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## FORM OF ORDER SHEET

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

**Appeal No.** 977/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/07/2024	<p>The appeal of Mr. Waheed Abbas presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15.07.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

SERVICE APPEAL NO 977 / 2024

MR. WAHEED ABBAS

V/S

POLICE DEPTT:

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Dated: -07-2024

APPELLANT  
THROUGH:  
NOOR MUHAMMAD KHATTAK  
ADVOCATE SUPREME COURT

-1-

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

SERVICE APPEAL No 977 / 2024

Mr. Waheed Abbas, Ex- LHC  
Police Department Kohat Region, Kohat

..... APPELLANT

**VERSUS**

- 1- The Regional Police Officer/Deputy Inspector General of Police,  
Kohat Region, Kohat
- 2- District Police Officer (DPO), Hangu

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED**  
**ORDERS DATED 25/08/2023, WHEREBY MAJOR PENALTY OF**  
**REVERSION TO THE RANK OF CONSTABLE AND THEN BY**  
**SUBSEQUENT IMPUGNED ORDER DATED 20/11/2023 THE**  
**IBID PENALTY WAS MODIFIED AND ENHANCED TO MAJOR**  
**PENALTY OF DISMISSAL FROM SERVICE HAS BEEN IMPOSED**  
**UPON THE APPELLANT AND AGAINST THE IMPUGNED**  
**APPELLATE ORDER DATED 14/06/2024 WHEREBY THE**  
**DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN**  
**REJECTED WITH NO GOOD GROUND.**

**PRAYER:**

That on acceptance of this appeal, the both the impugned orders  
dated 25/08/2023, 20/11/2023 and appellate order dated  
14/06/2024 may very kindly be set aside and the appellant may  
kindly be re-instated with all back benefits. Any other remedy which  
this august Tribunal deems fit that may also be awarded in favor of  
the appellant with all back benefits.

**R/SHEWETH:**  
**ON FACTS:**

- 2 -

**Brief facts giving rise to the present appeal are as under:**

1. That the appellant had performed his duties to the entire satisfaction of his superiors and there is no complaint against the appellant in his entire service career and had got huge service career spanning over 16 years.
2. That the appellant while performing his duty was charged in a criminal case vide FIR No. 538 dated 17/06/2023 under section 9-D CNSA in Police Station City Hangu. That after lodging of FIR, the appellant filed post arrest bail petition before the competent court of law and the same was accepted. Copy of FIR is attached as annexure.....**A**
3. That on the allegation on the aforementioned FIR the respondent department firstly through impugned order dated 25/08/2023 has surprisingly imposed penalty of reversion from Rank of LHC to Constable upon the appellant, waiting till the final disposal of the aforementioned criminal case by the competent trial court. Copy of the order dated 25/08/2023 is attached as Annexure.....**B**
4. That appellant feeling aggrieved from the impugned order dated 25/08/2023 preferred departmental appeal before the respondent No 1, wherein the respondent No 1 remand back the departmental appeal of the appellant with the directives to set aside the order of punishment of DPO Hangu dated 25/08/2023 and to pass a speaking order on the report of inquiry officer, whereby the respondent No 2 issued the impugned order dated 20/11/2023 by imposing major punishment/penalty of dismissal from service upon appellant on no good grounds. Copies of the Departmental Appeal and Appellate Order 20/11/2023 are attached as annexure....**C&D**
5. That meanwhile the learned trial court honorably acquitted the appellant from the alleged charges while accepting application under section 265-K Cr.P.C vide order dated 06/02/2024. Copy of order dated 06/02/2024 is attached as annexure.....**E**
6. That feeling aggrieved from the impugned orders dated 25/08/2023, whereby major penalty of Reversion & 20/11/2023, whereby major penalty of dismissal from service has been imposed upon the appellant, preferred departmental appeal, but the same

has been rejected vide appellate order dated 29/05/2024 communicated to the appellant on 24/06/2024. Copies of departmental appeal and appellate order dated 24/06/2024 are attached as annexure.....F&G

7. That appellant having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned orders dated 25/08/20223, 20/11/2023 & appellate order dated 29/05/2024 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That it is too heartburning that when the competent court of law has acquitted the appellant from the criminal charges, then there is no plausible ground or justification to proceed and punish the appellant for one and the same charges. The act of respondents is tantamount to double jeopardy which is strictly forbidden by the constitution of Islamic Republic of Pakistan 1973.
- D- That neither charge sheet nor statement of allegations has been served on the appellant before issuance of the impugned orders.
- E- That no chance of personal hearing and defense has been provided to the appellant before imposing the penalty.
- F- That the impugned orders dated 25/08/2023, 20/11/2023 & 29/05/2024 issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- G- That no right of personal hearing and personal defense has been provided to the appellant.
- H- That, the treatment meted out to the appellant clearly based on discrimination and malafide and as such the respondents violated the principle of natural justice.

- I- That even otherwise the penalty imposed upon the appellant is very harsh by dismissing the appellant from service which does not commensurate with the facts and circumstances of the case of the appellant which is not maintainable in the eye of law.
- J- That the appellant has provided so many years of service at his credit, in the respondent department. During his entire service, the appellant was never earlier been charge sheeted for dereliction of duties. The penalty is therefore very harsh and liable to be set aside on this ground also.
- K- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the Service appeal may kindly be accepted as prayed for.

Dated: -07-2024

THROUGH:

  
APPELLANT

**NOOR MUHAMMAD KHATTAK**  
ADVOCATE SUPREME COURT

  
UMAR FAROOQ MOHMAND

  
WALEED ADNAN

  
KHANZAD GUL  
ADVOCATES HIGH COURT

**CERTIFICATE:**

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.

Advocate 

-5-

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

**SERVICE APPEAL NO \_\_\_\_\_ / 2024**

**MR. WAHEED ABBAS**

**V/S**

**POLICE DEPTT:**

**AFFIDAVIT**

I, Mr. Waheed Abbas, Ex- LHC Police Department Kohat Region, Kohat, do hereby solemnly affirm and declare on oath that the contents of this **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble tribunal.



**DEPONENT**





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17-06-023  
AMHC PS City  
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**OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU**

Tel: 0925-623878 Fax 0925-620115

**ORDER**

This order is passed on the departmental enquiry initiated against LHC Waheed Abbas No. 532 while posted at Police Lines Hangu under the Khuzdar Pakhtunkhwa Police Rules 1975 (Amendment 2014)

Brief facts of the case are as under:

- i. LHC Waheed Abbas No. 532 while posted at Police Lines Hangu has directly been charged as well as arrested by the local police in case FIR No. 538, dated 17.06.2023 at the PS/PA City Hangu and placed under suspension for taking post-employment departmental action against him vide OB No. 376 dated 19.06.2023.
- ii. He being a member of disciplined force has acted in an undisciplined manner, negligence and criminal prosecution on his part, which cannot be ignored.

He was served with charge sheet and statement of charges under Khuzdar Pakhtunkhwa Police Disciplinary Rules 1975 (Amendment 2014) vide this order No. 186/EC, dated 20.07.2023, to which he submitted his reply to the DSP City Hangu, who was appointed as Enquiry Officer to conduct departmental enquiry against him. After completion of enquiry, the enquiry officer submitted his findings vide No. 129/SDPO, dated 21.07.2023, in which the accused LHC Waheed Abbas No. 532 was held guilty for the charges leveled against him and recommended him for awarding a major punishment.

Consequently, he was called in orderly room on 23.08.2023 and heard in person, but no reasonable response could be given in his self defence.

Keeping in view of the above and available record, I, Asif Bahader, (PSP), District Police Officer, Hangu in exercise of powers conferred upon me under the Rules ibid, awarded him a major punishment of reversion from the rank of LHC to Constable with immediate effect, and he is hereby re-instated in service from the date of his suspension i.e. 19.06.2023 by releasing his pay.

Order Announced:

OB No. \_\_\_\_\_

Dated \_\_\_\_\_ / 2023

**DISTRICT POLICE OFFICER,  
HANGU**

EC, dated Hangu the 28 / 8 / 2023

Copy to PO, EC, Reader & OHC for necessary action.

\*\*\*\*\*

OFFICE OF THE  
DISTRICT POLICE OFFICER  
HANGU

**ORDER**

This order is passed on the departmental inquiry initiated against LHC Waheed Abbas No 532 while posted at Police Line Hangu under the Khyber Pakhtunkhwa Police Rules, 1973 (Amended 2014).

Brief facts of the case are as under:-

- i. LHC Waheed Abbas No 532 while posted at Police Line Hangu has directly been charged as well as arrested by the local Police in FIR No 538 dated 17/06/2023 u/s 9-D CNSA P.S City Hangu and placed under suspension for taking proper departmental action against him vide OB No 370 dated 19/06/2023.
- ii. He being a member of disciplined force has acted in in-disciplined manner, negligence and criminal gross misconduct on his part, which cannot be ignored.

HE was served with charge sheet and statement of allegation under Khyber Pakhtunkhwa Police Disciplinary Rules, 1975 (Amended 2014) vide this Office No 186/EC dated 20/07/2023 to which he submitted his reply to the DSP City Hangu who was appointed as Enquiry Officer to conduct departmental inquiry against him. After completion of enquiry, the enquiry officer submitted his finding vide No 1370/SDPO, dated 27/07/2023 in which the accused LHC Waheed Abbas No 532 was being guilty of charges levelled against him and recommended him for awarding a major punishment.

Consequently, he was called in orderly room on 25/08/2023 and heard in person, but no reasonable response could be given in his self defence.

Keeping in view of the above and available record, I Asif Bahadar PSP District Police Officer Hangu in exercise of powers conferred upon under the Rules ibid awarded him a major punishment of reversion from the rank of LHC Constable with immediate effect and he is hereby re-instated in service from the date of his suspension i.e. 19/06/2023 by releasing his pay.

Order announced.

OB No.

Dated 25 / 08 / 2023

District Police Officer  
Hangu

No. 4251/EC dated Hangu dated 28/08/2023

بھنور جناب ریجنل پولیس آفیسر صاحب کوٹاہ راجن کوٹاہ

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جناب صاحب

مذکورہ پانچ تذاویز یہ ہیں FIR نمبر 538 اور 17 06 2023 نمبر 186/EC  
20 07 2023 ایف ڈی نمبر 524 اور Major OB نمبر 25 08 2023

LHC ایک سے تشکیل کا حکم دیا ہے۔ آڈر کاپی لف ہذا ہے۔  
بذریعہ درخواست استدعا ہے کہ سائل کو LHC ریجنل پولیس آفس میں  
سائل تاحیات ڈعا کر دیا جائے۔

سین نوادش ہونگی

15.09.2023

الحارث

آپ کا فرمان کنسٹیبل وحید عباس نمبر 532 پولیس لائن ہنگو

Sir,

Forwarded please

DSP Head Quarter  
Hangu

13-09-23

انسانی  
آتش جہاں پشیمان و پندہ سہیل 532 کو ریشہ پشیمان

15-09-2023

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OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU

Tel: 0925-323878 Fax 0925-620135

**ORDER**

In pursuance of the directives/considered opinion of the worthy Regional Police Officer, Kohat Region, Kohat that the appellant/Constable Waheed Abbas No. 532 has not been awarded any punishment as recommended by the Enquiry Officer, therefore, it is constrained to set aside the order of punishment of DPO Hangu vide OB No. 524, dated 25.08.2023 and remand back the instant case to DPO Hangu to pass a speaking order on the report of Enquiry Officer strictly in accordance with rules within fifteen days by intimating his good self office vide Order Enclst No. 11936-40/EC, dated 13.11.2023.

Subsequently, the delinquent Waheed Abbas No. 532 was called in orderly room on 16.11.2023, and heard in person by giving full opportunity of hearing to him, but he did not produce any cogent evidence in his self defence for proving his innocence.

Foregoing, through the findings and recommendation of the Enquiry Officer, the material on record and other documentary proof including his defense before the Enquiry Officer, he was held guilty for the charges leveled against him.

Keeping in view of the above and having gone through available record, the undersigned has arrived at the conclusion that delinquent Waheed Abbas No. 532 has committed serious misconduct in involvement in narcotics case instead of serving a custodian of law, he has got himself involved in drug trafficking, which is unbecoming of a disciplined Police Officer as is evident from his captured photography placed with the enquiry and recommendation of major punishment by the enquiry officer. As such, his conduct has rendered him absolutely unfit for retention in in Police Department and is a burden on public exchequer, therefore, I, Nisar Ahmad, FSB, QPM, District Police Officer, Hangu in exercise of the powers conferred upon me under the Rules ibid, awarded him major punishment of Dismissal from service with immediate effect.

Order Announced:

OB No. 731

Dated 20/11/2023

DISTRICT POLICE OFFICER,  
HANGU

No. 5680-82/EC, dated Hangu, vide 20/11/2023

Copy of above is submitted to the Regional Police Officer, Kohat Region, Kohat w/r to his office Order Enclst No. 11936-40/EC, dated 13.11.2023 for favour of information, please.

The DSP Hangu with the instructions to effect has official kit immediately. Pay Officer be made necessary arrangements (if any), and EC, Reader & DHO for necessary action.

DISTRICT POLICE OFFICER,  
HANGU

OFFICE OF THE  
DISTRICT POLICE OFFICER  
HANGU

**ORDER**

In pursuance of the directive/considered opinion of the Worthy Regional Police Officer, Kohat Region Kohat that the appellant/constable Waheed Abbas No 532 has not been awarded any punishment as recommended by the Enquiry Officer, therefore it is constrained to set aside the order of punishment of DPO Hangu vide OB No 524, dated 25/08/2023 and remand back the instant case to DPO Hangu to pass a speaking order on the report of Enquiry Officer strictly in accordance with rules within fifteen days by intimating his good self office vide Order Ends: No 11936-40/EC dated 13/11/2023.

Subsequently, the delinquent Waheed Abbas No 532 was called in orderly room on 16/11/2023, and heard in person by giving full opportunity of hearing to him, but he did not produce any cogent evidence in his self defence for proving his innocence.

Foregoing, through the findings and recommendation of the Enquiry Officer, the material on record and other documentary proof including his defence before the Enquiry Officer he was held guilty for the charges levelled against him.

Keeping in view of the above and having gone through available record, the undersigned has arrived at the conclusion that delinquent Waheed Abbas No 532 has committed serious misconduct in involvement in narcotics case instead of serving a custodian of law, he has got himself involved in drug trafficking, which is unbecoming of a disciplined Police Officer as is evident from his captured photograph placed with the inquiry and recommendation of major punishment by the inquiry officer. As such, his conduct has rendered him absolutely unfair for retention in the Police Department and is a burden on public exchequer, therefore, I Nisar Ahmad PSP, QPM District Police Officer, Hangu in exercise of the power conferred upon me under the Rules ibid, awarded him major punishment of dismissal from service with immediate effect.

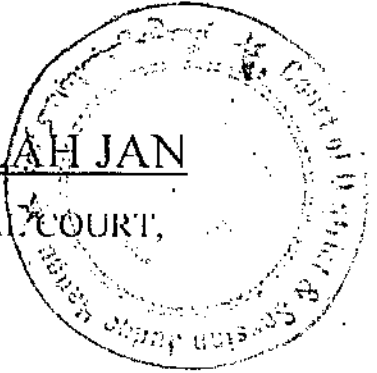
Order announced.

OB No. 731  
Dated 20/11/2023

District Police Officer  
Hangu

No. 5680-80/ED dated Hangu dated 20/11/2023

-11- "E"



**IN THE COURT OF MIAN ZAHIDULLAH JAN**

**ADDITIONAL SESSIONS JUDGE-III/JUDGE SPECIAL COURT,  
DISTRICT HANGU.**

CNSA No. 138/III-N of 2023  
Date of original institution: 01-11-2023  
Date of Decision: 06-02-2024

State through Ilyas Hussain ASI of Police Post Raisan, District Hangu.  
..... (Complainant)

..VERSUS..

Waheed Abbas son of Nisar Ali resident of village Raisan, Tehsil and District  
Hangu..... (Accused)

**FIR No. 538 dated 17-06-2023, Under Section 9-D KP CNSA of Police  
Station City District Hangu.**

**ORDER**

- 1) Senior Public Prosecutor Mr. Khalid Khan for the State present. Accused Khatir alias Akhtar proceeded under section 512 Cr.PC. Accused Waheed Abbas on bail with learned counsel present. Prosecution witness Ilyas Hussain present and examined as PW-1. Arguments on application filed under section 265-K Cr.PC heard and file perused.
- 2) Through this order; the application of accused/petitioner under section 265-K Cr.PC soliciting his acquittal will be disposed.
- 3) Accused is put to trial on allegations of recovery of contraband in the shape of one packet Chars weighing 1200 grams wrapped in yellow adhesive tape in a yellow colour Chaddar recovered from handle of motorcycle

*(Signature)*  
M. ZAHIDULLAH JAN  
ADDITIONAL SESSIONS JUDGE-III/JUDGE SPECIAL COURT,  
DISTRICT HANGU.

172-2-1922



(b)

being driven by accused/petitioner at the time of his arrest. The other accused Khatir alias Akhtar was nominated on the disclosure of accused/ petitioner about purchasing Chars from absconding accused Khatir. The accused/petitioner pleaded not guilty to the charge and prosecution has examined only one witness, meanwhile application was filed by the accused/petitioner.

6.2.2022  
 4)

Record brings to surface that episode of occurrence was penned through Murasila by complainant Ilyas Hussain ASI /PW-1 containing allegations of recovery of Chars weighing 1200 grams by complainant and recovery memo was inked, bearing signatures of two police witnesses. During the course of arguments, the learned counsel for accused/petitioner vehemently submitted that complainant being not authorized officer within the modus operandi of K.P CNSA Act is not equipped with any authority to arrest or make recovery. Undeniably, the complainant Ilyas Hussain is below the rank of Sub Inspector and under section 29 of K. P CNSA Act, he is not authorized to make arrest and seizure on a public place. The legal grandeur of arrest and seizure by an un authorized officer have been explicitly dilated upon by the worthy Supreme Court in petition No. 885 of 2022 decided on 23<sup>rd</sup> August 2022. The worthy Supreme Court in clear words declare that provision of K.P CNSA Act being special law would be strictly construed leaving no room for any exception, thus declaring seizure and arrest by Assistant Sub Inspector

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illegal and without legal mandate. On this analogy, the arrest of accused/petitioner in the present case by an unauthorized officer dislodges the corpus of recovery. The record is silent about making video of episode of recovery though a belated recovery memo dated 16<sup>th</sup> August 2023 shows recovery of USB, however, this fact alone shatters the alleged videography of recovery. Moreover, the absence of name of police official conducting videography also belittles the episode of recovery. The testimony of PW-1/ complainant does not appear confidence inspiring as the witness admitted that photographs does not reveal the registration number of motorcycle and the sample of 10 gram is also not visible in photographs. The object and purpose of section 265-K Cr.PC can be invoked at any stage of proceedings by considering the material collected during investigation and the evidence produced during trial. The complainant being unauthorized officer within the KP CNSA Act, therefore, the entire edifice falls flat on ground. In such a situation, allowing the prosecution to produce further evidence would bring to surface contradictions and further evidence would be of no consequences to the prosecution and there is no probability of conviction of accused/petitioner in the present case.

5)

Consequent upon the preceding discourse, the application of accused/petitioner under section 265-K Cr PC is accepted and accused/petitioner Waheed Abbas is acquitted in the present case. The accused is on bail in the present case, his bail bonds

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stand cancelled and sureties are absolved from their liabilities. The case property i.e. Chars be kept intact till the period of appeal or revision, otherwise be disposed as per law, whereas motorcycle be also returned to the petitioner /accused or the real owner.

6) It is worthy to note that since absconding accused Khatir alias Akhtar is not arrested on the spot and the role of selling is attributed to him, therefore, the acquittal of accused Waheed Abbas would also overshadow the role of absconding accused. In case, the same set of evidence is examined to the extent of absconding accused, it would be a wild goose chase to bring at home the charge against absconding accused. The testimony of seizing officer/PW-1 having legal inherent defect, as unauthorized officer thus, there exist no chance of success of prosecution version against absconding accused Khatir, consequently, the absconding accused Khatir is discharged in the present case and proceedings under section 512 Cr.PC are dropped against him. File be consigned to record room.

Announced  
06-02-2024

(Mian Zahidullah Jan)  
ASJ-III/Judge Special Court,  
Hangu.

CERTIFICATE

Certified that this order consists of four (04) pages. Each page has been checked, corrected wherever necessary, and then signed by me.

521  
Date of proceedings...  
Date on which copy accepted...  
Date on which copy was...  
Number of words...  
Pages...  
Seals of...  
06/2/24  
07/2/24  
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(Mian Zahidullah Jan)  
ASJ-III/Judge Special Court,  
Hangu.

THE HONOURABLE DEPUTY INSPECTOR GENERAL OF POLICE.  
KOHAT REGION KOHAT

AF  
-15-

APPEAL UNDER RULE 11 OF THE POLICE RULES 1975  
(AMENDED 2014) AGAINST ORDER OF THE WORTHY  
DISTRICT POLICE OFFICER HANGU DATED 20-11-2023  
VIDE WHICH THE APPELLANT WAS DISMISSED FROM  
SERVICE WITHOUT ANY LAWFUL JUSTIFICATION.

Respected Sir,

With great respect and veneration, the appellant may graciously be allowed to submit the following for your kind and sympathetic consideration;

**Facts of the Case:**

1. That the appellant was enrolled as Police Constable in Police Department in the year 2007.
2. That since his enrollment in the Police Deptt. the appellant served the Police Deptt. with full devotion and enthusiasm.
3. That the appellant always preferred to serve the department on merits and kept departmental interest above his self interest.
4. That the appellant always served upto the satisfaction of his worthy senior officers and earned their appreciation in the shape of commendation certificates and cash rewards.
5. That the appellant due to his round the clock efforts, succeeded to be promoted to the rank of Lower Head Constable (LHC) and

served the department in this position till 25-8-2023 when he was awarded major punishment of reduction from the rank LHC to the rank of constable.

6. That the appellant while serving the police dept whole heartedly and dedication, to the utter surprise of the appellant, charge sheet was served upon him, wherein it was alleged that while posted at Police Lines Hangu, have directly been charged as well as arrested by the local Police in case FIR No.538 dated 17-6-2023 U/S 9-CNSA P.S. City Hangu.

7. That the appellant was placed under suspension and departmental proceedings were initiated which resulted in major punishment of reduction from the rank of LHC to the rank of constable vide OB No.524 dated 25-8-2023.

8. That the appellant being aggrieved from the order, had filed appeal before your goodsself but the case was remanded to the worthy DPO Hangu for issuing a speaking order on the report of the enquiry officer within fifteen days vide order No.111936-40/EG dated 13-11-2023.

9. That in compliance with the order of the worthy DIG(P) Kohat Region Kohat, the appellant within seven days of the Regional Police Chief's directive, was awarded major punishment of dismissal from service by the worth DPO Hangu dated 20-11-2023, therefore, she has opted to exercise his legal right and to file/move the instant appeal.

10. That following are some of the grounds of appeal among the other

Grounds of Appeal:

-17-

- A. That the impugned order of dismissal of the appellant is not in accordance with law, rules and principles of justice, hence it is liable to be set aside and the appellant may be reinstated in service with all back benefits.
- B. That if the record is perused the enquiry officer vide his findings had recommended major punishment to the competent authority. Upon recommendation of the enquiry officer, the competent authority had awarded one of the major punishment i.e. reduction from the rank of LHC to the rank of constable vide order dated 25-8-2023.
- C. That recommendation of awarding major punishment does not mean punishment of dismissal only but under the Police Rules 1975 (Amended 2014) a number of major punishments have been provided and the competent authority accordingly awarded one of the major punishment which was commensurate with guilt of the appellant.
- D. That when the appellant filed appeal against the punishment of reduction from the rank of LHC to the rank of constable, however, the appellate authority was pleased to remand back the case to the DPO Hangu with the remarks that the appellant has not been awarded any punishment as recommended by the enquiry officer.
- E. That contention of the appellate authority is totally against the evidence on record. Reduction from the upper rank to the lower rank is one of the major punishment. The appellant was awarded one of the major punishment, hence, the appellate authority was liable to set aside the order of the enquiry officer and the case of the appellant to be remanded back to the DPO Hangu.

Grounds of Appeal

- A. That the impugned order of dismissal of the appellant is not in accordance with law, rules and principles of justice. Hence liable to be set aside and the appellant may be reinstated in service with all back benefits
- B. That of the record is perused the Inquiry officer vide his findings had recommended major punishment to the competent authority. Upon recommendation of the enquiry officer, the competent authority had awarded one of the major punishment i.e., reduction from the rank of LHC to the rank of constable vide order dated 25-8-2023.
- C. That recommendation of awarding major punishment does not mean punishment of dismissal only but under the Police Rules 1975 (Amended 2014) a number of major punishments have been provided and the competent authority accordingly awarded one of the major punishment which was commensurate with guilt of the appellant.
- D. That when the appellant filed appeal against the punishment of reduction from the rank of LHC to the rank of constable, however, the appellate authority was pleased to remand back the case to the DPO Hangu with the remarks that the appellant has not been awarded any punishment as recommended by the enquiry officer.
- E. That contention of the appellate authority is totally against the evidence on record. Reduction from the upper rank to the lower rank is one of the major punishment. The appellant was awarded the said punishment, hence, the appellate authority was left no room to remand case of the appellant to the DPO Hangu. Hence act of the appellate authority is neither lawful nor justified by any



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norms of justice and fair play. Hence, the reconsideration of the punishment and order of remanding case back by the appellate authority being not lawful therefore, the order conveyed to the competent authority needs to be withdrawn in the interest of justice and fair play.

F. That in fact object of remanding case of the appellant was to award punishment of dismissal which is again not lawful and of no consequences on the rights of the appellant.

G. That neither in law nor in rules has been provided that the appellate authority could interfere in the domain of the competent authority. Competent authority is legally required to act independently and the appellate authority neither directly nor indirectly can ask for awarding severe and harsh punishment. Hence remarks of the appellate authority in remanding the case to the competent authority with specific direction is not legal, hence the order needs to be revised and deserves to be withdrawn.

H. That the appellate authority instead of remanding case of the appellant could enhance punishment but law in this context was badly ignored and instead of issuing order himself case of the appellant was remanded to the competent authority. Such order has got no legal sanction and thus has got no impact on the rights of the appellant.

I. That the competent authority after receiving order of the appellate authority dated 13-11-2023 followed his directions in letter and spirit and within seven days had converted punishment of reduction from the rank of S.I.C. to the rank of constable and awarded punishment of dismissal to the appellant vide order dt 20-11-2023 and thus the competent authority compromised



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- F. That in fact object of remanding case of the appellant was to award punishment of dismissal which is again not lawful and of no consequences on the rights of the appellant.
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- H. That the appellate authority instead of remanding case of the appellant, could enhance punishment but law in this context was badly ignored and instead of issuing order himself, case of the appellant was remanded to the competent authority. Such order has got no legal sanction and thus has got no impact on the rights of the appellant.
- I. That the competent authority after receiving order of the appellate authority dated 13-11-2023 followed his directions in letter and spirit and within seven days had converted punishment of reduction from the rank of LHC to the rank of constable and awarded punishment of dismissal to the appellant vide order dt 20-11-2023 and thus the competent authority compromised

his legal authority and did not apply his independent judicial mind which has made the impugned order dated 20-11-2023 questionable and against law, rules and principles of justice. Thus the order of dismissal of the appellant is liable to be set aside. -19-

J. That if findings of the enquiry officer are perused it will indicate that the appellant was not provided opportunity to cross examine the witnesses nor statements of witnesses were recorded in presence of the appellant. Hence, legally the enquiry is a futile exercise and on the basis of such a defective enquiry no punishment whatsoever can be awarded.

K. That the enquiry was conducted one sided and unilaterally hence it has got no legal sanction and no punishment can be based on such enquiry.

L. That actually, against the appellant, false, concocted and bogus narcotics case was registered by Ilyas Hussain ASI who was already inimical against the appellant because the appellant has a property dispute with Khalid Hussain and Mumtaz Hussain, the said Ilyas Hussain ASI is favoring opposite party of the appellant and the appellant has been grilled in this case at the instance of his opponent party and this fact was disclosed to the competent authority by the appellant who was convinced and awarded punishment of reduction from the rank of LHC to the rank of constable. However, since, this time, clear direction was conveyed from the appellate authority, hence, the competent authority under the influence of such direction had awarded punishment of dismissal of the appellant from service which under no norms of law, rules and justice can be justified.

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- 20 -

M. That the constitution of Pakistan has envisaged under Article 10-A that against accused or defaulter fair, independent and transparent trial/enquiry be conducted but in this case appellant has been prejudiced because enquiry against him was neither fair nor transparent hence, the impugned order is violation of the constitution which is the basic law of the land. Hence the impugned order of dismissal of the appellant is unconstitutional herefore upon such unconstitutional order no punishment whatsoever can be awarded to the appellant.

N. That at least, the authority should have waited for the outcome of the criminal case registered against the appellant and thereafter should have conducted further proceedings but since it has been established that the competent authority on the instructions of his senior officer was adamant to dismiss appellant from service, therefore, fate of the criminal case was not awaited and maximum punishment was awarded to the appellant.

O. That the Honorable Supreme Court in its decision vide judgment 2007 RIC (CS) P-997 has decided that in such cases accused/official be suspended and result of the case be awaited. Hence impugned order is also violation of the order of the Honorable Supreme Court of Pakistan.

P. That U/S 2(C) of the Khyber Pakhtunkhwa CNSA and U/S 21 of the CNSA, Sub Inspector and above is authorized to seize narcotics. In the case of the appellant seizing officer is ASI who is not competent to seize narcotics and register the instant case. The seizing officer was knowing that he is not competent to do so but even then on the basis of his malafide intention he registered narcotics case against the appellant but such a material fact was

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ignored and the appellant was awarded punishment of dismissal from service which is not sustainable in the eyes of law.

Q. That the appellant assure your good self that he is not directly or indirectly involved in the narcotics business

R. That the appellant is absolutely innocent and narcotics case was registered on the basis of malafide with the intention to ruin career of the appellant on one hand and to lower his status in the eyes of the public, relatives and his officers on the other.

S. That illegal FIR under the narcotics law was registered at the instance of the opponents of the appellant.

T. That appellant has more or less 16 years service at his credit but such an unblemished service was brought to an end with one stroke of pen.

U. That the appellant belongs to a respectable family of village Raeesan district Hangu and he cannot imagine to indulge/involve himself in such illegal and unethical activities.

V. That the appellant is also mindful of the fact that being member of the law enforcing agency, he is supposed to prevent and discourage offences instead of encouraging them. At this score too, registration of narcotics cases against the appellant cannot be justified. Appellant is innocent and he has nothing to do with such an unethical and unlawful act.

W. That the appellant has a large family and service of the appellant is the only source of income. If family of the appellant is deprived of such a sole source of income, it is likely to land them in starvation and the appellant may face irreparable loss for no fault on his part.

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that the impugned order of punishment of dismissal of the appellant being not in accordance with law, facts and evidence on record, deserves to be reviewed and set aside in the great interest of law justice and fair play.

Y: That if deemed proper the appellant may be heard in person.

Prayer:

In view of the above legal and factual position, it is humbly prayed that the Impugned order of dismissal of the appellant from service dated 20-11-2023 being not in accordance with the constitution of Pakistan, law, rules, facts, evidence on record and it being unilateral, arbitrary and not satisfying the ends of justice and fair play, may kindly be set aside in the great of interest of law and well established principle of justice. The appellant may graciously be reinstated in service with all back benefits. The appellant and his family will be highly obliged and he will pray for your long life and prosperity throughout his life for this act of kindness.

Thanking you in anticipation.

  
Yours Obediently,

Dated: 12-2023

Waheed/Abbas (Appellant)  
B-LHC No. 532  
Resident of Raeesan,  
Tehsil & District Hangu.  
Cell No: 0334-8896537



- X. That the impugned order of punishment of dismissal of the appellant being not in accordance with law, facts and evidence on record, deserves to be reviewed and set aside in the great interest of law justice and fair play.
- Y. That if deemed proper the appellant may be heard in person

Prayer

In view of the above legal and factual position, it is humbly prayed that the impugned order of dismissal of the appellant from service dated 20/11/2023 being not in accordance with the constitution of Pakistan, law, rules, facts, evidence on record and it being unilateral, arbitrary and not satisfying the ends of justice and fair play, may kindly be set aside in the great of interest of law and well established principle of justice. The appellant may graciously be reinstated in service with all back benefits. The appellant and his family will be highly obliged and he will pray for your long life and prosperity throughout his life for this act of kindness.

Thanking you in anticipation.

Yours Obediently.

Dated -12-2023

Waheed Abbas (Appellant)  
Ex-LHC No.532  
Resident of Raeesan. Tehsil &  
District Hangu.  
Cell No. 0334-8896537.

-23- "G"

ORDER

This order will dispose of the departmental appeal preferred by Ex Constable Waheed Abbas No.532 of Operation Staff, Hangu against the order of District Police Officer, Hangu whereby he was awarded major punishment of dismissal from service vide OB No. 731, dated 20.11.2023. Brief facts of the case are that the appellant, while posted at Police Lines Hangu, has been directly charged in case FIR No. 538 dated 17.06.2023 U/S 9DCNSA PS City Hangu. Proper departmental enquiry proceeding were initiated against him and SDPO City Hangu was nominated as Enquiry Officer. The Enquiry Officer, after fulfillment of codal formalities, submitted his finding wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for major penalty under the relevant rules. Keeping in view the recommendations of the Enquiry Officer and the above cited circumstances, the delinquent officer was awarded punishment of reversion from the rank of LHC to constable by the District Police Officer, Hangu vide OB No.524 dated 25.08.2023.


Feeling aggrieved from the order of District Police Officer, Hangu, the appellant had preferred appeal before the undersigned. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 24.10.2023. During personal hearing, the appellant did not advance any plausible explanation in his defence. However, the careful scrutiny of the record makes it abundantly clear that the rank of LHC denotes as constable who has qualified the Lower School Course which is mandatory for promotion from the rank of constable to Head Constable. Thus, no reduction in rank from LHC to the rank of Constable can be made as the LHC is not a substantive rank. In view of the above facts, the appellant had not been awarded any punishment as recommended by Enquiry Officer. The order of punishment of DPO Hangu vide OB No. 524 dated 25.08.2023 was, therefore, set-aside and, consequently, the departmental enquiry against the delinquent officer stood pending before the DPO, Hangu. The case was remanded back to DPO Hangu with the directions to pass a speaking order on the report of enquiry officer strictly in accordance with Police Rules 1975 (As amended 2014).

District Police Officer, Hangu called him in Orderly Room held on 16.11.2023 and heard in person. He was awarded him major punishment of dismissal from service with immediate effect vide OB No. 731 dated 20.11.2023.

Being dissatisfied from the order of District Police Officer, Hangu, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 29.05.2024. However, he could not present any plausible grounds to justify his misconduct. Instead of serving as custodian of law, the delinquent officer has got himself involved in drug trafficking which is unbecoming of a disciplined Police Officer. This conduct of the delinquent officer has rendered him absolutely unfit for retention in the police force.

Foregoing in view, I, Sher Akbar, PSP, S.St, Regional Police Officer, Kohat, being the appellate authority, am of the considered opinion that the charges leveled against him have been fully established. The punishment awarded by the District Police Officer, Hangu to the appellant is justified and, therefore, warrants no interference. Hence, appeal of Ex Constable Waheed Abbas No.532 is hereby rejected, being devoid of substance and merit.


Order Announced  
29.05.2024

  
Regional Police Officer,  
Kohat Region

No. 5180 /EC, Dated Kohat the 19/6 2024

Copy forwarded to District Police Officer, Hangu for information and necessary action w/r to his office Memo: No.1086/LB, dated 07.03.2024. Service Record and Enquiry File are returned herewith.

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✓  
EC/Police/legal Branch  
Per N-out-  
  
DISTRICT POLICE  
HANGU

1115  
24/6/24

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

Appeal No. 12024

Waheed Abbas

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Police Deptt

(RESPONDENT)  
(DEFENDANT)

I/We Waheed Abbas

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.      /      / 202  

*Q*

**CLIENT**

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

*Waleed Adnan*  
**WALEED ADNAN**

**UMAR FAROOQ MOHMAND**

*Mahmood Jan*  
**MAHMOOD JAN**

**&**

*Abid Ali Shah*  
**ABID ALI SHAH  
ADVOCATES**

**OFFICE:**  
Flat No. (TF) 291-292 3<sup>rd</sup> Floor,  
Deans Trade Centre, Peshawar Cantt.  
(0311-9314232)