


ORDER

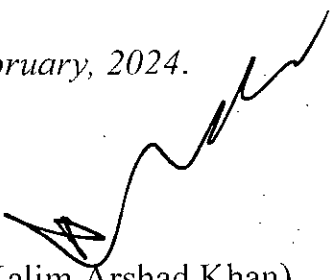
14th Mar. 2024

Kalim Arshad Khan, Chairman: Learned counsel for appellant and Mr. Muhammad Jan, District Attorney alongwith Mr. Atta Ur Rehman Inspector for respondents present.

2. At the very outset, learned counsel for the appellant submitted that the appellant had been dismissed from service on the ground of involvement of criminal case FIR No.58 dated 04.02.2021 U/S 395/365/342/171/412 PPC Police Station Risalpur which was pending in the Court of District & Sessions Judge, Nowshera, therefore, he requested for sine die adjournment of the instant appeal till the decision of the said criminal case, by the Court. Learned District Attorney has not objected on such adjournment. Adjourned sine die. The parties or any of them may get it restored and get it decided after decision of the criminal case by the Court. Consign.

3. *Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 14th day of February, 2024.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

25th August, 2023

SCANNED
KPST
Peshawar

1. Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Atta-ur-Rehman, Inspector (Legal) for the respondents present.

2. Learned Member (Judicial) Mr. Salah-ud-Din is on leave, therefore, bench is incomplete. To come up for arguments on 21.12.2023 before the D.B. Parcha Peshi given to the parties.



(Kalim Arshad Khan)
Chairman

Naeem Amin

21.12.2023

01. Junior to counsel for the appellant present. Mr. Asif Masood Ali Shah, DDA alongwith Attaur Rehman, Inspector (L) for the respondents present.

02. Miss Fareeha Paul, Learned Member (Executive) is on leave, therefore, the Bench is incomplete. To come up for arguments on 14.03.2024 before the D.B. Parcha Peshi given to the parties.



(Rashida Bano)
Member (J)

Fazle Subhan P.S

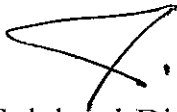
SCANNED
KPST
Peshawar


17th March, 2023

Learned counsel for the appellant present. Mr. Assad Ali Khan, Assistant Advocate General for the respondents present.

Learned counsel for the appellant seeks adjournment on the ground that she has not made preparation for arguments. Adjourned. To come up for arguments on 30.05.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar



(Salah-ud-Din)
Member (J)



(Kalim Arshad Khan)
Chairman

30th May, 2023

1. Learned counsel for appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General for respondents present.
2. Learned counsel for appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 25.08.2023 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

05.12.2022

SCANNED
KPST
Peshawar

Counsel for the appellant present. Muhammad Jan learned District Attorney alongwith Atta Ur Rehman Inspector Legal for respondents present.

Written reply on behalf of respondents submitted which is placed on file. A copy of the same is handed over to counsel for the appellant. To come up for rejoinder/arguments 01.03.2023 before D.B.



(Rozina Rehman)
Member (J)

01.03.2023

SCANNED
KPST
Peshawar

Clerk of learned counsel for the appellant present. Mr. Atta-ur-Rehman, Inspector (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Lawyers are on strike. To come up for arguments on 17.03.2023 before the D.B. Parcha Peshi given to the parties.



(Fareeha Paul)
Member (E)




(Salah-ud-Din)
Member (J)

10.08.2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

On previous date notices were not issued. Therefore, fresh notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 23.09.2022 before S.B.



(Fareeha Paul)
Member (E)

23.09.2022


Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Reply/comments on behalf of respondent are still awaited. Learned Deputy District Attorney shall intimate the respondents to positively submit reply/comments on 27.10.2022 before the S.B.

27th Oct., 2022

Counsel for the appellant present (S. Anwar Din Shah, Assistant Advocate General for the respondents present.)

Member (J)

Respondents have not submitted reply/comments. Learned Assistant Advocate General sought adjournment in order to contact the respondents. Last chance is given. To come up for reply/comments on 05.12.2022 before S.B.

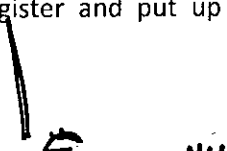


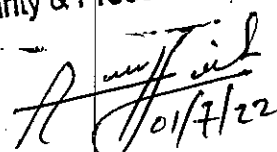


(Fareeha Paul)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 898/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/06/2022	<p>The appeal of Mr. Hameedullah resubmitted today by Roaeda Khan 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>
2-	<p>15.6.22</p> <p>Noted BY Sahmed</p> <p> 15/6/2022</p>	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>28-6-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
28.06.2022	<p>Appellant Deposited Security & Process Fee</p> <p> 10/7/22</p> <p>SCANNED KPST Peshawar</p>	<p>Learned counsel for the appellant present. Preliminary arguments heard and record perused.</p> <p>Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for written reply/comments on 10.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>

The appeal of Mr. Hameedullah son of Ahmad Ex-Constable No. 3310 District Nowshera received today i.e. on 02.06.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Check list has not been dully filled in.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Application for condonation of delay is unsigned.
- 4- Details of documents are not given on the flags.
- 5- Copy of final show cause notice mentioned in the memo of appeal (Annexure-F) is not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is incomplete which may be completed.
- 7- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 1246 /S.T,


Dt. 03/06 /2022


REGISTRAR

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv. Pesh.

objects No 1 To 7
has been removed


8/6/2022

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

1.	Case title <u>Hameed Khan vs - police</u>		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are property paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filled.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 , for other as required}	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- **Roeeda Khan**
Advocate High Court
Peshawar

Signature: - 

Dated: - 3-6-2022

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SCANNED
KPST
Peshawar

Appeal No. 898 of 2022

Hameed Ullah Ex-Constable No. 3310 Police Line District Mardan
..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal with verification		1-4
2.	Application for condonation of delay		5&6
3.	Addresses of the parties		7
4.	Affidavit		8
5.	Copy of 491 Petition	A	9-11
6.	Copy of FIR	B	12
7.	Copy of bail order	C	13-17
4.	Copy of charge sheet and reply	D&E	18 To 22
5.	Copy of reply of final show cause notice	F	23 To 27
6.	Copy of impugned order	G	(28)
7.	Copy of Departmental Appeal and rejection order	H&I	(H) 29 To 34
8.	Copy of revision Petition	J	35 To 41
9.	Wakalat Nama		

Dated 02/06/2022

Hameed
Appellant

Through

Roceda Khan
Roceda Khan
Advocate, High Court,
Peshawar.

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 898 of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi PO
Miyar tehsil and District Nowshera.

..... Appellant
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 143

Dated 02/16/2022

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE IMPUGNED ORDER DATED 25/10/2021
WHEREBY MAJOR PUNISHMENT OF
DISMISSAL FROM SERVICE HAS BEEN
AWARDED TO THE APPELLANT AGAINST
WHICH THE APPELLANT FILED
DEPARTMENTAL APPEAL ON 11/11/2021 ✓
WHICH HAS BEEN REJECTED ON 05/04/2022 ✓
ON NO GOOD GROUNDS.**

Prayer:

On acceptance of this appeal both the
impugned orders dated 25/10/2021 and rejection
order dated 05/04/2022 may kindly be set aside and
the appellant may kindly be reinstate on his service
alongwith all back benefits.

Filed to-day

Registrar

2/16/2022

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant has been appointed as Constable
with respondent /Department since long time.
- 2) That after appointment the appellant performed his
duty with full devotion and hard work and no

Re-submitted to -day
and filed.

Registrar

2/16/22

complaint whatsoever has been made against the appellant.

- 3) That the appellant has been illegally and unjustifiably has been taken by the SHO Police Station Risalpur on 17/02/2021 and kept the appellant his illegal confinement against which the brother of appellant namely Muhammad Ayub filed 491 Petition before the court concerned for the production of the appellant from the illegal confinement on 24/02/2021. (Copy of 491 Petition and order as Attached as Annexure-A).
- 4) That as a result of illegal action mention in Para-3 the SHO of Police Station Risalpur charge the appellant in a false and fabricated criminal case FIR No. 58 dated 04/03/2021 U/S 395-PPC Police Station Risalpur, it is pertinent to mention here that the appellant has not been directly charge in the mentioned FIR. (Copy of FIR is attached as Annexure-B).
- 5) That the appellant has been bail ousted from the above criminal case by the Peshawar High Court Peshawar on 26/03/2021. (Copy of bail order is attached as Annexure-C).
- 6) That a charge sheet and statement of allegation has been issued to the appellant on 30/03/2021 by the respondent Department which has been properly replied by the appellant whereby the appellant denied all the allegations leveled against the appellant. (Copy of charge sheet and reply is attached as Annexure- D&E).

- 7) That a final show cause notice has been issued to the appellant which has been properly replied by the appellant whereby the appellant denial all the allegation level against the appellant. But un lucky the appellant has not been kept the copy of charge sheet. (Copy of reply of final show cause notice is attached as Annexure- F).
- 8) That on 25/10/2021 the impugned order has been issued against the appellant whereby the appellant has been dismissed from service on the allegation of involvement of the said criminal case. (Copy of impugned order is attached as Annexure-G).
- 9) That the appellant submitted Departmental Appeal on 11/11/2021 which has been rejected on 05/04/2022 on no good grounds. (Copy of Departmental Appeal and rejection order are attached as annexure-H&I).
- 10) That the appellant submitted revision petition on 11/04/2022 against the impugned order. (Copy of revision petition is attached as annexure-J).

GROUNDS

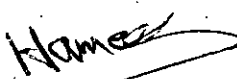
- A). That the impugned orders dated 25/10/2021 and 05/04/2022 are void and illegal because it has been passed without full filling the codal formalities.
- B). That the FIR in which the appellant has been falsely implicated has been lodge against the un-known person and the appellant has been charged in 161 statement of the co-accused in the above mentioned case which has no value.

- C). That no Departmental Inquiry has been initiated against the appellant before imposing major penalty which is mandatory.
- D). That no statement of witness has been recorded and no opportunity of personal hearing has been provided to the appellant.
- E). That the respondent Department should be waited for the decision of the criminal cases.

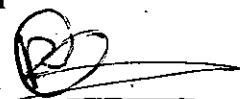
It is therefore most humbly prayed that On acceptance of this appeal both the impugned orders dated 25/10/2021 and rejection order dated 05/04/2022 may kindly be set aside and the appellant may kindly be reinstate on his service alongwith all back benefits.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 02/06/2022


Appellant

Through


Roeeda Khan
Advocate, High Court,
Peshawar.

Verification:

Verified that the contents of the above appeal are true and correct to the best of my knowledge and belief.


Deponent

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
P/O Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents


APPLICATION FOR CONDONATION OF DELAY (IF ANY).

Respectfully Sheweth:

- 1) That the petitioner/appellant has filed the accompanied appeal today in which no date has yet been fixed.
- 2) That petitioner/appellant has a good prima facie case and is hopeful for its success and the grounds mentioned in appeal may be treated as integral part of this application.
- 3) That there are many Judgment of the supreme Court that cases should be decided on merit rather than on technicality.

It is, therefore, most humbly prayed that on acceptance of this application the delay if any may be condoned in the interest of justice.

Dated 02/06/2022



Petitioner / Appellant

Through



Rooeda Khan

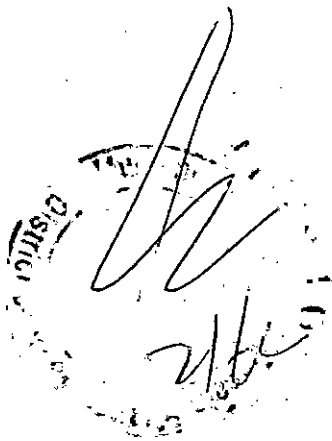
**Advocate, High Court
Peshawar**

AFFIDAVIT

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor
Mondi PO Miyar tehsil and District Nowshera do hereby
solemnly affirm and declare on oath that the content of the above
application are true and correct to the best of my knowledge and
belief and nothing has been kept secret and concealed from this
Hon'ble Tribunal.



DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
PO Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

ADDRESSES OF THE PARTIES

Appellant


Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor
Mondi PO Miyar tehsil and District Nowshera.

Respondents

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

Dated 02/06/2022


Appellant

Through 
Rooeda Khan
Advocate, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2022

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
P/O Miyar tehsil and District Nowshera.

..... Appellant

VERSUS

- 1) District Police Officer Mardan.
- 2) Regional Police Officer Mardan.
- 3) The Provincial Police Officer KPK Peshawar.

..... Respondents

AFFIDAVIT

Hameed Ullah S/o sher Ahmad Ex-Constable No. 3310 R/o Zor Mondi
PO Miyar tehsil and District Nowshera do hereby solemnly affirm and
declare on oath that the content of the above application are true and
correct to the best of my knowledge and belief and nothing has been
kept secret and concealed from this Hon'ble Tribunal.


DEPONENT



(A" (9)
BEFORE THE COURT OF SESSIONS JUDGE
NOWSHERA

Muhammad Ayub S/o Sher Ahmad
Resident of Zor Mandi PO: Miyar Tehsil & Distt: Nowshera.
Petitioner.

VERSUS

1-SHO PS: Risalpur.
Respondent

APPLICATION UNDER SECTION 491 CR.P.C FOR
PRODUCTION OF DETENUEE HAMEED ULLAH
S/O SHER AHMAD FROM RESPONDENT.

Respectfully Shewth:-

It is submitted as under:-

- 1- That the petitioner is Pakistani by National and presently living at the above said vicinity.
- 2- That the detnuee Hameed Ullah aged about 35 years is the brother of the petitioner.
- 3- That the local police of PS: Risalpur on 17-02-2021 taken away forcibly the detnuee from his house without any legal charge.
- 4- That the local police of the Police Station Risalpur is denying regarding the presence of the detnuee without any legal justification.

~~ATTORNEY~~

(10)
5- That the said act of the respondent is illegal against law and facts.

6- That the respondent have no legal right to kept the detunes in illegal confinement.

7- That the respondent is legally bound to produce the detenues before the concern court with 24 hours.

IT IS THEREFORE, MOST HUMBLY PRAYED THAT ON ACCEPTNACE OF THIS PETITION THE DETUNEES (BROTHER OF PETITIONER) MAY KINDLY BE RECOVERED FROM THE CLUTCHES OF RESPONDENT AND HANDEDOVER TO THE PETITONER BEFORE THIS HONORABLE COURT.

Dated:- 24-02-2021.

Petitioner

Through Counsel:-

(MIAN ARSHAD JAN)

Advocate High Court

Advocate Supreme Court

District Courts Nowshera

AFFIDVIT:-

I do hereby solemnly affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed.

DEPONENT

ATTESTED

FORM-A

FORM OF ORDER SHEET

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-V,
NOWSHERA.

CASE# _____ TITLE Muhammad Ayub Vs SHO Risalpur

SH OF ORDER OF PROCEEDINGS	DATE OF ORDER OF PROCEEDINGS	ORDER OF OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE THAT OF PARTIES OR COUNSEL WHERE NECESSARY.
Order....02	24 th Feb,2021	<p>The instant petition u/s 491 Cr.P.C received from the court of learned Sessions Judge, Nowshera. Be checked and entered into relevant register.</p> <p>Muhammad Ayub, petitioner submitted the present petition under section 491 Cr.P.C for the production of detenuer namely Hameed Ullah s/o Sher Ahmad brother of petitioner, as he has illegally been confined by respondent. It is contended that detenuer has illegally and un-justifiably been taken by the respondent on 17.02.2021 and till to date he was not produced before any competent court of law and his son is in illegal confinement of respondent. In order to verify the contention of petitioner, Bailiff of this Court is directed to visit the police station Risalpur, to see that whether detenuer named above is in illegal confinement in the Police Station Risalpur or any case has been registered against him or he is legally been arrested by police. He is also directed to check the relevant register of FIR and Daily Diary in order to ascertain the fact that whether any case is registered against him or not. Copies of the relevant documents be procured from SHO in court for perusal. If it is found that detenuer is not involved in any case, then SHO be directed to attend the Court and detenuer named above be produced before the court today i.e. 24.02.2021. Notice also be issued to respondent for the date fixed.</p> <p style="text-align: right;">S SUMERA WALI Additional Sessions Judge-V Nowshera.</p>

ابتدائی اطلاع رپورٹ

تفتیشی افسر علی اکبر سہیل
9637468-0314

ابتدائی اطلاع نسبت جرم ۵۳ مل جل دست اعمالی پورٹ رپورٹ نمبر ۱۵۳ مجموعہ ضابطہ ۱۵۳

سلسلہ	نوع	لوٹ نمبر
۵۸	۴	۱۶۰۹۵
۱۰	۴	۲۳۰۰
۴	۲	۴۰۲
۲	۲	۲۳۰۰
۲	۲	۲۳۰۰
۲	۲	۲۳۰۰
۲	۲	۲۳۰۰
۲	۲	۲۳۰۰

ڈیوڈ ٹاسٹا قاتل سے اور مت

۳۹۵ P.P.C

فورٹ پیڈی اور رینڈرنگ کی اسٹریجھ جائب شمالی بقاصہ کو

پہلے جرتیش کے متعلق کی اگر اطلاع درج کرے میں وقت اپنا ہوتیہ میان کرد
سے روانگی کی تاریخ و وقت

ابتدائی اطلاع ختمی درج کرو۔ جو صلا فرساح سمانت کاہران ریس P.P.C بدست کیس ۱۸۶۵ ممبروں
نیل سے تختہ افسر ایچ آر جی سناہر ساہور دوران گنت نیار علی دہر جسرا علی نے ۲۶ سال ساکن
علی علیہ دستم مردان بشمول ریاض محمد ولا علی حوالا خان ساسن کا کسان وقت سمائی فردان ملدقی
سیرسہ سی منار علی یون رپورٹ کر کا معیج میں جنسیر لوبیکو مردان جنین رطور ڈرا لوبو ریکریم میں
آج میں مع ڈرا لوبو رشید اور کیشیا اعجاز لوبواری موٹر کار اکیشن میں 740 میں سہ گرد ہاملار
سے صیر لوبیکو کے ڈسٹر بیرٹ سے 60 لہ روہی سیکر حکوال کیشنہ روانہ ہوئے بوکت ۱۵:۵۰ اور
حکوال پنج سر سہی اعجاز شاہ نے حکوال میں موجود ڈسٹر بیرٹ سے معالو کے مبلغ 50 لاکھ روپے
لکھ مردان سیکر نہایتے جو سرتے روانہ ہوئے جب وقوع مالا جانے وقوع نالہ میں تہہ ڈرا لوبو
میں 888 نہایت بلنور سمائی آئے گھڑی میں اور لوبو کارٹی میں جانا معلوم نہایت شہید اور لوبو
مردان میں نامعلوم تیرنگ سکر میں جاکھڑی سے جیکھڑی میں آنا فورٹا کے 4 سنا اور قریب
جاکھڑی سے 4 لکھ لکھ روری میں ملو میں آئے اور انہو کو اپنے جاکھڑی سے نہروہ
آہا کر کے ساتھ نہو میں بہتا سر کھڑو کافی فوج اور میں جاکھڑی سمیت تمام جاکھڑی
طاب نشا اور روانہ ہوئے جب فرج لائل بلانہ میں تہہ ڈرا لوبو ریش ایکسا سہ کی حکول بلین تر ہور
ادا تے لائل لائل بلانہ سے لکھڑی اور ایک لکھڑی ریش ریش میں لکھڑی میں لکھڑی رنگ
مردان میرا کار کا سیکر نہوہ نامہ بندی ایکسا لائل جاکھڑی میں لکھڑی حکول دی میں
اے لوبیکو کے تمام انسان سے رابطہ قائم کھڑو کے رپورٹ کر کے ہی ہدایت کی اجرت میرا لوبو
مردان میں راولپنڈی میں لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی
صلا کشتہ سائل رپورٹ صلا لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی
لکھڑی کی اور لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی
لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی
لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی سے لکھڑی لکھڑی

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FORM OF ORDER SHEET

131

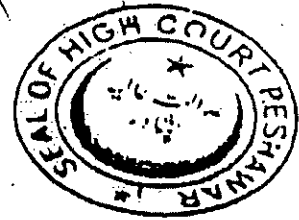
IN THE COURT OF DISTRICT & SESSIONS JUDGE, NOWSHERA.

Petition # _____ TITLE: Mohd AkubVersus... The State etc

NO OF ORDER OF PROCEEDINGS	DATE OF ORDER OF PROCEEDINGS	ORDER OF OTHER PROCEEDINGS WITH SIGNATURE OF JUDGE THAT OF PARTIES OR COUNSEL WHERE NECESSARY:
Order---01	27/2/21	<p>The instant petition filed above taken out from the petition box, checked and found correct. Put up before the learned Court for order, please.</p> <p style="text-align: right;"><i>[Signature]</i> Reader, Sessions Court, Nowshera.</p> <p>Entrusted to the court of learned ASJ- <u>V FIVE</u> Nowshera, for disposal.</p> <p style="text-align: right;"><i>[Signature]</i> Shahnaz Hameed Khattak Sessions Judge, Nowshera.</p>

(14)

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR**
(Judicial Department)



Cr.M.B.A.No.837-P of 2021.

Date of hearing: 26.03.2021.

M/s Mian Arshad Jan, Muhammad Jamal Afridi and Shams-ul-Haq, advocates for the petitioner.

Mr. Umar Farooq, AAG for the State.

Mr. Muhammad Muazzam Butt, advocate for the complainant.

JUDGMENT

LAL JAN KHATTAK, J. For the reasons recorded in the connected Cr.M.B.A.No. 836-P of 2021, this petition is allowed and it is directed that the petitioner be released on bail subject to his furnishing bail bonds in the sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of learned trial court.

JUDGE

Announced.

26.03.2021.

Sadia Shah CS (SU) (Hon'ble Mr Justice Lal Jan Khattak)

CERTIFIED TO BE TRUE COPY

27 MAR 2021

ATTACHED

15

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)**

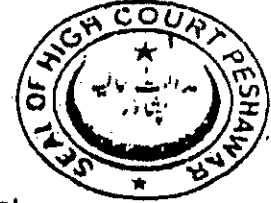
Cr.M.B.A.No.836-P of 2021.

Date of hearing: 26.03.2021.

M/s Mian Arshad Jan, Muhammad Jamal Afridi and Shams-ul-Haq, advocates for the petitioners.

Mr. Umar Farooq, AAG for the State.

Mr. Muhammad Muazzam Butt, advocate for the complainant.



JUDGMENT

LAL JAN KHATTAK, J.- Through this judgment, I shall also decide Cr.M.B.A.No.837-P of 2021 titled "Hameedullah Vs. The State" as both the petitions have emanated from same FIR No.58 dated 04.02.2021 under sections 395/365/342/412 PPC registered at Police Station Risalpur, Nowshera wherein the petitioners have been charged for committing robbery.

2. Arguments heard and record gone through.

3. Though it is the prosecution case that an amount of Rs.1,10,00,000/- was looted by the petitioners which one Ijaz, Cashier of M/s Khyber Tobacco Mardan, had collected

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EXAMINER
Peshawar High Court

(16)

from the Company's distributors at Sargodha and Chakwal but pronounced aspect of the case is that neither statements of the distributors, from whom the money was collected, have been recorded nor Investigating Officer of the case has associated cashier Ijaz in the case so as to bring his view point on record. Though, according to the prosecution, an amount of Rs. 80,00,000/- has been recovered on the production of petitioner Sharifullah but said amount was taken into possession on 25.02.2021 from an almirah allegedly lying in the petitioner's office and there is no material on the record to show that the office was owned or possessed exclusively by the petitioner. Likewise, the recovery of Rs. 14,50,000/- has not been effected from petitioner Hamiedullah rather same was taken into possession from his brother in the police station. Besides, no identification parade of the petitioners, as per law, has been conducted by the prosecution which could show that they were the same persons who had looted the amount from cashier Ijaz on the spot near Peshawar-Rashakai interchange.

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 EXAMINER
 Peshawar Bench Court

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4. Tentative assessment of the case record has led this court to believe that involvement of the petitioners qua their guilt in the crime needs further inquiry in terms of sub-section 2 of section 497 Cr.P.C., therefore, they have succeeded in making out a case for their release on bail.

5. For what has been discussed above, this petition is allowed and it is directed that the petitioners be released on bail provided each of them furnishes bail bonds in the sum of Rs.1,00,000/- with two sureties each in the like amount to the satisfaction of learned trial court.

JUDGE

Announced.

26.03.2021.

[Signature]

No. 31439
 Date of Presentation of Application 27/3/21
 No of Pages 78
 Copying fee 28/-
 Total 28/-
 Date of Preparation of Copy 27/3/21
 Date of Delivery of Copy 27/3/21
 Received By [Signature]

[Signature]
 CERTIFIED TO BE TRUE COPY
 14/3
 EXAMINER
 Authentication Order Article 47 of
 the Punjab & Haryana High Court Ord. 1984
 27 MAR 2021

ATTACHED



(D) (4)

OFFICE OF THE DISTRICT POLICE OFFICER, MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

CHARGE SHEET

I, Dr. Zahid-Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge Washman Constable Hameed Ullah No.3310, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.

3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.

4. Intimate whether you desired to be heard in person.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

ATTENDED



(15)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com

2021

No. 107

PA

Dated 30/13/2021

DISCIPLINARY ACTION

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Hameed Ullah No.3310, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.

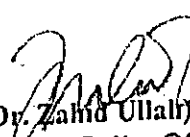
STATEMENT OF ALLEGATIONS

Whereas, Washman Constable Hameed Ullah No.3310, while posted at Police Lines-Mardan (now under suspension Police Lines Mardan), has been charged in a case vide FIR No.58 dated 04-02-2021 U/S 395/365/42/171/412 PPC PS Risalpur District Nowshera.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, ASP Muhammad Oais Khan SDPO/Takht-Bhai is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Hameed Ullah is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

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(18)

Before the DPO mandan.

Subject: Reply to the Charge sheet + statement of allegations
NO 107-PA dated 30.3.2021

Respected Sir,

Your honour had issued the subject charge sheet + statement of allegation to the petitioner with the following allegations:

" Whereas westman constable Hamidullah no 3210, while posted at police lines mandan (now under suspension) Police lines mandan has been charged in a case vide FIR No 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC Ps Risalpur District Nowshera-17

In response to the charge sheet, the petitioner submits as under.

① It is submitted that the matter relates to case FIR NO 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC Ps Risalpur. Brief facts of the case are that 4.2.2021 some unknown accused boarded in XBI motor car NO 858 along with white colour vigo number unknown and vitz NO unknown reached near Rashakai-intu change. The accused took away the complainant Mihar Ali along with their follow to Peshawar. The accused snatched cash amount Rs 1,10,00000 and motor car from him. on the report of the complainant, a Criminal case has been registered in the Ps Risalpur. (Copy of FIR enclosed)

② In the above case accused usman Hussain s/o gaffar Hussain and Shahid s/o Tahir joined r/o Peshawar were arrested. Later accused usman Hussain allegedly disclosed to the police that accused Sharifullah s/o Haji Raheemullah r/o Barakoh Islamabad was also accompanied with him during the commission of offence.

③ It is pertinent to note that accused Shahid a Sharifullah are property dealers. The petitioner's family also deals in property selling and purchasing. In connection of the same dealing, accused Shahid was previously known to him.

④ It was learnt to the petitioner, that during interrogation

Page-(2)

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(Page 3)

on 26.2.2021. Pathan along with other received were
 present in the court where one day police custody
 was granted by the court. It is worth to mention
 here that during illegal confinement SHO PS Badli
 SI Sanjay and 10/ST-AR Akbar subjected the
 Pathan to intense physical torture. They were
 compelling the Pathan and his family to produce

2)

of application in 3491 vide along with counter on
 Pathan in the court dated 25.2.2021. (copy
 491 vide. There they showed id card of the
 on the date come to know regarding application in 3
 in the court of session judge, Badli on 24.2.2021.
 mentioned vide also filed an application in 491 vide
 The SHO PS Badli confirmed Pathan brother normally

3)

of PP Toror in a motor car no NV-173 x11 vide
 till 25.2.2021. Our arrest was shown by the police
 USoman Hassan and stated an illegal confinement
 The SHO PS Badli kept the Pathan along with arrest
 should be in the Pathan.

4)

at college - choice. Inspector Shakti also stated that
 choice on mobile phone. Pathan read with them
 do not summoned the Pathan to the nodal college
 known to him. The name of the Pathan has been brought by the
 arrested record stated in the above case. The
 Pathan told - that arrest stated is known to him as
 he is from Pathan and lives in Badli -
 Inspector Shakti told the Pathan to go Badli. It
 was the evening time. The police produced a record
 should be in the Pathan.

5)

on 17.2.2021 SHO PS Badli, ASI Sanjay and 10/ST-AR
 who kept should be asked that whether he knows any
 one in Badli. The record showed that Pathan is
 known to him.

(2)

(191)

The alleged stolen amount. The Petitioner did disclose before the Police officials, that he is innocent and has got no concern with the instant case.

9) During the illegal confinement due to the pressure and continuous Torture from Police the Petitioner informed his brother and close door neighbor Amir Khan Rajmani Chela to arrange for the production of cash amount Rs 14,00,000 as the Police were demanding the same amount. The Petitioner also informed his brother namely Abdullah for the sending the amount by mobile phone. The arrangement of amount was made as under :-

- ① An alto motor car was sold on 18.2.2021 at a rate of Rs 5,90,000. (Sale deed is enclosed)
- ② The brother of the Petitioner had sent Rs 3,00,000 on 19.2.2021 (Bank receipt is enclosed)
- ③ Jewelry was sold on 19.2.2021 at a rate of Rs 5,00,000 (receipt is enclosed).
- ④ Rs 50,000 was given by Amir to brother.

The Total amount came Rs 14,00,000. The said total amount was brought by Amir to the Police and handed over to the Police. This was shown as recovery from the possession from the

Petitioner in the recovery memo dated 26.2.2021. This illegal practice is the extreme boundary of cruelty. This fact can be confirmed from the relevant documents and verbal statement of Amir during the course of enquiry. (The recovery memo dated 26.2.2021 is enclosed)

10) The motor car NV-173 which is the car of the petitioner along with other is shown belong to Fazal Akbar Y/o K. S. Kallu Turu. In fact the same car was recovered from his possession in the house of Chhala dhar on 25.2.2021 and was taken into possession as case property, being used by the petitioner in the page-14)

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post. The same motor car does not relate to the instant case at any stage.

To Whom it may concern:

- A): The Accused is innocent and has been falsely implicated in the instant case.
- B): There is no single evidence against the Petitioner to connect him with the commission of offence.
- C): The Complainant has charged the unknown Accused. Neither the Complainant nor other PWs have charged the Petitioner for the offence in any statement recorded up to 164 CrPc. Merely the Petitioner has been charged in the statements recorded up to 161 CrPc, which are not admissible in the eye of law.
- D): The Petitioner and no other Accused had made confession in the Court and all such facts denote that the Prosecution case is a concocted story.
- E): The identification Parade was not conducted before a judge during investigation, which has made the involvement of the Petitioner in the case doubtful and suspicious.
- F): The CCTV Footage from Wadi-inter change to Pashawan interchange have not confirmed the arrival of the vehicles mentioned in the FIR on the date of occurrence on the spot.
- G): The recovery of alleged stolen amount worth Rs 14,50,000 and recovery of motor car no NY-173 is illegal and contrary to the law, which detail is already given in Para 9 and 10 above.
- H): The Petitioner was released on bail by the Honourable Court of Pashawan High Court dated 26.3.2021. According to the order of the High Court Accused

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Washington Constable, Hermandad
No 3310 Police Kings Madison

Dated: 20.07.2021

Yours obediently,

Keeping in view the above facts and circumstances mentioned
it is humbly requested, that the sub of charge issued
to the petitioner may kindly be speedily withdrawn.

for such other...
and judicial procedure can not run parallel
of the conduct of law. An departmental procedure
may be kept pending till to the final judgment
But it would be, that the present departmental
The case. The case is pending trial in the court.
Case, rather than possibility of a award in the
1) There is no chance of conviction of petitioner in the instant
(copy of order of acquittal could be shown to be read)

The above points raised by the honorable court also needs your
kind attention and consideration.

1. Accused petitioner is not directly charged in the FIR
2. Recovery of Rs 14,50,000 has not been explained
3. from the possession of the petitioner, as the same was taken into possession from his brother in the police station.
3. No identification parade of the petitioner is per law was conducted.
4. The High court believe that involvement of the petitioner and their guilt in the crime needs further enquiry.

(F) (23)

BEFORE THE WORTHY DISTRICT POLICE OFFICER MARDAN

Subject: REPLY TO THE FINAL SHOW CAUSE NOTICE NO. 297 / PA DATED 15-09-2021

Respected Sir,

Your Honour had issued Charge Sheet & statement of allegation No. 107/PA dated 30/03/2021 to the petitioner with the following allegation:

“Whereas, Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the petitioner and Mr. Muhammad Qais Khan SDPO Takht Bhai was nominated as E.O. The petitioner submitted his detailed reply to the charge sheet but was not considered. The E.O submitted his enquiry finding before your Honour and recommended the petitioner for the award of major punishment. In the light of the enquiry finding, your Honour had issued the subject FINAL SHOW CAUSE NOTICE to the petitioner. (Copy of FSC is enclosed).
2. That the detailed and comprehensive reply in response to the charge sheet is reproduced below for your kind perusal:

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).
2. In the above case accused Usman Husain S/O Iftikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh

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Islamabad was also accompanied with him during the commission of offence.

3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The petitioners family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the petitioner.
4. It was learned to the Petitioner that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that Petitioner is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the Petitioner to Mardan College Chowk on Mobile Phone. Petitioner met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Petitioner has been brought by the arrested accused Shahid in the above case. The petitioner told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the Petitioner to Police Station Pabbi. It was the evening time when the Police Produced accused Shahid before the Petitioner.
6. That SHO PS Risalpur kept the petitioner along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including petitioner were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, petitioner's brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the petitioner on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court ordrs are enclosed)
8. That on 26/02/2021 Petitioner along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the Petitioner to intense physical torture. They were compelling the petitioner and his family to produce the alleged stolen amount before

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the Police. The petitioner disclosed before the Police Official that he is innocent and has got no concern with the instant case.

9. During the illegal confinement, due to pressure and continuous torture from Police, the petitioner informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The petitioner also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the petitioner had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of petitioner vide recovery memo dated 26/02/2021.

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the petitioner along with other accused is shown belongs to Fazal Akbar R/O Kass Killi Toru. In facts the same car was recovered from his possession in the Bazar of Ghala Dher on 23/02/2021 and was taken into possession as a case property, being used by the petitioner in the past. The said motorcar does not relates to the instant case at any stage.

GROUND FOR THE FILING OF F.S.C.N. :

- I. The petitioner is innocent and has been falsely implicated in the instant case.
- II. There is no single evidence against the petitioner to connect him with the commission of offence.

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- (26)
- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the petitioner for the commission of offence in any statement recorded U/S 164 CrPC. Merely the petitioner has been charged for the commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.
- IV. The petitioner and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the petitioner in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The petitioner was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
- a. Petitioner not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the petitioner as the same was taken into possession from Amir Khan closed door neighbor of the petitioner in the PS Risalpur.
 - c. No identification parade of the petitioner as per law was conducted.
 - d. The High Court believe that involvement of the petitioner qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention and consideration. (Copy of High Court order dated 26/03/2021 is enclosed).

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the petitioner.

- (27)
- ii. During the proceeding of enquiry, the petitioner produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of Petitioner. No opportunity of cross examination at this PW was given to the petitioner. Only believing on this single statement the EO recommended the petitioner for award of major punishment. Only one sided drama was played during enquiry.
 - iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the petitioner in custody have also not been examined during the enquiry.
 - iv. All the enquiry proceedings are illegal and against the norm of justice.

PRESENT POSITION OF THE CRIMINAL CASE:


The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC is pending trail. There is no chance of conviction of petitioner in the instant case rather there is possibility of acquittal of the petitioner in the case. Better would be that the present departmental enquiry be kept pending till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental procedure and judicial procedure cannot run parallel to each other.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that the subject final show cause notice may kindly be filed please.

Dated: 18/09/2021

Yours Obediently,


Washer-man Constable
Hameed Ullah
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

MARDAN

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: ppemdn@gmail.com

Dated 28/10/2021

ORDER ON ENQUIRY OF CONSTABLE HAMEED ULLAH NO.3310

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official (Washer-man), under the allegations that while posted Police Lines Mardan (now under suspension Police Lines Mardan), was placed under suspension vide this office OB No. 587 dated 22-03-2021, issued vide order/endorsement No.2035-39/OSI dated 24-03-2021 on account of charging in a case vide FIR No.58 dated 02-03-2021 U/S 395/365/342/171/412 PPC PS Risalpur (Nowshera).

To ascertain real facts, the delinquent official was proceeded against departmentally through ASP Muhammad Qais Khan, the then SDPO/Takht-Bhai vide this office statement of Disciplinary Action/Charge Sheet No.107/PA dated 30-03-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.610/SI dated 08-07-2021, holding responsible the alleged official of gross misconduct with recommending for major punishment.

In this connection, he was served with a Final Show Cause Notice, under Police Rules-1975, issued vide this office No.297/PA dated 15-09-2021, to which, his reply was received and found un-satisfactory.

Final Order

Constable Hameed Ullah (Washer-man) was heard in OR on 20-10-2021. During OR, he was given ample opportunity to explain his position, to which, he failed, therefore, keeping in view the enquiry report and related documents, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 194

Dated 28/10/2021

(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP/Investigation Nowshera with reference to his office letter No.1329/HC/Inv: dated 16-03-2021.
- 2) The DSP/IIQrs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

Page 1 of 00

ATTESTED

(1 H)

(281)

To

The Deputy Inspector General,
Of Police Mardan,
Region-I, Mardan.

**Subject: APPEAL AGAINST THE ORDER OF DPO / MARDAN
ISSUED VIDE OB NO. 1941 DATED 25/10/2021 WHEREBY
THE APPELLANT WAS AWARDED MAJOR
PUNISHMENT OF DISMISSED FROM SERVICE.**

Respected Sir,

The DPO / Mardan had issued charge sheet and statement of allegations No. 107-PA dated 30.03.2021 to the appellant with the following allegations:

“whereas Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04/02/2021 U/S 365/35/342/171/12 PPC PS Risalpur District Nowshera. (Copy attached).

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the appellant and Mr. Muhammad Qais Khan SDPO/Takht Bhai was nominated as Enquiry Officer. The appellant submitted his detailed reply to the charge sheet, but was not considered. The Enquiry Officer submitted his enquiry finding before DPO / Mardan and recommended the appellant for the award of major punishment.
2. In the light of enquiry finding, the DPO / Mardan issued Final Show Cause Notice No. 297-PA dated 15/09/2021. The appellant submitted a detailed reply to the FSCN, but was not considered. (Copy of FSCN is enclosed).

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).

~~ATTACHED~~

(30)

2. In the above case accused Usman Husain S/O Ifikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh Islamabad was also accompanied with him during the commission of offence.
3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The appellant family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the appellant.
4. It was learned to the appellant that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that appellant is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the appellant to Mardan College Chowk on Mobile Phone. Appellant met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Appellant has been brought by the arrested accused Shahid in the above case. The appellant told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the appellant to Police Station Pabbi. It was the evening time when the Police Produced accused Shahid before the appellant.
6. That SHO PS Risalpur kept the appellant along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including appellant were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, appellant brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the appellant on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court orders are enclosed)
8. That on 26/02/2021 appellant along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement

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SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the appellant to intense physical torture. They were compelling the appellant and his family to produce the alleged stolen amount before the Police. The appellant disclosed before the Police Official that he is innocent and has got no concern with the instant case.

9. During the illegal confinement, due to pressure and continuous torture from Police, the appellant informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The appellant also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the appellant had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of appellant vide recovery memo dated 26/02/2021.

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the appellant along with other accused is shown belongs to Fazal Akbar R/O Kass Killi Toru. In facts the same car was recovered from his possession in the Bazar of Ghala Dher on 23/02/2021 and was taken into possession as a case property, being used by the appellant in the past. The said motorcar does not relates to the instant case at any stage.

GROUND FOR THE FILING OF F.S.C.N. :

- I. The appellant is innocent and has been falsely implicated in the instant case.

ATTESTED

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- II. There is no single evidence against the appellant to connect him with the commission of offence.
- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the appellant for the commission of offence in any statement recorded U/S 164 CrPC. Merely the appellant has been charged for the commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.
- IV. The appellant and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the appellant in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The appellant was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
 - a. appellant not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the appellant as the same was taken into possession from Amir Khan closed door neighbor of the appellant in the PS Risalpur.
 - c. No identification parade of the appellant as per law was conducted.
 - d. The High Court believe that involvement of the appellant qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention & consideration.
(Copy of High Court order dated 26/03/2021 is enclosed).

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the appellant.

ATTESTED

(33)

- ii. During the proceeding of enquiry, the appellant produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of appellant. No opportunity of cross examination at this PW was given to the appellant. Only believing on this single statement the EO recommended the appellant for award of major punishment. Only one sided drama was played during enquiry.
- iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the appellant in custody have also not been examined during the enquiry.
- iv. All the enquiry proceedings are illegal and against the norm of justice.

PRESENT POSITION OF THE CRIMINAL CASE:

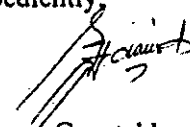
The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur is pending trial. There is no chance of conviction of the appellant in the instant case rather there is possibility of acquittal of the appellant in the case as per justice DPO / Mardan was required to kept pending the departmental enquiry till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental enquiry and judicial proceedings cannot run parallel to each other.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that on acceptance of this appeal. The order of DPO /Mardan may kindly be set-aside and the appellant be reinstated in service from the date of dismissal please.

Dated: 11/11/2021

Yours Obediently,


Wasther-man Constable
Hameed Ullah
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

ATTESTED

(111) (34)

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Washerman Constable Hameed Ullah No. 3310 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 1941 dated 25.10.2021. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan was involved/charged in case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412-PPC Police Station Risalpur District Nowshera.

Proper departmental enquiry proceedings were initiated against him and the then Sub Divisional Police Officer, (SDPO) Takht Bhai, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Mardan, wherein he found him guilty of the misconduct and recommended him for awarding major punishment.

In light of findings of the enquiry Officer, the District Police Officer, Mardan issued Final Show Cause Notice to the delinquent Officer to which his reply was received and was found unsatisfactory. He was heard in Orderly Room by the District Police Officer, Mardan on 20.10.2021 but he failed to advance any cogent reason in his defense. Therefore, he was awarded major punishment of dismissal from service by the District Police Officer, Mardan vide his office OB: No. 1941 dated 25.10.2021.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the involvement of appellant in this heinous criminal case is clearly a stigma on his conduct because recovery was duly effected from direct possession of the appellant. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.


Regional Police Officer,
Mardan.

No. 2751 /ES, Dated Mardan the 05/04 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 294/LB dated 02.12.2021. His Service Record is returned herewith

(36)

BRIEF FACTS OF THE INCIDENT:

To,

(J) (387)

The Provincial Police Officer,
Khyber Pakhtunkhwa, Peshawar.

Subject: MERCY PETITION AGAINST THE ORDER OF DISTRICT POLICE OFFICER MARDAN ISSUED VIDE O.B NO. 19421 DATED 25.10.2021 WHEREBY DISMISSAL FROM SERVICE AND REJECTION OF APPEAL BY REGION POLICE OFFICER MARDAN VIDE HIS OFFICE ORDER NO. 2751/ES DATED 05/04/2022.

Respected Sir,

Your Honor had issued Charge Sheet & statement of allegation No. 107/PA dated 30/03/2021 to the petitioner with the following allegation:

“Whereas, Washerman Constable Hameedullah No. 3310, while posted at Police Lines has been charged in a case vide FIR No. 58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

1. It is submitted that in the light of above charge sheet a departmental enquiry was initiated against the petitioner and Mr. Muhammad Qais Khan SDPO Takht Bhai was nominated as E.O. The petitioner submitted his detailed reply to the charge sheet but was not considered. The E.O submitted his enquiry finding before your Honour and recommended the petitioner for the award of major punishment. In the light of the enquiry finding, your Honour had issued the subject FINAL SHOW CAUSE NOTICE to the petitioner. (Copy of FSC is enclosed).
2. That the detailed and comprehensive reply in response to the charge sheet is reproduced below for your kind perusal:
3. That in the light of enquiry finding, the DPO Mardan awarded major punishment of dismissal from service to the petitioner vide OB No. 1941 dated 25/10/2021. Being aggrieved from the said order, the petitioner field an appeal before the Regional Police Officer Mardan, which was rejected vide office order No. 2751/ES dated 05/04/2022. Copy of order No. 2751/ES is enclosed hence the present (Mercy Petition).

ATTESTED

(11)



... (petitioner) has mentioned in his petition order that the recovery of amount worth Rs. 1,40,000/- was directly affected from the position of the petitioner. Regarding the fact a complete detail has been already mentioned in the title (brief facts of the incident) at para-9 above. It is crystal clear that the recovery memo dated 26/02/2021 has amount of Rs. 14,20,000/- was produced by one Amir (relative of the petitioner) to the I.O. in PS Rajapur. In such circumstances, petitioner cannot be held responsible for the direct recovery of Rs. 1,40,000/-.

As in circumstances, the version of petitioner was not considered at any stage of enquiry with such the petitioner. It is a fact that petitioner humbly submits that Para No. 9 of the (Brief facts of the incident) and recovery memo dated 26/02/2021 may kindly be passed on priority basis.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that on acceptance of this mercy-petition. The order of DPO Warden may kindly be set-aside and the appellant be reinstated in service from the date of discharge please.

Date: 11/04/2023

[Signature]
Yours Obediently,

Warden-Sub-Station
HAMEED ULLAH
No. 3310
Police Lines, Mardan
Cell: 0342-1964281

10/3/23

(36)

BRIEF FACTS OF THE INCIDENT:

1. It is submitted that the matter relates to Case FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that on 04/02/2021 some unknown accused boarded in XLI Motor Car No. 888 along with white colour Vigo No. Unknown and Vitz No. Unknown reached near Rashakai Interchange. The accused took away the complainant Nihar Ali along with other fellows to Peshawar. The accused also snatched cash amount Rs. 1,10,00,000/- and motorcar from him. On the report of the complainant a criminal case has been registered in PS Risalpur. (Copy of FIR enclosed).
2. In the above case accused Usman Husain S/O Ifrikhar Hussain and Shahid S/O Tariq Javed R/O Peshawar were arrested. Later on accused Usman Hussain Allegedly disclosed to the Police that accused Shareefullah S/O Haji Raheem Ullah R/O Barakoh Islamabad was also accompanied with him during the commission of offence.
3. It is pertinent to note that accused Shahid & Sharifullah are property dealers. The petitioner's family also deals in property dealing. In this connection of the same dealing accused Shahid was previously known to the petitioner.
4. It was learned to the Petitioner that during interrogation when accused Shahid was asked that whether he knows any one in Mardan District. The accused disclosed that Petitioner is known to him.
5. On 17/02/2021 Inspector Shafi, ASI Javed Iqbal of Nowshera District Summoned the Petitioner to Mardan College Chowk on Mobile Phone. Petitioner met with him at College Chowk Mardan. Inspector Shafi disclosed that the name of the Petitioner has been brought by the arrested accused Shahid in the above case. The petitioner told that accused Shahid known to him as he is from Peshawar and deals in property matters. Inspector Shaif took the Petitioner to Police Station Pabbi. It

ATTESTED

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was the evening time when the Police Produced accused Shahid before the Petitioner.

6. That SHO PS Risalpur kept the petitioner along with co-accused Usman Hussain and Shahid in illegal confinement till 25/02/2021. Later-on the arrest of all the three including petitioner were shown by the Police of PP Taroo in motorcar No. NV-173 Xli vide DD No. 5 Dated 25/02/2021. (Copy enclosed)
7. That during the illegal confinement, petitioner's brother namely Muhammad Ayub also filed an application U/S 491 CrPC in the Court of Session Judge Nowshera on 24/05/2021. When the Police came to know regarding application U/S 491 CrPC, thereafter they showed the arrest of the petitioner on the following day i.e. 25/02/2021 in the above mentioned criminal case. (Copy of application U/S 491 CrPC along with court orders are enclosed)
8. That on 26/02/2021 Petitioner along with other accused were produce in the court, where one day Police Custody was granted by the Court. It is worth to mention here that during illegal confinement SHO PS Risalpur, SI Saifullah and IO/SI Ali Akbar subjected the Petitioner to intense physical torture. They were compelling the petitioner and his family to produce the alleged stolen amount before the Police. The petitioner disclosed before the Police Official that he is innocent and has got no concern with the instant case.
9. During the illegal confinement, due to pressure and continuous torture from Police, the petitioner informed his brother and closed door neighbor Amir Khan R/O Manikhela to arrange for the production of Case Amount Rs. 14,00,000/-, as the Police were demanding the same amount. The petitioner also informed his brother namely Abdullah (serving in Saudi Arabia) for sending the amount by Mobile Phone. The arrangement of the said amount was made as under:

ATTESTED

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- i. Sold an Alto motorcar on 18/02/2021 @ Rs. 5,90,000/- (Sale deed is enclosed).
- ii. The brother of the petitioner had sent Rs. 3,00,000/- on 19/02/2021 (Bank Receipt is enclosed).
- iii. Jewelry was sold on 19/02/2021 @ Rs. 4,50,000/- (Receipt is enclosed).
- iv. Rs. 60,000/- was given by Amir Khan as borrow.

The total amount comes to be Rs. 14,00,000/-. The said total amount was brought by Amir Khan to PS Risalpur and handed over to SHO Risalpur. This fact can confirmed by examining Amir Khan. Unfortunately the said amount was shown as recovery from the possession of petitioner vide recovery memo dated 26/02/2021.

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed. (The recovery memo dated 26/02/2021 is enclosed)

10. The motorcar No. NV-173 where in the arrest of the petitioner along with other accused is shown belongs to Fazal Akbar R/O KassKilliToru. In facts the same car was recovered from his possession in the Bazar of GhalaDher on 23/02/2021 and was taken into possession as a case property, being used by the petitioner in the past. The said motorcar does not relates to the instant case at any stage.

GROUND OF MERCY-PETITION

- I. The petitioner is innocent and has been falsely implicated in the instant case.
- II. There is no single evidence against the petitioner to connect him with the commission of offence.
- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the petitioner for the commission of offence in any statement recorded U/S 164 CrPC. Merely the petitioner has been charged for the

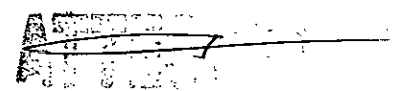
391

commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.

- IV. The petitioner and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the petitioner in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The petitioner was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
 - a. Petitioner not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the petitioner as the same was taken into possession from Amir Khan closed door neighbor of the petitioner in the PS Risalpur.
 - c. No identification parade of the petitioner as per law was conducted.
 - d. The High Court believe that involvement of the petitioner qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention and consideration. (Copy of High Court order dated 26/03/2021 is enclosed).

PRESENT POSITION OF THE CRIMINAL CASE:

The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC is pending trail. There is no chance of



(30)

conviction of petitioner in the instant case rather there is possibility of acquittal of the petitioner in the case. Better would be that the present departmental enquiry be kept pending till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental procedure and judicial procedure cannot run parallel to each other.

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

- i. The enquiry officer has conducted a superficial and illegal enquiry against the petitioner.
- ii. During the proceeding of enquiry, the petitioner produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of Petitioner. No opportunity of cross examination at this PW was given to the petitioner. Only believing on this single statement the EO recommended the petitioner for award of major punishment. Only one sided drama was played during enquiry.
- iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Amir Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the petitioner in custody have also not been examined during the enquiry.
- iv. All the enquiry proceedings are illegal and against the norm of justice.

OBSERVATIONS RAISED BY RPO MARDAN WHILE REJECTING THE APPEAL:

The petition has clearly mentioned above regarding the innocence present case. Unfortunately the Worthy /DIG Mardan (appellant

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authority) has mentioned in his rejection order that the recovery of amount worth 1,400,000/- was directly affected from the position of the petitioner. Regarding this fact a complete detail has been already mentioned in the title (brief facts of the incident) at Para-9 above. It is crystal clear, that is per recovery memo dated 26/02/2021 that amount worth Rs. 14,50,000/- on was produced by one Amir (relative of the petitioner) to the I.O in PS Risalpur. In such circumstances, petitioner cannot be held responsible for the direct recovery of Rs. 1,450,000/-. Again unfortunately, the version of petitioner was not considered at any stage of enquiry and as such the petitioner _____ suffered a lot. The petitioner humbly submits that Para No. 9 of the (Brief facts of the incident) and recovery memo dated 26/02/2021 may kindly be perused on priority basis.

PRAYERS:

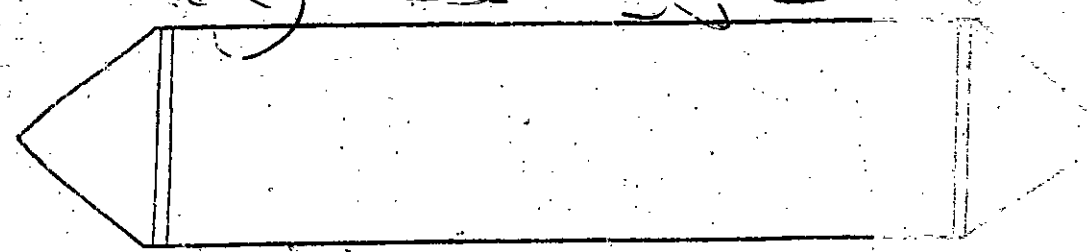
Keeping in view the above facts and circumstances, it is humbly requested that on acceptance of this mercy-petition. The order of DPO /Mardan may kindly be set-aside and the appellant be reinstated in service from the date of dismissal please.

Dated: 11/04/2022


Yours Obediently,

Washer-man Constable
HAMEED ULLAH
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

تذکرہ کاروبار



20 بجاب اسٹین
بنام
کھدالہ

تاریخ
شعبہ
ذاتی
م

باعث تحریر آنکہ

مقدمہ پیش روچہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
~~مقام~~ مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 ورائز پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ نیا اپنے بجائے تقرر کا اختیار
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ
 پروا خاصہ منظور نہال ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سب سے وہ ہوگا۔
 کوئی تاثر پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
 مذکورہ پر نہ لہذا اوکالت نامہ لکھدیا کہ سندر ہے۔

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الرقوم _____ ماہ _____ 20

_____ گواہ _____

کے لئے منظور ہے۔

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مقام

C

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

Service Appeal No. 898/2022

**SCANNED
KPST
Peshawar**

Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/o Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

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C

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

Service Appeal No. 898/2022

Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/o Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. That the appellant has not approached this Hon'ble Tribunal with clean hands.
2. That the appellant has concealed the actual facts from this Hon'ble Tribunal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal.
4. That the appellant is estopped by his own conduct to file the instant Service Appeal.
5. That the appeal is unjustifiable, baseless, false, flawless and vexatious and the same is liable to be dismissed with special compensatory cost in favour of respondents.
6. That the appeal is barred by law & limitation.

REPLY ON FACTS

1. Correct to the extent that the appellant was initially appointed as washeramn constable in Police Department.
2. Incorrect. Plea taken by the appellant is not plausible because every Police Officer is under obligation to perform his duty upto the entire satisfaction of his superiors. Moreover, non receipt of complaint against the appellant does not mean a clean chit for the future wrong deeds, but service record of the appellant is tainted with bad entries **(Copy of list of bad entries and punishment enclosed as Annexure "A")**.
3. Incorrect. The appellant in order to save his skin in terms of his involvement in case, propounded the instant story. However, the appellant was involved in a criminal case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera.

4. Incorrect. Plea of the appellant is totally devoid of any legal footing because the local of Police of Police had no grudges or ill-will against the appellant.
5. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Besides, release on bail does not mean acquittal from the charges rather the same is released from the custody.
6. Correct to the extent that the appellant was issued charge sheet with statement of allegations to which his reply was received but found unsatisfactory.
7. Correct to the extent that the appellant was issued Final Show Cause Notice because the enquiry officer after fulfillment of all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report to the competent authority and recommended the appellant for major punishment. However, he submitted reply to the Final Show Cause Notice, but found unsatisfactory.
8. Correct. That the appellant was dismissed from service, because he has been properly proceeded against departmentally on account of involvement in a case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera. On the said allegations, the appellant was issued charge sheet with statement of allegations and enquiry was entrusted to Muhammad Qais the then SDPO Takht Bhai Mardan. The enquiry officer during the course of enquiry fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report to the competent authority and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called for Orderly Room on 20.10.2021 but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant **(Copies of Charge Sheet with statement of**

allegations, enquiry report and Final Show Cause Notice are annexed as annexure "B, C & D").

9. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because he was called in Orderly Room on 31.03.2022, but this time too he bitterly failed to produce any cogent justification in his defense. Therefore, his departmental appeal was also rejected and filed being devoid of merit.
10. Correct to the extent that the appellant preferred revision petition. Which has not yet been decided. Moreover, that appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

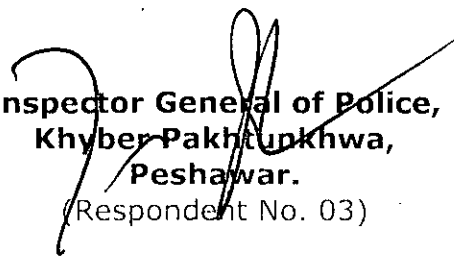
REPLY ON GROUNDS:

- A. Incorrect. Orders passed by the competent as well as appellate authorities are legal, lawful and passed it after fulfilling all legal and codal formalities, hence, liable to be maintained.
- B. Since the appellant's involvement was established in a criminal case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera, therefore, he was arrested by the local Police of Police Station Risalpur.
- C. Incorrect. Plea taken by the appellant is baseless, because he has been properly proceeded against departmentally on account of involvement in a case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera. On the said allegations, the appellant was issued charge sheet with statement of allegations and enquiry was entrusted to Muhammad Qais the then SDPO Takht Bhai Mardan. The enquiry officer during the course of enquiry recorded statements of all concerned and fulfilled all legal and codal formalities by extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report to the competent authority and recommended the appellant for major punishment. Therefore, the appellant was issued Final Show Cause Notice to which his reply was received but found un-satisfactory and the appellant was also called for Orderly Room on 20.10.2021 but this time too, the appellant failed to justify his innocence, hence, he was awarded major punishment of dismissal from service, which does commensurate with the gravity of misconduct of the appellant.

- D. Incorrect. Para already explained needs no comments.
- E. Plea taken by the appellant is bereft of any substance because criminal and departmental proceedings are two different entities which can run parallel and the fate of criminal case will have no effects on the departmental proceedings. Moreover, the respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

PRAYER:-

Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


**District Police Officer,
Mardan.**
(Respondent No. 01)

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

Service Appeal No. 898/2022

Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/o Zor Mandi PO
Miyar Tehsil and District Nowshera.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

Reply to the application for condonation of delay:-

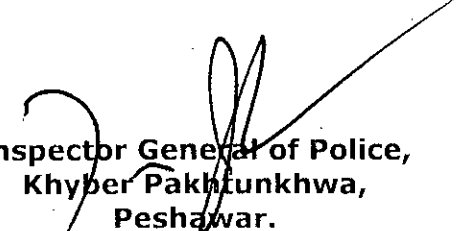
**Respectfully Sheweth,
PRELIMINARY OBJECTIONS**

1. That applicant has no cause of action to file the instant application.
2. That the application is barred by law.

REPLY ON FACTS

1. That the appeal filed by the applicant before this Honorable Tribunal may kindly be dismissed being a **badly time-barred**.
2. Incorrect. Stance taken by the appellant is totally ill based, because he was provided many opportunity of defending himself but he bitterly failed to produce any cogent reasons in his defense, which are already explained in the ground of appeal.
3. Incorrect, plea taken by the applicant is whimsical / concocted rather fanciful hence, liable to be set at naught. As the apex court of Pakistan has held that the question of limitation cannot be considered a "technicality" simpliciter as it has got its own significance and would have substantial bearing on merits of the case.

Keeping in view the above submission, it is humbly prayed that application of the applicant regarding condonation of delay may very kindly be dismissed please.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


**District Police Officer,
Mardan.**
(Respondent No. 01)

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

Service Appeal No. 898/2022

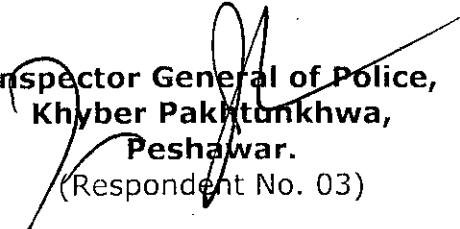
Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/o Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

COUNTER AFFIDAVIT.

We, the respondents do hereby
declare and solemnly affirm on oath that the contents of the Para-wise
comments in the service appeal cited as subject are true and correct to
the best of our knowledge and belief and nothing has been concealed
from this Honourable Tribunal.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


**District Police Officer,
Mardan.**
(Respondent No. 01)

CHARACTER ROLL OF

14. COMMENDATORY ENTRIES.

(A)

Serial No.

ORDER

Being involved in Case FIR

No. 469 dt: 18-4-13 u/s 382/337-J
452/149/109 PPC Ps Hayat Abad Peshawar
As per Letter No. 7874/SRC dt: 8.5-13 from
CCPO Peshawar. He is hereby suspended
with immediate effect.

OB No. 1100.

dt: 17.5.13.

DPO/Mardan

ORDER

The undersigned is agree
with findings by re-instating him in ser
(Provisionally) with immediate effect as

the Enquiry Papers are kept pending &
the final decision of Court concerned
in exercise of the power vested in me
under PR-1975.

OB No. 1181

dt: 21.5.14.

DPO/Mardan

ORDER

Being involved in case vide FIR
No. 52 dt. 4-2-2021 U/S 395/365/342/17/412
PPC PS Rivalpur NSR. He is placed under suspension
with immediate effect.

OB No. 587

M. 22-3-2021

DPO/Mardan

ORDER

Awarded him Major punishment of
dismissal from service with immediate
effect. in exercise of the power vested
in me under Police Rules - 1975.

OB NO = 1941

Dated = 25/10/2021

[Signature]
District Police Officer
Mardan

ORDER

Appeal is Rejected vide RPO Mardan
order Endst NO, 2751/ES-dt, 05-4-2022.

[Signature]
DPO/Mardan

15. CENSURES AND PUNISHMENTS.

Serial No. ② days Extra duty for hrs Absence

OB NO 2788

11-7-12-13

DRD/MR

① day Extra duty for hrs Absence

OB NO - 258

28-1-14

DRD/MR

① day Extra duty for hrs Absence

OB NO - 354

7-2-14

DRD/MR

① day Extra duty for hrs Absence

OB NO - 578

25-2-14

DRD/MR

② days Extra duty for hrs Absence

OB NO - 697

20-3-14

DRD/MR

(Continue)

16. LEAVE, ABSENCE AND BREAKS IN SERVICE.
All Periods not counting as "approved service" to be entered in red ink.

④

1. Date		2. Extent			3.	4.
From	To	Years	Months	Days	No. Of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
				①	2789 17-12-13	leave w/o pay DR/ML
				①	697 20-3-14	← DR/ML
				③①	2106 16-10-14	El leave — DR/ML
				①⑦	1218 12-5-16	M/leave — DR/ML



Amma U B
5

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

97
Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



No. 107 /PA

Dated 30/13/2021

DISCIPLINARY ACTION

I, **Dr. Zahid Ullah (PSP)**, District Police Officer Mardan, as competent authority am of the opinion that **Constable Hameed Ullah No.3310**, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules 1975.


STATEMENT OF ALLEGATIONS

Whereas, **Washman Constable Hameed Ullah No.3310**, while posted at Police Lines Mardan (now under suspension Police Lines.Mardan), has been charged in a case vide FIR No.58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera.

For the purpose of scrutinizing the conduct of the said accused official with reference to the above allegations, **ASP Muhammad Qais Khan SDPO/Takht-Bhai is nominated as Enquiry Officer.**

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Official.

Constable Hameed Ullah is directed to appear before the Enquiry Officer on the date + time and place fixed by the Enquiry Officer.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



(6)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



CHARGE SHEET

I, Dr. Zahid Ullah (PSP), District Police Officer Mardan, as competent authority, hereby charge Washman Constable Hameed Ullah No.3310, while posted at Police Lines Mardan (now under suspension Police Lines Mardan), as per attached Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officers within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



Annex "C"
22

OFFICE OF THE
SUB-DIVISIONAL POLICE OFFICER,
TAKHT BHAI CIRCLE

Tel. & Fax: 0937552211, E-Mail: dsp.tbi@gmail.com

No. 610 /ST, Dated: 08 / 07 / 2021

To,

THE DISTRICT POLICE OFFICER,
MARDAN.

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE HAMEED ULLAH
NO.3310

Memo:

Kindly refer to your office Diary No. 107/PA dated 30.03.2021

ALLEGATIONS:

That Washman Constable Hameed Ullah No. 3310 while posted at Police Lines Mardan (now under suspension Police Lines Mardan), has been charged in a case vide FIR No. 58, dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera.

PROCEEDINGS:

Enquiry proceedings were initiated and the alleged Constable Hameed Ullah No. 3310 was summoned and copy of charge sheet was handed over to him accordingly. He produced his written statement and he was heard in person. He vehemently negated the allegation and stated that he was falsely implicated in the case. He was counter questioned at length.

In order to know the position of Constable Hameed Ullah No. 3310 in the investigation of the case, the investigation officer OII/SI Ali Akbar Khan was called. He appeared and produced his statement, he stated that accused were traced and after the arrest of accused Sharif Ullah other co-accused including accused Hamid Ullah (constable) was also traced and arrested. During investigation total rupees 97 lakh and 50 thousand were recovered out of 11 million rupees. In which rupees 14 lakh and 50 thousand was recovered from accused Hamid Ullah (washman constable) and he was proved guilty during investigation (Statement of OII is attached).

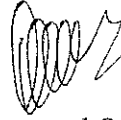
DPA

(8)

The undersigned after going through in person hearing, available record and statements reasonably believes that Constable Hameed Ullah No. 3310 (washman) is guilty of commission of offence of armed robbery as nominated in case vide FIR- No. 58, dated 04.02.2021 u/s 395/365/342/171/412 PPC Police Station Risalpur District Nowshera.

RECOMMENDATION:

Keeping in view the above facts, it is recommended that washman constable Hameed Ullah No. 3310 may be awarded major punishment, if agreed.



Muhammad Qais Khan (PSP)
Sub-Divisional Police Officer,
Takht Bhai

OR
~~Washman~~

Issue Final Show Cause Notice

|

Zulfi
8.9.2021

Before The DPO, Malan

(9)

Subject: Reply to the Charge Sheet + statement of allegations
NO 107-PA dated 30.3.2021

Respected Sir,

Your honour had issued the subject charge sheet + statement of allegation to the Petitioner with the following allegations.

"Whereas watchman constable Hameedullah, No 3310, while posted at Police Lines Malan (now under suspension) Police Lines Malan has been charged in a case vide FIR No 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC PS Risalpur District Nowshera."

In response to the Charge Sheet, The Petitioner submits as under

① It is submitted that the matter relates to Case FIR No 58 dated 4.2.2021 U/S 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that 4.2.2021 some unknown persons boarded in XBI motor car No 888 along with white colour rigo number unknown and ritz No unknown reached near Rasharai - mitu change. The Accused took away the complainant Mihar Ali along with their follow to Peshawar. The Accused Snatched Cash amount Rs 1,10,00000 and motor car from him. on the report of the complainant, a Criminal case has been registered in the PS Risalpur. (Copy of FIR enclosed)

② In the above case Accused Usman Hussain s/o Jaffer Hussain and Shahid s/o Tahir Javed r/o Peshawar were arrested. Later Accused Usman Hussain allegedly disclosed to the Police that - Accused Sharifullah s/o Haji Raheemullah r/o Barakoh Islamabad was also accompanied with him during the commission of offence.

③ It is pertinent to note, that - Accused Shahid a Sharifullah are Property dealers. The Petitioner's family also deals in Property selling and purchasing. In connection of the same dealing, Accused Shahid was previously known to him.

④ It was learnt to the Petitioner, that - during interrogations

(10)

When Azeed Shahid was asked that whether he knows any one in mardan. The Azeed disclosed that Petitioner is known to him.

5) On 17.2.2021, Shafeez Inspector, ASI Sajid Iqbal of Nowshera district summoned the Petitioner to the mardan college. Chawik on mobile phone. Petitioner met with them at college chawik. Inspector Shafeez disclosed that the name of the Petitioner has been brought by the arrested Azeed Shahid in the above case. The Petitioner told that Azeed Shahid is known to him as he is from Peshawar and deals in property matters. Inspector Shafeez took the Petitioner to PS Jabbi. It was the evening time. The Police produced Azeed Shahid before the Petitioner.

6) The SHO PS Risalpur kept the Petitioner along with Azeed Usman Hussain and Shahid in illegal C.I. confinement till 25.2.2021. Our arrest was shown by the police of PP Toroo in a motor car no NV-173 xti vide DDNO 5 dated 25.2.2021. (Copy enclosed)

7) During the illegal confinement Petitioner brother named Mubhammad Ayub also filed an application u/s 491 c in the court of session judge Nowshera on 24.2.21 when the police came to know regarding application u/s 491 c etc. Then they showed the arrest of the Petitioner on the following day, i.e. 25.2.2021. (Copy of application u/s 491 c etc along with counter affidavit enclosed.)

8) On 26.2.2021, Petitioner along with other Azeed were produced in the court where one day police custody was granted by the court. It is worth to mention here that during illegal confinement SHO PS Risalpur SI, Saifullah and IO/SI, Ali Akber subjected the Petitioner to intense physical torture. They were compelling the Petitioner and his family to produce

(11)

The alleged stolen amount of the Petitioner disclosed before the police officials that he is innocent and has got no concern with the instant case.

9) During the illegal confinement due to pressure and continuous torture from police the petitioner informed his brother and close door neighbour Amir Khan of Manichela to arrange for the production of cash amount Rs 14,00,000 as the police were demanding the same amount. The petitioner also informed his brother namely Abdullah for the sending the amount by mobile phone. The arrangement of amount was made as under :-

- ① An alto motor car was sold on 18.2.2021 at a rate of Rs 5,90,000. (Sale deed is enclosed)
- ② The brother of the petitioner had sent Rs 3,00,000 on 19.2.2021 (Bank receipt is enclosed)
- ③ Jewelry was sold on 19.2.2021 at a rate of 4,50,000 rs (receipt is enclosed).
- ④ Rs 60,000 was given by Amir's borrow.

The total amount come Rs 14,00,000. The said total amount was brought by Amir to Rs Pilsapur and handed over to Shri Rs Pilsapur. This was shown as recovery from the possession from the petitioner in the recovery memo dated 20.2.2021.

This illegal practice is the extreme boundary of criminality. This facts can be confirmed from the relevant documents and verbal statement of Amir during the course of enquiry. (The recovery memo dated 20.2.2021 is enclosed)

10) The motor car NV-173 where in the arrest of the petitioner along with other is shown belongs to Fazal Akbar of Ks Kalli Turu. In facts the same car was recovered from his possession in the hazar of Chhalakher on 23.2.2021 and was taken into possession D. D. L. being used by the petitioner in the

(47) (12)
Part. The same motor car does not relate to the instant case at any stage.

Low honor :

- A) : The Accused is innocent and has been falsely implicated in the instant case.
 - B) : There is no single evidence against the Petitioner to connect him with the commission of offence.
 - C) : The Complainant has charged the unknown Accused. Neither the Complainant nor other PWS have charged the Petitioner for the offence in any statement recorded up to 104 expe. Merely the Petitioner has been charged in the statements recorded up to 101 expe, which are not admissible in the eye of law.
 - D) : The Petitioner and no other Accused had made confession in the court and all such facts stand to show that the Prosecution case is a concocted story.
 - E) : The identification Parade was not conducted before a judge during investigation, which has made the involvement of the Petitioner in the case doubtful and suspicious.
 - F) : The CCTV Footage from Wadi-inter change to Peshawar interchange have not confirmed the arrival of the vehicles mentioned in the FIR on the date of offence on the spot.
 - G) : The recovery of alleged stolen amount worth Rs 14,50,000 and recovery of motor car no NY-173 is illegal and contrary to the law, which detail is already given in Para 9 and 10 above.
 - H) : The Petitioner was released on bail by the Honorable Court of Peshawar High Court dated 26.3.2021.
- at the High Court Accused

- (21)
- ii. During the proceeding of enquiry, the petitioner produced a detailed and comprehensive reply to the charge sheet but no aspect of the reply was considered. Only one PW OII/SI Ali Akbar was summoned and his statement was recorded in the absence of Petitioner. No opportunity of cross examination at this PW was given to the petitioner. Only believing on this single statement the EO recommended the petitioner for award of major punishment. Only one sided drama was played during enquiry.
 - iii. Several lacunas and discrepancies were made during the course of enquiry by the EO. The statement of the following of Ameer Khan R/O Manikhela who produced the amount Rs. 14,00,000/- to SHO Risalpur has not been recorded by the EO during the course of enquiry. Similarly one Fazal Akbar R/O Kass Kaley Toru (The Owner of motorcar No. NV-173) was not examined during the course of enquiry. Moreover, Inspector Shafi, ASI Sajid Iqbal who took the petitioner in custody have also not been examined during the enquiry.
 - iv. All the enquiry proceedings are illegal and against the norm of justice.

PRESENT POSITION OF THE CRIMINAL CASE:

The criminal case vide FIR No. 58 dated 04/02/2021 U/S 395/365/342/171/412 PPC is pending trail. There is no chance of conviction of petitioner in the instant case rather there is possibility of acquittal of the petitioner in the case. Better would be that the present departmental enquiry be kept pending till to the arrival of the final judgment of the competent court of law. According to the basic principle of justice the departmental procedure and judicial procedure cannot run parallel to each other.

PRAYERS:

Keeping in view the above facts and circumstances, it is humbly requested that the subject final show cause notice may kindly be filed please.

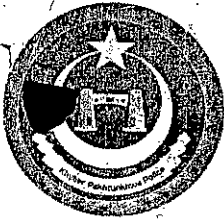
Dated: 18/09/2021

The officer was heard in OR on 20.10.2021. He was given ample opportunity to explain his position but he failed. Keeping in view the enquiry report & related documents of 5 Hameed Ullah 3310 Washerman Constable is dismissed from service.

Yours Obediently,

18/9/21
Washerman Constable
Hameed Ullah
No. 3310
Police Lines, Mardan.
Cell: 0345-1968881

Dismissed
20.10.2021



(22)

**OFFICE OF THE
DISTRICT POLICE OFFICER,
MARDAN**

Tel No. 0937-9230109 & Fax No. 0937-9230111
Email: dpomdn@gmail.com



No. 270-73 /PA

Dated 20/10/2021

ORDER ON ENQUIRY OF CONSTABLE HAMEED ULLAH NO.3310

This order will dispose-off a Departmental Enquiry under Police Rules 1975, initiated against the subject official (Washer-man), under the allegations that while posted at Police Lines Mardan (now under suspension Police Lines Mardan), was placed under suspension vide this office OB No. 587 dated 22-03-2021, issued vide order/endorsement No.2035-39/OSI dated 24-03-2021 on account of charging in a case vide FIR No.58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Risalpur (Nowshera).

To ascertain real facts, the delinquent official was proceeded against departmentally through ASP Muhammad Qais Khan, the then SDPO/Takht-Bhai vide this office Statement of Disciplinary Action/Charge Sheet No.107/PA dated 30-03-2021, who (E.O) after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.610/ST dated 08-07-2021, holding responsible the alleged official of gross misconduct with recommending for major punishment.

In this connection, he was served with a Final Show Cause Notice, under K.P Police Rules-1975, issued vide this office No.297/PA dated 15-09-2021, to which, his reply was received and found un-satisfactory.

Final Order

Constable Hameed Ullah (Washer-man) was heard in OR on 20-10-2021, during OR, he was given ample opportunity to explain his position, to which, he failed, therefore, keeping in view the enquiry report and related documents, awarded him major punishment of dismissal from service with immediate effect, in exercise of the power vested in me under Police Rules-1975.

OB No. 1941

Dated 25/10/2021.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

- 1) The SP/Investigation Nowshera with reference to his office letter No.1329/HC/Inv: dated 16-03-2021.
- 2) The DSP/HQrs Mardan.
- 3) The P.O & E.C (Police Office) Mardan.
- 4) The OSI (Police Office) Mardan with () Sheets.

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ORDER.

This order will dispose-off the departmental appeal preferred by Ex-Washerman Constable Hameed Ullah No. 3310 of Mardan District Police, against the order of District Police Officer, Mardan, whereby he was awarded major punishment of dismissal from service vide OB: No. 1941 dated 25.10.2021. The appellant was proceeded against departmentally on the allegations that he while posted at Police Lines, Mardan was involved/charged in case vide FIR No. 58 dated 04.02.2021 u/s 395/365/342/171/412-PPC Police Station Risalpur District Nowshera.

Proper departmental enquiry proceedings were initiated against him and the then Sub Divisional Police Officer, (SDPO) Takht Bhai, Mardan was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Mardan, wherein he found him guilty of the misconduct and recommended him for awarding major punishment.

In light of findings of the enquiry Officer, the District Police Officer, Mardan issued Final Show Cause Notice to the delinquent Officer to which his reply was received and was found unsatisfactory. He was heard in Orderly Room by the District Police Officer, Mardan on 20.10.2021 but he failed to advance any cogent reason in his defense. Therefore, he was awarded major punishment of dismissal from service by the District Police Officer, Mardan vide his office OB: No. 1941 dated 25.10.2021.

Feeling aggrieved from the order of District Police Officer, Mardan, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 31.03.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the involvement of appellant in this heinous criminal case is clearly a stigma on his conduct because recovery was duly effected from direct possession of the appellant. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities. Moreover, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

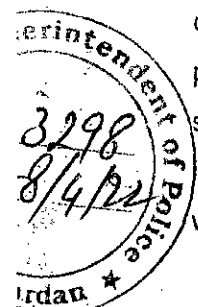
Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.


Regional Police Officer,
Mardan.

No. 2751 /ES, Dated Mardan the 05 /04 /2022.

Copy forwarded to District Police Officer, Mardan for information and necessary w/r to his office Memo: No. 294/LB dated 02.12.2021. His Service Record is returned herewith.



Legal/EC
as per copy
D.P.O./M.R.

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

Service Appeal No. 898/2022

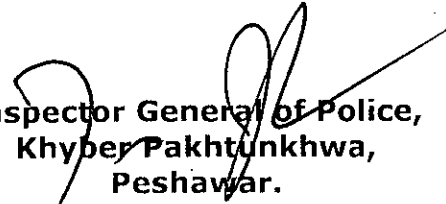
Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/p Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
others.....Respondents

AUTHORITY LETTER.

Mr. Atta-ur-Rehman Inspector Legal Branch,
(Police) Mardan is hereby authorized to appear before the Honourable
Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above
captioned service appeal on behalf of the respondents. He is also
authorized to submit all required documents and replies etc. as
representative of the respondents through the Addl: Advocate
General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal,
Peshawar.


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**
(Respondent No. 03)


**Regional Police Officer,
Mardan.**
(Respondent No. 02)


**District Police Officer,
Mardan.**
(Respondent No. 01)

SCANNED
KPST
Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 898/2022

Hameed Ullah VS IGP & others

**APPLICATION FOR ADJOURNED SINE-DIE THE ABOVE
SERIVCE TITLE SERVICE APPEAL NO 898/2022 WHICH HAS
BEEN PENDING BEFORE THIS HON'BLE TRIBUNAL TILL
THE FINAL DECISION OF THE CRIMINAL CASE.**

Respectfully Sheweth:

1. That the above mentioned service appeal is pending before this Hon'ble Tribunal which is fixed for today.
2. That the petitioner/appellant has been dismissed from service on the ground of involvement of criminal case FIR No. 58 dated 04-02-2021 U/S 395/365/342/171/412 PPC PS Resalpur Nowshera and the said criminal has not yet been concluded/decided.
3. That there is no legal bar for adourned sine-die the above service appeal till the final disposal of the criminal case pending the Hon'ble District and Session Judge Nowshera.

It is therefore, most humbly prayed that on acceptance of this application the instance service appeal may kindly be adjourned sine-die till the final disposal of the criminal case.

Dated: 14-03-2024

Petitioner/Appellant

Through



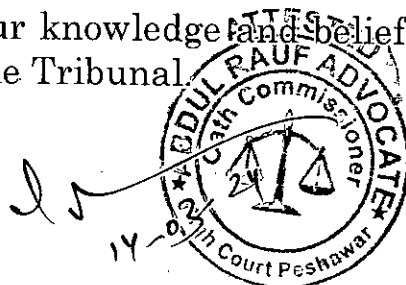
Roeeda Khan

Advocate, High Court

Peshawar.

AFFIDAVIT

I, Hameed Ullah S/o Sher Ahmed Ex-Constable No. 3310 R/o Zor Mondi P/O Miyar Tehsil and District Nowshera, do hereby solemnly affirm and declare on oath that the contents of this **application** are true and correct to the best of our knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



DEPONENT

