

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1377/2014

Date of institution ... 06.11.2014

Date of judgment ... 30.08.2018

Najibullah S/o Mehrullah, R/o Sharbi Khel,
Ex-Cook Constable No. 142 PP, Shahbaz Khel,
P.S Pezu District Lakki Marwat.

... (Appellant)

VERSUS

1. District Police Officer, Lakki Marwat and two others.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OB NO. 289, DATED 09.05.2014, OF RESPONDENT NO. 1 WHEREBY APPELLANT WAS DISMISSED FROM SERVICE WITH EFFECT FROM 01.10.2013 RETROSPECTIVELY OR OFFICE ORDER NO./EC, DATED 10.06.2014 OF RESPONDENT NO. 2 WHEREBY DEPARTMENTAL APPEAL OF APPELLANT DATED 21.05.2014 WAS REJECTED FOR NO LEGAL REASON.

Mr. Arbab Saif-ul-Kamal, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Learned

counsel for the appellants present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents also present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was serving in Police Department as Cook-Constable. He was dismissed from service vide impugned order dated 09.05.2014 by the competent authority on the allegation that on 01.10.2013 local police P.S Pezu recovered Mst. Asia Bibi

M. Amin
30.8.2018

wife of Muhammad Nawaz resident of Lahore (Punjab) and Mst. Shehnaz Bibi wife of Allah Dita resident of district Sheikhpura (Punjab) from his residential house and Muhammad Ramazan, Nazirullah and Samiullah were also arrested on the spot he (Najibullah) and Mehrullah made their ^{escape good m} scapegoat from the spot and a criminal case vide FIR No. 320 dated 01.10.2013 under sections 371-A/371-B PPC/13-AO PS Pezu was registered and the appellant also remained absent from duty from 01.10.2013 to 14.01.2014. The appellant filed departmental appeal on 21.05.2014 which was rejected on 10.06.2014. The appellant also filed mercy/revision petition before the Inspector General of Police on 26.08.2014 which was rejected on 07.10.2014 hence, the present service appeal on 06.11.2014.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Police Department as Cook-Constable. It was further contended that the appellant was dismissed from service on the aforesaid allegation vide impugned order dated 09.05.2014 retrospectively from the date of absence i.e 01.10.2013 therefore, the impugned order is void. It was further contended that the appellant was acquitted by the competent court from the charge leveled against him vide judgment dated 02.10.2017 under sections 371-A/371-B - 13AO. It was further contended that neither charge sheet and statement of allegation was served upon the appellant nor proper inquiry was conducted. It was further contended that initially inquiry was conducted by the S.I Gul Janan DPO office Lakki Marwat and submitted his report on 04.12.2013 but the competent authority directed de-novo inquiry in the case on the ground that proper process was not followed in the case. It was further contended that the said order of de-novo inquiry was passed by the competent authority on

*M. Amin
30.8.2018*

13.02.2014 as revealed from the inquiry report dated 04.12.2013. It was further contended that when the competent authority directed to de-novo inquiry against the appellant than the competent authority was required to serve fresh charge sheet and statement of allegation or to give opportunity to the appellant for reply to the charge sheet earlier framed against the appellant but no opportunity of reply to the charge sheet was afforded to the appellant. It was further contended that when the competent authority was not satisfied from the first inquiry conducted against the appellant than the competent authority should have mentioned a reason for de-novo inquiry but the competent authority has not mentioned any plausible reason for conducting de-novo inquiry therefore, the impugned order is illegal and liable to be set-aside and prayed for acceptance of appeal.

M. Hanif
30.8.2018

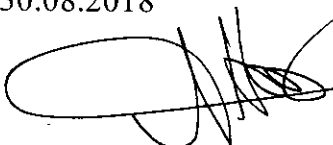
5. On the other hand, learned Additional Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department as Cook-Constable, later on he was dismissed from service on the ground that he was involved in moral turpitude offence and a criminal case was also registered against the appellant. It was further contended that all codal formalities were fulfilled and the appellant was also provided opportunity of cross examination and defence therefore, the appellant was rightly dismissed from service and prayed for dismissal of appeal.

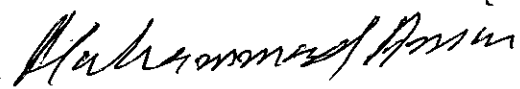
6. Perusal of the record reveals that the appellant was serving in Police Department as Cook-Constable. The record further reveals that after framing of charge and statement of allegation inquiry was conducted against the appellant but the competent authority was not satisfied from the aforesaid inquiry and directed to conduct de-novo inquiry but the competent authority has not mentioned any plausible reason under *rule m rule d* Section ~~14~~ Sub-Section 6 of Khyber

Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 for conducting de-novo inquiry. Moreover, there is nothing on the record to show that before a de-novo inquiry the appellant was provided opportunity to submit reply of charge sheet and statement of allegation. Furthermore, there is nothing on the record that after conducting de-novo inquiry copy of the de-novo inquiry was issued to the appellant nor the record indicate that after conducting a de-novo inquiry a final show-cause notice was issued to the appellant. Moreover, the appellant was also acquitted from the charge leveled against him by the competent court in criminal case and the impugned order was also passed retrospectively therefore, the impugned order is also void. As such we are constrained to partially accept the appeal, set-aside the impugned order and reinstate the appellant in service. However, respondent-department is directed to conduct de-novo inquiry in accordance with rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

30.08.2018


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.07.2018

Due to sickness of learned Member (Executive), further proceedings could not be conducted. Adjourned. To come up for arguments on 27.08.2018 before D.B.




Member

27.08.2018

Appellant with counsel and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Gul Muhammad, S.I (legal) for the respondents present. Seeks adjournment. Adjourned. To come up for arguments on 30.08.2018 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

30.08.2018


Learned counsel for the appellant and Mr. Kabirullah Khattak, Addition AG for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we are constrained to partially accept the appeal, set-aside the impugned order and reinstate the appellant in service. However, respondent-department is directed to conduct de-novo inquiry in accordance with rules within a period of 90 days from the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
30.08.2018



(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



(AHMAD HASSAN)
MEMBER

27.11.2017

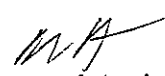
Clerk to counsel for the appellant and Addl: AG alongwith Mr. Javed Iqbal, Inspector for respondents present. Due to general strike of the Bar arguments could not be heard. Adjourned. To come up for arguments on 31.01.2018 before D.B.

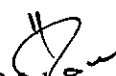

Member


Chairman

31.01.2018

Learned counsel for the appellant and Mr. Usman Ghani, learned District Attorney alongwith Javid Iqbal Inspector for respondents present. Learned counsel for the appellant submitted copy of judgment dated 02.10.2017 passed by Additional Sessions Judge Lakki Marwat in Session case No.47/2013 and seeks adjournment. Copy of judgment is placed on file. Adjourned. To come up for arguments on 03.04.2018 before D.B.



(Muhammad Amin Kundi)
MEMBER


(Muhammad Hamid Mughal)
MEMBER

03.04.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel is not available. Adjourn. To come up for arguments on 07.06.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.06.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney alongwith Javid Iqbal Inspector present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned by way of last chance. To come up for arguments on 20.07.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

19.12.2016

Counsel for the appellant and Mr. Farmanullah, Inspector alongwith Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.04.2017 before D.B.


(ASHFAQUE TAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

19.04.2017


Counsel for the appellant present. Mr. Muhammad Jalal, Constable alongwith Mr. Ziaullah, Government Pleader for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 03.08.2017 before D.B.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

3/8/2017

Counsel for the appellant and Mr. Bakht Zameen Inspector (Legal) alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 27/11/2017 before DB.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

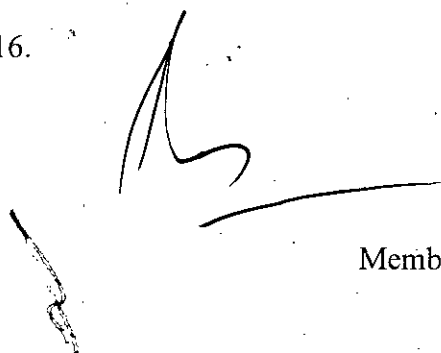
25.11.2015

Counsel for the appellant and Mr. Muhammad Saleem, Constable alongwith Asst. AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to 9/5/16 for arguments.


Member

09.05.2016

Clerk to counsel for the appellant and Mr. Murad Ali, DSP, Naurang alongwith Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment due to General Strike of the Bar. To come up for arguments on 10.08.2016.


Member

10.08.2016

Agent to counsel for the appellant and Farman Khan, Inspector alongwith Ziaullah, GP for respondents present. Authority letter submitted. Arguments could not be heard due to general strike of the bar. To come up for arguments on 19-12-16.


Member


Member

10/8/16

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

SA NO. 1377/2014

Najeebullah Khan

VS

DISTRICT POLICE OFFICER, LAKKI MARWAT.

AUTHORITY LETTER.

Inspector Farman Khan, District Lakki Marwat is hereby authorized to appear the Honorable Service Tribunal Peshawar on behalf of the undersigned in the above cited case.

He is also authorized to submit and sign all documents pertaining to the present subject through the advocate General Peshawar.



District Police Officer,
Lakki Marwat.

3.
Appeal No. 1377/2014
Mr. Najeebullah.

24.02.2015

Appellant Deposited
Security & Process Fee



Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned order dated 09.05.2014, vide which the major penalty of Dismissal from service w.e.f the dated of absence i.e. 01.10.2013 has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal on 21.05.2014, which was rejected vide order dated 10.06.2014, hence the instant appeal on 06.11.2014.

Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 14.04.2015.

4 14.04.2015

Appellant with counsel and Mr. Muhammad Sharif, S.I (legal) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 3.7.2015 before S.B.


Chairman

5 03.07.2015

Counsel for the appellant and Mr. Muhammad Sharif, S.I (legal) alongwith Addl: A.G for respondents present. Written statement submitted. The appeal is assigned to D.B for rejoinder and final hearing for 25.11.2015.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. **1377/2014**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	03.12.2014	<p>The appeal of Mr. Najeebullah resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	19.1.2015	<p>This case is entrusted to _____ for preliminary hearing to be put up there on _____</p> <p>Due to general strike of the Bar, counsel for the appellant is not available. Notice be issued to appellant and his counsel. Case to come up for preliminary hearing on 24.2.2015.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p>

Noted
[Signature]


The appeal of Mr. Najibullah son of Mehrullah Ex-Cook Constable No.142 PP, PS Pezu Distt. Lakki Marwat received today i.e. on 06.11.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days:

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- In the memo of appeal many places have been left blank which may be filled in.
- 3- Copy of reply to the charge sheet mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Copy of final show cause notice mentioned in para-7 of the memo of appeal is not attached with the appeal which may be placed on it.
- 5- Copy of rejection order of mercy petition mentioned in 10 of the memo of appeal is not attached with the appeal which may be placed on it.

No. 1592 /S.T.

Dt. 12-11 /2014.

Counsel for


**REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.**

Mr. Saadullah Khan Marwat Adv. Pesh.

*obj. No. 1 & 2 are complied with. As for as
obj. No. 3 & 5 are concerned, appellant submitted appli-
cation to the authority for supply of the same but
with no response.*

Resubmitted for onward action of

Kay

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 1377/2014

Najeeb Ullah

Versus

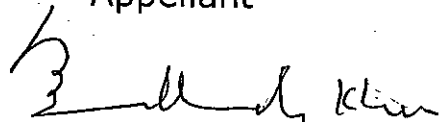
Director & another

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-3
2.	FIR, 01.10.2013	"A"	4
3.	Charge Sheet/Allegations, 07.10.2014	"B"	5-6
4.	Reply to Charge Sheet,	"C"	7
5.	Final Show Cause Notice,	"D"	8
6.	Reply to Notice,	"E"	9
7.	Dismissal Order, 09.05.2014	"F"	10
8.	Departmental Appeal, 21.05.2014	"G"	11
9.	Rejection Order, 10.06.2014	"H"	12
10.	Revision/Mercy Petition, 26.08.2014	"I"	13
11.	Rejection/File Order, 07.10.2014	"J"	14
12.	Application for Copies, 30.10.2014	"K"	15

Appellant

Through



Dated: 6.11.2014

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 1377/2014

Najibullah S/o Mehrullah, R/o Sharbi Khel,
Ex - Cook Constable No. 142 PP, Shahbaz
Khel, P.S Pezu District Lakki Marwat Appellant

Versus

1. District Police Officer, Lakki Marwat.
2. Deputy Inspector General of Police,
Bannu Range, Bannu.
3. Provincial Police Officer, KP, Peshawar. Respondents

EWJ Peshawar
1339
06-11-2014

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT,
1974 AGAINST OB NO. 289, DATED 09.05.2014,
OF R. NO. 1 WHEREBY APPELLANT WAS
DISMISSED FROM SERVICE WITH EFFECT FROM
01.010.2013 RETROSPECTIVELY OR OFFICE
ORDER NO. / EC, DATED 10.06.2014 OR R. NO.
2 WHEREBY DEPARTMENTAL APPEAL OF
APPELLANT DATED 21.05.2014 WAS REJECTED
FRO NO LEGAL REASON.**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 01.06.2010, appellant was appointed as Cook Constable in the force and since then he was performing his official duties to the best of the ability and to the entire satisfaction of superiors.
2. That on 01.10.2013, the local police raided the house of Bahadar Khan to recover Punjabi Ladies brought for selling / buying / Zina. Mst Aasia Bibi & Mst Shenaz Bibi were recovered and accused Muhammad Ramzan, Nazir Ullah and Samiullah were arrested on the spot while others decamped from the spot as per the version of FIR. Report u/s 371-A/371-B PPC r/w 13AO was lodged against the accused. (Copy as annex "A")

6/11/14

re-submitted to-dsp
and filed;

3/12/14

3. That formal enquiry was conducted by the Police which was not admissible under the Law & as a result of the same, appellant was served with charge sheet and statement of allegations on 07.10.2014. Statement of allegation requires worth perusal wherein no specific allegation was leveled against appellant but others.

The said charge sheet was replied, denying the allegations, when allegations are denied then the matter requires full probe. (Copies as annex "B" & "C")

4. That as per the impugned order, enquiry into the matter was initiated by the department but appellant was never associated with the same. What was the result of 1st Inquiry Report, the same was not disclosed by the authority in the impugned order.
5. That de novo enquiry was ordered by the authority as per the impugned order but the same was also not conducted as per the mandate of Law.
6. That after conclusion of so called enquiry proceedings, report was submitted for onward action to the authority but here it would be not out of place to mention that the enquiry proceedings were not provided to appellant with the charge sheet.
7. That appellant was as per the impugned order served with final show cause notice which was replied and denied the allegations as above. (Copies as annex "D" & "E")
8. That on 09.05.2014, on the aforesaid allegations and subsequent allegations of absence from duty since 01.10.2013 to 16.01.2014, appellant was dismissed from service under Police Rules, 1975 with effect from 01.10.2013 retrospectively. (Copy as annex "F")
9. That on 21.05.2014, appellant submitted departmental appeal before R. No. 2 for reinstatement in service, but the same was filed on 10.06.2014 without support of any reason. (Copy as annex "G" & "H")
10. That on 26.08.2014, appellant submitted Revision/Mercy Petition before R. No. 3 which was filed on 07.10.2014. (Copies as annex "I" & "J")

11. That appellant submitted application before R. No. 1 for supply of the documents mentioned therein but invain. (Copy as annex "K").

Hence this Appeal, inter alia, on the following grounds:-

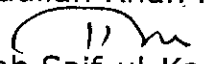
GROUND S:

- a. That appellant was appointed basically as Cook Constable & used to Cook for the employees.
- b. That the local Police raided the house of Bahadar Khan who happens to be paternal uncle of appellant, so he is not responsible for his activities, if any.
- c. That as per the version of R. No. 1, formal enquiry was conducted which was not admissible under the law, and then regular one but result of this enquiry was not known. Denove Inquiry was made but this was also not per the mandate of law, so the impugned orders are of no legal effect.
- d. That the charge sheet and statement of allegations nowhere contain allegation of absence from duty, so subsequent thought cannot make basis for punishment.
- e. That the impugned orders of the respondents are made with retrospective effect, so no administrative could be operated retrospectively.
- f. That trial in the matter is under process, so its result be awaited. The impugned orders are based on malafide as per the record.

It is, therefore, most humbly prayed that on acceptance of the Appeal, order dated 09.05.2014, 10.06.2014 and 07.10.2014 of respondents be set aside and appellant be reinstated in service with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Through


Appellant
Saadullah Khan Marwat


Arbab Saif-ul-Kamal


Miss Rubina Naz
Advocates,

Dated: 6 .11.2014

ابتدائی اطلاع رپورٹ

A

1

کوئٹہ
افانیل م ابتدائی اطلاع نسبت خرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 454 مجموعہ ضابطہ نو جداری
مشق سکیم روست

شمارہ پیسٹرو
نمبر 320

تاریخ درجہ مقدمہ وقتاً 8.05 بجے وقتاً 10/13 دست 59

1	تاریخ وقت رپورٹ	10/13 - وقت 9.10 بجے - جاگیرگی 10/13 - وقت 10.30 بجے
2	نام دسکورت اطلاع دہندہ دستنیت	محمد نور خان SHO مکان پیسٹرو
3	نمبر کیفیت خرم (مدہ دفعہ) حال اگر کچھ دیگر ہو	371-A / 371-B PPC 13 A 0
4	جائے وقوعہ نام سلسلہ مکان سے اور سمت	خانہ نماں ملزم سیموہ شری ضلع صاحبہ شرقی شمالی قبیلہ
5	نام دسکورت ملزم	قریب 7/16 کلومیٹر از خانہ
6	کارروائی جو تفتیش کے متعلق لکھی اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرو	برسیدگی سرآمد ملزم صاحبہ
7	تفصیلاً سے روانگی کی تاریخ و وقت	بہ - پیل ڈاگ

ابتدائی اطلاع نیچے درج کرد ایک کمرہ میں سرآمد بجانب محمد نور خان SHO لغرض خانگی مقدم بہت کیٹین اورنگزیب غرہ 6 موصول ہو کر ذیل پتہ محمد نور خان پیسٹرو - تجربے اطلاع دی - کہ مسیان مجیب اللہ ولد میر اللہ بی میر اللہ ولد خان پیر درخان سکائے شری ضلع و مثل خان ولد عبدالحمید خان سکنا سندھ ضلع بلکہ یہ داؤد خان ولد محمد خان سکنا (پیر ضلع جنیوں نے پنجاب سے رو عورتیں زنا حرام فروخت کرنے لائی یوٹی مکان از ان مجیب اللہ میں موجود ہیں ، اطلاع مقدمہ حال کمرہ میں محمد نور خان پیسٹرو مکان ، ریلوے فورس ، صاحبہ بی بی خان ANI انچارج پولیس شہیدان ضلع محمد نور خان فوراً مکان از ان مجیب اللہ کمرہ ایدہ کمرہ قمار کا ملزمان ، برآمدگی مدعی یوٹی عورتیں پیر صاحبہ صاحبہ جیاتی یوٹی ، ملزمان مقدمہ کمرہ بال پولیس کی آمد سے تیل گھر سے نکل کے تھے - البتہ مدعی لکھی عورتیں صحت ماہ از ان مجیب اللہ میں موجود باقی - جنیوں نے دریافت پر 1 آئیہ جی بی زوجه محمد نور خان لبر قریب 20 سال سکنا رانا ناؤن لیپور بی شیناز بی بی زوجہ اللہ و تم سکنا محکمہ قمار خان ضلع شیخوپورہ بتلائی - اور ہم پولیس یا رہی کو دیکھتے ہیں دونوں عورتوں نے خدا کا واسطہ دیکھا کہ وہی درندوں سے ہماری جان محفوظ اذہ مزید دوران خانہ تلاش کو وقت نکلتا اس از ان مجیب اللہ میں چھپے ہوئے ہیں کہاں جو مسلم تھے کو فالو میں کر کے غیر مسلم کیا - دریافت پر 1 محمد نور خان ولد افتر سکنا بجائی ضلع پنہال ضلع DIK جیکے قبیلہ سے شدتی بارہ پور ریپٹر بلکہ ہر موم 3 عدد کارتوس پر بارہ پور بی نذیر اللہ ولد مجیب اللہ سکنا شری ضلع رائل BN 260 تھا 3 سیموہ اللہ ولد میر اللہ سکنا شری ضلع جو سکے بہ رائل 7777 باؤٹ گزار تھا - اور اس طرح فریڈ خان تلاش سے پتہ چلا کہ وہی سے ایک ریپٹر بارہ پور 1558 بندوب کی نام بارہ پور 232 لنگو کا ایجیٹ کارتوس برآمد کر کے ثابت اسلحہ ایجوٹیٹ ملزمان دو دیگر ملزمان سے براہ کوئی نہیں یا پرفٹیشن کیا - ملزمان محمد نور خان نذیر اللہ ، ایجنٹ کو قتل جرم بالہ یا کرسب ضابطہ کمرہ قمار کے کارڈ کمرہ قمار سے ایجنٹ جادی کی جبکہ ملزمان مجیب اللہ ، میر اللہ ، مثل خان ، داؤد خان نذیر اللہ ، بالہ کی کمرہ قمار میں درپیش رکھی جا کر لغرض خانگی مقدم بہت کیٹین اورنگزیب 613 ارسال تھا ہے ، مقدمہ دہم رجسٹر کر کے 1854

شمارہ سے تفتیش کرانی کی - میں محمد نور خان جو مقدمہ پولیس اللہ SHO Peizo 10/13

B 5
7-10-13
CHARGE SHEET.

WHEREAS I am satisfied that a formal enquiry as contemplated in the KPK, Police Rules, 1975 is necessary and expedient.

AND WHEREAS, I am of the view that the allegations if established would call for a major penalty as defined in Rules 4(b) of the aforesaid Rule.

NOW, THEREFORE, as required in 6-1 (a) of the aforesaid Rule I, Abdur Rashid Khan District Police Officer, Lakki Marwat as competent authority, hereby charge you Cook Constable Najibullah No. 142 posted at PP Shehbaz khel, the allegations, attached with this Charge Sheet.

AND I direct you further under rules 6-1 (b) of the aforesaid Rules to put in written defence within 07 days of the receipt of this Charge Sheet as to whether major or minor punishment as defined in Rules 4-1(a)-(b) should not be awarded to you. Also state at the same time whether you desire to be heard in person.

In case, your reply is not received within prescribed period without sufficient reason, it would be presumed that you have nothing to say in your defence and the undersigned would be at liberty to take ex-parte action straight away against you.



District Police Officer,
Lakki Marwat.

No. 7165-661 dated Lakki Marwat, the 7 10 /2013.

Copy to:-

1. SI Gul Janan Legal Branch is appointed as Enquiry Officer for initiating proceedings against the accused official under the Rules.
2. Cook Const: Najibullah No. 142 PP Shehbaz Khel is directed to appear before the enquiry officer committee on due date, time and place fixed by the enquiry officer for the purpose of enquiry proceedings and also to put a written statement defence with in a period of 07 days.


District Police Officer,
Lakki Marwat.

Attested


SUMMARY OF ALLEGATIONS.

Cook Const: Najibullah No. 142 posted at PP Shehbaz Khel, was found to indulge in misconduct on the following allegations:-

That on 01.10.2013 the local police of PS Pezu on information recovered the following ladies:-

1. Mst: Asia Bibi w/o Mohammad Nawaz r/o Rana Town Lahore (Punjab).
2. Mst: Shehnaz Bibi w/o Allah Dita r/o Thata Kargran Distt: Sheikhpura (Punjab) from his residential house situated at village Sharbi Khel.

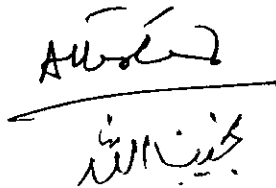
Besides, Mohammad Ramzan s/o Akhter r/o Pai Khel Panyala Distt: D.I.Khan alongwith 12-bore Repeater without No. and 3 cartridges was also apprehended on the spot. Moreover, accused Nazirullah and Samiullah Ss/o Mehrullah r/o Sharbi Khel were also found with rifle 7-MM No. BN-260 and 7-MM rifle alongwith Repeater 12-bore respectively, the recovered arms/ ammunition were without license/ permit. Both the accused were apprehended on the spot, and a case vide FIR No. 320 dt: 01.10.2013 u/s 371-A/371-B PPC/ 13-AO PS Pezu was registered.

WHEREAS, he and accused Mehrullah s/o Khan Bahader made their escape good from the spot.

AND WHEREAS, the material and un impeachable evidence placed before me are sufficient to substantiate the charge of misconduct against him, which has brought a bad name to entire District Police.

This all speaks of gross misconduct on his part and is liable to be punished under Police Rules 1975.


District Police Officer,
Lakki Marwat.



بموازہ مشمولہ فائل شوکار نوٹس مجاز جناب DPO صاحب لگی مروت: عرض ہوں کہ میں نے قبل از چارج شیت سمری آف الیکشن پر جو جواب دیا ہے اور انکوٹری آفیسر کو جو بیان دیا ہے وہ مفصل اور قابل ملاحظہ ہے۔

روبرو جو انکوٹری ہوئی ہے اس میں مجھے جھڑپے کا موقع نہیں دیا گیا ہے اور 512 جیسے کاروائی تھی۔

میرے خلاف درج مقدمہ 320 مورخہ 01-10-2013 جرم 371A-371B/13A0 تھانہ پیزو جو کہ عدالت میں زیر

سماعت ہے اور مقدمہ ہذا میرے خلاف ناجائز بنیادوں پر درج ہوا تھا جس کا حقیقت کے ساتھ دور کا واسطہ تک نہیں۔

جناب والائتا کہ فیصلہ عدالت انکوٹری پنڈنگ رکھا جاوے۔

بطابق پولیس رولز دوران انکوٹری الزام علیہ کو گواہ کے بیان کا نقل دیا جائے گا جو مجھے نہیں دیا گیا ہے۔ جو میرا بنیادی حق بنتا ہے حق

پیش، دیگر قانونی حقوق بے قصوری کی محفوظ رکھتا ہوں۔

میں بالکل بے قصور ہوں صحت جرم سے انکاری ہوں میری دے قصور کو مد نظر رکھ کر میرے اہل و عیال اور میری غربت کی خاطر مجھے

عاقب فرمایا جاوے۔ عنایت پروری ہوگی۔

العارض

سائل کوک کانسٹیبل نجیب اللہ نمبر 142 متعینہ پولیس لائن لگی مردتے

نجیب اللہ

سائل

نجیب اللہ

F 10 9-5-14

ORDER

My this order will dispose off the enquiry proceedings against Cook Constable Najeebullah No.142 while posted at Police Post Shebaz Khel charged with the following:-

1. That on 01.10.2013 the local Police PS Pezu recovered the following ladies from his residential accommodation situated at village Sharbi khel:-

- Mst: Asia Bibi w/o Muhammad Nawaz r/o Rana Town Lahore (Punjab).
- Mst: Shehnaz Bibi w/o Allah Dita r/o Thata Kargran Distt: Sheikhupura(Punjab).

2. That he remained absent from duty from 01.10.2013 to 16.01.2014(Total 108 days) without getting prior leave from competent authority.

Besides, Muhammad Ramzan s/o Akhter r/o Pai Khel Panyala Distt: D.I.Khan alongwith 12-bore repeater without Number and 03 cartridges was also apprehended on the spot. Moreover, Accused Nazirullah and Samiullah sons of Mehrullah r/o Sharbi Khel were also found with rifle 7-MM No. BN-260 and 7-MM rifle alongwith repeater 12 bore respectively, the recovered arms/ammunition were without license/permit. Both the accused were apprehended on the spot and a case vides FIR No.320 dated 01.10.2013 u/s 371-A/371-B PPC/13AO PS Pezu was registered, Whereas, hc(Najeebullah)and accused Mehrullah son of Khan Bahader made their escape good from the spot.

3. Cook Constable Najeebullah No. 142 was issued charge sheet based upon summary of allegation and SI Legal Gul Janan Khan was appointed as enquiry officer. E/O conducted enquiry into the matter and submitted his findings which revealed that the accused official was Po in the above mentioned criminal case; hence ex-parte action might be initiated against the accused officer. The then DPO, Lakki Marwat issued F.S.C.N to the delinquent officials and served the said notice through DFC PS Pezu and later the accused official submitted his reply to the F.S.C.N and also appeared in the orderly room and subsequently **Denove** enquiry into the matter was ordered. **Mr. Liyqat Ali DSP/Naurang conducted Denove enquiry** and submitted his findings report and held him guilty of the moral turpitude and of absence from duty w.e.f 01.10.2013 to 16.01.2014(108 days) during the period he spent as proclaimed offender in criminal case referred above.

4. All this, amount to gross misconduct on his part and liable to be punished under the Police Rules, 1975.

Keeping in view of the above facts, the guilt of moral turpitude and a long period of absence proved on his part is of such a nature, his retention in service will bring harm and bad name to the department, therefore, **I, Ismail-UR-Rehman Kharak, District Police Officer, Lakki Marwat** hereby **dismissed** Constable Najeebullah No.142 from service w.e. from the date of absence i.e. 01.10.2013 under Police Rules,1975. He is directed to deposit all the Govt: articles allotted to him to concerned branches.

Order announced.

O.B NO. 289

Dated 9/5/2014.

(ISMIAL KHARAK)
District Police Officer,
Lakki Marwat.

No. _____ /dated Lakki Marwat the ____/03/2014.

Copy to the:-

1. Regional Police Officer, Bannu Region, Bannu for information.
2. SRC, OASI, PO, Line Officer for necessary action.

Attest
Wk

بخدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس بنوں ریجن بنوں

اپیل بر خلاف OB نمبر 289 مورخہ 05-05-2014 جس کی رو سے سائل کو نکلنے کی پولیس سے ڈسمس کیا گیا ہے۔

عالیٰ: معروض ہوں کہ من سائل مورخہ 01-06-2014 کو نکلنے میں بطور تک کسٹمبل بھرتی ہو چکا تھا۔ اور اپنے فرائض انتہائی دیانتداری سے سرانجام دے رہا تھا۔ کہ مورخہ 01-10-2013 کو مقامی پولیس نے نہ بیزو نے سائل کے دادا اسی خان بہادر سکند شری خیل کے گھریز چھاپہ مار کر لیڈیز سماٹری بی روڈ لاہور اسکندرانہ اور مسماہ شہتاز بیروہہ اللہ دنا ضلع شیخوپورہ بے آمد کے تھے۔ ڈک سیر و تفریح کیلئے میرے دادا کے ایک دوست نے سمر لائے تھے۔ علاوہ آڑ میں مقامی پولیس نے بد ورسی چھاپہ سنی رحمان ولد اختر سکند پائی خیل پنپال اور مسیان نذیر اللہ شیخ اللہ برادران آم سے مسعودہ اسلمہ انجم ریپٹر، رائفل 7mm مع ایمونیشن کی مددگی ظاہر کی تھی حالانکہ سنی رمضان ولد اختر مسم 14/15 سال مہمان تھا۔ اور برادران آم نذیر اللہ شیخ اللہ کیساتھ بیٹھک میں موجود تھا۔ جو کہ مقامی پولیس نے اختیارات سے تجاوز کرتے ہوئے مقدمہ علت 320 مورخہ 01-10-2013 پی سی 371A, 371B/13AO تھانہ بیزو درج رجسٹر کر کے ملزمان بالا کے علاوہ من سائل کو بھی ملزم ٹھہرایا۔ جو کہ مقدمہ میں ملزم نامزد ہے کی بنا پر سائل کو بے مجبوری سردی سے غیر حاضر ہونا پڑا۔ چونکہ سائل تو تھا۔ اور حکمانہ رولز و ریگولیشن سے بھی ناواقف تھا۔ ویں وجہ بروقت پولیس کو پیش نہ دسکا۔

لہذا ازبانی معامہ ہوا کہ کہیں میں پیش نہ دنا اور مفروضہ دنا سائل کی ملزمت پر دلالت کر سکی تو بخوشی خود سونپا گیا 16/01/14 کو مقامی پولیس کو مقدمہ پر اپنی پیش ہر تھا۔ جو کہ سائل مقدمہ ہذا میں عدالت سے ضمانت پر رہا ہوا۔

سائل کے خلاف جملہ حکمانہ کاروائی کی نظر فرمائی گئی ہے۔ سائل کو بے توافر نے انکو آڑی کیلئے بلایا تھا۔ اور نہ ہی سائل کو جرح کا موقع دیا گیا ہے۔ سائل کو متعلقہ SHO پولیس پارٹی پر جرح کا موقع نہیں دیا گیا ہے اور ہی لیڈیز جو گرفتاری کی تھی سائل کے خلاف۔ نہ تو عدالت اور نہ ہی انکو آڑی افسر کو بیان دیا ہے حالانکہ انکو آڑی میں ان کے بیانات ریکارڈ کرنے کے لئے کہ وہ تھانہ کیلئے وارا کے بھرائی تھیں سائل کو گواہان کے بیانات کے نقول بھی نہیں دی گئی تھیں جو کہ سائل کا بنیادی حق ہے یہ کہ سائل کو سزا دلوانے میں انتہائی عجلت کا مظاہرہ کیا گیا ہے، چونکہ سائل کے خلاف مقدمہ درج رجسٹر ہو تھا اس لئے مقدمہ کے فیصلہ ہونے تک ڈیپارٹمنٹل انکو آڑی اپنڈنگ رکھا جانا چاہئے تھا۔ اور اگر سائل کو عدالت مزید دیتی تو تب سائل کی انکو آڑی فیصلہ کرنی چاہئے تھا جو کہ ایسا نہیں کیا گیا ہے جو کہ سائل کیساتھ ان کی زیادتی کی گئی ہے۔

الاشان! سائل انتہائی غریب خاندان سے تعلق رکھتا ہے پورے خاندان واحد کفیل تھا جو کہ سائل کی سردی پر گزروہ کرتے تھے اس سائل کا خاندان کا فی مقروض ہو چکا ہے۔ دیگر کوئی ذریعہ آمدن نہیں ہے۔

استدعا ہے کہ OB نمبر 289/09-05-2014 کو کینسل کر کے دوبارہ سردی پر بحال کرنے کا حکم صادر فرمائیں۔

سائل تازہ سبب دنا گور ہے گا۔

حبیب اللہ

بسم اللہ

حبیب اللہ

الحاضر

21-5-16

17

12

10-6-14

POLICE DEPARTMENT

BANNU REGION.

ORDER

This order of the undersigned will dispose of departmental appeal submitted by Ex: cook constable Najib Ullah No. 242 of District Lakki Marwat for set a siding the order passed by DPO, Eannu vide OB No. 289 dated 09.05.2014 in which the appellant was awarded major punishment of dismissal from service.

On receipt of his appeal, the undersigned scrutinized the whole enquiry file leading to his dismissal and it was found that DPO/Lakki has rightly awarded the punishment Hence, no need of interference.

Keeping in view the above, I SAJID ALI KHAN, Regional Police Officer, Bannu Region, Bannu in exercise of the powers vested in me under Police Rules 1975 hereby file the instant appeal with immediate effect.

Order announced.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu.

No. 10/EC dated Bannu the 10/6/14 2014.

Copy to:-

The District Police Officer, Lakki Marwat for information and necessary action with the directions to inform the appellant accordingly.

(Sajid Ali Khan)PSP
Regional Police Officer,
Bannu Region, Bannu

Attested
W. K. U. S.

I

13

26-8-14

BEFORE THE PROVINCIAL POLICE OFFICER
KHYBER PAKHTUNKHWA, PESHAWAR

Subject: MERCY PETITION

Respected Sir,

With veneration, the petitioner submits the instant mercy petition for sympathetic consideration on humanitarian grounds:

The petitioner was serving as Cook Constable and posted to PP Shehbaz Khel P.S Pezu District Lakki on 01-10-2013, the SHO P.S Pezu registered case bearing FIR No. 320 U/S 371-A/371-B PPC / 13Ao wherein the petitioner was falsely implicated. Although the petitioner was neither seen nor arrested on the post at the time of raid by SHO Pezu on the house of Behadar Khan R/o Sharbi Khel. Since a criminal case was registered, therefore, the petitioner apprehending his arrest and male treatment at the hands of police disappeared due to fear of police. The petitioner was dealt with departmentally and dismissed from service by DPO Lakki vide O.B No. 289 dated 09-05-2014 (copy enclosed herewith)

The petitioner filed an appeal against the order of DPO Lakki before the Dib Bannu Range Bannu but the same was rejected. (copy of the order is enclosed)

The petitioner was a low paid servant in the police department and the sole bread earner of his family. Since the dismissal of the petitioner from service, his children were faced with starvation as the petitioner had no other source of income except the police service.

In light of the circumstances discussed above, it is requested that the petitioner may be re-instated in service w.e.f. the date of dismissal purely on humanitarian grounds, so that the kids of the petitioner are saved from further starvation and hardships please.

Yours obediently

جیب اللہ
Ex-Cook Constable
Najeeb Ullah No. 142
R/o Sharbi Khel, P.S. Pezu
District Lakki

Dated: 26-08-2014

جیب اللہ

محمد متقی صاحب دسٹرکٹ پولیس ایسٹریٹیٹ کلکتہ

عقاریت کے متعلق

ضابطہ

گزارش کے تحت کہ سائیل ایجنسی کے زیر حذات سرانجام
دے رہے تھے۔ لہذا ان نامزدہ جرم پر سائیل و سرول سے ڈسکریٹ

سائیل کو ذیل دستاویزات کی شدہ درجہ

Dy No - 1298
dt 30-10-14

- ۱۔ جاہ خارجہ
- ۲۔ جواب خارجہ
- ۳۔ فائنل شوکار نوٹس
- ۴۔ جواب فائنل شوکار نوٹس
- ۵۔ حکم در فراہم
- ۶۔ حکم افواج رجم در فراہم
- ۷۔ انٹرواٹری رپورٹ

رشد عاقلی کہ سائیل کو مذکورہ بالا دستاویزات کی نقول
عقاریت کے کا طبع صادر فرمادیں

مورثہ 10/30
14

محمد اللہ ولد میر اللہ گلگانہ کانڈین سائنس شری فیض کلکتہ
کانڈین گلگانہ سائیل نمبر 142-PP-14 سبھا راجیل چنرو
کلکتہ

محمد اللہ
محمد اللہ

بعدالت جناب سروس ٹریڈنگ اور

مورثہ

اپیل بحسب المذنب نام

محلہ تسمہ

دعویٰ اپیل

باعث تحریر اینکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کے لئے سعد اللہ خان مروت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقریر ثالث و فیصلہ بحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست پر قسم کی تصدیق اور اس پر دستخط کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کی سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرے گا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 5/11/14

العبد العبد العبد

حسب اللہ

سعد اللہ خان مروت

ایڈووکیٹ

ارباب سید اکمال
ایڈووکیٹ
مس روہینہ خان
ایڈووکیٹ

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.1377/2014

Najibullah s/o Mehrullah r/o Sharbi Khel
Ex-Cook Constable No.142 PP Shahbaz Khel
P.S Pezu district Lakki Marwat.....

(Appellant)

Versus

- 1) District Police Officer, Lakki Marwat.
- 2) Deputy Inspector General of Police,
Bannu Region Bannu.
- 3) Provincial Police Officer, KP, Peshawar.

(Respondents)

PARAWISE REPLY BY THE RESPONDENTS NO.1,2 AND 3.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS:

1. That the appeal is barred by law & time.
2. That the appellant has no cause of action.
3. That the appeal of appellant is not maintainable.
4. The the appellant has concealed the actual facts from the Honourable Tribunal.

OBJECTIONS ON FACTS:

1. Pertains to record.
2. Incorrect. On 01.01.2013, the local police of Police Station Pezu on prior information conducted raid over the house of appellant and recovered ladies Mst: Asia Bibi, Mst: Shehnaz r/o Punjab and arrested accused Muhammad Ramzan with 12 Bore Repeater, accused Nazirullah and Samiullah with 7-MM rifles. A case vide FIR No.320 dated 01.01.2013 u/s 371-A, 371-B PPC/13-AO Police Station Pezu was registered. Appellant and accused Mehrullah made their ~~escape their~~ good from the spot. Copy of FIR enclosed as annexure "A"
3. Incorrect. Charge Sheet based on Summary of allegations was issued to appellant and regular inquiries through SI Gul Janan and DSP Naurang (Liaqat Shah) were conducted under the rules.
4. Incorrect regular inquiry followed by Denovo was conducted wherein all the opportunities of defense, cross examination over witness were provided.
5. Incorrect. Denovo Inquiry was conducted in accordance with Law & Rules.
6. Incorrect. After completion of dnovo inquiry, final show-cause notice was issued to appellant which was replied by appellant and thereafter order No.289 dated 09.05.2014 was passed which is plausible and self explanatory.
7. Pertains to record.
8. Pertains to record.
9. Incorrect. The departmental appeal of appellant was found unconvincing and unsatisfactory and was filed with cogent reasons.
10. There is no provision of mercy petition in the rules.
11. Incorrect. The appellant has received the relevant copies. Photo copy of receipt enclosed as annexure "B"

OBJECTIONS ON GROUNDS:

- A) Pertain to record.
- B) Incorrect. Local Police on tip off information raided over the house of appellant and recovered ladies and other accused with arms who belonged to Punjab while he and other accused made their escape good from the spot. Appellant is responsible for the said illegal activities.
- C) Incorrect. Regular inquiry followed by denovo inquiry were conducted through two officers. In both the findings report the appellant was made responsible for the illegal activities. Photo copies are enclosed as annexure "C" & "D"
- D) Incorrect. During the raid, the appellant escaped from the spot and willfully absented from official duty for long period.
- E) Incorrect. The orders of the respondents are justified and in accordance with facts on record. The appellant was dismissed from service from the date of his willful absence from duty i.e 01.10.2013.
- F) Incorrect. Departmental and criminal proceedings are independent from each other as per rulings of Apex Court. In the departmental inquiry, the charges were established and proved against the appellant.

PRAYER:

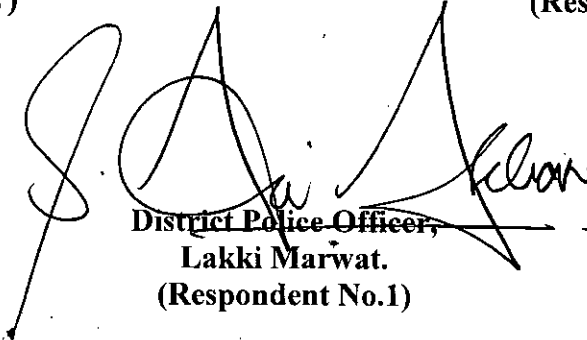
In view of the above stated facts, it is humbly proved that the appeal of appellant being ^{devoid} of legal force, may kindly be dismissed with costs.



**Deputy Inspector General of Police,
Bannu Region, Bannu.
(Respondent No.2)**



**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)**



**District Police Officer,
Lakki Marwat.
(Respondent No.1)**

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

Service Appeal No.1377/2014

Najibullah s/o Mehrullah r/o Sharbi Khel,
Ex-Cook Constable No.142 PP Shahbaz khel.
P.S Pezu District Lakki Marwat.....

(Appellant)

Versus

1. District Police Officer, Lakki Marwat.
2. Deputy Inspector General of Police,
Bannu Region, Bannu.
3. Provincial Police Officer, KP, Peshawar.

(Respondents)

COUNTER AFFIDAVIT.

We, the respondents do hereby solemnly affirm and declare that the contents of the attached para wise comments are true and correct to the best of our knowledge and belief and nothing has been withheld or concealed from this Honourable Tribunal.



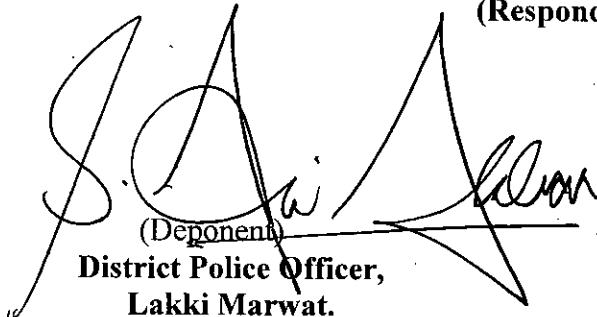
(Deponent)

**Deputy Inspector General of Police,
Bannu Region, Bannu.
(Respondent No.2)**



(Deponent)

**Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.
(Respondent No.3)**



(Deponent)

**District Police Officer,
Lakki Marwat.
(Respondent No.1)**

کاؤنٹر فائل

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ پر دفعہ 152 مجموعہ ضابطہ نو جداری

تھانہ 1117A5 ضلع دہلی جنوبی قلم نمبر 10 تاریخ 10-10-2011

نمبر 7 3205

1-	تاریخ و وقت رپورٹ	10/10/11 ع 27.10	حاصل شدنی وقت وقت 10.30 ع
2-	نام و سکونت اطلاع دہندہ مستفیث	محمد نور خان 110	تھانہ سندھ
3-	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ لیا گیا ہو۔	371-A/371B	
4-	جائے وقوعہ فاصلہ تھانہ سے اور سمت	خانہ اذان و مدرسہ نجیب اللہ خان محلہ خیل صاحب شریف شمالی کھارہ سندھ	
5-	نام و سکونت ملزم		
6-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا تو وجہ بیان کرو	بہر سبب ملزم ہر جہاں گیا	
7-	تھانہ سے روانگی کی تاریخ و وقت		بہر سبب ڈاک

ابتدائی اطلاع نیچے درج کرو ہوگی تقریبی طور پر منجانب محمد نور خان 110
 لفظی قاضی مقدمہ برائے نیشنل ایڈوائسنگ ڈیپارٹمنٹ 13 نومبر 2011ء کو موصول ہوا ہے۔ مختصر و مفاد یہ ہے کہ
 اطلاع دی کہ مسلمان بریجیٹنگ ایڈوائسنگ ڈیپارٹمنٹ کے صدر ایڈوائسنگ ڈیپارٹمنٹ محمد نور خان نے شریف خیل
 محلہ خیل صاحب شریف سندھ میں محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 پنجاب سے دو مورچوں میں زنا و حرام، فحش کرنے لگی ہوئی دکان اذان نجیب اللہ خان میں موجود ہیں
 اطلاع مقدمہ خیل صاحب شریف پولیس تھانہ، ایس ایف فورس، جنیب الرحمن خان 110 ایچ آر جی
 شہزاد خیل صاحب شریف پولیس کے فوراً دکان اذان نجیب اللہ خان پر اسلحہ گرفتاری ملزمان کے لئے
 لائی ہوئی ہے اور میں ہر حسب ضابطہ چھاپہ پڑی ہوئی۔ ملزمان مندرجہ بالا پولیس کی آمد سے قبل
 گھر سے نکل چکے تھے۔ ایف ایف سی مورچوں میں محمد نور خان اذان نجیب اللہ خان میں موجود تھے جب
 نے دریا میں 1 اسٹیج لائی زور محمد نور خان کے قریب واقع تھا جس کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 زور اللہ ڈیم سکے ٹورم خاندان خیل شہزاد خیل صاحب شریف پولیس کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 مورچوں نے خرا کا واسطے دے کر سہی، کم این دستوں سے ہماری جان حقیر آؤں۔ دوران خرا اللہ
 سکورٹنگ لٹی اذان نجیب اللہ خان میں چھپے ہوئے تھے کسان جو سلم ہے، کو قابو میں رکھنے کے لئے سلم
 محمد نور خان ولد اختر کے بھائی خیل صاحب شریف کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 معمول (3) عدد کارروائی پر بارہ مورچوں نے محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 نمبر-260 BN تھانہ (3) سٹیج اللہ ولد محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 اور اس طرح مزید خانہ ملک نشی لینے پر محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 کتا لم بارہ مورچہ محمد نور خان کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ
 دہلی محلہ خیل صاحب شریف کے ساتھ ساتھ محمد نور خان کے ساتھ ساتھ

Annex B

جناب عالی

- ۱۔ بحوالہ مشمولہ فائل شوکاژ نوٹس مجاز جناب DPO صاحب لگی مروت معروض ہوں کہ میں نے قبل از چارج شیٹ سری آف الیکشن پر جو جواب دیا ہے اور انکوٹری آفیسر کو جو بیان دیا ہے وہ مفصل اور قابل ملاحظہ ہے۔
- ۲۔ روبرو جو انکوٹری ہوئی ہے اس میں مجھے جھڑپ کا موقع نہیں دیا گیا ہے اور 512 جیسے کاروائی تھی۔
- ۳۔ میرے خلاف درج مقدمہ 320 مورخہ 10-10-2013 جرم 01-10-2013 371A-371B/13AO تھانہ پیڑو جو کہ عدالت میں زیر سماعت ہے اور مقدمہ میرے خلاف ناجائز بنیادوں پر درج ہوا تھا۔ جس کا حقیقت کے ساتھ دور کا واسطہ تک نہیں۔ جناب والا تاکہ فیصلہ عدالت انکوٹری پنڈنگ رکھا جاوے۔
- ۴۔ مطابق پولیس رولز دوران انکوٹری الزام علیہ گوگوہ کے بیان کا نقل دیا جائے گا جو مجھے نہیں دیا گیا ہے۔ جو میرا بنیادی حق بنتا ہے حق پیش، دیگر قانونی حقوق بے قصوری کی محفوظ رکھتا ہوں۔
- ۵۔ میں بالکل بے قصور ہوں صحت جرم سے انکاری ہوں میری دے قصوری کو مد نظر رکھ کر میرے اہل و عیال اور میری غربت کی خاطر مجھے معاف فرمایا جاوے۔ عنایت پروری ہوگی۔

الحاضر

سائل کوک کنشیل نیجیب اللہ نمبر 142 متعینہ پولیس لائن لگی مروت

نجیب اللہ قلم جو

March 19, 2014

70
10/10/14

10/10/14

فائبرنگ رپورٹ

جناب عالی:

چارج شیٹ سری آف الگیشن نمبر 66-7165 مورخہ 7.10.2013 لنگری کنسٹیبل نجیب اللہ نمبر 142 کا برائے حکمانہ انکوائری موصول ہو کر انکوائری عمل میں لائی گئی۔

مطبع اللہ نمبر 94/DFC پولیس چوکی شہباز خیل کا بیان لیا گیا جس نے بتلایا کہ چارج شیٹ سری آف الگیشن نمبر 66-7165 مورخہ 7.10.2013 آزان لنگری کنسٹیبل نجیب اللہ نمبر 142 اسکو حوالہ ہوئے جس نے دیپہ شرابی خیل جا کر لنگری کنسٹیبل نجیب اللہ نمبر 142 موجود نہ پا کر اس کے چچا زاد بھائی نوز اللہ ولد خان بہادر سکندھ شری خیل سے تعمیل کرائی۔ اور ایک کاپی چارج شیٹ سری آف الگیشن اس کے حوالہ کی۔ جس نے اسکو کہا کہ لنگری کنسٹیبل نجیب اللہ نمبر 142 کے آمد پر حوالہ کرونگا۔ جو رپورٹ DFC مذکورہ لف انکوائری ہے۔

انکوائری آفیسر کا سوال نمبر 1 لنگری کنسٹیبل نجیب اللہ نمبر 142 کا عام شہرت کیسا تھا؟

جواب: اخلاقی لحاظ سے مذکور کا عام شہرت داغدار تھا اور لو فرٹا پ تھا۔

سوال: آج کل اس کے متعلق معارفات ہیں؟

جواب: بعد وقوعہ علاقہ سے عدم پتہ ہے۔

محمد نور SHO تھانہ بیرون نے بیان کیا کہ مجھے اعتمادی مخبر ان کے ذریعے معلومات فراہم ہوئے تھے کہ لنگری کنسٹیبل نجیب اللہ نمبر 142 آف

شرابی خیل معہ ساتھیوں کے چند مستورات پنجاب، سندھ سے لائے ہیں اور ان سے بذریعہ جبر بدچلتی کرایا کرتے ہیں اور ناجائز رقم کمانے کا ایک ذریعہ بنایا ہے۔ معلومات کو مصدقہ جان کر مستعمران دیپہ کی موجودگی میں 103 ضف کے لوازمات کو مد نظر رکھ کر حسب ضابطہ قانونی کارروائی کی۔ اور مستورات و نفر موجود پا کر جس نے پولیس پارٹی کو دیکھ کر چیخ و پکار شروع کی۔ اور پولیس کو اپنے اوپر کئے ہوئے ظلم کی آپ جیتی بیان کی۔ جسکو تسلی دیکر قانونی کارروائی عمل میں لا کر مسرسلہ جرم 371-A-371-B/13-AO/PPC تھانہ بھجوا دیا اور برآمد شدہ اسلحہ ایمونیشن قبضہ پولیس کی۔ LBI انچارج تفتیش عمل میں لا کر مسرسلہ جرم مقدمہ میں چالان مکمل بھجوا دیا گیا ہے۔ ملزمان روپوش ہیں اور اخلاقی سماجی برائیوں کے عادی مطابق باب 12-17 PPC پائے گئے۔ کنسٹیبل نجیب اللہ نے اس سطح پر محکمہ پولیس کے وقار کو مجروح کر کے اس زبیا محکمہ کو ناز بیا کیا ہے۔ اور اس جیسے لوگوں کی وجہ سے عوام کا پولیس پر صحیح سطح پر اعتماد بحال نہ ہو رہا ہے۔ لنگری کنسٹیبل نجیب اللہ نمبر 142 محکمہ کیلئے باعث بدنامی کیساتھ ساتھ محکمہ کیلئے ناسور ہے۔

جرح منجانب S/E.O محمد نور SHO پر۔

سوال نمبر 1۔ علاقائی سطح پر کنسٹیبل لنگری بالا کا عوام میں شہرت کیسا ہے؟

جواب: نہایت بدنام ہے۔ اور عوام نے پولیس کی کارروائی کو سراہا ہے۔

سوال نمبر 2۔ بعد وقوعہ پولیس کو کوئی اطلاع کی ہے؟

جواب: بذریعہ موبائل فون دھمکیاں دی ہیں۔ اور کہا ہے کہ چونکہ تھانہ کو بموں سے اڑا دوں گا۔

اطلس خان نمبر 180/DFC/LBI نے بدریافت بیان دیتے ہوئے کہا کہ بحوالہ مقدمہ نمبر 300 مورخہ 01.10.2013

جرم 371-A-371-B PPC تھانہ بیرون ملزمان کی کارروائی روپوشی 87 ضف کے کاغذات جسمیں لنگری کنسٹیبل نجیب اللہ نمبر 142 کے کاغذات بھی تھے برائے تعمیل حوالہ ہوئے ہیں نے حسب ضابطہ تعمیل میں لائی ہیں۔ ملزمان بعد وقوعہ علاقہ غیر جانابیان ہوئے۔ بعد تعمیل کے عدالتی بیان قلمبند کیا۔

اور کاغذات 10 کے حوالہ کئے،

سوال نمبر 1۔ آپ کو لنگری کنسٹیبل کے مزاج کے متعلق معلومات فراہم ہوئے؟

جواب: نہیں۔

(2)

(33)

حاجی میر سردار خان SI/LBI نے بدریافت بیان کیا کہ مقدمہ نمبر 320 مورخہ 2013.10.01 PPC 371-A/371-B تھا نہ ہیرو قائم ہونے کے بعد FIR بغرض تفتیش اسکے حوالہ ہوئی۔ تفتیش مقدمہ عمل میں لا کر تکمیل تفتیش پر ملزمان قصور وار پا کر برائے ترتیب چالان مکمل مقدمہ حوالہ SHO ہوا۔

سوال نمبر 1۔ ملزم نجیب اللہ نمبر 142 لنگری کنشیل کے ماضی کے متعلق آپ کو کیا معلومات فراہم ہوئے؟
جواب: دوران تفتیش مقدمہ ملزم نجیب اللہ نمبر 142 لنگری کنشیل کے ماضی کے متعلق منفی معلومات فراہم نہ ہوئے۔ جو اس کے ملازمت کے تصدیق چال چلن کارپورٹ ریکارڈ پر موجود ہے۔ انکو انٹری آفیسر اگر موزوں سمجھے تو ملاحظہ کر سکتا ہے۔
عالیجاہ:

لنگری کنشیل نجیب اللہ نمبر 142 نے چارج شیٹ اسری آف پلیٹیشن کے شرائط کے رو سے اندر سات یوم جواب نہ دیکرا ہے آپ کو یکطرفہ کاروائی کیلئے موزوں قرار دیئے کیساتھ ساتھ مذکور کے خلاف عائد مقدمہ اخلاقی، سماجی برائیوں کے زمرے میں آتا ہے۔ اور ان جیسے لوگوں کے معاشرے کا حکم پر نہایت ہی منفی اثرات مرتب ہونے کا احتمال لاحق ہو سکتا ہے۔ مذکورہ لنگری کنشیل نجیب اللہ نمبر 142 کے خلاف درج مقدمہ اور بدستور روپوشی اسکو سنگین قصور کا تصور وار ٹھہراتا ہے۔ حکم آنجناب والا افضل ہوگا۔

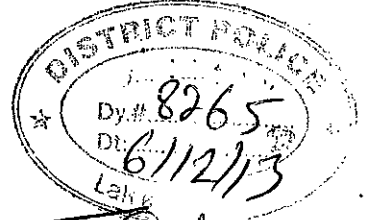
فائیڈنگ رپورٹ عرض ہے۔

نوٹ: ابتدائی تصدیق چال چلن رپورٹ فوٹو اسٹیٹ کا پی قابل ملاحظہ ہے۔

SI گل جنان انکو انٹری آفیسر

DPO آفس لگی مروت۔

4-12-2013



SKC

ISSM him final
S.C. sr.

SKC

DSP Naurang
to enquire
DPO Lami
4/12/13

Sir,

Submitted pls.

SKC
1/1/14

Denovo enquiry is
in the case as the
proper process was not
followed in the case.
Feb 13, 2014

Recd &

فائز ڈنڈ DENOVE انگلہری ازان (کے کانٹل)

جناب اللہ نے 142 عقیقہ کوئی شہر میں حال

جناب عالی! کانٹل کنگ جناب اللہ نے 142 سال تو ہیں

میں عورت کے صدف شکایت تھی تم مدورہ کنگ کانٹل

انہی کو میں بد فضلی اور زہا کی خاطر دو غیر عورتیں

صحاہ اسد بی بی نوع محمد نور سائن رانا ٹاؤن لہور ہوسم جناب

صحاہ شہار بی بی نوع الہ دتہ سائن ٹاٹا کارٹران دسہرہ شہرہ

اپنے گوہر میں جن سے بد فضلی کروایا رہا تھا اور اوماں

اور حم ایڈیٹرز کو اگر اپنے گوہر میں بلکہ مدورہ

عورت سے جسم فروشی کا دھندہ کروانا تھا مدورہ

جناب اللہ نے 142 کوئی گوہر محمد نور خان 145 صحنہ ہنرو جمع

Aq صید اللہ کوئی شہر میں دیگر نئی کہ تم 145 مقام

بلوچستان میں دو صحاہ نے پولیس پر انداز کے

371A1 10 13 320 صحنہ 371B/13A0

صحنہ ہنرو دریا کوئی گوہر محمد نور خان

آختر خان شہر رھائی میں مقام ضلع D.K. راجستھان

جنیب اللہ اور اسکا دوہرا اقصی اللہ اور مہر اللہ ولد خان ساہو

میں خان ولد عبدالحمد اور داؤد ولد محمد خان دوہریوں کو
میں نے صرف فارسی سیکھنے کے لیے خان ریستاری دیا تھا

جنیب اللہ نے 142 ہجرت سے BBA (بیکریٹری) اور جوڑھار اور

مدینہ منورہ میں ج سے لکھنا، م رہا ہوا جو کہ اب مدینہ

میں کئی زمرہ سمیت موجود ہے جنیب اللہ فرام ¹²⁸ $\frac{10}{13}$ سے

صرف $\frac{1}{14}$ تک غیر فارسی، میں میں رہا ہے اس نے

فارسی کی اس غیر فارسی اور اسے ارتکاب میں ہر مذہب کے

مکتوبوں نے مذکورہ جنیب اللہ 142 کے مذہب لایز سید

سیدی اور اللہین نم ¹⁰ 7165.66 فرام $\frac{7}{13}$ لاری کرنے

اور ان کے محل جنان کو انکواری اور مقرر کرنے کے احکامات

صدر کے محل جنان نے انکواری محل کے فرام $\frac{12}{13}$ کو

کو رہی فائزہ بنت دوت کے مذکورہ کو قلمور سنسار

میں رہا جو پانچ مکتوبوں نے فرام $\frac{12}{13}$ کو فائزہ

جو کارفرمیں ہے کہ مذکورہ جنیب نے محل میں اور

انہی بگٹناری کی خاطر اور تنخواہ کھولنے کی خاطر جنیب کے

انٹرویو کوئی نوٹس دے نہ وہ انٹرویو میں پہلی نوٹس

وہ جو اس سے اس کے الزام علیہ خبیب اللہ علیہ السلام

خانہ کے جس نے اپنا بیان دیا اپنے خلیفہ کے لئے

الزعماء کی تردید کی اور خود کو بے گناہ بے مقور ہوا مقرر

ساتھ ہی اپنے ساتھی محمد اصفیاء کو بھی بطور DW

پس اس کے محمد اصفیاء ولد آصفیاء کا بیان قلمبند ہوا

محمد فوز SHO اور عبدالرحمن ANA کے مطلق شدہ ہونے

میں بکروت علیہ خانہ کے لئے خبیب اللہ علیہ السلام

علیہ قلمبند ہوئے الزعماء علیہ و انہما دفاع دانا اور لوہان

میں 2 دن کا ہوا حق اعلیٰ دانا ہے وہ دو گواہان

نے اس بات کا ثبوت تصدیق الزعماء علیہ خبیب اللہ علیہ السلام

دعویٰ سے لایا گا کہ عورتیں خبیب اللہ علیہ السلام سے ہم آہنگ

ہیں مگر خانہ باخبر دہانہ نے تشدد کر کے ان سے قسم

فوجی کا دہنہ کو اس کو قسامت نے اپنے ساتھی میں

مصرحان و نواز دہانہ نے صرف خانہ کا عہدہ دیا ہے

مقدم کی کنٹینر سپر سٹور پر تقابلی قیمتوں نے کی اور
مذاہم نامزد شدہ کو قلمرو، تنہا کار ٹیوار صابن رقم 12 کی
دریں عدالت کی عدالت بھجوانی۔ وزیر صحت عدالت سے ۔

مذکورہ خلیہ اللہ سابقہ انٹواری اکثر نے تنہا کار سپر سٹور کی
مذاہم کی منتوب کی گیا اب DENOV انٹواری کی گیا ۔

مذکورہ خلیہ اللہ کی فوری سیکرڈ ایکر بدعا داغ سے ۔

فوری کا حکم ہوتا ہے اور فوری کے حکم ورنی کے ذریعہ

گھنٹا ونا دم کا ورنی ہوا ہے ۔ جو وزیر فوری سے

دینی کے قابل نہیں ہے کی واسمہ اعلیٰ سے وکوں سے

اور حکم مانا استنادی سے ہے ۔ ایسے بدنام رکھیں کو

فوری سے رکھنا بدنام فطرت کا ہیں ہم نہیں سنا ہے ہذا

تسلی DENOV انٹواری سے تنہا کار سپر سٹور سے ہے ۔

حکو (MAJAR) سزا دینے کی سفارش کی گئی ہے

~~لائی~~
2014/7/20
2014/7/20

1

BEFORE KPK SERVICE TRIBUNAL, KP, PESHAWAR

S.A. No. 1371/2013

Najeeb Ullah

versus

DPO & Others

APPLICATION FOR PLACING ON FILE JUDGMENT
DATED 02-10-2017 OF ASJ-II LAKKI MARWAT
FOR THE ENDS OF JUSTICE:


Respectfully Sheweth;

1. That the above mentioned appeal is pending adjudication in this hon'ble Tribunal which is fixed for today.
2. That the appellant was dismissed from service on the basis of FIR No. 320 dated 01-10-2013 U/S 371A/371B PPC/13AO of Police Station Pezu, Lakki Marwat.
3. That during pendency of the appeal Trial in the above mentioned FIR concluded whereby the appellant was acquitted of the charge honorably. (Copy Attached)
4. That the judgment in question needs to be place on file for the ends of justice and arriving at a just decision.

It is, therefore, most humbly requested that on acceptance of this application the judgment dated 02-10-2017 of ASJ-II Lakki Marwat may kindly be placed on file in the interest of justice..

Appellant

Through



Saadullah Khan Marwat
Advocate

Dated 31-01-2018

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1
**IN THE COURT OF SAFI ULLAH JAN
ADDITIONAL SESSIONS JUDGE-II, LAKKI MARWAT.**

Sessions Case No..... 47 of the year 2013.
Date of original institution 05.12.2013.
Date of transfer to this court.....22.03.2017.
Date of Decision.....02.10.2017.

2045 Cr P
2017
State through:

Muhammad Noor Khan SHO PezuComplainant.

.....Versus.....

Mehr ullah son of Khan Bahadar, Najeeb ullah son of Mehar ullah, Sami ullah and Razi ullah alias Nazir ullah son of Mehar ullah all r/o Sharbi Khel, Misal Khan son of Abdul Hameed Khan r/o Langar Khel Pacca District Lakki Marwat and Muhammad Ramzan son of Akhtar Khan r/o Rahmani Khel Pinyala District D.I Khan.....Accused facing trial.

&

Daud Khan son Muhammad Khan r/o Ghandi Umar Chikar District Lakki.....Absconding Accused

**CHARGED VIDE CASE FIR NO 320 DATED 01.10.2013,
U/S 371-A/371-B PPC R/W 13AO P.S. PEZU, DISTRICT
LAKKI MARWAT**

JUDGMENT.

This judgment of mine is the consequence of an application filed by the accused facing trial for their acquittal u/s 265-K Cr PC on the grounds recorded in the application.

It was the case of prosecution reported in the shape of Murasila on 01.10.2013, that Najeeb ullah son of Mehr ullah, Mehr ullah son of Khan Bahadar Khan r/o Sharbi Khel, Misal Khan son of Abdul Hameed Khan and Daud Khan son of Muhammad Khan r/o Langar Khel Paca who have brought two ladies for the purpose of Zina and selling are present in the house of

ATTN: accused Najeeb ullah. In view of the credibility of information, for the purpose of arrest of accused and to recover the ladies, the house of Najeeb ullah raided.

Signature
Addl. Sessions Judge-II
Lakki Marwat

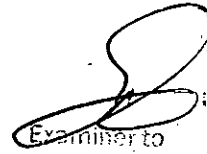
Signature
Examined to
District & Sessions Judge
Lakki Marwat

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 The accused had already decamped from the house, but the ladies so brought were found there in the courtyard of house of Najeeb ullah. They disclosed their names as Asia bibi wife of Muhammad Nawaz and Shah Naz wife of Alla Dita and on seeing the local police they requested to rescue them from the clutches of accused. On house search from the residential room of accused Najeeb ullah three persons duly armed with weapons so recovered were also arrested who disclosed their names as Muhammad Ramzan son of Akhtar, Sami ullah & Nazir ullah sons of Mehar ullah. From their possession three rifles mentioned in the report were also recovered for which no valid license was produced, hence the report was lodged in the shape of Murasila which was later on incorporated in the case FIR No 320 dated 01.10.2013, u/s 371-A/371-B PPC r/w 13AO at PS Pezu District Lakki Marwat.

After the registration of FIR with the above particulars, the local police investigated into the matter so on completion of investigation initially complete challan was submitted against arrested accused Muhammad Ramzan son of Akhtar Khan, Samiullah & Razi ullah alias Nazir ullah sons of Mehar ullah with challan u/s 512 Cr PC against the absconding accused. Later on accused Misal Khan, Najeeb ullah and Mehar ullah were also arrested in this case and on submission of supplementary challan against them, the case was sent for trial to the court of competent jurisdiction.

On commencement of trial accused were summoned and after the observance of formalities u/s 265-C Cr PC charge was framed to which the accused pleaded not guilty and claim trial so prosecution was asked to lead its evidence against the accused.

ATTES


 Examiner to
 District & Sessions Judge
 Lakki Marwat.

Adm. Sessions Judge
 Lakki Marwat

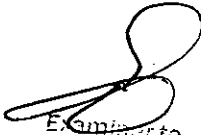
Since framing of charge initially on 23.06.2014, and subsequently 21.07.2016, prosecution produced only seven witnesses but neither the complainant nor the alleged abductees had ever deposed as witness against the accused facing trial on the allegations so leveled against them.

Owing to this disinteresting attitude of the prosecution witnesses initially and an application u/s 265-K Cr PC was filed but vide order dated 25.01.2017, the said application was declined being premature.

Since then till today the prosecution was provided with repeated opportunities to complete its evidence against the accused but during this long period only two material witnesses namely Mir Sardar Khan SI and Mati ullah IHC were produced who recorded their statements as PW-4 and PW-6 respectively however neither the complainant of the case nor the alleged abductees put their appearance before the court to support the case of the prosecution regarding the main allegations pertaining to section 371-A/371-B PPC hence another application was filed seeking the benefit of section 265-K Cr PC.

I have heard the detail arguments of learned counsel for both the parties and after going through the record of the case file, admittedly since the commencement of trial on 05.12.2013, till date fixed none of the star prosecution witness i.e. complainant as well as the alleged abductees had ever deposed against the present accused facing trial to substantiate the allegations leveled against them. The material witnesses so far examined in the trial of the present accused are Mir Sardar Khan SI (PW-4) being IO of the case as well as Mati ullah IHC (PW-6) being the witness of the actual occurrence but it is in the statement of PW-6 that he cannot give the exact time when they reached to

Sessions Judge-II
Lakki Marwat


Examiner to
District & Session Judge
Lakki Marwat.

the place of occurrence. Similarly there is no time of occurrence in Murasila report so as to authenticate the very allegations of the complainant whereas it in the statement of PW-6 that there is no mention of the recovery of the alleged abductees and arrest of the accused as claimed in the report in his 161 Cr PC statement. Besides that it is in the statement of IO of the case when deposed as PW-4 that during his entire investigation he has not recorded the statement of any witness nor collected any evidence to prove the involvement of the accused in the commission of offence alleged against them. Apart from that neither the complainant nor the alleged abductees have deposed against the accused during this long period of about three years to substantiate the allegations of the prosecutions against the accused facing trial. The accused had already suffered a lot to have faced the hardship and agony of trial for more than three years and there is no hope and prospect of the success of the prosecution to be able to depose the rest of the PWs against the accused facing trial so as to conclude their case in the near future. More so since the disposal of earlier application till date fixed during this period of about 10 months the prosecution has failed to have carried out any serious efforts to ensure the attendance and examination of the remaining star prosecution witnesses so as to support the allegations recorded against the accused facing trial in the shape of Murasila report. Thus in the attending circumstance of the present case for groundless allegations and deficient evidence this court left with no other alternative but to invoke the provisions of section 265-K Cr PC, hence to achieve the ends of justice and to stop the abuse of process of law in the attending circumstance of the present case, for the time being on acceptance of application all the accused facing trial are acquitted of the charges leveled

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against them vide case FIR No 320 dated 01.10.2013, u/s 371-A/371-B
r/w 13AO registered at PS Pezu District Lakki Marwat. The accused facing
trial are on bail; hence their bail bonds stands cancelled and sureties to them
are discharged of their liabilities under the bail bonds.

So far as the case of absconding co-accused Daud Khan son Muhammad
Khan r/o Ghandi Umar Chikar District Lakki Marwat is concerned, for his
willful absence and disregard to the process of law and court on the basis of
record and evidence so recorded in his absentia within the meanings of section
512 Cr PC, he is declared as proclaimed offender and perpetual warrant of
arrest be issued against him. A copy of this judgment be sent to the quarter
concerned to enlist the name of absconding accused in the relevant register
maintained for POs.

Case property if any, be kept intact till the arrest and conclusion of trial
of absconding co-accused Daud son of Muhammad Khan.

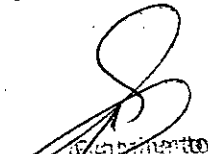
File be consigned to the record room after its completion and
compilation.

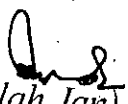
Announced:
02.10.2017


(Safi ullah Jan)
Additional Sessions Judge-II
Lakki Marwat
Addl. Sessions Judge
Lakki Marwat

CERTIFICATE:

Certified that this judgment of mine consists of (05) pages and each has
been read over and signed by me after making necessary correction.

ATTEST

Attestation
Magistrate Sessions Judge
Lakki Marwat


(Safi ullah Jan)
Additional Sessions Judge-II
Lakki Marwat
Addl. Sessions Judge-II
Lakki Marwat

1.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 1371/2014

Najeeb Ullah

versus

D.P.O & Others

RELICATION

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

All the 04 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why the appeal is time barred, cause of action, not maintainable, concealed actual facts.

ON FACTS:

1. Needs no comments.
2. Not correct. The para of the appeal is correct regarding recovery of female and male as per FIR dated 01-01-2013.
3. Not correct. No specific allegation was leveled against appellant.
4. Not correct. Enquiry was not conducted as per the mandate of Law. No statement of any witness was recorded in presence of appellant nor he was afforded opportunity of cross examination.
5. Not correct. The para is without proof regarding De-Novo enquiry, while the recommendation of 1st enquiry was not known. Subsequent enquiry was also not conducted as per mandate of Law and Rules.
6. Not correct. When regular enquiry was not conducted as per mandate of Law, then service of Show Cause Notice is of no avail to the department. The reply of appellant was not taken into task.
- 7-8. Not commented upon by the respondents even appellant was not absented from duty for a single day. As per Naqal Mad No. 04 dated 20-12-2013, appellant was in Police Line Lakki Marwat being suspended and not absent. (Copy as Annex "R")

9. Not correct. Appellant submitted departmental appeal to the Authority for reinstatement in service which was filed for no legal reason.
10. As above. There is provision of Revision / Mercy Petition in Police Rules.
11. Not correct. The para of the appeal is correct for supply of documents but in vain.

G R O U N D S:

- a. Not commented upon by the respondents being Cook employee.
- b. Not correct. The Police never raided the house of appellant but of a Khan Bahader of the village. No illegal activity was made by him.
- c. Not correct. Neither formal enquiry nor subsequent enquiry was conducted by the respondents as per the mandate of Law which is evident from the same.
- d. Not correct. The Charge Sheet and Statement of Allegation no ever contains allegation of absence from duty.
- e. Not correct. No retrospective effect could be given to any order.
- f. Not correct. Appellant is no acquitted from the baseless charges as per order dated 02-10-2017 of the competent court of Law. More so, in similar circumstances such like appeal was accepted by this hon'ble Tribunal vide judgment dated 14-10-2011. (Copies as Annex "R/1" & "R/2")

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.



Appellant

Through



Saadullah Khan Marwat
Advocate,

Dated: 27-11-2017

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 1371/2014

Najeeb Ullah

versus

D.P.O & Others

AFFIDAVIT

I, Najeeb Ullah Khan appellant do hereby solemnly affirm and declare that contents of the **Appeal & rejoinder** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

(Najeeb)

DEPONENT

فصل اول

نقل در ۹ اسرار 20¹²/₁₃

کویب سسر

در ۴

آردن الملح / باقره محمد عظیم خان ۱۵ ص 20¹²/₁₃ وقت ۵۹-۱۵ ب الوقت

احسان خان ۵۸۶۱ - باقره محمد عظیم خان الملح دعا
ک کویب الل ۱۴۲ لاری قنونه جوا - سجاد سسر جلا

فلاف قنونه ۳۲ ص 10/13 ج 1 ص 371
A.B

کتاب سسر در ۲ رصه بو فضا به بو سسر
AST بلانے مایے BBA در الی به سسر
سسر به سسر سسر سسر سسر سسر
حاضر آردن سسر سسر سسر

خا - خا

نقل عظیم خان

mmpl

23/12/2014

POLICE LINE
Lakki Marwat

Or.....32
02.10.2017.

2

APP for the State present. Accused namely Misal Khan, Najeeb ullah and Mehar ullah on bail present alongwith their counsel. Accused Muhammad Ramzan, Nazir ullah alias Razi ullah and Sami ullah are on exemption. Accused Daud Khan is absconding. None for the complainant present. Either private or official remaining PWs are not in attendance. Arguments on application u/s 265-K Cr PC heard. Record of the case file perused.

Vide my detail judgment of today consisting of (05) pages separately placed on file, as the accused already suffered a lot to have faced the hardship and agony of trial for more than three years and there is no hope and prospect of the success of the prosecution to be able to depose the rest of the PWs against the accused facing trial so as to conclude their case in the near future. More so since the disposal of earlier application till date fixed during this period of about 10 months the prosecution has failed to have carried out any serious efforts to ensure the attendance and examination of the remaining star prosecution witnesses so as to support the allegations recorded against the accused facing trial in the shape of Murasila report. Thus in the attending circumstance of the present case for groundless allegations and deficient evidence this court left with no other alternative but to invoke the provisions of section 265-K Cr PC, hence to achieve the ends of justice and to stop the abuse of process of law in the attending circumstance of the present case, for the time being on acceptance of application all the accused facing trial are acquitted of the charges leveled against them vide case FIR No 320 dated 01.10.2013, u/s 371-A/371-B PPC

مقدمہ 47
مقدمہ 320 موروثی
مقدمہ 1-10-13
مقدمہ 5-12-13
مقدمہ 22-3-17
مقدمہ 2-10-17
مقدمہ 371A
مقدمہ 371B-13A
مقدمہ 2-10-17
مقدمہ 5-12-13
مقدمہ 22-3-17
مقدمہ 2-10-17
مقدمہ 371A
مقدمہ 371B-13A

Secretary
Office of the District & Sessions
Tanda Taluk
District of Feroze Pur
Muzaffargarh

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r/w 13AO registered at PS Pezu District Lakki Marwat. The accused facing trial are on bail; hence their bail bonds stands cancelled and sureties to them are discharged of their liabilities under the bail bonds.

So far, as the case of absconding co-accused Daud Khan son Muhammad Khan r/o Ghandi Umar Chikar District Lakki Marwat is concerned, for his willful absence and disregard to the process of law and court on the basis of record and evidence so recorded in his absentia within the meanings of section 512 Cr PC, he is declared as proclaimed offender and perpetual warrant of arrest be issued against him. A copy of this judgment be sent to the quarter concerned to enlist the name of absconding accused in the relevant register maintained for POs.

Case property if any, be kept intact till the arrest and conclusion of trial of absconding co-accused Daud son of Muhammad Khan.

File be consigned to the record room after its completion and compilation.

Announced:
02.10.2017

(Signature)
(Safi ullah Jan)

Additional Sessions Judge-II
Lakki Marwat.

C.D. No. 7903
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Lakki Marwat

BEFORE THE KHYBER PAKHTUNKHA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. ~~361/2010~~
1362/2010
Date of institution: 2010
Date of decision: 2011



Munir Khan S/O Yousaf Khan, R/O A.Jan
Ex-Constable No.658, Police Post Shahraba
Lakki Marwat.

(Appellant)

VERSUS

1. District Police Officer, Lakki Marwat.
2. Regional Police Officer, Bannu Region, Bannu.
3. Provincial Police Officer, Peshawar.

(Respondents)

APPEAL AGAINST O.B NO 232, DATED 7.5.2010 OF RESPONDENT NO.1, WHEREBY APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE ORDER NO.2110/EC, DATED 17.6.2010 OF RESPONDENT NO.2 WHEREBY REPRESENTATION OF THE APPELLANT WAS REJECTED.

MR. SAADULLAH KHAN MARWA
Advocate.

For appellant.

MR. ARSHAD ALAM,
AGP.

For respondents.

SYED MANZOOR ALI SHAIK
MR. KHALID HUSSAIN,

MEMBER
MEMBER

JUDGMENT

SYED MANZOOR ALI SHAIK, MEMBER: This appeal has been filed by Munir Khan, appellant, against the order dated 7.5.2010, whereby he was dismissed from service by respondent No. 1, and against the order dated 17.6.2010, whereby his representation was rejected by respondent No. 2. It has been prayed that on acceptance of the appeal, the impugned orders may be set aside and the appellant may be reinstated in service with all back benefits.

2. Brief facts of the case as narrated from the memo of appeal are that the appellant while posted at Police Post Shahbaz Khal, vide FIR 719 dated 22.12.2008, P.S Pezu, lodged by Mst. Noor Nama D/O Sahib Noor K.O Musharraf Mansoor for her abduction by the appellant. The appellant was issued charge sheet alongwith statement of allegations on 20.12.2008, which was duly replied by him. An enquiry was conducted and after its conclusion, the appellant was served with final show cause notice, which was also replied by

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him. Finally, vide impugned order dated 7.5.2010, the appellant was dismissed from service with immediate effect. Feeling aggrieved, the appellant filed departmental appeal on 12.5.2010, which was rejected on 17.6.2010, hence this appeal.

3. Notices were issued to the respondents, they filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the enquiry was not conducted in proper manner. Statements of witnesses, produced against the appellant, were not recorded in his presence, nor he was given proper chance to defend himself. Final show cause notice served upon the appellant without copy of enquiry report. Even findings of enquiry were not communicated to him, which were mandatory under the law. He further argued that the enquiry officer in its findings recommended to the authority that proceedings may be kept pending till the decision of criminal case pending disposal in a competent court of law but the authority deviated from the same and dismissed the appellant from service. He also stated that in the aforementioned criminal case, the appellant has been acquitted honourably and was entitled for reinstatement with all back benefits. In support of his arguments, the learned counsel for the appellant relied on 2011-PLC (CS) 387, 2008 SCMR855 and 2001-SCMR 269. He requested that the appeal may be accepted as prayed for.

6. The learned AGP, on the other hand, argued that departmental proceedings and criminal proceedings are different and can run simultaneously. He further argued that charge sheet alongwith statement of allegations was issued to the appellant. During the enquiry proceedings, he was given proper chance to cross examine the witnesses produced against him, but he failed to prove his innocence and he has rightly been dismissed from service being an employee of discipline.

7. Perusal of record would show that the appellant was involved in a criminal case and proceedings initiated against him by the competent court of law. The department also initiated departmental proceedings against him. The record reveals that the enquiry had been conducted in question answer forms without affording opportunity to the appellant to cross examine the witnesses. Even copy of enquiry report had not been provided to him alongwith final show cause notice, which were mandatory under the law. The Tribunal further observes that the department must wait for the outcome of criminal case, wherein he was exonerated by the competent court of law, but the department straight away dismissed the appellant from service, even without following proper procedure in accordance with the law. The Tribunal agrees with the arguments advanced by the learned counsel for the appellant.

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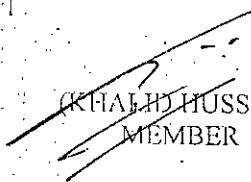
M. J. M. J.
EX AMINISTRATOR
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar


In view of the above, the appeal is accepted, the impugned orders are set aside, and the punishment of dismissal from service awarded to the appellant is converted into stoppage of two increments for year one without cumulative effect for being negligent and conduct not worthy of a police employee. The appellant is reinstated into service with immediate effect and the intervening period may be treated as extra-ordinary leave without pay.

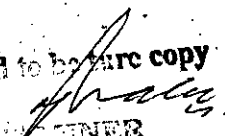
9. This order will also dispose of another connected appeal No., 1361/2010, of Ayub Khan, who was not directly involved in the FIR and exonerated honourably by the competent court of law. So the punishment of disraissal from service is converted into "Censure" and he is reinstated into service with all back benefits.

10. Parties are, however, left to bear their own costs. File be consigned to the record.

ANNOUNCED
14.10.2011


(KHALID HUSSAIN)
MEMBER


(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy

OFFICER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1933 /ST

Dated 25 /9 / 2018


To

The District Police Officer,
Government of Khyber Pakhtunkhwa,
Lakki Marwat.

Subject: - JUDGMENT IN APPEAL NO. 1377/2014, MR. NAJIBULLAH.

I am directed to forward herewith a certified copy of Judgement dated 30.08.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.