


# FORM OF ORDER SHEET

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

**Appeal No. 1426/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09-Sep-24	<p>The appeal of Mr. Matiullah presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 19-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

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

APPEAL NO. 1426 /2024

MATI ULLAH

VS

POLICE DEPTT:

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APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

①

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

**APPEAL NO. 1426 /2024**

Mr. Mati Ullah, IHC No.255,  
Reader to DSP Security, Police Training College, Hangu.

.....**APPELLANT**

**VERSUS**

- 1- The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
- 2- The Regional Police Officer, Kohat Region.
- 3- The District Police Officer, District Hangu.

.....**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED  
ORDER DATED 05.06.2024 WHEREBY MAJOR PENALTY OF  
DISMISSAL FROM SERVICE HAS BEEN IMPOSED UPON THE  
APPELLANT AND AGAINST THE APPELLATE ORDER DATED  
29.08.2024 WHEREBY DEPARTMENTAL APPEAL OF THE  
APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS.**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 05.06.2024 and 29.08.2024 may very kindly be set aside and the appellant be re-instated into service with all back benefits i.e. w.e.f 15.03.2019. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

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

- 1- That the appellant was the employee of the respondent department and has served the department as IHC No. 255 for more than eighteen (18) years quite efficiently and upto the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty as reader to DSP Security, Police Training Centre, Hangu, an allegation of missing 87369/- SMG rounds from the ammunition Kot was leveled against the three officials and later on the appellant was also charged with the said allegation on the statement of one alleged official (Sohail Ahmad). That on the basis of said allegation all the four officials were suspended.

- 3- That in the said matter preliminary inquiry was conducted by the department in which one alleged official Mr. Muhammad Akram was exonerated from the allegations leveled against him while the appellant and other 2 officials were dismissed from service vide dated 15.03.2019. Copy of the dismissal order is attached as annexure.....A.
- 4- That feeling aggrieved from the order dated 15.03.2019 the appellant preferred departmental appeal followed by service appeal No. 1000/2019 before this august Service Tribunal, Peshawar which was allowed vide judgment dated 23.06.2021 and this august Tribunal set aside the impugned order dated 15.03.2019. That the respondent Department further directed by this august Tribunal to conduct de-novo inquiry strictly in accordance with law and rules and the same shall be concluded within a period of one month. Copy of the judgment is attached as annexure.....B.
- 5- That it is pertinent to mention that in the de-novo inquiry the respondents totally relied upon the previous inquiry and no fresh findings have been arisen in the de-novo proceedings. That despite of having no solid proof the respondent department issued the removal order dated 12.11.2021. Copy of the order dated 12.11.2021 are attached as annexure.....C.
- 6- That appellant feeling aggrieved from the order dated 12.11.2021 preferred departmental appeal followed by service appeal No.217/2022 which was allowed vide judgment dated 06.11.2023 with the directions to the respondents to conduct proper de novo inquiry in the matter and provide proper opportunity of self-defense, personal hearing and cross examination. Copies of the judgment is attached as annexure.....D.
- 7- That in light of the judgment dated 06.11.2023 the respondent department conducted de novo proceedings against the appellant and issued charge sheet and statement of allegations which was properly replied by the appellant alongwith documentary proofs and denied the allegations leveled against him. Copies of the charge sheet/statement of allegations and reply are attached as annexure.....E & F.
- 8- That during the course of inquiry the respondent department completely failed to prove their stance and as such totally relied upon the previous inquiries which have already been declared by this august Tribunal as null and void. Copy of the inquiry report is attached as annexure.....G.

- 9- That astonishingly the respondent No.3 once again issued the impugned order dated 05.06.2024 whereby major penalty of dismissal from service has been imposed upon the appellant. Copy of the impugned order is attached as annexure.....**H.**
- 10- That the appellant feeling aggrieved from the impugned order dated 05.06.2024 preferred departmental appeal before the appellate authority but the same has been rejected vide appellate order dated 29.08.2024 on no good grounds. Copies of the departmental appeal and rejection order is attached as annexure.....**I & J.**
- 11- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned orders dated 05.06.2024 and 29.08.2024 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 the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondent department acted in arbitrary and mala fide manner while issuing the impugned orders dated 05.06.2024 and 29.08.2024 which are not tenable in eye of law and liable to be set aside.
- D- That statements of witnesses have not been recorded by the authorities before issuing the impugned order dated 05.06.2024 which is necessary as per rule and law *ibid*.
- E- That no chance of cross of examination has been provided by the respondent department to the appellant before issuing the impugned order dated 05.06.2024 which is mandatory as per judgment of the superior Court.
- F- That the de-novo inquiry has not been properly conducted by the authorities as per directions of this august Tribunal, therefore, the impugned order dated 05.06.2024 is void in the eye of law and the same is liable to be set aside.
- G- That the inquiry officer totally relied upon on the previous inquiries which have already been declared by this august Service Tribunal as null and void.
- H- That the inquiry officer admitted in the inquiry report that there is no solid proofs find out during the course of inquiry but despite of that the

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respondent No.3 issued the impugned order dated 05.06.2024; therefore, the same is not tenable in the eye of law and liable to be set aside.

- I- That the appellant had no concern with the ammunition kot but despite that the allegations of missing SMG rounds were leveled against him on the basis of statement one Mr. Sohail Ahmad.
- J- That the inquiry officer has not proved the charges leveled against the appellant, therefore, the impugned order dated 05.06.2024 has no legal force, therefore the same is liable to be set aside.

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

Dated: 05.09.2024.

APPELLANT

  
MATI ULLAH SHAH

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

**CERTIFICATE:**

It is certified that no other earlier appeal was filed between the parties.

  
DEPONENT

**LIST OF BOOKS:**

- 1- CONSTITUTION OF PAKISTAN, 1973.
- 2- SERVICES LAWS BOOKS.
- 3- ANY OTHER CASE LAW AS PER NEED.

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

APPEAL NO. \_\_\_\_\_/2024

**MATI ULLAH**

**VS**

**POLICE DEPTT:**

**AFFIDAVIT**

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



**MIR ZAMAN SAFI,**  
Advocate  
High Court, Peshawar

CONFIDENTIAL

... (faint, mostly illegible text) ...

ORDER

(6)

OFFICE OF THE COMMANDANT, POLICE TRAINING COLLEGE HANGU



(Dr. Masood Saleem, PSP)  
Commandant

All concerned  
HC Muhammad Akram, No. 1193/193, D. O. M. I. Khan  
EX-FC Sona (Shing), No. 10/34/44, CO. Fawazgar  
EX-IHC W. I. No. 200, J. S. H. H. H.  
ASI Bara, Parhad, 840/M, D. O. M. I. Khan  
The District Office, Fawazgar and Bara  
The Regional Police Officers, Fawazgar and Bara  
The Capital City Police, Fawazgar and Bara  
The Inspector General, Fawazgar and Bara  
reference to the office of the Inspector General with  
The Capital City Police, Fawazgar and Bara, dated 11/02/2019

(Dr. Masood Saleem, PSP)  
Commandant  
The District Office, Fawazgar and Bara

11/03/19

Order announced on 11/03/2019  
Date: 11/03/2019

The district office of the Inspector General, Fawazgar and Bara, has received a report from the ASI Bara, Parhad, dated 11/02/2019, regarding the disappearance of a person from the area of Fawazgar and Bara. The report states that the person in question is a resident of Fawazgar and Bara and has been missing since 11/02/2019. The district office has taken the necessary steps to investigate the matter and has directed the ASI Bara, Parhad, to continue the search for the missing person. The district office has also directed the ASI Bara, Parhad, to inform the family of the missing person and to provide them with the necessary assistance. The district office has also directed the ASI Bara, Parhad, to report the progress of the search to the district office on a regular basis. The district office has also directed the ASI Bara, Parhad, to take all necessary precautions to ensure the safety of the missing person and to prevent any further incidents of this nature. The district office has also directed the ASI Bara, Parhad, to take all necessary steps to identify the missing person and to return them to their family. The district office has also directed the ASI Bara, Parhad, to take all necessary steps to identify the person who has taken the missing person and to bring them to justice. The district office has also directed the ASI Bara, Parhad, to take all necessary steps to identify the person who has provided the information regarding the disappearance of the missing person and to reward them for their valuable contribution to the investigation. The district office has also directed the ASI Bara, Parhad, to take all necessary steps to identify the person who has provided the information regarding the disappearance of the missing person and to reward them for their valuable contribution to the investigation. The district office has also directed the ASI Bara, Parhad, to take all necessary steps to identify the person who has provided the information regarding the disappearance of the missing person and to reward them for their valuable contribution to the investigation.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

Service Appeal No. 745/2019

Date of Institution ... 19.06.2019

Date of Decision ... 23.06.2021



Bashir Muhammad, Ex-ASI No. 840/MR District Police Mardan,

...(Appellant)

VERSUS

Commandant Police School Training Hangu and another,

... (Respondents)

Mr. FAZAL SHAH MOHMAND,  
Advocate

For appellant.

MR. USMAN GHANI,  
District Attorney

For respondents.

MR. SALAH-UD-DIN

MEMBER (JUDICIAL)

MR. ATIQ-UR-REHMAN WAZIR

MEMBER (EXECUTIVE)

JUDGEMENT:

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of the instant Service Appeal as well as Service Appeal bearing No. 931/2019 titled "Sohail Ahmad Versus Provincial Police Officer and two others" as well as Service Appeal bearing No. 1000/2019 titled "Matiullah Versus Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others", as common questions of law and facts are involved therein.

2. Precise facts of the instant appeal as well as connected service appeals bearing No. 931/2019 and 1000/2019 are that during posting of the appellants namely Bashir Muhammad as In-charge ammunition Kot, Sohail Ahmad as Naib in SMG Kot and Matiullah as Reader to DSP Security, in Police Training College Hangu, 76285 live rounds of SMG

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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were found missing, while entry of 11084 rounds was not properly made in the relevant record, therefore, disciplinary action was taken against the appellants and one H.C Muhammad Akram No. 1193/133. Vide order dated 15.03.2019, the appellants were dismissed from service, while H.C Muhammad Akram was exonerated from the charges. The departmental appeals of the appellants went un-responded, therefore, they have now approached this Tribunal through filing of the instant Service Appeals.

3. Mr. Fazal Shah Mohmand, Advocate, representing the appellant Bashir Muhammad, has contended that Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, who issued charge sheet as well as statement of allegations and also passed order of dismissal of the appellant, rendering the whole inquiry proceedings as nullity in the eye of law because as per Schedule-I of Police Rules 1975, Deputy Inspector General of Police being Appellate Authority was not the Authority competent under the law to proceed himself against the appellant. He further argued that whole of the inquiry proceedings were conducted in slipshod manner, without providing the appellant an opportunity of cross examination of the witnesses examined during the inquiry. He also argued that neither any show-cause notice was issued to the appellant nor any opportunity of personal hearing was afforded to him. He next contended that the appellant was admittedly transferred to Police Training College Hangu on deputation basis, therefore, in view of Rule-9 (iii) of Police Rules, 1975, Commandant Police Training College Hangu was not competent to impose punishment upon the appellant. In the last he contended that the appellant is quite innocent and has been condemned unheard, therefore, the impugned order may be set-aside and the appellant may be re-instated into service by extending him all back benefits. He relied upon 1996 SCMR 856, PLD 2018 Supreme Court 114, PLD 2016 Peshawar 278, PLD 2008 Supreme Court 663 and 2021 SCMR 673.

4. Mr. Shahid Qayum Khattak, Advocate, representing appellant Sohail Ahmad, while placing reliance on the arguments of learned counsel for the appellant Bashir Muhammad, has further argued that ammunition is kept in ammunition Kot, while the appellant was posted as Naib in SMG Kot, meant for stocking only of SMG Rifles, therefore, the appellant was

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having no concern with the alleged mis-appropriation of live rounds of SMG, therefore, the impugned order of dismissal of the appellant is liable to be set-aside.

5. Mr. Noor Muhammad Khattak, Advocate, representing the appellant Matiullah, has argued that the appellant was not issued any charge sheet and only statement of allegations was issued to the appellant, however it has been mentioned in para-3 of summary of allegations that the same was a charge sheet. He further argued that the procedure as laid down in Rule-6 of Police Rules, 1975, has not been complied with and even no opportunity of cross-examination of witnesses or personal hearing was afforded to the appellant, therefore, the impugned order of dismissal of the appellant is void ab-initio, hence liable to be set-aside. Reliance was placed on 2003 PLC (C.S) 365, 1988 PLC (C.S) 179, 2011 SCMR 1618, 1989 PLC (C.S) 336, PLJ 2017 Tr.C.(Services) 198, 2008 SCMR 1369, 2003 SCMR 681 and 1988 PLC (C.S) 379.

6. Conversely, learned District Attorney for the respondents has argued that the appellants were found involved in mis-appropriation of huge quantity of ammunition, therefore, disciplinary action was taken against the appellants and they were rightly dismissed from service. He also argued that the inquiry was conducted in a legal manner by providing opportunity of hearing to the appellants. He next contended that after conducting of proper inquiry against the appellants, the inquiry committee came to the conclusion that the charges against the appellants were proved, therefore, the competent Authority has rightly dismissed them from service.

7. We have heard the arguments of learned counsel for the appellants as well as learned District Attorney for the respondents and have perused the record.

8. A perusal of record would show that the show-cause notice, charge sheet as well as statement of allegations were issued to the appellants by Commandant Police Training College Hangu and upon receipt of the inquiry report, the order of dismissal of the appellants was also passed by Commandant Police Training College Hangu, who was an officer of the rank of Deputy Inspector General of Police. In light of

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Schedule-I of Police Rules 1975, officer of the rank of DPO/SSP/SP, being Authority competent to award punishment to the appellants, could have legally taken disciplinary action against the appellants. Commandant Police Training College Hangu was an officer of the rank of Deputy Inspector General of Police, therefore, keeping in view Schedule-I of Police Rules 1975, the action taken by him was illegal, without jurisdiction and void ab-initio. Moreover, the appellants were not at all provided any opportunity of cross-examination of the witnesses examined during the inquiry, which has caused them prejudice. The impugned order of dismissal of the appellant is thus not sustainable in the eye of law and is liable to be set-aside.

9. In view of the above discussion, the appeal in hand as well as Service Appeal bearing No. 931/2019 titled "Sohail Ahmad Versus Provincial Police Officer and two others" as well as Service Appeal bearing No. 1000/2019 titled "Matiullah Versus the Inspector General of Police Khyber Pakhtunkhwa Peshawar and two others"; are allowed by setting-aside the impugned order of dismissal of the appellants. The appellants are re-instated into service and the matter is remanded back to the department for de-novo inquiry against the appellants strictly in accordance with relevant law/rules. The de-novo inquiry proceeding shall be completed within a period of one month from the date of receipt of copy of this judgment. The issue of back benefits of the appellants shall follow the result of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
23.06.2021

(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

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Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 13/7/21  
Number of Pages 2000  
Copies 22  
Urgent 4  
To 20  
Name ---  
Date of Copy 13/7/2021  
Date of Delivery of Copy 13/7/2021



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU

Tel: 0925-623878 Fax 0925-620135

**ORDER**

This order is passed on the denovo departmental enquiry against IHC Matiullah No. 255 under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

On 09.01.2019, ASI/LI Abid Ullah of Bannu Region was posted as Incharge ammunition Kot (PTC) in-place of ASI Bashir Muhammad of Mardan Region. On 14.01.2019, while taking the charge, he observed that a number of 87369 rounds of SMG were short/missing. The matter was brought into the notice of high-ups and therefore, to unearth the facts, a preliminary enquiry conducted by Mr. Abdul Sattar, DSP (Legal) and Mr. Shah Mumtaz, DSP/CLI, PTC, Hangu. During enquiry accused officer ASI Bashir Muhammad, Ex. Incharge ammunition Kot and his co-accused officials i.e IHC Mati Ullah, District Hangu, HC Muhammad Akram No.1193/133, District D.I Khan and FC Sohail Ahmad produced the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC, Hangu. After preliminary enquiry, the enquiry officers submitted their initial enquiry report and held responsible accused officers/officials named above with their mutual understanding and their common criminal intention for embezzling a huge quantity of Govt. SMG rounds numbering 76285 probably with the help of other accomplices while the enquiry committee revealed that SMG rounds numbering 11084 were not properly entered in the relevant record. In response to the preliminary enquiry, the accused officers/officials named above were suspended and show cause notices were served upon them. Accused officer and co-accused officials submitted their written replies, but found unsatisfactory, hence proper departmental enquiry was initiated under the supervision of DSP/CLI Shah Mumtaz, assisted by Inspector Baroz Khan and Inspector Said Noor Shah as enquiry officers/committee. The enquiry committee conducted proper departmental enquiry. They recorded the statements of the relevant witnesses and also of the accused officers/officials. During enquiry, the enquiry committee recounted the SMG rounds produced by the accused officer/officials. They also collected and perused the relevant record i.e stock/issued register and Daily Diary of Model Police Station PTC Hangu. During enquiry, the enquiry committee held responsible accused officer ASI Bashir Muhammad No. 840/MR the then Incharge ammunition Kot and his accomplices namely IHC Mati Ullah No.255 and FC Sohail Ahmad No.44 for embezzling Govt. SMG rounds with mutual connivance. Therefore, to follow Police Rules-1975 (amended 2014), ASI Bashir Muhammad No.840/MR, IHC Mati Ullah No.255 and FC Sohail Ahmad No.44 were awarded major punishment of "Dismissal from Service", while accused HC Muhammad Akram No.1193/133 was exonerated and reinstated in service from the date of suspension owing to non-availability of any tangible evidence against him vide PTC, Hangu Order Endst: 119-34/PA, dated 15.03.2019.

The delinquent officers filed departmental appeal against the said order of dismissal, but it was filed. Subsequently, then he approached to the Khyber Pakhtunkhwa Service Tribunal, which was allowed by the Hon'ble Service Tribunal with the remarks that the order of dismissal was passed by the Commandant, PTC Hangu, who was an officer of the rank of Deputy Inspector General. In light of schedule-I of Police Rules-1975, officer of the rank of DPO/SSP/SP being authority competent to award punishment to the appellant, the action taken by the Commandant was illegal, which may be regularized and for the purpose of denovo enquiry against the appellant strictly in accordance with relevant law/rules w/r to the above allegations. Mr. Arshad Mehmood, SP Investigation (District Complaint Officer), Hangu is appointed as enquiry officer while AIG, Inquiries, IAB Khyber Pakhtunkhwa Peshawar officer Memo: No. 1984/CPO/IAB, dated 26.07.2021.

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Superintendent of Police, Investigation Hangu conducted a departmental enquiry and reported that the accused official was found involved in embezzlement of govt. property i.e 7.62 MM genuine rounds of PTC Kot, which caused to huge loss of govt. exchequer. Being a member of police force, his professionalism is condemnable, his act is not apologies and he is guilty for the charges leveled against him and recommended for major punishment.

He was called in orderly room on 30.09.2021 and heard in person, but he failed to submit any plausible reply in his defence hence, he was issued a Final Show Cause Notice. Reply to the show cause notice was received and perused which was found unsatisfactory. He was again called in orderly room on 10.11.2021. He was given full opportunity to explain his position, but he filed. In this connection, FC Sohail Ahmad No.44 was also heard but he did not produce any evidence in self defence of IHC Mati Ullah No. 255. The above named IHC earned a bad name to the police department, and his further retention in police department is a burden on govt. exchequer.

In view of above and available record, I, Ikram Ullah, (PSP), District Police Officer, Hangu in exercise of powers conferred upon me under the Rules ibid, I agreed with the finding of enquiry officer and a major punishment of removal from service is hereby imposed upon the IHC Mati Ullah No. 255 with immediate effect. The intervenient period i.e unauthorized leave is hereby treated as leave without pay.

OB No. 393

Dated: 12/11/2021

DISTRICT POLICE OFFICER,  
HANGU

No. 10661-62 /EC, dated Hangu the 12/11/2021

Copy of above is submitted to the Commandant, Police Training College, Hangu for favour of information w/r to his office Memo: No.628/PA, dated.27.08.2021; please.

2. Accused official.

DISTRICT POLICE OFFICER,  
HANGU

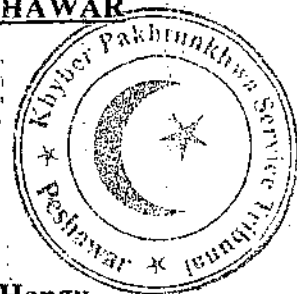
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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.217/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER(J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER(E)



Mati Ullah, IHC No. 255, Reader to DSP, Police Training College, Hangu.

... (Appellant)

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Kohat Region.
3. The Commandant Police Training College, Hangu
4. The District Police Officer, District Hangu.

... (Respondents)

Mr. Mir Zaman Safi  
Advocate

... For Appellant

Mr. Syed Asif Ali Shah  
District Attorney

... For Respondents

Date of Institution.....23.02.2022  
Date of Hearing.....06.11.2023  
Date of Decision.....06.11.2023


JUDGMENT

**RASHIDA BANO, MEMBER (J):**The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

"On acceptance of this appeal, the impugned orders dated 12.11.2021 and 08.02.2022 may very kindly be set aside and the appellant be reinstated into service with all back benefits."

2. Brief facts of the case are that appellant was serving the respondent department upto the entire satisfaction of his superiors. That while performing his duty as Reader to DSP Security, in Police Training College Hangu, an allegation of missing 87369 SMG round from the ammunition Kotwas leveled against the appellant, on the basis of which disciplinary

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Peshawar





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proceedings were taken against the appellant and two others, and were dismissed form service vide order dated 15.03.2019. Feeling aggrieved, appellant filed service appeal which was remanded back to department for denovo inquiry vide order date vide judgment date d23.06.2021. Respondent department conducted denovo inquiry and issued charge sheet and statement of allegations to appellant who submitted reply. Final show cause notice was issued thereafter vide impugned order 12.11.2021 whereby major penalty of removal from service was again imposed upon the appellant. Feeling aggrieved, he filed departmental appeal, which was rejected; hence the instant service appeal.

2. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

3. Learned counsel for the appellant argued that the appellant has not been treated in accordance with law and rules and respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973. He further argued that impugned orders are against the law, facts, norms of natural justice and materials on record, hence not tenable and liable to be set aside. He contended that no statement of witnesses have been recorded by the respondents nor chance of cross examination has been provided to the appellant. He further contended that no denovo inquiry has been conducted by the respondents. Reliance is placed on 1984 PLC (C.S) 379, 2011 PLC (C.S) 1111 and 1989 PLC (C.S) 336.

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

4. Conversely, learned Deputy District Attorney argued that appellant was found involved in mis-appropriation of huge quantity of ammunition, therefore, disciplinary action was taken against the appellant and was rightly

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dismissed from service. He also argued that the inquiry was conducted in a legal manner by providing opportunity of hearing to the appellant. He further contended that after conducting of proper inquiry against the appellant, the inquiry committee came to the conclusion that the charges against the appellant were proved, therefore, competent authority has rightly dismissed from service.

6. Perusal of record reveals that appellant served as IHC respondent/department for more than 18 years. When appellant was posted as Reader to DSP security in Police Training College Hangu, on allegation of missing 78369/- SMG rounds from the ammunition kot was leveled against the appellant, who alongwith two others were proceeded against by the department. Appellant alongwith two official were dismissed from service vide impugned order dated 15.03.2019. Appellant filed service appeal bearing No 745/2019 wherein impugned order was set aside by reinstating appellant into service vide judgment & order dated 23.06.2021. Respondent after receipt of judgment of this Tribunal again Commandant Police Training College Hangu appoint Mr. Arshad Mehmood SP/Investigation as Enquiry Officer despite the fact that this Tribunal holds that competent authority for giving punishment to IHC is SSP/DPO/SP and not below of the rank of DIG. So again inquiry was initiated by an incompetent authority in accordance with schedule-1 of Police Rules, 1975. Moreover, it is mentioned in inquiry report dated 27.08.202

ATTESTED

EXAMINER  
Khushwant Singh  
Service Tribunal  
Punjab

*"In the light of denovo enquiry the accused officials/witnesses were summoned by the undersigned through the Admin PTC Hangu in order to join the enquiry proceedings. It has come to the notice of undersigned*

that all the witnesses/complainant and enquiry committee officer are not proper employee of PTC strength, they have been transferred to their parent District after completion of their tenure, some of them are engaged in Special duties of Muharram-ul-Haram 2021 and due to short time in enquiry they could be approached to appear before enquiry officer in these days but the defaulters officials have attended this office on 09.08.2021 and submitted their replies. Their replies were perused by the undersigned which were found unsatisfied. During previous enquiry the defaulter officials have given chance for their self defence, they were examined but they failed to do so. Similarly, witnesses of the case/enquiry were also examined and recorded the statements about the case.

So, from it is clear that no opportunity of cross examination and self defense was provided to the appellant despite direction by this tribunal.

7. It is a well settled legal proposition, that regular inquiry is must before imposition of major penalty, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of *audi alteram partem* was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the

ATTENDED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

8. For what has been discussed above, we are unison to set aside the impugned orders dated 12.11.2021 & 08.08.2022 and reinstate the appellant for the purpose of denovo inquiry with direction to respondents to provide proper chance of self-defense, personal hearing and cross examination to the appellant to fulfill requirement of a fair trial. Respondents are further directed to conclude inquiry within 90 days, after receipt of copy of this judgment. Costs shall follow the event. Consign.

9. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this ~~11th~~ 11th day of November, 2023.

(MUHAMMAD AKBAR KHAN)  
Member (E)

(RASHIDA BANO)  
Member (J)

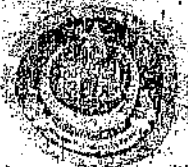
\*Kaleemullah

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Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU

Tel No. 0925-623878 & Fax No. 0925-620135  
Email: dpohangu@gmail.com,

**CHARGE SHEET**

I. **MR. NISAR AHMAD, PSP, OPM, DISTRICT POLICE OFFICER, HANGU**, as competent authority under Khyber Pakhtunkhwa Police Rules 1975 (amendments 2014) am of the opinion that you, **IHC Matallah (Conditionally re-instated for the purpose of denovo enquiry) while the then posted at PTC Hangu** rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

1. On 09.01.2010, ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in place of ASI Basir Muhammad of Mardan Region on 14.01.2010 while taking the charge of PTC ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC Kot as per stock register, The matter was brought into the notice of highups of PTC Hangu for taking proper departmental action against the defaulters

2. On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.

3. After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 mm rounds i.e 87369 (Eighty Seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 of above are local made) as per report of Arms & Ammunition export of FSL.

4. The act of defaulter official IHC Mati Ullah of two versions i.e.  
i) Being a member of discipline force conducted act of negligence & dishonest.  
ii) Being a custodian they carried out breach of trust being a public servant.  
This is an act of crime which were committed intentionally.

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Police Rules 1975 and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of Police Rules 1975.

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.

A statement of allegations is enclosed.

DISTRICT POLICE OFFICER,  
HANGU



OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU.

Tel No. 0925-823878 & Fax No. 0925-820135  
Email: dphangu8@gmail.com

**DISCIPLINARY ACTION**

**MR. NISAR AHMAD, PSP, OPM, DISTRICT POLICE OFFICER, HANGU**, as competent authority, am of the opinion that you, IHC Matiullah (Conditionally re-instated for the purpose of denovo enquiry), while the then posted at PTC Hangu have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

**STATEMENT OF ALLEGATIONS**

1. On 09.01.2019, ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in-place of ASI Bashir Muhammad of Mardan Region, on 14.01.2019 while taking the charge of PTC ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC, Kot as per stock register. The matter was brought into the notice of highups of PTC Hangu for taking proper departmental action against the defaulters.
  2. On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.
  3. After perusal of the previous enquiry papers and gone through the available record, it was found that accused officers/officials were found involved in embezzlement of huge number of ammunition 7.62 mm rounds i.e 87369 (Eighty Seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export of FSL.
  4. The act of defaulter official IHC Mati Ullah of two versions i.e.
    - i) Being a member of discipline force conducted act of negligence & dishonest.
    - ii) Being a custodian they carried out breach of trust being a public servant. This is an act of crime which were committed intentionally.
2. For the purpose of scrutinizing the conduct of said accused with reference to the above allegations Mr. Jamil-ur-Rehman, SP Investigation, Kohat & Mr. Muhammad Talha Arif, ASP Sadar, Kohat are appointed as enquiry committee. The enquiry committee 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 committee.

DISTRICT POLICE OFFICER,  
HANGU

No. 04 /EC, dated 06 / 02 /2024.

Copy of above to:

1. Mr. Jamil-ur-Rehman, SP Investigation, Kohat & Mr. Muhammad Talha Arif, ASP Sadar, Kohat: The Enquiry Committee for initiating denovo enquiry proceedings against the accused in pursuance of Judgment of Khyber Pakhtunkhwa Service Tribunal Service Appeal No. 217/2022 followed by DIG Internal Accountability Khyber Pakhtunkhwa, Peshawar vide letter No. 224-28/EPC/IAB, dated 01.02.2024 and submit Final outcome of the denovo departmental enquiry within stipulated period being court matter before issuance of formal order, for the perusal of Worthy IGP.
2. The Accused Official: with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

جناب عالی!

بجوالہ چارج ٹیسٹ نمبر 4 مورخہ: 06-02-2024 معروض ہوں۔

کہ چارج شیٹ میں عائد الزامات کے دفاع میں صفائی پیش کرنے سے پیشتر انہی الزامات کا پس منظر بیان کرنا ضروری ہے۔

جناب والا!

چارج شیٹ کے متن سے صاف ظاہر ہے کہ جملہ الزامات بشیر احمد ASI کے خلاف ہیں اور من ملزم افسر کے خلاف کوئی

الزام نہ لگایا ہے۔ چارج شیٹ کے پیرا نمبر 4 کے مطابق من ملزم افسر نے غفلت اور بد نیتی کا مظاہرہ کیا اور خیانت مجرمانہ کا

ارتکاب کیا ہے۔

جناب والا!

چارج شیٹ سے واضح نہ ہے کہ من ملزم افسر نے کوئی غفلت اور خیانت مجرمانہ کا ارتکاب کیا۔ من ملزم افسر نہ کوٹ کے

نگرانی کا ذمہ دار تھا اور نہ کوٹ انچارج تھا۔ لہذا میرے خلاف ایسی الزامات بلکل غلط اور بے بنیاد ہے دراصل من ملزم کو قریبانی کا

بکرا بنایا گیا۔ چارج شیٹ کا اصل پس منظر یوں ہے۔

سال 2019ء میں من ملزم افسر بطور ریڈر ڈی۔ ایس۔ پی سیکورٹی PTC ہنگو تعینات تھا۔ مورخہ 09/01/2019

کوٹھڑی اللہ ASI بطور کوٹ انچارج PTC ہنگو تعینات ہوا۔ یہاں یہ امر قابل ذکر ہے کہ PTC میں ایسوسی ایشن اور رائفل کا علیحدہ

علیحدہ کوٹ ہیں۔ اور دونوں کا انچارج بھی علیحدہ ہوتا ہے۔ عابد اللہ ایسوسی ایشن (SMG Rounds) کے کوٹ کا انچارج

تعینات ہوا تھا۔ عابد اللہ نے بشیر احمد سے چارج لیتے ہوئے رپورٹ تحریر کی کہ کوٹ ہیں 87369 ایس۔ ایم۔ جی کارٹوس کی کمی

ہے۔ جس پر کمیٹی مقرر ہوئی اور کمیٹی نے ریکارڈ ملاحظہ کر کے 76285 کارٹوس کی کمی اور 11084 کارٹوس کے ریکارڈ میں

اندراج نہ کرنے کی رپورٹ جمع کی۔ کمیٹی نے اپنے رپورٹ میں بشیر احمد انچارج کوٹ کے علاوہ من ملزم افسر ریڈر DSP

سیکورٹی اور سہیل احمد کانسٹیبل نمبر 44 (ایس۔ ایم۔ جی رائفل کوٹ) کو کارٹوس کے کمی کے الزام میں ملوث بیان کیے۔

جناب والا۔

یہ اس حقیقت ہے کہ پولیس لائنز، ٹریگ کالج، سکول دلپیرہ اور تھانہ جات کے کوٹ ہائے کے انچارج کے تبادلے کی

صورت میں اسلحہ، ایسوسی ایشن یا دیگر اشیاء میں ہر قسم کی کمی کا چارج دینے والا پولیس افسر ذمہ دار ہوتا ہے۔ زیادہ سے زیادہ نگران

افسران مثلاً لائن افسر اور ریڈر انسپکٹر اور ایس۔ ایچ۔ او کی ذمہ داری ہوتی ہے۔ مگر اس کے برعکس من ملزم افسر جو کہ DSP

سیکورٹی کے ساتھ بطور ریڈر تعینات تھا کو بھی اس کی میں ملوث بیان کیا اور تائید میں کسی قسم کی شہادت پیش نہ کی۔ صرف اس بناء پر

ملوث لیا گیا کہ سہیل احمد کانسٹیبل نے مورخہ: 12/02/2019 کو سببہ بیان دیا ہے کہ من ملزم افسر ایسوسی ایشن کے فروخت میں

شامل تھے حالانکہ من ملزم ایفیسر نے عدالت کی تحریری Order Sheet کی نقل پیش کی کہ مورخہ: 12/02/2019 کو سہیل احمد PTC ہنگو میں موجود نہ تھے بلکہ ضلع نوشہرہ میں اپنے پرائیوٹ معاملے کے سلسلے میں عدالت میں موجود تھے۔ اور انکو انٹری انسران نے بھڑائی بیان تحریر کی ہے۔ عدالت کے آرڈر شیٹ کی نقل لف ہے۔

جناب والا!

اس سے پہلے دو دفعہ محکمانہ کارروائی ہوئی مگر کنسٹیبل سہیل احمد کا میرے ساتھ سامنا نہیں کیا گیا اور نہ ہی اس کا بیان لیا گیا۔ یہی وجہ تھی کہ سروس ٹریبونل پشاور نے میرے دو سروس اپیل نمبر: 245/2019 اور اپیل نمبر: 217/2022 بحوالہ حکم مورخہ 23-06-2021 اور 06-11-2023 با ترتیب ناقص انکو انٹری کی بناء پر منظور کئے اور محکمہ کو دوبارہ انکو انٹری کی اجازت دی۔

جناب والا!

قانون اور رولز کے مطابق محکمانہ کارروائی کو جلد از جلد مکمل کرنا چاہئے۔ ملزم ایفیسر کو 7 دن کے اندر اندر جواب داخل کرنا ہوتا ہے اور انکو انٹری ایفیسر روزانہ کے حساب سے کارروائی کرتے گا۔ اگر کارروائی ملتوی کرتا ہے تو 7 دن سے زیادہ ملتوی نہیں کر سکتا ہے اور انکو انٹری ایفیسر 10 دن میں رپورٹ جمع کرنے گا۔

جناب والا!

من ملزم ایفیسر کے خلاف کارروائی کا آغاز مورخہ: 12/02/2019 کو کیا گیا۔ من ملزم ایفیسر کو اول بحوالہ حکم مورخہ: 15/03/2019 ملازمت سے برخاست کیا گیا اور میری سروس اپیل نمبر: 745/2019 مورخہ: 23-06-2021 کو منظور ہوئی اور ناقص انکو انٹری کی بناء پر از سرنو کارروائی کا حکم دیا گیا۔ دوبارہ انکو انٹری ہو کر من ملزم ایفیسر کو بحوالہ حکم مورخہ: 12-11-2021 ملازمت سے برخاست کیا گیا اور میری سروس اپیل نمبر: 217/2022 مورخہ: 06-11-2023 کو ناقص انکو انٹری کی بناء پر از سرنو منظور ہو کر کارروائی کی اجازت دی گئی۔

ابھی پھر چارج شیٹ جاری ہو رہی ہے مورخہ: 12/02/2019 سے لے کر آج تک محکمانہ کارروائی تقریباً پانچ سال کے طویل عرصہ میں ابھی تک مکمل نہ ہوئی۔ لہذا جملہ کارروائی خلاف قانون ہے۔ قانون میں اتنی طویل عرصہ کے لئے محکمانہ کارروائی کی اجازت نہیں ہے۔

جناب والا!

محکمہ نے پہلے تھانہ ہنگو میں ہمارے خلاف بحوالہ FIR نمبر: 1073 مورخہ: 05-09-2019 جرم: 408/409/414/420/424 فوجداری مقدمہ درج کیا ہم نے عدالت سے رجوع کیا جس پر عدالت اور DPP صاحب نے رائے قائم کی کہ مقامی پولیس نے غیر قانونی اپنی کرپشن کے ستمالے میں مداخلت کی ہے۔ لہذا مقامی پولیس نے



مقدمہ عنوان بالا کو کسٹس کر کے ایف بی کرپشن پولیس کے ساتھ طویل خط و کتابت کے بعد آخر تقریباً 4 سال 2 ماہ 11 دن کے بعد مقدمہ عدلت نمبر: 2 مورخہ: 16-11-2023 جرم PC Act (2) 409-408 PPC تھانہ ایف بی کرپشن ہنگو میں مقدمہ درج کیا۔ عدالت عالیہ پشاور ہائی کورٹ نے من ملزم ایف بی کرپشن مورخہ: 29-01-2024 ضمانت پر رہائی دلائی اور حکم میں واضح الفاظ میں تحریر کی کہ من ملزم ایف بی کرپشن کا اس معاملہ کے ساتھ کوئی تعلق نہ ہے۔

جناب والا!

گزشتہ پانچ سالوں سے من ملزم ایف بی کرپشن کو نا کردہ گناہ کے بنیاد پر محکمانہ اور فوجداری کارروائی میں پھنسا یا ہے جس سے من ملزم ایف بی کرپشن کو کافی ذہنی کوفت اور مالی نقصان کا سامنا کرنا پڑتا ہے۔

جناب والا!

من ملزم ایف بی کرپشن کو ابتدائی انکوائری کے دوران بحوالہ نمبر: 45 مورخہ: 13/02/2019 کو کوآرڈر میں بند کیا گیا اور مورخہ: 25/02/2019 رات گئے کوآرڈر سے رہائی ملی۔ من ملزم ایف بی کرپشن 12 یوم بند سلاسل رہا ہے۔ یہ درست ہے کہ پولیس رولز 1975ء کے مطابق کوآرڈر میں بندش محکمانہ سزا ہے مگر من ملزم ایف بی کرپشن کو اسی سزا کے بعد دو دفعہ ملازمت سے بھی برخاست کیا گیا ہے۔ پاکستان کے آئین کے آرٹیکل 13 اور ضابطہ فوجداری کے دفعہ 403 کے مطابق ایک ہی الزام کے پاؤش میں ایک دفعہ کارروائی کی اجازت ہے۔ دوسری کارروائی بالکل منع ہے۔ لیکن من ملزم ایف بی کرپشن کو کوآرڈر میں 12 یوم بندش کی سزا دی گئی اور پھر ملازمت سے بھی برخاست کیا گیا۔

لہذا ایسی کارروائی قانون اور آئین کی خلاف ورزی ہے۔

جناب والا!

- ۱۔ الزامات کے دفاع میں میری صفائی کالب لبا ب ذیل بطور میں درج کی جاتی ہے۔
- ۱۔ من ملزم ایف بی کرپشن بطور ریڈر ڈی۔ ایس۔ پی سیکورٹی تعینات تھا۔ لہذا کورٹ کے ساتھ میز کوئی تعلق نہ تھا۔
- ۲۔ جہاں تک سہیل احمد کے ہوائی بیان کا تعلق ہے انکوائری کمیٹی نے بدینتی سے تحریر کی ہے کیونکہ مورخہ: 12/02/2019 کو یہاں PTC ضلع ہنگو تحریر کرتا بیان ہوتا ہے جبکہ اسی روز سہیل احمد ضلع نوشہرہ میں موجود تھے اور PTC ہنگو میں موجود نہ تھے۔ عدالت کی آڈر شیٹ کی کاپی لف ہے۔
- ۳۔ سہیل احمد پر انکوائریوں پہلی انکوائری + سروس ایبل کی منظوری کے بعد میں من ملزم ایف بی کرپشن کے خلاف کوئی شہادت صفحہ انکوائری پر نہ لائی گئی کہ من ملزم ایف بی کرپشن نے کارٹوس فردخت کئے ہیں یا اس میں کوئی ہاتھ تھا۔

تاریخ: 620/1420ھ

مقام: ~~\_\_\_\_\_~~

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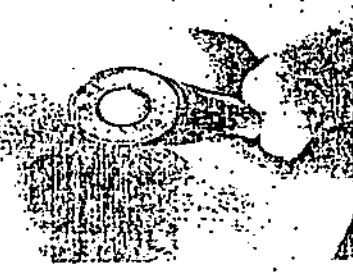
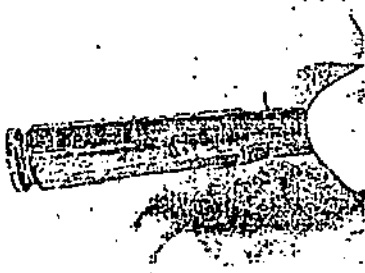
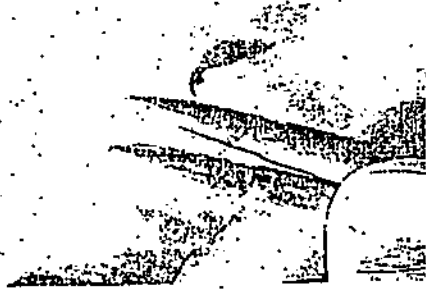
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092229260120: فون نمبر

اداریہ سہولتوں کے سلسلے میں

26



میں نے اس شخص کو دیکھا اور اس نے کہا کہ وہ ایک شخص ہے جس نے ایک گولی چلائی تھی۔  
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12.02.2019

اس شخص نے کہا کہ وہ ایک شخص ہے جس نے ایک گولی چلائی تھی۔

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092229260120

انور احمد

(9)



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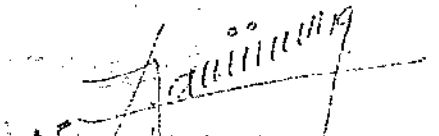


(5)  
از دفتر ایس ڈی پی او صدر سرکل کوہاٹ

فون نمبر: 09229260120

ایک نئے نئے پولیس میں تجربہ کار افسران کے زیر سایہ ملازمت کا تجربہ، افسر اذکار اور کمریکسٹنل افراد کا علاج و مشورہ اور قواعد کانی اور ریت ہونے کی وجہ سے ان کے خلاف واقعاتی ٹھوس ثبوت کا ملنا ناممکن ہے کیونکہ وقوعہ 5/6 سال پرانا اور مزید یہ کہ IHC مطیع اللہ انجمنی پبلک اور ایس آئی آپ کو بچانے کے لئے طرح طرح کے حربے استعمال کرتا رہا ہے۔  
ساتھ انکو انریوں اور موجودہ بیانات میں تضاد ہے اور تمام سابق ریکارڈ کے مطابق مذکورہ IHC مطیع اللہ قصور وار پایا جاتا ہے۔ تاہم اسکی رپورٹ گزارش ہے۔

  
اسٹنٹ ڈیپٹی آف پولیس  
صدر سرکل کوہاٹ

  
سپرٹنڈنٹ آف پولیس، انوسٹی گیشن  
کوہاٹ



"H"

30

OFFICE OF THE  
DISTRICT POLICE OFFICER,  
HANGU

Tel: 0925-623878 Fax 0925-620135

### ORDER

This order is passed on the denovo departmental enquiry against IHC Matiullah No. 225 (conditionally re-instated for the purpose of denovo enquiry) while the then IHC posted at PTC Hangu under the Khyber Pakhtunkhwa Police Rules 1975 (Amendment 2014).

Brief facts of the case are as under:-

1. On 09.01.2019, ASI Abid Ullah of Bannu Region was posted as Law Instructor in PTC Hangu and was entrusted as Incharge Arms & Ammunition (Kot PTC) in-place of ASI Bashir Muhammad of Mardan Region, on 14.01.2019 while taking the charge of PTC ammunition Kot, he observed that a large number of rounds of 7.62 MM (genuine) were short/missing from PTC, Kot as per stock register, The matter was brought into the notice of high-ups of PTC Hangu for taking proper departmental action against the defaulters.
2. On the directions of the then Commandant PTC Hangu a committee was constituted to conduct preliminary enquiry committee.
3. After perusal of the previous enquiry papers and gone through the available record, it was found that accused ASI Abid Ullah, ASI Bashir Muhammad and IHC Mati Ullah were found involved in embezzlement of huge number of ammunition 7.62 mm rounds i.e. 87369 (Eighty Seven thousand three hundred & sixty nine) original of PTC Kot, the embezzled rounds numbering 76285 before the enquiry committee which were deposited in the SMG rounds Kot PTC Hangu. In 76285 round (70000 or above are local made) as per report of Arms & Ammunition export of FSL.
4. The act of defaulter official IHC Mati Ullah No. 225 of two versions i.e.
  - i. Being a member of discipline a force conducted act of negligence & dishonesty.
  - ii. Being a custodian he carried out breach of trust being a public servant. This is an act of crime which was committed intentionally.

The delinquent IHC Matiullah No. 225 was served with charge sheet and statement of allegations under Khyber Pakhtunkhwa Police Disciplinary Rules 1975 (Amendment 2014) vide this office No. 04/EC, dated 06.02.2024 to which he submitted his reply to Mr. Jamil-ur-Rehman, SP Investigation Kohat and Mr. Muhammad Talha ARif, ASP Saddar Kohat who were appointed/nominated as Enquiry Committee to conduct denovo departmental enquiry against him by the AIG/Enquiry, Internal Accountability Branch, Khyber Pakhtunkhwa, Peshawar in light of the judgment Service Appeal No. 217/2022 titled as Mati Ullah Ex-IHC VS PPO KPK & others vide his office Memo: No. 224-28/CPO/IAB, dated 01.02.2024. During the course of enquiry, the committee summoned the delinquent IHC Matiullah No. 225 and given full opportunity of hearing to him, but he failed to submit any justification in his self defence. Hence, Enquiry Committee held him guilty of the charges leveled against him. After completion of enquiry, the Enquiry Committee submitted their findings report received to this office vide Memo: No. 436/PA, dated 06.05.2024. Consequently, the AIG/Enquiry, IAB Khyber Pakhtunkhwa, Peshawar vide letter No.880-



(31)

81/CPO/IAB, dated 16.05.2024 has addressed and issued letter which reveals that the competent authority approved the enquiry finding. Final Show Cause Notice was issued to him vide this office No. 85/EC, dated 23.05.2024. Reply to the show cause notice was received on 30.05.2024 and perused which was found unsatisfactory as well. In this regard, he was called in orderly room on 03.06.2024. He was given full opportunity to explain his position, but no reasonable response submitted by him in his self defence.

According to the available records, I, Muhammad Khalid, (PSP), District Police Officer, Hangu in exercise of powers conferred upon me under the Rules ibid, I agreed with the findings of enquiry committee and he is hereby dismissed from service with immediate effect as per recommendation of Enquiry Committee and approval of competent authority vide letter No. 880-81/CPO/IAB, dated 16.05.2024.

OB No. 244  
Dated: 04/06/2024

  
**DISTRICT POLICE OFFICER,  
HANGU**

No. 2750-56 /EC, dated Hangu the 05/06/2024

Copy of above is submitted for favour of information to the:-

1. Additional Inspector General of Police, Enquiry, Internal Accountability Branch, Khyber Pakhtunkhwa, Peshawar w/r to his office Memo: No. quoted above 628/PA, dated 27.08.2021, please.
2. Regional Police Officer, Kohat Region, Kohat.
3. Commandant, Police Training College, Hangu.
4. EC, PO, Reader & OHC for necessary action.
5. Accused official.

  
**DISTRICT POLICE OFFICER,  
HANGU**

To,

The Regional Police Officer,  
Kohat Region, Kohat.

Subject: - Departmental Appeal

Respected Sir,

With due respect, appellant submits departmental appeal against the over dated 04-06-2024 bearing OB No. 244, passed by learned District Police Officer Hangu in departmental proceedings initiated from service was imposed on appellant.

FACTS:

Factual background of the impugned order is as follows.

1. That appellant was serving district Hangu Police as Head Constable. In the year 2019, appellant was posted as Reader to DSP Security Police Training College Hangu on 09-01-2019 Abidullah ASi of Bannu Region was posted as Incharge ammunition Kot PTC Hangu vice Bashir Ahmad of Mardan Region. It is pertinent to pin point that there are separate Kots for Arms and Ammunition. Abidullah ASi while taking charge of the ammunition pointed not shortage/missing of 87369 genuine rounds of 7.62 Boze in the stock. He reported the matter to the authorities.
2. That a committee was constituted for proper checking and according to the charge sheet (Para-3). The embezzled rounds numbering 76285 before the inquiry committee which were deposited in SMG rounds Kot PTC Hangu. In 76285 rounds (7000 or above are local made) or per report of arms and ammunition expert of FSL
3. That matter of shortage/embezzlement of rounds was relating to the Kot staff who were legal and physical custodian of the ammunition but the lines staff in order to save their skins and to cover the supervisory duties of the Kot also implicated appellant in the matter. The committee allegedly involved appellant on the statement Sohail Nabi Kot recorded on 12-02-2019 but on the same day his presence was on record of court at Nowshera. Similarly Muhammad Israr Ali the then lines officer alleged gave statement against appellant.
4. That appellant was confirmed in quarter guard on 13-02-2019 vide report recorded in daily diary of PTC Hangu serial No. 45 anx was released on 25-02-2019, thus appellant was put behind the bars for 12 days long period.
5. That in addition to award of penalty of 12 days confinement in quarter guard, for the first time on 12-02-2019 disciplinary proceedings on hallowed allegation of commission of negligence in duty and criminal breach of trust and dishonesty were initiated against appellant. Appellant defended the departmental charge but the departmental proceedings culminated in passing the dismissal from service order dated 15-03-2019. Appellant after exhausting departmental remedy filled service appeal No. 245/2019. The service appeal of appellant was accepted vide order dated 23-06-2021 but the department was allowed for de-novo inquiry proceeding as the proceeding against appellant were found defective.
6. That in addition to departmental proceedings criminal case vide FIR No. 1073 dated 05-09-2019 under section 408, 409, 414, 420, 424 PPC police station Hangu was registered against appellant and others. District Police prosecutor Hangu furnished opinion that the matter falls within Jurisdiction of Anti-Corruption establishment therefore the local police may cancel the case. The matter was taken up with Anti-corruption and after lengthy correspondence case FIR No. 2 dated 16.11.2023 under section 408, 409, 34 PPC read with section 5(2) of prevention of corruption Act Police station Anti-corruption Hangu was registered after lapse of 04 years 2 month and 11 days long period.  
The Bail Before Arrest of appellant was re-called and post arrest bait petition was rejected by special judge Anti-corruption respectively. However, the Honorable Peshawar High Court was pleased to accept that bait petition of appellant vide order dated 29-01-2024. Appellant is defending the criminal and departmental charge.
7. That appellant was re-instated in service in compliance with judgment of Service Tribunal and de-novo inquiry proceedings were initiated against appellant. Appellant was once again dismissed from service vide order dated 12-11-2021 and appellant after losing the departmental battle field service appeal No. 2127/2022 which was accepted vide order dated 06-11-2023 and the department was again allowed for de novo inquiry proceedings as illegality and irregularities were detected in the inquiry proceedings.

- 8. That appellant was again re-instated in service and District Police Officer Hangu initiated de-novo inquiry proceedings against appellant. Inquiry committee comprising SP Investigation Kohat and ASP Saddar Circle Kohat was constituted for scrutinizing the conduct of appellant with reference to the charges levelled against appellant.
- 9. That appellant submitted detailed reply in response to the charge sheet but the inquiry committee submitted ambiguous finding report. The final opinion was based on conjectures and surmises without collecting and evidence in support of charge. Similarly appellant submitted plausible reply in response to the final show-cause notice but district police officer Hangu passed the impugned order, hence this departmental appeal on the following grounds.

**GROUND:** -

- a). That the impugned order has been passed against law, facts and evidence on record. District police officer Hangu is the original/lower authority for departmental action against appellant. Charge sheet was issued on his behalf but the base readings of the impugned order reveals that it was not has independent decision but with the approval of competent authority (worthy IGP) vide letter No. 880-81/CPO/iAB dated 16-05-2024.
- b). That the inquiry committee has categorically admitted the start of finding report "that was direct evidence is available against appellant but circumstantial evidence is available". However, in the last para of inquiry again admitted that the matter is about 05 years old therefore no circumstantial evidence was procured. The committee reported appellant guilty on the basis of conjectures and surmises.
- c). That the service Tribunal passed directions vide para 8 of the judgment of provide proper chance of defense, personal hearing and cross examination to fulfill the requirements of fair trial and it is further directed to conclude the de-novo proceedings in 90 days. Admittedly opportunity of defense in shape of reply to the charge sheet was provided to appellant. However, the defense of appellant was neither considered nor rebutted. As regard personal hearing appellant was heard in person on 03-06-2024 while the approval of CPO for award of penalty was received on 16-05-2024 about 17days prior to personal hearing of appellant. All this means that personal hearing was just a formality. No chance of cross-examination of witness was provided to appellant. The de-novo proceedings were completed in 200 days instead of 90 days. Therefore the directions of service Tribunal were completely overlooked.
- d). That the inquiry committee has considered the statement of Muhammad Israr the then lines officer PTC Hangu recorded during initial inquiry. This is on the record that appellant was implicated in the charges on the basis of statement of said lines officer and Sohail Nabi Kot of ammunition. The statement of Sohail Nabi was totally fake as on the day of recording has statement i.e 12-02-2019, he was present in Nowshera Court. Again Muhammad Israr and Sohail were never confronted with appellant in the successive four (04) inquiries (preliminary + 03 regular inquiries). Therefore their statements cannot be used as evidence against appellant.
- e). That Ashaq Ali the then Armorer was examined during the instant inquiry and his earlier statement recorded in the matter is available on the record. His present statement and previous statement are quite different and contradictory all this means that his previous statement was fake.
- f). That appellant was confined in quarter guard on 13-02-2019 and was released on 25-02-2019 but the inquiry committee and others were from quarter guard on 14-02-2019 vide report recorded in the daily diary serial No. 27. The committee was informed that the original daily diary was changed by lines staff and according to original diary dated 14-02-2019 the arrival report of Saeed Khan Si from duty along with strength of police was recorded vide serial No. 27. The inquiry committee did not take notice of the change of the daily diary.
- g). The inquiry committee has relied upon the statements recoiled during previous inquiries, this is on record that the service tribunal declared the previous inquiries as defective therefore these statement cannot be used against appellant.
- h). That neither the committee nor the lower authority considered the plausible, cogent and solid defines grounds submitted by appellant in shape of replies in response to charge sheet and final show-cause notice.
- i). That this is on the record that matter of shortage of rounds was relating to Kot incharge and lines staff and appellant was posted as reader to DSP security but the lines staff in order to sane their skins made appellant as scapegoat.

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j). That the departmental proceedings were first initiated in February 2019 and the same are not final despite lapse of about 05 years long period. Appellant has been implicated in the departmental and criminal charge on no evidence. The law and rules does not allow such long incarceration in departmental charge. Appellant has been deprived of monthly salary for long period and pursue cases in tribunal and criminal courts.

That inquiry committee has admitted that criminal charge also exists against appellant and others on same set of allegations therefore pre-trial opinions of departmental authorities is undesirable.

k). That three regular inquiries were conducted into the matter but no evidence was collected in support of the charges levelled in the charge sheet. The criminal also granted bent to appellant as there was no evidence against appellant. The inquiry committee avoided examination of the investigation officer and record of the criminal case.

l). That appellant pray for personal hearing and advancing additional grounds.

It is therefore requested that appellant may be re-instated in service with all back benefits and oblige.

Yours obediently  
Mati Ullah Ex. HC  
No. 225 District Hangu  
0333-9670670

21-6-24

Enclosures:

Copy of impugned order

J<sup>4</sup> 35

ORDER.

This order will dispose of the departmental appeal preferred by Ex-Head Constable Mati Ullah No.255 of Operation Staff Hangu against the order of District Police Officer, Hangu whereby he was awarded major punishment of dismissal from service by District Police Officer, Hangu vide OB No. 244, dated 05.06.2024.

Brief facts of the case are that appellant, while posted at PTC Hangu, was dealt with departmentally on the charges of misappropriation / embezzlement of Govt property i.e. SMO Rounds along with other officials of different districts. The defaulter officials with accused produced the 76285 Rounds before the Enquiry Committee constituted by Commandant, PTC Hangu, which showed confession of their guilt. He was removed from service vide DPO Hangu OB No. 393 dated 12.11.202. He was re-instated conditionally & provisionally in service for the purpose of de-novo enquiry proceeding by Service Tribunal KP Peshawar.

Proper departmental enquiry proceedings were initiated against him and Superintendent of Police Investigation Kohat and Assistant Superintendent of Police Sadjar, Kohat were appointed as Enquiry Officers vide CPO letter No. 224-28/CPO/IB, dated 01.02.2024. The Enquiry Officers, after fulfillment of codal formalities, submitted their findings wherein the appellant was found guilty of the charges leveled against him. He was, therefore, recommended for suitable punishment under the relevant rules.

Keeping in view the recommendations of the Enquiry Officers and the above cited circumstances of the case, the delinquent officer was awarded major punishment of dismissal from service vide OB No. 244, dated 05.06.2024.

Feeling aggrieved 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 20.08.2024. During personal hearing, the appellant did not advance any plausible explanation in his defense.

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 of dismissal from service awarded by the District Police Officer, Hangu is justified and, therefore, warrants no interference. Hence, appeal of Ex-Head Constable Mati Ullah No.255 is hereby rejected, being devoid of substance and merit.

Order Announced  
20.08.2024

  
Regional Police Officer,  
Kohat Region

No. 6977 /EC, Dated Kohat the 29 /08 /2024

Copy forwarded to District Police Officer, Hangu for information and necessary action w/s to his office Memo: No. 386/LB, dated 13.08.2024. Service Report and Fuji Missal are returned herewith.

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

OF 2024

Mati Ullah

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Police Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Mati Ullah

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** 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. \_\_\_ / \_\_\_ /2024

  
CLIENT

  
ACCEPTED

**MIR ZAMAN SAFI**  
ADVOCATE

OFFICE:

Room No.6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, G.T Road,  
Hashtnagri, Peshawar.  
Mobile No.0333-9991564  
0317-9743003