the enquiry proceedings he was found guilty of the charges of Theft which is a grass misconduct under the law. Therefore, after fulfillment of all codal S formalities the appellant removed from service.


PRAYERS:

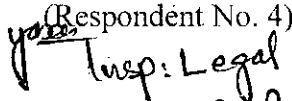
Keeping in view of above mentioned facts/submission the instant appeal may very kindly be dismissed with cost.


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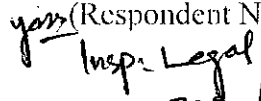

Capital City Police Officer,
Khyber Pakhtunkhwa, Peshawar.
 (Respondent No.2)


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


Deputy Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.
 (Respondent No. 4)


Insp: Legal
FRP Pesh:
WQS


Addl:IGP/Commandant,
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar.
 (Respondent No.3)


Insp: Legal
FRP Pesh:
WQS

عدم موجود صحت شدت کس وجودی بہ سہ بیان ہے

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12/5 (4) کس حالت میں 87 حتم کا دہرمانی اسمی ہر وقت کس بیان کس وقت
کس شدت اور خواہش ہر وقت 200 سے 600 تک دہرمانی ہے 500 سے 600 تک
کس شدت اور کس حالت میں کس خواہش ہے 10/15 وقت دہرمانی ہے
کس شدت 900 وجودی کس خواہش 1107 وجودی کس خواہش والی ہے
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(6) کس خواہش کس خواہش کس خواہش کس خواہش کس خواہش کس خواہش
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Before the Khyber Pakhtunkhwa Service Tribunal, Peshawar

Service appeal no 1323/13

Fawad Ali

VS

Police Department

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth:

Preliminary Objections:

(1-5) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

Facts:

- 1) Partially admitted correct by the respondents. Whereas the rest of Para is denied being baseless and without proof.
- 2) Para no 2 is admitted correct by the respondents so no comments.
- 3) Admitted correct by the respondents in their reply so no comments.
- 4) Incorrect while Para 4 of appeal is correct. As the appellant was behind the bars therefore he was not associated with the inquiry proceedings and as such the appellant has been condemned unheard and left undefended
- 5) Para no 5 is admitted correct by the respondents so no comments.

- 6) Incorrect while Para 6 of appeal is correct. The respondents were bound under CSR 194 till the decision of criminal case by the competent court of law because there was the charge of criminal case against the appellant.
- 7) Incorrect while para 7 of appeal is correct. Since the appellant was behind the bars therefore no proper chance of defence was provided to the appellant and the all actions of the respondents is based on one sided inquiry of the respondents conducted in the absence of appellant

Grounds:

- A. Incorrect while Para A of appeal is correct.
- B. Incorrect while Para B of appeal is correct. The action against the appellant under police rule 1975 is not warranted under the law.
- C. Incorrect while Para C of appeal is correct.
- D. Incorrect while Para D of appeal is correct. As the appellant was behind the bar then how the inquiry officer fulfilled the principles of justice, is the question on the inquiry of the respondents.
- E. Incorrect while Para E of appeal is correct. The respondents were legally bound to comply with the provisions and instructions contained in CSR 194
- F. Incorrect while Para F of appeal is correct. The respondent must show on the record that the competent authority has visited the jail for affording personal hearing to the appellant because the appellant was in jail behind the bars.
- G. Incorrect while Para G of appeal is correct.
- H. Not denied by the respondents.

of
28.01.11

I. Incorrect while Para I of appeal is correct.

J. Legal

Therefore it is humbly prayed that appeal of the appellant may be accepted as prayed for.

APPELLANT

FAWAD ALI

Through:

M. Asif Yousafzai

M. ASIF YOUSAFZAI

Goher Sajjad Khan
GOHER SAJJAD KHAN

&

Taimur Ali Khan

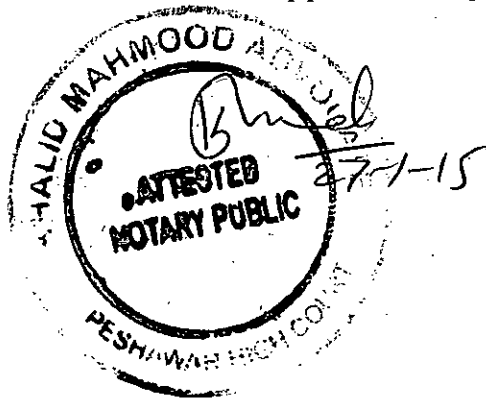
TAIMUR ALI KHAN

(Advocates, Peshawar)

28.01.15

AFFIDAVIT.

It is affirmed that the contents of appeal and replication are true and correct.



Fawad Ali
DEPONENT.

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6477

رایڈ وکٹ: تعمیر علی خان

بار کونسل ایسوسی ایشن نمبر:

رابطہ نمبر:

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: سرور محمد علی خان

مخانب:	دعوی:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

حوادعی بنام پوسٹ ڈیپارٹمنٹ

بابت تحریر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
آن مقام پشاور کے لیے سرور محمد علی خان کو وکیل مقرر
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقررات و فیصلے برحلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دار کرانے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقررات کا اختیار ہوگا اور صاحب
مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر ذاخت منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION
KHYBERPAKHTUNKHWA

المرقوم:

المقام کے لیے منظور ہے۔

طووادعی

نوٹ: اس وکالت نامہ کی فونو کاپی قابل قبول ہوگی۔

Accepted
Attended