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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 1415/2014

Date of institution ... 15.12.2014

Date of judgment ... 15.09.2017

Abid Ali S/O Sheraz Ali
R/O Mohallah Bazed Khel, Post Office Kalu Khan Radar,
Tehsil & District Swabi.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Civil Secretariat, Peshawar.
2. Provincial Police Officer (PPO), Government of Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
3. Deputy Inspector General of Police (DIG), Mardan Region-I, Mardan.
4. District Police Officer (DPO), Topi Road Swabi.
5. Mr. Izhar Shah Khan, Sub-Divisional Police Officer (SDPO) Tehsil Lahor, District Swabi.
6. Mr. Inayat Ullha Shah, Deputy Superintendent of Police/Enquiry Officer, Tehsil Lahor District Swabi.

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER/O.B NO. 1049, DATED 28.08.2014 OF RESPONDENT NO. 4, VIDE WHICH MAJOR PENALTY/PUNISHMENT OF DISMISSAL FROM SERVICE IMPOSED UPON THE APPELLANT AND ORDER NO. 7675/ES, DATED 24.11.2014, OF RESPONDENT NO. 3, VIDE WHICH DEPARTMENTAL APPEAL/REPRESENTATION OF THE APPELLANT WAS DISMISSED.

Mr. Amin-ur-Rehman, Advocate.

.. For appellant.

Mr. Ziaullah, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER:- This appeal has been filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 28.08.2014 passed by District Police Officer Swabi whereby the

appellant was dismissed from service as well as against the order dated 24.11.2014 whereby his departmental appeal was also rejected.

2. Facts of the case as per memo of the appeal are that the appellant was serving as Constable in Police Department. That during service he was charged in case FIR No. 1336 dated 29.12.2013 under section 381-A/411 PPC, Police Station Kalu Khan, Swabi and was arrested after registration of the case. However, the competent Court released him on bail on the basis of merit vide order dated 01.01.2014. That after registration of the case he was suspended vide order dated 01.01.2014 and departmental proceeding was initiated against the appellant on the basis of aforesaid criminal case and after departmental proceeding he was dismissed from service vide order dated 28.08.2014 by the competent authority. That the appellant also filed departmental appeal but the same was also rejected hence, the present service appeal.

3. The 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 and was performing his duty regularly. It was further contended that during service a criminal case vide FIR No. 1336 under section 381-A/411 PPC dated 29.12.2013 was registered against the unknown accused by the complainant namely Wakeel Jang after delay of 9 days but the appellant was later on malafidely involved at the instigation of the local police. It was further contended that neither the appellant was directly charged in the FIR by the complainant nor any witness has claimed to have seen the accused in the vicinity. It was further contended that later on the accused was involved alongwith two other co-accused during investigation and on the basis of said FIR/criminal case the appellant was dismissed from service but neither any proper inquiry was conducted nor any opportunity of cross examination was provided to the appellant. It was further contended that the statement of witnesses including the complainant was recorded in the inquiry proceeding initiated against the appellant wherein the complainant has clearly stated that the appellant Abid Ali was not involved in the aforesaid criminal case and he was involved

M. Amin.
15.9.2017

by the co-accused Muhammad Islam due to unknown reason. It was further contended that the statement of Mr. Ikhtiar Ali was also recorded by the inquiry officer wherein the said Ikhtiar Ali also stated that Abid Ali was unaware and innocent from the whole scenario. It was further contended that the competent authority was required to wait for the fate of the trial of the aforesaid case but the competent authority dismissed the appellant vide impugned order dated 28.08.2014 and the trial of the appellant in the aforesaid criminal case was concluded on 06.09.2014 and the competent court vide detail judgment dated 06.09.2014 acquitted the appellant under section 249-A Cr.PC. It was further contended that the statement of the complainant was also recorded by the competent court during trial wherein he admitted that the appellant was charged on the instigation of the local police. It was further contended that the complainant also admitted in his statement during trial that he does not want to prosecute against the appellant/accused facing trial any more, therefore, it was vehemently contended that the appellant was totally innocent but the local police malafidely involved him in the aforesaid criminal case and on the basis of the aforesaid suspicious criminal case the appellant was illegally dismissed from service, therefore, prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney Mr. Ziaullah for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Police Department but during service he was involved in criminal case for stolen of motorecyclé. It was further contended that proper inquiry was conducted and after conducting proper inquiry final show-cause notice was issued to him but the appellant did not satisfy the competent authority, therefore, he was rightly dismissed from service and prayed for dismissal of appeal.

6. We have heard the arguments on both side and gone through the record available on file.

7. Perusal of the record reveals that the appellant was serving in Police Department and after serving more than ten years he was involved in criminal case vide FIR No. 1336 dated 29.12.2013 under section 381-A/411 PPC, Police Station Kalu Khan, Swabi and on

M. Amin
15.9.2017

the basis of said FIR he was departmentally proceeded and ultimately he was dismissed, from service. The record further reveals that during inquiry proceeding statement of witnesses was recorded by the inquiry officer wherein Iflikhar Ali has stated in his statement that Abid Ali is unaware of the incident and innocent from the whole scenario. Same way complainant Wakeel Jang has stated in his statement that after recording his statement under section 164 Cr.PC he came to know that co-accused Muhammad Islam due to known reason wanted to involve Abid Ali in this case. He clearly stated that Abid Ali is not involved in this case meaning thereby that the departmental proceeding was not proved against the appellant as the complainant Wakeel Jang who is the star witness has exonerated the appellant in this statement. Moreover the appellant was also acquitted by the competent court in the aforesaid criminal case vide judgment dated 06.09.2014 but the appellant was imposed major penalty and was illegally dismissed from service, therefore, we are constrained to accept the present appeal, reinstate the appellant into service. The intervening period will be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.09.2017

Mughal

(MUHAMMAD HAMID MUGHAL)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

15.09.2017

Appellant with counsel present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Atta-ur-Rehman, S.I (legal) for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we are constrained to accept the present appeal, reinstate the appellant into service. The intervening period will be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
15.09.2017

Hamid
(MUHAMMAD HAMID MUGHAL)
MEMBER


Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

1415/2014

17.05.2017

Appellant alongwith his counsel present. Mr. Rashid Ali, Head Constable alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 18.08.2017 before D.B.

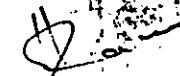

(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.08.2017

Appellant with counsel present. Mr. Fazle Subhan, Head Constable alongwith Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 12.09.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member (J)


(Muhammad Hamid Mughal)
Member (J)

12.09.2017

Bench is incomplete. To come up for 15.09.2017 before D.B


Member

9.6.2016

Appellant in person and Assistant AG for respondents present. Arguments could not be heard due to strike of the bar. To come up for arguments on 27.9.2016.


Member


Member

27.09.2016

Appellant with counsel and Mr. Muhammad Jan, GP for respondents present. Appellant submitted rejoinder which is placed on file. To come up for arguments on 31.01.2017 before D.B.


Member


Chairman

31.01.2017

Appellant with counsel and Mr. Ziaullah, GP alongwith Mr. Rashid Ali, H.C for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 17.05.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

6 12.05.2015

Appellant in person and Addl: A.G for official respondents No. 1 to 4 present. Written reply not submitted. Requested for adjournment. To come up for written reply on 31.7.2015 before S.B.


Chairman


7 31.07.2015

Appellant in person and Addl: A.G for official respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 28.10.2015 before S.B.


Chairman

28.10.2015

Appellant in person and Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 24.2.2016 before S.B.


Chairman

24.02.2016

Appellant in person and Mr. Fahim Khan, Inspector (legal) alongwith Addl: A.G for respondents present. Written reply by respondents submitted. The appeal is assigned to D.B for rejoinder and final hearing for 9.6.2016.


Member

Appeal No 1415/2014

Mr. Abid Ale

3.
Reader Note:

21.01.2015

Since 20th January has been declared as public holiday by the provincial government, therefore, case is adjourned to 18.02.2015 for the same.


Reader

4.
18.02.2015

Counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 17.03.2015


Member

5.
17.03.2015

Appellant alongwith his counsel 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 28.08.2014, vide which the major penalty of dismissal from service has been imposed upon the appellant. Against the above referred impugned order appellant filed departmental appeal which was rejected vide order dated 24.11.2014, hence the instant appeal on 15.12.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 12.05.2015 before S.B.


Member

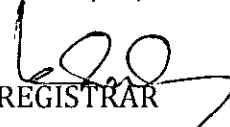

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Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1415/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18.12.2014	<p>The appeal of Mr. Abid Ali resubmitted today by Mr. Amin-Ur-Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Bench _____ for preliminary hearing to be put up there on _____</p> <p style="text-align: right;"> CHAIRMAN</p>


The appeal of Mr. Abid Ali son of Sheraz Ali received today i.e. on 15.12.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures- V, W and X are not annexed with the appeal which may be placed on it appeal.
- 2- Wakalat Nama in favour of appellant is not attached with the appeal which may be placed on file.
- 3- Annexures of the appeal may be attested.
- 4- Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1710 /S.T,

Dt. 15/12 /2014.

Mr. Amin-ur-Rehman Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Resubmitted after completion


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.
18/12/14

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 145 of 2014

Abid Ali. Appellant

VERSUS


Government of Khyber Pakhtunkhwa
through Secretary Home & Tribal Affairs & others. Respondents

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Appellant

Through


Amin ur Rehman
Advocate, Peshawar

Date: 15.12.2014

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 1415 of 2014

Abid Ali S/O Sheraz Ali

R/O Mohallah Bazed Khel, Post Office Kalu Khan

Rdar, Tehsil & District Swabi. **Appellant**

1442
15/12/2014

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Civil Secretariat, Peshawar.
- 2. Provincial Police Officer (PPO), Govt. of Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
- 3. Deputy Inspector General of Police (DIG), Mardan Region-I, Mardan.
- 4. District Police Officer (DPO), Topi Road, Swabi.
- 5. Mr. Izhar Shah Khan, Sub Divisional Police Officer (SDPO), Tehsil Lahor, District Swabi.
- 6. Mr. Inayat Ullah Shah, Deputy Superintendent of Police/ Enquiry Officer, Tehsil Lahor District Swabi. **Respondents**

=====

SERVICE APPEAL U/S 4 OF THE KP SERVICES TRIBUNAL ACT, 1974, AGAINST OFFICE ORDER/O.B NO.1049, DATED 28.08.2014 OF RESPONDENT NO.4, VIDE WHICH MAJOR PENALTY/PUNISHMENT OF DISMISSAL FROM SERVICE IMPOSED UPON THE APPELLANT AND ORDER NO.7675/ES, DATED; 24.11.2014, OF RESPONDENT NO.3, VIDE WHICH DEPARTMENTAL APPEAL/ REPRESENTATION OF THE APPELLANT WAS DIMSISED.

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Prayer in Appeal:

On acceptance of this service appeal, the impugned orders dated; 28.08.2014 and 24.11.2014 of respondents No.3 and 4 respectively may be declared illegal, unlawful, without

ac-submitted to ~~the~~
and filed;

18/12/14

lawful authority, void-ab initio, hence be set aside and appellant may please be restored in service with all back benefits, so as to secure the ends of justice.

=====

Respectfully Sheweth:

1. That appellant is SSC qualified and was appointed as "Constable" in Police Department, District Swabi, vide order/O.B No.1086, dated; 28.10.2003.
(Copy of appointment order is attached as Annexure "A").

2. That appellant, while posted to District Security Branch (DSB), Swabi, charged in case FIR No.1336, dated; 29.12.2013, under section 381-A/411 PPC, Police Station Kalu Khan, Swabi and was arrested on the same day, though not directly charged in the FIR, rather charge on 31.12.2013 by the complainant in his statement recorded under section 164 Cr.P.C, dated; 31.12.2013.
(Copies of FIR, card of arrest dated; 28.12.2013 and statement are attached as Annexures "B", "C" and "D" respectively).

3. That appellant, after arrest and interrogation/physical custody, released on bail by the Civil Judge-IV/JM, Swabi, vide order dated; 01.01.2014.
(Copy of JMJC, Swabi, order dated; 01.01.2014 is attached as Annexure "E").

4. That appellant was suspended, vide order/O.B No.03, dated; 01.01.2014, by Respondent No.4.
(Copy of suspension order dated; 01.01.2014 is attached as Annexure "F").

5. That appellant was charge sheeted by Respondent No.4, on the pretext of his involvement in case FIR No.1336 supra, communicated to him, alongwith summary of allegation, vide office letter No.01/CC/PA, dated; 02.01.2014, which was

responded within stipulated time/period i.e. within 7 days. **(Copies of charge sheet, summary of allegation and reply to charge sheet are attached as Annexures "G", "H" and "I" respectively).**

6. That final show cause notice dated; 17.02.2014 was communicated to the appellant, whereby departmental enquiry officer, Mr. Inayat Ullah Shah, DSP Lahor/ Respondent No.6 hold him responsible for gross misconduct on the basis of his involvement in case FIR No.1336 supra, and Respondent No.4, while issuing final show cause notice as to why the proposed punishment i.e. removal from service, should not be awarded. However, he was offered personal hearing alongwith reply to the final show cause notice within 7 days of its receipt, which was submitted within due course of time on 18.02.2014.

(Copies of final show cause notice dated; 17.02.2014 and reply to final show cause notice dated; 18.02.2014 are attached as Annexures "J" and "K" respectively).

7. That departmental enquiry against the appellant was concluded but without affording opportunity of personal hearing by the competent authority/enquiry officer i.e. Respondent No.6, rather Respondent No.5/ Mr. Izhar Shah Khan, SDPO, entertained him by putting certain queries regarding the enquiry and, thereafter, orders/O.B. No.1049, dated; 28.08.2014 was communicated to the appellant, vide which Respondent No.4 awarded major punishment of dismissal from service to him.

(Copies of departmental enquiry report dated; 12.02.2014 and order of dismissal from service dated; 28.08.2014 are attached as Annexures "L" and "M" respectively).

8. That appellant assailed order dated; 28.08.2014 of Respondent No.4, vide which he was dismissed from service, and preferred departmental appeal to Respondent No.3/DIG, Mardan, however, dismissed vide order No.7676/ES, dated; 24.11.2014 and order dated; 28.08.2014 *ibid*, was upheld. Astonishingly, it has been

mentioned in the order dated; 24.11.2014 *ibid*, that appellant was heard in his office on 19.11.2014, but he failed to justify his innocence and could not produce any cogent reason about his innocence, which is altogether erroneous and no such like opportunity was either afforded to the appellant at the enquiry stage nor by the appellate authority, rather he was charge sheeted by respondent No.4, Respondent No.6 was appointed enquiry officer (as per statement of allegations), enquiry was conducted by Respondent No.5 and he was dismissed from service by Respondent No.4, there-from volumes of malafides could easily be adjudged.

(Copies of departmental appeal and order dated; 24.11.2014 of Respondent No.3 are attached as Annexures "N" and "O" respectively).

9. That appellant, being aggrieved of order / O.B No.1049, dated; 28.08.2014 of Respondent No.4, whereby he was dismissed from service, and order No.7675/ES, dated; 24.11.2014 of Respondent No.3, *vide* which his departmental appeal/representation was dismissed, approaches this Honourable Tribunal, *inter-alia*, on the following grounds;-

GROUND S:

- A. That the impugned orders are against the law and facts available on file, hence untenable.
- B. That appellant had served the police department with zeal/devotion and outmost satisfaction of his superiors and was awarded Cash Prizes, Certificates on the strength of his unblamish service career, rather, he was recommended to be brought on promotion list for C-II/ LHC, *vide* order/O.B No.207, dated; 05.03.2011, on the pretext of going through miscellaneous courses *i.e.* Advance Traffic Courses, Class-II Certificate Course, Bomb Reconnaissance Certificate Course, Special Bomb Reconnaissance Certificate, Finger Prints

Certificate Course etc., irrespective of the fact that appellant, at the risk of his life, sustained serious injuries at the hands of outlaws/terrorists, who were targeting important political figure, but failed due to efficient and prompt interruption of the police party including the appellant, resultantly, FIR No.647, dated; 19.04.2012, under sections 324/353/34 PPC, 7 ATA, 3/4 Explosive, 13 AO, registered in Police Station Kalu Khan, District Swabi, and having more than 11 years spotless career at his credit but his career was smashed with a single stroke of pen, without just cause and reason, which has caused grave miscarriage of justice.

(Copies of commendation certificates dated; 07.03.2007, Traffic School Certificate dated; 20.09.2007, Bomb Reconnaissance Certificate dated; 06.12.2008, Special Bomb Reconnaissance Certificate (2008), Certificate of Proficiency dated; 22.01.2010, order dated; 05.03.2011, FIR No.647, dated; 19.04.2012 and discharge slip dated; 20.04.2012 are attached as Annexures "P", "Q", "R", "S", "T", "U", "V" and "W" respectively).

- C. That perusal of charge sheet, summary of allegations, final show cause notice and enquiry report would reveal that the entire departmental proceedings against the appellant are based on his involvement in case FIR No.1336, dated; 29.12.2013, however, they did not appreciate the factum of his acquittal from the charges vide order dated; 06.09.2014 of JMIC-I, Swabi and passed the impugned orders in surmises and conjectures, which is against the law/rules governing the subject, hence nullity in the eye of law.
- D. That, admittedly, the enquiry proceedings have not been conducted in accordance with law / rules governing the subject, evident from the charge sheet, issued by Respondent No.4, while name of Respondent No.6 was communicated through statements of allegations as enquiry officer, final enquiry report was submitted by Respondent No.5 and, on the basis whereof, impugned order dated; 28.08.2014 was issued by Respondent No.4, which is ridiculous and not acceptable to prudent mind, therefore, it can safely be concluded that appellant was subjected to abuse of authority and

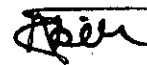
was condemn unheard, by not providing opportunity of personal hearing, hence principle of audi alteram partem is attracted.

- E. That the impugned order is erroneous and based on here say evidence by overlooking the facts and evidence available on file, even otherwise, the cause of initiation of departmental proceedings against the appellant is no more in field, rather he has honourably been acquitted, however, he has not been treated in accordance with law, evident from his card of arrest dated; 29.13,2013, while he was charged by the complainant in his 164 Cr.P.C statement, recorded on 31.12.2013, similarly, the competent authority was not certain regarding the appointment of enquiry officer, which reflects from the charge sheet, statement of allegations, final show cause notice, final enquiry report and the impugned orders, therefore, the entire proceedings, right from charge sheet/statement of allegations till dismissal of appeal are coram non iudice, illegal, unlawful, without lawful authority, void ab-initio and of no legal effect, hence deserves to be set at naught.
- F. That the departmental authorities had badly failed to appreciate material/evidence available on file in its true perspective, therefore, arrived at a wrong conclusion, hence indulgence of this Honourable Tribunal is attracted to nullify their illegal acts and to restore the appellant in service with all back benefits in the best interest of justice and equity.
- G. That the alleged allegations, levelled against the appellant, has no nexus with his role, rather he was incarcerated in case FIR No.1336, dated; 29.12.2013, on the basis of presumptions, evident from statement of PW-1/Wakeel Jung (complainant), recorded in the court of learned JMIC-I, Swabi, whereby he categorically admitted that he charged the appellant in his subsequent statement recorded under section 164 Cr.P.C, without any cogent reason/ground and, on the basis whereof, the appellant was acquitted of the charges, moreso, the appellant did not commit any overact, which could substantiate the charges of misconduct, levelled against him, rather he was

subjected to abuse of authority by his high-ups and was arrested and humiliated two days prior of his charging in the FIR ibid. Furthermore, volumes of malafides of the respondents could also be adjudged from his suspension order, charge sheet and summary of allegations, all of them were issued on one and the same date i.e. 01.01.2014, inspite of the fact that on the same day the appellant was released from jail and he was very much present on his duty, it is pertinent to mention herein that he absented from duty only for 3 days and, that too, his illegal arrest of the hands of local police of Kalu Khan Police Station, hence his absence from duty for those three days had occasioned inadvertently, which were beyond his control and occasioned due to illegal actions and inactions of respondents, which is against his constitutional vested rights.

- H. That any other, with the permission of this Honourable Tribunal will be taken at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this service appeal, the impugned orders dated; 28.08.2014 and 24.11.2014 of respondents No.3 and 4 respectively may be declared illegal, unlawful, without lawful authority, void-ab initio, hence be set aside and appellant may please be restored in service with all back benefits, so as to secure the ends of justice.



Appellant

Through



Amin ur Rehman
Advocate, Peshawar

Date: 15.12.2014

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____ of 2014

Abid Ali **Appellant**

VERSUS

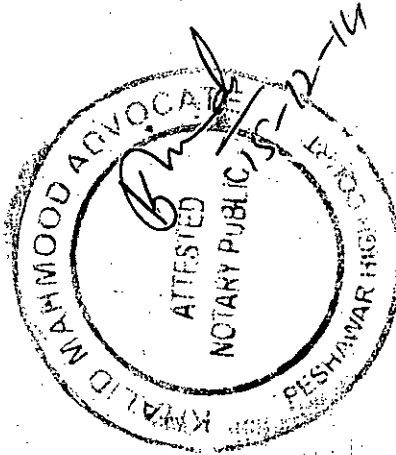
Government of Khyber Pakhtunkhwa
through Secretary Home & Tribal Affairs & others. **Respondents**

AFFIDAVIT

I, Abid Ali S/O Sheraz Ali R/O Mohallah Bazed Khel, Post Office Kalu Khan Rdar, Tehsil & District Swabi, do hereby solemnly affirm and declare on oath that the contents of accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Abid Ali

DEPONENT



BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____ of 2014

Abid Ali **Appellant**

VERSUS

Government of Khyber Pakhtunkhwa
through Secretary Home & Tribal Affairs & others. **Respondents**

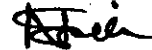
ADDRESSES OF PARTIES

APPELLANT

Abid Ali S/O Sheraz Ali
R/O Mohallah Bazed Khel, Post Office Kalu Khan
Rdar, Tehsil & District Swabi.

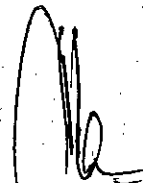
RESPONDENTS

1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs, Civil Secretariat, Peshawar.
2. Provincial Police Officer (PPO), Govt. of Khyber Pakhtunkhwa, Central Police Office (CPO), Peshawar.
3. Deputy Inspector General of Police (DIG), Mardan Region-I, Mardan.
4. District Police Officer (DPO), Topi Road, Swabi.
5. Mr. Izhar Shah Khan, Sub Divisional Police Officer (SDPO), Tehsil Lahor, District Swabi.
6. Mr. Inayat Ullah Shah, Deputy Superintendent of Police/ Enquiry Officer, Tehsil Lahor District Swabi.



Appellant

Through



Amin ur Rehman
Advocate, Peshawar

Date: 15.12.2014

Annex - (A)

10

POLICE DEPARTMENT.

SWABI DISTRICT.

ENLISTMENT ORDER.

Name Abid Ali S/O Sheraz Ali
 P/O H. Khan Police Station H. Khan Tehsil
Shoran District Shoran is hereby enlisted as Constabl
 time scale on three years probation in S.P.S. No.5
 Rs(2100-100-5100) at the rate of Rs. _____ per month with
 effect from 22.10.03 and allotted Constabulary No. 227
 Height 5'-11" Chest 33x35 Education 10th ✓
 Date of Birth 13.2.1983 Blood Group O+ve Age at t
 time of appointment Years 20 Month 8 and Days 8
 O.B.No. 1086
 Dated 28-10-2003.

[Signature]
 Superintendent of Police,
 Swabi.

[Handwritten signatures and notes in Urdu]

Attended
[Signature]

2006/2007 (پیشہ) کی قانونی اور قومی صورتوں کا مجموعہ
 222859-3048473
 فارم نمبر 23-15 (1)

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پوئیس رپورٹ شدہ زیر نو نمبر 152 مجموعہ ضابطہ فوجداری

ضلع	حوالی	کالوچان
تاریخ وقوع و قوما	20 ¹² / ₁₃ بوقت دن وقت نامعلوم	1336
وقت رپورٹ	29 ¹² / ₁₃ وقت 10:35	
بونت اطلاع دہندہ	مستفیضہ کیل جنٹ ولد واصل جنٹ	قوم افسان بید 40 سال سنہ نارنجی
بونت جرم (معدومہ) حال	اگر کچھ لیا گیا ہو۔	PC 381A/411
دورہ فاصلہ تھانہ سے اور سمت	اسحاق حاد کی طرف واقع شہادہ	جانب شرق بغاصہ 1/2 اکلہ صدر از نقاض
بونت ملزم		
کی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہوتو وجہ بیان کر دے	سستیضت کی رپورٹ پر عدہ قائم لگایا جا رہا ہے۔	
سے روانگی کی تاریخ و وقت	ہم سبیل دہ آت	

ابتدائی اطلاع نئے درج کرو میں شریف کب لیس حوالی میں برطشہ
 کیسٹل لیسٹا سے 20¹²/₁₃ کو ملے اور سائیکل خالی سیدہ بلہ منبر، 75 حاد لیسٹا
 952 حیسر منبری SR-70-228711 انجن نمبر RMI-340060 پیرڈیوٹی کیسٹل آجور سائیکل
 کو اسحاق حاد کی طرف سے کھر اکر ڈیوٹی کیسٹل حوالی لیا گیا تھا شام کو وہ آکر سائیکل ملزم
 کو موجود پایا اس وقت تلاش بہت بڑی کار بار باغ مگر کوئی بہتہ نہ مل سکی اور لیسٹا سے
 حکا کے تہ میرے سائیکل کو ملزم اہلخان نامعلوم نے سر قمر کے سائیکل کی سر قمر کی
 کا رپورٹ کرتے ہوئے رپورٹ میں دیر کی حوالی سائیکل کی مسلسل تلاش کی و جب سے سوئی گئی
 اس وقت لیسٹا سے لیسٹا سائیکل رپورٹ درج ہو کر دستگی خاد بخوشی لیسٹا سے لیسٹا کرتا
 ہوں ملزموں رپورٹ سے رپورٹ ملے گا یا اگر توسی کرئی سٹاف کو حاور تفتیش لیا جاتا
 ہے

Eg Ray

Im-1 Swabi
 15/4/14

ASIPs 114
 29-12-13

ضلع سرای

خان کارخانہ حاد گمشتارخانہ دفعہ 62 خذ

قلم 1336 صفحہ 29 12/013 خیم 381A خان کارخانہ

بنام غایبہ ولد شیراز علی خان کارخانہ

جناب عالی

قلم عنوان بالا میں ملازم بالا آج بوقت 14145
صفحہ 29 12/013 کو طلبہ خانہ آکر مسہ ضابطہ گزار
کرتے حاد گمشتارخانہ جاری کیا گیا
ملازم ذیل ہے

S. P. K. Khan
29.12.013

خانہ ملازم

گندھی رنگ . انگریزی نیشی ہال .
دارالحیضہ و تالیف . قہ 8.8
بجر 30/31 حال تعلیم خواندہ .

29/12/13

Annex-D

(13)

فعلی کوٹوالی

کلاں

مقدمہ 1336/13/29/13 381A/411 کلاں کلاں

نام علیہ سلی 19 شہزاد سلی کلاں کلاں

مقدمہ 19/13/29/13 381A/411 کلاں کلاں

درخواست بریں قلمبر ابان از دفعہ 164 خلاف

خلاف قلمبر عنوان بالا جس میں واپس مقدمہ منظر مان

بالا پر ایک قلمبر سلی کلاں کلاں

اشہد علیہ سلی واپس قلمبر ابان از دفعہ 164 خلاف قلمبر سلی کلاں کلاں

Si ps. 10.10
31-12-13

ATTESTED
EXAMINED
31/12/14

Sd/-
Forwarded
APP 31

Order. 1.0 alongwith complainant present. Moved on application for recording statement of complainant u/s 164 Crpc. Record perused. All statement u/s 164 Crpc recorded. Copies handed over to the 1.0 for further necessary action

10

Signature

بیان دیگر اینست کہ در عدالت اینک بحدت ۴۵ سال سابقہ زندگی
 ایندفع امری از دفتر ۱۶۱۱ من ف ب طرف بیان کیا کہ میں نے صفر
 ۱۲/ ۲۹ کو اپنے دوست سائیکل کے سر فیکٹ کی دو تیار کی نہ معلوم کلہن
 پر کیا تھا اب پولیس تقاضہ کا ہوا ہے کہ میں جو سائیکل ہو کلہن
 عامر علی دگر شیراز علی سیکرہ کالون محمد سلام دگر محمد نسیم
 سیکرہ علیکن آباد نوال علی سے ہوا کہ کلہن ان کے ساتھ
 میں سے اپنے دوست سائیکل کے سر فیکٹ کا ہوا ہے کلہن ان ہوا دو تیار
 ہیں۔

F. W. / 2

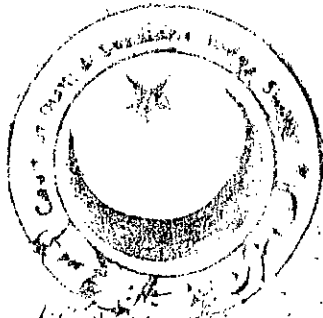
Jam. I - Swabi

15/4/14

16202-5968773-5

من در دست نشانی
 خود سائیکل جس کا
 محمد امجد علی

ATTESTED
 Signature of J. J. Dept.
 Sec. and Court Swabi



Handwritten notes and signatures at the top of the page, including the name 'Syed Mubashir' and dates like '21/12/13' and '01/01/14'.

Order No-2
01.01.2014

Syed Mubashir Advocate learned counsel for the accused and APP for the state present.

This instant bail petition has been filed by the accused/petitioner namely Ikhtiar Ali S/o Badar ul Haq R/O Karnal Sher kaly seeking therein his post arrest bail in case FIR No. 1336 dated. 29.12.2013 registered under section 411/381-A PPC registered at P.S Kalu khan.

Brief facts as averred in the FIR are that complainant Waqee Jang reported the matter to the local police that he is serving in traffic police of district swabi. That on 20.12.2013 he parked his Motor Cycle HI speed without Number 70 CC module 2009 chasis No- SR-70-22-8711. engine No-RM-1-340060 at Eshaq Market, at morning time; and proceeded for his duty to Swabi; that at evening when he came back the motor cycle was found missing he logged the FIR against unknown accused.

Arguments heard and record perused.

Complainant waqee jang who is present before the court today submitted an affidavit wherein. he stated that he has got no objection if the present accused be released on bail, to this effect his statement is overleaf of the affidavit

Handwritten signature and date '01-01-14' above a stamp for 'Shah Faisal Civil Judge-IV JMI Swabi'.

Stamp: 'WITNESSED' with a signature and date '02/01/14' and text 'Examined by Sessions Court Swabi'.

Handwritten signature 'S. Mubashir' and another signature 'Ali'.

Handwritten signature in a circle.

Handwritten signature 'J'.

16

Ex.PA wherein he also narrated the same fact in the affidavit and his signature beneath the statement also obtained.

Keeping in view the affidavit submitted by the complainant himself and in the circumstances that the FIR was lodged against unknown accused, the accused /petitioner was neither charge in the Fir, nor recovery was effected from possession of the accused/petitioner and as the section of law for which the accused was charged does not fall with in the prohibitory clause of section 497 Cr PC therefore, in the above mentioned circumstances accused/petitioner is admitted to bail subject to furnishing bail bonds in the sum Rs-80000 with two sureties each and the like amount to the satisfaction of illaqa/ judicial magistrate.

File be consigned to record room after its necessary completion.

Announced.
01.01.2014

Faisal
(SHAH FAISAL)
Civil Judge-IV/ JM/ MOD
Swabi
Shah Faisal
Civil Judge-IV, JM
Swabi

Certified True Copy
02/01/14
EXAMINER
Copying Department
Session Court Swabi

02/01/14
Pa:
02/01/14

No of Application 22
Date of Presentation of Application 02-01-2014
Date of
Date on which 02-01-2014
Date of 02-01-14
Fee on Ac 200
Court fee
Urgent Court Fee
Signature of Copyist *02/01/14*

02

(17)

Annex-F

22

ORDER

Constable Abid No.227, while posted to DSB, Swabi involved himself vide case FIR No.1336 dated 29.12.2013 u/s 381 A PPC Police Station Kalu Khan. Therefore, I, Sajjad Khan, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby place Constable Abid No.227, under suspension with immediate effect. He is being proceeded against departmentally.

O.B No. 03
Dated 01/01/2014

(SAJJAD KHAN) PSP
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 20-22 /PA, dated Swabi, the 02/01/2014

Copies to the: -

1. DSP, H.Qrs, Swabi.
2. Establishment Clerk.
3. FMC.

A. M. S. S. S.
h.

iciency and misconduct on the part of
summary of

18

Annex G

CHARGE SHEET


Whereas I am satisfied that formal enquiry as contemplated by Khyber Pakhtunkhwa Police Rules 1975 is necessary and expedient.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in Rules 4(b) a & b of the aforesaid Rules.

Now therefore as required by Rules 6(1) of the aforesaid Rules I **Sajjad Khan, PSP, District Police Officer, Swabi** charge you **Constable Abid No.227** on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and exparte action will be taken against you.

Abid


District Police Officer,
Swabi.

02/01/2014

19


Annex-H

SUMMARY OF ALLEGATION.


It is alleged that Constable Abid No.227, while posted to District Security Branch, Swabi involved himself vide case FIR No.1336 dated 29.12.2013 u/s 381-A PPC Police Station Kalu Khan.

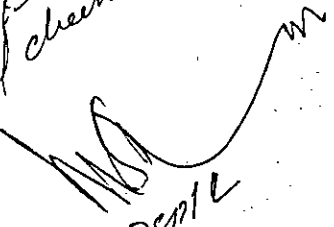
All this shows inefficiency and misconduct on the part of Constable Abid Ali No.227 which warrants departmental action, hence summary of allegation.

Mr. Inayatullah Shah, DSP, Lahor is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 01 /CC/PA,
Dated. 02/01/2017

Attested


Stenok
and check case statements.

DSP/L

نے دریافت بیان کیا کہ حریف 20¹²/₁₃ کو میں نے اختیار دیا
 بدالقی سکندر نے اس کے لیے حال دیکھا تھا کہ وہ آڈال سے
 برائے کارسنگا دینے پر آمادہ ہو گیا تھا لیکن طلب کیا جس پر
 انہوں نے جو کوئی دعوہ نوٹریٹیل دیا
 جب میں اپنے ڈوئل سے فارغ ہوا تو نوٹریٹیل مذکورہ کو دیکھا
 اختیار کے دوران پر ما آیا مگر اختیار اپنے دوران پر
 موجود نہیں تھا

سب سے پہلے اپنے دوست محمد اسلام کا حال کیا کہ
 اس نے نوٹریٹیل اختیار کیا ہے ان کو حوالے کرے جو مگر اختیار کی
 خاتمہ و نجات پا چکی تھی جس کا نہا پر نوٹریٹیل محمد اسلام
 کے ساتھ تھا اور جو کہ بعد میں پر لیا گیا تھا محمد اسلام کے ساتھ
 پھر کر بتایا کہ یہ چوری ہے۔

جو کہ میں نے نوٹریٹیل کے حوالے سے خبر لیا اور بعد جو کہ
 پتہ چلا کہ یہ نوٹریٹیل کے لیے خبر لیا ہے اور میں میں قتل
 مالدان میں FIR درج ہو گیا ہے
 لہذا میں اس تمام واقف سے ہے خبر لیا کہ تمام واقف
 میں میں تعلق ہے لہذا یہ حضور پر لیا گیا ہے لہذا میں خبر
 میں نے اس کو اس لیے لیا ہے کہ اس کے داخل دست گزار
 شدہ نہیں لیا ہے بیان جو کہ درست ہے

Al-Bestari
 Ali

Al-Bestari
 DSB 227 عابد
 سوانی

21

Annex-J

FINAL SHOW CAUSE NOTICE.

Whereas, you Constable Abid No.227, while posted to District Security Branch Swabi involved yourself vide case FIR No.1336 dated 29.12.2013 u/s 381-A PPC Police Station Kalu Khan. All this speaks of your inefficiency and lack of interest in official work and amounts to gross mis-conduct.


In this connection you were charge sheeted and served with summary of allegation and Mr. Inayatullah Shah, DSP, Lahor was appointed to conduct proper departmental enquiry. The enquiry officer held you responsible for the above misconduct.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.


Hence I **Sajjad Khan, PSP** District Police Officer, Swabi in exercise of power vested in me under Rules 5(3) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to show cause finally as to why the proposed punishment should not be awarded to you.

Your reply should reach to the office of the undersigned within seven days of the receipt of this notice failing which it will be presumed that you have no explanation to make.

You can also appear for personal hearing before the undersigned if you wish.


District Police Officer,
Swabi.

Recd.
Received
17.02.04

Attested


ضلع عالی

حوالہ فائنل شوکار نوٹس جاریہ جہاز DPCC صوبہ ضلع ہوالی
معرورین گرفت ہوں۔ کم عدالت کو مقدمہ عدالت 1336 قومی 29/13

مجرم 381-A DPCC تھا کا پتہ خان میں بد بینی کی بنیاد پر عدالت کی
گیا ہے۔ مذکورہ مقدمہ میں مامور ہوئے سرانجام نہ تو سرکاری
ملکیت ہے اور نہ ہی میرے قبضہ سے رکھو گی گی ہے
سائل مقدمہ بنانا میں ہے گناہ ہے

سائل کو جواب خارج شد کے جواب میں انکوٹری
آفس کو دیا ہے اس جواب کو بھی اس فائنل شوکار
نوٹس کا جواب تصور کیا جائے

لڈا اسٹریٹس سائل کے خلاف جو جارحانہ عائد کیے گئے
ہیں وہ بے بنیاد اور من گھڑت ہے اور قابل گرفت نہ ہے
پر پانی زیادہ سائل کی انکوٹری فائنل کرنے کے احکامات
صاد رہیں۔ سائل کا حیات دعا گوہ رہیگا

الروح 18/014

القائم
Abdul
کابینہ عالی 227 متصرف پولیس نوٹس ہوالی

Abdul
Al

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23**Annex (L)** DISTRICT LAHOR**DEPARTMENTAL ENQUIRY AGAINST CONSTABLE ABID NO.227:****ALLEGATION:**

CONSTABLE ABID NO.227, while posted to District Security Branch, Swabi involved himself vide case FIR No.1336 dated 29.12.13 u/s 381-A PPC police Station Kalu Khan.

He was issued Show cause notice and summary of allegation for the misconduct mentioned above. To scrutinize the conduct of the said Official **Inayat Ullah Shah** was appointed as enquiry Officer. Due to his transfer from this Office the undersigned as SDPO Lahor taken the enquiry proceeding as per Rules.

PROCEEDINGS:

Enquiry proceeding were initiated. The defaulter **CONSTABLE ABID NO.227**, was summoned, heard and examined. He has already submitted his detailed statement in response to the show cause notice and summary of allegations which is placed in enquiry file.

STATEMENT OF CONSTABLE ABID NO.227:

The defaulter **CONSTABLE ABID NO.227** was summoned heard and examined and he in his statement stated that he for some Official work borrowed motorcycle from Ikhtiar Ali s/o Badrul Haq r/o KSK from his shop at Shewa Adda. After completing his Official work he came back to return the motorcycle to Ikhtiar Ali but his shop was found closed due to the death of one of his family member therefore he handed over it to Muhammad Islam give it to Ikhtiar Ali when he open his shop. I received information that the said motorcycle has been recovered from the possession of Muhammad Islam as stolen property of one Constable namely Wakeel Jang 471 of this District Police. FIR No1336 dated 29.01.2013 u/s 381A PPC PS Kalu Khan has been launched and he was showed involved in this case. The fact is he doesn't know about the theft of said motorcycle. Statement enclosed.

STATEMENT OF IKHTIAR ALI:

Ikhtiar Ali s/o Badr Ul Haq stated in his statement that Wakeel Jang s/o Masal Jang r/o Naranji parked his motorcycle with him. Mean while Abid Ali s/o Sheraz Ali r/o Kalukhan barrowed the motor cycle for official work. He handed it over to him.

Abid Ali
Ca.

F.O.
Ikhtiar Ali
Ca.

1. 2000

2. 2000

3. 2000



Abid Ali is unaware and innocent from the whole scenario which took place after that. Statement enclosed

STATEMENT OF MUHAMMAD ISLAM S/O MUHAMMAD NAEEM:

Muhammad Islam s/o Muhammad Naeem r/o Shewa Adda stated in his statement that on 20/12/2013 Abid Ali s/o Sheraz Ali handed the motor cycle over to him and told him that Ikhtiar Ali is not present at his shop, therefore when he comes then give back the motor cycle to him. It came in my knowledge that Ikhtiar Ali's Aunt died therefore the motorcycle was parked by him in his ice factory. Statement enclosed.

STATEMENT OF CONSTABLE WAKEEL JANG 471:

He in his statement stated that on 29/12/2013 he reported to local police PS Kalukhan about the theft of his motorcycle. In this regard the case bearing FIR No. 1336 dated 29/12/2013 u/s 381A PPC PS Kalukhan has been registered and the local police recovered his motorcycle from the possession of Muhammad Islam. During interrogation, the local police arrested Abid Ali. During Court proceedings U/S 164CrPc he claimed on both of the above accused. Afterwards he came to know that Muhammad Islam due to unknown reasons wanted to involve Abid Ali in this case. Consequently Abid Ali is not involved in this case. Statement enclosed

STATEMENT OF SHO PS KALU KHAN:

SHO PS KaluKhan Rajab Ali Khan stated in his statement that on 29.12.2013 Wakeel Jang reported of his 70CC Motor cycle against unknown. In this regard a case FIR No.13336 dated 29.12.2013 u/s 381A has been registered and SI Said Jamil Khan initiated the enquiry. SI Safdar Khan recovered the stolen motorcycle with Muhammad Islam s/o Muhammad Naeem r/o Hamza Dher and while during interrogation he stated to investigation Officer that the owner of this motorcycle is Abid s/o Sher Ali r/o Kalu khan and he parked it in his ice factory since 7days. During proceedings Abid was got arrested and he in his interrogation accepted that Ikhtai Ali stolen the said motorcycle from Wakeel Jan and parked with himself up to two days and after that handed over to him and he parked it with Muhammad Islam up to 07 days. In this report all of them were considered as involved in this case. Statement enclosed.

Attested



STATEMENT OF Investigation Officer PS KALU KHAN:

SI Said Jameel Khans stated in his statement that on 29.12.2013 Wakeel Jang reported of his 70CC Motor cycle against unknown. In this regard a case FIR No.13336 dated 29.12.2013 u/s 381A has been registered and SI Said Jamil Khan initiated the enquiry. SI Safdar Khan recovered the stolen motorcycle with Muhammad Islam s/o Muhammad Naeem r/o Hamza Dher and while during interrogation he stated to investigation Officer that the owner of this motorcycle is Abid s/o Sher Ali r/o Kalu Khan and he parked it in his Ice factory since 7days. During proceedings Abid was got arrested and he in his interrogation accepted that Ikhtai Ali stolen the said motorcycle from Wakeel Jan and parked with himself up to two days and after that handed over to him and he parked it with Muhammad Islam up to 07 days. In this report all of them were considered as involved in this case. Statement enclosed.

FINDINGS OF THE ENQUIRY:

Keeping in view all the facts about **CONSTABLE ABID ALI NO.227**, the undersigned is of the opinion that as per the report of concern SHO and Investigation Officer, that he is involve in this case to some an extant. And he is considered as guilty.

Therefore suitable punishment is hereby recommended for the above miss-conduct of defaulter **CONSTABLE ABID NO.227**, if agreed.



(Izhar Shah Khan)

Sub-Divisional Police Officer,
Lahor.

No. 106 /L

Dated 12/10/21 2014

Encl(14) Papers.

A. Restad
h.

26

Annex - (M)

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

ORDER.

Constable Abid Ali No.227, while posted to District Security Branch Swabi involved himself vide case FIR No.1336 dated 29.12.2013 u/s 381-A PPC Police Station Kalu Khan, therefore, he was placed under suspension and served with Charge Sheet & Summary of Allegations and DSP, Lahor was appointed as Enquiry Officer. The Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He submitted his findings wherein he found Constable Abid Ali No.227, fully involved in the commission of the offence and recommended him for Major punishment. The undersigned perused the enquiry papers, findings and by agreeing with the Enquiry Officer issued him Final Show Cause Notice for Major Punishment. His reply to the Final Show Cause Notice was received, perused and found un-satisfactory. However, he was given an opportunity of personal hearing, but he failed to give satisfactory reply. Even at the same stage in order to ensure justice the statement of investigation officer was recorded, who again stated that he is fully involved in the commission of offence.

Therefore, I, Sajjad Khan, PSP, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Abid Ali No.227, Major Punishment of dismissal from service with immediate effect.

O.B No. 1049

Dated 28.08 /2014.

(SAJJAD KHAN) PSP
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.

No. 1337-39 /PA, dated Swabi, the 28/08 /2014.

Copies to the:-

1. Pay Officer.
2. Establishment Clerk.
3. Fauji Missal Clerk.

Attested to be true copy -

Attested

Attested
SI-L/PIO Swabi -
1/09/14.

Si

27

Annex - N

Before the worthy Deputy Inspector General of Police,

Mardan Region. Mardan.

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER VIDE OB NO.1049
DATED 28/08/2014 WHEREBY THE APPELLANT WAS DISMISSED
FROM SERVICE.

R/Sir,

The appellant most humbly submits as under.

1. That the impugned order is against the law and facts of the matter.
2. That the inquiry has not been conducted in accordance with the law and natural justice. Because the inquiry was conducted as well as the impugned order was passed before the final judgment in the alleged criminal case and as such the appellant was dismissed from service in utter disregard of the law.
3. That the appellant was falsely implicated in case U/S 381-A.PPC vide case FIR No 1336 dated 29-12-2013 Police station Kalu Khan the proof of which is that the appellant has been acquitted by the trial court in the said case. (Copy of the court judgment is annexed herewith).
4. That the allegations against the appellant are based on the hearsay statements of the concerned persons.
5. That besides the departmental action, the above mentioned criminal case was register against the appellant on the base same facts. As appellant has been acquitted in the case therefore having been acquitted in the case, the dismissal of the appellant from service is against the law and also falls within the purview of double jeopardy which is against the natural justice.

AMR-td
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6. That the statement of the investigating officer (Said Jamil SI) in the above mentioned criminal case has been made the ground for the impugned order. But the statement of the said IO in the shape of investigation in the case was not relied upon and was discarded by the trial court and as such acquitted the appellant in the case. But this aspect of the case has not been taken into consideration by the worthy District Police Officer, Swabi before the passing of impugned order.
7. That the appellant is never involved in any kind of illegal activities. The appellant has unblemished service record as the appellant during his service in police force has performed his duties to the best of his ability and satisfaction of the high ups.
8. That appellant is a poor person and does not have any other source of income. Besides the old age parents the appellant is to maintain own family which is consisted of small children.
9. In the light of above submissions it is, therefore, humbly requested that on acceptance of this appeal the impugned order may very graciously be set aside and the appellant may be reinstated to service with all back benefits.

Attested

[Signature]

Yours obediently,

Appellant

[Signature]

Abid Ali (FC No. 227)

ORDER.

Annex - 0 (2P)

This order will dispose-off the appeal preferred by Ex-Constable Abid Ali No. 227 of Swabi District Police against the order of District Police Officer, Swabi wherein he was dismissed from service vide District Police Officer, Swabi OB No. 1049 dated 28.08.2014.

Brief facts of the case are that, he while posted to District Security Branch Swabi involved in a Case vide FIR No. 1336 dated 29.12.2013 u/s 381-A PPC Police Station Kalu Khan, therefore he was placed under suspension and served with charge sheet & summary of allegations and Deputy Superintendent of Police, Lahor was appointed as enquiry Officer. The enquiry Officer conducted proper departmental enquiry, collected evidence and recorded statements of all concerned. He was submitted his findings wherein he found the appellant fully involved in the commission of the offence and recommended him for major punishment. The District Police Officer, Swabi perused the enquiry papers findings and by agreeing with the Enquiry Officer issued to Final Show Cause Notice for major punishment. His reply to the Final Show Cause Notice was received, perused and found unsatisfactory. However he was given an opportunity of personal hearing, but he failed to give satisfactory reply. Even at the same stage in order to ensure justice the statement of Investigation Officer was recorded, who again stated that he is fully involved in the commission of offence, therefore he was dismissed from service.

I have perused the record and also heard the appellant in Orderly Room held in this office on 19.11.2014, but he failed to justify his innocence and could not produce any cogent reason about his innocence. Therefore, I MUHAMMAD SAEED Deputy Inspector General of Police, Mardan Region-I, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority, thus the appeal is filed.

ORDER ANNOUNCED.

o/c (MUHAMMAD SAEED) PSP
Deputy Inspector General of Police,
Mardan Region-I, Mardan.

No. 7675 /ES, Dated Mardan the 24 - 11 - 2014.

Copy to District Police Officer, Swabi for information and necessary action w/r to his office Memo: No. 313/Insp: Legal dated 06.11.2014. His service record is returned herewith.

(*****)

Alleged
b.

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Annex - P

NORTH WEST FRONTIER PROVINCE POLICE



Commendation Certificate

Class II

Granted by

Mr. GHULALI NGHAMMAD KHAN (PSP)
DEPUTY INSPECTOR GENERAL OF POLICE
MARDAN REGION MARDAN.

TO CONSTABLE ABID ALI NO: 227 OF SWABI DISTRICT POLICE.

Son of _____

District _____

In Recognition of

HIS SMART/EXCELLENT TURN OUT ON 19.2.2007.

O.B. NO. 227 (CASH REWARD RS. 300/- ONLY)

DATED 7-3-07



(GHULALI NGHAMMAD KHAN) (PSP)
Deputy Inspector General of Police
Mardan Region Mardan.

Handwritten signature

31

Annex-9

TRAFFIC SCHOOL CERTIFICATE
ADVANCE TRAFFIC COURSES

This is certified that Mr. ABID ALI

No. 227 Of distric SWABI has passed

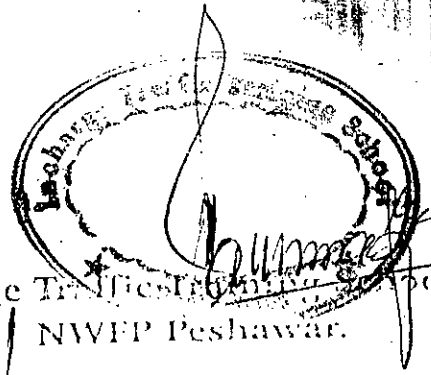
the _____

Advance traffic course by order No. 2246-75

EC date 10.7.2007 under roll No. 54 and

declared successful.

Dated 20.9.2007 Countersigned


Incharge Traffic School, Peshawar
NWFP Peshawar.

Handwritten signature

Handwritten signature

18

No.1/34/2008-Trg
Government of Pakistan
National Institute of Fire Technology
Islamabad, the 06-12-2008

To

The District Police Officer,
Swabi

RELIEVING CERTIFICATE.

Certified that Mr. Abid Ali S/O Sheraz Aali

Attended BOMB RECONNAISSANCE Course No. 12 in the National Institute of Fire Technology, Islamabad. He Reported his arrival On 18-11-2008 FN/AN and relieved On 06-12-2008. *time days 29/11/08/27/11/08*

- i. He availed leave/remained absent on the following date:-
- ii. He was provided/not provided with hostel accommodation.
- iii. He was not provided with free messing & transport.

[Signature]
DIRECTOR
Tele: 9252002

Copy to: - Mr. Abid Ali, Constable

Annex. R

32

[Signature]
[Signature]

Annex-5

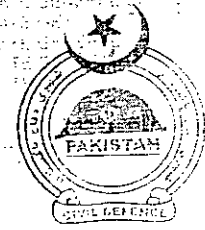
33

DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD

Reg. No. 23877

Government of Pakistan National Institute of Fire Technology Islamabad

Certificate No. 487



CERTIFICATE

Mr./Mrs./Miss. Abid Ali S/O Sheraz Ali

of Police Line, Swabi

has attended and qualified Bomb Reconnaissance

Course No. BR-12 from 17-Nov-2008 to 6-Dec-2008

Director

Director Training

DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD DIRECTORATE GENERAL CIVIL DEFENCE ISLAMABAD

34

Annex (T)

CERTIFICATE OF PROFICIENCY
N.W.F.P. POLICE


Certified that Abid Ali Constable

No. 227 (Swabi District) of N.W.F.

Province Police, has passed the examination prescribed for
Proficients and is fit to conduct the duties of that office.

No. 1271-92/Fx

Date 22/1/10


Deputy Superintendent of Police
Finger Print Bureau,
Crime Branch, N.W.F.P., Peshawar.

Attest
li

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Annex- (11)

Dated 0.03/2011.

CR NO. 207

Immediate effect:-

The name of Constable Acid Ali No. 227 is hereby brought on promotion list C-II/LHC for his good performance with

CATP.

District Police Officer,
CWBdl.

or

ABDUL

A.

36

Annex - V

ڈیٹ: 20.06.2011 / لیٹور (نام شو جاوے) منی فارم (پولیس) / ڈسٹریکٹ پولیس ایئر وارڈ 13 / 2286 / نام فارم: 5-23 (1)

فائل

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ 154 مجموعہ ضابطہ فوجداری

تھانہ	کالو خان	ضلع	صوابی
نمبر	22	تاریخ و وقت وقوع	19/4/14 45
تاریخ و وقت رپورٹ	19/4/15 00	جائے وقوع	جاگیر گڑا سبز 19/4/15 35
نام و سکونت اطلاع دہندہ	مستفیث	میرا علی شاہ سی	انچارج DSB صوابی
مختصر کیفیت جرم (مردود حال اگر کچھ لیا گیا ہو۔)		PR 324-353-34	ZATA-3/4 EXP/13A0
جائے وقوع فاصلہ تھانہ سے اور سمت		کنٹرول ٹریک ریل روڈ بالٹھال	زیارت میاں اکرم شاہ بابا جانب شرقا از تمام
نام و سکونت ملزم			
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو			پیر سید گرام سلم شدہ درج و تحریر کیا جاتا ہے
تھانہ سے روانگی کی تاریخ و وقت			سپر سیشن رپورٹ

ابتدائی اطلاع نیچے درج کرو۔

بوقت صدر اسلام محمد اکبر خیر کراہ اسلام خانہ 5110 عام 835

میر نور علی پولیس ذمہ واردات آکر محمد ذبح مراد علی شاہ سی انچارج DSB نے محمد حسین ندیم شاہ 835 HC

عائد ٹیٹیل نمبر 227 DSB سٹاف پلے جاکر مراد علی شاہ ندیم سی صاحب یوں رپورٹ کر کے کہ وہ سٹاپ کیا

محمد سمیرا میاں محمد حسین حاضر اور ٹیٹیل سید 122 حقیقہ التاثر میں پیر کنٹرول ٹریک ریل سٹیشن میں موجود تھے۔

بوقت صدر اطلاع حلی کہہ یا تقابل زیارت میاں اکرم شاہ بابا ڈو کسان قتل سٹاپو ڈو سٹاپیل سے اور مشکوک

حالت میں پھر رہے ہیں۔ آل اطلاع پیر میں محمد سمیرا میاں خود کو طور سے مشکوک اشخاص کی اسلوات کی

خاطر جائے وقوع آئے۔ دیکھا تو واقعاً ڈو کسان خود سٹاپیل سٹریک سرجھنڈا 125 پیر پیلے ہوئے یا پیر

دو کسان میں سے کسی حماد عرف عباس ولد محمد امین سکنہ کالو خان ضلع بہاولنگر قریب حیدر دوسرا شخص

آم دکان ناصحہ متبر حالت میں یا پیر دو کسان کو قتل کرنے کے حمار کے قیف سے طاشنوف قیف میں کہہ ہمیں آشا

ڈو سٹاپیل سے آکر سٹریک لم دہشت گردی کا مظاہرہ کرنے ہوئے ہم پولیس بارٹی پیر دو دستہ ہم چھٹ کر جس

کے ٹیٹ جاتے سے میں بچر عابد 227۔ ندیم شاہ 835 بگ زخم ہوئے۔ حیدر عابد ٹیٹیل 122 بال بال بچ کر

ملا جان لید وقوع فار ہوئے۔ جو کہ حماد جہ کورہ کا تعلق دہشت گرد تنظیم سے ہے۔ اور دونوں دہشت گرد کی

کئی غرض سے قیامت میں موجود تھے۔ طاشنوف اور ڈو سٹاپیل سیمانہ ملا مالیش کر تھیں میں اسی اور

پیر امان آم کا محمد صحت کا رطوف دہشت گرد حماد و میر اس اش اسم و سن ناصحہ دعویدار میں دستہ

کے ٹیٹیل سید 122 نے رپورٹ بالائی تائید کر اس کارروائی پولیس حسب قسمہ سائل رپورٹ درج ہو درستی

کا دستخط تھے۔ پیر محمد حسین کے نقشہ فرار کے مطابق زخات دہشت گرد کے قیام میں خودی کے مدج زیر

خاقت محمد اسلام سی 171 سولہ ہسپتال مردان پھولے تھے۔ طاشنوف سیمانہ ملا مالیش کر تھیں

نری 1149465 567 لوڈ شدہ بوسٹر چارجر رقم 22 عدد کا کوس اور ڈو سٹاپیل حیدر 125 پیر

شرح پیر وقوع پیر سٹریک فرقہ پولیس میں ریکرڈ اسلام بعض نامی پیر ہم بابا پیر مت ٹیٹیل فیض الرحمن 835

غلاف مشتمل کان
1002 پرسنل
ہسٹری شیٹ

Attestd
Ne

36/12

ارسال تھام ہے۔ میں بعض فرانس ملتان برائے ہوں۔ افسر الا بلا تو اطلاع دیا جائے
دستخط انگریزی اظہار براہ S110 تھام کالو خان 19/4-12 کا جوابی تھام۔ افسر الا بلا
دعوت صدر سیکرٹری جنرل ہوئی۔ قبول FIR ہو اسلئے بعض تھام
انجارج افسر اسٹیشن سٹاف کے لئے جاتے ہیں۔ افسر الا بلا کو دستخط کرنا
افسارم دیا جاتی ہے۔

SI-PS-K-Ichan
19-4-12

752
12
جاری ہوئی ہے۔

جاری ہوئی ہے۔
12-6-12

7205
25-4-12

جاری ہوئی ہے۔
12-6-12

663
12-6-12

جاری ہوئی ہے۔

15/11/12

16/5/12

16/5/12

Attestation
Kia

اطلاع کے نیچے اطلاع دہندہ کا دستخط ہوگا یا اس کی ہر یا نشان لگایا جائے گا۔ اور اگر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حرف الف یا ب سرخ روشنائی سے ہانقا بل نام ہے۔
ایک طرف ہانقا بل علی الترتیب واسطے باشندگان علاقہ غیر یا وسط ایشیا یا افغانستان جہاں موزوں ہوں لکھنا چاہئے۔

Annex - (W)

(37)

District Headquarter Hospital, Mardan

District Headquarter Hospital

Surgical-A Unit

Consultant Surgeon
Dr. S.M. Sareer
F.R.C.S.

Medical Officers

Dr. Akmal Khan
F.C.P.S.

Dr. Sajjad Ahmad
M.D. MSMB

Dr. Muhammad Fayaz
M.B.B.S.

Dr. Nadir Ali Shuja
M.B.B.S.

Pt's Name	Abdul Ali	S/DW/10	Sheraz Ali
Age	30 yrs	Sex	M
Ad.No	652-121	Bed No	02
D.O.A.	19/4/12	D.O.O.	
		D.O.D.	20/4/12

Finding:

Bomb blast.

Tiny puncture on skin
ht. side chest & chi
X-ray chest - NXP

Operation:

Conservative.

Attested

[Signature]



37/1

Handwritten text at the top right, possibly a name or title.

Treatment in Hospital

Pen iv. Camla

inj. Ceftriaxone 1/2 BD
19

inj. Vbora 1 m BD

Treatment at Home

Rx
Cap. Velosef sup
10 10 1

Cap. Caflaw
1 2 1 10 7

2/2
7/2

Handwritten signature and notes at the bottom of the treatment section.

Appended
in

38

Annex-X

Order No. 11
06.09.2014

APP for State present. Accused Abid Ali, Mohammad Salam and Ikhtiar on bail present. PWs absent. Arguments on application heard and record perused.

Through this order I am going to dispose of an application filed by the counsel for the accused facing trial named above, u/s 249-A CrPC for their acquittal in case FIR No.1336 dated 29.12.2013 u/s 381-A/411 PPC PS Kalukhan.

Brief facts of the case are that the complainant reported the matter to the local police that he is a constable in the Traffic Police Swabi; that on 20.12.2013 in the morning time he came to Swabi for his duty on his Motorcycle 70 cc Model 2009, Chassis No.SR-70-228711, Engine No.RM1-340060 and parked the same in Ishaq Market situated at Shewa Adda; that after performing duty in Swabi, when came back to Shewa Adda in the evening time, the Motorcycle was not available there; that he made the search of the Motorcycle but in vain; that after fully been satisfied that his Motorcycle has been stolen by some unknown persons/accused, he lodged the instant case FIR.

Perusal of the case file shows that the accused facing trial have not directly been charged by the complainant in the FIR for the commission of offence, rather have been charged on the strength of statement u/s 164 CrPC recorded by the complainant on 31.12.2013, while the occurrence took place on 29.12.2013. Perusal of the record further shows that the local police has allegedly recovered the stolen Motorcycle but the witnesses to the recovery proceedings are police officials despite the fact that general public were present at the spot. Furthermore, the statement of the complainant recorded as PW-01 is of worth perusal. During cross-examination, complainant admitted it correct that he has charged the accused facing trial upon the instigation of the local police. He further admitted it correct that he has not given in his statement any source of information or satisfaction regarding the involvement of present accused facing trial in the commission of offence. He further stated it correct that he recorded his statement u/s 164 CrPC wherein he charged the accused, after the recovery of the Motorcycle. At the last of his cross-examination, he stated that he do not want to prosecute the accused facing trial further. The accused facing trial have not confessed their guilt during the trial and there is no evidence available on record which could suggest the involvement of accused facing trial in the commission of offence. The accused facing trial are booked in the case merely on the basis of a doubtful recovery. Case of the prosecution is full of surmises and conjectures.

In the light of above circumstances, there is no probability of conviction of the accused facing trial if prosecution is able to produce its entire evidence rather it

JAMAL TAHR
Magistrate Swabi

ATTESTED
BY

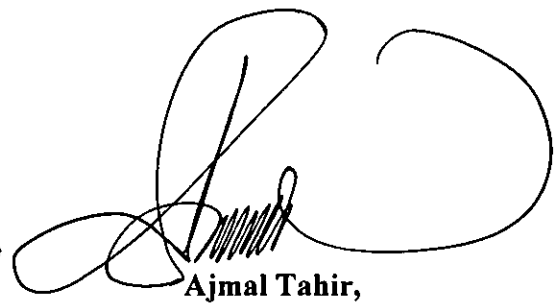
Swabi

Swabi

39

would be a futile exercise and wastage of precious time of the court. Hence, the instant application u/s 249-A Cr.PC is, therefore, accepted. Accused/petitioners Abid Ali, Mohammad Salam and Ikhtiar (facing trial) are hereby acquitted of the charges leveled against them and their sureties are discharged from the liabilities of bail bonds. Case property already given on superdari, is hereby absolved from the bond. File be consigned to record room after completion and compilation.

Announced
06.09.2014



Ajmal Tahir,
Judicial Magistrate-I, Swabi
AJMAL TAHIR
Judicial Magistrate-I
Swabi

ATTESTED
Examined & Certified Swabi
Sess. Deptt.

**IN THE COURT OF IRSHAD ALI MAHSUD,
JUDICIAL MAGISTRATE-I SWABI**

Case No 37/2

Year _____

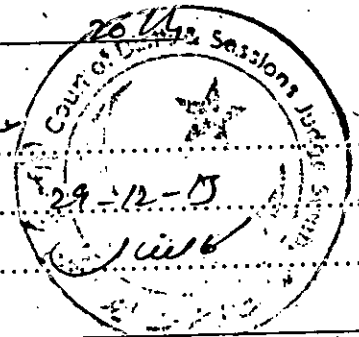
State..... Vs.....

FIR No..... 1336.....

Dated.....

U/S..... 381-A/411.....

P.S.....



Order No. 1
10/13/2014

Complete challan put in court today by the Prosecution. Be entered in the relevant register. Accused be summoned for 29.3.14.

(Irshad Ali Mahsud)
Judicial Magistrate-I Swabi

4552

دبیل سرکار حاضر ملزمان برحمانہ حاضر کاروائی 24/11
24/11 کی تبدیل کی گئی۔ لہذا مثل برائے ذمہ
سورہ 8.4.14 کو پیش ہو

0-2
29.3.14

آپ
کا
رہی
رہی
رہی
اختیار

ATTESTED
AJMAL TAHIR
Judicial Magistrate-I Swabi

9-3
8/4/14 - APP present. Accused all on bail present.
Formal charge framed. Accused claimed
trial fee be summoned for 15/4/14

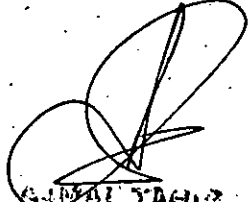
IRSHAD ALI MAHSUD
Judicial Magistrate-I Swabi

AJMAL TAHIR
Judicial Magistrate-I Swabi

41

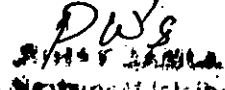
4
15.04.14

Accused alongwith counsel present
App for state prosecute - complainant
appeared and his statements recorded
as part. Rest of the case to be summed
through special diary for 25.04.14.

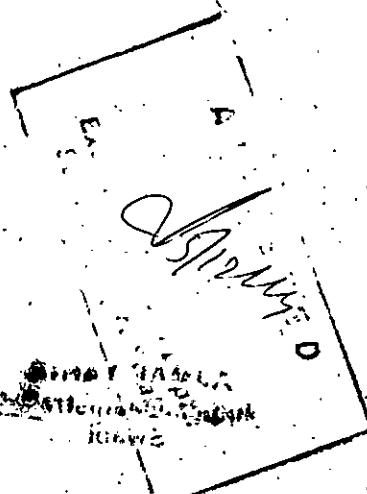

AJMAL TAHIR
Judicial Magistrate-1
Swabi

Or-05
25.04.2014

APP for the state
present. Accused on bail
present. PW's absent. PW's
to be summed for 07.05.14.


AJMAL TAHIR
Judicial Magistrate-1
Swabi


AJMAL TAHIR
Judicial Magistrate-1
Swabi


AJMAL TAHIR
Judicial Magistrate-1
Swabi

42

Or - 06
07.05.14

APP for the State present
All the accused on bail
present. PWS are absent.
NBWA be issued against
the PWS for 13.05.14


AJMAL TAHIR
Judicial Magistrate
Swabi

وکیل سرگودھا، قاضی ملزمان بر ضمانت حاضر۔ تو اطمینان حاضر
نہ ہیں۔ لہذا بذریعہ پیشگی دائرہ معنو 31.05.2014
میلے طلب ہو

0-7
13.5.14


AJMAL TAHIR
Judicial Magistrate
Swabi

0-8
31/5/14 1- APP present - Answer on bail present -
PWS absent. Process not returned.

Have be summoned afresh through
Special Diary for 07.07.2014.


ATTESTED
Exam. of Conting Deptt.
Sessions Court Swabi


AJMAL TAHIR
Judicial Magistrate
Swabi

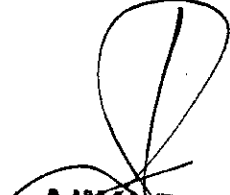
3

43

O-9
27/7/14 L- APP present. Accused on bail
present. Counsel for the accused
submitted application u/s 249-A CrPc
Notice of the same given to the
prosecution. PWS be summoned
24.07.14.


AJMAL TAHIR
Judicial Magistrate
Swabi

Or-10 :
24.07.14
APP present Accused on bail
present PWS absent. PWS
to be summoned through SS for
06-09-14


AJMAL TAHIR
Judicial Magistrate
Swabi

ATTESTED
EXAMINED
SECTIONAL CLERK SWABI

Before the court of Judicial Magistrate I Sawabi

STATE

vs.

Abid etc.

(Petitioners)

14

Sub:- Application for acquittal of accused/petitioners
n/s 249-A crpc.

Respectfully sheweth:-

07/07/14

- That the accused/petitioners are facing trial under the above captioned case & today is the date fixed for hearing.
- That since the charge has been framed, one witness complainant got examined, whose statement does not support the version of prosecution.
- That further prosecution of the very case would only amount to wastage of precious time of honorable court.

Therefore, in these circumstances, it is very humbly requested that the accused/petitioners be acquitted of the charge.

Dated

07/07/14

07/07/14

Deponent
Abid etc.

Through Counsel

[Signature]

[Signature]

45

FORMAL CHARGE

I, Ajmal Tahir, Judicial Magistrate-I, Swabi do hereby charge you accused namely Abid Ali S/O Sheraz Ali, Muhammad Salam S/O Muhammad Naeem and Ikhtiar S/O Badrul Haq all r/o of Nawan Kalay District Swabi as under:

Firstly:- That on 20.12.2013 at day time within the criminal jurisdiction of police station Kalu Khan, you all accused named above, in furtherance of common intention of you all, committed theft of motorcycle bearing engine No. RMI340060, Chassis No. SR70228711 of complainant Wakil Jang S/O Wasal Jang.

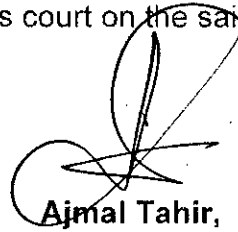
And thereby committed an offence punishable under section 381 PPC and within the cognizance of this court.

Secondly:- That on 29.12.2013, the local police recovered the above said motorcycle of the complainant from your possession which you tried to stole away.

And thereby committed an offence punishable under section 411 PPC and within the cognizance of this court.

And I hereby directed that you be tried by this court on the said charge.

RO & AC:
08.04.2012



Ajmal Tahir,
Judicial Magistrate-I, Swabi

Note: The charge has been read over and explained to the accused.

Q: - Have your heard and understood the charge?

A: - Yes


Q: - Do you plead guilty or claim trial?

A: - No, we do not plead guilty but claim trial.



Ajmal Tahir
Judicial Magistrate-I, Swabi

ATTESTED
Examined & signed before:
Magistrate Swabi



① Abid Ali
② Abid Ali
③ Abid Ali

5

46

PW.1 Statement of Wakeel Jhang, s/o Wasal Jhang r/o Naranji (complainant) on oath.

I had lodged FIR No.1336 dated 29.12.2013 u/s 381-A/411 FFC of FS Kalukhan regarding theft of my Motorcycle, Hi-Speed un-registered 70 CC Model 2009 against unknown persons. Afterwards I recorded my statement u/s 164 CrPC before the Court of Judl; Magistrate, vide which I charged a/cd Abid Ali s/o Sheraz Ali r/o Kalukhan and Mohammad Kalam s/o Mohammad Narem r/o Nawa Kalli for the commission of above mentioned offence. The FIR is ExPW1/1, while my statement recorded u/s 164 CrPC is ExPW1/2.

X X X.....It is correct that I admittedly mentioned in the FIR that after due search, I could'nt find the actual culprits for the offence and lodged the FIR against unknown persons. It is correct that my statement u/s 164 CrPC does not bear any date, upon which it recorded. It is also correct that admittedly as per ~~my~~ statement u/s 164 CrPC, I charged both the a/cd upon the instigation of the Police. It is also correct that personally I have not mentioned any source of information or satisfaction for charging all the a/cd. It is also correct that I recorded my statement u/s 164 CrPC after I had received the Motorcycle in-question. It is correct that the Motorcycle in-question is in my custody now. Self stated that now I do not want to prosecute against the a/cd facing trial anymore.

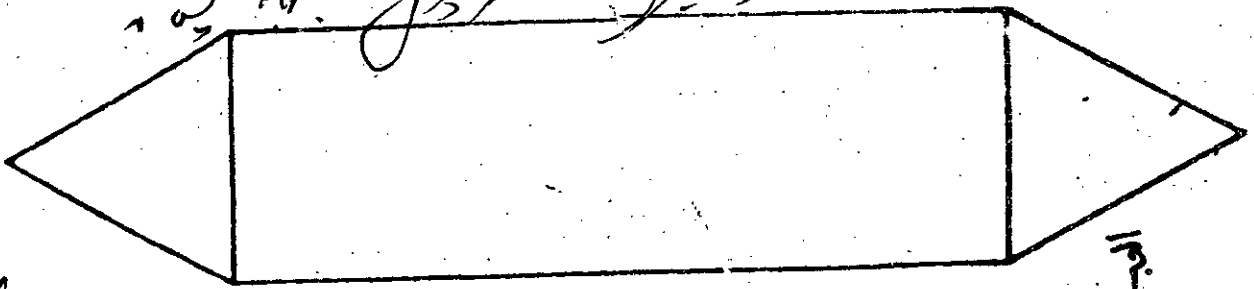
RO & AC.
15.04.2014.

Ajmal Tahir,
Judl; Magistrate-I, Swabi.

ATTESTED
Examined & found correct
Swabi

(6)

بعدالت
سید کاوشن صوالی



عابد علی ولد سید سراج علی
سید کاوشن صوالی

بنام
گورنمنٹ وکری

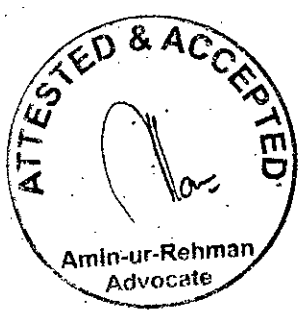
مقدمہ
مقدمہ
دعوی
جرم

باعث تحریر انکم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و حکم
کارروائی متعلقہ آن مقام کے لئے افسانہ الامین خان کو منظور کیا گیا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو کرنے لاشی نامہ و تقررات و فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور
بصورت دگری کرنے اجراء اور دعویٰ چیک در پیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذراں پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دگری کیغرض یا اپیل کی برآمدگی اور منوفی
نیز دائر کرنے اپیل ٹکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی جگہ تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
پداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔
اسکے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی ذمہ داری کرنے کا 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 ذاکات نامہ لکھد یا کہ سند رہے۔

2014

المترجم



عابد علی
بنام
سید کاوشن

کے لئے منظور ہے۔