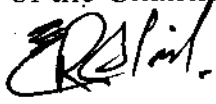


FORM OF ORDER SHEET

Court of _____

Appeal No. 1403/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02-Sep-24	<p>The appeal of Mr. SHAH JAHAN presented today by Mr. MUHAMMAD ABDULLAH BALOCH Advocate. It is fixed for preliminary hearing before Single Bench at D.I.Khan on 16-Sep-24. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP DERA ISMAIL KHAN.

Service Appeal No. 1403 /2024

Shah Jahan
(Appellant)

Versus

District Police officer etc
(Respondents)


Service Appeal

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memorandum of Appeal and affidavit	--	1-6
2.	Copies of CNIC	A	7
3.	Copies of FIR No.100 dated 02/07/2023, better copy of FIR and card of arrest	B B/1 & B/2	8-10
4.	Copies of order sheets and Judgment dated 09/05/2024	C & D	11-39
5.	Copy of application dated 20/05/2024	E	40
6.	Copy of impugned order	F	41
7.	Copy of the departmental appeal along with application of condonation of delay	G & H	42-48
8.	Copy of application to DPO dated 09/08/2023	I	49
9.	Miscellaneous		
10.	Vakalatnama	--	

Dated: 29/08/2024

Your humble appellant


Shah Jahan

Through counsel


MUHAMMAD ABDULLAH BALOCH
Advocate Supreme Court

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP DERA ISMAIL KHAN.**

Service Appeal No. 1403 /2024

Shah Jahan s/o Sultan Ahmed r/o Babar Kacha Tehsil Prova District Dera Ismail Khan, Ex-Constable Belt No. 520 lastly posted at P.S Gomal University D.I.Khan.

Appellant

VERSUES

1. District Police Officer, Dera Ismail Khan.
2. Regional Police Officer, Dera Ismail Khan region.

Respondents

**SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED OFFICE ORDER NO. 7591/EC DATED
27/10/2023 (OB No. 2601 DATED 27/10/2023) WHEREBY THE
APPELLANT HAS BEEN AWARDED "MAJOR PUNISHMENT OF DISMISSAL
FROM SERVICE" AND SERVICE APPEAL AGAINST INDISICION OF THE
DEPARTMENTAL APPEAL OF THE APPELANT.**

Note: That the addresses of the Parties given in the heading of the Petition are true and correct for the purpose of service.

Respected Sir;

1. That before the inflection of punishment by the District Police Officer, DIKhan (dated 27/10/2023), the appellant had been performing his duties as constable No. 520 under the domain of District Police Officer Dera Ismail Khan for last 14/15 years. Copy of CNIC of the appellant is annexed as **Annexure-A.**

2. That the appellant was falsely involved in criminal case FIR No. 100 dated 02/07/2023 under section 148, 149,324, 353 PPC read with 7ATA of P.S CTD DIKhan and was arrested on 14/07/2023. Copies of FIR, better copy of FIR and card of arrest are annexed as Annexure B, B/1 & B/2.
3. That the appellant remained behind the bars and has faced trial before Anti-Terrorism Court, DIKhan and was acquitted by the Worthy Court of Anti-Terrorism Court, DIKhan, vide Judgment dated 09/05/2024. Copies of order sheets and judgment are annexed as Annexure C & D.
4. That the appellant after being release from jail got attested copies of judgment and appeared before the DPO, DIKhan/respondent No. 1 for assigning his duties, where the appellant got knowledge that competent authority, district police officer (DPO D.I.Khan) had already issued **impugned Office order No. 7591/EC Dated 27/10/2023 (OB No. 2601 Dated 27/10/2023) whereby appellant was awarded "MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE"**.
5. That the appellant then applied for attested copies of impugned order and received on same date i.e 20.05.2024. Copies of application and impugned order dated 27/10/2023 are annexed as "Annexure E & F".
6. That thereafter, the appellant filed departmental appeal along with another application for condonation of delay to the appellate authority (Regional police officer, D.I.khan region), on 21/05/2024. Copy of the departmental appeal and condonation of delay are annexed as "Annexure- G & H".
7. That up till now no response has been shown from the respondents and after the laps of statutory period of departmental appeal, cause of action has been accrued to the appellant for instant service appeal, hence, the instant service appeal is being filed, inter alia on the following grounds.

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GROUNDS

1. That the impugned office order No. 7591/EC Dated 27/10/2023 (OB No. 2601 Dated 27/10/2023) is against law, against service rules, void and is in sheer violation of KP Police rules, 1975 (amended 2014) and KP Government Servant (E&D) rules 2020.
2. That appellant has not been treated according to the law as no prescribed procedure was adopted. No show cause notice, statement of allegations or any final show cause notice was ever issued or delivered to the appellant.
3. That appellant has been victimized by ignoring the well elaborated principle of *audi altrem partem* as he was condemned unheard and no opportunity of personal hearing was given to the appellant. The appellant has not been given opportunity of fair trial enshrine under article 10-A of the Constitution of the Islamic Republic of Pakistan 1975.
4. That it is evident from the impugned order dated 27/10/2023 that the department was in knowledge about the arrest of appellant but even then no notice or other information were conveyed to the appellant for making his defense. That though card of arrest showing the date of arrest of the appellant as 30/08/2023 but the true fact is that the appellant was arrested on 14/07/2023. The appellant was kept under illegal custody without preparing card of arrest. The fact is true and evident as family members of the appellant were worried about the missing of the appellant. Wife of the appellant had also submitted an application to the DPO, DIKhan on 09/08/2023. Copy of the application is annexed as Annexure "I".
5. That, besides not issuing any charge sheet or statement of allegations, no formal inquiry was conducted as impugned order merely reflecting that inquiry officer just informed the competent authority about the fact of

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arrest of appellant in criminal case and secondly recommended that inquiry be kept pending till decision of the criminal case. The recommendation of the inquiry officer clearly reveals that no formal inquiry was conducted by him. Moreover, copy of inquiry was also not handed over or confronted with the appellant but even then the competent authority awarded major punishment. The competent authority not only disagreeing with the recommendation of the inquiry officer rather had not given any reason/rational behind such disagreement.

6. That appellant never remained willful absent from his duties till his arrest by CTD Officials and to that effect the DPO, DIKhan was also informed as per law even by the inquiry officer but even then the appellant has been proceeded against and considered as absent from duty.
7. That the impugned order is patently illegal, void ab-initio, unwarranted and legally not sustainable in the eyes of law on the ground that appellant was penalized on the allegations of absence, as such absence was beyond the control of appellant and appellant was under legal disability and absence was neither unauthorized nor willful, Thus, infringing the valuable vested rights of the appellant and is liable to be set aside on this score alone.
8. That while considering the above mentioned true and real facts. The punishment is so harsh and does not commensurate with the allegations.
9. That appellant was falsely involved in criminal case and has been acquitted by the court of competent jurisdiction.
10. That the impugned order is not sustainable in the eye of law being technically incorrect besides wrong mentioning of date of FIR, the dates of absent period has not correctly been mentioned or explained.

Original

5

11. That this Hon'ble Tribunal is competent and has ample powers to adjudge the matter under Appeal.
12. That the counsel for Appellant may be allowed to argue additional grounds at the time of arguments.

It is, therefore, respectfully prayed that on acceptance of this appeal, IMPUGNED OFFICE ORDER 7591/EC Dated 27/10/2023 (OB No. 2601 Dated 27/10/2023) WHEREBY THE APPELLANT HAS BEEN AWARDED "MAJOR PUNISHMENT OF DISMISSAL FROM SERVICE" may kindly be set aside. The appellant may kindly be re-instated into service with all back benefits throughout.

Any other relief deemed appropriate in circumstances of the case may also be allowed in favour of appellant in the large interest of justice.

Dated: 29/08/2024

Yours Humble Appellant

Shah Jahan
Shah Jahan

Muhammad Abdullah Baloch
Through Counsel

MUHAMMAD ABDULLAH BALOCH
Advocate Supreme Court
Dera Ismail Khan
(0314693255)

6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR AT CAMP DERA ISMAIL KHAN,

Service Appeal No. _____/2024

Shah Jahan
(Appellant)

Versus

District Police officer etc
(Respondents)

Service Appeal

VERIFICATION

Verified that at D.I.Khan, this 29th day of August, 2024, that all contents of the above appeal are true and correct and appellant have not filed an appeal regarding the subject controversy, earlier in this august Tribunal.

Dated: 29/08/2024

Shah Jahan
Appellant

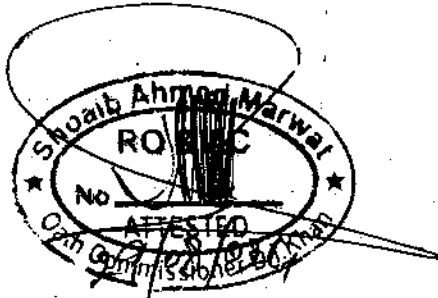
AFFIDAVIT

I, **Shah Jahan**, appellant herein, do hereby solemnly affirm on oath that all parawise contents of the accompanying appeal are true and correct to the best of my knowledge, belief and information; that nothing has been concealed or kept secret from this worthy Tribunal.

/08/2024

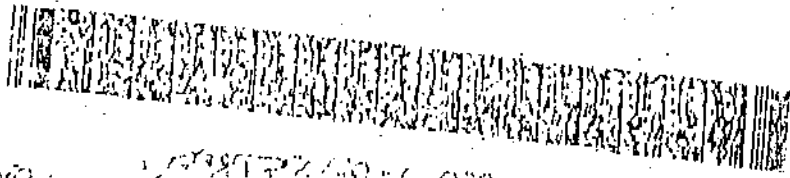
Shah Jahan
Deponent

1267-4961674-5



Attested to be
a True Copy

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2011/2/2021
2011/2/2011



S98P42
12101-4981674-5



12101-4981674-5



Annex A

7

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انتظامی اطلاع

1	02/07/2023	02/07/2023
2	09-15-09	09-15-09
3	07-09-09	07-09-09
4	07-09-09	07-09-09
5	07-09-09	07-09-09
6	07-09-09	07-09-09
7	07-09-09	07-09-09

100

ANTI TERRORISM COURT
D. KHAN (Division)
02/07/2023



انتظامی اطلاع

Amex-8

(8)

ابتدائی اطلاع رپورٹ

ضلع ڈیرہ اسماعیل خان

تھانہ CTD

نمبر 100

تاریخ وقت 02/07/23 وقت 06:30 بجے 07:20 بجے۔

1۔ تاریخ وقت رپورٹ 02/07/23 وقت 07:40 بجے چاکی ملی 02/07/23 وقت 09:15 بجے۔

2۔ نام و سکونت اطلاع دہندہ مستغیث محمد یوسف خان ASHO تھانہ کلاچی

3۔ مختصر کیفیت مجرم (معدومہ) PPC 324-393-148-149 & 7ATA

4۔ چائے و قاعدہ فاصلہ تھانہ سے اور سمت محل پراسوں نزد سماں کی زارت کلاچی جانب: ذب ہا سبلا تقریباً 65/66 کلومیٹر (تھانہ

5۔ نام و سکونت ملزم (ا) اکرام ولد توران (2) احمد خان ولد عزیز (3) سعید ولد سیف الرحمان (ہلاک زدہ

بیشکرت) معدومہ 4/5 دستگرد نامعلوم

6۔ کارروائی جو تفتیش کے متعلق کی گئی ہو۔ برسیڈ کی مراسلہ پر چوڑا چاک ہوا

بے تھانہ سے درجائی کی تاریخ وقت۔ جرنل کیشنل رپورٹ۔

ابتدائی اطلاع شیچہ درج کردہ

تقریبی مراسلہ محمد یوسف خان ASHO تھانہ کلاچی بغرض قائمہ مقدمہ بدست کانسٹیبل محمد رمضان 0703 موصول ہو کر
 دی گئی ہے۔ امروز میں سعید نفری پولیس کے سواری گاڑی سرکاری ہانے کے گشت پر تھا بدوران گشت اطلاع ملی کہ سیکورٹی
 فورسز، البرق فورس CTD پولیس ڈیرہ اور بشکرتوں کے درمیان فائرنگ شروع ہے جو اس اطلاع پر میں سعید نفری
 پولیس کے فوراً موقع پر پہنچا کارروائی فورسز، البرق فورس CTD پولیس اور بدشت گردوں کے درمیان فائرنگ کا تبادلہ
 رک چکا تھا تقریباً 30/35 منٹ فائرنگ کا تبادلہ جاری رہا، سیکورٹی فورسز، البرق فورس CTD پولیس کھلی جھن
 بیٹ آپریشن کے سلسلہ میں جب جائے وقوعہ بالا پر پہنچے تو 7/8 دہشت گرد تنظیم TTP گنڈہ پور گروپ نے باہت
 قتل سیکورٹی فورسز، البرق فورس CTD پولیس پر فائرنگ شروع کر دی جو سیکورٹی فورسز، البرق فورس CTD پولیس
 نے بھی حفاظت خود اختیار کی کے خاطر جوابی فائرنگ کی جن میں فائرنگ سے TTP گنڈہ پور کے 3 دہشت گرد ہلاک
 ہوئے اور 4/5 دہشت گرد جنگل پراسوں کا فائدہ اٹھاتے ہوئے فرار ہونے میں کامیاب ہوئے جو ہلاک زدہ دہشت
 گردوں کی نشاندہی ہو سکتی ہے۔ اس کے ساتھ ساتھ کلاچی کے جو بذریعہ سرورس معلوم ہوا کہ ہلاک زدہ دہشت
 گردوں میں سے (1) اکرام ولد توران قوم ملی ٹیل عملدرا نازی، (2) احمد خان ولد عزیز قوم میرانی محلہ بہلول ٹیل، (3) سعید
 خان ولد سیف الرحمان قوم حدود خیل سکنا نے کلاچی ہلاک ہوئے ہیں۔ دہشت گرد تنظیم TTP گنڈہ پور گروپ
 سیکورٹی فورسز، البرق فورس CTD پولیس پر بدعتی قتل اسلحہ بمومیشن کے فائرنگ کرنے اور عوام الناس میں خوف و
 ہراس پھیلانے کا مرتکب جرائم بالا کا پانچ مراسلہ بغرض قائمی مقدمہ بدست کانسٹیبل محمد رمضان 18703 ارسال تھانہ
 CTD ڈیرہ اسماعیل خان ہے۔ مقدمہ درج دستگرد کے تفتیش کا بندوبست کیا جاوے۔ دستگرد انگریزی محمد یوسف خان
 ASHO تھانہ کلاچی مورخہ 02/07/23 کارروائی تھانہ سے مراسلہ صرف، فائرنگ درج بالا ہو کر چوڑا چاک ہوا بالابریخلاف
 ملزمان بالا چاک ہو کر قتل FIR بغرض تفتیش حوالے انسپکٹر مشرق خان INV شاف CTD ڈیرہ راجن اکی جاتی ہے۔
 چوڑا چاک ہوا کیشنل رپورٹ گزارش ہے۔

(Signature)
 Attested to be
 a True Copy

EXAMINOR
High Court Bench,
Dera Ismail Khan

ALISTE

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JUDGE
ANTI-TERRORISM COURT
D.I.KHAN (DIVISION)
22/01/2014 - 10/01/2014

86-00-023
P3H0/C7D/2014

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(11)

Annexure-C

In The Court Of Suhail Sheraz Noor Saani
Judge Anti-Terrorism Court, D.I.Khan

Criminal Case No. 04 /2024

The State through Muhammad Yousaf Khan ASHO

Versus

Muhammad Naeem etc



Or -- 01
18.01.2024

Dy.PP. Zafar Ali Khan for the State present. Challan for trial against accused Muhammad Naeem son of Nizam ud Din, Muhammad Fahim son of Nizam ud Din, Qari Muhammad Shafique son of Sadiq and Shah Jahan son of Sultan Ahmad while challan for proceedings u/s 512 Cr.P.C submitted against accused Zohaib alias Kakai son of Nasir ur Din and Subhan son of Muhammad Iqbal. Similarly, abatement of proceedings has been submitted against accused Ikram son of Hidayatullah, Juma son of Aziz and Saood son of Saif ur Rehman in case FIR No.100 dated 02.07.2023 U/Ss. 324/353/148/149 PPC / 7ATA of Police Station CTD D.I.Khan. Be registered.

Accused Muhammad Fahim and Shah Jahan present before the Court in custody; section 265-C Cr.P.C complied with. As per record accused Muhammad Naeem and Qari Muhammad Shafique are on bail, hence notices be issued to both the said accused and their sureties for 20.01.2024. NBWA be issued against accused Zohaib alias Kakai son of Nasir ur Din and Subhan son of Muhammad Iqbal. In case both the said accused are not arrested/traced out then the DFC concerned shall personally attend the Court and record his statement. Moreover, CW be also summoned for the date fixed.

~~Suhail Sheraz Noor Saani~~
Suhail Sheraz Noor Saani
Judge,
Anti-Terrorism Court,
D.I.Khan
18/01/24

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

12



Or ---02
20.01.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail, section 265-C Cr.P.C complied for them. Mr. Ghulam Asghar advocate submitted Wakalatnama on behalf of accused Muhammad Naeem and Muhammad Faheem. MS. Saif-ur-Rahman Khan and Muhammad Nauman advocate submitted joint Wakalatnama on behalf of accused Qari Muhammad Shafique. MS Saleem Ullah Khan Ranazai and Tanveer Ahmad advocates jointly submitted Waklatnama on behalf of accused Shah Jehan. As per record proceedings u/s 204 Cr.P.C and 87 Cr.P.C has been initiated against accused Zohaib and Subhan. Today, DFC present before the Court and submitted his report that accused Subhan has already died, in this regard report from SHO concerned be also requisitioned for date fixed. Notice be issued to SW and CW concerned for 24.01.2024.

محمد شفیع

محمد شفیع

B.Sheraz

~~Sunil Sheraz Noor Saani~~
Judge,
Anti-Terrorism Court,
D.I.Khan

(Cont...)

Mr. IES
27-08-2024
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan



Or --- 03
24.01.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. MS. Saleem Ullah Khan Ranazai and Tanvir Ahmad Baloch advocates present for accused Shah Jehan.

Statement of Karam Elahi Inspector Police Station CTD recorded as CW-1 from which it is evident that accused Ikram son of Hidaytaullah, Juma son of Abdul Aziz and Saood son of Saif ur Rehman had already died during the incident, and in this respect he has submitted report regarding abatement of the proceedings against said accused persons. In light of the statement of said CW-1, the proceedings against the above named three accused persons are hereby abated.

Statement of constable Nasib Ullah No.719 recorded as SW-1 from which it is evident that accused Zohaib alias Khaki son of Nasir ud Din and Subhan son of Muhammad Iqbal have gone into hiding and there is no prospect of their arrest in near future, hence proceedings u/s 512 Cr.P.C are initiated against both the said accused and prosecution is allowed to produce evidence in their absentia.

File to come up for framing of charge against accused Muhammad Faheem, Shah Jehan, Muhammad Naeem and Qari Muhammad Shafique on 26.01.2024. Accused are directed to produce their counsel for date fixed.

~~Suhail Sheraz Noor Saani~~

Judge.

Anti-Terrorism Court,

D.I.Khan

24/01/24

EXAMINER
Peshawar High Court Bench,
Dera Ismail Khan



Or --- 04
26.01.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced in custody. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the above named accused present.

DFC Abdul Ghafoor 564, Police Station Kulachi D.I.Khan present, whose statement recorded as SW-2, from which it is evident that one of the absconding accused namely Subhan son of Muhammad Iqbal has already died, hence proceedings against said accused are hereby abated.

Charge against all the accused facing trial framed, to which they pleaded not guilty and claimed trial.

All the PWs be summoned with case property for 30.01.2024.

~~Suhail Sheraz Noor Saani~~
Judge,
Anti-Terrorism Court,
D.I.Khan

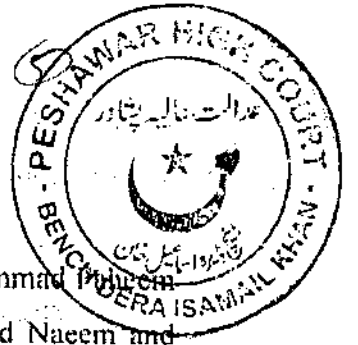
Or --- 05
30.01.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Mr. Saleem ullah Ranazai Advocate present for accused Shahjehan. Mr. Ghulam Asghar Advocate for accused Muhammad Naeem present. Accused Qari Muhammad Shafique requested for adjournment due to non-availability of his counsel. PWs Yaseen Khan SI. Karam Elahi ASI and constable Muhammad Ayub present but could not examined due to above reason. PP given.

All the remaining PWs be summoned with case property for 01.02.2024.

~~Suhail Sheraz Noor Saani~~
Judge,
Anti-Terrorism Court, D.I.Khan


EXAMINER
Peshawar High Court Bench,
D.I. Khan



Or --- 06
01.02.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Naeem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Junior counsel for counsel for accused Shahjahan present and requested for adjournment that senior counsel has gone to august Supreme Court of Pakistan, adjourned. Counsel for remaining accused present. PWs Ayub constable, Hidayatullah son of Rahmatullah and Rahmatullah son of Abdul Aziz present but could not examined due to above reason. PP given to them. Remaining PWs absent. process returned. to procure attendance. NBWA be issued against all the remaining PWs with case property for 06.02.2024.

ISSUED


Suhail Sheraz Noor Saani


Judge.

Anti-Terrorism Court, D.I.Khan

Or --- 07
06.02.2024


Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Mr. Ghulam Asghar Khan Baloch Narmalang Advocate submitted vakalatnama on behalf of accused Qari Muhammad Shafique. All the accused requested for adjournment that due to obituary of martyrdom of 10 police officials in an attack at police station Chudwan. D.I.Khan. the advocates are not appearing before the Courts. Adjourned. PWs constable Babar Sohail, constable Muhammad Ramzan, constable Muhammad Fiyaz, constable Muhammad Waheed and ASI Karam Elahi present but could not examined due to above reason. PP given to them. All the remaining PWs with case property be summoned for 10.02.2024. Date is fixed as per diaries of counsel for accused facing trial.

ISSUED


Suhail Sheraz Noor Saani

Judge.

Anti-Terrorism Court, D.I.Khan


EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan



Or --- 08
10.02.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Naeem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Mr. Ghulam Asghar Khan Baloch Advocate present for accused Qari Muhammad Shafique. PWs Hidayat Ullah son of Rahmat Ullah and Naimat Ullah son of Abdul Aziz present, however, abandoned by the state counsel, similarly learned stated counsel abandoned PW Saif Ullah son of Abdul Rahman, to this effect his statement recorded and placed on file. Remaining PWs absent, be summoned with case property for 19.02.2024. Date is fixed as per diaries of counsel for accused.

Issued

~~Suhail Sheraz Noor Saani~~
Judge.
Anti-Terrorism Court, D.I.Khan

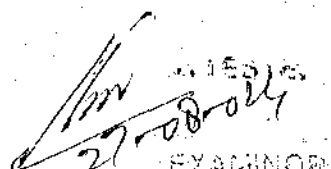
Or --- 09
19.02.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused present. statement of PW-1 Karam Elahi ASI recorded. PWs Babar Sohail No.1300, Sahib Noor No.721, Fiyaz Ahmad 1283 and ASHO Fida Ullah present, but could not examined as the learned state counsel requested time to go through the record, granted. PP given to them. Remaining PWs absent, be summoned with case property for 22.02.2024. Date is fixed as per diaries of counsel for accused.

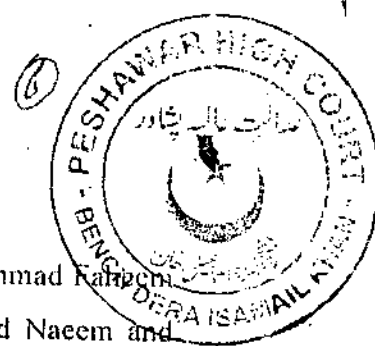
Issued

~~Suhail Sheraz Noor Saani~~
Judge.
Anti-Terrorism Court, D.I.Khan

(Contd)


EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

17



Or --- 10
22.02.2024

Dy.PP Zafar Ali.Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused present. Statement Yassen Khan SI recorded as PW-2. Examination in chief of PWs Fida Ullah SI PW-3 and of constable Fayaz Ahmiad No. 1283 PW-4 recorded whereas for cross examination both the learned defence counsel requested for time. granted. PP given to both the said PWs. Remaining PWs absent. be summoned with case property for 29.02.2024. Date is fixed as per diaries of counsel for accused.

Issued

Suhail Sheraz Noor Saani
Judge.
Anti-Terrorism Court, D.I.Khan

Or --- 11
29.02.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused present. PW Muhammad Yousaf SHO/complainant present but could not examined as learned defence counsel requested for time to go through the record and to record statement of said PW alongwith the other PWs of the same set. PP given to the said PW. Remaining PWs are absent. be summoned with case property for 02 03.2024. DFC is directed to ensure the service upon the PWs.

Issued

Suhail Sheraz Noor Saani
Judge.
Anti-Terrorism Court, D.I.Khan

27.08.2024
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan



Or --- 12
02.03.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused present. PWs Constable Fayaz, Constable Muhammad Ayub and Constable Muhammad Maherban present but could not be examined as learned defence counsel requested that the said PWs be examined with the PW Fida Ullah being one set of witnesses. PP given to them. Said PW alongwith the other PWs be summoned with case property for 19.03.2024. DFC is directed to ensure the service upon the PWs.

~~Suhail Sheraz Noor Saani~~
Judge.
Anti-Terrorism Court, D.I.Khan

Or --- 13
19.03.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for accused Shah Jehan present. PWs are absent, process returned served. To procure attendance NBWA be issued against all the remaining PWs with case property for 26.03.2024. DFC is directed to execute the warrants and produce the PWs. Date is fixed as per diaries of counsel for accused.

~~Suhail Sheraz Noor Saani~~
Judge.
Anti-Terrorism Court, D.I.Khan

(Cont--)


27/03/24
EXAMINOR
Peshawar High Court Bench
Dera Ismail Khan



Or --- 14
26.03.2024

Dy. PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused facing trial present. Cross-examinations of PW-3 and PW-4 i.e. Fida Ullah SI and constable Muhammad Ayaz respectively, recorded. Learned State counsel abandoned PWs constable Abdul Waheed No.784, constable Malik Naveed No.1808, constable Babar Sohail No.1300, constable Sahib Noor No.721 and constable Muhammad Ayub No.1279, to this effect his statement recorded and placed on file. Remaining PWs are absent, process returned. To procure attendance NIWA be issued against all the remaining PWs with case property for 01.04.2024. Date is fixed as per diaries and request of counsel for accused.

Issued


Suhail Sheraz Noor Saani

Judge.

Anti-Terrorism Court, D.I. Khan

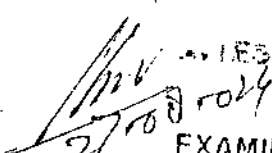
Or --- 15
01.04.2024

Dy. PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused facing trial present. Statements of PWs Constable Muhammad Ramzan, Inspector Muhammad Mushtaq and SHO Muhammad Yousaf Khan recorded as PW-5 to PW-7 respectively. Learned Deputy PP for the state abandoned the remaining PWs and closed the prosecution evidence, to this effect his statement recorded and placed on file. To come up for statements of all the accused facing trial u/s 342 Cr.P.C on 03.04.2024.


Suhail Sheraz Noor Saani

Judge.

Anti-Terrorism Court, D.I. Khan


EXAMINOR
D.I. Khan High Court Bench,
Dera Ismail Khan

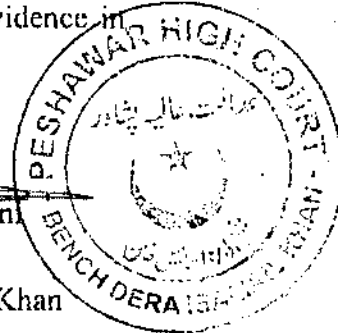
Or --- 16
03.04.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced in custody. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all the accused facing trial present. Statement of all the accused facing trial recorded u/s 342 Cr.P.C. neither they wished to be examined on oath nor wanted to produce evidence in defence. To come up for arguments on case on 05.04.2024.

~~Suhail Sheraz Noor Saani~~

Judge,

Anti-Terrorism Court, D.I.Khan



Note Reader
05.04.2024

Dy: PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jahan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. The learned Presiding Officer is on casual/station leave. therefore, file to come up for previous proceedings on 16.04.2024.

9
(Reader)

Or --- 17
13.04.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced in custody. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Arguments could not be heard as counsel for accused submitted adjournment application on the ground mentioned therein. granted. To come up for arguments on case on 19.04.2024

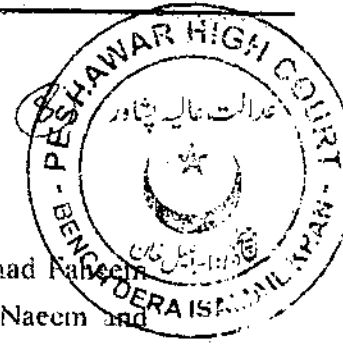
~~Suhail Sheraz Noor Saani~~

Judge,

Anti-Terrorism Court, D.I.Khan


(cont.)

27-08-2024
EXAMINOR
Peshawar High Court Bench
Dera Ismail Khan



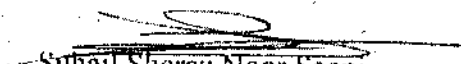
Or --- 18
19.04.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Naeem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all accused facing trial present. Learned State counsel requested for time to go through the record, upon no objection at the bar from the opposite side, time granted. To come up for arguments on case on 27.04.2024.

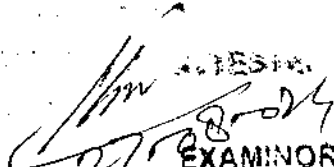

Suhail Sheraz Noor Saani
Judge.
Anti-Terrorism Court, D.I.Khan

Or --- 19
27.04.2024

Dy.PP Zafar Ali Khan for the State present. Accused Muhammad Faheem and Shah Jehan produced through video link. Accused Muhammad Naeem and Qari Muhammad Shafique present on bail. Learned counsel for all accused facing trial present. Arguments on case from both the sides heard. To come up for order on 09.05.2024.


Suhail Sheraz Noor Saani
Judge.
Anti-Terrorism Court, D.I.Khan

(Cont--)


EXAMINOR
Peshawar High Court Bench
Dera Ismail Khan

32

IN THE COURT OF SUHAIL SHERAZ NOOR SAANI
JUDGE, ANTI-TERRORISM COURT, D.I.KHAN

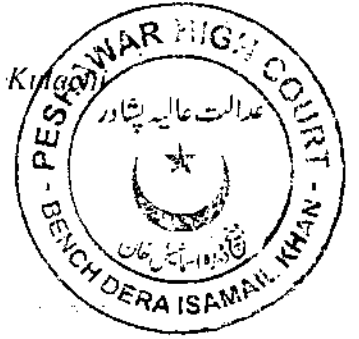
Criminal Case No.04 of 2024

The State through Muhammad Yousaf Khan ASHO P.S K...

Versus

Muhammad Naeem etc

FIR No. 100, dated 02.07.2023
U/Ss. 324/353/148/149PPC, 7ATA
P.S CTD, D.I.Khan



Or-----20
09.05.2024

Dy.PP Kifayat Ullah Khan Burki for the State present. Accused Muhammad Faheem and Shah Jehan produced in custody, while accused Muhammad Naeem and Qari Muhammad Shafique on bail present.

Arguments on case from both the sides already heard and record gone through.

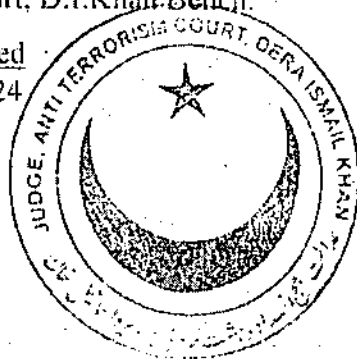
Vide my detailed judgment of the even date, placed on file, by extending benefit of doubt, the accused facing trial namely Muhammad Naeem son of Nizam ud Din, Muhammad Fahim son of Nizam ud Din, Qari Muhammad Shafique son of Sadiq and Shah Jahan son of Sultan Ahmad are hereby acquitted of all the charges levelled against them. Accused Muhammad Fahim and Shah Jahan are in custody, be released forthwith, if not required in any other case/offence. Accused Muhammad Naeem and Qari Muhammad Shafique are on bail, they are discharged from the liability of their bail bonds and their sureties are absolved too.

So for absconding accused Zohaib alias Kakai son of Naseer ur Din is concerned, as per record prima facie case exists against him, he is declared as proclaimed offender, his names be entered in the relevant register and concerned authorities be informed accordingly. Perpetual warrant of arrest be issued against him.

Case property shall remain intact till the arrest and disposal of case against the above named proclaimed offender.

File of this court be transmitted to the record room of Hon'able Peshawar High Court, D.I.Khan Bench.

Announced
09.05.2024



Suhail Sheraz Noor Saani
Judge.

Anti-Terrorism Court, D.I.Khan
JUDGE
ANTI TERRORISM COURT
D.I.KHAN (DIVISION)

Perpetual Warrant
Issued
09/05/2024

[Signature]
27-08-24
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

IN THE COURT OF SUHAIL SHERAZ NOOR SAANI
JUDGE, ANTI-TERRORISM COURT, D.I.KHAN

Criminal Case No. 04 of 2024

Date of Institution 18.01.2024

Date of Decision 09.05.2024



The State through Muhammad Yousaf Khan ASHO P.S Kulachi.

(Complainant)

Versus

1. Muhammad Naeem s/o Nizam-ud-Din Caste Dholka, aged 24/25 years r/o Pir Panjan Shahi Tehsil Daraban, District D.I.Khan.
2. Muhammad Faheem s/o Nizam-ud-Din Caste Dholka, aged 18/19 years r/o Pir Panjan Shah Tehsil Daraban, District D.I.Khan.
3. Qari Muhammad Shafique s/o Muhammad Sadiq Caste Awan, aged about 30/31 years, r/o Mohallah Ranazai Kulachi, District D.I.Khan.
4. Shah Jehan s/o Sultan Ahmad aged about 33/34 years r/o Basti Jhamp Babbar Pakka Paroa, District D.I.Khan.

(Accused Facing Trial)

FIR No. T00
Dated. 02.07.2023
Registered U/Ss. 324/353/148/149 PPC /7ATA
Police Station. CTD, D.I.Khan

Present: Mr. Zafar Ali Khan, Deputy PP for the State.

Mr. Ghulam Asghar Baloch Advocate, for accused Muhammad Naeem, Muhammad Faheem and Qari Muhammad Shafique.

M/S. Salim Ullah Khan Ranazai Advocate and Tanveer Ahmad Baloch Advocate, for accused Shah Jehan.

JUDGE
ANTI-TERRORISM COURT
D.I.KHAN (Division)

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

24

JUDGMENT

On 02.07.2023, Muhammad Yousaf Khan ASHO of police station *Kutachi* alongwith other police personnel was on *gash*, received information that there is firing between security forces, *Al-Burq* Force and Counter Terrorism Department Police D.I.Khan and terrorists. On said information, he reached at *jungle perasu* near *Bukhari Ziart*, *Kutachi* where there was a cease fire and he was informed that when the stated security forces reached at the said place for intelligence based operation, 7/8 terrorists of *TTP Gandapur* group made firing at the security forces and in response thereof they also fired at the terrorists whereby three terrorists died while remaining decamped from the spot and took with them bodies of the dead terrorists as well as arms and ammunition. The source disclosed names of said dead terrorists as Ikram s/o Hidayat Ullah, Juma Khan s/o Aziz and Saood s/o Saif-ur-Rahman. Further that the said proscribed organization, with the intention to commit *qatl-e-amid* and to create terror in the society made firing at the security forces. Report regarding the incident was incorporated in the shape of *murasilah*, which was sent through constable Muhammad Ramzan 8073 to police station CTD D.I.Khan where on the same date at 0915 hours FIR No.100 was registered under sections 324/353/148/149 of the Pakistan Penal Code, 1860 and under section 7 of the Anti-Terrorism Act, 1997 against the unknown terrorists including the said dead terrorists.

- Investigation in the case was initiated and during investigation accused Faheem s/o Nizam-ud-Din, Muhammad Naeem s/o Nizam-ud-Din, Shah Jehan s/o Sultan Ahmad, Zohaib alias Kakai s/o Naseer-ud-Din, Qari Shafique s/o Sadiq and Subhan s/o Muhammad Iqbal were indicted

09/05/2024
ANTI TERRORISM COURT
D.I.KHAN

27/08/2024
Muhammad Naeem
D.I.KHAN

for the commission of offences. After completion of investigation, *challan* against all the accused was submitted for proceedings u/s 512 Cr.P.C. however, later on accused Muhammad Naeem, Muhammad Faheem, Qari Muhammad Shafique and Shah Jehan were arrested and thereafter completion of investigation against them supplementary *challan* for trial was submitted. On the basis of statement of Constable Nasib Ullah No.719, as SW-1, proceedings under section 512 Cr.P.C was initiated against accused Zohaib alias Kakai and Subhan, and prosecution was allowed to produce and record evidence in their absentia. However, on the basis of statements of Abdul Ghafoor DFC No.564 as SW-2, and Karam Elahi Inspector as CW-1, proceedings against accused Subhan s/o Muhammad Iqbal, Ikram son of Hidayatullah, Juma Khan son of Abdul Aziz and Saood son of Saif ur Rahman were abated being dead. Charge against the accused facing trial was framed to which they pleaded not guilty and claimed trial. To prove the charges against them, prosecution produced seven witnesses. Brief of their statements is as follow:-

3. Karam Elahi ASI P.S CTD D.I.Khan appeared as PW-1 and stated that he is marginal witness to recovery memo, Ex.PW1/1, vide which the Investigating Officer during spot inspection secured blood through cotton from points A,B,C of the dead terrorists namely Ikram s/o Hidayat Ullah, Juma Khan s/o Aziz and Saood s/o Saif-ur-Rahman, that the Investigating Officer sealed the blood taken from point A in parcel No.1, blood taken from point B in parcel No.2 and blood taken from point C in parcel No.3, that the Investigating Officer took into his possession eight empties of 7.62 bore lying in scattered position and sealed the same in parcel No.4, that the Investigating Officer also took into his possession ten empties of 7.62 bore lying in scattered position from the places of CTD police and

sealed the same in parcel No.5, that the Investigating Officer sealed all the parcels by affixing 3/3 seals in the monogram of "N", that on 06.09.2023, Incharge CFU handed over to the Investigating Officer 13 pages of CDR with I-2, in this regard the Investigating Officer prepared recovery memo, Ex.PW1/2, to which he is also a marginal witness. that on 27.07.2023, he alongwith Investigating Officer and other police party raided the houses of accused Shah Jehan, Qari Shafique, Muhammad Naeem and Muhammad Faheem, neither the accused were found there in their houses nor any incriminating items were recovered, that the Investigating Officer prepared search memos, Ex.PW1/3, Ex.PW1/4 and Ex.PW1/5, respectively in this regard. Further that on 07.09.2023, during interrogation the accused Shah Jehan, Qari Shafique, Muhammad Naeem and Muhammad Faheem admitted the commission of offences before the Investigating Officer and were willing to point out the spot to the Investigating Officer, that the accused party led the Investigating Officer and police party to the spot where they pointed out to Investigating Officer the places of dead terrorists/accused and also pointed out their own places at the time of occurrence, that in this respect, the Investigating Officer prepared pointation memo which is Ex.PW1/6, that he was also entrusted with the notices issued u/s 160 Cr.P.C against the accused Shah Jehan, Muhammad Naeem, Muhammad Faheem, Qari Muhammad Shafiq, Zohaib alias Kakai and Subhan which are Ex.PW1/7 to Ex.PW1/12 respectively. PW further stated that he was examined by the Investigating Officer u/s 161 Cr.P.C, and that all the above mentioned documents are correct and correctly bear his signatures.

4. Yaseen Khan SI, Police Station CTD D.I.Khan appeared as PW-2 and stated that during the days of occurrence, he was posted as *Moharrir*

JUDGE
ANTI
27/08/2024

EXAMINER
Dera Ismail Khan

at Police Station CTD D.I.Khan. that on 02.07.2023, constable Muhammad Ramzan No. 8703 brought the *Murasila* from ASHO Muhammad Yousaf Khan and handed over to him in Police Station CTD D.I.Khan, that he incorporated its contents in to FIR, Ex.PA/1, and handed over copy of FIR to Investigating Officer, that the case property was also handed over to him, the detail of which he mentioned in Register-19, Ex.PW2/1, for safe and proper custody, that he sent the blood stained articles i.e. parcels No.1, 2 and 3 to FSL Peshawar through road receipt/*trahdari*- Ex.PW2/2. PW further stated that all the above mentioned exhibits are correct and correctly bear his signatures, that his statements to this effect were also recorded by the Investigating Officer.

5. Fida Ullah SI (Inv) P.S CTD D.I.Khan appeared as PW-3 and stated that on the day of occurrence, he alongwith security forces in connection with search and strike operation reached near Bukhari *Ziara*t at Jungle in the jurisdiction of P.S Kulachi, meanwhile, from the graveyard side of said *Ziara*t, 7/8 unknown terrorists of TTP *Gandpur* Group appeared there and with the intention to commit *qatl-e-amd* made firing at them, that in self defence they also made firing which resulted in death of three terrorists on the spot whereas the remaining 4/5 terrorists while decamping from the spot by taking benefit of Jungle *Perasu* took alongwith them dead bodies of said terrorists. Further that on his pointation, Investigating Officer prepared the site plan, that on 30.08.2023, he arrested accused Qari Muhammad Shafique and Shahjahan and issued their card of arrest, Ex.PW3/1, in the instant case. PW further stated that his statement was recorded by the Investigating Officer in this regard u/s 161 Cr.P.C.

6. Constable Fayaz Ahmad No. 1283 P.S CTD D.I.Khan appeared as PW-4 and stated that on the day of occurrence, he alongwith security

09/05/2024
COURT

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan



forces in connection with search and strike operation when reached near Bukhari Ziarat at Jungle in the jurisdiction of P.S Kulachi. from the graveyard side of said Ziarat. 7/8 unknown terrorists of TTP Gandpur Group appeared there and with the intention to commit *qatl-e-amd* made firing at them. in self defence they also made firing which resulted in death of three terrorists on the spot whereas the remaining 4/5 terrorists while decamping from the spot by taking benefit of Jungle *Perasu* took alongwith them dead bodies of said terrorists, that his statement was recorded by the Investigating Officer in this regard u/s 161 Cr.P.C.

7. Constable Muhammad Ramzan No. 8703. FRP Lines D.I.Khan appeared as PW-5 and stated that on the day of occurrence. he was accompanying the ASHO Muhammad Yousaf Khan and after receiving information about the occurrence. reached at the spot. that ASHO drafted *Murasila* and handed over to him. which he took through a private vehicle to police station CTD D.I.Khan for registration of FIR. where he handed over the same to *Moharrir* Ghulam Yaseen SI who registered the FIR. PW further stated that his statement was recorded by the Investigating Officer in this regard under section 161 Cr.P.C.

8. Muhammad Musthaq Investigating Officer. Police Station CTD. D.I.Khan appeared as PW-6 and stated that after registration of case. copy of FIR was handed over to him in the Police Station, he alongwith *najfi* proceeded to the spot where he prepared site plan. Ex.PB, on the pointation of Fida Khan SI. that during spot inspection. he vide recovery memo. Ex.PW/1, secured blood through cotton from points A.B.C of the dead terrorists namely Ikram s/o Hidayat Ullah. Juma Khan s/o Aziz and Saood s/o Saif-ur-Rahman and he sealed the blood taken from point A in parcel No.1. Ex.P1. blood taken from point B in parcel No.2. Ex.P2 and

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Dera Ismail Khan

blood taken from point C in parcel No.3, Ex.P.3, that he took into his possession eight empties of 7.62 bore lying in scattered position and sealed the same in parcel No.4, Ex.P.4, that he took into his possession ten empties of 7.62 bore lying in scattered position from the places of CTD police and sealed the same in parcel No.5, Ex.P.5, that he sealed all the parcels by affixing 3/3 seals in the monogram of "N". PW further stated that he recorded the statements of marginal witnesses and on 04.07.2023, he wrote an application, Ex.P.W.6/1, to SP CTD D.I.Khan for issuance of a letter to security forces Kutchi Circle for handing over case property of the instant case to them, that he recorded the statement Hidayatullah son of Naimat Ullah, father of terrorist Iqram, that he also recorded the statement of Naimat Ullah son of Abdul Aziz, brother of terrorist Junna Khan, that he placed on file the notification regarding constitution of JTF by SP CTD D.I.Khan, that on 22.07.2023, DFO Kutchi handed over source report to *Mohamir* of Police Station CTD D.I.Khan regarding involvement of accused Muhammad Naem son of Nizam ud Din, Muhammad Fahim son of Nizam-ud-Din, Qari Muhammad Shafigue son of Sadiq, Shah Jahan son of Sultan Ahmad, Zohab alias Kakai son of Nasir ur Din and Subhan son of Muhammad Iqbal, and he issued information memo, Ex.P.W.6/2, regarding charging of above named accused in the instant case, that on 27.07.2023, he alongwith other police party raided the houses of accused Shah Jehan, Qari Shafigue, Muhammad Naem and Muhammad Fahem, that neither the accused were found there in their houses nor any incriminating items were recovered, that he, in this respect, prepared search memos, Ex.P.W.1/3, Ex.P.W.1/4 and Ex.P.W.1/5, respectively, that he recorded the statement of marginal witnesses and that on 30.08.2023, Karam Elahi ISHO Police Station CTD D.I.Khan arrested

EXAMINOR
 Present with Court Officer,
 D.I. Kutchi
 27/08/23

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 27/08/23



accused Muhammad Naem and Muhammad Fahim and issued their card of arrest, Ex.PW6/3, that on the same day, i.e. 30.08.2023, Fida Ullah ASHO Police Station CTD D.I.Khan arrested accused (Qari Muhammad Shaifque and Shahjahan and issued their card of arrest, Ex.PW3/1, in the instant case. Further that on 31.08.2023, he produced the above named accused before the Court of ASI-III/Acting Sessions Judge, D.I.Khan for physical custody vide his application, Ex.PW6/4, and 05 days police custody was granted by the Court, that he interrogated the accused and on 05.09.2023, he again produced the above named accused before the Court of Sessions Judge/Acting Judge ATC D.I.Khan, for further physical custody of accused vide his application, Ex.PW6/5, and 03 days police custody was granted by the Court, that on 06.09.2023, Incharge CFI handed over to him 13 pages of CDK with 1-2 and in this regard, he prepared recovery memo, Ex.PW1/2, that on 07.09.2023, during interrogation the accused Shah Jehan, Qari Shaifque, Muhammad Naem and Muhammad Fahim admitted the commission of offences before him and were willing to point out the spot, that the accused party led them to the spot where they pointed out the places of dead terrorists/accused and also pointed out their own places at the time of occurrence, that in this respect, he added various points in the site plan with red ink and prepared pointation memo, Ex.PW1/6, that he recorded the statements of marginal witnesses, that on 08.09.2023, he again produced above named accused before the Court of Sessions Judge/Acting Judge ATC, D.I.Khan for further physical custody vide his application, Ex.PW6/6, the request was turned down by the Court and the accused were remanded to judicial lockup vide order dated 08.09.2023, that he recorded the statements of accused w/s 161 Cr.P.C. Further that he sent parcels No. 1, 2 and 3 to FSL

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 27/08/2024
 Dera Ismail Khan
 High Court Bench,
 Dera Ismail Khan

JUDGE
 28/08/2024

for chemical analysis and report in this regard is placed on file and is Ex.PK. that he tried to trace out the absconding accused Zohaib alias Kakai and Subhan, but they were avoiding their lawful arrest. that subsequently proceedings u/s 204 Cr.P.C and 87 Cr.P.C were carried out against accused on his applications. Ex.PW6/7 and Ex.PW6/8, that he placed on file the list of LRs of deceased/accused, that he placed on file the CDR of police party, that he placed on file the photographs and history sheet of the absconding accused and that he recorded the statements of PWs. PW further stated that after completion of investigation, he handed over the case file to the SHO for submission of *challan*.

9. Muhammad Yousaf Khan SHO P.S Kulachi appeared as PW-7 and stated that on the day of occurrence, he alongwith police *Najiri* was on *gashat*, when he received information that there has been firing between the security forces and terrorists, he went to the spot where the firing was stopped after 30/35 minutes, that the security forces were there for search operation where upon them firing was made by 7/8 members of TTP *Gandpur* Group, that the security forces in their self defence also made firing which resulted in death of three terrorists on the spot whereas the remaining 4/5 terrorists while decamping from the spot by taking benefit of *Jungle Perasu* took alongwith them arms and ammunitions and dead bodies of said terrorists. that it was disclosed through source that said dead terrorists were Ikram s/o Hidayat Ullah, Juma Khan s/o Aziz and Saood s/o Saif-ur-Rahman. that he drafted the *Murasila*, Ex.PA. regarding the incident and for spreading terror by said terrorists of TTP *Gandapur* Group, and sent the *Murasila* to P.S CID D.I.Khan through constable Muhammad Ramzan No. 8703 for registration of the case. PW further



stated that his statement was recorded by the Investigating Officer u/s 161 Cr.P.C and that *Murasila* is correct and correctly bears his signature.

10. After closing of the prosecution evidence, statement of each accused facing trial was separately recorded u/s 342 Cr.P.C. Wherein, they denied the allegations and claimed innocence, however, they neither wished to be examined on oath nor opted to produce evidence in their defence.

11. Learned Dy.PP for state argued that though accused facing trial are not charged in the FIR, however, with their tiring efforts the police of CTD D.I.Khan traced out and apprehended the accused facing trial through CDR, which clearly indicates interse contacts of accused persons and also with the other terrorists not only prior to the occurrence but after the occurrence as well, whereas the same has not been rebutted by the defence. It was further argued that the site plan as well as the recovery of empties from the spot further corroborates the stance of prosecution and that the Investigating Officer took into possession blood through cotton from the places of presence of dead terrorists alongwith the empties from the spot of their presence and sealed them in separate parcels and in this respect preparation of recovery memo in the presence of witnesses shows that Investigating Officer has fulfilled all the legal formalities. It was further argued that the accused facing trial has also made pointation of the spot whereby pointation memo was prepared by the Investigating Officer in the presence of witnesses which has been dully exhibited during trial and in this regard, one of the witnesses to the said memo alongwith the Investigating Officer also appeared during trial and in their statements they have fully corroborated stance of the prosecution. Learned state counsel argued too that all the relevant witnesses have been produced by the prosecution who were cross examined by the defence but nothing has

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ANTI TERRORISM COURT
09/05/2024

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Dera Ismail Khan

been brought on record which could create even a slightest doubt in the prosecution version, and thereby learned state counsel requested that all the accused facing trial may be convicted for committing heinous nature of offences and creating terror in the society.

12. On the other hand from the defence side, it was argued that none of the prosecution witnesses have stated a single word regarding the presence of either of the accused facing trial at the spot on the relevant time, and that even there is no identification parade conducted with respect to the accused persons to show that they were among the terrorists who made firing at the law enforcing agency and decamped from the spot, further that neither the alleged recovery memo nor the pointation memo are reliable because the same were not prepared in accordance with provisions of the criminal law. It was also argued that the CDR relied upon by the prosecution is not confidence inspiring at all because it has not been proved by the prosecution that the cell numbers mentioned therein are either owned by any of the accused facing trial or they made any conversation with the terrorists or even with any proscribed organization, therefore it cannot be used against them. Further that prosecution badly failed to bring on record any evidence, direct or circumstantial, that could prove either the commission of offences by the accused facing trial or their involvement with any terrorists or with the proscribed organization, and thereby both the defence counsel requested for acquittal of all the accused facing trial.

13. Arguments from both the sides heard and case file minutely perused with the valuable assistance of learned state counsel and of both the learned defence counsel.

JUDGE *U. H. S. / v. m*
ANTI TERRORISM COURT
(D. I. Q. A. I. Division)

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attracted to the spot. Referred two statements of the PWs shows clear contradictions. Furthermore, PW-3 in cross-examination also stated that he cannot say with certainty, however, the terrorists made about 500/600 fire-shots on them while they also made similar fire-shots at the terrorists on the relevant day, and admitted that neither the CTD personnel and personnel of security forces nor any vehicle was hit with the said firing of the terrorists. In light of said statement of the PW-3, perusal of the recovery memo, Ex.PW1/1, would show that the Investigating Officer recovered 08 rounds of 7.62 bore and 10 rounds of 7.62 bore from the spots of presence of the security forces and CTD Police respectively. Whereas there is nothing on the record to show that any empty was recovered from the spot of presence of the terrorists or even from the spot of the presence of the dead terrorists. As stated earlier, according to PW-3, terrorists made 500/600 fire-shots and similar number of fire-shots were also made by the security forces, meaning thereby that there should be round about 1000/1200 empties on the crime scene, whereas only 18 empties were allegedly recovered from the spot, which does not appeal to a prudent mind. Furthermore, if such a huge number of fire-shots were made by the terrorists then how it was possible that neither any person from the forces present there on the spot at the relevant time received any fire-shot nor any vehicle was hit? All these facts and circumstances further create doubts in the prosecution case.

16. One of the contentions of learned State counsel was that the accused facing trial were indicted on the basis of a source report and that the 1-2 chart as well as the CDR shows communication of accused with each other and with a terrorist namely Mazhar, now dead, which indicates that accused facing trial have made conspiracy regarding the offence and as a

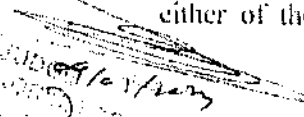
JUDGE
ANTI TERRORISM COURT
DUBLIN (Division)

EXAMINOR
High Court Bench,
Dun Laoghaire

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State Vs Muhammad Naeem etc

result of the said conspiracy, the occurrence took place as well as they participated in the crime too, which has been duly proved by the prosecution during trial. No doubt a source report dated 22.07.2023 is available on the record, but the said report has neither been exhibited by either of the prosecution witnesses nor it is clear that by what means the person, who prepared the same, came to know that the accused facing trial belongs to the proscribed organization and had committed the offences. Merely a source report without its further corroboration through direct or circumstantial evidence cannot be relied upon. Similarly, the I-2 Chart available on file shows contacts of one, Faheem Darban via cell phone number 3326915471 with Shahjahan 2 indicating cell number 3419337699 and with a Mazhar TS Number having cell number 3194787205 and similarly, the CDR indicates interse contacts between cell number 3194787205 with the cell number 923326915471 and with other numbers. In this respect when the Investigating Officer, Muhammad Mushtaq, PW-6 was cross-examined, though stated that "the CDR and I-2 of the accused shows their connection and involvement in the present occurrence" however, he categorically stated that he has not verified from any mobile company about the ownership of mobile numbers which he has shown to be in use of the accused. Said PW further stated that the CDR shows that interse communication of all the accused facing trial and a terrorist Mazhar, who is dead by now, and that the mobile number 03194787205 mentioned therein the CDR is that of terrorist Mazhar and admitted that he had not verified from any mobile company that the said number is owned by terrorist Mazhar. It is for the prosecution to prove that the cell numbers mentioned therein I-2 Chart and CDR are owned by either of the accused facing trial and that of the terrorist Mazhar, but


 INVESTIGATING OFFICER
 (PW-6)
 Muhammad Mushtaq

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 Dera Ismail Khan

Investigating Officer did not bother to contact any cellular company which had issued the said cell numbers to determine that said numbers belongs to whom. Moreover, Investigating Officer stated in cross-examination that he has received the CDR form staff of CFU of CTD and that he has not recorded statement of any officer/official of CFU of CTD who handed over him the said CDR during his investigation. In addition, the I-2 Chart and the CDR has also not been exhibited during trial. Thus, in these circumstances, the referred to documents are not much reliable and confidence inspiring. So for the pointation memò. Ex.PW1/6, vide which the accused facing trial allegedly made pointation of the spots of their presence and that of the presence of the other co-accused persons at the crime venue. is concerned, in this respect suffice it to say that the Investigating Officer was legally bound to have entered his departure as well as departure of the other officials and the accused persons in the daily diary of the Police Station for the said purpose, and similarly there should be a daily diary with respect to return of the Investigating team and accused at the Police Station after said alleged pointation, but record does not suggest such daily diaries. Hence, said pointation memo can not be relied upon too.

17. It is very much clear from the record that none of the prosecution witnesses have specifically nominated either of the accused facing trial regarding commission of offences and the prosecution also failed to prove presence of either of the accused facing trial on the relevant date and time at the spot. Even the witnesses i.e. PW-3 and PW-4, who were allegedly present there on the spot at the relevant time, in their statements, have not stated a single word regarding presence of either of the present accused at the spot.

JUDGE
ANTI-TERRORISM COURT
D.L.N.H.A. (1507/69) 12/23

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

18. It is a settled principle of law that for recording conviction strong and corroborated evidence of unimpeachable character is required and it is the bounden duty of the prosecution to prove its case beyond any shadow of doubt and if any reasonable dent or doubt is found in prosecution case, its benefit must be extended to the accused, not as a matter of grace or concession but as a matter of right. It is well embedded principle of criminal justice that there is no need of so many doubts in the prosecution's case rather a single reasonable doubt arising out of the prosecution evidence, pricking the judicial mind is sufficient for acquittal of the accused. In the present case too, after going through the testimonies of the prosecution witnesses, it is evident that there are number of doubts and contradictions in their statements, the benefit of which must be extended to the accused facing trial. It is also evident from the record that there is no eyewitness who could have testified against either of the accused facing trial. Though prosecution has produced number of witnesses, but in their statements they nowhere nominated the present accused for the commission of offences. Similarly, prosecution failed to bring on record any direct or circumstantial evidence which could reasonably connect accused facing trial with the crime.

19. In view of the aforesaid discussion and after going through the record, it can safely be held that the prosecution has failed to prove the case against the accused beyond shadow of doubt, therefore, by extending benefit of doubt, the accused facing trial namely Muhammad Naeem son of Nizam ud Din, Muhammad Fahim son of Nizam ud Din, Qari Muhammad Shafique son of Sadiq and Shah Jahan son of Sultan Ahmad are hereby acquitted of all the charges levelled against them. Accused Muhammad Fahim and Shah Jahan are in custody, be released forthwith, if not required in any other case/offence. Accused Muhammad Naeem and

09/05/2023

27-08-2024

Qari Muhammad Shafique are on bail, they are discharged from the liability of their bail bonds and their sureties are absolved too.

- 20. So for absconding accused Zohaib alias Kakai son of Naseer ur Din is concerned, as per record prima facie case exists against him, he is declared as proclaimed offender, his names be entered in the relevant register and concerned authorities be informed accordingly. Perpetual warrant of arrest be issued against him.
- 21. Case property shall remain intact till the arrest and disposal of case against the above named proclaimed offender.
- 22. File of this court be transmitted to the record room of Hon'able Peshawar High Court, D.I.Khan Bench.

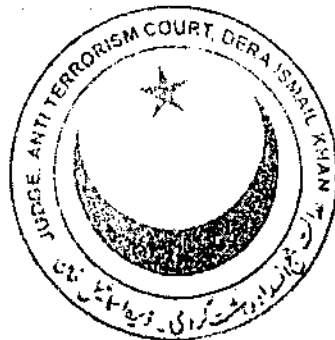
Announced
09.05.2024

~~Suhail Sheraz Noor Saami~~
Judge

Anti-Terrorism Court,
JUDGE - D.I.Khan
ANTI TERRORISM COURT
D.I.KHAN (Division) 8/10/2024

CERTIFICATE

Certified that this judgment of mine consists of seventeen (17) pages. Each page has been read, checked and corrected, wherever necessary, and signed by me.



~~Suhail Sheraz Noor Saami~~
Judge

Anti-Terrorism Court,
JUDGE - D.I.Khan
ANTI TERRORISM COURT
D.I.KHAN (Division) 8/10/2024

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

Examined and found correct
Authorised Signatory
Peshawar High School
EXAMINOR

[Signature]
27/08/04

Certified to be true copy

G.R.No. 68
Application Received on 27/08/04
Copying Fee deposited Rs 35/-
No of Papers 04
Copying Fee 1/-
Urgent Fee 1/-
Total Fee 27/08/04
Copy ready for delivery 27/08/04
Copy delivered on 27/08/04
[Signature]
Signature of Examiner

Attested to be
a True Copy

20/05

DSP/legat

BT/11/11/11

BT/11/11/11

Approved
Please provide
order copy
may be approved

FSD Comments

DSP/legat

Shriyanam

2005.2024 (10/11/11)

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Annexure - F

(40)

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Annexure - F

OFFICE OF THE DISTRICT POLICE OFFICER DERA ISMAIL KHAN

Dated: 27/10/2023



No. 7891 /LC

ORDER

This order is aimed to dispose-off the departmental proceedings conducted against Constable Shah Jahan No.520, of this district office, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide office C/S No. 102/2023 on the following allegations:

He while posted at Police Station Gomal University Dikhan, FATA has been reported that he remained absent from lawful duties, since 14.07.2023 to till date without any leave/permission. Above commission/omission falls in the purview of gross misconduct and renders him liable to be punished under Khyber Pakhtunkhwa Police Rules 1975 amended-2014.

Mr. Asghar Ali Shah A/DSP HQrs: Dikhan was appointed as Enquiry Officer with the directions to conduct proper Departmental Enquiry against him and submit finding report in which he stated that Constable Shah Jahan No.520 is still absence since from 14.07.2023. As per SHO and Moharrir Police Station Gomal University Dikhan report the said Constable is arrested in Case vide FIR No.100, dated 17.10.2023 u/s 148-149-324-353-7ATA PS/CTD Dikhan and he is presently in Central prison of Dikhan. The case is under trail in the Court. Enquiry Officer recommended that may be pending till the decision of the Court.

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

Therefore, in exercise of powers vested upon undersigned, I, Abdul Rauf Babar District Police Officer Dikhan, hereby awarded him "Major Punishment of Dismissal from Service" as his absence period since from 14.07.2023 to till the date of passing order is treated as leave without pay with immediate effect.

Order Announced

On No. 26011

Dated: 27/10/2023

ABDUL RAUF BABAR DSP District Police Officer Dera Ismail Khan

Signature of Abdul Rauf Babar

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- a) Application ~~_____~~ 2024
- b) Copying ~~_____~~
- c) Judgment ~~_____~~
- (a) No. ~~_____~~
- (1) Office: Shah Jahan
- (g) Service ~~_____~~
- (b) Urgent: No 7520
- (h) Name ~~_____~~
- (1) Copy sent ~~_____~~ 20.10.2023
- (2) Copy ~~_____~~ 20.10.2023
- " Name of ~~_____~~

Attested to be a True Copy

(42)

Annexure 'G'
by No. 1802/ES
dt. 21-05-24

To,
Regional Police Officer (R.P.O),
Dera ismail khan Region,
Dera ismail khan.

Subject: **DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST THE ORDER DATED 27/10/2023 PASSED BY DPO DERA ISMAIL KHAN, VIDE WHICH, WHILE IMPOSING MAJOR PUNISHMENT, THE APPELLANT WAS DISMISSED FROM SERVICE.**

Respected Sir,

That the appellant humbly submits as under:

1. That appellant was serving as constable no 520 in district police D I khan for the last 14/15 years. when he was falsely involved in a case FIR no 100 dated (17/10/2023) under section 148,149,324,353 PPC Read with 7ATA of P.S CTD D I khan and was arrested on 14/07/2023 and this fact was well within the knowledge of the police department.
2. That the appellant was then committed to central prison D I khan and he faced the trail before anti-Terrorism Court D I khan, when he was acquitted by the court on 09/05/2024. Copy of judgment is enclosed here with.
3. That the appellant after being release from jail and got attested copy of the judgment appeared before the DPO D I khan for assigning the appellant the duties, where the appellant was informed that his services have already being dismissed vide order dated 27/10/2023 on the ground of absence from duty.
4. That the appellant then applied for attested copy of dismissal order, which was supplied to the appellant on 20/05/2024. Copies of application and dismissal order are enclosed herewith.

Attested to be a True Copy

5. That the appellant came to know about his dismissal from service, after obtaining the copy, wherein the dismissal date is mentioned as 27/10/2023, therefore the appellant is preferring the instant departmental appeal/ Representation along with application for condonation of delay on inter alia the following grounds.

Grounds:

1. That the appellant was falsely involved in a criminal case and he remained in police custody, where after he was sent to jail and remained in jail till his acquittal on 09/05/2024, therefore, he is unaware of any proceedings, conducted against him by the department.
2. That no show cause, statement of allegations and notice for inquiry was served upon the appellant, which is necessary under the law for the proceedings, where the major penalty of dismissal from service is involved.
3. That it is evident from the order dated 27/10/2023 that the department was in knowledge about the arrest of the appellant but even then no notice or other information were conveyed to him for making his defence.
4. That astonishingly it has been mentioned in the dismissal order dated 27/10/2023 that the inquiry officer recommended that inquiry may be kept pending till the decision of the court in criminal case but against the said recommendation the competent authority went on deciding the fate of the appellant by imposing major punishment of dismissal from service by ignoring the recommendation of the inquiry officer.
5. That the appellant never remained absence from his duties till his arrest by the CTD officials and to that effect the DPO D I Khan was also informed as per law but even then the appellant has been considered as absent from duty.

Attested to be a True Copy

6. That the appellant has been condemned unheard, as no opportunity of hearing was given to him nor the requirement of law were completed in shape of show cause notice, provision of statement of allegations and of course final show cause, therefore the law has been violated, while imposing the major penalty.
7. That the appellant never remained involved in any such activities and has unblemished service record and is the only earning hand of the entire family.
8. That the appellant has been victimised by ignoring the well celebrated principle of *audi altrem partem* as he has been condemned unheard.
9. That the appellant wishes to be heard in person as well.

It is therefore requested that on acceptance of the instant appeal, the order dated 27/10/2023 passed by district police officer dera ismail khan, vide which while imposing major punishment the appellant was dismissed from service, may be set aside and the appellant may be reinstated in service with all back benefits.

Thanking you in anticipation,

Your humble appellant,

Shah Jhan

(SHAH JHAN)
Constable No 520,
Basti Cham nagar babar pacca
Tehsil Prova District D.I.Khan
MOB# 0340-7420864

Dated: 21.05.2024

Shah Jhan
Attested to be
a True Copy

(45)

Annexure - 'A'

To.

Regional Police Officer (R.P.O),
Dera ismail khan Region,
Dera ismail khan.

Subject:

**DEPARTMENTAL APPEAL/ REPRESENTATION AGAINST
THE ORDER DATED 27/10/2023. PASSED BY DPO DERA
ISMAIL KHAN, VIDE WHICH, WHILE IMPOSING MAJOR
PUNISHMENT, THE APPELLANT WAS DISMISSED FROM
SERVICE.**

**APPLICATION WITH THE REQUEST TO CONDON THE DELAY IN
FILING THE ACCOMPINED APPEAL.**

Respected Sir,

The appellatant humbly submits as under,

1. That the accompanied departmental appeal is being filed with the instant application, grounds whereof may be considered as grounds for the instant application amongst others.
2. That the appellatant remained in police custody from 14/07/2023 and then was confined in central prison D I Khan till his acquittal on 09/05/2024, where after he obtained attested copies of the acquittal orders and then appeared before the DPO D I Khan for joining his duties, where he came to know that he has been dismissed from service, therefore he applied for the attested copies of dismissal order, which was provide to his and from there he came to know that he has been dismissed from service on 27/10/2023, therefore, he is preferring the departmental appeal against his dismissal order.
3. That the appellatant received the attested copies of dismissal order on 20/05/2024, therefore, the appeal is well within time.
4. That the delay been filing the appeal (if any) is not deliberate rather because of his unawareness about the said order, as he was confined is jail and he was never informed about the dismissal or prior to that the proceedings conducted by the department but as soon as he got the attested copy of the dismissal order, the appeal is well with in time.

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Attested to be
a True Copy

- (46)
5. That the law demands the decision of any proceedings in accordance with law but not on technicalities and the appellant should be provided the opportunity of representation and defence.
 6. That as the appellant was handicapped being confined in jail and remained ignorant of any proceedings conducted by the department in his absence and the department also did not inform the appellant in jail, despite the fact that the department was in-knowledge about the confinement of appellant in jail.

It is therefore requested that the appeal of the appellant may be considered in time and the delay in filing the appeal (if any) may be condoned in the interest of justice.

Your humble appellant,

Dated: 21.05.2024

(SHAH JAHAN)

Constable No 520,

Basti Cham nagar babar pacca

Tehsil Prova District D.I.Khan

MOB# 0340-7420864

Affidavit:

I Shah Jahan Ex-constable No 520, Basti Cham nagar babar pacca Tehsil Prova District D.I.Khan do hereby solemnly affirm on oath that the contents of the application are true and correct as per my knowledge and belief and nothing has been concealed.

Dated: 21.05.2024

(SHAH JAHAN)

Constable No 520,

Basti Cham nagar babar pacca

Tehsil Prova District D.I.Khan

MOB# 0340-7420864



**Attested to be
a True Copy**

Attested to be
a True Copy

[Signature]

800 9302
800 9302
800 9302

[Handwritten notes in Arabic script]

[Handwritten notes in Arabic script]

DPD DPDP

Annexure - I
accr/c. call
02/02/2014

(49)

MR. MUHAMMAD ABDULLAH
Advocate
Supreme Court of Pakistan (ASC)

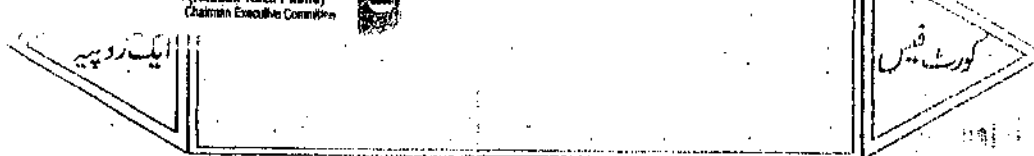
Date of Issue: 18-10-2023

(Gulzar Ahmad)
Secretary,
Pakistan Bar Council



(Hissar Raza Pasha)
Chairman Executive Committee

وکالت



KPK Service Tribunal Peshawar Camp Dikhan
Appellant
Shah Jahans District Police officer etc

Service Appeal

باعث تحریر آنکے

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جو ابھی برائے پیشگی یا تصدیق مقدمہ مقام Dikhan کیلئے
Muhammad Abdullah Baloch (ASC)

کونسل اہل شرافت وکیل متروک کیا ہے۔ کونسل ہر پیشگی پر خود ذریعہ اختیار خاص درود عدالت حاضر و حاضرین کا اور بروقت پکارے جانے مقدمہ وکیل صاحب
موصوف کا اعلان دیکر حاضر عدالت کریں گا۔ اگر پیشگی پر مطلع حاضر نہ ہو اور مقدمہ ہماری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف
اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف تمام کبھری کے علاوہ کسی جگہ یا کبھری کے عدالت سے پہلے یا پیچھے یا بروقت تھیل پیروی کرنے کے
ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف مقدمہ تمام کبھری کے علاوہ کسی جگہ یا کبھری کے عدالت سے پہلے یا پیچھے یا بروقت تھیل پیروی کرنے کے ذمہ دار نہ
ہوں گے۔ اور مقدمہ موصوف کبھری کے علاوہ اور جگہ سمیت ہونے یا بروقت تھیل یا کبھری کے عدالت کے آگے پیچھے ہونے پر مطلع کو کوئی نقصان پہلے تو اس کے لئے
دار ہاں کے واسطے کسی حوالہ کے ادارے یا عدالت نہیں کرنے کے کسی موصوف کی ذمہ دار نہ ہوں گے۔ نہ کوئی ساختہ پروا خط صاحب موصوف میں کرو
دات خود منظور قبول ہوگا اور صاحب موصوف کو مرضی دہری، یا جواب دہری یا درخواست اجراء کی ذمہ دار نظر ثانی اپنی گمانی اور ہم درخواست پر خطا و تعدی کرنے کا
کسی انتہا ہوگا۔ اور کسی حکم یا اگر کسی کرنے اور ہم تمام کا رویہ قبول کرنے اور دیکھ دینے اور اعلیٰ کرنے اور ہم تمام کے بیان دینے اور اس پر غامی یا راضی نامہ نہ لہو بر
حلف کرنے، واپال دہری کا بھی اختیار ہوگا اور ضرورت متروک۔ نہ ہونے یا پیشگی مقدمہ مذکورہ میں ان کبھری موصوف کی مقدمہ مذکورہ نظر ثانی واپال و گمانی و برائی
مقدمہ یا موصوف کی تالیف یا درخواست حکم اختتامی یا ترقی یا کر لائی گئی اور فیصلہ اجراء کی ذمہ دار نہیں صاحب موصوف کو بشرط ادا گئی ملکہ عدالت پیروی کا اختیار ہوگا
اور تمام ساختہ پروا خط صاحب موصوف میں کرو دات خود منظور قبول ہوگا۔ اور ضرورت متروک صاحب موصوف کو کسی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جز
کی کاروائی یا ضرورت درخواست نظر ثانی اپنی یا گمانی یا دیکر مطالبہ مقدمہ مذکورہ کی دوسرے وکیل یا ہر سزا کا پنے جانے یا اپنے سزا متروک کریں۔ اور ایسے مشیر قانون کو
کسی پر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، پیچھے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو جگہ ہر حالت اطراء پڑاگا، وہ صاحب
موصوف کا حق ہوگا مگر صاحب موصوف کو اپنی میں تاریخ پیشگی سے پہلے ادا نہ کریں گا۔ تو صاحب موصوف کو اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی
عدالت میں ہر کوئی مطالبہ کسی نام صاحب موصوف کے برخلاف نہیں ہوگا۔

2023 08 29

مضمون وکالت نامہ سنایا ہے۔ اور ابھی طرح کچھ لیا ہے اور منظور ہے۔
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