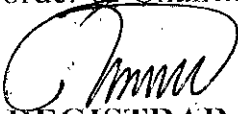


FORM OF ORDER SHEET

Court of _____

Appeal No. 601/2024

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. Muhammad Afaq resubmitted today by Mr. Zahoor Islam Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 30 .04.2024. Parcha Peshi given to the counsel for the appellant .</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Muhammad Afaq received today i.e on 22.04.2024 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Page nos. 22 to 25 of the appeal are illegible be replaced by legible/better one.
- 3- Copy of statement of allegations mentioned in the memo of appeal is not attached with the appeal be placed on it.

No. 943 /S.T,

Dt. 23/04 /2024.




REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zahoor Islam Adv.
High Court Peshawar.

Sir,

All the objections has been removed
accordingly, except statement of allegation
which has not been provided to
Appellant.


Zahoor Islam
26-4-2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Service Appeal No. 601 /2024

Muhammad Afaq.....(Appellant)

V E R S U S

PPO Khyber Pakhtunkhwa & others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal with affidavit		1-12
2.	Addresses of Parties		13
3.	Application with affidavit		14-16
4.	Copy of certificate	A	17-22
5.	Copy of F.I.R	B	21
6.	Copies of charge sheet, statement of allegations and reply	C,D&E	22-24
7.	Copy of impugned order dated 18/07/2023	F	25
8.	Copy of departmental appeal and rejection order dated 31/08/2023	G	26-28
9.	Copy of revision petition along with order	H & I	29-31
10.	Wakalat Nama		32

M. Afaq

Appellant
Muhammad Afaq

Through

Zahoor Islam
Zahoor Islam

& *Muneeb ur Rehman*
Muneeb ur Rehman
Advocates High Court,
Peshawar.
Cell: 0346-9083579

Date: 22/04/2024

1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.

Service Appeal No. 601/2024

Muhammad Afaq, Ex-Assistant Sub Inspector (ASI)
Police, ^{Hangu} Resident of village Topi Kala, P.O. Bogara,
Tehsil Takht-e-Nasrati, District Karak.....(Appellant)

V E R S U S

1. Provincial Police Officer (PPO), Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer (RPO), Kohat Region, Kohat.
3. District Police Officer (DPO) District
Hangu.....(Respondents)

SERVICE APPEAL U/S 4 OF SERVICES
TRIBUNAL ACT, 1974 AGAINST THE
ORDER OF RESPONDENT NO. 3
BEARING OB NO. 450 DATED
17/07/2023 VIDE WHICH APPELLANT
WAS REMOVED FROM SERVICE AND
ORDERS DATED 31/08/2023 AND
26/03/2024 VIDE WHICH
DEPARTMENTAL APPEAL AND
REVISION PETITION OF APPELLANT

2)

WERE REJECTED BY RESPONDENTS
NO. 1 AND 2 RESPECTIVELY.

PRAYER:

On acceptance of this Service Appeal, impugned orders dated 17/07/2023, 31/08/2024 and 26/03/2024 may kindly be set aside and appellant may be reinstated in service with all back and consequential benefits.

Any other remedy which deemed appropriate and just in the circumstances of the case, be also issued/ ordered/ given.

Respectfully Sheweth:

Facts giving rise to the service appeal are as follows:

1. That appellant was initially recruited as Constable in District Karak Police and was later on inducted in Khyber Pakhtunkhwa Police as Assistant Sub-Inspector (ASI) against Shuhada Quota as father of appellant had embraced Shahadat during encounter

with die hard criminals reported vide FIR No. 28 dated 22/04/2003 Police Station Teri, District Karak.

2. That appellant had successfully qualified the basic recruit course and directly recruited probation ASI Course and Elite Basic Course, and was rendering services with sole aim and objective of serving the owner in prestige on by his father for the department who had embraced "Shahadat" in line of duty. (Copy of certificate is attached as annexure "A").
3. That in the year 2023, appellant was posted in operation wing of Police Station Doaba District Hangu on 19/02/2023, appellant accompanied by Police Posse, during Patrol Duty gave signal of stopping to motorcycle riders but the suspects did not honour the signal and made attempt of fleeing away.
4. That appellant and police party made hot pursuit of the suspects and were over powered, and recovery

of 120 Gram Chars was made from the possession of Hayatullah "Murasila" report for registration of case against Hayat Ullah on charges of possession of narcotics and rash and negligent driving was drafted and transmitted to police station.

5. That criminal case F.I.R No. 160/2023 under Section 9 (C) CNSA and 279 PPC was registered against said Hayat Ullah by "Muharrar" staff of police station Doaba, the recovered narcotics, motorcycle and arrest accused were handed over to Muharrar Staff. (Copy of F.I.R is enclosed as annexure "B").

6. That accused party on getting grant of bail and winning over the police constable who were cited as marginal witnesses to the recovery memo vide which the recovers narcotics was taken into possession, lodged false complaint against appellant on charges certain foreign currency allegedly recovered from his possession.

7. That respondent No. 3 issued charge sheet and statement of allegations based on charges leveled in the complaint. Appellant submitted reply in response to the charge sheet that the complaint has been filed with sole motive creating doubt in the above referred criminal case. (Copies of charge sheet, statement of allegations and reply are enclosed as annexure "C", "D" & "E" respectively).

8. That an ex-parte inquiry proceedings were carried out and eventually respondent No. 3 passed the impugned order dated 18/07/2023. (Copy of impugned order dated 18/07/2023 is attached as annexure "F").

9. That appellant filed departmental appeal before respondent No. 2 which was reject vide order dated 31/08/2023. (Copies of departmental appeal and rejection order are enclosed as annexure "G").

10. That appellant filed Revision Petition before respondent No. 1 which also rejected vide order dated 26/03/2024. (Copy of Revision Petition is

enclosed as annexure "H" while copy of order is enclosed as annexure "I").

- 11. That therefore appellant submits service appeal inter-alai on the following grounds:

GROUND S:

A. That the impugned orders dated 17/07/2023m 31/08/2023 and 26/03/2024 passed by respondents No. 1, 2 and 3 respectively are against the law and facts on record. The departmental authorities have wrongly accepted the mere allegation of accused arrest by appellant for commission of an offence of possession of narcotics and rush and negligently driving.

B. That codal and procedural formalities of inquiry proceeding were not adopted, none was examined as witness in person of appellant. Appellant was not confronted with any evidence supporting the charge. The defense of the appellant was not

7)

taken into account and false allegations of accused person were accepted which created loopholes and doubt in prosecution case, registered against registered on charges of possession of narcotics and rash and negligent driving.

C. That impugned orders were passed without waiting for the trial of the case F.I.R No. 160. The conduct of departmental authorities of taking action on the false and baseless complaint of criminal will encourage the culprits and will discourage the Police officers, so the impugned orders are premature and favours the criminal involved in anti social activities.

D. That petitioner made hot pursuit of the accused (complaint maker) and foiled his attempt of fleeing away and appellant also made recovery of Chars from his personal possession. The accused party annoyed of the registration case vide F.I.R

No. 160/2023 developed personal grudges with appellant and filed false and frivolous complaint against appellant with ulterior motive of implicating appellant in disciplinary charges.

E. That the impugned orders are illegal, against law, without lawful authority, and void as the others have been based on defective inquiry proceedings.

F. That major penalty for removal from service was imposed on appellant without conducting proper inquiry proceeding, thus respondents have failed to follow the prescribed procedure, therefore, action/ orders of respondents are without lawful authority, hence, liable to be set aside.

G. That the whole proceedings of the so-called inquiry were conducted in the absence of appellant, he was not provided an opportunity of hearing, hence he was condemned unheard which is violation of golden principle of law that

9)

no one should be condemned unheard. Copy of the findings of enquiry officer was not supported to appellant despite repeated requests were placed before respondent No. 3.

H. That enquiry officer has neither recorded statement of any witnesses nor collected any evidence in support of allegations levelled against the appellant, so, the inquiry was not conducted in a fair and transparent manner, therefore, removal of the appellant from service on such defective inquiry report is highly illegal, arbitrary, without lawful authority and jurisdiction.

I. That it was the fundamental rights of the appellant to be treated equally and was also entitled to equal protection of law, but in the instant case, the respondents have blatantly bypassed all Laws and Rules regulating the departmental actions.

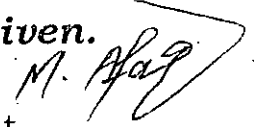
J. That appellant is not engaged in any profit oriented activity and remained jobless since passing the impugned removal from service order, therefore, he appellant is entitled for all back/ consequential benefits.

K. That appellant belongs to poor family, there is no other source of income without this job and the appellant was the only source of earning livelihood for his entire family, therefore the loss of service amounts to stoppage of the ration of the entire members of the family including the widow mother.

L. That the departmetanal authorities have ignored the evidence which favour the appellant, furthermore, appellant may also be allowed for raising additional grounds during hearing of the appeal.

It is, therefore, respectfully prayed that on acceptance of this Service Appeal, impugned orders dated 17/07/2023, 31/08/2024 and 26/03/2024 may kindly be set aside and appellant may be reinstated in service with all back and consequential benefits.

Any other remedy which deemed appropriate and just in the circumstances of the case, be also issued/ ordered/ given.




Appellant
Muhammad Afaq

Through



Zahoor Islam

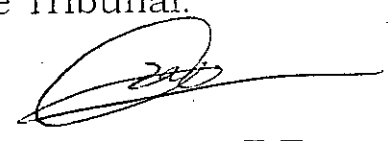
& 

Muneeb ur Rehman
Advocates High Court,
Peshawar.

Date: 22/04/2024

CERTIFICATE:

As per instruction of my client it is certified that no such like Service Appeal has earlier been filed on the subject matter before this Hon'ble Tribunal.



ADVOCATE

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2024

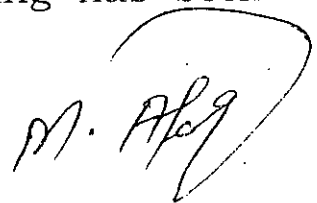
Muhammad Afaq.....(Appellant)

V E R S U S

PPO Khyber Pakhtunkhwa & others.....(Respondents)

AFFIDAVIT

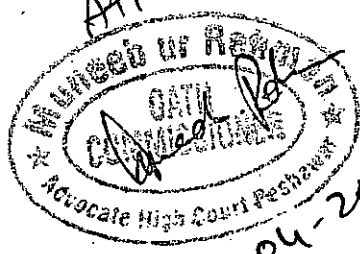
I, Muhammad Afaq (Ex-ASI) District Hangu R/o Tehsil Takht-e-Nasrati, District Karak, do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

Muhammad Afaq

CNIC No. 14203-6119715-7

Attested


22-04-2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

Service Appeal No. _____/2024

Muhammad Afaq.....(Appellant)

V E R S U S

PPO Khyber Pakhtunkhwa & others.....(Respondents)

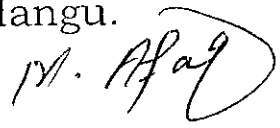
ADDRESSES OF PARTIES

APPELLANT:

Muhammad Afaq (Ex-ASI) District Hangu R/o Tehsil
Takht-e-Nasrati, District Karak.

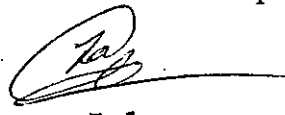
RESPONDENTS:

1. Provincial Police Officer (PPO), Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer (RPO), Kohat Region, Kohat.
3. District Police Officer (DPO) District Hangu.

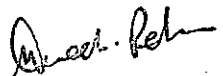


Appellant
Muhammad Afaq

Through



Zahoor Islam

& 

Muneeb ur Rehman
Advocates High Court,
Peshawar.

Date: 22/04/2024

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

C.M. No. _____/2023

In

Service Appeal No. _____/2024

Muhammad Afaq.....(Appellant)

V E R S U S

PPO Khyber Pakhtunkhwa & others.....(Respondents)

**APPLICATION FOR CONDONATION
OF DELAY IF ANY.**

Respectfully submitted:

1. That the above titled Service Appeal is being filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That the appellant filed Departmental Appeal and after that filed Revision Petition before the IGP which was decided on 26/03/2024.
3. That delay is not intentional but due to the above mentioned reason.

4. That precious and valuable rights of the appellant are involved in the matter and if such delay period is not condoned, the appellant would sustain an irreparable loss.
5. That as per the verdicts of superior Courts the cases will be decided on merits rather technicalities.
6. That this Hon'ble Tribunal has got ample powers to condoned the delay in the instant appeal.

It is, therefore, humbly prayed that on acceptance of the instant application, the delay (if any) may kindly be condoned in the best interest of justice.



Appellant
Muhammad Afaq

Through



Zahoor Islam

& 

Muneeb ur Rehman
Advocates High Court,
Peshawar.

Date: 22/04/2024

16)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR.**

C.M. No. ____/2023

In

Service Appeal No. ____/2024

Muhammad Afaq.....(Appellant)

V E R S U S

PPO Khyber Pakhtunkhwa & others.....(Respondents)

AFFIDAVIT

I, Muhammad Afaq (Ex-ASI) District Hangu R/o Tehsil Takht-e-Nasrati, District Karak, do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

M. Afaq

DEPONENT
Muhammad Afaq
CNIC No. 14203-6119715-7

Attested

22-04-2024

Police No. 107
Form No. 153(c)

GS&PD NWFP-309F.S 30,000F-1-88-(19)

17)

KHYBER PAKHTUNKHWA POLICE



COMMENDATION CERTIFICATE Class III

Recruit MUHAMMAD AAFAQ NO 523 Constable KASHIF Shaheed Company is hereby granted CC-III for his good performance on the eve of "MARTYRED DAY KHYBER PUKHTON KHWA POLICE" on 4th August 2015.

*Attested to be a
True copy*

ATTESTED

OB. No.

75

Dated

11/09/2015.

Principal,
Police Training School, Swabi

18)

POLICE SCHOOL OF INVESTIGATION KHYBER PAKHTUNKHWA

S.No. 186/2021



This is to certify that

ASI Muhammad Ajaq District Manzo

has Participated and Successfully Complete Two Week Training on
Core Investigation Skill

held at Police School of Investigation Khyber Pakhtunkhwa. Dated. 26 April - 07 May 2021

Qunoush Khan
Deputy Inspector General of Police
Training
Khyber Pakhtunkhwa

[Handwritten signature]
DIRECTOR

[Signature]
6320
Director
Police School of Investigation
Khyber Pakhtunkhwa

19J

S.No. 969/2020

POLICE SCHOOL OF INVESTIGATION KHYBER PAKHTUNKHWA



This is to certify that

ASI Muhammad Afaq 04 District Hangu

has Participated and Successfully Complete One Week Training on
Medicolegal & DNA Reporting Course

held at Police School of Investigation Khyber Pakhtunkhwa. Dated. 14 to 18 Dec, 2020

Deputy Inspector General of Police
Training
Khyber Pakhtunkhwa

Director
Police School of Investigation
Khyber Pakhtunkhwa

Police No. 107
Form No. 153(c)

GS&PD NWFP-309F.S 30,000F-1-88-(19)

20)



COMMENDATION CERTIFICATE

Class III

Recruit MUHAMMAD AAFAQ NO 523 Constable KASHIF Shaheed Company is hereby granted CC-III for his good performance on the eve of "MARTYRED DAY KHYBER PUKHTON KHWA POLICE" on 4th August 2015.

OB. No.

75

Dated

11/09/2015.

Principal,
Police Training School, Swabi

نمبر 19.12.15 (1)

ابتدائی اطلاعی رپورٹ

21

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 153 مجموعہ ضابطہ 4 جلد اولی

منبع	مینگو	دوای	50	1600
تاریخ	19/12/15	وقت	12:40 بجے	

تاریخ وقت رپورٹ	19/12/15	وقت	12:40 بجے
پہرہ سکونت اطلاع دہندہ	اسٹیشن آفس کراچی	پہرہ سکونت	آسی خان
فکٹر کیفیت جرم (موردہ) مال اگر کوئی لایا گیا ہو۔	9C:CN5A-279 PP	فکٹر	5117715-7
جائے وقوعہ و ملقات سے ادرت	طرح ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی	پہرہ سکونت خرم	ہیات اللہ ولد میر علی خان سک. خیر 500 مٹا کراچی
کارروائی جو پیش کے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو بیان کرنا	میر علی کے سرانجام پر دیا جاتا ہے۔	تفتیش سے روائی کی تاریخ و وقت	بیسٹیل ڈاؤن

آسی خان سے ابتدائی اطلاع کے درج کروا کر ہائی ایس جی جی میں ارسال کیا گیا۔

747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

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747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

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747 نمبر ٹورٹا لودنگ نڈر ایڈریس لٹا ہل 2/2 گلڈ پیس جانب ضابطہ 4 جلد اولی

Attested to be a true copy

بہ عالی! بحوالہ جارج ٹیٹ فیری E 4 | 122

جاریہ جناب DPO ہماوت منتقلی معروہ فریڈ ہونے میں رہا

نے بحوالہ مقدمہ عدالت 160 حوضہ $\frac{53}{0.25}$ 17 جرم CONSA

دو آہہ بلالین انٹوٹری جناب SDO ہماوت بلالین

شده کرنسی میں سے SDO دیان مانڈ کر نہیں کیا ہے

تک $\frac{500}{818.4}$ کرنسی تا سوال ہے۔ من ایڈا نے ملزم کو

ہذا میں صحت تمام کر ختم کر کے پورا لانا ضروری ہے

کہا ہے۔ جبکہ جملہ سامان مدد ضروری نہ آمان کو ختم کر کے

بند بحالات قائم کیا ہے جس میں من ایڈا کو SDO دیان

کرنسی تا کوئی علم نہیں ہے۔ ملزم کو چاہیے تھا کہ بد وقت میں

نوٹس میں لانا۔ نہ کہ بعد میں اشتراک الا جماعتی کو

شکایتی۔ جبکہ ضمیمہ تصدیق کوئی نہیں ہے۔

ہوں۔ گفزا میری جارج ٹیٹ فیری ماروانی داخل

75
محمد انصاف

محمد انصاف 9851 مقیم قلم رجب

Handwritten signature and stamp

جناب عالی

24)

بھوالا قاضی شہنواز تونس بھری 12/1 E/C مورخ 06/07/23 جاریہ
 جناب D.P.S. صاحب سنگو معروف غموت 5000 کہ من ASI کے مقدمات
 160 مورخ 19/03/23 جس میں 229/90 مقامہ دوکان پر خلاف حیات الہیہ
 ولد میراظم خان سکند صاحب ضلع کراچی درجہ درجہ کے جملہ مال مقدمہ پر موقع
 بندیا گیا ہے کسی کی بھی جہاں تک 5000 روپے کا سوال ہے۔ نہ تو ملزم
 سے برآمد ہوا ہے۔ اور نہ ہی ان کے ساتھ موقع پر موجود ہے، ملزم نے
 کیلینٹ سے بناو بیڑا ہے۔ کہ جس کے خلاف مقدمہ درجہ درجہ ہے۔
 ملزم نے مقدمہ کی سزا کو نقصان دہی بخانا کیلئے اور بلاوجہ اپنے آپ
 کو بے گناہ ثابت کرنے کیلئے کیلینٹ کی ہے، جملہ الزامات میں
 سائنس بے گناہ ہے جس میں کوئی حقیقت نہیں ہے۔ بلکہ جو کچھ
 دیا وہ میں نے کیلئے الزام لگایا ہے۔ قاضی شہنواز تونس بھری
 بلا اعتراض کاراویں کے داخل دفتر ہونے کا حکم صادر فرمائیں۔

M. Akbar
 Asi P.S. Daula
 14-7-23

29/7/23

25)

ORDER

This order is passed on the departmental enquiry against PASI Muhammad Afaz wife of Late Mr. Asif Bahader, Doaba, Hangu under the Khyber Pakhtunkhwa Police Rules 1973 (Amendment 2014)

Brief facts of the case are as under:-


- i. On the perusal of the outcomes of the preliminary enquiry conducted by SDPO Thakri Titled Complaint Code No. KP230327-90607570 received from the worthy RPO, Kohat Region, Kohat vide his office Encls. No. 702/C.Cell, dated 29.03.2023, PASI Muhammad Afaz of P.S Doaba has registered a case FIR No. 160, dated 02.07.2023, U/S 30 PPC & CNSA in P.S Doaba, in which he has mentioned 5000 notes & 02 notes 1000/1000 of Pakistani Currency and 10/10 Qatari Riyals, 01 Note 5 Riyals including one foreign license, while 500 Riyals are not mentioned in the instant case due to which no chance of success the case.
- ii. Since, he has maliciously registered the instant case, to have spoiled the well reputation of the Police before the general public and the high-ups as well, which is unforgivable.
- iii. His above act shows his involvement in corruption/mispractices, has acted irresponsible manner and professional gross misconduct on his part, which cannot be ignored.

He was served with Charge Sheet and statements of allegations under the Khyber Pakhtunkhwa Police Rules 1973 (Amendment 2014) vide this office No. 122/EC, dated 10.05.2023, to which he submitted his reply to the DSP, City, Hangu, who was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, the Enquiry Officer submitted his findings vide No. 112/SDPO, dated 17.06.2023, in which the delinquent PASI Muhammad Afaz was not guilty for the charges level against him by providing full opportunity of hearing. Therefore, the Enquiry Officer recommended to be removed from a regular punishment.

Consequently, he was called in orderly room on 05.07.2023 and heard in person, but no reasonable response could be given in his self defence. Subsequently, a Final Show Cause Notice was issued to him this office vide No. 121/EC, dated 06.07.2023, but his reply was also found unsatisfactory.

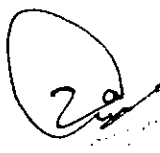
Keeping in view of the above and having gone through available record, the undersigned has arrived at the conclusion that delinquent PASI Muhammad Afaz has found involvement in corruption and being a senior member of the disciplined force, his act falls comes under the domain of major misconduct, which reflects that he is not more interested to serve the Police Department, moreover, in these circumstances, his removal from Police Department is burden on public exchequer, therefore, I, Asif Bahader, (DSP), District Police Officer Hangu in exercise of the powers conferred upon me under the Rules aforesaid, dispense with general punishment and recommend a major punishment of Removal from Service with immediate effect.

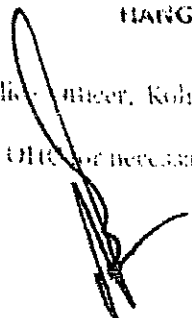
450
17/7/2023


DISTRICT POLICE OFFICER,
HANGU

3656-58
18.07.2023

A copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat for favour of information, please in copy Encls. Hangu, P.O. Officer, EC, Reader & OIC for necessary action.




DISTRICT POLICE OFFICER,
HANGU

To.

The Regional Police Officer, Kohat Region,
Kohat

26)

Subject: **DEPARTMENTAL APPEAL**

Respected Sir,

Most respectfully, appellant submits departmental appeal against the order of District Police Officer, Hangu bearing OB No 450 dated 17/07/2023 vide which appellant was removed from service with immediate effect.

FACTS

1. That appellant was inducted in Khyber Pakhtunkhwa Police as Assistant-Sub-Inspector (ASI) against "Shuhada" quota. Appellant was posted as ASI in operation wing of Police Station Doaba, district Hangu under your kind control and command. On 19.3.2023, appellant accompanied by Police strength comprising several constables while on patrol duty noticed a motorcycle rider coming from "thora wari" side, who was driving the motorcycle rashly and negligently therefore a signal of stopping was given to him but he instead of stopping further accelerated the motorcycle and crossed the Police party.
2. That the suspect was followed without a loss of moment and was over powered and upon his personal search recovery of 120 gram "Charas Garda", Rs: 8000 Pakistani currency consist of one note of 5000 denomination and three notes of 1000 denomination, foreign currency of Qatri Riyal of two notes of five Riyal denomination and foreign driving license was made from his possession.
3. That "Murasila" to this effect was drafted and was transmitted to Police Station for registration of case and accordingly case vide No.160 dated 19.03.2023 under Section 279 PPC, 9 (c) CNSA was registered. The suspect disclosed his name as Hayat Ullah Son of Mir Azam Khan resident of Sadda District Kurram. The recovered articles were taken into possession and sealed on the spot.
4. That investigation in the case entrusted to investigation wing and the case property was handed over to Station clerk of the Police Station. Later on the accused in order to save his skin of the charge of rash and negligent arriving and possession of narcotics, manipulated a false charge of missing of foreign currency to the tune of 500 Riyal and he allegedly submitted written complaint against appellant.
5. That appellant was proceeded against departmentally on the basis of baseless allegations of not mentioning 500 Riyal in recovery memo and appellant placed defense that the complaint has been made with sole aim of destroying the prosecution case registered against the complaint maker but the lower authority passed the impugned order, hence this departmental appeal on the following grounds.

GROUND

- a) That the impugned order has been based on miss- statement because according to the contents of the impugned order, charge sheet was issued to appellant, inquiry was conducted through DSP city and Final Show-Cause Notice was issued to appellant but in the concluding Para the authority has specifically mentioned that he "dispense with general proceedings". All this means that the authority has not consulted the record before passing the impugned order. The defense plea of appellant that the complaint was after-thought story with sole aim to spoil the prosecution evidence of criminal case registered against the complaint maker, was not taken into account. Therefore the impugned order is not sustainable.



97

- b) That appellant was material, main and principal witness in the criminal case FIR No.160/2023 under section 279 PPC, 9(c) CNSA against Hayat Ullah accused therefore award of major penalty of removal from service to important witness (appellant) on the basis of complaint of accused person not only amount to creation of doubt in criminal case but will also encourage other accused for making such like complaints. Therefore retention of the impugned order will open a flood gate for baseless complaints against Police Officers, resultantly none will dare to register genuine cases and suspects will go scot free.
- c) That the alleged inquiry proceedings were carried out in the absence of appellant. No evidence was collected in presence of appellant. No witness was examined in presence of appellant. The findings of inquiry were not supplied to appellant despite placing written request in shape of an application before the authority. The impugned order has been based on de-facto inquiry proceedings therefore the order is worth set aside.
- d) That appellant was punished before the trial of accused/ complaint maker by competent Court. Therefore passing of the impugned order at this stage was not legally justified because it will affect the trial proceedings. The opinion of departmental authority about the merit of the criminal case before the final judgment of criminal Court is pre-mature and against the principles of natural justice.
- e) That the trial Court is competent forum to believe or disbelieve the action of appellant initiated against the accused and the impugned departmental action against appellant without any directions of the Honorable Trial Court amounts to grant of pre-trial favour to the accused. Therefore the impugned order has wrongly been passed by accepting the false contention of accused arrested by appellant.
- f) That appellant took prompt action against the suspect and foiled his attempt of fleeing away and recovered narcotics from his possession but the authority instead of grant of reward to appellant in recognition of good work, awarded penalty of removal from service to appellant. The action of the authority will discourage the Police and encourage the anti-social elements.
- g) That the impugned order was passed without taking into account the plausible defense plea of appellant. The inquiry proceedings were carried out at the back of appellant. No evidence was collected which may support the alleged charges of involvement in corruption and corrupt practices.
- h) That the content of charge sheet does not constitute commission of miss-conduct because appellant registered a criminal case and the accused person always level allegation against Police to manage their acquittal from the criminal charges. Therefore in absence of any directions of the trial Court, the action of departmental authority was pre-mature.
- i) That appellant may be allowed to raise additional grounds at the time of personal hearing.

It is therefore requested that the impugned order may be set aside and appellant may be re-instated in service with all back and consequential benefits.

Yours obediently

02-8-2023

M. Afaq
Muhammad Afaq, EX-ASI

District Hangu

Cell No. 03354451048

Enclosures:

1. Copy of impugned order
2. Copy of FIR No 160/2023 PS Doaba

28)

ORDER.

This order will dispose of the departmental appeal preferred by Ex-PASI Muhammad Afaq of Hangu district Police against the order of District Police Officer, Hangu whereby he was awarded major penalty of removal from service vide OB No. 450, dated 17.07.2023. Brief facts of the case are that a complaint was moved against him through Pakistan Citizen Portal. As per the contents of complaint, he registered a case vide FIR No. 160, dated 19.03.2023 u/s 279 PPC, 9-C-CNSA PS Doaba wherein he only mentioned one Note of Rs. 5000/-, 03 Notes of Rs. 1000, 02 Notes of 10/10 of Qatri Riyal and one Note of 05 Qatri Riyal and one Foreign Driving License while he did not mention the 500 Qatri Riyals with malafide intention recovered from the possession of accused which badly affected the case.

In this regard, proper departmental enquiry proceedings were initiated against him and SDPO City Hangu was nominated as Enquiry Officer. The appellant was served with Charge Sheet and Statement of Allegations. The Enquiry Officer after fulfillment of codal formalities submitted his findings wherein the appellant was found guilty of the charges leveled against him.

Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent officer was awarded major punishment of removal from service by the District Police Officer, Hangu vide OB No. 450, dated 17.07.2023.

Feeling aggrieved from the order of District Police Officer, Hangu, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 29.08.2023. During personal hearing the appellant denied the allegations leveled against him. However, he could not advance any plausible justification in his defense to prove his innocence.

From the perusal of enquiry file and relevant record, it is clear that the allegations leveled against the delinquent officer have been proved beyond any shadow of doubt. The retention of the delinquent officer, who has remain involved in corrupt practices, in Police is bound to adversely affect the discipline of other members of Force.

Keeping in view the above, I, Sher Akbar, PSP S.St, Regional Police Officer, Kohat, being the appellate authority, do not find any justification, whatsoever, to interfere with the order passed by the DPO Hangu. Hence, the instant appeal is hereby rejected, being devoid of merits.

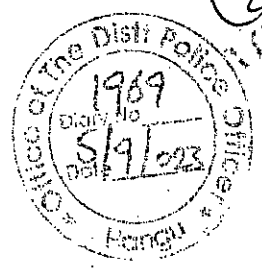
Order Announced
29.08.2023

[Signature]
Regional Police Officer,
Kohat Region

No. 9371-74EC. Dated Kohat the 31/08/2023

Copy forwarded to District Police Officer, Hangu for information and necessary w/r to his office Memo: No. 4126/LB, dated 17.08.2023. His Service Record is returned herewith.
2. Appellant Ex-PASI Muhammad Afaq of district Hangu

S. R. C / Y. L. J. / J. J.
For nec action



[Signature]
DISTRICT POLICE OFFICER

HANGU

29)

To,

The Inspector General of Police,
Khyber Pakhtunkhawa, Peshawar.

Subject: **Revision Petition under Rule 11-A of Police Rules, 1975**

Respected Sir,

With profound regards, petitioner submits Revision Petition for the revival and survival of the service lost vide impugned orders of District Police Officer Hangu and Regional Police Officer Kohat.

FACTS

1. That petitioner had joined the Khyber Pakhtunkhawa Police in the rank of Assistant- Sub Inspector (ASI) against the quota reserved for "Shuhada" wards. On 19.03.2023, appellant while posted in Police Station Doaba, District Hangu, made recovery of 120 gram "charas" from the possession of Mr. Hayat Ullah resident of Sadda, District Kurrum. Recovery of Pakistani and foreign currency was also made from him and was duly shown in the "Murasila" drafted for registration of case, that was incorporated in FIR No.160/ 2023, Under Section 9 (c) CNSA, read with 279 PPC, PS Doaba, district Hangu.
2. That the said Hayat Ullah accused person on getting grant of bail, logged false complaint against petitioner on charges of not showing recovery of currency of 500 Qatari Riyals, with sole motive to create doubt in the prosecution case mentioned above. District Police Officer, Hangu without waiting for completion of the trial of criminal case, passed removal from service order, dated 17.07.2023 of petitioner bearing OB No 450. The departmental appeal of petitioner was also rejected vide order No. 9371-74/EC, dated 31.08.2023 by Regional Police officer Kohat, hence this revision petition is humbly submitted on the following grounds.

GROUND

- a) That the impugned order passed by lower and appellant authorities are against the law and facts on record. The authorities have wrongly accepted the mere allegations of accused person. The alleged

29)

30)

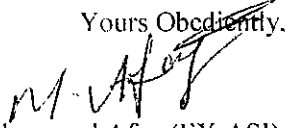
complaint maker was booked by petitioner on charges of Possession of narcotics and the case is not finally disposed of by the competent court, therefore the impugned orders will certainly affect the merit of the said narcotics case. Hence the impugned orders are bad in law and against the rules.

- b) That the entire enquiry proceedings were carried out at the back of petitioner. None was examined as a witness in presence of petitioner. Petitioner was not confronted with any evidence supporting the charge. Findings of the inquiry officer were not supplied to petitioner despite repeated requests placed before the authority. The defense of petitioner was not taken into account and the false allegations of accused person were accepted without any corroborative evidence.
- c) That the trial court is competent forums for evaluating the bona-fide and mala-fide of petitioner about registration of case against the complaint maker. Therefore the impugned orders are not only premature but will also affect the prosecution of the case FIR No.160 mentioned above. Again it will encourage the accused persons and discourage the Police officers.
- d) That petitioner made hot pursuit of the accused (complaint maker) and foiled his attempt of fleeing away and also made recovery of "charas" from his possession. The lower authorities instead of rewarding petitioner imposed major penalty of removal from service on petitioner. I would also like to be heard in person for agitating other grounds and explaining my defense.

It is therefore requested that on acceptance of the petition, the impugned orders may be set aside and petitioner may be re-instated in service with back benefits.

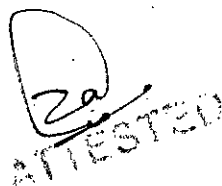
30-10-2023

Yours Obediently,


Muhammad Afaq (EX-ASI),
District: Hangu.
Cell No.

Enclosures:

1. Copie of impugned orders
2. Copy of FIR


ATTESTED



OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

31)

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-PASI Muhammad Afaq (hereinafter referred to as petitioner).

The petitioner was removed from service by DPO Hangu vide OB No. 450, dated 17.07.2023 on the allegations that a complaint was moved against him through Pakistan Citizen Portal. As per the contents of complaint, he registered a case vide FIR No. 160, dated 19.03.2023 w/s 279 PPC, 9-C-CNSA PS Doaba wherein he only mentioned one note of Rs. 5000/-, 03 Notes of Rs. 1000/-, 02 Notes of 10/10 Qatri Rial and 01 Note of 05 Qatri Rial and one foreign Driving license while he did not mention the 500 Qatri Rials with malafide intention recovered from the possession of the accused which badly affected the case.

The Appellate Authority i.e. Regional Police Officer Kohat rejected his Appeal vide Order Endst: No. 9371-72/1/C, dated 31.08.2023.

A meeting of Appellate Board was held on 05.03.2024 in CPO under the chairmanship of DIG Headquarters. Ex-PASI Muhammad Afaq was present and heard in detail.

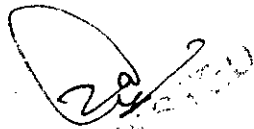
He did not mention an amount of 500 Qatari Riyals recovered from accused. He is involved in financial issue and his appeal was rejected by RPO Kohat as well. Besides, he was awarded one major punishment and five minor punishments in the past. Hence his appeal is being rejected.

Sd/-
AWAL KHAN, PSP
Additional Inspector General of Police.
HQrs: Khyber Pakhtunkhwa, Peshawar.


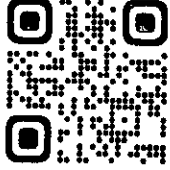
No. SI 682-687/24, dated Peshawar, the 26-03-2024.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat, Service Record i.e. One Service Book, One Service Roll and Fauji Missal received vide letter No. 11521/1/C, dated 03.11.2023 is returned for your office record.
2. District Police Officer, Hangu.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: I-III, CPO Peshawar.


AFFIRMED

(FARHAN KHAN) PSP, QPM
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

قیمت 50/-	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: Zaboor Ghulam Chhattar	PESHAWAR BAR ASSOCIATION
بار کونسل ایسوسی ایشن نمبر: 60-10-9170	
رابطہ نمبر: 0346-9083579	

بعدالت جناب: حیدر حسین سرویس لبریری سول لیسٹ اور

منجانب: <u>محمد افاق</u>	دعویٰ: <u>سرویس اسٹیل</u>
	علت نمبر: <u>''</u>
	مورخہ: <u>''</u>
	جرم: <u>''</u>
	تھانہ: <u>''</u>
بامت تحریر آگے	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام لیسٹ اور کیلے محمد اسلم اسلم علیہ الرحمان کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 کارروائی 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: 20/4/2024

المقام لیسٹ اور

Accepted
and
Attested

Subjects. Reh