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

Service Appeal No. 952/2022

Imran s/o Malook (HC No. 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant

VERSUS

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

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de-05-24
peshawar
S.B.


**DSP Lega
Mardan**

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

Service Appeal No. 952/2022

Imran s/o Malook (IHC No. 138 (HC 203) District Police Mardan),
Village Lund Khwar District Mardan.....Appellant

VERSUS

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

Para-wise comments by respondents:-

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 12677

Dated 10-05-24

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 performing his duty in Police Department as Head Constable.
2. Denied as incorrect. In fact, the appellant was involved in criminal offence vide FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh as stolen property required in case vide FIR No. 534 dated 25.11.2016 u/s 381-A PPC PS Shergarh was recovered from him. Subsequently, he was suspended and departmental proceedings were initiated against him, after completion of which, he was awarded punishment of forfeiture of 05 years qualified service vide DPO Mardan office order No. 1688 dated

21.07.2017 (**Copy of punishment order is enclosed as Annexure-A**).

It is worth to mention here that before the instant service appeal, the appellant has filed Service Appeal No. 799/2022 by impugning the order *ibid*, however, which was dismissed being time barred by this Honorable Service Tribunal vide judgment dated 08.09.2023 (**Copy of Judgment dated 08.09.2023 is enclosed as Annexure-B**). Now, again, the appellant has filed the instant service appeal with the same prayers besides impugning his transfer from Mardan Region to Kohat Region which once was also dismissed by this Honorable Service Tribunal in terms of "Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default " vide order dated 14.09.2022, but he filed restoration application, to which the said appeal was restored (**Copy of order sheet dated 14.09.2022, restoration application, Previous Service Appeal No. 799/2022, and Previous Reply as annexure- C, D, E & F**).

3. Correct to the extent that the appellant has been transferred from Mardan Region to Kohat Region through an administrative order. Besides, as per section 4(4) of Police Act, 2017, every Police Officer is liable to perform duty in any branch, bureau and section etc.
4. Incorrect as available record is silent regarding submission of the appellant's appeal before the Inspector General of Police, Khyber Pakhtunkhwa. Also, the appellant is duty bound to follow channel of communication as enunciated under rules 14.6 and 14.7 of Police Rules, 1934 before filing any application/appeal before the high-ups.
5. Para pertains to acquittal of the appellant in FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh. However, the August Apex Court of Pakistan has laid down the principle that departmental proceedings and judicial proceedings are two different entities, both can run parallel to each other without affecting the result of each other. This Controversy was resolved by the Apex Court of Pakistan in case titled "**Khaliq Dad Vs**

Inspector General of Police and 02 others (2004 SCMR 192" wherein it was held that:-

"Disciplinary proceedings and criminal proceedings---Difference---Acquittal from criminal case---Effect---Both such proceedings are not inter dependent and can be initiated simultaneously and brought to logical end separately with different conclusions---Criminal proceedings do not constitute a bar for initiation of disciplinary proceedings relevant to Efficiency and Disciplinary Rules---Acquittal in criminal case would have no bearing on disciplinary action".

6. Incorrect. That the order passed by the competent authority is legal and according to the principles of natural justice. Moreover, the appellant's earlier service appeal was once dismissed by this Honorable Tribunal, thus attracting principle of res-judication therefore, appeal of the appellant lacks merits and is liable to be dismissed on the following grounds amongst the others;

REPLY ON GROUNDS:

- A. Incorrect. Order passed by the competent authority is not a punishment order, but it is routine transfer order as per rules. Besides, vide the impugned order, two other officials were also transferred.
- B. Incorrect, the appellant is bound to perform duty anywhere across province as per rules. Moreover, transfer/posting is the administrative doman of the respondent department.
- C. Incorrect. Plea taken by the appellant is baseless, because he has been proceeded departmentally on account of involvement in criminal offence vide FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh wherein stolen property was recovered from him as explained vide Para 2 of facts. On the said allegations, the appellant was issued charge sheet with statement of allegations and enquiry was entrusted to the then SDPO Takht Bhai Mardan. The enquiry officer during the course of enquiry fulfilled all legal and codal formalities by also extending right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. The Enquiry Officer submitted his finding report to the competent authority and recommended the appellant for forfeiture his five years qualified service.

Therefore, the appellant was called in Orderly Room on 19.07.2017 by the competent authority, but this time too, the appellant failed to justify his innocence. Hence, he was awarded punishment of forfeiture of five years approved service as per law **(Copies of charge sheet with statement of allegations and enquiry report are attached as annexure-G & H).**

- D. Incorrect. Stance taken by the appellant is baseless as the appellant has duly been provided opportunity of personal hearing by the Enquiry Officer during course of enquiry and later on, by the competent authority.
- E. That the respondents may also be allowed to adduce additional grounds at the time of arguments before this Honorable Tribunal.

PRAYER:-

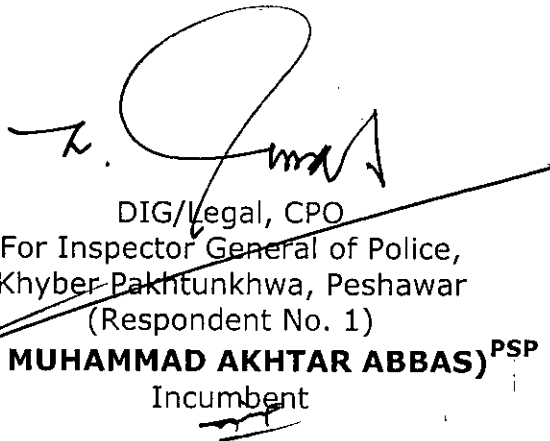
Keeping in view the above narrated facts, it is most humbly prayed that the appeal of the appellant being badly barred by law and limitation, may kindly be dismissed with costs please.



District Police Officer, Mardan.
(Respondent No. 4)
(ZAHOOR BABAR)^{PSP}
Incumbent



Regional Police Officer, Mardan.
(Respondent No. 3)
(NAJEEB-UR-REHMAN BUGVI)^{PSP}
Incumbent



DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)^{PSP}
Incumbent

5

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

Service Appeal No. 952/2022


Imran s/o Malook (HC No. 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant

VERSUS

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

COUNTER AFFIDAVIT.

I, the respondent 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 my knowledge and belief and nothing has been concealed 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.


District Police Officer, Mardan.
(Respondent No. 4)
(ZAHOOR BABAR)^{PSP}
Incumbent



10/5/2022

6 ANNEX A

6

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. 7153-56 /PA

Dated 24/1 /2017

ORDER ON ENQUIRY OF IMRAN NO.203

This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted at PS Takht Bhai (now under suspension Police Lines), was placed under suspension and closed to Police Lines vide OB No.1089 dated 08.05.2017, issued vide order/endorsement No.4491-95/OSI dated 10.05.2017 and proceeded against departmentally through SDPO Takht Bahi, vide this office Disciplinary Action No. 4854-55/PA dated 11.05.2017 on account of charging in a case vide FIR No.452 dated 02.05.2017 U/S 411 PPC PS Shergarh, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No. 1414/ST dated 12.06.2017, holding responsible the alleged officer for misconduct with recommending him for forfeiture his five years qualified service.

Final Order

HC Imran No.203 was heard in O.R held in this office on 19.07.2017, but he failed to produce any plausible/cogent reasons in his defense, therefore, he is hereby awarded the punishment of forfeiture his five years approved service & is reinstated in service from the date of suspension with counting his suspension period as duty & his pay released with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No. 1638

Dated 21/7 2017.


District Police Officer,
Mardan.

Copy forwarded for information & n/action to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operations & SP/Investigation Mardan.
3. The SDPO Takht-Bhai.
4. The Pay Officer & E.C (Police Office) Mardan.
5. The OSI (Police Office) Mardan with () Sheets.


**DSP Legal
Mardan**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 799/2022

BEFORE: MR. SALAH-UD-DIN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Imran S/O Malook (HC No. 203 District Police Mardan), Village
Lund Khwar District Mardan. (Appellant)

Versus

1. The Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Home Department, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer Mardan.
4. District Police Officer Mardan. (Respondents)

Mr. Muhammad Irshad,
Advocate ... For appellant

Mr. Assad Ali Khan,
Assistant Advocate General ... For respondents

Date of Institution.....	31.03.2022
Date of Hearing.....	08.09.2023
Date of Decision.....	08.09.2023

ATTESTED

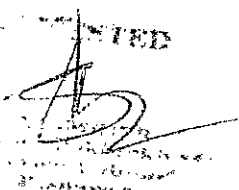
JUDGEMENT

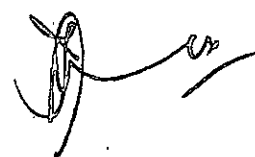
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order of the DPO/respondent No. 4, dated 21.07.2017 whereby the appellant's approved five years service was forfeited and his appeal was dismissed by the respondent No. 3 without waiting for the result of the case, as the appellant has been acquitted by the court in FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Sher Garh. It has been prayed that on acceptance of the appeal, the appellant might be restored to the position of 21.07.2017 and seniority might be ordered in accordance with merit as he had undergone lower training.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was posted as HC in District Police Mardan. He was malafidely charged in FIR under Section 411 PPC and was suspended. Respondent No. 4, vide order dated 21.07.2017, forfeited 5 years approved service of the appellant and also transferred him to Charsadda. Feeling aggrieved, he moved application before the Regional Police Officer which was rejected on 27.04.2018. He then filed revision petition before the Inspector General of Police on 04.03.2022, which was rejected on 16.03.2022, hence the present appeal.

3. Respondents were put on notice who submitted their reply/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order was illegal, unjustified and against the principles of natural justice. He further argued that the respondents had no authority to forfeit five years approved service of the appellant while adjudication of the criminal case was pending before the competent court of law, hence, the respondents had acted beyond their authority. He further argued that the appellant was not provided the right of defence and was condemned unheard and the whole proceedings were carried out in utter disregard of the relevant rules. He requested that the appeal might be accepted as prayed.

STED




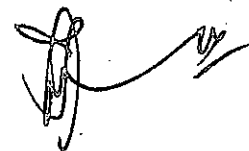
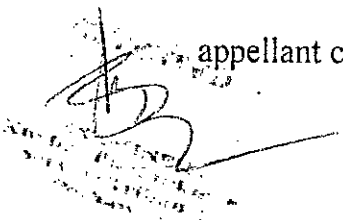
5. Learned Assistant Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the appellant was involved in a criminal case vide FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh. He informed that the appellant was issued charge sheet alongwith statement of allegations and enquiry was entrusted to the SDPO Takht Bhai Mardan. The enquiry officer during the course of enquiry fulfilled all legal and codal formalities by extending right of self defence to the appellant to produce evidence/grounds in his defense but in vain. The learned AAG further contended that the enquiry officer, after fulfilling necessary process, submitted his finding report to the competent authority and recommended the appellant for forfeiture of his five years qualified service. He was summoned and heard in orderly room on 19.07.2017 and was provided the right of self defence but he failed to produce any cogent justification. The learned AAG further argued that upon preferring departmental appeal, he was again called in the Orderly Room on 25.04.2018 but he again failed to produce any justification in his defence. He requested that the appeal might be dismissed.

6. Arguments and record provided before us shows that the appellant, while serving as Head Constable at P.S Takht Bhai, was involved in FIR No. 452 dated 02.05.2017 u/s 411 PPC P.S Shergarh. When the matter came to the knowledge of his high ups, they placed him under suspension and closed to Police Lines vide an order dated 08.05.2017. Disciplinary proceedings were also initiated against him by issuing a charge sheet and statement of allegations on 11.05.2017. The Inquiry Officer submitted his report on 12.06.2017, based on which the appellant was awarded

(10)

punishment of forfeiture of his five years' approved service vide order dated 21.07.2017 by the DPO Mardan, that has now been impugned before us. Aggrieved from the order, the appellant preferred a departmental appeal which was rejected by the Regional Police Officer, Mardan on 27.04.2018. Criminal case of the appellant was in progress in the relevant court of law and he was on bail. Vide an order of the learned Judicial Magistrate, Takht Bhai, Mardan dated 09.03.2020, the appellant was acquitted from the charges leveled against him. After his acquittal, he preferred a revision petition on 04.03.2022, which was filed by the competent authority on 16.03.2022 on the ground of being "badly time bared."

7. The above mentioned facts presented before us show that the departmental appeal of the appellant was rejected vide order dated 27.04.2018 and under Rule 11-A of Police Rules 1975, he was bound to prefer a revision petition within thirty days of the rejection order to the next higher authority i.e. the Inspector General of Police/Provincial Police Officer. Instead of that, he submitted the revision petition on 04.03.2022. If we assume, for the sake of argument, that he was waiting for his case to be decided by the court of law, even then it is evident from the record that the learned Judicial Magistrate acquitted him through his judgment dated 09.03.2020. When confronted why he did not prefer a revision petition immediately after acquittal and that why he waited for two years for submitting the same to the competent authority, the learned counsel for the appellant could not put forward any plausible reason for the delay.




11

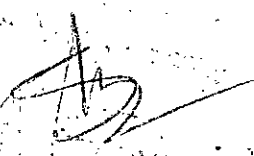
8. In view of the above discussion, we do not find any hesitation in saying that when an appeal or petition is time barred before the departmental authority, then appeal before this Tribunal is not maintainable. The service appeal in hand is, therefore, dismissed, being not maintainable. Costs shall follow the event. Consign.

9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 08th of September, 2023.


(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S


(SALAH-UD-DIN)
Member (J)



08/9/23
page 5
25/
25/-
04/10/23
04/11/23

Appeal No. 952/2022
Imran vs Giat

14th Sept, 2022

1. None present for the appellant.
2. Called several times till last hours of the court but nobody turned up on behalf of the appellant. In view of the above, the instant appeal is dismissed in default.

3. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 14th day of September, 2022.



(Signature)
(Kalim Arshad Khan)
Chairman

(Signature)

14/9/2022
14/9/2022

22/09/2022
22/09/2022

Amir D

13

Before The Service Tribunal, Peshawar

Restoration Appli. No. 593/2022

Civil Miscellaneous 593 in Service Appeal No. 952/2022



Imran S/O Malook (IHC No. 138 (HC 203) District Police Mardan),
Village Lund Khwar District Mardan.

.....Appellant

Versus

The Government of KPK through

1. The Inspector General of Police K.P.K Peshawar
2. The Secretary, Home Department, K.P.K Peshawar.
3. Regional Police Officer Mardan.
4. District Police Officer Mardan.

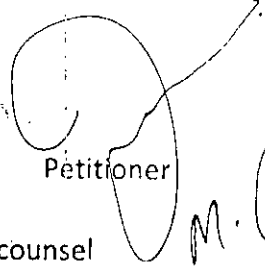
.....Respondants

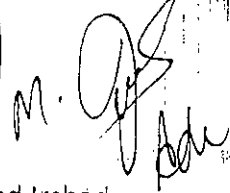
Application for restoration of appeal no 952/¹³⁸dismissed in default
on 14th September 2022 due to non prosecution.

Respectfully sheweth,

- A. That the petitioner is on duty at District Karak as police constable.
- B. That counsel for petitioner has regularly attend the court.
- C. That on 14/09/2022 on the way from Mardan towards Peshawar meet with accident and has badly damaged car of the counsel and is the reason why could not attend the court on time.
- D. That in later hours counsel for petitioner reached the Tribunal premises and was told that the said appeal has been dismissed in default by the honorable court.
- E. That on the said day and even date applied for attested photocopies of the said order.
- F. That absence of the counsel was not deliberate but due to accident.

It is therefore requested and prayed that the application in hand may kindly be accepted and appeal no 952 be ordered to be restored. Any other remedy which this honorable court deems proper and fit may also be awarded to the petitioner.

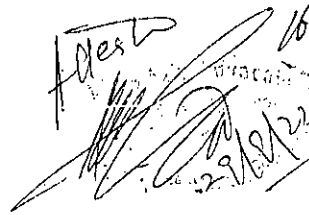

Petitioner

Through counsel 
Muhammad Irshad
Advocate High Court
Mardan

Affidavit:-

I, Muhammad Irshad Advocate High Court from Mardan do hereby state on Solemn affirmation that the contents of this Appeal Are true and correct to the best of my knowledge And belief.

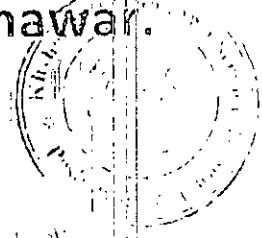
Deponent:


29/01/22 M. Irshad
16102-4820522-5
0343856793

15

Before The Service Tribunal, Peshawar.

Service Appeal No. 952/2022



Imran S/O Malook (IHC No. 138 (HC 203) District Police Mardan),
Village Lund Khwar District Mardan.

Appellant

Versus

Secretary, Home Department
K.P.K Peshawar

419

Dated

24-6-2022

The Government of KPK through

1. The Inspector General of Police K.P.K Peshawar
2. The Secretary, Home Department, K.P.K Peshawar.
3. Regional Police Officer Mardan.
4. District Police Officer Mardan.

Respondents

Appeal under section 4 of The service Tribunal Act, 1973 against the order of the IGP/Respondent No.1, vide order dated 04/02/2022 No 215/E-III Peshawar, whereby the Appellant was transferred from Mardan Region to Kohat Region without waiting for the result of the case, as the appellant has been acquitted by the court in FIR 452 dated 02/05/2017 U/S 411PPC PS Sher Garh as a result of disciplinary proceedings.

Prayer in Appeal:-

That the appellant may please be restored to the position prior to 21/07/2017 and transferred back to Mardan region and seniority may please be ordered in accordance with merit as appellant has did lower training prior to the date mentioned.

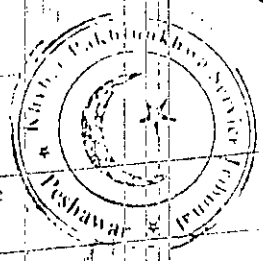
16

Form-A
FORM OF ORDER SHEET

Court of

Case No.

952/2022



S.No.

Date of order proceedings

Order or other proceedings with signature of judge

3

24/06/2022

The appeal of Mr. Imran presented today by Mr. Muhammad Irshad Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.

REGISTRAR

4/7/22

This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on 13-7-22. Notices be issued to appellant and his counsel for the date fixed.

CHAIRMAN

13.07.2022

Learned counsel for the appellant present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for preliminary hearing before the S.B on 14.09.2022.

(Mian Muhammad)
Member (E)

SECRET

2488
13/9/22

Amended
10
"E"

"A"

17

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

APPEAL No. 799 of 20 22

Imran

5-12-22

Appellant/Petitioner

Versus

459/43
21-9-22

IGP Peshawar

RESPONDENT(S)

Resp No 3

Notice to Appellant/Petitioner

Regional Police
officer Mardan

03/09/16-2009

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 2-11-22 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For Reply

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

EC DPO Mardan
For Comments

No-7312/ES
dt= 19-9-22

DSP Legal
for Reaction

Seal of the Superintendent
No. 7965
Date 20-9-22

Signature
19-9

Md/Mardan

Before The Service Tribunal, Peshawar.

Service Appeal No. 799 /2022

18

Imran

Versus

The Inspector General of Police & others

Appeal

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10.	Earlier appeal returned with objection		

Dated 27/04/2022

Appellant

Through counsel

Muhammad irshad

Advocate

High court Peshawar

Cell# 03438567931

mirshadhumraz@gmail.com

Before The Service Tribunal, Peshawar.

Service Appeal No. 798/2022

19

Imran S/O Mslook (HC No: 203 District Police Mardan), Village
Lund Khwar District Mardan.

.....Appellant.

Versus

1. The Inspector General of Police K.P.K Peshawar
2. The Secretary, Home Department, K.P.K Peshawar.
3. Regional Police Officer Mardan.
4. District Police Officer Mardan.

.....Respondants.

Appeal under section 4 of The service Tribunal Act,1973 against the order of the DPO/Respondent No.4, vide order dated 21/07/2017 OB No 1688, whereby the Appellant's approved five years' service forfeited and appeal dismissed by the respondent no 3 without waiting for the result of the case, as the appellant has been acquitted by the court in FIR 452 dated 02/05/2017 U/S 411PPC,PS Sher Garh as a result of disciplinary proceedings.

Prayer in Appeal:-

That the appellant may please be restored to the position 21/07/2017 and seniority may please be ordered in accordance with merit as appellant has did lower training prior to the date mentioned

Respectfully Sir,

Appellant submits as under

1. That the Appellant was posted as HC in District Police Mardan.
2. That the appellant was malafidely charged in FIR under section 411 PPC and was suspended.

3. That the respondent no 4 in order OB no1688 dated 21/07/2017 has forfeited 5 year approved service and was transferred to Charsadda.

4. That Appellant was aggrieved from the order of respondent no 4 moved application before RPO vide which order of DPO was maintained.

5. That the appellant moved application to the DPO concern but charge sheet, statement of allegations and reply to enquiry has not been provided.

Copy of application to DPO attached.

6. That the appellant moved application to the registrar RTI for providing copy of charge sheet, statement of allegations and reply to enquiry which is yet to be responded.

Copy of application to RTI attached

7. That adjudicating upon the said Appeal, the I.G.P/ Respondent No.1 was approached after decision of the learned Judicial Magistrate Takht Bhai which is to be decided.

Copy Annexure "A"

8. That Appellant preferred representation to respondent no 1 against the impugned findings of the respondents no 3 & 4, which is still un-responded.

Copy Annexure "B"

9. That the impugned order is illegal, unjustified and against the principles of naturel justice. Hence, the same is liable to be set-aside on the following amongst many other grounds:-

A. That the respondents had no authority to forefeet five years approved service of appellant, while adjudication is pending before the court, Hence, the respondents has acted beyond its authority, by recommending the forfeiting approved service of Appellant.

B. That the impugned order is passed as a punishment, which is not provided under the relevant rules.

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C. That the Appellant is resident of village miyan Umer seri Lund Khwar Mardan. Hence, on account of his forfeiting service of Appellant will suffer physical, mental and financial hardships.

D. That the whole of the proceedings were carried-out in utter disregard to the relevant rules.

E. That the Appellant is not provided the right of defense, under the law and he is condemned unheard.

F. That Appellant seeks leave of this Honorable Tribunal to claim further grounds also.

It is prayed that on acceptances of this Appeal, the impugned order may be set aside and the Appellant may be ordered in the seniority be considered as before 21/07/2017. Any other remedy which this honorable court deems proper and fit may also be awarded to the appellant.

Date:- 27.04.2022

Appellant

(Imran HC)

Through:-

Muhammad Irshad

Advocate High Court

at Mardan

Affidavit:-

I, Imran / the Appellant do hereby state on

Solemn affirmation that the contents of this Appeal

Are true and correct to the best of my knowledge

And belief:

Deponent:

(Imran H C)

21

"Amended" B

L/B

7

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

Service Appeal No. 799/2022

Imran s/o Malook (HC No. 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant

VERSUS

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

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S. No.	Description of Documents	Annexure	Pages.
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4.	Copy rejection Order	B	6
5.	Copy of Charge Sheet with statement of allegations & Enquiry	C & D	7-12
6.	Copy of Authority Letter.	--	13


**DSP Legal
Mardan**

L/B

"F"

22

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 799/2022

Imran s/o Malook (HC No. 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant

VERSUS

The Inspector General of Police Khyber Pakhtunkhwa, Peshawar and
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 performing his duty in Police Department as Head Constable.
2. 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. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh.
3. Correct to the extent that the appellant was summoned and heard in Orderly Room held on 19.07.2017 by providing right of self defense to the appellant to produce evidence/grounds in his defense but in fiasco. However, after fulfillment of all legal and codal formalities, he was awarded punishment of forfeiture of his five years approved service, while rest of para is incorrect because no such order was passed as the contents of


**DSP Legal
Mardan**

punishment order are totally silent regarding transfer being beyond the competence of the competent authority (Copy of order is attached as annexure-"A").

4. Correct to the extent that the appellant preferred departmental appeal which was also decided on merit because he was called in Orderly Room on 25.04.2018, but this time too he bitterly failed to produce any cogent justification in his defense. Therefore, his departmental appeal was also rejected (Copy of order is attached as annexure-"B").
5. Incorrect. Plea taken by the appellant is not plausible.
6. Para already explained needs no comments.
7. 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.
8. Correct to the extent that the appellant filed revision petition which was also decided on merit being badly time barred.
9. Incorrect. That the order passed by the competent authority is legal and according to the principles of natural justice. That appeal of the appellant is liable to be dismissed on the following grounds amongst the others.

REPLY ON GROUNDS:

- A. 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, respondents have acted according to Rules.
- B. Incorrect. Order passed by the competent authority are according to rules.
- C. Plea taken by the appellant is not plausible hence, no comments.
- D. 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. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh. On the said allegations, the appellant was issued charge sheet with statement of allegations and enquiry was entrusted to 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



**DSP Legal
 Mardan**


fiasco. The Enquiry Officer after fulfilling necessary process, submitted his finding report to the competent authority and recommended the appellant for forfeiture his five years qualified service. Therefore, the appellant was called in Orderly Room on 19.07.2017, but this time too, the appellant failed to justify his innocence, hence, he was awarded punishment of forfeiture of five years approved service, which does commensurate with the gravity of misconduct of the appellant (Copies of charge sheet with statement of allegations and enquiry, are attached as annexure -"C & D").

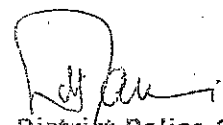
- E. Incorrect. Para already explained needs no comments.
- F. That the respondents also seek permission of this honorable tribunal to adduce additional grounds at the time of arguments.

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. 01)


 Regional Police Officer,
 Mardan.
 (Respondent No. 03)


 District Police Officer,
 Mardan.
 (Respondent No. 04)


DSP Legal
Mardan

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

Service Appeal No. 799/2022

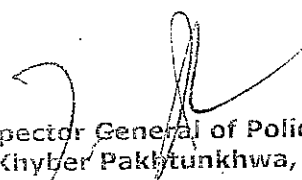
Imran s/o Malook (HC No. 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant


VERSUS


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

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 Honorable Tribunal.


Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No. 01)


Regional Police Officer,
Mardan.
(Respondent No. 03)


District Police Officer,
Mardan.
(Respondent No. 04)


**DSP Legal
Mardan**

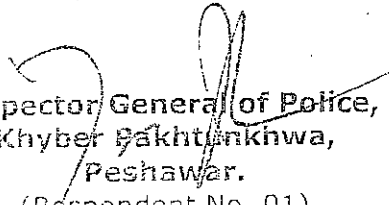
**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR.**

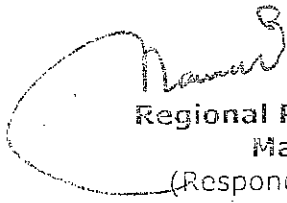
Service Appeal No. 799/2022

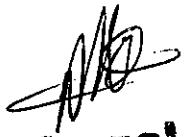
Imran s/o Malook (HC No: 203 District Police Mardan), Village Lund
Khwar District Mardan.....Appellant

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. 01)


Regional Police Officer,
Mardan.
(Respondent No. 03)


**DSP Legal
Mardan**


District Police Officer,
Mardan.
(Respondent No. 04)

OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN

Amred (G)

(4)

27

Tel: 0937-9230109
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Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. 4854-55 /PA

Dated 11/15 /2017

DISCIPLINARY ACTION

I, Dr. Mian Saeed Ahmad (PSP), District Police Officer Mardan, as competent authority am of the opinion that Constable Imran, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules, 1975.

STATEMENT OF ALLEGATIONS

Whereas, Constable Imran No.203, while posted at PS Takht Bhai, now under suspension Police Lines, has been charged in a case vide FIR No.452 dated 02.05.2017 U/S 411 PPC PS Shergarh.

For the purpose of scrutinizing the conduct of the said accused Official with reference to the above allegations, ASP T/Bho 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 Official, 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 Imran is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.


**DSP Legal
Mardan**


(Dr. Mian Saeed Ahmad) PSP
District Police Officer,
Mardan.

OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN


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Facebook: District Police Mardan
Twitter: @dpomardan

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CHARGE SHEET

I, Dr. Mian Saeed Ahmad (PSP), District Police Officer, Mardan, as competent authority, hereby charge Constable Imran No. 203 of PS Takht Bhai (now under suspension Police Lines), 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 Officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.


(Dr. Mian Saeed Ahmad) PSP
District Police Officer,
Mardan.


**DSP Legal
Mardan**

Annex D: (6) 29

**OFFICE OF THE
SUB-DIVISIONAL POLICE OFFICER,
TAKHT BHAI CIRCLE**

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

No. 1414 /ST, Dated: 12/06/2017.

The Worthy District Police Officer,
Mardan

Subject: DISCIPLINARY ACTION AGAINST CONSTABLE IMRAN NO. 203

Memo: Kindly refer to your office Diary No. 4854-55/PA, dated 11.05.2017.
In pursuance of your kind order, the undersigned completed enquiry in the above subject case. Its step-wise detail is given below.

STATEMENTS OF ALLEGATIONS:

Whereas, Constable Imran No. 203, while posted at PS Takht Bhai, now under suspension Police Lines, has been charged in a case vide FIR No. 452, dated 02.05.2017 u/s 411 PPC PS Sher Garh.

SUSPENSION ORDER:


Being charged vide case FIR No. 452, dated 02.05.2017, u/s 411 PPC Constable Imran No. 203 presently posted at PS Sher Garh is hereby placed under suspension and closed to Police Lines with immediate effect vide OB No. 1089, dated 08.05.2017.

PROCEEDINGS:

The defaulter Constable Imran No. 203 was summoned, heard in detail, charge sheet and summary of allegation were served upon him. He submitted his written reply and verbally cross questioned.

STATEMENT OF CONSTABLE IMRAN NO. 203:

He stated in his statement that on 12.03.2017 he was gone to Ganjai Hospital for Census rehearsal duty on motorcycle. During duty SHO PS Sher Garh along with another person Numan Mustafa s/o Fazlullah i/o Jalala came & stated that the said motorcycle was his property & also case property of case FIR No. 534, dated 25.11.2016, u/s 381-A PPC PS Sher Garh, he immediately handed over the said bike to SHO PS Sher Garh & also stated that the said motorcycle was purchased by his brother Jawad Ali in


**DSP Le
Marda**

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Garh "Maila" from one Attaullah s/o Raza Khan. He along with his brother Jawad Ali came to Police Station Sher Garh several time but SHO failed finding the real culprit Attaullah. In last he chases Attaullah in Sher Garh "Maila" & timely informed the SHO but the SHO failed to arrest real culprit namely Attaullah & registered a case vide FIR No. 452, dated 02.05.2017, u/s 411 PPC PS Sher Garh against him. Further stated he is B-1 qualified & requested for apologize.

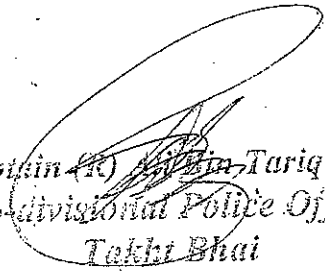
FINDINGS:

The stolen property was recovered from him. Thus he is held responsible for the matter / case.

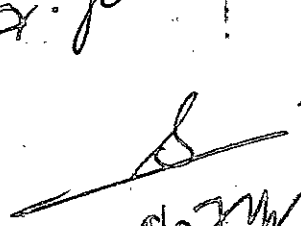
RECOMMENDATION:

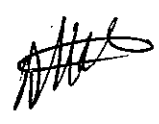
Keeping in view of the above circumstances that Constable Intran No. 203 may kindly be awarded punishment of forfeiture of 05 years qualified service instead of dismissal from service on the above charges, if agreed.

Encl: (13)


Captain (P) Aftab Tariq PSP
Sub-divisional Police Officer,
Tekht Bhai

al
13 OCT 17
forfeiture of 05 ~~day~~ years service


19/10/17



**DSP Legal
Mardan**

9

جامعہ عالی
 بولڈرز سٹی ایڈیشن بری 4854-55 P 11.05.2017
 ختم ہونے والے سال کا ہونی
 تعلیم یافتہ۔ جو ان کے احوال کا مطالعہ ہے۔ یاغ ہونی ہے لکڑیاں اسی طرح نہایت
 فراہم بینی اور شادی اندر ہی ہے سرانجام دیکر افران دست بالا کو کسی قسم کی تکلیف کا
 موقع نہیں دے گا۔ بلکہ انھیں ہونی کے پیراؤں مالا مال نام اور ہونی اسناد سے
 نوازہ تھا۔ رکارڈ گواہ ہے۔

سائل نے حکمانہ آفمان ACB سال 2016 میں پاس کر کے حال ہی میں BCB کا آفمان لکھے
 جرات سے پاس کر کے رٹرن کر کے آفمان لکھے۔ اسی مافی تھا جسے شہر کی قسمت
 اٹھے آنا۔

سید قطر و آفات فوجوں ہے۔ کے شروع 2016ء کو درجہ شہر میں کھلے بسری اور سائل
 سیکرٹری، نذرہ سزادہ فوجوں کے انعام دی گئی تھی۔ سائل نے اس کا مواظفہ۔ دوران
 فوجوں کی فہم 5110 اور مدعی آفمان لکھے۔ جسے سرگما گا کے فوجوں سائل نے
 جوڑی اور والدہ شخص کو ملکیت ہے۔ سائل نے اسکی وقت فہم 5110 کا شہر
 کو فوجوں سائل کو لے کر گیا۔ اور سائل نے فوجوں سائل کو لے کر گیا۔ جو
 جسکی عطا اللہ ولد فہم و خان ساکن اعظم کو فوجوں سائل سے فوجوں لکھے، 5110 P
 نے جسے ہم سزادہ فوجوں کے فہم لکھے گئی مدافرت دیا۔

میں سزادہ فوجوں کو فوجوں کے کچھ بار کھانے لکھے۔ فہم 5110 نے یہ سائل کو لکھا
 واپس لکھے۔ کہ عطا اللہ کی مدافرت لکھے میں کریں۔ ورنہ اسکو اللہ کے مدافرت
 اور میں نہ کروں عطا اللہ کے عقد گاؤں گا۔ مگر وہ سب سب جاننا۔ مگر وہ
 فوجوں کو فوجوں میں لکھا۔ فہم 5110 کو اللہ کی مدافرت لکھے وہ اسی فوجوں
 بالکل لکھے فوجوں کو فوجوں لکھے۔ مگر فوجوں لکھے۔

اج سے تقریباً 1/2 ماہ قبل میں دوبارہ فہم لکھا۔ 5110 سے مدافرت لکھے۔
 اسے لکھے اس بات پر اکتفا کیا۔ کہ جو وہ فوجوں میں سائل اور سزادہ فوجوں
 کے خلاف فوجوں میں لکھا۔ اور لکھے میں لکھے عطا اللہ کے خلاف
 فوجوں لکھے لکھے۔ اور فوجوں لکھے۔ لکھے ثابت کریں گے۔ سائل نے فہم
 کو فوجوں لکھے مار لکھے لکھے۔ لکھے لکھے لکھے لکھے لکھے لکھے۔

DSP Legal
 Mardan

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(۶)

مگر قیمت اہراج سے روک کر لائی گئی۔ تاہم تھریڈنگ اور ہیرا پھیرا۔

بائیں بالیہ طرف سے۔ اور نئی نئی چیزیں۔ خاندان کا دور دورہ کنٹریل و کنٹرول
الفاظ اشکارہ اور قیمت کے ساتھ ساتھ اور الفاظ کا لفظ کا لفظ
بے تکراروں۔ الفاظ و لاتی جانے۔

الغرض
سینٹر مین 2023 حال حوالہ لیں اس میں صرف

نوٹ
نقل کاٹیج - FIA - جان 218
اور جان 218 اور 218
لفظ ہذا ہے۔


DSP Legal
Mardan

Annex (4)

33

**OFFICE OF THE
DISTRICT POLICE OFFICER
MARDAN**

Tel: 0937-9230109
Fax: 0937-9230111
Email: dpo_mardan@yahoo.com
Facebook: District Police Mardan
Twitter: @dpomardan

No. /PA

Dated / / 2017

ORDER ON ENQUIRY OF IMRAN NO.203

This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted at PS Takht Bhai (now under suspension Police Lines), was placed under suspension and closed to Police Lines vide OB No.1089 dated 08.05.2017, issued vide order/endorsement No.4491-95/OSI dated 10.05.2017 and proceeded against departmentally through SDPO Takht Bhai, vide this office Disciplinary Action No. 4854-55/PA dated 11.05.2017 on account of charging in a case vide FIR No.452 dated 02.05.2017 U/S 411 PPC PS Shergarh, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No. 1414/ST dated 12.06.2017, holding responsible the alleged officer for misconduct with recommending him for forfeiture his five years qualified service.

Final Order

HC Imran No.203 was heard in O.R held in this office on 19.07.2017, but he failed to produce any plausible/cogent reasons in his defense. therefore, he is hereby awarded the punishment of forfeiture his five years approved service & is reinstated in service from the date of suspension with counting his suspension period as duty & his pay released with immediate effect, in exercise of the power vested in me under Police Rules 1975.

O.B No. 1638

Dated 21/7/2017.


District Police Officer,
Mardan.

Copy forwarded for information & n/action to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operations & SP/Investigation Mardan.
3. The SDPO Takht-Bhai.
4. The Pay Officer & E.C (Police Office) Mardan.
5. The OSI (Police Office) Mardan with (-) Sheets.


**DSP Legal
Mardan**

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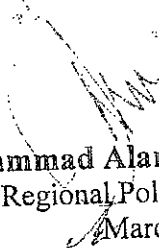
ORDER.

This order will dispose-off the appeal preferred by Head Constable Imran No. 203 of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded punishment of forfeiture of five years approved service, vide District Police Officer, Mardan OB No. 1688 dated 21.07.2017.

Brief facts of the case are that he while posted at PS Takht Bhai was involved in case vide FIR No. 452 dated 02.05.2017 u/s 411 PPC PS Shergarh. His this attitude adversely reflected on his performance which is an indiscipline act and gross misconduct. In this connection, he was charge sheeted and also proceeded against departmentally through the then SDPO/Takht Bhai Mardan, who after fulfilling necessary process, submitted his findings to the District Police Officer, Mardan. The allegations were established against him and recommended him for forfeiture of five years qualified service. The District Police Officer, Mardan agreed with findings of enquiry officer and the alleged Head Constable was awarded the above mentioned punishment vide OB No. 1688 dated 21.07.2017.

He was called in orderly room held in this office on 25.04.2018 and heard him in person. But he failed to produced any cogent reason proving himself innocent from the charges leveled against him and also verified from the Investigation Officer therefore, I find no grounds to intervene the order passed by the District Police Officer, Mardan in exercise of the powers conferred upon me reject the appeal and do not interfere in the order passed by the competent authority. Hence Appeal is rejected.

ORDER ANNOUNCED.


(Muhammad Alam Shinwari)PSP
Regional Police Officer,
Mardan

No. 2821 /ES, Dated Mardan the 27 / 4 /2018.

Copy to District Police Officer, Mardan for information and necessary action w/r to his office Memo: No. 337/LB dated 11.04.2018. The Service Record is returned herewith.

(*****)


**DSP Legal
Mardan**

CR# 3382/ES
21/03/2022
12:23-PM

35

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 500

/22, dated Peshawar the 16/03 /2022.

To: The Regional Police Officer,
Mardan.

1036
21/3/22

Subject:- REVISION PETITION.

Memo:

The Competent Authority has examined and filed the revision petition submitted by Head Constable Imran No. 203 against the punishment of forfeiture of five years approved service awarded by DPO, Mardan vide OB No. 1688, dated 21.07.2017, being badly time barred.

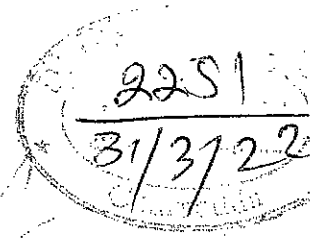
The applicant may please be informed accordingly.

NO: 2274/ES
DT: 22/3/22

EC/DPO Mardan & Charsadda

For n. action

R PO Mardan,



(NOOR AFGHAN)
Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

DSP Legal/EC
For n. action

[Signature]
District Police Officer
Charsadda

[Signature]
DSP Legal
Mardan

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

Service Appeal No. 952/2022

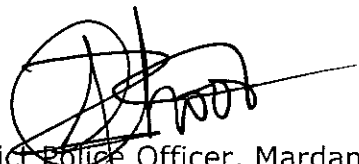
Imran s/o Malook (IHC No. 138 (HC 203) District Police Mardan),
Village Lund Khwar District Mardan.....Appellant

VERSUS

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

AUTHORITY LETTER.

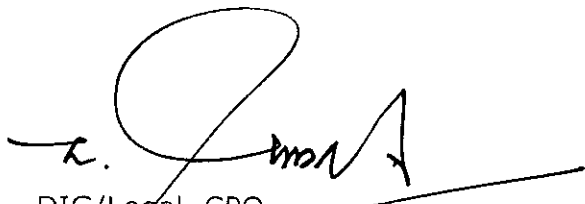
Mr. Atta-ur-Rehman Inspector, Legal Branch,
(Police) Mardan is hereby authorized to appear before the Honourable
Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above
captioned service appeal on behalf of the respondents. He is also
authorized to submit all required documents and replies etc. as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



District Police Officer, Mardan.
(Respondent No. 4)
(ZAHOOR BABAR)^{PSP}
Incumbent



Regional Police Officer, Mardan.
(Respondent No. 3)
(NAJEEB-UR-REHMAN BUGVI)^{PSP}
Incumbent



DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)
(DR. MUHAMMAD AKHTAR ABBAS)^{PSP}
Incumbent