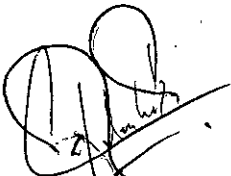


Cost of Rs. 5,000/- received in Service Appeal No. 1377/2023,

Titled Nasir Abbasi, Nasir vs. IGP, HC 50th VS. IG, ICPK & others

in the office of Superintendent Vide Order 01/02/2024

Dated: 15/07/2024.


FOR
SUPERINTENDENT
Khyber Pakhtunkhwa
Service Tribunal, Peshawar

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1377/2023

Nasir Abbas Noori

Sub Inspector, District Kohat

..... Appellant

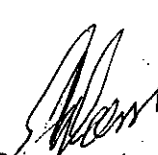
VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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S #	Description of documents	Annexure	pages
1.	Parawise comments	-	01-03
2.	Affidavit	-	04
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4.	Copy of Letter No. 269/GC dated 21.04.2021.	B	06
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Deponent

15-03-2024

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1377/2023

Nasir Abbas Noori

Sub Inspector, District Kohat

..... Appellant.

**Khyber Pakhtunkhwa
Service Tribunal**

VERSUS

Diary No. 11769

Dated 15-03-2024

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

PARAWISE COMMENTS BY RESPONDENTS.

Respectfully Sheweth:-

Reply to the appeal filed by Nasir Abbas Noori Sub Inspector on behalf of the respondents is submitted under:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honorable Tribunal with clean hands.
- vii. That the appeal is liable to be dismissed in limine.

Facts:-

1. Correct to the extent that the appellant was enrolled as constable in the year 2001, however, it is incorrect that he served the department with devotion and dedication.
2. Incorrect, the appellant on his own turn was designated as PASI and he was promoted to the rank of Sub Inspector not as a result of extra ordinary performance but it was a routine matter.
3. This para is correct to the extent that the appellant was awarded adverse remarks from period 01.01.2019 to 17.01.2019 and 17.01.2019 to 09.10.2019, however, it was not a reason of shocking to the appellant because he derived such remarks due to his own conduct. (Copy of ACR and Letter No. 269/GC dated 21.04.2021 as annexure A & B).
4. Incorrect, para No. 4 of the draft appeal submitted by appellant is misleading and misconceived. The appellant has never been kept in dark because the competent authority has clearly directed that the remarks be conveyed to the appellant as adverse. The appellant has tried to cover period of limitation by such lame excuses but the excuse put forth in para No. 4 of the appeal is unconvincing.

- Pr 2
5. That legally, the appellant was required to file appeal in the month of September 2022, but the appellant failed to move appeal within the limitation which amounts to unnecessary delay and thus the appellant is legally barred to file the instant appeal at such a belated stage.
 6. This para is legal, hence no comments.


Grounds:-


- A. Incorrect, the competent authority directed to convey the remarks as adverse to the appellant and compliance of the order was accordingly made.
- B. Incorrect, the competent authority was having sufficient material against the appellant and thus accordingly he was awarded adverse remarks.
- C. Incorrect, competent authority is legally not bound to disclose source of information.
- D. That competent authority much before awarding the adverse remarks had advised the appellant on so many occasions but he failed to improve himself.
- E. Incorrect, as submitted above, the competent authority was not obliged to disclose the source of information while removal from service of the appellant is shape of recommendation was made for making the appellant high alert, either to mend himself or be ready for removal from service.
- F. Incorrect, the competent authority was not legally required to explain each and every fact. ACR is a brief description of an official and writing details or each point is not required. Hence, the ACR in its present form is legal and needs no interference
- G. Incorrect, it may be true that father or the appellant might upon call of his duty had scarified his life but his son (the appellant) is not proving his worth and involved himself in illegal activities and thus his official performance is not satisfactory.
- H. Incorrect, the appellant has already lowered his position and status due to his own acts. Blaming ACR by the appellant that due to the adverse remarks his position was lowered is not justified.
- I. Incorrect, that earlier, the appellant did not raise such objection before the competent authority. Hence, at this stage non service of the ACR and obtaining his forged signature on copy of the ACR is neither convincing nor appropriate to raise such objection. Moreover, delay in moving instant appeal is due to the negligence attitude of the appellant. This para is infact effort of the appellant to ever limitation period and justify his request regarding condonation of delay in lodging the instant appeal.
- J. Incorrect, the impugned ACR is legally and factually sustainable, hence it needs no interference and requires to be upheld in the larger interest of law, justice and fair play.


- K. Incorrect, the adverse remarks were served upon the appellant in time but he was not interested to furnish his defence in time, hence due to the conduct of the appellant, its service was shown to be delayed.
- L. Incorrect, the adverse remarks regarding the appellant are neither biased, nor malafide, hence it deserves to remain intact and operative against the appellant.
- M. Incorrect, the adverse remarks against the appellant are quite in accordance with the instructions already circulated by the Government regarding the PER / ACR. Hence, it does not require to be expunged.
- N. Incorrect, on a number of occasions, due counseling was made with the appellant but the appellant turned deaf ears to the repeated counseling and warnings.
- O. Incorrect, as submitted above, prior counseling was made by the competent authority with the appellant.
- P. This para pertains to record of the Honorable Service Tribunal, however, suffice it to say that, every case has its own merits and the case mentioned in the para is likely to contain distinct merits, hence, decision of case is not applicable on the instant appeal.
- Q. Incorrect, under the law / rules no enquiry or personal hearing is needed prior to awarding adverse remarks to a defaulter officer / official.
- R. The respondents seek leave to raise additional grounds at the time of hearing.

Prayer:-

It is therefore, humbly prayed that the instant appeal being time barred and without any substance may graciously be dismissed while the adverse remarks for the period from 01.01.2019 to 17.01.2019 and 17.01.2019 to 09.10.2019 being lawful, fair and transparent may be upheld in the great law, justice.


 District Police Officer,
 Kohat
 (Respondent No. 3)
(FARHAN KHAN) PSP (QPM)


 Regional Police Officer,
 Kohat
 (Respondent No. 2)
(SHER AKBER) PSP, S.St


 DIG / Legal, CPO
 For Inspector General of Police,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)

P-4

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1377/2023

Nasir Abbas Noori

Sub Inspector, District Kohat

..... Appellant

VERSUS

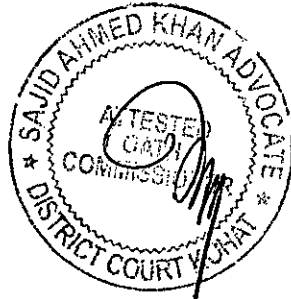
Inspector General of Police,
Khyber Pakhtunkhwa & others


..... Respondents

AFFIDAVIT

I, Farhan Khan, District Police Officer, Kohat (Respondent No. 3) do hereby solemnly affirm and declare on oath that the contents of reply to the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the Honorable Tribunal.

It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense is struck off.




(FARHAN KHAN) PSP
District Police Officer,
Kohat
(Respondent No. 3)

No. 13-17

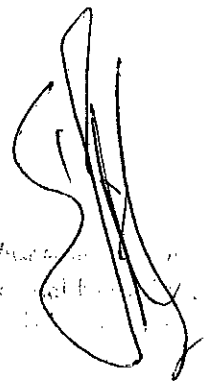
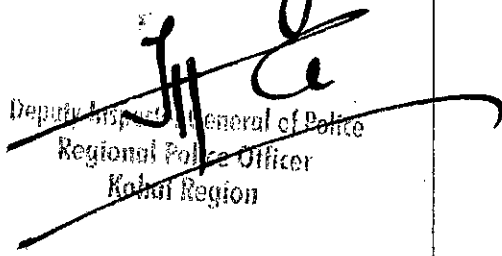
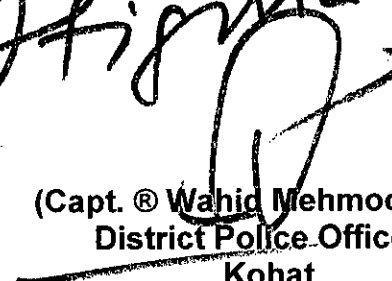

ORIGINAL

Amended A
P-5

POLICE DEPARTMENT

KHYBER PAKHTUNKHWA POLICE

Annual Confidential Report on the working of Assistant Sub-Inspectors, Sub-Inspectors and Inspectors for the Period /Year 01.01.2019 to 09.10.2019.

Name, Provincial or Range No. Rank and Grade	SI Nasir Abbas Noori
Father's Name	Farid Hussain
Where and on what duties Employed during the period	From 01.01.2019 to 17.01.2019 PS Gumbat From 17.01.2019 to 09.10.2019 I/C Shadi Khel
Class of Superintendent of Police's Report, i.e. "A" or "B"	B ✓
Is he honest?	NO ✓
Remarks by:- (1) Superintendent of Police, (2) Deputy Inspector General of Police From 1-1-2019 to 27-3-2019  28-3-2019 to 09-10-2019 Agree with comments from DPO/Kohat. Convey as adverse remarks  Deputy Inspector General of Police Regional Police Officer Kohat Region	May be removed from police being stigma on force  (Capt. @ Wahid Mehmood)PSP District Police Officer, Kohat Attested 

Amir B
P-6



OFFICE OF THE
REGIONAL POLICE OFFICER
KOHAT REGION

No. 289 /CC

Dated 24/9/2021

To:- The District Police Officer, Kohat.

Subject:- ANNUAL CONFIDENTIAL REPORTS

MEMO

In the Annual Confidential Report on the working of SI Nasir Abbas Noori for the period from 01.01.2019 to 09.10.2019 is as under:-

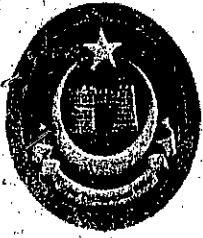
Class of the Report	"B"
Remarks of Reporting Officer	May be removed from Police being stigma on Force.
Remarks by the countersigning Officer	Agree with comments from DPO/Kohat. Convey as adverse remarks

The above remarks may please be conveyed to the officer concerned in order to remedy the defects. Representation if made should be sent no later than one month from the date of receipt of this communication.

An acknowledgement as token of the receipt of the memorandum may also be obtained from him on the attached duplicate copy of this communication and sent to this office for record on his Character Roll Dossier.

Regional Police Officer
Kohat Region

Attested
[Signature]



OFFICE OF THE
REGIONAL POLICE OFFICER
KOHAT REGION

Tele: 0922-9260112 Fax 0922-9260114

No. 454 ICC Dated Kohat the 13/7/2022

P-7

To: - The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Subject: - APPEAL AGAINST THE ADVERSE REMARKS IN ACR DATED
01.01.2019 TO 09.10.2019.

Memo:-


Enclosed please find herewith a self-explanatory letter No. 6323/SRC dated 07.07.2022, received from District Police Officer Kohat together with Appeal preferred by SI Nasir Abbas No.16/K of this Region regarding expungement of adverse remarks in his ACR period from 01.01.2019 to 09.10.2019 for favour of perusal and further process please.

Encl: (8)

No. 455 ICC,


Regional Police Officer,
Kohat Region.

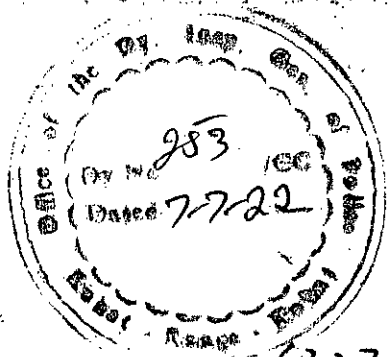
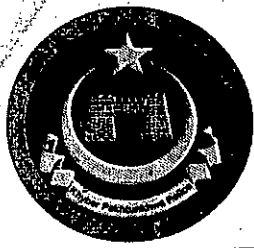
Copy to District Police Officer Kohat for information w/r to his office
mentioned above, please.

Attested



Regional Police Officer,
Kohat Region.



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**OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT**

Tel: 0922-9260116 Fax: 9260125

No. 6323 /SRC dated Kohat the 7/7 /2022.

To: The Regional Police Officer,
Kohat Region, Kohat.

Subject: **APPEAL OF SI NASIR ABBAS NOORI.**

Memo: - It is submitted that SI Nasir Abbas Noori of this district Police has preferred an appeal requesting therein for expunction of adverse remarks awarded to him for the period from 01.01.2019 to 17.01.2019 and 17.01.2019 to 19.10.2019.

His appeal along-with other connected papers, is enclosed herewith please.

cc
07/07

(MUHAMMAD SULEMAN) PSP
District Police Officer,
Kohat

P-9

Through Proper Channel

THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE
KOHAT REGION KOHAT

APPEAL AGAINST THE ADVERSE REMARKS AWARDED BY THE
THEN WORTHY DISTRICT POLICE OFFICER KOHAT VIDE
WHICH FROM PERIOD 01-01-2019 TO 17-01-2019 AND
17-01-2019 TO 09-10-2019 THE APPELLANT WAS
AWARDED GRAD-B AND ALSO REMARKED THAT HE (THE
APPELLANT) MAY BE REMOVED FROM POLICE BEING STIGMA
ON FORCE.

Respected Sir,

With great respect and veneration, the appellant may graciously be allowed to submit the following for your kind and sympathetic consideration;

Facts of the Case:

1. That the appellant joined the Police Department as constable in the year 2001.
2. That since his enrollment the appellant served the department with devotion and dedication.
3. That in the year 2009 on account of his hard work and selfless services, the appellant became/designated as PASI.
4. That the appellant continued his meritorious and selfless services and in credit he was promoted as Inspector in the year 2017.
5. That while serving smoothly and satisfactorily, the appellant was shocked to know on 29-5-2022, that the then Worthy Distt: Police Officer Kohat vide ACR No.13-7 for the period from 01-01-2019 to 17-01-2019 and 17-01-2019 to 09-10-2019 awarded him report B.
6. That in the following column, complaint against the appellant is shown as Nil while at the end it is recommended that appellant "may be removed from Police being stigma on force".

Attested
[Signature]

That for sufficient time the appellant was kept in dark regarding the impugned ACR while ultimately a fake signature of the appellant was obtained from someone else and thus it was shown as served upon the appellant.

- 8. That on 29-5-2024, when the appellant went to the officer of the DPO Kohat, official over there informed the appellant about the impugned ACR.
- 9. Upon request of the appellant copy of the impugned ACR was shown and delivered to the appellant.
- 10. That upon seeing such an ACR, the appellant was shocked and stunned.
- 11. That the appellant has a number of legal and factual reservations over the impugned ACR, which are detailed below for your kind and sympathetic consideration.

Grounds of Appeal:

- A. That the impugned ACR for the period 01-01-2019 to 09-10-2019 is not in accordance with law and ACR Rules, hence it is liable to be expunged.
- B. That the strange thing is that Worthy Competent Authority awarded the appellant Grade B which mounts to satisfactory. Hence conveying such report as adverse is not justified.
- C. That further strange factor is that the Worthy competent authority has clearly mentioned that no complaint against the appellant was received, even then the impugned ACR was sent to the appellant as an adverse ACR.
- D. That when there is no complaint against the appellant, then the question arises that on which ground worthy competent authority formed negative opinion against the appellant.
- E. That by non mentioning sources of information against the appellant, the impugned ACR has become legally defective.
- F. That according to the ACR Rules when it is intended to award negative report to subordinate official, it is mandatory that the competent authority before awarding the adverse remarks will call him and give him

Handwritten signature

P-11

counseling to mend his ways and this fact is to be mentioned in the ACR but no such practice was exercised by the Worthy Competent Authority. Hence the impugned ACR is not only irregular but also does not fulfill legal formalities.

G. That remarks on the impugned ACR are very surprising because, the competent authority has not disclosed the sources of information upon which he formed adverse opinion against the appellant, secondly, recommendation against the appellant is unwarranted because the competent authority under the law is equipped to remove Sub-Inspector from the department, hence recommendation for removal of the appellant was not required. Hence at this score alone, the impugned ACR has got no legal value and thus not sustainable in the eyes of law.

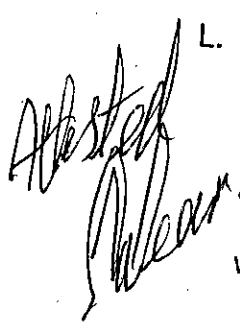
H. That in the impugned ACR, no reason for removal of the appellant from the Police Deptt: has been highlighted.

I. That the appellant is son of Fareed Hussain Shaheed who was martyred in the year 2009 in a suicide attack while serving in the Distt: Police Mardan. Being son of Shaheed, the appellant has never indulged himself in illegal or unethical activities nor kept his personal interest above the official interest. The appellant has always discharged his official functions with devotion and dedication.

J. That at present the appellant is serving in the Distt: Police Kohat Officers under whom the appellant is serving are satisfied from the official performance of the appellant.

K. That adverse opinion of the then Worthy DPO Kohat is biased, one sided, colorful, based on whims, surmises and conjectures hence it is liable to be expunged.

L. That such unjustified, unwarranted, unilateral and one sided remarks against the appellant have not only lowered status and reputation of the appellant in general public but also lowered his position in the eyes of his worthy officers.



M. That if the impugned ACR remains intact, the appellant is likely to sustain irreparable loss.

N. That the server of the impugned ACR, did not serve the ACR upon the appellant but on another official by putting forged signature of the appellant upon copy of the ACR as token of receipt but did not deliver the same to the appellant.

As submitted in Para No.8 when the appellant went to the office of the Worthy DPO Kohat on 29-5-2022 official over there informed the appellant about the impugned ACR. Hence moving the instant appeal was delayed which was not due to the fault of the appellant. It is requested that the unintentional delay may kindly be condoned.

O. That period of limitation will commence from 29-5-2022, hence appeal is within the prescribed period.

P. That the impugned ACR is neither sustainable legally nor factually, hence it deserves to be expunged.

Q. That if deemed proper the appellant may kindly be heard in person.

Prayer:

In view of the above legal and factual facts, it is humbly prayed that the impugned ACR for the period from 01-01-2019 to 09-10-2019 being suffering from legal and factual lacunas, inconsistent, not in accordance with law and rules may kindly be set aside in the interest of law and justice. The appellant and his family will pray for your long life and prosperity.

Thanking you in anticipation.

*Attested
E. Noor*

Dated: 27-06-2022.

*4/3
Forwarded.
D. M. I.
Lo let.
27/6/2022*

Yours Obediently;

[Signature]

NASIR ABBAS NOORI (Appellant)
No.16K
Sub-Inspector,
Presently Police Line Kohat.
Cell No. 0333-9669176.

[Signature]

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OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-9260116 Fax 9260125

No. 2955 /PA dated Kohat the 30/6 /2021

To: - The Regional Police Officer, Kohat

Subject: - COMMUNICATION OF ADVERSE REMARKS / ACRS

Memo: -

Kindly refer to your office Memo: No. 535/CC dated 21.06.2021.

It is submitted that one copy of the adverse remarks have been served upon the defaulter official i.e SI Nasir Abbas Noori and SI Sohail Shah while its duplicate copy is returned herewith as token of receipt for record in your office, please.

CC
01707

Attested
Abdullah

DISTRICT POLICE OFFICER,
KOHAT

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

P-14

Service Appeal No. 1377/2023
Nasir Abbas Noori
Sub Inspector, District Kohat

..... Appellant


VERSUS


Inspector General of Police,
Khyber Pakhtunkhwa & others

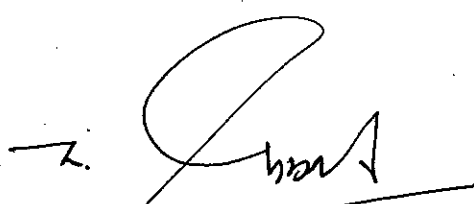
..... Respondents

AUTHORITY LETTER

Mr. Usman Ali Khan, DSP Legal Kohat is hereby authorized to file the parawise comments and any other registered documents in the Honorable Tribunal on behalf of respondents / defendant and pursue the appeal as well.


District Police Officer,
Kohat
(Respondent No. 3)
(FARHAN KHAN) PSP (QPM)


Regional Police Officer,
Kohat
(Respondent No. 2)
(SHER AKBER) PSP, S.St


DIG (Legal, CPO)
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)