

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

**SERVICE APPEAL NO. 1430/2014**

Date of institution ... 26.02.2014

Date of judgment ... 12.04.2017

Arif Constable No. 955, Police Force, Bannu

... (Appellant)

**VERSUS**

1. The Regional Police Officer, Bannu Region Bannu.
2. The District Police Officer, Bannu.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED FINAL ORDER DATED 28.10.2014 (COMMUNICATED ON 25.11.2014) PASSED BY RESPONDENT NO. 1, WHEREIN HE MAINTAINED THE ORDER OF RESPONDENT NO. 2 DATED 29.09.2014.

Mr. Hidayatullah Khattak, Advocate.

.. For appellant.

Mr. Muhammad Jan, Government Pleader

.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI  
MR. AHMAD HASSAN  
(EXECUTIVE)

.. MEMBER (JUDICIAL)  
.. MEMBER

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: This service appeal has been directed against the order dated 29.09.2014 whereby the appellant Arif was removed from service by respondent No. 2 and the appellant had also challenged the same in the departmental appeal but the same was also dismissed on 29.10.2014 hence the instant service appeal.

*M. Amin*  
*12.4.2017*

2. Brief facts of the present case are that appellant was serving in Police Department as Constable and was performing his duty since 2006. That a criminal case vide FIR No. 254 dated 18.07.2014 under sections 324/353 PPC read with 15-AA/7ATA Police Station Township Bannu was registered against him and the local police arrested him in the aforesaid case and thereafter the concerned DPO dismissed him from service vide order dated 29.09.2014 due to his involvement in the aforesaid case as well as absence from duty.

3. Learned counsel for the appellant contended that the appellant was malafidely involved by the local police in the aforesaid case due to personal grudges of Noor Muhammad SHO with the appellant. It was further contended that the trial of the appellant in the aforesaid case was conducted by the competent court and after recording statement <sup>of m</sup> material witnesses, the learned trial court i.e. Additional Sessions Judge-I Bannu acquitted the appellant in the aforesaid case from the charge leveled against him vide judgment dated 18.11.2015 under section 265 <sup>m</sup> Cr.P.C. Therefore the appellant would not have been removed from the service on the basis of involvement of the aforesaid case. It was further contended that according to the record the appellant has been shown absent for a short period but the appellant was in police custody in the aforesaid criminal case therefore he was unable to perform his duty. It was further contended that neither under Rule-9 of the Government Servants Efficiency and Disciplinary Rules, 2011 any notice has been sent on the home address for resuming his duty nor any notice has been published in the newspaper regarding his absence. Proper inquiry has not been conducted. Appellant was not provided an opportunity of cross examining the witnesses. There are many judgments of superior court that in case of imposing major penalty regular inquiry will have to be conducted so as to provide an opportunity of fair trial to the accused. Principle of natural justice has also been

M. Hanan  
12.4.2017

violated in this case proper opportunity of personal hearing was also not provided and the appellant has been condemned unheard. Copy of inquiry report was also not annexed with the show-cause notice served on the appellant therefore it was vehemently contended that the impugned order was illegal and liable to be set-aside and prayed for acceptance of this service appeal.

4. On the other hand learned Government Pleader for the respondents opposed the contention of learned counsel for the appellant and contended that appellant was involved in the aforesaid criminal case and later on he was absent for performing his duty and has ceased to become a good police official therefore the respondents has conducted a proper inquiry and the inquiry officer came to conclusion that the appellant is liable to be removed from the service therefore the competent authority has rightly removed him from service and prayed for dismissal of appeal.

5. We have heard the arguments on both sides.

6. Perusal of the record reveals that the appellant was appointed in police department in the year 2006 and was regularly performing his duty till 17.07.2014, however, he was involved in criminal case vide FIR No. 254 dated 18.07.2014 under sections 324/353 PPC read with 15-AA/7ATA Police Station Township Bannu and the local police arrested him in the aforesaid case, but, after release on bail he went to join his duty but he was informed that he was removed from service. So far as the involvement of the appellant in criminal case is concerned the record shows that the trial of the appellant was conducted by the competent court and after recording some material evidence in the aforesaid case the appellant was acquitted by the competent court vide detail judgment dated 18.11.2015 under section 265-~~K~~ Cr.P.C wherein the trial court has observed that the charge of the accused by the complainant cannot be

*M. Amin  
12.4.2017*


ruled out due to personal grudges. Therefore the removal order from the service of the appellant on the basis of involvement of criminal case was illegal and liable to be set-aside. So far as the absence of appellant for a short period from his duty is concerned, the record revealed that the appellant was in the custody of police during the period of his absence therefore the respondents would not have imposed major penalty of removal from service. Proper inquiry has not been conducted appellant was not provided an opportunity of cross examining the witnesses. There are many judgments of superior courts that in case of imposing major penalty regular inquiry will have to be conducted so as to provide an opportunity of fair trial to the accused. Principles of natural justice has also been violated in this case proper opportunity of personal hearing was also not provided and the appellant has been condemned unheard. Copy of inquiry report was also not annexed with the show-cause notice served on the appellant

7. We are constrained to accept the appeal set-aside the impugned order dated 28.10.2014 and reinstate the appellant in service from the date of removal from service. The intervening period may be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

12.04.2017

  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

1430/2014

02.01.2017

Counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Learned counsel for the appellant submitted acquittal order/judgment dated 18.11.2015 in respect of appellant copy whereof handed over to learned GP. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 12.04.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER


  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

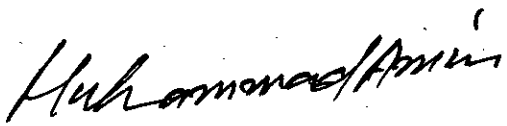
12.04.2017

Appellant alongwith his counsel present. Mr. Asghar Ali Khan, Head Constable with Mr. Muhammad Jan, Government Pleader for the respondents also present.

Vide our detailed judgment of today consisting of four pages placed on file. We are constrained to accept the appeal set-aside the impugned order dated 28.10.2014 and reinstate the appellant in service from the date of removal from service. The intervening period may be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.04.2017

  
(AHMED HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

02.05.2016

Counsel for the appellant and Mr. Usman Ghani, Sr. GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 08.08.2016.

Member

Member

08.08.2016

Mr. Hidayatullah, Advocate on behalf of the appellant present and submitted fresh Wakalatnama. Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned for arguments to 26-10-16 before D.B.

Member

Member

26.10.2016

Clerk to counsel for the appellant and Mr. Izhar Ali, H.C alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for argument on 02.01.2017.

(PIR BAKHSH SHAH)  
MEMBER

(ABDUL LATIF)  
MEMBER

4

11.05.2015

Appellant in person and Mr. Mir Faraz, Inspector (legal) alongwith Assistant AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply on 30.7.2015 before S.B.

  
Chairman

30.07.2015

Agent of counsel for the appellant and Mr. Abdul Saboor, Constable alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 26.11.2015.

  
Chairman

26.11.2015

Clerk to counsel for the appellant and Mr. Mir Faraz, Inspector (Legal) alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted on behalf of the appellant which is placed on file. To come up for arguments on

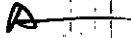
2/5/16

  
Member

2.

21.01.2015

Clerk of counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 11.02.2015.

  
Member

3


11.02.2015

Appellant with counsel present. Learned counsel for the appellant contends that the appellant was removed from service on the strength of a criminal case registered vide FIR No. 254 dated 18.7.2014 under section 324/PPC at P.S Township, Bannu. That against the impugned order of removal dated 29.9.2014 appellant preferred departmental appeal on 2.10.2014 which was rejected on 29.10.2014 but communicated to the appellant on 25.11.2014 and hence the present appeal on 26.12.2014.

That the said criminal case is not yet finally decided but the appellant has been departmentally proceeded against illegally on the strength of the said undecided case. Reliance was placed on case-law reported as 1995 PLC (CS) 134 and 1993 PLC (CS) 1291.

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 for 11.05.2015 before S.B. Notice of application for condonation of delay be also issued for the date fixed.

  
Chairman


*Appellant at partial process fee  
Security*  




Form- A  
FORM OF ORDER SHEET

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

Case No. 1430/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.12.2014	<p>The appeal of Mr. Arif Constable presented today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p style="text-align: center;"><del>_____</del></p> <p style="text-align: center;"><del>_____</del></p> <p style="text-align: right;"><del>CHAIRMAN</del></p>
2		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1430 /2014

Arif Constable No.955,  
Police Force, Bannu  
.....Appellant

Versus

The Regional Police Officer,  
Bannu Region Bannu and  
others.....Respondents

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3.	Copy of charge sheet and statement of allegation		B	9-10
4.	Copy of reply		C	11-12
5.	Copy of inquiry report		D	13-14
6.	Copy of impugned order of respondent No.2	29-09-2014	E	17-
7.	Copy of departmental Appeal		F	18-19
8.	Copy of impugned final order along with application for the grant of the impugned order.		G	20-21
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Appellant

Through

Ashraf Ali Khattak

and

Navab Zada  
Advocates, Peshawar

Dated: \_\_\_\_\_ / 02/2014

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**SERVICE APPEAL NO. 1430/2014**

Arif Constable No.955, Police Force, Bannu .....Appellant.

Versus

1. The Regional Police Officer, Bannu Region Bannu.
2. The District Police Force, Bannu. ....Respondents.

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1476  
26/12/14

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Service Appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned final Order dated 28-10-2014 (Communicated on 25-11-2014) passed by respondent No.1, wherein he maintain the order of respondent No.2 dated 29-09-2014.

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**Prayer:-**

On acceptance of the instant service appeal this Honourable Tribunal may graciously be pleased to declare the impugned orders dated 29-09-2014 passed by respondent No.2 and order dated 28-10-2014 passed by respondent No.1 is illegal, unlawful and without lawful authority and set aside the same and also re-instate the appellant with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present petition are as under:-

1. That appellant was enrolled in Police Force, Bannu in the year, 2006. He has long standing service at his credit.
2. That appellant was got involved in a flimsy, concocted criminal case vide FIR No.254 dated 18-07-2014 Police Station Bannu Township, Bannu (Annexure-A).

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26/12/14.

3. That appellant was arrested on the same date i.e 18-07-2014 and put to judicial lock up.
4. That appellant has been released on bail vide order dated 24-07-2014 by the Judicial Magistrate No.7, Bannu.
5. That appellant reported for his duty on 25-07-2014 and was there and than suspended from his service.
6. That departmental disciplinary proceeding on the basis of afore mentioned FIR was also initiated against the appellant and he was served with charge sheet and statement of allegation (Annexure-B) to which he submitted detailed reply (Annexure-C).
7. That slip shod inquiry was conducted at the back of the appellant (Annexure-D). The Inquiry Officer failed to procure an itoa of evidence in support of the charges against the appellant which could corroborate and establish his guilt. The Inquiry Report is worth persual.
8. That respondent No.2 without affording the appellant with opportunity of personal hearing; penalized the appellant with major penalty of removal from service vide order 29-09-2014 (Annexure-F).
9. That being aggrieved of the penal order, appellant preferred departmental appeal (Annexure-E), which has now been decided by respondent No.1 vide order dated 28-10-2014 (Annexure-G), but the same was not communicated to the appellant. Appellant acquired the after getting knowledge and after his written request (Annexure-H).

10. That appellant now being aggrieved of both the impugned order prefers the instant service appeal inter alias on the following grounds:-

**Grounds:-**

- A. That respondents has not treated the appellant in accordance with law, rules and policy governing the subject and acted in violation of Article 4 of the Constitution of Pakistan 1973. The inquiry Officer failed to bring on record an itoa of evidence, which could coroborate, establish and prove the appellant with the charges levelled against him. The inquiry officer has admitted this fact vide his inquiry report. On this score the impugned order is illegal, unlawful and without lawful authority, hence liable to set aside.
- B. That the impugned order has been passed in violation of section 16 of the Civil Servant Act, 1973, which provide that every civil servant is liable for prescribed disciplinary action and penalty only in accordance with prescribed procedure. From the bare persual of the inquiry report, it is can be easly judge that inquiry officer has recorded the statements of the prosecution witnesses in the absence and at the back of appellant, which directly mean that the prosecution evidence has not been scrutinized through the scrutiny of cross examination. Hence the prosecution so called evidence has no legal/evidentary value and therefore, conviction cannot be based on such type evidence. The right to cross examine the prosecution evidence/witnesses is not a mere formality, but mandatory provision of law and has been enacted in order to secure justice in practicial shap. The inquiry officer has violated the madatory provision of law and prescribed procedure which has vitiated the whole inquiry proceedings and report there upon. Conviction on such type slip shod inquiry report is against law, rules, fair play, equity and justice. On this score alone the impugned order is not sustainable in law and

liable to be set aside.

- C. That so far the question of absence is concerned in this respect it very humbly submitted that appellant has never been absented from his lawful duty. Appellant was got involved in a false criminal case vide FIR No. 254 dated 18-07-2014 Police Station Bannu Township, Bannu and was arrested on the same date, where after he was put behind the judicial lock up. Appellant was released on bail vide order dated 24-07-2014 by the Judicial Magistrate No.7, Bannu. Appellant reported for his duty on 25-07-2014. The respondents were in the active knowledge regarding his arrest etc. Appellant was suspended and disciplinary proceedings were also initiated against him. He was served with charge sheet and statement of allegation on 04-08-2014. The proceedings lasted till 29-09-2014. Appellant was present at the time of so called inquiry proceedings. In view of the circumstances, how can it be presumed and testify that appellant has remained absent from duty. The period whereby appellant remained at Jail can neither be termed as willful absence nor simple absence as the same were beyond appellant's control.
- D. That mere allegation of the commission of an offence against a person and registration of FIR would not iso facto makes a person guilty of an offence, unless convicted by competent court of jurisdiction. A person enjoys the presumption of innocence, till he is proved guilty of what he is charged with. In the instant case the respondent without waiting for the result of criminal case not only initiated disciplinary action against the appellant, but also penalized him with major penalty of removal from service. The haphazard prosecution is another proof of departmental slackness. The action of the respondents is against the law laid

down by the Honourable Supreme Court of Pakistan.

- E. That major penalty has been imposed without giving reason for disregarding appellant's defense constitute violation of Section 24A of the General Clauses Act, 1897, therefore, the impugned orders are not sustainable in the eyes of law and liable to be struck down.
- F. That the Honourable Supreme Court of Pakistan has in thousand of cases has held that no major punishment could be imposed without regular inquiry, the subject impugned order based on slipshod inquiry has therefore, no base in the light of the decision of the Apex Court, thus liable to be set aside.
- G. That so called slipshod inquiry has been conducted in the absence and at the back of the appellant. Appellant active participation during inquiry proceeding has been willfully and deliberately ignored. Inquiry proceedings are of judicial in nature in which participation of accused civil servant as per law condition sine qua non. On this ground the impugned orders are coarm non judice and liable to be set back.
- H. That the well-known principle of law "Audi altram Partem" has been violated. This principle of law was always deemed to have embedded in every statute even though there was no express specific or express provision in this regard.
- ....An adverse order passed against a person without affording him an opportunity of personal hearing was to be treated as void order. Reliance is placed on 2006 PLC(CS) 1140. As no proper personal hearing has been afforded to the appellant before the issuing of the impugned order, therefore, on this ground as well the impugned order is liable to be set aside.

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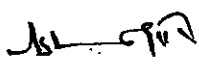
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- I. That no inquiry report has been provided nor final show cause notice. Failure to supply copy of inquiry report to a civil servant proceeded against would be sufficient circumstances to hold that either no inquiry was held at all or if inquiry was held, the inquiry report was held as a secret document. Delivery of copy of inquiry report to civil servant proceeded against being a mandatory requirement; disciplinary action taken against a civil servant would not be sustainable in the eyes of law. Reliance is placed on the reported judgment 2010 TD (Service)19.
- J. That the impugned final order dated 28-10-2014 passed by respondent No.2 is against the provision of Rule 5 of the Khyber Pakhtunkhwa Civil Servant (Appeal) Rules, 1986. The appellate authority has struck down the departmental appeal with a single sentence. He failed to scrutinize the fact as to whether the charges leveled against the appellant have been proved as law and rules and whether the facts so alleged afford sufficient grounds for taking action etc.
- K. That petitioner is jobless since impugned order, there fore entitled to be re instated with all back benefits.

For the aforesaid reasons, it is therefore, humbly prayed that on acceptance of this application, this Hon'ble Court may graciously be pleased to restore the original writ petition.

~~Petitioner~~ Appellant  
Through   
Ashraf Ali Khattak

and

Nawaz Khan Khattak  
Advocate, Peshawar.

Dated: \_\_\_\_\_ / 02/ 2006

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.

SERVICE APPEAL NO. \_\_\_\_\_/2014

Arif Constable No.955, Police Force, Bannu .....Appellant.

Versus

The Regional Police Officer, Bannu Region Bannu  
And others .....Respondents.

Affidavit

I, Arif Constable No.955, Police Force, Bannu, do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

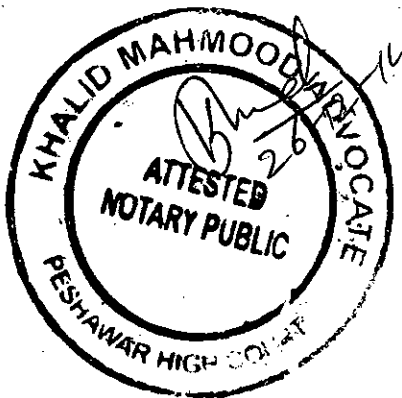
*[Handwritten Signature]*

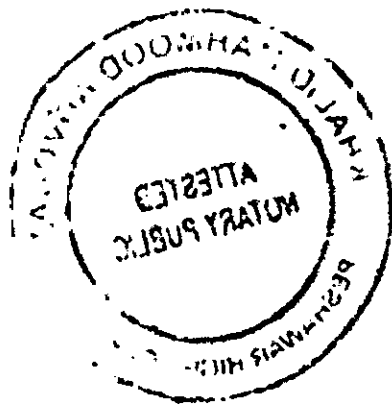
Deponent

Identified by

*[Handwritten Signature]*

Ashraf Ali Khattak  
Advocate, Peshawar







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Main body of handwritten text in Urdu script, enclosed in a rectangular border.

Anx: B

P- (9)

STATEMENT OF ALLEGATIONS:

I, Abdur Rashid, District Police Officer, Bannu as competent authority, am of the opinion that Constable Arif No.955 has rendered himself liable to be proceeded against as he has committed the following misconduct within the meaning of police rules (amended vide NWFP gazette 27<sup>th</sup> January 1976).

SUMMARY OF ALLEGATIONS:

- 1. That he while posted in Police Line, Bannu involved case FIR No.254 dated 18-07-2014 u/s 324/353/15 -AA/7ATA PPC PS Township, Bannu.
- That he absented himself from govt: duty w.e.f 18-07-2014 police Line, Bannu to date without any leave or permission from the competent authority.
- That he has ceased to become a good police officer.
- 2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations DSP/Rural: Bannu in appointed as Enquiry Officer.
- 3 The Enquiry Officer shall provide reasonable opportunity of hearing to the accused, record statements etc and findings within (25 days) after the receipt of this order.
- 4. The accused shall join the proceedings on the date, time and place fixed by the Enquiry Officer.

*Abdur Rashid*  
(ABDUR RASHID)  
District Police Officer,  
Bannu.

No.383-84/SRC dt. 04-8-2014  
Copies to the:-

1. SRC.
2. FC Arif No.955 of Police Line Bannu.

Attested  
*Abdur Rashid*  
True Copy

*Abdur Rashid*  
(ABDUR RASHID)  
District Police Officer,  
Bannu.

CHARGE SHEET:

P- (10)

I, ABDUR RASHID District Police Officer, Bannu, as competent authority, hereby charge you Constable Arif No.955 as follows:-

- That you while posted in Police Line, Bannu involved case FIR No.254 dated 18-07-2014 u/s 324/353/15 -AA/7ATA PPC PS Township, Bannu.
- That you absented yourself from govt: duty w.e.f 18-07-2014 police Line, Bannu to date without any leave or permission from the competent authority.
- That you have ceased to become a good police officer.


2. By reason of the above you appear to be guilty of misconduct under the police Rules (Amended vide NWFP gazettee, 27 the January 1976) and have rendered yourself liable to all or any of the penalties specified in the said rules.

3. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.

4. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. You are directed to intimate whether you desire to be heard in person.

6. A statement of allegation is enclosed.

  
(ABDUR RASHID)  
District Police Officer,  
Bannu.

Arrested  
True Copy

To,

Anx: C

20  
P- (11)

The Enquiry Officer DSP/Rural  
Bannu.

Subject: REPLY TO THE CHARGE SHEET

Respected Sir,

Kindly refer to your charge sheet No. 383-84/SRC, dated. 04-03-2014, the petitioner prayed as under:-

1. That I have been recruited as constable in the police Dep't: in the year 2006 and always exhibited outstanding and efficient performance as evident from my service record. During the course of my service up till now no black stigma has been marked on my face which is clear to suggest that I have left no stone unturned in performance of duty. Unfortunately I have been involved on suspicion in a false case vide FIR No.254 dated 18-07-2014 U/Ss 324/353 PPC, 15-AA, 7ATA PS Township, Bannu. As during the course of investigation the circle officer concerned disbelieving the cock & bull story put forth by the complainant deleted the Ss 353 PPC & 7ATA from the prosecution case which is further confirmed by the Public prosecutor of ATC Bannu.
2. That after my involvement and arrest in a manipulated case by the SHO PS Township for ulterior motives I have been jailed till my release on bail by the JM-VII, Bannu on 24-07-2014. Whereafter on 25-07-2014 I reported to my place of duty and also informed the concerned officer about the above cited false case. My absence from duty was not willful but was due to the circumstances beyond my control rather the SHO PS Township was responsible for misconduct. The mala fide of the SHO PS Township was evident from the fact that my identity as being police constable was concealed deliberately in the FIR No.254 dated 18-07-2014.
3. That after recruitment in police Dep't: I was fully aware about the sacrifices and devotions of duty which is the basic requirements of police and that is why I have taken stern action against all kind of miscreants and law defilers without caring about the consequences of these hardened criminals.

Attested

Copy



26/10  
5/11/00  
21/11/00

P- (12) (21)

4. That I have never been involved in any kind of anti-social activities nor violated the discipline of my service; rather I performed my duty whole-heartedly without apprehending any danger at the hands of miscreants.

In light of the above fact and circumstances, it is requested that the charge sheet issued to me may kindly be filed without any further action in the best interest of justice. I may also be heard in person.

Yours obediently.

*Arif*

ARIF KHAN FC NO.955  
PRESENTLY AT POLICE LINES  
BBANNU.

Arrested  
True Copy

بلسلسہ انکوائری ازاں کنشیل محمد عارف نمبر 955 متعینہ پولیس لائن ہوں

جناب عالی!

بحوالہ چارج شیٹ و سٹیٹ آف الیکشن نمبر 383-84/SRC مورخہ 04-08-014 مجاریہ جناب DPO صاحب ہوں  
معروض ہوں کہ کنشیل محمد عارف نمبر 955 متعینہ گارڈ پیٹل سکول گیٹ نمبر 1 حال معطل شدہ بحوالہ OB نمبر 732 مورخہ 25-07-014  
مجاریہ جناب DPO صاحب نمبر 74-11371 مورخہ 05-08-014 پر ذیل الزامات کی روشنی میں چارج شیٹ تقسیم کی گئی ہے۔

### SUMMARY OF ALLEGATIONS

1. That he while posted in Police Line Bannu involved in case FIR No.254 dated 18-07-014 u/s 324-353- PPC 7ATA/15AA PS Township Bannu.
2. That he absented himself from Govt: duty w.e.f 18-07-014 Police Line, Bannu to date without any leave or permission from the competent authority.
3. That he has ceased to become a good Police Officer.

جو چارج شیٹ و دیگر کاغذات من SDPO/R کو بغرض انکوائری موصول ہو کر کانشیل مذکورہ کو طلب کر کے جس نے اپنا تحریری جواب بہ زبان انگریزی پیش کر کے لگائے گئے الزامات کی تردید کی ہے۔ جواب ذیل ہے۔

1. That I have been recruited as constable in the Police Deptt: in the year 2006 and always exhibited outstanding and efficient performance as evident from my service record. During the course of my service up till now no black stigma has been marked on my face which is clear to suggest that I have left no stone unturned in performance of duty. Unfortunately I have been involved on suspicion in a false case vide FIR No.254 dated 18-07-014 u/s 324-353 PPC, 15-AA, 7ATA PS Township, Bannu. As during the course of investigation the circle officer concerned disbelieving the cock & bull story put forth by the complainant deleted the Ss 353PPC & 7ATA from the prosecution case which is further confirmed by the public prosecutor of ATC Bannu.
2. That after my involvement and arrest in a manipulated case by the SHO PS Township for ulterior motives I have been jailed till my release on bail by the JM-VII, Bannu on 24-07-014. Whereafter on 25-07-014 I reported to my place of duty and aslo informed the concerned officer about the above cited false case. My absence from duty was not willful but was due to the circumstances beyond my control rather the SHO PS Township was responsible for misconduct. The mala fide of the SHO PS Township was evident from the fact that my identity as being police constable was concealed deliberately in the FIR No. 254 dated 18-07-014.

Attested

True Copy

after recruitment in police Deptt: I was fully aware about the sacrifices and devotions of duty which is the basic requirements of police and that is why I have taken stern action against of all kind miscreants and law defilers without caring about the consequences of these hardened criminals.

4. That I have never been involved in any kind of anti-social activities nor violated the discipline of my service; rather I performed my duty whole-heartedly without apprehending any danger at the hands of miscreants.

In light of the above fact and circumstances, it is requested that the charge sheet issued to me may kindly be filed without any further action in the best interest of justice. I may also be heard in prson.

چونکہ مذکورہ کاٹھیل کے خلاف محمد نور خان SHO ٹاؤن شپ نے مقدمہ علت نمبر 254 مورخہ 014-7-18 جرم 324-353/7ATA-15AAPPC

تھانہ ٹاؤن شپ بنوں درج رجسٹری ہے۔ اور مذکورہ نے پولیس پارٹی پرفائرنگ کر کے جس کے قبضہ سے ایک ضرب کلاشکوف فولڈنگ بیٹ نمبر 48003412 فٹ، سپر میگزین معمولہ 54 عدد کارتوس 7.62 بوربرآمد کر کے بروئے فرد قبضہ پولیس کی ہے۔ اور کاٹھیل مذکورہ کو گرفتار کر کے بحوالہ نمبر 55 روزنامہ 014-07-18 پولیس لائن بنوں میں بوقت شب 01:50 بجے کوارٹر گارڈ میں بند کیا ہے۔ جو نقل مدہمراہ لف ہے۔

آگلے روز مذکورہ کاٹھیل کو چالان عدالت کر کے سنٹرل جیل بنوں بھیجا اور مورخہ 014-07-24 کو جوڈیشل مجسٹریٹ نمبر 7 بنوں نے ضمانت پر رہا کیا ہے۔ نقل حکم ضمانت ہمراہ لف ہے۔ مقدمہ میں بدوران تفتیش سرکل آفیسر تفتیشی افسر نے بحوالہ ضمنی نمبر 4 مقدمہ ہذا دفعات 353-7ATA قلمن کر کے تحریر کیا ہے۔ کہ ملازم محمد عارف نمبر 955 کا حالات واقعات کی روشنی میں سرکار کلاشکوف پرفائرنگ کرنا ثابت ہوا ہے۔ تاہم کسی قسم کا پولیس کے ساتھ مزاحمت نہیں ہوئی ہے۔ اور گواہان کے بیانات سے بھی یہ ثابت ہوا ہے۔ کہ کارسروکار میں کسی قسم کی مزاحمت نہیں ہوئی ہے۔

علاوہ ازیں SHO بمعہ گواہان کو طلب کر کے جن کے بیانات بھی لئے گئے۔ جنہوں نے تفتیشی افسر کو دیئے گئے بیانات کی تائید کی۔ اسی طرح تفتیشی افسر نے بھی مذکورہ کو مکمل طور پر بے گناہ نہیں ٹھہرایا ہے۔ بلکہ اس کے خلاف مقدمہ میں چالان جرائم PPC324/15AA دے چکا ہے۔ اس کے علاوہ مذکورہ کاٹھیل کی مورخہ 014-07-17 کو گارڈ پینل سکول گیٹ نمبر 1 پر 18:00 تا 22:00 بجے تک ڈیوٹی تھی۔ جو کہ ڈیوٹی سے غیر حاضر ہو کر جس کے خلاف گارڈ کمانڈر نے بحوالہ نمبر 48 روزنامہ 014-07-17 پولیس لائن بنوں میں بوقت 20:05 بجے رپورٹ غیر حاضری درج کی ہے۔ اور مذکورہ نے سرکاری کلاشکوف ہمراہ لے جا کر بوقت 00:45 بجے وقوع ہذا کا ارتکاب کیا ہے۔ سرکاری کلاشکوف معدوم میگزین 54 عدد کارتوس 7.62 بور قبضہ پولیس ہے۔ نیز کلاشکوف FSL بھیجوا یا گیا ہے۔

کاٹھیل مذکورہ کا جواب چارج شیٹ تسلی بخش نہ پا کر جس کو صفائی کا موقع دے کر مذکورہ پر بھرپور جرح کر کے جس نے کوئی تسلی بخش جواب نہ دیا۔ سرکاری کلاشکوف باوجود ہدایات کے اپنے ساتھ لے جانا تسلیم کیا۔ SHO ٹاؤن شپ کے ساتھ کوئی ذاتی رنجش یا عداوت بیان نہیں کی۔ اور نہ ہی کسی کے ساتھ دشمنی وغیرہ بیان کی۔ مذکورہ بنوں ٹی بنک گلی کارہائشی ہے۔ جبکہ سرکاری کلاشکوف سفید پارچات میں بغیر ڈیوٹی کے لنک روڈ اور CNG پمپ تک لے جانا تسلیم کرتا ہے۔

Attested  
True Copy

الختصر یہ کہ کانٹیل محمد ہارف نمبر 955 سرکاری ڈیوٹی سے بحوالہ نمبر 48 روزنامہ 17-07-014 سے غیر حاضر ہو کر بحوالہ نمبر 6 روزنامہ 01-08-014 پولیس لائن بنوں میں حاضر آیا ہے۔ جو اس دوران مذکورہ کاسرکاری کلاشکوف اپنے ساتھ لے جانا اور اس کے خلاف مقدمہ عدت نمبر 254 مورخہ 18-07-014 جرم 324/353PPC-15AA/7ATA تھانہ ناڈن شپ کادرج ہونا درست ثابت ہوتا ہے۔ اور مذکورہ وقوعہ ہذا میں فائرنگ کرنے کا مرتکب پایا گیا۔ جو کہ مقدمہ ہذا میں چالان دیا جا کر زیر سماعت عدالت ہے۔  
فائنڈنگ رپورٹ بمبرامناسب حکم ارسال خدمت ہے۔

ایس۔ ڈی۔ پی۔ او  
رولرسرکل، بنوں

ایس۔ ڈی۔ پی۔ او کے نام سے 17-07-014 سے غیر حاضر ہو کر بحوالہ نمبر 6 روزنامہ 01-08-014 پولیس لائن بنوں میں حاضر آیا ہے۔ جو اس دوران مذکورہ کاسرکاری کلاشکوف اپنے ساتھ لے جانا اور اس کے خلاف مقدمہ عدت نمبر 254 مورخہ 18-07-014 جرم 324/353PPC-15AA/7ATA تھانہ ناڈن شپ کادرج ہونا درست ثابت ہوتا ہے۔ اور مذکورہ وقوعہ ہذا میں فائرنگ کرنے کا مرتکب پایا گیا۔ جو کہ مقدمہ ہذا میں چالان دیا جا کر زیر سماعت عدالت ہے۔  
فائنڈنگ رپورٹ بمبرامناسب حکم ارسال خدمت ہے۔

Attested  
True Copy

P-16

**CONFIDENTIAL**  
**SECRET**

**JUSTICE THROUGH SCIENCE**  
**FORENSIC SCIENCE LABORATORY, INVESTIGATION**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

**REPORT OF THE FIRE ARMS EXPERTS**

Laboratory No. FA-02-9195-0-14 Received the sealed parcel on 24-07-2014

At FSL from SHO P.S Town ship District Bannu

The seals on parcels were found intact.

F.I.R No. 254 dated 18-07-2014 U/S 324/353/15AA/7ATA PS Town ship District Bannu

- 1. P.No.1 having five seals of R.M One 7.62 MM bore SMG rifle  
containing. No.48003412.

NOTE: - The rifle was signed by the experts.

**OPINION.**

Presence of the gun powder residue in the barrel of 7.62 MM bore SMG rifle No. 48003412 in question revealed that fire has been made through it, however no opinion can be expressed as to when these were fired. The rifle in question is foreign made and in working condition.

- Note: - (1)  
(2) Any report without embossing marks is not genuine.  
(3) The contents of the parcel were under our immediate custody until the examination was completed.

*(Signature)*  
(AZIZ KHAN)  
FIRE ARMS EXPERT

*(Signature)*  
(MINHAJ MUHAMMAD)  
FIRE ARMS EXPERT

No. 14013 /FSL, Dated 13.8.2014  
The opinion of the Fire Arms Expert is forwarded to SP/Inv: Bannu  
The receipt may be acknowledged and the exhibits collected from this Laboratory.



*(Signature)*  
DIRECTOR,  
FORENSIC SCIENCE LABORATORY,  
INVESTIGATION, KHYBER PAKHTUNKHWA,  
PESHAWAR.

*(Handwritten notes and signatures)*

**Attested**  
*(Signature)*  
Copy

Anx: E

P- (17)

ORDER:

Constable Arif Khan No.955 was charge sheeted on the following allegations:-

- That he while posted in Police Line, Bannu involved case FIR No.254 dated 18-07-2014 u/s 324/353/15 -AA/7ATA PPC PS Township, Bannu.
- That he absented himself from govt: duty w.e.f 17-07-2014 police Line, Bannu to 18-07-2014 without any leave or permission from the competent authority.
- That he has ceased to become a good police officer.

To probe into the allegations DSP/Rural was appointed as Enquiry Officer for initiating proper departmental proceeding under Police Rules 1975 and the Enquiry Officer has recommended that the allegations mentioned in the charge sheet stand proved against the defaulter constable.

He was served with Final Show Cause notice but he failed to rebut the allegation.

He was heard in person, enquiry papers perused and found unsatisfactory. His previous service record also checked.

In the light of enquiry report, I, Abdur Rashid District Police Officer, Bannu in exercise of the powers vested in me under Police Rules 1975 (amended vide NWFP gazette 27<sup>th</sup> January 1976), hereby Removed the defaulter constable Arif Khan No.955 from service from the date of suspension i.e 18-07-2014.

OB NO. 883  
Dated: 29-09-14

*Abdur Rashid*  
District Police Officer,  
Bannu.

No. 14916-18 / dated Bannu, the 29 /09/2014.

Copy of above is sent for information & necessary action to:-

1. Pay Officer.
2. OASI along with enquiry papers for placing him in his Fuji Missal record.
3. SRC.

Attested  
*Abdur Rashid*  
True Copy

بخدمت جناب ریجنل پولیس آفیسر صاحب بنوں ریجن بنوں۔

عنوان: اپیل بابت بحالی سروس۔

جناب عالی۔

بحوالہ مشمولہ آرڈر معروض ہوں۔ کہ

1. سائل مورخہ 25.05.2006 کا بھرتی شدہ ہے۔ اور سائل نے جملہ فرائض خوش اسلوبی سے سرانجام دئے ہے۔
2. سائل نے کبھی آفران بالا کو شکایت کا موقعہ نہیں دیا ہے۔
3. سائل پر بحوالہ مقدمہ عدلت نمبر 254 مورخہ 18.07.2014 جرم 324/353/PPC/15AA/7ATA تھانہ ٹاون شپ میں من گھڑت، بے بنیاد دعویداری کی گئی ہے۔ جو کہ صرف اور صرف سائل کے سروس کو نقصان پہنچانے کے لئے کی گئی ہے۔
4. سائل کو چارج شیٹ کیا گیا اور جناب DSP صاحب رورل سرکل کو انکوٹری آفیسر مقرر ہوا۔
5. سائل کو 100 فیصد بے گناہی کا یقین ہے۔ اور عدالت میں اپنی بے گناہی کو ثابت کرے گا۔
6. سائل کے خلاف مقدمہ عدالت میں زیر سماعت ہے۔ اور سائل بیک وقت دو فورمز پر اپنی بے گناہی اور صفائی ثابت کرنی درپیش تھی۔ لیکن سائل بے گناہ تھا۔ اس لئے سائل پر امید تھا۔ کہ وہ اپنے آپ کو بے گناہ ثابت کرنے میں کامیاب ہو جائے گا۔ لیکن جناب DSP صاحب رورل سرکل نے یکطرفہ طور پر ڈمس کرنے کی سفارش کی۔ اور جناب ڈی ایس پی صاحب کی سفارش کے ساتھ اتفاق کرتے ہوئے جناب DPO صاحب نے Removed کرنے کی حکم صادر کیا۔ جو کہ ناصرف قانون اور انصاف کے منافی ہے۔ بلکہ محکمہ پولیس میں ایسی مثال بھی نہیں ملتی۔

لہذا استدعا ہے۔ کہ سائل کو نوکری پر بحال کیا جائے۔ اور انکوٹری کو تاقصیفہ مقدمہ پنڈنگ رکھنے کی حکم صادر فرمایا جاوے۔

عین نوازش ہوگی۔

تحریر: 02.10.2014

کنشیل عارض

سائل EX کنشیل عارف نمبر 955، بنوں

Attested  
True Copy

E/C  
for report  
03/10/14

No. 2654 UBC

06-10/10-114

Attested  
DISTRICT POLICE OFFICER  
(BANNU)

25/11/14

DPO - Bannu for  
comments, M.

for R.P.O. Bannu

P- (19)



From:- The Regional Police Officer,  
Bannu Region, Bannu.

To:- The District Police Officer, Bannu.

No:- 2805 /EC dated Bannu, the 29/10/2014.

Subject:- APPEAL.

Memo:-

Please refer to your office Memo: No. 16841 dated 27.10.2014.

The Worthy RPO-Bannu Region examined and filed the subject appeal.

The service record and departmental enquiry file received with your above quoted reference are sent herewith for record.

*OAS/ERC*  
*With enquiry papers*  
*for further mention*  
*all*

*[Signature]*  
Regional Police Officer,  
Bannu Region, Bannu  
*29/10/14.*



**درخواست دربارہ دئے جانے مکمل انکوائری کاغذات۔**

جناب عالی!

مودبانہ گزار کیجاتی ہے۔ کہ سائل بحوالہ OB NO.883 مورخہ 29.9.2014 کو محکمہ پولیس ضلع بنوں سروس سے ہٹایا گیا ہے۔ سائل کو بغرض اپیل دائر کرنے انکوائری کی مکمل کاپی درکار ہے۔ لہذا استدعا ہے۔ کہ سائل کو جملہ انکوائری کاغذات دیئے جانے کے احکامات صادر فرمائیں۔ عین نوازش ہوگی۔

العارض

مورخہ 25.11.2014

سائل:- محمد عارف خان (سابقہ کنشیل نمبر 955)

SRC

For further n/s return + <sup>edit</sup> report as per rules regulation

Handwritten signature  
25/11/14

Attested

Handwritten signature  
DISTRICT POLICE OFFICER

(S.A. NO.)  
25/11/14

OASi

Sir,

Enquiry of Constable Arif no- 955 is being directed to the office of OASi Branch - see may be provided the needful documents to the defaulter constable.

Submitted please,

Note => To provide the needful documents.

Attested  
Copy

Handwritten signature  
25/11/2014

R/Sir,

REFERENCE ATTACHED PUC.

It is submitted that Ex: Constable Arif Khan No. 955 of Bannu District Police submitted an appeal to your good self, at PUC, requesting therein for restoration into service till the Court's decision, which was sent to DPO/Bannu for comments.

The DPO/Bannu has submitted his comments, which are worth perusal **at F/A.**

If approved, may call him in orderly room for personal hearing with your good self, please.

Submitted for kind perusal and further order please.

O.S  
28/11/14

Establishment Clerk

28/10/14

WORTHY RPO/BANNU.

file

Received

Aof  
25/11/14

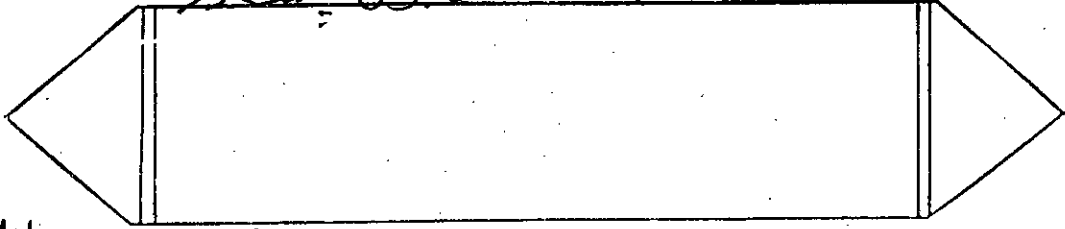
Mushtaq

DISTRICT POLICE  
(BANNU)

SR  
25/11/14

Amended  
copy

# بعد الت جناب سروس ٹریبونل پشاور



2014ء منجانب سائل

عارف بنام R.P.O. Bamsy

موزخه  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے اشرف علی خٹک ایڈووکیٹ ذراہ ایڈووکیٹ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء 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 ہر جاتہ التوائے مقدمہ کے سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھدیا کہ سندر ہے۔

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\_\_\_\_\_ گ \_\_\_\_\_ واہ الع

کے لئے منظور ہے۔

بمقام

Ali  
Advocate