


1066/2014

20.09.2016

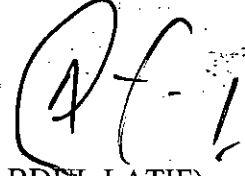
Counsel for the appellant and Mr. Usman Ghani, Senior Government Pleader for the respondents present.

This appeal is also decided as per our detailed order of today in connected Service Appeal No. 425/2014 titled "Jamshed-vs-The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar etc". Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED
20.09.2016



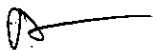
(PIR BAKHSH SHAH)
MEMBER



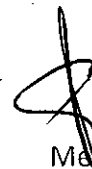
(ABDUL LATIF)
MEMBER

07.12.2015

Counsel for the appellant and Mr. Javed Iqbal, Inspector (Legal) alongwith Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Therefore, the case is adjourned to 14.4.16 for arguments.



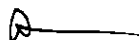
Member



Member

14.04.2016

Counsel for the appellant and Mr. Javid Iqbal, Inspector (Legal) alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to paucity of time. To come up for arguments on 20.05.2016.



Member



Member

20.5.2016

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Appellant requested for adjournment. Adjourned for arguments on 20.9.2016.



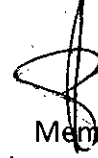
Member



Member

22.05.2015

Appellant in person and Mr. Javed Iqbal, Inspector (legal) alongwith Addl: A.G for respondents present..Written reply submitted, copy whereof supplied to appellant. To come up for rejoinder on 24.8.2014.



Member

24.08.2015

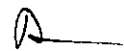
Appellant in person and Mr. Javed Iqbal, Inspector Legal alongwith Addl: A.G for respondents present. Rejoinder submitted. The appeal is assigned to D.B for final hearing for 30.9.2015.



Chairman

30.09.2015

Mr. Sajid Amin, Advocate present and filed Wakalat Nama on behalf of appellant and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan, therefore, case is adjourned to 7-12-15 for arguments.

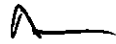


Member

23.2.2014

Counsel for the appellant present and submitted that the appellant was issued charge sheet on 28.11.2013. The allegations against the appellant were that he got tainted reputation and allegedly involved in anti-social activities. Enquiry was conducted against him and the enquiry officer exonerated the appellant from the charges leveled against him. That the competent authority did not agree with the recommendation of the enquiry officer and agree with the probe of intelligence and the appellant was compulsory retired from service. The learned counsel for the appellant further submitted that probing through the intelligence is nowhere mentioned in the law/rules and that the final order is not a speaking order as no reason whatsoever, has been given for rejection of the departmental appeal.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written on 16.04.2015.


Member

6

16.04.2015

Appellant in person and Mr. Javed Iqbal, Inspector (legal) alongwith Addl: A.G for respondents present. Requested for adjournment.


To come up for written reply/comments on 22.5.2015 before S.B.


Chairman

3
Reader Note:

13.11.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 31.12.2014 for the same.


Reader

4
Reader Note:

31.12.2014

Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned 23.02.2015 for the same.




Reader



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1066/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/08/2014	The appeal of Mr. Amjid Khan resubmitted today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing. <p style="text-align: right;"> REGISTRAR</p>
2	25-8-2014	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>13-11-2014</u> . <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Amjid Khan Ex-Head Constable No.4747 Elite Force received today i.e. on 12.08.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ✓ 1- The authority to whom the departmental appeal was made has not been arrayed/made a party.
- 2- Copy of impugned order dated 30.5.2014 mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Address of respondent No. 2 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 1206/S.T.

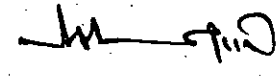
Dt. 13/8/2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Re-submitted. The date 30-5-2014, is
mistakenly written instead of 20-6-2014,
which have been rectified, and add. of
the party has been completed.
(i) 1st page has been brought new.
(ii) clerical mistake ^{new air}
has been cleared.

Please put before the Tribunal


Ashraf Ali
21-8-2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 10667/2014

Ex HC Amjad Khan No 4747
Elite Force Bannu R/O
Ghoriwala Tehsil Domil District
BannuAppellant

Versus

The Provincial Police Officer
and Others
.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Affidavit along with suspension of Impugned Order			1-8
2.	Copy of Charge Sheet and Statement of Allegation		A ✓	9-10
3.	Copy of Enquiry Report .		B	11
4.	Copy of Final Show Cause		C	12
5.	Copy of reply to the Final Show Cause		D	13-
6.	Copy of secret Enquiry		E	14-15
7.	Copy of Original Oder	20-6-2014	F	16
8.	Copy of Departmental Representation		G	17-19
9.	Copy of Impugned Order	23-07-2014	H	20
10.	Wakalat Nama			21

Through

Amjad
Appellant

Ashraf Ali Khattak
Ashraf Ali Khattak

and

Nawaz Khan Khattak
Nawaz Khan Khattak
Advocates, Peshawar

Dated: _____ / 08/ 2014

BEFORE THE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. ^{1066/}2014

1073
12/8/2014

Ex HC Amjad Khan No 4747 Elite Force Bannu R/o Goriwala Tehsil & District
BannuAppellant.

Versus

1. The Provincial Police Officer Govt: Khyber Pkhtunkhwa, Peshawar.
2. The Regional Police Officer Bannu Region Bannu .
3. The Deputy Commandant Elite Force Khyber Pkhtunkhwa Peshawar
4. The Additional Inspector General of Police Elite Force Khyber Pkhtunkhwa
PeshawarRespondents.

Service Appeal under section 4 of the Service Tribunal Act, 1974 read with section 19 of the Khyber Pkhtunkhwa (Efficiency & Conduct) Rules, 2011 against the impugned order of respondent No.3 dated ²⁰⁻⁰⁶⁻²⁰¹⁴ ~~20-06-2014~~ 2014 (Annexure-F) and against which appellant filed departmental appeal, which is turned down on dated 23-07-2014 with in single sentence.

Pray:-

On acceptance of the instant appeal this Honourble Tribunal may graciously be pleased to declare the impugned order as illegal, unlawful, void abinito, without lawful authority and has no adverse effect upon the rights of the appellant and set aside the same by reinstating the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the appeal are as under:-

[Signature]
21/8/14

Co-submitted to
and filed

[Signature]
21/8/14

the entire satisfaction of the superior and no complaint has ever been lodge against him.

2. That appellant has longstanding service at his credit with unblemished and clean sheeted conduct record. The appellant has excellent performance beyond the call of his duty and the appellant remain in those Police station and Check Post of the district Bannu where the militant attacks were occurred in routine, the appellant provide his services in those area commonly it were familiar a dangerous one, but the appellant performed his duty with very brave manner and never shows any Cowardice and also fight with militant too.
3. That it is pertinent to mention here appellant was got involved in a flimsy allegation and was charge sheeted vide Charge Sheet and statement of allegation dated 28-11-2013 with the following accusation. The same are attached as (Annexure- A)

“He has got tainted reputation and allegedly involved in anti-social activates
As per report of RPO Bannu vide his office Letter no 2659 -61 /EC Dated. 08-11- 2013 .

4. That appellant submitted reply to the charge sheet and statement of allegation. Comprehensive inquiry was conducted and appellant also produced defense . Enquiry officer submitted his finding with the following
“Having gone through all available record and examination of HC Amjad Khan NO 4747, the Enquiry officer finding is very much clear on the ground that the appellant reputation was not found tainted and neither any property or bank balance was found in his name .The allegation is totally based upon this fact which has not been proved from the enquiry is attached as (Annexure –B)

5. That respondent No. 3 served the appellant with final Show Cause (Annexure-C). Appellant submitted reply to the final show cause (Annexure-D).
6. That the secret enquiry on dated 28-05-2014 by Addl: Inspector General of Police Special Branch Khyber Pkhtunkhwa Peshawar has been conducted against the appellant. The same is attached as (Annexure-E). Neither the alleged accusation made therein has any evidentiary value nor secret inquiry has any sport in the eyes of law.
7. That vide order dated 20-06-2014 respondent No.3 awarded the appellant major penalty of compulsory retirement (Annexure-F) under Rule 5(5) of Police Rule 1975.
8. That being aggrieved from the impugned penal order, appellant submitted departmental appeal (Annexure-G) and the department representation is turned down on dated 23-07-2014 with in single sentence is attached as (Annexure -H) hence file the instant service appeal inter alias on the following grounds

Grounds:-

- A. That the respondents have not treated the Appellant in accordance with law, rules and policy on the subject and acted in violation of Article 4 of the Constitution of Pakistan, 1973. That the respondent No 3 based the punishment to the appellant on the sole version of group officer Mujeeb Khan stating therein that the appellant is corrupt. The said group officer has not quoted a single instance vide which the appellant has taken any bribe from any person or entangle myself in any act of tainted reputation. The order of the respondent No3 is not only against the spirit of Law and Lands but also against the injunction of Islam because no one can be blamed without direct evidence and solid proof for any sin.

- B.** That enquiry is conducted against any officer/official for digging out the real fact and if the authority is not satisfied from the enquiry then he got the option to conduct the de novo enquiry by any other any competent officer but without complying the provision of enquiry, inflection of the punishment ignoring the finding of enquiry officer is the nullity in the eye of Law. However the appellate authority violate KPK civil Servants (Appeal) Rules 1986 Section 5 sub section (b) whether the fact established afford sufficient ground for taking action and (c) whether the penalty is excessive , adequate or inadequate .
- C.** The Appellant was/is regular employee of the force therefore, was entitled for prescribed disciplinary procedure in case of any miss conduct on his part. The authority in order to prosecute the appellant made a short cut way. In absence of prescribed procedure as explained in the statute and statutory rules the prosecution of the appellant cannot be clothed with validity and action on the part of this Honourable Tribunal is required to nullify the action of the respondents on the sole ground of bad faith.
- D.** That the allegation in the charge sheet regarding the links with smugglers of NCP vehicle , tainted reputation and involvement in anti social activities are not governed by any cogent/Solid proof and no officer/Official can be entangle with such like allegation without substantive evidence . Furthermore in the service career the appellant has performed duty so devotedly and bravely that no chance has been given to any authority for finger upon his duty.
- E.** That the appellant is the qualified member of Elite force and Elite force is duped for duty when there is eminent danger at the hands of criminal /Terrorist under the command of superior officer and question of corruption does not arise when the senior officer are present .

- F.** That the appellant have never been counseled on the subject of allegation by the competent authority and when no such allegation have ever been communicated to the appellant in 12/13 years service in shape of ACR /Advise and has not been proved during the course of enquiry then the same will be consider as leveled against the appellant on some ulterior motive.
- G.** That the appellant is the only bread earner of the family and such like defamation will certainly discourage the appellant as well as other police official in performance of duty especially in situation facing by the police in now a days. The appellant performance has been praised by the authorities on each and every occasion as evident from the service record however it is astonished that the appellant has blamed without any reason and solid proof.
- H.** That the impugned order has been passed in sheer violation of the rules and laws governing the subject. As the apex in their dozen Authorities no person should be condemned unheard, and without any solid evidence / Proof no one should be inflicted punishment but here the respondent no 3 awarded major punishment ignoring the finding of Enquiry of enquiry officer even though in the case of appellant no complaint what so ever has been made against him nor any kind of tainted allegation has been refereed in the charge sheet or during the finding of enquiry. The general allegations without proof are nothing but amount the harassment of the official /Officer. The enquiry officer has failed to procure an iota of evidence in respect of the charge leveled against the appellant. The verdict of the respondent No.3 is illegal, unlawful and without lawful authority and liable to set back and set aside.
- I.** Section 16 of the Civil Servant Act, 1973 provides that every civil servant is liable for prescribed disciplinary action and penalty only through prescribed procedure. In

the instant case no prescribed procedure has been adopted by the respondents, hence the action taken by them is illegal, *corm non judice* and liable to be set aside.

- J.** That when initial order or act relating to initiation of disciplinary proceedings was contrary to law, than all subsequent proceedings and action taken there on would have no base and would fall. If mandatory condition for exercise of jurisdiction by the judicial or qasi judicial authority was not fulfilled, entire proceedings, which followed, would become illegal and would suffer from inherent defect of jurisdiction. Any order passed in continuation of those proceeding would equally suffer from illegality and would be without jurisdiction. Reliance is placed on 2003 PLC(CS) 748 and 2009 SCMR 339(A). More over the appellant has been prosecuted under wrong law.
- K.** That major penalty has been imposed without giving reason and with perusing the finding of enquiry report and also disregarding appellant's defense constitutes violation of Section 24A of the General Clauses Act, 1897; therefore, the impugned orders are not sustainable in the eyes of law and liable to be struck down.
- L.** That the Honourable Supreme Court of Pakistan has in thousands of cases has held that no major punishment could be imposed without regular inquiry, the subject impugned order based on slipshod inquiry has therefore, no base in the light of the decision of the Apex Court, thus liable to be set aside.
- M.** That the well-known principle of law "Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006

PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

- N. That appellant is jobless since impugned order, therefore entitled to be re instated with all back benefits.

For the aforesaid reasons, it is therefore, humbly prayed that the appeal may kindly be allowed as prayed for above.

Any other relief not specifically asked for, but deem fit in the circumstance of the case may also be graciously be granted.

Through

Amyal
Appellant

Ashraf Ali Khattak
Ashraf Ali Khattak

and

Nawaz Khan Khattak
Nawaz Khan Khattak
Advocate, Peshawar.

Dated: _____ / 08/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. /2014

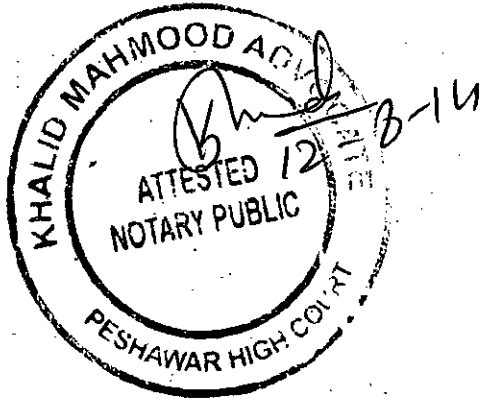
Ex HC Amjad Khan No 4747 Elite Force Bannu R/o Goriwala Tehsil & District
Bannu.....Appellant.

Versus

The Provincial Police Officer Govt: Khyber Pakhtunkhwa, Peshawar and others
.....Respondents.

Affidavit

I, Ex HC Amjad Khan No 4747 Elite Force Bannu R/o Goriwala Tehsil & District
Bannu , do hereby solemnly affirm and declare on oath that the contents of
this Service Appeal are true and correct to the best of my knowledge, and
nothing has been concealed from this Hon'ble Tribunal.



Amjad
Deponent

(A) Amex - A - P - (9)

SUMMARY OF ALLEGATIONS

I, Dilawar Khan Bangash, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, am of the opinion that Head Constable Amjad No. 4747, Platoon No. 87 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of Police Rules (amended vide NWFP gazette, 27th January 1976).

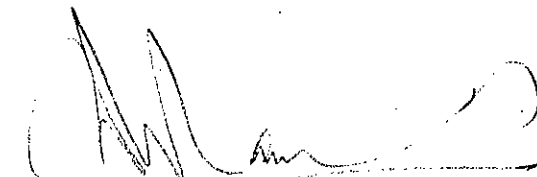
SUMMARY OF ALLEGATIONS

He has got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations Mr. Shabir Ahmad A/DSP Elite Force Bannu is appointed as Enquiry Officer.

3. The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.

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



(DILAWAR KHAN BANGASH)

Deputy Commandant,


Elite Force, Khyber Pakhtunkhwa, Peshawar.

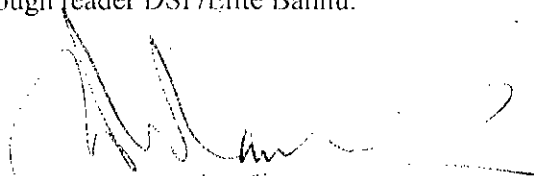
No. 16230-35/EF, dated Peshawar the 28 /11/2013.

Copy of the above is forwarded to the;

1. Regional Police Officer, Bannu w/r to his letter No. 2659-61/EC, dated 08.11.2013
2. A/DSP Elite Force Bannu.
3. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
4. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
5. SRC, Elite Force Khyber Pakhtunkhwa Peshawar.
6. HC Amjad No. 4747 of Elite Force thorough reader DSP/Elite Bannu.

Attested


To be true copy
Advocate



(DILAWAR KHAN BANGASH)

Deputy Commandant,

Elite Force, Khyber Pakhtunkhwa, Peshawar

CHARGE SHEET

1. Dilawar Khan Bangash, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority hereby charge you Head Constable Amjad No. 4747, Platoon No. 87 of Elite Force Bannu, as follows;

You have got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/E/C, dated 08.11.2013.

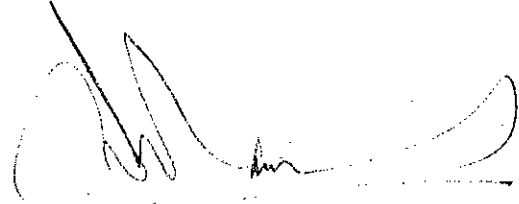
2. By reason of the above, you appear to be guilty of misconduct under the Police Rules (amended vide NWFP gazette, 27th January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are, therefore, directed to submit your defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer.


4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no-defense to put in and in that case ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.



(DILAWAR KHAN BANGASH)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

Attested

To be true copy
Advocate

(15)

فائل رپورٹ

ہیڈ کنسٹیبل امجد خان نمبر 4747 پلاٹون نمبر 87 ضلع بنوں پر الزام لگایا گیا تھا۔ کہ وہ بدعنوانی میں ملوث ہے۔ اور وہ داغ دار شہرت کا مالک ہے۔ جس پر اس کو چارج شیٹ کیا گیا۔ اور سابقہ ADSP بنوں شبیر حسین صاحب کو انکو آئری افسر مقرر کیا گیا۔ DSP شبیر حسین صاحب کے معطل ہونے پر تمام انکو آئریاں پینڈنگ مجھے مارک ہوئیں۔ جو تمام گواہان کو دوبارہ طلب کیا جا کر بیانات سنے گئے جنہوں نے سابقہ بیان کی تائید کی جو بیانات پر میں نے تصدیق کی۔ بدوران انکو آئری گواہان ذیل کے بیانات لئے گئے۔

نمبر 1:- انچارج DSB بنوں

نمبر 2:- ریڈرٹو DSP

نمبر 3:- کنسٹیبل نفعت اللہ 47/EF

نمبر 4:- کنسٹیبل مشکوٰۃ اللہ 905/EF

نمبر 5:- کنسٹیبل صادق کمال شاہ 4074/EF

نمبر 6:- کنسٹیبل لطیف اللہ 980/EF

نمبر 7:- کنسٹیبل نوید 916/EF

نمبر 8:- کنسٹیبل رفیع اللہ 918/EF

بیانات سے پایا گیا۔ کہ ہیڈ کنسٹیبل امجد خان نمبر 4747 پلاٹون نمبر 87 کسی قسم کی بدعنوانی میں ملوث نہیں رہا ہے۔ اور نہ وہ داغ دار شہرت رکھتا ہے۔ مزید معلومات کر کے حلقہ پٹواری سے اسکی جائیداد کی تفصیل لی گئی۔ جس میں پایا گیا۔ کہ اس کے نام پر کسی قسم کی جائیداد غیر منقولہ موجود نہیں ہے۔ بنوں کے تمام بینکوں سے اسکے متعلق ریکارڈ لیا گیا مگر اس کے نام پر کسی قسم کا بینک بیلنس نہیں پایا گیا۔ اس کا اعمال نامہ بذریعہ فون SRC پشاور سے چیک کیا گیا جس میں کسی قسم کی کوئی سابقہ مزایا بی نہیں پائی گئی۔

ہیڈ کنسٹیبل امجد خان نمبر 4747 پلاٹون نمبر 87 مورخہ 02.04.2012 سے ایلیٹ فورس میں تعینات ہے وہ مختلف تھانہ جات اور پولیس لائن میں تعینات رہا۔ مگر اس کے خلاف کسی قسم کی شکایات پولیس افسران یا ایلیٹ اہلکاران سے موصول نہیں ہوئی۔ OASI سے تعیناتی پیریڈ لیا گیا ہے کسی ایسی پوسٹ پر تعینات نہیں رہا جس پوسٹ پر کرپشن کی جاسکتی ہو۔

سفارشات:- ہیڈ کنسٹیبل امجد خان نمبر 4747 پلاٹون نمبر 87 بدعنوانی اور داغ دار شہرت کے الزامات لگائے گئے ہیں۔ جس کے خلاف ثابت نہیں ہو سکے۔ انکو آئری فائل رپورٹ مرتب ہو کر گزارش ہے۔ مزید حکم افسران بالا افضل ہوگا۔

(محمد بلال خان)
محمد بلال خان
ڈپٹی سپرنٹنڈنٹ
ایلیٹ فورس بنوں
18/3/14

No 75/EF - Bannu
Date = 18-3-014

RI
14
03
19/3

Attested

To be true copy
Advocate

Doc No 1204
dt: 19/3/14
Page 28

FINAL SHOW CAUSE NOTICE

I, Sajid Khan Mohmand, Deputy Commandant Elite Force Khyber Pakhtunkhwa Peshawar as competent authority under Police Rules (amended vide NWFP gazette, 27th January 1976), do hereby serve you Head Constable Amjad No. 4747, Platoon No. 87 of Elite Force as follows;

You have got tainted reputation and allegedly involved in anti-social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013, which was verified through intelligence agencies.

On going through the finding and recommendation of the enquiry officer, the material available on record and intelligence report, I am satisfied that you have committed the omission/commission specified in Police Rules (amended vide NWFP gazette, 27th January 1976) and charges leveled against you have been established beyond any doubt.

2. As a result therefore, I, Sajid Khan Mohmand, Deputy Commandant Elite Force, Khyber Pakhtunkhwa Peshawar as competent authority have tentatively decided to impose major penalty upon you including dismissal from service, under Police Rules (amended vide NWFP gazette, 27th January 1976) of the said ordinance.

3. You are therefore, directed to show cause as to why the aforesaid penalty should not be imposed upon you.

4. If no reply to this show cause notice is received within seven days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defense to put and in that case an ex-parte action shall be taken against you.

5. A copy of the finding of the Enquiry Officer is enclosed.

(SAJID KHAN MOHMAND)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar

No. 7444 /EF, dated Peshawar the 30/05/2014.

HC Amjad No. 4747 of Elite Force through Muharrar Elite Headquarters Peshawar.

Attested

To be true copy
Advocate

(D)

بِذاتِ عَالِي!

جوالہ فائینل شوکاز نوٹس نمبر 7444/EF حورضہ 30-05-04 جاریہ جناب ڈپٹی

کمانڈنٹ صاحب ایلٹ فورس ایشاور معروض ہوں کہ میں تفصیلاً جواب خارج

شیٹس دے چکا ہوں اور آنٹواٹری آفسر صاحب کو بھی تحریراً دے چکا ہوں کہ

میں سائبل سال 2002ء میں (SPL) میں بطور ریٹیل بھرتی ہوا اور مختلف قومیتاں

پولیس ایشاور میں ڈپوٹی سرانجام دی گئے، سال 2009ء میں لوٹری سکول کورس

سلیٹ ہو کر کورس میں ہی ڈسٹرکٹ پولیس تبدیل ہوا۔ سال 2012ء میں

ایلٹ فورس میں حاضر ہوئی۔ تاریخ بھرتی سے لیکر آج تک کسی ایسی جگہ پر کوشش

نہیں ہوئی ہے جس میں کرپشن ہو۔ بدورن سرورس سائبل کوٹھی گاڑی۔ جائیداد

میں سے وغیرہ خریدی، پورے نہیں ہے، قولہ آنٹواٹری میں بننا ہوا، پٹواری حلقہ سے بھی

بیانات لئے گئے ہیں۔ علاوہ ازیں میرے خلاف عائد کردہ جملہ الزامات حق گھڑتا

اور بنیاد میں۔ ایٹلی جنس ایجنسز نے کوئی ثبوت دوران آنٹواٹری، آنٹواٹری

افیسر کو مہیا نہیں ہے، آنٹواٹری آفسر نے آنٹواٹری رپورٹ کے الزامات سے

عدم ثبوتی سے بناء پر مبری کرنے کی سفارش بھی کی ہے، ایٹلی جنس میرے

جارج کے موقع بھی دی دیا جائے تاکہ اصل حقائق کا پتہ آنٹواٹری آفسر کو چل سکے۔

لہذا حالات تذکرہ بالا کو مدنظر رکھتے ہوئے فائینل شوکاز نوٹس بغیر کسی

سزائے داخل دفتر کرنے حکم صادر فرمائی جاوے دعا تو رہو

احقرضہ
HC/EF/P.87
10-06-04

Attested
To be true copy
Advocate

(E) X2 Ameer-E-

P. 14

1

From: - The Addl: Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

Phone: 9218173
Fax : 9218073

To: - The Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.

No. 393 /PA/SB, dated Peshawar the 28-5 /2014.

Subject: - **SECRET ENQUIRY.**

Memo: -

Please refer to your office letter No. 5587/EF, dated 6.5.2014.

The matter was enquired into through Group Officer Bannu who reported as under:-

Head Constable Maqbool 4757

1. He was recruited in District Police Bannu on 1.2.2002 and remained posted at various places in the district.
2. In 2009 he was selected for Lower Course.
3. In 2011 he was transferred to Elite Force and still serving there. 1 ½ years back he was running business of vehicles bargaining. Head Constable Imran was also his partner who was killed by unknown accused. After the death of HC Imran, he left the business.
4. It has been learnt that he was involved in business of NCP and tempered vehicles. It has also been learnt that he used to snatch cash and mobile from the innocent people. Head Constable Amjid 4747 also remained with HC Maqbool, while committing the crime. He is reportedly a corrupt Police official.

Head Constable Amjid No. 4747

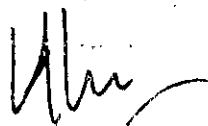
1. Head Constable Amjid No. 4747 was recruited in Special Police Force in 2002. On completion of training, he was posted in Police Post Mera Khel where he served for 06 years.

PTO

Attested


[Signature]
To be true copy'
Advocate

2. In 2008 he was posted in regular Police force. In 2009 he was selected for Lower Course.
3. He is close associate of H.C Maqbool NO. 4757 and involved in corruption. However, he is not partner of H.C Maqbool No. 4757 in business of NCP and tempered vehicles.



SSP/P,
FOR ADDL; INSPECTOR GENERAL OF POLICE,
SPECIAL BRANCH, KHYBER PAKHTUNKHAWA,
PESHAWAR.

Attested


To be true copy
Advocate

(F) Ameer-ul-F

P-16

Comment-3

MM



Office of the Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar



No. 9/31-40/EF


Dated 20/06/2014.

ORDER

You Head Constable Amjad Khan No. 4747, Platoon No. 87 of Elite Force Khyber Pakhtunkhwa were found guilty of gross misconduct on the following grounds.


You have got tainted reputation and allegedly involved in anti social activities as per report of RPO Bannu vide his office letter No. 2659-61/EC, dated 08.11.2013. Charge Sheet & Summary of Allegation was issued to you and Acting DSP/Elite Force Bannu was appointed as Enquiry Officer. The Enquiry Officer exonerated you from the charges but the charges were then verified through intelligence agencies. The agencies report suggests that you are corrupt and involved in corrupt practices. Your previous service record was also perused, and found blemished. You were also issued Show Cause Notice vide this office order No. 7905-7907/EF, dated 06.06.2014 to appear before the undersigned on 19.06.2014, but you failed to satisfy the undersigned.


Therefore, I, Sajid Khan Mohmand, Deputy Commandant, Elite Force Khyber Pakhtunkhwa Peshawar as competent authority, impose major penalty of compulsory retirement upon you under Police Rules (NWFP Police Rules 1975, Section 05, subsection 5) with immediate effect.


(SAJID KHAN MOHMAND)
Deputy Commandant
Elite Force Khyber Pakhtunkhwa Peshawar.

Copy of the above is forwarded to the:-

1. Additional IGP, Elite Force Khyber Pakhtunkhwa Peshawar.
2. PSO to IGP, Khyber Pakhtunkhwa Peshawar.
3. Acting Deputy Superintendent of Police, Elite Force Headquarters, / Bannu
4. RI, Elite Force Khyber Pakhtunkhwa Peshawar.
5. Accountant, Elite Force Khyber Pakhtunkhwa Peshawar.
6. Incharge Kot / OASI, Elite Force Khyber Pakhtunkhwa Peshawar
7. SRC/FMC, Elite Force Khyber Pakhtunkhwa Peshawar.

Attested

To be true copy
Advocate


08-298
23-06-14

To,

The Addl: Inspector General of Police
Elite Force, Khyber Pakhtunkhwa Peshawar.

Subject: REPRESENTATION AGAINST THE ORDER OF DEPUTY
COMMANDANT ELITE FORCE VIDE OB NO. 295 DATED
23/6/2014 VIDE WHICH THE PETITIONER WAS
COMPLUSORY RETIRED FROM THE SERVICE.

Respected Sir,

With reference ORDER of Deputy Commandant Elite force No. 9131-40 /Ef dated 20/6/2014 , the petitioner prayed as under:-

1. The petitioner recruited in police dept: as constable in 2002 and after undergoing basic training in the training institution, reported back in the District for performance of duty and discharge the duty efficiently, devotedly and co-heartedly. The petitioner was then deputed for the training of Elite force which was successfully completed and thereafter posted in many police stations /establishments for curbing the criminals and terrorist involved in criminal cases. The petitioner has discharge the function efficiently and devotedly to the utmost satisfaction of my superior.
2. The detail facts and figures on the subject of charge sheet has already been submitted before Deputy Commandant Elite force which was entrusted to EO for threshing out the real facts. (Copy of which is attached for ready reference). While conducting enquiry into the matter, the enquiry officer has threshed out the charges after recoding pro and contra evidence and found my contention correct exonerated me from the charges but the authority has not admitted the finding against the spirit of procedure of enquiry. The EO finding is very much clear on the grounds that the petitioner reputation was not found tainted and neither any property or bank balance was found in his name, the allegation of charge sheet was totally based upon this fact which has not been proved from the enquiry.

Attested
[Signature]
To be true copy
Advocate

3. That the worthy Dy: commandant elite force based the punishment to me on the sole version of group officer Mujeeb Khan stating therein that the petitioner is corrupt. The said group officer has not quoted a single instance vide which I have taken any bribe from any person or entangle myself in any acts of tainted reputation. The finding of the authority regarding my punishment is not only against the spirit of law and lands but also against the injunction of islam because no one can be blamed without direct and solid proof for any sin.
4. The enquiry is conducted against any officer/official for digging out the real facts and had the enquiry was not satisfied by the authority then he got the option to conduct denevo enquiry by any other competent officer but without complying the provision of enquiry, inflection of the punishment ignoring the findings of enquiry officer is the nullity in the eyes of law.
5. According to the dicta of Supreme court of Pakistan as well as service tribunal and the constitution of Islamic republic of Pakistan 1973 no official/officer should be condemned without solid reasons / proof of any allegation and in the case of any allegation against the spirit of police rules/service laws, the official/officer will be panelized when there is solid evidence on record regarding the allegation but in the case of petitioner no complaint what so ever has been made against the petitioner nor any kind of specific tainted allegation has been refereed in the charge sheet or during the findings of enquiry. The general allegations without proof are nothing but amounts the harassment of the official/officer.
6. The petitioner is the only bread earner of the family and such like defamation will certainly discourage myself as well as other police officials in performance of duty specially in the situation facing by the police in now a days. The petitioner performance has been praised by the authorities on each and every occasion as evident from the service record but I don't know that why I have been blamed for such allegations without any proof / reasons.

Attested

[Signature]
To be true copy
Advocate

7. That the allegations in the charge sheet regarding the links with smugglers of NCP vehicle, tainted reputation and involment in anti-social activities are not governed by any cogent/solid proof and no official/officer can be entangle with such like allegations without substantive proof. Furthermore, throughout my service I have performed my duty so devotedly and bravery that no chance has been given to any authority for lingering upon my duty.
8. The petitioner is the qualified member of Elite force and elite force is deputed for duty when there is eminent danger at the hands of criminal/terrorist under the command of superior officer and question of corruption does not arise when the senior officer is present.
9. The petitioner have never been counseled on the subject of allegation by the authority and when no such allegations have ever been communicated to the petitioner in 13/14 years service in shape of ACRs/advise and has not been proved during the course of inquiry then the same will be considered as leveled against the petitioner on some ulterior motive.
10. That the petitioner belong to respectable family of Dist Bannu and has performed the duty efficiently, devotedly and honestly and never indulged in any mal practice throughout my service as evident from my service record.

In light of the above facts and circumstances, it is requested that the Order of Deputy Commandant Elite force may kindly be set-aside and I may be re-instated into service from the date of suspension for the best interest of my lengthy service and poor family.

Yours obediently

Dated: 04-07-2014

By Anjad Khan
EX: HC No. 4747 Elite force
Bannu.
P/O Goriwala Thesil & Dist Bannu.
Mobile # 03339743711

Attested

[Signature]
To be true copy
Advocate



Office of the Addl: Inspector General of Police
Elite Force Khyber Pakhtunkhwa Peshawar



No. 10820-21/EF

Dated 23/07/2014.

- To :
1. Muhammad Maqbool s/o Kamal Khan,
r/o Domail, District Bannu.
 2. Amjad Khan s/o Ghulam Dawood Khan,
r/o Ghorowala, District Bannu.

Subject: APPEAL FOR RE-INSTATEMENT IN SERVICE

Your appeal for re-instatement in service has been examined by the competent authority and rejected.

(SAJID KHAN MOHMAND)
Deputy Commandant
Elite Force, Khyber Pakhtunkhwa Peshawar

Attested

[Signature]
To be true copy
Advocate

R.K

مقام

Handwritten signature

Accepted & Accepted
Handwritten signature

Handwritten signature

10 اگست 2014ء

مذکورہ میں لکھی گئی بات کو تسلیم کیا جاتا ہے۔

کئی چیزیں چھٹی ہوئی ہیں جو کہ ہم نے تسلیم کی ہیں۔

پورا پورا طور پر تسلیم کیا گیا ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

میں نے اس بات کو تسلیم کیا ہے کہ اس میں کوئی تبدیلی نہیں ہے۔

اعتراف کرنا

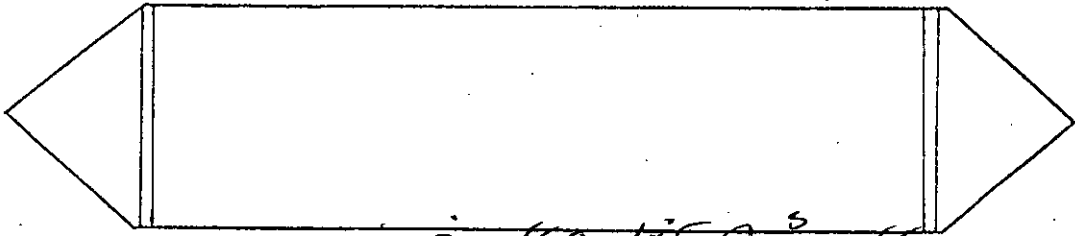
مقام
تاریخ
مقدمہ
موضوع

اعتراف

مقام

P.P.O

2014



اعتراف کرنا

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PEASHAWAR.

Service Appeal No. 1066/2014.

Amjad Khan.....(Appellant)

VERSUS

Provincial Police Officer Khyber Pakhtunkhwa and
others.....(Respondents)

Subject:- COMMENTS ON BEHALF OF
RESPONDENTS.

Respectfully Sheweth!

Preliminary Objections:-

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for joinder of un-necessary and non-joinder of necessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

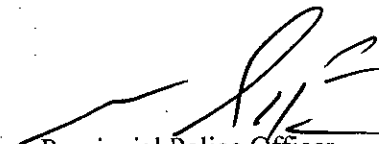
- 1) Subject to proof.
- 2) Incorrect, Regional Police Officer Bannu reported vide his office memo No. 2659-61/EC dated 08.11.2013 that appellant and others have tainted reputation and involved in anti-social activities. Copy of Regional Police Officer letter enclosed as Annexure-A. The Secret Agencies also verified the opinion of Regional Police Officer Bannu with regard to dubious character of appellant.
- 3) Incorrect, charge sheet based on the report received from Regional Police Officer Bannu was issued to appellant.
- 4) Incorrect, the reply submitted by appellant in response to charge sheet was found unsatisfactory. Furthermore, responsible officer had reported that appellant bears tainted reputation and involved in anti-social activities. This fact was further confirmed by the secrete agencies enquiry report.


- 5) Correct, to the extent of final show cause notice and reply of the appellant however the reply of appellant in response to the charge was found unsatisfactory therefore the impugned orders were passed.
- 6) Incorrect, secrete agencies conduct enquiry by collect information without exposing the source of information.
- 7) Correct
- 8) That the departmental appeal of appellant was correctly rejected and his service appeal is not sustainable on the grounds advanced by appellant.

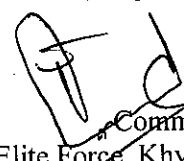
GROUND:-


- A. Incorrect, the impugn orders are just legal and were passed in accordance with law and rules on the subject.
- B. Incorrect, final show cause notice was issued to appellant that though enquiry officer has failed to collect evidence in support of the charges yet there are sufficient materials which support the charges. Appellant failed to explain the charges leveled against him further there is no illegality or irregularity on the inquiry.
- C. Incorrect, proper proceedings conducted according to law, fulfilling all the codal formalities the impugned orders are passed.
- D. Incorrect, appellant being Police officer was found involved in the above mentioned activities and the same was proved during inquiry.
- E. Incorrect, responsible officers reported that appellant was bearing tainted reputation.
- F. Incorrect, charges leveled against appellant were conveyed to him in shape of charge sheet and final show cause notice but he failed to rebut the charges.
- G. Incorrect, this Para of the ground of the appeal is irrelevant as it does not relate to the charges leveled against appellant.
- H. Incorrect, appellant being Police officer was found involved in anti-social activities therefore the impugned orders were correctly passed after fulfilling all codal formalities.
- I. Incorrect, proper charge sheet and final show cause notice were issued to appellant and he failed to rebut the charges. The impugned orders were passed after adopting all the prescribed legal and codal requirements.

- J. Incorrect, appellant was proceeded against under proper law and competent authorities have passed the impugned orders.
- K. Incorrect, impugned orders are just, legal and speaking one.
- L. Incorrect, regular enquiry was conducted and responsible officer held the appellant guilty of the charges leveled against him.
- M. Incorrect, full opportunity of defense was provided to appellant.
- N. Incorrect, appellant was correctly punished on serious charges of involvement in anti-social activities.
- It is therefore, prayed that the appeal of appellant may be dismissed with cost.


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


Addl. Inspector General of Police,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 4)


Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 2)


Deputy Commandant,
Elite Force, Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 3)

Tel: 0928-9270076
Fax: 0928-9270075

From: The Regional Police Officer,
Bannu Region, Bannu.

- To:
- 1) The Commandant Elite Force,
Khyber Pakhtunkhwa, Peshawar.
 - 2) The Assistant Inspector General of Police,
Tele-Communication, Peshawar.
 - 3) The Superintendent of Police, FRP, Bannu.

No: 2659-61/EC, dated Bannu the 08/11/2013.

Subject: POLICE OFFICIALS HAVING TAINTED REPUTATION

Memo: The following Police officials posted in Bannu District have failed to fulfill legal obligations coupled with the fact that they have got tainted reputation and allegedly involved in anti-social activities:-

1. HC Amjad No. 4747 Elite Force, Bannu.
2. HC Maqbool No. 4757 Elite Force, Bannu.
3. Constable Nazif No.3 of Tele-Communication posted in Control Room Bannu.
4. Constable Wahid Ullah No.6391/FRP (Now MT Staff Police Lines, Bannu).

It is requested that the above officials may be placed under suspension and proceeded against departmentally for their above reputation.

(SAJID ALI KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu
/2013

No. /EC, dated Bannu the

Copies to:-

1. The Provincial Police Officer, Khyber Pakhtunkhwa for favour of information please.
2. The Additional Inspector General of Police, Operation Khyber Pakhtunkhwa, Peshawar for favour of information please.
3. The District Police Officer, Bannu for information & necessary action please.

RI
MS
A/XI

Dy No 11683
dt 19/11/13
Commandant
Elite Force FRP
Peshawar

(SAJID ALI KHAN) PSP
Regional Police Officer,
Bannu Region, Bannu

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal NO.1066/2014

Amjad Khan.....**Appellant**

VERSUS

Provincial Police Officers and others.....**Respondents**

REJOINDER ON BEHALF OF THE
APPELLANT.

Respectfully Sheweth:

Preliminary Objections:

As to preliminary objections:

1. That the preliminary objections raised by the answering respondents are frivolous and having no factual and legal backing. The respondents have failed to explain as to why the appellant has no cause of action and locus standi? How the appellant has not come to the Court with clean hand? How the appeal is time barred and how he is estopped by his own conduct and what parties have not been arrayed as necessary parties and why the appeal is not maintainable. No material question of law and facts have been raised by the answering respondents therefore appellant is unable to explain.

ON FACTS:

1. That Para No.1 has been admitted as correct.
2. That reply to Para No.2 of the appeal is incorrect, hence denied. The letter annexed by the respondents has no evidently value. Neither the same has been brought in to the knowledge of the appellant nor the same has ever been shown to the appellant. Appellant is totally ignorant of the alleged letter. The alleged letter cannot be used as evidence against the appellant. So for the information of secret agencies are concerned it has no evidently value.
3. That Para No.3 of the appeal by the answering the respondents is incorrect and has not been properly replied.
4. That para No.4 of the appeal is incorrect, hence denied. The letter annexed by the respondents has no evidently value. Neither the same has been brought in to the knowledge of the appellant nor the same has ever been shown to the appellant. Appellant is totally ignorant of the alleged letter. The alleged letter cannot be used as evidence against the appellant. So for the information of secret agencies are concerned it has no evidently value.
5. That reply to Para No.5 of the appeal by the answering respondents is incorrect, hence denied. Respondents have not treated the appellant in accordance with the law, rule and policy, hence acted in violation of Article 4 of the constitution of Islamic Republic of Pakistan 1973.
6. That reply to Para No.6 of the appeal by the answering respondents is incorrect, hence denied. Appellant has been the regular employ of the respondents department and Civil servant. Disciplinary action against the Civil servant could only be initiated under the commands of the Civil Servant Act, 1973. In absence of conformity

with prescribed procedure; The action of the respondents can not be clothes validity and liable to we set aside.

7. That para No.7 of the appeal has been admitted by the answering the respondents is correct.
8. That reply to Para No.8 of the appeal by the answering respondents is incorrect, hence denied. The departmental appeal of the appellant has been rejected involution of rule 5 of the appeal rules 1986.

G R O U N D S :

A to N. That no specific and due reply has been submitted by the answering the respondents to the ground of appeal. Appellant rely on his grounds already submitted in memo of appeal. Appellant would like to seek the permission of this Honourable Tribunal to advance grounds in rebuttal if needed.

It is, therefore, most humbly prayed that the reply of the respondents may kindly be set aside and the appeal of the appellant may kindly be allowed as prayed for.



Appellant

Through



(Saqib Wazir)


Advocate Supreme Court
of Pakistan

Date: __/__/2015

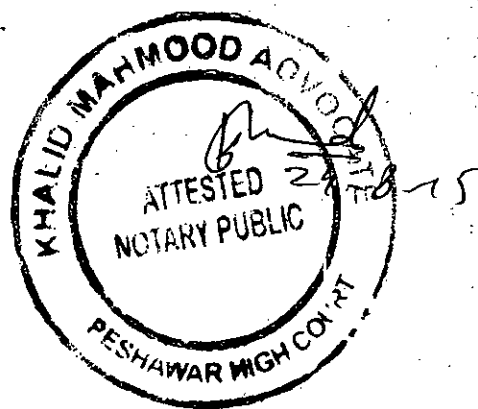
AFFIDAVIT

I, Amjad Khan No.4747 elite Force Bannu R/O of Ghoriwala Tehsil Domil District Bannu, do hereby solemnly affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by


Deponent

Saqib
(Saqib Wazir)
Advocate, Peshawar



POWER OF ATTORNEY

In the Court of Wahyab Palhtunkhera, Service Tribunal,
Peshawar

Amyed Khan Ex-Head Constable } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

R.P. O and others } Defendant
} Respondent
} Accused

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

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

SAJID AMIN ADVOCATE, HIGH COURT

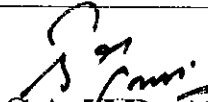
_____ my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises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

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

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

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

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


SAJID AMIN
Advocate High Court