


FORM OF ORDER SHEET

Court of _____

Appeal No. 605/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/04/2024	<p>The appeal of Mr. Hafeez ur Rehman presented today by Mr. Muhammad Aslam Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on . Parcha Peshi given to the counsel for the appellant .</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

A. no. 605/2024

Hafeez-ur-Rehman Ex-FC/Driver, District Police Haripur R/o Village Kalas, P.O. KTS, Tehsil & District Haripur..... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

SERVICE APPEAL

INDEX

S/No.	Description of documents.	Annexure	Page No.
1.	Memo of appeal & condonation application.		01-09
2.	Inquiry Report and dismissal order dated 30-10-2019	"A & B"	10 11
3.	Departmental appeal and its rejection order 12-10-2020	"C & D"	12 13
4.	Acquittal Order from Court dated 13-09-2022	"E"	14-45
5.	Revision Petition dt.11-10-2022, its rejection order dated 22-03-2024 & application 15-04-2024	"F,G,H"	46-50 51 52
6.	D.D No. 23 & 26 dated 07-10-2014 and No.13 dated 08-10-2014	"I,J,K"	53-55
7.	Applications & registry receipts	"L&M"	56-61
8.	Wakalatnama		

Hafeez-ur-Rehman

APPELLANT

THROUGH

M. Aslam Tanoli

(MUHAMMAD ASLAM TANOLI)
ADVOCATE HIGH COURT
ABBOTTABAD

Dated: *29-4-2024*

①

**BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No.....605/2024

Hafeez-ur-Rehman Ex-FC/Driver, District Police Haripur R/o Village Kalas, P.O. KTS, Tehsil & District Haripur..... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

SERVICE APPEAL UNDER SECTION-4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST ORDER DATED 30-10-2019 OF THE DISTRICT POLICE OFFICER HARIPUR WHEREBY APPELLANT HAS BEEN DISMISSED FROM SERVICE AND ORDER DATED 12-10-2020 OF THE REGIONAL POLICE OFFICER HAZARA REGION ABBOTTABAD WHEREBY APPELLANT'S DEPARTMENTAL APPEAL HAS BEEN FILED/REJECTED AND ORDER DATED 22-03-2024 (DELIVERED ON 15-04-2024) OF THE PROVINCIAL POLICE OFFICER KPK PESHAWAR WHEREBY REVISION PETITION OF PETITIONER HAS BEEN REJECTED.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL ALL THREE ORDERS DATED 30-10-2019, 12-10-2020 AND 22-03-2024 OF THE RESPONDENTS MAY GRACIOUSLY BE SET ASIDE AND APPELLANT BE REINSTATED IN HIS SERVICE FROM THE DATE OF DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.

Respectfully Sheweth:

1. That appellant while posted as FC-Driver at Police Station, Sara-e-Saleh, Haripur and performing his official duties was falsely roped in a criminal case FIR No.487 dated 07-10-2014 u/s-302/324/148/149 PPC registered at PS KTS Haripur. Appellant was arrested from the place of duty and put in Central Jail Haripur.

2

2. That on 28-11-2014 the appellant was released on bail from Jail and he then joined his duties. On 17-09-2018 the ASJ-V Haripur convicted and sentenced the appellant to suffer 07 years imprisonment. Appellant aggrieved of conviction order filed a criminal appeal before Hon'able Peshawar High Court circuit bench Abbottabad. Appellant was on bail and performing duties. During pendency of criminal appeal before Peshawar High Court Circuit Bench Peshawar and without waiting out-come of this appeal the District Police Officer Haripur vide his order dated 30-10-2019 dismissed him from service despite the fact that Inquiry Officer through his inquiry report had already declared appellant as innocent. **(Copies of Inquiry Report and dismissal order dated 30-10-2019 are attached Annexure- "A & B")**.
3. That appellant aggrieved of dismissal order filed a departmental appeal dated 28-11-2019 before the Regional Police Officer, Hazara Region, Abbottabad which was rejected vide order dated 12-10-2020. **(Copies of departmental appeal and its rejection order 12-10-2020 are attached as Annexure "C & D")**.
4. That appellant's criminal appeal against his conviction was decided by Hon'able Peshawar High Court circuit bench Abbottabad vide order dated 13-09-2022 and its attested copy was issued on 28-09-2022. **(Copy of Court Order dated 13-09-2022 is attached as Annexure-"E")**.
5. That after acquittal and on obtaining this order the appellant filed a Departmental Revision Petition dated 11-10-2022 before the Provisional Police Officer, KPK

3

Peshawar for his reinstatement in service which was rejected vide order dated 22-03-2024 and its copy was delivered to him on 15-04-2024 and that too on his specific written request. **(Copies Revision Petition dated 11-10-2022, its rejection order dated 22-03-2024 & Application dated 15-04-2024 are attached as Annexure "F, G & H").**

6. That in fact on the date and time of occurrence i.e. 07-10-2014 at 17:40 hours appellant was performing his official duties at Police Station Sera-e-Saleh Haripur. As per daily Diary No. 23 dated 07-10-2014 at 17:40 hours he alongwith ASHO Amir Hatam Khan departed on patrolling duty while on completion of duties as per daily dairy No. 26 dated 07-10-2014 at 23:55 hours he returned to PS Sera-e-Saleh. Appellant was arrested from Police Station Sera-e-Saleh vide Daily Dairy No.13 dated 08-10-2014. Nothing incriminating was recovered from his possession. Appellant was falsely involved in this criminal case and ultimately wrongly dismissed from service. **(Copies of Daily Dairies No. 23 & 26 dated 07-10-2014 and dairy of arrest No.13 dated 08-10-2014 are attached as Annex- ("I,J&K"))**
7. That Hon'able Peshawar High Court Circuit Bench Abbottabad while disbelieving prosecution evidence set aside conviction order and acquitted the appellant of the charge vide judgment/order dated 13-09-2022.
8. That appellant rigorously pursued his departmental revision petition by filing applications dated 21-11-2023 and 28-12-2023 through registered posts. **(Copies of applications and registry receipts are attached as Annexure "L & M").**

4

9. That appellant has rendered 13/14 years service in the police department. He always performed his duties with devotion and honesty to the entire satisfaction of his officers and never provided a chance of reprimand. Appellant has meritorious record at his credit.
10. That proper departmental inquiry was not conducted. He was also not provided with inquiry report, if any. Even appellant was not afforded with the opportunity of cross examination and personal hearing before awarding major punishment of dismissal from service and he was condemned unheard. Hence instant service appeal, inter alia, on the following grounds.

GROUND:-

- A) That impugned orders dated 30-10-2019, 12-10-2020 and 22-03-2024 of the respondents are illegal, unlawful against the facts, departmental rules and regulations and principle of natural justice hence liable to be set aside.
- B) That proper departmental inquiry was not conducted. Inquiry report, if any, was not given to appellant. Even the appellant was not provided with the opportunity of cross examination and personal hearing and was awarded major punishment of dismissal from service in serious violation of law, departmental rules & regulations, facts and principle of natural justice.

5

- C) That respondents have not treated the appellant in accordance with law, departmental rules, regulations and policy on the subject applicable to the terms and conditions of his service and have acted in violation of Article-4 of the constitution of Islamic Republic of Pakistan 1973 and unlawfully issued the impugned orders which are unjust, unfair hence not sustainable in the eyes of law.
- D) That appellate authority has also failed to abide by the law and even did not take into consideration the grounds taken in the memo of appeal and has rejected the departmental appeal. Thus act of respondent is contrary to the law as laid down in the KPK Police Rules 1934 read with section 24-A of General Clauses Act 1897 and Article-10 of the Constitution of Islamic Republic of Pakistan 1973.
- E) That the allegations leveled against appellant in dismissal as well as appeal/revision petition rejection orders are incorrect. Nothing adverse could be brought on record against the appellant during departmental inquiry to connect him with the attributed crime rather Enquiry Officer has declared him as innocent being on duty at the time of occurrence of crime. He is innocent and there is nothing wrong on his part.
- F) After acquittal in criminal case for which he was dismissed from service the appellant deserved to have been reinstated in service but department authorities did not give weight to the court order.

6

- G) That instant service appeal is well within time and this honorable Service Tribunal has got every jurisdiction to entertain and adjudicate upon the lis.

PRAYER:

It is, therefore, humbly prayed that on acceptance of instant service appeal all the three orders dated 30-10-2019, 12-10-2020 and 22-03-2024 of the respondents may graciously be set aside and appellant be re-instated in service from the date of dismissal with all consequential service back benefits. Any other relief which in the circumstances of the case this honorable Tribunal deems fit may also be granted.


Appellant



Through

(Muhammad Aslam Tanoli)
Advocate High Court
At Abbottabad

Dated: 29-4-2024

VERIFICATION

It is verified that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 29-4-2024


Appellant

7

BEFORE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Hafeez-ur-Rehman Ex-FC/Driver, District Police Haripur R/o Village Kalas, P.O. KTS, Tehsil & District Haripur..... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....**(Respondents)**

SERVICE APPEAL

AFFIDAVIT

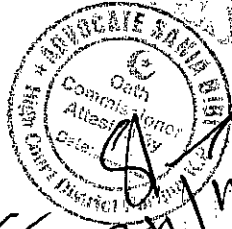
I, Hafeez-ur-Rehman, appellant do hereby solemnly declare and affirm on oath that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Dated: 29-04-2024

Identified By:

M. Aslam
(Muhammad Aslam Tanoli)
Advocate High Court
ABBOTTABAD

Dated: 29 - 4 - 2024



Hafeez-ur-Rehman
Deponent/Appellant

Hafeez-ur-Rehman
Appellant

8

BEFORE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Hafeez-ur-Rehman Ex-FC/Driver, District Police Haripur R/o Village Kalas, P.O. KTS, Tehsil & District Haripur..... **(Appellant)**

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar

.....**(Respondents)**

SERVICE APPEAL

CERTIFICATE

It is certified that no such appeal on the subject prior to this one has ever been filed in this Honorable Service Tribunal or any other court.

Dated: 29-4-2024


Appellant

9

BEFORE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Hafeez-ur-Rehman Ex-FC/Driver, District Police Haripur R/o Village Kalas, P.O. KTS, Tehsil & District Haripur..... (Appellant)

VERSUS

1. District Police Officer, Haripur.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. Provincial Police Officer Khyber Pakhtunkhwa Peshawar
.....(Respondents)

APPLICATION FOR CONDONATION OF DELAY IN FILING INSTANT SERVICE APPEAL BEFORE THIS HONOURABLE SERVICE TRIBUNAL.

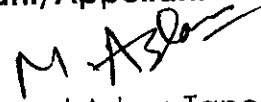
Respectfully Sheweth:

1. That applicant/appellant has filed today a Service Appeal which may be considered as part and parcel of this application, against order dated 30-10-2019, 12-10-2020 and 22-03-2024 passed by respondents, whereby appellant has been awarded penalty of "dismissal from service" and his departmental appeal as well as Revision Petition had been rejected without jurisdiction and abiding by procedure.
2. That as the orders of departmental authorities have been passed in violation and derogation of the statutory provision of law, departmental rules and regulation governing the terms and condition of appellant's service and fact of the case, therefore, causing a recurring cause of action to the applicant/appellant can be challenged and questioned irrespective of a time frame.
3. That though appellant's Revision Petition was rejected on 22-03-2024 but copy of order was delivered on 15-04-2024 & that too on his written request. The appellant has rigorously been pursuing his case. Therefore, the delay if any, in filing instant service appeal is on account of above cited reasons.
4. That instant application is being filed as an abundant caution for the condonation of delay, if any. The impugned orders are liable to be set aside in the interest of justice.

It is, therefore, respectfully prayed that on acceptance of the instant application the delay, if any, in filing of titled appeal may graciously be condoned.


Applicant/Appellant

Through

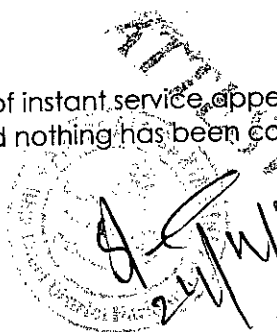
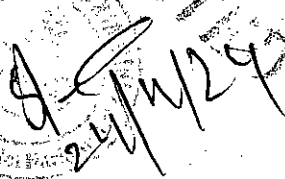

(Muhammad Aslam Tanoli)
Advocate High Court
At Abbottabad

Dated: 29-4-2024

Affidavit.

It is verified that contents of instant service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Dated: 29-4-2024



Applicant/Appellant

10

Amned - (A)

فائل انکوائری رپورٹ برخلاف

رٹ، ...

جناب عالی!

چارج شیٹ نمبر 14-16 مورخہ 05-01-2015 دفتر DPO سے برخلاف کسٹیل ڈرائیور حفیظ الرحمن نمبر 695 تھانہ سرائے صالح مورخہ 16-01-2015 کو وصول ہوئی۔

کاسٹیل ڈرائیور حفیظ الرحمن نمبر 695 پر الزام ہے کہ بحوالہ مقدمہ علت نمبر 487 مورخہ 07-10-2014 جرم PPC302/324/148-149 تھانہ کھلاہٹ میں ملوث ہے۔

کاپی نمبر FIR 487/14 جرم PPC302/324/148-149 ہمراہ لف قابل ملاحظہ ہے جس میں دیگر چار نفر ملزمان کے علاوہ حفیظ الرحمن ڈرائیور کسٹیل کا نام موجود ہے۔ نیٹظ الرحمن مذکورہ نے چارج شیٹ کا جواب دیا جو ہمراہ لف قابل ملاحظہ ہے۔ کہ وہ بروز بوقت وقوع اپنی ڈیوٹی پر تھانہ سرائے صالح موجود تھا اور اسکی امیر حاتم خان ASHO کے ہمراہ بحوالہ نمبر 23 روزنامچہ 07-10-2014 بوقت 17:40 بجے موبائل گشت کی حدود تھانہ سرائے صالح روانگی ہے اور مد نمبر 26 روزنامچہ 07-10-2014 بوقت 23:55 بجے واپسی ہے کاسٹیل ڈرائیور حفیظ الرحمن نمبر 695 کے بیان کی روشنی میں امیر حاتم خان ASHO ہمراہ کاسٹیل امداد اللہ نمبر 6431، ڈرائیور مقصود نمبر 64 جس نے دوسری موبائل گشت رات 1200 بجے تا 0600 تک گشت کی تھی کے بیانات لئے گئے، جو ہمراہ لف قابل ملاحظہ ہیں۔ جو حفیظ الرحمن کے بیان کی تائید کرتے ہیں۔

اسی طرح نقل رپٹ ہائے روانگی مد نمبر 35 اور واپسی مد نمبر 26 ہمراہ لف قابل ملاحظہ ہیں۔ اسی طرح ڈیوٹی پر چہ شب درمیانی کی فوٹو سٹیٹ کاپی ہمراہ لف ہے۔ جس کے مطابق بھی حفیظ الرحمن نمبر 695 کی ڈیوٹی وجود ہے۔ اس کاسٹیل کو مورخہ 08.10.14 کو بحوالہ مد نمبر 13 روزنامچہ 08.10.14 تھانہ سرائے صالح سے گرفتار کیا گیا ہے۔ نقل رپٹ ہمراہ لف ہے۔

اسی طرح FIR نمبر 487/14 جرم PPC 302/324/148/149 کے مطابق وقوع کا وقت سوا آٹھ بجے کا ہے۔ جبکہ کاسٹیل حفیظ الرحمن ڈرائیور کی روانگی 1740 بجے ہے۔ اسی وجہ سے یہ ڈرائیور کاسٹیل عدالت عالیہ ہائی کورٹ سے ضمانت پر رہا ہو چکا ہے۔ فیصلہ عدالت ہمراہ لف قابل ملاحظہ ہے۔ بیان کاسٹیل ڈرائیور حفیظ الرحمن نمبر 695 اور اسکی روشنی میں دیگر گواہان کے بیانات نقل رپٹ ہائے دیگر ریکارڈ متعلقہ انکوائری سے یہ ڈرائیور کاسٹیل اس وقوع میں ملوث نہیں پایا جاتا ہے۔ انکوائری داخل دفتر فرمائی جاوے۔

ڈی ایس پی انوسٹی گیشن
ہری پور

Attested

District Police Officer
Haripur

Attested
Dah

BI

Amended

ORDER

FC Driver Hafeez No.695 while posted at Police Station Sarai Saleh Haripur was charged in criminal case vide FIR No.487 u/s 302/324/148/149, PPC, Police Station KTS. The complainant Ziaul Hossain charged the accused including Police official Driver Hafeez No.695 for specific role in the commission of offence. The acts/commissions of accused police official, were misconduct under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975. Therefore, he was issued show cause notice vide this office Memo No.169 dated 28.10.2014, to which the appellant could not give satisfactory reply.

The charges were of severe nature, in which accused police official was directly charged in FIR. Therefore, proper departmental enquiry was initiated by the then District Police Officer, Haripur. The accused police official was issued charge sheet and statement of allegations vide this office Endst: No.14-16/PA dated 05.01.2015. Deputy Superintendent of Police, investigation Haripur, Mr. Aziz Khan was appointed as enquiry officer, who conducted the enquiry and submitting his findings in which he held non involvement of accused police official in the occurrence. The enquiry proceeding were kept pending till decision of case by the trial court.

The court of learned ASI-V Haripur, vide its judgment dated 17.09.2018, convicted the accused with appropriate punishments. The accused police official Driver Hafeez No.695, was convicted with rigorous imprisonment for 7 years u/s 324/148/149 PPC. Furthermore he was also awarded 01 year rigorous imprisonment for 01 year and fine Rs.1,00,000/- u/s 337-A(ii) PPC. Therefore, he was served with final show cause notice vide this office Endst: No.288-291 dated 28.09.2018, by the then District Police Officer, Haripur. To which accused police official could not give satisfactory reply, similarly the said official was also provided findings of departmental enquiry through SP Central Prison Haripur, vide this office Memo No.7783/OHC dated 10.12.2018.

It is established fact, that the accused police official, who was charged directly in above mentioned criminal case, could not prove his innocence in the court of law. Rather he was awarded rigorous imprisonments and fine. And he is undergoing the said punishment in central prison Haripur. The punishments awarded by the court has neither been set aside, nor he was acquitted by the competent forum. In these circumstances, the finding of enquiry officer regarding the non involvement of accused in the offence, does not hold weight in eye of law. As the issue has been decided by the competent court. It held in its judgment that the prosecution has succeeded to prove the case beyond any doubt, and convicted the accused police official Driver Hafeez No.695 with appropriate punishments.

Having gone through the record, relevant evidence and the judgment of Honorable Court, it is proved that the accused police official has been convicted by the court. So, the charges of misconduct i.e involvement of accused police official Hafeez No.695 (Convict prisoner) in case FIR No.487 dated 07.10.2014, u/s 302/324/148/149 PPC, Police Station KTS, stands proved beyond any doubt. Therefore, I, Dr. Zahid Ullah (PSP) District Police Officer Haripur, being competent authority under Khyber Pakhtunkhwa, Police Efficiency and Discipline Rules 1975, am fully satisfied that the convict prisoner Driver Hafeez No.695 has committed gross misconduct. Hence, he is awarded major punishment of dismissal from service.

CR 721
30.10.19

District Police Officer,
Haripur

Alteed
Hafeez

Bellar Copy

ORDER

FC/Driver hafeez-ur-Rehman while posted at Police Station Sarai Saleh Haripur was charged in criminal case vide FIR No.487 u/s 302/324/148/149, PPC Police Station KTS. The Complainant Ziafat Hussain charged accused including Police Official Driver Hafeez No.695 for specific role in the commission of offence. The acts/omissions of accused police official were misconduct under Khyber Pakhtunkhwa, Police Efficiency and Disciplinary Rules 1975. Therefore, he was issued show cause notice vide this office Memo No.169 dated 28-10-2014, to which the appellatant could not give satisfactory reply.

The charges were of severe nature, in which accused police official was directly charged in FIR. Therefore proper departmental enquiry was initiated by the then District Police Officer Haripur. The accused police official was issued charge sheet and statement of allegations vide this office Endst No.14-16/PA dated 05-01-2015. Deputy Superintendent of Police investigation Haripur, Mr. Aziz Khan was appointed as enquiry officer who conducted the enquiry and submitting his findings in which he held non involvement of accused police official in the occurrence. The enquiry proceeding were kept pending till decision of case by the trial court.

The court of learned ASJ-V Haripur vide its judgment dated 17-09-2018, convicted the accused with appropriate punishments. The accused police official Driver Hafeez No.695 was convicted with rigorous imprisonment for 7 years u/s-3024/148/149 PPC. Furthermore he was also awarded 01 year rigorous imprisonment for 01 year and fine Rs.1,00,000/- u/s 337A (ii). Therefore, he was served with final show cause notice vide this office Endt: No.288-291 dated 28-09-2018, by the District Police Officer, Haripur. To which accused police official could not give satisfactory reply, similarly the said official was also provided findings of departmental enquiry through SP, Central Prison Haripur, vide this office Memo No.7783/OHC dated 10-12-2018.

It is established fact, that the accused police official, who was directly charged in above mentioned criminal case, could not prove his innocence in the court of law. Rather he was awarded rigorous imprisonments and fine. And he is undergoing the said punishment in central prison Haripur. The punishments awarded by the court has neither been set aside, nor he was acquitted by the competent forum. In these circumstances, the finding of enquiry officer regarding the non involvement of accused in the offence, does not hold weight in the eye of law. As the issue has been decided by the competent court. It held in its judgment that the prosecution has succeeded to prove the case beyond any doubt, and convicted the accused police official Driver Hafeez No.695 with appropriate punishments.

Having gone through the record, relevant evidence and the judgment of Honourable Court, it is proved that the accused police official has been convicted by the court. So, the charges of misconduct i.e. involvement of accused police official Hafeez No.695 (Convict prisoner) in case FIR No. 487 dated 07-10-2014, u/s 302/324/148/148 PPC, Police Station KTS, stands proved beyond any doubt. Therefore, I Dr. Zahid Ullah (PSP) District Police Officer Haripur, being competent authority under Khyber Pakhtunkhwa, Police Efficiency and Disciplinary Rules 1975, am fully satisfied that the convict prisoner Driver Hafeez No.695 has committed gross misconduct. Hence, he is awarded major punishment of dismissal from service.

Sd/-
District Police Officer
Haripur

OB-721
Dt. 30-10-19

محضور جناب ڈی آئی جی صاحب ہسٹریہ راجن ایٹ آباد

عنوان :- برائے منسوخی DISMISSAL ORDER NO-60-721 مورخہ 30-10-2019

کانٹینیل حفظہ ادر جانہ 695

برائے اساتذہ :- جیل سپرنٹنڈنٹ منٹ صاحب سنٹرل جیل قسری پور

جناب عالی

1 یہ کہ مسائل (جوائنٹی فیکٹ پولیس میں عرصہ 12 سال سے بطور ڈرائیور کانٹینیل خدمات سرانجام دے رہا تھا۔ دوران سروس مسائل کارکنانہ داخل صاف سے مسائل کو علت 487 مورخہ 07/10/19 کے تحت 324 تھانہ KT5 میں طرز کیا گیا۔ مسائل بند و بندے میں لے آنا اور یہ تصور ہے کہ توکلہ وقت و قور مسائل تھانہ سرائے صاحب میں اپنی ڈیوٹی پر موجود تھا اور انڈیشنل SHO صاحب کے ساتھ گفت پر تھا۔ اور دو صد روز 10 صاحب لے تھانہ سے گرفتار کر کے جیل منتقل کر دیا۔ بعد ازاں مسائل مورخہ 28/11/2019 کو ضمانت پر رہا ہو گیا۔ اور دوبارہ ڈیوٹی پر حاضر ہو گیا۔ حکمانہ انکو آئی میں بھی انکو آئی آفیسر DESP انوشی کشین صاحب نے مسائل کو ڈیوٹی پر موجود ہونا اور مذکورہ بالا مقدمے میں لے آنا پر تحریر کیا۔ (انکو آئی کا ہی براہ لے لیا ہے)

2 یہ کہ مسائل مذکورہ بالا آئیں میں مورخہ 17/09/19 کو عدالت جینی پر آیا تو مسائل کو AST-P پر لپوری عدالت سے (07 سال قید کی سزا صادر ہوئی۔ مسائل نے مذکورہ ماتحت عدالت کے فیصلے کے خلاف اپنا اپنی کورٹ ایٹ آباد پینج میں اپیل دائر کی۔ اسی دوران مسائل کو حکم کی طرف فائنل شوکار صادر ہوئی اور مسائل نے فائنل شوکار پولیس کا جواب دیا۔ جس کے بعد ایٹ آباد 050 صاحب نے اپنی کورٹ کے فیصلے تک شوکار پولیس کو (PENDING) رکھنے کے احکامات صادر کیے اور مسائل (PENDING) رکھنے کے بعد مورخہ 30/10/19 کو آرڈر 60-721 کے تحت AST-V کی سزا کا حوالہ دیکر مسائل کو سروس سے DESMISSED پر حاست کر دیا گیا۔

3 یہ کہ مورخہ 13/11/19 کو اپنا اپنی کورٹ ایٹ آباد پینج نے AST-V پر لپوری کے فیصلے کو کالعدم کرنے کے مسائل کی سزا کو ختم کر دیا۔ اور مذکورہ بالا آئیں کی از سر نو سماعت کا حکم صادر کیا۔ مذکورہ فیصلے میں مسائل کو دوبارہ ضمانت دائر کرنے کا بھی حق دیا مذکورہ فیصلے کے بعد مسائل نے درخواست ضمانت دائر کر دی۔ اور یہ امید ہے کہ جلد ضمانت پر رہا ہو جائے گا۔

لہذا بذریعہ درخواست گزار میں ہے کہ مورخہ 30/10/2019 آرڈر 60-721 منسوخ کیا جائے اور مسائل کو بدلے کی طرح ضمانت پر رہا ہونے تک (SUSPENSION) میں رکھا جائے۔ مسائل کے چھوٹے چھوٹے بچے ہیں جو کہ فاقہ کشی کے عالم میں ہیں۔

مسائل تاجیات کی ترقی خوشی اور شہنائی کے لیے دعاگو رہے گا۔

مسائل / کانٹینیل حفظہ ادر جانہ دلہ خلیل ادر جان
ہیلٹ نمبر 695 حال سنٹرل جیل قسری پور

C.H.W

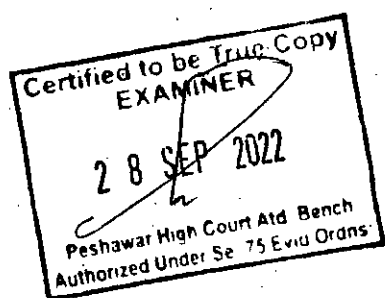
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been cross-examined regarding place where the bulb had been installed and lit at the time of occurrence. The witness had also agreed that he had not stated at the time of lodging first report of the occurrence or in his examination-in-chief that during the occurrence, the accused or deceased had changed their positions. It was also brought in his cross-examination that prior to the occurrence they had crossed the shop of Yasir Maqbool which was opened when they were proceeding towards house of Mubashir Nawaz, but no alteration whatsoever had taken place. At the close of his examination-in-chief the witness stated that he had not tried to pick up his deceased brother then injured, who had been lying on the ground, while the other PWs were trying to lift him. The witness volunteered that he had been standing there and had remained unhurt. Almost on similar pattern and lines all the other PWs have been cross-examined.

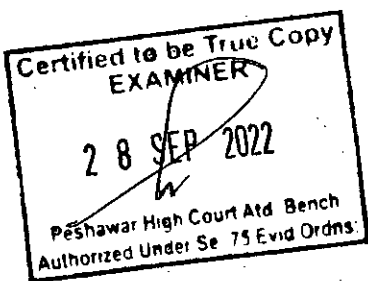


12. Presence of PWs cannot be challenged particularly presence of the injured PWs, who had injuries on their person. Though learned counsel for the appellants

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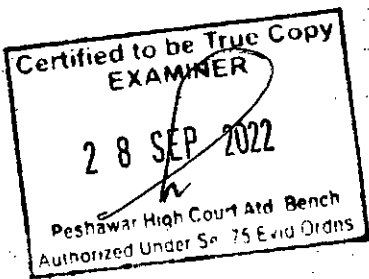
have raised questions regarding presence of the complainant but at the same time it had repeatedly been suggested to him that he alongwith other members of the complainant party had got together at the house of Mubashir Nawaz and launched an attack on the accused party. Complainant had also accompanied the deceased to the hospital and lodged the report with reasonable promptitude. In the given circumstances, presence of complainant at the spot cannot be doubted.

13. We are now left with the question of proof of mode and manner of the occurrence by the prosecution as well as the roles played by respective appellants in commission of the offence. In this respect, it is important to be noted that the complainant as well as the other PWs have assigned the role of causing firearm injuries to deceased then alive namely, Rafaqat Hussain, to appellant No.1. Particular target of the complainant seems to be appellant No.1, who was a person of advance age i.e. 58 / 59 years at the time of occurrence. He also appears to be elder of his family. One of the witnesses namely,



30

Imtiaz-ul-Haq (PW-08) has even stated in his examination-in-chief that appellant No.1 had come out of Yasir Maqbool shop while being armed with pistol and had made firing at the deceased. In his cross-examination, he denied the suggestion that he had been improving his version dishonestly in his court statement in this regard. This witness was also verifier of FIR and seconded the version of complainant as taken in the FIR. In the site plan, appellant No.1 has been shown at point No.3 i.e. a place outside the shop and in the street wherefrom six (06) empties had also been shown recovered. Such an assertion of this witness, coming out of the shop and making firing at the deceased, could not be found in first report of the occurrence wherein it had been stated that the accused-party had made indiscriminate firing at the complainant party, and firing of appellant No.1 was stated to have proved fatal in hitting the deceased. Evidence of prosecution in this respect that the deceased has received firing from appellant No.1 at the same place of his presence from the same position of appellant No.1 is also not getting support from the

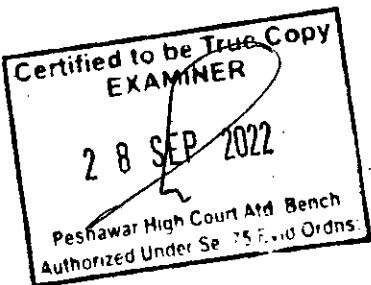


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medico-legal report. The doctor while appearing in the court as PW-03 has stated that he had found as a result of postmortem examination of the deceased that he had received the following injuries:-

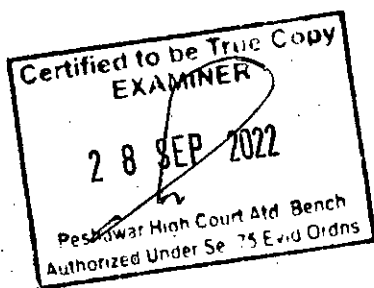
- i. Firearm injury 1 x 1 cm at right side of base of neck, 1 inch above to clavicle.
- ii. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm, 1 inch below to lateral to right nipple.
- iii. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm at mid of epigastrium.
- iv. Firearm injury 2 inches x $\frac{1}{2}$ cm on right lateral chest at 8th rib with liver part exposed and out.
- v. Firearm injury $\frac{1}{2}$ x $\frac{1}{2}$ cm on left thigh, 7 inches below to iliac crest.
- vi. Firearm injury 1 x 1 inch on right side of back 2 inches medial to scapula.
- vii. Firearm injury 1 x 1 cm on left side to T-12 (adjacent).
- viii. Wound measuring 1 x 1 cm on left foot on dorsal area.

In his cross-examination, the doctor has stated that in his postmortem report he had not mentioned which of the injuries received by the deceased had been entry or exit wounds. He also stated that he had not

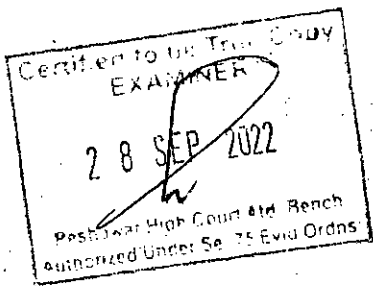


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recovered any foreign body during autopsy. The injuries mentioned by doctor do not show, which of the injuries had been entry or exit wounds but no explanation is available on record, why had such important fact not been mentioned in the postmortem report. The injuries also seem to be of different dimensions and it cannot be safely concluded that such injuries had been received from a single fire shot of a person standing in same position while making firing at the deceased, who had also not been shown to have changed his position at the time of firing. Besides, it is not appealable to a prudent mind how had the complainant been able to identify the particular fire shots which had hit the deceased, in a situation where all the accused have been firing at the complainant party indiscriminately. The fact that appellant No.1 was standing outside the shop and making firing at the deceased solely had subsequently been introduced in the case at the time of preparation of the site plan on following day of the occurrence and a similar improvement had also been noticeable in the statement of injured eyewitness namely,



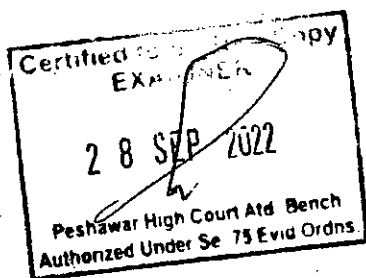
Imtiaz-ul-Haq. Evidence of prosecution in this respect was not found believable. Appellant No.1 was also not having a specific reason for making firing at the deceased because if we keep the motive as alleged by the prosecution in perspective, we find that one of the accused namely, Yasir Maqbool had quarreled with relative of the deceased namely, Mubashir Nawaz. It was a quarrel between young men and the fact that said quarrel, wherein Mubashir Nawaz got injured, had been taken so seriously by appellant No.1 and other members of the accused party to have decided to form an unlawful assembly and make an ambition for the accused party (which at the relevant time was not accompanied by the injured Mubashir Nawaz) and to have launched such a lethal attack on them, does not stand to reason and logic. Besides, the complainant alongwith his deceased brother (Rafaqat Hussain) and PW Abdul Wahid had gone to house of Mubashir Nawaz injured where they had just spent about twenty (20) minutes as disclosed by PW-8 and PW-9. Then three (03) persons from the house of Mubashir Nawaz



34

accompanied them till shop of Yasir Maqbool which was lying at 2 / 3 minutes walk and that also for seeing them off. Complainant was belonged to same village. Such a see off also does not seem appealable. In the given circumstances, we are not convinced that the prosecution has come forward and placed the mode and manner of occurrence before the learned trial court in its totality. Certain facts have been suppressed and other added so as to enrope the accused appellants, particularly the elder family members of the accused-party, which phenomena, existing in our society, cannot be brushed aside in absence of concrete and reliable evidence sufficient for bringing home guilt of the appellants. In this respect reliance may be placed on the judgment delivered by Hon'ble Supreme Court of Pakistan in the case of "Ata Muhammad & another Vs. The State & another" reported as 1995 SCMR 599 wherein it has been held;

"We are also aware of the growing tendency on the part of the complainant party that whenever there are more than one accused, the complainant would often assign major role or fatal injury to

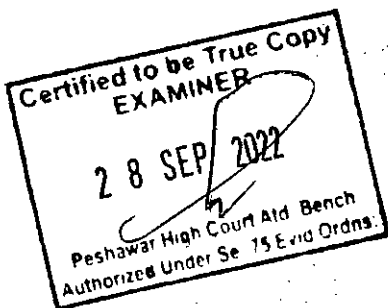


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the head of the family or a person who is most active and dynamic amongst them so that he may not be able to pursue the case of the accused. Therefore, the reasonable possibility of the false implication of the appellants or false attribution of fatal shot to Atta Muhammad and fire-arm injury to Muhammad Yousaf on account of enmity, cannot be excluded."

The other appellants have just been assigned general role of firing and it is difficult to ascertain whose fire hit which of the injured.

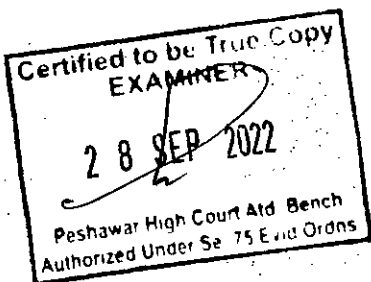
14. Besides, when main story of the prosecution qua mode and manner of occurrence was found disbelieved as it could not be ascertained that who were the actual participants and who played the active role, as assigned to them by the complainant itself, benefit would go to all the appellants. In this respect the Hon'ble Supreme Court of Pakistan while delivering its verdict in the case of "*Muhammad Rafique alias Feeqa Vs. The State*" reported as **2019 SCMR 1068** has held that as "*recovery of the crime empty appears to be planted, casting serious doubt*



36

on the mode and manner in which the crime was investigated by the police, which had relatable effect upon the entire prosecution's case put up during the trial." This court while following the dictum laid down by Hon'ble Supreme Court of Pakistan in the case of "Mst. Shazia Bibi alias Sharjika Bibi Vs. The State & another" reported as 2021 YLR 777 [Peshawar] has held;

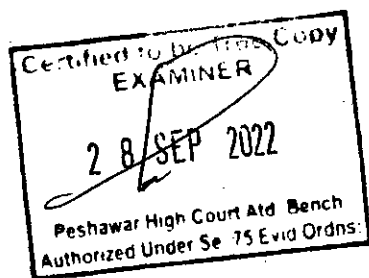
"Admittedly, the complainant stated that she was a house wife and initially no mobile was there in her possession to contact the co-accused and also the prosecution did not collect the Call Data Record to substantiate the affair between the two, even otherwise the mode and manner of the occurrence is shrouded in mystery and till end it could not be ascertained as to how and who was the actual culprit and as such the entire case is the outcome of hypothesis without any legal proof and when this is the situation then the benefit of doubt if any must be extended to the accused."



15. Learned counsel for the complainant as well as learned Additional Advocate General had led great stress on the issue that

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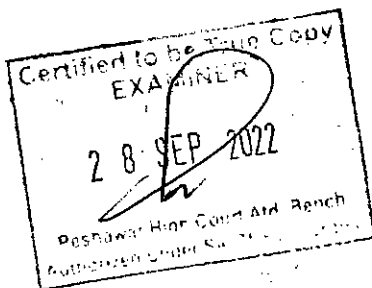
the learned trial court had wrongly made acquittal of the appellants under Sections 148/ 149 PPC. According to them, the prosecution had established making of an unlawful assembly and commission of the offence in furtherance of common object thereof. In same vein they had also argued that when this fact was established then the burden of prosecution to establish the particular role played by each appellant at the time of commission of the offence would get lighter, because under the principle encapsulated in Sections 148 / 149 PPC all members of unlawful assembly shall be deemed to have committed the offence themselves and thereby acquired same criminal liability. Complainant has stated in his first report that when they left house of Mubashir Nawaz and reached the shop of Yasir Maqbool they noticed all the accused present there, who had made indiscriminate firing upon them. PWs have also given similar narrations. Said story of the prosecution was found not believable in light of motive advanced by the prosecution. Besides, there has not been any other evidence of the



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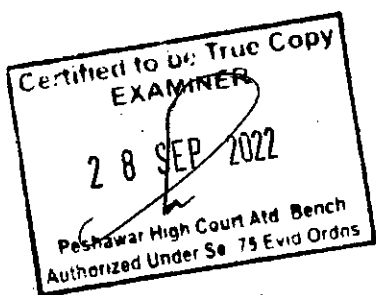
accused making an unlawful assembly for pursuing an unlawful common object. Sardar Muhammad Latif Khan Khosa, learned counsel representing the complainant, referred in this respect to a statement in cross-examination of the complainant, wherein he had stated that before going to the house of injured they had crossed shop of Yasir Maqbool where no altercation had taken place. The learned counsel wanted to pursue this court to presume that Yasir Maqbool had noticed presence of the complainant party, proceeding towards house of injured and informed the appellants, who had made preparations for commission of the offence and on their return had made firing upon them, but we are afraid we would not be able to draw such a farfetched presumption and that also against the accused in a criminal case, moreso, when the complainant party was not having a particular motive for making such a preparation against the deceased or injured.

16. So far as recovery of weapons of offence from appellant No.1, 3 & 4 are concerned, it is necessary to note that from

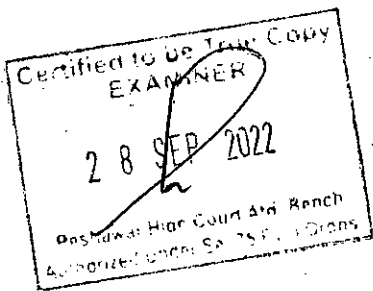


39

appellant No.1 (Babu Muhammad Younas) a 30.bore pistol has been shown recovered on his pointation from secret cavities of cupboard, however, after eight (08) days it had been mentioned in the *Zimni* that same was recovered from beneath the mattress of the bed. As per prosecution, appellant No.1 has been shown arrested on 09.10.2014 from his house while on the same day allegedly a 30-bore pistol had also been shown recovered from him on his pointation, which is not appealable to a prudent mind, besides presence of complainant inside his house in close vicinity, after such a serious and gruesome occurrence and being charged for effective role of causing murder also appears to be strange. Similarly, recovery of a 30.bore pistol has also been shown recovered on pointation of appellant No.3 (Fazal-ur-Rehman) but it is important to be noted that he had been arrested on 16.05.2015 while the alleged recovery of pistol had been shown recovered on his pointation on 18.05.2015. During the course of evidence, Siddique (constable) while appearing in the witness box as PW-02 had admitted as correct that

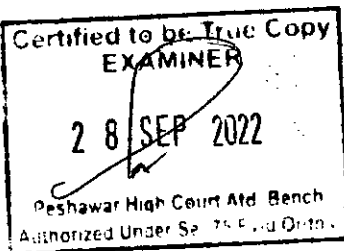


the Investigating Officer had not prepared the sketch of the place of recovery. While confronting with his examined in chief, when asked from this witness about height of bushes, he had failed to describe its height, which creates doubt about his presence with the Investigating Officer at the time of recovery. Likewise, Muhammad Javed, ASI while appearing in the witness box as PW-03 had also responded in the same lines by not properly describing the height of bushes wherefrom allegedly the pistol had been recovered rather when he was confronted with a question qua non-mentioning of date and time on the card of arrest as well as non-preparation of sketch of recovery, he admitted as correct that under the Police Rules mentioning of date on the card of arrest and preparation of sketch of recovery was mandatory. So far as recovery of weapon of offence i.e. 30.bore pistol from possession appellant No.4 (Muhammad Ghayas Qureshi) is concerned, it is necessary to be mentioned that Investigating Officer of the case namely, Sardar Ajmal, SI had met his natural death and on his behalf one Muhammad Munir



41

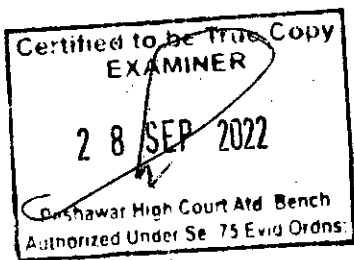
Khan, Inspector CTD appeared in the witness box as PW-04, who just confirmed signatures of the I.O on every document. The only evidence in this case will be testimony of marginal witnesses to the recovery memo Ex.PW-2/1. Out of two marginal witnesses namely, Muhammad Ehsan s/o Abdul Fattah and Zahid Iqbal s/o Ghulam Rasool, only Muhammad Ehsan had been produced in the court as PW-02. He during his examination has stated that accused while in handcuff had led the police to the graveyard of the village and from the bushes he took out and produced one 30.bore pistol to the I.O upon which the latter had made initial with nail, whereafter his statement under Section 161 Cr.P.C had been recorded. This witness during his cross-examination has admitted as correct that in the recovery memo Ex.PW-2/1 the I.O had shown his and other marginal witness presence at the time of disclosing about weapon of offence by the appellant No.4 but in the first lines he has stated that he had been working in DC Office Haripur while on the day of recovery at 07:30 A.M when he was going for performance of his duties, the



42

police had met with him and thereafter the alleged recovery had been effected. The evidence furnished by this witness is not appealable to a prudent mind. Besides, it has also been held by the Hon'ble Supreme Court of Pakistan that the corroboratory evidence of recovery of weapons etc can only be taken into consideration when the direct evidence is found trustworthy and believable. Reliance is placed on the judgment given in the case of "Noor Muhammad Vs. The State and another" reported as 2010 SCMR 97 where it has been held;

"Even otherwise the recovery of crime empty or rifle with matching report of F.S.L is a corroborated piece of evidence, which by itself is not sufficient to convict the accused in the absence of substantive evidence. Reference is invited to Ijaz Ahmed V. State 1997 SCMR 1279. It was held in the case of Asadullah Muhammad Ali PLD 1971 SC 541, that corroborative evidence is meant to test the veracity of ocular evidence. Both corroborative and ocular testimony is to be read together and not in isolation. In the case of Saifullah V. The State 1985 SCMR 410, it was held that when there is no



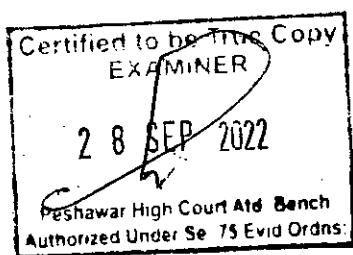
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eyewitness to be relied upon, then there is nothing which can be corroborated by the recovery."

17. From the above discussed evidence, it has become clearer than crystal that case of the prosecution is full of doubts and while acquitting an accused even a single doubt is sufficient. Reliance in this respect may be placed on the judgments delivered by the Hon'ble Supreme Court of Pakistan in the cases reported as 1997 SCMR 449 and 2007 SCMR 1825.

Further reliance in this respect may also be placed on the judgment delivered by Hon'ble Supreme Court of Pakistan in the case of "Muhammad Akram Vs. The State" reported as 2009 SCMR 230 where it has been held;

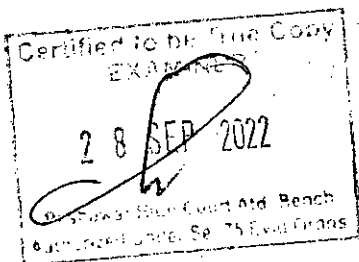
"The nutshell of the whole discussion is that the prosecution case is not free from doubt. It is an axiomatic principle of law that in case of doubt, the benefit thereof must accrue in favour of the accused as matter of right and not of grace. It was observed by this Court in the case of Tariq Pervez v. The State 1995 SCMR 1345 that for giving the benefit of doubt, it



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was not necessary that there should be many circumstances creating doubts. If there is circumstance which created reasonable doubt in a prudent mind about the guilt of the accused, then the accused would be entitled to the benefit of doubt not as a matter of grace and concession but as a matter of right."

18. In view of what has been discussed above, we are of the firm view that prosecution has miserably failed to establish its case against the appellants. Resultantly, on allowing of the instant appeal, benefit of doubt is extended to appellants and they are accordingly acquitted of the charges levelled against them. These are the detailed reasons for our short order of the even date, which reads: -



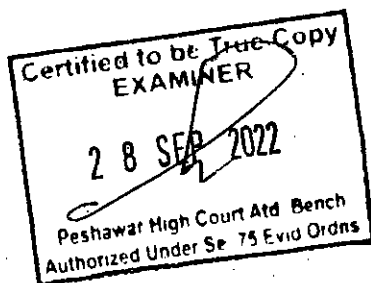
"For reasons to be recorded later, this appeal is allowed. Conviction and sentence of appellants namely, (1) Babu Muhammad Younas s/o Gul Zaman, (2) Hafeez-ur-Rehman s/o Khalil-ur-Rehman, (3) Fazal-ur-Rehman s/o Gul Zaman and (4) Muhammad Ghayas Qureshi s/o Muhammad Ilyas, recorded

by learned Additional Sessions Judge-V Haripur vide judgment dated 05.04.2021 in case FIR No. 487 dated 07.10.2014 registered under Sections 302 / 324 / 334 / 336 / 337-A(ii) / 148 / 149 PPC at Police Station KTS Haripur, is set-aside and appellants are acquitted of the charges, leveled against them. They be set free from Jail forthwith, if not required in any other case."

19. So far as appeal against acquittal and criminal revision filed by complainant for enhancement of sentence of the appellants are concerned, as we have disbelieved the prosecution evidence (discussed above), therefore, both these petitions have become infructuous and are disposed of accordingly.

Announced:
13.09.2022.

JUDGE



JUDGE

Justices Ijaz Anwar and Wiqar Ahmad

/*Saif. CS*/

46

Annex 'F'

**BEFORE PROVINCIAL POLICE OFFICER KHYBER
PAKHTUNKHWA PESHAWAR**

(Revision petition by Hafeez-ur-Rehman FC No. 695 District Police Haripur)

**REVISION PETITION ON THE BASIS OF "ACQUITTAL" FROM CRIMINAL
CHARGE BY HONOURABLE PESHAWAR HIGH COURT BENCH
ABBOTTABAD VIDE ORDER DATED 13-09-2022 AGAINST ORDER
DATED 30-10-2019 PASSED BY DPO HARIPUR WHEREBY APPELLANT
WAS DISMISSED FROM SERVICE AND ORDER DATED 12-10-2020 OF
THE RPO, HAZARA REGION, ABBOTTABAD UNDER WHICH HIS
DEPARTMENTAL APPEAL WAS REJECTED.**

**PRAYER: ON ACCEPTANCE OF INSTANT REVISION PETITION ORDER
DATED 30-10-2019 OF DPO HARIPUR AND 12-10-2020 OF RPO
HAZARA REGION ABBOTTABAD MAY KINDLY BE SET ASIDE AND
APPELLANT BE RE-INSTATED IN SERVICE FROM THE DATE OF HIS
DISMISSAL WITH ALL CONSEQUENTIAL SERVICE BACK BENEFITS.**

Respected Sir,

With most respect and reverence the following few lines are submitted for your kind consideration and favorable orders:-

1. That appellant has rendered more than 13/14 years service in the Police Department. Appellant always performed his assigned duties with zeal, zest, devotion, dedication, and honesty to the entire satisfaction of his officers and never provided a chance of reprimand. Appellant has meritorious service record at his credit.
2. That appellant while posted as FC/Driver at Police Station, Sarai Saleh, Haripur and present on his official duty was wrongly and falsely roped in a criminal case FIR No.487 dated 07-10-2014 u/s-302/324/148/149 PPC registered at PS KTS Haripur.

Attested
Hafeez-ur-Rehman

11-10-2022

10592/SB
11-10-2022

47

3.

That appellant was granted bail and released from jail on 28-11-2014 and he joined his duties. On 17-09-2018 the ADJ-V Haripur convicted and sentenced appellant to suffer 07 years imprisonment. Appellant aggrieved of the conviction order filed a criminal appeal before the High Court Peshawar circuit bench Abbottabad. After this conviction appellant was issued a Show Cause Notice which was replied but it was ordered that Show Cause Notice be kept pending till the decision of High Court in appeal. The said Show Cause Notice was kept pending for a period of one year but subsequently without waiting out come of result of appeal from High Court the DPO Haripur vide order dated 30-10-2019, while appellant performing his duties, dismissed him from service in the light of conviction order dated 17-09-2018 of the ADJ-V Haripur. **(Copy of dismissal order dated 30-10-2019 is attached as "A")**.

4.

That appellant aggrieved of the dismissal order filed a departmental appeal dated 28-11-2019 before the Regional Police Officer, Hazara Region, Abbottabad which was rejected vide order dated 12-10-2020. **(Copies of appeal and rejection order dated 12-10-2020 are attached as "B&C")**.

Attested
H. Khan

5.

That appellant's criminal appeal against his conviction has been decided by Honourable Peshawar High Court circuit bench Abbottabad vide order dated 13-09-2022 attested copy of which has been issued on 28-09-2022 **(Copy of order dated 13-**

09-2022 is attached ⁽⁴⁸⁾ as "D"), hence instant departmental appeal on fresh cause of action of after acquittal by High Court.

6. That allegations leveled against the appellant on the basis of FIR and Conviction Order in the Show Cause Notice as well as Dismissal Order etc are incorrect, baseless and false against the facts and based on malafide having no nexus with truth.

7. That on the date and time of occurrence i.e. 07-10-2014 at 17:40 hours appellant was present on his official duties at Police Station Sera-e-Salah. As per daily dairy No.23 dated 07-10-2014 at 17:40 hrs he alongwith ASHO Amir Hatam Khan departed on patrolling duty while daily dairy No.26 dated 07-10-2014 at 23:55 appellant returned to PS Sera-e-Salah after completion of duty. Even he was arrested from PS Sera-e-Salah. There was no recovery of from him. Still the appellant was involved in crime case and he had to undergo physical torture and mental agonies beside financial problems without any wrong on his part and only on the basis of falsely and malafidely roping in criminal case and ultimately dismissed from service. **(Copies of Daily Dairies No.23 & 26 07-10-2014 and arrest card daily dairy No.13 dated 08-10-2014 are attached as "E, F & G").**

Attested
H. Adm

8. That as the Honourable Peshawar High Court circuit bench Abbottabad while disbelieving prosecution evidence has set aside conviction and has

49

acquitted the appellant of the charge vide judgment/order dated 13-09-2022 which causes fresh cause of action to appellant to file instant departmental appeal for his reinstatement in service with all consequential service back benefits.

9. That during departmental inquiry appellant had been exonerated of the charge and declared innocent by the inquiry officer but appellant was dismissed from service on the basis of conviction/sentence passed by the criminal court ADJ-V Haripur. Now when the Honourable Peshawar High Court vide its order dated 13-09-2022 has set aside the very conviction order and acquitted the appellant of the charge leveled against him deserves to be reinstated in service. **(Copy of inquiry report is attached as "H")**.

10. That appellant is totally innocent and had discharged his official duties with devotion, dedication and honesty and never involved himself in any criminal case but still he has been awarded with major punishment of dismissal from service without any cause or justification. There is nothing wrong on the part of appellant.

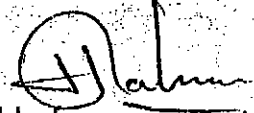
Attested
H. Khan

In view of the aforementioned facts it is earnestly requested that order dated 30-10-2019 of the DPO Haripur and order dated 12-10-2020 of RPO HR Abbottabad may kindly be set aside and appellant be re-instated in service from the date of dismissal with all consequential service back benefits. Appellant

50

All pray for your good health and long life. Thanking you sir in anticipation.

Yours Obedient Servant:



(Hafeez-ur-Rehman)

FC/Driver No.695

District Police Haripur

Address:

Village: Kalas, P.O. KTS

Tehsil & District Haripur

Mobile No.0345-9598187

Dated: // -10-2022

Attested




(57)

Amred (G)

**OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.**

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-Driver FC Hafeez-ur-Rehman No. 695. The applicant was dismissed from service by DPO/Haripur on the grounds that he while posted at PS Sarai Saleh was charged in criminal case vide FIR No. 487 dated 07.10.2014 u/s 302/324/148/149/334/336/337-A(iii) PPC PS KTS. The complainant Ziafat Hussain s/o Said Rasool charged the accused including Police Official Ex-Electrician Constable Ghayaz Quraishi No. 249 for specific role in the commission of offence.

His appeal was filed by the Appellate Authority i.e. RPO Hazara vide order Endst: No. 25985/PA, dated 12.10.2020.

He was convicted with rigorous imprisonment of 07-years u/s 324/148/149 PPC and 01-year imprisonment with fine of Rs. 100,000/- u/s 337-A (iii) by the court of Addl: Sessions Judge-V, Haripur vide judgment dated 05.04.2021.

He was acquitted by the Peshawar High Court, Abbottabad Bench vide judgment dated 13.09.2022.

Meeting of Appellate Board was held on 01.03.2024 wherein petitioner was heard in person. The petitioner contended that the FIR is frivolous & he is innocent.

Perusal of enquiry papers revealed that the allegations leveled against the petitioner has been proved. The petitioner failed to submit any cogent reason in his self-defense. The Board sees no ground and reasons for acceptance of his petition, therefore, his petition is hereby rejected.

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

No. SI 627-632 /24, dated Peshawar, the 22-03- /2024.

Copy of the above is forwarded to the:

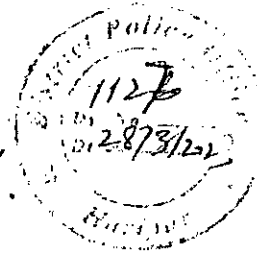
1. Regional Police Officer Hazara. Service Roll, Fauji Missal & Enquiry File of the above named Ex-FC received vide your office Memo: No. 4787-88/13, dated 02.03.2023 is returned herewith for your office record.
- ✓ 2. District Police Officer, Haripur.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: E-IV CPO Peshawar.

DSP
Legal
OHA-1SR/10

In memo
Per Law

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

Attested



خدمت جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع پری ٹورا

(59)

Annex #
جناب عالی

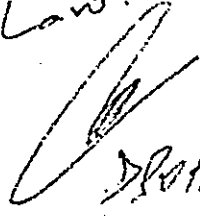
گنہگار بننے پر پلیم سائل ختم ہو گیا۔ لازم تھا اور ایک دو برس میں سب سے
بلوٹ ہوئے ہیں۔ جس سے سائل کو ڈیپنس نوکری سے دیکھ کر دیکھ کر دیکھ کر دیکھ کر
کھلے خلاف سائل نے اشکلیہ جنرل آف پولیس صاحب برائیل ڈائری
کی توفیق توفیق توفیق توفیق ہے۔

بزرگوار ڈسٹرکٹ پولیس آفیسر جناب توفیق توفیق توفیق توفیق توفیق توفیق
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الفارس


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o Hc
Per Law.


D. P. H. R.



Received
15/04/2024

Attested


خدمت جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع پری ٹورا

(59)

Annex 'H'
جناب عالی

گنہگارین پہلے سائل شکم پولیس آفیسر کے لئے ایک دفعہ میں سندھ
 بلوچستان پورے کی وہ جسے سائل کو ڈاکہ سے نوکری سے دیکھ کر دیا تھا
 جسے خلاف سائل نے اسٹیکٹر جنرل آف پولیس صاحب پراپریل ڈاکٹر
 کی کسی کو سائل سے پوچھی ہے -

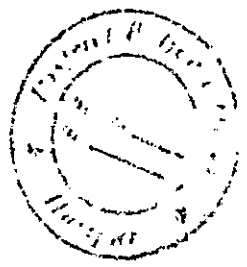
بزرگوار اور ذرا سب سے لڑا سائل کی جاتی ہے سائل کو سائل سندھ پراپریل کی کالی
 نرا سائل کے لئے اسٹیکٹر جنرل آف پولیس صاحب پراپریل ڈاکٹر

الفارین

حضرت الفارین صاحب
 خیابان قمری زونڈا ایس ایس سندھ پولیس

o Hc
 Hu ma no
 Pkr Law

[Handwritten Signature]



Received
 Annex
 15/04/2024

Attested
[Handwritten Signature]

53

Annex 1

لفظی ایف بی آر

کتاب سرائے

لفظی ایف بی آر 23 روز ماہ 7 10/14

فصل اول

23 روزنگی اسپرٹانم خان ASHA 7 10/14 وقت 17:40 بج میں مع کپٹن امداد
 ایسٹ 6433 ماہر دی علیج 695 کے لٹریچر حوالہ گشت کی سواری تازی
 سرتازی مع کپٹن سفید 695 کے روم کے لئے گشت کی تازی اس طرح کشتی لڑا
 ایک زمیندارہ جیٹ برسانی کوٹ، ذیشان علیج جیٹ برسانی کوٹ کے
 لٹریچر زمیندارہ جیٹ، جیٹ برسانی کوٹ، فرمان ایسٹ 6433 علیج 695 کے
 جیٹ برسانی کوٹ کے لٹریچر میں ایسٹ سرائے تمام تازی روم کے لئے گشت
 کے لئے

لفظی ایف بی آر
 A. H. H. H.
 Police Station
 Sarai Saleh
 Dist. Haripur 10-12

Attested
 Behar

23
 10/14

10

(55)

Annex - R

نقل ریشہ بولم عدد 13 روزنامہ 14/10/14

قائم سرکار کے ہاتھ

نمبر 13 قائد سردار (پہلی) 5/11/14 سے 10/11/14 تک 12:10 سے اس وقت

میں لیاسم لغینس مقدمہ نمبر 407 دم 302-324 سے 14/11/14 سے قائم ڈاکٹر

کہ مسلمہ میں لغینس سے حاضری ناموں کی کاپی تھیو الرقان ولد قاسم الرقان
قوم نقل نامہ کاپی کنیسٹری بر 695 ڈاکٹر قائم سرکار صالح مقدمہ
نمبران میں نامزد ملزم علی لکھی گرفتاری کے مسلمہ میں قائم تھیو الرقان
کاپی ڈاکٹر مذکورہ کو موجود ہے اگر مقدمہ نمبران میں حسب الحال ڈاکٹر ملزم
حاکم پڑھ رکھ کر مہتمم قائم خود کاپیوں

ضابطہ
نقل لیجان ہولڈنگ

M. M. S. Salahi

9-10-14

Attested

Handwritten Signature

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Annex L

Sub: Application for the issuance of decision upon
Departmental Appeal vide Diary No. 10592/SB, dated
11-10-2022.

Respected Sir,

Most reverentially it is stated that the applicant preferred a Department Appeal vide Diary No. 10592/SB, dated 11-10-2022 against impugned rejection of Department Appeal by the worthy D.I.G, Hazara Region, Abbottabad dated 12-10-2020, the decision of which is still awaited inspite of passing a prolong period of one year. It is pertinent to mention here that the Inquiry Committee also declare me an innocent but even then I have not yet been re-instated in service, and consequently my innocent dependent family members are facing great financial hardships due to my unemployment.

It is therefore, requested that my above said Departmental Appeal may graciously be decided on the basis of facts and evidence available on the record in the greater interest of justice.

Thanking you,

Dated: 06-11-2023.

Applicant

Hafeez-ur-Rehman

(Hafeez-ur-Rehman)
Ex-FC/Driver No. 695
District Police Haripur.
R/O Vilalge Kalas, P.O.
K.T.S, Tehsil & District Haripur.
Contact No. 0316-0890350

Copy to:-

1. The Worthy Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Hon'able Registrar, Peshawar High Court Bench Abbottabad.

Attested
Hafeez-ur-Rehman

57

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Ref: Application dated 06-11-2023 sent through Courier Service.

Sub: Application for the issuance of decision upon Departmental Appeal
vide Diary No. 10592/SB, dated 11-10-2022.

Respected Sir,

With due reverence it is submitted that the applicant preferred a Departmental Appeal which was received by this office vide Diary Number cited above, but inspite of passing a prolong period the decision of which has not yet been received.

The applicant has been declared as an innocent and decided the Criminal Appeal No. 113-A/2021 in his favour on 13-09-2022 by the Honourable Peshawar High Court Bench Abbottabad.

The applicant also submitted an application on 06-11-2023 to this Authority for the decision upon the Departmental Appeal but even then no decision has yet been received, hence the instant application is once again made before this Authority for decision please.

Thanking you,

Dated: 21-11-2023.

Applicant

H. Hafeez
(Hafeez-ur-Rehman)
Ex-FC/Driver No. 695
District Police Office,
Haripur.
R/O Village Kalas,
P.O. K.T.S. Tehsil and
District Haripur.
Contact No. 0316-0890350

Copy to:

1. The worthy Chief Secretary, KPK, Peshawar.
2. The Honourable Registrar, Peshawar High Court Bench Abbottabad.

Allested
D. Khan

58

3rd Reminder

To

The Worthy Inspector General of Police,
Government of Khyber Pakhtunkhwa,
Peshawar.

Ref: Application dated 06-11-2023 sent through Courier Service.

Sub: Application for the issuance of decision upon Departmental Appeal
vide Diary No. 10592/SB, dated 11-10-2022.

Respected Sir,

With due reverence it is submitted that the applicant preferred a Departmental Appeal which was received by this office vide Diary Number cited above, but inspite of passing a prolong period the decision of which has not yet been received.

The applicant has been declared as an innocent and decided the Criminal Appeal No. 113-A/2021 in his favour on 13-09-2022 by the Honourable Peshawar High Court Bench Abbottabad.

It is deemed necessary to mention that the applicant also submitted the applications on 06-11-2023 & 21-11-2023 to this Authority for the decision upon the Departmental Appeal, but even then no decision has yet been received, hence the instant 3rd application is once again submitted before this Authority for the requisite decision please.

Thanking you,

Dated: 28-12-2023.

Applicant

H. Rehm

(Hafeez-ur-Rehman)
Ex-FC/Driver No. 695,
District Police Office,
Haripur.
R/O Village Kalas,
P.O. K.T.S. Tehsil and
District Haripur.
Contact No. 0316-0890350

Copy to:

1. The worthy Chief Secretary, KPK, Peshawar with the request to kindly issued the directions to the Authority concerned for submission of requisite decision on Departmental Appeal.
2. The Honourable Registrar, Peshawar High Court Bench Abbottabad.

Alleged
H. Rehm

59

479
247

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007777

008855

No. 1413 For Insurance No. RGL 116954113 se. Rs. Ps.

Letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Honorable Date-Stamp

Initials of Receiving Officer S. S. S. *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary. Insured for Rs. (in figures) (in words)

Insurance fee Rs. 10 Ps. 00 Weight (in words) 10 Kilo Grams

Name and address of sender Postman



No. 1414 For Insurance Notices see reverse Stamps affixed except RGL 116954114 se. Rs. Ps.

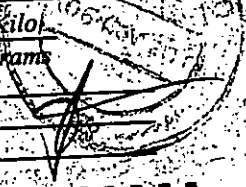
Letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered* addressed to Honorable Date-Stamp

Initials of Receiving Officer S. S. S. *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary. Insured for Rs. (in figures) (in words)

Insurance fee Rs. 10 Ps. 00 Weight (in words) 10 Kilo Grams

Name and address of sender Abdullah



60

0.1455

RGL116668355

For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered letter addressed to The Honorable Date-Stamp

Initials of Receiving Officer Reg. M. M. Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 100 (in words)

Insurance fee Rs. 10 Ps. 00 Weight (in words) 100 Kilo Grams

Name and address of sender Ambarabadi 21/11/22



No.1456

RGL116668356

For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered letter addressed to The Inspector Date-Stamp

Initials of Receiving Officer General Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 100 (in words)

Insurance fee Rs. 10 Ps. 00 Weight (in words) 100 Kilo Grams

Name and address of sender General 21/11/22



No.1457

RGL116668357

For Insurance Notices see reverse. Rs. Ps. 60
Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered letter addressed to The Chief Date-Stamp

Initials of Receiving Officer W. D. Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 100 (in words)

Insurance fee Rs. 10 Ps. 00 Weight (in words) 100 Kilo Grams

Name and address of sender Peetha 21/11/22



Insured

61

No.77

RGL116954377

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to The Chief Date-Stamp

Initials of Receiving Officer SC *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 500 (in words) Five hundred

If insured } Insurance fee Rs. 15 Ps. 15 Weight 10 Kilo Grams

Name and address of sender Peshawar 2811210

No.78

RGL116954378

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to _____ Date-Stamp

Initials of Receiving Officer SC *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. 15 Ps. 15 Weight 10 Kilo Grams

Name and address of sender Peshawar 2811210

No.79

RGL116954379

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 60

Received a registered* addressed to The Honourable Date-Stamp

Initials of Receiving Officer SC *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ Weight _____ Kilo Grams
Name and address of sender Abbottabad 2811210

وکالت نامہ

بعد االت جناب
 پیرو تنظیم خواہ سرورین امرینہ سٹار

مخانب
 اسلانت (حفینہ المرین)

حفینہ المرین
 ۲۲۰/۱۹۲ KPK etc

دعویٰ یا جرم
 ممبرین اسلانت باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام سٹار / اسلانت آباد
 محمد اسلم تھیسی ایڈووکیٹ بدیں شرط وکیل مقرر کیا کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص
 رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی
 پیشی پر مظہر حاضر نہ ہوں اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ
 ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پچہری کے علاوہ کسی اور جگہ یا پچہری کے مقررہ اوقات سے پہلے یا بروز
 تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پچہری کے کسی اور جگہ ساعت ہونے یا بروز پچہری کے اوقات
 کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے
 بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب
 موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق
 کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے
 کا ہر قسم کا بیان دینے اور سپروٹاٹی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعوے کا اختیار ہوگا۔ اور بصورت اپیل و
 برآمد کی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو
 بشرط ادا ہوگی علیحدہ پیروی مختار نامہ کرینکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر
 کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب
 موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ
 کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سندر ہے مضمون
 مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا اور منظور ہے۔

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