

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT  
CAMP COURT ABBOTTABAD**

Service Appeal No.4802/2021

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

Mr. Muhammad Khurshid S/O Behram Khan R/O Village Deverian Phulra  
Tehsil & District Mansehra.

.... (Appellant)

**VERSUS**

1. District Police Officer, Mansehra.
2. Inspector General of Police, Khyber Pakhtunkhwa.
3. Regional Police Officer, Hazara Region, Abbottabad.

.... (Respondents)

Ms. Roeda Khan  
Advocate

... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney

... For respondents

-----  
Date of Institution.....31.03.2021  
Date of Hearing.....25.01.2024  
Date of Decision.....25.01.2024

**JUDGMENT**

Rashida Bano, Member (J): The instant appeal instituted under section 4 of the  
Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as  
below:

“On acceptance of this appeal both the impugned orders  
dated 24.09.2020 & 13.11.2020 may kindly be set aside and  
the appellant may kindly be reinstated in service along  
with all back benefits. Any other remedy which this august

SCANNED  
KPST  
Peshawar



**tribunal deems fit that may also be onward tribunal deems fit that may also be granted in favour of appellant.”**

2. Brief facts of the case are that appellant was appointed vide order dated 25.03.2019 in connection with compensation of killing of Shahzad Son of Ali Khan, by the Police. That on 13.05.2019, the said appointment order was withdrawn but later on, he was once again appointed as Constable in Special Police Force on 21.06.2020 and was regularized on 08.04.2020. That on 24.09.2020, appellant was discharged from service. Feeling aggrieved, he filed departmental appeal which was rejected on 13.11.2020. Then he filed revision petition on 17.11.2020 which was also rejected vide order dated 17.03.2021, hence, the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard learned Deputy District Attorney and have gone through the record and the proceedings of the case in minute particulars.

4. Learned counsel for the appellant argued that the impugned order dated 24.09.2020 was void *ab-initio* as it had been passed without fulfilling codal formalities. She further argued that no regular inquiry had been conducted and no charge sheet/statement of allegations as well as show cause notice had been served upon appellant. She further submitted that the appellant had been condemned unheard as no opportunity of personal hearing as well as cross-examination had been provided to him.

Lastly, she concluded that the appellant was appointed on merit, therefore, she requested for acceptance of the instant service appeal.

5. Conversely, learned Deputy District Attorney argued that the impugned order was correct, legal and passed after observing all the codal formalities. He submitted that the competent authority had the power to pass any order under summary proceedings; that the appellant had been appointed on the basis of compensation in the lye of murder which had been found void by the trial court due to which he had been dismissed. Further submitted that there was no need of final show cause notice as he had been dismissed in compliance of court order. Lastly, he submitted that the appeal was groundless and not maintainable, therefore, requested for dismissal of the same.

Consign.

6. Perusal of record reveals that that appellant for the first time appointed as SPO on 25.03.2019 as result of comprise arrived at among respondent department and legal heirs of one Shehzad S/O Ali Khan R/O Phulra deceased in case FIR No 208 dated 06.11.2018 under section 302 PPC registered at police station Phulra. This appointment order was withdrawn upon application of Shehzad the father of the deceased name of Muhammad Junaid was given for appointment by him. Appellant was again appointed/enlisted on contract as SPO vide order dated 21.06.2019 service of the appellant was regularized on 23.04.2020 at the strength of Khyber Pakhtunkhwa Special Police officer (Regulation of service)



October 2019 Act. Appellant was performing his duties to entire satisfaction of his superior but all of sudden appellant was discharged from service vide impugned order which was passed as result of Judgment & order delivered in criminal case bearing FIR No 208 under 302 PPC of Police station Phulra given on 07.09.2020. In the said order trial Judge observed that government jobs are not public franchises and cannot be awarded to the people on different pretext. Their jobs given in live of compromise are illegal. Therefore, DPO concern is directed to deal it in accordance with law being competent authority. It is established from the withdrawal of appointment order dated 13.05.2019 that appointment order of the appellant on the basis of compromise FIR No 208 was withdrawn by the authority. So chapter of appointment in live of diyat in compromise was closed in case of appellant on 13.05.2019, however same was corrected to the extent of other constable Junaid nephew of father of deceased Shahzad.

7. Furthermore subsequently enlistment as constable of appellant vide order dated 21.06.2019 was not as result of any compromise and afterwards send contract service of the appellant was regularized upon the strength of Khyber Pakhtunkhwa special Police force regularization of service HCT 2017.

8. When subsequent entitlement/appointment order of the appellant was not on the basis of compromise then in such a situation to discharge him



from service vide impugned order is against the law and rules which is not sustainable in the eyes of law.

9. For what has been discussed above, we are unison to set aside impugned orders and reinstate appellant into service, however intervening period be consider as leave without pay. Costs shall follow the event. Consign.

10. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of January, 2024.*



(MUHAMMAD AKBAR KHAN)  
Member (M)  
Camp Court, Abbottabad



(RASHIDA BANO)  
Member (J)  
Camp Court, Abbottabad

SCANNED  
K2024  
D 9933award

**ORDER**

25.01.2024 1 Learned counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

2. Vide our detailed judgement of today placed on file, we are unison to set aside impugned orders and reinstate appellant into service, however intervening period be consider as leave without pay. Costs shall follow the event. Consign.

3. *Pronounced in camp court at Abbottabad and given under our hands and seal of the Tribunal on this 25<sup>th</sup> day of January, 2024.*



(Muhammad Akbar Khan)  
Member (M)  
Camp Court, Abbottabad



(Rashida Bano)  
Member (J)  
Camp Court, Abbottabad


SCANNED  
Peshawar


27<sup>th</sup> Nov. 2023

1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

2. Lawyers are on strike. Therefore, case is adjourned. To come up for arguments on 25.01.2024 before D.B at Camp Court, Abbottabad. P.P given to the respondents.

**SCANNED**  
**KPST**  
**Peshawar**

  
(Salah Ud-Din)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman  
Camp Court, Abbottabad

\*Mutazem Shah\*

30<sup>th</sup> Mar, 2023

Clerk of learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl: AG alongwith Mr. Gul Shahzad, S.I Legal for the respondents present.

Clerk of learned counsel for the appellant seeks adjournment on the ground that learned counsel was busy before the Service Tribunal Camp Court Abbottabad. This case pertains to camp court Abbottabad, therefore, let it be fixed there. To come up for arguments on 22.05.2023 before D.B at camp court Abbottabad. P.P given to the parties.

SCANNED  
KPST  
Peshawar

(Salah Ud Din)  
Member (Judicial)

(Kalim Arshad Khan)  
Chairman

22-5-23  
Reader Note

*Tou to camp court was not  
scheduled to come up for the  
same on 23-6-23*

23<sup>rd</sup> June, 2023

1. Junior to counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Zahid Khan Assistant for the respondents present.

2. Junior to counsel for the appellant requested for adjournment as senior counsel is not available. Adjourned. To come up for arguments on 28.11.2023 before the D.B at Camp Court, Abbottabad. P.P given to the parties.

Early hearing  
accepted for  
27/11/23

SCANNED  
KPST  
Peshawar

(Rashida Bano)  
Member.(J)

(Kalim Arshad Khan)  
Chairman  
Camp Court, Abbottabad



07.11.2022

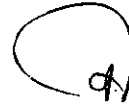
Counsel for the appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Gul Shehzad SI (Legal) for the respondents present.

Former requested for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.01.2023 before D.B.



(Fareeha Paul)  
Member (E)



(Rozina Rehman)  
Member (J)

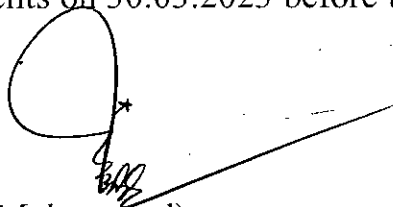
SCANNED  
KPST  
Peshawar

02.01.2023

Junior of learned counsel for the appellant present.

Mr. Gul Shehzad, S.I (Legal) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 30.03.2023 before the D.B.



(Mian Muhammad)  
Member (E)



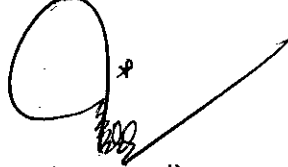
(Salah-ud-Din)  
Member (J)

SCANNED  
KPST  
Peshawar

07.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak Adl. AG for respondents present.

Counsel for the appellant requested for adjournment. Request accepted. To come up for argumenst before D.B on 11.07.2022.



(Mian Muhammad)  
Member (E)



(Kalim Arshad Khan)  
Chairman

11-7-2022

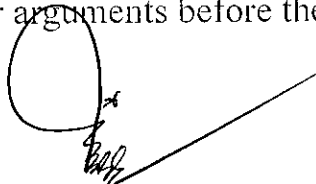
Due to Holidays of Eid Ul Azha  
the case is adjourned to 14-10-2022

  
Reader

14.10.2022

Clerk of learned counsel for the appellant present. Mr. Gul Shahzad SI (legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 07.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

  
Chairman

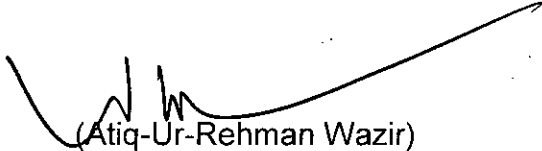
Stipulated period passed, reply not submitted.

13.10.2021

Counsel for appellant counsel present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Reply on behalf of respondents was not submitted. Learned A.A.G made a request for time to submit reply/comments; granted with direction to furnish the same within 10 days in office. If the reply/comments are not submitted within stipulated time, right of the respondents for submission of reply shall be deemed as struck off. To come up for arguments on 04.01.2022 before D.B.

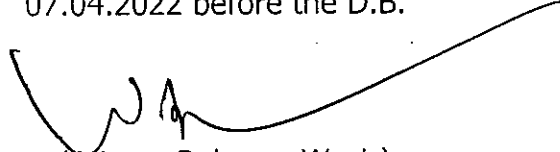
  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

04.01.2022

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Gul Shahzad, SI (L) for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 07.04.2022 before the D.B.

  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

04.06.2021

Counsel for the appellant present. Preliminary arguments heard.

*Handwritten signature*

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 13.10.2021 before the D.B.

Appellant Deposited  
Security Process Fee

*Handwritten signature*  
4/6/21

*Handwritten signature*  
Chairman

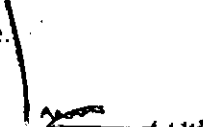
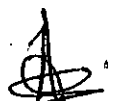

SCANNED  
KPST  
Peshawar

Form- A

# FORM OF ORDER SHEET

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

Case No. - 11802 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/04/2021  27/05/2021	<p>The appeal of Mr. Muhammad Khurshid resubmitted today by Roeda 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>04/6/2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Muhammad Khurshid son of Behram Khan r/o village Deverian Phulra District Mansehra received today i.e. on 31/03/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Index of the appeal is incomplete which may be completed.
- 2- Annexures-A, B, C, D, E and G of the appeal are illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.

No. 629 /S.T,


Dt. 02/04 /2021

  
REGISTRAR

SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Roeeda Khan Adv. Pesh.

objection No 1 To 3  
has been Removed

  
6/4/2021

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Muhammad Khurshid

***VERSUS***


1. District Police Officer Mansehra & others.

**INDEX**

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit.		6
3.	Addresses of parties		7
4.	<b>Copy of 1<sup>st</sup> appointment order</b>	"A"	8
5.	Copy of withdrawn order	"B"	9
6.	Copy of 2 <sup>nd</sup> appointment order	"C"	10
7.	Copy of regularization order	"D"	13/17
8.	Copy of discharge order	"E"	14
9.	Copy of departmental appeal and rejection order	"F & G"	15 To 18
10.	Copy of Revision petition & rejection order	"H & I"	19 To 23
11.	Wakalatnama		

  
APPELLANT

Through

  
**Roeeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 31/03/2021

(1)

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

In Re S.A No. 4809 /2021

Diary No. 4389

Dated 31/03/2021

Muhammad Khurshid S/o Behram Khan R/o  
Village Deverian Phulra Teshil & District  
Mansehra.

**Appellant**

***VERSUS***

1. District Police Officer Mansehra.
2. Inspector General of Police Khyber Pakhtunkhwa.
3. Regional Police Officer Hazara Region Abbottabad.

**Respondents**

**APPEAL U/S-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICES TRIBUNAL ACT**  
**1974 AGAINST THE ORDER DATED 24/09/2020**  
**WHEREBY THE APPELLANT HAS BEEN**  
**DISCHARGE FROM SERVICE AND AGAINST**  
**WHICH THE APPELLANT FILED**  
**DEPARTMENTAL APPEAL ON 05.10.2020 WHICH**  
**HAS BEEN REJECTED ON 13.11.2020 AND**  
**AGAINST THE SAID REJECTION ORDER THE**  
**APPELLANT FILED REVISION PETITION ON**  
**17.11.2020 WHICH HAS BEEN REJECTED ON**  
**17/03/2021 ON NO GOOD GROUNDS.**

Filed to-day

Registrar  
31/03/2021

**Prayer:-**

Re-submitted to -day  
and file.

**ON ACCEPTANCE OF THIS APPEAL BOTH**  
**THE IMPUGNED ORDERS DATED**  
**24/09/2020 & 13/11/2020 MAY KINDLY BE**  
**SET ASIDE AND THE APPELLANT MAY**

Registrar

06/04/2021



**KINDLY BE REINSTATED IN SERVICE  
ALONG WITH ALL BACK BENEFITS. ANY  
OTHER REMEDY WHICH THIS AUGUST  
TRIBUNAL DEEMS FIT THAT MAY ALSO  
BE ONWARD TRIBUNAL DEEMS FIT  
THAT MAY ALSO BE GRANTED IN  
FAVOUR APPELLANT.**

**Respectfully Sheweth,**

1. That Mr. Shehazad Son of Ali Khan R/o Phulra was killed by the police and the case was registered vide FIR No.208 dated 06.11.2018 U/S 302 PPC Police Station Phulra, latter on the deceased party was compensated through the appointment of the appellant and that's why the Appellant has been appointed as Constable in special police force in Police department on 25.03.2019. (Copy of appointment order is attached as annexure "A").
2. That the said appointment order dated 25.03.2019 has been withdrawn on 13.05.2019 by the respondent department. (Copy of withdrawn order is attached as annexure "B").
3. That latter on the appellant has once again appointed as Constable in Special Police Force on the basis of merit on 21.06.2020.

(Copy of 2<sup>nd</sup> appointment order is attached as annexure "C").

4. That after appointment the appellant performed his duty regularly and with full devotion and no complaint whatsoever has been made against the appellant.
5. That the service of the appellant has been regularized on 08.04.2020 (Copy of regularization order is attached as annexure "D").
6. That on 24.09.2020 without fulfilling the codal formalities discharged the appellant from his service. (Copy of discharged order is attached as annexure "E").
7. That the appellant filed departmental appeal on 05.10.2020 against the discharged order dated 24.09.2020 which has been rejected on 13.11.2020. (Copy of departmental appeal and rejection order are attached as annexure "F & G").
8. That the appellant filed Revision Petition on 17.11.2020 which has been rejected on 17.03.2021. (Copies of Revision Petition and rejection order are attached as annexure "H & I").

9. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

**GROUNDS:-**

- A. That the impugned order 24/09/2020 is void and abinitio order because it has been passed without fulfilling codal formalities.
- B. That no charge sheet has been served or communicated to the appellant in this respect the appellant relied upon a judgment reported on 2009 SCMR page:615
- C. That no regular inquiry has been conducted by the Respondent department and no chance of personal hearing has been provided to the appellant in this respect the appellant relied upon the judgment dated 2008 SCMR Page:1369.
- D. That no final show cause notice has been issued and communicated to the appellant by Respondent department before imposing the major penalty in this respect the appellant relied upon a judgment reported on 2009 PLC (CS) 176.
- E. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- F. That no statement of witnesses has been recorded by the inquiry officer and there is no proof of involvement in the said criminal cases against the appellant by the Respondent department because it is an untraced case.

5


- G. That no opportunity of cross examination has been provided to the appellant.
- H. That no opportunity of personal hearing has been provided to the appellant.
- I. That the alleged facts mentioned in the impugned order is no anywhere mention in the appointment order dated 21.06.2020 of the appellant.
- J. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

*It is therefore, most humbly prayed that on acceptance on acceptance of this appeal both the impugned orders dated 24/09/2020 & 13/11/2020 may kindly be set aside and the appellant may kindly be reinstated in service along with all back benefits. any other remedy which this august tribunal deems fit that may also be onward tribunal deems fit that may also be granted in favour appellant.*

*Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.*

  
APPELLANT

Through

  
**Roeeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 31/03/2021

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

  
Advocate.

6

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Muhammad Khurshid

***VERSUS***


District Police Officer Mansehra & others

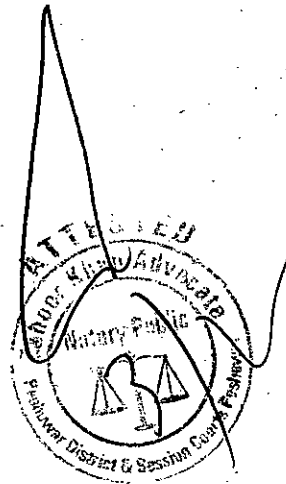
**AFFIDAVIT**

I, Muhammad Khurshid S/o Behram Khan R/o Village Deverian Phulra Teshil & District Mansehra. do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

  
**DEPONENT**

***Identified by:***

  
**Roeeeda Khan**  
Advocate High Court  
Peshawar.



7

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Muhammad Khurshid.

***VERSUS***

District Police Officer Mansehra & others

**ADDRESSES OF PARTIES**

***PETITIONER.***


Muhammad Khurshid S/o Behram Khan R/o  
Village Deverian Phulra Teshil & District  
Mansehra.

**ADDRESSES OF RESPONDENTS**

1. District Police Officer Mansehra.
2. Inspector General of Police Khyber Pakhtunkhwa.
3. Regional Police Officer Hazara Region Abbottabad

  
APPELLANT

Through

  
**Roeeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 31/03/2021


(A)

(8)

ORDER

Muhammad Khurshid s/o Behram Khan r/o Village Deyarian  
Phulra Tehsil & District Mansehra is hereby enlisted on contract basis as  
Constable in Special Police Force in-Fix Pay Rs. (15000/-). His enlistment is  
purely on temporary basis.

He is allotted constabulary No. 11/SFF

  
District Police Office,  
Mansehra

No. 7511-13 /OHC dated Mansehra the 25/03 /2019.

Copy to:-

1. District Accounts Officer, Mansehra.
2. Pay Officer DPO Office
3. SRC DPO Officer

*copy to SLs*  
*75-03-2019*



**ORDER**

Muhammad Khurshid S/o Behram Khan R/o village Deverian Phulra Tehsil & District Mansehra is hereby enlisted on contract basis as Constable in Special Police Force in Fix Pay Rs. ( 15000/-). His establish is purely on temporary basis.

He is allotted constabulary No. II/SPF

District Police Officer  
Mansehra

No. 7511-13 / OHC Dated Mansehra the 25/03/2019

Copy to:-

1. District Account Officer, Mansehra.
2. Pay Officer DPO Office.
3. SRC DPO Officer.



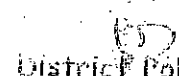
(B)

(9)

ORDER

One Muhammad Khurshid s/o Behram Khan r/o Village Deverian Phulra Tehsil & district Mansehra enlisted as Constable in Special Police Force on contract basis vide this office OB No. 56 dated 25.03.2019. In light of compromise with complainant party in case FIR No. 206/2018 u/s 302 PPC PS Phulra. As per written application and affidavit provided by Ali Khan s/o Ghulam r/o Village Deverian Phulra father of deceased that appointment of above mentioned person i.e. Muhammad Khurshid s/o Behram Khan is not correct and stated that his nephew namely Muhammad Junaid s/o Muhammad Javed r/o Village Shalayan Tehsil & district Mansehra may be appointed as Constable in Special Police Force as per agreement of compromise of the above case.

Therefore, appointment order of above mentioned i.e. Muhammad Khurshid s/o Behram r/o Village Deverian Phulra Tehsil & district Mansehra is hereby withdrawn with immediate effect.

  
District Police Officer  
Mansehra

11794-96 /OHC dated Mansehra the 13/05/2019.

Copy to the:-

1. District Account Officer, Mansehra
2. Pay Officer DPO Office Mansehra
3. SRC DPO Office Mansehra



OB No 56  
13/05/2019

**ORDER**

One Muhammad Khurshid S/o Behram Khan r/ Village Deverian Phulra Tehsil & District Mansehra as Constable in Special Police Force on contract as vide time office OB No. 56 dated 25.03.2019. in the light of compromising with complaint in case FIR No. 206/2018 u/s 302 PPC PS Phulra. As per written application and affidavit provide by Ali Khan s/o Ghulam r/o Village Deverian phulra father of decease that appointment of above mentioned person i.e Muhammad Khurshid s/o Behram Khan is not correct and stated that has nephew namely Muhammad Juniad s/o Muhammad Javed r/o village Shalaiyan Tehsil & District Mansehra may be appointed as Constable special police force as per agreement of compromise of the above case.

Therefore, appointment order of above mentioned i.e Muhammad Khurshid S/o Behram Khan r/o village Deverian Phulra Tehsil & District Mansehra is hereby withdrawn with immediate effect.

District Police Officer

Mansehra

11794-96 /OHC dated Mansehra the 13/05/2019.

Copy to the:

1. District Account Officer, Mansehra.
2. Pay Officer DPO Office Mansehra.
3. SRC DPO Office Mansehra.

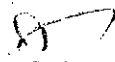
"C"

(10)

ORDER

Muhammad Khurshid s/o Behram Khan r/o Village Deverian Phulra Tehsil & district Mansehra is hereby enlisted on contract basis as Constable in Special Police Force in Fix Pay Rs. (15000/-). His enlistment is purely on temporary basis.

He is allotted constabulary No. 68/SPF


  
District Police Office,  
Mansehra

No 13719-21 /OHC dated Mansehra the 21.06 /2019.

Copy to:-

1. District Accounts Officer, Mansehra.
2. Pay Officer DPO Office
3. SRC DPO Officer

21.06.19  
21.06.2019

AM-81-7  
By  


**ORDER**

Muhammad Khurshid s/o Behram Khan r/o village Deverian Phulra Tehsil & District Mansehra is hereby enlisted on contract basis as Constable in Special Police Force in fix pay Rs. (15000/-) has enlistment as purely on temporary basis

He is allotted constabulary No. 68/SPF.

District Police Office

Mansehra

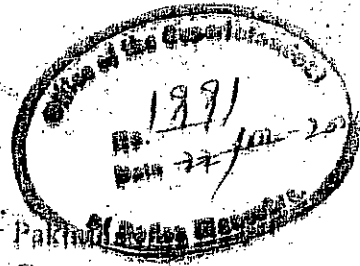
No. 13719-21/ OHC dated Mansehra 21/06/2019.

Copy to:

1. District Account Officer Mansehra.
2. Pay Officer DPO Office.
3. SRC DPO Officer.



Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department  
Dated Peshawar the April 8<sup>th</sup>, 2020



NOTIFICATION

(G.S.O/Budget/HD/15-29/2016 Vol-II): In pursuance of the provisions contained in Section 3 read with Section 5 of the Khyber Pakhtunkhwa Special Police Officers (Regularization of Services) Act, 2019 (Khyb. Pakhtunkhwa Act No.XXVII of 2019) and on the recommendation of Provincial Police Officer, Khyber Pakhtunkhwa and approval of the Provincial Cabinet, the Home and Tribal Affairs Department is pleased to notify herewith regularization of the following Special Police Officers (SPOs) working in District Manshera under DDO Code MA4027. Law & Order Manshera as Constables (BPS-07) with effect from 01-03-2020:

S.No	Name	Father Name	Roll No.
1	Babar Khan	Muhammad Shaqque	1
2	Amir Khan	Farooz Khan	2
3	Babar Ali	Ghulam Khan	3
4	Naeem Iqbal	Muhammad Iqbal	4
5	Muhammad Tahir	Muhammad Ejaz	5
6	Yasir Shah	Syed Mazhar Hussain Shah	6
7	Syed Bilal Shah	Syed Mahdoon Hussain Shah	7
8	Faheem	Abdul Razzaq	8
9	Umar Tariq	Muhammad Tariq	9
10	Muhammad Sajid	Wali ur Rehman	10
11	Muhammad Junaid	Muhammad Javed	11
12	Bilal Basim	Muhammad Bashir	12
13	Shabaz Ahmad	Muhammad Farooq	13
14	Gul Fraz	Riaz Muhammad	14
15	Arsalan Ahmad	Muhammad Yousaf Khan	15
16	Salma Sattar	W/o Shoaib Akhtar	16
17	Naheem Khan	Muhammad Javed	17
18	Abdul Shaheed	Khasia Khan	18
19	Muhammad Ejaz Zeb	Aurang Zeb	19
20	Muhammad Javed	Muhammad Hussain	20
21	Muhammad Usman	Muhammad Farooq	21
22	Musadiq Shahzad	Syed Liaqat Ali Shah	22
23	Qamar Manzoor	Manzoor	23
24	Tehseen Ahmad	Qazi Muhammad Shafi Khokar	24
25	Nadir Haroo	Muhammad Haroon	25
26	Muhammad Bilal	Muhammad Faridoon	26
27	Shoaib	Shamiraz Akhtar	27
28	Muhammad Akram	Muhammad Nawaz	28
29	Muhammad Tahir	Ghulam Mustafa	29
30	Mansoor Shah	Syed Manzoor Hussain Shah	30
31	Manzoor Hussain	Saidur Rehman	31
32	Aman	Muhammad Allah	32
33	Sajjad Ahmad	Aurang Zeb	33
34	Shoaib Ahmad	Awal Khan	34
35	Nasir Hussain Shah	Syed Mazhar Hussain Shah	35
36	Ishfaq	Arbab	36

Provincial Police Officer  
Manshera

Attestation  
By

Government of Khyber Pakhtunkhwa  
Home & Tribal Affairs Department  
Dated Peshawar the April 08<sup>th</sup>, 2020

**NOTIFICATION**

No. SO (Budget)/HD/15-29/2016 Vol-II: In pursuance of the provision contained and Section 3 Read with section 5 of the Khyber Pakhtunkhwa Special Police Officer (Regularization of Service) October, 2019 Khyber Pakhtunkhwa October, No. (XXYII of 2019) and in the recommendation of provincial Police Officer Khyber Pakhtunkhwa and approval of the provincial Cabinet, the Home & Tribal Department Affairs Department is placed to notify herewith regularization of the following Special police Officers (SPOs) the working in District Mansehra under DDO Code MA1027 law and order Mansehra as Constable (BPS-07) with effect from 01-03-2021.

S.No	Name	Father Name	Belt No.
1	Babar Khan	Muhammad Shafique	1
2.	Amir Khan	Faroz Khan	2
3.	Babar Khan	Ghulab Khan	3
4.	Naeem Iqbal	Muhammad Iqbal	4
5.	Muhammad Tahir	Muhammad Ejaz	5
6.	Yasir Shah	Syed Mazhar Hussain Shah	6
7	Syed Bilal Shah	Syed Makhdoom Ali Shah	7
8.	Faheem	Abdul Raziq	8
9.	Umar Tariq	Muhammad Tariq	9
10.	Muhammad Sajid	Wali Ur Rehman	10
11.	Muhammad Junaid	Muhammad Javed	11
12.	Bilal Bashir	Muhammad Bashir	12
13.	Shahaz Ahmad	Muhammad Farooq	13
14.	Gul Fraz	Riaz Muhammad	14
15.	Arsallan Ahmad	Muhammad Yousaf Khan	15
16	Salam Sattar	w/o Shoaib Akhtar	16
17.	Naheem Khan	Muhammad Javed	17
18.	Abdul Shaheed	Khasla Khan	18
19.	Muhammad Ejaz Zeb	Aurng Zeb	19
20.	Muhammad Javed	Muhammad Hussain	20
21.	Muhammad Usman	Muhammad Farooq	21
22.	Musadiq Shahzad	Syed Liaqat Ali Shah	22
23.	Qamar Manzoor	Manzoor	23
24.	Tehseen Ahmad	Qazi Muhammad Shafi Khokar	24
25.	Nadir Haroon	Muhammad Haroon	25
26.	Muhammad Bilal	Muhammad Faridoon	26
27.	Shoaib	Shamriaz Akhtar	27
28.	Muhammad Akram	Muhammad Nawaz	28
29.	Muhammad Tahir	Ghulam Mustafa	29
30.	Mansoor Shah	Syed Manzoor Ali Shah	30
31.	Manzoor Hussain	Said Ur Rehman	31
32.	Aman	Muhammad Iltaf	32
33.	Sajjad Ahmad	Auranzeb	33
34.	Shoaib Ahmad	Awal Khan	34
35	Nasir Hussain Shah	Syed Mazhar Hussain Shah	35
36.	Ishtiaq	Arbab	36
37.			37

12

96  
97  
98  
99  
100

38	Muhammad Anjad	Muhammad Noor	38
39	Syed Ali Shah	Syed Wakeel Shah	39
40	Ghulam Mustafa	Ashiq Hussain	40
41	Saqib Nawaz	Haq Nawaz	41
42	Ehsan Khan	Muhammad Sheeraz Khan	42
43	Muhammad Saqib	Ali Maidan Khan	43
44	Haider Ali	Muhammad Rafique	44
45	Wajid	Abdul Qayoom	45
46	Jawad	Nawaz Ahmad	46
47	Zahid	Shad Muhammad	47
48	Mubashir Noshad	Noshad Khan	48
49	Faizan Fida	Fida Hussain	49
50	Rashid	Muhammad Hussain	50
51	Israr Ahmad	Malik Dildar	51
52	Arif Dilbar	Dilbar Khan	52
53	Junaid Ahmad	Manzoor Ahmad	53
54	Fazal Rabi	Muhammad Toufeeq Khan	54
55	Abdur Rehman	Faqeer Muhammad	55
56	Farhan Khan	Muhammad Kiyal	56
57	Aurangzeb	Mawali	57
58	Muhammad Ali	Muhammad Zahoor	58
59	Fiaz	Noor Muhammad	59
60	Shoukat	Fazal ur Rehman	60
61	Waqar Hussain Shah	Allaf Hussain Shah	61
62	Uzair Shahzad	Muhammad Shezad	62
63	Muhammad Adil	Muhammad Khushal	63
64	Gul Faraz	Sardar Muhammad	64
65	Akram Shehzad	Muhammad Fareed	65
66	Muhammad Haroon	Ali Zaman	66
67	Muhammad Hissari	Kachoo	67
68	Muhammad Khushid	Behran Khan	68
69	Abdul Hakeem	Abdul Bahas	69
70	Muhammad Waheed	Ghulam Sarwar	70
71	Ahsan Rasheed	Abdul Rasheed	71
72	Faizan Khan	Mushtaq Ahmad	72
73	Sabir Hussain	Muhammad Fareed	73
74	Muhammad Fiaz	Khalid ur Rehman	74
75	Khuram Shahzad	Ali Akbar	75
76	Razaqat	Gul Zaman	76
77	Muhammad Adil	Taj Muhammad	77
78	Hamid Hussain	Muhammad Hussain	78
79	Muhammad Jehan ur	Muhammad Arif	79
80	Muhammad Adil	Muhammad Zaman	80
81	Fazal ur Rehman	Muhammad Aneen	81
82	Sheryar Khan	Faiz Muhammad	82
83	Shahid Khan	Shamroz Khan	83
84	Habib Ullah	Samiullah	84
85	Fazal Aneen	Shah Jehan	85
86	Zakir	Khasta Khan	86
87	Tayub	Ghulam Mustafa	87
88	Amir Shahzad	Muhammad Suleman	88
89	Adil Shahzad	Jalil ur Rehman	89
90	Juna Khan	Shamsul Yameen	90
91	Awais Ahmed	Muhammad Idrees	91
92	Muhammad Khushid	Abdul Rasheed	92
93	Sher Afzal	Malik ur Rehman	93

District Police Officer  
Muzaffargarh

(Signature)

**BETTER COPY**

38.	Muhammad Arshad	Muhammad Noor	38
39.	Syed Ali Shah	Syed Wakeel Shah	39
40.	Ghulam Mustafa	Ashiq Hussain	40
41.	Saqib Nawaz	Haq Nawaz	41
42.	Ehsan Khan	Muhammad Sheeraz Khan	42
43.	Muhammad Saqib	Ali Mardan Khan	43
44.	Haider Ali	Muhammad Rafique	44
45.	Wajid	Abdul Qayoom	45
46.	Jawad	Nawaz Ahmad	46
47.	Zahid	Shad Muhammad	47
48.	Mubashir Noshad	Noshad Khan	48
49.	Faizan Fida	Fida Hussain	49
50.	Rashid	Muihammad Hussain	50
51.	Israr Ahmad	Malik Dildar	51
52.	Arif Dilbar	Dilbar Khan	52
53.	Junaid Ahmad	Manzoor Ahmad	53
54.	Fazal Ravbi	Muhammad Taufeeq Khan	54
55.	Abdul Rehman	Faqeer Muhammad	55
56.	Farhan Khan	Muhammad Khiyal	56
57.	Aurangzeb	Mawali	57
58.	Muhammad Ali	Muhammad Zahoor	58
59.	Fiaz	Noor Muhammad	59
60.	Shoukat	Fazl Ul Rehman	60
61.	Waqar Hussain Shah	Altaf Hussain Shah	61
62.	Uzair Ahmad	Muhammad Shezad	62
63.	Muhammad Adil	Muhammad Khushal	63
64.	Gul Faraz	Sardar Muhammad	64
65.	Akram Shehzad	Muhammad Farid	65
66.	Muhammad Haroon	Ali Zaman	66
67.	Muhammad Nisar	Kachoo	67
68.	Muhammad Khurshid	Behram Khan	68
69.	Abdul Hakeem	Abdul Bahas	69
70.	Muhammad Waheed	Ghulam Sarwar	70
71.	Ahsan Rasheed	Abdul Rasheed	71
72.	Faizan Khan	Mushtaq Ahmad	72
73.	Sabir Hussain	Muhammad Farid	73
74.	Muhammad Faiz	Khalil Ur Rehman	74
75.	Khuram Shehzad	Ali Akbar	75
76.	Razaqat	Gul Zaman	76
77.	Muhammad Adil	Taj Muhammad	77
78.	Hamid Hussain	Muhammad Hussain	78
79.	Muhammad Jehangir	Muhammad Arif	79
80.	Muhammad Adil	Muihammad Zaman	80
81.	Fazal Ur Rehman	Muhammad Ameen	81
82.	Sheriyar Khan	Faiz Muhammad	82
83.	Shahid Khan	Shamroz Khan	83
84.	Habib Ullah	Sami Ullah	84
85.	Fazal Ameen	Shah Jehan	85
86.	Zakir Khasta Khan	Khista Khan	86
87.	Tayub	Ghulam Mustafa	87
88.	Amir Shehzad	Muhammad Suleman	88
	Adil Shehzad	Jalil Ur Rehman	89
	Juma Khan	Shamsul Yameen	90
	Awais Ahmad	Muhammad Idrees	91
	Muhammad Khurshid	Abdul Rashid	92
	Sher Afzal	Malik Ur Rehman	93



(E)

13



OFFICE OF THE DISTRICT POLICE OFFICER MANSEHRA  
 (Khyber Pakhtunkhwa Police)  
 No. 17867 /OHC, dated 24/09/2020  
 Tel: No. 0997-920102 and Fax No. 0997-920104  
 E-mail: dpomansehra@hotmail.com

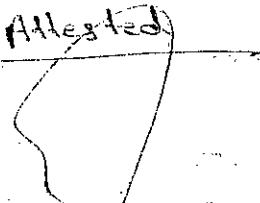
ORDER

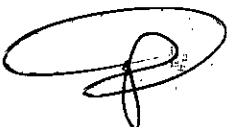
In compliance with the order of the MCTC/Additional Session Judge-IV Mansehra vide order dated 07-09-2020 the office record transpired that the appointment of Muhammad Junaid No. 11/SPF and Muhammad Khurshid No. 68/SPF in Police Department as SPF vide OB No. 90 dated 13-05-2019 and OB No. 114 dated 21-06-2019 was made as compensation to the heirs of Mr. Shahzad s/o Ali Khan i/o Daverian-Phulra who was killed by police party vide FIR No. 208 dated 06-11-2018 U/S 302 PPC PS-Phulra. Later on, both the above police constables were regularized vide OB No. 96 dated 23-04-2020. At present their regular service is 6 months and 22 days. Since, their appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio-void.

Therefore, I, the District Police Officer, Mansehra, under power conferred upon me by Police Rules 12.21, hereby discharge Constable Muhammad Junaid No. 1329 and Constable Muhammad Khurshid No. 1315 from service with immediate effect. Since the total regular service of Constable Muhammad Junaid No. 1329 and Constable Muhammad Khurshid No. 1315 is less than three years so there shall be no appeal against an order of discharge under this rule.

  
 District Police Officer,  
 Mansehra

OB No. 3359  
 Dated 24/09/2020

Attested  
  
 District Police Officer

Attested  
 BY  


**BETTER COPY**

**OFFICE OF THE DISTRICT POLICE MANSEHRA  
Khyber Pakhtunkhwa Police**

No. 17867 /OHC, dated 24/09/2020

Tel No. 0997-920102 and Fax No. 0997-020104

E-mail: dpomansehra@hotmail.com

**ORDER**

In compliance with the order of MCIC/Additional Session Judge-IV Mansehra vide order dated 07/09/2020 the office record transferred that the appointment of Muhammad Junaid No. 11/SPF and Muhammad Khurshid No. 68/SPF in Police Department as SPF vide OB No. 90 dated 15/05/2019 and OB No. 114 dated 21/06/2019 was made as compensation to the heirs of Mr. Shehzad S/o Ali Khan r/o Deverian-Phulra who was killed by Police party vide FIR No. 208 dated 06/11/2008 U/S 302 PPC PS Phulra later on, both the above police constables were regularized vide OB No. 96 dated 23/04/2020. At present their regular service is 6 months and 22 day. Since, their appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in police service on the pretext of compensation of murder of deceased is not justified and ab-initio-void.

Therefore, the District Police Officer, Mansehra, power conferred upon me by Police Rules 12, 21 hereby discharge Constable Muhammad Junaid No. 1329 and Constable Muhammad Khursheed No. 1315 from service with immediate effect. Since the total regular service of Constable Muhammad Junaid No. 1329 and Constable Muhammad Khursheed No. 1315 is less than three years so there shall be no appeal against an order of discharge under this rule.

District Police Officer  
Mansehra

OB No. \_\_\_\_\_

Dated 24/09/2020

(F)

147

Post 4/10

To,

THE D.I.G OF POLICE,  
HAZARA REIGEN,  
KHYBER PAKHTUNKHWA.

Subject: REPRESENTATION AGAINST THE  
ORDER BEARING OB NO.239 DATED  
24.09.2020 PASSED BY THE DISTRICT  
POLICE OFFICER, MANSEHRA  
WHEREBY THE APPOINTMENT OF  
PETITIONER WAS DECLARED AS NOT  
JUSTIFIED AND AB-INITIO-VOID.

Date: 05/10/20

Respected Sir,


***With due respect, it is submitted: -***

1. That, the petitioner was initially inducted in the police department as Constable in Special Police Force in fix pay Rs.15,000/-.
2. That, later on, the said appointment of the petitioner was cancelled by the District Police Officer vide its order bearing OB No.89 dated 13.05.2019 on the application and affidavit provided by Ali Khan son of Ghulam resident of Village Deverian Phulra, Tehsil and District Mansehra (father of deceased in case FIR No.206/2018 under section 302 PPC police Station Phulra).

AMST  
R  
①

3. That, later on, the petitioner was appointed on the basis of merit vide appointment order bearing No.13719-21/OHC dated 21.06.2019 who was later on regularized vide notification dated 08.04.2020 and the petitioner from the date of its initial appointment is serving in the police department with great zeal and zest and never remained negligent in performance of his duties.
4. That, the appointment of the petitioner was carried out on the basis of merit and not on the basis of any other reason and this factum is nowhere mentioned in the appointment order of the petitioner hence the appointment of the petitioner cannot be termed as appointment other than merit.
5. That, the learned District Police Officer while declaring the appointment of the petitioner as void-ab-inito did not recorded any solid and concrete reasons rather mere on the surmises, conjectures, hypothesis and presumptions passed the impugned order.

6. That, the petitioner never posted/ appointed on the pretext of compensation in lieu of murder of deceased rather the petitioner was appointed on the basis of his own merit and there is no record on the file which could even show that the petitioner has been appointed on the pretext of compensation in lieu of murder of deceased.
7. That, the appointment of the petitioner is justified as the previous appointment of the petitioner has been cancelled by the District Police Officer, Mansehra hence the second appointment being appointment on merit cannot be declared as appointment on the pretext of compensation in lieu of murder of deceased.
8. That, the impugned order passed by the District Police Officer, Mansehra offends all norms of justice, fair play, equity. The District Police Officer, Mansehra violated the relevant law, rules and regulations.
9. That, the District Police Officer, Mansehra has committed an illegality



17

and material irregularity while deciding the list in hand.

10. That, earlier a representation was also made before Honourable Deputy Inspector General of police, Hazara Division, Abbottabad but of no avail.

*(Copy of the order dated 12.11.2020 is annexed herewith).*

**It is, therefore, most humbly** requested that on acceptance of the instant representation, the impugned order bearing OB No.239 dated 24.09.2020 as well as order of Deputy Inspector General of police, Hazara Division, Abbottabad may please be set aside and the petitioner may please be re-instated in service with all back benefits.



**MUHAMMAD KHURSHID**  
Son of Behram Khan  
Resident of Devli Phulra,  
Tehsil and District Mansehra.  
**Ex-Constable No.1315**

C341-9454163  
0348-2520484





OFFICE OF THE REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

0992-9310024-22

0992-9310023

r.r.pohazara@gmail.com

0345-9560687

NO: 29462 /PA DATED 12/11/2020

**ORDER**

This order will dispose off departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex Constable Muhammad Khurshid No.1315 of District Mansehra against the punishment order i.e. *discharged from Service* awarded by DPO Mansehra vide OB No.239 dated 24.09.2020.

Brief facts leading to the punishment are that the appellant was appointed as SPF constable vide OB No. 90 dated 13.05.2019 in lieu of compensation to the heirs of deceased Shazad s/o Ali Akbar r/o Deverian, Phulra, who was killed during raid of a police party vide FIR No. 208 dated 06.11.2018 u/s 302 PPC PS Phulra. Later on the appellant has been regularized vide OB No.96 dated 23.04.2020. Since, his appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No.1329 and Muhammad Khurshid No.1315 in Police service on the pretext of compensation in lieu of murder of deceased is not justified and *ab-initio-void*. The father of the deceased submitted an application before the trial court by virtue of which he disowned the appointments.

Consequently, in compliance with the order of MCTC/Additional Session Judge-IV Mansehra vide order dated 07-09-2020, the appellant was discharged from service under Rule 12:21 of PRs vide OB No. 239 dated 24-09-2020. Hence, the appellant submitted this present appeal.

After receiving his appeal, comments of DPO Mansehra were sought and examined/perused. The undersigned called the official in OR and heard him in person. After perusal of relevant record it has been noticed that the appointment of the appellant was irregular and unjustified. The appeal being meritless is liable to be dismissed. Therefore, in exercise of the powers conferred upon the undersigned under Rule 11-4 (a) of Khyber Pakhtunkhwa Police Rules, 1975 the instant appeal is hereby *filed* with immediate effect.

*Jam*  
Qazi Jamil ur Rehman (PSP)  
REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

No. 29463 /PA, dated Abbottabad the 12/11/2020.  
CC.

1. The District Police Officer, MANSEHRA for information and necessary action with reference to his office Memo No.19434/GB dated 15-10-2020. Service Roll and Fuji Missal containing enquiry file of the appellant is returned herewith for record.

*Alish*  
*By*  
*[Signature]*

BETTER COPY

OFFICE OF THE REGIONAL POLICE OFFICER  
HAZARA REGION, ABBOTTABAD

0092-9310021-22

r.rpohazara@gmail.com

0345-9560687

No. 29462/PA

DATE 13/11/2020

ORDER

This order will dispose off Departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rules, 1975 submitted by Ex-Constable Muhammad Khursheed No. 1315 of District Mansehra against the punishment order i.e **Discharged from Service** awarded by DPO Mansehra Vide OB No. 239 dated 24/09/2020.

Brief facts leading to the punishment are that the appellant was appointed as SPF Constable vide OB No. 90 dated 13/505/2019 in lieu of compensation to the heirs of deceased Shazad s/o Ali Akbar r/o Deverian, Phurla, who was killed during raid of a policy party vide FIR No. 208 dated 06/11/2018 u/s 302 PPC PS phulra. Later on the appellant has been regularized vide OB No. 96 dated 23.04.2020, Since, this appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in Police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio void. The father of the deceased submitted an application before the trial court by virtue of which he disowned the appointments.

Consequently, in compliance with the order of MCTC/Additional Session Judge-IV Mansehra vide order dated 07/09/2020 the appellant was discharged from service under Rule 12:21 of PRs vide OB No. 239 dated 24/09/2020. Hence, the appellant submitted this present appeal.

After receiving his appeal comments of DPO Mansehra were sought and the official in OR and heard him in person. After noticed that the appointment of the appellant was irregular this is liable to be dismissed. Therefore, in exercise of the power under Rule 11-4 (a) of the Khyber Pakhtunkhwa Police Rules, 1975, the appeal is dismissed with immediate effect.



(H)

(19)

put up

To,

THE INSPECTOR GENERAL OF POLICE,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: REPRESENTATION AGAINST THE  
ORDER BEARING OB NO.239 DATED  
24.09.2020 PASSED BY THE DISTRICT  
POLICE OFFICER, MANSEHRA  
WHEREBY THE APPOINTMENT OF  
PETITIONER WAS DECLARED AS NOT  
JUSTIFIED AND AB-INITIO-VOID.

Office of the  
District Police Officer,  
Mansehra, Peshawar  
Case No. 4583 / Complaint  
Dated 18/11/2020

Respected Sir,

***With due respect, it is submitted: -***

1. That, the petitioner was initially inducted in the police department as Constable in Special Police Force in fix pay Rs.15,000/-.
2. That, later on, the said appointment of the petitioner was cancelled by the District Police Officer vide its order bearing OB No.89 dated 13.05.2019 on the application and affidavit provided by Ali Khan son of Ghulam resident of Village Deverian Phulra, Tehsil and District Mansehra (father of deceased in case FIR No.206/2018 under section 302 PPC police Station Phulra).

Ali Khan  
27

6. That, the petitioner never posted/ appointed on the pretext of compensation in lieu of murder of deceased rather the petitioner was appointed on the basis of his own merit and there is no record on the file which could even show that the petitioner has been appointed on the pretext of compensation in lieu of murder of deceased.
  
7. That, the appointment of the petitioner is justified as the previous appointment of the petitioner has been cancelled by the District Police Officer, Mansehra hence the second appointment being appointment on merit cannot be declared as appointment on the pretext of compensation in lieu of murder of deceased.
  
8. That, the impugned order passed by the District Police Officer, Mansehra offends all norms of justice, fair play, equity. The District Police Officer, Mansehra violated the relevant law, rules and regulations.
  
9. That, the District Police Officer, Mansehra has committed an illegality

11

12

13

14

15

16

17

18

19

20

225

and material irregularity while deciding the lis in hand.

10. That, earlier a representation was also made before Honourable Deputy Inspector General of police, Hazara Division, Abbottabad but of no avail.

*(Copy of the order dated 12.11.2020 is annexed herewith).*

**It is, therefore, most humbly** requested that on acceptance of the instant representation, the impugned order bearing OB No.239 dated 24.09.2020 as well as order of Deputy Inspector General of police, Hazara Division, Abbottabad may please be set aside and the petitioner may please be re-instated in service with all back benefits.

**Dated 17.11.2020**



---

**MUHAMMAD KHURSHID**  
Son of Behram Khan  
Resident of Devli Phulra,  
Tehsil and District Mansehra.  
**Ex-Constable No.1315**

0341-9454163

0348-2520484





OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

No. SI/ 1199 /21, dated Peshawar the 17/03/2021.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-FC Muhammad Khurshid No. 1315. The above named ex-official was appointed as SPF Constable vide OB No. 90, dated 13.05.2019 in lieu of compensation to the heirs of deceased Shahzad s/o Ali Akbar r/o Deverian, Phulra, who was killed during raid of a Police party vide FIR No. 208, dated 06.11.2018 u/s 302 PPC PS Phulra. His appointment order as SPO was withdrawn by District Police Officer, Mansehra vide order Endst: No. 11794-96/OHC, dated 13.05.2019. Later on he was regularized vide OB No. 96, dated 23.04.2020. Since, his appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in Police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio-void. The father of deceased submitted an application before the trial court by virtue of which he disowned the appointments. Consequently, in compliance with the order of MCTC/Additional Session Judge-IV, Mansehra vide order dated 07.09.2020 the petitioner was discharged from service under Rule 12:21 of Police Rules vide OB No. 239, dated 24.09.2020. His appeal was filed by Regional Police Officer, Hazara vide order No. 29462/PA, dated 12.11.2020.

Meeting of Appellate Board was held on 02.03.2021 wherein petitioner was heard in person. Petitioner contended that he was not appointed on the pretext of compensation in lieu of murder of deceased rather he was appointed on merit.

Perusal of records reveals that petitioner was appointed as SPF Constable vide OB No. 90, dated 13.05.2019 in lieu of compensation to the heirs of deceased Shahzad s/o Ali Akbar r/o Deverian, Phulra, who was killed during raid of a Police party vide FIR No. 208, dated 06.11.2018 u/s 302 PPC Police Station Phulra. Later on he was regularized vide OB No. 96, dated 23.04.2020. During trial of the above case, the trial court MCTC/ASJ IV Mansehra vide order dated 07.09.2020 has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in Police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio-void. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected.

Sd/-

**KASHIF ALAM, PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

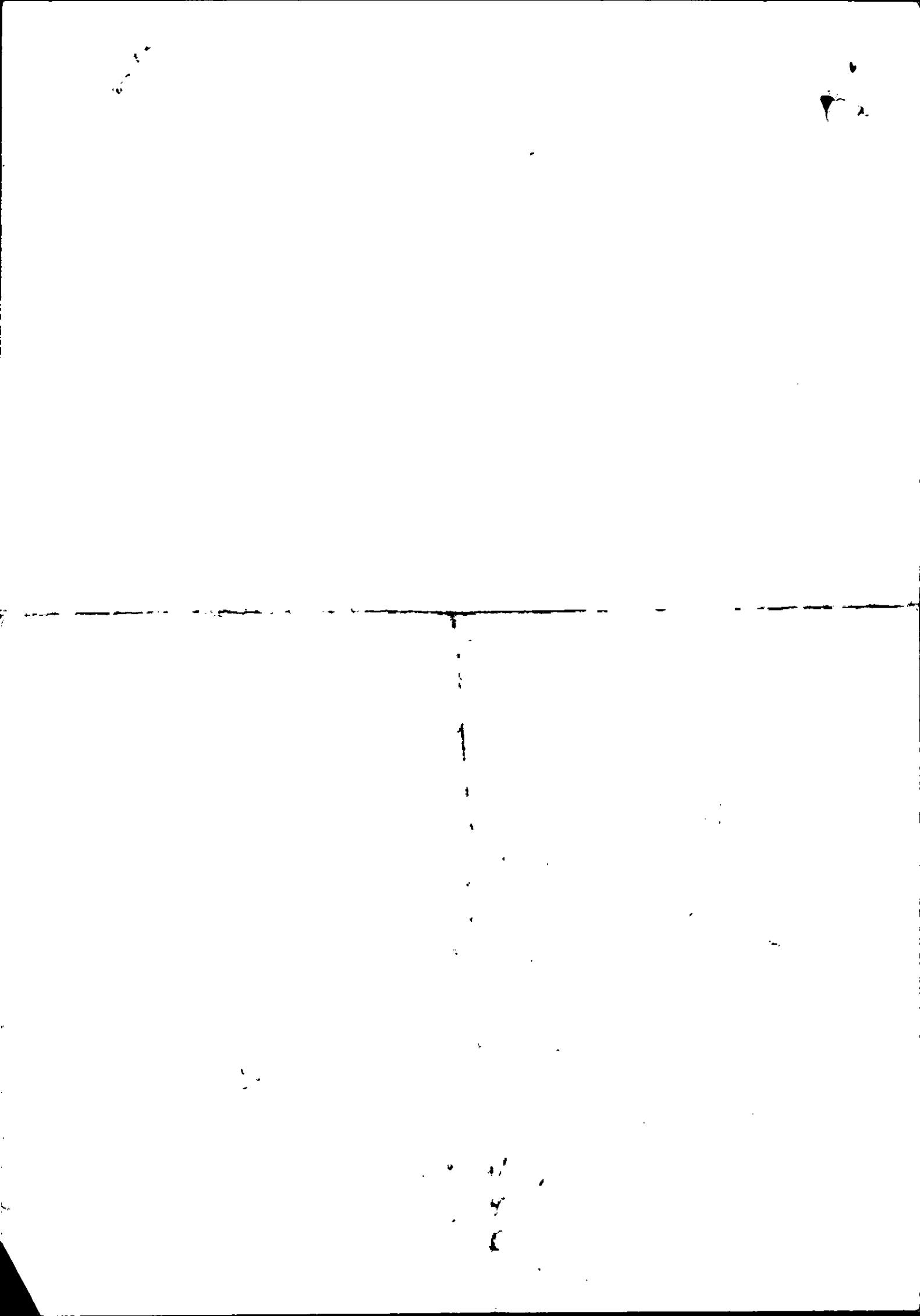
No. SI/ 1199 /21,

Copy of the above is forwarded to the:

1. Regional Police Officer, Hazara at Abbottabad. One Service Roll and one Fauji Missal (containing enquiry file) of the above named Ex-FC received vide your office Memo: No. 24/PA, dated 04.01.2021 is returned herewith for your office record.
2. District Police Officer, Mansehra.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO, Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

ANWHEK  
BY  
P

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



قیمت  
50 روپے

79962



ایڈوکیٹ:

بار کونسل / ایسوسی ایشن نمبر:

رابطہ نمبر: 03330265955

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

مخاطب:	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آگے**

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

آن مقام کے وکیل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کر کے فیصلہ بر خلاف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از جرم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ نالٹے بجائے نقر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو چیزیں ہر جانے اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

الرقوم:   
31/3/2024  
PESHAWAR BAR ASSOCIATION  
KHAYBER PAKHTUNKHAH

مقام کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کالی یا قابل قبول ہوگی۔

Accepted  
By

04/01/2022 Pesh

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 4802/2021.

Muhammad Khurshid

.....Appellant


**VERSUS**

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

..... Respondents

**INDEX**

S #	Description of Documents	Annexure	Page #
1	Comments / Reply		1-3
2	Affidavit /Annexure		4-26

  
Deponent



①

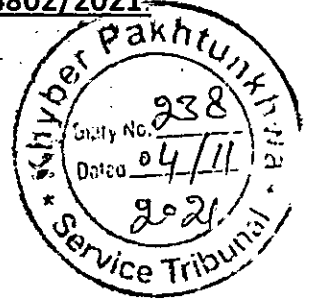
**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**PESHAWAR.**

**SERVICE APPEL NO 4802/2021**

Muhammad Khurshid

.....Appellant



**VERSUS**

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

..... Respondents

**Reply/Comments On Behalf Of Respondents**

**RESPECTFULLY SHEWETH:-**

**PRELIMINARY OBJECTION:-**

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non- joinder and mis-joinder of necessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

**FACTS:-**

1. The appellant was appointed as Special Police Force in line of compensation to the heirs of deceased Shazad s/o Ali Akbar r/o Deverian PS Phulra who was killed during raid of a police party vide FIR No. 208 dated 06.11.2018 u/s 302

PPC PS Phulra (Copy of FIR is annexure A). Later on, the appellant was regularized vide OB No. 96 dated 23.04.2020 (Copy of order is annexure B). During the trial of murder case, the learned court declared that appointment of appellant on the pretext of compensation in line of murder of deceased is not justified. The father of the deceased also submitted application and disowned the appointment (Copy of Court order & application of complainant is annexure C).

- 2. Pertains to record.
- 3. The appellant was appointed as compensation to the heirs of deceased but father of the deceased disowned his appointments.
- 4. Pertains to record.
- 5. Pertains to record.
- 6. The appellant was discharged from employment on the observations of trial court (Copy of order is annexure D).
- 7. Pertains to record. Departmental appeal of appellant was not based on cogent reasons and rejection.
- 8. Revision petition has no legal value under Tribunal Act as only departmental appeal is mandatory.
- 9. The appeal is not maintainable on the following grounds:-


**GROUND:-**

- A. Incorrect. The impugned order is correct, legal, and passed after observing all the codal formalities.
- B. The competent authority has power to pass any order under summary proceedings.
- C. Incorrect. The appoint of appellant was got on the basis of compensation in lice of murder which was found void by the trial court due to which he was dismissed under summary proceedings.
- D. Incorrect. There was no need of final show cause notice as he was dismissed in compliance of court order.


- F. Incorrect. Under summary proceedings there was no need of any evidence.
- G. The appellant was dismissed after issuing direction from the trial court.
- H. Incorrect. There was no need of personal hearing as his appointment was illegal and without any authority. A....125 office order has issued in compliance to the court order.
- I. Incorrect.
- J. Incorrect. The appeal is groundless hence not maintainable.

**PRAYER:-**


In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force and badly time barred case.



**District Police Officer  
Mansehra  
(Respondent No. 1)**



**Regional Police Officer  
Hazara Region Abbottabad  
(Respondent No. 3)**



**Provincial Police Officer  
Khyber Pakhtunkhwa Peshawar  
(Respondent No. 2)**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO 4802/2021.

Muhammad Khurshid

.....Appellant


**VERSUS**


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

..... Respondents

**AFFIDAVIT**

We respondents, do hereby solemnly affirm and declare that the contents of comments are true and correct to the best of our knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal.

  
**District Police Officer**  
**Mansehra**  
**(Respondent No. 1)**

  
**Regional Police Officer**  
**Hazara Region Abbottabad**  
**(Respondent No. 3)**

  
**Provincial Police Officer**  
**Khyber Pakhtunkhwa Peshawar**  
**(Respondent No. 2)**



## ORDER

Annex - B

In pursuance of Government of Khyber Pakhtunkhwa, Home & Tribal Affairs  
 Government Notification No. SO(Budget)/HD/15-29/2016 Vol-II dated 08.04.2020, the following Special  
 Officers (SPOs) serving in District Police Mansehra on contract basis are hereby regularized on  
 permanent posts of Constable (BPS-07) (10990-610-29290) with effect from 01.03.2020.

They are allotted constabulary Nos as noted against each their names:-

No.	Name & SPF/Belt No.	Father Name	D/O Birth	Allotted Constabulary Nos
1.	FC Sher Afzal. 93	Malik ur Rehman	23.03.1973	1237
2.	FC Juma Khan. 90	Shamsul Yameen	01.01.1977	1238
3.	FC Manzoor Hussain. 31	Saidur Rehman	18.09.1977	1239
4.	FC Razaqat .76	Gul Zaman	1978	1240
5.	FC Sabir Hussain. 73	Muhammad Fareed	16.04.1975	1241
6.	FC Muhammad Khurshid. 92	Abdul Rasheed	15.01.1980	1242
7.	FC Shoaib Akhtar 27	Shamriaz Akhtar	16.06.1981	1243
8.	FC Shoukat. 60	Fazal ur Rehman	26.08.1981	1244
9.	FC Aurangzeb. 57	Mawali Jan	1982	1245
10.	FC Abdul Hakeem. 69	Abdul Bahas	1982	1246
11.	FC Jawad Ahmad 46	Muhammad Nawaz	1983	1247
12.	FC Fazal Rabi . 54	Muhammad Toufeeq Khan	26.02.1983	1248
13.	FC Muhammad Javed. 20	Muhammad Hussain	13.11.1983	1249
14.	FC Waqar Ahmad. 94	Muhammad Yousaf	20.07.1984	1250
15.	FC Khurram Shahzad. 75	Ali Akbar	17.11.1984	1251
16.	FC Fiaz . 59	Noor Muhammad	02.12.1984	1252
17.	FC Habib Ullah. 84	Samiullah	1985	1253
18.	FC Syed Ali Shah. 39	Syed Wakeel Shah	07.03.1985	1254
19.	FC Muhammad Haroon . 66	Ali Zaman	03.03.1986	1255
20.	FC Adil Shahzad. 89	Jalil ur Rehman	14.03.1986	1256
21.	FC Junaid Ahmad. 53	Manzoor Ahmad	18.05.1986	1257
22.	FC Ahsan Rasheed. 71	Abdul Rasheed	05.11.1986	1258
23.	FC Sajjad Ahmad. 33	Aurang Zeb	23.02.1987	1259
24.	FC Gul Faraz . 64	Sardar Muhammad	21.03.1987	1260
25.	FC Ghulam Mustafa. 40	Ashiq Hussain	29.04.1987	1261
26.	FC Muhammad Nisar . 67	Kachoo	15.05.1988	1262
27.	FC Abdur Rehman. 55	Faqeer Muhammad	17.08.1988	1263
28.	FC Naeem Iqbal. 4	Muhammad Iqbal	24.10.1988	1264
29.	LFC Salma Sattar. 16	w/o Shoaib Akhtar	02.03.1989	1265
30.	FC Babar Ali. 3	Ghulam Khan	05.03.1989	1266
31.	FC Muhammad Adil . 63	Muhammad Khushal	03.06.1989	1267
32.	FC Faizan Fida . 49	Fida Hussain	25.12.1989	1268
33.	FC Yasir Hussain Shah. 6	Syed Mazhar Hussain Shah	30.12.1989	1269
34.	FC Nasir Hussain Shah. 35	Syed Mazhar Hussain Shah	30.12.1989	1270
35.	FC Abdul Shaheed. 18	Khasta Khan	01.01.1990	1271
36.	FC Muhammad Abid. 95	Shah Rehman	04.01.1990	1272
37.	FC Syed Bilal Hussain Shah. 7	Syed Makhdoom Hussain Shah	11.01.1990	1273
38.	FC Muhammad Tahir. 29	Ghulam Mustafa	08.06.1990	1274
39.	FC Tayyub. 87	Ghulam Mustafa	08.06.1990	1275
40.	FC Ali Zeeshan. 97	Muhammad Saleem	01.01.1991	1276
41.	FC Muhammad Adil. 80	Muhammad Zaman	01.02.1991	1277
42.	FC Muhammad Ishtiaq. 36	Arbab	20.03.1991	1278
43.	FC Gul Fraz. 14	Riaz Muhammad	22.02.1991	1279
44.	FC Naheem Akram. 96	Shams ul Haq	23.03.1991	1280
45.	FC Hamid Hussain. 78	Muhammad Hussain	10.03.1991	1281

District Police Office  
Mansehra

(7)


1284	FC Muhammad Saqib. 43	Muhammad Javed	14.03.1997	1329
1285	FC Sheriyar Ahmad Khan. 82	Ali Mardan Khan	10.04.1997	1330
1286	FC Numan. 98	Faiz Muhammad	11.01.1998	1331
1287	FC Wajid. 45	Waheed	13.01.1998	1332
1288	FC Faizan Khan. 72	Abdul Qayoom	15.09.1998	1333
1289		Mushtaq Ahmad	01.12.2000	1334

No. 7970-76 /OHC dated Mansehra the 23/04 /2020.

  
District Police Officer  
Mansehra

Copy submitted for favour of information and necessary action to:-

1. The Provincial Police Officer, Khyber Pakhtunkhwa.
2. The Regional Police Officer, Abbottabad.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
5. PS to Home Secretary, Khyber Pakhtunkhwa.
6. The District Accounts Officer, Mansehra.
7. Pay Officer/SRC DPO Office Mansehra

  
District Police Officer  
Mansehra

Annex - C

IN THE COURT OF MUHAMMAD TAHIR AURANGZEB  
MODEL CRIMINAL TRIAL COURT/ASI-IV

Sessions Case No: 30/7 of 2019  
Date of Institution: 10/05/2019  
Date of Decision: 07/09/2020

Place: Mansehra  
FIR No. 206  
Dated: 06/11/2018  
Under sections: 302 PPC  
Police Station: Phulra, Mansehra

The State.....

VERSUS

Ismail Khan son of Tor Khan aged about 32/33 years caste Usman  
Khel resident of Shangaktar, Judbah District Torghar.

(Accused facing trial)

Complainant represented by: Learned APP for the State.

Defence counsel: Mr. Shehzad Ahmed Khan Jehangiri Advocate.

JUDGMENT:-

Accused named above, faced criminal trial in case FIR  
No.206, dated 06-11-2018, U/Ss 302 PPC registered at Police  
Station Phulra, Mansehra.

Brief facts of the case are that complainant  
Muhammad Miskeen son of Ghulam, alongwith dead body of his  
nephew Muhammad Shehzad alias Shada son of Ali Khan on  
06-11-2018 at 10:00hours, reported the matter in the PS to the  
effect that on the day of occurrence i.e. on 06-11-2018 at morning  
time about 6:00 hours, his nephew who went to the house of Badri  
Zaman son of Rehmatullah resident of Danna Riyala yesterday for  
the purpose of bullock. He spent night in the house of Badri Zaman





9

Sessions Case No.30/7 of 2019  
The State Vs Ismail Khan.

and at morning time at about 6:00 hours, a police party under the command of Muhammad Shafique Khan, SHO, PS Khaki raided the house of Ali Zaman for the purpose of arrest of proclaimed offender Ali Zaman, required in a murder case. In the meanwhile, due to the firing of police party, his nephew Muhammad Shehzad alias Shada hit and died at the spot. The occurrence was witnessed by Badri Zaman, Wazir Muhammad. Complainant charged the police party for the murder of his nephew Shehzad alias Shada. Hence, instant FIR was registered. Later on, on 02-01-2019 complainant recorded his supplementary statement u/s 164 CrPC and charged accused Muhammad Ismail Khan son of Tor Khan for murder of his nephew.

3. After completion of investigation, complete challan against accused was submitted before Court. Accused was summoned and on his appearance provisions of section 265-C Cr.P.C were complied with, and charge was framed against the accused facing trial U/Ss 302 PPC to which he pleaded not guilty and claimed trial.

4. So far, prosecution produced and examined Fifteen (15) PWs. The gist of Prosecution evidence is as under:-

(PW-1) was Muhammad Zarin FC No.167 who is marginal witness to recovery memo vide which in his presence Chan Zeb ASI took into possession from Abdur Rehman Inspector Incharge Elite Force Peshawar (Headquarter Peshawar) one rifle SMG No.4614701 alongwith Patta one empty magazine and IO marked with objected object and sealed it into parcel No.4 by affixing 3x3 seals of CZ on the same and prepared the recovery memo in his presence as well as in the presence of constable Chan Zeb No.113. Today, he has seen the recovery memo which is correct and correctly bears his signature as well as the signature of other marginal witness.

(PW-2) was Dr. Muhammad Abdullah, MO who stated that on 06.11.2018, at 12:00pm, he conducted autopsy on the dead body of Shehzad son of Ali Khan caste Gujjar resident of Dewarian aged about 25 years, brought by constable Chanzeb No.24 and



Sessions Case No.30/7 of 2019  
The State Vs Ismail Khan.

identified by Farid son of Umar Khan and Badri Zaman son of Rehmatullah and found the following:-

SYMPTOMS observed before death: Nil.

Information furnished by police. Firearm injury.

EXTERNAL APPEARANCE:

Mark of ligature on neck and dissection, etc. Nil.

CONDITION OF SUBJECT: Stout young male blood in nose and around chest with blood stained cloths torn over second button area from above. Rigor mortis not developed.

WOUNDS, BRUISES, POSITION, SIZE NATURE:

Entry wound found at upper medial border of left scapula posteriorly approximately 1cm in diameter. Inverted margins. No marks/blackening etc.

Exit wound found at upper anterior sternum just below manubrium. approximately 4cm in diameter, everted margins.

Superficial scratches over nose and upper chest.

CRANIUM AND SPINAL CORD: Intact.

THORAX: sternum, bronchi and blood vessels are injured rest intact.

ABDOMEN: All organs of abdomen are intact except injured oesophagus.

MUSCLES, BONES, JOINTS: As noted above.

Remarks:

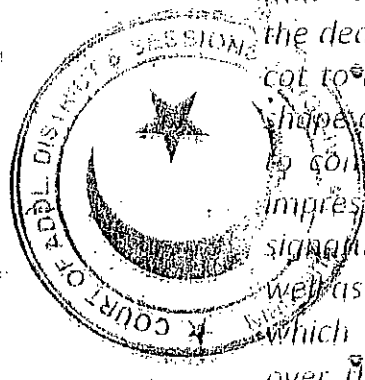
He has conducted autopsy of deceased Shehzad son of Ali Khan on 06-11-2018 at 12:00PM. In his opinion, cause of death is hemorrhagic shock due to injury to major blood vessels as a result of firearm injury. Six pages post mortem report marked and signed. clothes are handed over to police.

Probable time that elapsed between injury and death. Approximately 10 to 20 minutes.

Between death and post-mortem: Approximately 06 hours.

He has seen post-mortem report consisting of six pages including pictorial, which is in his handwriting and bears his signature correctly and same is ExPW2/1. He also endorsed his certificate on injury sheet which is ExPW2/2.

(PW-3) was Tasveer Hussain Shah, SHO who state that on 06-11-2018, at 10:00AM, complainant Miskeen brought the dead body of deceased Muhammad Shehzad alias Shada on the cot to the PS and reported the matter to him which he reduced in shape of FIR. After recording the report, its contents were read over to complainant who after admitting the same as correct, then impressed the same. FIR is in his handwriting and bears his signature correctly and is ExPW3/1. He also prepared injury sheet as well as inquest report of deceased which are ExPW3/2 and ExPW3/3 which are correct and correctly bears his signatures. He handed over the dead body alongwith injury sheet and inquest report 1

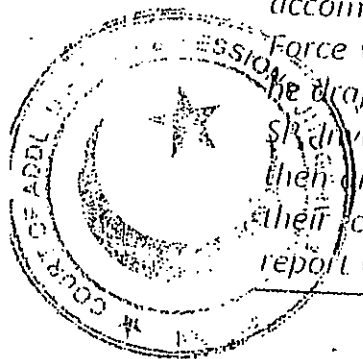


*(Handwritten signature)*

(11)  
constable Chanzeb) to escort to the mortuary. He sent the copy of FIR to investigation branch.

(PW-4) was Muhammad Munsif No.917/MM who stated that vide road certificate No.143/21 dated 12.11.2018 he handed over sealed parcel No.1 & 3 to Zarin No.167 and vide road certificate No.144/21 dated 12.11.2018 he handed over sealed parcel No.2 to Zarin No.167 for its transmission to FSL, Peshawar. On his return the said constable handed over to him receipt bearing acknowledgment of official of FSL, Peshawar. He has seen attested copies of said road certificates which are ExpPW4/1 and ExpPW4/2. He was examined u/s 161 Cr.PC.

(PW-5) Muhammad Salim SI/OH stated that on receipt of copy of FIR, he went to the place of occurrence and prepared site plan ExpPW5/1. He collected blood stained earth from the place of deceased Shuhzad and sealed into parcel No.1 (Exp1). He collected four empties of 7.62 bore from the place of accused and sealed into parcel No.2 (Exp2). He prepared recovery memo ExpPW5/2 in this regard. He collected blood stained garments of deceased having bullet marks brought by Chanzeb No.24 and prepared parcel No.3 (Exp3) vide recovery memo ExpPW5/3. He recorded statement of PWs of recovery memo and eyewitness Badri Zaman. He sent parcel No.2 to FSL vide his application ExpPW5/4. On the second day he went to Jiraza of deceased and prepared list of legal heirs of deceased which is ExpPW5/5. On 07.11.2018 special investigation team was ordered and he was member of that team. The letter of constitution of team is ExpPW5/5. The team has verified the already conducted investigation by him. He placed on record arrival, departure, of the police team who went to the place of occurrence alongwith Shafiqur Rehman, SHO PS Khaki. The record is ExpPW5/6. The accompanying officials were Shafiqur Rehman, SHO were Waheed Murad, ASI, Muhammad Ashraf, IHC, Babar Khan, IHC, Constables Khan Kanadur No.921, Irfan No.937, Khanzada No.462, Tosif No.529, Shaikat No.123, Muhammad Bashir No.218, Tufail No.82, Lady constable Asima No.910. He also collected Naqal Mad No.18 regarding accompanied constable Hassan No.796, Manzoorul Haq No.2309, Abdur Razzaq No.1614, Ismail No.1579 as ExpPW5/7. The SHO Shafiqur Rehman also accompanied the officials from PS Phulra. He placed on record his report, through Naqal Mad No.28 as ExpPW5/8. Thereafter he interrogated all the officials who accompanied the SHO and checked their arms. The members of Elite Force went to Abbottabad so they could not be interrogated, then he drafted a letter for production of members of Elite force through SI investigation, Manshera which is ExpPW5/8. They were produced then and interrogated. Their arms numbers were also verified from their concerned department and collected their arms. The FSL report was received wherein it is disclosed that the fires were made.



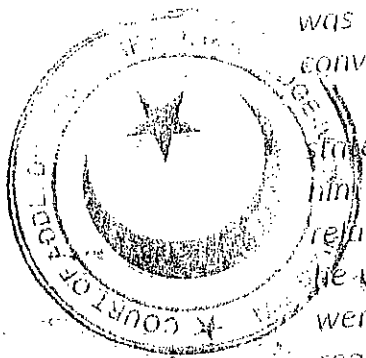
from firearms. The report is ExpPW5/10. He also recorded statement of eyewitness Wazir Muhammad on 14.11.2018. He placed on record copy of register No.19 ExpPW5/11. He interrogated Ismail, Manzoorul Haq, Hassan and Abdur Razzaq on 16.11.2018 in presence of DPO, Mahsehra. They were not telling the actual position to them. They were again interrogated and they denied the allegations. He took them to Peshawar for polygraphic test on 04.12.2018 and questions were during that polygraphic test. He took them vide his application ExpPW5/9 (already exhibited) and put questions to them during that polygraphic test. The test reports are ExpPW5/12, ExpPW5/13, ExpPW5/14 & ExpPW5/15. He recorded statement of Inspector who conducted polygraphic test. Thereafter he went for course. He drafted all the documents in his own handwriting which correctly bear his signatures. He used the seal of SA and recorded the statements of witnesses.

(PW-6) was Ali Khan son of Ghulam who is father of deceased stated that Shahzad deceased is his son. He was married with Mst Nagina Bibi. His mother is Mst Phullan Bibi. He was having one son Bilal at the time of his death, however the second son born after his death namely Ibrar. His son was driver by profession of Bedford. He never remained involved in any case. On the day of occurrence he was in Karachi and came to place of occurrence on information of the occurrence. He came to know from his relatives available in the village that his son went to the house of Badri Zaman on the eventful night for purchasing bullock and spent his night in that house of Badri Zaman. Early in the morning the police raided the house and murdered his son.

(PW-7) Mst Nagina Bibi widow of Shahzad (deceased) stated that Shahzad deceased was her husband. She has two sons minor Bilal and Ibrar. Her husband was murdered by the police and he was innocent. She prayed for redressal of her grievance and conviction of the culprits.

(PW-8) was Mst Phullan Bibi wife of Ali Khan who stated that Shahzad deceased was her son. He was having two sons minor Bilal and Ibrar. Her son was murdered by the police and he was innocent. She prayed for redressal of her grievance and conviction of the culprits.

(PW-9) was Badri Zaman son of Rehmatullah who stated that one day prior to eventful day deceased Shahzad visited him for purpose of bullock and he spent his night with him as he relative to him. He spent night at his house and early in the morning he went to ease himself in the fields adjacent to his house as there were villagers and have no washrooms in their houses. As they reached in front of house, police reached there and one of the official held him and the second official made firing on



deceased. The officials were 8/10 in number. The name of that official was Ismail. He also made pointations to IO at the time of preparation of site plan. He also identified the dead body before police and doctor. His statement was recorded u/s 161 CrPC.

(PW-10) was Sher Bahadur son of Sikandar who stated that he was having a house adjacent to place of occurrence. On the eventful day early in the morning the police cordon off the area and official were present on their roofs and surroundings. He came out on hearing the noise of firing and saw the dead body. On the whistle all the official started to run and escaped from the spot. He also witnessed recovery of blood stained earth and recovery of empties from the spot. He has seen the recovery memo ExpW5/2 (already exhibited) which correctly bears his thumb impression alongwith thumb impression Sadiq.

(PW-11) was Fida Muhammad son of Gulab who stated that the IO collected blood stained garments of deceased in his presence vide recovery memo ExpW5/3 (already exhibited) and sealed into parcel. He was also present before the jirga with police after the occurrence and produced the video of same as ExpW11/1. His statement was recorded u/s 161 CrPC.

(PW-12) Chanzeb ASI stated that on transfer of Muhammad Salim, SI/OII, he was posted as ASI/OII in PS Phulra. He has conducted partial investigation in the instant case. He received file for investigation on 26.12.2018. On 02.01.2019 complainant came to PS and recorded his supplementary statement in which he charged accused facing trial namely Ismail. Vide his application ExpW12/1 he produced complainant before Court for recording his statement u/s 164 CrPC. He vide his application ExpW12/2 applied for issuing letter regarding involvement of accused Ismail No.1579/P-113 for writing letter to SSP Elite Force, Abbottabad for his arrest and interrogation. In this respect SHO Muhammad Nawaz Khan of PS Phulra made an entry regarding his departure from the PS to Abbottabad for arrest of accused which is ExpW12/3. Copy of arrival of SHO in the Police Line, Abbottabad vide Mad No.30 is ExpW12/4. The handing over of accused to SHO in Police Line, Abbottabad vide DD No.29 dated 18.01.2019 is ExpW12/5. SHO arrested accused and issued his card of arrest which is ExpW12/6. Copy of arrival of SHO alongwith accused in PS, Phulra is ExpW12/7. He vide his application dated 19.01.2019 ExpW12/8 produced the accused before Court for police custody which was allowed for two days. During interrogation accused disclosed that he can point out the place of occurrence in presence of members of JIT and led them to the spot where he pointed the place where on the day of occurrence he was present and the place of presence of deceased. He prepared pointation memo ExpW12/9 in presence of marginal witnesses which he endorsed in the site plan with red ink



17-1

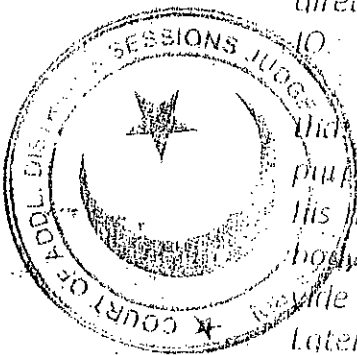
s  
e  
le  
no  
he  
ed  
the  
hat  
eat  
lice  
ort.  
rted  
of 17

ExpPW12/10. He recorded statement of accused u/s 161 CrPC. Vide his application ExpPW12/11 he produced the accused before Court for recording confessional statement and he was sent to judicial lockup. He vide his application ExpPW12/12 applied to SP Investigation for issuing letter to Incharge Kot, Elite Force, Peshawar for handing over SMG No.4614701 which was issued in the name of accused. He vide his application ExpPW12/13 applied for issuance of reminder to the quarter concerned. After completion of investigation he handed over case file to SHO on 23.02.2019 for submission of complete challan. However the process of handing of SMG remained continued. He vide his application dated 05.03.2019 ExpPW12/14 he obtained permission from SP, Investigation, Manshehra for obtaining the SMG involved in the instant case which was allowed on 07.03.2019. On 12.03.2019 he left the PS for Peshawar and reached in Headquarter Elite Force, Peshawar and made his arrival vide Naqal Mad No.9 which is ExpPW12/15. On the same day Incharge Kot, Elite Force, Peshawar handed over to him SMG No.4614701. He vide recovery memo already exhibited as ExpPW1/1 took the same alongwith sling Patta, one empty magazine into his possession in presence of marginal witnesses in the Kot and sealed the same into parcel No.4 and signed the same with pointed object and also affixed three seals in the manogram of CZ on the parcel. In this respect copy of receipt No.11/15 regarding receiving of SMG alongwith sling Patta and one empty magazine is ExpPW12/16. He vide his application ExpPW12/17 sent parcel No.2 & 4 to Arms Expert, FSI, Peshawar and the report is ExpPW12/18. He drafted all the documents in his handwriting, recorded statement of PWs u/s 161 CrPC.

(PW-13) was Nawaz Sarwar, SHO who stated that he prepared injury sheet of deceased Shahzad which is ExpPW13/1. He has also arrested the accused and issued his card of arrest already exhibited as ExpPW12/6. After completion of investigation he has submitted complete challan against the accused as ExpPW13/2.

(PW-14) was Abdul Sattar No.255 who stated that he was accompanying the IO and IT where, the accused made pointation of the spot which IO recorded vide pointation memo already exhibited as ExpPW12/9. His statement was recorded by the IO.

(PW-15) Miskin son of Ghulam (complainant) stated that deceased is his nephew. He went to Danna Riyala for the purpose of bullock. Between 6 to 7am he received information that his nephew is murdered by police. So he went there and the dead body was carried by the police. He reported the matter to police vide FIR ExpPW15/1. Initially they were not recording his report. Later-on they themselves ready to record his report. He reported



*[Handwritten signature]*

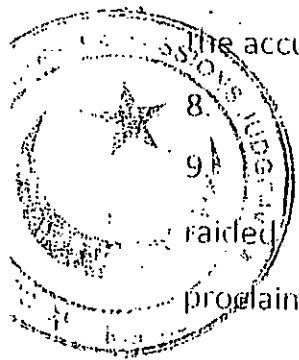
e  
18  
17

charged all the involved police for murder of his innocent nephew.

5. Thereafter, prosecution closed its evidence, while abandoning rest of PWs mentioned in the calendar of PWs. Statement of accused was recorded u/s 342 Cr.P.C, who professed his innocence and false implication and termed all PWs highly interested and procured, however, did not wish to produce defense evidence or to be examined on oath U/S 340 (II) Cr.PC.

6. Learned Dy PP for the state assisted by private assisted by private counsel for the complainant argued that though the accused facing trial is not directly charged in the FIR, however was charged by the complainant after his due satisfaction; that all PWs remained consistent and coherent in their deposition made regarding the occurrence; that no major or minor contradiction could be extracted from their mouths. It was finally argued that prosecution has successfully proved its case against accused facing trial beyond shadow of doubt and prayed for conviction of the accused facing trial.

7. Conversely, learned defense counsels argued that accused facing trial is innocent and has falsely been charged in the instant case; that all the PWs are highly interested, procured witnesses and they never remained consistent and coherent in their deposition against the accused and their statements are suffering from major discrepancies and contradictions. It is finally argued that prosecution has failed to prove charge against accused facing trial beyond any shadow of doubt and prayed for acquittal of the accused.



I have heard the arguments and record perused.

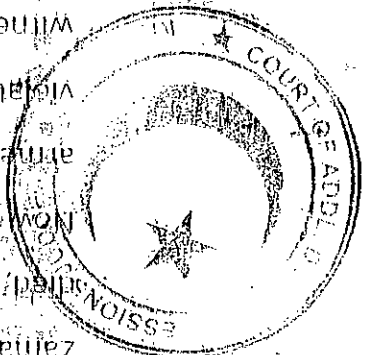
In the instant case, the police party from PS Khaki raided within the jurisdiction of PS Phulra in search of the proclaimed offender Ali Zaman, PO in FIR No.215 dated 23-08-2018

*[Handwritten signature]*

e  
e  
ce  
ve  
he  
Ali  
and  
lice.  
was  
ad to  
ed in  
is and  
there  
of 17

1-6

IO has not recovered a single empty in proof of the fact that there witness box and he stated that the deceased was without arms and violate the law and order situation at the spot. The IO appeared in armed and he responded the police in aggressive tone and tried to Now the second question arises that whether the deceased was killed, so this is proved fact that the deceased died in firing of police. Zaman and during that raid, the deceased was hit by firing and police record fully admit that the officials raided the house of PO All in any criminal case. He was a noble citizen of the country. The record that deceased was innocent and he never remained involve first point is concerned, there is no denial of the fact in police Command of Authority, committed the occurrence. So far as, the the parties. The third is whether the accused facing trial against the law. The second is that whether the matter was resolved between of police and the police has acted in good faith within the ambit of determination. First of all that whether the deceased died in firing 10. In the instant case, there are certain points for



murdered or not. liability only and there is no question that the deceased was deceased was murdered in the said raid. It is a case of affixation of complainant. It is an admitted fact in the record of police that the during said raid, police fired and murdered Shajzad, the nephew of to arrest All Zaman PO in supervision of Shafigue Khan SHO and village for the purpose of purchasing Bull. Police raided the village that Shajzad who went in night to the house of Badri Zaman in said the story narrated in the FIR was that it was 6:00AM on 06-11-2018 recorded for sufficient time as police was involved in it, however on that day in order to purchase animal. The FIR cannot be murder of Shajzad son of All Khan who was available in that village jurisdiction of PS Phura and during the said raid, they committed u/s 302 IPC. They raided the house of said PO situated within the

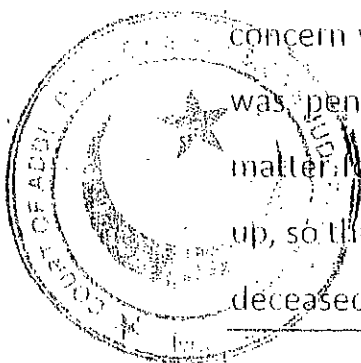
Sessions Case No. 307 of 2019  
The State Vs Ismail Khan



SESSIONS COURT ABBOTTABAD  
17

Sessions Case No. 30/7 of 2019  
The State Vs Ismail Khan.

was any sort of firing at the police party or there was any aggression against police at the spot. The record is completely silent on this aspect of the case. There was no explanation on the part of Police Department that under what circumstances, they felt need to use force on the crime scene. This was burden of prove of Police Department that they used the force in extreme urgency but there is nothing on record to support this. A jirga was convened in supervision of SP Investigation after the occurrence to control law and order situation in area, which is exhibited by PW11 as ExPW11/1, i.e. video film of that jirga. In the said jirga, the people of that area pardoned the police and SP Investigation made commitment with them to name one person from officials as accused. Let us suppose that the contention of Police Department that there was counter aggression by the P.O Ali Zaman or the deceased then the FIR might have been there against the aggressor which is not available on record. Similarly, if the supervisor of raid Shafique SHO was feeling that accused facing trial has violated the command of authority, there would have any complaint on his part against that official but there is nothing on record and the SHO Shafique did not record any report against the concerned official, so the belated charge against accused facing trial is just for the purpose of filling the documents. It was also brought on record that two persons from that area were employed by the Police Department namely Khurshid and Junaid by Police Department due to pressure of the locals on the police. The complainant disowned their appointments and has moved an application that he has no concern with those appointments. This Court noticed that the case was pending in evidence since long and no one was pursuing matter for complainant. The accused informed that it was patched up, so this Court has summoned the complainant who was father of deceased. He was at Karachi at that time and he stated to Court



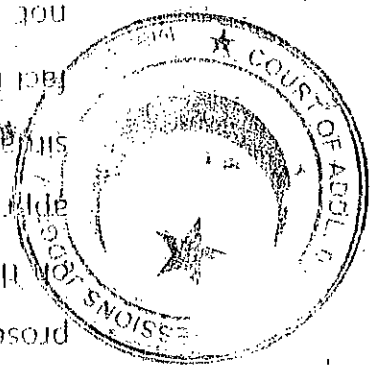
Sessions Case No. 307 of 2019  
The State Vs Ismail Khan

that how he can contest the case against the State as they are empowered and he is earning livelihood of minor sons of deceased. He disclosed that deceased was having one son at the time of death and second born after his death.

11. The Police Department as well as IO of the case after

the jirga, got the nomination of accused facing trial as the actual culprit. The only evidence against him was the crime empty and the official weapon of accused Ismail. There was jirga prior to the charge against accused Ismail and after that jirga, collection of such type of evidence with a considerable delay by the IO was the sole evidence with the prosecution to prove the matter against accused facing trial. It was a case of capital punishment and such type of evidence recorded with considerable delay and corroborative in nature is always doubtful and reliance cannot be made on such type of evidence specifically when the SP investigation committee with the locals that he will give one person as accused. This Court doubts that the junior most official was made an escape goat. The file is completely silent that how the IO came to know that at the place of alleged empty, accused facing trial was available. All the available officials were within the access of IO to get record their statements but the IO has not bothered to record their statements. IO was under obligation to disclose that whether those person who were witnessing the occurrence in uniform were either witnesses or they were accused. The file suggests that IO has not made them witnesses or accused. This Court could hold that the prosecution has withheld the best evidence but there was no fair the part of innocent kids of the deceased and this standard of application of evidence was not permissible in such type of situation. The case diaries of the IO are completely silent about the fact that why he spared those accused or witnesses and why he has not recorded them for reaching to true facts of the case. The

Page No. 11 of 11

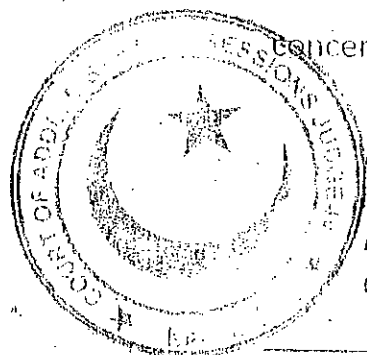


investigation conducted by the IO was dishonest and directed one. At the conclusion of the trial, this Court felt that the matter is proved to this extent that the deceased died in the firing of police, however this fact could not be determined whether the police exceeded their jurisdiction or whether the deceased died in performance of duties. It was not the duty of those officials to associate them with investigation compulsorily, it was alone duty of IO to record their statements. The situation developed before this Court was that it was proved that deceased Shahzad died in firing of police by the act of police raiding party under the authority of State and there was no cogent evidence against single person to connect him with commission of offence. There was no evidence against accused facing trial to distinguish him from his other colleagues and ultimate fate of case seems in shape of acquittal of accused. This Court has consulted PPC, CrPC for such type of situations where the question of vicarious liability is involved alongwith the question that the witnesses were not recorded by the IO and the accused were not challaned before the Court, this Court found Section 338-F PPC which is reproduced as under:-

*"338-F. Interpretation. In the interpretation and application of the provisions of this Chapter, and in respect of matters ancillary or akin thereto, the Court shall be guided by the Injunction of Islam as laid down in the Holy Quran and Sunnah."*

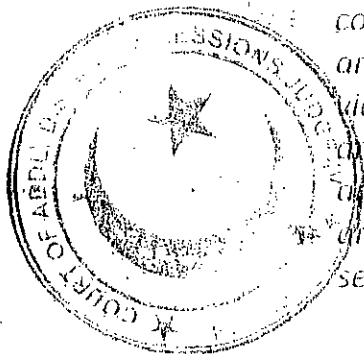
12. The guidance in the situation of this case is obtained from the provisions of Quran & Sunnah and found the principle of "Qasamat", so in the line, this Court has issued notices to all the concerns in these words:-

*"Learned Dy PP for the State present. Accused Ismail Khan on bail with counsel present. Statement of accused recorded u/s 342 CrPC and arguments heard. During the course of arguments the facts revealed before the Court were that SHO of PS, Khaki was accompanying with 13*



officials armed with weapons. They went to the jurisdiction of other PS i.e. Phulra in search of PO Ali Zaman charged in a murder case. During the raid over his house, they murdered deceased of this case. The deceased was not charged in any FIR and was an innocent person. The IO has not reported any overt act on the deceased. On the basis of crime empties and weapons used alongwith the spot position of presence of the police officials, the Police Department nominated Ismail constable of Elite Force as accused. It is worth mentioning that the 13 officials were neither the witnesses nor they are accused. The investigation standard of the case was poor. The criminal case of criminal liability of the accused facing trial will be decided on the basis of evidence recorded before the Court.

The deceased in this case was Shahzad son of Ali Khan and was having no relation with the PO under raid. He was in the village of occurrence in connection with purchase of animal. The IO admitted that there was no overt act on the part of deceased and he has also not recovered any arms or empties from the place of deceased. The standard of evidence and investigation by the IO will be seen in judgment, however an innocent person died in the occurrence by the act of State. In any case his murder with all his innocence is required to be addressed by the State. Besides the original criminal responsibility of murder, it seems to be a case of vicarious liability of the State through Police Department as the murder of innocent deceased was committed by Police Department in an official raid. This Court deems it appropriate to serve notice for arguments for vicarious liability to IG, Khyber Pakhtunkhwa, DIG, Hazara Range, DPO, Mansehra, SP, Investigation, Mansehra, District Public Prosecutor, Mansehra and SHO Shafique Khan, Waheed Khan, ASI, Babar, IHC, Ashraf, IHC, Khan Bahadur 921, Irfan 937, Khan Zada 462, Shaukat 123, Toseef 529, Bashir 218, Mst Asma 810, Driver Muhabat Khan, Hussain 786, Manzoor Haq 2309, Abdur Razzaq 1614, Ibrar Ahmed, IHC, Parvez 929, Ali Zaman 75. They are directed to make their appearance through counsel or in person and argue the case. This notice for arguments will be presumed as framing of charge for vicarious liability. In case of non-appearance on the part of any noticed respondent, it will be presumed that they have no arguments in their defence. File to come up for further arguments on 05-08-2020. The Muharrir is directed to issue separate notice to each respondent mentioned above

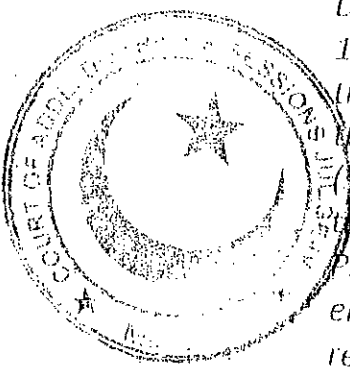


Sessions Case No. 30/7 of 2019  
The State Vs Ismail Khan.

through registered post alongwith copy of this order sheet for the date fixed."

13. The notice was issued regarding vicarious liabilities of all the officials who joined the raid. Their names were reflected on file. The DPO, Mansehra represented himself through P.I. It is important to mention that DPO Mansehra was served with the notice just to notice the situation of subordinate officials. He responded to the notice of Court in accordance with law. He was committed about the prestige and dignity of his Department. He arranged for appearance of all the officials before the Court, who were available in the raid. The complainant alongwith mother of deceased and widow of deceased appeared before the Court and he was fully satisfied that the Police Officials have effected true and genuine compromise with him. The Court after inquiring the facts from the complainant, widow and mother noticed that the compromise was true and genuine. The Court recorded it, as reproduced below:

"Stated that on the report of complainant case FIR # 206 dated 06-11-2018 was registered against accused facing trial Ismail Khan/s 302 PPC in PS Phulra. Deceased Shahzad Khan has left behind father, Ali Khan, mother Mst Phull Bibi, widow Mst Nagina Bibi, two minor sons namely Muhammad Bilal and Muhammad Ibrar. There is no other legal heir left by the deceased except us. Due to intervention of elders of the locality, we the major legal heirs (father, mother and widow) have effected compromise with the accused facing trial namely Ismail Khan by waiving off our rights of Diyat and have got no objection on the acquittal of accused facing trial. The share of minors in Diyat is Rs. Rs. 34,000/- and the members of raiding party of 18 police officials mentioned in their application will deposit the same within 90 days before Sessions Nazir, Mansehra in three equal installments. Proforma for effecting compromise (six pages) including affidavit by legal heirs and certificates by the elders is ExPA, copies of CNICs of Ali Khan (father), Mst Phull Bibi (mother) are ExPB, ExPC and copies of CNICs of our elders Ali Asghar and Sajjad Ahmed are ExPD and ExPE respectively."



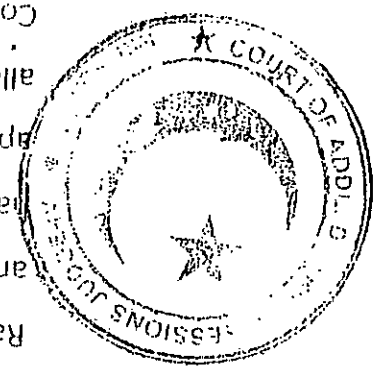
M. J.

Joint statement of Jirga members All Asghar and Sajjad Ahmed recorded as below:-

"Stated that due to our efforts the parties have partied the matter. Deceased Shahzad Khan has left behind fat All Khan, mother Mst Phul Bibi, widow Mst Nagina Bibi, minor sons namely Miharomad Bilal and Muhammad Bilal there is no other legal heir left by the deceased except above named legal heirs. As per terms and condition compromise the 18 officials of raiding party will deposit share of minors in Diyat Rs. 11,34,000/- before Sessions Judge Manshera in three equal installments. Certificates on behalf are already exhibited as EXPD and EXPE respectively. Joint statement of officials also recorded and relevant portion is as under:-

"As per terms and conditions of compromise we, the police officials present before Court alongwith other police official (who are not present today) of raiding party mentioned in application will deposit the share of minors in Diyat Rs. 11,34,000/- We through application (EXPA/1) request Court that being Government Servants are unable to pay share of minors in Diyat in lump sum and request the Court that we may be allowed to deposit the above mentioned Diyat amount in three equal installments."

14. The issue arose that there are two minor sons deceased and their share in Diyat amount was Rs. 11,34,000. Eighteen Officials namely Shafigue Khan (SHO), Wajheed Murad Asghar Khan IIC, Ibrar Ahmed IIC, Bahar Khan IIC, Khan Bahadi FC/921, Ifan FC/937, Khanzada 462/FC, Shaikat 123/FC, Tosee 529/FC, Bashir 218/FC, Mohabbat Khan (driver), Parvez 929/FC, A Zaman 75/FC, Hussain 796/Elite, Manzoorul Haq 2309/Elite, Abdul Razaq 1614/Elite and Ismail 1579/Elite, appeared before the Court and distributed the Diyat amount among them and each of them has committed to pay Rs. 63,000/- to minors. They move application for three monthly installments of the same which was allowed and they were directed to deposit with Nazir of Sessions Court Rs. 63,000/- each within three months. The Nazir will report

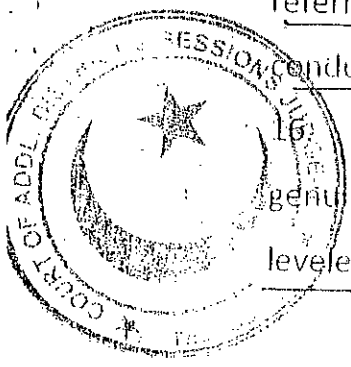


the Court on expiry of 90 days... receipt of Rs.11,34,000/- and also report in case of any default by any official. He is directed to invest the said amount after 90 days in National Savings for a period till majority of minors. The mother of minors can withdraw the profit of said amount till majority of minors for their better management.

15. Another important aspect of the case was that the complainant moved an application that Khurshid and Junaid inhabitant of Mohallah obtained their appointments in Police Department on account of death of his son. He requested that minors on gaining the majority may be appointed in Police Department. He also requested for removal of above named from the service. I would like to refer 1993 SCMR, Supreme Court 1287 citation 'C', titled as "Munawar Khan Vs Niaz Muhammad and others", the government jobs are not public franchises and cannot be awarded to people on different pretext. It is a Constitutional Protected Right of Citizens of Islamic Republic of Pakistan to obtain jobs in accordance with merits. The request for appointment of minors on gaining the majority is not within the domain of this Court. The request of the complainant regarding illegal appointments of Khurshid and Junaid in police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio-void, however the District Police Officer (DPO), Mansehra may look into the matter as it is the exclusive jurisdiction of the DPO Mansehra to deal it in accordance with law, if found any illegality in it. The said application of the complainant is referred to DPO Mansehra to deal it in accordance with law, after conducting proper inquiry.

16. As a result of compromise which was true and genuine and voluntary, accused Ismail is acquitted from the charges leveled against him. He is on bail. His sureties are absolved from

*Handwritten signature*



is  
he  
of  
ssaty

ists  
by m  
e-IV

12/21  
ف  
No.1

Sessions Case No.30/7 of 2019  
The State Vs Ismail Khan.

the liability of bail bonds. The share of minors namely Muhammad Bilal and Muhammad Ibrar in Diyat amount i.e. Rs.11,34,000/- will pay by the eighteen Officials namely Shafique Khan SHO, Waheed Murad ASI, Ashraf Khan IIC, Ibrar Ahmed IIC, Babar Khan IIC, Khan Bahadur FC/921, Irfan FC/937, Khanzara 462/FC, Shaoukat 123/FC, Toseef 529/FC, Bashir 218/FC, Mohabbat Khan driver, Parvez 929/FC, Ali Zaman 75/FC, Hussain 796/Elite, Manzoorul Haq 2309/Elite, Abdur Razaq 1614/Elite and Ismail 1579/Elite, and each of them has committed to pay Rs.63,000/- to minors. They are directed to deposit Rs.63,000/- each within three months in three instalments with Nazir of Sessions Court. The Nazir will report the Court on expiry of 90 days regarding receipt of Rs.11,34,000/- and also report in case of any default by any official. He is directed to invest the said amount after 90 days in National Savings for a period till majority of minors. Para No.15 of this judgment is referred to DPO Mansehra for his information. Case property be disposed of in accordance with law but after period of appeal/revision. File be consigned to record room after necessary completion and compliance.

Announced  
07-09-2020

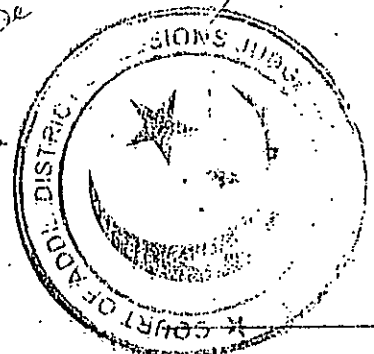
*(Signature)*  
(Muhammad Tahir Aurangzeb)  
MCTC/Additional Sessions Judge-IV  
Mansehra

CERTIFICATE

It is hereby certified that this judgment consists of Seventeen (17) pages, each page read corrected and signed by me.

*(Signature)*  
(Muhammad Tahir Aurangzeb)  
MCTC/Additional Sessions Judge-IV  
Mansehra

*Allsted  
be true*



SRC + OHC

PR 12/9/20  
خلاف کا راجی  
11/12/20



بجالات چناب ایڈیشن ٹیلی ویژن صاحب / TV / ماڈل کریمینل کورٹس ماہرہ  
تقدیر عام نمبر 208/18 بریم زیر دفعہ 302 PPC قمار پر اضافہ

چناب ماہی

Handwritten mark/signature

ذوہد گذارش ہے کہ سائل کے پسر کو مقامی پولیس تھانہ بھٹلوہ نے گولی مار کر ہلاک  
کر دیا تھا یہی نسبت مقدمہ چلانے والا درج رجسٹری دار اور ماڈرن فریقین (یعنی من سائل کو شکہ  
پولیس) نے ملے پایا تھا من سائل کے دو پسران کو شکہ پولیس میں ہارور کا ٹیبل تعینات کیا جائے گا اور  
سائل کے تین پوتوں کیلئے رہت کی رقم بھی مقرر کی گئی تھی جو تاکہ سال رہت کی رقم کی ادائیگی بھی  
کرائی گئی۔

یہ کہ ہر نام ولد غلام حیدر نے شکہ پولیس کو اندھیرے میں رکھتے ہوئے اور دروغ کوئی  
سے کام لیتے ہوئے اپنے آپ کو قتل کا رادا ظاہر کر کے اپنے پسر فریڈ کو شکہ پولیس میں  
تعینات کر دیا ہے کہ سائل کو اس تمام معاملہ سے بے خبر رکھا گیا اور جان بوجھ کر اپنا ذاتی مفاد  
حاصل کرنے کی خاطر سائل کے حقوق کو ضائع کر دیا جو کہ سائل کے ساتھ سراسر نا انصافی، ظلم اور  
زیادتی ہے۔ اس کے علاوہ ایک دوسرے شخص چند ولد جاوید کو بھی شکہ پولیس میں سائل کے پسر  
کے قتل کے بارے میں تعینات کر دیا۔ کسی جاوید نے سائل کے ساتھ ایک زبانی معاہدہ بھی کیا تھا  
جس کی خلاف ورزی کرتے ہوئے اس نے اپنے پسر کو شکہ پولیس میں بھرتی کئے دیا۔

یہ کہ سائل ایک غریب شخص ہے اور سائل کا بہنائل ہوا ہے جس کے چھوٹے چھوٹے  
تیم بچے ہیں جن کا پر یہ معاش بھی کوئی نہ ہے اور سائل کے ساتھ جو معاہدہ کیا گیا تھا کہ سائل  
کے دو پسران کو شکہ پولیس میں تعینات کیا جائے گا تاکہ وہ تیم بچوں کی کفالت کر سکیں مگر سائل  
اس کے برعکس کر کے سائل کے حقوق کو ضائع کر دیا گیا ہے اور سائل درپردہ کی شوکرین کھاتے پر  
مجبور ہے۔

So  
E' n' D, is  
Worth Perseu Bless

لہذا استدعا ہے کہ

مندرجہ بالا حالات و واقعات کی روشنی میں تا کران ہالا کو شکہ پولیس سے فی الفور  
تاریخ لیا جائے اور اگر سائل کو شکہ پولیس کے ایک ہارور حقیقی پسران کو تعینات فرمائے جانے کا  
تیم صادر فرمایا جائے اور قابل حالات ہا ج مناسب کچھ فیصلہ صادر فرمائے۔

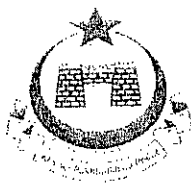
Handwritten signature

المرقوم 05 ستمبر 2020ء  
21/9

علی خان ولد غلام سکندر پوریاں بھٹلوہ، تحصیل و ضلع ماہرہ، چناب ماہرہ سائل

رہائش نمبر 0300-2377704

علی خان



Annex-D

26

OFFICE OF THE DISTRICT POLICE OFFICER MANSEHRA  
(Khyber Pakhtunkhwa Police)

No. 17867 /OHC, dated 24/09/2020

Tel: No. 0997-920102 and Fax No. 0997-920104

E-mail: dpomansehra@hotmail.com

ORDER

In compliance with the order of the MCTC/Additional Session Judge-IV Mansehra vide order dated 07-09-2020, the office record transpired that the appointment of Muhammad Junaid No. 11/SPF and Muhammad Khurshid No. 68/SPF in Police Department as SPF vide OB No. 90 dated 13-05-2019 and OB No. 114 dated 21-06-2019 was made as compensation to the heirs of Mr. Shahzad s/o Ali Khan r/o Daverian-Phulra who was killed by police party vide FIR No. 208 dated 06-11-2018 U/S 302 PPC PS Phulra. Later on, both the above police constables were regularized vide OB No. 96 dated 23-04-2020. At present their regular service is 6 months and 22 days. Since, their appointment was irregularly made and the learned court has declared that the appointment of Muhammad Junaid No. 1329 and Muhammad Khurshid No. 1315 in police service on the pretext of compensation in lieu of murder of deceased is not justified and ab-initio-void.

Therefore, I, the District Police Officer, Mansehra, under power conferred upon me by Police Rules 12.21, hereby discharge Constable Muhammad Junaid No. 1329 and Constable Muhammad Khurshid No. 1315 from service with immediate effect. Since the total regular service of Constable Muhammad Junaid No. 1329 and Constable Muhammad Khurshid No. 1315 is less than three years so there shall be no appeal against an order of discharge under this rule.

  
District Police Officer,  
Mansehra

OB No. 239

Dated 24/09/2020

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

In S.A # 4802/2021

Muhammad Khursid

VERSUS

Police Department

**REJOINDER ON BEHALF OF**  
**APPELLANT**

**Respectfully Sheweth,**

All the Preliminary objection raised by the Respondents are incorrect and baseless and not in accordance with law and rules rather the Respondents are stopped due to their own conduct to raised any objection at the stage on the appeal.

**Facts**

1. Para No1 of the appeal is correct to the extent of appointment is special police force on 25.03.2019 in laying of compensation to the heirs of the deceased Shehzad but the said appointment order has been withdrawn

on 13.05.2019 by the respondent department and after that the appellant once again appointed as constable in special police force on the basis of merit on 21.06.2020 which has been properly regularized on 23.04.2020 by the respondent department.

2. Para No.2 to 5 of reply is incorrect already explained in above para.
3. Para No.6 of the appeal is correct.
4. Para No.7 of appeal is correct while reply is incorrect.
5. Para No.8 of reply is incorrect.
6. Para No.9 of reply is incorrect.

**ON GROUND:-**

All the grounds of the appeal are correct and accordance with law and prevailing rules and that of the Respondents are incorrect baseless because no opportunity of cross examination has been provided to the appellant no opportunity a personal hearing and fair trial has been provided to the appellant. No show cause notice has been issued no charge sheet no statement of

allegation has been communicated to the appellant no regular and departmental inquiry has been conducted against the appellant.

*It is, therefore, requested that the on acceptance of the instant rejoinder the appeal of the appellant may kindly be accepted as prayed for.*

Dated 07/04/2022



Petitioner

Through



Roeda Khan  
Advocate, High Court  
Peshawar.