


# FORM OF ORDER SHEET

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

**Appeal No.**

**600/2024**


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/04/2024	<p>The appeal of Mr. Saeedullah resubmitted today by Mr. Jahangir Khan Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 29.04.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> <b>REGISTRAR</b></p>

The appeal of Mr. Saeed Ullah received today i.e on 04.04.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- ✓ Index of the appeal prepared according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- ✓ Check list is not attached with the appeal.
- 3- ✓ Memorandum of appeal is not signed by the appellant.
- 4- ✓ Annexures of the appeal is unattested.
- 5- ✓ Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.
- 6- ✓ Copy of departmental appeal is not attached with the appeal be placed on it.
- 7- ✓ Annexure-D of the appeal is illegible be replaced by legible/better one.
- 8- ✓ In the memo of appeal the words petitioner is used there exists no provision in the Service Tribunal Act/rules 1974 for using the word of the petitioner in the memo of appeal.
- 9- ✓ According to sub-rule-4 of rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 1 & 4 are unnecessary/improper parties, in the light of rules ibid and on the written direction of the Worthy Chairman respondent no.1 & 4 deleted/struck out from the list of respondents.
- 10- ✓ Three more copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

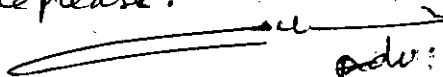
No. 759 /S.T,

Dt. 5/4 /2024.

  
REGISTRAR 5/4/24  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Jehangir Khan Mohmand Adv.  
High Court Peshawar.

19/04/2024 Resubmitted after removing Dice objections.  
Departmental appeal is at page-20 (Annex: F).  
Charge sheet, statement of allegations, show cause notice and enquiry report have not been provided to the appellants if any, which are duly mentioned in para- 6 read with ground(e) of the appeal, hence submitted without those documents with a request to direct the respondents for it's production.  
Annex: D is a certified copy and legible please.

  
Adv:

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

SA No: \_\_\_\_\_/2024

Saeedullah .....Appellant

Versus

Deputy Inspector General of Police and another .....Respondents

**I N D E X**

S.No.	Description of documents.	Annex:	Pages.
1.	Memo of appeal.		1-3
2.	Affidavit.		4
3.	Copy of CNIC and service Card	A-B	5
4.	Copy of pay slip	C	6
5.	Copy of FIR and acquittal order	D	7-18
6.	Copy of impugned original order dated 05.06.2023	E	19-
7.	Copy of departmental appeal and the impugned appellate dated 27.02.2024	F-G	20-21
8.	Wakalatnama.		22

Appellant

Through \_\_\_\_\_


**Jehangir Khan Mohmand**  
Advocate Supreme Court

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No. 759 /S.T,

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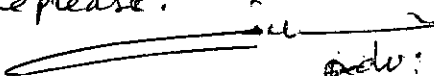
  
REGISTRAR 5/4/24  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Jehangir Khan Mohmand Adv.  
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adv:

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

SA No: 600 /2024

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12133

Dated 04-04-2024

Saeedullah s/o Hayat Khan

Ex-Constable North Waziristan Police (No. 382)

R/o Kanirogha Manzar Khel, Datta Khel District.....Appellant

Versus

1. Deputy Inspector General of Police/Regional Police Officer,  
Bannu Division.

2. District Police Officer, North Waziristan District.

.....Respondents

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER PASSED BY RESPONDENT NO. 3 DATED 05.06.2023 AND IMPUGNED APPELLATE ORDER DATED 27.02.2024 PASSED BY RESPONDENT NO. 2 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE.**

*filed today*

*Registrar*

Respectfully submitted;

*Adv*

1. That the *appellant* being bonafide resident and fully qualified was duly appointed as Foot Constable (No. 382) in District Police North Waziristan in BS- 9 vide office order of respondent no. 1 dated 16.05.2019. (Copy of the *CNIC* is annexure A, Service Card is Annexure B, Pay Slip is Annexure C)

*Adv*

2. That *appellant* was arrested in a false case bearing FIR No. 50 of 17.04.2023 u/ss 342/392/148/149 PPC Police Station Mir Ali North Waziristan, and was put behind the bars at Central Jail Bannu and after facing trial, he was acquitted by the learned trial court vide order dated 09.10.2023 by invoking provisions of section 249-A

Cr.P.C. (Copy of the <sup>FIR and</sup>acquittal order dated 09.10.2023 is Annexure D) <sub>ADW.</sub>

3. That while the appellant was confined in central jail since 17.04.2023, the respondents unilaterally initiated proceedings against the appellant and respondent no. 4 was appointed as Inquiry Officer, who without conducting any proceedings i.e. charge sheet/ statement of allegations or any actual inquiry whatsoever, condemned the appellant by recommending imposition of major punishment.
4. That respondent no. 3 after receipt of the so called inquiry report on 05.06.2023, unilaterally without issuance of any final show cause notice and personal hearing went on to pass the impugned original order of dismissal from service vide order dated 05.06.2023, on the same date of receipt of the inquiry report . (Copy of impugned original order dated 05.06.2023 of respondent no. 3 is annexure E)
5. That the appellant after his acquittal preferred a departmental appeal in the above context to the respondents, however the same was rejected without any hearing by respondent no. 2 vide appellate order dated 27.02.2024. (Copy of the departmental appeal and the impugned appellate order dated 27.02.2024 are annexure F & G respectively)
6. That despite several requests for the provision of the inquiry report, statement of allegations, final show cause notice and any incriminating material collected against the appellant, the same were never provided to the appellant till date, hence the appellant is constrained to approach this honourable Tribunal.
7. Feeling aggrieved by the above, the appellant now approach this honourable Tribunal for setting aside the impugned actions and orders on the following inter alia grounds;

### **GROUNDS**

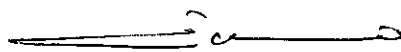
- a. Because the impugned original as well as the appellate orders of the respondents are against the law, rules, equity and facts hence not tenable.
- b. Because the impugned orders are against the fundamental rights and service security guaranteed by the constitution and relevant rules.
- c. Because the impugned orders are arbitrary, whimsical, perverse and violative of the service laws and rules and principles of natural justice and have resulted in grave injustice to the appellant.

- d. Because the appellant was not treated in accordance with law and was rather discriminated and condemned unheard.
- e. Because the appellant who was confined in jail was never served with any charge sheet, show cause notice, associated with the alleged inquiry proceedings and providing any personal hearing, hence of no legal effect whatsoever.
- f. Because respondent no. 3 passed the impugned original order on the same day of receipt of the alleged inquiry report from respondent no. 4 without giving any personal hearing of the appellant hence not sustainable at all.
- g. Because the appellant was acquitted of the charge/FIR by a competent court of law after due process, hence the allegations against the appellant are rendered useless which can never be formed as basis for the impugned orders of dismissal from service under the law.
- h. Because copy of the impugned orders were also never communicated to the appellant, however the same was dispatched through diary no. 541 on 06.03.2024 from the office of respondent no. 2, hence the appeal is within time.
- i. Appellant seeks permission to agitate further grounds at the bar.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned original order of respondent no. 3 dated 05.06.2023 and the impugned appellate order dated 27.02.2024 of respondent no. 2, may be set at naught and the appellant be reinstated to his service with all back/ future benefits, along with any other relief deemed appropriate please.

  
Appellant

Through

  
Jehangir Khan Mohmand  
Advocate Supreme Court, Peshawar.

Dated. 04.04.2024

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

SA No: \_\_\_\_\_ /2024

Saeedullah .....Petitioner

Versus

Inspector General of Police & others:.....Respondents

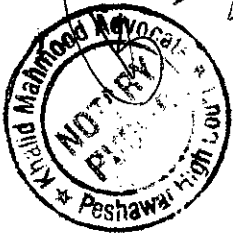
**AFFIDAVIT**

I, Saeedullah s/o Hayat Khan, appellant R/o Kanirogha Manzar Khel, Datta Khel District, Petitioner, do hereby solemnly affirm and declare on oath that contents of the accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been kept or concealed therein.

*[Handwritten signature]*  
27-6-23

*[Handwritten signature]*


DEPONENT






1. In the event of loss the card holder should report to the nearest police station.  
 2. If found, please drop into the nearest letter box.  
 3. Contact us, 891-2710437

Address: MANZER-KHEEL, DATA KHEEL, North Waziristan  
 Emergency Contact: 03369908181  
 Date of Expiry: 15-12-2024  
 Date of Issue: 16-12-2021  
 Date of Birth: 11-04-1988  
 CNIC #: 2150190269789



District Police Office, North Waziristan  
 Issuing Authority

SAEED ULLAH  
 Consible



Card No. 008R065


Khyber Pakhtunkhwa Police

ATTACHED

ANNEX: B

کراچی پولیس ایجنسی کے پاس پیش کرنا


Register General of Pakistan  
 50061032884  
 21501-90269789



ATTACHED

PAKISTAN National Identity Card

Name: Saeed Ullah  
 Ethnicity: Haveli Khan  
 Gender: Male  
 Country of Birth: Pakistan  
 Identity Number: 21501-90269789-9  
 Date of Issue: 20.08.2021  
 Date of Expiry: 20.08.2031



ANNEX: A

5

6



ANNEX! C

Miran Shah-N.W.

S#:18963

P Sec:001 Month:May 2023

MW4040 -District Police Officer No

DISTRICT POLICE OFFICER N

Pers #: 50240563 Buckle:

Name: SAEED ULLAH

CONSTABLE

CNIC No.2150190269789

GPF Interest Free

07 Active Temporary

NTN:

GPF #:

Old #:

MW4040 -220

PAYS AND ALLOWANCES:

0001-Basic Pay	26,320.00
1001-House Rent Allowance 45%	2,384.00
1210-Convey Allowance 2005	1,932.00
1300-Medical Allowance	1,500.00
1528-Unattractive Area Allow	1,000.00
1547-Ration Allowance	681.00
1567-Washing Allowance	100.00
1646-Constabulary R Allowance	300.00
1902-Special Incentive Allownce	775.00
Gross Pay and Allowances	47,918.00

DEDUCTIONS:

GPF Balance 83,610.00	Subrc: 1,500.00
4200-Professional Tax	1,000.00
3530-Police wel:Fud BS-1 to 18	526.00
4004-R. Benefits & Death Comp:	450.00

Total Deductions 3,476.00

44,442.00

D.O.B

11.04.1988

16 Years 03 Months 019 Days

LFP Quota: 4

NATIONAL BANK OF PAKMIRANSHAH (N.W.A.)

4140032735

        
**ATTESTED**

ATTESTED

P.T. 0

Handwritten text in Urdu, likely a legal or official document, containing various names, dates, and signatures. The text is dense and covers most of the upper half of the page.

7	تاریخ	مقام
6	مقام	تاریخ
5	مقام	تاریخ
4	مقام	تاریخ
3	مقام	تاریخ
2	مقام	تاریخ
1	مقام	تاریخ

امین الطوائف

(1) 15-0-1954

ANNEX D

IN THE COURT OF **ZAHID ALI KHAN,**  
JUDICIAL MAGISTRATE-II, NORTH WAZIRISTAN AT BANNU.

CASE NO. 53/PPC OF 2023

Date of Institution : 14.07.2023  
Date of Decision : 09.10.2023.

The State

...Versus...

1. Saeed Ullah s/o Hayat Khan aged about 34/35 years, r/o Kanirogha Manzar Khel, Datta Khel, 2. Amjad s/o Khalid Ahmad aged about 22/23 years, r/o Hassu Khel, Mir Ali, and 3. Irfan Ullah s/o Sumar Gul aged about 27/28 years, r/o, Spalga Tori Khel, Tehsil Miranshah, District North Waziristan.....(Accused facing trial)

CHARGED U/S. 342, 392, 148/149 PPC VIDE FIR NO. 50 DATED 17.04.2023 REGISTERED AT PS MIR ALI NORTH WAZIRISTAN.

\*\*\*\*\*

Present: Mr. Majid Khan, APP for the State  
Mr. Atiq Daur Advocate for complainant.  
Mr. Alamgir Khan Advocate, for the accused Amjed Khan.  
Mr. Muhammad Yaqoob Khan Wazir Advocate for accused Saeed Ullah and Irfan Ullah.

\*\*\*\*\*

ORDER

1. Accused named-above have faced trial before this court in case FIR No.50 dated 17.04.2023 U/S. 342,392, 148/149 PPC registered at Police Station Mir Ali, District North Waziristan.
2. Brief facts of the case according to the contents of the allegations incorporated in the instant case FIR which was reported on 17.04.2023 at 15 :15 hours in Police station Mir Ali by the complainants namely Waqas Raza and Sami Ullah to the local Police are that on 04.04.2023 at 13:30 hours, the complainant Waqas Raza was present in his electric shop situated in Gulon Market Mir Ali, where in a Datsun, some 7/8 persons in police uniform and in a Benjo Motor car ¼ persons duly armed came there. That the person in uniform stated that they are CID officials and they showed their ID Cards also. That thereafter, the accused started searching his shop and they took from the counter placed in the shop, cash amount of Rs 11,330,000-/, eight Registers of accounts, three mobile sets, registration documents of motorcycle and a 9mm pistol of the complainant with them, for which they did not give any receipt to the complainant. That when the

ATTESTED  
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District & Sessions Court  
North Waziristan at Bannu

09.10.2023  
Saeed Ullah

accused were leaving the shop, they left there a mobile set Samsung which seemed to be of accused Saeed Ullah s/o Hayat R/O Kani Rogha Manzer Khel, North Waziristan. Similarly, on the same day after Half hour, the accused took away 15 registers, one Kalashnikov with fit magazine and 75 live rounds from the shop of second complainant Sami Ullah s/o Azan Gul situated at the same market hence, complainants Waqas Raza and Sami Ullah charged accused Saeed Ullah with others unknown accused through the instant case FIR for the commission of the offence. That later-on during investigation the other accused facing trial and absconding co-accused were charged hence, the present FIR.

3. After completion of investigation, complete Challan was submitted against the accused facing trial by the prosecution branch. The accused were behind the bar therefore; they were summoned through Zamima Bay. They appeared and provisions of S.241-A Cr.P.C were complied with. On 31.07.2023 formal charge against the accused was framed, to which they pleaded not guilty and claimed trial.
4. After framing of charge the prosecution was directed to produce its evidence in support of its version.
5. The Prosecution examined six PWs out of total eight PWs. The PW Sami Ullah was abroad while PW Zardad Khan ASI was abandoned by the prosecution. The gist of witnesses produced by the prosecution is as under.

PW-01 is the statement of complainant Waqas Raza s/o Abdul Razaq, who Stated that on 04.04.2023, at about 13:30 hours, he was present in his electric shop situated in Guloon Market Mir Ali, North Waziristan, wherein a Dotson in which some 7/8 persons in Police Uniform and in a Banjo Motor Car some 3/4 person duly armed came there. The person in Police uniform stated that they are CID Officials and they showed their ID Cards. Thereafter, the accused started searching of his shop and they took from the counter, Cash amount of 1,133,000/-, eight (08) Registers of account, three (03) Mobiles sets, Registration Documents of Motorcycle and a 9-mm Licensed Pistol of me (Complainant), for which they did not give any receipt to him. The accused were muffled faces and when the accused were leaving the shop, they left

ATTESTED

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North Waziristan at Feroze

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CIVIL  
09-10-2023

there a mobile set (Samsung) which seemed to be of the accused namely Saeed Ullah s/o Hayat Khan r/o Kanirogha Manzar Khel, District North Waziristan. Hence, he charged the accused Saeed Ullah with other unknown accused for the commission of offence. Later on, the police during investigation and after interrogation of accused Saeed Ullah implicated the co-accused facing trial for the commission of offence. To this effect, his statement u/s 164 Cr.P.C. dated 10.05.2023 was also recorded by the Illaqa Magistrate, wherein, he charged the co-accused facing trial for the commission of offence as well he identified his stolen articles before the Court. His statement is *Ex.PW-1/1*. He stated that he is the marginal witness of the recovery memo vide which the IO took into possession one Samsung Mobile A-72 of accused namely Saeed Ullah, containing SIM Cards No. 0332-2007575, 0336-9908181, which is *Ex.PW-1/2*. The IO also prepared the site plan of his shop/spot on his pointation, which is *Ex.PW-1/3*. his statement was recorded by the IO u/s 161 Cr.P.C. At the end of his examination in chief he stated that now the accused facing trial have satisfied him about their innocence and he has patched up the matter with the accused outside the Court, therefore, he does not want to prosecute the accused in the case in hand.

*PW-02 is the statement of Riaz Noor SHO, PS Mir Ali, who submitted complete challan against the accused facing trial as well challan for proceedings under section 512 Cr.P.C against the absconding co-accused which are Ex.PW-2/1 and Ex.PW-2/2 respectively*

*PW-03 is the statement of Atta Ullah ASI, PS Mir Ali, who chalked out the FIR Ex-PA against the accused Saeed Ullah and other unknown accused at the report of complainant and handed over the copy of FIR to the investigation Staff. He stated that Waqas Raza handed over to him one Mobile Samsung A-72, Touch Marka Ex-P1 which was recovered in the shop of Waqas Raza and to this affect, he prepared the recovery memo in presence of two marginal witnesses. The recovery memo is Ex-PW3/1.*

ZAHID ALI KHAN  
CIVIL JUDGE-II  
NORTH WAZIRISTAN BANNU

09-10-2023

ATTESTED  
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District & Sessions Court  
North Waziristan at Bannu

*PW-04 is the statement of Mir Daraz SI/INVPS Mir Ali*, he stated that after receiving of copy of FIR, he proceeded to the spot, where he made the site plan on the pointation of Complainant Waqas Raza already *Ex.PW-1/3*, and site plan *Ex.PW-4/1* on the pointation of Complainant Sami Ullah. He arrested all the accused and issued their cards of arrest *Ex.PW-4/2* and *Ex.PW-4/3* respectively. He obtained there days Police custody of the accused. He made pointation memo of the site from the accused in presence of two witnesses, which is *Ex.PW-4/4*. He recovered and took into possession 150,000/- Rupees cash, one Kalashnikov bearing No. 253135 folding butt with round (circle) magazine, two pistol of 9MM bore, one bearing No. 763688-14AJ0070140, which is *Ex.P2* and one pistol without number, two empty magazine, fitted magazine with 9 live rounds of 9 MM bore. Similarly, from accused Amjad s/o Khalid Ahmad recovered 903000/- rupees Pakistani currency, 21 rounds of 9 MM bore and 11000/- rupees of Sale of rounds. From accused Saeed Ullah s/o Hayat Khan 30000/- rupees cash, one touch mobile, one Camera *Ex.P3*, 17 registered in which one registration copy # FK4269 regarding Honda Motorcycle 125, one Cheque-Book of National Bank Miranshah in the name of Abdul Razaq s/o Sher Adam Khan. To this effect, he prepared the recovery memo in presence of two marginal witnesses *Ex.PW-4/5*. The recovered articles were given on Superdari on 11.05.2023, by the learned Judicial Magistrate-II, the copy of the Order is *Ex.PW-4/6*. He recorded the statements of PWs u/s 161 Cr.P.C. He made application for recording of confessional statements of the accused facing trial u/s 164 Cr.P.C. to the Illaqa Magistrate to which the accused facing trial did not confess their guilt, which is *Ex.PW-4/7*. He also made application u/s 204/87 Cr.P.C. against the absconding accused Khalid Nawaz s/o Bahader Nawaz r/o Dossali and Sher Afzal s/o unknown r/o Maizer Datta Khel, his applications are *Ex.PW-4/8* and *Ex.PW-4/9* respectively. On the direction of the prosecution, he added section 342 PPC in the instant case and issued a parawa Izadigi, *Ex.PW-4/10*. He recorded statements of all

*Saeed Ullah*  
09-10-2023

ZAHID ALI KHAN  
JUDICIAL MAGISTRATE-II  
NORTH WAZIRISTAN AT BANNU

**ATTESTED**  
12 OCT 2023  
District & Sessions Court  
North Waziristan at Bannu

Copy

the PWs u/s 161 Cr.P.C. After completion of investigation, he handed over the case file to SIO concerned for submission of complete challan.

*PW-05 is the statement of Rehman Ullah IHC, PS Mir Ali, who stated that on 22.04.2023, he was accompanied with Investigation Officer. The accused facing trial during integration pointed out the place of occurrence to the investigation officer and the investigation officer took the accused facing trial to the place of occurrence for pointation. The accused facing trail correctly pointed out both the spot to the investigation officer in his presence. To this effect, the Investigation Officer prepared the pointation memo which is already Ex.PW-4/4. Similarly, they also took the accused to the CTD office Miranshah, North Waziristan for pointation proceedings where the investigation officer recovered and took into possession Rs. 150,000/- rupees, one Kalashnikov bearing No. 253135 folding butt with fitted round magazine alongwith 02 pistols of 9-MM bearing No. 763688-14AJ000140 as well as the other pistol 9-MM was without number with two empty magazines, fitted magazine containing 9 rounds of 9-MM on the pointation of accused Irfan Ullah. Similarly, the investigation officer took into possession Rs. 903,000/- Pakistani currency, 21 rounds of 9 mm and Rs. 11,000/- selling amount of rounds on the pointation of accused Amjad in my presence. Similarly, the Investigation Officer recovered and took into possession Rs. 30,000/- Pakistani currency, one touch mobile, one camera already Ex.P3, 17 registers in which one registration book FA-4269, regarding Honda 125 motorcycle, one cheque book of national Bank Miranshah in the name of Abdul Razaq s/o Sher Adam Khan on the pointation of accused Saeed Ullah as a stolen property in his presence. To this effect, the Investigation Officer prepared recovery memo regarding articles mentioned above already Ex.PW-4/5 in his presence, he signed the recovery memo and pointation memo on the spot. His statement was recorded by the IO u/s 161 Cr.P.C.*

ZAHID ALI KHAN  
JUDGE  
NORTH WAZIRISTAN

09-10-2023

**ATTESTED**  
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North Waziristan at Bannu



PW-06 is the statement of eye witness Imran Khan S/O Muhammad Jamil, stated that Complainant Sami Ullah is his relative. He has a shop of travel agency in Tariq Market Mir Ali Bazar. On 04.04.2023, he was present with Sami Ullah in his shop. At about 13:30 hours, a police Dotson & one Banjo Motorcar came there and stopped. Some 7/8 persons in police uniform were in the Dotson, while there were some 3/4 persons/accused in white cloths in the Banjo Motorcar with muffled faces. They were duly armed and came to the shop, overpowered them and said that they are CTD Officials and showed their Service-Card. They took away 15 registers, one licensed Kalashnikov with fitted round magazine and some Notebook/pads forcibly. The IO prepared the site plan on the pointation of Complainant Sami Ullah. Which is correct. He is the eye witness of the said occurrence. His statement was recorded by the IO u/s 161 Cr.P.C.

6. The Learned counsel for accused facing trial submitted applications for acquittal of accused facing trial U/S 249-A Cr.P.C. Notices of the applications were given to the prosecution.

7. I have heard the detailed arguments of learned counsel for the petitioners/accused facing trial as well as learned APP for the State and private counsel of complainant and perused the record.

8. Learned APP Mr. Majid Khan for State duly assisted by leaned counsel for the complainant contended that accused facing trial are charged in the FIR by the complainant with allegations of robbery. He argued that as the offence is committed by the accused in Police uniform therefore, they are not entitled for any lenient treatment. That the prosecution has established its case beyond any shadow of doubt against the accused by producing trustworthy and reliable evidence while evidence of one of the complainants is still remaining therefore, the prosecution will be given chance to produce its best evidence. Lastly, he requested for dismissal of the applications.

9. Learned Counsel for the accused contended that the accused are innocent and have falsely been implicated in the case in hand by the local Police on the basis of malafide as the complainant has recorded his statement wherein, he admitted in his cross examination that the accused are innocent and he has

Handwritten signature and date: 09-10-2023

ZAHID ALI KHAN  
J.M.H.  
NORTH WAZIRISTAN H.C.

ATTESTED  
16 OCT 2023  
District & Sessions Court  
North Waziristan at Bannu

got no objection at the acquittal of them. They further argued that not a single stolen article is recovered from personal possession of any of the accused facing trial. That there exist material contradictions in the statements of PWs, creating doubts regarding the genuineness of the prosecution case. That the accused facing trial have got no previous criminal history. That the prosecution has been miserably failed to bring home charge against the accused facing trial without any shadow of doubt, while concluding his arguments they requested for acquittal of the accused.

10. After hearing the arguments and going through the record, it is evident that the complainant reported the matter after delay of about 13 days without any explanation and in their first report they charged only accused Saeed Ullah and that too on the basis of his Mobile Phone which he had allegedly left at the time of occurrence in the shop of complainant. If the complainant were aware of the fact that the mobile phone is the ownership of accused Saeed Ullah then why they remained mum for about thirteen days and did not file any complaint or lodge any report against him. Besides so, as per report of complainant, at the time of occurrence they were shown ID cards by the accused then the question is that why they did not charge the accused by name in the FIR. In this respect neither the investigation Officer brought on record any evidence nor the complainant and eye witness explained the same in their statements recorded before the court.

As mentioned above the accused Saeed Ullah is charged only on the basis of a Mobile Phone allegedly left by him at the time of occurrence in the shop of complainant Waqas Raza. The question is that whether the prosecution has succeeded to prove the ownership of the mobile and SIM Cards of accused Saeed Ullah. In this respect, a question was put to the Complainant during his cross examination, who replied that he has not given any data regarding the mobile allegedly recovered from the place of occurrence. Similarly, PW-03 obtained the CDR data of mobile phone produced by Complainant to Atta Ullah ASIO regarding the ownership of the SIM Cards of the accused Saeed Ullah. As per self-statement of the investigation Officer, he had received the mobile in the packed form. Moreover, PW-03 Atta Ullah ASI, stated in his cross examination that the Complainant has not stated to him at the time of

**ATTESTED**  
 District & Sessions Judge  
 North-West Frontier Province  
 Peshawar  
 12-05-2023

**ZAHID ALI KHAN**  
 District & Sessions Judge  
 North-West Frontier Province  
 Peshawar  
 09-10-2023

*Syed Shahid*

*[Signature]*

report that accused Saeed Ullah entered in his shop. As it was utmost essential for the prosecution to prove the ownership of the mobile phone of the accused Saeed Ullah because the whole case of prosecution is based upon this fact but the investigation officer did not bother to bring on record true facts about ownership of the mobile phone and sim cards of the accused Saeed Ullah rather, he blindly believed on the statement of complainant and declared the accused Saeed Ullah as guilty in the case in hand. It is the duty of Investigating Officer to verify all the facts and circumstances of the case and it is not the job of investigation officer to prove an innocent person guilty but his job is to bring actual and true fact on the record about every aspect of the case.

12. It is also worthwhile mentioning that none of the accused facing trial was identified by the complainants and eye witness at the time of occurrence as it has been brought on record from evidence of prosecution that all the accused were muffled faces at the time of occurrence. It is also evident from record that the first report of the complainant as well his subsequent statements are totally silent with regard to physique, structure and complexion of the culprits and with regard to role played by each accused individually or severally. It is also astonishing that the complainant straight away produced a mobile phone to the police and claimed the same as ownership of accused Saeed Ullah but he never disclosed to the IO/ Police nor before the court that how he came to know that the mobile was the ownership of accused Saeed Ullah and that whether the accused Saeed Ullah was already known to him or not. The most damaging factor for the prosecution case is that the Investigation Officer after arrest of the accused facing trial did not apply for identification parade of the accused.

13. The co-accused facing trial are implicated in the case in hand by the Police on the extra judicial confessions allegedly made by accused Saeed Ullah to the Police. As it is a settled law that confession of accused though relevant yet if recorded while in Police custody is not admissible because of the reason it can be procured due to threat, duress or coercion thus regarded as unreliable and the same is also not admissible under Art 38 & 39 of Qanun-e- Shahadat 1984.

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District & Sessions Court  
North Waziristan at Bannu

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ZAHID ALI KHAN  
JUDGE  
CIVIL JUDGE-II  
NORTH WAZIRISTAN  
09-10-2023

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14. After going through evidence of the prosecution it is also surfaced on record that not a single stolen article is recovered from personal possession of any of the accused facing trial rather the stolen articles were allegedly recovered from the CTD Office Miranshah. As per report of complainant the occurrence took place on 04.04.2023, while the alleged recoveries were effected on 22.04.2023, now the question is that why the said articles were lying in the Office of CTD, which would obviously be under the control of an authorized CTD Officer but the investigation officer did not associate the said officer as well other officials of CTD in the investigation to bring on record that how the articles were brought to the CTD Office and why the same were present there for about 13 days. The Investigation Officer also did not collect the detail of duty roster of the accused from the CTD office to bring on record facts in respect of presence and their timing of duties on the day of occurrence. As the CTD Office is a sensitive place and there would have been CCTV cameras installed but in this respect nothing in negative or positive is brought on record by the investigation Officer. Besides so, the most important question is that if the accused have committed the offence of robbery, then why they kept the stolen articles in the Office of CTD and have not distributed amongst themselves or kept the same in a hidden place. These are such questions which create serious doubts in a prudent mind about the role of the Investigation Officer, from which it can be presumed that the Investigation Officer has tried to make the accused facing trial scapegoat to shield the actual culprits.

15. Besides the above lacunas in the case of prosecution the court also noticed the following contradiction between statements of PW-04 and PW-05. The PW-04 Mir Daraz SI/INV sated in his cross examination that when he reached there, the Office of CTD was closed and one Official opened the said office to him. He admitted that he has not cited the CTD Official on the recovery memo. Contrary to the statement of PW-04, the PW-05 stated in his cross examination that he cannot tell the exact time when the accused led the police party to the CTD Office Miranshah and when they reached CTD Office, the Office was opened and some 4/5 personals of CTD office were already present in the said office.

ZAID ALI KHAN  
 CIVIL JUDGE II  
 NORTH WAZIRISTAN  
 09-10-2023

**ATTESTED**  
 16 OCT 2023  
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16. From overall scanning of record and going through evidence produced by the prosecution, it can be easily concluded that prosecution has failed to bring home guilt of accused beyond any shadow of reasonable doubt and present case is not only full of contradictions, but there is no material evidence against the accused facing trial. The complainant Waqas Raza has admitted in his statement that the accused facing trial are innocent and they have satisfied him about their innocence therefore, he does not want to prosecute the accused facing trial in the case in hand. Similarly, the eye witness namely Imran Khan, relative of the second complainant Sami Ullah also stated during cross examination that Sami Ullah complainant has gone abroad for laboring and the accused facing trial satisfied him through Jirga about their innocence therefore, he and Complainant Sami Ullah have got no objection on the acquittal of the accused being innocent. As almost all the prosecution witnesses have recorded statements except PW Sami Ullah who is abroad and his attendance cannot be easily procured, while keeping in view the above, if his statement is recorded then obviously there is no chance of conviction of the accused facing trial therefore, in such like eventuality provisions of *Section 249-A Cr. PC* could be invoked. As such accused facing trial namely *Saeed Ullah, Irfan Ullah and Anjad are Acquitted* of the charges leveled against them by exercising the powers U/Sec: 249-A Cr.PC whereas accused Khalid Nawaz S/O Bahadar Nawaz R/O Dossali Tehsil Miranshah and Sher Afzal S/O Nawab R/O Datta Khel are absconding therefore, they are declared as proclaimed offender and perpetual warrant of arrest be issued against them and be sent to the District Police Officer with the direction to enter their names in the register of Proclaimed Offenders. Case property if any be kept intact till the arrest and trial of POs.

File be consigned to Record Room of learned District & Sessions Judge, North Waziristan at Bannu after its necessary completion and compilation.

Pronounced in open court at Bannu, under my hand and seal of the court this 09<sup>th</sup> day of October, 2023.

**ATTESTED**

10 OCT 2023

District & Sessions Court  
North Waziristan at Bannu

Court

ZAHID ALI KHAN  
JUDICIAL MAGISTRATE-II  
NORTH WAZIRISTAN AT BANNU  
09-10-2023

(ZAHID ALI KHAN)  
Judicial Magistrate-II,  
North Waziristan at Bannu.

**CERTIFICATE**

Certified that this order consists of 11 (eleven) pages, each page has been read over, corrected wherever it was necessary and signed by me.

*Zahid Ali Khan*  
ZAHID ALI KHAN  
NORTH WAZIRISTAN AT BANNU

09-10-2023  
(ZAHID ALI KHAN)  
Judicial Magistrate-II,  
North Waziristan at Bannu.

- 1- Registration No. 2376
- 2- Date of Filing 16-10-2023
- 3- Date of Report of Police 16-10-23
- 4- Date of Investigation of Magistrate
- 5- Date of Judgment
- 6- Date of Appeal
- 7- Date of Appeal
- 8- Date of Appeal
- 9- Date of Appeal
- 10- Signature of Convict

*11*  
*[Signature]*

**ATTESTED**

16 OCT 2023

District & Sessions Court  
North Waziristan at Bannu

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ORDER

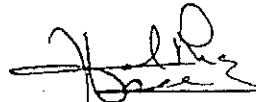
This order of the undersigned will dispose of departmental proceeding against FC Saeed Ullah No.382 (Suspended) under Police Rules 1975 (as amended vide Khyber Pakhtunkhwa Gazette Notification, No.27<sup>th</sup> of August 2014) by issuing charge sheet and statement of allegation to him for committing the following commissions/omissions:

- He is involved in case FIR No.50 dated 04.04.2023 registered u/s 149-149-192 PPC in PS Mir Ali.
- Looted amount Rs.30000/-, one touch mobile phone, 08 registers pertaining to Hundai business have been recovered from his possession.
- This all speaks gross misconduct on his part and he is liable to be punished under Police Rules-1975.
- Such act on his part is against the service rules/discipline and amounts to misconduct and negligence.

Charge sheets and statement of allegations were issued and served upon them. SP Investigation North Waziristan was nominated as enquiry officer to probe the matter and report. Enquiry officer submitted his finding report on 05.06.2023, wherein he stated that the allegations leveled against the above mentioned accused were proved. Hence he has been recommended for major punishment

Keeping in view the position explained above. I, Mr. Saleem Riaz District Police Officer, North Waziristan, in exercise of the power vested in me, under Khyber Pakhtunkhwa Police Rules 1975 (amended in 2014) awarded him Major Punishment of dismissal from service from the date of incident.

OB No. 908  
Dated: 05/06/2023.

  
District Police Officer,  
North Waziristan

Copy to:

1. The Regional Police Officer, Bannu Region, Bannu for information.
2. PO/SRC/OASU/Reader for necessary action.
3. LO/RI/In-charge Kot/In-charge General Godown/ In-charge Wardi Godown with the directions to deposit all the government items issued to him, if any.

ALLEGED

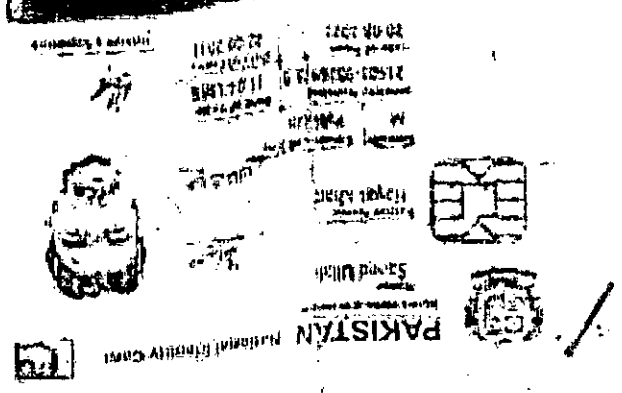
**ATTESTED**

مقامی شہادت (382/FC نمبر) 0335-9995060: موانع نمبر

مقامی شہادت کے تحت اس کی طرف سے جاری کی گئی ہے۔  
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مقامی شہادت

مقامی شہادت



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ANNEX: F



POLICE DEPARTMENT

BANNU REGION

ORDER

This order will dispose of departmental appeal, preferred by Ex-Constable Saeed Ullah No. 382 of District Police North Waziristan, wherein, he has prayed for setting aside the major punishment of "dismissal from service" imposed upon him by then DPO North Waziristan, vide OB No. 908 dated 05.06.2023 for committing the following misconduct:-

- > That the appellant was involved in case FIR No. 50 dated 04.04.2023, registered u/s 148-149-192 PPC in PS Mir Ali.
- > That looted amount Rs. 30,000/-, one Touch Mobile Phone, 08 registers pertaining to Hyundai business have been recovered from his possession.

Comments, service record and enquiry papers, received from DPO North Waziristan vide his office letter No. 8215/SRC dated 28.11.2023 were perused. The appellant was heard in person twice in detail but he could not convince the undersigned regarding his innocence.

Therefore, I, Qasim Ali Khan, Regional Police Officer, North Waziristan Region North Waziristan, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (with amendments 2014) hereby reject his appeal and endorse the order of the then DPO North Waziristan issued vide OB No. referred above.

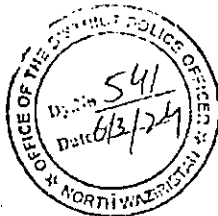
Regional Police Officer  
Bannu Region,  
Bannu

No. 942 /EC, dated Bannu the 27/02/2024

Copy for information and necessary action to District Police officer, North Waziristan, with reference to his Memo: No. referred above.

- Enclosed:
- 1. Service Roll = 01
  - 2. Fauji Missal = 01

Regional Police Officer  
Bannu Region,  
Bannu



SRE  
 For M.L.A.  
 [Signature]  
 D/O NW  
 6/3/24

**ATTESTED**

قیمت  
50 روپے

11494

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

ایڈویکٹ: صائم خان مہمند سپریم کورٹ

بار کونسل ایسوسی ایشن نمبر: 106921

رابطہ نمبر: 03009594039

PESHAWAR  
BAR ASSOCIATION





بعدالت جناب:

دعویٰ:	منجانب مدعی
علت نمبر:	
مورخہ:	
جرم:	
تھانہ:	

**بابت تحریر آگہ**

سید اللہ بنام نور غنی و خدیجہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے صائم خان مہمند سپریم کورٹ کو وکیل 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 ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 27 / 10 / 2023

مقام پشاور کے لیے منظور ہے۔  
Attestation  
Advo.

نوٹ: اس وکالت نامہ کی فوٹو کاپی نامتامل قبول ہوگی۔