

ORDER  
13.10.2023

Appellant alongwith his counsel present. Mr. Zahoor Ahmed, Sub-Inspector (Legal) alongwith Mr. Asad Ali Khan, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed consolidated judgment of today, placed on file of Service Appeal bearing No. 535/2023 tiled "*Misal Khan Versus Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 02 others*", the appeal in hand is allowed and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
13.10.2023

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



(Fareeha Paul)  
Member (Executive)

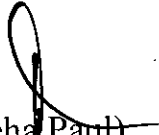


(Salah-Ud-Din)  
Member (Judicial)

11.10.2023

Appellant alongwith his counsel present. Mr. Zahoor Khan, S.I (Legal) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Representative of the respondents stated that except record annexed with reply/comments of the respondents no other record is available in the office of the respondents. Arguments heard. To come up for consideration and order on 13.10.2023 before the D.B. Parcha Peshi given to the parties.



(Fareeha Paul)  
Member (E)



(Salah-ud-Din)  
Member (J)

*\*Nacem Amin\**


SCANNED  
KPST  
Peshawar


05.09.2023

Clerk of learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station. Adjourned. To come up for arguments on 16.11.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

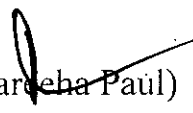
\*Naeem Amin\*


20.09.2023

Learned counsel for the appellant present. Mr. Muhammad Raziq, Head Constable alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Arguments were heard at certain length, however complete inquiry record has neither been submitted by the appellant nor by the respondents. The availability of the complete inquiry record before the Tribunal is necessary for just and right decision of the appeal in hand, therefore, representative of the respondents shall positively produce the same and to come up for arguments on 11.10.2023 before the D.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

  
(Fareeha Paul)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

\*Naeem Amin\*

25.07.2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Tehseenullah, Reader for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Another opportunity is granted. To come to for reply/comments on 17.08.2023 before S.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

17.08.2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand learned Additional Advocate General alongwith Zarshad, S.I for the respondents present.

2. Written reply on behalf official submitted which is placed on file. A copy of the same is handed over to learned counsel for the appellant. To come up for arguments on 05.09.2023 before D.B. P.P given to parties.

(Rashida Bano)  
Member (J)

\*KaleemUllah


SA 545/23

08<sup>th</sup> June, 2023

01. Clerk of learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

02. Reply/comments on behalf of the respondents have not been submitted. Learned AAG requested for time to contact the respondents. Granted. To come up for reply/comments on 05.07.2023 before the S.B. Parcha Peshi given to the parties.

SCANNED  
KPST  
Peshawar

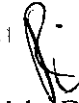
  
(FAREEHA PAUL)  
Member (E)

*\*Fazle Subhan, P.S\**

5<sup>th</sup> July, 2023

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

2. Written reply not submitted. Learned Deputy District Attorney seeks further time for submission of written reply. Last chance is given. To come up for written reply/comments on 25.07.2023 before S.B. P.P given to the parties.

  
(Rashida Bano)  
Member(J)


\*Kaleem Ullah

SCANNED  
KPST  
Peshawar

15.03.2023

Learned counsel for the appellant present and heard.


Learned counsel for the appellant at the very outset, submitted that similar nature service appeal No. 535/2023 titled "Misal Khan Versus Provincial Police Officer Khyber Pakhtunkhwa Peshawar and others" had already been admitted to full hearing and has been fixed for 05.05.2023. Therefore, this appeal is also admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security fee within ten days. Thereafter notice be issued to the respondents for submission of reply/comments. To come up for reply/comments alongwith the service appeal No. 535/2023 before the S.B on 05.05.2023. P.P given to learned counsel for the appellant.

  
(Muhammad Akbar Khan)  
Member (E)

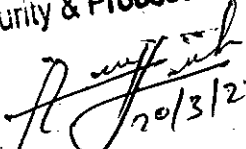
05.05.2023

Learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Ahmed Jan, S.I (Legal) for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Adjourned. To come up for reply/comments on 08.06.2023 before S.B. Parcha Peshi given to the parties.

  
(Muhammad Akbar Khan)  
Member (E)

Asad Ali Khan  
Appellant Deposited  
Security & Process Fee

  
20/3/23

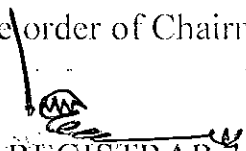
SCANNED  
KPST  
Peshawar

SCANNED  
KPST  
Peshawar

# FORM OF ORDER SHEET

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

Case No.- 545/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/03/2023	<p>The appeal of Mr. Mohsin Khan presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>15-3-23</u>. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

SCANNED  
AT  
Peshawar

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CHECKLIST

Case Title: Mohsin Khan vs PUSA Dept.

S.#	Contents	Yes	No
1	This appeal has been presented by: <u>Syed A Jinnah Ali Bukh</u>		
2	Whether Counsel / Appellant / Respondent / Deponent 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?	✓	
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 A.G/D.A.G?	✓	
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 cuttings/overwriting?		✗
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: Syed A Jinnah Ali Bukh

Signature: [Signature]

Dated: 13/3/23



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 545/2023

**SCANNED  
KPST  
Peshawar**


Mohsin Khan

V/S

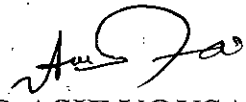
Police Deptt:

**INDEX**

S.NO.	DOCUMENTS	ANNEX	PAGE
1.	Memo of Appeal	-----	01-07
2.	Copy of charge sheet	A	08
3.	Copy of statement of allegation	B	09
4.	Copy of charge sheet reply	C	10
5.	Copy of final show cause notice	D	11
6.	Copy of reply	E	12
7.	Copy of impugned order	F	13
8.	Copy of departmental appeal	G	14
9.	Copy of rejection order	H	15
10.	Copy of application and report	I	16-22
11.	Vakalat nama	-----	23

  
**APPELLANT**  
Mohsin Khan

**THROUGH:**

  
**(MUHAMMAD ASIF YOUSAFZAD)**  
Advocate Supreme Court

  
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE, HIGH COURT  
Cell No: 03065109438

Date: 13/03/2023

1

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 545 /2023

Khyber Pakhtunkhwa  
Service Tribunal

Duty No. 4308

Dated 13/3/2023

Mohsin Khan Head Constable NO; 2853  
PS Shah Qabool Peshawar.

.....(Appellant)

**VERSUS**

1. The Capital City Police Officer, KPK Peshawar.
2. The Senior Superintendent of Police (operations) Peshawar.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 16/11/2022 WHEREBY, THE APPELLANT HAS BEEN DISMISSED FROM THE SERVICE AND AGAINST THE ORDER DATED 27/02/2023 WHEREBY, THE DEPARMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS AND WITHOUT INDEPENDENT MIND.

Filed to-day  
13/3/2023

**PRAYER:**

THAT THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 16-11-2022 AND 27-02-2023 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 FAVOUR OF APPELLANT.

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**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant joined the police force in year 2007 and completed his due training etc and total service of appellant was 15/16 years and also has good service record throughout
2. That statement of allegation and charge sheet under police rules 1975 was served upon the appellant along with other accused in which the appellant was charged for several baseless allegations. The appellant properly replied to the charge sheet and denied all the allegations. **(Copy of statement of allegation, charge sheet and replied are attached as Annexure- A, b & C).**
3. That the inquiry was conducted against the appellant and other accused but no inquiry report was provided to appellant along with show cause notice and not give a proper chance to appellant to defend himself. Further it is added that the separate inquiry was conducted against each accused which is not tenable in eye of law.
4. That final show cause notice was served to appellant without any copy of inquiry report and the appellant submitted his reply to the final show cause notice in time and denied all allegations in the reply to the final show cause notice. **(Copy of show cause notice and replied is attached as Annexure-D & E)**
5. That vide impugned order dated 16/11/2022, the penalty of dismissal from service was imposed on the appellant under Police Rules 1975 without using independent mind. The appellant feeling aggrieved filed departmental appeal on 21/11/2022, which was also rejected on dated 27/02/2023 for no good ground and without applying independent mind. **(Copies of order, departmental appeal and rejection order are attached as Annexure-F, G & H).**
6. That now the appellant come to this august Tribunal on the following grounds amongst others.

**GROUND:**

- A) That the impugned order dated 16-11-2022 and 27-02-2023 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.

- C) That neither the appellant was associated with the enquiry proceedings nor has any statement 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.
- D) The right of cross examination could not be presumed to have been afforded to the appellant as was the opinion of the respondents. The inquiry officer was bound to have given the right of cross examination expressly. There is no material on record whether the appellant was given any right of defense and depriving a civil servant from affording appropriate opportunity of defense is nullity in the eyes of law.
- E) 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.
- F) That the appellant was deprived of his inalienable right of personal hearing and opportunity to cross examine witnesses. The opportunity of offering proper defense was snatched from the appellant. The Hon'able Service Tribunal has been consistently following this yardstick almost in all cases, so departure from the set pattern and that too without any cogent reason in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such inquiry proceeding could not be termed as fair, just and reasonable, as the respondents badly failed to prove that the appellant has leaked certain official information to the criminals. such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640.
- G) That the inquiry report along with the show cause was also not provided to the appellant, which is clear violation of Superior Court judgment. That principle is also held in the appeal of the **Waleed Mehmood vs Police Deptt and Zeeshan vs police**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562, without which all the proceedings is nullity in the eyes of law. Reliance was placed on **2018 PLC (CS) 997 and 2019 SCMR 640**.
- H) That in reply to charge sheet the appellant submitted roznamcha report etc related to application/complaint filed by MSt Shazia and clearly stated that the nazim Lal Sher Khan was contacted regards that complaint but no statement was recorded in this regard for dig Out the real facts and also not included them in the inquiry proceedings. Further, neither investigation officer of the Instant case was examined nor raid team of the instant case was examined. Moreover, whom were nominated in FIR were also not examined which is necessary for fair conclusion.
- I) That FIR was registered against the accused Lal Sher khan In PS Shah Pur Peshawar on the basis of personal enmity and appellant was serving in PS

u

Shah Qabool Peshawar. Its is impossible for the appellant to leak information to accused regards the raid etc.

- J) That vide impugned order dated 16/11/2022, the penalty of dismissal from service was imposed on the appellant under Police Rules 1975 without using independent mind. The appellant feeling aggrieved filed departmental appeal on 21/11/2022, which was also rejected on dated 27/02/2023 for no good ground and without applying independent mind. which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291.
- K) That an FIR registered against an accused Lal Sher and Jan Sher etc was under investigation and after checking CDR, it was divulged that the appellant was in contact with accused and the inquiry officer on the basis of presumptions have concluded that such telephonic contacts contemplates that the appellant leaked official information as well as movements of police to the accused, whereas the appellant categorically denied such allegations with clarifications that the appellant mobile number is used to contact with Lal sher to settle the issue of that complaint filed by the Mst Shazia because no police landline available and such contacts does not necessarily mean that he leaked out official information to the accused and if the authorities are still adamant, they must check voice data of the appellant. we have observed that the inquiry officer mainly relied on CDR data, particularly the establishment of charges pertaining to leaking official information to criminals, which was required to be proved with the help of solid evidence, but which is not forthcoming in the said report. Mere reliance on CDR and that too without confronting the appellant with the same had no legal value and mere presumptions does not form basis for imposition of major penalty, which is not allowable under the law. Hence it would be immaterial to substantiate that the appellant leaked official information to the criminals, so the impugned orders are liable to be set at naught on this score alone. **Copy of reports are attached as annexure-I.**
- L) That SP Rural, was nominated an inquiry officer who conducted a formal inquiry at the back of the appellant. The appellant submitted detail statement charge sheet reply. Moreover, in the impugned order mentioned cross question from appellant is totally wrong and mention intelligence report which is also illegal because the appellant not confronted with the same, so the same has no value in eye of law Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as *2017 PLD 173 and 1990 PLC cs 727.*
- M) There are so many witnesses give statements in that case but enquiry is only conducted against the appellant which is discriminatory in nature.


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- N) That the appellant have never committed any act or omission with bad or malafide intentions which could be termed as misconduct, albeit the appellant was dismissed from the service. Which is violation of reported judgment cited as 1997 PLC cs 564.
- O) That the impugned order is not a speaking order, lacking necessary ingredients and issued in violation of Section 24-A of the General Clauses Act. In light of judgment 2015 PLC (CS) 1125-D and 2015 KLR. Further added that the respondents violated Article 10-A and 4 of the constitution due to non-provision of opportunity of free and fair trial and adherence to due process of law, rather it was restricted to selected questions of his choice through questionnaire but in real the same was self generated by the inquiry officer if any. Such process of questionnaire has been deprecated by the apex court in its judgment 1993 SCMR 1440.
- P) That the penalty of dismissal from service was passed without taking in consideration period of service of appellant and as inexperience police official which is very harsh view and passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- Q) 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.
- R) 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**  
Mohsin Khan

THROUGH:

  
**(MUHAMMAD ASIF YOUSAFZAI)**  
Advocate Supreme Court

&   
**(SYED NOMAN ALI BUKHARI)**  
ADVOCATE, HIGH COURT

②

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2023

Mohsin Khan

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.

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

7

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2023

Mohsin Khan

V/S

Police Deptt.:

**AFFIDAVIT**

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

DEPONENT

  
Mohsin Khan







CHARGE SHEET

A 8

1. Whereas I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against **Head Constable Mohsin No. 2853** while posted at **PS Shah Qabool Peshawar**.

2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.

3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP Operations, Peshawar hereby charge **Head Constable Mohsin No. 2853** while posted at **PS Shah Qabool Peshawar** under Rule 5 (4) of the Police Rules 1975.

- i) It has allegedly been reported that you have been indulged in illegal activities and misconduct as you have maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
- ii) It is further alleged that you have leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
- iii) He has tarnished the image of police department in the eyes of general public.
- iv) All this amounts to gross misconduct on your part and rendered you liable for punishment under Police (E&D) Rules, 1975.

4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why action should not be taken against you and also stating at the same time whether you desire to be heard in person.

5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

CS CamScanner

~~ATTESTED~~

STATEMENT OF ALLEGATIONS

9 B

1. Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar as competent authority, am of the opinion that **Head Constable Mohsin No. 2853** while posted at PS Shah Qabool Peshawar has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

- i) It has allegedly been reported that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
- ii) It is further alleged that he has leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
- iii) He has tarnished the image of police department in the eyes of general public.
- ii) All this amounts to gross misconduct on his part and rendered him liable for punishment under Police (E&D) Rules, 1975.

2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations **SP Rural** is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

Lt Cdr @ KASHIF AFTAB/AHMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

No. 183 E/PA, dated Peshawar the 30/07/2022

Copy to:-

1. The Inquiry Officer.
2. The Delinquent official through PA to the EO officer

M  
2/8/2022

**ATTESTED**



**FINAL SHOW CAUSE NOTICE**  
**(Under Police Disciplinary Rules, 1975)**

1. I, Senior Superintendent of Police, Operations, Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you **HC Mohsin Khan No. 2853** as follows:-
2. (i) That consequent upon the completion of enquiry committee conducted against you by SP Rural Peshawar, who found you guilty of the charges for which you were given the opportunity of personal hearing.
- (ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officers; I am satisfied that you have committed the follow misconducts:
 

You have been **found guilty** of the charges already communicated to you vide this office bearing No. 183/PA dated 30.07.2022.
3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.
4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.
5. If no reply to this notice is received within 7-days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
6. You are at liberty to be heard in person, if so wished.

(Lt Cdr @ KASHIF AFTAB AJMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

them for last one year or more without justified reasons. Being in contact with the above mentioned group after the killing of Haji Iqbal Khan.

**ATTESTED**

بیان ازاں محسن خان HC 2853

جناب عالی!

بجوالہ چارج شیٹیں بشمولہ مسائل ذیل عرض رساں ہے:-

(1) یہ من مسائل چوکی توحید آباد تھانہ آغامیر جانی شاہ میں بطور محرر تعینات تھا کہ ایک عورت مسماة شازیہ بیوہ خادم سکنہ کاکشال حال خویشگی نوشہرہ نے جناب CCPO صاحب کو ایک تحریری درخواست وارگزاری کی کہ اسکے دیوران نے اسکے گھر پر ناجائز قبضہ کر رکھا ہے جس کو قانونی مدد دینے کے لئے درخواست بجوالہ ڈائری نمبر 2022-2-16/215 بوساطت افسران بالا موصول ہو کر انچارج چوکی کی ہدایت پر درخواست میں دیئے گئے موبائل نمبر 03429686025 پر اپنے ذاتی موبائل سے رابطہ کر کے مدعیہ مسماة شازیہ کو چوکی حاضر ہونے کی ہدایت ہوئی۔ جو کہ مدعیہ مسماة شازیہ ہمراہ پراس (شعیب) آکر جملہ حالات کی وضاحت کے بعد کہا کہ اب ہم نے یہاں سے رہائش ترک کر کے خویشگی نوشہرہ جا کر وہاں رہائش اختیار کر رکھی ہے۔ اور مزید کہا کہ اگر درخواست میں درج بالا نمبر بالفرض بند ہو تو پھر دوسرا موبائل نمبر 03160242424 دیکر رابطہ رکھنے کا کہا۔ (نقل درخواست ہمراہ لف ہے)

(2) مورخہ 18/05/2022 کو مدعیہ بالانے اس دوران دوبارہ چوکی آکر ایک تحریری درخواست برخلاف الزام علیہ گان (دیوران) بمراد حصول انصاف پیش کیا۔ (نقل درخواست ہمراہ لف ہے۔)

(3) دونوں فریقین کے مابین بڑھتی ہوئی کشدگی کو روکنے اور معاملہ کی تصفیہ کی خاطر مابین مشران علاقہ ایک جرگہ منعقد کیا گیا جو کہ مختلف اوقات میں بھی جرگے ہوتے رہے۔ مدعیہ بالا کی طلبی کے لئے درخواست میں مذکورہ موبائل نمبر بند ہونے کی صورت میں انکے دیئے ہوئے متبادل نمبر بالا پر رابطے ہوتے رہے اور ان کو وقتاً فوقتاً طلب کئے جاتے رہے اور جرگے جاری رہے۔ تاکہ تصفیہ ممکن ہو سکے۔

(4) یہ کہ من مسائل نے اپنے ذاتی موبائل کا استعمال بدیں وجہ کیا کیونکہ چوکی میں کوئی سرکاری فون نہیں تھا اور نہ قریب کوئی PCO تھا۔ ذاتی موبائل کا استعمال کا مقصد صرف فریقین کو طلب کرنا تھا۔ جس میں من مسائل کی کوئی بددیانتی یا ذاتی مفاد شامل نہیں تھا۔

(5) یہ کہ مورخہ 30/06/2022 کو ہر دو فریقین کے مابین بمقام کاکشال حدود چوکی توحید آباد اسی تنازعے کی بناء پر دوبارہ ہاتھ پائی اور گالی گلوچ ہوئی جس میں باقاعدہ رپورٹ بجوالہ مد 20 روز نامچہ 30/06/2022 درج روز نامچہ ہو کر جس پر دونوں فریقین سے کاروائی انسدادی کی خاطر 3/4 کسان چالان عدالت کئے گئے۔ نقل ہمراہ لف ہے۔

جہاں تک من مسائل پر مقدمہ علت 583 مورخہ 27/06/2022 جرم 7ATA/109/302/365 تھانہ شاہ پور کے بابت جو رابطے اور الزام ہے۔ من مسائل کو نہ مقدمہ ہذا کے بابت کوئی علم ہے اور نہ ہی کوئی جواز بنتا ہے۔ صرف مدعیہ شازیہ کے مابین تصفیہ اور طلب کرنے کی خاطر سرکاری رابطے کئے گئے ہیں۔ من مسائل کو کیا معلوم کہ یہ کس کردار کے لوگ ہیں۔ اس رابطوں میں میری کوئی بددیانتی شامل نہیں میں بے گناہ ہوں۔ بس یہی میرا بیان ہے۔ استدعا ہے کہ چارج شیٹ بغیر کسی کاروائی کے داخل دفتر کرنے کا حکم صادر فرما کر مشکور فرمائیں۔

العبد

ATTESTED



ORDER

This office order will dispose-off the departmental proceedings against Head Constable Mohsin No. 2853 while posted at CCP Peshawar was placed under suspension and proceeded against departmentally on the allegations/charges that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur and he has leaked secret information in arrest of POs in above mentioned FIR and allied with criminals.

2. Under Police Rules 1975 (amended 2014) proper charge sheet alongwith summary of allegations was issued against him and SP Rural was appointed as Enquiry Officer who submitted his findings wherein he concluded that statement of Head Constable Mohsin No. 2853, cross questioning, intelligence sources and other available materials the "all allegations against him are proved.

3. On receipt of the findings, Final Show Cause Notice was issued to him vide No. 2887/PA dated 02.11.2022 to which he replied while providing him ample opportunity of self-defence in orderly room on 15.11.2022. He however, failed to advance any plausible explanation in rebuttal of the charges. Thus, the allegations against him stand proved. The undersigned being competent under (Efficiency & Disciplinary) Rules, 1975, have decided to impose major penalty of dismissal from service on the accused official. He is, therefore, dismissed from service with immediate effect.

Order announced.

(Lt Cdr @ KASHIF AFTAB AHMAD ABBAS)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

No. 3026-29 PA dated Peshawar, the 16/11/2022.  
Copy for information and necessary action to:-

1. The Capital City Police Officer, Peshawar.
2. OASI, CRC, PO.
3. FMC along with complete enquiry file for record ( 33 ).

~~ATTESTED~~

... of the police. It also includes being in contact with ... for last one year or more without justified reasons. Being in contact with the above mentioned group after the killing of Haji Ihsan Ullah.

0310-1994213

MC 2853 Up

16/11

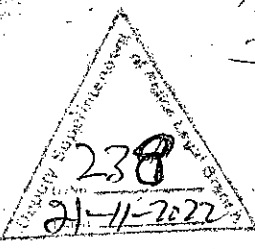
14

موجودہ کسٹم ٹیکس افسر صاحب شاہ اور

1609  
18/11/2022  
05

میں۔ حکیمانہ اسل بر خلاف آرڈر نمبری 29/PA-3026 مورخہ 16/11/2022  
جسکی بناء پر سائل کو صبا۔ SSP/ops. شہادت ملازمت

FMC  
For Regal  
Shah



سائل سے درخواست کی ہے کہ

1۔ حکیمانہ اسل بر خلاف آرڈر نمبری 15/11/2022 مورخہ 16/11/2022

2۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022  
365/302/109/7-ATA

3۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

4۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

5۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

6۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

7۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

8۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

9۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

10۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

11۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

12۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

13۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

14۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022

15۔ حکیمانہ اسل بر خلاف آرڈر نمبری 583 مورخہ 3/11/2022 مورخہ 3/11/2022





17

15

**OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR**

**ORDER.**

This order will dispose of the departmental appeal preferred by **Ex-IC Mohsin Khan No. 2853**, who was awarded the major punishment of "**Dismissal from service**" under KP PR-1975 by SSP/Operations Peshawar vide order No. 3026-29/PA, dated 16.11.2022.

2- Short facts leading to the instant appeal are that the delinquent official was proceeded against departmentally on the following charges:-

- i. That he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) of case vide FIR No. 583, dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
- ii. That he has leaked secret information in arrest of POs in above mentioned FIR and allied with criminals.

3- He was issued proper Charge Sheet and Summary of Allegations by SSP/Operations Peshawar. The SP/Rural Peshawar was appointed as inquiry officer to scrutinize the conduct of the accused official. The inquiry officer after conducting proper inquiry submitted his findings in which he was found guilty. The competent authority in light of the findings of the enquiry officer issued him Final Show Cause Notice to which he replied, but the same was found unsatisfactory, hence awarded the above major punishment.

4- He was heard in person in O.R and the relevant record along with his explanation perused. During personal hearing the appellant failed to submit any plausible explanation in his defence. He was given ample opportunity to prove his innocence but he could not defend himself. Therefore, his appeal for setting aside the punishment awarded to him by SSP/Operations Peshawar is hereby **rejected/filed**.

(MUHAMMAD IJAZ KHAN) PSP  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 226-92 /PA dated Peshawar the 27 / 02 /2023

Copies for information and necessary action to the:-

1. SSP/Operations Peshawar.
2. SP/Rural Peshawar.
3. AD/IT CCP Peshawar.
4. IC-II & Pay Officer
5. FMC along with Fouji Missal.
6. Official Concerned.

**ATTESTED**

خدمت جناب کسٹل سٹی پولیس (C.C.P.O) صاحب لیشاور

File No. 215 P.S.O-CCPO  
Dt. 16-02-2022  
Encl:

درخواست عسر اور ذلیلہ کا رقبہ گھر واقع مسلم آباد گلشن 3

کاکشال لعلی بانج لیشاور

SHO/AMJ-Shah

for N/A action

as per law  
P.S.O to C.C.P.O  
16/02/2022

جناب عالی!

حکم حسب ذیل عسر و نجان ہے۔

میں نے کہ سائلہ مرحوم کی زوجہ ہے اور شہر یعنی طور پیر انکس وارڈ میں۔

جو کہ مرحوم نے اپنی حیات میں 19/27 کو گھر منتقل ہوا تھا۔  
اپنے ساتھ کاغذات اور منتقلات جمع درخواست الوداع ہے۔

اب اس کے بھائی محمد نبی اس کے گھر پر زور و زبردستی قبضہ کر کے ہوئے ہیں اور مرحوم کے بیوہ اور بچوں کو جائز نہیں دیتا۔

میں نے کہ مرحوم اکتوبر 1997ء کو وفات پائی ہیں اور میں سائلہ اور میری بیٹیوں اور کٹیڈ حیات میں۔ یہ کہ اس کو بیماری اشتہار دیا ہے اور میری دیوار محمد نبی نے زور و زبردستی قبضہ کیا ہوا ہے۔

میں نے کہ سائلہ کے شوہر کے نام پر بھلی کا میٹر اور گیس کا میٹر لگے ہیں۔  
نصف ہے جو جو مرحوم قبضہ درخواست کیساتف میں کیا جاسکا۔

RECEIVED

۱۷  
یہ کہ سائلہ کی کل ادائیگی (پولہ) فریڈ جیسین 3 دکانیں اور ایک  
بڑے مال مشعل ہے۔

(۷) یہ کہ سائلہ کے سوا کوئی اور چارہ نہ تھا بجا کے سائلہ کہ وہ آپ صاحبان  
کے خدمت میں پیش ہو کر اپنی حق مانگ لے۔

لکنزہ اسٹور کا کبیجائی ہے کہ نمونہ طور درخواستیں ہیں کہ سائلہ کی  
داد اس کی جاتی اور سائلہ کو اس سے حق و داد ہی باوہ۔

سائلہ  
شازبہ

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بیتعب

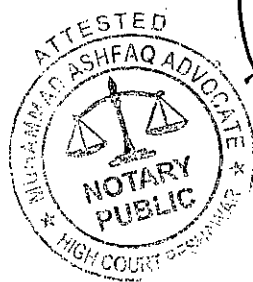
بیتعب خان

(بیتعب)

17-5A/857A/2023  
17-2-22

طارق خان ASI

17-2-22  
SHOPS/2023



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محمد  
محمد

ATTESTED

امیر نامہ

تاریخ

21-05-2022

18

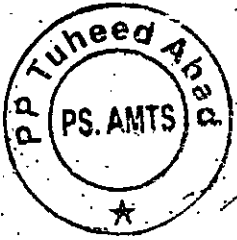
مرتبہ لکھنؤ: سالانہ شمارہ سائنس سے متعلقہ موضوعات پر  
03429686025

مرتبہ دہلی: محمدی عدسہ کا عمل کرنے کی خبریں  
03134234840

پندرہ فروری 2022ء کو منعقد ہونے والے اجتماع میں  
مقامی ممبرانہ کی شرکت اور اس کے نتیجے میں  
ممبرانہ کی رٹائرمنٹ پر غور کیا گیا۔  
اس کے نتیجے میں ممبرانہ کی رٹائرمنٹ  
کا فیصلہ کیا گیا ہے۔



محمدی



~~ATTACHED~~

u

Shah Qabool Peshawar. Its is impossible for the appellant to leak information to accused regards the raid etc.

- J) That vide impugned order dated 16/11/2022, the penalty of dismissal from service was imposed on the appellant under Police Rules 1975 without using independent mind. The appellant feeling aggrieved filed departmental appeal on 21/11/2022, which was also rejected on dated 27/02/2023 for no good ground and without applying independent mind. which practice is quite incorrect and turned down by the apex court in a latest judgment contained in 2020 PLC (CS) 1291.
- K) That an FIR registered against an accused Lal Sher and Jan Sher etc was under investigation and after checking CDR, it was divulged that the appellant was in contact with accused and the inquiry officer on the basis of presumptions have concluded that such telephonic contacts contemplates that the appellant leaked official information as well as movements of police to the accused, whereas the appellant categorically denied such allegations with clarifications that the appellant mobile number is used to contact with Lal sher to settle the issue of that complaint filed by the Mst Shazia because no police landline available and such contacts does not necessarily mean that he leaked out official information to the accused and if the authorities are still adamant, they must check voice data of the appellant. we have observed that the inquiry officer mainly relied on CDR data, particularly the establishment of charges pertaining to leaking official information to criminals, which was required to be proved with the help of solid evidence, but which is not forthcoming in the said report. Mere reliance on CDR and that too without confronting the appellant with the same had no legal value and mere presumptions does not form basis for imposition of major penalty, which is not allowable under the law. Hence it would be immaterial to substantiate that the appellant leaked official information to the criminals, so the impugned orders are liable to be set at naught on this score alone. **Copy of reports are attached as annexure-I.**
- L) That SP Rural, was nominated an inquiry officer who conducted a formal inquiry at the back of the appellant. The appellant submitted detail statement charge sheet reply. Moreover, in the impugned order mentioned cross question from appellant is totally wrong and mention intelligence report which is also illegal because the appellant not confronted with the same, so the same has no value in eye of law Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727.
- M) There are so many witnesses give statements in that case but enquiry is only conducted against the appellant which is discriminatory in nature.

اندر صلاحتہ صلاحتہ صلاحتہ صلاحتہ صلاحتہ

صلاحتہ صلاحتہ

گزارش صحیح و قلدہ و حوں مرصہ مسلم آوری کا کارکنی  
 ہونا، آج صلاحتہ صلاحتہ صلاحتہ صلاحتہ صلاحتہ  
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9/05/2002  
 الترمذی

العاصی

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عینی

گزارش صلاحتہ صلاحتہ صلاحتہ صلاحتہ صلاحتہ

~~ATTESTED~~

☆..... درخواست برائے انصاف .....☆

20

بخدمت جناب SHO تھانہ آغہ میر جانی شاہ پشاور

ہذا کہ شازیہ زوجہ خادم ساکنہ شویشکی بالا تحصیل و ضلع نوشہرہ کی ہوں۔ بدینوجہ ایک عدد دکان واقع محلہ مسلم آباد 01 لالی باغ پشاور من مقررہ کی ملکیت ہیں۔ جبکہ دکان مذکورہ پر من مقررہ اور مسیان محمد نبی ولد شاہ ولی، عمر نبی ولد حبیب النبی ساکنان رشید گڑھی وزیر باغ روڈ پشاور کے مابین جائیداد کا تنازعہ چل رہا ہے۔ نیز بابت دکان مذکورہ مسیان محمد نبی، عمر نبی نے مورخہ 09/05/2022 کو دکان مذکورہ پر قبضہ کر کے کیا تھا قبضہ کر کے من مقررہ کے بیٹے کو تشدد کا نشانہ بنا کر زد و کوب کر کے بے دخل کر دیا اور دکان کو خود تھالے لگا کر چلے گئے۔ لہذا انچارج پولیس چوکی آغہ میر جانی شاہ و مجاز افسران بالا کو بذریعہ تحریر مذکور التماس کرتی ہوں کہ من مقررہ کی دکان سے قابضان مذکورہ سے واہ گزار کر کے بے دخل کی جائے اور ان کے خلاف پرچہ کر کے ہر قسم قانونی کارروائی عمل لا کر من مقررہ کو انصاف فراہم کی جائیں۔ بیان بالا حرف بحرف درست تحریر کر دیتے ہیں، بصورت دروغ گوئی جملہ مواخذہ جات قانون کا پابند رہوں گی، لہذا بیان حلفی برائے فراہمی انصاف پیش حضور ہے۔  
- المرقوم :- 10/05/2022

العبدہ

شازیہ من حالفہ اقرار بالادرسہ تحریر و تسلیم شد

☆.....☆

03429686025

ATTESTED

القول والكرام

عائتي اقرار نام

11/06/2022

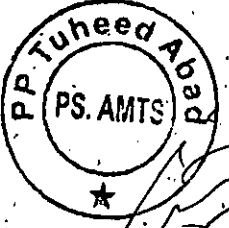
مراقب لعل: ممتاز احمد خان البت من حوثه  
03429686025

مراقب مقيم: محمد بن عبد الله بن علي بن حوثه  
03139234840

دعوت من لعل و مقيم من حوثه...  
مراقب لعل: ممتاز احمد خان البت من حوثه  
مراقب مقيم: محمد بن عبد الله بن علي بن حوثه  
03429686025  
03139234840

رخصت افغان

مراقب لعل: ممتاز احمد خان البت من حوثه  
03438585921  
مراقب مقيم: محمد بن عبد الله بن علي بن حوثه




مراقب لعل: ممتاز احمد خان البت من حوثه  
03438585921  
مراقب مقيم: محمد بن عبد الله بن علي بن حوثه  
03438585921

ATTESTED



دیپورٹ، صحتہ سائزیم ڈومیر ضلع نمبر 48/50 سال 1978ء میں دیپورٹ میں  
 لیٹرول پتہ ایم اعجاز جمال پوٹ 7140 بی حد 3000 عاصری چونک  
 آکر مسوئہ عیارہ ہوں دیپورٹ کرنا جس میں میرا شوہر چونک ٹھہرا 15  
 جسے قبل چونک پتہ چکا ہے اور میرے شوہر کا 3000 م ٹکر چونک  
 سماں آ کر گھلرہ میں واقع ہے جس پر سب 7 پور ایم عاصری  
 چونک میرا شوہر نے ٹکر پتہ چکا ہے آج صبح میرا شوہر  
 نیتا چونک کے اعجاز کے ٹکر آ گیا تھا جسے ٹکر پتہ چکا  
 کے پتہ میں کے سائزیم پتہ چکا ہے گالی گلوچ اور پتہ چکا  
 ہے میں نے پتہ چکا کو مارنے پتہ چکا گلوچ کو مارنے کا پتہ چکا  
 میں ٹکر پتہ چکا میں 7 پور سے خلاف پتہ چکا پتہ چکا  
 نشان پتہ چکا چونک صحتہ سائزیم پتہ چکا پتہ چکا  
 حریف اور پتہ چکا ٹکر پتہ چکا جس پر اسٹریٹ نام پتہ چکا

صحتہ عالی  
 ٹکر پتہ چکا  
  
 MHA PPL Abad  
 30-6-22

ATTESTED

**VAKALAT NAMA**

NO. \_\_\_\_\_/20

SCANNED  
KPST  
Peshawar

IN THE COURT OF KP Service Tribunal, Peshawar

Mohsin Khan (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Police Deptt (Respondent)  
(Defendant)

I/We, Mohsin Khan (Appellant)

Do hereby appoint and constitute **Mr. M. Asif Yousafzai, ASC** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

(Signature)  
(CLIENT)

**ACCEPTED**

(Signature)  
**M. ASIF YOUSAFZAI, ASC,**

(Signature)  
**SYED NOMAN ALI BUKHARI**  
Advocate High Court Peshawar

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

**Service Appeal No.545 /2023.**

Ex-Constable Mohsin Khan No.2853 of CCP Peshawar..... Appellant.

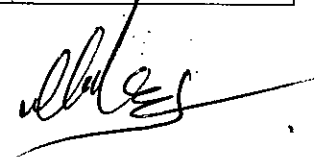
**VERSUS**

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and others. Respondents.

SCANNED  
KPST  
Peshawar  
17/3/23

**I n d e x**

S.NO	DOCUMENTS	ANNEXURE	PAGES
1	Reply		1 to 4
2	Affidavit		5
3	Authority		6
4	Copy of Charge sheet	A	7
5	Statement of allegations	B	8
6	Enquiry Report	C	9 to 11
7	Final Show Cause Notice	D	12
8	CDR	E	13 to 15



**DSP/Legal,  
CCP, Peshawar.**

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

SCANNED  
KPST  
Peshawar

**Service Appeal No.545 /2023.**

Ex-Constable Mohsin Khan No.2853 of CCP Peshawar..... **Appellant.**

**VERSUS**

*Capital City* Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

**REPLY BY RESPONDENTS NO. 1 &2.**

**Respectfully Sheweth:-**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7053

Dated 17/8/2023

**PRELIMINARY OBJECTIONS:-**

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
3. That the appellant has not come to Hon'ble Tribunal with clean hands.
4. That the appellant has no cause of action and locus standi to file instant appeal.
5. That the appellant is estopped by his own conduct to file the instant appeal.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.
7. That the appeal is not maintainable being devoid of any merit.

**REPLY ON FACTS:-**

1. The appellant was appointed as constable in the respondent department in the year 2007. However, the performance of appellant during service was not upto the mark.
2. Incorrect. The appellant while posted at PS Shah Qabool Peshawar was placed under suspension and proceeded against departmentally on the charges that the appellant indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) in case vide FIR No. 583, dated 03.06.2022 u/s 365/302/109/PPC & 7-ATA PS Shahpur and also leaked secret information in arrest of POs in case ibid and allied with criminals, this act of the appellant tarnished the image of Police Department in the eyes of general Public. In this regard, he was issued Charge Sheet with Statement of Allegations and SP/Rural Peshawar was appointed as Enquiry Officer. During the course of Enquiry he was provided full opportunity of personal hearing and also recorded his statement, as well as also availed the opportunity of cross questions. The Enquiry Officer after thorough probe into the matter found him guilty of the charges leveled against him. The Competent Authority after receipt of the findings issued him final show cause notice, which he replied, beside this, he was also heard in person in OR on 15.11.2022, but failed to defend himself, hence he was awarded major punishment of dismissal from service under Police Rules 1975 amended 2014. (Copy of charge sheet, Statement of allegations, Enquiry Report and FSCN are annexure as, A, B, C, & D).
3. Incorrect. Para already explained in the above Para. Further, detailed departmental enquiry was conducted against him under rules ibid, wherein the allegations leveled against him were proved beyond any shadow of doubt. The appellant was also provided full opportunity of defense by recording his statement and also cross examined, but failed to advance any

plausible grounds in rebuttal of the charges leveled against him. His act brought a bad name for the entire force, hence he was awarded punishment as per gravity of his misconduct.

4. Incorrect. Fair departmental enquiry was conducted as per rules ibid and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit by recording his statement as well as cross questioning and thereafter he was issued a final show cause notice, which he replied. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all codal formalities he was awarded major punishment.
5. Incorrect. The punishment order passed by the competent authority is in accordance with law/rules. The appellant then filed departmental appeal, which was thoroughly processed and an ample opportunity of hearing was provided to the appellant by appellate authority but the appellant failed to defend himself with plausible/justifiable grounds, hence his appeal was rejected/filed.
6. That appeal of the appellant being devoid by merit and hit by limitation may be dismissed on the following grounds.

**REPLY ON GROUNDS:-**

- A. Incorrect. Orders passed by the competent authority & appellate authority are just legal, lawful and according to norms of natural justice hence, liable to be intact.
- B. Incorrect. The appellant was treated as per law/rules and proper opportunity was provided to him.
- C. Incorrect. Regular inquiry was conducted and given him proper opportunity of personal hearing, but he was failed to defend himself, hence after fulfilling all the codal formalities he was awarded the Major punishment under Police Rules 1975 (amended 2014).
- D. Incorrect. The appellant was provided proper opportunity of personal hearing and cross questioning was provided to appellant, but he failed to defend the charges leveled against him.
- E. Incorrect. The appellant was treated as per law/rules and no violation of Article 10A has been committed by the respondents.
- F. Incorrect. The appellant was associated with the enquiry proceedings and proper opportunity of personal hearing and cross questioning was provided to appellant but failed to defend the charges leveled against him.
- G. Incorrect. A Proper departmental enquiry was conducted as per law/rules and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded major punishment.
- H. Incorrect. The appellant was rightly issued charge sheet with statement of allegations and clearly mentioned the charges that "he has allegedly been reported that you have been indulged in illegal activities and misconduct and maintained links with notorious criminals as well as Proclaimed Offender (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/PPC & 7-ATA PS Shahpur. It is further alleged that you have leaked secret


- information in arrest of POs in above mentioned FIR and allied with criminals. During the course of enquiry the charges mentioned in the charge sheet were proved against him.
- I. Incorrect. The appellant was found involved in the objectionable activities nexus with the above mentioned criminals and leakage of secret information due to which criminals easily escaped themselves from lawful arrest during raids conducted at their harbours. In this regard a detailed departmental enquiry was conducted against him in accordance with law/rules. During the course of enquiry his CDR was obtained wherein the appellant was remained in contact with the criminals (lal sher, jan sher, ramzan) for last one year or more without justified reason, hence he was rightly awarded major punishment. (Copy of CDR is annexed as E).
- J. Incorrect. The appellant has preferred departmental appeal, which was properly processed and also heard him in person by the appellate authority, however he failed to defend himself with plausible/justifiable grounds hence, filed/rejected because the charges leveled against him were proved.
- K. Incorrect. The appellant is giving wrong picture just to save his skin from commission of misconduct. The charges leveled against him are proved, hence he was awarded the major punishment. Presence of such black sheep in police force and any kind of leniency will encourage the misuse of authority.
- L. Incorrect. A Proper departmental enquiry was conducted as per law/rules and the enquiry officer reported that charges leveled against the appellant were proved. The whole enquiry was conducted purely on merit. The appellant was provided full opportunity of defense, but the appellant failed to defend himself. After fulfilling all the codal formalities he was awarded major punishment.
- M. Incorrect. The appellant was associated with the enquiry proceedings and proper opportunity of personal hearing and cross questioning was provided to appellant but failed to defend the charges leveled against him.
- N. Para already explained in the preceding paras. Further, the appellant committed gross misconduct by giving secret information to criminals due to which criminals easily escaped themselves from lawful arrest during raids conducted at their harbours.
- O. Incorrect. The punishment order passed by the lawful authority is just legal and has been passed in accordance with law/ rules and no violation of Article 4 & 10A have been done by the respondents, hence liable to be upheld. The charges leveled against him were stand proved.
- P. Incorrect. The punishment order passed by the competent authority is in accordance with law/rules and commensurate with his guilt. After fulfilling of all codal formalities he was rightly awarded major punishment as per law/rules.
- Q. Incorrect. Proper departmental enquiry was conducted against him under rules *ibid*, wherein the allegations leveled against him were proved beyond any shadow of doubt. The penalty awarded is commensurate with the gross misconduct committed by the appellant.
- R. That the replying respondents also seek permission of this Hon'ble Tribunal to raise additional grounds at the time of arguments.

**PRAYERS:-**

Keeping in view the above stated facts & reasons it is, most humbly prayed that the appeal of the appellant being devoid of merits, may kindly be dismissed with costs please.



**Capital City-Police Officer,  
Peshawar.**



**Senior Superintendent of Police,  
Operations, Peshawar.**

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

**Service Appeal No.545 /2023.**

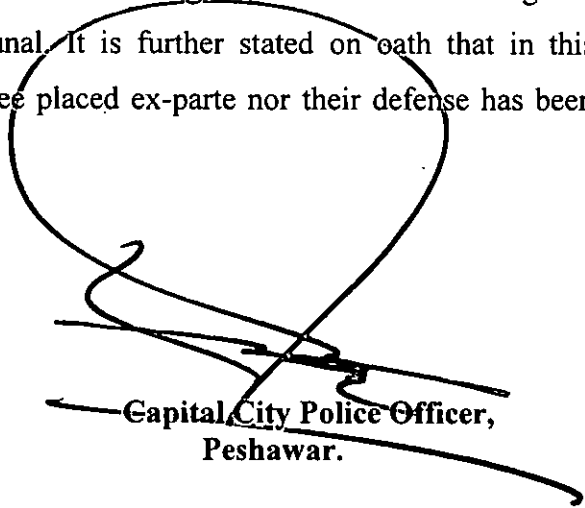
Ex-Constable Mohsin Khan No.2853 of CCP Peshawar..... **Appellant.**

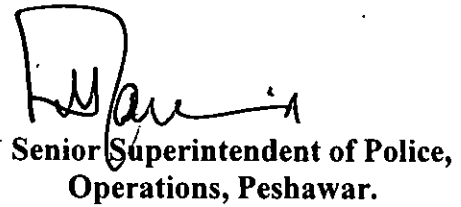
**VERSUS**

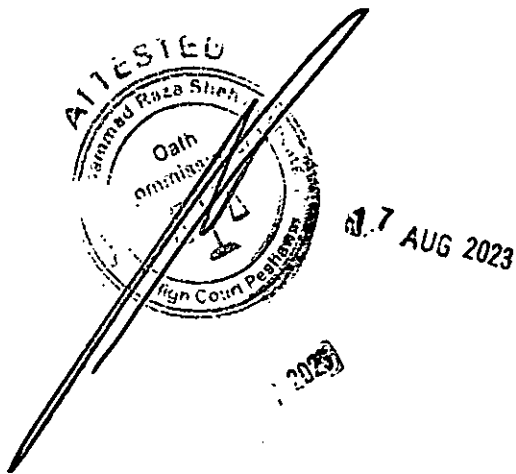
*Capital City* Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . **Respondents.**

**AFFIDAVIT.**

We respondents 1& 2 do hereby solemnly affirm and declare that the contents of the written reply are true and correct to the best of our knowledge and belief and nothing has concealed/kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off. */cost*

  
**Capital City Police Officer,  
Peshawar.**

  
**Senior Superintendent of Police,  
Operations, Peshawar.**

  
**ATTESTED**  
Oath Commission  
Peshawar  
17 AUG 2023



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

**Service Appeal No.545 /2023.**

Ex-Constable Mohsin Khan No.2853 of CCP Peshawar..... Appellant.

**VERSUS**

*Capital City* Police Officer, Khyber Pakhtunkhwa, Peshawar and others. . Respondents.

**AUTHORITY.**

I, **Capital City Police Officer, Peshawar**, hereby authorize Mr.Inam Ullah DSP legal of Capital City Police, Peshawar to attend the Hon'ble Court and submit written reply, statement and affidavit required for the defense of above service appeal on behalf of respondent department.

  
**Capital City Police Officer,  
Peshawar.**

## CHARGE SHEET

1. Whereas I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar, am satisfied that a Formal Enquiry as contemplated by Police Rules 1975 is necessary & expedient in the subject case against **Head Constable Mohsin No. 2853 while posted at PS Shah Qabool Peshawar.**
2. And whereas, I am of the view that the allegations if established would call for major/minor penalty, as defined in Rule 3 of the aforesaid Rules.
3. Now therefore, as required by Rule 6 (1) (a) & (b) of the said Rules, I, Lt Cdr @ Kashif Aftab Ahmad Abbasi, PSP, SSP Operations, Peshawar hereby charge **Head Constable Mohsin No. 2853 while posted at PS Shah Qabool Peshawar** under Rule 5 (4) of the Police Rules 1975.
  - i) It has allegedly been reported that you have been indulged in illegal activities and misconduct as you have maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
  - ii) It is further alleged that you have leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
  - iii) He has tarnished the image of police department in the eyes of general public.
  - iv) All this amounts to gross misconduct on your part and rendered you liable for punishment under Police (E&D) Rules, 1975.
4. I hereby direct you further under Rule 6 (1) (b) of the said Rules to put forth written defence within 7 days of the receipt of this Charge Sheet to the Enquiry Officer, as to why action should not be taken against you and also stating at the same time whether you desire to be heard in person.
5. In case your reply is not received within the specific period to the Enquiry Officer, it shall be presumed that you have no defence to offer and ex-parte action will be taken against you.

Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

*Alleged*  
*[Signature]*

STATEMENT OF ALLEGATIONS

1. I, Lt Cdr ® Kashif Aftab Ahmad Abbasi, PSP, SSP/Operations Peshawar as competent authority am of the opinion that **Head Constable Mohsin No. 2853** while posted at PS Shah Qabool Peshawar has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omission within the meaning of section 03 of the Khyber Pakhtunkhwa Police Rules, 1975.

- i) It has allegedly been reported that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as Proclaimed Offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u/s 365/302/109/7-ATA PS Shahpur.
- ii) It is further alleged that he has leaked secret information in arrest of P.Os in above mentioned FIR and allied with criminals.
- iii) He has tarnished the image of police department in the eyes of general public.
- ii) All this amounts to gross misconduct on his part and rendered him liable for punishment under Police (E&D) Rules, 1975.

2. For the purpose of scrutinizing the conduct of afore said police official in the said episode with reference to the above allegations **SP Rural** is appointed as Enquiry Officer under Rule 5 (4) of Police Rules 1975.

3. The Enquiry Officer shall in-accordance with the provision of the Police Rules (1975), provide reasonable opportunity of hearing to the accused Official and make recommendations as to punish or other action to be taken against the accused official.

Lt Cdr ® KASHIF AFTAB/AHMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

No. 183 E/PA, dated Peshawar the

30/07/2022

Copy to:-

1. The Inquiry Officer.
2. The Delinquent official through PA to the EO officer

Ahmed  
Abbasi

2/8/2022

OFFICE OF THE  
SUPERINTENDENT OF POLICE,  
RURAL, PESHAWAR.

No. 4085PA: dated Peshawar the 28/10 /2022.

To

The Senior Superintendent of Police,  
Operations, Peshawar.

Subject; DEPARTMENTAL ENQUIRY

Please refer to your office Endt. No. 183/E/PA, dated 30.07.2022; pertaining to departmental enquiry against HC Muhsin Khan No. 2853.

STATEMENT OF ALLEGATION:

- riyal*
- i. It has been reported that he has been indulged in illegal activities and misconduct as he has maintained links with notorious criminals as well as proclaimed offenders (POs) of case vide FIR No. 583 dated 03.06.2022 u. 365/302,109,7-ATA PS Shahpur.
  - ii. It is further alleged that he has leaked secret information in arrest of POs in above mentioned FIR and allied with criminals.
  - iii. He has tarnished the image of police department in the eyes of general public.
  - iv. All this amounts to gross misconduct on his part and rendered him liable for punishment under Police (E&D) Rules, 1975.

PROCEEDING:

- Personal hearing.
- Recording of statement.
- Collection of CDR and posting record.
- Criminal record of Lal Sher group vide this office memo No. 2112/PA dated 02.08.2022.

Enquiry officer provided reasonable opportunity to HC Muhsin Khan No. 2853. Statement of allegation was served upon him and his written reply was recorded and he was cross questioned too. His CDR was obtained from CFU vide this office letter No. 2113/PA dated 02.08.2022. His posting record was also sought from concerned office vide this office letter No. 2113/PA dated 02.08.2022.

SCOPE OF ENQUIRY:

The scope of the enquiry includes supporting these criminals (Lal Sher, Jan Sher, Ramza and rest of the family) in criminal cases in particular and in normal circumstances in general. Giving information regarding the operations of the police. It also includes being in contact with them for last one year or more without justified reasons. Being in contact with the above mentioned group after the killing of Haji Ihsan Ullah.

*Attended*  
*Changiz*

STATEMENT OF HC MUHSIN KHAN NO. 2853:

HC Muhsin Khan No. 2853 was called to the office and his statement was recorded which is attached.

CROSS QUESTIONS:

Q: - Do you know Jan Sher, Ramzan and Lal Sher etc?

Ans: - Yes.

Q: - What are their activities and reputation in the area?

Ans: - Suspicious/ involved in illegal activities, killing of innocent people, land grabbing and extortion.

Q: - Why Muhammad Hussain SI (police official) was killed by Lal Sher group?

Ans: - He was killed by them without any reason.

Q: - Did you know about the illegal activities of Jan Sher etc and have information regarding killing of innocent people?

Ans: - Yes.

Q: - Do you know about the killing of innocent women by Jan Sher etc?

Ans: - Yes.

Q: - Do you know the said group is land mafia?

Ans: - Yes.

Q: - Do you know that Jan Sher is PO and wanted to different PSs?

Ans: - No answer.

Q: - When you know everything about Jan Sher, Lal Sher etc, why you are in contact with them?

Ans: - An application was lodged by his relative in which he called.

Q: - Why you are in contact with Jan Sher, Lal Sher and Ramzan?

Ans: - Because of performing the duties at PS Shahpur.

Q: - Any reason of contacts?

Ans: - No answer

Q: - Reason of 3 minutes contact of the second day of incident?

Ans: - As usual no answer.

Q: - Why you were in contacted with Jan Sher, Lal Sher, Ramzan etc.

Ans: - No causable explanation.

Attended  
Present

FINDINGS:

1. That Lal Sher, Jan Sher, Ramzan etc are involved in land grabbing, extortion, killing of innocent people as well as killing of innocent women.
2. That they are also involved in the killing of police officers.
3. That they are involved in illegal activities since 20,25 years.
4. That entire family involved in criminal activities, (criminal record is attached).
5. That there are many police officers who are their friends and supporters.
6. That they also harass police officers by using many techniques i.e submitting false application in courts and superior officers just to stop them from performing their lawful duties.
7. That it is because of these police officers that they have been able to reach the much level of the criminality.
8. That the testimony to the fact above is that there is not a single FIR of Extortion and land grabbing against them in Peshawar contrary to the ground facts and realities.
9. That he regretted and was using techniques that he don't know about the above mentioned group are wanted and is POs but in the end he confessed that he knew everything about the group.
10. That he confessed that the above mentioned group is involved in land mafia, killing of innocent people as well as killing of police officials.
11. That he was in contact with the above mentioned group.
12. That during cross questioning he regretted the relation with group but later on confessed that he has close relation with the group.
13. That being a police officer it is necessary to avoid contacts with criminals and other people having illegal activities, but, HC Muhsin Khan failed to do this.
14. That as far as, being Nazim of area is concerned that does not give any person a reason to justify crimes of a criminal.
15. He said in his defence that he contacted due to an application which was forwarded through the CCPO's office but perusal of the application shows that accused Jan Sher is not even party to the application.
16. Accused Jan Sher was asking favor from the delinquent official for the reasons best known to both.
17. That this officer has 34 contacts before and after the incident with the above mentioned criminals (incoming and outgoing both).

CONCLUSION:

In view of above, analyzing of the statement of HC Muhsin Khan No. 2853, cross questioning, intelligence sources and other available material the "all allegations against him are proved."

Capt (R) Saleem Abbas Kulachi (PSP)  
 Enquiry Officer,  
 Superintendent of Police,  
 Rural, Division,  
 Peshawar.

Muhsin  
Khan



OFFICE OF THE  
SENIOR SUPERINTENDENT OF POLICE,  
(OPERATIONS),  
PESHAWAR  
Phone. 091-9213054

No. 2887 /PA

Dated Peshawar the 02/11, 2022

**FINAL SHOW CAUSE NOTICE**  
**(Under Police Disciplinary Rules, 1975)**

1. I, Senior Superintendent of Police, Operations, Peshawar as competent authority, under the Police disciplinary Rules 1975, do hereby serve you **HC Mohsin Khan No. 2853** as follows:-

2. (i) That consequent upon the completion of enquiry committee conducted against you by SP Rural Peshawar, who found you guilty of the charges for which you were given the opportunity of personal hearing.

(ii) Ongoing through the findings and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the said officers; I am satisfied that you have committed the follow misconducts:

You have been **found guilty** of the charges already communicated to you vide this office bearing No. 183/PA dated 30.07.2022.

3. As a result thereof I, as Competent Authority decided to impose upon you major/minor penalty including dismissal from service under the said Rules.

4. You are, therefore, require to Show Cause as to why the aforesaid penalty should not be imposed upon you.

5. If no reply to this notice is received within **7-days** of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

6. You are at liberty to be heard in person, if so wished.

(Lt Cdr @ KASHIF AFTAB AHMAD ABBASI)PSP  
Senior Superintendent of Police  
(Operations) Peshawar

mentioned group after the killing of Haji Ihsan Ullah.

## 3101994213 HC Mohsin No.2853

Call Type	A	B	Date/Time	SECS	IMEI	Location of A
Call - Outgoing	3199077591	3101994213	03/09/2022 16:19:22	157	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	03/24/2022 14:22:00	446	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	04/13/2022 17:07:56	180	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	05/02/2022 11:12:51	82	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	05/10/2022 13:19:28	283	351594341393050	Dilazak Rd, Muhammad Zai, Dalazak, Peshawar
Call - Incoming	3199077591	3101994213	05/10/2022 15:02:22	266	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	05/10/2022 15:18:26	122	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3199077591	3101994213	05/10/2022 20:35:28	289	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3199077591	3101994213	06/09/2022 21:22:33	105	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3199077591	3101994213	06/09/2022 21:53:57	19	351594341393050	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar

*Mohsin*  
*Mohsin*



3101994213 HC Mohsin No.2853

Call Type	A	B	Date/Time	SECS	IMEI	Location of A
Sms - Outgoing	3160242424	3101994213	08/18/2021 09:19:36	0	860217043914260	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	01/10/2022 12:48:32	138	860217043914270	Budhnai, Tehsil District Peshawar.
Call - Outgoing	3160242424	3101994213	01/10/2022 15:11:51	17	860217043914270	M-1
Call - Incoming	3160242424	3101994213	01/22/2022 15:54:15	150	860217043914270	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	02/12/2022 14:19:28	179	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	02/16/2022 17:45:41	358	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3160242424	3101994213	03/01/2022 09:47:28	14	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3160242424	3101994213	03/01/2022 13:24:46	122	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3160242424	3101994213	03/05/2022 00:52:21	171	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	03/05/2022 00:59:18	141	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	03/05/2022 01:03:45	70	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	05/11/2022 18:26:14	350	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	05/15/2022 12:45:39	528	359617271975680	G.T Road Jagra, Chowk, Peshawar
Call - Incoming	3160242424	3101994213	05/19/2022 09:55:25	426	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Outgoing	3160242424	3101994213 ✓	05/19/2022 12:08:42 ✓	90	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	05/21/2022 13:31:56	36	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	05/23/2022 11:22:23 ✓	478	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	05/27/2022 20:29:34 ✓	707	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - Incoming	3160242424	3101994213	06/04/2022 12:51:22	64	359617271975680	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar

*[Handwritten signature]*

Call - incoming	3160242424	3101994213	06/12/2022 12:19:31	36	352206203023620	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - incoming	3160242424	3101994213	06/14/2022 11:48:10	59	352206203023620	Dilazak Rd, Muhammad Zai, Gulo Zai, Peshawar
Call - incoming	3160242424	3101994213	06/27/2022 16:20:32	180	352206203023620	G.T Road Jagra, Chowk, Peshawar

*Handwritten signature*  
Attest