

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

Service Appeal No.270 of 2024

Qayyum Nawaz s/o Liaqat Ali, Ex-Constable No. 1022, Caste Chughtai r/o Muryali Mor, Tehsil & District Dera Ismail Khan
...(Appellant)

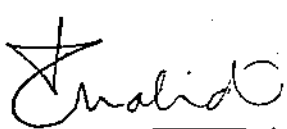
Versus

1. Government of KP, through Secretary Home & TAs Department KP, Peshawar
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Dera Ismail Khan.
4. District Police Officer, Dera Ismail Khan.(Respondents)

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DEPONENT

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

Service Appeal No.270 of 2024

Qayyum Nawaz s/o Liaqat Ali, Ex-Constable No. 1022, Caste Chughtai r/o Muryali Mor, Tehsil
& District Dera Ismail Khan ... (Appellant)

Versus

1. Government of KP, through Secretary Home & TAs Department KP, Peshawar
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Dera Ismail Khan.
4. District Police Officer, Dera Ismail Khan. ... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully sheweth,

Parawise Comments are submitted as under:-

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action.
2. That the appeal is bad for misjoinder/non-joinder of necessary parties.
3. That the appeal is badly time barred.
4. That the appellant has not come with clean hands.
5. That the appellant is estopped due to his own conduct.
6. That the appellant has concealed the material facts from Honourable Tribunal.

REPLY ON FACTS

1. Correct to the extent that appellant was enlisted as Constable on 24.04.1999.
2. Incorrect. The appellant while posted at Police Lines DIKhan was arrested red handed with Narcotics weighing 52 Grams ICE, a case to this effect vide FIR No.197 dated 07.05.2023 u/s 11(A)CNSA was registered at Police Station SMA District Tank. (Copy of FIR Annex "A")
3. Correct to the extent that on above misconduct, a charge sheet alongwith statement of allegation vide 4545/EC, dated 13.07.2023 was served upon him. (Copy of Charge Sheet Annex "B")
4. Incorrect. On the allegation of misconduct, a charge sheet alongwith statement of allegation was served upon him and departmental enquiry was conducted. The enquiry officer found him guilty and recommended for major punishment. The allegation of misconduct was proved against the appellant; hence, the competent authority awarded him major punishment of dismissal from service vide OB No. 1691, dated 14.07.2023 in accordance with law/rules. Moreover, from the perusal of CRVS record its reveals that following criminal cases have already been registered against him, which shows habitual criminal. (Copy of Departmental enquiry & Punishment Order Annex "C" & Copies of FIRs Annex "D")
 1. FIR No. 517 dated 27.05.2018 u/s 9D-CNSA PS Cantt DIKhan.
 2. FIR No. 610, dated 16.05.2020 u/s 337(ii)/148/149 PPC PS/Cantt DIKhan.
 3. FIR No. 18, dated 13.01.2021 u/s 9B-CNSA/11A-CNSA PS Cantt DIKhan
 4. FIR No. 19, dated 13.01.2021 u/s 9B-CNSA/11A-CNSA PS Cantt DIKhan

Similarly, from the perusal of appellant's service record its revealed that he was previously dismissed from service on the same allegation i.e. involved/arrested in case FIR No. 517, dated 27.05.2018 u/s 9B-CNSA PS/Cantt DIKhan and also recovered 315 Grams Charas & 15-Grams ICE from his possession. Later on the appellant was conditionally reinstated in service on the directions of Honourable KP Service Tribunal Camp Court DIKhan dated 02.11.2021 in Service Appeal No. 5779/2020 subject to outcome of CPLA No. 173-P/2021 before the Apex Supreme Court of Pakistan. (Reinstatement Order Annex "E")

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14404

Dated 22-7-24

Kd

5. Correct to the extent that the departmental appeal of appellant was rejected by the W/RPO DIKhan (Respondent No. 3) vide Order No. 9501/ES, dated 01.12.2023 in the light of Section 11(1) KP Police Rules 1975 (as amended in 2014) being time barred.

"An accused who has been awarded penalty under these rules may within a thirty days from the date of communication of the order prefer and appeal to the appellate authority as provided in sub-rules (2)".

(Copy of order of W/RPO DIKhan Annex "F", Copy of Section 11(1) KP Police Rules 1975 Annex "G")

6. Pertains to record. Criminal proceedings and departmental proceedings against a civil servant are entirely different as one relates to the enforcement of criminal liability and the other is concerned with service discipline. Moreover, as per ESTA Code the criminal and departmental proceedings can run parallel side by side. In departmental proceedings, only reasonable grounds are sufficient to award punishment whereas in criminal case the charge is to be established beyond any shadow of doubt.

As per ESTA Code Chapter-III Section-2 Sl.No.15 & 16(2) Efficiency & Discipline. (Departmental Proceedings vis-à-vis Judicial Proceedings)

"It is hereby clarified that Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other. They can take place simultaneously against an accused on the same set of acts and yet may and differently without affecting their validity".

(Copy of ESTA Code Chapter-III Section 2 Sl.No.15 & 16(2) Annex "H").

Similarly, as per decision of Apex Supreme Court of Pakistan vide 2023 PLC (C.S.) 553 in Writ Petition No. 3900 of 2020, Decided on 17th March 2022 titled Imran Amir and another Vs. Mst Ismat Bibi and another. (Copy of 2023 PLC (C.S.) 553 Annex "I")

"It is by now well settled that where an act or omission constitutes a criminal offence as well as a civil wrong, the mere fact that an accused has been acquitted from a criminal charge does not ipso facto mean that he stands absolved from civil liability. The Superior Courts have enunciated time and again that criminal and departmental proceedings against an employee can go side by side and may even end in varying results. Departmental and criminal proceedings could be taken simultaneously and are independent of each other. Acquittal in a criminal case would not constitute a bar for the initiation of the disciplinary proceedings. Criminal proceedings and departmental proceedings against a civil servant are entirely different as one relates to the enforcement of criminal liability and the other is concerned with service discipline. There is a catena of case law in support of this, including the following judgments:-

- i. Amir Abdullah v. Superintendent of Police (1989 SCMR 333)
- ii. Deputy Inspector General of Police v. Anisur Rehman (PLD 1985 SC 134)
- iii. Muhammad Ayub v. Chairman Electricity Board WAPDA, Peshawar (PLD 1987 SC 195)
- iv. Talib Hussain v. Anar Gul Khan (1993 SCMR 2177)
- v. Rashid Mehmood v. Additional Inspector-General of Police (2002 SCMR 57)
- vi. Khalid Dad v. Inspector General of Police (2004 SCMR 192)
- vii. Syed Muhammad Iqbal Jafri v. Registrar Lahore High Court, Lahore (2004 SCMR 540)
- viii. Muhammad Shafique v. Deputy Director Food (2005 SCMR 1067)
- ix. Syed Aqleem Abbasi Jaffari v. Province of Punjab through Secretary, Irrigation Department (2005 SCMR 1901)
- x. Falak Sher v. Inspector-General of Police, Lahore (2005 SCMR 1020)
- xi. Sami Ullah v. Inspector-General of Police (2006 SCMR 554)
- xii. Asif Mehmood Butt v. Regional CEO, NBP (2011 PLC (C.S.) 1462)."

7. Incorrect. Infact the appellant was well aware that "What he is doing and the potential outcomes" however, the orders were passed by the authorities after observing all the codal formalities. There were no grudges against the appellant. Infact, being a member of discipline force arrested red hand with Narcotics weighing 52 grams ICE and a case to this effect vide FIR No.197 dated 07.05.2023 u/s 11(A)CNSA was registered at Police Station SMA District Tank. Apart from this, previously the appellant was arrested in similar nature of case and was dismissed from the service. Lateron, he was conditionally reinstated in service on the direction of Hon'ble KP Court Service Tribunal subject to the outcome of CPLA.
8. Pertains to record.
9. Correct to the extent that the revision petition of appellant was rejected by the Reviewing Authority being badly time barred vide No. S/32/24, dated 08.01.2024. (Copy of order of W/IGP Annex "J")
10. In the above circumstance, the orders were passed by the authorities in accordance with law/rules, hence the instant appeal is liable to be dismiss in the light of ESTA code as well as verdict of Apex Court of Pakistan on the following grounds.

REPLY ON GROUNDS

1. Incorrect. Infact, the appellant despite being part of a disciplined force was caught red-handed with Narcotics weighing 52 Grams ICE. A case to this effect vide FIR No. 197 dated 07.05.2023 u/s 11(A)CNSA was registered at Police Station Shaheed Murid Akbar Tank. He has tarnished the image of police by virtue of his illegal activities; hence the orders were passed by the authorities in accordance with law/rules.
2. Incorrect. No discrimination has been caused by the respondents, the appellant was dealt in accordance with the law/rules.
3. Incorrect. Opportunities of defence were given to appellant to prove his innocence i.e. reply Charge Sheet, Personal Hearing etc. but he badly failed, the criminal act of appellant tarnished the image of Police department, hence the orders passed by the authorities are in accordance with law/rules.
4. Incorrect. Infact the act of appellant arrested red handed with Narcotic has bad impact the police image, hence does not deserve lenient view.
 - ii. During the Course of inquiry the inquiry officer found him guilty and recommended him for major punishment.
 - iii. From the perusal of service record which reveals earlier dismissal and conditionally reinstated in service on the directions of Honourable KP Service Tribunal Camp Court DIKhan dated 02.11.2021 in Service Appeal No. 5779/2020 subject to outcome of CPLA No. 173-P/2021.
 - iv. In the light of Section 11(2) of KP Police Rules 1975 (Amended 2014) the application of appellant is badly time barred: (Copy of Rules already Annex "G")
 "An accused who has been awarded penalty under these rules may within a thirty days from the date of communication of the order prefer and appeal to the appellate authority as provided in sub-rules (2)".

Hence, the appellant authority rejected the appeal of appellant vide OB No. 3109, dated 22.12.2023 in accordance with law/rules.
5. Incorrect. The prior criminal history of the appellant demonstrates a habitual criminal and the allegations against him are based on facts. Infact the appellant was arrested red handed with narcotics weighing 52 Gram ICE and a case to this effect vide FIR No. 197 dated 07.05.2023 u/s 11(A)CNSA was registered at Police Station Shaheed Murid Akbar Tank.
6. As per ESTA Code: the criminal and departmental proceedings against an employee can go side by side and may even end in varying results. Departmental and criminal proceedings could be taken simultaneously and are independent of each other.
7. Correct to the extent but in the instant case the accused despite being part of a disciplined force was caught red-handed with Narcotics weighing 52 Grams Ice and a case to this effect vide FIR No. 197 dated 07.05.2023 u/s 11(A)CNSA was registered at Police Station Shaheed Murid Akbar Tank. He has tarnished the image of police by virtue of his illegal activities, which was also found guilty by the inquiry officer during the inquiry.

8. As stated above. Similarly, the criminal and departmental proceedings can run parallel side by side.
9. Pertains to record. However, As per ESTA Code Chapter-III Section 2 Sl.No.15 & 16(2) the criminal and departmental proceedings can run parallel side by side. In departmental proceedings, only reasonable grounds are sufficient to award punishment whereas in criminal case the charge is to be established beyond any shadow of doubt.

As per ESTA Code Chapter-III Section-2 Sl.No.15 & 16(2) Efficiency & Discipline. (Departmental Proceedings vis-à-vis Judicial Proceedings)

"It is hereby clarified that Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other. They can take place simultaneously against an accused on the same set of acts and yet may and differently without affecting their validity".

(Copy of ESTA Code already Annex "H")

Similarly, as per decision of Apex Supreme Court of Pakistan vide 2023 PLC (C.S.) 553 in Writ Petition No. 3900 of 2020, Decided on 17th March 2022 titled Imran Amir and another Vs. Mst Ismat Bibi and another. (Copy of 2023 PLC (C.S.) 553 already Annex "I")

"It is by now well settled that where an act or omission constitutes a criminal offence as well as a civil wrong, the mere fact that an accused has been acquitted from a criminal charge does not ipso facto mean that he stands absolved from civil liability. The Superior Courts have enunciated time and again that criminal and departmental proceedings against an employee can go side by side and may even end in varying results. Departmental and criminal proceedings could be taken simultaneously and are independent of each other. Acquittal in a criminal case would not constitute a bar for the initiation of the disciplinary proceedings. Criminal proceedings and departmental proceedings against a civil servant are entirely different as one relates to the enforcement of criminal liability and the other is concerned with service discipline. There is a catena of case law in support of this, including the following judgments:-

- xiii. Amir Abdullah v. Superintendent of Police (1989 SCMR 333)
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- xxiii. Sami Ullah v. Inspector-General of Police (2006 SCMR 554)
- xxiv. Asif Mehmood Butt v. Regional CEO, NBP (2011 PLC (C.S.) 1462)."

10. Incorrect. Hence denied, the appellant not come to the court with clean hand, as per record of appellant reveals habitual criminal (05-FIRs and 02 Major punishment on criminal grounds). Similarly, in the instant case appellant being a member of discipline force arrested red handed with Narcotics weighing 52 Grams ICE, a case to this effect vide FIR No. 197 dated 07.05.2023 u/s 11(A) CNSA registered at PS Shaheed Murid Akbar Tank. Hence the order was passed by the Respondent No. 4 in accordance with law/rules.

11. Incorrect. The service record of appellant reveals 13-bad entries in which 02 Major punishment of dismissal from service on the account of misconduct. Similarly from the perusal of record, it reveals that 05 criminal cases have already been registered against him on the account of Narcotics, which shows a habitual criminal.

12. Incorrect. The fundamental/legal right of the appellant have been preserved. All the codal formalities haven observed and a proper departmental enquiry was conducted, and found guilty. Opportunities of defense/cross examination have given to appellant but he failed to prove his innocence.
13. Incorrect. A proper departmental enquiry was conducted and the enquiry officer found him guilty on the charges levelled against him.
14. Incorrect. Infact the appellant was arrested red handed with Narcotics weighing 52 Grams ICE. A proper case to this effect vide FIR No. 197 dated 07.05.2023 u/s 11(A) CNSA was registered at Police Station Shaheed Murid Akbar Tank. Similarly, form the perusal of the service record of the appellant revealed that he was previously dismissed from service on the same allegation with Narcotics weighing 315 Grams Charas & 15-Grams ICE from his possession and a case to this effect vide FIR No. 517, dated 27.05.2018 u/s 9B-CNSA registered at PS/Cantt DIKhan. Lateron the appellant was conditionally reinstated in service on the directions of Honourable KP Service Tribunal Camp Court DIKhan dated 02.11.2021 in Service Appeal No. 5779/2020 subject to outcome of CPLA No. 173-P/2021 before the Apex Supreme Court of Pakistan.
15. Pertains to record. While the suspension of petitioner is concerned as per Police Rules 16.19 Suspension is compulsory during any period in which a police officer is committed to prison. **(Copy of Police Rules 16.19 Annex "K")**

"A police officer charged with criminal offence shall unless the Deputy Inspector General of Police or the Assistant Inspector General of Police, Government Railway Police for special reasons to be recorded in writing otherwise directs, be placed under suspension from the date on which he is sent for trial, if such action has not already been taken under the provision of rules 16-17. Suspension is compulsory during any period in which a police officer is committed to prison. A police officer, who may be arrested by order of a Civil Court in execution of a decree or otherwise shall be considered as under suspension from the date of arrest till his release from custody, is ordered by the Court

16. Incorrect. The appeal of appellant was not submitted within time, hence the appellant authority rejected the appeal of appellant, being badly time barred in the light of Section 11(1) KP Police Rules 1975 (as amended in 2014):

Section 11(1) KP Police Rules 1975 (as amended in 2014),

"An accused who has been awarded penalty under these rules may within a thirty days from the date of communication of the order prefer and appeal to the appellate authority as provided in sub-rules (2)".

(Copy of ESTA Code already Annex "G")

17. Pertains to record.
18. Incorrect. The order was passed by the competent authority in accordance with law/rules.
19. Incorrect. The orders of Respondents are in accordance with Police Rules as well as verdict of Supreme Court of Pakistan 2023 PLC (C.S.) 553.
20. Correct to the extent that the authority decides the misconduct or act of omission or commission referred to above should be dealt with in General Police Proceedings as per Section-5(3) and 5(3)(a), Police Rules 1975 (Amended 2014) below:

Section 5(3)(a) "The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an Inquiry Officer if necessary"

And as per Section 2(b)(iv) he was awarded major punishment in the light of Section 5(5) of Police Rules 1975 (Amended 2014).

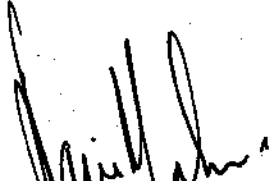
Section 5(5) "On receipt of the findings of the Inquiry Officer or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major or minor punishments as deemed necessary".


(Copy of Section-5(3) and 5(3)(a), & Section 5(5) Police Rules 1975 (Amended 2014) Rules Annex "L")

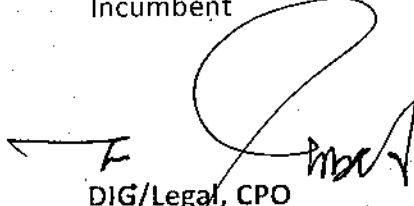
- 21. Incorrect. Opportunities of personal hearing were given to the appellant but he failed to prove his innocence.
- 22. Incorrect. The service record of appellant reveals twice dismissals from service on the allegation of recovery of Narcotics from him. Similarly as per CRVS record 05-criminal cases has been registered against him, which show habitual criminal. Hence the order was passed by the authorities in accordance with law/rules.
- 23. That the Respondents also seek permission to produce additional documents at the time of arguments.


PRAYER

In view of above, it is prayed that on acceptance of these Parawise Comments, the instant appeal may kindly be dismissed, being meritless and time barred.


 District Police Officer,
 Dera Ismail Khan
 (Respondent No.3)
 NASIR MEHMOOD (PSP)
 Incumbent


 Regional Police Officer,
 Dera Ismail Khan
 (Respondent No.4)
 NASIR MEHMOOD SATTI (PSP)
 Incumbent


 DIG/Legal, CPO
 For Inspector General of Police,
 Khyber Pakhtunkhwa,
 (Respondent No.2)
 (DR. MUHAMMAD AKHTAR ABBAS)
 Incumbent


 Additional Chief Secretary
 Home & Tribal Affairs Department,
 Khyber Pakhtunkhwa, Peshawar
 (Respondent No.1)
 (MUHAMMAD ABID MAJEED)
 Incumbent
 Additional Chief Secretary
 Home & T.As Department
 Khyber Pakhtunkhwa.

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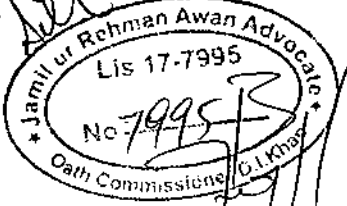
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...(Appellant)

Versus

1. Government of KP, through Secretary Home & TAs Department KP, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Dera Ismail Khan.
4. District Police Officer, Dera Ismail Khan.(Respondents)

AFFIDAVIT ON BEHALF OF RESPONDENTS

I, respondent do hereby solemnly affirm and declare on oath that the contents of comments-written reply to Appeal are true & correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense have been struck off/cost.

Jamil ur Rehman Awan

Jamil ur Rehman Awan

Nasir Mehmood
 District Police Officer,
 Dera Ismail Khan
 (Respondent No.3)
 NASIR MEHMOOD (PSP)
 Incumbent

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
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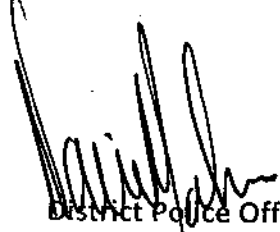
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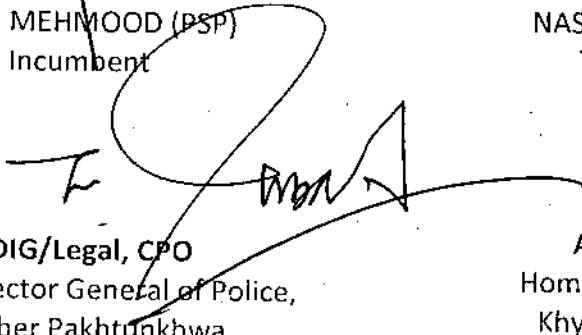
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2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Dera Ismail Khan.
4. District Police Officer, Dera Ismail Khan.(Respondents)


A U T H O R I T Y

Mr. Muhammad Imran DSP Legal DIKhan is hereby authorized to appear before the Service Tribunal Khyber Pakhtunkhwa, Peshawar on behalf of Respondents. He is also authorised to produce/ withdraw any application or documents in the interest of Respondents and the Police Department.


District Police Officer,
Dera Ismail Khan
(Respondent No.3)
NASIR MEHMOOD (PSP)
Incumbent


Regional Police Officer,
Dera Ismail Khan
(Respondent No.4)
NASIR MEHMOOD SATTI (PSP)
Incumbent


DIG/Legal, CPO
For Inspector General of Police,
Khyber Pakhtunkhwa,
(Respondent No.2)
(DR. MUHAMMAD AKHTAR ABBAS)
Incumbent


Additional Chief Secretary
Home & Tribal Affairs Department,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.1)
(MUHAMMAD ABID MAJEED)
Incumbent
Additional Chief Secretary
Home & T.As Department
Khyber Pakhtunkhwa.

P# 10

C/S No. 146/2023



197

OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 1028 /EC

Dated

17 10/5/2023

CHARGE SHEET

1. ABDUL RAUF HABAR, DISTRICT POLICE OFFICER, DIKHAN, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you Constable Qayyum Nawaz No. 1022 (Suspended), rendered yourself liable to be proceeded against departmentally as you have committed the following act/omissions.

You while posted at Police Lines DIKhan, DSP HQrs: District Police Tank has been reported that you have been involved in a case registered vide FIR No. 197, dated 07.05.2023 u/s 11 (A) CNSA of Police Station SMA District Tank. The above omissions & commission acts on your part amounts to gross misconduct which is punishable under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

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 ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

Attested
[Signature]

[Signature]
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

کھنڈر پولیس سٹیشن



196

OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 3028-2 S /EC

Dated

17 / 05 / 2023

DISCIPLINARY ACTION

1. ABDUL RAUF BABAR, DISTRICT POLICE OFFICER, DIKHAN as competent authority, under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) am of the opinion that you Constable Chayyum Nawaz No.1022 (Suspended), rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omissions:

STATEMENT OF ALLEGATIONS

You while posted at Police Lines DIKHAN, DSP HQrs: District Police Tank has been reported that you have been involved in a case registered vide FIR No.197, dated 07.05.2023 u/s 11 (A) CNSA of Police Station SMA District Tank. The above omissions & commission acts on your part amounts to gross misconduct which is punishable under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations DSP Nazim is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 3028-2 S /EC

dated

1 / 2023.

Copy of above to:-

1. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975.
2. The Accused officer, with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Attested
K. I. A.

P#12



M ✓
1022

OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

Tel: (0266) 0280062 Fax (0266) 0280293

No. 4584 /EC.

Dated. 14/07/2023

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against Constable Qayyum Nawaz No.1022 of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office C/S No.146/2023 on the following allegations.

He while posted at Police Lines DIKhan, DSP HQrs: District Police Tank has been reported that he has been involved in a case registered vide FIR No.197, dated 07.05.2023 u/s 11 (A) CNSA of Police Station SMA District Tank. The above omissions & commission acts on his part amounts to gross misconduct which is punishable under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

Mohammad Imran A/DSP Legal DIKhan was appointed as Enquiry Officer with the directions to conduct proper Departmental Enquiry against him and submit finding report in which he stated that Constable Qayyum Nawaz No.1022, is found guilty of the charges levelled against him. Enquiry Officer recommended to award him Major Punishment.

Keeping in view of findings report of the Enquiry Officer and conduct of the delinquent Constable, the undersigned came to the conclusion that the charges leveled against him have been proved beyond any shadow of doubt.

Therefore, in exercise of powers vested upon undersigned, I, Abdul Rauf Babar District Police Officer DIKhan, hereby awarded him "Major Punishment of "Dismissal from Service" with immediate effect.

Order Announced

OB No. 169/1

Dated: 14/07/2023

Attested
Kad

ABDUL RAUF BABAR' PSP
District Police Officer
Dera Ismail Khan

فائنڈنگ رپورٹ

عنوان اکوٹری: گلخانہ انکو ایٹری کا نیشنل قیوم نواز نمبر 1022 متعلقہ لائن پولیس، ڈیرہ اسماعیل خان

جناب عالی!

حوالہ چارج شیٹ دسمری آف ایلیگیشن EC/29-3028 مورخہ 17.05.2023 لائن کا نیشنل قیوم نواز نمبر 1022 کہ DSP ہیڈ کوارٹر ٹانک کی رپورٹ کے مطابق مذکورہ کا نیشنل قیوم نواز نمبر 197 مورخہ 07.05.2023 جرم CNSA 11(A) ٹانک میں ملوث ہو کر مقدمہ درج رجسٹر کیا گیا ہے، اکوٹری ہڈا مارک ہو کر موصول ہوئی جس کا بتاوا بعد آغاز کرتے ہوئے الزام علیہ کا نیشنل قیوم نواز نمبر 1022 و عمر پولیس لائن کے بالترتیب بیانات قلمبند کیئے جا کر ان اکوٹری کیئے گئے ہیں۔

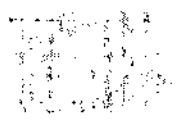
1. کا نیشنل قیوم نواز نمبر 1022 (الزام علیہ)
2. عالمگیر 826 عمر پولیس لائن، ڈیرہ اسماعیل خان

الزام علیہ کا نیشنل قیوم نواز نمبر 1022 نے بیان کیا کہ اسکے خلاف چارج شیٹ ہڈا میں مقدمہ متذکرہ بالا میں ملوث / نامزد کرنا درست نہ ہے بلکہ اسکے خلاف انتہائی ناجائزی اور ناانصافی کی گئی ہے جو اس سلسلہ میں عدالت میں مقدمہ چلنا کر رکھا ہے۔ دوران جرح بتایا کہ اسکی گاڑی سے کچھ بھی برآمد نہیں ہوا مگر پھر بھی صرف ضد بازی کی وجہ سے اصغر DSP شاہ نے اسکے خلاف FIR درج کرائی ہے۔ اصغر شاہ DSP اسکے ساتھ ڈیڑھ پلاٹون میں کا نیشنل (منشی) تھا جو اسکے جو اسکے ساتھ کسی بات پر کافی لڑائی جھگڑا ہوا تھا بدیں وجہ اس نے خار بازی بنائی ہوئی ہے۔ (بعد جرح بیان برائے ملاحظہ لے لے)

2- عالمگیر 826/MHC پولیس لائن ڈیرہ اسماعیل خان نے بیان کیا کہ مذکورہ کا نیشنل قیوم نواز نمبر 1022 حوالہ نمبر 94 روزنامہ 05.05.2023 سے پولیس لائن سے غیر حاضر ہوا تھا، جس کے متعلق مورخہ 07.05.2023 کو لائن آفیسر صاحب کو بذریعہ فون DSP ہیڈ کوارٹر ضلع ٹانک اصغر علی شاہ نے اطلاع دی کہ کا نیشنل قیوم نواز نمبر 1022 پولیس لائن ڈیرہ میں تعینات ہے جس کے خلاف مقدمہ متذکرہ بالا درج رجسٹر ہو کر بند حوالات ٹانک SMA (شہید مرید اکبر) ضلع ٹانک ہے حسب اطلاع رپورٹ اطلاعاً حوالہ نمبر 68 روزنامہ 07.05.2023 پولیس لائن ڈیرہ اسماعیل خان میں درج کی جا کر انسپران بالا کو اس سال کی گئی تھی، تاہم مذکورہ بالا حوالہ نمبر 61 نمبر روزنامہ 05.05.2023 میں پولیس لائن آیا جس پر کا نیشنل مذکورہ کی حاضری درج روزنامہ کی گئی تھی۔ (نقلدات غیر حاضری + حاضری لف ہیں)

مزید حقائق جاننے کے لیے ٹانک SMA (شہید مرید اکبر) ضلع ٹانک سے FIR کاپی دپو اگر لیس رپورٹ طلب کی گئی جس کے مطابق مذکورہ کا نیشنل سوزو کی آلوموٹر کار بلا نمبر برنگ سفید ٹانک کی جانب سے بلطرف DIKhan نشیات سمگل کر رہا ہے، جو اس اطلاع پر وقوعہ جائے بالا پر ناکہ بندی کیئے ہوئے موجود تھا کہ خبر کی اطلاع کے مطابق موٹر کار متذکرہ بالا کو روک کر جسکی ڈرائیونگ سیٹ پر بھٹھے ہوئے شخص نے اپنا نام قیوم نواز بتلایا جسکی جامد تلاشی لینے پر سائیکل جیب سے آئس برآمد ہوئی جو وزن کرنے پر (52) گرام اتری، باقی کوئی ممنوعہ شے برآمد نہ ہوئی جو ملزم کو پیش عدالت کر کے جو ملزم اقبال جرم سے انکاری ہو کر جیل وارنٹ پر داخل جو ڈیٹل حوالات ٹانک کیا، ملزم عدالت سے ضمانت پر رہا ہے اور گاڑی بھی عدالت سے ضمانت پر حاصل کر چکا ہے مقدمہ میں چالان مکمل دیا گیا ہے۔ (FIR وپو اگر لیس رپورٹ لف ہیں)

Attested
Kia



سنگینی انکوائری لینے گئے بیانات اور بعد جرح سوالات و جوابات سے پایا گیا الزام علیہ کا نشیہ قیوم نواز 1022 مقدمہ متذکرہ بالا میں ملوث ہو کر خشیات برآمدگی کے جرم میں گرفتار ہوا، جو کہ پولیس لائن میں تعینات تھا، ہم بحوالہ نمبر 94 مورخہ 05.05.23 پولیس لائن میں غیر حاضر چل رہا تھا جو کہ بمطابق اطلاعی رپورٹ تھانہ (شہید مرید اکبر) SMA ٹانک بحوالہ نمبر 68 روزنامہ 07.05.2023 پولیس لائن ڈیرو، مانجھی خیل چیک پوسٹ ضلع ٹانک پر دوران تلاش آئس برآمدگی پر گرفتار ہوا تھا، مذکورہ کا نشیہ قیوم نواز کا یہ فعل قابل مواخذہ سزا ہے۔

علاوہ ازیں الزام علیہ کا نشیہ قیوم نواز 1022 کے متعلق مزید جانچ پر تامل بابت کریمنٹل ریکارڈ چیک کیا گیا جو کہ تھانہ کینٹ میں قتل ازبیل بھی خشیات کی سرنگ کی جیسے سنگین مقدمات میں ملوث رہا ہے، (1) مقدمہ نمبر 517 مورخہ 27.05.2018 جرم CNSA 9(D) مقدمہ نمبر 610 مورخہ 16.05.2020 جرم 337A(ii)/148.149 (3) مقدمہ نمبر 18 مورخہ 13.01.2021 جرم CNSA 11(A) CNSA 9(B) مقدمہ نمبر 19 مورخہ 13.01.2021 جرم CNSA 9(B) تھانہ کینٹ، ڈیرو اسماعیل خان میں ملوث ہو کر گرفتار ہو چکا ہے، مذکورہ کا نشیہ دردی کی آڑ میں گھٹاؤنے فعل کرنے میں قطعی عار محسوس نہیں کرتا ہے جو کہ فورس کے لیے انتہائی بدنامی کا دھبہ ہے، بدیں وجہ مذکورہ محکمہ پولیس میں نوکری کے قابل نہیں ہے۔

لہذا مذکورہ کا نشیہ قیوم نواز 1022 الزام علیہ کو Major Punishment دیئے جائیگی سفارش کی جاتی ہے۔ مزید حکم انفران بالا افضل ہے۔

ڈپٹی سپرنٹنڈنٹ آف پولیس، لیگل
ڈیرو اسماعیل خان
26-06-23

Attested
K

(the competent authority through inquiry officer)

SUBJECT: REPLY TO THE CHARGE SHEET DATED:
17/05/2023.

Respected Sir,

IN RESPONSE TO THE SUBJECT NOTED
CHARGE SHEET RECEIVED ON 25/05/2023, I
SUBMIT AS UNDER.

1. That I have been arrayed as accused in the FIR 197 finding mentioned in the charge sheet yet due to sheer manipulation of true facts and beyond reality but for ulterior motives.
2. That given the fact that the said FIR is in the stage of investigation and no trial therein has neither commenced nor concluded therefore, natural justice would require that the instant inquiry may be postponed sine die till conclusion of trial. That the alleged recovery of narcotics from me vide case FIR No.197 Dated: 07/05/2023 U/s 11-(A) CNSA Ps SMA, District Tank is in the process of investigation and no result what soever has come out as yet, therefore, prior to the decision by the court of the competent jurisdiction, holding me to be involved in the criminal act is against natural justice and law.
3. Sir, your tentative decision to impose major punishment upon me would respectfully not be in accordance with law, because I am not proved guilty of an offence as yet therefore, departmentally a major penalty proposed to be imposed upon me would negate all norms of justice.
4. That I also request for personal hearing for the ends of justice.

It is, therefore, humbly prayed that departmental proceedings against me be either filed without any further action or be kept pending till the decision of competent court in the interest of justice.

Attested
[Signature]

Your's humbly,
[Signature]
Qayyum Nawaz
Constable No 1022
Police line D I Khar.

21/05/2023

(51)

بیان ازاں:-

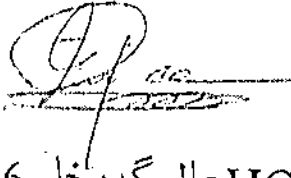
عالمگیر خان 826/MHC متعینہ محرر پولیس لائن ڈیرہ

جناب عالی!

نے بدریافت بیان کیا کہ برطابق ریکارڈ/روزنامہ کانسٹیبل قیوم نواز 1022 بحوالہ مد نمبر

94 مورخہ 05.05.2023 سے بدستور غیر حاضر چلا آ رہا ہے۔ میرا یہی بیان ہے جو درست ہے۔

(51)



HC عالمگیر خان 826

محرر پولیس لائن DIK

24-5-23

Attested


پولیس لائن

52 ضلع ڈیرہ اسماعیل خان

نقل روزنامہ

مد نمبر 94 گنتی ملازمان پولیس / محمد عابد LO مورخہ 05.05.2023 وقت 20:00 بجے درج ہے کہ اس وقت گنتی ملازمان پولیس بذریعہ وسل کرائی گئی ہے جملہ فارغ از ڈیوٹی ملازمان پولیس کو گنتی میں موجود پایا کر حکم احکام افسران بالا و تھریڈز الرٹس پڑھ کر سنائے و سمجھائے گئے بدوران ڈیوٹی ہیلمٹ جیکٹ کے استعمال کو یقینی بنانے اور سارٹ فون کے استعمال سے گریز کرنے کی تاکید کی گئی بوقت شب بدوران ڈیوٹی نارچ اور وسل کے استعمال کو یقینی بنانے اور موجودہ حالات کے پیش نظر افسران بالا کی طرف سے جاری کردہ خصوصی سکیورٹی ہدایات پر عمل درآمد کرنے کی ہدایت کی گئی بعد دینے حکم احکام افسران بالا گنتی برخواست کی گئی جبکہ کانسٹیبل قیوم 1022 کو گنتی میں عدم موجود پایا کر غیر حاضری درج روزنامہ کی جاتی ہے۔

جناب عالی!

نقل برطابق اصل ہے۔

محمد عابد

مدد محرر پولیس لائن

24-05-2023

Attested
Kia

Sd/- M. A. T. Tech

[Signature]

I. A. P. O. S. C. C. C.

24-5-2023

کر کے پیش عدالت کر کے جو کہ ملزم اقبال دہم سے القاری سوکر حل
 وارثت پر داخل ہو کر اسل جوالات ثابت کیا۔ ملزم عدالت ثانیہ پر
 ہے اور گاڑی بھی عدالت سے ضمانت پر حاصل کر چکا ہے مقدمہ ہذا میں
 معیار جیلان ملکر دیا گیا ہے مگر مقدمہ نوری سماعت عدالت ہو گیا ہے
 پراگرس رپورٹ مرتب ہو کر پیش ہے ۱

Attested
 [Signature]

Aysha A Tariq

05.06.23

P# 22

بیان ازاں:-

206

عالمگیر خان 826/MHC متعینہ محرر پولیس لائن ڈیرہ

جناب عالی!

نے بدریافت بیان کیا کہ بمطابق ریکارڈ اور وزناچہ کانسٹیبل قیوم 1022 جو بحوالہ مد نمبر 94

مورخہ 05.05.2023 سے غیر حاضر شدہ بحوالہ مد نمبر 61 مورخہ 01.06.2023 سے لائن ہذا حاضر



آیا۔ میرا یہی بیان ہے جو درست ہے۔

محرر پولیس لائن

ڈیرہ اسماعیل خان

19-6-2023

Attested
Kia

پولیس لائن

نقل روز نامہ

ضلع ڈیرہ اسماعیل خان

207

مد نمبر 94 گنتی ملازمان پولیس / محمد عابد LO مورخہ 05.05.2023 وقت 20:00 بجے درج ہے کہ اس وقت گنتی ملازمان پولیس بذریعہ وصل کرائی گئی ہے جملہ فارغ از ڈیوٹی ملازمان پولیس کو گنتی میں موجود ہا کر حکم احکام افسران بالا و تھریڈز الرٹس پڑھ کر سنائے و سمجھائے گئے بدوران ڈیوٹی ہیلمٹ جیکٹ کے استعمال کو یقینی بنانے اور سمارٹ فون کے استعمال سے گریز کرنے کی تاکید کی گئی بوقت شب بدوران ڈیوٹی نارج اور وصل کے استعمال کو یقینی بنانے اور موجودہ حالات کے پیش نظر افسران بالا کی طرف سے جاری کردہ خصوصی سکیورٹی ہدایات پر عمل درآمد کرنے کی ہدایت کی گئی بعد دینے حکم احکام افسران بالا گنتی برخواست کی گئی جبکہ کانسٹیبل قیوم 1022 کو گنتی میں عدم موجود ہا کر غیر حاضری درج روز نامہ کی جاتی ہے۔

مد نمبر 61 حاضری / عالمگیر خان 826/MHC مورخہ 01.06.2023 وقت 15:30 بجے درج ہے کہ اس وقت کانسٹیبل قیوم 1022 غیر حاضر شدہ بحوالہ مد نمبر 94 مورخہ 05.05.2023 سے اب حاضر آیا اور بیانی ہے کہ بدوران پیشی افسران بالا کو اپنا بیان دوں گا۔ اب حاضر آیا ہوں میری حاضری کی جاؤے دستخط انگریزی پس حسب گفتہ کانسٹیبل کی حاضری درج روز نامہ کی جاتی ہے۔

جناب عالی!

نقل پر مطابق اصل ہے۔

H. S. S. S.

مدد محرز پولیس لائن

19-06-23

Attested
Kid

Attested

H. S. S. S.
10-police line
19-06-2023

پولیس لائن

نقل و حرکت اور نامہ

208

ضلع ایف ایس ایمیل ٹھکانا

نمبر 168 اطلاعی رپورٹ / ایم فائدہ L.O مورہ 07.03.2023 وقت 21:05 بجے درج ہے
 کہ (DHP/110) صاحب ٹانگہ سپر انڈسٹری علی شاہ سڈ ہڈریہ موہاگل لائن اطلاع دی کہ کانسٹیبل ایم او ایو 1022 اور
 کہ پولیس لائن ڈیرہ میں انجینئر صاحبہ جس کے طالب علمہ نمبر 197 مورہ 07.03.2023 م (A) 11
 CNSA تھانہ SMA ضلع ٹانگہ میں درج ہو کر ہند جوالات تھانہ SMA ہے حسب اطلاع واقع وقت اطلاعاً
 درج روز نامہ کی جانر انڈسٹری میں مناصب کارروائی السمران ہالا کی نمائندگی میں ارسال ہوگی واضح رہے کہ کانسٹیبل
 مذکورہ بالا مورہ نمبر 194 روز نامہ 05.03.2023 سے پولیس لائن میں ہند ستور نمبر نمائندگی ہے۔

بناجی عالی

نقل ہد بلاقی اصل ہے۔

محمد سعید

مدد مسرر پولیس لائن

19-06-2023

Attested
K.A.

A. M. S. L.

[Signature]

Police Line

19-06-2023

P# 25



1022

OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

Tel: (0986) 820002 Fax (0986) 8280203

No. 6122 /EC,

Dated. 21 / 18 / 2023

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against Ex-Constable Qayyum No.1022, of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office C/S No.337/2023 on the following allegations:

He while posted in Police Lines DIKhan, MHC has been reported that he remained absent from lawful duties w.e. from 05.05.2023 to till date without any leave/permission. Above commission/omission falls in the purview of gross misconduct and renders him liable to be punished under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

Mohammad Imran A/DSP Legal DIKhan was appointed as Enquiry Officer with the directions to conduct proper Departmental Enquiry against him and submit finding report in which he stated that Ex-Constable Qayyum No.1022, was recently awarded by "Major Punishment of Dismissal from Service" vide this office Order No.4584/EC, dated 14.07.2023. Enquiry Officer recommended that his departmental enquiry be filed.

Keeping in view of findings report of the Enquiry Officer and conduct of the delinquent Constable, the undersigned came to the conclusion that the charges leveled against him have been proved beyond any shadow of doubt.

Therefore, in exercise of powers vested upon undersigned, I, Abdul Rauf Babar District Police Officer DIKhan, hereby "filed" his departmental enquiry papers and his absence period from 05.05.2023 to till the date of his previous punishment of "Major Punishment of Dismissal from Service" i.e 14.07.2023 is treated as leave without pay with immediate effect.

Order Announced

OB No, 19821

Dated: 21 / 18 / 2023

Attested
K. S.

ABDUL RAUF BABAR' PSP
District Police Officer
Dera Ismail Khan

212

فائنڈنگ رپورٹ

عنوان انکوائری:- محمانہ انکوائری کا نیشنل قیوم نواز نمبر 1022 متعینہ لائن پولیس، ڈیرہ اسماعیل خان

جناب عالی!

بحوالہ چارج شیٹ و سمری آف ایلیگیشن EC/47-4545 مورخہ 13.07.2023 ازان کا نیشنل قیوم نواز نمبر 1022 جس میں مذکورہ کا نیشنل پر الزام عائد ہے کہ وہ مورخہ 05.05.2023 سے اجازت شہید پولیس لائن، ڈیرہ اسماعیل خان سے بدستور غیر حاضر ہے، جو چارج شیٹ ہذا میں سن DSP لیگل کو انکوائری آفیسر مقرر کیا گیا ہے۔

محمانہ انکوائری کا آغاز کرتے ہوئے الزام علیہ کا نیشنل قیوم نواز 1022 کے متعلق جانے تعیناتی پولیس لائن سے معلومات کی گئیں جو محرر لائن نے غیر حاضری نقلہ پیش کی اور بیان کیا کہ مذکورہ کا نیشنل قیوم نواز 1022 جانے تعیناتی پولیس لائن سے بحوالہ مد نمبر 94 روزنامہ 05.05.2023 سے بدستور غیر حاضر ہے، تاہم مذکورہ کا نیشنل کے خلاف مقدمہ نمبر 197 مورخہ 07.05.2023 جرم SMA 11(A) CNSA ضلع نائک میں مقدمہ درج ہو کر اسکے خلاف بقاعدہ محمانہ انکوائری عمل میں لائی جا کر جو مذکورہ کا نیشنل قیوم نواز 1022 بحوالہ آمد مہج بک نمبر 1387 مورخہ 14.07.2023 آرڈر بک نمبر 1694 مورخہ 14.07.2023 سے محکمہ پولیس سے برخاست کیا جا چکا ہے (بیان، پیش کردہ جملہ نقلہ ات لات برائے ملاحظہ ہیں)۔

مزید انکوائری عمل میں لاتے ہوئے دفتر پولیس SRC برانچ سے الزام علیہ سابقہ کا نیشنل قیوم نواز 1022 کے متعلق برخاستگی آرڈر طلب کیا گیا جو چیک کرنے پر الزام علیہ کا نیشنل قیوم نواز 1022 بحوالہ آرڈر نمبر EC/4584 مورخہ 14.07.2023 آرڈر بک نمبر 1694 مورخہ 14.07.2023 پر محکمہ پولیس سے برخاست کیا جا چکا ہے (آرڈر کا پی لف ہے)۔

لہذا مذکورہ الزام علیہ کا نیشنل قیوم نواز 1022 جو کہ درج بالا آرڈر لف شدہ کے تحت محکمہ پولیس سے Dismiss کیا جا چکا ہے، بدیں وجہ چارج شیٹ ہذا داخل دفتر فرمائے جائیگی سفارش کی جاتی ہے۔ مزید حکم افسران بالا افضل ہے۔

ڈپٹی سپرنٹنڈنٹ آف پولیس، لیگل

ڈیرہ اسماعیل خان

08-08-23

Attested
Kia



(214)

OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 4545 /EC,

Dated

13/06/2023

DISCIPLINARY ACTION

I, ABDUL RAUF BABAR, DISTRICT POLICE OFFICER, DIKHAN as competent authority, under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) am of the opinion that you Constable Qayyum No.1022 rendered yourself liable to be proceeded against departmentally as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

You while posted in Police Lines DIKhan, MHC has been reported that you remained absent from lawful duties w.e. from 05.05.2023 to till date without any leave/permission. Above commission/omission falls in the purview of gross misconduct and renders you liable to be punished under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations DSH/Tejal is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 4546-47 /EC,

dated

13/06/2023.

Copy of above to:-

1. The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975 with the direction to submit his finding report within 03-days positively.
2. The Accused officer, with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

Attested
Mid



OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 6545 /EC,

Dated

13/10/2023

CHARGE SHEET

I, ABDUL RAUF BABAR, DISTRICT POLICE OFFICER, DIKHAN, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you Constable Qayyum No.1022 rendered yourself liable to be proceeded against departmentally as you have committed the following act/omissions.

You while posted in Police Lines DIKHAN, MHC has been reported that you remained absent from lawful duties w.e. from 05.05.2023 to till date without any leave/permission. Above commission/omission falls in the purview of gross misconduct and renders you liable to be punished under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

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 ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

Attested
[Signature]

DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

ضلع ڈیرہ اسماعیل خان

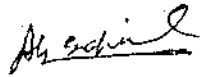
نقل روز نامہ

216

مد نمبر 94 گنتی ملازمان پولیس / محمد عابد LO مورخہ 05.05.2023 وقت 20:00 بجے درج ہے کہ اس وقت گنتی ملازمان پولیس بذریعہ وسل کرائی گئی ہے جملہ فارغ از ڈیوٹی ملازمان پولیس کو گنتی میں موجود پایا کر حکم احکام افسران بالا و تھریڈز الرٹس پڑھ کر سنائے و سمجھائے گئے بدوران ڈیوٹی ہیلمٹ جیکٹ کے استعمال کو یقینی بنانے اور سمارٹ فون کے استعمال سے گریز کرنے کی تاکید کی گئی بوقت شب بدوران ڈیوٹی نارچ اور وسل کے استعمال کو یقینی بنانے اور موجودہ حالات کے پیش نظر افسران بالا کی طرف سے جاری کردہ خصوصی سکیورٹی ہدایات پر عمل درآمد کرنے کی ہدایت کی گئی بعد دینے حکم احکام افسران بالا گنتی برخواست کی گئی جبکہ (نیشنل قیوم 1022) کو گنتی میں عدم موجود پایا کر غیر حاضری درج روز نامہ کی جاتی ہے۔

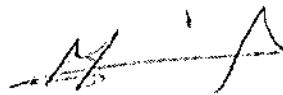
جناب عالی!

نقل بمطابق اصل ہے۔




مدد محترم پولیس لائن
20-05-2023

Sincerely Attested



Ho - Police Line
21-5-2023

Attested


20/5

بیان ازاں:-

عالمگیر خان 826/MHC متعینہ محرر پولیس لائن ڈیرہ

جناب عالی!

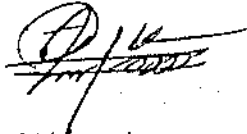
نے دریافت بیان کیا کہ بمطابق ریکارڈ/روزنامچہ کانسٹیبل قیوم 1022 جو بحوالہ مد نمبر 94

مورخہ 05.05.2023 سے غیر حاضر شدہ بحوالہ مد نمبر 61 مورخہ 01.06.2023 سے لائن ہذا حاضر

آیا۔ بحوالہ میج نمبر 1387 مورخہ 14.07.2023 مجاریہ جناب DPO صاحب ڈیرہ کانسٹیبل مذکورہ کو حکمانہ

انکوائری میں قصور وار پایا جا کر محکمہ پولیس سے درخواست کیا گیا ہے۔ واضح رہے کہ کانسٹیبل مذکورہ پولیس لائن سے

بحوالہ مد نمبر 85 مورخہ 09.06.2023 پولیس لائن سے بدستور غیر حاضر تھا میرا یہی بیان ہے جو درست ہے۔



محرر پولیس لائن

ڈیرہ اسماعیل خان

07-8-23

Attested


نقل و حرکت نامچہ

مد نمبر 88 اطلاعی رپورٹ بابت برخاسکی سردس/امان اللہ خان LO مورخہ 14.07.2023 بوقت 21:15 بجے درج ہے کہ حسب آمدہ میج نمبر 1387 مورخہ 14.07.2023 مجاریہ جناب DPO صاحب ڈیرہ کانسٹیبل قیوم نواز 1022 کو قصور وار پایا جا کر بڑی سزا محکمہ پولیس سے برخاست کیا گیا ہے۔ اندر میں بارے اطلاعاً رپورٹ درج روزنامچہ کی جا کر نقل و حرکت بغرض تکمیل ریکارڈ دفتر DPO صاحب نزد OHC برانچ کچھوئی جاتی ہے۔ واضح رہے کہ کانسٹیبل مذکورہ بحوالہ مد نمبر 25 مورخہ 09.06.2023 پولیس لائن سے بدستور غیر حاضر ہے۔

جناب عالی!

نقل بمطابق اصل ہے۔

مدد محروم پولیس لائن

07-8-23.

Attested

Kid

Attested.

Attested
 Co/Police-Line
 07-8-23.

نقل روزنامہ

مد نمبر 94 گنتی ملازمان پولیس / محمد عابد LO مورخہ 05.05.2023 وقت 20:00 بجے درج ہے کہ اس وقت گنتی ملازمان پولیس بذریعہ وسل کرائی گئی ہے جملہ فارغ از ڈیوٹی ملازمان پولیس کو گنتی میں موجود پا کر حکم احکام افسران بالا و تھریڈز الرٹس پڑھ کر سنائے و سمجھائے گئے بدوران ڈیوٹی ہیلمٹ جیکٹ کے استعمال کو یقینی بنانے اور ہمارٹ فون کے استعمال سے گریز کرنے کی تاکید کی گئی بوقت شب بدوران ڈیوٹی نارچ اور وسل کے استعمال کو یقینی بنانے اور موجودہ حالات کے پیش نظر افسران بالا کی طرف سے جاری کردہ خصوصی سکیورٹی ہدایات پر عمل درآمد کرنے کی ہدایت کی گئی بعد دینے حکم احکام افسران بالا گنتی برخاست کی گئی جبکہ کانسٹیبل قیوم 1022 کو گنتی میں عدم موجود پا کر غیر حاضری درج روزنامہ کی جاتی ہے۔

مد نمبر 61 حاضری / عالمگیر خان 826/MHC مورخہ 01.06.2023 وقت 15:30 بجے درج ہے کہ اس وقت کانسٹیبل قیوم 1022 غیر حاضر شدہ بحوالہ مد نمبر 94 مورخہ 05.05.2023 سے اب حاضر آیا اور بیانی ہے کہ بدوران پیشی افسران بالا کو اپنا بیان دوں گا۔ اب حاضر آیا ہوں میری حاضری کی جاؤے دستخط انگریزی پس حسب گفتہ کانسٹیبل کی حاضری درج روزنامہ کی جاتی ہے۔

جناب عالی!

نقل برطابق اصل ہے۔

محمد عابد
 07-8-23

Attested
 Mid

Attested.

07-8-23

rlo/Police-Line.

07-8-23.

P#33

(57)

ضلع زیردا سائیل خان

پولیس لائن

نقلہ روزنامہ سپر

مد نمبر 85 رپورٹ غیر حاضری / خلیل خان LO مورخہ 09.06.2023 بوقت 17:00 بجے درج ہے
اس وقت کانسٹیبل قیوم 1022 کو بغرض ڈیوٹی طلب کیا گیا جو کہ بارک کانسٹیبلان اور احاطہ پولیس لائن میں
عدم موجود پایا گیا جس کی رپورٹ غیر حاضری درج روزنامہ کی جاتی ہے۔

جناب عالی!

نقل مطابق اصل ہے۔

Attested.

محمد عزیز پور پولیس لائن
07-8-23



do/Police-Line.

07-8-23.

Attested
Kid



OFFICE OF THE
DISTRICT POLICE OFFICER
DERA ISMAIL KHAN
0966-9780062 Fax # 9780293

No. 7642/EC, dated D.I.Khan the 31/10/2023

CORRIGENDUM/ORDER

In compliance with the judgment passed dated 22.11.2021, by the Khyber Pakhtunkhwa Service Tribunal Camp Court DIKhan in Service Appeal No. 5779/2020, so far it relates to the back benefits after reinstatement into service of Ex-Constable Qayyum Nawaz No.1003/1022, issued vide this office order Endst: No.3557-63/EC dated 29.09.2022 be read as (with all back benefits). *It is pertinent to mention here that Ex-Constable Qayyum Nawaz No.1003/1022 has presently been dismissed from service vide this office order Book No.1691 dated 14.07.2023 & this office instant corrigendum may not affect the prevailing punishment awarded to the Ex-Constable concerned.*

Note:- the delinquent Constable is bound to produce a surety bond / on stamp paper for reimbursement of any excess payment made by the department subject to outcome of CPIA.

DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

No. 7642-46/EC

dated

31/10/2023

Copy of above is submitted to:-

1. The Registrar Service Tribunal Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Dera Ismail Khan.
3. Pay Officer, DPO Office DIKhan.
4. OHC DPO Office DIKhan.

Attested
Mid.

OB 2614
DT 31-10-2023

DISTRICT POLICE OFFICER
DERA ISMAIL KHAN

P#39



OFFICE OF THE
REGIONAL POLICE OFFICER
DERA ISMAIL KHAN
REGION

☎ 0966-9280291 Fax # 9280290

No. 9501 /ES dated D.I.Khan the 21/11/2023

ORDER

1. This order disposes off departmental appeal filed by Ex- Constable Onayum Nawaz No. 1022 of District Police D.I.Khan, against the order of Major Punishment of (Dismissal from Service), passed by the DPO D.I.Khan, vide his office OB No. 1691 dated 14.07.2023 on the following allegations:

2. "He while posted at Police Line D.I.Khan DSP HQrs, District Police Tank has reported that he has been involved in a case registered vide FIR No. 197, dated 07.05.2023 u/s 11(A) CNSA of police Station SMA District Tank".


ii. DPO D.I.Khan served the appellant with the charge sheet. Enquiry into the matter was got conducted into through Muhammad Imran ADSP Legal D.I.Khan who in his finding report, in which he stated that he found guilty of the charges levelled against him and recommended him for Major Punishment.

3. DPO D.I.Khan has awarded him Major Punishment of "Dismissal from Service" vide his office OB No. 1691 dated 14.07.2023.

4. Perusal of the service record of the applicant and comments received from DPO D.I.Khan the instant appeal is time barred.


5. Keeping in view the above, I, NASIR MEHMOOD SATTI, PSP, Regional Police Officer, Dera Ismail Khan, in exercise of the powers conferred upon me under Rule-11, clause-4 (a), of the Police Rules 1975, Amended 2014, do not intend to take a lenient view, therefore **REJECT** his appeal being time barred and uphold the order of Major Punishment of (Dismissal from Service), passed by District Police Officer D.I.Khan vide his O.B No. 1691 dated 14.07.2023, with immediate effect.

6. Order Announced.


(NASIR MEHMOOD SATTI)PSP
Regional Police Officer
Dera Ismail Khan
20/11

No. 9502 /ES,

Copy of above is sent to the DPO D.I.Khan with reference to his office letter No. 8006/EC dated 20.11.2023, (Encl: Service Roll & Fauji Missal).


(NASIR MEHMOOD SATTI)PSP
Regional Police Officer
Dera Ismail Khan
20/11

Attested
Kid

237-16/23 ✓

The Khyber Pakhtunkhwa Police Rules, 1975

(With Amendments-2014)

Contents

1. Short title, commencement and application
2. Definitions
3. Grounds of punishment
4. Punishments
- 4.A -
5. Punishment proceedings
6. Procedure of Departmental Inquiry
7. Powers of Inquiry Officer
8. Rules 5 and 6 not to apply in certain cases
9. Procedure of Inquiry against Officers lent to other Government or authority
10. -
11. Appeal
12. Revision (11-A)
13. -
14. Repeal

Khyber Pakhtunkhwa Police Rules, 1975

In exercise of the powers conferred under section 7 of Police Act 1861, the Government of Khyber Pakhtunkhwa, is pleased to make the following Rules, namely:-

1. **Short title, commencement and application:-**

- (1) These rules may be called the Police Rules, 1975;
- (ii) They shall come into force at once and shall apply to all Police Officers of and below the rank of Deputy Superintendent of Police.

2. **Definitions:-**

In these rules, unless the context otherwise requires:-

- (i) 'Accused' means a Police Officer against whom action is taken under these rules;
- (ii) 'Authority' means authority competent to award punishment as per Schedule
- (iii) 'Misconduct' means conduct prejudicial to good order of discipline in the Police Force, or contrary to Government Servants (Conduct) Rules or unbecoming of a Police Officer and a gentleman, any commission or omission which violates any of the provisions of law and rules regulating the function and duty of Police Officer to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any

Handwritten mark

11. Appeal-

For rule 11, the following shall be substituted, namely:

❖ "11. **Appeal.**---(1) An accused, who has been awarded any penalty under these rules except the penalty of confinement of constable and head constable for fifteen days to quarter guards, may, within thirty days from the date of communication of the order, prefer an appeal to the Appellate Authority as provided in sub-rule (2).

(2) The appeal, against the orders of the officer, specified in Schedule-I, who passes it shall lie to the Appellate Authority as may be specified in the table below:

S.No	Punishing Authorities	Appellate/Reviewing Authorities
1.	Provincial Police Officer	Provincial Police Officer (Review)
2.	Regional Police Officer/ Deputy Inspector General of Police/ Capital City Police Officer/ Additional Inspector General of Police.	Provincial Police Officer.
3.	District Police Officer/ Senior Superintendent of Police/ Superintendent of Police.	Regional Police Officer/Deputy Inspector General of Police/ Capital City Police Officer/ Additional Inspector General of Police.
4.	Assistant Superintendent of Police/ Deputy Superintendent of Police.	District Police Officer/ Senior Superintendent of Police/ Senior Superintendent of Police Operations.

Provided that where the order has been passed by the Provincial Police Officer, the delinquent officer/official, may within a period of thirty days submit review Petition directly to the Provincial Police Officer.

(3) There shall be only one appeal from the original order and the order of the Appellate Authority, in appeal, shall be final.

(4) The Appellate Authority or Review Authority, as the case may be, may call for the record of the case and comments on the points raised in the appeal or review, as the case may be, from the concerned officer, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or

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❖ Amended vide Notification No: 3859/Legal, dated 27/08/2014 issued by IGP, KPK

(Authority: Circular letter No.SORII (S&GAD)3(4)/78, dated 3rd October, 1984.

Stoppage of increment under Government Servants (Efficiency & Discipline) Rules, 1973.

Sl.No.14

Instances have come to the notice of the Government where the penalty of stoppage of increment under the NWFP Government Servants (Efficiency & Discipline) Rules, 1973, has been imposed on Government Servants, who have reached the maximum of the pay scale, thus making the penalty ineffective. I am accordingly directed to request that the competent authorities may, in future, kindly keep in view the stage of the pay scale at which a Government servant is drawing pay before imposing the penalty of stoppage of increment on him under the above rule.

(Authority: Circular letter No.SORII(S&GAD)5(29)/86, dated 27th December, 1986.

Parallel running of Departmental /Judicial Proceedings.

✓ Sl.No.15

The Law Department vide their U.O No.Op.2(2)82-11544, dated 3-5-1982, have advised as under:-

"Court & Departmental proceedings can run parallel to each other. They can take place simultaneously against an accused on the same set of facts and yet may end differently without affecting their validity. Even Departmental inquiry can be held subsequently on the same charges of which Government servant has been acquitted by a Court. The two proceedings are to be pursued independent of each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings".

(Authority: Law Department's U.O No.Op.2(2)82-11544, dated 3.5.1982)

Departmental Proceedings vis-a-vis Judicial Proceedings.

✓ Sl.No.16

The question as to whether or not a departmental inquiry and judicial proceedings can run parallel to each other against an accused officer/official has been examined in consultation with the Law Department.

2. It is hereby clarified that Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other. They can take place simultaneously against an accused on the same set of facts and yet may end differently without affecting their validity. Even departmental inquiry can be held subsequently on the same charges of which Government servants has been acquitted by a Court. The two proceedings are to be

3 P L C (C.S.) 553

[Islamabad High Court]

Before Miangul Hassan Aurangzeb, J

IMRAN AMIR and another

Versus

Mst. ISMAT BIBI and another

Writ Petition No.3900 of 2020, decided on 17th March, 2022.

(a) Protection against Harassment of Women at the Workplace Act (IV of 2010)---

---Ss.8, 4, 10 & 12---Constitution of Pakistan, Art.13---Constitutional petition---Ombudsperson to enquire into complaint---Procedure for holding inquiry---Provisions of the Act in addition to and not in derogation of any other law---Protection against double punishment and self-incrimination---Scope---Petitioners sought dismissal of complaint filed by respondent before the Ombudsperson for Protection against Harassment of Women at the Workplace on the ground that an FIR on similar allegations had already been filed against them---Validity---Ombudsperson while making a decision on a complaint could impose any of the minor or major penalties specified in S. 4(4) of the Protection against Harassment of Women at the Workplace Act, 2010---In the event the charge against the petitioners was proved in the trial pending before the Additional Sessions Judge, the Trial Court could convict the petitioners for offences under Ss.376, 509 and 511, P.P.C.---Sentences which the criminal court could award to the petitioners were dissimilar to the minor or major penalties that the Ombudsperson could impose on the petitioners if the allegations made by respondent against them were established---Moreover, S. 12 of the Protection against Harassment of Women at the Workplace Act, 2010, had made it clear that the provisions of the Act would be "in addition to" and not in derogation of any other law for the time being in force---Constitutional petition was dismissed.

(b) Protection against Harassment of Women at the Workplace Act (IV of 2010)---

---Ss.8, 4 & 10---Ombudsperson to enquire into complaint---Procedure for holding inquiry---Powers of the Ombudsperson---Scope---Object behind the enactment of Protection against Harassment of Women at the Workplace Act, 2010, is to protect a woman from being harassed at the workplace---Inquiry proceedings conducted by the Ombudsperson pursuant to a complaint filed by an employee under S.8(1) are not criminal proceedings---Section 8(3) of the Act provides that the Ombudsperson shall conduct an inquiry into the matter according to the rules made under the Act and conduct proceedings as the Ombudsperson deems proper---Under S.10(2), the Ombudsperson, while making a decision on a complaint, can impose any of the minor or major penalties specified in S. 4(4) of the Act.

(c) Civil service---

---Concurrent civil and criminal proceedings---Permissibility---Where an act or omission constitutes a criminal offence as well as a civil wrong, the mere fact that an accused has been acquitted from a criminal charge does not ipso facto mean that he stands absolved from civil liability---Criminal and departmental proceedings against an employee can go side by side and may even end in varying results---Departmental and criminal proceedings can be taken simultaneously and are independent of each other---Acquittal in a criminal case would not constitute a bar for the initiation of the disciplinary proceedings---Criminal proceedings and departmental proceedings against a civil servant are entirely different as one relates to the enforcement of criminal liability and the other is concerned with service discipline.

Amir Abdullah v. Superintendent of Police 1989 SCMR 333; Deputy Inspector General of Police v. Anisur Rehman PLD 1985 SC 134; Muhammad Ayub v. Chairman Electricity Board WAPDA, Peshawar PLD 1987 SC 195; Talib Hussain v. Anar Gul Khan 1993 SCMR 2177; Rashid Mehmood v. Additional Inspector-General of Police 2002 SCMR 57; Khalid Dad v. Inspector General of Police 2004 SCMR 192; Syed Muhammad Iqbal Jafri v. Registrar Lahore High Court, Lahore 2004 SCMR 540; Muhammad Shafique v. Deputy Director Food 2005 SCMR 1067; Syed Aqleem Abbasi Jaffari v. Province of Punjab through Secretary, Irrigation Department 2005 SCMR 1901; Falak Sher v. Inspector-General of Police, Lahore 2005 SCMR

0; Sami Ullah v. Inspector-General of Police 2006 SCMR 554 and Asif Mehmood Butt v. Regional CEO, NBP 2011 PLC (C.S.) 1462 ref.

(d) Administration of justice---

---Concurrent civil and criminal proceedings---Permissibility---There is no bar on the institution of civil proceedings on a cause which is also the subject matter of criminal proceedings because not only the object of proceedings is different but also the standard and onus of proof is different in the civil and criminal proceedings.

Seema Fareed v. State 2008 SCMR 839 rel.

Tufail Shahzad for Petitioner.

Muhammad Sadiq Khan for Respondent No.1.

Date of hearing: 10th March, 2022.

JUDGMENT

MIANGUL HASSAN AURANGZEB, J.----Through the instant writ petition, the petitioners impugn the interim order dated 30.09.2020 passed by the Ombudsman for Protection against Harassment of Women at the Workplace ("the Ombudsman"), dismissing the petitioners' application praying for dismissal of the complaint bearing No.FOH-HQR/0000151/19 filed by respondent No.1 (Ms. Ismat Bibi) against the petitioners under the provisions of the Protection against Harassment of Women at the Workplace Act, 2010 ("the 2010 Act").

2. The record shows that on 28.03.2019, respondent No.1, who was a Teacher at Public Collegiate Secondary School, Akora Khattak, had filed a complaint under Section 8(1) of the 2010 Act, wherein it was alleged that petitioner No.1 (Imran Aamir) had committed "harassment" as defined in Section 2(h) of the 2010 Act, and that petitioner No.2 (as the Head Principal of the school where respondent No.1 was serving as the teacher) instead of taking action against petitioner No.1 threatened respondent No.1 and expelled her from the school.

3. During the pendency of proceedings before the Ombudsman, the petitioners filed an application for the rejection of respondent No.1's complaint. Vide order dated 30.09.2020, the said application was dismissed. The said order has been assailed by the petitioners in the instant writ petition.

4. Learned counsel for the petitioners submitted that on the complaint of respondent No.1, FIR No.78 was lodged against petitioner No.1 on 08.02.2019 under Sections 376, 511 and 509 of the Pakistan Penal Code, 1860 ("P.P.C.") at Police Station Akora Khattak, District Newshehra; that a day after the said FIR, petitioner No.1 was arrested; that vide order dated 15.03.2019, petitioner No.1 was granted post-arrest bail by the Hon'ble Peshawar High Court; that the trial pursuant to the said FIR is still pending before the Court of the learned Additional Sessions Judge-I, Newshehra; that the allegations against petitioner No.1 in the said FIR are the same as the allegations levelled by respondent No.1 in her complaint before the Ombudsman; that the petitioners would be subjected to double jeopardy if the proceedings before the Ombudsman are permitted to continue given the fact that the criminal trial against the petitioners is also proceedings before a Criminal Court; and that the proceedings before the Ombudsman are violation of petitioner No.1's fundamental rights under Article 13 of the Constitution. Learned counsel for the petitioners prayed for the writ petition to be allowed in terms of the relief sought therein.

5. On the other hand, learned counsel for respondent No.1 submitted that the petitioners are trying to protract the proceedings before the Ombudsman; that the mere fact that a criminal case is pending against the petitioners would not cause the proceedings against them under the provisions of the 2010 Act to be quashed; that earlier a similar application filed by the petitioners had been dismissed by the Ombudsman; and that it is clearly mentioned in the impugned order that the dismissal of the earlier application had not been assailed by the petitioners. Learned counsel for respondent No.1 prayed for the writ petition to be dismissed.

6. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

7. The vital question that needs to be answered is whether the petitioners' fundamental rights under Article 13 of the Constitution are being transgressed due to the pendency of the proceedings before the Ombudsman pursuant to a complaint filed by respondent No.1 against the petitioners under the provisions of the 2010 Act. True, respondent No.1 had lodged FIR No.78 against petitioner No.1 on 08.02.2019 under Sections 376, 511 and 509, P.P.C. at Police Station Akora Khattak, District Nowshera. Petitioner No.1 was arrested the same day the said FIR was lodged. His post-arrest bail petition was dismissed by the learned trial Court. Vide judgment dated 15.03.2019, petitioner No.1 was granted post-arrest bail by the Hon'ble Peshawar High Court.

8. After petitioner No.1 was released on bail, respondent No.1 on 28.03.2019 filed a complaint against the petitioners before the Ombudsman under the provisions of the 2010 Act. The petitioners' application for the dismissal of respondent No.1's complaint was dismissed by the Ombudsman vide impugned order dated 30.09.2020.

9. The object behind the enactment of the 2010 Act is to protect a woman from being harassed (as defined in Section 2(h) of the 2010 Act) at the workplace. The inquiry proceedings conducted by the Ombudsman pursuant to a complaint filed by an employee under Section 8(1) of the 2010 Act are not criminal proceedings. Section 8(3) of the said Act provides that the Ombudsman shall conduct an inquiry into the matter according to the rules made under the said Act and conduct proceedings as the Ombudsman deems proper. Under Section 10(2) of the 2010 Act, the Ombudsman, while making a decision on a complaint, can impose any of the minor or major penalties specified in Section 4(4) of the said Act. The minor and major penalties listed in Section 4(4) of the said Act are herein below:-

"(i) Minor penalties:

(a) censure;

(b) withholding, for a specific period, promotion or increment;

(c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and

(d) recovery of the compensation payable to the complainant from pay or any other source of the accused.

(ii) Major penalties:

(a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;

(b) compulsory retirement;

(c) removal from service;

(d) dismissal from service; and

(e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant."

10. In the event the charge against petitioner No.1 is proved in the trial pending before the learned Additional Sessions Judge-I, Nowshera, the Trial Court can convict petitioner No.1 for offences under Section 376, P.P.C. (which inter alia carries a sentence not less than ten years or more than twenty five years); under Section 509, P.P.C. (which inter alia carries a sentence which may extend to three years); and under Section 511, P.P.C. (which carries the quantum of sentence dependent on the offence he is proved to have attempted to commit). The sentences that the said Criminal Court can award to petitioner No.1 are dissimilar to the minor or major penalties that the Ombudsman can impose on the petitioners if the allegations made by respondent No.1 against them are established. Moreover, Section 12 of the 2010 Act makes it clear that the provisions of the said Act shall be "in addition to" and not in derogation of any other law for the time being in force.

11. It is by now well settled that where an act or omission constitutes a criminal offence as well as a civil wrong, the mere fact that an accused has been acquitted from a criminal charge does not ipso facto mean that he stands absolved from civil liability. The Superior Courts have enunciated time and again that criminal and departmental proceedings against an employee can go side by side and may even end in varying results. Departmental and criminal proceedings could be taken simultaneously and are independent of each other. Acquittal in a criminal case would not constitute a bar for the initiation of the disciplinary

proceedings. Criminal proceedings and departmental proceedings against a civil servant are entirely different as one relates to the enforcement of criminal liability and the other is concerned with service discipline. There is a catena of case law in support of this, including the following judgments:-

- i) Amir Abdullah v. Superintendent of Police (1989 SCMR 333)
- ii) Deputy Inspector General of Police v. Anisur Rehman (PLD 1985 SC 134)
- iii) Muhammad Ayub v. Chairman Electricity Board WAPDA, Peshawar (PLD 1987 SC 195)
- iv) Talib Hussain v. Anar Gul Khan (1993 SCMR 2177)
- v) Rashid Mehmood v. Additional Inspector-General of Police (2002 SCMR 57)
- vi) Khalid Dad v. Inspector General of Police (2004 SCMR 192)
- vii) Syed Muhammad Iqbal Jafri v. Registrar Lahore High Court, Lahore (2004 SCMR 540)
- viii) Muhammad Shafique v. Deputy Director Food (2005 SCMR 1067)
- ix) Syed Aqleem Abbasi Jaffari v. Province of Punjab through Secretary, Irrigation Department (2005 SCMR 1901)
- x) Falak Sher v. Inspector-General of Police, Lahore (2005 SCMR 1020)
- xi) Sami Ullah v. Inspector-General of Police (2006 SCMR 554)
- xii) Asif Mehmood Butt v. Regional CEO, NBP (2011 PLC (C.S.) 1462)."

12. There is no legal bar on the institution of civil proceedings on a cause which is also the subject matter of criminal proceedings because not only the object of proceedings is different but also the standard and onus of proof is different in the civil and criminal proceedings. In holding so, I derive guidance from the law laid down in the case of Seema Fareed v. State (2008 SCMR 839), wherein the Hon'ble Supreme Court observed as follows:-

"It is well-settled that a criminal case must be allowed to proceed on its own merits and merely because civil proceedings relating to same transaction have been instituted it has never been considered to be a legal bar to the maintainability of criminal proceedings which can proceed concurrently because conviction for a criminal offence is altogether a different matter from the civil liability. While the spirit and purpose of criminal proceedings is to punish the offender for the commission of a crime the purpose behind the civil proceedings is to enforce civil rights arising out of contracts and in law both the proceedings can co-exist and proceed with simultaneously without any legal restriction."

13. Since I do not find the petitioners to have been subjected to double jeopardy by the continuation of the proceedings before the Ombudsman under the 2010 Act during the pendency of the criminal trial against petitioner No.1, the instant petition is dismissed with costs.

14. Learned counsel for respondent No.1 has brought on record order dated 31.01.2020 passed by the Ombudsman, whereby the petitioners' earlier application for the dismissal of the complaint filed against them by respondent No.1 was dismissed. Perusal of the said order shows that the ground taken by the petitioners in their application for the dismissal of respondent No.1's complaint was that a criminal complaint had been registered against the petitioners, and that further proceedings in the complaint filed before the Ombudsman would amount to a violation of the petitioners' fundamental rights under Article 13 of the Constitution. Despite the dismissal of the petitioners' earlier application vide Ombudsman's order dated 31.01.2020, the petitioners filed another application seeking the dismissal of the complaint on the very same ground taken by them in their earlier application. The petitioners have not made a disclosure as to the dismissal of their earlier application in the memo of the petition. For this inequitable conduct of the petitioners, I deem it appropriate to impose additional costs of Rs.50,000/- on each of the petitioners under Section 35(1)(iii) of the Code of Civil Procedure, 1908 as amended by the Costs of Litigation Act, 2017. These costs shall be paid to respondent No.1 within a period of two weeks.

15. Office is directed to transmit a copy of this order to the Ombudsman so that the proceedings pursuant to complaint No.FOH-HQR/0000151/19 are resumed.
SA/53/IsI. Petition dismissed.

P # 47



ESTABLISHMENT BRANCH

Dy: No. 212 ES

Dated 15/01/2024

RPO OFFICE DIKHAN

No. SI 32 /24, dated Peshawar the 08/01/2024.

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.
Phone: 091-9210927

To: The Regional Police Officer,
Dera Ismail Khan.

Subject: - REVISION PETITION

Memo:

The Competent Authority has examined and filed the revision petition submitted by Ex-FC Qayyum Nawaz of DI Khan district police against the punishment of dismissal from service awarded by District Police Officer, DI Khan vide OB No. 1691, dated 14.07.2023 being badly time barred.

The applicant may please be informed accordingly.

EC
✓
15/1

No = 355/158
Dt = 15-01-2024

DPO/DIK

To inform the applicant
accordingly, please

[Signature]
8/10/24

(AFSAR JAN)
Registrar.

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

Attested
[Signature]

[Signature]
Regional Police Officer
Dera Ismail Khan

19/01/23

233-16/23F

P#48 'K'

16.15. Monthly punishment returns. - (1) Every Superintendent shall, on or about the 5th day of each month, prepare and despatch to the Deputy Inspector-General a return in Form 16.15(1) of all punishments, departmental and judicial, inflicted during the preceding month and required under rule 16.14(6) to be entered in character rolls. Such return shall after due examination by the Deputy Inspector-General be filed in his office.

(2) Sufficient particulars shall be given in column 3 to enable the Deputy Inspector-General to judge of the fitness of the award.

(3) All entries shall bear the annual serial numbers of the punishment register, and copies of all bad entries made in the character rolls of upper subordinates during the last preceding month shall be submitted with the return.

(4) When an award is quashed or altered by an authority empowered to do so, the entry in the return and in the punishment register shall be cancelled or amended accordingly, and a fresh order shall be entered in the Order Book cancelling or amending the original order of punishment.

16.16. Annual return of punishments for corruption. - Every Superintendent shall submit to the Deputy Inspector-General of Police, on or before the 15th January in each year, a statement in Form 16.16, showing all punishments inflicted in consequence of corruption. Deputy Inspector-General and the Superintendent of Police, Railway, shall submit to the Inspector-General a consolidated statement on or before the 10th January, in each year together with an annual review discussing the progress of anti-corruption measures, etc., as required by Punjab Government letters Nos. 8957-G-38/10003(H-Gaz.) and 2124-G.39/18878(H.-Gaz.), dated the 15th March, 1939, and 25th May, 1939, respectively.

16.17. Power to suspend an officer. - Any police officer above the rank of Head Constable may suspend, pending inquiry or investigation, any enrolled police officer junior to him in rank, who is guilty or is reasonably suspected of misconduct. An officer may be released from suspension only by the gazetted officer empowered to punish him. The suspension of an upper subordinate shall be reported immediately to the Deputy Inspector-General in Form 16.17. The release of such officer and the reason therefor shall also be reported to the Deputy Inspector-General.

16.18. Suspension in departmental case. - A police officer, whose conduct is under departmental enquiry, shall ordinarily be placed under suspension, when it appears likely that a charge will be framed which, if proved, would render him liable to reduction or dismissal, or when the nature of the accusations against him is such, that his remaining on duty is prejudicial to the public interests, or to the investigation into those accusations. Unnecessary suspensions should be avoided, as they increase the number of non-effectives, and also, unless the officer suspended is acquitted, involve under Fundamental Rule 43 the additional penalty, over and above the punishment awarded, of the substitution for pay of a subsistence grant.

16.19. Suspension in judicial cases. - A police officer charged with a criminal offence shall, unless the Deputy Inspector-General of Police or the Assistant Inspector-General, Government Railway Police for special reasons to be recorded in writing otherwise directs, be placed under suspension from the date on which he is sent for trial, if such action

1. Vide Haryana Notification dated 26.3.1982

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has not already been taken under the provisions of rule 16.17. Suspension is compulsory during any period in which a police officer is committed to prison. A police officer, who may be arrested by order of a civil court in execution of a decree or otherwise shall be considered as under suspension from the date of arrest till his release from custody is ordered by the Court.

16.20 Subsistence grants. - (1) A police officer under suspension shall be given a subsistence grant. If, as the result of an enquiry, a police officer under suspension is punished, his subsistence grant for the time spent under suspension may not exceed one-fourth of his pay (Fundamental Rule 53); if he is acquitted either as the result of an original enquiry or on appeal, the assessment of the subsistence grant is governed by Fundamental Rule 54.

(2) The following officers are empowered to make subsistence grants to police officers under suspension :-

- | | |
|---|--|
| (a) Deputy Inspector-General, the Assistant Inspector-General, Railway Police, and Superintendents of Police | To all non-Gazetted officers subordinate to them |
| (b) The Assistant Superintendent, Government Railway Police, and (except as regards Sergeants) Deputy Superintendents in charge of Railway Police Sub-Divisions, subject to confirmation by the Assistant Inspector-General, Railway Police | Ditto |

16.21 Status and treatment of officers under suspension. - (1) A police officer shall not by reason of being suspended from office cease to be a police officer.

During the term of such suspension the powers, functions and privileges vested in him as a police officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

(2) A police officer under suspension shall be transferred to the lines, if not already posted there. He shall attend all roll calls and shall be required to perform such duties and to attend such parades as the Superintendent may direct; provided that he shall not perform guard duty or any other duty entailing the exercise of the powers or functions of a police officer; shall not be placed on any duty involving the exercise of responsibility, and shall not be issued with ammunition. A police officer under suspension shall ordinarily be confined to lines when off duty, but shall be allowed reasonable facilities for the preparation of his defence. When transferred to the lines under this rule Lower Subordinates shall deposit their belts and Upper Subordinates their revolvers, belts and swords with the Lines Officer.

(3) Mounted police officers placed under suspension shall cease to draw horse, pony or camel allowance, as the case may be, and hand over their mounts to the Lines Officer who shall be responsible for the feeding and keeping of such animals under the supervision of a gazetted officer. The actual expenditure incurred on this account shall be debited to contingencies under the head "Feeding and keeping of animals of mounted police officers under suspension".

16.22. Records in departmental cases. - (1) In all departmental cases in which the alleged offence is such as to merit a major punishment, if proved, a record shall be kept, which shall contain :-

- Wid
- (a) the charge;
 - (b) the evidence supporting the charge;

- 3. In this rule, removal or dismissal from service does not include the discharge of a person.
 - (a) Appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
 - (b) Appointed, otherwise than under a contract, to hold a temporary appointment on the expiration of the period of appointment; or
 - (c) Engaged under a contract, in accordance with the terms of the contract.

4-A.

In case a Police Officer is accused of subversion, corruption or misconduct the Competent Authority may require him to proceed on leave or suspend him.

5. Punishment proceedings.-

The punishment proceedings will be of two kinds. i.e. (a) Summary Police Proceedings and (b) General Police Proceedings and the following procedure shall be observed when a Police Officer is proceeded against under these rules:---

(1) When information of misconduct or any act of omission or commission on the part of a Police Officer liable for punishment provided in these rules is received by the authority, the authority, shall examine the information and may conduct or cause to be conducted quick brief inquiry if necessary, for proper evaluation of the information and shall decide whether the misconduct or the act of omission or commission referred to above should be dealt with in a Police Summary Proceedings in the Orderly Room or General Police Proceedings.

(2) In case the authority decides that the misconduct is to be dealt with in Police Summary Proceedings, he shall proceed as under-

- (i) The accused officer liable to be dealt with in the Police Summary Proceedings shall be brought before the authority in an Orderly room.
- (ii) He shall be apprised by the authority orally the nature of the alleged misconduct, etc. The substance of his explanation for the same shall be recorded and if the same is found unsatisfactory, he will be awarded one of the minor punishments mentioned in these rules.
- (iii) The authority conducting the Police Summary Proceedings may, if deemed necessary, adjourn them for a maximum period of 7 days to procure additional information.

(3) If the authority decides that the misconduct or act of omission or commission referred to above should be dealt with in General Police Proceedings he shall proceed as under-

- a) The authority shall determine if in the light of facts of the case or in the interests of justice, a departmental inquiry, through an Inquiry Officer if necessary. If he decides that is not necessary; he shall-
- b) By order in writing inform the accused of the action proposed to be taken in regard to him and the grounds of the action: and

- c) Give him a reasonable opportunity of showing cause against that action: Provided that no such opportunity shall be given where the authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity.
- (4) If the authority decides that it is necessary to have departmental inquiry conducted, through an Inquiry Officer, he shall appoint for this purpose an Inquiry Officer, who is senior in rank to the accused.
- (5) On receipt of the findings of the Inquiry Officer or where no such officer is appointed, on receipt of the explanation of the accused, if any, the authority shall determine whether the charge has been proved or not. In case the charge is proved the authority shall award one or more of major or minor punishments as deemed necessary.

6. Procedure of Departmental Inquiry:-

- i. Where an Inquiry Officer is appointed the authority shall-
- Frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and of any other relevant circumstances which are proposed to be taken into consideration;
 - Require the accused within 7 days from the day the charge has been communicated to him to put in a written defence and to state at the same time whether he desires to be heard in person;
- ii. The Inquiry Officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the witnesses against him.
- iii. The Inquiry Officer shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing and where any adjournment is given,
- It shall not be more than a week; and
 - The reasons therefore shall be reported forthwith to the authority.
- iv. Where the Inquiry Officer is satisfied that the accused is hampering, or attempting to hamper the progress of the inquiry he shall administer a warning and if thereafter he is satisfied that the accused is acting in disregard of the warning, he shall record a finding to that effect and proceed to complete the departmental inquiry ex parte.
- v. The Inquiry Officer shall within 10 days of the conclusion of the proceedings or such longer period as may be allowed by the authority, submit his findings and grounds thereof to the authority.