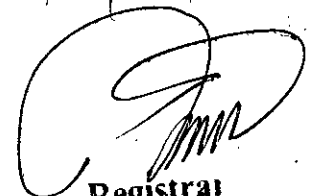


Cost of Rs. 12000/- received in Service Appeal No. 1734/23,

Titled Gul Zaman VS. police

in the office of Superintendent Vide Order 2/4/24

Dated: 8/5/2024.


Registrar
SUPERINTENDENT
Khyber Pakhtunkhwa
Service Tribunal, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1734/2023.

Mr. Gul Zaman, Ex-Constable No. 6727, FRP District Bannu
.....Appellant.

VERSUS

Inspector General Police, Khyber Pakhtunkhwa, Peshawar &
.....Respondents

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RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1734/2023.

Mr. Gul Zaman, Ex-Constable No. 6727, FRP District Bannu
Appellant.

VERSUS

Inspector General Police, Khyber Pakhtunkhwa, Peshawar &
others..... Respondents

PARAWISE REPLY BY RESPONDENTS 1 to 3.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTIONS:-

1. That the appeal is badly barred by law & limitation.
2. That the appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
3. That the appellant has no cause of action and locus stand to file the instant appeal.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped due to his own conduct to file the instant Service Appeal.
6. That the appellant is trying to conceal the material facts from this Honorable Tribunal.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12637

Dated 8/5/24

FACTS:-

1. Correct to the extent that the appellant was serving as constable in the police department while rest of the para is incorrect hence denied. As perusal of his service record reveals that the appellant was enlisted in police department in the year 2009, but due to his lethargic and negligent attitude as he remained absent from his lawful duty on different occasions for a longer period of 151 days without any proper leave or prior permission of the competent authority. Therefore, he was awarded several punishments. His service record is tainted with having bad entries, having no good in service record. (Copies of previous punishments are attached herewith as annexure "A & B").
2. Incorrect. The appellant willfully and deliberately absented himself from his lawful duty with effect from 21.01.2022 to 13.04.2022 for a period of 82 days and again remained absent from duty with effect from 26.04.2022 till the date of his dismissal from service for a total period of 03 months and 05 days without any leave or prior permission of the competent authority. Hence, he was proceeded against departmentally by issuing him Charge Sheet with Summary of Allegations and SI Mira Khan was nominated as Enquiry Officer. The appellant submitted his reply to the same in manner which is totally against the norms of disciplined force, extract of the same is reproduced as under:-

شیر کی ایک دن کی زندگی گڈر کی سو سالہ زندگی سے بہتر ہے۔

چی احساس نہ ورته کیزی ورکه وہ ہے

کہ دے ساہ ورپسے خیزی ورکہ وہ ہے
چیرتہ غوث دے زمانے دے ولے نہ وی
چہ دہ بل پہ مال ژنڈیزی ورکہ وہ ہے

Moreover, plea of the appellant regarding the alleged accident is totally a cooked one because during the course of enquiry, the appellant was supposed to produce/provide the relevant documents in support of his plea. However, neither did he provide the same to the enquiry officer nor did he take this plea in his reply to the charge sheet/statement of allegations, rather took the same at a belated stage just to cover his willful absence. (Copy of Charge Sheet, his reply & enquiry report are attached as annexure "C, D & E").

3. Incorrect. As explained in the preceding para, the appellant is a habitual absentee who remained absent from his lawful duty at several occasions. In this regard absence reports against him were duly entered in the Daily Diary. Resultantly he became annoyed and started blaming officers without any valid proof or evidence. Thus, whenever he was marked absent from duty, he started quarreling with his seniors that why did they lodge absence report against him in the Daily Diary. Moreover, the appellant has no tangible evidence as proof to substantiate the allegations so leveled.
4. Incorrect. The appellant while posted in platoon No. 164 remained absent from lawful duty vide DD report No. 15, dated 21.01.2022 till 13.04.2022 and again absented himself from duty vide DD report No. 10, dated 26.04.2022 without any valid leave or prior permission of the competent authority. Moreover, the respondent department has no grudges against the appellant. Hence, the plea of performance of official duty, taken by the appellant is propounded one because during the mentioned period, he did not perform any duty rather remained absent. (Copies DD reports are attached as annexure "F & G").
5. Incorrect. On the allegations of willful absence, the appellant was proceeded against proper departmentally and after fulfillment of all codal formalities, he was awarded major punishment of dismissal from service as per law/rules which does commensurate with the gravity of misconduct of appellant. The departmental appeal submitted by the appellant was entertained and rejected being devoid of any stance.
6. Correct to the extent that revision petition of the appellant was examined by the appellate board and his punishment of dismissal was modified and converted into major punishment of compulsory retirement from service by taking lenient view.
7. Incorrect. The appeal of the appellant may kindly be dismissed on the following grounds.

GROUND:-

- A. Incorrect. The orders passed by the respondents in the case of appellant are legally justified and in accordance with materials available on record law/rules and norms of natural justice hence, tenable in the eye of law.
- B. Incorrect. The appellant was absolutely treated in accordance with law within the meaning of Article 4 of the constitution by giving him sufficient and proper opportunities at every level of defense and that the entire proceedings were carried out in accordance with laws and rules.
- C. Incorrect. The orders dated 01.08.2022 and 20.09.2022 passed by the respondent No. 02 & 03 are legally justified as the same were issued after fulfillment of all codal formalities. As the appellant was properly proceeded against departmentally by issuing him Charge Sheet alongwith Summary of Allegations and enquiry was entrusted to Enquiry Officer to probing into the same.
- D. Incorrect and as discussed earlier in para No. 02 of fact.
- E. Incorrect. In fact, the appellant was proceeded against departmentally under the special law i.e Police Rules 1975, within the meaning of Section-3 (a & b) of Police Disciplinary Rules 1975 as amended in 2014, and the appellant was awarded major punishment after fulfillment of all legal and codal formalities.
- F. Incorrect. The appellant was fully associated with the enquiry proceedings and a sufficient opportunities at every level of defense were afforded to the appellant for his defense.
- G. Incorrect. As the appellant was willfully remained absent from his lawful duty vide DD report No. 15, dated 21.01.2022 & DD report No. 10, dated 26.04.2022 and it is pertinent to mention here that any fake/false entry or report made by any official/officer in the Daily Diary register, which he knows to be untrue shall be dismissed from service under Police Rules 1934 Chapter 22 Rule 50.
- H. Incorrect. Every Police Officer is under obligation to perform his assigned duty at every place throughout the province with the entire satisfaction of his superiors. However, the appellant remained absent from his lawful duty for a long period of 177 days without any valid leave or prior permission of the competent authority. However, he was dealt in accordance with law by conducting a regular enquiry wherein the allegations of willful absence against him were fully established to the hilt during the course of enquiry.
- I. Incorrect and misleading. As explained in preceding para the appellant remained absent from his lawful duty. Hence, on the allegations of willful absence the appellant was proceeded against departmentally and after fulfillment of all legal and codal formalities, he was awarded major punishment.
- J. Incorrect. The statements of all witnesses were recorded by the enquiry officer during the course of enquiry. (Copies attached herewith as annexure "H & I"). Moreover, the appellant was called time and again for cross examine, but he

failed to avail this opportunity. Hence, after fulfillment of all codal formalities he was awarded major punishment of dismissal from service as per law/rules.

K. The respondents may also be permitted to raise additional grounds at the time of arguments.

PRAYERS:-

Keeping in view the above facts and circumstances, it is most humbly prayed that the instant service appeal being not maintainable may kindly be dismissed with costs please.



**Superintendent of Police FRP,
Bannu Range Bannu
(Sartaj Khan)
Incumbent**



**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Tahir Ayub Khan PSP)
Incumbent**



**DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Dr. Muhammad Akhtar Abbas)
Incumbent**

(14)

"A"

ORDER

This order shall dispose of the enquiry proceedings pending against Constable Gul Zaman No.6727/FRP as the official was charged for commission of the following miss-conduct.

Reported to have found absent from Govt:duty while posted at Police station Kuulachi District D.I Khan vide daily dairy No. 27 dated 30-05-2018 to 04-06-2018 for the total period of (05) days without getting any leave or legal permission of the superiors.

On the above charges he was properly charge sheeted & appointed as Enquiry Officer with the directions to conduct enquiry into the matter within stipulated period.

Charge Sheet based on summary of allegation was properly served upon him on 22-06-2018. A discreet probe was made by the Enquiry Officer came to the conclusion and submitted his finding, wherein it was described that total absence period of the defaulter official was made out for (05) days and suggested that appropriate punishment on account of absence may be impose your defaulter official if deem necessary.

The record in hand was perused and checked from up word to down word as well as enquiry paper reviewed which indicates that the plea taken defaulter official was neither convincible nor satisfactory.

Keeping in view I, Nisar Muhammad Khan SP/FRP Bannu being a competent authority has taken a lenient view & pass order under Police Rules 1975 forthwith below mentioned i.e.

1. Absence period of the (05) days treated without pay.
2. Imposition of fine Rs.500.
3. Pay released

OB No. 274

Dated: 29/06/2018.

Attendant

97-232
8/5/21

Superintendent of Police
FRP, Bannu



CHARACTER ROLL OF

(Continued)

Serial No.

15. CENSURES AND PUNISHMENT

Charge, Absence himself from Govt. duty
w.e.f. 30-05-2018 TO 04-06-2018. 05 days

Punish: Absence Period 05 days w/o Pay
and Fine Rs: 500/- w/e the
Office OB/NO 274 dt 29.06.2018

Charge, Absence himself from Govt. duty
w.e.f. 8-02-17 TO 9-02-2017. 01 day

Punish: Absence period 01 day w/o Pay
and Fine Rs: 100/- w/e
the Office OB NO 166 dt 20-03-2017

[Signature]
SP. AP

Reportedly to have found your habitual
absence, undisciplined, I was P. & Police
official being Shows lack of interest in
Govt. duty.

Attested

Punish: Censure w/e the Office
OB/NO 247 dt 15-06-2021

[Signature]
SP. AP

CHARGE SHEET

I, Abdul Sattar, Superintendent of Police FRP, Bannu as competent authority, hereby charge you Constable Gul Zaman No. 6727 for the purpose departmental enquiry proceedings as follows.

- 1. That you Constable Gul Zaman No. 6727 absented yourself from lawful duty without any sanctioned leave or prior permission of the competent authority vide DD No. 15 date 21-01-2022 to till date at Police Post City District Lakki Marwat. Your Pay has been stopped to this effect.
- 2. Such act on your part is against service discipline and amounts gross misconduct/ negligence in duty.
- 3. By reason of the above you appear to be guilty of misconduct under the Police Rules 1975 (As amended vide Khyber Pukhtunkhwa gazette Notification, No.27th of August 2014) and have rendered yourself liable to all or any of the penalties specified in the said rules.
- 4. You are therefore, directed to submit your defense within 07 days of the receipt of this Charge Sheet to the enquiry officer.
- 5. Your written defense, if any, should reach to 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 be taken against you.
- 6. You are directed to intimate whether you desire to be heard in person.
- 7. A statement of allegation is enclosed.

6727 سون گل = سید گل زماں
11201-7283218-1 = نشان آڈیو
0316-9709308 = فون
01-3-021 = پتہ

Sattar
 Superintendent of Police,
 FRP, Bannu.

Attested
[Signature]
1/1/22

تعاون جاری کیسٹ

گنڈا کا سوا لاکھ اسی ہزار روپے کی رقم کی ادائیگی

(۱) جی اے اسٹریٹ ورک کیسٹ کی ورک کوہ پی
کہ ۷۷ روپے فیسٹری ورک کوہ پی

(۲) جی اے اسٹریٹ ورک کیسٹ کی ورک کوہ پی
جی اے اسٹریٹ ورک کیسٹ کی ورک کوہ پی

کل رقم ملے

۷۷ روپے

Attest

Handwritten signature and date 8/1/21

01-03-022

۱! شمولہ جاری شدہ سمری اف اسٹیٹس، تقدمات، غیر حاقری، حاقری، انٹوائٹری کاغذات پر حلاقہ کیلے کل زمانہ 6727 بارے مفوقہ قدمہ بیوں۔ یو کے کیلے مذکورہ بالا جوگی سٹی ٹیکروت سے مطابقت روزنامہ ذیل مدارات کے مطابق غیر حاقری حاقری ریویو۔

- ① غیر حاقری مدیہ روزنامہ 21/05/22، حاقری مدیہ 05 روزنامہ 13/05/22 (82) جوگی
- ② غیر حاقری مدیہ 10 روزنامہ 26/05/22، جوگی ریویو FDR ٹیکروت سے بدستور غیر حاقری مدار ریویو۔

اسٹیٹس مذکورہ کی غیر حاقری مدیہ 15 روزنامہ 21/05/22 پر آفسران بالا مہاسانہ نچانم 08 نمبر 108 حورخ 22/05 کے تحت سٹیٹس ریویو حاقری کے احکامات جاری کیے گئے۔ بعد میں کیلے مذکورہ کے استخوانہ ٹھونے والی تجزیہ درخاستہ پر آفسران بالا مہاسانہ نچانم 08 نمبر 263 حورخ 22/05 کے تحت استخوانہ ٹھونے کے احکامات جاری کیے گئے۔

اسٹیٹس جاری شدہ سمری اف اسٹیٹس نمبر 20-319 کیلے مذکورہ پر بیوت قدمہ حورخ 22/05 وہ کو تقسیم کر کے نام آفسران بالا مہاسانہ کے احکامات کی نقل سے کیے۔ بعد از نقل کارروائی کیلے مذکورہ تہ جواب جاری اور کیشنگ کا یہ میں اسٹیٹس مذکورہ نے تجزیہ کیا ہے۔ کہ گیدار کی سوسائہ زندگی سے شریک کا ایک دن کی زندگی بہتر ہے۔ پھر یہ موت دُزمانہ نہاں نہ وی جی ذیل یہ ماہ زندگی درگوشہ بارے تجزیہ کیا ہے۔

① بیان ازان OHC بیوں = اجازت نامہ OHC بیوں نے آئینی تجزیہ بیان میں

تجزیہ کیا ہے۔ کہ کیلے کل زمانہ 6727 باروں نمبر 164 نتیجتاً سٹیٹس ٹیکروت میں

مطابقت کیے گئے۔ لیکن حاقری مذکورہ ریویو SP پر سٹیٹس کے ریکارڈ کے مطابق

تحوالہ مدیہ 15 روزنامہ 21/05/22 میں غیر حاقری ریویو۔ بعد میں کیلے مذکورہ

ن کی ریویو FDR میں مدیہ 05 روزنامہ 13/05/22 میں حاقری ریویو اور آئینی جوگی

سرا بنیاد سے ریویو میں یہی میرا بیان ہے جو حقیقتاً پر مبنی ہے۔

② ریویو SP مہاسانہ بیوں = غیر حاقری OHC ریویو SP مہاسانہ بیوں

نے آئینی تجزیہ بیان میں تجزیہ کیا ہے۔ کہ کیلے کل زمانہ 6727 کا ایک عدد

تقدیر 15 روزنامہ 21/05/22، حاقری غیر حاقری بندر تہ واٹس ایپ میں

ریویو SP بیوں کو موصول ہو کر جس پر من ریویو تہ ضابطہ کارروائی

Attached
13/05/22

آسٹریاں پارا صہ جان سے نوجوان اردو بک کے
حکامات جاری کیے گئے اور سہ ماہی اسٹیج جاری
رہتا ہے۔

ان ازان مورچوں ریٹن FRP بکروت = سران خان $\frac{7880}{114}$ ڈروپس ریٹن
بکروت بیان کیا ہے۔ کم میں دفتر روزنامہ موجود تھا کہ جناب OHC نے بوقت قریب
13 بجے بذریعہ ذاتی جواب میں فون اطلاع دی کہ حساب الحکم جناب SP $\frac{FRP}{FRP}$ 44
گل زمان 6727 غیر حاضر شدہ نوجوان مد 15 روزنامہ 15⁰⁴ 22 کوئی سٹی کی قانونی
پن لکھا گیا ہے میں امدہ اطلاع بروقت درج میں بک کر کے کٹیل مذکورہ کا
دی نوجوان مد 15 روزنامہ 13⁰⁴ 22 کیے۔

جناب عالی! کٹیل گل زمان 6727 کا کوئی سٹی بکروت سے غیر قانونی مد 15
نام 15⁰⁴ 22 سے قانونی مد 15 روزنامہ 13⁰⁴ 22 ریٹن FRP بکروت تک ٹوٹل (82)
غیر قانونی بنتی ہیں۔ جبکہ کٹیل مذکورہ 26⁰⁴ 22 ریٹن بکروت سے بدستور غیر قانونی
دار رہا ہے۔ کٹیل مذکورہ نے جواب جاری ہیں تو سب کا ہے اور سب کی سو سالہ زندگی
شیر کی آمد دن کی زندگی بہتر ہے۔ کٹیل مذکورہ کا جواب جاری شدہ 13 ستمبر
رف ہے۔ کٹیل مذکورہ کا سابقہ $\frac{SP}{FRP}$ ایک رقم و دائرہ ہے۔ کٹیل مذکورہ
دی غیر حاضر بائیں اور غیر حاضر ہیں۔ معلوم ہوتا ہے کہ کٹیل مذکورہ کا مقبل
نوری جاری رکھنے کا تعین نہیں ہے کٹیل مذکورہ کا مورخ 21⁰⁴ 22 سے مورخ 13⁰⁴ 22
ٹوٹل (82) کو غیر قانونی پر مورخ 15⁰⁴ 22 کا کوئی خط لکھا ہے بدستور غیر قانونی
آسٹریاں پارا کے حکامات کی تعمیل کرنے پر کٹیل مذکورہ غیر مستحق اور
اقب سے بدستور کا قہار ہے مزید قسم آسٹریاں پارا صہ جان کا آئیل ہے

*
E.O-FRP-Bannu
26-07-022

Attested
D-742
15/24

Agreed, Dismiss from serv
his absence period is treated
with out pay. Detail order is

Sal
01/01
0BN
01-

"P" 11

نوع کورٹ

نمبر 15/19/22

پولیس

نوع اطلاع

میر علی احمد صاحب کے ساتھ 19/11/22ء کو سہیل احمد صاحب نے ایک اطلاع دی ہے کہ میر علی احمد صاحب نے ایک گاڑی خریدی ہے جس کا نمبر 6727 ہے اور اس گاڑی کے مالک میر علی احمد صاحب ہیں۔

اس اطلاع کے مطابق میر علی احمد صاحب نے ایک گاڑی خریدی ہے جس کا نمبر 6727 ہے اور اس گاڑی کے مالک میر علی احمد صاحب ہیں۔

اس اطلاع کے مطابق میر علی احمد صاحب نے ایک گاڑی خریدی ہے جس کا نمبر 6727 ہے اور اس گاڑی کے مالک میر علی احمد صاحب ہیں۔

ضابطہ

500-5
P 164

میر علی احمد صاحب
 30-1-22
 M.M.P.P.C

Pay Stop
Sattar

Arrested

Charge Sheet
 21/2/22
 Sattar

Superintendent Of Police
 FRP/Bannu
 A/P
 1/11
 C

OB No - 108
 16/02/2022

رہنہ 10 دلوں پر
عینہ مہتری

میرزا محمد

۹
۲۸/۰۴/۲۲
۱۶:۰۰

۶۷۲۷
۵۵۲
۱۹
P-164/138

صاحب علی
نقل شدہ

Forwarded

Jan Lu

09/05/22

SRC put up his previous record on Monday. Soltan 12/5/22

Alerted

8/9/21

LOTRIP
Lahore
Date 09/05/22

Hr ...

SP
FRP

مقرر و فیصلہ کیا کہ کونسی عملی زبان 4727 ...

کے افسران اور ...

افصاحت ...

کے افسران ...

Mob. 03335484062

CNC-111015699248-9

18-04-22
Reader
S.P FRP Bannu

Attested

[Signature]

بیان افغانی عثمان خان منیر 7880 / 144
 3 سرد لائن FRP ملنگ پورہ
 نے یہ روایت بیان کی کہ میں دستر روزنامہ موجود تھا کہ صاف
 FRP 0442 یوں نے حکومت ایک 13100 ہے بڈریم ڈالی جو مہل خون
 اطلاع دی کہ صاحب المکرم صاحب SP/FRP صاحب کینل مل زمان بندہ 6727
 عقربا مندر شدہ حوالہ رقم 15 روزنامہ 21/22 چوکی سٹی کی طرفی
 لائن ہذا کی بارے میں آئندہ اطلاع بروقت دریا بہ پبڈیز 137 کی
 گئی اور کینل مذکورہ کی آمد پر باقاعدہ حوالہ دہ 05
 روزنامہ 13/22 طرفی سے روزنامہ کینل تقسیم رقم 18/22 کو ارسال
 دستر کی یہی ہے بیان

المکرم
 عثمان خان 144

Attested
 (Signature)
 14/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1734/2023.

Mr. Gul Zaman, Ex-Constable No. 6727, FRP District Bannu
.....Appellant.

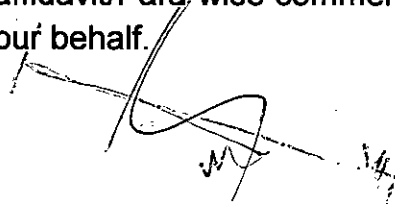
VERSUS

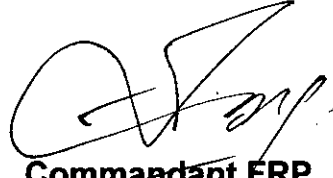
Inspector General Police, Khyber Pakhtunkhwa, Peshawar &
others.....Respondents

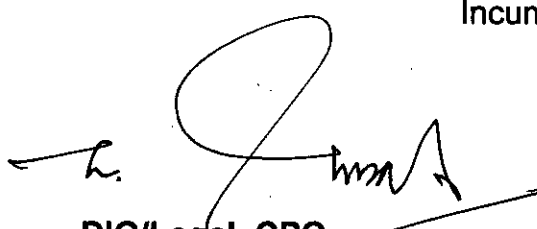

AUTHORITY LETTER

Respectfully Sheweth:-

We respondents No. 1 to 3 do hereby solemnly authorize Mr. Ghassan Ullah ASI FRP HQrs; to attend the Honorable Tribunal and submit affidavit/Para-wise comments required for the defense of above Service Appeal on our behalf.


Superintendent of Police FRP,
Bannu Range Bannu
(Sartaj Khan)
Incumbent


Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Tahir Ayub Khan) PSP
Incumbent


DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Dr. Muhammad Akhtar Abbas) PSP
Incumbent


BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1734/2023.

Mr. Gul Zaman, Ex-Constable No. 6727, FRP District Bannu
.....Appellant.

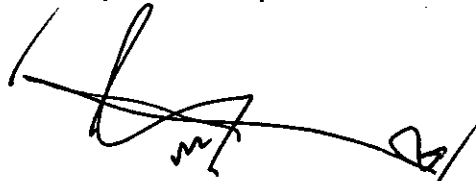
VERSUS

Inspector General Police, Khyber Pakhtunkhwa, Peshawar &
others.....Respondents

AFFIDAVIT

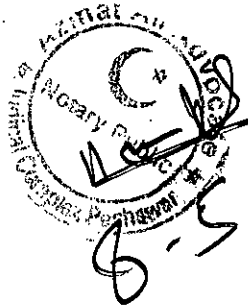
I respondent No. 03 do hereby solemnly affirm and declare on oath that the contents of the accompanying Para-wise Comments is correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.

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/costs.



Superintendent of Police,
FRP Bannu Range, Bannu
(Respondent No. 03)
(Sartaj Khan)
Incumbent

ATTESTED



-2024