

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. 1435/2014

Date of Institution ... 30.12.2014

Date of Decision ... 13.12.2017

Jamshed Raz Pasha, Ex-Constable No. 505 CTD, Police Khyber Pakhtunkhwa,
Peshawar. .. (Appellant)

VERSUS

1. Capital City Police Officer, Peshawar and 3 others. ... (Respondents)

MR. FAZAL SHAH MOMAND ... For appellant
Advocate

MR. KABIRULLAH KHATTAK,
Addl. Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD AMIN KHAN KUNDI, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on 19.09.2014 against which he filed departmental appeal on 02.10.2014 which was rejected on 09.12.2014 and thereafter, the appellant filed the present service appeal on 30.12.2014. The charge against the appellant was making of fake departmental I.D Card. In this regard a criminal case was also registered against the appellant.

ARGUMENTS.

3. The learned counsel for the appellant argued that the appellant was transferred to Directorate of C.T.D and he was not sent on deputation, therefore, the order passed by the Superintendent of Police (Headquarter) Peshawar as lending department within the meaning of Rule 9(3) of Khyber Pakhtunkhwa Police Rules, 1975 is *coram non judice*. That two parallel enquiries were conducted against the appellant which were also not permissible under the law. That the statements of the witnesses recorded by the enquiry officer did not prove the charge. That no right of cross examination was afforded to the appellant. That no right of defence was given to him. That the enquiry officer in his report opined that the matter be kept pending till the decision of the criminal case by regular court of law.

4. On the other hand the learned AAG argued that the appellant was sent on deputation to the Directorate of C.T.D. That the dismissal order was rightly passed by the competent authority i.e. the lending department. That the enquiry officer recorded the statements of the witnesses and rightly submitted his report.

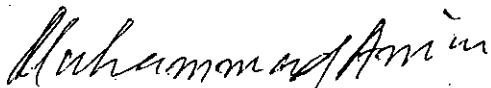
CONCLUSION.

5. The order of dismissal itself shows that the services of the appellant were lent to the C.T.D. The D.I.G, C.T.D also acknowledged this fact of borrowing the services of the appellant. But the appellant has not been able to show that he was permanently transferred to C.T.D. The objection of the appellant therefore, is not accepted regarding his permanent transfer. The proceedings are therefore, not *coram non judice*. However, the enquiry officer in his report ^{did} not give any finding _✓ regarding the charge of making fake Service Card. Rather he opined that the matter might be kept pending till the decision of court of law. The enquiry officer only opined that the appellant absented himself for 9 days, therefore, minor punishment might be imposed on him. For the above reasons, the final show cause notice as

well as the final order dismissing the appellant on the basis of the enquiry report are illegal.

6. For the above mentioned reasons the appeal is accepted and the department is directed to hold denovo proceedings against the appellant within a period of ninety days from the date of receipt of this judgment, failing which the appellant shall be reinstated in service. The issue of back benefits etc. shall be subject to the final outcome of the denovo proceedings. Parties are left to bear their own costs.

File be consigned to the record room.



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
13.12.2017

13.12.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. Advocate General alongwith Aziz Shah, H.C for respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

Muhammad Amin
MEMBER

[Signature]
CHAIRMAN

ANNOUNCED
13.12.2017

30.01.2017

Counsel for the appellant and Mr. Usman Ghani, Sr. GP alongwith Aziz Shah, H.C for respondents present. Complete enquiry file is not available. Representative of the respondents is directed to make sure availability of complete enquiry file. To come up for such record and arguments on 25.05.2017.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AMIR NAZIR)
MEMBER

25.05.2017

Appellant alongwith his counsel present. Mr. Muhammad Raziq, Head constable alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Record mentioned vide previous order sheet dated 31.01.2017 not produced by the respondents. The respondents are once again directed to produce the same positively on or before the next date of hearing. Adjourned. To come up for record and arguments on 12.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.09.2017

Appellant in person and Mr. Muhammad Jan, DDA alongwith Muhammad Raziq, H.C for the respondents present. Counsel for the appellant has gone to perform Hajj. Appellant requested for adjournment. To come up for record and arguments on 13.12.2017 before the D.B.


Member


Chairman

07.04.2016

Clerk to counsel for the appellant and Mr. Muhammad Razid, H.C alongwith Mr. Ziaullah, GP for respondents present. Due to non-availability of learned counsel for the appellant as well as learned Member (Executive) is on leave therefore, case is adjourned to 13.6.16 for arguments.


Member

13.6.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 26.9.2016.


Member


Member

26.09.2016

Counsel for the appellant and Addl. AG for respondents present. Learned Additional AG requested for adjournment to produce the certain record. To come up for arguments on 31.01.2017.


Member


Chairman

4. 16.04.2015

Appellant in person and Syed Amir Abbas, Inspector (legal) for respondent No. 3 alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 9.6.2015 before S.B.


Chairman

5. 09.06.2015

None present for appellant. Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply on 24.8.2015 before S.B.


Chairman

6 24.08.2015

Counsel for the appellant and Mr. Hayat Muhammad, Reader to DSP alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 2.12.2015.


Chairman

02.12.2015

Counsel for the appellant and Mr. Aziz Shah, Head Constable alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to paucity of time. Therefore, the case is adjourned to 7-4-2016 for arguments.


Member

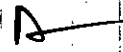

Member

Appeal No. 1435/14.
Mr. Jamshed Razpashia.

2

21.01.2015


Counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 23.02.2015.


Member

3

23.2.2014

Counsel for the appellant present and submitted that the appellant while serving as Constable in the CTD, he was implicated in a criminal case. He was suspended from service on 29.4.2014 and charge sheet was issued to him. The enquiry was conducted against the appellant and he was recommended for minor penalty of stoppage of one increment, but vide impugned order dated 19.09.2014 he was dismissed from service. He further submitted that the impugned order is harsh and not maintainable in the eyes of law and that no chance of personal hearing afforded to the appellant

*Appellant deposited
Security for hearing*


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

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1435/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30.12.2014	<p>The appeal of Mr. Jamshed Raz Pasha presented today by Mr. Fazal Shah Muhmand Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">  REGISTRAR </p> <p style="text-align: center;"> Mr. Jamshed Raz Pasha is entrusted to be placed on preliminary hearing to be put up to the person </p> <p style="text-align: right;">  CHAIRMAN </p>
2		

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1435 /2014

Jamshed Raz Pasha Ex. Constable..... Appellant

VERSUS

CCPO and Others..... Respondents


I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-5
2.	Copy of FIR	A	6
3.	Copy of suspension order, show cause notice & reply	B, C & D	7-9
4.	Copy of charge sheet & reply	E & F	10-12
5.	Copy of inquiry report, Final show cause notice & reply	G, H & I	13-15
6.	Copy of show cause notice & reply	J & K	16-17
7.	Copy of Order dated 19-09-2014	L	18
8.	Copy of departmental appeal and Order dated 09-12-2014	M & N	19-22
9.	Wakalat Nama		23

Dated:-30-12-2014


Appellant

Through


Fazal Shah Mohmand
Advocate Peshawar.

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar
Cell# 0301 8804841

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1435 /2014

Jamshed Raz Pasha Ex Constable No 505, CTD Police KPK Peshawar.Appellant

S.V.P. Pasha
Date Filed
No. 1481
30/12/2014

V E R S U S

1. Capital City Police Officer Peshawar.
2. Superintendent of Police, Head Quarters Peshawar.
3. Deputy Inspector General of Police, CTD, KPK Peshawar.
4. Provincial Police Officer KPK Peshawar.....Respondents

APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 09-12-2014 PASSED BY RESPONDENT NO 1 WHERE BY DEPARTMENTAL APPEAL OF THE APELLANT FILED AGAINST THE ORDER DATED 19-09-2014 OF RESPONDENT NO 2 HAS BEEN REJECTED/FILED.

PRAYER:-

On acceptance of this appeal the impugned order dated 09-12-2014 of respondent No 1 and Order dated 19-09-2014 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department in the year 2007 remained posted to various Police Stations and since then he performed his duties with honesty and full devotion.
2. That the appellant was transferred from CCPO Peshawar to CID/CTD in the year 2013, and during his posting in CTD a false case FIR No 1439 dated 29-04-2014 U/Ss 419/420/468/471 PPC in Police Station West Cantt. Was

S.V.P. Pasha
30/12/14

registered against him. **(Copy of FIR is enclosed as Annexure A).**

3. That the appellant was suspended on 29-04-2014 and was issued show cause notice by respondent No 3 on 02-05-2014, which the appellant replied in detail explaining the true circumstances. **(Copies of suspension order, show cause notice and reply are enclosed as Annexure B, C & D).**
4. That thereafter charge sheet was issued to the appellant, by respondent No 3 on 15-05-2014, which the appellant also replied. **(Copy of charge sheet and reply are enclosed as Annexure E & F).**
5. That an illegal inquiry was conducted, where after final show cause notice was issued to the appellant by respondent No 3 on 06-06-2014, which too was replied. **(Copy of inquiry report, final show cause notice & reply are enclosed as Annexure G, H & I).**
6. That there after another final show cause notice was issued to the appellant by respondent No 2 on 04-08-2014, which was also replied. **(Copy of final show cause notice and reply are enclosed as Annexure J & K).**
7. That finally the appellant was dismissed from service under Police Rules 1975, by respondent No 2 vide order dated 19-09-2014. **(Copy of the order is enclosed as Annexure L).**
8. That the appellant filed Departmental appeal before respondent No 1 on 02-10-2014, which was rejected/filed vide order dated 09-12-2014. **(Copy of departmental appeal and order dated 09-12-2014 are enclosed as Annexure M & N).**
9. That the impugned order dated 09-12-2014 of respondent No 1 and order dated 19-09-2014 of respondent No 2 are against the law, facts and principles of justice on grounds inter alia as follows:-

GRUNDS:-

- A.** That the impugned orders are illegal and void abinitio.
- B.** That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and the appellant did nothing that amounts to misconduct.
- C.** That no proper inquiry was conducted to find out the true facts and circumstances, and no one was examined during inquiry.
- D.** That the impugned order is not a speaking order and thus not tenable in the eyes of law.
- E.** That there is misapplication of law as the law mentioned in the order of respondent No 1 is not applicable in case of the appellant.
- F.** That the appellant was not provided the opportunity of personal hearing and the impugned order is defective as well.
- G.** That no evidence was collected during inquiry in support of the allegations nor the allegations were proved during inquiry and the action as such is not maintainable in the eyes of law.
- H.** That even the salaries of the period from suspension till dismissal were not paid to the appellant.
- I.** That the appellant has about 7 years of service with unblemished service record and is jobless since his illegal dismissal from service.

J. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.


Appellant

Dated:-30-12-2014

Through


Fazal Shah Mohmand
Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2014

Jamshed Raz Pasha Ex Constable.....Appellant

VERSUS

CCPO & others.....Respondents

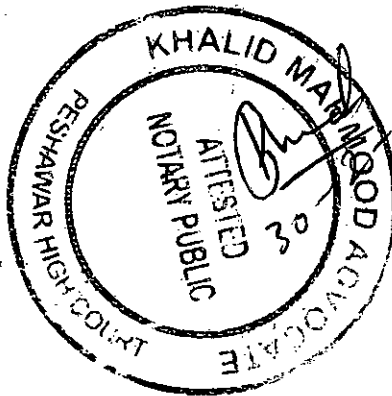
AFFIDAVIT

I, Jamshed Raz Pasha Ex Constable No 505, CTD Police KPK Peshawar, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by



Fazal Shah Mohmand
Advocate Peshawar


DEPONENT

ORDER

Constable Jamshed Pasha No. 505 of CTD posted to intelligence staff Police Station Faqirabad was found to have made a fake Departmental Identity Card from an unauthorized source on his own without obtaining proper permission. He is hereby placed under suspension and closed to CTD HQ Peshawar with immediate effect.

The departmental proceedings are hereby ordered to be initiated against him.

No. 7562-5

Date 29/04/2014

[Signature]
29/4/14
Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa
Peshawar

No. 7562-5 OSI dated Peshawar the 29/04/2014.

Copy to:-

1. SSP/Operations, CTD Peshawar.
2. SSP/Admn: CTD Peshawar.
3. DSP/HQ CTD Peshawar.
4. OASI, EC, FMC CTD HQ Peshawar.

Attested
[Signature]
Adv

No. 7572/2014


Dated 2/05/2014.

SHOW CAUSE NOTICE

Where as you Constable Jamshed Pasha No. 505 of CTD and was posted to Intelligence Staff Faqirabad. It came to the notice of the undersigned that you made a fake departmental Identity Card for yourself from an unauthorized source at your own without obtaining proper permission from the Department.

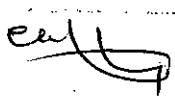
During the course of preliminary enquiry the information was found correct vide Case FIR No. 149, dated 29/04/2014 u/s 419/420/468/471-PPC Police Station West Cantt: Peshawar was registered against you. This shows liability on your part and renders you for departmental proceedings under Police Rules 1975.

Now, I Muhammad Alam Shinwari, PSP, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa Peshawar hereby call upon you to Show Cause within 07-days of the receipt of this notice as to why departmental action should not be taken against you.



(Muhammad Alam Shinwari) PSP
Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa
Peshawar

FC Jamsehd Pashah No.505
CTD HQ Peshawar.

Attested


Adv

میں نے قلم غیور کا نام لیا، ہوا کر رہا


محمد امین شاہ

ڈیڑھ ماہ قبل ڈیڑھ الیکٹرک سرجیکل صبا DCT سپریم کورٹ کو لکھا

عمران ایجوکیشنل ٹرانس

ضربہ عام انڈیا سے

کہ میں خلاف جو الزامات لگائے گئے ہیں وہ مکمل طور پر بے بنیاد

اور فحاشی کے فائل میں جی ہاں تک ابتدائی انٹرویو مکمل ہو چکے ہیں اس

بار میں مجھے کوئی حکم نہیں دیا گیا ہے اس لیے میں یہ کہتا ہوں

میں نے کہیں غلطی نہیں کی ہے گا درج ذیل بیانات میں خود اس کی

کو ملازم ہوں تو مجھے ایسی کسی قسم کے کارروائیوں کی ضرورت نہیں ہے

اس لیے دکاندار سے کارروائی نہیں ہو تو اس سے میرا کوئی تعلق نہیں

میں نے خلاف FIR دیا ہے اور وہ بھی مکمل طور پر

بے بنیاد ہے اور یہ سب سے پہلے اس وجہ سے میری فیملی

پر ہوا ہے

یہاں استدعا ہے کہ اس کے خلاف کارروائی نہ کی جائے

میرے لئے اس کا کوئی اثر نہیں ہے

عبدالرزاق صاحب

DCT KPK

[Signature]

Attested
[Signature]
Adv.


No. 7836 /PA

Dated: 15/05/2014


CHARGE SHEET.

I, Muhammad Alam Shinwari (PSP) DIG, CTD, Khyber Pakhtunkhwa, Peshawar as Competent Authority hereby charge you Constable Jamseed Raz Pasha No. 505 of CTD HQ Peshawar as per the enclosed Statement of Allegations.

- 1) By reasons of the Statement of Allegations, you appear to be guilty of misconduct/negligence under Police Rules 1975.
- 2) You are therefore, required to submit your written defence within (07) seven days of the receipt of this Charge Sheet to the Enquiry Committee as the case may be.
- 3) Your written defense, if any should reach the Enquiry Committee within the specified period failing which it shall be presumed that you have no defense to put up and in that case Ex-Parte action shall follow against you.
- 4) Intimate whether you desire to be heard in person.
- 5) Statement of Allegations is enclosed.


MUHAMMAD ALAM SHINWARI (PSP)
Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa,
Peshawar.

Attested


Adi


DISCIPLINARY ACTION.

I, Muhammad Alam Shinwari, DIG, CTD, Khyber Pakhtunkhwa, Peshawar, being competent authority, am of the opinion that Constable Jamsheed Raz Pasha No. 505 of DFU Staff Peshawar has rendered himself liable to be proceeded against, as he has committed the following acts/omissions under Police Rules 1975.

STATEMENT OF ALLEGATIONS.

That he while posted in DFU Staff Peshawar, have committed the following irregularities:-

- i. He made a fake departmental identity card for himself at his own risk without obtaining proper permission from the Competent Authority. Due to which a proper criminal case vide FIR No. 149 dated 29/04/2014 u/s 419/420/468/471-PPC was registered against him at Police Station West Cantt: Peshawar.
 - ii. He was suspended and closed to CTD HQ Peshawar, but he remained absent from duty with effect from 06/05/2014 vide Daily Diary No. 03.
2. For the purpose of scrutinizing the conduct of the said accused official with the reference of the above allegations, an Enquiry Committee of the following officers is hereby constituted to probe in to the matter :-
- i. Mr. Sohail Khalid SSP/Operations CTD, Peshawar.
 - ii. Mr. Zafar Hayat, DSP/HQ CTD Peshawar.
3. The Enquiry Committee shall, in accordance with the provision of the Police Rules provide reasonable opportunity of hearing to the accused officials, record his statement and submit findings within stipulate period of the receipt of this order recommendation as to punishment or propose an appropriate action against the accused Officer.
4. The accused Official shall join the proceedings on the date, time and place fixed by the Enquiry Committee.


MUHAMMAD ALAM SHINWARI (PSP)
Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa,
Peshawar.

No. 7837-8/PA, Dated Peshawar, the 15/5/2014.

Copy to the:-

- 1) Mr. Sohail Khalid, SSP/Operations CTD and Mr. Zaffar Hayat DSP/HQ CTD Peshawar (Members of the Enquiry Committee) for initiating proceeding against the accused under Police Rules, 1975.
- 2) Constable Jamsheed Raz Pasha No. 505 of CTD HQ Peshawar to appear before the Enquiry Committee on the date, time and place fixed for the purpose of the enquiry proceedings.

Attested


Adv,

جواب چارج شیٹ

ممنون:

جناب عالی!

گزارش ہے کہ میں نے شوکار نوٹس کے جواب میں جو بیان دیا وہی میرا بیان ہے مزید پرانی ہوں کہ چونکہ میرے خلاف الزام اور مقدمہ چھوٹا ہے بدیں وجہ عدالت مجاز نے مجھے ضمانت پر رہا کیا ہے اور کیس کا فیصلہ بھی عدالت حضور ہی کرے گا جس کے بعد ہی معاملے کی اصلیت سامنے آئے گی لہذا گزارش ہے کہ میرے خلاف محکمانہ کارروائی مطابق روٹز تا فیصلہ عدالت مجاز ملتوی رکھا جائے۔

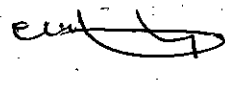
غیر حاضری کے الزام کے جواب میں عرض ہے کہ میں بیماری والدہ کے سلسلے میں مصروف تھا اور میرے علاوہ گھر میں کوئی دیگر فرد اسکی خدمت گزار کیلئے نہ تھا اور میں نے مجاز افسر کو اس بابت بتایا تھا۔ لہذا استدعا ہے کہ مجھے محکمانہ کارروائی سے بری کرنے کا حکم صادر فرمایا جاوے۔



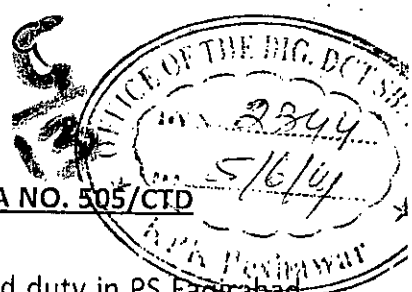
جمشید راز پاشا

کنشیل نمبر 505 سی آئی ڈی پشاور

Affected



ENQUIRY REPORT IN RESPECT OF CONSTABLE JAMSHED PASHA NO. 505/CTD



Constable Jamshed Pasha No. 505 of CTD was deputed on a field duty in PS Faqirabad. He made a fake service card for himself at his own risk rather than to submit a written application before competent authorities for obtaining service card from CTD Hqrs. Due to which a proper criminal case was registered against him vide FIR No. 149 dated 29/04/2013 u/s 419/420/468/471-PPC PS West Cantt. Annexed as annexure (A).

The defaulter constable was also suspended vide OB No. 64 dated 29/04/2014 and was issued show cause notice and charge sheet vide No. 7837-8/PA dated 15/05/2014. The undersigned along with DSP HQrs was entrusted to conduct proper departmental enquiry in the matter. Copy of charge sheet and suspension order are Annexed as annexure (B,C).

During the course of enquiry the statements of the investigation officers Jan Muhammad SI PS Gharbi, Noman Khan s/o Nasrullah Peshawar Cantt (Stamp maker in cantt Peshawar Saddar), Hakeem Khan OASI CTD and statement of defaulter Constable Jamshed Pasha have been recorded and attached as Annex "D, E, F, G".

FINDINGS:

From the available record and statements, the committee came to the conclusion that, :

1. Constable Jamshed Pasha made a fake departmental Service Card for himself rather than to submit a written application before competent authorities for obtaining service card from CTD Hqrs. In this regard a criminal case has already been registered and is under trail in court of Law, therefore at this stage the enquiry regarding the fake service card may be kept pending till the decision of the court.
2. It was his foremost duty to inform his high-up's about one Nauman s/o Nasrullah (stamp maker) who is involved in making fake Service Cards. Moreover, he also absented himself for 09 days from his lawful duty w.e.f. 06/05/2014 to 15/05/2014. Keeping in view of his this act of misconduct and undisciplined attitude, he is therefore recommended for punishment i.e. stoppage of one increment without cumulative effect.


(ZAFAR HAYAT KHAN)

DSP Hqrs: CTD

29/5


(SOHAIL KHALID)

SSP Ops: CTD

Attested


ADV

FINAL SHOW CAUSE NOTICE.

14

Whereas, You Constable Jasmhid Pasha No. 505 while posted in DFU/CTD in Police Station Faqirabad Peshawar have been found guilty in the formal departmental enquiry of having the following allegations on your part that:-

- i. You made a fake departmental identity card for yourself at your own risk without obtaining proper permission from the Competent Authority. Due to which a proper criminal case vide FIR No. 149 dated 29/04/2014 u/s 419/420/468/471-PPC was registered against you at Police Station West Cantt: Peshawar.
- ii. You was suspended and closed to CTD HQ Peshawar, but you remained absent from duty with effect from 06/05/2014 vide Daily Diary No. 03.
- iii. The Enquiry Committee held you responsible and proved guilty in the above both the allegations.

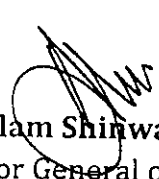
Hence, it has been proposed to impose a suitable punishment on you, as envisaged under Police Disciplinary Rules, 1975.

Therefore, I, **Muhammad Alam Shinwari**, Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar hereby call upon you Constable Jamshid Pasha No. 505 to show cause within 07 days as to why the proposed punishment should not be awarded to you.

If your reply is not received within the stipulated period, it will be presumed that you have no defence to make and ex-parte decision will be passed in the case.

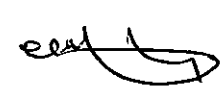
You are also allowed to appear before the undersigned for personal hearing if you want.

A copy of the finding of Enquiry Committee is enclosed.


(Muhammad Alam Shinwari)PSP
Deputy Inspector General of Police,
CTD Khyber Pakhtunkhwa,
Peshawar.

No 83/11 /PA,

Dated 06/06/2014.

Attested
 Adh

بخدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس، سی ٹی ڈی، خیبر پختونخواہ پشاور

عنوان: جواب فائل شوکار نوٹس۔

جناب عالی:

گزارش ہے کہ میرے خلاف جو الزامات لگائے گئے ہیں وہ سراسر غلط اور بے بنیاد ہیں میں نے کوئی غلط اور غیر قانونی کام نہیں کیا ہے۔ اس بابت مفصل جواب میں نے چارج شیٹ مجاریہ کے جواب میں دیا تھا وہی میرا بیان ہے جو کہ سچ اور حقیقت پر مبنی ہے۔ (نقل لف ہے)

لہذا گزارش ہے کہ مجھے معاف فرما کر الزامات سے بری کرنے کا حکم صادر فرمایا جائے اور حکمانہ کاروائی فائل کی

جاوے۔

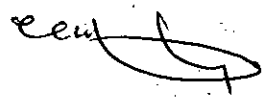


12-06-14

کانشیل۔ جمشید راز پاشا نمبر 505

متعینہ: سی ٹی ڈی، ہیڈ کوارٹر پشاور۔

Attested


Adis

5/16

FINAL SHOW CAUSE NOTICE

I Superintendent of Police, Headquarters, Capital City Police Peshawar, as competent authority, under the provision of Police Disciplinary Rules 1975 do hereby serve upon you, Constable Jamshed Raz Pasha No.505 the final show cause notice.

The Enquiry Officer, Mr. Muhammad Alam Shinwari, after completion of enquiry proceedings, has recommended for major punishment for you Constable Jamshed Raz Pasha No.505 as the charges/allegations leveled against you in the charge sheet/statement of allegations.

And whereas the undersigned is satisfied that you Constable Jamshed Raz Pasha No.505 deserve the punishment in the light of the above said enquiry reports.

I, competent authority, have decided to impose upon you the penalty of minor/major punishment under Police Disciplinary Rules 1975 for absence willfully performing duty away from place of posting.

1. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
2. If no reply to this notice is received within 7 days of its receipt, in normal course of circumstances, it shall, be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.
3. The copy of the finding of the enquiry officer is enclosed.

SUPERINTENDENT OF POLICE,
HEADQUARTERS, PESHAWAR

No. 3014 /PA, SP/HQrs: dated Peshawar the 4/8 /2014.

Copy to official concerned

Received
25/8/14

Attested

کمزور ہے۔ کیا سرسبز زندگی ہوگی یہی کارڈ ہے کہ

نماز اجوابی غرضوں کو

17

فیہا نہ رہتا ہے جو قبل از سرگرمی کا سیدھا منبر کا زون ہے
D/G
C/D
لغرض

ذہن نہ رہتا ہے جو خلاف علم الرافہ عطا اور بنا دھری
میں کسی عطا اور لوگوں کا رزق ہے بنا جو کہ سے خود اس کے
ملازمہ ہ تو جیے جو کہ بنائے ہی ضرورت ہے کیا جاں تک دکا ہمارے
اسکی بارہی بانڈ ہے تو اس سے ہر اولیٰ واسطہ نہیں ہے اسی طرح
مذاہف درجہ ہ Fil یہ صفائی کے فاقہ اور بد منگاہ بننے
جس کو وہ سے میں غنیمت ہے دعا ہو سعادتوں

لیکن اس کے کہ میں حالت ہے جو عاقبت ہا کر تھا کارروائی
رنگ صحرانہ ہے

28-8-2014

محمد رازہ کے عزیز

DCT KPK

[Signature]

Attested

[Signature]

ORDER

This office order relates to the disposal of formal departmental enquiry against Constable Jamshed Raz Pasha No.505/DCT on the following allegations/charges;

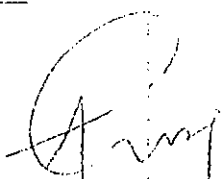
"that he while posted at CTD, Peshawar was involved in criminal case vide FIR No.149 dated 29.04.2014 u/s 419/420/468/471-PPC PS West Cantt."

The departmental enquiry against above named official was conducted by Mr. Sohail Khalid SSP/Operation CTD & Mr. Zafar Hayat DSP CTD Peshawar. They conducted the enquiry proceedings & submitted report/finding that the enquiry may be kept pending till the final decision of the court with the punishment of stoppage of 01-year increment without cumulative effect.

On receiving of the finding of E.Os, the DIG CTD has issued final show cause notice & heard in person while his plea found un-satisfactory. Then the DIG CTD Peshawar has forwarded a letter to W/IGP KPK wherein the above named alleged official has recommended for major punishment. The letter & photo copies of the departmental enquiry against FC Jamshed Raz Pasha No.505 was received in this office vide CPO letter No.3865/E-IV dated 20.06.2014 for further proceeding.

On the receipt of the case file (enquiry), the delinquent official was again issued final show cause notice and served upon him, which he received & replied. His explanation found un-satisfactory. Therefore, the opinion of DSP Legal was sought. He opined that codal formalities required for departmental enquiry have been fulfilled, hence enquiry in hand may be disposed off u/s 9(3) of Police Rule-1975 in light of enquiry findings of borrowing authority i.e. DIG/CTD KPK Peshawar.

In the light of recommendations of competent authority (DIG CTD) & other material available on record, the undersigned came to conclusion that the alleged official found guilty of this misconduct. Therefore, he is hereby dismissed from service under Police & Disciplinary Rules-1975 with immediate effect.


SUPERINTENDENT OF POLICE
HEADQUARTERS, PESHAWAR

OB. NO. 2886 / Dated 19 / 9 / 2014

No. 3670-77 /PA/SP/dated Peshawar the 18 / 9 / 2014

Copy of above is forwarded for information & n/action to:

Attested
cul
✓ Inspector General of Police Khyber Pakhtunkhwa Peshawar w/o to
✓ CCPO, DIG, CTD, DSP HQs, P.O, OASI, CRC, FMC

BEFORE THE CAPITAL CITY POLICE OFFICER, PESHAWAR

M
19

DEPARTMENTAL APPEAL AGAINST THE
ORDER ISSUED VIDE OB NO. 2886 DATED
19/09/2014 OF THE SP HEADQUARTER,
PESHAWAR, WHEREBY THE APPELLANT
HAS BEEN DISMISSED FROM SERVICE.

Respectfully Sheweth:

1. That the appellant joined police Department as Constable in the year 2007 in District Police Peshawar, and remained posted to various Police Stations and always performed his duty honestly and full devotion.
2. That the appellant was transferred from CCPO Peshawar to CID/DCT in 2013, and a case F.I.R No. 1439 dated 29/04/2014 u/s 419/420/468/471 PPC in Police Station West Cant was registered against him. (Copy of F.I.R is attached as annexure "A").
3. That the appellant was suspended on 29/04/2014 and was issued Show Cause Notice by the D.I.G/CID Khyber Pakhtunkhwa, Peshawar, on 02/05/2014, which was replied in detail explaining the true facts. (Copy of suspension order, show cause notice and his reply are attached as annexure "B", "C" & "D").
4. That thereafter Charge Sheet was issued to the appellant which too was replied. (Copy of charge sheet and reply are annexed as "E" & "F").


Attested

 Ad

- 5. That an illegal inquiry was conducted, where after final Show Cause Notice was issued to the appellant. (Copy of inquiry report, final show cause notice and reply are annexed "G", "H" and "I").
- 6. That thereafter final show cause notice was issued by the S.P. Headquarter, Peshawar, on 04/08/2014, which was also replied. (Copy of show cause notice and reply are annexed "J" and "K").
- 7. That finally the appellant was awarded the Major Punishment of dismissal from service by the S.P. Headquarter issued order vide OB No. 2886 dated 19/09/2014 under Police Rules 1975. (Copy of order dated 18/09/2014 is annexed "L").
- 8. That the impugned order dated 18/09/2014 is against the law, facts and principles of justice on grounds inter-alia as follows:

GROUND:

- A. That the impugned order is illegal and void ab-initio.
- B. That the order is illegal as the procedure and rules have badly been violated by the authority.
- C. That no proper inquiry has been conducted and no witness was examined during inquiry.

Attested

 Adv

- D. That mandatory provisions of law have been violated by the department and the appellant was not afforded the opportunity of personal hearing.
- E. That that the allegations were ever proved during inquiry, and no evidence was collected in its support.
- F. That the action has been taken under the law which is not applicable in case appellant.
- G. That appellant has about 7 years of service with unblemished service record.

It is therefore, requested that on acceptance of this appeal, the impugned order dated 19/09/2014 of the S.P. Headquarter, Peshawar, may kindly be set aside and the appellant may graciously be reinstated in service with all back benefits.

Dated: 02/10/2014



Jamshed Raz Pasha
 Ex-Constable No. 505
 D.C.T, K.P.K,
 Peshawar.
 Cell No. 0300-9106575

Attested



ORDER

N
/ 22

This order will dispose off departmental appeal of ex-constable **Jamsheed Raz Pasha No.505/CTD** who was awarded the major punishment of **Dismissal** from service vide OB No. 2886 dated 19.9.2014 under PR 1975 by SP/HQ Peshawar.

The allegations levelled against him were that he while posted at CTD Peshawar was dealt with departmentally on the charge of making fake service card on his own risk. A criminal case vide FIR No. 149 dated 29.4.2014 u/s 419/420/468/471 PPC PS West Cantt: was also registered against him. He also absented himself from duty w.e.f 6.5.2014 to 15.5.2014.

Proper departmental proceedings were initiated against him and Sohail Khalid SSP-Ops: CTD and Zafar Hayat Khan DSP-HQRs: CTD were appointed as the E.Os. On completion the departmental proceedings the DIG/CTD, Khyber Pakhtunkhwa, Peshawar sent the case to IGP-Khyber Pakhtunkhwa and recommended him for award of major punishment. The IGP-Khyber Pakhtunkhwa referred the same to CCPO Peshawar vide his office No. 3865/E-IV dated 20.6.2014 for necessary action. On receipt of the enquiry file the same was sent to SP-HQRs: Peshawar for further necessary action vide Dy: No. 8632/Record Branch dated 23.6.2014. The SP-HQRs: issued him FSCN to which he replied. The same was found unsatisfactory as such the Competent Authority awarded him the above major punishment.

The relevant record has been perused along with his explanation and also heard him in person in OR on 5/12/2014. During personal hearing he could not defend himself. He is guilty of the allegations. Retention of such official in Police Force is not justified. The order of SP-HQRs: is upheld and his appeal for re-instatement in service is rejected/filed.

**CAPITAL CITY POLICE OFFICER,
PESHAWAR.**

No. 2323-30/PA dated Peshawar the 9.12.2014.

Copies for inf and n/a to the:-

- 1/ Inspector General of Police, Khyber Pakhtunkhwa, Peshawar w/r to his office letter No. 3865/E-IV dated 20.6.2014.
- 2/ DIG/CTD, Khyber Pakhtunkhwa, Peshawar w/r his office letter No. 8559/PA, dated 18.6.2014.
- 3/ SP/HQ Peshawar
- 4/ PO/OSI/CRC/FMC along-with enquiry papers.
- 5/ Official concerned.

Attested

Handwritten initials and signature.

Received
15-12-14

POWER OF ATTORNEY

In the Court of Service Tribunal KPK Peshawar

Fazal Shah Raaz Pasha ex Constable

For
Plaintiff
Appellant ✓
Petitioner
Complainant

CCPD and others **VERSUS**

Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No-----of-----2014

Fixed for-----

I/We the undersigned, do hereby nominate and appoint

FAZAL SHAH MOHMAND, ADVOCATE, HIGH COURT, PESHAWAR *Appl. Mali Khan*

My/our true and lawful attorney, for me/our in my/our name and on my/our behalf to appear at....Peshawar..... to appear, plead, act and answer in the above Court or any appellate 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, compromise 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 sub-poena and to apply for and get issued and arrest, attachment or other execution, warrants or order and to conduct any proceedings 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 powers and authorities here by conferred on the Advocate whenever 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 do 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 here by 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 under take at time of calling of the case by the Court my/our 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 favor shall be the right of the Counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS, where of I/We have signed at...Peshawar.....
This...30th.....day of...December.....in the year...2014.....
Executant/Executants...Fazal Shah Raaz Pasha.....
Accepted subject to the terms regarding fee...[Signature].....

Attested and Accepted by:

[Signature]
Fazal Shah Mohmand
Advocate High Court

OFFICE:- Cantonment Plaza, Flat, 3/B Khyber Bazar Peshawar. Cell # 0301 8804841

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1435/2014.

Jamsheed Raz Pasha Ex-Constable No. 505 CTD Police, Peshawar,Appellant.

VERSUS.

1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, Headquarters, Peshawar.
3. Deputy Inspector General of Police CTD, KPK, Peshawar.
4. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondents.

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS.

1. That the appeal is badly time barred.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to this court with clean hands.
4. That the appellant has no cause of action.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from Honorable Tribunal.
7. That the appellant has got no locus standi and cause of action to file the instant appeal.

REPLY ON BEHALF OF RESPONDENTS

FACTS:-

- 1- Para No. 1 pertains to record. Hence needs no comments.
- 2- Para No. 2 is correct to the extent that the appellant while posted at CTD Peshawar was dealt with departmentally on the charge of making fake service card on his own risk. A criminal case vide FIR No. 149 dated 29.04.2014 u/s 419/420/468/471 PPC PS West Cantt: was also registered against him.
- 3- Para No. 3 is correct to the extent that the appellant while posted at CTD PS Faqirabad was found to have made a fake service card from an unauthorized source on his own risk without obtaining permission. In this regard, he was issued a show cause notice and was also suspended vide order No. 7562-5 dated 29.04.2014.
- 4- Para No. 4 is correct to the extent that charge sheet and summary of allegations was issued to him which he also replied but his reply was found unsatisfactory.


- 5- Para No. 5 is incorrect. In fact a proper departmental enquiry was conducted against him. The charges leveled against him were stand proved. Hence was awarded major punishment of dismissal from service vide OB No. 2886 dated 19.09.2014 under Police Rules 1975 by SP/HQrs., Peshawar.
- 6- Para No. 6 is correct to the extent that after conducting a proper departmental enquiry, the charges leveled against him were stand proved, hence a final show cause notice was issued to him which he also replied but he failed to defend himself.
- 7- Para No. 7 is correct. No comments.
- 8- Para No. 8 is correct to the extent that the appellant preferred a departmental appeal but after due consideration, his appeal was filed/rejected because the charges leveled against him were stand proved.
- 9- Para No. 9 is incorrect and denied. The orders passed by the competent authority are legal, per the law and liable to be upheld.

GROUND:-


- A- Incorrect. The punishment orders are legal and per the law/rules.
- B- Incorrect. The appellant committed gross misconduct of making fake service card from an unauthorized source on his own risk, without taking proper permission. A criminal case vide FIR No. 149 dated 29.04.2014 u/s 419/420/468/471 PPC PS West Cantt: was registered against him. He also absented himself from duty w.e.f 06.05.2014 to 15.05.2014.
- C- Incorrect. A proper departmental enquiry was conducted against appellant to dig out the real facts. Wherein the appellant was proved guilty of committing gross misconduct.
- D- Incorrect. The punishment order is passed by the competent authority after fulfilling all coal formalities, hence liable to be upheld.
- E- Incorrect. The appellant was treated as per the rules of Police Disciplinary Rules 1975.
- F- Incorrect. The appellant was provided ample opportunity to defend himself. He was also heard in person in Orderly Room on 05.12.2014.
- G- Incorrect. The allegations leveled against him were stand proved.
- H- Incorrect. The appellant remained absent w.e.f 06.05.2014 to 15.05.2014.
- I- Para is for the appellant to prove.
- J- Respondents also seek permission of this Honorable Service Tribunal to raise additional grounds at the time of arguments.

PRAYER:-

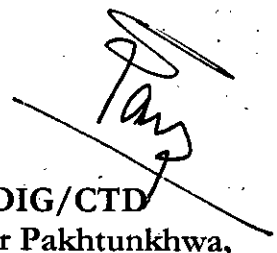
It is therefore most humbly prayed that in light of above facts, submissions, the appeal of the appellant is devoid of merits and legal footing may kindly be dismissed.



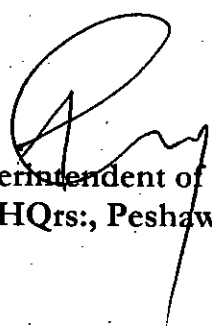
Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.



Capital City Police Officer,
Peshawar.



DIG/CTD
Khyber Pakhtunkhwa,
Peshawar.



Superintendent of Police,
HQrs., Peshawar.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Service Appeal No.1435/2014.

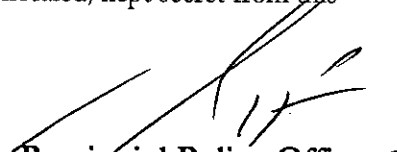
Jamsheed Raz Pasha Ex-Constable No. 505 CTD Police, Peshawar,Appellant.


VERSUS.

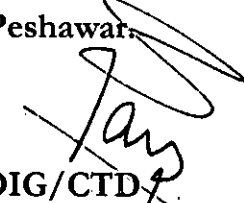
1. Capital City Police Officer, Peshawar.
2. Superintendent of Police, Headquarters, Peshawar.
3. Deputy Inspector General of Police CTD, KPK, Peshawar.
4. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar..... Respondents.

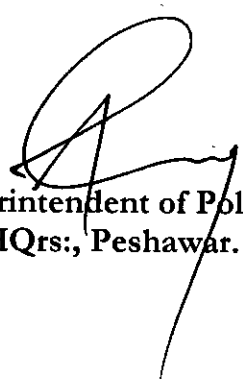
AFFIDAVIT.

We respondents 1 to 4 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal.


Provincial Police Officer,
Khyber Pakhtunkhwa,
Peshawar.


Capital City Police Officer,
Peshawar.


DIG/CTD,
Khyber Pakhtunkhwa,
Peshawar.


Superintendent of Police,
HQrs., Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2745 /ST

Dated. 26 /12/2017


To

The Capital City Police Officer,
Government of Khyber Pahtunkhwa,
Peshawar.

Subject: JUDGEMENT/ ORDER IN APPEAL NO. 1435/14, MR.JAMSHED RAZ PASHA.

I am directed to forward herewith a certified copy of Judgment/order dated 13/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

