

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

Service Appeal No.475/2016

Date of Institution ... 21.03.2016  
Date of Decision ... 14.07.2021

Sartaj Ahmad, S/O Hashim Khan R/O Tehsil Drosh Village Ursoon  
District Chitral, Ex-Police Constable No.359 District Chitral.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Secretary Home and  
Tribal Affairs Khyber Pakhtunkhwa, Peshawar and five others.

... (Respondents)

Yasir Saleem,  
Advocate

... For appellant.

Kabir Ullah Khattak,  
Additional Advocate General

... For respondents.

AHMAD SULTAN TAREEN  
ROZINA REHMAN

... CHAIRMAN  
... MEMBER (J)

**JUDGMENT**

ROZINA REHMAN, MEMBER : The relevant facts leading to the filing of the instant appeal are that appellant joined service in the Police Department as Constable on 22.09.1996. Two private persons submitted two different complaints against the appellant, therefore, he was proceeded against departmentally and he was awarded major penalty of dismissal from service.

2. We have heard Mr. Yasir Saleem Advocate learned counsel for appellant and Mr. Kabir Ullah Khattak learned Additional Advocate

of BA-2  
14/7/21

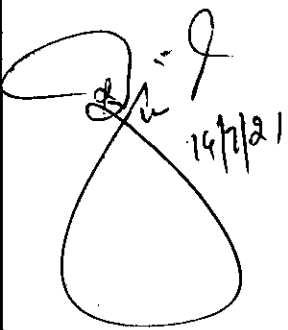
General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Mr. Yasir Saleem Advocate appearing on behalf of appellant, inter-alia, contends that respondents failed to deal the appellant in accordance with law and that the matter has already been patched up outside the court and there was no case against the appellant but even then, major penalty was imposed upon him. He argued that appellant rendered spotless and qualified service of more than twelve years, therefore, entitled to service benefits and lastly he submitted that the inquiry was defective as the PWs were never cross-examined and that the appellant was kept in darkness and was posted to far flung Police Station Molkoh and was never accompanied with the inquiry proceedings and lastly, he submitted that the appellant was condemned unheard as he was not given any opportunity of hearing and the punishment does not commensurate with the gravity of offence.

4. Conversely, learned A.A.G submitted that he was found involved in criminal case vide F.I.R No.200 dated 05.02.2006 registered at Police Station Chitral U/S 406 P.P.C and there was a civil case of getting loan and refusing to pay which was decreed against him while the criminal case was decided on the strength of compromise which amounts to admission of charges on the part of appellant. He argued that the appellant preferred departmental appeal which was dismissed on 10.08.2007 but the appellant instead of lodging service appeal, wasted time by giving application to different authorities which were turned down being irrelevant and infructuous. He submitted that the mercy petition was dismissed on 07.05.2008 but service appeal was not filed in time.

*Yasir Saleem*  
14/7/21

5. As per record, a complaint was filed by one Zafruddin against the appellant for breach of trust and fraud of salary of his son Islah ud Din under training Constable at Hangu, whereas, civil suit was instituted by one Atta Ullah for recovery of Rs.24900/- against the appellant which was decreed against him. On the complaint of Zafruddin, criminal case vide F.I.R No.200 of 2006 was registered in P.S Chitral U/S 406/420 P.P.C, whereas, civil suit decreed against him and referred to his Department for implementation. In view of activities and conduct of appellant, departmental inquiry was initiated against him. He was issued show cause notice but he failed to submit satisfactory reply, hence, departmental inquiry was initiated and D.S.O Investigation and D.S.O Circle Drosh were appointed as Inquiry Officers. The criminal case was compounded with the complainant and censure was recommended by the Inquiry Officer while in case of civil dispute, appropriate punishment was recommended by the Inquiry Officer. Both these inquiries were disposed of through single order by District Police Officer Chitral. The recommendation of Inquiry Officer for the punishment of warning was not taken into consideration as compromise was considered irrelevant while by committing fraud and breach of trust, he violated norms of Police Rules, therefore, major punishment of dismissal from service was imposed upon appellant vide order dated 16.01.2007. He then filed departmental appeal, copy whereof is not available on file however, order of Provincial Police Officer Khyber Pakhtunkhwa Peshawar is available on file as "Annexure-C" which shows that his departmental appeal was filed by the Deputy Inspector General of Police Malakand Range Saidu Sharif, Swat vide order dated 10.05.2007, where-after, the appellant filed mercy

 14/1/21

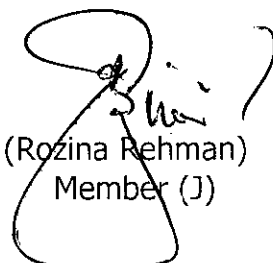
petition on 03.05.2008 and vide order dated 07.05.2008 of Provincial Police Officer Khyber Pakhtunkhwa, Peshawar, the appellant was advised to seek remedy from Service Tribunal as there was no provision of mercy petition in the Police Rules. The appellant instead of filing service appeal in the Service Tribunal, filed another appeal before the I.G.P Khyber Pakhtunkhwa, Peshawar which appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 was rejected on the grounds of limitation and merits as well.

6. As per Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, a civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms & conditions of his service may, within 30 days from the date of communication of the order to him, prefer an appeal to the appellate authority. It is well-entrenched legal proposition that where appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426.

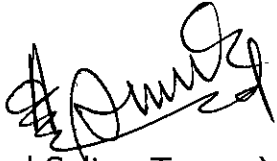
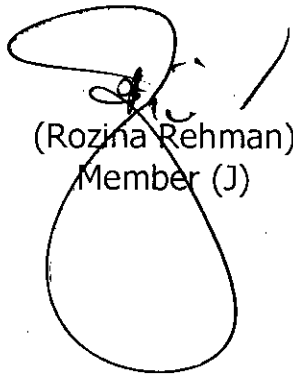
7. In view of the foregoing reasons, instant appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
14.07.2021

  
(Ahmad Sultan Tareen)  
Chairman

  
(Rozina Rehman)  
Member (J)

Service Appeal No. 475/2016

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	14.07.2021	<p><u>Present:</u></p> <p>Yasir Saleem, Advocate ... For Appellant</p> <p>Kabir Ullah Khattak, Additional Advocate General ... For respondents</p> <p>Vide our detailed judgment of today of this Tribunal placed on file, instant service appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 14.07.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">               (Ahmad Sultan Tareen)              Chairman         </div> <div style="text-align: center;">               (Rozina Rehman)              Member (J)         </div> </div>

10.3.2021

The Worthy Chairman is on leave, therefore, the bench is incomplete. To come up for hearing on 16.06.2021 before the D.B.




Reader

16.06.2021

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Arguments heard. To come up for order on 14.07.2021 before D.B.



(Rozina Rehman)  
Member(J)



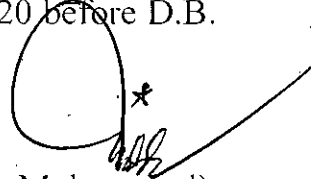
Chairman

28.09.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

A request was made for adjournment as issue involved in the present case is pending before Larger Bench of this Tribunal. Adjourned. To come up for arguments on 15.12.2020 before D.B.



(Mian Muhammad)  
Member (E)



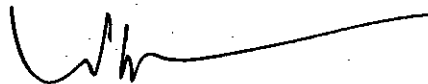
(Rozina Rehman)  
Member (J)

15.12.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Sher Muhsin ul Mulk for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 21.01.2021 before D.B.



(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

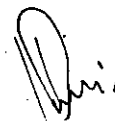
21.01.2021

Sher Haider Khan, Advocate on behalf of counsel for the appellant and Asif Masood Ali Shah, DDA alongwith Sher Mohsinul Mulk, Inspector for the respondents present.

Former requests for adjournment due to engagement of learned senior counsel before the Hon'ble High Court today. To come up for hearing before the D.B on 10.03.2021.



(Mian Muhammad)  
Member(E)



Chairman

09.12.2019

Clerk to counsel for the appellant present. Addl. AG alongwith Mr. Sajid, Supdt for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. Adjourned. To come up for arguments on 16.01.2020 before D.B.

  
Member

  
Member

16.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 03.03.2020 for arguments before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

03.03.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid, Superintendent for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.04.2020 before D.B.

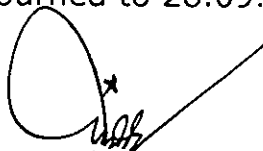
  
(Mian Mohammad)  
Member

  
(M. Amin Khan Kundi)  
Member

30.06.2020

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for the respondents present.

An application for adjournment has been submitted on the ground of illness of appellant. Adjourned to 28.09.2020 before D.B.


  
Member


  
Chairman



18.09.2019

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned but as a last chance. To come up for arguments on 25.10.2019 before D.B.


  
Member


  
Member

25.10.2019

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present.

Record reveals that the impugned order was passed on 16.01.2007. The departmental appeal was decided vide order dated 19.02.2016 but the copy of departmental appeal is not available on record. Respondent are directed to direct the representative to attend the court and furnish copy of departmental appeal as well all the inquiry proceedings <sup>in</sup> behind in the instant case on the next date of hearing. Adjourned. To come up for record and arguments on 09.12.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

05.04.2019

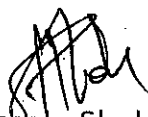
Appellant in person and Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 29.05.2019 before D.B

  
Member

  
Chairman

29.05.2019

Clerk to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 18.07.2019 before D.B.


  
(Hussam Shah)  
Member

  
( M. Amin Khan Kundi)  
Member

18.07.2019

Mr. Yasir Saleem Advocate submitted Wakalat nama in favor of appellant. Mr. Muhammad Jan learned Deputy District Attorney Mr. Mubashir Hassan Head Constable for the respondents present. Being freshly engaged learned counsel for the appellant seeks adjournment.. Adjourned. To come up for arguments on 18.09.2019 before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

05.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 09.01.2019 before D.B.

09.01.2019

(Ahmad Hassan)

Member

(M. Amin Khan Kundi)

Member

Appellant in person and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Mohsin ul Mulk Inspector (Legal) for the respondents present. Appellant requested for adjournment as his counsel is not in attendance. Last opportunity is granted. Adjourned. To come up for arguments on 21.02.2019 before D.B.

  
Member

  
Member

21.02.2019


Clerk to counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Mubashir H.C for the official respondents present. Clerk to counsel for the appellant request for adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 05.04.2019 before D.B.


  
Member

  
Chairman

03.07.2018


Appellant in person and Mr. Sardar Shoukat Hayat, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 08.08.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Kundi)  
Member

08.08.2018

Mr. Akram Jan, Advocate put appearance on behalf of counsel for the appellant. Mr. Kabirullah Khattak, Addl: AG for respondents present. Learned counsel for the appellant made a request for adjournment as his senior counsel is out of country. Granted. To come up for arguments on 22.10.2018 before D.B.

  
MEMBER

  
Chairman


22.10.2018


Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to retirement of Hon'ble Chairman, the Tribunal is incomplete. To come up for same as before on 05.12.2018.

  
Reader

01.01.2018


Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for rejoinder and arguments on 14.2.2018 before D.B.


  
(Ahmad Hassan)  
Member(E)

  
(M.Amin Khan Kundi)  
Member (J)

14.02.2018

Appellant in person and Muhammad Jan DDA for respondents present. Appellant submitted rejoinder which is placed on file. Due to general strike of the bar, the case is adjourned. To come up for arguments on 18.04.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(M. Hamid Mughal)  
Member(J)

18.04.2018

Counsel for the appellant and Addl: for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.07.2018 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

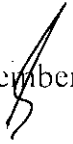
22.05.2017

Counsel for the appellant and Mr. Mubashir Hassan, HC alongwith Addl. AG for the respondents present. Written reply submitted. Cost of Rs. 500/- also paid and receipt thereof obtained from the learned counsel for the appellant. To come up for rejoinder and arguments on 13.07.2017 before D.B.

  
(Ahmad Hassan)  
Member

13.07.2017

Counsel for the appellant and Asstt. AG alongwith Mubashir Hassan, H.C for the respondents present. Counsel for the appellant seeks adjourned to file rejoinder. Adjourned. To come up for rejoinder and arguments on 13.11.2017 before the D.B.

  
Member

  
Chairman

13.11.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks time to file rejoinder. To come up for rejoinder and final hearing on 01.01.2018 before D.B.

  
(AHMAD HASSAN)  
Member

  
(Muhammad Hamid Mughal)  
Member


27.02.2017

Clerk counsel for appellant and Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted. Learned Additional AG requested for further time for submission of written reply. Request accepted. To come up for written reply/comments on 28.03.2017 before S.B.

  
(ASHFAQUE TAJ)  
MEMBER


28.03.2017

Clerk to counsel for the appellant and Addl: AG for the respondents present. Notice be issued to the respondents. Last opportunity granted. To come up for written reply/comments on 20/04/2017 before S.B.

  
(AAIMAD HASSAN)  
MEMBER

20.04.2017

Clerk to counsel for the appellant and Mr. Mubasher Hassan, HC along with Addl. AG for the respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity further extended subject to payment of cost of Rs. 500/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 22.05.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member.

13.12.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of Corruption and removed from service vide impugned order dated 16.01.2007 where-against he preferred departmental appeal which was rejected on 19.02.2016 and hence the instant service appeal on 21.03.2016.

That the appellant has put in more than 10 years pensionable service and as such the punishment is harsh depriving the appellant from pensionary benefits. Furthermore, allegations were not established during the inquiry.

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.01.2017 before S.B.

Chairman

24.01.2017

Counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 27.02.2017

(M. Amir Nazir)  
Member



27.09.2016

Counsel for the appellant present. Counsel for the appellant requested for adjournment. To come up for preliminary hearing on 26.10.2016 before S.B.

  
Chairman

26.10.2016

Appellant in person present. Preliminary arguments could not be heard due to general strike of the bar. To come up for preliminary hearing on 28.11.2016 before S.B.

  
Chairman

28.11.2016



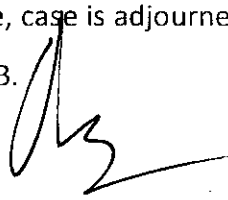
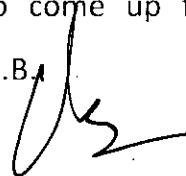
Agent of counsel for the appellant present and requested for adjournment as learned counsel for the appellant is busy in Darul Qaza, Swat. Adjourned for preliminary hearing to ~~13~~ 12.2016 before S.B.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 475/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.05.2016	<p>The appeal of Mr. Sartaj Ahmad resubmitted today by Mr. Asghar Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>19.5.16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	19.05.2016	<p>Appellant in person present. Due to strike of the Bar learned counsel for the appellant is not available today before the Court, therefore, case is adjourned for preliminary hearing to 18.8.2016 before S.B.</p> <p style="text-align: right;"> Member</p>
	18.08.2016	<p>Counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 27.9.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

خدمتِ خدا - حضرت صاحبِ فریاد و غم و اندوه

سرتا بہ لعلہ بنام کو لیسے

درخواستِ عرارِ دلالت  
غزیرہ ٹائمز بابت مذکورہ اہل

صبا علی

یہ کہ قندم سوزان بالا عدالتِ صغیر میں دائر شدہ ہے۔  
اور کچھ اعتراضات کے ساتھ سائل کو وارنٹ جاری ہے،  
جس میں آج قابلِ حلف عداوت کیس کرنا ہے  
معرضہ علی لیکر ایڈیلٹ عدت عداوت کے ساتھ  
عدالت سائل کا رابطہ نہ ہو کہ عدالت سے اعتراضات  
مکمل نہ ہو سکتے۔ کیونکہ وہ موجود وقت پر  
کاروائی نہیں کرچے جہاں اس وقت بارشوں کے  
وجہ سے کیونکہ رابطے سے رابطہ نہ ہو سکا۔

لکھنا اس کے بارے میں درخواست  
عدالت کو منظرِ فرما کر من سائل  
کو غزیرہ 20-15 دنوں ٹائمز فراہم  
کرنے کے احکامات جاری فرمادے جائیں

الکافی

حضرت صاحب فریاد و غم و اندوه

بذریعہ  
توجہ

درجہ

6/4/16

allowed.


6/4/16

The appeal of Mr. Sartaj Ahmad son of Hashim Khan Ex-Police Constable No.359 Distt. Chitral received to-day i.e. on 21.03.2016 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, Statement of allegations and show cause notice are not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal is not attached with the appeal which may be placed on it.

No. 478 /S.T,

Dt. 22/3/2016

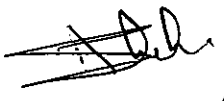
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Asghar Shah Adv. Pesh.

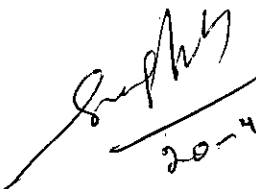
⑮ day time extended.

Respected Sir

that due to some domestic  
unavoidable circumstances the  
appellant remained unable to  
produce the required documents and  
request for extension of the filing  
date.

  
Counsel

15 day further extend

  
20-4-16

Respected Sir,

The documents required are not available  
being of very old case, therefore it is requested  
to put the same before the bench, where  
it will be prayed to call from Respondent's  
Department

Counsel

*[Faint signature]*

*[Faint text]*

**BEFORE THE TRIBUNAL PESHAWAR**  
**HYBER PAKHTUNKHUWA SERVICE**

Service Appeal No. 475 2016

Sartaj Ahmad

**VERSUS**

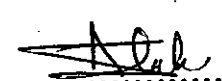
Government of Khyber Pakhtunkhwa (KPK) through the Secretary  
Home and Tribal affair KPK Peshawar

**INDEX**

S.No	Description of Documents	Annexure	Pages
1	Memo of Service Appeal		1-4
2	Affidavit		5
3	Addresses of Parties		6
4	Copies of recommendation by Enquiry Committee	"A"	7-9
5	Copy of Order with Better Copy	"B"	10-11
6	Copy of impugned Order	"C"	12
7	Wakalatnama		✓

  
Appellant/Petitioner

Through

  
Asghar Shah  
(Advocate Peshawar)  
Office; 22-A Nasir Mansion  
Railway Road, Peshawar  
Cell No. 0342-9047344



(1)

**BEFORE THE KHYBER PAKHTUNKHUWA**  
**SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 475 2016.

A.W.F. Province  
Service Tribunal  
Diary No. 251  
Dated 21-03-2016

Sartaj Ahmad,  
S/o Hashim Khan R/o Tehsil Drosh Village Ursoon District Chitral,  
Ex-Police Constable No. 359 District Chitral.

.....Appellant

**V E R S U S**

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pukhtunkwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Fukhtunkwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Sawat.
5. District Police Officer Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

Appeal against the impugned Order bearing No. 1484/16 dated 19-02-2016 issued by AIG/Establishment for Inspector General of Police KPK/Respondent No.3; whereby appeal of the appellant has been rejected both on the grounds of limitation as well as merit.

Prayer;

On acceptance of the instant Service Appeal the impugned Order bearing No. 1484/16 dated 19-02-2016 issued by AIG/Establishment for Inspector General of

~~File to be~~  
ae  
21/3/16

re-sub - filed  
5/6/16  
to-day



②

Police KPK/Respondent No.3 be set aside and the appellant be re-instated in service with all back benefits.

Any other relief deem just and proper in the circumstances of the case including payment of service benefits for qualified service and outstanding salaries etc may also granted to the appellant.

Respectfully Sheweth:

Brief facts and grounds giving rise to the instant Service Appeal are as under:

1. That the appellant joined Service in Police department as constable on i.e 22-09-1996 and was allotted Police No. 359 in Chitral District where he rendered spotless service and no adverse remarks whatsoever assigned to him from any quarter.
2. That the appellant served Police Department for more than twelve years with full commitment and professionalism.
3. That upon the complaints of two private persons asking therein loans allegedly payable by appellant one criminal and one civil cases were registered against the appellant.
4. That during the so called departmental enquiry two different reports were submitted one recommends for warning and another for punishment resultantly Respondent No.5 awarded the appellant major penalty of dismissal from service on 16-01-2007.

(Copies of recommendation by Enquiry Committee are annexed as Annexure "A" while impugned Order is Annexure "B')

5. That the matter remained under consideration before the highest brasses of Police Department for about a decade and lastly the impugned order was passed on 19-02-2016 by

(3)

Respondent No.3, (Annexure-"C"); hence the instant appeal amongst the following other grounds.

**GROUND:**

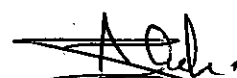
- A. That from the very beginning respondents have failed to deal the appellant in accordance with law because at the time of imposing the penalty the alleged cases were already patched up outside the court and in existence of no case imposition of major penalty for allegation of such cases is against the established law.
- B. That the appellate Committee has wrongly mixed question of limitation with question of merit which are one technical and one substantial in nature respectively.
- C. That the appellant has admittedly rendered spotless and qualified service of more than twelve years and is entitled for pensions and other benefits.
- D. That the allegations leveled against the appellant are not even related to act or omission done under colour of uniform of the appellant but pertains to private life of the appellant, therefore would not be based for dismissal from service.
- E. That the proceedings of the so-called if seen at a glance, the inquiry was defective one the PWs have never been cross-examined by the appellant and the appellant was kept in darkness and was posted to a very far flung Police Station Molkoh and was never accompanied with the inquiry proceedings.
- F. That the respondent No. 5 did not see the report of the inquiry officer who recommended the appellant for warning but the respondent No. 5 did not agree with the recommendation and major penalty of dismissal from service was awarded to the appellant for no fault on his part.
- G. That the punishment is too severe and is not proportionate to the gravity of offence.

- 4
- H. That the appellant was given no chance of personal hearing and it is a demand of natural justice that no one should be condemned unheard.
- I. That in light of the afore mentioned situation the imposed penalty is not only arbitrary and illegal but also harsh and unnatural.
- J. That the acts and omission of respondents is against the Civil Service Act 1973, Efficiency and Disciplinary Rules and applicable Fundamental and Supplementary Rules.
- K. That the instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- L. That any other ground be furnished when ever required for the assistance of this honourable Tribunal in support of the subject appeal with prior permission as required by procedure.

It is, therefore, most humbly prayed that the instant Service Appeal be allowed as prayed for.

  
Appellant

Through

  
Asghar Shah  
Advocate Peshawar

5

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE**  
**TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_ 2016


**Sartaj Ahmad**

**V E R S U S**

Government of Khyber Pakhtunkhwa (KPK) through the Secretary  
Home and Tribal affair KPK Peshawar

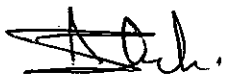
**AFFIDAVIT**

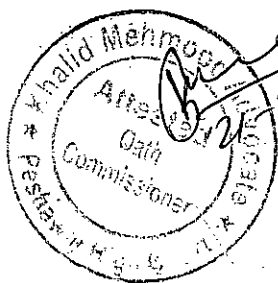
I, **Sartaj Ahmad**, S/o Hashim Khan R/o Tehsil Drosh Village Ursoon District Chitral, Ex-Police Constable No. 359 District Chitral/Appellant; do hereby solemnly verify and declare on oath that all the contents of the subject appeal; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
Deponent

C.N.I.C No. 15201-6572672-3

**Verified by:**

  
Asghar Shah  
Advocate Peshawar



(b)

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE**  
**TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_ 2016

**Sartaj Ahmad**

**VERSUS**

Government of Khyber Pakhtunkhwa (KPK) through the Secretary  
Home and Tribal affair KPK Peshawar

**ADDRESSES OF PARTIES**

**APPELLANT;**

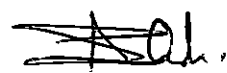
**Sartaj Ahmad**, S/o Hashim Khan R/o Tehsil Drosh Village Ursoon  
District Chitral, Ex-Police Constable No. 359 District Chitral.

**RESPONDENTS;**

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary  
Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pukhtunkwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber  
Pukhtunkwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif  
Sawat.
5. District Police Officer Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat  
Peshawar.

  
Appellant

Through

  
Asghar Shah  
Advocate Peshawar

ATTACHED

DAZ

DA

5-4-2006

دستور العمل

مجلس

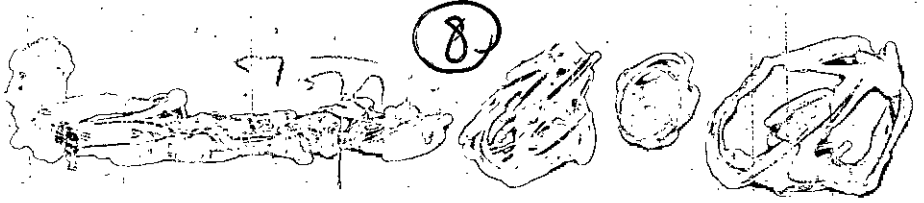
Handwritten notes in Urdu script, including the number 359 at the bottom right of the text block.

No. 228/25/1116  
3/4/2006  
Annexure No. 1

Handwritten text in Urdu script, appearing to be a list or record of items, possibly related to a medical or scientific study. The text is written in a cursive style and includes various numbers and names.

ATTACHED

18-19/06  
4845-48/E-II  
4



ATTESTED

*[Handwritten signature]*

25/05/2006  
G.P.O. 11/11/63-64

~~Handwritten signature~~  
Handwritten text

*[Large block of handwritten text, likely a letter or document content, written in a cursive style.]*

(b)





Annexure B

This is a departmental enquiry under Section 11(1) of the Government of India (Central Civil Services) (Conduct) Rules, 1954 against Constable Saraj Ahmad No. 10000/1900/1900.

The enquiry was initiated on the basis of a complaint from branch of trust and fraud of the salary in the amount of Rs. 27900/- were lodged/decreed the accused on 15-05-2006.

On the complaint of Zafar Ahmad No. 10000/1900/1900 P.C. was registered in P.S. Chitral with the name of the complainant and was referred to this office for implementation.

The activities and conduct of the accused Constable Saraj Ahmad No. 10000/1900/1900 were perused and the report of discipline good conduct and good will/character of the departmental enquiry vide order dated 15-05-2006 and subsequent order dated 10-06-2006 was initiated against the defaulter Constable Saraj Ahmad No. 10000/1900/1900.

The enquiry officer has recommended that the accused Constable Saraj Ahmad No. 10000/1900/1900 should be given a satisfactory reply hence proper departmental enquiry under section 11(1) of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and DSP Investigation and DSP Circle Dushy were appointed.

The enquiry officers after recording the statements of the complainant in which he has compounded the case and recommended that the accused Constable Saraj Ahmad No. 10000/1900/1900 should be given a satisfactory reply hence proper departmental enquiry under section 11(1) of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and DSP Investigation and DSP Circle Dushy were appointed. The enquiry officers after recording the statements of the complainant in which he has compounded the case and recommended that the accused Constable Saraj Ahmad No. 10000/1900/1900 should be given a satisfactory reply hence proper departmental enquiry under section 11(1) of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and DSP Investigation and DSP Circle Dushy were appointed.

Both the enquiry files perused and are disposed of with the file being same and similar nature and allegation.

The recommendation of enquiry officers in the present case is not acceptable in departmental proceeding the complainant has not accepted the charges against the accused officer.

The case against the accused is still pending in the court and the guilt of the accused in departmental enquiry is not proved and it is not clear that he has clearly violated the provisions of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and proved himself not fit for police service.

In the other enquiry the enquiry officer has recommended that the accused Constable Saraj Ahmad No. 10000/1900/1900 should be given a satisfactory reply hence proper departmental enquiry under section 11(1) of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and DSP Investigation and DSP Circle Dushy were appointed.

The recommendation of enquiry officers in the present case is not acceptable in departmental proceeding the complainant has not accepted the charges against the accused officer.

The case against the accused is still pending in the court and the guilt of the accused in departmental enquiry is not proved and it is not clear that he has clearly violated the provisions of the Government of India (Central Civil Services) (Conduct) Rules, 1954 and proved himself not fit for police service.

ATTESTED

*[Signature]*

(11)

In view of the charges and allegation against the accused I have proved beyond any doubt, hence retaining my Power as competent authority award final punishment and ordering the accused Constable Santaj Ahmad No. 359 from service with effect from today of 16/11/71.

*[Signature]*

District Police Officer

*[Signature]*

No. 354-60 Dated Chitral the 16/11

- 1. P.O. Chitral
- 2. M.S.D.P.O.
- 3. M.S.D.P.O. P.O.
- 4. P.O. Chitral
- 5. P.O. Chitral
- 6. P.O. Chitral
- 7. Reader for C.B.

RECEIVED

*[Signature]*

(2)

Better Copy Page - 10 - 211  
ANNEXURE - "B"

ORDER.

This is a departmental enquiry under NWFP removal from service (Special Power Ordinance 2000) against Constable Sartaj Ahmad No.359 of this District police.

Facts leading to the initiation of this enquiry are that two complaints are by Zafrud Din from breach of trust and fraud of the salary of his son Islahud Din under training constable at Hangu and another civil suit instituted by one Attaullah for the recovery of Rs; 24900/- were lodged/decreed against the accused constable.

On the complaint of Zafrud Din, Criminal case vide FIR No.200 Of 2006 U/S 406/420 PPC was registered in PS Chitral while civil suit was also decreed against him and referred to this office for implementation.

The activities and conduct of the accused constable were found against the norms of discipline, good conduct and good gentleman-ship of the force. hence departmental enquiry vide order dated 15-03-2006 and subsequent changed by order dated 19-04-2006 was initiated against the defaulter constable.

He was issued show cause notice to which he failed any satisfactory reply hence proper departmental enquiry under ordinance 2000 was initiated and DSO investigation and DSO Circle Darosh were appointed as enquiry officers.

The enquiry officers after recording the statements of the complainant. in which he has compounded the case with the complainant has requested not to proceed further and recommended the punishment of warning while on the application filed by Attaullah for the payment of decreed amount conducting summary of enquiry. The enquiry officer DSP H/Q has recommended for appropriate punishment. Both the enquiry files perused and are disposed in a single order being same and similar nature allegation.

The recommendation of the enquiry officers for the punishment of warning is not acceptable as in departmental proceeding compromise between the parties is irrelevant even it goes against the accused official.

The case against the accused is still in court and there is sufficient proof on record to prove the guilt of the accused in departmental proceeding. By committing fraud and breach of trust he has clearly violated the norms of police rules, discipline and good conduct and proved himself not fit for police service.

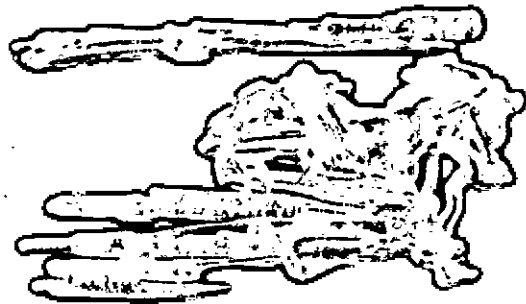
In the other enquiry, the enquiry officer has recommended for appropriate punishment. Perusal of this enquiry file also shows that the accused constable has committed fraud with the applicant/plaintiff by not full-filing ..... In short the charges and allegation leveled against the accused have proved beyond any doubt hence exercising my power as competent authority award major punishment and dismiss the accused constable Sartaj Ahmad

No.359 from service with effect from 16-01-2007.

Sd/-  
District Police Officer  
Chitral.

No.354-60 Dated Chitral the 16-01-2007.  
Copy to;-

**ATTESTED**





Annexure - C<sup>u</sup> (12)

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

No. S/ 1484 /16, Dated Peshawar the 19/02/2016.

**ORDER**

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975, submitted by Ex-Constable Sartaj Ahmad No. 359. The appellant was awarded punishment of dismissal from service by DPO/Chitral vide order No. 354-60/E-II, dated 16.01.2007, on the following charges:-

1. That one Zafar-ud-Din has submitted complaint against the applicant for getting a sum of Rs. 5000/- pay of his son Constable Islah-ud-Din under training at PTC Hangu on which a criminal case vide FIR No. 200/2006 u/s 406/420 PPC was registered against the defaulter Constable at Police Station Chitral.
2. That one Attaullah initiated a civil suit for the recovery of Rs. 24900/- from the accused Constable in the court which was decreed against the applicant by the court and sent to DPO/Chitral for implementation.

His previous appeal was filed by RPO/Malakand vide order No. 3203/E, dated 10.08.2007.

Meeting of Appeal Board was held on 03.12.2015, wherein appellant was heard in person in detail. On the examination of record it revealed that the appellant was dismissed in the year 2007, whereas appeal has been filed in the year-2015, which is badly time-barred and his petition is also without any force and substance. His act of extorting money from people fraudulently brought bad name to the department. Thus his appeal was rejected on grounds of limitation and merit as well.

This order is issued with the approval by the Competent Authority.

*Najeeb*

(NAJEEB-UR-RAHMAN BUGVI)  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

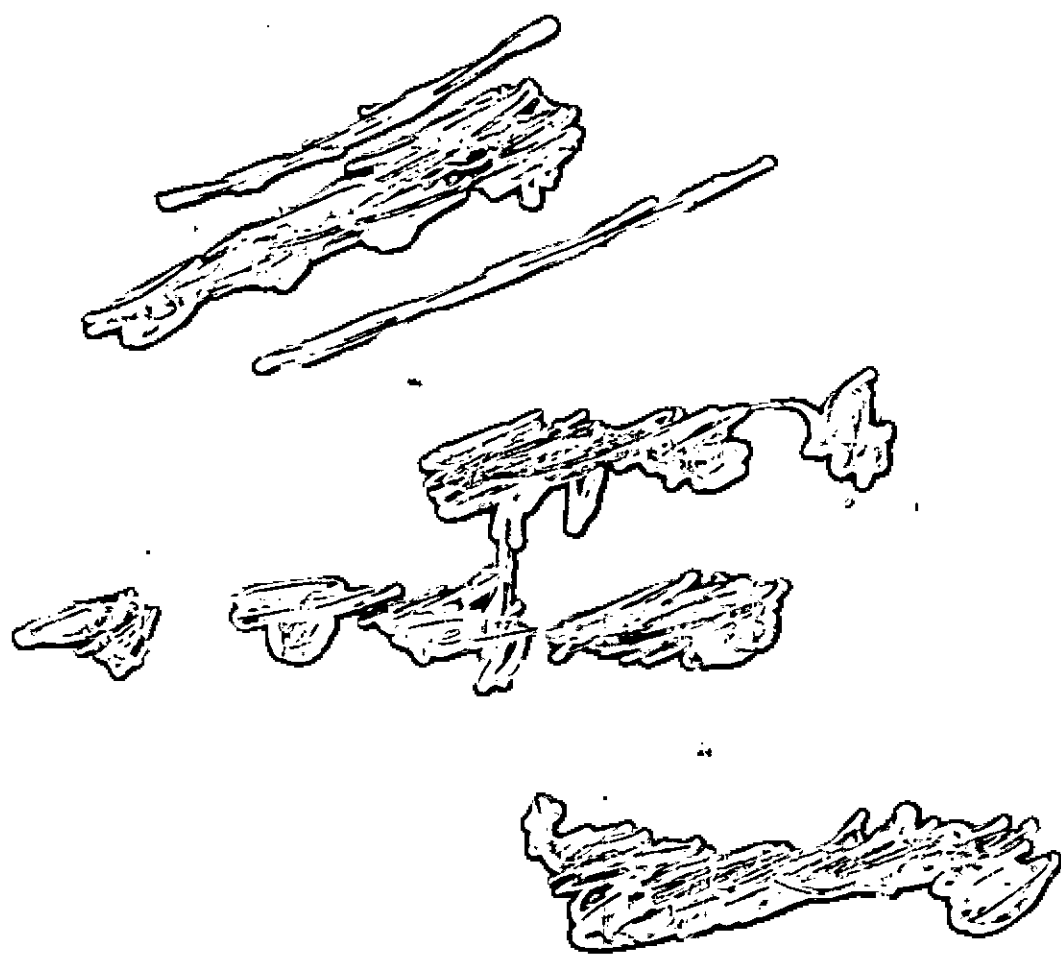
No. S/ 1485-92 /16,

Copy of the above is forwarded to the:

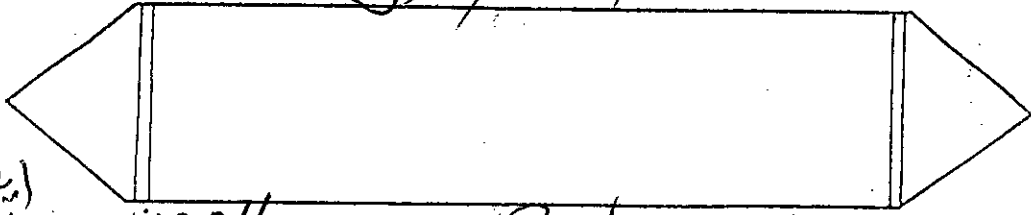
1. Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat.
2. District Police Officer, Chitral.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry, CPO.

**ATTESTED**

*St.*



# بعدالت سرٹیفکیٹ کی رقم



ایپیلینٹ

2016ء پنجاب  
سزاجاگہ بنام بریلو پوسٹ

21 مارچ

موزعہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کاروائی کا اختیار  
آن مقام سٹیشن ہاؤس کیلئے ایکسپریس سٹاٹوٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجزاء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے وہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 21 مارچ 2016ء

واہ العیاد

کے لئے منظور ہے۔

بمقام

Attested  
Accepted  
Stah.

Before the Service Tribunal KPK Peshawar

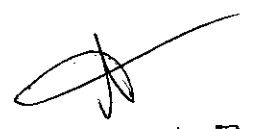
Sartaj Ahmad vs PPO etc.

Affidavit;

1. Sartaj Ahmad s/o Hashim Khan  
appellant has received Rs-500/-  
from Tribunal.

S  
Sartaj  
Deponed

15201-6572672-3

  
22/5/17

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No.475 of 2016.

Sartaj Ahmad,

S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral

Ex-Police Constable No.359 District Chitral

.....Appellant

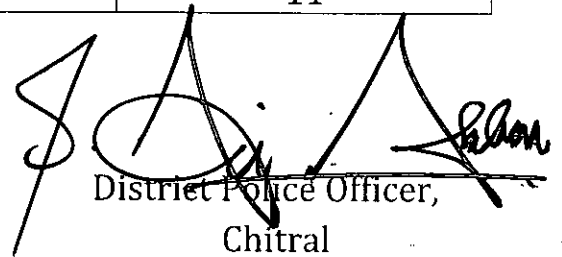
Versus

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer (DPO) Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

Index

S.No.	Description of Documents	Annex	Page No.
1	Para wise comments	-	1,2
2	Authority Letter.	-	3
3	Affidavit	-	4
4	Counter Affidavit.	-	5
5	Previous conviction record	A1 to A3	6,7,8
6	Dismissal Order	B	9
7	Order dated 07.05.2008	C	10
8	Order dated 19.02.2016	D	11

  
District Police Officer,  
Chitral



**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.****Service Appeal No.475 of 2016.**

Sartaj Ahmad,

S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral

Ex-Police Constable No.359 District Chitral

.....Appellant

**Versus**

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer (DPO) Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

**Parawise Comments on behalf of Respondents No.1 to 6****Preliminary objections:-**

- (1) That the appeal in hand is badly time barred.
- (2) That the appeal is bad in the eyes of Law due to joinder of irrelevant parties.
- (3) That the appellant has not come to the Tribunal with clean hands.
- (4) That the appellant has got no locus standi to institute the present appeal.

**On facts:-**

- (1) That para No.1 relates to Service record and partially admitted as correct, but the services of the appellant during the service has never been satisfactory. He was found habitual absentee and involved in fraudulent practices. His previous punishment record are attached as annexure "A1 to A3".
- (2) The reply is as in para 1 above.
- (3) Para No.3 is correct. He was found involved in criminal case FIR No.200 dated 05.02.2006 u/s 406 PPC PS Chitral and a civil case of getting loon and refusing to pay by the applicant was decreed against him, while the criminal case was decided on the basis of compromise which amounts admission of charges on the part of appellant.
- (4) That para 4 relates to enquiry proceeding and records and the order of respondent No.5 is quite clear, comprehensive and speaking one. The order is attached as annexure "B"
- (5) That para No.5 is incorrect and misleading one.

Against his punishment Order the appellant had preferred departmental appeal to Respondent NO.4 which was dismissed on 10.08.2007, but the appellant instead lodging Service appeal before this honorable Tribunal wasted time by giving application to different authorities which were turndown being infructuous and irrelevant. His mercy petition had been dismissed by Respondent No.2 on 07.05.2008 but filed no service appeal, the right to institute which had accrued on 11.08.2007 and lastly on 08.05.2008 as the case may be. The order attached as annexure "C"

The order dated 19.02.2016 by Respondent No.3 as annexure "D" on behalf of Respondent No.2 is self exploratory.

**On grounds:-**

- A. That para A is denied. Reply is as in para NO.1,2,3 and 4 above.
- B. That para B is denied, being incorrect. There was no scope of further application/appeal to Respondent No.2 as the respondent No. 2 being final authority had already rejected his mercy petition on 07.05.2008.
- C. That para C is not admitted. The appellant by his own conduct is not entitled to get any benefit. He could agitate this point by filling timely service appeal as at present the same has become time barred.
- D. That para D is denied. The appellant being a member of LEA has involved himself in criminal and illegal activities.
- E. That para E is denied. He has been given full opportunity of being heard and defence during the enquiry.
- F. During the proceeding the allegations leveled against the appellant stands proved and the competent authority was not bound to agree with the recommending enquiry officer/committee.

The order of the respondent No.5 is self explanatory and speaking one.

- G. That para G is not admitted. The punishment is well according to Law and act/ omission committed by the appellant.
- H. That para H is denied. The appellant has been given full opportunity of being heard and defence.
- I. That para I is denied. Reply has been given in Para G.
- J. That para J is incorrect. Appellant being a member of Police force not comes under the ambit of civil Service Act 1975 and rules. He has been proceeded under RSO 2000, which was the latest law to follow against the police personnel.
- K. That para K needs no comments.
- L. That para L is denied as the appeal in hand is badly time barred and wastes the precious time of the honorable Tribunal.

**Prayer:**

In light of these facts it is humbly prayed that the appeal may be dismissed with cost.

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary,  
Home and Tribal affair KPK Peshawar.

**Home Secretary  
Khyber Pakhtunkhwa**

2. Inspector General of Police Khyber Pakhtunkhwa,  
Peshawar. (Respondent No.2 &3)  
AIG/Establishment for Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar.

3. Deputy Inspector General of Police,  
Malakand Division Saidu Sharif Swat.

4. District Police Officer (DPO) Chitral.

5. Secretary Finance Government of K.P.K,  
at Civil Secretariat Peshawar.

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.**Service Appeal No.475 of 2016.

Sartaj Ahmad,

S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral

Ex-Police Constable No.359 District Chitral

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer (DPO) Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

**Authority Letter.**

HC Mubashir Hassan Focal Person, legal Branch of District Police Chitral is hereby authorized/deputed to proceed to the office of Govt: Pleader, Service Tribunal, KPK, Peshawar in connection with the vetting of Service Appeal No.475 of 2016 titled Sartaj Ahmad, S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral Ex-Police Constable No.359 District Chitral

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary,  
Home and Tribal affair KPK Peshawar.

**Home Secretary  
Khyber Pakhtunkhwa**

2. Inspector General of Police Khyber Pakhtunkhwa  
Peshawar. (Respondent No.2 &3)  
AIG/Establishment for Inspector General of Police,  
Khyber Pakhtunkhwa Peshawar.

3. Deputy Inspector General of Police,  
Malakand Division Saidu Sharif Swat.

4. District Police Officer (DPO) Chitral.

5. Secretary Finance Government of K.P.K,  
at Civil Secretariat Peshawar.

**Section Officer (Lit II)**

Finance Department

Govt. of Khyber Pakhtunkhwa

.....Respondents

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No.750 of 2016.

Service Appeal No.475 of 2016.

Sartaj Ahmad,

S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral

Ex-Police Constable No.359 District Chitral

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer (DPO) Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

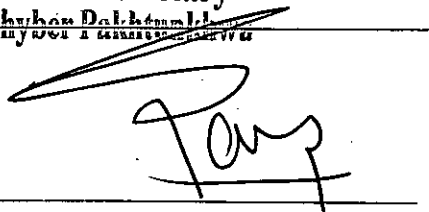
**Affidavit**

We the following respondents do hereby solemnly affirm that the contents of Parawise comments are true to the best of our knowledge and belief and nothing has been concealed from the Honorable Tribunal.

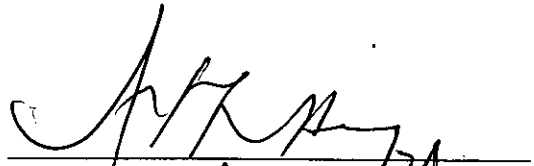
1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary, Home and Tribal affair KPK Peshawar.

**Home Secretary**  
~~Khyber Pakhtunkhwa~~

2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar. (Respondent No.2 &3)  
AIG/Establishment for Inspector General of Police, Khyber Pakhtunkhwa Peshawar.



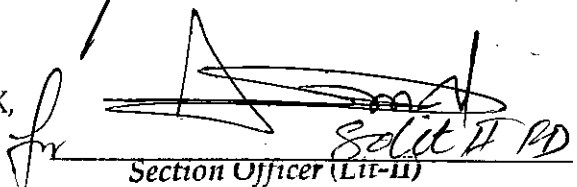
3. Deputy Inspector General of Police, Malakand Division Saidu Sharif Swat.



4. District Police Officer (DPO) Chitral.



5. Secretary Finance Government of K.P.K, at Civil Secretariat Peshawar.

  
**Section Officer (Lit-II)**

Finance Department  
Govt. of Khyber Pakhtunkhwa.....Respondents

**BEFORE THE KHYBER PUKHTUN KHWA SERVICE TRIBUNAL, PESHAWAR.**

Service Appeal No.750 of 2016.

Service Appeal No.475 of 2016.

Sartaj Ahmad,

S/O Hashim Khan R/o Tehsil Drosh village Ursoon District Chitral

Ex-Police Constable No.359 District Chitral

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
3. AIG/Establishment for Inspector General of Police Khyber Pakhtunkhwa Peshawar.
4. Deputy Inspector General of Police Malakand Division Saidu Sharif Swat.
5. District Police Officer (DPO) Chitral.
6. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

**Counter Affidavit.**

Verified that the contents of Parawise comments/ reply are true and correct and noting have been concealed from the tribunal.

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary, Home and Tribal affair KPK Peshawar.

**Home Secretary  
Khyber Pakhtunkhwa**

2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar. (Respondent No.2 &3)  
AIG/Establishment for Inspector General of Police, Khyber Pakhtunkhwa Peshawar.

3. Deputy Inspector General of Police, Malakand Division Saidu Sharif Swat.

4. District Police Officer (DPO) Chitral.

5. Secretary Finance Government of K.P.K, at Civil Secretariat Peshawar.

**Section Officer (Lit-II)**

Finance Department

..... Respondents

# Annexure: A-1

(18)

سید محمد حیات

گورنمنٹ ہسپتال

نمبر 8 - دوسری گھنٹی دھرت 20 بجے وقت 10/30 بجے صبح 10/05  
 ملدزبان ٹیوشن کی لائین جہذا میں دوسری گھنٹی گھنٹی  
 ماننے اور ڈیوٹی ملدزبان کو ٹیسٹ میٹر رقم کی طور پر  
 رقم ادا کر دی گئی تھی مبینہ طور پر لائین 10/05  
 رقم کو عدم وجود پر مبنی طور پر ملدزبان کو  
 رقم دفعہ 10 بجے۔ نیز گھنٹی میں جو وہ جو زمانہ کہ  
 فارمز اور اہم رقم صفحات کی گزری ان کے صفحہ پر  
 رقم دوسری گھنٹی پر حالت میں

نمبر 8 - صبح دھرت 20 بجے وقت 10/10 بجے صبح 10/05  
 رقم سیرتاج رقم 10/05 مبنی طور پر رقم 8 بجے سے  
 میں ہے کہ یہ رقم والدہ کے پاس ہے۔ مبنی رقم  
 رقم جو ملدزبان کو غیر ملدزبان - اب ملدزبان

سید محمد حیات  
 رقم 10/05

سید محمد حیات (6) رقم

OASI

Sir,  
Forwarded.

Per m/a

5/9/05

DSP/11/19  
9.9.05

Attested  
DSP/11/19 Chitral

Attestation - 2

No 151/081/1740  
24.2.06

لکھنات لغزنا چترال

میں لائن

مدد 25: دوسری گنتی رپورٹ غلامی ماہیت 1530 ع 2/06 اس وقت لائن پر اسیر  
غیر حاضری دوسری گنتی کی گنتی سے لگتے و دیگر نوکریاں تقسیم کر کے گنتی جوانان  
کو حاسن مقامات کی کڑی نگرانی کی بدایت ہو کر حاضری لینے پر کنٹریل سڑنا 2  
الحمد 359 کو عدم موجودہ یا کر کے خدو رپورٹ غیر حاضری درج 2 روزانہ  
کیا جا کر آمد سڑنا بیان کیا جا کر نقل مدات علیحدہ وقت ہو کر براد  
ناست کارروائی لکھنات لاکھی خدمت میں ارسال کی جائیگی۔ رپورٹ غلامی سے

مدد 28: حاضری رپورٹ غلامی ماہیت 1430 ع 2/06 اس وقت کنٹریل  
سڑنا 2 الحمد 359 غیر حاضر شدہ بحوالہ مدد 25 صورت 2/06 سے حاضری آ کر بیان  
کہہرا ایک تریبی اسٹیشن دار جو ایک عدم البرد میں ایک طنت ہوا تھا۔ جسکی  
اجانگ ایک ڈنٹ کی اطلاع یا کر لکھنات لاکھی عالم میں بغیر اطلاع دیے  
دیے جانے لگے تھے۔ اعتنا حال غیر حاضر رہا۔ اب حاضر آ کر بابت غیر حاضری  
اندر ان بالا سے معافی چاہتا ہوں۔ آئندہ کیلئے محتاط رہوں گا۔ تیر سڑنا  
ہے۔ دستخط انگریزی کنٹریل سڑنا 2 آ الحمد 359

کل غیر حاضری 15 ایوم 23 گنتی

ضابطی

لکھنات لغزنا چترال

Attested  
DSP/HQ, Chitral

ضابطی

M. M. P. Ch  
D: 23-2-06

سڑنا 2 الحمد 359  
مدد 28: حاضری رپورٹ غلامی ماہیت 1430 ع 2/06 اس وقت کنٹریل  
سڑنا 2 الحمد 359 غیر حاضر شدہ بحوالہ مدد 25 صورت 2/06 سے حاضری آ کر بیان  
کہہرا ایک تریبی اسٹیشن دار جو ایک عدم البرد میں ایک طنت ہوا تھا۔ جسکی  
اجانگ ایک ڈنٹ کی اطلاع یا کر لکھنات لاکھی عالم میں بغیر اطلاع دیے  
دیے جانے لگے تھے۔ اعتنا حال غیر حاضر رہا۔ اب حاضر آ کر بابت غیر حاضری  
اندر ان بالا سے معافی چاہتا ہوں۔ آئندہ کیلئے محتاط رہوں گا۔ تیر سڑنا  
ہے۔ دستخط انگریزی کنٹریل سڑنا 2 آ الحمد 359

period of absences  
days counted as  
without pay and  
release warned to  
school in future.  
DSP/HQ, Chitral Police Office  
24/2/06

23/2/06

OB NO  
dt: 9

25

50

ORDER.

This a departmental enquiry under NWFP Removal from service ( Special Power) ordinance 2000/- against constable Sartaj Ahmad No. 359 of this District Police.

Fact leading to the initiation of this enquiry are that two complaints are by Zaffarud Din from breach of trust and fraud of the salary of his son Islahud Din under training Constable at Hangu and another civil suit instituted by one Attaullah for the recovery of Rs. 24900/- were lodged/decreed the accused Constable.

On the compliant of Zaffarud Din a criminal case vide FIR No. 200/2006 U/S 406/420 PPC was registered in Ps Chitral while the civil suit was also decided against him and was referred to this office for implementation.

The activities and conduct of the accused Constable were found against the norms of discipline good conduct and good gentleman ship of the force, hence departmental enquiry vide order dated 15/03/2005 and subsequently changed by order dated 19/04/2006 was initiated against the defaulter Constable.

He was issued Show Cause Notice to which he failed to give any satisfactory reply hence proper departmental enquiry under ordinance 2000 was initiated and DSP Investigation and DSP Circle Drosh were appointed enquiry officers.

The enquiry officers after recording the statement of complainant compliant in which he has compounded the case and requested not to proceed further have recommended the punishment of warning while on the application filed by the Attaullah for the payment of decreed amount concluding summary of enquiry the enquiry officer DSP/HQ has recommended for appropriate punishment.

Both the enquiry files perused and are disposed off in this signal order being same and similar nature and allegation.

The recommendation of enquiry officers for the punishment of warning is not acceptable as in departmental proceeding the compromise between the parties is irrelevant even it goes against the accused official.

The case against the accused is still in court and there is sufficient proof on record to prove the guilt of the accused in departmental proceeding. By committing fraud and breach of trust he has clearly violated the norms Police rules discipline and good conduct and proved himself not fit for Police Service.

In the other enquiry the enquiry officer has recommended for appropriate punishment perusal of this enquiry file also show that the accused constable has committed fraud with the applicant/plaintiff by not fulfilling his contact and involved himself in fraudulent parties. His Service record is also not up to the standard and he has been awarded 12 punishment before.

In light of above facts at the accused was given final Show Cause Notice to which he failed to give any reply, and neither during the both enquires he produced any defence.

Attested  
M  
DSP/HQ Chitral



In short the charges and allegation against the accused have proved beyond any doubt, hence exercising my Power as competent authority award major punishment and dismiss the accused Constable Santaj Ahmad No. 359 from Service with effect from today on 18/01/2007.

District Police Officer  
Chitral

*[Signature]*

*[Signature]*

18/01/2007

No. 359-60 /18-11 Dated Chitral the 18/11

Copies to the:-  
1. DSP/HQ Chitral  
2. All SDPOS  
3. All SHO's  
4. P.O.  
5. Line Officer  
6. EC/OHC  
7. Reader for O.B.

DSP/HQ Chitral  
*[Signature]*  
Attested

29

Amour, B.

26

57

(5)

Annexure C.

From: The Provincial Police Officer,  
NWFP Peshawar.

To : Mr. Sartaj Ahmad,  
Ex-Constable No: 359  
Distt: Chitral (Darush)

No : 11678 /E-II dated Peshawar the 07/5/2008.

Subject: THE IMPUGNED ORDER DATED 10/5/2007 PASSED BY THE WORPHY DEPUTY INSPECTOR GENERAL OF POLICE MALAKAND RANGE, SAIDU SHARIF SWAT, WHEREBY THE DEPARTMENTAL ENQUIRY WAS FILED AND THE MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE PASSED BY THE KIND DPO CHITRAL WAS UPHELD, BE SET ASIDE AND THE PETITIONER BE GIVEN A CHANCE KEEPING IN VIEW SPOTLESS CREAM LIFE LONG SERVICE AND MAY BE REINSTATED HIM IN SERVICE WITH ALL BACK BENEFITS.

Memo:

Reference your Mercy petition No: Nil dated 3/5/2008.

There is no provision of mercy petition in the rules, however, you can seek the remedy from Service Tribunal NWFP Peshawar.

*3/07/08 FMC kept in in  
for start in  
PK*

*Liaquat Ali Khan*

(LIAQAT ALI KHAN)  
AIG/LEGAL  
FOR PROVINCIAL POLICE OFFICER  
NWFP PESH.

*24/5/08*



*Attested  
Mi*

*N*

*FA... U*

# Annexure, D,

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar

No. S/ 1484 /16, Dated Peshawar the 19/02/2016.

## ORDER

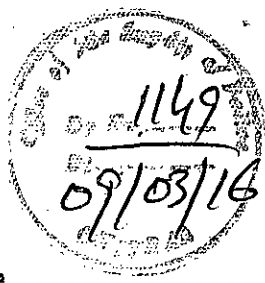
This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex-Constable Sartaj Ahmad No. 359. The appellant was awarded punishment of dismissal from service by DPO/Chitral vide order No. 354-60/E-II, dated 16.01.2007, on the following charges:-

1. That one Zafar-ud-Din has submitted complaint against the applicant for getting a sum of Rs. 5000/- pay of his son Constable Islah-ud-Din under training at PTC Hangu on which a criminal case vide FIR No. 200/2006 u/s 406/420 PPC was registered against the defaulter Constable at Police Station Chitral.
2. That one Attaullah initiated a civil suit for the recovery of Rs. 24900/- from the accused Constable in the court which was decreed against the applicant by the court and sent to DPO/Chitral for implementation.

His previous appeal was filed by RPO/Malakand vide order No. 3203/E, dated 10.08.2007.

Meeting of Appeal Board was held on 03.12.2015, wherein appellant was heard in person in detail. On the examination of record it revealed that the appellant was dismissed in the year 2007, whereas appeal has been filed in the year-2015, which is badly time-barred and his petition is also without any force and substance. His act of extorting money from people fraudulently brought bad name to the department. Thus his appeal was rejected on grounds of limitation and merit as well.

This order is issued with the approval by the Competent Authority.



(NAJEEB-UR-RAHMAN BUGVD)  
AIG/Establishment  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

No. S/ 1485-92 /16,

Copy of the above is forwarded to the:

1. Deputy Inspector General of Police, Malakand Region, Saidu Sharif, Swat.
2. District Police Officer, Chitral.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.
8. Central Registry, CPO.

No 2039

Do 26-2-16

Ee/DPO/Chitral

For information & action

Attested

DSP/HQ Chitral

for Malakand

District Police Officer  
CHITRAL

Inspector of Police  
75/2

1915

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE  
TRIBUNAL PESHAWAR**

Re In;

Service Appeal No.475/2016

Sartaj Ahmad

**V E R S U S**

Government of Khyber Pakhtunkhwa (KPK) through Secretary Home and  
Tribal affairs and others

**REPLICATION TO REPLY OF RESPONDENTS**

*Respectfully Sheweth:*

Replication on behalf of appellant is submitted as under;

**Answer to Preliminary Objections:**

All the 04 preliminary objections induced by respondents are in correct because no reason in support of the same has ever given why the appeal is not based on facts, why he has not come to this honourable tribunal with clean hands, what are the malarial facts which the appellant has tried to concealed from this honourable Tribunal, how the appeal of the appellant is time barred, why his appeal is not maintainable and how this honourable court has no jurisdiction to entertain this service appeal. Through the formatted preliminary objection it has been tried to avoid their responsibilities with effect to assure the appellant his basic right of appeal against their un just and malafide impugned order.

**ON FACTS:**

1. Para No.1 of the Comments is totally denied because the allegation leveled against the appellant were never proved against him. Furthermore no punishment has been awarded to the appellant by any criminal court of law.

2. Para No.2 of the comment has already been admitted as correct, therefore self admission of fact needs not to prove.
3. Para No. 3 of the comment is totally [redacted] therefore denied because on the basis of baseless allegations [redacted] granted, in fact the appellatant was neither convicted nor [redacted]
4. Para No.4 of the comment is al [redacted] the impugned order is void in nature.
5. Para No. 5 of the comment is illegal and void because firstly no limitation run against a void order and secondly the last impugned order is passed on 19-02-2016, which along with previous orders are impugned before this Honourable Tribunal through the subject Service Appeal.


**REPLICATION ON GROUNDS;**

- A. Not correct, Para of ground of appeal is correct.
- B. Not correct, Para of ground of appeal is correct because the authorities kept the appellatant in shell for the reason known to them; secondly the procedure adopted for the punishment was totally void and illegal.
- C. Not correct, Para of ground of appeal is correct as explained above.
- D. Not correct, Para of ground of appeal is correct.
- E. -I) Not correct, Para No. E to H of grounds of appeal is correct. The detail reply has been given above.
- J. Through the instant Para the respondents in their selves admit the proceeding under void Law which has been repealed .

Therefore, it is most humbly prayed that the instant replication be accepted in the subject Service Appeal.

  
**Appellant**

Through

  
Syed Ghufuran-Ullah Shah  
Advocate High Court  
Peshawar.

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE  
TRIBUNAL PESHAWAR**

Re In;

Service Appeal No.475/2016

**Sartaj Ahmad**

**V E R S U S**

Government of Khyber Pakhtunkhwa (KPK) through Secretary Home and  
Tribal affairs and others

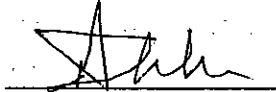
**AFFIDAVIT:**

I, **Sartaj Ahmad**, S/o Hashim Khan R/o Tehsil Drosh Village Ursoon District Chitral, Ex-Police Constable No. 359 District Chitral/Appellant; do hereby solemnly verify and declare on oath that all the contents of the subject re-joinder; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

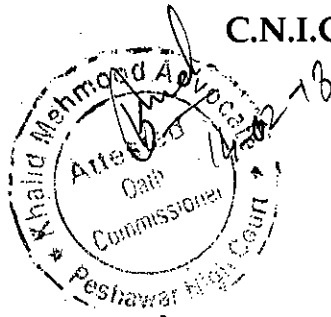
  
**Deponent**

C.N.I.C No. 15201-6572672-3

**Verified by:**



**Asghar Shah  
Advocate Peshawar**



**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE  
TRIBUNAL PESHAWAR**

Re In;

Service Appeal No.475/2016

Sartaj Ahmad

**V E R S U S**

Government of Khyber Pakhtunkhwa (KPK) through Secretary Home and  
Tribal affairs and others

**REPLICATION TO REPLY OF RESPONDENTS**

*Respectfully Sheweth:*

Replication on behalf of appellant is submitted as under;

**Answer to Preliminary Objections;**

All the 04 preliminary objections induced by respondents are in correct because no reason in support of the same has ever given why the appeal is not been based on facts, why he has not come to this honourable tribunal with clean hands, what are the malarial facts which the appellant has tried to concealed from this honourable Tribunal, how the appeal of the appellant is time barred, why his appeal is not maintainable and how this honourable court has no jurisdiction to entertain this service appeal. Through the formatted preliminary objection it has been tried to avoid their responsibilities with effect to assure the appellant his basic right of appeal against their un just and malafide impugned order.

**ON FACTS;**

1. Para No.1 of the Comments is totally denied because the allegation leveled against the appellant were never proved against him. Furthermore no punishment has been awarded to the appellant by any criminal court of law.



Respectfully,  
Advocate High Court  
Sayed Chaudhary-Ullah Shah

Through

Appellant

received in the subject service appeal.

Therefore, it is most humbly prayed that the instant application be

under void law which has been observed.

1. Through the instant bars the respondents in their replies admit the proceeding

reply has been given above.

E. -1) Not correct, bars No. E to H of grounds of appeal is correct. The detail

D. Not correct, bars of ground of appeal is correct.

C. Not correct, bars of ground of appeal is correct as explained above.

submitted for the punishment was totally void and illegal.

the appellant in reply for the reason known to them; secondly the proceeding

B. Not correct, bars of ground of appeal is correct because the authorities kept

A. Not correct, bars of ground of appeal is correct.

### REPLICATION ON SECTIONS:

Appeal

submitted before this Honorable Tribunal through the subject service

is based on 18-05-2018, which along with previous orders are

imposition and against a void order and secondly the last impugned order

2. Bars No. 2 of the comment is illegal and void because firstly no

order is void in nature.

4. Bars No. 4 of the comment is also not admitted because the impugned

appeal was neither convicted nor admitted.

the basis of baseless allegations no penalty be granted, in fact the

3. Bars No. 3 of the comment is totally false, therefore denied because on

therefore self admission of fact needs not to prove.

5. Bars No. 5 of the comment has already been admitted as correct.

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE**  
**TRIBUNAL PESHAWAR**

Re In;

Service Appeal No.475/2016

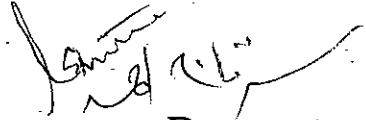
**Sartaj Ahmad**

**V E R S U S**

Government of Khyber Pakhtunkhwa (KPK) through Secretary Home and  
Tribal affairs and others

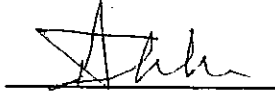
**AFFIDAVIT;**

I, **Sartaj Ahmad**, S/o Hashim Khan R/o Tehsil Drosh Village Ursoon District Chitral, Ex-Police Constable No. 359 District Chitral/Appellant; do hereby solemnly verify and declare on oath that all the contents of the subject re-joinder; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

  
**Deponent**

C.N.I.C No. 15201-6572672-3

**Verified by;**



**Asghar Shah**  
**Advocate Peshawar**



