# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 450/2016

Date of Institution... 11.04.2016

Date of decision... 03.04.2018

Usmani Gul, ASI No. 667/M, posted at P.S Besham presently incharge Post Dehari. ... (Appellant)

#### <u>Versus</u>

1. Regional Police Officer, Malakand Saidu Sharif, Swat. .. (Respondents)

MR. SHAMS UL HADI, Advocate

MR. USMAN GHANI, District Attorney.

For respondents.

For appellant.

MR. NIAZ MUHAMMAD KHAN, MR. MUHAMMAD AMIN KHAN KUNDI,

#### CHAIRMAN MEMBER

#### **JUDGMENT**

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

## FACTS

2. The appellant was awarded minor penalty of forfeiture of one year year approved service on 15.12.2015, against which he filed departmental appeal (undated) which was rejected on 11.03.2016. Thereafter, he filed the present service appeal on 11.04.2016.

#### **ARGUMENTS**

3. The learned counsel for the appellant argued that the appellant was charge sheeted on the basis of Mad No. 10 recorded in Daily Diary of Police Station Besham on 22.06.2015. That the charge against the appellant was that he reported an incident wrongly in the said Daily Diary. That the appellant denied the said allegations. That the enquiry officer submitted his report in which nothing material was found against the appellant. That no right of personal hearing was afforded to the appellant after the enquiry report.

4. On the other hand the learned District Attorney argued that the appellant had reported wrong story in the Daily Diary. That he was properly charge sheeted. That proper enquiry was conducted. That final show cause notice was issued to him. That he was rightly awarded minor penalty.

#### **CONCLUSION**

5. The gist of the charge sheet is that the appellant reported wrong story in the Daily Diary. If we go through the enquiry report it is based on surmises and conjectures. In the concluding para it was written that since there are contradictions in the statement of witnesses and how it was possible that a constable could attack on ASI. On the basis of his this conclusion the appellant was held guilty. If we go through the whole record it is admitted that some occurrence took place on 22.6.2015. The report of the enquiry officer is based not on the objective evaluation of the record or statements of witnesses rather on presumptions and assumptions. No chance of cross examination was afforded to the appellant on the statement of the witnesses. No personal hearing was afforded to the appellant.

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6. Consequently, the impugned order is set aside and the appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.

Hur ammand

Muhammad Khan) Chairman Nia Camp Court, Swat

(Muhammad Amin Khan Kundi) Member

ANNOUNCED 03.04.2018

0**Q**.11.2017

Clerk of counsel for the appellant, Addl. AG for the respondents present. Learned counsel for the appellant was stated to be busy in the Worthy Peshawar High Court (Dar-ul-Qaza Swat) and requeted for adjournment. Granted To come up for arguments on 30.1.2018 before the D.B at camp court, Swat.

Member

# Chairman Camp court, Swat

#### 30.01.2018

Appellant in person present and Mr. Muhammad Jan, DDA for the respondents present. Appellant seeks adjournment as his counsel is not attendance today. Adjourned. To come up for arguments on 03.04.2018 before D.B at Camp Court, Swat.

hairman Camp Court, Swat

03.04.2018

8 Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Khawas Khan, S.I (Legal) for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

Member Camp Court, Swat.

<u>ANNOUNCED</u> 03.04.2018 10.11.2016

50716

Appellant in person and Mr. Muzaffar Khan S.I (Legal) alongwith Mian Amir Qadar, GP for the respondents present. Written reply submitted. The appeal assigned to D.B for rejoinder and final hearing for 08.03.2017 at camp court, Swat

Camp court, Swat

08.03.2017

Counsel for the appellant and Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant requested for adjournment. Adjourned for rejoinder and final hearing to 08.08.2017 before the D.B at camp court, Swat.

Member

Mømber



08.08.2017

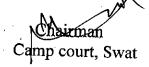
Appellant in person and Mr. Muhammad Zubair, District Attorney for respondents present. Appellant submitted rejoinder and seeks adjournment as his counsel is not in attendance due to strike of the bar. Adjourned. To come up for arguments on 6.11.2017 before the DB at camp court, Swat.

Thairman Camp court, Swat

06.11.2017

Counsel for the appellant and Mian Amir Qadar, District Attorney for the respondents present. Learned counsel for the appellant seeks short adjournment. Granted. To come up for arguments on 09.11.2017 before the D.B at camp court, Swat.





Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as AS1 when penalty in the shape of forfeituring one year approved service imposed against him vide order dated 15.12.2015 where-against the appellant preferred departmental appeal on 05.01.2016 which was not responded and hence the instant service appeal on 11.04.2016.

That the allegations attributed to the appellant were neither enquired into nor any charge sheet and statement of allegations issued to the appellant nor the enquiry conducted in the prescribed manners.



08.06.2016

Points urged need consideration. Admit. Subject to deposit of security and process fee notices be issued to the respondents for submission of written reply/comments on 04.08.2016 before S.B at camp court, Swat.

Camp ourt Swat

#### 04.08.2016

Clerk of counsel for the appellant and Mr. Muzaffar Khan, S.I (Legal) alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Seeks adjournment. To come up for written reply/comments on 10.11.2016 before S.B at camp court, Swat.

Chai Camp court, Swat,

# Form- A

# FORM OF ORDER SHEET

Court of

450/2016 Case No. Order or other proceedings with signature of judge or Magistrate Date of order S.No. Proceedings 3. 2 1 27.04.2016 1 The appeal of Mr. Usmani Gul resubmitted today by Mr. Shamsul Hadi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. 28-4-2016 2 This case is entrusted to S. Bench for preliminary hearing to be put up thereon 6 - 5 - 2016CHA Clerk to counsel for the appellant present. As 6.05.2016 the case pertains to territorial limits, Malakand Division. To come for preliminary hearing at Camp Calle Court Swat on 8.6.2016 before S.B. Member Set Stor Line cores.

The appeal of Mr. Usman Gul ASI No.667/M received to-day i.e. on 11.04.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of enquiry report mentioned in para-6 of the memo of appeal (Annexure-G) is not attached with the appeal which may be placed on it.

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No: 589\_ /S.T. Dt. 13 4 /2016

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Shamsul Hadi Adv. High Court. Ne South mit At

# BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

	eal No. <u>450</u>			
Usmani Gu	1 ASI		Арр	ellant
	$\mathbf{v}$	ERSUS	11	
0	Police		Malankand	
others		•••••	Respo	ndents

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7.	Copy of order	G	21
8.	Copies of departmental appeal and orders	I,J	22-23
9.	Waklat Nama	<u> </u>	

Appellant

Through

SHAMS UI HADI

**3**3

**IRFAN ALI YOUSAFZAI** Advocate High Court Cell No. 0314-9070658

Dated: 05/04/2016

# BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 450 /2016

Usmani Gul ASI No.667/M posted P.S Besham Presently incharge Post Dehari......Appellant

# VERSUS

1. Regional Police Officer Malankand, Saidu Sharif Swat.

2. District Police Officer Shangla.

3. Inspector General of Police Khyber Pukhtunkhawa

......Respondents

APPEAL UNDER SECTION 4 OF KHYBER PUKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST IMPUGNED ORDER No. 2477/E DATED 11/03/2106 AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL ON DATED 15/12/2015 BUT THE SAME WAS DISMISSED ON 11/03/2016.

# PRAYER IN APPEAL:

Registran

On acceptance of this appeal the impugned order No. 2477/E: dated 11/03/2016 may kindly be set aside and

the appellant be reinstated in his service with all back benefits and as such any other relief which this august Court deems appropriate under the circumstances of the case may also be awarded to the appellant.

# **Respectfully Sheweth:**

- That the appellant was posted as ASI investigation P.S Besham.
- 2. That one constable Ahmad Ghani No. 639 in the same police station quarreled with the appellant in Daily Diary office, but in this respect the appellant did not lodge any report in the shape of Mad-Report.
- 3. That later on the appellant came to know that the Moharar of the said P.S namely Kirmat Hussain has lodge a Mad Report No.10 dated 22/06/2015 in respect of the above mention tussle without the consent of appellant (Copy of Mad report is annexure "A").
- 4. That later on the said Kiramat Hussain along with his officials staff give false statements against the appellant (Copies of statements are annexure "B").
- 5. That in this respect a charge sheet No.24, dated 03/09/2015 was issued to the appellant in respect of which the appellant submitted the reply and denial from all

allegations along with statements of allegations and SDPO Alpuri was appointed as inquiry officer. (Copies of charge sheet show cause notice Reply and statements of allegations are annexure "C" "D" "E"& "F").

- That the inquiry officer after the conducting the inquiry submitted his findings wherein he recommended the appellant for minor punishment (Copy of Order is annexure "G").
- 7. That the District Police officer Shangla awarded the appellant the punishment of forfeiture of one year approved service permanently vide OB No.144 dated 15/12/2015.
- 8. That there after the appellant filed departmental appeal to the DIG Malakand Division vide dated 05/01/2016 against the impugned order No.144 dated 15/12/2015 but the same departmental appeal was dismissed vide order No.2477/E dated 11/03/2016.(Copies of departmental appeal and orders are annexure "I" & "J").

That being aggrieved the appellant approached this Hon'ble Tribunal on the following grounds amongst other inter alia:

## **GROUNDS:**

A. That the suspension order dated 11/03/2016 and disposal of departmental appeal by respondent No.1 is

б.

against facts, law and procedure, hence, untenable being unjust and unfair.

B. That the appellant was not treated in accordance with law and rules, thus acted in violation of the relevant laws laid down for the purpose.

C.

E.

- That respondent No. 1 has taken a unilateral action at the back of the appellant. The appellant has not been afforded an opportunity to heard properly and thus he has been condemned unheard and thus the settled principles of natural justice have been violated.
- D. That the appellant is a regular Civil Servant and has rendered long service in the police department with unblemished service record and he could not be forfeit without observing/ fulfilling the legal formalities and thus the action taken by the respondents/ department against the appellant is based on malafide. The appellant has been forfeit from services against the rules, regulating the services and are in violation of the established principles of equity and justice, calling for intervention by the Hon'able Tribunal.
  - That appellant seeks leave of this Hon'able Tribunal to rely on additional grounds at the time of final hearing/ arguments.

That any other ground may be adduced during the course of argument, with the kind permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned order No. 2477/E: Dated 11/03/2016 may kindly be set aside and the appellant be reinstated in his service with all back benefits and as such any other relief which this august Court deems appropriate under the circumstances of the case may also be awarded to the appellant.

Through

SHAMS UI HADI

8

**IRFAN ALI YOUSAFZAI** Advocate High Court

Dated: 05/04/2016

F.



# **BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_/2016

Usmani Gul ASI.....Appellant

# VERSUS

Regional Police Officer Malankand & others......Respondents

# AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information convoyed to me by my client solemnly affirm and declare that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ADVOCATE

# BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_/2016

Usmani Gul ASI.....Appellant

# VERSUS

Regional Police Officer Malankand & others......Respondents

## **ADDRESSES OF THE PARTIES**

#### APPELLANT:

Usmani Gul ASI No.667/M posted P.S Besham presently incharge Post Dehari.

## **RESPONDENTS:**

- 1. Regional Police Officer Malankand, Saidu Sharif Swat.
- 2. District Police Officer Shangla.
- 3. Inspector General of Police Khyber Pukhtunkhawa.

Appellant Through SHAMS UI HAD l å

Dated: 05/04/2016

**IRFAN ALI YOUSAFZAI** Advocate, Peshawar.

15-76: خلع شالنا لنكر مد مد روزما في 20 4 Annex. A 8 21 - 18 22/015 201 2 10:00 Cos Asilian Ung Cilis Cis - 10 اس ومن من موديد مرافع مروم عام 17/5 حرم عروم 489 عام شام سے لنسیس میں میں دمند دروز اور میں موجود عا- کہ رسی دوران مس الحديث ( 18 6 جوله بالاريان د مرودنا جرالم مسل مراره م فور الني في من مران شروع م . اس دران در كرام مسن، رييز سيسل فحرب معل مرزق مدر فحرب الخباطي 25 ادر علما الدينان م الرمان، مع سر مرد معن مرد الفراح المراد و المرد معامد ا جامع ال كوستسن ك عكر باوجرد رسم منبل مذار ومن هي غلط مع منه العرف العول مع في مرابع منه منه منه منه قران د مر روز نا در د المر مذکور کالوکی مگر در ان شر سرانه کرد با تقل اور فی جراب ک د دیکیاں دے ہے ہی ، عب می ز بالاس ورنا وربا ورب در برا برای در بالار برای در بالار ب ورنا و مربع مع فين درناميون المعرور الحر معان من ماري . مراجع من درناميون المعرور الحر معاني من ما ليان شروع أن مذكور ه م المري الم المرابع الحراري المرابع مرابع الم تعذيل من مع . تلك ونسال: عنون معان الله عني بليك مورس عمر عار ون مع المرار الرار مع معان ما روا معان عنون الله عنون من خوس من خسب المراجن مع وعله ما من الالال المراب المرا مرابع مرابع مراب المراب aucion 30 in 2 w card Card Ulul تقل عفانون احل ب ATTASTED 

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1 Faisal Shahzad (PSP). District Police Officer. Shangla as competent authority, as set charge you ASI <u>Usmani Gul</u> while posted at <u>Police Station Besham</u> as follow:

CHARGE SHEET

Anness. C

You ASI Usmani Gul while posted at Police Station Besham was registered a wrong report in Daily Diary vide No. 10 dated 22/06/2015 of Police Station Besham against Constable Ahmad Ghani No. 639. Your this act gross misconduct/uegligence on your part, which rendering you liable to be proceeded against departmentally.

- 2. By reasons of the above, you appear to be guilty of misconduct and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Disciplinar Rules, 1975.
- 3. You are, therefore, require to submit your written reply within 07 days of the receip of this Charge Sheet to the Enquiry Officer.
- 4. Your written reply, if any, should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.
- 5. Intimate as to whether you desire to be heard in person or not?
- 6. A statement of allegations is enclosed

NQ:0124

Dated 23 10 9 12015

MAISAL SHADARD Provide Philosophy District Philosophy Stangla



×.) دور مراجع مردم من مراج بي 489 و 489 منه منه من مور مور والمار د مردور القر من مور كريس موران مرا المربي بر38 ، ور با وردى ما دهر روز ناتي المرقو بر مر توجد المراق المراق المع مورد فرافة حسن > المراحد من المراحد من المراحد على المراحد على المراحد المراحد المراحة تر الأون أساص وعود مشر ورور و ومرض ما مرد مر العامة و العاص المرد ما و ورد ما و ورد ما و ورد ما و المرد و ي عند عماديان عرب 10 اور الترت عاد و ارتدارات مروع من مدر نفرا برمين روزاد بجد بازد لو فالوكما مد والله فالم مرد المرام الدراعة الدرائي المرقع ما دهد الارب تقد عد مرا عظمان معاد (15) رمورت درج فرج ال. المحاد ورور و المحالي محاروز التي مع من وردا الدرور التي الدوان مول مالا مالا مالا مروال مر المراح مر مرج مرج المراح في مرج المراح . مرج و المراح ، مرج و المراح المراح المراح المراح مر المراح ما المراح م دور و در و در و در و در و العدون می معاردی و الحباد در الا معن و مر او را مر و مر او مر مرد و مرد و مرد و مرد و و كانته ما ب الدرنم ولمدف من قرف مواسى - فيسل في متر ما مع مد ور في مسل في الدر فرا أولى الموالي ما يف كرارت فرام فيمنعن وردى و معاد را دور م دارد فرود ما مع اور دم ما رما المال دى و ما را بالمال ومن ومها تو مرد مان اورعم ومن من حست وما فنود ، جسا مردار در ما من من ما فارا ، ب ، الرعا ور من سرادر عمر ی در من مان از در عرف کا ما 16 12 . جرم دنسای مام دفیر من در مای معادما دو کار معادما دو کا در کار وما سا ما الما المادي وعرب المراح ومرا المرتبية و عا مال الم حسد مالما مرام مال المراح ود ورد مرا المحت المراف ومعت مرمن ورج المعراف و مراف و المال مرد مرا مر مر الوزم م وردى ال اللوب وورفوعه ما ما ب المراج . العل وراف . ى من الدر منها ور حرو 2 قدار حدوث الاستدائي ماه، تو الماج المرواد والتي سعارتون المرور سوج Called De ching top of the start of the star المست ويورث يور ماتي معمد برهني مع جمل بر دار (رمازاجش در ۵ روز جمن ۲۰۱۸ (2) دور (ر) ت در در الارمان و فرون و ودون و در ما المرفان و ودون و ما در ما در در مر ما دار در مر ما دار در مر ما دار د در المري مري معنون مريس مال محامد مر مام والعر المر مال مال من - در در من مدر در مري مري در المريس المري الدر المريح عمل عالم المريح من وتكود رك من من من المريخ المن المريخ ور في المريخ ور في المريخ ور تعديد ار ورد مح رج في در المر الم الروراني فا مل ور كا وع ما در و ما ال في مردما را م مر الما ر) م مرد ما را م TRESTED ASI ( ASI (

میتاب عالی ا بحواله مشوله جارج مشینه نمبری E/ 94-4893 مورند 03.09.2015 مجاربین این سربراه طلع شانگه برخلاف SI میتی ا استونیه بتماند بشام حال انجارج چوکی شعیر کی معروض ول که :

ا ۵۵ عثانی گل نے مورخد 22/6/015 کو بحوالہ مد 10 روزنا مچہ 22/6/015 تھانہ بیٹا کیں کنٹیبل احد غنی نمبر 639 کے طاف ریو کے درج روزنا حجہ کر کے نظامد افسران بالا کے خدمت میں ارسال ہو کر بعداز ملاحظہ جناب DPO صاحب نے مدبّذ اپرا کوائیری شرزع کر کے طاف جس کو رم براہ شعبہ تفتیش نے اکلوائیری کر کے کنٹیبل احد عنی 639 کو بے گناہ جبکہ ASI عثانی گل کو گنہ گا رشمرا کر فائیز ڈگ ریف طراح کر لے پر ندگور ASI کے خلاف جارج شیٹ نمبری بالا جاری ہو کرمن SDPO سرکل الیوہ یکواکلوائیری افسر مقرر فرمایا۔

من زیر پنجنلی فتح چارج شیٹ بالا ملاحظہ کرے جس میں مذکور ما AS کے خلاف روز نامتیہ میں غلط اندراج کرنے کاتح پر درج ہے۔ اندریں سلسله نسٹیل احد غنی نمبر 1639 اور ASI عثان کک کودنٹر زرید شخطی طلب کر کے ان کے تحریری بیانات خلمبند کیا جا کرکنسٹیل یڈ در نے اپنے بیان میں واضح کیا کہ میں SHO امجدا قبال وڈیگر SHOs کے ساتھ بخشینت گنررہ چکا ہوں۔ امجدا قبال خان SHO عوامی شکا ا لل ہو کرلائن جاضر ہوا۔ تو ASI عثانی گل نے اس کے خلاف ہاتیں کر ناشروع کی۔ میں نے ASI صاحب کو کہا کہ اپنے سینئر کے خلاف با ''یں ار و پیگذا کرنا اچھی بات نہیں ہے۔ شائد کسی نے ASI ندکورہ کو ہتایا ہوگا کہ سیبل احمر غنی نے اپنے موبائل میں آپ کی دیڈیو کی ہے ASI نے شک کی بناء پر مجھ سے موبائل چھین کر سمبودی کارڈ قبضہ کرکے جو بار بارمنت ساجت کے باجود بھیے میرامیوری کارڈ حوالہ ہیں کرر ہاتھا۔مورخہ بالاکر میں نے محرر سٹاف کی موجود گی میں ASI صاحب کو میموری کارڈ حوالہ کرنے کے بارے میں کہا کہ میرامیموری کارڈ بچھے حوالہ کریں اس قدر کہنے پر ASI صاحب نے محرر شاف کی موجود گی جھے گالی گلوچ دینا نثروغ کی اور بعد میں میر بے خلاف ریورٹ درج روز نامچہ کی ۔جس پرانکوا نیر کی د كرميرى انكوائيرى فاكل بوئى جبكه ASI كے خلاف جارج شيٹ جارئ بواہے۔ ميں برگناہ بول صرف ASI صاحب كو SHO كے خلاف باتيں کرنے سے منع کرر ہاتھااور اپنا میںورکی کارڈ طلب کرر ہاتھا۔ای طررASI عثانی نے اپنے بیان میں داضح کیا کہ میں دفتر ردز نامچۂ میں موجودتھا کہ للسفيل احد عني دفتر روز نامچهآ كر لبغير كچھ كہنے جمھ پر گزارات شروع كئے۔ای دوران محرر گرامت حسين اي<sup>ڑيش</sup>ل محرر نضل رازن، امجد علی، اکس غان نے مزکورہ کنٹ بیل کوسائڈ پر لے جانے کی کوشش کی لیکن پھر بھی گالیاں دے رہاتھا۔ مزکورہ نے میرے وردی کی قمیص بھی بھاڑ دی ادریش پایٹ ای تھوڑ ویا ۔ مذکورہ کنسٹیل نے میرا ویڈیوں بنایا تھا جو محرر کرامت حسین نے ڈیلیٹ کیا ہے جس کے خلاف میں نے جوالہ مد ا بیانی مید 22/6/015 ر پورٹ درج کیا محررو دیگر موجود شاف کوطلب کیا جائے تا کہ اصل تقالُق کا پیتہ چل جائے ۔ مذید داضح کیا کہ الکرد کی بھا گرے روڑ یا انسکیز صاحب انوش گیشن کے ساتھ گہری دو**ت ہوگی <sup>ج</sup>س نے ایکوائری کا رُخِ میر کی طرف موڑ دیا ہے۔مزید معلومات کیخاطر** ار این میں اللہ بنائم کو دفتر طلب کر کے تریک بیان فلمبند کیا جا کر جس نے اپنے بیان میں واضح کیا کہ ASI صاحب دفتر روز نامچہ میں \* سیر این اعظم بیٹا ہوا تھا کہ اسی دوران شیبل احد غنی دفتر روز نامچہ اکر ASI صاحب سے آپنا میمور یکارطلب کر رہا تھا لیکن ASI صاحب ف ن مؤردیکار در بینے سے انکار کیا جس پر دونوں کے مابین تکرار ہوئی۔ تو ASI صاحب نے اسکے خلاف روپورٹ درج روز نامیہ کی۔ جہاں تک میمور بکارڈیں ویڈیوں ڈیلیٹ کرنے کی بات بچاؤ میں نے نہ میں ویل ویل ویل ویک ہے اور نہ ڈیلیٹ کی ہے۔ ای طرب انجدی MM الا براین کی تا ئیزین اپنابیان دیا اور LHC اکبرخان <u>ن</u>ے بھی دونوں کے ماہین میں وریکارڈ پر تکرار کرنا بیان کیا۔ جگرا دغیرہ نے ل<sup>عل</sup>می ظاہر کی۔ ودران انكوائزى دونوں المكاران اور مبیندوقوعہ کے دوران جملہ كوامان کے بتانات میں كانى تضاد پائے جاتے ہیں لينى كواہان چشہد ید بح بیانات ر پورٹ تحریر کردہ کے برغلس ہیں۔ بیامر بھی قابل <mark>غور ہے کہ ایک س</mark>اب<sup>ہ</sup>ی کس طرح بغیر کسی وجوہات کے ایک تھانہ دار برگز ارات

چشہد ید بح بیانات رپورٹ کریز کردہ نے پریٹس ہیں۔ بیامر شک قابل عور ہے کہ ایک سیابی س طرح بعیر کی وجو ہات کے پریٹس ہیں۔ بیامدار پر ارات کر سکتے ہے۔ مذکورہ کی بیم پلیٹ تھوڑ نا اور قیص پاڑ ناانے اشخاص کی موجودگی میں بھی نامکن ہے۔ اس طرح میوریکارڈ میں دیڈیوں ڈیلیٹ کرنے کابھی کوئی شوت پاہیان موصول نہیں ہوا۔

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جملہ حالات ووافعات کوملاحظہ کرتے جس سے پایا جاتا ہے کہ دونوں فریقین کے مابین میموریکارڈ کی وجہ ہے تکرار، ن کی کلان ہوئی ہے۔علاوہ کوئی جگردا وغیرہ نہیں ہوا ہے۔ ا<sup>یر</sup> نز ادقات میں ری کارڈ میں خاندانی تصاویر اور ویڈیو ہوتی ہے بدیں دجہ مذکورہ <sup>کسف</sup>یل نے اپنا میر راکارڈ کو حاصل کرنے کی بار بارکوشش کی۔ عکر ASI صاحب نے شک کی بناء پر میموریکارڈ حوالہ نہیں کیا ہے اگر میموریکارڈ میں ASI کا دیڑیو ہوتا نو اس نے اپنے سینٹرا فسر کے نوٹس میں کیوں نہیں لایا ہے۔حالات سے سہ بات عمال ہوتا ہے کہ ASI صاحب نے اپنے می با تین کی ہوتی ہوتی جو بعد میں شک کی بناء پر کسٹیل مذکورہ سے میں کا دو قضہ کر کے اور دیا وڈ الی میں کیا ہے اگر میں دی کا دو تا ہے۔ رہتے کہ بات کی ہوتی ہوتی میں کیوں نہیں لایا ہے۔حالات سے سہ بات عمال ہوتا ہے کہ ASI میں دیں دور کی موریک میں کیا ہوتی ہے ہوتی کا دو تا ہوتی ہے ہوتی ہے ہوتی ہوتی ہوتی ہے ایک کی دور میں میں کر میں میں کی میں میں میں کی مالا ہوتا ہے۔ ایر تا تو اس نے اپنے سینٹرا فسر کی نوٹس میں کیوں نہیں لایا ہے۔حالات سے سہ بات عمال ہوتا ہے کہ ASI میں دوری کی دور

لاز المذرجة بالاانگوانزی کی تناظر میں ASI کو گنهگار پا کرائیند دمختاط رہنے کی ہدایت کی۔اورمزیدردزنامچہ میں جوٹی رپورٹ کی پردائش میں مذکر مASI کے دوسال اینگریمنٹ مثاب اورا عوائر کی فاک کرنے کی سفارش کیجاتی ہے۔ ریورٹ بر ادمناسب شم احکام میش خدست ہے۔

mari الیس و مخاب یی رادسرکل الیوری صلع شانگ

FINAL SHOW CAUSE NORTH

1 <u>Rahatullah Khan (PSP)</u> District Police Officer. Shangla being a competence authority under the Police Disciplinary Rules 1975 do hereby serve you ASI <u>Usmani Gul</u> follows:-

The consequent upon the completion of inquiry conducted against you by the Enquiry Committee, for which you have given opportunity of hearing vide this office No. 24/E. dated 03/09/2015.

On going through the findings and recommendations of the Enquiry Committee, the material so produced on record and other connected papers including your defense before the enquiry committee, during the proceedings.

I am satisfied that you have committed the following acts/omission specified in Section-3 of the said Ordinance:-

You ASI Usmani Gul while posted at Police Station Besham was registered a wrong report in Daily Diary vide No. 10 dated 22/06/2015 of Plice Station Besham against Constable Ahmad Ghani No. 639. Your this act gross misconduct/negligence on your part, which rendering you liable to be proceeded against departmentally.

 As a result thereof, I as competent authority have tentatively decided to impose upon you the penalty of Major/Minor Punishment as deemed appropriate under the prescribed rule as may be.

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

4) If no reply to this notice is received within seven (7) days of its delivery in **the** normal course of circumstances, otherwise it shall be presumed that you have no defense and that case ex-partee shall be taken against you.

5) The copy of the finding of the Enquiry Committee is also enclosed

Dated 11-12/2015

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H.

District Police Officer. Shangla

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Amnen E 1344 is (7) كوالتر متعدار فالنس فلو فارتبر عام1166 مور مرجع ان مرجع ال مرد مرض 25 وقدوم فرمت بيرن كرامة حسان قررتها فرشام خاص الجافي ع متعلق و فور منا مر مرتب د ع مراس فرود الن فالقرن المراد من مما به اورود اس معدر عدر منا اور اين ملان حار الغواكان اسی دورت س درج تیے تھے - اس من ان کا حقد ی بیان ای کا کا ک . مرفار شان فغيره سر اينا اور اين ستان كر مان صار في الماد ميرا المرك د قران ا نادانهای غلط بیانی کرتے تو جرر کرافت حین کو مراد روز ناچر قریر س كراح من تعام باعد معن من بعل افردن بالا يد فرش مس لاما اور مر ما فرق بل مرور من مراح بس تها - اين فظروري كام هو زرد مرازي ي - زور اج ي كرراني 1251/12 بالقد كاسي - جوتما الم شار مع مرجود ب- مردز كاتي من ربور من فكالمرمين فكالمرمين كا Zun ے - اور ناقرر سٹانی کو ڈیکیش دیا ہے - میں این دارت کر اور ا - Jool th روز باج ما كافى سالون سے درج مرابع مان با اس لي قرر در اس لي اور 0.8/1.4/200 من فير ودو ول في متعلق فودر ديور كااول مداركا، مر المك من وكرد ع من كما - ورس س من فرا با سن دوا - محد عام مرا ماد سر مار شا ا في ع مراحت من علام دهتر طلب مرع كرافت مون و قرر م ون المراح و فرا مرون و فرا م المورة داده مربع عن أزود مسام اورجم مودا رمور ارد الج در الرحون صاحب موصوف تهم وتديني فر فيسل اعدى فرا38 في فرانسفر وغيرة فالجي الأسار فال ر بنا المرابع الم المراجة حمن مشر المراج المردان الم الم الم الم یا میں خط- « روقت رہے میں مرد میں مدور خط اور منبع مقدم کی کا قداری میں ہم فار مع في في المواد المودون مرتب ومحرف في الدر الإراف في في نين عا- دور من منتم جرا كر حرر كرامية من ف ستر الحرفي فراي كري كري ال حد طرف من روز الحبر من ومورث محرم من من اور انها ٥٠ من منان ٢٠ ايرد مركر دي ي ما مطور قران للمع من - مرج ما يون اور اور الاران بال يون -عدا - من الكرمنية من كرما تو مزرسور در فراس أسمر ما بوتا من - عيد الكراب الرر الما مات ت تقول من عن من من - (دار المراس ( دار المراس - عيد) الكرابر ما الر

(1) مر مترای فی این فرمی سے دور باقی میں ارض ارمور ای تر مردی سے اور اور " ادر زینے ملاق کا کام اسی فیر فی میں بطور ڈان کار الے تحف جور کی در لیں روز ا من مدر فرى معرور لقر وما فالم من فست مرج برس مشر مر ما المال الم جر 187 عمام شن رو تعقب من معروف عا اور دختر بوز ماج من وردها مر اس دردان شرل 18 دی ندادی وردی محاد فر مرد ماجر در ماجر در بعد مربع المح عن مرد در مرد مرد این «در این «در ان» «در ان» را مناصب امد شرع رازمن • در دخر راجر من ار مرار من من من من المرمان > « ما من من المرمان المرمان الم المفر مساحر ما معدم معالم معالم معالم معالم معالم معالم معالم في المراح مع معالم في المراح معالم في المراح معالم الخطاب فاجران والمسالى فعور فرام مروماً فعا - اور على عام كارهادا ما و و على في من من الم مرافي في معلى ما مران في مرافي الما والحرو مراور الحراس مرافي الم الم fosting our - et il a company a for a company a for a سرمندوب محمد مرافس ميم سائ امرر مراتومي والنواي ما ما ما ما ما ما مع موارم عامل من وراي الما (ال من التر الذر المرد ميا وجادة ماليا مع - حرار عام منا فالداد المرعم ومن من فسير المراج مع فالم مر خرار عام من فرد الم Proposed in the second of the second second of the second روم بر مر الم الم المرور الروز فالح محرج في جون مح المرون الروح كالى من روك فعل المروح المروح المعل المعلى الم در کرد من دمن میرد میلی حرکت کری میں اور میں ور دی کی در اور میں اور میں در میں اور میں در میں اور اور میں اور اور میں اور اور میں اور او المرسي التراسيل معاد وراكم معاد ومروع مسيل في ما تك ما تلد من ما المروسين سفارش الترور سول م من تحري المرادي حدار المرادي حداث المان المسيب المي سان في موالات مي الفي و بعد المرديم عد المان في مع من حو من عد طرف مور في من ورف ورو من من في من من المرف وراحظ مرف من من المراج - انتوں ن مسر مرف اللے یا عود عدانی مرح تخر مرفر اللے ای مطور در می اللے اور میں میں - جون ور الا الم من - اور في ما جلال مركل في مرور وي م ورا وعو في في - فيرا و بلو سيكن ونعار من الا من ور الم من من المراحة المراحة المراحة المراحة من المراحة المراحة المراحة المراحة المراحة المراحة وكافلان المرجب مرجب من المرجب من المقام والمحقق من من المرجب من المرجب المرجب المرجب المرجب المرجب المرجب المرجب المرجب والمرجب المرجب المرج المراجع بوديد من قوان نام خرير وي من ما الم المراجع بين الما المراجع بالمراجع المرجع المرجع المرجع الم المراجع والمراجع ومن المراجع والمراجع المراجع في المراجع في المح حدرون فالعل

(M) 501-w/0/02 Cold 616, 3603-197 22 - EUL 16, 1-6 U. C. 13 6 - 23, Eb. 23 م رجو رای نولی آز می حقاقی کے نیت مارم راحال q= 32 6 h - 133 6 2 will be the Carpon 2-9/, Teres 1-2-0/25 R. UBrid Con 

# DISCIPLINARY ACTION

Faisal Shahzad (PSP), District Police Officer, Shangla as compared authority, is of the opinion that ASI <u>Usmani Gul</u> while posted at <u>Police Station</u>. <u>Besham</u> have fendered yourself liable to be proceeded against departmentally as you have committed the following acts/omission as defined in Rule 2 (Fe) of Police Rules 1975.

#### STATEMENT OF ALLEGATIONS

the state where it is

That it has been reported against you that you while posted at <u>Police Station</u> <u>Besham</u> committed the following act/acts which is/are gross misconduct of your part as defined in Rule-2 (iii) of Police Rules 1975

You ASI Usmani Gul while posted at Police Station Betham was registered a wrong report in Daily Diary vide No. 10 dated 22/06/2015 of Police Statian Besham against Constable Ahmad Ghañi No. 639. Your this are goes misconduct/negligence on your part, which rendering you liable to be quartered against departmentally.

 For the purpose of scrutinizing the conduct of said officer with reference to the above allegations <u>Muhammad Riaz Khan, SDPO Alpuri</u> is appoinded us Enquiry Officer.

 The Enquiry Officer shall conduct proceedings in accordance with provision of Police Rules 1975 and shall provide reasonable opportunity of defence and hearing to the accused officer, record its findings and make within twenty five (25) days of the receipt of this order, recommendation as to punishment or other , appropriate action against the accused officer.

4. The accused officer shall join the proceeding on the date, time and place fixed by the Enguiry Officer.

. , PSP District Police Officer. Shangla

Annex

# $\frac{\text{OFFICE OF THE DISTRICT POLICE OFFICER, SHANGLA}{\text{No. } 4893794} / \text{E}^{\text{Dated,Alpuri the}} 3-9 / 2015$

Copy of above is sent to:

1. The Equiry Officer for initiating proceeding against the accused of the under Police Rules, 1975.

2. Concerned defaulter official.

Dismet Police Officer. Z. Shangla

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Anne G

#### ORDER

This order disposes the departmental enquiary against ASI Usmani Gul of Police Station Besham.

Brief facts of the case are that ASI Usmani Gul of Police Station Besham entered a wrong report in Daily Diary vide DD No. 10 dated 22/06/2015 of PS Besham against Constable Ahmad Ghani No. 639.

Consequently, he was served with Charge Sheet and Summary of Allegation under Police Rules 1975, Mr. Riaz Khan SDPO Alpuri was appointed as Enquiry Officer, with the direction to conduct departmental enquiry against the delinquent officer and to submit finding report within stipulated period. Finding of the Enquiry Officer received wherein he recommended the delinquent officer for Major punishment.

On receipt of the finding report the delinquent officer was served with fited show cause notice, to which his reply received and perused. He was called and heard in person. He failed in his defense.

In view of the above the undersigned reached to the conductive the the delinquent officer failed to produce any cogent reason in his detense in the gross misconduct.

Therefore, I, <u>Rahatullah Khan</u>, District Police Office, Simple on being Competent Authority under Police Disciplinary Rule 1975 awards and the punishment to ASI Usmani Gul i.e. forfeiture of one, (01) years approved our sup permanently with immediate effect.

Order announced

(RAHATULLAH KHAN) PSP District Police Officer, Shangla

OB NO\_<u>/44</u> Dated <u>15/18</u>\_12015

(22) Annere H بحضور جناب عذت مآبDIG صاحب ملاكند دويزن بمقام سيدونثريف سوات (اييل برخلاف علم نمبر 144 مورخه 2015-12-15) جناب عالى ! گزارش ہے۔ کہ سائیل اینوشیگیشن وینگ تھانہ بشام میں تعینات تھا۔ کنٹیبل احمدٰی نمبر 639 متعینہ تھانہ بشام نے سائیل کے ساتھ دفتر روز نامچہ میں جھگڑا کر کے سائیل نے اس نسبت روز نامچہ میں کوئی رپورٹ تنہیں لکھاتھا۔ بعد میں پتہ چلا کہ کرامت حسین محرر تھانہ بشام نے میرے مشورے کے بغیر میرے طرف سے روز نامچہ میں بحوالہ مد 10 روز کنامچہ 22/06/2015 این قلم سے دا قعہ سے متعلق رپورٹ درج کیا تھا۔ اور اپنانام بمعہ این سٹاف کے نام اس رپورٹ میں بطور گواہ روزنامچہ کمیں خوددرج کیے تھے۔بعد میں بدوران شہادت محرر کرا کمت حسین نے بمعدالیخ سٹاف غلط ہایی کرکے جسمیں سائیل کو ایک سال سروت شبطی کی سزاملی ہے۔ (نقل حکم اف ہے) تھانہ کابیروز نامچہ اپریشن سٹاف کے طرف سے چلنا تھامیں انویسٹیکیشن میں تھامحرر مذکورہ نے اپنے مرضی سے الحکے بجائے میر کے طرف سے روز نامچہ میں رپورٹ درج کیا تھاکسی صورت میں بھی بیا پریشن روز نامچہ میر ےطرف سے ہیں چکنا تھا۔ اسلئے اگر واقعہ کی رپورٹ لکھنا ضروری ہوتا تو محرر اپریشن ساف جس کے طرف سے روز نامچہ چلتی تھی اضطرف سے لکھتا۔ سائل نے اس نسبت کوئی رپورٹ روزنا مچہ میں نہیں لکھاہے۔ روزنا مچہ تھانہ بیثام میں موجود ہے جس میں رائٹن بھی تن سائل کانہیں ہے۔ سائل کوروز نامچہ میں رپورٹ درج کرنے پر سزامل ہے روز نامچہ میں اندراج سائل نے ہیں کی ہے اس لیے سائل کوملی ہوئی سز سراسرناانصافی ،زیادتی ہے۔ لېذابذرىيدا يېل خذااستد عاب كم نمبر 144 مورخد 2015-12-15 كومنسوخ فرمانى جاكرسانل كاصبط شده ايك سال سروس بحال کرنے کا حکم صا در فرمایا جائے تو سائل تا حیات دعا گور ہےگا۔

He . عثانی گلASI نمبر 667/Mمتعیندانچارج چوکی ڈھیر کی بمورخه-2016-01-05

العارض

ATTESTLU

OFFICE OF THE REGIONAL POLICE OFFICER, MALAKAND REGI AT SAIDU SHARIF SWAT ORDER:

This order will dispose off appeal of ASI Usmani Gul of Shangla District for restoration of forfeiture of one year approved service.

Anner 9

(AZAD KHAN) TSt, PSP Regional Police Officer, Malakand, at Saidu Sharif Swat

Brief facts of the case are that ASI Usmani Gul while posted to Investigation Wing Police Station Besham entered a wrong report in daily diary vide DD No. 10 dated 22/06/2015 of Police Station Besham against Constable Ahmad Ghani No. 639. He was issued charge sheet alongwith statement of allegation and SDPO Alpuri was appointed as Enquiry Officer. The enquiry officer conducted proper departmental enquiry against the delinquent officer and recorded statements of all concerned. After conducting proper departmental enquiry, the enquiry officer submitted his finding wherein he recommended the delinquent officer for minor punishment. Being found guilty of the charges the District Police Officer, Shangla awarded him the punishment of forfeiture of one year approved service permanently vide OB No. 144 dated 15/12/2015. It is pertinent to mentioned here that prior to this he has been remained under different enquiries and has got several minor and major punishments during his service, in short the appellant is trouble maker, problematic nature person.

He was called in Orderly Room on 01/03/2016, heard him in person and his service record perused. The appellant could not produce any cogent reason in his defence. Therefore his appeal is rejected.

Order announced.

11-3-/2016. Dated

Copy to District Police Officer, Shangla for information and necessary action with reference to his office Memo: No. 1784/Logal, dated 08/02/2016.

· \*\*\*\*^^^^^^^





لحد المن مور بر الم pleller 15,20 5 open, cs. 11 " fine موزخه مقدمه دعوكى جرم باعث كرير آكمه مقدمه مندرجه عنوان بالامين ابني طرف سے دامسطے بیردی وجواب دہی دکل کا ردائی متعلقہ تن مقام <u>ليك من من الما دى الما من من من من من من من</u> مقرر کرے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کا روائی کا کامل اختیار ، وگا۔ نیز و میل مها حب کوراضی نامه کرنے وتقرر مثالت ہ فیصلہ برجلف دیتے جواب دہی اورا قبال دعوی اور لبهسورت ذكمرى كريينه اجراءا درصولى چبك دروبسيار عرضى دعوى ادر درخواست ہرتسم كى تفسد يق زرایں بردستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم ہیروی یا ڈگری کیطرفہ یا اپیل کی برامدگی ادرمنسوخی نیز دائز کرنے ابیل نگرانی دنظر ثانی دبیردی کرنے کا اختیار ہوگا۔از بصورت ضر درت مقد مہ ندکور کے پاجزوی کاردائی کے داسطےادروکیل پامختار قانونی کواپنے ہمراہ پااپنے بجائے تقرر کا اختیار موگا \_اورمیا حب مفرر شده کوبھی وہی جملہ ندکورہ پااختیا رات حاصل موں مے اوراس کا ساختہ مرواخته منظور قبول ہوگا۔ دوران مقدمہ میں جوخر چہ دہر جانہ التوائے مقدمہ کے سبب سے دہوگا۔ کوئی تاریخ بیشی مقام دورہ پر ہویا حد ۔۔ باہر ہوتو دکیل صاحب پابند ہوں سے ۔ کہ پیر دی مدکورکریں۔لہدادکالت نام کھدیا کہ سندر ہے۔ ,20/6 / 1 ol 08 المرقوم ---بمقام مرض مسر کے لیے ہنظور ہے۔ مرح لار Ki Tourself? Hardin & Slow Sell- Hali

#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL <u>PESHAWAR</u>

Service Appeal No. 450/2016.

Usmani Gul ASI No. 667/M posted P.S Besham Presently incharge Post Dehari

..... Appellant

#### VERSUS

1. Regional Police Officer Malakand, Saidu Sharif Swat.

2. District Police Officer Shangla.

3. Inspector General of Police Khyber Pakhtunkhwa.

...... Respond

# Subject:REPLY ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.Preliminary Objections

1. That the appeal has not been based on facts.

2. That the appeal is not maintainable in the present form.

3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

4. That the appellant is estopped by his own conduct to file the appeal.

5. That the appeal is barred by law and limitation.

6. That the appellant has not come to the Hon'ble Tribunal with clean hands.

7. That the appellant has got not cause of action and local standi.

**Facts** 

2.

1. Correct to the extent that appellant is presently posted as Incharge Police Post Dehari of Police Station Besham. His service record has been carefully perused and found that the appellant remained trouble maker and habitual absentee. Time and again he has been warned to be careful in future but the appellant did not mend his way and behavior. The appellant has been punished on different occasions and awarded punishments on his misconduct during service. One of his service appeal No. 187/2015 is still pending adjudication in the Hon'ble Khyber Pakhtunkhwa Service Tribunal Peshawar at Camp Court Swat as the appellant refused to obey the order of senior officer to investigate a criminal case bearing FIR No. 147 dated 21.04.2014 u/s 380 PPc PS Aloch district Shangla wherein the authority stopped his two annual increments with cumulative effect.

Incorrect Constable Ahmad Ghani No. 639 did not quarrel with the appellant rather he requested the appellant to hand over his memory card.
Proper enquiry has been conducted in the matter on the order of District
Police Officer Shangla wherein enquiry officer SDPO Alpuri exonerated

Constable Ahmad Ghani and the appellant was made responsible for making false report in daily diary of the police station.

- **3.** Incorrect the appellant himself lodged false report which is proved in the enquiry conducted by the enquiry officer.
- 4. Incorrect the staff of police station including Kiramat Hussain Muharrir narrated the correct episode of the event and testified that the report of the appellant lodged in daily diary is totally baseless/ concocted.
- 5. Pertains to record hence no comments.
- 6. Incorrect the enquiry officer after the conduct of enquiry reached to conclusion wherein he exonerated Constable Ahmad Ghani and held responsible the appellant for making concocted report in daily diary of the police station.
- 7. District Police Officer Shangla awarded the punishment of forfeiture of one year approved service to appellant after taking into consideration the findings of the enquiry officer. Further the appellant was heard in person but there was no cogent force in his defense.
- 8. Regional Police Officer Malakand filed his departmental appeal as it was baseless, having no force and substance.

#### <u>Grounds</u>

- A. Incorrect the punishment awarded to the appellant is lawful and in accordance with law/rules.
- **B.** Incorrect the appellant was treated fairly in accordance with law and rules. The appellant lodged concocted/ false report in daily diary against Constable Ahmad Ghani which has been proved in proper departmental enquiry and on the recommendation of enquiry officer the authority imposed proper punishment.
- **C.** Incorrect the appellant's petition was baseless having no substance therefore dismissed in accordance with law and rules.
- **D.** Incorrect the appellant's past service record is not satisfactory. He has been punished time and again on his misconduct, irrespective attitude to his seniors, denial to obey lawful orders. The appellant has been treated fairly, justly and no discrimination has been done.
- **E.** That the respondents also seek permission of this honorable tribunal to raise additional grounds at the time of arguments.
- **F.** That the respondents be allowed to submit any other ground at the time of arguments.

Prayers:

It is therefore, humbly prayed that keeping in view of aforementioned submissions, the subject appeal of appellant devoid of merit, legal footing may graciously be dismissed.

Regional Rollice U fficer

Matakand, Saidu Shäriff Swat (Respondent No. 1)

District Police Officer, Shangla (Respondent No. 2)

Inspector General of Police, Khyber Pakhtankhwa, Peshawar (Respondent No. 3)

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 450/2016.

Usmani Gul ASI No. 667/M posted P.S Besham Presently incharge Post Dehari

..... Appellant

### VERSUS

1. Regional Police Officer Malakand, Saidu Sharif Swat.

2. District Police Officer Shangla.

3. Inspector General of Police Khyber Pakhtunkhwa.

..... Respondents

### AUTHORITY LETTER

Muzaffar khan Sub Inspector Legal District Shangla is hereby authorized to appear on behalf of the Respondents No. 1, 2 & 3 before the honorable Service Tribunal Peshawar. He is authorized to submit all required documents and replies etc pertaining to the appeal through the Government Pleader.

RegionM Phice O Malakand SaiduaShaaif Swat (Respondent No. 1) District Police Officer, Shangla (Respondent No. 2) Inspector General of Police, Khyber Pakhtunkhwa, Peshawar

(Respondent No. 3)

### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 450/2016.

Usmani Gul ASI No. 667/M posted P.S Besham Presently incharge Post Dehari

..... Appellant

#### VERSUS

1. Regional Police Officer Malakand, Saidu Sharif Swat.

2. District Police Officer Shangla.

3. Inspector General of Police Khyber Pakhtunkhwa.

### <u>AFFIDAVIT</u>

We the deponents in the above titled service appeal, do here by solemnly affirm and declare on oath that the contents of Para wise comments are correct and true to the best of our knowledge and belief and nothing have been kept concealed from this honorable tribunal.

**Deponents** 

aonal-1 Malakand Saidu SharifaSw

(Respondent No. 1)

District Police Officer Shangla (Respondent No. 2)

Inspector General of P

(Respondent No. 3)

Service Appeal No.450/2016

Usmani Gul .....Appellant

### VERSUS

DPO Shangla and others......Respondents

# **REJOINDER ON BEHALF OF APPELLANT**.

<u>Respectfully Sheweth:</u> On Preliminary Objections: Para 1 to 7 are incorrect.

#### FACTS:

**Para No. 1.** Is incorrect as the respondents due to ill intention penalized the appellant and from all the allegations this august Tribunal discharged the appellant and his service appeal has been allowed.(Copy of judgment is attached)

**Para No.2** of the comments is incorrect as the same has already been explained by the appellant in para No.2 of his memo of appeal

Para No.3 of reply is incorrect. Because the appellant never ever lodged the

report nor such like occurrence had taken place.

# Para No. 4 is also incorrect

### Para No.5 needs no reply

Para No.6 is incorrect because no proper inquiry was conducted. Para No.7 is also in correct, because the punishment was not awarded according to law and relevant rules and one sided proceedings were conducted against the appellant.

Para No.8 needs no reply.

#### GROUNDS:

Para-A of Grounds is incorrect.

Para – B is also incorrect.

Para-C because no proper inquiry was conducted nor any codal formalities were observed.

Paras-D to F of grounds are incorrect because no opportunity of proper hearing was provided to the appellant.

It is, therefore prayed that on acceptance of this rejoinder this Hon'ble Tribunal may be pleased to accept the appeal of the appellant as prayed for.

Through

Appellant

Shams-ul-Hadi Advocate High Court,

Service Appeal No.450/2016

Usmani Gul .....Appellant

# VERSUS

DPO Shangla and others......Respondents

# AFFIDAVIT

I, Shams ul Hadi Advocate, as per information conveyed to me by my client that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

Service Appeal No. <u>187</u>/2015.

Usmani Gul ASI

Presently Posted at Police Station Bisham (Investigation Staff) District Shangla......Appellant

v No

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.....

## ·VERSUS

1. Superintendent of Police (Investigation) Shangla.

2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

3. Deputy Inspector General of Police, Malakand Region, Saidu Sharif Swat......Respondents

> APPEAL UNDER SECTION 4 OF KHYBER PUKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE IMPUGNED OFFICE

ORDERS DATED:05.06.2014, 11.09.2014 ATTA

# PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders Dated:05.06.2014, 11.09.2014 AND 11.02.2015 may kindly be set aside and the appellant may kindly be granted the annual increments which were stopped due to the impugned orders.

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3. No.	Date of Order	Order or other proceedings with signature of Judge or Magistrate and that of
	or proceedings.	parties where necessary.
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		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
	{ 	<u>CAMP COURT SWAT</u>
	· ·	Appeal No. 187/2015
		Usmani Gul Versus Superintendent of Police (Investigation) Shangla and others.
	-	outers
		JUDGMENT
		MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:
	08.03.2017	Counsel for the appellant and Mr. Muhammad Zubair, Senior
		Government Pleader alongwith Muzafar Khan, S.I (Legal) for respondents
		present.
		2. Usmani Gul, ASI hereinafter referred to as the appellant has preferred
•	6	the instant service appeal under Section 4 of the Khyber Pakhtunkhwa
ji		Service Tribunal Act, 1974 against impugned order dated 05.6.2014 vide
		which he was awarded minor punishment of stoppage of 2 annual increments
	1	with cumulative effect under Para 4 of the Police Rules, 1975 and his
		departmental appeal dated 17.09.2014 was rejected on 11.02.2015 and hence
	1	the instant service appeal on 05.03.2015.
A.		3. Brief facts of the case of the appellant are that the appellant was
		assigned investigation of a criminal case of theft which he declined as evident
		from Mad No. 26 dated 21.04.2014 and, to avoid the said investigation
<u>.</u> 1	and the second sec	secured leave vide Mad No. 11 but despite the said leave remained present in
		the Police Station. The enquiry officer had conducted the enquiry however he
-		has not recommended the appellant for any punishment on the said charge
		and instead recommended him for taking appropriate action for registering a
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false report vide Mad No. 18 dated 28.04.2014 at P.S Aloch District Shangla.

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We have heard arguments of the learned counsel for the parties and 4 perused the record.

It is evident from the record that the appellant was charged for 5. avoiding investigation in a criminal case however the enquiry officer has not recommended him for any departmental action for the said charge and, instead, recommended him for departmental action on the basis of an alleged false report recorded in Daily Diary No. 18 dated 28.04.2014. Since the appellant was not charged for the said alleged false report as such the enquiry officer was not justified to recommend punishment for an allegation which is not the subject matter of the charge as such the impugned order of stoppage of 2 annual increments is therefore found devoid of merits. We are therefore constrained to accept the present appeal and set aside original as well as appellate orders referred to above. Parties are left to bear their own costs. File be consigned to the record room.

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Service Appeal No.450/2016

Usmani Gul .....Appellant

### VERSUS

DPO Shangla and others......Respondents

# **REJOINDER ON BEHALF OF APPELLANT**.

<u>Respectfully Sheweth:</u> On Preliminary Objections: Para 1 to 7 are incorrect.

### FACTS:

**Para No. 1.** Is incorrect as the respondents due to ill intention penalized the appellant and from all the allegations this august Tribunal discharged the appellant and his service appeal has been allowed.(Copy of judgment is attached)

**Para No.2** of the comments is incorrect as the same has already been explained by the appellant in para No.2 of his memo of appeal

Para No.3 of reply is incorrect. Because the appellant never ever lodged the

report nor such like occurrence had taken place.

### Para No. 4 is also incorrect

### Para No.5 needs no reply

Para No.6 is incorrect because no proper inquiry was conducted. Para No.7 is also in correct, because the punishment was not awarded according to law and relevant rules and one sided proceedings were conducted against the appellant.

Para No.8 needs no reply.

### <u>GROUNDS:</u>

Para-A of Grounds is incorrect.

Para – B is also incorrect.

Para-C because no proper inquiry was conducted nor any codal formalities were observed.

Paras-D to F of grounds are incorrect because no opportunity of proper hearing was provided to the appellant.

It is, therefore prayed that on acceptance of this rejoinder this Hon'ble Tribunal may be pleased to accept the appeal of the appellant as prayed for.

Through

Appellant

**Shams-ul-Hadi** Advocate High Court,

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Usmani Gul		Appellant
	VERSUS	

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DEPONENT

Service Appeal No. <u>187</u>/2015.

Usmani Gul ASI

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Dary No.

## VERSUS

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2. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.

> APPEAL UNDER SECTION 4 OF KHYBER PUKHTUNKHWA SERVICES TRIBUNAL ACT

> 1974 AGAINST THE IMPUGNED OFFICE

ORDERS DATED:05.06.2014, 11.09.2014 ATTAC

# PRAYER IN APPEAL:

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		BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
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	-	Appeal No. 187/2015
		Usmani Gul Versus Superintendent of Police (Investigation) Shangla and others.
		JUDGMENT
		MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:
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false report vide Mad No. 18 dated 28.04.2014 at P.S Aloch District Shangla.We have heard arguments of the learned counsel for the parties and

5. It is evident from the record that the appellant was charged for avoiding investigation in a criminal case however the enquiry officer has not recommended him for any departmental action for the said charge and, instead, recommended him for departmental action on the basis of an alleged false report recorded in Daily Diary No. 18 dated 28.04.2014. Since the appellant was not charged for the said alleged false report as such the enquiry officer was not justified to recommend punishment for an allegation which is not the subject matter of the charge as such the impugned order of stoppage of 2 annual increments is therefore found devoid of merits. We are therefore constrained to accept the present appeal and set aside original as well as appellate orders referred to above. Parties are left to bear their own costs. File be consigned to the record room.

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perused the record.

### KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

#### <u>No 725 / ST</u>

#### Dated 11 / 04 / 2018

То

The Regional Police Officer Malakand, Saidu Sharif Government of Khyber Pakhtunkhwa, Swat.

# Subject: ORDER/JUDGEMENT IN APPEAL NO. 450/2016, MR. USMANI GUL.

I am directed to forward herewith a certified copy of Judgment/Order dated 03/04/2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.