


Form-A  
FORM OF ORDERSHEET

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

Case No. 633/2024

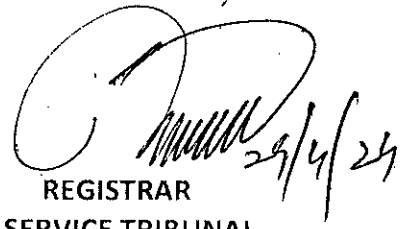
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.05.2024	<p>As per verbal direction of the Hon'ble Member Judicial the present appeal is fixed for preliminary hearing before Single Bench at Peshawar on 08.5.2024. Parcha Peshi given to the counsel for the appellant.</p> <p style="text-align: right;"> <b>REGISTRAR</b></p>

The appeal of Syed Majid Ali Shah received today i.e on 26.04.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- The law under which appeal is filed is wrong.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.
- ④ Copy of proper rejection order of departmental appeal is not attached with the appeal be placed on it.
- 5- The documents that are to be provided must be readable/legible.

No. 966 /S.T.

Dt. 29/4 /2024.




REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Asad Mabi Adv.  
High Court Peshawar.

Objection NO 1.

- 1) Address of Appellant is duly completed.
- 2) Section of Law is duly mentioned after necessary charge.
- 3) Copies of charges sheet, statement of allegation & other Documt were not provided to appellant even order Dtd 15/11/2023 was provided to appellant on 28/3/24.  
Duly noted in appeal.

Pls be put before cul  
for annex procedure  
dt 30/04/2024. 

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

Service Appeal No. 633 /2024  
With  
Condonation of delay application \_\_\_\_\_/2024

Syed Majid Ali shah.....**Appellant**

**V E R S U S**

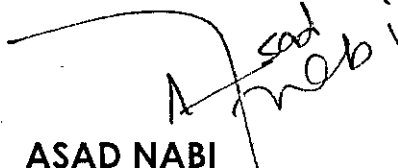
Inspector General of Police Khyber Pakhtunkhwa and  
others .....**Respondents**

**I N D E X**

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-5
2.	Condonation application Affidavit		6-8
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4.	Copy of the ID card	A	10-11
5.	Copy of the order dated 24-10-23	B	12-13
6.	Copy of the departmental appeal	C	14
7.	Copy of the commits and order written in leaf dated 15-11-23	D	15
8.	Copy of relevant documents	E	16-20
9.	Wakalatnama		21

  
Appellant

Through



**ASAD NABI**  
Advocate, Peshawar  
Cell: 0345-9122165

Dated: 24/24/2024

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

Service Appeal No. 633 /2024

With

Condonation of delay application \_\_\_\_\_/2024

Syed Majid Ali Shah S/o Syed Ahmad Shah Ex-  
Constable Belt No.306 CPEC (SSU) Khyber Pakhtunkhwa  
Police Peshawar .....**Appellant**

**V E R S U S**

1. Inspector General of Police Khyber Pakhtunkhwa  
Peshawar
2. Deputy Commandant SSU (CPEC) Khyber  
Pakhtunkhwa Peshawar
3. SP Admin & Minority SSU (CPEC) Khyber  
Pakhtunkhwa Peshawar  
.....**Respondents**

**SERVICE APPEAL U/S 4 OF THE KP SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER DATED 15-11-2023 OF  
THE RESPONDENT NO. 2 WHEREBY  
DEPARTMENTAL APPEAL OF THE APPELLANT  
WAS DISMISSED AND ORDER DATED 24-  
10-2023 OF THE RESPONDENT NO.3  
WHEREBY APPELLANT WAS DISMISSED  
FROM HIS SERVICE.**

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**Respectfully Sheweth:**

*Precisely, stating the facts of the case out of which the present appeal arises are as under:*

1. That the appellant was served the Respondents as constable and his total service tenure as per record is 3 year 10 month. Copy of the ID card is attached as annexure A.
2. That on 19-09-2023 the appellant took Government Issue SMG No.22274 to his home and apprehend by the local police shahpur in the charge of aerial firing allegedly.
3. That the respondents were issued charge sheet and summary allegation vide Endst: No 4569/EC dated 20-09-2023 and after inquiry( conducted in haste) the appellant was dismissed from his service and has awarded major penalty vide order dated 24-10-2023 despite the facts no any incremental material has been produce by the respondents against the appellant. Copy of the order is attached as annexure B
4. That the appellant being aggrieved from the impugned order dated 24-10-2023 has filed departmental Representation/ appeal. Copy of the departmental appeal is attached as annexure C.
5. That respondents have filed commits and once again the departmental appeal of the appellant was dismissed by the respondents vide order

dated 15-11-2023 but the same being intimated to the appellant on 28-03-2024. (**Delay reason mentioned in grounds**) More over the date mentioned in departmental appeal is wrongly been written as 28-11-2023. Copy of the commits and order written in leaf is attached as annexure D.

6. That appellant being aggrieved from the orders of both the fora hence the appellant now approached this Court, inter alia on the following grounds:

**GROUND S:**

- A. That orders of both the fora's are against the law facts material available on file hence not maintainable and are liable to be set aside.
- B. That both the fora's did not peruse the case file and material available on file and has passed the impugned orders which are liable to be interfere through such appeal.
- C. That appellant did not provided opportunities to cross examination the witnesses who has recorded statement against the appellant and it is a settle principal of law opportunities is necessarily been provided to appellant for cross examination.
- D. That appellant is a young and served long tenure with unblemished record on this score the

appellant may kindly be restore along with back benefits salaries etc.

- E. That due to careless and rude behavior of the respondents, this appeal has been filed with such a delay for the reason that the respondents were not communicating the order on the departmental appeal. Moreover, respondents have been misinforming the appellant/petitioner about being hopeful for a positive decision on the departmental appeal but rather despite being waiting for such a long period, the respondents could not have communicated a proper order but rather copy of the official comments have been given to the appellant / petitioner on 28.03.2024 while the actual comment/order has been written down on 15.11.2023 hence the delay may be condoned for the reason.
- F. That appeal is a statutory right of the appellant/petitioner rather it may kindly not be technically knock out so the opportunity may kindly be granted to the appellant to decide the appeal on merit.
- G. That in commits the Respondent has written that the appellant has fired to his maternal uncle namely syed Riaz but in this respect No FIR has been

registered in any police station by complainant. More over the said syedriaz has nominated the appellant and his brother in numerous Firs. Copy of relevant document is attached as annexure E.

- H. That no proper inquiry has been conducted by the respondent and has awarded major punishment which was never permitted by law.
- I. That order of the Respondent No.2 is mechanical on this score liable to be interfered.
- J. That real fact is that the appellant has fired in his self-defense on mad dog as written in appeal.
- K. That the appellant seeks leave of this Hon'ble Tribunal to raise /argue any additional point.

IT IS THEREFORE HUMBLY PRAYED THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 15-11-2023 OF THE RESPONDENT NO. 2 AND ORDER DATED 24-10-2023 OF THE RESPONDENT NO.3 MAY VERY KINDLY BE SET ASIDE AND THE APPELLANT MAY VERY KINDLY BE REINSTANED/ RESTORE IN HIS SERVICES ALONG WITH ALL BACK BENAFITS ETC.

  
Appellant

Through

  
**ASAD NABI**

Advocate, Peshawar

Dated: 24/04/2024



(6)

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

Service Appeal No. \_\_\_\_\_/2024

With

Condonation of delay application \_\_\_\_/2024

Syed Majid Ali Shah S/o Syed Ahmad Shah Resident of Village  
Wadpagga Peshawar.....**Appellant**

**V E R S U S**

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar
  2. Deputy Commandant SSU (CPEC) Khyber Pakhtunkhwa Peshawar
  3. SP Admin & Minority SSU (CPEC) Khyber Pakhtunkhwa Peshawar
- .....**Respondents**

**APPLICATION FOR CONDONATION OD DELAY**

Respectfully Sheweth!


1. That the Appellant has filing the above titled appeal in which no date of hearing is yet fixed.
2. That due to careless and rude behaviour of the respondents, this appeal has been filed with such a delay for the reason that the respondents were not communicating the order on the departmental appeal. Moreover, respondents have been misinforming the appellant/petitioner about being hopeful for a positive decision on the departmental appeal but rather despite being waiting for such a long period, the respondents could not have communicated a proper order but rather copy of the official comments have been given to the appellant / petitioner on 28.03.2024 while the actual comment/order has been written down on 15.11.2023 hence the delay may be condoned for the reason.

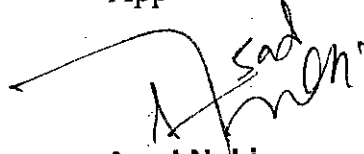
- (7)
3. That appeal is a statutory right of the appellant/petitioner rather it may kindly not be technically knock out so the opportunity may kindly be granted to the appellant to decide the appeal on merit.

It is, therefore, humbly prayed that on the acceptance of this application, the delay may very kindly be condoned accordingly. Any other relief may also be granted in favour of the applicant.

Date:- 24-04-2024

Through:

  
Applicant

  
**Asad Nabi**  
Advocates High Court  
Peshawar

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

Service Appeal No. \_\_\_\_\_/2024

WITH

Condonation of delay application \_\_\_\_\_/2024

Syed Majid Ali shah.....**Appellant**

**VERSUS**

Inspector General of Police Khyber Pakhtunkhwa and  
others .....**Respondents**

**AFFIDAVIT**

I, Syed Majid Ali Shah S/o Syed Ahmad Shah Resident of  
Village Wadpagga Peshawar, do hereby solemnly  
affirm and declare on oath that the contents of the  
accompanying **Service Appeal** <sup>Application</sup> are true and correct to  
the best of my knowledge and belief and nothing has  
been kept concealed from this Hon'ble Court.



**DEPONENT**



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

Service Appeal No. \_\_\_\_\_/2024

With

Condonation of delay application \_\_\_\_/2024

Syed Majid Ali shah.....**Appellant**

**V E R S U S**

Inspector General of Police Khyber Pakhtunkhwa and  
others.....**Respondents**

**ADDRESSES OF THE PARTIES**

**A P P E L L A N T:**

Syed Majid Ali Shah S/o Syed Ahmad Shah Resident of  
Village Wadpagga Peshawar.

**R E S P O N D E N T S:**

1. Inspector General of Police Khyber Pakhtunkhwa  
Peshawar
2. Deputy Commandant SSU (CPEC)Khyber  
Pakhtunkhwa Peshawar
3. SP Admin & Minority SSU (CPEC)Khyber  
Pakhtunkhwa Peshawar

Appellant

Through



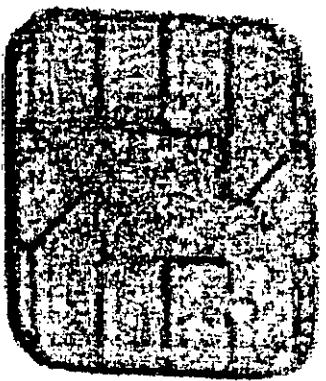
**ASAD NABI**

Advocate, Peshawar

Dated: 24/04/2024

Annex (A)

(10)



# PAKISTAN

## National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

NAME

Syed Majid Ali Shah

سید مجید علی شاہ

FATHER NAME

Saeed Ahmad Shah

سعید احمد شاہ

Gender

M

Country of Stay

Pakistan

Identity Number

17301-9246562-1

Date of Birth

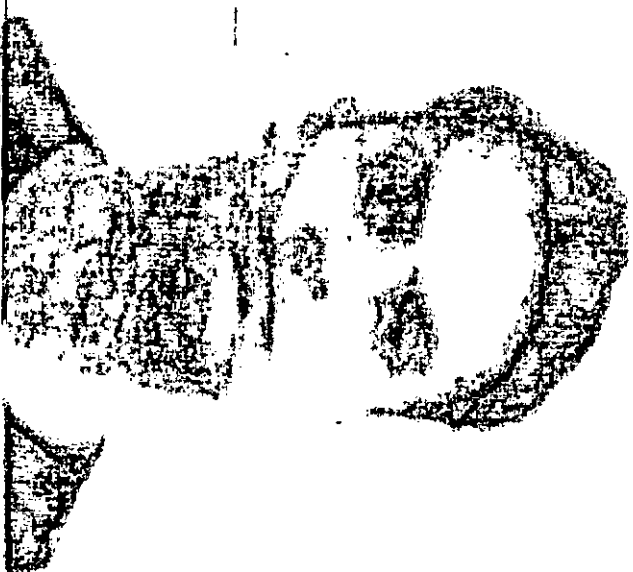
15.07.1996

Date of Issue

22.09.2021

Date of Expiry

22.09.2031

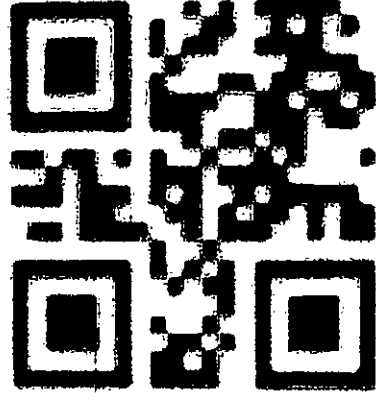


Holder's Signature

مجلس صیوری جوک، ڈاک خانہ وڈپنگ، وڈپنگ، تحصیل

17301-9246587

ضلع چنار



سنگریہ مجلس صیوری جوک، ڈاک خانہ وڈپنگ، وڈپنگ، تحصیل

ضلع چنار

Secretary  
Registrar General of Pakistan

101041479215

گمشدہ کارڈ ملنے پر قریبی لیٹر بکس میں ڈال دیں

(۱۱)



(12)

Annex (B)

**OFFICE OF THE COMMANDANT  
SPECIAL SECURITY UNIT (SSU)  
KHYBER PAKHTUNKHWA POLICE**  
CENTRAL POLICE OFFICES, S.A.Q ROAD, PESHAWAR CANTT (PH: 091-9214056)

No. 5047-60 EC/SSU,

dated Peshawar the 24/10/2023.

**ORDER**

This order will dispose-off the departmental inquiry against Constable Syed Majid Ali Shah No. 306 of Special Security Unit (CPEC), District Peshawar.

Brief facts of the case are that as reported by Additional SHO Police Station Shahpur vide DD report No. 13, dated 19.09.2023 that Constable Syed Majid Ali Shah No. 306 took government-issued SMG No. 22274 to his home & apprehended by the local police of PS Shahpur in the charge of aerial firing.

In this regard, he was suspended, closed to SSU Lines at Hayatabad, Peshawar and proper departmental proceeding was initiated against him. He was issued charge sheet & summary of allegations vide this office Endst: No. 4569/EC, dated 20.09.2023 and Mr. Hassan Khan DSP Minority Peshawar Region was nominated as enquiry officer to conduct inquiry into the matter and submit his findings report. After completion of all codal formalities, EC submitted his findings report, wherein he reported that the charge sheet was served upon the delinquent constable, and his written statement was recorded, in which he confessed to the charges leveled against him. The inquiry officer also recorded the statement of the In-Charge of the KOT (Armory), who stated that SMG No. 37022274, along with four magazines and 120 rounds, was issued to the accused constable for government duties. The same were later possessed by the local police of PS Shahpur and subsequently handed over to him. After examining the SMG, magazines, and rounds, it was observed that the SMG had been fired, and one round was missing. Furthermore, the statement of the Additional SHO of PS Shahpur was also recorded. He mentioned that he alongwith bailiff had gone to Wadpaga in compliance with court order, when he suddenly heard gunshots. Upon investigation, he apprehended a person with a rifle and brought him to the Police station Shahpur. The individual identified himself as a police constable and explained that he had come out of his house because he had received information that his maternal uncle, Mr. Syed Riaz Ali Shah, was illegally in possession of his property. In an attempt to scare off his uncle, he discharged his firearm by firing into the air. Thus, the enquiry officer found him guilty of the charges leveled against him and recommended him for major punishment.

1353

26 10 2023

Later on he was issued/served with final show cause notice vide this office No. 4866/EC, dated 11.10.2023 to which he replied same as above. He was also heard in person in orderly room held on 11.10.2023 and given ample opportunity to prove himself innocent of the charges leveled against him but he failed to satisfy the undersigned.

Keeping in view all the above facts and recommendation of enquiry officer as well as material available on record, the above named constable was found guilty of gross misconduct. Also from perusal of his service record, he was twice awarded major punishment of dismissal from service, during his 03 years and 10 months service which shows that there is no hope for him to become a good police officer. Therefore, I, Superintendent of Police, Admin & Minority Wing SSU (CPEC), being the competent authority in the exercise of powers vested to me under section 5(4) of Khyber Pakhtunkhwa, Police Rules 1975 (amended in 2014) hereby awarded him major punishment of "Dismissal from Service" with immediate effect.

(FAZAL HANIF)

SP Admin & Minority SSU (CPEC),  
Khyber Pakhtunkhwa, Peshawar.

1353  
26.10.23

*Copy of the above is forwarded for information to the:*

1. Accountant General, Khyber Pakhtunkhwa.
2. Capital City Police Officer, Peshawar.
3. DSP HQrs: SSU (CPEC), Khyber Pakhtunkhwa.
4. PA to Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
5. PA to Dy: Commandant SSU (CPEC), Khyber Pakhtunkhwa Peshawar.
6. Accountant, SRC, RI, OASI, LC HRMS, LC KOT and Clothing Godown SSU (CPEC).
7. Official Concerned.



14

Annex (ج)

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخواہ پشاور

عنوان: اپیل برائے بحالی سروس

جناب عالی!

نہایت عاجزانہ استدعا ہے کہ سائل محکمہ پولیس CPEC (SSU) پشاور میں تعینات تھا کہ مورخہ 19-09-2023 کو سرکاری رانفل گارد واقع ترناب سے واپس پولیس میں جمع کروانے کے لئے حاصل کر کے قریب علاقہ میں واقع انے گھر گیا گھر کے قریب گلی میں زخمی کتے نے مجھ پر حملہ کیا حق حفاظت خود اختیاری کے تحت میں نے کتے کو ڈرانے کے لئے کتے کو بچا کے ایک فائر کیا جس سے نانو کتا زخمی ہوا نہ کسی اور کو کوئی نقصان ہوا اگر میں وہ ایک فائر نہ کرتا تو مجھ کو ضرر شدید کا اندیشہ تھا۔

اسی اثناء میں تھانہ شاہ پور کی لوکل پولیس نے مجھے گرفتار کر لیا میں ان سے کہا کہ میں خود پولیس کا ٹیبل ہوں لیکن انہوں نے میری بات کا یقین نہ کیا اور بعد میں افسران بالا صاحبان کو تھانہ شاہ پور پولیس نے یوں بیان کیا کہ اس نے اپنے ماموں سید ریاض علی شاہ پہ ہوائی فائر کیا تھا اسی لئے اس کو گرفتار کیا گیا تھا یہاں پر بات قابل غور ہے تھانہ شاہ پور میں نہ تو میرے خلاف کوئی دعویٰ داری کی گئی اور نہ میرے خلاف ہوائی فائر کی کوئی FIR درج کی گئی بلکہ جھوٹ پر مبنی ایک بیان افسران بالا صاحبان کو دیا گیا جس پر مجھے محکمہ پولیس برخواست کر دیا گیا۔

۱۔ کیا دفعہ 100 PPC کے تحت حق حفاظت خود اختیاری میں کسی زخمی کتے کے حملہ سے اپنے آپ کو بچانے کے لئے

ایک فائر خلاف قانون تھا۔ (جواب ہوگا خلاف قانون نہیں تھا حق حاصل تھا)۔

۲۔ کیا مورخہ 19-09-2023 سائل کے خلاف تھانہ شاہ پور میں سید ریاض علی شاہ کی مدعیت میں کوئی 107 یا 506

کی FIR یا اس کی مدعیت میں کوئی دیگر رپورٹ درج کی گئی؟ (جواب ہوگا نہیں)

۳۔ میرے کسی ماموں کا نام سید ریاض علی شاہ نہیں ہے تھانہ شاہ پور پولیس نے میرے متعلق غلط بیانی کی ہے اور صرف بے

بنیاد اور بغیر ٹھوس ثبوت کے سید ریاض علی شاہ کا نام استعمال کیا گیا ہے لہذا استدعا ہے کہ سائل کو قانونی امداد اور انصاف

فراہم کیا جائے آپ صاحبان سائل کے گھر واقع گاؤں وڈ پگہ پشاور کا بذات خود وڈ کر کے دیکھ سکتے ہیں کہ سائل

نہایت کس قسم کی زندگی گزار رہا ہے اور بوڑھے والدین کا کوئی ذریعہ معاش نہیں ہے۔

استدعا ہے کہ سائل کو محکمہ پولیس میں سروس پر بحال کرنے حکم صادر فرمادیں سائل کے والدین آپ صاحبان کی بلند

اقبال کے لئے تاحیات دعا گور ہیں گے۔

آپ تابع الحکم EX کا ٹیبل سید ماجد علی شاہ بیلٹ نمبر 306

CNIC: 17301-9246562-1

Mob: 0318-0918694

Date: 28-11-2023

Subject:

Memo:

COMMENTS ON DEPARTMENTAL APPEAL

(15)

(15)

Handwritten initials and marks (D)

Kindly refer to the subject cited above.

1. Brief facts are that Ex-Constable Syed Majid Ali Shah No. 306 took government-issued SMG No. 22274 to his home & apprehended by the local police of PS Shapur in the charge of aerial firing.

2. Resultantly, proper departmental proceeding was initiated against him. He was issued charge sheet & summary of allegations vide this office findst. No. 45694/C, dated 20.09.2023 and Mr. Iqbal Khan DSP Minority Peshawar Region was nominated as enquiry officer to conduct inquiry into the matter and submit his findings report.

3. The enquiry officer reported that the charge sheet was served upon the Ex-Constable, and his written statement was recorded, in which he confessed to the charges leveled against him.

4. The enquiry officer also recorded the statement of the In-Charge of the KOT (Army), who stated that SMG No. 37022274, along with four magazines and 120 rounds, was issued to the accused constable for government duties. The same were later possessed by the local police of PS Shapur and subsequently handed over to him. After examining the SMG, magazines, and rounds, it was observed that the SMG had been fired, and one round was missing.

5. The inquiry officer also recorded statement of the Additional SHO of PS Shapur. In his statement, he stated that he along with ballist had gone to Wadraga in compliance with court order, when he suddenly heard gunshots. Upon investigation, he apprehended a person with a rifle and brought him to the Police station Shapur. The individual identified himself as a police constable and explained that he had come out of his house because he had received information that his maternal uncle, Mr. Syed Riaz Ali Shah, was illegally in possession of his property. In an attempt to scare off his uncle, he discharged his firearm by firing into the air. Thus, the enquiry officer found him guilty of the charges leveled against him and recommended him for major punishment.

6. Later on he was issued served with final show cause notice vide this office No. 4866/EC, dated 11.10.2023 to which he replied same as above. He was also heard in person in the enquiry room held on 11.10.2023 and given ample opportunity to prove himself innocent of the charges leveled against him but he failed to satisfy the undersigned.

7. In light of the above enquiry report, he was awarded major punishment of "Dismissal from Service" by the undersigned.

Submitted for your kind perusal & appropriate order, please.

SP Admin & Minority SSU (CPEC)  
Khyber Pakhtunkhwa, Peshawar.

8. Deputy Commandant SSU (CPEC):

The applicant was heard in person. His previous record shows that he received bonus service of 3 years and 10 months in his total service. He was dismissed twice. His appeal is also dismissed. Please refer to the attached file. 15/11/23

## BETTER COPY

## ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر وفد ۱۵۱۲ مجموعہ ضابطہ فوجداری

تھانہ	چکنی	ضلع پشاور
ملٹ	663	تاریخ وقت 06/04/2020 وقت 11 00 بجے
1	تاریخ وقت رپورٹ -	06/04/2020 وقت 17:50 بجے پاکیدی پرچہ 08:35 بجے
2	ہم سکونت اطلاع دہندہ سٹینٹ -	سید ماجد علی شاہ ولد سید احمد شاہ ساکن ڈو پکے
3	مختصر کیفیت جرم (معدومند) حامل اگر کچھ لیا گیا ہو	380, 448- 427- 148- 149- 506, 14 ISL
4	جائے وقوعہ فاصلہ تھانہ سے اور سمت	مکان مدعی واقع ڈو پکے
5	ہم سکونت لازم	
6	کارروائی جو تحقیق کے متعلق کی گئی اگر اطلاع درج کرنے میں تاخیر ہو تو وجہ بیان کرو	برسیدگی تحریری مراسلہ پر مقدمہ قائم یا جاتا ہے۔
7	تھانہ سے رپورٹ کی تاریخ وقت -	پہ سبیل عام

## ابتدائی اطلاع نیچے درج کرو:- بوقت صدر بجے ایک تحریری مراسلہ تھانہ ملٹ جان SI

سے برست کنسٹیبل نور اسلام 1377 سے موصول ہو کر جو پھونان ذیل ہے۔ بخدمت جناب SHO صاحب تھانہ ہنگلی دوران گشت بمقام ڈو پکے سید ماجد علی شاہ ولد سید احمد شاہ ساکن ڈو پکے بیانی ہو کر رپورٹ کرتا ہے کہ آج بوقت دن 11:00 بجے میں اپنے والدین کے ساتھ گھر خود میں سے کس دوران کسی ریاض علی شاہ ولد سید اسلام شاہ سکھ چوہا گھر دیگر 15/16 افراد کے ساتھ ہاسٹ ہمارے گھر میں گئے اور میرے والدین کو مارنے پینے اور ہم سب کو اسٹاک کی ٹوک پر کیری ڈب میں ڈال کر ہماری نزدیکی زیارت کے پاس لے کر چھوڑ گئے اور ہمارے گھر کے تینوں کو بوسہ ہاتھ روم اور چار دیواری گرا کر اینٹوں کو کڑائی میں ڈال کر لے گئے اور گھرانے سامان LED فرنیچر، فریج، ٹیبلو، کرسی 17 سامان سترہ تو لے سونے کی طلائی زیورات اور 20 لاکھ روپے نقد، موٹر کار لینا نمبری AKV699 سوزوکی اور ایک حد موٹر سائیکل 125 ہڈا اپنے ساتھ لے گئے۔ جب تھانہ پہنچے کہ ہمارا اپنے ماموں کے ساتھ زمین کا تازہ ہے اور ریاض علی شاہ میری ممانی کا بھائی ہے۔ اور ہمارے گھر بوقت گرا جاتا ہے۔ میں اپنے گھر کو سوار کرنے سے گرا ہلاسا مان لے جانے میں مارنے پینے اور دھمکیاں دینے کا برخلاف ہلاکسان دعوے میں ہوں۔ بعد درجہ کارروائی پولیس کو حسب گفتہ سائل رپورٹ حرف بہ حرف درج بالا ہو کر پڑھ کر سنایا گیا۔ دست تسلیم کر کے زیر رپورٹ خود درجہ جوت کی جسکی میں تصدیق کرتا ہوں۔ ضمنی رپورٹ سے صورت جرم بالا کا پائی جا کر مراسلہ نمٹنے کی مقدمہ برست کنسٹیبل نور اسلام 1377 ارسال تھانہ ہے۔ پرچہ ڈو پکے کسی تفتیشی ایسرو کو ہوسٹیشن کیا گئے۔ جتھا اگر پڑی ملٹ جان SI سرور 06.04.2020 کارروائی تھانہ مذکورہ تحریری مراسلہ حرف بہ حرف درج بالا ہو کر پرچہ جرم بالا چاک کیا جا کر تھانہ پرچہ ہاتھ نمٹنے کی تھانہ امجد خان ASI/MM کے ساتھ ہیں۔ پرچہ گزارش ہے۔ sd-ASI-P.S CHK - 08.054.2020

LK-19.08.2020

(17)

انڈس

بدرالت جناب ناصر خان صاحب ایڈیشنل ڈسٹرکٹ اینڈ سیشن جج XVI پشاور

4

نمبر مقدمہ	رجوعہ	اصل رجوعہ	فیصلہ	تقطعات
275/BBA	25.7.22	8.9.22	8-9.22	19

سر/سر

نمبر شمار	صفحہ	نوٹیت کاغذات
1	1-1	انڈس
2	2-7	آرڈر سندھ
3	8-10	درخواست
4	11-12	وکالت نامہ
5	13-	تفعل FIR
6	14-19	وکالت نامہ
7		
8		
9		
10		
11		
12		
13		

Certified that papers as detailed above have properly been indexed.

Checked and found correct

Signature of Mianaridi

Nasir Khan-ADJ XVI  
District & Session Judge

As held by the august Supreme Court of Pakistan in its judgment reported 2021 SCMR 130 while hearing of petition for pre-arrest bail, the court may touch merits of the case for its disposal, therefore, in light of the judgment supra, this court instead to dilate upon only on malafide on the part of complainant or police will also evaluate the present petition on merits.

The record on its perusal shows that the complainant reported to the local police that on relevant day & time, the accused Syed Majid Ali Shah duly armed with Kalashnikov along with his father/co-accused came to his shop and made aerial firing in order to criminally intimidate him. The motive was stated to have a civil dispute, the accused after the commission of offence fled away.

08.09.2022  
[Signature]

Arguments heard and record perused.  
Peshawar.  
dated 24.07.2022, u/s 506/34-PPC of Police Station Shah Pur, confirmation of ad-interim pre-arrest bail, in case FIR No. 654, Shah and (2) Syed Majid Ali Shah s/o Syed Ahmad Shah seek The accused/petitioners (1) Syed Ahmad Shah s/o Mubarak counsel present. Record received.  
pre-arrest bail along with counsel present. Complainant with  
APP for State present. Accused/petitioners on ad-interim

Order...05  
08.09.2022

IN THE COURT OF NASIR KHAN,  
ADDITIONAL SESSIONS JUDGE-XVI, PESHAWAR.



As per record available, the complainant lodged the report about of commission of offence after delay of about 12 hours but

(6)

no explanation worth the names has been forwarded to justify such delay. For the said reason, prior consultation and deliberation in order to charge the accused/petitioner thus cannot be ruled out. The complainant narrating the manner & mode of the commission of offence stated that accused Syed Majid Ali Shah duly armed with Kalashnikov made aerial firing, therefore, the nature of offence as so allegedly committed by the accused does fall within the definition of 1<sup>st</sup> part of section 506 PPC, which is bailable. As such while reading all sections i.e. 496/497 and 498 Cr.PC together there remains no uncertainty that while deciding an application, may it be for bail after arrest or pre-arrest, in bailable offences the court is left with no choice or discretion to refuse the concession of bail to an accused as in such eventually the grant of bail is a right and not favour, whereas in non-bailable offences the grant of bail is not a right but concession/grace. The accused have been charged for a bailable offence therefore, they have inalienable right of bail governed U/S 496 Cr.PC. Denial of statutory right to a person is called injustice whereas, such refusal if relates to liberty of a person having right of bail in bailable offences it is called gross injustice that means to treat someone in an unfair way.

“For guidance reliance placed on 2015 YLR 2114

(Lahore), 2006 YLR 1672 (Lahore) and 2005 PC-LJ 259

(Karachi)”,

08.07.2024  
[Signature]

(191)

1201

Besides, it may also worth mentioning that the purpose of

pre-arrest bail within the contemplation of section 498 Cr.PC is as

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to protect the innocent citizens, who have been involved in

offences with malafide and ulterior motives. In seeking such relief,

it is not necessary that the case must be of further inquiry, look into

the punishment of the section that whether attract the restrictive

clause or not but, to look that whether there are sufficient reasons

exist to believe that accused have been charged with ulterior

motive and while declining their pre-arrest bail their arrest would

be humiliation, unjustified harassment at the hands of police. In the

instant case, the accused/petitioners on merits even entitled for post

arrest bail therefore, declining them pre-arrest bail would be just a

technicality and that would serve no purpose except unwanted

humiliation of petitioners at the hands of police.

For reasons discussed above, the accused/petitioners have

successfully made out a case for pre-arrest bail therefore, instant

petition is accepted. Consequent thereupon, the ad-interim pre-

arrest bail already granted to the petitioners vide order dated

09.05.2022 of this court is confirmed on the existing/already

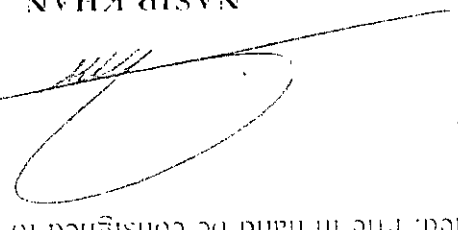
submitted bail bonds.

Requisitioned record alongwith a copy of this order, be sent

back to the quarter concerned. File in hand be consigned to record

room after completion.

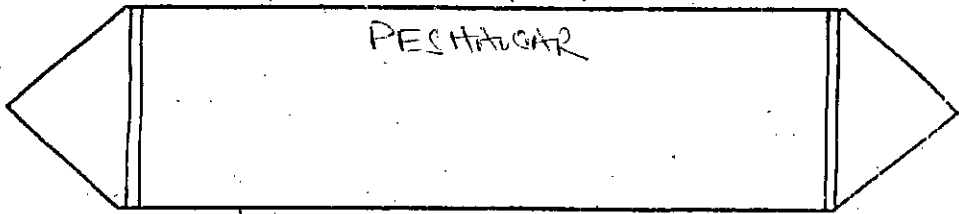
Announced  
08.09.2022



NASIR KHAN,

ASJ-XVI, Peshawar.

بعدالت



اپریل 2022ء پنجاب

Syed Majid  
Ali Shah

بنام Mispetas Jond  
of Police K.P.F  
Peshawar

موزخہ  
مقدمہ  
دعویٰ  
جزم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام Asad Nabi adwalah Peshawar

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیہا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درہر چاہئے التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

الرقوم 25

ماہ 04 2022

Keeped Peshawar کے لئے منظور ہے۔

Asad Nabi  
adwalah Peshawar  
K.P.F. Peshawar