

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.217/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER(J)
MR. MUHAMMAD AKBAR KHAN ... MEMBER(E)

Mati Ullah, IHC No. 255, Reader to DSP, Police Training College, Hangu.

... (Appellant)

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region.
3. The Commandant Police Training College, Hangu
4. The District Police Officer, District Hangu.

... (Respondents)

Mr. Mir Zaman Safi
Advocate ... For Appellant

Mr. Syed Asif Ali Shah
District Attorney ... For Respondents

Date of Institution.....23.02.2022
Date of Hearing.....06.11.2023
Date of Decision.....06.11.2023

JUDGMENT

RASHIDA BANO, MEMBER (J):The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal, the impugned orders dated 12.11.2021 and 08.02.2022 may very kindly be set aside and the appellant be reinstated into service with all back benefits.”

2. Brief facts of the case are that appellant was serving the respondent department upto the entire satisfaction of his superiors. That while performing his duty as Reader to DSP Security, in Police Training College Hangu, an allegation of missing 87369 SMG round from the ammunition Kotwas leveled against the appellant, on the basis of which disciplinary

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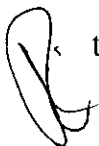
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proceedings were taken against the appellant and two others and were dismissed from service vide order dated 15.03.2019. Feeling aggrieved, appellant filed service appeal which was remanded back to department for denovo inquiry vide order dated vide judgment date d23.06.2021. Respondent department conducted denovo inquiry and issued charge sheet and statement of allegations to appellant who submitted reply. Final show cause notice was issued thereafter vide impugned order 12.11.2021 whereby major penalty of removal from service was again imposed upon the appellant. Feeling aggrieved, he filed departmental appeal, which was rejected; hence the instant service appeal.

2. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

3. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973. He further argued that impugned orders are against the law, facts, norms of natural justice and materials on record, hence not tenable and liable to be set aside. He contended that no statement of witnesses have been recorded by the respondents nor chance of cross examination has been provided to the appellant. He further contended that no denovo inquiry has been conducted by the respondents. Reliance is placed on 1984 PLC (C.S) 379, 2011 PLC (C.S) 1111 and 1989 PLC (C.S) 336.

4. Conversely, learned Deputy District Attorney argued that appellant was found involved in mis-appropriation of huge quantity of ammunition, therefore, disciplinary action was taken against the appellant and was rightly



dismissed from service. He also argued that the inquiry was conducted in a legal manner by providing opportunity of hearing to the appellant. He further contended that after conducting of proper inquiry against the appellant, the inquiry committee came to the conclusion that the charges against the appellant were proved, therefore, competent authority has rightly dismissed from service.

6. Perusal of record reveals that appellant served as IHC respondent/department for more than 18 years. When appellant was posted as Reader to DSP security in Police Training College Hangu, on allegation of missing 78369/- SMG rounds from the ammunition kot was leveled against the appellant, who alongwith two others were proceeded against by the department. Appellant alongwith two official were dismissed from service vide impugned order dated 15.03.2019. Appellant filed service appeal bearing No 745/2019 wherein impugned order was set aside by reinstating appellant into service vide judgment & order dated 23.06.2021. Respondent after receipt of judgment of this Tribunal again Commandant Police Training College Hangu appoint Mr. Arshad Mehmood SP/Investigation as Enquiry Officer despite the fact that this Tribunal holds that competent authority for giving punishment to IHC is SSP/DPO/SP and not below of the rank of DIG. So again inquiry was initiated by an incompetent authority in accordance with schedule-1 of Police Rules, 1975. Moreover, it is mentioned in inquiry report dated 27.08.202

"In the light of denovo enquiry the accused officials/witnesses were summoned by the undersigned through the Admin PTC Hangu in order to join the enquiry proceedings. It has come to the notice of undersigned



that all the witnesses/complainant and enquiry committee officer are not proper employee of PTC strength, they have been transferred to their parent District after completion of their tenure, some of them are engaged in Special duties of Muharram-ul-Haram 2021 and due to short time in enquiry they could be approached to appear before enquiry officer in these days but the defaulters officials have attended this office on 09.08.2021 and submitted their replies. Their replies were perused by the undersigned which were found unsatisfied. During previous enquiry the defaulter officials have given chance for their self defence, they were examined but they failed to do so. Similarly, witnesses of the case/enquiry were also examined and recorded the statements about the case.”

So, from it is clear that no opportunity of cross examination and self defense was provided to the appellant despite direction by this tribunal.

7. It is a well settled legal proposition, that regular inquiry is must before imposition of major penalty, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of *audi alteram partem* was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the




statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

8. For what has been discussed above, we are unison to set aside the impugned orders dated 12.11.2021 & 08.08.2022 and reinstate the appellant for the purpose of denovo inquiry with direction to respondents to provide proper chance of self-defense, personal hearing and cross examination to the appellant to fulfill requirement of a fair trial. Respondents are further directed to conclude inquiry within 90 days, after receipt of copy of this judgment. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this ~~12~~ day of November, 2023.*


(MUHAMMAD AKBAR KHAN)
Member (E)


(RASHIDA BANO)
Member (J)

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*Kaleemullah


ORDER

06.11.2023

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney Mr. Arif Saleem, Stenographer for the respondents present.
2. Vide our detailed judgement of today placed on file, we are unison to set aside the impugned orders dated 12.11.2021 & 08.08.2022 and reinstate the appellant for the purpose of denovo inquiry with direction to respondents to provide proper chance of self-defense, personal hearing and cross examination to the appellant to fulfill requirement of a fair trial. Respondents are further directed to conclude inquiry within 90 days, after receipt of copy of this judgment. Costs shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 6th day of November, 2023.*

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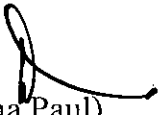

(MUHAMMAD AKBAR KHAN)
Member (E)



(RASHIDA BANO)
Member (J)

10th July, 2023

1. Counsel for the appellant present. Mr. Muhammad Jan,
District Attorney for the respondents present.

2. Learned counsel for the appellant seeks adjournment in order
to further prepare the brief. Granted. To come up for arguments on
06,11.2023 before the D.B. Parcha Peshi given to the parties.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan),
Chairman

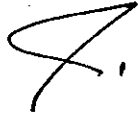
Fazle Subhan P.S

28th March, 2023

Appellant alongwith his counsel present. Mr. Fazal Shah Mohmand, Additional Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment being not prepared for arguments today. Adjourned. To come up for arguments on 05.05.2023 before the D.B. Parcha Peshi given to the parties.

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(Salah-ud-Din)
Member (J)

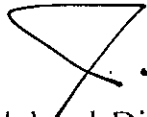


(Kalim Arshad Khan)
Chairman


05th May, 2023

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1. Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.
2. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 10.07.2023 before the D.B. Parcha Peshi is given to the parties.



(Salah-ud-Din)
Member (J)

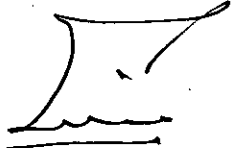


(Kalim Arshad Khan)
Chairman

28th Feb. 2023 Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present and sought time for preparation of arguments. Adjourned. To come up for arguments on 14.03.2023 before the D.B. P.P given to the parties.

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(Fareeha Paul)
Member(E)


(Salah-ud-Din)
Member (J)

14.03.2023. Learned counsel for the appellant present. Mr. Syed Asif Ali Shah, Deputy District Attorney for respondents present.

Learned counsel for the appellant requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 28.03.2023 before D.B. P.P given to the parties.

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(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

29.09.2022

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 01.12.2022 before D.B.



(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

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01/12/22

Due to rush of work to
come up on the next date
28/02/23



Reader

17.05.2022 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Learned AAG seeks time to submit written reply/comments. Granted. To come up for written reply/comments on 23.06.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)


23rd June, 2022 Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional A.G for respondents present.


Respondents have submitted written reply/comments which is placed on file. To come up for arguments on 06.09.2022 before D.B.


(Kalim Arshad Khan)
Chairman

06.09.2022 Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

 Request for adjournment was made on behalf of learned AAG in order to prepare the brief. Adjourned. To come up for arguments on 29.09.2022 before D.B.


(Fareeha Paul)
Member(E)

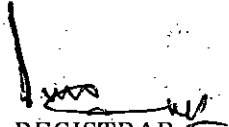



(Rozina Rehman)
Member(J)

Form- A

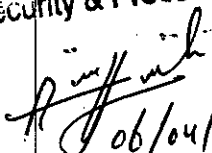
FORM OF ORDER SHEET

Court of _____

Case No.- _____ /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/02/2022	<p>The appeal of Mr. Matiullah presented today by Mr. Mir Zaman Safi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>06-04-2022</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">D</p> <p>26.04.2022</p> <p>Counsel for the appellant present and heard.</p> <p>The appeal is admitted for full hearing, subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee and security within 10 days. Thereafter, notices be issued to the respondents. To come up for Written reply/comments on 17.05.2022 before S.B.</p> <p style="text-align: right;"> Chairman</p>

Rs-600/-
Appellant Deposited
Security & Process Fee


06/04/22

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

CASE TITLE: *Mati Allah* VIS *Police Deptt.*

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponents have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly pagged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: *Mir Zaman Safi Ach*

Signature: *[Handwritten Signature]*

Dated: *23/2/2022*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SCANNED
KPST
Peshawar

APPEAL NO. 217 /2022

MATI ULLAH

VS

POLICE DEPTT:

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APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

**Khyber Pakhtunkhwa
Service Tribunal**

APPEAL NO. 217 /2022

Diary No. 345

Dated 23/02/2022

Mr. Mati Ullah, IHC No.255,
Reader to DSP Security, Police Training College, Hangu.

.....APPELLANT

VERSUS

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Kohat Region.
- 3- The Commandant Police Training College, Hangu.
- 4- The District Police Officer, District Hangu.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED 12.11.2021 WHEREBY MAJOR PENALTY OF
REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE
APPELLANT AND AGAINST THE APPELLATE ORDER DATED
08.02.2022 WHEREBY DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.**

PRAYER:

That on acceptance of this appeal the impugned orders dated 12.11.2021 and 08.02.2022 may very kindly be set aside and the appellant be reinstated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant was the employee of the respondent department and has served the department as IHC No. 255 for more than eighteen (18) years quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty as reader to DSP Security, Police Training Centre, Hangu, an allegation of missing 87369/- SMG rounds from the ammunition Kot was leveled against the three officials and later on the appellant was also charged with the said allegation on the

Filed to-day
Registrar
23/02/2022

statement of one alleged official (Sohail Ahmad). That on the basis of said allegation all the four officials were suspended.

- 3- That in the said matter preliminary inquiry was conducted by the department in which one alleged official Mr. Muhammad Akram was exonerated from the allegations leveled against him while the appellant and other 2 officials were dismissed from service vide dated 15.03.2019. Copy of the dismissal order is attached as annexure.....**A.**
- 4- That feeling aggrieved from the order dated 15.03.2019 the appellant preferred departmental appeal followed by service appeal No. 1000/2019 before this august Service Tribunal, Peshawar which was allowed vide judgment dated 23.06.2021 and this august Tribunal set aside the impugned order dated 15.03.2019. That the respondent Department further directed by this august Tribunal to conduct de-novo inquiry strictly in accordance with law and rules and the same shall be concluded within a period of one month. Copy of the judgment is attached as annexure.....**B.**
- 5- That after obtaining attested copy of the judgment dated 23.06.2021 of this august Tribunal the appellant submitted the same before the respondents but the respondents have not been conducted de-novo inquiry as per directions of the august Service Tribunal.
- 6- That later on the department conducted de-novo inquiry and issued charge sheet and statement of allegation to the appellant. That appellant submitted detail reply of the charge sheet and statement of allegation along with documentary proofs but the same has not been considered by the inquiry committee. Copies of the charge sheet/statement of allegation & reply are attached as annexure.....**C & D.**
- 7- That vide dated 09.09.2021 final show cause notice has been issued to the appellant which has also been replied by the appellant and denied all the allegations leveled against him. Copies of the show cause notice and reply are attached as annexure.....**E & F.**
- 8- That it is pertinent to mention that in the de-novo inquiry the respondents totally relied upon the previous inquiry and no fresh findings have been arisen in the de-novo proceedings. That despite of having no solid proof the respondent department issued the impugned order dated 12.11.2021 whereby major penalty of removal from service has been imposed upon the appellant. Copies of the de-novo inquiry and impugned order are attached as annexure.....**G.**
- 9- That appellant feeling aggrieved from the impugned order dated 12.11.2021 preferred departmental appeal but the same has been rejected

vide appellate order dated 08.02.2022 on no good grounds. Copies of the departmental appeal and appellate order are attached as annexure.....**H & I.**

- 10- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 12.11.2021 and 08.02.2022 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and malafide manner while issuing the impugned orders dated 12.11.2021 and 08.02.2022 which are not tenable in eye of law and liable to be set aside.
- D- That statements of witnesses have not been recorded by the authorities before issuing the impugned order dated 12.11.2021 which is necessary as per rule and law *ibid*.
- E- That no chance of cross of examination has been provided by the respondent department to the appellant before issuing the impugned order dated 12.11.2021 which is mandatory as per judgment of the superior Court.
- F- That the *de-novo* inquiry has not been properly conducted by the authorities as per directions of this august Tribunal, therefore, the impugned order dated 12.11.2021 is void in the eye of law and the same is liable to be set aside.
- G- That the inquiry officer totally relied upon on the previous inquiry which has already been declared by this august Service Tribunal as null and void.
- H- That the appellant had no concern with the ammunition kot but despite that the allegations of missing SMG rounds were leveled against him on the basis of statement one Mr. Sohail Ahmad.
- I- That the inquiry officer has not proved the charges leveled against the appellant, therefore, the impugned order dated 12.11.2021 has no legal force, therefore the same is liable to be set aside.

It is, therefore, most humbly prayed that the appeal of appellant may very kindly be accepted as prayed for.

Dated: 16.02.2022.

~~APPELLANT~~

MATI ULLAH SHAH

THROUGH: 

MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973.
- 2- SERVICES LAWS BOOKS.
- 3- ANY OTHER CASE LAW AS PER NEED.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022


MATI ULLAH

VS

POLICE DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.


MIR ZAMAN SAFI,
Advocate
High Court, Peshawar





A - (6)

ORDER

This order is passed on the departmental proceedings against the following officers/officials under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014):-

- i. ASI Bashir Muhaimmad, No. 840/MR, Distt: Mardan.
- ii. IHC Mati Ullah, No. 255, Distt: Hangu.
- iii. HC Muhammad Akram, No. 1193/133, Distt: D.I Khan.
- iv. FC Sohail Ahmad, No. 1334/44, CCP Peshawar.

Brief facts of the case are that on 09.01.2019 ASI/LI Abid Ullah was posted as in-charge ammunition Kot in-place of ASI Bashir Muhammad. On 14.01.2019 while taking the charge, he observed that a number of 87369 alive SMG rounds were short/missing. The matter was brought into the notice. To unearth the facts, a preliminary enquiry committee consisting of Mr. Abdul Sattar DSP (Legal) and Mr. Shah Mumtaz DSP/CLI, PTC, Hangu was constituted.

During enquiry physical checking of SMG ammunition kot was carried out and all the SMG rounds lying in SMG ammunition kot were counted by the committee and were compared with stock/ issue register as well as with daily diary of Model Police Station PTC Hangu. It was found by the enquiry committee that SMG Rounds numbering 11084 were not entered in the relevant record properly while factually 76285 rounds were missing.

The concerned officer Bashir Khan ASI was thoroughly interrogated and examined by the Preliminary committee who disclosed that he had sold the same through one Sohail FC No. 44. When Sohail FC was interrogated and examined who disclosed that he had given the missing rounds to one IHC Mati Ullah PTC Hangu. Similarly Muhammad Akram HC assistant in-charge ammunition kot was also examined and interrogated.

During enquiry the accused officers/ officials having no alternate option but to deposit missing/ embezzled rounds in SMG ammunition kot PTC Hangu. The enquiry committee submitted the preliminary enquiry with the observation that accused officers namely ASI Bashir Muhammad, IHC Mati Ullah and FC Sohail No. 44 with their mutual understanding and with their common criminal intension embezzled the said ammunition. Probably with the help of their accomplice.

Agreeing with the report of preliminary enquiry committee all the four above named officials were suspended and show cause notices were given on the same day i.e on 12.02.2019 and proper departmental enquiry was initiated against them. DSP/ CLI Shah Mumtaz Khan assisted by Inspector Baroz Khan and Inspector Said Noor Shah were nominated to conduct the enquiry.

ATTACHED
m - (h)

6/A

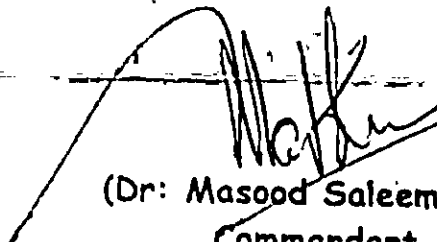
The departmental enquiry committee thoroughly examined the matter, collected the relevant record from SMG ammunition kot and daily diary of model police station in connection with the matter. They examined and recorded the statements of relevant witnesses and also of accused officers/ officials and submitted their final finding on 12.03.2019 and held responsible ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah - 255 and FC Sohail Ahmad No. 1334/44 involved in the embezzlement of huge quantity of Govt: SMG rounds with their common criminal intension. While no authentic evidence was found against HC Muhammad Akram No. 1193/133.

After perusing the whole record of the enquiry and observations of the departmental enquiry committee it has been established that accused officers namely ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah No. 255 and FC Sohail Ahmad No. 1334/44 have committed the embezzlement of SMG rounds mentioned above. The accused officers/officials were also found undisciplined, misconduct and show irresponsibility on their part. Hence to follow the Police Rules 1975 amended 2014 the accused officers namely ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah No. 255 and FC Sohail Ahmad No. 1334/44 are dismissed from service while HC Muhammad Akram is exonerated from the charges leveled against him and reinstated into service from the date of suspension.

Order announced on 15/03/2019.

O.B No. 90

Dated: 15/03/2019.

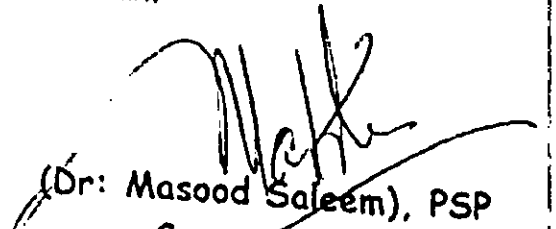

(Dr: Masood Saleem), PSP
Commandant,
Police Training College, Hangu

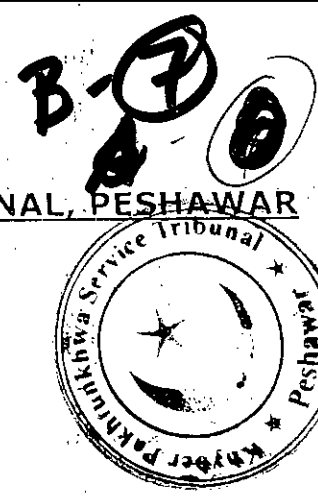
No. 119-34 /PA, dated Hangu, the 15/03/2019.

Copy forwarded for information & necessary action to:-

- i. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar with reference to this office Memo: No. 88/PA, dated 21.02.2019.
- ii. The Capital City Police Officer, Peshawar.
- iii. The Regional Police Officers, Mardan and Kohat.
- iv. The District Police Officers, Mardan and Hangu.
- v. Ex-ASI Bashir Muhammad, No. 840/MR, Distt: Mardan.
- ✓vi. Ex-IHC Mati Ullah, No. 255, Distt: Hangu.
- vii. Ex-FC Sohail Ahmad, No. 13/34/44, CCP Peshawar.
- viii. HC Muhammad Akram, No. 1193/133, Distt: D.I Khan.
- ix. All concerned.




(Dr: Masood Saleem), PSP
Commandant,
Police Training College, Hangu



Service Appeal No. 745/2019

Date of Institution ... 19.06.2019

Date of Decision ... 23.06.2021

Bashir Muhammad, Ex-ASI No. 840/MR District Police Mardan

... (Appellant)

VERSUS

Commandant Police School Training Hangu and another.

... (Respondents)

Mr. FAZAL SHAH MOHMAND,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. ATIQ-UR-REHMAN WAZIR

MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of the instant Service Appeal as well as Service Appeal bearing No. 931/2019 titled "Sohail Ahmad Versus Provincial Police Officer and two others" as well as Service Appeal bearing No. 1000/2019 titled "Matiullah Versus Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others", as common questions of law and facts are involved therein.

2. Precise facts of the instant appeal as well as connected service appeals bearing No. 931/2019 and 1000/2019 are that during posting of the appellants namely Bashir Muhammad as In-charge ammunition Kot, Sohail Ahmad as Naib in SMG Kot and Matiullah as Reader to DSP Security, in Police Training College Hangu, 76285 live rounds of SMG

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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were found missing, while entry of 11084 rounds was not properly made in the relevant record, therefore, disciplinary action was taken against the appellants and one H.C Muhammad Akram No. 1193/133. Vide order dated 15.03.2019, the appellants were dismissed from service, while H.C Muhammad Akram was exonerated from the charges. The departmental appeals of the appellants went un-responded, therefore, they have now approached this Tribunal through filing of the instant Service Appeals.

3. Mr. Fazal Shah Mohmand, Advocate, representing the appellant Bashir Muhammad, has contended that Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, who issued charge sheet as well as statement of allegations and also passed order of dismissal of the appellant, rendering the whole inquiry proceedings as nullity in the eye of law because as per Schedule-I of Police Rules 1975, Deputy Inspector General of Police being Appellate Authority was not the Authority competent under the law to proceed himself against the appellant. He further argued that whole of the inquiry proceedings were conducted in slipshod manner, without providing the appellant an opportunity of cross examination of the witnesses examined during the inquiry. He also argued that neither any show-cause notice was issued to the appellant nor any opportunity of personal hearing was afforded to him. He next contended that the appellant was admittedly transferred to Police Training College Hangu on deputation basis, therefore, in view of Rule-9 (iii) of Police Rules, 1975, Commandant Police Training College Hangu was not competent to impose punishment upon the appellant. In the last he contended that the appellant is quite innocent and has been condemned unheard, therefore, the impugned order may be set-aside and the appellant may be re-instated into service by extending him all back benefits. He relied upon 1996 SCMR 856, PLD 2018 Supreme Court 114, PLD 2016 Peshawar 278, PLD 2008 Supreme Court 663 and 2021 SCMR 673.

4. Mr. Shahid Qayum Khattak, Advocate, representing appellant Sohail Ahmad, while placing reliance on the arguments of learned counsel for the appellant Bashir Muhammad, has further argued that ammunition is kept in ammunition Kot, while the appellant was posted as Naib in SMG Kot, meant for stocking only of SMG Rifles, therefore, the appellant was

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having no concern with the alleged mis-appropriation of live rounds of SMG, therefore, the impugned order of dismissal of the appellant is liable to be set-aside.

5. Mr. Noor Muhammad Khattak, Advocate, representing the appellant Matiullah, has argued that the appellant was not issued any charge sheet and only statement of allegations was issued to the appellant, however it has been mentioned in para-3 of summary of allegations that the same was a charge sheet. He further argued that the procedure as laid down in Rule-6 of Police Rules, 1975, has not been complied with and even no opportunity of cross-examination of witnesses or personal hearing was afforded to the appellant, therefore, the impugned order of dismissal of the appellant is void ab-initio, hence liable to be set-aside. Reliance was placed on 2003 PLC (C.S) 365, 1988 PLC (C.S) 179, 2011 SCMR 1618, 1989 PLC (C.S) 336, PLJ 2017 Tr.C.(Services) 198, 2008 SCMR 1369, 2003 SCMR 681 and 1988 PLC (C.S) 379.

6. Conversely, learned District Attorney for the respondents has argued that the appellants were found involved in mis-appropriation of huge quantity of ammunition, therefore, disciplinary action was taken against the appellants and they were rightly dismissed from service. He also argued that the inquiry was conducted in a legal manner by providing opportunity of hearing to the appellants. He next contended that after conducting of proper inquiry against the appellants, the inquiry committee came to the conclusion that the charges against the appellants were proved, therefore, the competent Authority has rightly dismissed them from service.

7. We have heard the arguments of learned counsel for the appellants as well as learned District Attorney for the respondents and have perused the record.

8. A perusal of record would show that the show-cause notice, charge sheet as well as statement of allegations were issued to the appellants by Commandant Police Training College Hangu and upon receipt of the inquiry report, the order of dismissal of the appellants was also passed by Commandant Police Training College Hangu, who was an officer of the rank of Deputy Inspector General of Police. In light of

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Schedule-I of Police Rules 1975, officer of the rank of DPO/SSP/SP, being Authority competent to award punishment to the appellants, could have legally taken disciplinary action against the appellants. Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, therefore, keeping in view Schedule-I of Police Rules 1975, the action taken by him was illegal, without jurisdiction and void ab-initio. Moreover, the appellants were not at all provided any opportunity of cross-examination of the witnesses examined during the inquiry, which has caused them prejudice. The impugned order of dismissal of the appellant is thus not sustainable in the eye of law and is liable to be set-aside.

9. In view of the above discussion, the appeal in hand as well as Service Appeal bearing No. 931/2019 titled "Sohail Ahmad Versus Provincial Police Officer and two others" as well as Service Appeal bearing No. 1000/2019 titled "Matiullah Versus the Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others"; are allowed by setting-aside the impugned order of dismissal of the appellants. The appellants are re-instated into service and the matter is remanded back to the department for de-novo inquiry against the appellants strictly in accordance with relevant law/rules. The de-novo inquiry proceeding shall be completed within a period of one month from the date of receipt of copy of this judgment. The issue of back benefits of the appellants shall follow the result of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
23.06.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

ATTESTED

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 13/7/21
Number of Words 2000
Copies 22
Urgency 4
Total 26
Name [Signature]
Date of Copy 13/7/2021
Date of Delivery of Copy 13/7/2021

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DISCIPLINARY ACTION

Whereas I, Dr. Fasihuddin, PSP, COMMANDANT, Police Training College Hangu, is of the opinion that IHC Mati Ullah, No. 255, ATS Instructor/Ex. Reader to DSP/Security, has rendered himself liable to be proceeded departmentally specified in Section-3 of Khyber Pakhtunkhwa Police Disciplinary Rules-1975, as he has committed the following act/omission:

SUMMARY OF ALLEGATIONS

1. On 09.01.2019 ASI/LI Abid Ullah of Bannu Region was posted as incharge ammunition Kot in-place of ASI Bashir Muhammad of Mardan Region. On 14.01.2019 while taking the charge, he observed that a number of 87369 rounds of SMG were short/missing. The matter was brought into the notice of high-ups and therefore to unearth the facts, a preliminary enquiry conducted by Mr. Abdul Sattar, DSP (Legal) and Mr. Shah Mumtaz, DSP/CLI, PTC, Hangu. During enquiry accused officer ASI Bashir Muhammad, Ex. Incharge ammunition Kot and his co-accused officials i.e IHC Mati Ullah, District Hangu, HC Muhammad Akram, No. 1193/133, District D.I Khan and FC Sohail Ahmad produced the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC, Hangu. After preliminary enquiry the enquiry officers submitted their initial enquiry report and held responsible accused officers/officials named above with their mutual understanding and their common criminal intention for embezzling a huge quantity of Govt. SMG rounds numbering 76285 probably with the help of other accomplices while the enquiry committee revealed that SMG rounds numbering 11084 were not properly entered in the relevant record. In response to the preliminary enquiry, the accused officers/officials named above were suspended and show cause notices were served upon them. Accused officer and co-accused officials submitted their written replies, but found unsatisfactory, hence proper departmental enquiry was initiated under the supervision of DSP/CLI Shah Mumtaz, assisted by Inspector Baroz Khan and Inspector Said Noor Shah as enquiry officers/committee. The enquiry committee conducted proper departmental enquiry. They recorded the statements of the relevant witnesses and also of the accused officers/officials. During enquiry, the enquiry committee recounted the SMG rounds produced by the accused officer/officials. They also collected and perused the relevant record i.e stock/issue register and Daily Diary of Model Police Station PTC Hangu. During enquiry, the enquiry committee held responsible accused officer ASI Bashir Muhammad No. 840/MR the then incharge ammunition Kot and his accomplices namely IHC Mati Ullah, No. 255 and FC Sohail Ahmad, No. 44 for embezzling Govt:

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SMG rounds with mutual connivance. Therefore, to follow Police Rules-1975 (amended 2014), ASI Bashir Muhammad, No. 840/MR, IHC Mati Ullah No. 255 and FC Sohail Ahmad, No. 44 were awarded major punishment of "dismissal from service", while accused HC Muhammad Akram, No. 1193/133 was exonerated and reinstated in service from the date of suspension owing to non-availability of any tangible evidence against him vide PTC, Hangu order Endst: No. 119-34/PA, dated 15.03.2019.

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2. The delinquent officer IHC Mati Ullah filed departmental appeal against the said order of dismissal, but it was filed. Subsequently, then he approached the Khyber Pakhtunkhwa Service Tribunal, Peshawar vide service appeal No. 1000/2019, which was allowed by the Honourable Tribunal on 23.06.2021 in the terms mentioned in the aforesaid appeal.

3. For the purpose of de-novo inquiry against the appellant strictly in accordance with relevant law/rules with reference to the above allegations, Mr. Arshad Mehmood, SP/Investigation (District Complaint Officer), Hangu is appointed as Enquiry Officer vide AIG: inquires, IAB Khyber Pakhtunkhwa Peshawar office Memo: No. 1984/CPO/IAB, dated 26.07.2021.

4. The enquiry officer/committee shall in accordance with the provisions of the Police Rules-1975 (amended-2014), provide reasonable opportunity of hearing and defense to the defaulter, record his findings within prescribed period after the receipt of this charge sheet and put up recommendations about the guilt or innocence of the accused officer.

5. The enquiry officer/committee should complete the requisite enquiry in time and submit his final findings report direct to the quarter concerned before 11.08.2021 with intimation to this office.

Fasihuddin
(FASIHUDDIN) PSP
Commandant
Police Training College, Hangu

No. 601-02/PA, dated Hangu the 02/08/2021.

Copy to the:

1. Mr. Arshad Mehmood, SP/Investigation (District Complaint Officer), Hangu for initiating de-novo inquiry against the defaulter under the provision of Police Disciplinary Rules-1975 (amended-2014). Enquiry file containing 408 papers are enclosed.
2. IHC Mati Ullah, No. 255, ATS Instructor/Ex. Reader to DSP/Security, PTC Hangu.

Fasihuddin
(FASIHUDDIN) PSP
Commandant
Police Training College, Hangu

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[Signature]

معروض خدمت ہوں کہ اس سے پہلے میں نے محکمانہ انکوائری میں جو مفصل بیان دیا ہے وہی میرا موجودہ بیان تصور ہو گا۔ ازیں یہ عرض کرتا چلو کہ Preliminary انکوائری میں مجھ سے کسی قسم کی معلومات نہیں کی گئی ہے کیونکہ میں اس الزام میں 13-02-2019 کو بند کو انٹر گارڈ کیا گیا اور ان صاحبان نے انکوائری 12-02-2019 لکھا ہوا موجود ہے۔

نے خلاف انکوائری میں الزام لگایا گیا ہے کہ مارکیٹ میں فروختگی کی ہے (کوئی بھی ایک ثبوت؟)۔

مجھے کسی قسم کا موقع نہیں دیا گیا ہے کہ میں اپنی صفائی پیش کر سکوں۔

دوران الزام اور اس سے پہلے میں ڈپٹی ایس پی سیکورٹی تعینات تھا نہ کہ انچارج سیکورٹی کورٹ۔

15-03-2019 کو برخواستگی آرڈر حوالہ کرنے پر نقل انکوائری سے بھی محروم رکھا گیا تاکہ حقیقت سے بھی بے خبر رہے۔

نوٹ: انکوائری میں مجھ پر الزام لگایا گیا ہے کہ مورخہ 14 فروری تا 17 فروری تک الزام کردہ کم شدہ کارٹوس پی ٹی سی لاکر میگزین کورٹ کمرہ

میں اپنے تحویل میں رکھے ہیں حالانکہ سائل کو بحوالہ مد 45 روز نامچہ 13-02-2019 وقت 17:15 بجے سے لیکر 26-02-2019

تک کوٹر گارڈ میں علیحدہ رکھا گیا تھا 21-02-2019 کو کوارٹر گارڈ میں شوکاژ نوٹس / چارج شیٹ ایک ہی رات کو حوالہ کیے گئے اور اسی

وقت ایک گھنٹے کے اندر جواب لیا گیا دوران کوارٹر گارڈ کسی سے بھی ملنے کی اجازت نہ تھی اور اب تمام حالات معلوم ہوئے ہے کہ انچارج

کورٹ سے چابی زبردستی لیے گئے تھے اور میرے ساتھ کوئی جنات نہیں تھے کہ کوارٹر گارڈ سے کسی دوسرے جگہ چلا جاتا۔

نے خلاف سہیل احمد کا جو بیان 12-02-2019 کو لکھا ہے وہ انکوائری افسران نے میرے ساتھ بدینتی کر کے اپنے طرف سے لکھا

ہے کیونکہ 12-02-2019 کو سہیل احمد عدالت سول جج III نوشہرہ میں موجود تھا۔

اکثر ایسے ہوتا ہے کہ ملازمین سے محکمہ بیان لکھوادیتا ہے ملازمین اقبال جرم کرتے ہے پھر اسی تحریر کے بنیاد پر محکمہ مزادیتا ہے مگر اعلیٰ عدلیہ

نے محکمہ کے اس عمل کو غلط قرار دیتے ہوئے کہا ہے کہ ایسے تحریر ملازم کے خلاف استعمال نہیں ہو سکتے۔

PLJ 2016 Tr.C Service 321

جناب عالی میرا گھرانہ (خاندان) اور میرا سروس ریکارڈ اس بات کا گواہ ہے کہ یہ الزام مجھ پر غلط لگایا گیا ہے

آپ صاحب سے التماس ہے کہ میری انکوائری فائل کر کے سائل کو ڈہنی اور گھرانے کو جو اذیت ملی وہ تحریر سے قاصر ہے

استدعا ہے کہ سائل کی انکوائری ایک غیر جانبدارانہ کر کے سائل کو تمام حقوق دیے جا کر مشکور فرمائیں عمر بھر دعا گو رہوں گا۔

سید مطیع اللہ شاہ
ATS
پی ٹی سی ہنگو

ATTESTED



FINAL SHOW CAUSE NOTICE

E-14

1. Ikram Ullah, PSP, District Police Officer, Hangu as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, IHC Matiullah No. 255 as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- ii. On going through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

1. On 09.01.2019, Ali Akbar Ullah of Hangu Region was posted as Law Instructor in PTC Hangu and was entrusted as in-charge Arms & Ammunition (Kot PTC) in place of Ali Haidir Muhammad of Mardan Region, on 14.01.2019 while taking the charge of PTC ammunition Kot, he observed that a large number of rounds of 7.62 MM (gentinel) were short/missing from PTC, Kot as per stock register. The matter was brought into the notice of high-ups of PTC Hangu for taking proper departmental action against the defaulters.

2. On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.

3. After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 mm rounds i.e 37369 (Eighty Seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 75285 before the enquiry committee which were deposited in the BMC rounds Kot PTC Hangu. In 75285 round (70000 or above are local made) as per report of Arms & Ammunition export of FSL.

4. The act of defaulter officials of two versions i.e

- i) You being a member of discipline force conducted act of negligence & dishonest.
- ii) You being a custodian they carried out breach of trust being a public servant. This is an act of crime which were committed intentionally.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules:ibid:

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed herewith.

ATTESTED

[Signature]

**DISTRICT POLICE OFFICER,
HANGU 9/9-**

بحوالہ فائل شوکا ز نوٹس نمبر EC7805 مورخہ: 9-9-2021 مجاریہ ڈسٹرکٹ پولیس آفیسر ہنگو

جناب عالی!

معروض خدمت ہے کہ سائل 2013 سے پی ٹی سی ہنگو میں بطور ATS انسکٹر تعینات ہوں۔ دوران ڈیوٹی اچھی کارکردگی پر کئی بار تقدیرانہ
نیفیکٹ سے بھی نوازا ہے میرے خلاف جو الزام لگایا گیا ہے وہ بے بنیاد ہے دوران ڈیوٹی پی ٹی سی میں ATS انسکٹر، سیکورٹی انچارج، ریڈر
DSI ڈیوٹی سرانجام دی ہے۔

دوران الزام بحوالہ مد 45 مورخہ: 13-2-2019 تا 26-2-2019 بند کوارٹر گاڑ تھا (نقل روزنامہ لہف ہے)۔

میرے خلاف انکوائری میں 12-2-2019 کو بیان لکھا گیا ہے حالانکہ 12-02-2019 کو سہیل احمد عدالت سول جج 111 نوٹشہ میں موجود
(نقل آرڈر شیٹ لہف ہے)۔

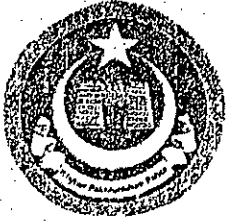
جناب عالی!

میرا گھرانہ (خاندان) اور میرا سروس ریکارڈ اس بات کا گواہ ہے کہ الزام مجھ پر غلط لگایا گیا ہے
آپ صاحب سے التماس ہے کہ میری انکوائری فائل کر کے سائل کو دہنی اور گھرانے کو جو آذیت ملی ہے وہ تحریر سے قاصر ہے
استدعا ہے سائل کو تمام حقوق دے کر مشکور فرمائیں عمر بھر دعا گو رہوں گا۔

سید مطیع اللہ شاہ 255 ATS پی ٹی سی ہنگو

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F-1



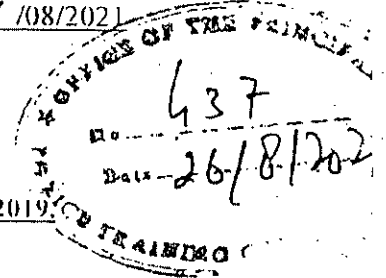
OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA, PESHAWAR

G-16

No. 2148 /CPO/IAB. dated Peshawar the 23 /08/2021

To: The Commandant,
Police Training College,
Hangu.

Subject: SERVICE APPEAL NOS. 745/2019, 931/2021 & 1000/2019.



Memo:-

1. Please refer to SP Investigation Hangu office letter No.2535/Inv: dated 12.08.2021, on the subject cited above.
2. Your good self being competent authority in the matter may proceed further in the light of enquiry report, under intimation to this office.
3. Being a court matter the proceedings may be completed within the stipulated time to avoid further legal complications

Encls: (30 pages)

Insp: Legal / PA
J
26/8

Mohammad
(MOHAMMAD ASHFAQ)
ATG Enquiries
Internal Accountability
Khyber Pakhtunkhwa,
Peshawar

Insp: Legal / PA

Amrad

DSP, Admn
26.8.2021

ATTESTED

M. Q.



OFFICE OF
THE COMMANDANT
POLICE TRAINING COLLEGE, HANGU
Office Phone # 0925-621886, Fax # 0925-620886
Email: kpptchangu@gmail.com

17

- To: (1) The Capital City Police Officer,
Peshawar.
(2) ✓ The District Police Officer,
Mardan.
(3) The District Police Officer,
Hangu.

No. 627 /PA, Dated Hangu the, 27 August, 2021.

Subject: SERVICE APPEAL NOS. 745/2019, 931/2019 & 1000/2019

Memo:

Please refer to the subject cited above.

It is intimated the following police officers of your Districts while serving in PTC, Hangu on deputation basis were found involved in misappropriation of a massive number of ammunition from PTC, Kot:

- i. ASI Bashir Muhammad No. 840/MR of Mardan District.
- ii. FC Sohail Ahmed s/o Khan Sahib, of CCP, Peshawar.
- iii. IHC Mati Ullah of District Hangu.

After conducting departmental enquiry as per Police Rules, 1975 (amended-2014), the allegations were proved against them, and they were awarded major punishment of dismissal from service vide PTC, Hangu order engst: No. 119-34/PA, dated 15.03.2019.

To review the punishment awarded to the defaulter officers/official, they approach to Khyber Pakhtunkhwa Service Tribunal, Peshawar vide above quoted service appeals, which were decided by the honorable Tribunal in their favor with the following directions:

"A perusal of record would show that the show-cause notice, charge sheet as well as statement of allegations were issued to the appellants by Commandant Police Training College Hangu and upon receipt of the inquiry report, the order of dismissal was also passed by Commandant Police Training College Hangu, who was an officer of the rank of Deputy Inspector General of Police. In light of Schedule-I of Police Rules 1975, officer of the rank of DPO/ SSP/ SP, being Authority Competent to award punishment to the appellants, could have legally taken disciplinary action against the appellants. Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, therefore, keeping in view Schedule-I of Police Rules 1975, the action taken by him was illegal, without jurisdiction and void ab-initio. Moreover, the appellants were not at all provided any opportunity of cross-examination of the witnesses examined during the inquiry, which has caused them prejudice. The impugned order

ATTESTED
M. J. Khan

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FINDING REPORT OF DE-NOVO ENQUIRY:

The Hon'ble AIG Enquiries, Internal Accountability Khyber Pakhtunkhwa, Peshawar the undersigned was nominated as enquiry officer to conduct Denovo enquiry against ASI Bashir Muhammad No. 840/MR, Ex-Incharge Ammunition Kot, IHC Matiullah No. 255 Ex-Reader to DSP Security and FC Sohail Ahmad of Police Training College Hangu vide his office Memo: No. 1983/CPO/IAB, dated 26.07.2021 received by this office on 02.08.2021.

Enquiry papers of previous enquiry were also received from Police Training College Hangu on 04.08.2021 vide his office Memo: No. 605/PA dated 02.08.2021 in which the final outcome was required to AIG Enquiries Peshawar on or before 12.08.2021 and the previous enquiry file was thoroughly perused by the undersigned.

BRIEF OF PREVIOUS ENQUIRY:

After perusal of the previous enquiry papers, it was found that on 09.01.2019 ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in-place of ASI Bashir Muhammad of Mardan Region. On 14.01.2019 while taking the charge of PTC Ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC, Kot as per stock register. The matter was brought into the notice of high-ups of PTC Hangu for taking proper departmental action against the defaulters.

On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.

During enquiry, the enquiry committee checked the record of PTC Kot to verify the complaint of newly posted Incharge Kot ASI Abid Ullah, it was found that 87369 (Eighty seven thousand three hundred & sixty nine) rounds of 7.62 MM short/missing. Later on accused officer ASI Bashir Muhammad Ex-Incharge Ammunition Kot and his co-accused official i.e IHC Mati Ullah District Hangu, HC Muhammad Akram No. 1193/133 District D.I. Khan and FC Sohail Ahmad produced the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMC rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export. Except this 11084 rounds of 7.62 MM are still missing, ASI Bashir Muhammad I/C Kot and Sohail Ahmad are direct custodian of Kot while IHC Matiullah Security Incharge of PTC was a facilitator of other co-accused.

On the completion of preliminary enquiry the accused officers/officials were suspended and proper departmental enquiry was initiated under the supervision of Mr. Shah Mumtaz DSP the then CLI PTC Hangu assisted by Inspector Baroz Khan and Inspector Syed Noor Shah as enquiry

ATTENDED
4 - [Signature]

(19) (2)

officer/ committee by the order of Commandant PTC Hangu. During enquiry the accused officers/officials were properly examined and their statements were recorded as well as the statements of witnesses also recorded. After completion of enquiry the enquiry committee submitted finding report in which the accused officers/officials are found guilty. As a result all the above named officers/officials were dismissed by Commandant PTC Hangu.

The Dy: Commandant, Police Training, College, Hangu letter No. 695/PA/PTC dated 04.09.2019 to DPO Hangu for registration of case against the above named officers/official on their criminal act. A case was registered against accused ASI Bashir Muhammad, IHC Maitullah and PC Sohail Khan vide Case FIR No. 1073 dated 05.09.2019 U/S 408/ 409/ 414/ 420/ 424 PPC in PS City, District Hangu. In this regard a Joint Investigation Team (JIT) under the supervision of Mr. Zain Khan SP Investigation Hangu vide letter No. 2440-50/PA, dated 11.09.2019 was constituted by the then District Police Officer, Hangu and Inspector Abdur Rehman Officer Incharge Investigation Police Station City Hangu was appointed as Investigation Officer. The accused of case were escaped to their parent Districts, for their early arrest proper letters were issued to the concerned District after then they approach to the Hon'ble Courts for obtaining BBA. Similarly HC Mati ullah has also approached to the Honorable Court of District & Session Judge, Hangu for obtaining BBA upon which the Hon'ble Court ordered vide order sheet No.04, dated 08.10.2019 present placed on enquiry file.

During the course of investigation of above mentioned case, District Public Prosecutor (DPP) opined that the case is trial able by Anti Corruption Court and Court directed to inform Anti-Corruption Establishment. The offence under section 409 PPC falls under the domain of Anti-Corruption Establishment.

In compliance with the direction of DPP, the then SP Investigation of District Hangu made correspondence with Anti Corruption Establishment Peshawar. After due correspondence with Anti Corruption Establishment case has been cancelled as per rules 25-7 of Police Rules 1934 vide DPO Hangu order Endst: 13623-25/CC dated 27.11.2019 the original case file i.e Judicial file 239 Pages & Police case file 68 Pages were sent to Director Anti Corruption Establishment Peshawar vide SP Investigation Hangu letter NO. 5625/Inv dated 29.11.2019, which is still pending with ACE.

The defaulter officials submitted departmental appeal to the W/IGP, Khyber Pakhtunkhwa against the order of Commandant PTC Hangu for their dismissal which was filed. Furthermore, the said defaulters approached to Khyber Pakhtunkhwa Service Tribunal Peshawar vide service appeals Nos. quoted above, which were decided by the honorable Service Tribunal vide judgments dated 23.06.2019 and reinstated the appellants into service. The matter is remanded by the August Tribunal back to the department for denovo inquiry. In compliance with the directions of worthy Inspector General of Police, Khyber Pakhtunkhwa Peshawar, the Commandant PTC Hangu conditionally reinstated the above mentioned officials for the purpose of Denovo enquiry vide order Endst: No. 681/EC dated 26.07.2021 and issued Charge Sheet along with Summary of Allegations to all three defaulters.

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DENOVO ENQUIRY:

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In the light of Denovo enquiry the accused officials/witnesses were summoned by the undersigned through the Admin PTC Hangu in order to join the enquiry proceedings. It has come to the notice of undersigned that all the witnesses/complainant and enquiry committee officer are not proper employe of PTC strength, they have been transferred to their parent District after completion of their tenure, some of them are engaged in Special duties of Muharram-ul-Harram 2021 and due to short time in enquiry they could be approached to appear before enquiry officer in these days but the defaulters officials have attended this office on 09.08.2021 and submitted their replies. Their replies were perused by the undersigned which were found unsatisfied. During pervious enquiry the defaulter officials have given chance for their self defense, they were cross examined but they failed to do so. Similarly witnesses of the case/enquiry were also examined and recorded the statements about the case. All the relevant papers are placed on file for perusal.

The undersigned perused the previous departmental enquiry of above mentioned officers/officials, the previous enquiry conducted by the then Enquiry Committee are up to the mark. As there special duties of Muharram-ul-Harram-2021 every official were engaged Muharram-ul-Harram tied schedule duties and the time given for the completion of Denovo enquiry is too short. Therefore on the available record my recommendation /Conclusion is as under:

RECOMMENDATION;

- 1) After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 MM rounds i.e 87369 (Eighty seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition-export of FSL.
- 2) The act of defaulter officials of two version i.e
 - (i) Being a member discipline force conducted act of negligence & dishonest.
 - (ii) Being a custodian they carried out breach of trust being a public servant. This is an act of crime which were committed intentionally.

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It is worth motioning that the dismissal order of defaulter officials issued by Commandant PTC Hangu fall under the preview of first version after the departmental enquiry "Power of Commandant" Rule No. 13 PTC Manual 1982 is clear.

Similarly according to second version the act of defaulter officials still pending, the above mentioned Case FIR No. 1073 dated 05.09.2019 U/S 408/ 409/ 414/ 420/ 424 PPC in PS City, District Hangu has already been cancelled on the legal opinion and the case file sent to Anti Corruption Establishment upon which no action yet taken neither punishment awarded to the defaulter officials.

The order/Judgment passed by the Hon'ble Court of Service Tribunal Khyber Pakhtunkhwa Peshawar regarding reinstatement of defaulter official, the criminal case/act was not mentioned in order nor any directions issued to Anti Corruption Establishment neither brought into the notice of Hon'ble Service Tribunal by representative of department i.e Legal Branch, in this regard.

CONCLUSION:

1. Keeping in view of above the undersigned has come to the conclusion that that enquiry already proved against the accused officers/officials as they were found involved in embezzlement of Govt property i.e 7.62 MM genuine rounds of PTC Kot which caused to huge loss of Govt exchequer. They have provided full opportunity of cross examination during enquiry but they failed to prove/show their blamelessness/innocence and grant loss to the Govt exchequer. They being members of Police Force their professionalism is condemnable and their act are not apologize. As they are not permanent employees of PTC Hangu therefore, their home district may be communicated for giving major punishment as per rules.
2. The case registered against them have been cancelled from district Hangu and were sent to Anti Corruption Establishment in the year 2019, which is not properly pursue by District Police nor the complainant party i.e PTC Hangu staff and neither ACE made any correspondence with local Police the fresh up date of the case, up till now on that way no punishment given to the defaulter official in the criminal act.

Submitted please.

ATTESTED
M- [Signature]

[Signature]
(ARSHAD MEHMOOD)
District Compliant Officer/
Superintendent of Police Investigation
Hangu



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

H-22

ORDER

This order is passed on the denovo departmental enquiry against IHC Matiullah No. 255 under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

On 09.01.2019, ASI/LI Abid Ullah of Bannu Region was posted as Incharge ammunition Kot (PTC) in-place of ASI Bashir Muhammad of Mardan Region. On 14.01.2019, while taking the charge, he observed that a number of 87369 rounds of SMG were short/missing. The matter was brought into the notice of high-ups and therefore, to unearth the facts, a preliminary enquiry conducted by Mr. Abdul Sattar, DSP (Legal) and Mr. Shah Mumtaz, DSP/CLI, PTC, Hangu. During enquiry accused officer ASI Bashir Muhammad, Ex. Incharge ammunition Kot and his co-accused officials i.e IHC Mati Ullah, District Hangu, HC Muhammad Akram No.1193/133, District D.I Khan and FC Sohail Ahmad produced the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC, Hangu. After preliminary enquiry, the enquiry officers submitted their initial enquiry report and held responsible accused officers/officials named above with their mutual understanding and their common criminal intention for embezzling a huge quantity of Govt. SMG rounds numbering 76285 probably with the help of other accomplices while the enquiry committee revealed that SMG rounds numbering 11084 were not properly entered in the relevant record. In response to the preliminary enquiry, the accused officers/officials named above were suspended and show cause notices were served upon them. Accused officer and co-accused officials submitted their written replies, but found unsatisfactory, hence proper departmental enquiry was initiated under the supervision of DSP/CLI Shah Mumtaz, assisted by Inspector Baroz Khan and Inspector Said Noor Shah as enquiry officers/committee. The enquiry committee conducted proper departmental enquiry. They recorded the statements of the relevant witnesses and also of the accused officers/officials. During enquiry, the enquiry committee recounted the SMG rounds produced by the accused officer/officials. They also collected and perused the relevant record i.e stock/issued register and Daily Diary of Model Police Station PTC Hangu. During enquiry, the enquiry committee held responsible accused officer ASI Bashir Muhammad No. 840/MR the then Incharge ammunition Kot and his accomplices namely IHC Mati Ullah No.255 and FC Sohail Ahmad No.44 for embezzling Govt. SMG rounds with mutual connivance. Therefore, to follow Police Rules-1975 (amended 2014), ASI Bashir Muhammad No.840/MR, IHC Mati Ullah No.255 and FC Sohail Ahmad No.44 were awarded major punishment of "Dismissal from Service", while accused HC Muhammad Akram No.1193/133 was exonerated and reinstated in service from the date of suspension owing to non-availability of any tangible evidence against him vide PTC, Hangu Order Endst: 119-34/PA, dated 15.03.2019.

ATTESTED
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The delinquent officers filed departmental appeal against the said order of dismissal, but it was filed. Subsequently, then he approached to the Khyber Pakhtunkhwa Service Tribunal, which was allowed by the Hon'ble Service Tribunal with the remarks that the order of dismissal was passed by the Commandant, PTC Hangu, who was an officer of the rank of Deputy Inspector General. In light of schedule-I of Police Rules-1975, officer of the rank of DPO/SSP/SP being authority competent to award punishment to the appellant, the action taken by the Commandant was illegal, which may be regularized and for the purpose of denovo enquiry against the appellant strictly in accordance with relevant law/rules w/r to the above allegations. Mr. Arshad Mehmood, SP Investigation (District Complaint Officer), Hangu is appointed as enquiry officer while AIG, Inquiries, IAB Khyber Pakhtunkhwa Peshawar officer Memo: No. 1984/CPO/IAB, dated 26.07.2021.

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Superintendent of Police, Investigation Hangu conducted a departmental enquiry and reported that the accused official was found involved in embezzlement of govt. property i.e 7.62 MM genuine rounds of PTC Kot, which caused to huge loss of govt. exchequer. Being a member of police force, his professionalism is condemnable, his act is not apologies and he is guilty for the charges leveled against him and recommended for major punishment.

He was called in orderly room on 30.09.2021 and heard in person, but he failed to submit any plausible reply in his defence hence, he was issued a Final Show Cause Notice. Reply to the show cause notice was received and perused which was found unsatisfactory. He was again called in orderly room on 10.11.2021. He was given full opportunity to explain his position, but he filed. In this connection, FC Sohail Ahmad No.44 was also heard but he did not produce any evidence in self defence of IHC Mati Ullah No. 255. The above named IHC earned a bad name to the police department, and his further retention in police department is a burden on govt. exchequer.

In view of above and available record, I, Ikram Ullah, (PSP), District Police Officer, Hangu in exercise of powers conferred upon me under the Rules ibid, I agreed with the finding of enquiry officer and **a major punishment of removal from service is hereby imposed upon the IHC Mati Ullah No. 255 with immediate effect. The intervenient period i.e unauthorized leave is hereby treated as leave without pay.**

OB No. 393
Dated: 12/11/2021

**DISTRICT POLICE OFFICER,
HANGU**

No. 10661-62 /EC, dated Hangu the 12/11/2021
Copy of above is submitted to the Commandant, Police Training College, Hangu for favour of information w/r to his office Memo: No.628/PA, dated 27.08.2021, please.

2. Accused official.

**DISTRICT POLICE OFFICER,
HANGU**

ATTESTED
(Signature)

To,

The Regional Police Officer,
Kohat Region.

I-24

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 12.11.2021 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE.

Respected Sir,

Brief facts are as under:-

- 1- That the appellant was the employee of your good self-department and was serving as IHC No. 255 quite efficiently, and upto the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty as reader to DSP Security, Police Training Centre, Hanga, an allegation missing of 87369/- SMG rounds from the ammunition Kot was leveled against the three officials and later on the appellant was also charge in the said allegations on the statement of one official (Sohail Ahmad). That on the basis of said allegation all the four officials were suspended.
- 3- That in the said matter preliminary inquiry was conducted by the department in which one alleged official Mr. Muhammad Akram was exonerated from the allegations leveled against him while the other officials including the appellant was dismissed from service vide dated 15.03.2019.
- 4- That feeling aggrieved from the impugned order dated 15.03.2019 the appellant preferred departmental appeal followed by service appeal No. 1000/2019 before the august Khyber Pakhtunkhwa Service Tribunal, Peshawar which was allowed in favor of the appellant and two others vide consolidated judgment dated 23.06.2021 by setting aside the impugned order with the directions to the department to conduct de-novo inquiry strictly in accordance with law and rules and the same shall be concluded within a period of one month.
- 5- That after obtaining attested copy of the judgment dated 23.06.2021 of the august Service Tribunal the appellant submitted the same before the authority concerned but the authority concerned has not been properly conducted the de-novo inquiry as per directions of the august Service Tribunal.
- 6- That later on the department conducted de-novo inquiry and issued the charge sheet and statement of allegation has been issued to the appellant. That appellant submitted detail reply of the said charge sheet and statement of allegation along with documentary proofs but the same has not been considered by the inquiry committee.

ATTESTED

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23/11/21

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- 7- That it is pertinent to mention that the appellant was performing his duty as security reader with DSP security and has no concern with the ammunition Kot but despite that the appellant was charged for missing of ammunition SMG rounds.
- 8- That astonishingly the concerned authority issued the impugned order dated 12.11.2021 whereby once again major penalty of removal from service has been imposed upon the appellant without fulfilling the codal formalities.
- 9- That the appellant feeling aggrieved from the impugned order dated 12.11.2021 preferred the instant Departmental appeal before your good self on the following grounds.

GROUND:

- A- That the impugned order dated 12.11.2021 issued by the authorities is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the concerned authority acted in arbitrary and malafide manner while issuing the impugned order dated 12.11.2021 which is not tenable in eye of law and same is liable to be set aside.
- D- That statement of witnesses has not been recorded by the authorities before issuing the impugned order dated 12.11.2021 which is necessary as per rule and law *ibid*.
- E- That the de-novo inquiry has not been properly conducted by the authorities as per directions, therefore, the same is void in the eye of law.
- F- That the inquiry officer totally relied upon on the previous inquiry which has already been declared by the august Service Tribunal as null and void.
- G- That the appellant had no concern with the ammunition kot but despite that the allegations of missing SMG rounds were leveled against him on the basis of statement one Mr. Sohail Ahmad.
- H- That the inquiry officer has not been proved the charges leveled against the appellant, therefore, the impugned order dated 12.11.2021 has no legal force, therefore the same is liable to be set aside.

ATTESTED

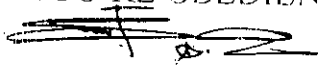
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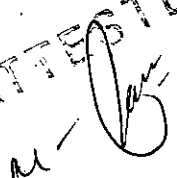
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It is therefore, most humbly prayed on acceptance of this Departmental appeal the impugned order dated 12.11.2021 may very kindly be set aside and the appellants be re-instated into service with all back benefits. Any other remedy, which your good self deems fit that may also be awarded in favor of the appellants.

Dated: 23.11.2021.

YOURS OBEDIENTLY


MATI ULLAH SHAH, EX-IHC
PTC, Hangu

ATTESTED


POLICE DEPTT:

KOHAT REGION

J-26


ORDER.

This order will dispose of a departmental appeal, moved by Ex-IHC Mati Ullah No. 225 of Hangu District, who was serving at PTC Hangu, against the punishment order, passed by DPO Hangu vide OB No. 393, dated 12.11.2021 whereby he was awarded minor punishment of **Removal from service** on the allegations of misappropriate / embezzlement of Govt: property i.e. SMG Rounds.

He preferred an appeal to the undersigned, upon which comments were obtained from DPO Hangu and his service record was perused. The appellant was also called and heard in person in Orderly Room on 01.02.2022. During hearing the appellant did not advance any plausible explanation in his defense to prove his innocence.


I have gone through the available record which indicates that the allegations leveled against the appellant are proved beyond any shadow of doubt and the same has also been established by the Enquiry Officer in his findings. Therefore, in exercise of the powers conferred upon the undersigned, his appeal being devoid of merits is hereby **filed**.

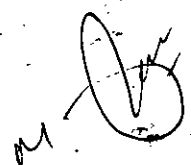
Order Announced
01.02.2022


(TAHIR AYUB) PSP
Region Police Officer,
Kohat Region.

No. 2296 /EC, dated Kohat the 08/02 /2022.

Copy for information and necessary action to the District Police Officer, Hangu w/r to his office Memo: No. 11629/LB, dated 30.12.2021. His Service documents are returned herewith.


(TAHIR AYUB) PSP
Region Police Officer,
Kohat Region.



VAKALATNAMA

BEFORE THE Khyber Pakhtunkhwa Service
Tribunal, Peshawar

OF 2022

Mati Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Robie Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Mati Ullah

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2022


CLIENT


ACCEPTED
MIR ZAMAN SAFI
&

SAID REHMAN
ADVOCATES

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0323-9295295

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

Service Appeal No. 217/2022

Mati Ullah Ex-IHC No. 255, District Hangu

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

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**Deponent
SI Legal, Hangu**

0333 39 99 00 06

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

Service Appeal No. 217/2022

Mati Ullah, Ex-IHC No. 255, District Hangu

..... Appellant

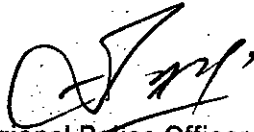
V E R S U S

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents

COUNTER AFFIDAVIT.

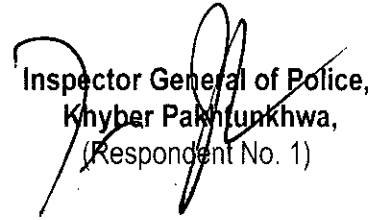
We, the below mentioned respondents do hereby solemnly affirm and declare on oath that contents of parawise comments are correct and true to the best of our knowledge and belief. Nothing has been concealed from this Hon: Tribunal.



Regional Police Officer,
Kohat

(Respondent No. 2)

Regional Police Officer
Kohat Region Kohat




Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)



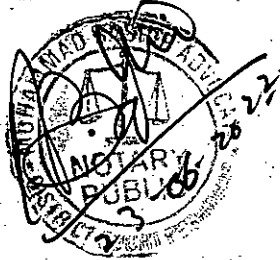
District Police Officer,
Hangu

(Respondent No. 4)



Commandant,
Police Training College, Hangu
(Respondent No. 3)

ATTESTED



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 217/2022

Mati Ullah

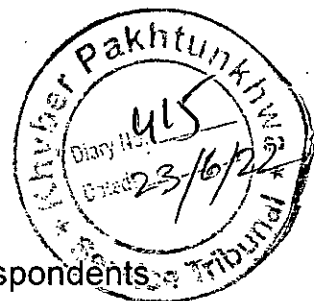
IHC No. 255, district Hangu

..... Appellant

VERSUS

Inspector General of Police,
Khyber Pakhtunkhwa & others

..... Respondents



PARAWISE COMMENTS BY RESPONDENTS 1 TO 4.

Respectfully Sheweth:-

Preliminary Objections:-

- i. That the appellant has got no cause of action to file the instant appeal.
- ii. The appellant has got no locus standi to file the instant appeal.
- iii. That the appeal is bad for misjoinder and nonjoinder of necessary parties and proper parties.
- iv. That the appellant is estopped to file the instant appeal for his own act.
- v. That the appeal is bad in eyes of law and not maintainable.
- vi. That the appellant has not approached the honorable Tribunal with clean hands.
- vii. That the appeal of the appellant is badly time barred.

On Facts:-

1. Employment of appellant in Police department, pertains to record however his performance during was not upto the mark.
2. During posting of appellant as Reader to DSP Security, ASI Basheer Muhammad Incharge Ammunition Kot and FC Sohail Ahmed as Naib / Assistant Kot, in Police Training College, Hangu 76285 live rounds of SMG were found missing in the Kot. An inquiry was conducted by the competent authority and the appellant alongwith other officials concerned were held responsible for embezzlement of official property / rounds Ammunition from Kot of PTC Hangu and legal proceedings were initiated against them by respondent No. 3.
3. In order to probe the matter, a preliminary inquiry was initiated by respondent No. 3 (Commandant, Police Training College Hangu), wherein the appellant and others were held responsible of the said embezzlement. Thus the inquiry report is self-explanatory Copy is **annexure A**.
4. The appellant availed legal forum for his redressal against the impugned orders, however, in compliance with the judgment of this Honorable Tribunal dated 23.06.2021 passed in service appeal No. 1000/2019, a de-novo departmental proceedings were initiated against the appellant by respondent No. 4 under the relevant rules.

- Incorrect, on receipt of judgment mentioned in para No. 4, a de-novo departmental proceedings were initiated against the appellant as per direction of the Honorable Tribunal/
6. The appellant was served charge sheet alongwith statement of allegations in de-novo inquiry to which the appellant filed reply which was not satisfactory and the inquiry was processed accordingly.
 7. In order to fulfill the legal requirements, the appellant was served with final show cause notice to which he filed reply wherein he did not submit any plausible explanation to the charges / allegations and the same was found unsatisfactory. Copies of final show cause notice and reply is **annexed as B & B-1**.
 8. Incorrect, the de-novo inquiry was conducted and reported by inquiry officer based on facts, record and other material, which connected the appellant with commission of embezzlement, loss to public exchequer and gross professional misconduct. On conclusion of proceedings, the charges / allegations leveled against the appellant were established during the course of de-novo inquiry Hence, on completion of all codal formalities particularly issues of final show cause notice, personal hearing of appellant by the competent authority (respondent No. 4) major punishment of removal from service was imposed on the appellant.
 9. The departmental appeal of the appellant was processed by respondent No. 2, the appellant was afforded opportunity of personal hearing. The departmental appeal being devoid of merits legally filed with speaking order by respondent No. 2 (departmental appellate authority).
 10. The appellant is estopped to file the instant appeal due to his own conduct and the appeal is not maintainable on following grounds

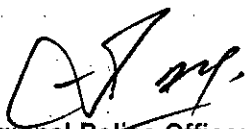
On Grounds:-

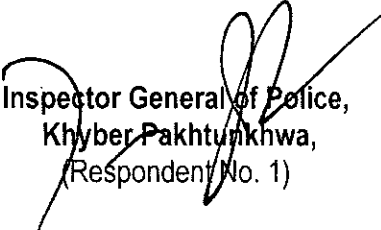
- A. Incorrect, the impugned orders passed by respondent No. 2 & 4 are legal, justified, speaking and based on record, facts / material collected during the course of departmental inquiry.
- B. Incorrect, the departmental inquiry was conducted against the appellant by respondent No. 4 in accordance with the relevant rules, the appellant was afforded opportunity of defense and personal hearing. All the codal formalities provided under the relevant rules were fulfilled by respondents No. 2 & 4. Hence, the appellant was treated in accordance with the relevant rules.
- C. Incorrect, detail reply is submitted in para No. B.
- D. Incorrect, the inquiry officer has examined the relevant witnesses which he found necessary according to nature of offence / misconduct conducted by the appellant.


- E. Incorrect, the respondent No. 4 had initiated a de-novo inquiry proceedings against the appellant in accordance with the relevant rules and as directed by the Honorable Tribunal vide judgment passed in service appeal No. 1000/2019.
- F. Incorrect, the appellant was associated with inquiry proceedings, but the inquiry officer an afforded opportunity of cross examination. It is added that the appellant was also afforded opportunity of personal hearing by respondent No. 2 & 4 but he failed to submit any plausible explanations / reply to the charges.
- G. Incorrect, the de-novo inquiry was conducted by respondent No. 4 in accordance with the relevant rules and the inquiry officer has collected the relevant evidence which he needs appropriate.
- H. Incorrect, the appellant alongwith other officials were directly charged in commission of embezzlement of huge quantity of Ammunitions mentioned above, and loss to the public exchequer, which amounted to professional misconduct and a criminal act as well for which the appellant and others were booked in case FIR No. 1073 dated 05.09.2019 u/ss 408, 409, 414, 420, 424 PPC PS City district Hangu and subsequently transferred to Anti-Corruption Establishment Khyber Pakhtunkhwa. Copy of FIR is **annexure C**.
- I. Incorrect, the allegations / charges leveled against the appellant have been established by the inquiry officer and in this regard the inquiry report annexed with the memorandum of appeal is self-explanatory and worth perusal. In view of available record, the appellant was held guilty of the charges which resulted into his removal from service as ordered by respondent No. 4 under the reverent rules.


Prayer

In view of the above, it is prayed that the appeal contrary to facts, law & rules, devoid of merits and not maintainable may graciously be dismissed with costs.


Regional Police Officer,
Kohat
(Respondent No. 2)
Regional Police Officer
Kohat Region Kohat


Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No. 1)


District Police Officer,
Hangu
(Respondent No. 4)


Commandant,
Police Training College, Hangu
(Respondent No. 3)



OFFICE OF THE COMMANDANT, POLICE TRAINING COLLEGE, HANGU

ORDER

This order is passed on the departmental proceedings against the following officers/officials under the Khyber Pakhtunkhwa, Police Rules, 1975 (Amended 2014):-

- i. ASI Bashir Muhammad, No. 840/MR, Distt: Mardan.
- ii. IHC Mati Ullah, No. 255, Distt: Hangu.
- iii. HC Muhammad Akram, No. 1193/133, Distt: D.I Khan.
- iv. FC Sohail Ahmad, No. 1334/44, CCP Peshawar.

Brief facts of the case are that on 09.01.2019 ASI/LI Abid Ullah was posted as in-charge ammunition kot in-place of ASI Bashir Muhammad. On 14.01.2019 while taking the charge, he observed that a number of 87369 alive SMG rounds were short/missing. The matter was brought into the notice. To unearth the facts, a preliminary enquiry committee consisting of Mr. Abdul Sattar DSP (Legal) and Mr. Shah Mumtaz DSP/CLI, PTC, Hangu was constituted.

During enquiry physical checking of SMG ammunition kot was carried out and all the SMG rounds lying in SMG ammunition kot were counted by the committee and were compared with stock/ issue register as well as with daily diary of Model Police Station PTC Hangu. It was found by the enquiry committee that SMG Rounds numbering 11084 were not entered in the relevant record properly while factually 76285 rounds were missing.

The concerned officer Bashir Khan ASI was thoroughly interrogated and examined by the Preliminary committee who disclosed that he had sold the same through one Sohail FC No. 44. When Sohail FC was interrogated and examined who disclosed that he had given the missing rounds to one IHC Mati Ullah PTC Hangu. Similarly Muhammad Akram HC assistant in-charge ammunition kot was also examined and interrogated.

During enquiry the accused officers/ officials having no alternate option but to deposit missing/ embezzled rounds in SMG ammunition kot PTC Hangu. The enquiry committee submitted the preliminary enquiry with the observation that accused officers namely ASI Bashir Muhammad, IHC Mati Ullah and FC Sohail No. 44 with their mutual understanding and with their common criminal intension embezzled the said ammunition. Probably with the help of their accomplice.

Agreeing with the report of preliminary enquiry committee all the four above named officials were suspended and show cause notices were given on the same day i.e on 12.02.2019 and proper departmental enquiry was initiated against them. DSP/ CLI Shah Mumtaz Khan assisted by Inspector Baroz Khan and Inspector Said Noor Shah were nominated to conduct the enquiry.

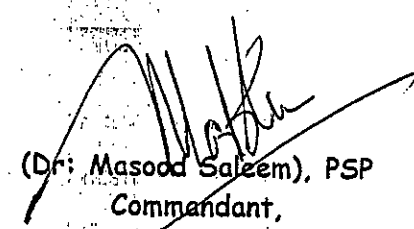
The departmental enquiry committee thoroughly examined the matter, collected the relevant record from SMG ammunition kot and daily diary of model police station in connection with the matter. They examined and recorded the statements of relevant witnesses and also of accused officers/ officials and submitted their final finding on 12.03.2019 and held responsible ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah - 255 and FC Sohail Ahmad No. 1334/44 involved in the embezzlement of huge quantity of Govt: SMG rounds with their common criminal intension. While no authentic evidence was found against HC Muhammad Akram No. 1193/133.

After perusing the whole record of the enquiry and observations of the departmental enquiry committee it has been established that accused officers namely ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah No. 255 and FC Sohail Ahmad No. 1334/44 have committed the embezzlement of SMG rounds mentioned above. The accused officers/officials were also found undisciplined, misconduct and show irresponsibility on their part. Hence to follow the Police Rules 1975 amended 2014 the accused officers namely ASI Bashir Muhammad No. 840/MR, IHC Mati Ullah No. 255 and FC Sohail Ahmad No. 1334/44 are dismissed from service while HC Muhammad Akram is exonerated from the charges leveled against him and reinstated into service from the date of suspension.

Order announced on 15/03/2019.

O.B No. 90

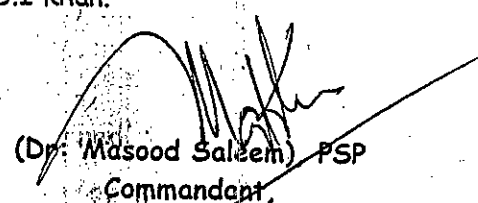
Dated: 15/03/2019.


(Dr: Masood Saleem), PSP
Commandant,
Police Training College, Hangu

No. 119-34/PA, dated Hangu, the 15/03/2019.

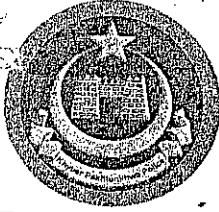
Copy forwarded for information & necessary action to:-

- i. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar with reference to this office Memo: No. 88/PA, dated 21.02.2019.
- ii. The Capital City Police Officer, Peshawar.
- iii. The Regional Police Officers, Mardan and Kohat.
- iv. The District Police Officers, Mardan and Hangu.
- v. Ex-ASI Bashir Muhammad, No. 840/MR, Distt: Mardan.
- vi. Ex-IHC Mati Ullah, No. 255, Distt: Hangu.
- vii. Ex-FC Sohail Ahmad, No. 13/34/44, CCP Peshawar.
- viii. HC Muhammad Akram, No. 1193/133, Distt: D.I Khan.
- ix. All concerned.


(Dr: Masood Saleem) PSP
Commandant,
Police Training College, Hangu

Annex (B)

28



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel: 0925-623878 Fax 0925-620135

No. 7805/EC dated Hangu the 09/09/2021

FINAL SHOW CAUSE NOTICE

1. I, Ikram Ullah, PSP, District Police Officer, Hangu as competent authority, under the Khyber Pakhtunkhwa Police Rules, 1975, (amended 2014) is hereby serve you, IHC Matiullah No. 255 as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing.
- ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.

1. On 09.01.2019, ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in-place of ASI Bashir Muhammad of Mardan Region, on 14.01.2019 while taking the charge of PTC ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC, Kot as per stock register, The matter was brought into the notice of high-ups of PTC Hangu for taking proper departmental action against the defaulters

2. On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.

3. After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 mm rounds i.e 87369 (Eighty Seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export of FSL.

4. The act of defaulter officials of two versions i.e

- i) You being a member of discipline force conducted act of negligence & dishonest.
- ii) You being a custodian they carried out breach of trust being a public servant. This is an act of crime which were committed intentionally.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules **ibid**.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed herewith.

DISTRICT POLICE OFFICER,
HANGU 9/8

7805
09/09/21
11/9

کے ذمہ داران کی فہرست فراہم کرنے کا حوالہ

10-09-091

- found in the relevant record during enquiry it was
 found that Pte Sohail Khan and Pte Mati Ullah were
 involved with criminal intention with has the said
 charge Bashir Muhammad Smoked. All the three accused
 officers deposited the embezzled round of Simgamunith
 but when the same were examined through annexure
 Pt. Hangu it was found that rounds numbering 70285
 were local made while the remaining 6000 were in original
 shape. The enquiry report was put up before the Commandant
 Pte Hangu who dismissed the same from their service
 the offence of the accused officers by embezzling the Simg
 rounds and re depositing local made Simg Round namely Pte
 Bashir Muhammad, Pte Mati Ullah and Pte Sohail Khan under
 criminal breach of trust with their mutual understanding and with
 their common criminal intention comes within the ambit of criminal
 breach of trust. It is therefore, submitted that proper case in
 shape of FIR may be registered against them with further
 request to recover the original Simg rounds numbering
 70285 from the accused officers named above

Sd. JAVID IGBAL (PSP) Deputy Commandant Police
 Training College, Hangu
 Pscitk
 05-09-19

(Faint text and stamps at the bottom of the page, including a signature and date)

SCANNED
K-1ST
Peshawar



OFFICE OF THE
DISTRICT POLICE OFFICER,
HANGU

Tel No. 0925-623878 & Fax No. 0925-620135
Email: dpohangu8@gmail.com

No. _____/L.B, Dated: ____/06/2022.

BEFORE THE HONORABLE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Subject:- **AUTHORITY LETTER.**

Respected Sir,

Kindly refer to the subject cited above.

It is submitted that SI Legal Fazal Muhammad of District Hangu is hereby deputed to submit the comments of Service Appeal No. 217/2022 in respect of Mati Ullah Ex-IHC No. 255, District Hangu in your good-self Hon'ble Court, please.

His three specimen signatures are as under:-

1.

2.

3.


DISTRICT POLICE OFFICER,
HANGU

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

RECEIVED
KSP
Peshawar

Case Number	217/2022		
Case Title	Mati Ullah vs Police Deptt.		
Date of Institution			
Bench	SB		DB <input checked="" type="checkbox"/>
Case Status	Fresh		Pending <input checked="" type="checkbox"/>
Stage	Notice		Reply <input checked="" type="checkbox"/> Argument <input checked="" type="checkbox"/>
Urgency to clearly stated.	The appellant has no any other source of income and delay in the appeal badly affect the family and education of children of the appellant.		
Nature of the relief sought.	Re-Instatement		
Next date of hearing	06.11.2023		
Alleged Target Date	Any date in this month i.e. September, 2023.		
Counsel for	Petitioner <input checked="" type="checkbox"/>	Respondent <input type="checkbox"/>	In person <input type="checkbox"/>

M. Janan
Signature of counsel/party

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/20 _____

In case No. 217/22 -p/20 22

Mattullah Vs police

Presented by _____ on behalf of _____. Entered
in the relevant register.

Put up alongwith main case _____

REGISTRAR

Last date fixed	
Reason(S) for last adjournment, if any by the Branch Incharge.	
Date(s) fixed in the similar matter by the Branch Incharge	
Available dates Readers/Assistant Registrar branch	

Assistant Registrar

REGISTRAR

SCANNED
POST

PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

C.M NO. _____/2023
IN
IN APPEAL NO: 217/2022

MATI ULLAH

VS

POLICE DEPARTMENT

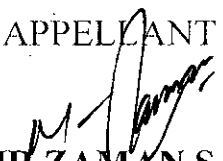
APPLICATION FOR EARLY HEARING OF THE
ABOVE MENTIONED SERVICE APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal is pending adjudication before this Honourable Court, which is fixed for hearing on 06.11.2023.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 12.11.2021 whereby major penalty of dismissal from service has been imposed upon the appellant.
- 3- That the above mentioned appeal is pending before this Hon'ble Court since April, 2022 and the same has been matured on 06.09.2022 and fixed for final argument but due to rush of work and some time due to strike of lawyers the case of appellant adjourned without hearing.
- 4- That the appellant has no any other source of income and due to financial crises family as well as education of children of the appellant is badly affected and the date which has been fixed for hearing i.e. 12.11.2023 is too long, therefore, appeal of the appellant needs to be heard on an earlier date.
- 5- That the interest of justice demands that such like matter should be heard as early as possible to meet the ends of justice and also to meet the principles of access to justice.

It is, therefore, most humbly prayed that on acceptance of this application the above mentioned appeal may very kindly be fixed for hearing as early as possible.

Dated: 08.09.2023.

APPELLANT
Through: 
MIR ZAMAN SAFI
ADVOCATE