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

Service Appeal No. 898/2022

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

VERSUS

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

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others.....Respondents

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

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

REPLY ON FACTS

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

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

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

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

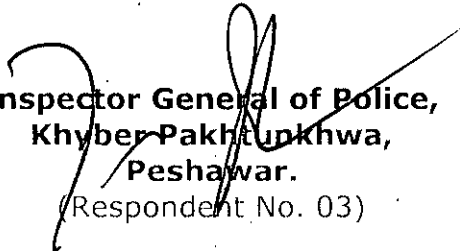
REPLY ON GROUNDS:

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

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

PRAYER:-

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


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


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


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

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

Service Appeal No. 898/2022

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

VERSUS

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others.....Respondents

Reply to the application for condonation of delay:-

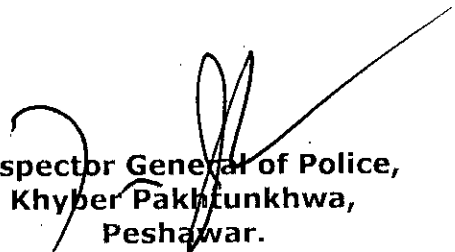
**Respectfully Sheweth,
PRELIMINARY OBJECTIONS**

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

REPLY ON FACTS

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

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


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


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


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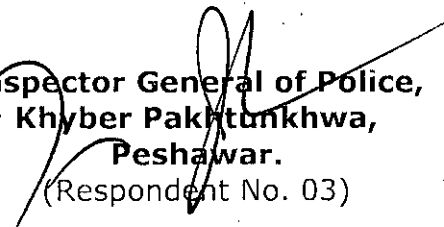
Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/o Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

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COUNTER AFFIDAVIT.

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


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


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


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

Serial No.

ORDER

Being involved in Case FIR

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

O/3 No. 1100.

dt: 17.5.13.

DPO/Mardan

ORDER

The undersigned is agree
with findings by re-instating him in ser
(Provisionally) with immediate effect &
the Enquiry papers are kept pending &
the final decision of Court concerned
in exercise of the power vested in me
under PR-1975.

O/3 No. 1181.

dt: 21.5.14.

DPO/Mardan

14. COMMENDATORY ENTRIES - Contd.

ORDER

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

OB No. 587

M/22-3-2021

DPO/Mardan

ORDER

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


OB NO = 1941

Date d = 25/10/2021


District Police Officer
Mardan

ORDER

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


DPO/Mardan

Serial No.

15. CENSURES AND PUNISHMENTS.

② days Extra duty for hrs Absence

OB NO - 279

12-12-13

DRSMR

① day Extra duty for hrs Absence

OB NO - 258

28-1-14

DRSMR

① day Extra duty for hrs Absence

OB NO - 354

7-2-14

DRSMR

① day Extra duty for hrs Absence

OB NO - 519

25-2-14

DRSMR

② days Extra duty for hrs Absence

OB NO - 697

20-3-14

DRSMR

(Continue)

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

(4)

1. Date		2. Extent			3.	4.
From	To	Years	Months	Days	No. Of District Order	Description of leave i.e privilege hospital, sick leave or of absence, or forfeiture of approved service.
				①	<u>2789</u> 17-12-13	leave w/o pay DR/DR
				①	<u>687</u> 20-3-14	← DR/DR
				③	<u>2106</u> 16-10-14	El leave — DR/DR
				⑦	<u>1218</u> 12-5-16	M/leave — DR/DR



Amma U B
S

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

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



No. 107 -PA

Dated 30/13/2021

DISCIPLINARY ACTION

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

STATEMENT OF ALLEGATIONS

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

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

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

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


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



(6)

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

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



CHARGE SHEET

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

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


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan



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

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

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

To,

THE DISTRICT POLICE OFFICER,
MARDAN.

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE HAMEED ULLAH
NO.3310

Memo:

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

ALLEGATIONS:

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

PROCEEDINGS:

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

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

DPA

(8)

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

RECOMMENDATION:

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



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

OR
~~WASHMAN~~

Issue Final Show Cause Notice

Zulw
8.9.2021

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

Respected Sir,

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

"Whereas watchman constable Hamzaullah, no 3310 while posted at police lines mardan (now under supervision police lines mardan) has been charged in a case vide FIR no 58 dated 4.2.2021 u/s 395/365/342/171/412 PPC PS Risalpur District Nowshera-12.

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

① It is submitted that the matter relates to case FIR no 58 dated 4.2.2021 u/s 395/365/342/171/412 PPC PS Risalpur. Brief facts of the case are that 4.2.2021 some unknown accused boarded in xli motor car no 888 along with white colour vigo number unknown and vitz no unknown, reached near Rashakai - interchange. The accused took away the complainant Nihar Ali along with their follow to Peshawar. The accused snatched cash amount Rs 1,10,00000 and motor car from him. In the report of the complainant, a Criminal case has been registered in the PS Risalpur. (Copy of FIR enclosed)

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

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

④ It was learnt to the petitioner that during investigation

10

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

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

6) The SHO PS Risalpur kept the Petitioner along with Azeed, a woman assassin and Shahid in illegal confinement till 25.2.2021. Our arrest was shown by the police of PP Toroo in a motor car no NV-173 vide D.O. No 5 dated 25.2.2021. (Copy enclosed)

7) During the illegal confinement Petitioner's brother named Mubhammad Ayub also filed an application u/s 491 C in the Court of Session Judge Nowshera on 24.2.21 when the police came to know regarding application u/s 491 Cr.P.C. there they showed the arrest of the Petitioner on the following day, i.e. 25.2.2021. (Copy of application u/s 491 Cr.P.C. along with counter affidavit enclosed.)

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

(11)

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

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

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

The total amount came Rs 14,00,000. The said total amount was brought by Amir to P.S. Pilsapur and handed over to SHO P.S. Pilsapur. This was shown as recovery from the possession from the petitioner in the recovery memo dated 26.2.2021.

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

10) The motor car NV-173 where in the arrest of the petitioner along with other is shown belongs to Fazal Akbar r/o K. Kalli Toru. In fact, the same car was recovered from his possession in the bazar of Chhaladur on 23.2.2021 and was taken into possession D. D. L. but used by the petitioner in the

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

10/11/2020

- A) : The Accused is innocent and has been falsely implicated in the instant case.
- B) : There is no single evidence against the Petitioner to connect him with the commission of offence.
- C) : The Complainant has charged the unknown Accused. Neither the Complainant nor other PWs have charged the Petitioner for the offence in any statement recorded up to 104 expe. Merely the Petitioner has been charged in the statements recorded up to 101 expe, which are not admissible in the eye of law.
- D) : The Petitioner and no other Accused had made confession in the Court and all such facts denote that the Prosecution case is a concocted story.
- E) : The identification Parade was not conducted before a judge during investigation, which has made the involvement of the Petitioner in the case doubtful and suspicious.
- F) : The CCTV Footage from Wali-Inter Chape to Peshawar interchange have not confirmed the arrival of the vehicles mentioned in the FIR on the date of occurrence on the spot.
- G) : The recovery of alleged stolen amount worth Rs 14,50,000 and recovery of motor car no WX-173 is illegal and contrary to the law, which detail is already given in Para 9 and 10 above.
- H) : The Petitioner was released on bail by the Hon'ble Court of Peshawar High Court dated 26.3.2020.
- I) : The High Court Accused

- (15) (13)
1. Accused petitioner is not directly charged in the FIR.
 2. Recovery of Rs. 14,50,000 has not been effected from the possession of the petitioner, as the same was taken into possession from his brother in the Police station.
 3. No identification parade of the petitioner as per law was conducted.
 4. The High Court believe that involvement of the petitioner qua their guilt in the Crime needs further enquiry.

The above points raised by the honourable Court also needs your kind attention and considerations.

(Copy of order of High Court. Peshawar is enclosed.)

- 1) There is no charge of conviction of petitioner in the instant case, rather there possibility of a conviction in the case. The case is pending trial in the court. Better would be, that the present departmental enquiry be kept pending till to the final judgment of the competent of law. The departmental procedure and judicial procedure can not run parallel to each other.

Keeping in view the above facts and circumstances mentioned it is humbly requested, that the subject charge issued to the petitioner may kindly be filed please.

Dated: 20-07-2021

Yours obediently,

~~Washman~~
Washman Constable Hameedullah
NO 3310. Police Lines Mardan.

نوشتر

تاریخ

58

11/45

1	تاریخ وقت رپورٹ	2/4	23/2
2	نام و سکونت اطلاع دہندہ مستفیض	0321-6767-332	ہاگہ لاہور 2/4 وقت 4/3330
3	مختصر کیفیت جرم (معدونہ) حال اگر کچھ لیا گیا ہو۔	0325-441173	گناہگاروں کے جسم المیہ لڑائی/سال ساکن علی گارہ سرگودھا
4	جائے وقوعہ فاصلہ تقاضا سے اور سمت		395
5	نام و سکونت ملزم		محفوظ علی گارہ لاہور
6	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو		تعمیراتی/سازگاروں سے معذور ٹائٹل لگا
7	تقاضا سے روانگی کی تاریخ و وقت		بلور سسٹمز رپورٹ

ابتدائی اطلاع نیچے درج کرو۔ جو مولانا صاحب نے 24/1/2015ء میں پیش کی تھی جس میں 1870ء میں مولانا نے 4000 روپے کی رقم لے کر لاہور سے گریٹر لاہور کے علاقہ کلاں میں ایک مکان بنوا دیا تھا۔ یہ مکان مولانا نے اپنے بیٹے کو عین حیات میں ہی لے کر لاہور لے گیا تھا۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 7000 روپے تھی۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 1500 روپے تھی۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 50 روپے تھی۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 50 روپے تھی۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 50 روپے تھی۔ اس کے بعد اس نے لاہور میں ایک مکان بھی بنوا دیا تھا جس کی قیمت 50 روپے تھی۔

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متر مربع - اور اسکے بعد فی اش دوڑ رہی تھی۔ اپنے سر سے ہاتھ دوز پر اٹھایا۔

میں نے نزدیک ٹانگہ بہت اونگہ لے کر اسے تھما دیا۔ جاکر مینوں سے میرا ٹکڑا کھول کر دیکھا

وہ بیٹے کا نام اشیران کا اور اسی نام سے منسوب ہے۔ مینوں نے رپورٹ کرنے کی پوری کوشش کی۔ پھر میں

میں پورے گا، شکر ہے کہ وہ اور رقم صبح 1 کروڑ 10 لاکھ روپے پورے لیٹنے کا ہدف

مندان اہم دستوں کا صلوح دیکھ رہی ہوں۔ اور دیکھا کہ اس کا رونا دیکھا وہ دیکھ کر

ہاہے نہ رپورٹ ہو کر 50 لاکھ کی حالت کی۔ اور دیکھا کہ اس کا رونا دیکھا مائل رپورٹ کر رہا

ہے پھر

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اور پھر

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mm-15-21
4-2-21



Amir D
(18)

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

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



No. 287 /PA

Dated 15/8/2021

FINAL SHOW CAUSE NOTICE

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

In this connection, during the course of Departmental Enquiry, conducted by ASP Muhammad Qais Khan SDPO Takht-Bhai vide his office letter No.610/ST dated 08-07-2021, in pursuance of this office Statement of Disciplinary Action/Charge Sheet No.107/PA dated 30-03-2021, holding responsible you of gross misconduct & recommended for major punishment.

Therefore, it is proposed to impose Major/Minor penalty as envisaged under Rules 4 (b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Dr. Zahid Ullah (PSP) District Police Officer Mardan, in exercise of the power vested in me under Rules 5 (3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975 call upon you to Show Cause Finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of receipt of this Notice, failing which; it will be presumed that you have no explanation to offer.

You are liberty to appear for personal hearing before the undersigned.

Received by _____

Dated: ___/___/2021


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy to DSP/HQrs Mardan (Attention Reader) to deliver this Notice upon the alleged official & the receipt thereof shall be returned to this office within (05) days positively for onward necessary action.

(17)

BEFORE THE WORTHY DISTRICT POLICE OFFICER MARDAN

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

pected Sir,

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

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

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

BRIEF FACTS OF THE INCIDENT:

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

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

(19)

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

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

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

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

This illegal practice is the extreme boundary of cruelty. This can also be confirmed from the relevant documents already enclosed.

(The recovery memo dated 26/02/2021 is enclosed) →

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

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

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

- (20)
- III. The complainant has charged has unknown accused. Neither the complainant, nor other PW's have charged the petitioner for the commission of offence in any statement recorded U/S 164 CrPC. Merely the petitioner has been charged for the commission of offence in the statements recorded U/S 161 CrPC, which are not admissible in the eye of law.
- IV. The petitioner and no other accused had make confession in the court and all such facts denotes that the prosecution case is a concocted story.
- V. The identification parade was not conducted before a Judge, during investigation, which has made the involvement of the petitioner in the case to be doubtful and suspicious.
- VI. The CCTV Footage from Wali Interchange to Peshawar Interchange have not confirmed the arrival of the vehicles on the spot mentioned in the FIR on the date of occurrence.
- VII. The recovery alleged stolen amount .worth Rs. 14,50,000/- and recovery of motorcar NV-173 is illegal and contrary to the law, which details is already given in Para 9 and 10 above respectively.
- VIII. The petitioner was released by bail by the Honourable Court of Peshawar High Court order dated 26/03/2021 on the following grounds.
- a. Petitioner not directly charged in the FIR.
 - b. Recovery of Rs. 14,50,000/- has not been effected from the possession of the petitioner as the same was taken into possession from Ameer Khan closed door neighbor of the petitioner in the PS Risalpur.
 - c. No identification parade of the petitioner as per law was conducted.
 - d. The High Court believe that involvement of the petitioner qua their guilt in the crime needs further enquiry. All these grounds from Para "a" to "d" needs your kind attention and consideration. (Copy of High Court order dated 26/03/2021 is enclosed). →

ILLEGAL / SUPERFACIAL ENQUIRY PROCEEDING:

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

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

PRESENT POSITION OF THE CRIMINAL CASE:

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

PRAYERS:

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

Dated: 18/09/2021

The officer was heard in OR on 20.10.2021. He was given ample opportunity to explain his position but he failed.

Keeping in view the enquiry report & related documents of 5
Hameed Ullah 3310 Wastherman Constable is dismissed from service

Yours Obediently,

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

20.10.2021



(22)

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

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

2021

No. 270-73 /PA

Dated 20/10/2021

ORDER ON ENQUIRY OF CONSTABLE HAMEED ULLAH NO.3310

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

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

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

Final Order

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

OB No. 1941

Dated 25/10/2021.


(Dr. Zahid Ullah) PSP
District Police Officer
Mardan

Copy forwarded for information & n/action to:-

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

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ORDER.

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

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

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

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

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

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

Order Announced.

[Signature]
Regional Police Officer,
Mardan.

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

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

Superintendent of Police
Mardan
3298
8/4/22

Legal/EC
[Signature]
D.P.O/mr

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

Service Appeal No. 898/2022

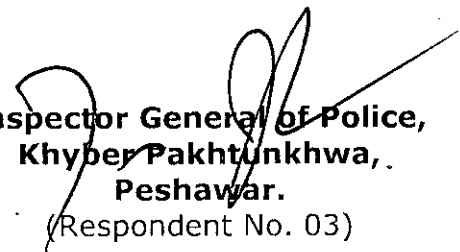
Hameed Ullah Ex-Constable No. 3310 s/o Sher Ahmad r/p Zor Mandi
PO Miyar Tehsil and District Nowshera.....Appellant

VERSUS

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

AUTHORITY LETTER.

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


**Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.**

(Respondent No. 03)


**Regional Police Officer,
Mardan.**

(Respondent No. 02)


**District Police Officer,
Mardan.**

(Respondent No. 01)