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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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[Signature]
Muharir Compilation

[Signature]
Incharge Judicial Branch

| Sr | RollNo | Name | NIC | Name of School | SSC | | | HSSC | | | Bachelor | | | Master | | | MS/M.Phil/PhD | | | B.Ed | | | M.Ed(5%)/MA.Ed(10%) | | | Academic Marks [out of 100] | NTS Marks [Out of 100] | Total Marks [Out of 200] | Address | Date Of Birth | Father Name | Candidate UC | Village Council | Remarks |
|----|------------|---------------|-----------------|-------------------------|-------|--------|---------|-------|--------|---------|----------|--------|---------|--------|--------|---------|---------------|--------|---------|-------|--------|--------|---------------------|-------|----------|-----------------------------|------------------------|--------------------------|---|---------------|----------------|--------------|-----------------|---------|
| | | | | | Obt | Total | 20% (A) | Obt | Total | 20% (B) | Obt | Total | 20% (C) | Obt | Total | 20% (D) | Obt | Total | 10% (E) | Obt | Total | 5% (F) | Obt | Total | %age (G) | | | | | | | | | |
| 52 | 1518000537 | SAMRAH HABIB | 17101-9262744-8 | GGPS Sadiq Abad Majooki | 805.0 | 1050.0 | 15.33 | 747.0 | 1100.0 | 13.58 | 379.0 | 550.0 | 13.78 | 740.0 | 1100.0 | 13.45 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 56.14 | 55.0 | 111.14 | MUSLIM ABAD SEC 3 RAILWAY STATION KORONA MARDAN ROAD CHARSADDA | 1994-3-23 | HABIB ULLAH | MC IV | MC IV | |
| 47 | 1518000537 | SAMRAH HABIB | 17101-9262744-8 | GGPS Station Korona | 805.0 | 1050.0 | 15.33 | 747.0 | 1100.0 | 13.58 | 379.0 | 550.0 | 13.78 | 740.0 | 1100.0 | 13.45 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 56.14 | 55.0 | 111.14 | MUSLIM ABAD SEC 3 RAILWAY STATION KORONA MARDAN ROAD CHARSADDA | 1994-3-23 | HABIB ULLAH | MC IV | MC IV | |
| 48 | 1517000704 | SUMAIRA AKBAR | 17201-9480190-0 | GGPS Station Korona | 592.0 | 1050.0 | 11.28 | 665.0 | 1100.0 | 12.09 | 369.0 | 550.0 | 13.42 | 836.0 | 1200.0 | 13.93 | 0.0 | 0.0 | 0.0 | 604.0 | 900.0 | 3.36 | 0.0 | 0.0 | 0.0 | 54.08 | 57.0 | 111.08 | OWAIS BOOK STALL TAKHTBY ROAD RAJJAR BAZAR PO RAJJAR DISTRICT CHARSADDA | 1990-3-11 | FAZLI AKBAR | RAJJAR 1 | SHEIKH ABAD | |
| 53 | 1517001346 | KAINAT SAMI. | 17101-6989199-0 | GGPS Sadiq Abad Majooki | 899.0 | 1050.0 | 17.12 | 911.0 | 1100.0 | 16.56 | 473.0 | 550.0 | 17.2 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 50.88 | 60.0 | 110.88 | MOH KALEEM BAGH VILLAGE DHABBANDA POST OFFICE KAMRAN KILLI CHARSADDA | 1997-1-13 | SAMIUDDIN | SHEIKHO | ZARIN ABAD | |
| 54 | 1518000786 | SAIMA FAIZ | 17101-2910692-6 | GGPS Sadiq Abad Majooki | 829.0 | 1050.0 | 15.79 | 827.0 | 1100.0 | 15.04 | 353.0 | 550.0 | 12.84 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 43.67 | 67.0 | 110.67 | RAILWAYS STATIOS KORONA MEHMOOD ABAD CHARSADDA | 1989-4-6 | FAIZ UR RAHMAN | MC IV | UMERABAD | |
| 49 | 1518000786 | SAIMA FAIZ | 17101-2910692-6 | GGPS Station Korona | 829.0 | 1050.0 | 15.79 | 827.0 | 1100.0 | 15.04 | 353.0 | 550.0 | 12.84 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 43.67 | 67.0 | 110.67 | RAILWAYS STATIOS KORONA MEHMOOD ABAD CHARSADDA | 1989-4-6 | FAIZ UR RAHMAN | MC IV | UMERABAD | |
| 55 | 1518000626 | ZAISH | 17101-0202635-4 | GGPS Sadiq Abad Majooki | 857.0 | 1050.0 | 16.32 | 830.0 | 1100.0 | 15.09 | 3161.0 | 4500.0 | 14.05 | 3161.0 | 4500.0 | 14.05 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 59.51 | 51.0 | 110.51 | NOBAHAR COLONY STREET NO 7 SAEED KHAN BAGH CHARSADDA | 1993-7-2 | GUL REHMAN | MC IV | MC IV | |
| 50 | 1518000626 | ZAISH | 17101-0202635-4 | GGPS Station Korona | 857.0 | 1050.0 | 16.32 | 830.0 | 1100.0 | 15.09 | 3161.0 | 4500.0 | 14.05 | 3161.0 | 4500.0 | 14.05 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 59.51 | 51.0 | 110.51 | NOBAHAR COLONY STREET NO 7 SAEED KHAN BAGH CHARSADDA | 1993-7-2 | GUL REHMAN | MC IV | MC IV | |
| 56 | 1517001577 | SADIQA BEGUM | 17101-2752975-6 | GGPS Sadiq Abad Majooki | 610.0 | 850.0 | 14.35 | 579.0 | 1100.0 | 10.53 | 290.0 | 550.0 | 10.55 | 1180.0 | 1600.0 | 14.75 | 1125.0 | 1400.0 | 8.04 | 700.0 | 1100.0 | 3.18 | 0.0 | 0.0 | 0.0 | 61.4 | 49.0 | 110.4 | HUSSAIN GENERAL STORE MC PLAZA SHOP NO 18 TANGI ROAD CHARSADDA | 1986-12-14 | NAZIR AHMAD | MC 1 | MC 1 | |

(1)

Service Appeal No.829/2022 titled "Ihsanullah Shah versus Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
MUHAMMAD AKBAR KHAN... MEMBER (Executive)

Service Appeal No. 829/2022

SCANNED
KFST
Peshawar

Date of presentation of Appeal.....25.05.2022
Date of Hearing.....07.05.2024
Date of Decision.....07.05.2024

Ihsanullah Shah, Ex-Constable No. 820, District Police Officer Bannu. (Deceased) through legal heirs namely 1.Mst. Sonila (Widow), 2. Mst. Laiba D/o Ihsanullah Shah, 3. Mst. Hooreen D/o Ihsanullah Shah, 4. Kaleem Ullah Shah S/o Ihsanullah Shah and Muhammad Muheez Shah S/o Ihsanullah Shah**Appellants**

Versus

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Bannu.
3. The Regional Police Officer, Bannu Region. :
4. The District Police Officer, Bannu.....(**Respondents**)

Present:

Miss. Uzma Syed, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District AttorneyFor respondents

.....
APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 19.07.2019 WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 18.05.2022 WHEREBY THE APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUND.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: According to the facts gathered from the record are that the appellant, while serving as Constable in Police Department, was proceeded against departmentally on the allegation of his involvement/arrest in case FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station

(2)

Service Appeal No.829/2022 titled "Husnullah Shah versus Inspector General of Police, Khyber Pakhtunkhwa Peshawar and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

Saddar District Bannu. On conclusion of the departmental proceedings, the appellant was awarded major punishment of dismissal from service with immediate effect vide order impugned order dated 18.07.2019. The punishment so awarded to the appellant, was challenged by him through filing of departmental appeal on 28.02.2022, which was rejected vide impugned order dated 18.05.2022. The appellant has now approached this Tribunal through filing of instant appeal on 25.05.2022 for redressal of his grievance.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance through their respective representative and contested the appeal by way of filing para-wise reply, raising therein numerous legal as well as factual objections. The defence setup by the respondents was a total denial of the claim of the appellant

3. It is pertinent to mention here, that the appellant died during the pendency of the instant appeal and the application submitted by his legal heirs for impleadment as appellants in the instant appeal was allowed vide order dated 25.10.2023.

4. Learned counsel for the appellant argued that the appellant was falsely charged in the case FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station Saddar District Bannu and he was sent to jail on 12.06.2019. He next argued that charge sheet as well as statement of allegations and final show-cause notices was not served upon the appellant as he was behind the bar. He further argued that the inquiry proceedings were conducted at the back of the appellant without providing him any opportunity of personal hearing as well as self

defence. He also argued that the disciplinary action was taken against the appellant on account of his involvement in the criminal case, however the appellant has already been acquitted by competent court of law vide judgment dated 16.02.2022, therefore, upon acquittal of the appellant in the concerned criminal case, the very ground on the basis of which he was proceeded against departmentally has vanished away. He next contended that under CSR-194/194-A the appellant was required to have been suspended till the decision of criminal case but the appellant was straightaway dismissed from service, which is against the law and rules. In the last, he argued that the impugned orders might be set-aside and the appeal in hand might be accepted as prayed for.

5. On the other hand, learned Deputy District Attorney for the respondents has contended that the appellant remained involved in case FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station Saddar District Bannu and he was sent to jail on 12.06.2019. He next contended that the inquiry was conducted by complying with all legal and codal formalities. He further contended that criminal as well as departmental proceedings can run parallel and mere acquittal of the appellant in the criminal case could not be considered as a ground for his exoneration from charges in the departmental proceedings. He also contended that the appellant was not acquitted on merit, rather he was acquitted by extending him the benefit of doubts, therefore, his acquittal would not make him entitled to exoneration in the departmental proceedings. He next argued that the appellant was dismissed from service vide order dated 19.07.2019, therefore, he was required to have departmental appeal within 30 days, however the

(4)

Service Appeal No.829/2022 titled "Ihsanullah Shah versus Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

appellant filed the departmental appeal on 28.02.2022, which is badly time barred. In the last, he argued that the impugned orders have been passed in accordance with law, therefore, the same may be kept intact and the appeal in hand may be dismissed with costs.

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

7. A perusal of the record would show that the department had initiated disciplinary proceedings against the appellant on the ground that he was charged in case FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station Saddar District Bannu, however, the appellant has already been acquitted in the said case vide judgment dated 16.02.2022 passed by learned Additional Sessions Judge-V, Bannu. The appellant was awarded major penalty on the sole ground that he was charged in criminal case. Admittedly, the appellant has been acquitted in the said case, therefore, the very ground on the basis of which disciplinary action was taken against the appellant, has vanished away. Nothing is available on the record, which could show that the acquittal order of the appellant has been challenged by the department by filing of appeal before the higher forum and the same has thus attained finality. Moreover, the competent Authority was required to have waited for outcome of criminal case but the competent authority without waiting for the outcome of criminal case, dismissed the appellant from service in a cursory manner.

8. Besides there is nothing available on the record, which could show that charge sheet as well as statement of allegations and final show-cause

Service Appeal No.829/2022 titled "Ihsanullah Shah, versus Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

notice were served upon the appellant as he was admittedly behind the bars due to his arrest in case FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station Saddar District Bannu. Whole of the departmental proceedings against the appellant were conducted at his back and he was not provided any opportunity of personal hearing as well as self defence. August Supreme Court of Pakistan in its judgment reported as PLD 1981 SC-176 has graciously held that rules devoid of provision of final show cause notice alongwith inquiry report were not valid rules. Non issuance of final show cause notice and non-supply of copy of the findings of the inquiry officer to the appellant has caused miscarriage of justice as such in a situation, the appellant was not in a position to properly defend himself in respect of the allegations leveled against him, therefore, the impugned orders are liable to be set-aside.

9. So far as the question of limitation is concerned, the appellant was charged in FIR No. 505 dated 11.06.2019 under sections 324/354/452/337L/15AA Police Station Saddar District Bannu and he was sent to jail on 12.06.2019 and remained behind the bars till his acquittal on 16.02.2022. The appellant after his release from jail on 16.02.2022, submitted departmental appeal on 28.02.2022, which is well within time.

10. Consequently, the impugned orders stand set-aside and the appeal in hand is allowed as prayed for.

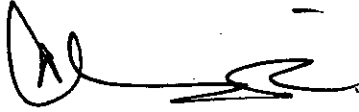
11. Before parting, we deem it necessary to expound for removal of difficulties in giving effect to operative part of the judgment that due to death of the appellant during pendency of appeal, his posthumous

(6)

Service Appeal No 829/2022 titled "Insaullah Shah versus Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and others", decided on 07.05.2024 by Division Bench comprising of Mr. Kalim Arshad Khan, Chairman, and Mr. Muhammad Akbar Khan, Member Executive, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

reinstatement into service will be ordered and he will be treated to have died during service. Costs shall follow the event. Consign.

12. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 07th day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

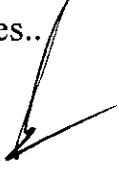
Nazem Amin


(7)

09.01.2024 1. Appellant in person present. Mr. Muhammad Jan District Attorney for the respondent present.

2. Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 07.05.2024 before D.B. P.P given to the parties..

SCANNED
K-35T
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Rashida Bano)
Member (J)

ORDER


07th May, 2024

1. Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our judgment of today placed on file, the impugned orders stand set-aside and the appeal in hand is allowed as prayed for.

3. Before parting, we deem it necessary to expound for removal of difficulties in giving effect to operative part of the judgment that due to death of the appellant during pendency of appeal, his posthumous reinstatement into service will be ordered and he will be treated to have died during service. Costs shall follow the event. Consign.

4. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 07th day of May, 2024.*


(Muhammad Akbar Khan)
Member (Executive)


(Kalim Arshad Khan)
Chairman


(8)

27.06.2023

1. Counsel for the appellant present. Mr. Asad Ali Khan, learned Assistant Advocate General alongwith Safiullah, S.I for the respondents present.

2. Former requested for adjournment in order to further prepare the brief. To come up for arguments on 25.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Rashida Bano)
Member (J)


Kaleemullah

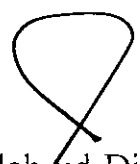
25.10.2023

Ms. Uzma Syed, Advocate present and submitted list of L.Rs of the appellant alongwith copy of death certificate as well as an application that L.Rs of the deceased appellant may be impleaded as appellants in the instant appeal. Mr. Sajjad Ahmed, Inspector alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

As the appellant has died, therefore, his L.Rs are impleaded as appellants in the instant appeal. Office is directed to make necessary entry in the memo of appeal as well as relevant registers accordingly. Learned counsel for the impleaded appellants sought adjournment for preparation of arguments. Adjourned. To come up for arguments on 09.01.2024 before the D.B. Parcha Peshi given to the parties.

SCANNED
KPST
Peshawar


(Muhammad Akbar Khan)
Member (E)


(Salahud-Din)
Member (J)

m Amin*


(9)

Service Appeal No. 829/2022.

11.01.2023

Learned counsel for the appellant present. Mr. Muhammad Farooq, DSP (Legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Para-wise reply/comments on behalf of respondents submitted, copy of which handed over to learned counsel for the appellant. Learned counsel for the appellant stated at the bar that cost of Rs. 5000/- has been paid to him and in this respect he produced receipt, which is placed on file. Adjourned. To come up for rejoinder, if any, as well as arguments on 27.04.2023 before the D.B.

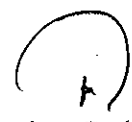

(Salah-Ud-Din)
Member (J)

27.04.2023

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present.

Learned Member Executive (Mr. Muhammad Akbar Khan) is on leave, therefore, case is adjourned. To come up for arguments on 27.06.2023 before D.B. Parcha Peshi given to the parties.


(Rozina Rehman)
Member (J)

SCANNED
KF3T
Peshawar


Mutazem Shah

(10)

01.12.2022

Learned counsel for the appellant present. Mr. Muhammad Yaqoob, Head Constable alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Several opportunities have been given to the respondents for submission of reply/comments but they have failed to submit the same even today. Representative of the respondents present in the court again requesting for further time for submission of reply/comments. Last opportunity is given to the respondents subject to payment of cost of Rs. 5000/-, failing which their right for submission of reply/comments shall be deemed as struck off. Adjournd. To come up for submission of written reply/comments on 11.01.2023 before the S.B.



(Salah-Ud-Din)
Member (J)

SCANNED
KUST
Peshawar

23.09.2022

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

Reply/comments on behalf of respondent are still awaited. Learned Deputy District Attorney shall intimate the respondents to positively submit reply/comments on 25.10.2022 before the S.B.



(Salah-Ud-Din)
Member (J)

25th Oct., 2022

Junior to counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Respondents have not submitted reply/comments.

Learned Assistant Advocate General sought adjournment in order to contact the respondents to submit reply/comments on the next date. Granted. To come up for reply/comments on 01.12.2022 before S.B.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member(E)

(12)

17th June, 2022

Learned counsel for the appellant present.

The appellant was dismissed from service vide order dated 18.07.2019 for his involvement in a criminal case. It is the case of the appellant that on securing acquittal from the said criminal case on 16.02.2022 and release from jail, he filed appeal on 28.02.2022 which was dismissed by the RPO, Bannu on 18.05.2022 and the appellant filed this appeal on 25.05.2022. It is thus within time and is admitted to full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 05.08.2022 before S.B.

Rs 600/-
Appellant Deposited
Security & Process Fee
A. J. 25/6/22

D

Q

(Kalim Arshad Khan)
Chairman

05.08.2022

Clerk to counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General present.



Notice be issued to respondents for submission of written reply. To come up for written reply/comments on 23.09.2022 before S.B.

(Fareeha Paul)
Member (E)

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 829/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---|--|
| 1 | 2 | 3 |
| 1- | 25/05/2022 | <p>The appeal of Mr. Ihsanullah Shah presented today by Syed Noman Ali Shah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | <p><i>1-6-2022</i> <i>Noted</i> <i>1-6-2022</i></p> | <p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>17-06-22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> |

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

CASE TITLE: *Th. Samullah Shah* ^{VIS} *Police Dept*

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

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

Name:

Uzma Syed

Signature:

Uzma Syed

Dated:

24-5-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 829 /2022

RECEIVED
KSPST
PESHAWAR

Mr. Ihsanullah Shah

V/S

Police deptt.

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| 3. | Copy of order | - B - | 08 |
| 4. | Copy of Judgment & Certificate | - C - | 09-28 |
| 5. | Copy of departmental appeal | - D - | 29 |
| 6. | Copy of rejection order | - E - | 30 |
| 7. | Vakalat Nama | ----- | 31 |

APPELLANT

I Shah
Ihsanullah Shah

THROUGH:

Uzma Syed
(UZMA SYED)
ADVOCATE HIGH COURT.

Noman Ali Bukhari &
SYED NOMAN ALI BUKHARI
ADVOCATE, High Court PESHAWAR

Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 0306.5109438

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Just No-17

Appeal No. 829 /2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 826

Dated 25/05/2022

APPELLANT

Mr. Ihsanullah Shah, Ex-Constable No. 820,
District Police Office Bannu.

- ① SONILA (WIDOW)
② LAIBA (DAUGHTER (MINOR))
③ HOREEN (DAUGHTER (MINOR))
④ KALEEM ULLAH SHAH SON (MINOR)
⑤ MUHAMMAD MUHEEZ SHAH (-do-) VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police, Bannu.
3. The Regional Police Officer, Bannu Region.
4. The District Police Officer, Bannu.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED
19.07.2019 WHEREBY THE APPELLANT WAS
DISMISSED FROM SERVICE AND AGAINST THE
REJECTION ORDER DATED 18.05.2022 WHEREBY
THE APPEAL OF THE APPELLANT HAS BEEN
REJECTED FOR NO GOOD GROUND.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE
ORDER DATED 19.07.2019 AND 18.05.2022 MAY
PLEASE BE SET-ASIDE AND THE APPELLANT MAY
BE REINSTATED INTO SERVICE WITH ALL BACK
AND CONSEQUENTIAL BENEFITS. ANY OTHER
REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS
FIT AND APPROPRIATE THAT, MAY ALSO BE
AWARDED IN FAVOR OF APPELLANT.

Filed to-day

25/5/2022

Legal notes are
in pleaded vide
order of the court
25.10.2023.

(A)
25/5/2022

RESPECTFULLY SHEWETH:
FACTS:

Facts giving rise to the present service appeal are as under:

1. That the appellant was appointed as Constable in Police and the appellant was performed his duties with entire satisfaction of his superiors.
2. That the appellant was falsely involved in a criminal case and F.I.R No. 505 dated 11.06.2019 u/s 324/354/452/337I/15AA PS Saddar were registered against the appellant and sent to jail on 12.06.2019. **Copy of FIR is attached as Annexure-A.**
3. That, thereafter, the appellant was departmentally proceeded, without serving any charge sheet, statement of allegation, regular inquiry and even without serving show cause notice, the impugned order dated 19.07.2019 was passed against the appellant whereby the appellant was dismissed from service without waiting till the finalization of the criminal case. **(Copy of impugned order is attached as Annexure-B).**
4. That thereafter appellant was acquitted in FIR no 505 by the competent court of law vide judgment dated 16.02.2022 and on the same day the appellant was released from jail by the order of Additional Session Judge-V Bannu(certificated issued by the Superintendent Central Prison Bannu). After acquittal appellant filed departmental appeal on 28.02.2022 and the same was rejected vide order dated 18.05.2022 for no good grounds. **(Copy of judgment, departmental appeal and rejection order is attached as Annexure-C, D & E).**
5. That now the appellant have no other adequate remedy and constraint to file the instant appeal on the following grounds amongst others.

GROUND:

- A) That the impugned orders dated 19.07.2019 & 18.05.2022 are against the law, facts, norms of justice and void-ab-initio, material on record, therefore not tenable and liable to be set aside.
- B) That there is no order in black and white form to dispense with the regular inquiry which is violation of law and rules and without

charge sheet, statement of allegation and proper inquiry the appellant was dismissed from the service vide order dated 19.07.2019 without given personal hearing which is necessary and mandatory in law and rules before imposing major penalty. So the whole procedure conducted has nullity in the eye of law. So the impugned order is liable to be set aside.

- C) That According to the judgments of the superior court if the case was not yet finalized against the appellant, the appellant cannot be penalized for that case and consider him innocent till the finalization of the case.
- D) That the penalty order was not under issued under proper law so the penalty order is illegal, void-ab-initio, defective and nullity in the eyes of law.
- E) That nothing has been proved against the appellant in departmental proceeding and the criminal trial is also pending against the appellant. That all the actions taken against the appellant is before the finalization of the criminal case which is the violation of CSR 194 and without any proof, hence the appellant is eligible for the reinstatement
- F) That no proper procedure has been followed before passing the impugned order and even, there is no show cause notice and statement of allegation was served upon the appellant, thus the proceedings so conducted are defective in the eye of law
- G) That under CSR-194/194-A the appellant was suspended till the order of the Competent court but the appellant was dismissed from the service which is against the law and rules.
- H) That the appellant has been condemned unheard and has not been treated according to law and rules.
- I) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- J) That the appellant's guilt has not been proved beyond the shadow of doubt and the appellant has been punished on the basis of conjecture and surmises.
- K) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.

- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.


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

APPELLANT


Ihsanullah Shah

THROUGH:


(UZMA SAYED)
ADVOCATE HIGH COURT.


SYED NOMAN ALI BUKHARI
ADVOCATE, High Court PESHAWAR

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. _____/2022

Mr. Ihsanullah Shah

V/S

Police deptt.

CERTIFICATE:

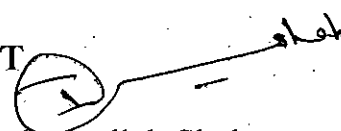
It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.

APPELLANT



Ihsanullah Shah

THROUGH:



(UZMA SAYED)
ADVOCATE HIGH COURT.



&
SYED NOMAN ALI BUKHARI
ADVOCATE, High Court PESHAWAR

(22)

6

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. _____ /2022

Mr. Ihsanullah Shah

V/S

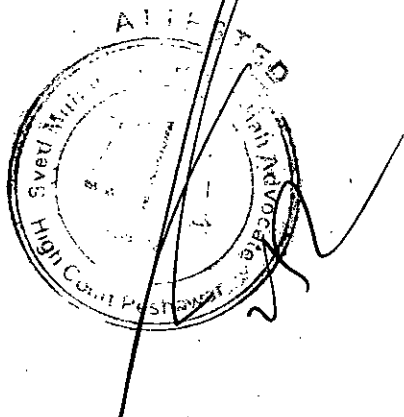
Police deptt.

AFFIDAVIT

I, Mr. Ihsanullah (Appellant), do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honourable Tribunal.


DEPONENT

Ihsanullah



5

اللہ اعلم
324

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجموعہ ضابطہ فوجداری

قلم نمبر 54-23(1)

| | |
|-------------------|-----------|
| صفحہ | 35 |
| تاریخ | 19/6/11 |
| وقت | 13:30 بجے |
| تاریخ و وقت رپورٹ | 505 |

| | |
|---|-------------------------------------|
| نام و سکونت ملزم | خانہ وقوع واقع کوٹلہ شریف شاہ شجانی |
| کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہو تو وہ بھی بیان کرو | خانہ وقوع کوٹلہ شریف شاہ شجانی |
| تھانہ سے روانگی کی تاریخ و وقت | پیر 19/6/11 |

70 سال

71 سال
PPC 324 - 354 - 452 - 337(L) 15AA

ابتدائی اطلاع نیچے درج کرو۔

بہ سبیل ڈاک

صدر اور بعض قابلہ شخص نے بدست کاٹھیل جنیل ٹوٹا 7224 فوٹو ہورڈیل ہے رپورٹ: مسما آہ علیہ بی بی بیوہ گل دراز شاہ سکنہ کوٹلہ شریف شاہ شجانی پھر 70/71 سال NIC ملز NIC و بانیہ دارہ علیہ 651 2 6 8 4 8 8 4 0 3 3 4 آج عودہ 11/6/11 وقت 14:00 بجے کالت حضور بیت ہر موقع حضور موجودگی لیسر میں سید عسرو لہ گل دراز شاہ سکنہ شریف شاہ شجانی پھر 54/55 سال رپورٹ میں سیدہ میں گر خود واقع کوٹلہ شریف شاہ شجانی میں موجود تھی۔ میرے علاوہ کوئی دیگر شخص مسلح بہ خود ہتھیاروں میرے گھر میں داخل ہوا میں ڈر کے بارے کو ٹھٹھہ رنگ نشی میں داخل ہو گیا۔ شخص مذکورہ بھی میرے گھر میں داخل ہو گیا۔ میرے اوپر ہتھیاروں اٹھ گیا اور میرے اوپر لگے تو مجھے پیر بہ نیت قتل حجر سے بے درپے وار پکے جس سے میں زخمی ہوئی ہیں میں نے شجانی کی حالت متور شدہ اب کہتا۔ میرے متور شدہ پیر حملہ داران آئے جنکو دیکھ کر ہلرم سے فرار ہونے لگا۔ میں کامیاب ہوا۔ حملہ داران نے عقاب پولیس کو اطلاع دی جس میں حکمت سے آگے میں داخل ہونے اور بہ نیت قتل حملہ کرنے کی پر خلاف حلیم معلوم د ٹویڈ ایروں میں شجانی کوٹلہ میں عسسی سید عسرو لہ گل دراز شاہ سکنہ شریف شاہ شجانی پھر 54/55 سال الہ کامی رپورٹ بارا کی ماٹھہ کرتا ہوں انسان شجانی کوٹلہ شریف شاہ شجانی پھر 54/55 سال اس اطلاع با کھفرا میں حصہ نفسی پولیس کوٹلہ شریف شاہ شجانی پھر 54/55 سال

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ATTESTED

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کھنڈہ ہونے کا ثبوت
کھنڈہ ہونے کا ثبوت
کھنڈہ ہونے کا ثبوت

دہلی پولیس سرکس خانہ قود میں موجود باکر علی ریورٹ طرف لکھو درج
 بالا پولیس ریورٹ کے مطابق اس کی جو کچھ ریورٹ اور دستاویزات تسلیم کر کے دیے گئے وہ ریورٹ کی طرف
 ریورٹ نامیہ کے تحت ہے اس لیے اسے نشان انگلیوں کے تحت ہی رکھ کر اس کے لئے
 میں۔ حضور بیگ کا لفظ ضرور متبادر کے لئے من غلطی صحیح ہے اور اس کے ذمہ
 زیر حفاظت نیشنل حضرت علی 714 سول سسٹم میں بحوالہ جاری ہے نیز
 پانچویں کڑوں اور کواٹریں دہلی کے ضلع میں ایک لکھنؤ میں نیشنل اور DHG سسٹم
 میں موجود ہیں۔ دہلی ریورٹ کے مطابق اس کی جو کچھ ریورٹ اور دستاویزات تسلیم کر کے دیے گئے وہ ریورٹ کی طرف
 سنا تو اس میں سے بھی کچھ فوراً حاکم بہ اعداد و احوال کے لئے لکھنؤ ضلع کو بھیج دیا گیا
 جس نے دریافت کیا کہ اس کا نام اصحاب علی شاہ ولد عزیز خویاں شاہ سید سید شہار
 شاہ شجائی سید ہے۔ حاکم بہ نے اس کے بارے میں کچھ شہادتیں لکھ کر اس کے لئے
 نوٹس نمبر XE 258 سٹار 1944 میں سٹیشننگ کی، سٹیٹنگ میں سید سید شہار
 دس کے بعد کارروائی میں سٹیشننگ کی اور ایک عدد جس پر آج بھی سٹیشننگ کی گئی ہے
 میں کر کے کارروائی کے ساتھ علی شاہ کے بارے میں کچھ جاننے کے لئے ریورٹ کی طرف
 ڈیر ایٹم 452 - 354 - 324 PPC کی باقی حاکم بہ اسلام آباد ریورٹ کی طرف
 قلم سر آفیشیوں کے ساتھ نیشنل سسٹم کے ذریعہ 7224 ارسال کیا گیا ہے اس کے ساتھ
 احمد خان ASI صدر 11/19 کا ریورٹ بھیجا گیا ہے جس میں سید سید شہار کے بارے میں
 بالا جاہ پور کول FIR کے لئے تفتیش کے لئے تفتیش اور سرحد میں احمد خان ASI
 کے ساتھ ہیں۔ یہ سب گزشتہ دنوں کی بات ہے۔

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 17 FEB 2022
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1504
 11-06-19



دستخط
 عہدہ
 اطلاع کے لیے اطلاع: بندہ کا دستخط یہاں کی ہر نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ ابتدائی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف با ب سرخ روشنائی
 کی ضرورت ہے۔ الترتیب واسطے باشندگان علاقہ غیر واسطہ انڈیا یا افغانستان جہاں موزوں ہوں، لکھنا چاہئے۔

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B-6

ORDER

This order of the undersigned will dispose of the departmental proceedings against accused Constable Ihsan Ullah Shah No. 805 (Suspended) under Police Rule 1975 as amended vide Khyber Pakhtunkhwa gazette Notification, No. 27th of August 2014) by issuing charge sheet and statement of allegation to him for committing the following commissions/omissions.

That as reported by SP Investigation, Bannu vide letter No. 2479, dated 13.06.2019, Constable Ihsan Ullah Shah No. 805 charged/arrested in a criminal case vide FIR No. 505, dated 11.06.2019 u/s 324/354/452/337L/15AA PS Saddar.

Charge sheet and statement of allegation were issued to him and DSP/Cantt, Bannu was appointed as Enquiry Officer to scrutinize the conduct of the official. The Enquiry Officer submitted finding report vide letter No. 241, dated 16.07.2019 and reported that the accused Constable was drunk on the day of occurrence. He forcibly entered in the house of the complainant Halima Bibi with intention of rape but due to her resistance she was stabbed with dagger. To this effect a case vide FIR No. 505 dated 11.06.2019 u/s 324/354/452/337L/15AA PS Saddar was registered against the Accused Constable Ihsan Ullah. Later on, the complainant Halima Bibi succumbed to her injuries in Hospital and Section 302 of PPC has been added in the FIR. Charge Sheet and Statement of allegations have been served upon the accused Constable through Superintendent of Police, Central Jail Bannu vide No. 254/C, dated 26.06.2019 but the said Constable has not yet submitted his reply to the Charge Sheet. Furthermore, as per the Statement of the Investigation Officer, the accused Constable Ihsan Ullah has been found guilty in the said criminal case. He is also absent from duty w.e.f 29.05.2019 till date, placed at file.

Keeping in view the position explained above. Record perused. In the light of the departmental proceedings, the accused Constable was found guilty of the charges as per the statement of the Investigation Officer. Furthermore, his Act is against Service discipline and amounts to gross misconduct/carry bad name to the Police Force. He also did not submit his reply to the charge sheet within specified period. Therefore, Ex-Parte action has been taken against him. Hence, I, YASIR AFRIDI, District Police Officer, Bannu, in exercise of the power vested in me under Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No. 27th of August 2014), he is hereby awarded Major Punishment of "Dismissal from Service" with immediate effect.

OB No. 759
Dated: 18/7 /2019.

(YASIR AFRIDI)PSP
District Police Officer,
Bannu.

No. 11564-48 /SRC dated Bannu, the 19 / 7 /2019.

Copy of above is submitted for favor of information to The Regional Police Officer, Bannu Region, Bannu w/r to his office Endst: No. 3717-21, dated 20.06.2019.

- 3. Reader, Pay officer, SRC, OHC
- 4. Fauji Misal Clerk along with enquiry file for placing it in the Fauji Missal of the concerned officer.

(YASIR AFRIDI)PSP
District Police Officer,

ATTACHED

C-7

IN THE COURT OF ASSADULLAH
ADDITIONAL SESSIONS JUDGE-V, BANNU

Sessions Case No: 319/SC of 2019
Date of Institution: 30/09/2019
Date of Decision: 16/02/2022

The State

VERSUS

Ihsan Ullah Shah son of Mir Khuban Shah resident of
Shahbaz Shah Shaikhani, Tehsil & District Bannu
.....(Accused Facing Trial)

CHARGE U/S 302/354/449/337-L
PPC VIDE FIR NO.505 DATED:
11-06-2019 POLICE STATION
SADDAR, BANNU.

Argued by:

1. Mr. Saleem Shah, SPP for the state
2. Mr. Shahzad Khan Advocate for complainant
3. Mr. Inam Ullah Khan Kakki Advocate for the accused

JUDGMENT:
16/02/2022

1. Accused Ihsan Ullah son of Mir Khuban Shah resident of Shahbaz Shah Shaikhani, Tehsil & District Bannu faced trial in this Court in case FIR # 505, dated 11-06-2019, U/Ss 302/354/449/337-

L PPC registered at Police Station Saddar, Bannu.

2. Briefly stated the facts of prosecution case as unfolded in FIR are that complainant Mst. Halima Bibi reported the matter to the local police on the spot in injured condition at about 14:00

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Additional Sessions Judge V
Bannu
16/02/2022

Case No.319/SC of 2019
FIR No.505 dated 11-06-2019
Under Section 324/452/449/337-L PPC Police Station Saddar, Bannu
State versus Ihsan Ullah Shah

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16/02/2022
Additional Sessions Judge V
Bannu

hours on 11-06-2019 in presence of her son namely Syed Umar that on the day of occurrence, only she was present in her house situated at Kotka Sharif Shah Shaikhani whereas, no other inmates of the house (male and female) were present. At about 13:30 hours, one unknown person armed with dagger and pistol entered into her house. Due to fear, she entered into room. The said person, while following her, also entered into room. He aimed his pistol and tear her clothes with intention of rape. On the resistance of complainant, accused gave blows of dagger to her, as a result, she sustained injuries. She made hue and cry for her safety, upon which the neighbors attracted towards the spot. On seeing the neighbors, accused decamped from the spot. The neighbors informed the local police.

During patrolling of local police, they received information about the occurrence. They rushed to the spot and found the injured/complainant alongwith her son in her house, where she reported the matter. The control room was informed through wireless. During report, it was came to know that accused is present in the fields near Sharif Shah Chowk. The local police rushed there and overpowered him. The person disclosed his name as Ihsan Ali Shah son of Mir Khuban Shah resident of Shahbaz Shah Shaikhani. From his personal search, one .30 bore pistol No.XE258Star1944 alongwith fitted magazine and spare magazine with 10 live rounds. one dagger was recovered from his trouser-fold. Accused was

[Handwritten Signature]
 Additional Sessions Judge
 Special Court Bannu

ATTESTED

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Case No.319/SC of 2019
 FIR No.505 dated 11-06-2019
 Under Section 324/452/449/337-I PPC Police Station Saddar, Bannu
 State versus Ihsan Ullah Shah

arrested and his card of arrest was issued. Murasila was sent for registration of FIR through constable Faisal Nawaz No.7224.

3. Investigation was carried out and after completion of investigation, complete challan was submitted against the accused. while separate challan under Section 15 A.A in respect of recovery of one .30 bore pistol bearing #XE258Star1944 alongwith fitted and spare magazines and belt containing 10 rounds of .30 bore pistol and one dagger from the possession of accused facing trial was put in court, however, evidence in both the cases recorded on one and the same day.

4. Accused facing trial was summoned and on his appearance, provision of section 265-C Cr.PC was complied with. Charge was framed against him to which he pleaded not guilty and claimed trial.

5. In order to prove the case against the accused, the prosecution had produced as many as 11-witnesses while the remaining PWs were abandoned being unnecessary.

(i) Statement of Lady Dr. Noshaba Jamshid Medical Officer District Headquarter Hospital Bannu recorded as PW-1. On 11-06-2019 at 02:05pm, she examined Mst. Halima Bibi and found the followings:-

Wounds: -

1. Bite marks and blush discoloration on both breasts seen.

16/02/2022
Judge
Lower Courts Bannu

ATTESTED

17 FEB 2022

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Lower Courts Bannu

Case No.319/SC of 2019
FIR No.505 dated 11-06-2019
Under Section 324/452/449/337-L PPC Police Station Saddar, Bannu
State versus Ihsan Ullah Shah

Blush discoloration on right side of face.
 Few bruises present on both forearms.
 P/V, bleeding + + +, regional tests found.
 Rectum found perforated. Patient was conscious
 and oriented. Examination done in Casualty
 District Headquarter Hospital Bannu. Handed
 over to District Headquarter Hospital Bannu for
 further management.

Nature of Injury: - KUO

Probable duration of injuries: - 03 to 04 hours.

After examination, she handed over MLR copy
 to the escorting constable. The Medico legal report is
 EX:PW-1/1 is in her hand writing and correctly bears her
 signature. She endorsed injury sheet of the injured prepared
 by the police which is EX:PW-1/2.

(ii) Statement of Hazrat Ali FC No.7141/FRP presently
 posted at Peshawar High Court Abbottabad Bench then
 posted at Police Station Saddar, Bannu recorded as PW-2. He
 deposed that he escort the injured alongwith injury sheet to
 the doctor. After medical examination, the doctor handed
 over to him MLC report alongwith injury sheet, thereafter,
 the same was handed over to Investigation Officer on the
 spot.

Additional Sessions Judge-V
 Special Court Bannu

~~ATTESTED~~

17 FEB 2022

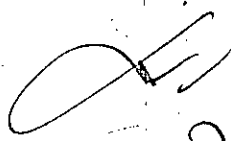
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 Lower Courts Centre

Case No.319/SC of 2019
 FIR No.505 dated 11-06-2019
 Under Section 324/452/449/337-L PPC Police Station Saddar, Bannu
 State versus Ihsan Ullah Shah

(iii) Statement of Amjad Khan FC No.7127 presently posted at Peshawar High Court Abbottabad Bench then posted at Police Station Saddar, Bannu recorded as PW-3. He handed over the dead body of deceased Mst. Halima Bibi alongwith inquest report to the medical officer for post mortem examination (PM). After conducting PM examination, he brought back the PM report alongwith relevant documents to Police Station and handed over to Investigation Officer.

(iv) Statement of Haji Ghaffar Ali Khan Police Station Bannu then posted as ASI at Police Station Saddar, Bannu recorded as PW-4. He incorporated the contents of murasila in shape of FIR which is EX:PA; thereafter, he handed over the copy of FIR to BBI Staff of Police Station for investigation.

(v) Statement of Amjad ASI Police Lines then posted at Police Station Saddar, Bannu recorded as PW-5. He deposed that complainant reported the matter to him on the spot, which he reduced in shape of murasila EX:PW-5/1, which was read over to her and after admitting its contents to be correct, she thumb impressed the same as token of its correctness. Her son also put his thumb impression on the said report. She charge the accused for the commission of offence. He prepared injury sheet already EX:PW-1/2 of the


 Additional Sessions Judge
 Special Court Bannu

ATTESTED

17 FEB 2022

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Case No.319/SC of 2019
 FIR No.505 dated 11-06-2019
 Under Section 324/452/449/337-L PPC Police Station Saddar, Bannu
 State versus Ihsan Ullah Shah

injured/complainant and escorted under the escort of Hazrat Ali No.7141 to the hospital for medical examination. He received information on the spot that accused Ihsanullah is present in fields near Chowk of village Sharif Shah. He alongwith nafri immediately went to the said place where accused Ihsan Ullah found. He was arrested vide his card of arrest. During his personal search, he found in possession of one pistol bearing #XE258Star1944 EX:P-1 alongwith fitted and spare magazine containing 10 rounds of .30 bore EX:P-2, one dagger EX:P-3, which were took into possession vide recovery memo EX:PW-5/2. The pistol was sealed in parcel No.1 while dagger was sealed in parcel No.2. He also sent murasila through constable Faisal Nawaz No.7224 to the Police Station for registration of case. On arrival of Investigation Officer to the spot, he handed over the accused, arrest card, recovery memo and recovered articles to him. The site plan was prepared by the Investigation Officer on his pointation. He was examined by the Investigation Officer under Section 161 Cr.PC.

(vi) Statement of Syed Raza son of Abdul Rauf resident of Kotka Sharif Shah, Bannu recorded as PW-6, who identified the dead body of deceased Mst. Halima Bibi before the police as well as before the doctor. He was examined by the Investigation Officer.

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State versus Ihsan Ullah Shah

16/02/2022

(vii) Statement of Samar Abbas S.I Police Lines D.I Khan then posted as SHO at Police Station Saddar, Bannu recorded as PW-7. He issued complete challan against the accused Ihsan Ullah on 14-06-2019, which correctly bears his signature.

(viii) Statement of lady Dr. Fahmida Medical Officer BHU Jani Khel then posted at Women & Children Hospital, Bannu recorded as PW-8, who conducted post mortem of deceased Mst. Halima Bibi on 13-06-2019 at 06:30pm and found the following injuries:-

Condition of Subject: - Thin, lean body wearing Kameez, Shalwar and Dopatta.

Wounds:-

- 1) Multiple bruises on face.
- 2) Multiple discoloration on both hands.
- 3) Wounded Vulva, vagina and perineal region which shows already stitched.

Rigor mortis developed.

CRANIUM AND SPINAL CORD: - Healthy.

THORAX: - Healthy.

ABDOMEN: - Bladder, organs of generation, external and internal injured, rest healthy.

MUSCLES BONES JOINTS: - Injured at the site of injuries.

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Additional District Judge-V
Special Court Bannu

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Lower Courts Bannu

Case No.319/SC of 2019
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REMARKS: - In her opinion, the deceased died due to injury to internal organs leading to massive hemorrhage, shock & death.

Time between injuries and death: - 02 days.

Between death and postmortem: - 02 to 03 hours.

After conducting autopsy, the postmortem report EX:PW-8/1 was handed over to the said constable. The PM report was prepared and signed by her. She had also endorsed inquest report of the deceased.

(ix) Statement of Syed Umar Ali son of Gul Daraz Shah resident of Kotka Sharif Shah Bazaar Ahmad Khan, Bannu recorded as PW-9. He deposed that on the day of occurrence, when reach near to his house, meanwhile, accused Ihsan Ullah Shah son of Mir Khuban Shah came out from his house, who was armed with pistol and dagger. When he entered his house, where he found co-villagers present there as well as his mother in injured condition and the clothes of her mother torned. Co-villagers informed the police. When the local police reached, they recorded the report of her injured mother, which was read over to her and he also thumb impressed the report of her mother as a rider. Her mother was shifted to hospital. The Investigation Officer conducted the investigation. He pointed out the site plan to

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the Investigation Officer and his statement was recorded under Section 161 Cr.PC.

(x) Statement of Syed Jamal Shah son of Muhammad Akhtar Ali Shah resident of Kotka Sharif Shah Bazaar

Ahmad Khan, Bannu recorded as PW-10. He stated that on the day of occurrence, he was present in his house. At 13:30 hours, when he heard the hue and cry from the house of his uncle/grandmother, he claimed over the wall and saw that

accused Ihsan Ullah while giving dagger blows to her grandmother. Accused Ihsan Ullah was armed with pistol and on seeing him, he run away from the house. His

statement was recorded by Investigation Officer.

(xi) Statement of Muhammad Usman Khan Sub-inspector/ Investigation Officer Police Station Saddar, Bannu recorded

as PW-11. He was Investigation Officer of the case. After receiving copy of FIR, he proceeded to the spot and prepared

site plan EX:PB at the instance of PW Syed Umar son of complainant. He took into possession blood stained earth

from the place of deceased then injured which was packed and sealed into parcel. He also took into possession one

Qameez EX:P-4, one Shalwar EX:P-5 (blood stained) in torn condition produced by PW Syed Umar son of complainant,

which was packed and sealed into parcel vide recovery memo EX:PW-11/I. He also recorded the statements of PWs

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under Section 161 Cr.PC. Thereafter, he went where accused Ihsan Ullah was arrested by ASI Amjid Khan. The said ASI produced before him Ihsan Ullah alongwith .30 bore pistol already EX:P-1 with fit magazine and spare magazine alongwith police belt and 10 live rounds of .30 bore already EX:P-2 and one dagger already EX:P-3 which was recovered and taken into possession from the possession of accused Ihsanullah. The above pistol alongwith fit and empty magazine was already packed and sealed in parcel and similarly the dagger was also in sealed condition. The said ASI also produced him card of arrest, recovery memo and the above articles. The accused was taken by Amjad Khan ASI to the Police Station while he proceeded to the hospital where he recorded the statement of deceased then injured under Section 161 Cr.PC. On the following day, accused was produced before the court vide application EX:PW-11/2 but the accused was sent to judicial lockup. He also examined the accused under Section- 161 Cr.PC. On 13-06-2019, the deceased then injured died and he recorded the statements of identifiers of dead body. He also issued *Parwana* EX:PW-11/3 in respect of addition of Section 302 PPC. The recovered articles were sent to FSL and received report in respect of blood stained Qameez and Shalwar EX:PW-11/4. He also placed on file report of FSL in respect of recovered

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pistol which is EX:PW-11/5, report of dagger which is EX:PW-11/6 which was recovered from the accused. On completion of investigation, he handed over the case file to SHO for completion of complete challan.

6. After closure of prosecution evidence, statement of accused was recorded under section 342-Cr.P.C wherein, he denied the prosecution allegations and claimed innocence. Accused facing trial opted not to be examined on oath and did not wish to produce any defence evidence.

7. Learned SPP for the state assisted by learned counsel for complainant argued that accused has been directly charged in the FIR. He has been arrested on the spot, from whose possession, the pistol and dagger have been recovered. The FSL report of dagger is positive, which supports the prosecution version. The pistol was the ownership of brother of accused, which further corroborate the stance of complainant. The occurrence has been eye witnessed. All the evidence of prosecution is in the line of first information report. No contradiction has been brought during cross examination. The offence is heinous in nature, therefore, capital punishment was requested.

8. On the other hand, learned counsel for accused argued that actually report was not made in the house of complainant rather she was brought to the hospital, where she has made the report. The occurrence was unseen. The eye witness has been added later on

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son of Gul Daraz Shah, vide which, he has verified the report of her thumb impressed by the complainant but also her son Syed Umar the commission of offence. The report EX:PW-5/1 has not only report of complainant, wherein she charged unknown accused for First of all, I would like to refer the first information

Additional Special Court Bannu
JUDGE
Signature

spot neighbors. On seeing the neighbors, accused decamped from the injuries. She made hue and cry to save her life, which attracted her which, he made continues dagger blows, from which, she received followed her and tried to outrage her modesty but she resisted, upon fear, she entered the residential room. The unknown accused also came entered her house weaponed with dagger and pistol. Due to was present alone in the house, meanwhile, one unknown person reported the matter to the local police in injured condition that she

10. Complainant Mst. Halima Bibi, vide EX:PW-5/1, perused. 9. With this background, arguments were heard and record prosecution, for which, the accused is entitled to be acquitted.

occurrence time and report. So many doubts exist in the case of remained blank. There is also time difference between the of doctor EX:PW-1/2 is doubtful, wherein, important columns contradiction between the statements of eye witnesses. The report not taken place at the mode and manner as per FIR. There is just to strengthen the version of prosecution. The occurrence wa

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mother. Having so, how it could be presumed that complainant alongwith her son Syed Umar charge the unknown accused whereas, as per statement of the Investigation Officer, recorded as PW-11, the accused and complainant party are residing at close distance of different villages from each other, therefore, they were known to each other. This vacuum remained unsolved in the entire evidence of prosecution. When the accused was known to the complainant party then why he has not been directly charge. Secondly, the local police reported that they received information during patrolling about the occurrence. They rushed there and recorded the report of complainant, which was verified by her son. During report, they came to know that accused is present in the open fields at Sharif Shah Chowk. The local police rushed there and found the accused with alleged pistol and dagger, who was arrested on the spot. There is no evidence that who inform the local police about the presence of accused, wherefrom, he was arrested. If the plea of prosecution would be consider then there is no evidence that how that person, who inform the local police, came to know that accused facing trial has committed the offence and present in the fields at Sharif Shah Chowk. It creates serious doubt in the case of prosecution and could not be ignored.

12. Coming towards the ocular evidence of the prosecution. The prosecution has shown Syed Umar Ali Shah son of Gul Daraz Shah and Syed Jamal Shah son of Muhammad Akhtar Ali Shah as

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eye witnesses of the occurrence, whose statement has been recorded as PW-9 and PW-10 respectively. PW-9 deposed that co-villagers informed the police, who recorded the statement of his injured mother which was read over to her and after admitting it correct, she thumb impressed the report. He also impressed the report of his mother as a rider. This fact too, creates doubt because it is on record that the complainant party were knowing the accused. If PW-9 was the eye witness of the occurrence then why accused has not been directly charge by name. PW-9 has further deposed that on the day of occurrence, when he reached near to his house from his fields, meanwhile, accused Ihsan Ullah Shah came out from his house armed with pistol and dagger. It means that accused was not unknown to the PW-9 then his thumb impression as rider to the report of his mother creates so many doubts, wherein, she charge unknown accused for the commission of offence. During cross examination, PW-9 admitted it correct that he has not seen the situation inside the house. Meaning thereby, PW-9 was not the eye witness. If his presence would be presumed on the spot then his evidence was not other than seen the accused outside the house. He also admitted that when he entered to the house after the occurrence, no one was present except his injured mother and his nephew Syed Jamal Shah and he cannot tell that who had informed the police amongst the co-villagers. This piece of evidence negates the report of complainant, wherein she stated that upon her hue and

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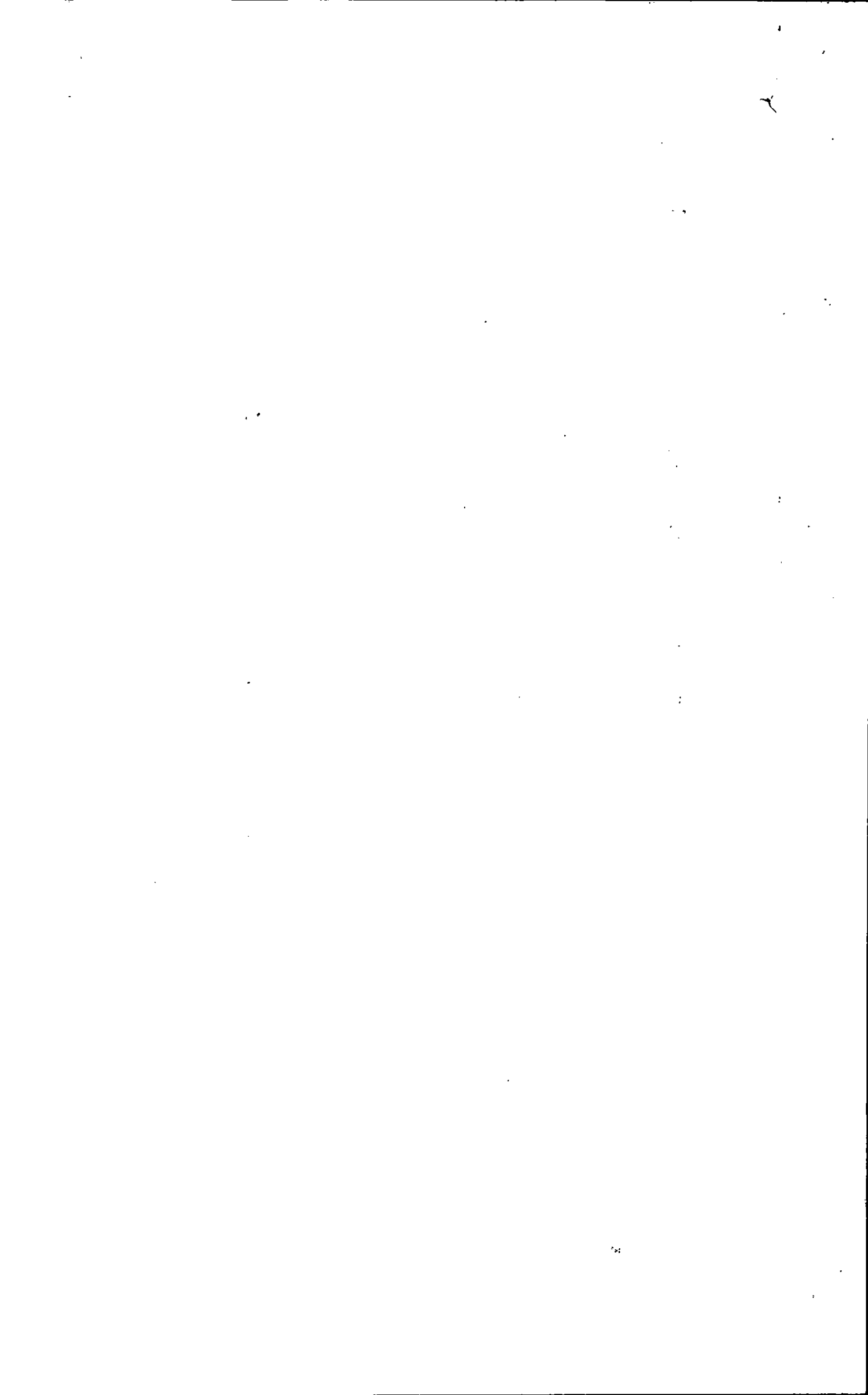
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119/2019 A.P.P. Police Station Sadar, Bannu
Main witness Ihsan Ullah Shah

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cry, the neighbors attracted towards the occurrence. Further, PW-9 admitted that he shifted her with the help of co-villagers after the occurrence to the hospital and where she was admitted as an indoor patient while he remained in the house and thereafter, the local police came to his house to whom he narrated about the occurrence. It means that complainant has not reported the matter in her house rather, she reported the matter to the local police in hospital. The mode and manner of report, thus, doubtful. From the statement of PW-9 it could easily be derived that as soon he came his house, he alongwith co-villagers shifted the complainant to hospital in bed/cot, where-after, the local police arrived and he reported the matter. If he reported the matter then the report of complainant became doubtful, whereas it is evident that she died after 03 days of the occurrence and she was conscious and during that time, neither, she charged the accused by name nor identification parade was conducted.

13. Though, Syed Jamal Shah son of Akhtar Ali Shah, recorded as PW-10 deposed that due to hue and cry, he attracted towards the occurrence and saw that accused was giving dagger blows to her grandmother. This fact has not been incorporated in the first information report. Therefore, it could be termed as improvements. Again, when accused was known to the complainant party then how and why they charge the unknown accused, whereas, PW-10 was allegedly present on the spot being the eye

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witness. Further, PW-10 admitted that PW Umar Ali Shah also accompanied them to the hospital with injured. In hospital, PW Umar Ali Shah reported the matter to the local police and also the injured was examined by the doctor. This statement of PW-10 creates contradictions with the statement of PW-9, who was allegedly the eye witness of the occurrence, wherein he admitted that he remained in his house, where-after, the local police came there to whom he narrated about the occurrence. It could not be termed as minor contradictions because PW-9 and PW-10, as per prosecution story were the eye witness of the occurrence and it does not appeal to prudent mind that they were unaware about their report as well as their presence with complainant. Material contradiction has been brought in the statement of PW-9 and PW-10, which creates serious doubt in the case of prosecution.

14. So far as the circumstantial evidence is concerned, statement of PW-5 is necessary to be referred. He deposed that he reduced the report of complainant into murasila EX:PW-5/1 which was read over to her and after admitting its contents to be correct, she thumb impressed the same as token of its correctness. Her son also put his thumb impression on the said report. She charged the accused for the commission of offence. The EX:PW-5/1 does not show that complainant has charge the accused by name. Rather, the police party came to know that accused was present in the fields at Sharif Shah Chowk. Who inform the local police, neither established

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nor his name brought into the surface of record. It does not appeal to prudent mind that after the occurrence accused was sitting in the fields alongwith the weapons at Sharif Shah Chowk, who never resisted his arrest nor tried to escape. At one hand, it disconnect the chain of evidence, at the other, it creates serious doubt about the truthfulness of ocular evidence. PW-5 further stated that he received information on the spot that accused Ihsan Ullah present in the fields. The name of informer is mystery and likewise, how informer came to know that accused has committed the offence, which has been discussed earlier, creates a dent in the case of prosecution. PW-5; during cross examination admitted that when he reached to the crime house, only son of complainant was present inside the house and some private persons were also present outside the house. The person present outside the house informed him that accused is present in the fields. The statement of such person has not been recorded, which was the best evidence. The statement of informer is also missing. The best evidence has not been availed so as to connect the chain of evidence of the prosecution starting from the crime scene till the neck of accused. So many doubts and disconnection of evidence alongwith material contradiction have been found in the case of prosecution. PW-5 has further admitted that the accused was dagger his hand at the time of arrest while the pistol was recovered from his trouser-fold. This evidence also negates the story of prosecution, recorded vide EX:PW-5/1,

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wherein it has been alleged that the pistol alongwith dagger was recovered from his trouser-fold.

15. The FSL report EX:PW-11/6, no doubt shows that human blood was detected on dagger in parcel No.2 and not sufficient for grouping but such report was not sufficient to connect the chain of evidence of the prosecution because from the report it could be derived that it was infact the blood of complainant.

16. From the statement of Investigation Officer recorded as PW-11, it is evident that he summoned the PW Syed Umar from the hospital and they reached to the spot. This piece of evidence, at one hand, not only negated the statement of PW-9 but also creates doubt about the mode and manner of the alleged report. PW-11 admitted that he has not recorded the statements of any co-villagers regarding the occurrence. It was necessary for the prosecution story to record such statement but they failed. The alleged recovery of pistol has not been verified regarding its ownership. This fact has also been admitted by PW-11 during his cross examination. This fact also creates doubt in respect of recovery of pistol.

17. It is necessary to mention here that inadvertently charge under Section 15 AA has been framed but being a special law separate challan has also been submitted under Section 15 AA, wherein, separate proceedings have been conducted, as a result whereof, section 15 AA stands deleted.

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18. To sum-up the above discussion, so many doubt material contradictions and disconnect prosecution evidence have been found which creates so many doubts. For conviction, a connected evidence beyond shadow of doubt always required, which is missing in the present case. Likewise, so many loopholes also found in the case of prosecution, the benefit of which could not be restricted from the accused facing trial.

19. In light of above, accused facing trial is acquitted from the charges leveled against him, in the circumstances while extending the benefit of doubts. Accused is in custody, he be released forthwith if not required in another case. Case property be disposed of in accordance with law after expiry period of appeal /revision. Zamima "Bay" stands cancelled. Consign.

20. Pronounced in open Court at Bannu and given under my hand and the seal of the Court on this 16th day of February, 2022.

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(Assad Ullah)
Additional Sessions Judge-V,
Bannu

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CERTIFICATE

Certified that this judgment is comprised of nineteen (19) pages, each is signed be me after making necessary corrections.

- 1- Registration No: 1306
- 2- Date of Presentation of Application: 17-2-22
- 3- Date of Receipt of the file: 17-2-22
- 4- Date of Preparation of copy: 17-2-22
- 5- Date of Delivery of copy: 17-2-22
- 6- No. of copies / words: 17-2-22
- 7- Ordinary Fee: 13/-
- 8- Urgent Fee:
- 9- Total Fee:
- 10- Signature of Copyist:

(Assad Ullah)
Additional Sessions Judge-V,
Bannu
16/2/2022

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FIR No. 505 dated 11-06-2019
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CERTIFICATE

Certified that Mr. Ihsan Ullah Shah S/o Mir Khooban Shah resident of Shehbaz Shah Shehan, Bannu was admitted to this jail on 12.06.2019, involved in case FIR No. 505 dated 11.06.2019 u/s 302/354/452/337-L/15 AA of Police Station Saddar Bannu by the order of Civil Judge-X/MOD, Bannu. And was released as acquitted from this jail today on 16.02.2022 by the order of Additional Sessions Judge-V Bannu.

This certificate is issued to him on his own request.

 16/2

**SUPERINTENDENT
CENTRAL PRISON BANNU**



**Superintendent
Central Prison Bannu**

ATTESTED

بخدمت جناب ڈپٹی انسپکٹر جنرل آف پولیس بنوں ریجن

عنوان: رحم درخواست بر خلاف OB No.744 مورخہ: 18.07.2019 جس کی رو سے من
سائل کو سروس سے ڈسمس کیا گیا ہے۔

جناب عالی!

معروض ہوں کہ من سائل مورخہ: سال 2007 کو محکمہ پولیس میں بطور کنسٹیبل بھرتی ہوا تھا اپنی ڈیوٹی انتہائی دیا امتداری اور جانفشانی سے سرانجام دے رہا تھا۔ جوڈیشل کمپلیکس بنوں میں تعیناتی کے دوران من سائل کے خلاف نامعلوم مقدمہ علت 505 مورخہ 11.06.2019 زیر دفعہ 302/354/452/337I/15AA تھانہ صدر درج رجسٹر کی گئی۔ اسی نامعلوم مقدمے میں امجد خان Asi نے گرفتار کر کے بند بھجوات تھانہ کیا جو بعدہ 12-06-2021 کو سول صدر کچھری بنوں میں چالان عدالت کر کے جو سول جج صاحب نمبر 10MOD نے سنٹرل جیل بنوں بھجوایا گیا۔ اسی دوران ایس پی انوسٹیگیشن بنوں کے لیٹر نمبر 2479 مورخہ: 13-06-2019، نامعلوم مقدمے میں ملوث ہونے پر DPO صاحب نے چارج شیٹ کیا۔ اور مراد علی خان DSP کینٹ کو انکوآری آفیسر مقرر کیا۔ جیل میں موجود ہونے پر من سائل کو چارج شیٹ اور سٹیٹمیٹ آف الیکیشن کی کاپی وغیرہ ارسال نہیں کی گئی تھی اور نہ ہی مجھ پر تقسیم کی گئی تھی۔ من سائل کے خلاف جملہ حکمانہ کاروائی یکطرفہ طور پر شروع کی گئی۔ من سائل کے خلاف کوئی ٹوس شہادت انکوآری فائل پر نہ لائی گئی ہے۔ صرف مفروضوں کی بنیاد پر یکطرفہ انکوآری رپورٹ انکوآری آفیسر نے تیار کی ہے۔ اور مجھے قصور وار گردانہ ہے۔

من سائل پر کوئی فائل شوکاژ نوٹس وغیرہ بھی تقسیم نہیں کی گئی ہے اور نہ ہی انکوآری فائل پر موجود ہے۔ اسی طرح مجھے ذاتی طور پر پیش ہونے اور جرح کر کے کاموقع نہیں دیا گیا ہے۔ یکطرفہ انکوآری رپورٹ پر سائل کو محکمہ سے ڈسمس کیا گیا ہے۔

من سائل کے خلاف مقدمہ کی باقاعدہ ٹرائل بعدالت ایڈیشنل سیشن جج 5 بنوں کی گئی جو دوران سماعت من سائل کے خلاف کوئی ٹوس شہادت موجود نہ پائی گئی جو من سائل کے خلاف جرم کو ثابت کرنے کے لئے کافی تھا۔ بدیں وجہ عدالت نے مورخہ 16-02-2022 من سائل کو مقدمہ میں بری کیا ہے۔ فیصلہ ہائے عدالت لف ہذا ہیں۔

علیجاہ من سائل نے محکمہ پولیس میں قریباً 12/13 سال سروس سرانجام دی ہے۔ کبھی آفران بالا کو شکایت کاموقع نہیں دیا ہے۔ عیال دار ہوں کوئی دیگر ذریعہ معاش نہیں ہے۔ جس سے بال بچوں کی کفالت کرسکوں۔

لہذا استدعا ہے کہ سائل کو جملہ مراعات کے ساتھ سروس پر بحال کرنے کا حکم صادر فرمایا جاوے۔

عین نوازش ہوگی

مورخہ: 28-02-2022

العارض

ایس کنسٹیبل احسان اللہ شاہ نمبر 820 سکند شہباز شاہ شیخان ضلع بنوں

احسان اللہ شاہ تعلیم خود

11/11/2022

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E-28

ORDER:

This order will dispose of departmental appeal, preferred by Ex:Constable Ihsan Ullah Shah No.820 of District Police Bannu, wherein he has prayed for setting aside the order of major punishment of "dismissal from service", imposed upon him by DPO Bannu vide OB No.744 dated 18.07.2019 on the following allegations:-

- That the appellant was charged / arrested in a criminal case vide FIR No.505 dated 11.6.2019 u/s 324/354/452/337L/15AA PS Saddar Bannu. Later on, the complainant Halim Bibi succumbed to her injuries in hospital and Sesion 302 PPC has been added in the FIR. The E.O conducted inquiry into the allegations and submitted his findings, wherein the E.O concluded that the accused constable Ihsan Ullah was drunk on the day of occurrence. He forcible entered in the house of complainant Halima Bib with intention of rape but due to her resistance shw was stabbed with dagger.
- Proper charge sheet and statement of allegation were issued to the appellant on the above allegation through Superintendent of Central Jail Bannu but the accused constable has not submitted his reply to the charge sheet. Furthermore, as per statement of Investigation Officer, the appellant has been found guilty in the said in the said criminal case. He is also absent from duty w.e.f 29.5.2019. The competent authority (DPO-Bannu) awarded the appellant major punishment of "dismissal from service" vide OB No.744 dated 18.07.2019.

Comments from DPO Bannu vide his letter No.1642/SRC, dated 17/03/2022 were received and perused. The appellant was also heard in person in orderly room held on 12.05.2022. His plea about absence was found unconvincing.

Therefore, I, Syed Ashfaq Anwar, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorsed the order of DPO Bannu issued vide OB No.744 dated 18.07.2019.

ORDER ANNOUNCED

OB No. 160
Dated: 18/05/2022.

Regional Police Officer,
Bannu Region,
Bannu

No. 2051 /EC, dated Bannu the 18/05/2022
Cc:

- > DPO-Bannu for information and necessary action w/r to his office letter No. referred to above along with complete Character and Service Roll of Constable Ex:Constable Ihsan Ullah Shah No.820 for record in your office which may be acknowledged, please.

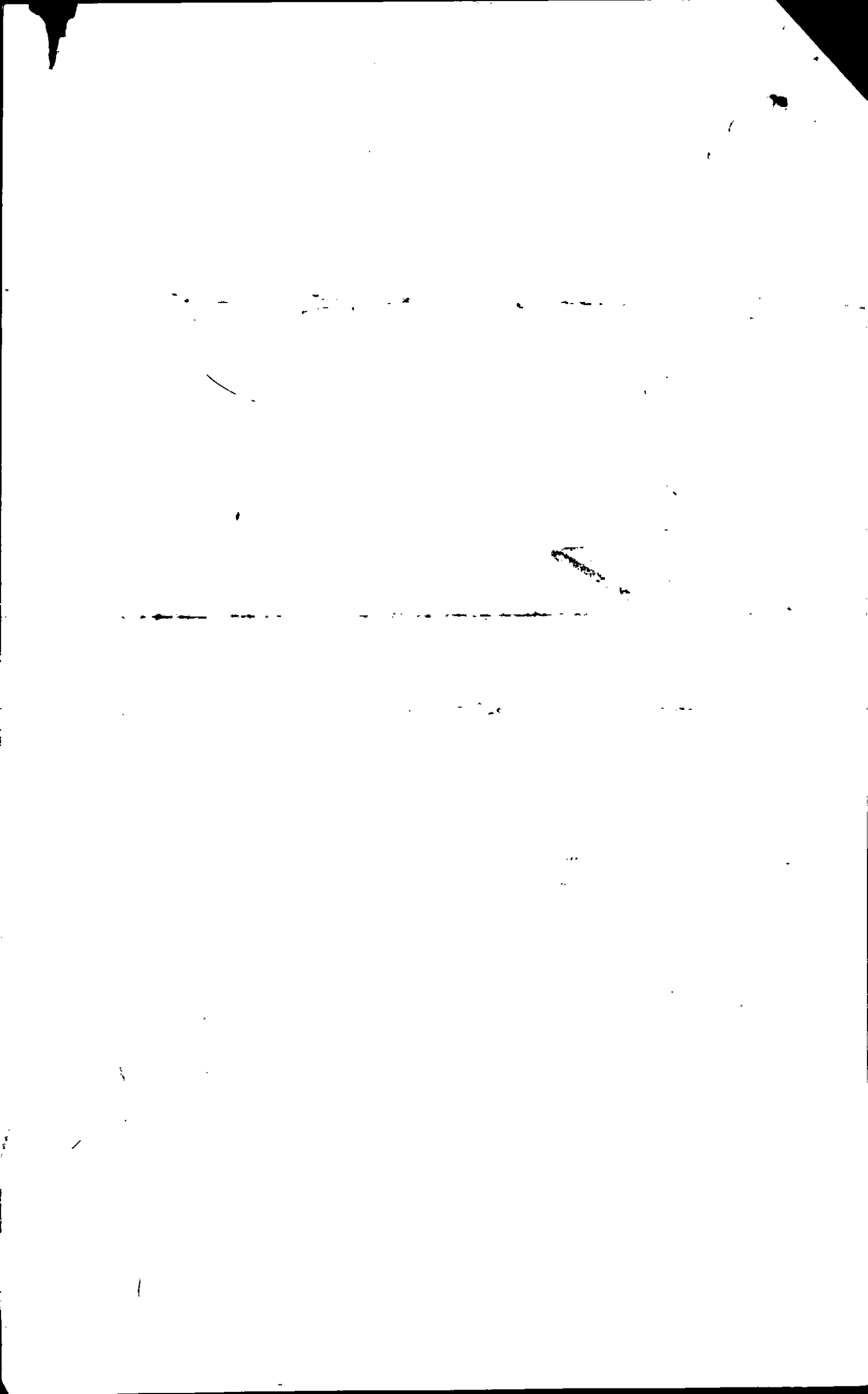
~~ATTACHED~~

Office Copy

MA

OK
1/10/2022
Appeal signed by 27/04/2022
1/9/2022

DPO Bannu



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SCANNED
KPST
Peshawar

Khyber Pakhtunkhwa
Service Tribunal

Case No. 2392

Dated 11/1/22

BEFORE THE HONOURABLE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.

APPEAL NO.829/2022

Ihsan Ullah

(Petitioner)

VERSUS

Regional Police Officer Bannu etc.

(Respondents)

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| 2 | Authority Letter | | 3 |
| 3 | Affidavit | | 4 |


DEPONENT

BEFORE THE HONOURABLE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.APPEAL NO.829/2022

Ihsan Ullah

(Petitioner)

VERSUS

Regional Police Officer Bannu etc.

(Respondents)

PARA WISE REPLY/COMMENTS OF RESPONDENTS NO. 1,2&3 and 4Respectfully Sheweth

The respondent respectfully submits as under:-

PRELIMINARY OBJECTIONS.

1. That the Appellant has got no cause of action.
2. That the Appeal is not maintainable under the law.
3. That the Appeal is barred by jurisdiction.
4. That the Appellant has not been discriminated in any way.
5. That the Appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the Appellant has approached the Honorable Tribunal with unclean hands.
7. That the Appellant has got no cause of action and locus-standi to file the instant petition.
8. That the Appellant have been estopped by his own conduct.

ON FACTS

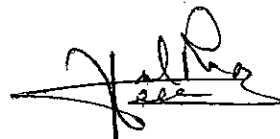
- 1) Pertains to record. Hence, needs no comments.
- 2) Incorrect the appellant was charged in a case vide FIR No. 505 11-06-2019 u/s 324/354/352/337L/15AA Ps Saddar. As per the Enquiry Officer after proceedings it was reported that the Appellant was drunk on the day of occurrence. He forcibly entered in the House of the complainant Halima Bibi with the intention of rape but due to her resistance she was stabbed with dagger by the Appellant and was badly injured. To this effect a case No. 505 mentioned above was registered. Later on the complainant Halima Bibi succumbed to her injuries in Hospital and died. Thus section 302 was inserted.
- 3) Incorrect charge sheet and statement of allegations have been served upon the Appellant through Superintendent of Central Jail Bannu vide No. 254/CQ/26-09-2019, but he did not submit reply of the charge sheet.
- 4) Incorrect, the Appeal of the Appellant was rejected by RPO Bannu being devoid of merit as there was no plausible ground to interfere in the order of DPO Bannu.
 - A. Incorrect, the impugned orders D/-19-07-2019 & 18-05-2022 are according to law/rules/Policy.
 - B. Incorrect proper charge sheet/summary of allegation was issued to the Appellant and served upon him through Superintendent Jail No. 254/C D/26-09-2019.
 - C. Incorrect according to ESTA Code criminal Trial and departmental inquiry are separate things and the department can proceed without waiting for outcome of the Judgment of trial Court.
 - D. Incorrect the punishment was awarded after proper proceedings and establishment of charges against the accused without any shadow of doubt.
 - E. Incorrect, the charges leveled against the Appellant were proved in investigation as well as in enquiry proceedings.

- F. Incorrect enquiry procedure was conducted according to Police Rules, 1975 amended 2014, charge sheet and show cause notice was served upon the Appellant.
- G. Correct to the extent that Appellant was suspended but Dismissal from Service was not against the law and rules.
- H. The Appellant was not condemned unheard and has been treated according to law and rules.
- I. Incorrect the Appellant was proceeded according to proper law i-e Police Rules, 1975. The impugned order was issued purely on established facts.
- J. Incorrect the charges against the Appellant were established beyond any shadow of doubt, therefore the impugned order was issued.
- K. Incorrect the Appellant was properly associated with the enquiry proceedings, which was conducted within the Parameter of laws.


The respondent department may kindly be allowed to raise additional grounds at the time of arguments.

PRAYER:

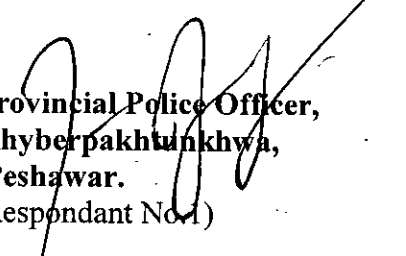
In view of the above replies, it is most humbly prayed that the Appeal of the Appellant may kindly be dismissed with cost, please.



**District Police Officer,
Bannu
(Respondent No.4)**



**Regional Police Officer,
Bannu Region Bannu
(Respondent No.2&3)**



**Provincial Police Officer,
Khyberpakhtunkhwa,
Peshawar.
(Respondant No.1)**

BEFORE THE HONOURABLE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.**APPEAL NO.829/2022****Ihsan Ullah****(Petitioner)****VERSUS****Regional Police Officer Bannu etc.****(Respondents)****AUTHORITY LETTER.**

Mr. Muhammad Farooq Khan DSP Legal Bannu is hereby authorized to appear before the Service Tribunal Peshawar on behalf of the undersigned in the above cited Service Appeal.

He is authorized to submit and sign all documents pertaining to the present Appeal.

**District Police Officer,
Bannu
(Respondent No.4)**

**Regional Police Officer,
Bannu Region Bannu
(Respondent No.2&3)**

**Provincial Police Officer,
Khyberpakhtunkhwa,
Peshawar.
(Respondant No.1)**

BEFORE THE HONOURABLE TRIBUNAL KHYBERPAKHTUNKHWA PESHAWAR.

APPEAL NO.829/2022

Ihsan Ullah

(Petitioner)

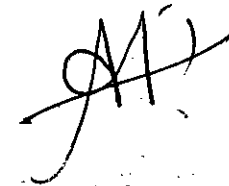
VERSUS

Regional Police Officer Bannu etc.

(Respondents)

AFFIDAVIT.

I, Mr. Muhammad Farooq Khan DSP Legal Bannu representative for Respondents Nos.1 to 4, do hereby solemnly affirm and declare that the contents of the accompanying comments submitted by me are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.



DEPONENT

BEFORE KPK SERVICE TRIBUNAL PESHAWAR**SCANNED
KPST
Peshawar**

S.A. No. 829 / 2022

25/10/23

Ihsan Ullah Shah

versus

Police Department

Khyber Pakhtunkhwa
Service Tribunal**LIST OF LEGAL HEIRS OF LATE IHSAN ULLAH SHAH:**

Diary No. 8593

Dated 25-10-23

Respectfully Sheweth:

1. That the subject appeal is fixed for hearing today i.e. 25-10-2023.
2. That during the pendency of appeal, appellant died on 05-06-2022 at his natural death and left the legal heirs as under:-

- | | |
|------------------------|------------------|
| i. Sonila | Widow |
| ii. Laiba | Daughter (Minor) |
| iii. Hooreen | Daughter (Minor) |
| iv. Kaleem Ullah Shah | Son (Minor) |
| v. Muhamad Muheez Shah | Son (Minor) |

All minors through Sonila mother of the minors / children's.
(Copies attached)

It is, therefore, most humbly requested that legal heirs of the appellant be placed on file.

Appellant

Through


Legal Heirs


Uzma Sayeed
Advocate

Dated 25-10-2023



اندراج وفات سرٹیفکیٹ

Death Registration Certificate

Kala Khel Masti Khan : دفتر اندراج

Tracking Id: 91100013220085

CRMS No: D179024552

OLD/M REG #:

Deceased Person's Details

متوفی کے کوائف

Old CRMS No:

| | | | |
|----------------------------|----------------------------|---------------------------|---------------------|
| Name : | Ihsan Ullah Shah | نام : | احسان اللہ شاہ |
| Nationality : | Pakistani | قومیت : | پاکستانی |
| CNIC No : | 11101-7726100-7 | شناختی کارڈ : | 11101-7726100-7 |
| Date of Birth : | 15-Jan-1988 | تاریخ پیدائش : | 15-Jan-1988 |
| Gender : | Male | جنس : | مرد |
| Religion : | Islam | مذہب : | اسلام |
| Sickness Period : | 00 Days 00 Months 00 Years | مدت علالت : | 00 دن 00 ماہ 00 سال |
| Date of Death : | 05-Jun-2022 | تاریخ وفات : | 05-Jun-2022 |
| Date of Burial/Last rite : | 05-Jun-2022 | تاریخ تدفین/آخری رسومات : | 05-Jun-2022 |
| Place of Death : | home | جگہ وفات : | گھر |
| Reason of Death : | Natural | وجہ وفات : | قدرتی |
| Nature of Death : | Normal | کیفیت وفات : | عام |
| Buried/Last rite at : | Gul Ahmad Shah | جگہ تدفین/آخری رسومات : | گل احمد شاہ |

Parental Information

والدین کے کوائف

| | | | |
|-----------------|-----------------|----------------|---------------|
| Father's Name : | Mir Khuban Shah | والد کا نام : | میر خوبان شاہ |
| CNIC No : | | شناختی کارڈ : | |
| Mother's Name : | Baswari Jana | والدہ کا نام : | بصواری جانہ |
| CNIC No : | | شناختی کارڈ : | |

Address

پتہ

| | | | |
|------------|--|---------|---|
| Address : | Kotka Langar Shah Village Sadat Hassani Post Office Bazar Ahmed Khan | پتہ : | کوٹکہ لانگر شاہ گاؤں سادات حسینی ڈاکخانہ بازار احمد خان |
| Tehsil : | Bannu | تحصیل : | بنوں |
| District : | Bannu | ضلع : | بنوں |

Applicant's Details

درخواست کنندہ کے کوائف

| | | | |
|--------------------------|-----------------|-----------------|-----------------|
| Name : | Sonila | نام : | سونیلہ |
| CNIC No : | 11101-9268881-0 | شناختی کارڈ : | 11101-9268881-0 |
| Relation with Deceased : | Husband | متوفی سے رشتہ : | خاوند |

Information of Burial/Last rite by

تدفین/آخری رسومات کنندہ کے کوائف

| | | | |
|--------------------------|-----------------|-----------------|-----------------|
| Name : | Zain Ullah Shah | نام : | زین اللہ شاہ |
| CNIC No : | 11101-1510080-7 | شناختی کارڈ : | 11101-1510080-7 |
| Relation with Deceased : | Brother | متوفی سے رشتہ : | بھائی |

| | | | |
|--------------------------|-------------|-----------------|-------------|
| Entry Date : | 03-Jan-2023 | تاریخ اندراج : | 03-Jan-2023 |
| Issue Date : | 03-Jan-2023 | تاریخ اجراء : | 03-Jan-2023 |
| Entry Status : | Normal | اندراج اسٹیٹس : | نارمل |
| Additional Information : | | اضافی معلومات : | |

نسخہ میکر بنوں

ولیع کونسل کالا خیل مستی خان



تحصیل و ضلع بنوں

SECRETARY
VIC RASHEENI
BANNU

حکومت پاکستان
نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ *

88621

CRC No: 29796126

11101-9268881-0

درخواست دہندہ کا شناختی کارڈ نمبر:

سونیلہ

درخواست دہندہ کا نام:

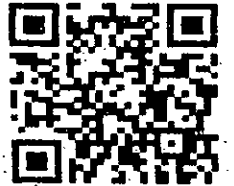
| نمبر شاہ | بچے کا نام اور رجسٹریشن نمبر | والد کا نام اور شناختی کارڈ نمبر | والدہ کا نام اور شناختی کارڈ نمبر | جنس / رشتہ | پیدائش کا شعلہ یا ملکہ تاریخ پیدائش | مکمل دوری |
|----------|---|-----------------------------------|-----------------------------------|--------------|--|-----------|
| 1 | لاہور بچے کا نام اور رجسٹریشن نمبر 11101-0408933-6 | احسان اللہ شاہ 11101-7726100-7 | سونیلہ 11101-9268881-0 | لڑکی بیٹی | بنوں، بنوں 2014-03-08 | کوئی نہیں |
| 2 | حرمین بچے کا نام اور رجسٹریشن نمبر 11101-0503838-6 | احسان اللہ شاہ 11101-7726100-7 | سونیلہ 11101-9268881-0 | لڑکی بیٹی | بنوں، بنوں 2015-03-20 | کوئی نہیں |
| 3 | تکلیم اللہ شاہ بچے کا نام اور رجسٹریشن نمبر 11101-8006186-3 | احسان اللہ شاہ 11101-7726100-7 | سونیلہ 11101-9268881-0 | لڑکا بیٹا | بنوں، بنوں 2017-03-15 | کوئی نہیں |
| 4 | محمد معین شاہ بچے کا نام اور رجسٹریشن نمبر 11101-6216985-5 | احسان اللہ شاہ 11101-7726100-7 | سونیلہ 11101-9268881-0 | لڑکا بیٹا | بنوں، بنوں 2020-05-20 | کوئی نہیں |

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 4 بچوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو سنبھال کر کھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر اسی نمبروں کے حوالے سے شناختی کارڈ جاری کئے جائیں گے۔
- 4- نوذائیدہ بچے کا فوری طور پر اندراج کروائیں اور نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔
- 5- کوائف کی تبدیلی کی صورت میں نیار رجسٹریشن سرٹیفکیٹ حاصل کریں۔

محمد طارق ملک

دستخط رجسٹرار جنرل

تاریخ اجراء: 2023-01-23

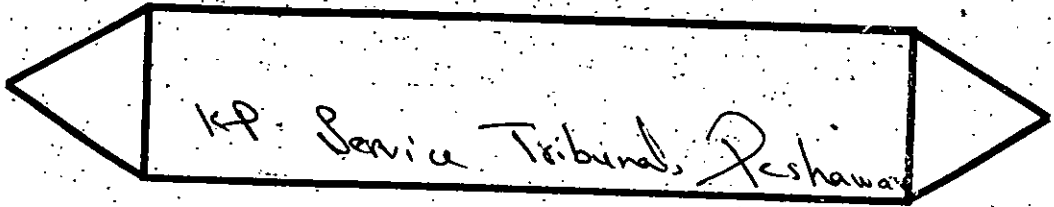


کوئٹہ لنگر شاہ، ڈاک خانہ شاہ جہان شاہ شیخان، محل احمد شاہ، تحصیل و ضلع بنوں



1110192688810

یہ سرٹیفکیٹ درج بالا بچوں کی شناخت اور مندرجہ بالا کوائف و معلومات ثابت کرنے کیلئے تیار ہونے والے (6) پارہ آرڈی نیس مجریہ 2000ء بطور ثبوت قابل قبول ہے۔



2023ء منجانب

ادمان اللہ شاہینام

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

دعما ناہی

عظمیٰ سندھ اید ملک

کیلئے

Peshawar

آن مقام

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوگی اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے تب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2023ء

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ماہ

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المرقوم

ادمان اللہ شاہینام

ادمان اللہ شاہینام