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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO _____

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Rahim Khan vs *Police Department*

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[Signature]
05/7/24
Muharrir Compilation

[Signature]
5/7/24
Incharge Judicial Branch

TO

The Director,
Directorate of Archives & Libraries
Govt of N.W.F.P. Peshawar.

Subject:- Arrival & Charge report

R/Sir,

Reference your order No 1339_1353 dated 24/7/94 regarding my appointment as J/Clerk in Abbottabad Public Library.

I take over the charge of my post and designation before noon on 1-8-94 from the librarian Abbottabad public library.

Yours Obediently
Nasim Sikandar
(Nasim Sikandar D/O)
Sikandar Khan
Viil & Po Lower Malakpura
Tehsil & District Abbottabad.

Charge Take over
Name Nasim Sikandar
Signature *Nasim Sikandar*
Dated 1-8-94

Charge ~~Hand~~ Hand Over
Name Dilshad Hussain
Signature *Dilshad Hussain*
Dated 1/8/1994
Librarian
Public Library
Abbottabad.

[Handwritten Signature]
20/02/2013

E 14

Original
copy
in Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR
AT CAMP COURT SWAT

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

Service Appeal No. 184/2020

Date of presentation of Appeal.....23.12.2019
Date of Hearing.....06.06.2024
Date of Decision.....06.06.2024

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif Swat
(Ex-Head Constable B. No 1373).....(Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer, Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat Gulkada.
4. S.P Investigation District Swat.....(Respondents)

SHABIR AHMED KHAN (DAWALTKHEL),
Advocate

--- For appellant.

UMAIR AZAM,
Additional Advocate General

--- For respondents

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):- The instant service appeal has been instituted under Section 4. of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

"That by acceptance of this service appeal, the impugned order to the extent of awarding punishment may be set aside and all the back benefits and seniority from the date of removal may be given/extended to the appellant. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to

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Peshawar

the appellant."

02. Brief facts of the case are that the appellant while serving as Head Constable in Police Department, was proceeded against on the charges of absence/registration of FIR against him and was removed from service on 04.01.2019. Feeling aggrieved, the appellant filed departmental appeal followed by Service Appeal No 655/2019 and during the pendency of service appeal the respondent No. 2 reinstated the appellant into service vide order dated 18.07.2019 and penalty of removal from service was converted into reduction of salary by three stages and period spent out of service was counted as leave without pay. Feeling aggrieved from the impugned order dated 18.07.2019 the appellant filed departmental appeal on 20.08.2019 and withdrew the service appeal No. 655/2019 on 03.09.2019. As the departmental appeal of the appellant against the appellate order was not responded within 90 days he preferred the instant service appeal on 23.12.2019.

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned Additional Advocate General and have gone through the record with their valuable assistance.

04. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned District Attorney, controverted the same by supporting the impugned order(s).


05. From scrutiny of record it transpire that the appellant while posted as Head Constable in the Police Station Bunr an FIR No. 756 dated 01.11.2018 U/s 279, 337G, 320-PPC was registered against him. Departmental proceedings were initiated against him on the following charges/allegations


"An application was moved by applicants, namely Umar Ishaq and Umar Raziq r/o Islam Pur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported than an FIR had already been registered in this matter against you vide No. 756, dated 01.11.2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 320 had been incorporated in the case. It has been learnt that you were driving the vehicle while you were intoxicated which resulted into the accident. A show cause notice was issued to you vide this office No. 551/PA dated 12.11.2018 to explain your position but you failed to present any cogent reason to rebut the allegations leveled against you. Your therefore, issued this charge sheet and statement of allegations."

06. Additional SP Swat was appointed as Inquiry officer to scrutinize the conduct of the appellant. The inquiry officer in his findings proved the charges/allegations against the appellant and the competent authority, based on findings of the inquiry, imposed major penalty of removal from service vide order dated 04.01.2019. The appellant approached the Service Tribunal and during pendency of his appeal upon receipt of the order of the appellate authority dated 17.07.2019 the appeal was withdrawn by the appellant. In the instant appeal the appellant has challenged the order of the appellate authority whereby the punishment of removal from service has been reduced/converted into reduction in salary by three stages and the period spent out of service treated as leave without pay. We did not find any illegality or shortcomings in observance of the codal formalities in disciplinary proceedings against the

appellant. The appellate authority taking lenient view has modified the penalty of removal from service. Moreover, during arguments the respondent also produced a copy of the order dated 13.02.2020 passed by the appellate board in its meeting on 23.01.2020 wherein the penalty imposed by the appellate authority has been further reduced. We feel that the appellant has been given relief keeping in view his 17 years long service by the appellate authority and appellate board and there is no room available for further relief. The appeal in hand is, therefore, stands dismissed. Costs shall follow the event.

07. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06th day of June, 2024.*


(RASHIDA BANO)
Member (J)
Camp Court Swat


(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Swat

5

ORDER

06th June, 2024 1. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgment of today, separately placed on file, the appeal in hand is dismissed. Costs shall follow the event.

3. *Pronounced in open court at camp court Swat and given under our hands and seal of the Tribunal on this 06th day of June, 2024.*



(RASHIDA BANO)
Member (J)
Camp Court Swat



(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Swat


(6)


09.05.2024

Appellant in person present. Mr. Muhammad Jan learned District Attorney for the respondents present.

Former stated that his learned counsel is not in attendance due to general strike of the lawyers. Adjourned. To come up for arguments on ^{06.06} ~~03.07~~.2024 before D.B at camp court Swat. Parcha

Peshi given to the parties.


(Fareeha Paul)
Member (E)
Camp Court, Swat


(Rashida Bano),
Member (J)
Camp Court, Swat

Kaleemullah

Peshawar

7

04.01.2024 1. Junior to counsel for the appellant present. Mr. Muhammad

Jan learned District Attorney for the respondents present.

2. Junior to counsel for the appellant requested for adjournment


on the ground that senior counsel for the appellant is busy before


Peshawar High Court, Peshawar. Adjourned. To come up for

arguments on 07.03.2024 before D.B at camp court, Swat. P.P

given to the parties.

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(Salah-ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman
Camp Court, Swat


*Kaleemullah

07.03.2024

Appellant in person present. Mr. Muhammad Jan,
District Attorney for the respondents present.

Worthy Chairman has proceeded to Peshawar for
attending meeting of Provincial Justice Committee scheduled
in Peshawar High Court, Peshawar today, therefore, D.B is
incomplete. Adjourned. To come up for arguments on
09.05.2024 before the D.B at Camp Court Swat. Parcha Peshi
given to the parties.

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Peshawar


(Salah-ud-Din)
Member (J)
Camp Court Swat

Naeem Amin

02.10.2023

8
Learned counsel for the appellant present. Mr. Ali Rehman, Inspector alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 07.12.2023 before the D.B at Camp Court Swat. Parcha Peshi given to the parties.

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Peshawar

Naeem Amin



(Rashida Bano)
Member (J)
Camp Court Swat



(Salah-ud-Din)
Member (J)
Camp Court Swat

07.12.2023

1. Learned counsel for the appellant present. Mr. Habib Anwar, Additional Advocate General for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 04.01.2024 before D.B. at camp court Swat. P.P given to the parties.

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Peshawar



(Muhammad Akbar Khan)
Member (E)
Camp Court Swat



(Rashida Bano)
Member (J)
Camp Court Swat


9


05th June, 2023 1. Appellant in person present. Mr. Fazal Shah Mohmand,
Additional Advocate General for respondents present.

2. Appellant requested for adjournment as his counsel is not
available today. Adjourned by way of last chance. To come up for
arguments on 03.07.2023 before D.B at Camp Court Swat. P.P given
to the parties.

**SCANNED
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Peshawar**

Mutazem Shah


(Muhammad Akbar Khan)
Member (E)
Camp Court, Swat


(Kalim Arshad Khan)
Chairman
Camp Court, Swat


03.07.2023


Appellant in person present. Mr. Fazal Shah Mohmand,
Additional Advocate General for the respondents present.

The appellant submitted an application requesting therein
for adjournment as his counsel is busy before the Courts at
Bahrain today. Last opportunity granted. To come up for
arguments on 02.10.2023 before the D.B at Camp Court Swat.
Parcha Peshi given to the parties.

**SCANNED
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Peshawar**

Naeem Amin


(Fareeha Paul)
Member (E)
Camp Court Swat



(Salah-ud-Din)
Member (J)
Camp Court Swat

6th April, 2023

Clerk to counsel for the appellant present. Mr. Fazal Shah, Mohmand, Addl: AG for the respondents present.

Notice issued by General Secretary District bar Association Swat received, wherein it is mentioned that as general body meeting of Peshawar High Court, Mingora bench Bar Association has been called for today at 10:00 AM, therefore, lawyers will not appear before any court after 10:00AM. Adjourned. To come up for arguments on 02.05.2023 before the D.B at camp court Swat. P.P given to the parties.

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KPST
Peshawar



(Salah Ud Din)
Member(J)



(Kalim Arshad Khan)
Chairman
Camp Court Swat

02.05.2023

Appellant present through counsel.

Fazal Shah Mohmand, learned Additional Advocate General for respondents present.

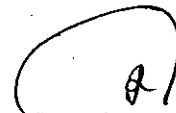
Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 05.06.2023 before D.B at Camp Court, Swat. Parcha Peshi given to the parties.

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Peshawar

Mutazem Shah



(Fareeha Paul)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

3 (A)

10th Feb, 2023

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Ali Rehman, Inspector (Legal) for the respondents present.

Learned counsel for the appellant seeks adjournment for preparation for arguments. Adjourned. To come up for arguments on 07.03.2023 before the D.B at Camp Court Swat.

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KPST
Peshawar



(Salah-ud-Din)
Member (J)
Camp Court Swat



(Kalim Arshad Khan)
Chairman
Camp Court Swat

07.03.2023

Appellant alongwith counsel present. Muhammad Jan learned District Attorney alongwith Ali Rehman, Inspector (Legal) for respondents present.

Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. File to come for arguments on 06.04.2023 before D.B at camp court, Swat. P.P given to the parties.

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KPST
Peshawar



(Fareeha Paul)
Member (E)
Camp Court Swat



(Rozina Rehman)
Member (J)
Camp Court Swat

12

11th Nov, 2022

Appellant in person present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents.

Appellant seeks adjournment on the ground that his counsel is not available today. Last opportunity is give to the appellant to ensure presence of his counsel and to argue this appeal, failing which this appeal will be decided on the available record without arguments. To come up for arguments on 09.12.2022 before the D.B at Camp Court Swat.

SCANNED
KPST
Peshawar

(Salah Ud Din)
Member (Judicial)
Camp Court Swat

(Kalim Arshad Khan)
Chairman
Camp Court Swat

09.12.2022

Tour is hereby cancelled, therefore, the case is adjourned to 06.01.2023 for the same as before.

Reader

06.01.2023

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Ali Rehman, Inspector (Legal) for the respondents present.

Counsel was informed telephonically on 25/1/23

Preceding date was adjourned through Reader note, therefore, notices be issued to appellant and his learned counsel for the next date. To come up for arguments on 10.02.023 before the D.B at camp court, Swat.

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Peshawar

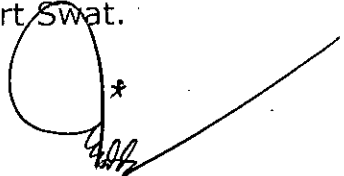
(FAREEHA PAUL)
Member(E)
(Camp Court, Swat)

(ROZINA REHMAN)
Member (J)
(Camp Court, Swat)

08.09.2022

Nemo for the appellants. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Previous date was changed on the strength of Reader Note, therefore, notice for prosecution of the appeal be issued to the appellants as well as his counsel through registered post and to come up for arguments on 07.10.2022 before the D.B at Camp Court Swat.



(Mian Muhammad)
Member (Executive)
Camp Court Swat




(Salah-Ud-Din)
Member (Judicial)
Camp Court Swat

E-1

07.10.2022

Appellant in person present. Mr. Ali Rehman, Inspector (legal) alongwith Mr. Muhammad Jan, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Mingora Bench (Dar-ul-Qaza), Swat. Adjourned. To come up for arguments on 11.11.2022 before the D.B at Camp Court Swat.



(Rozina Rehman)
Member (J)
Camp Court Swat



(Salah-Ud-Din)
Member (J)
Camp Court Swat

14

8th June, 2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Ali Rehman, SI for respondents present.

Counsel are on strike. To come up for arguments on 07.07.2022 before the D.B at camp court Swat.

(Mian Muhammad)
Member(E)

(Kalim Arshad Khan)
Chairman
Camp Court Swat

07.07.2022

Appellant in person present.

Noor Zaman Khattak, learned District Attorney for respondents present.

Former made a request for adjournment as his counsel is busy before Hon'ble Peshawar High Court Mingora Bench, (Darul Qaza) Swat. Adjourned. To come up for arguments on 03.08.2022 before D.B at Camp Court, Swat.

(Fareeha Paul)
Member (E)
Camp Court, Swat

(Rozina Rehman)
Member (J)
Camp Court, Swat

3.8.22

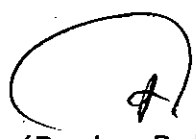
Due to summer vacation the case is adjourned to 3-9-22 for the same

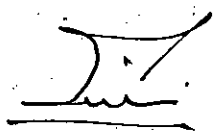
08.02.2022 Tour is hereby canceled .Therefore, the case is adjourned to 05.04.2022 for the same as before at Camp Court Swat.


Reader

05.04.2022 Appellant alongwith his counsel present. Ali Rehman, Inspector (Legal) alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

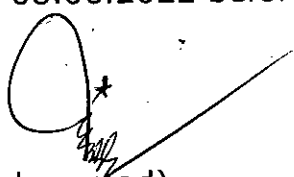
Learned counsel for the appellant sought adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 10.05.2022 before the D.B at Camp Court Swat.

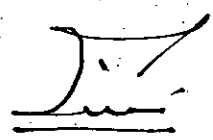

(Rozina Rehman)
Member (J)
Camp Court Swat


(Salah-ud-Din)
Member (J)
Camp Court Swat

10.05.2022 Appellant in person present. Mr. Ali Rehman, S.I (Legal) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in other courts. Adjourned. To come up for arguments on 08.06.2022 before the D.B at Camp Court Swat.


(Mian Muhammad)
Member (E)
Camp Court Swat


(Salah-ud-Din)
Member (J)
Camp Court Swat

04.10.2021

Nemo for appellant.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General alongwith Khawas Khan S.I for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 07.12.2021 for arguments before D.B at Camp Court, Swat.



(Atiq ur Rehman Wazir)
Member(E)
Camp Court, Swat



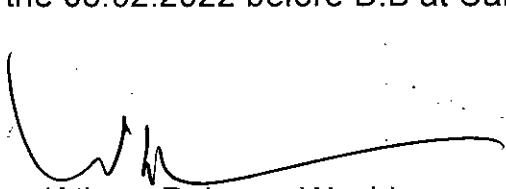
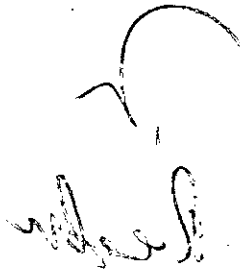
(Rozina Rehman)
Member(J)
Camp Court, Swat

07.12.2021

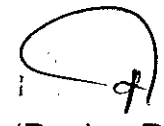
Junior to counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney for respondents present.

Request for adjournment was made on behalf of appellant as learned counsel for appellant is not available today. Opportunity is granted and case is adjourned. To come up for arguments on the 08.02.2022 before D.B at Camp Court, Swat.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat.



(Rozina Rehman)
Member (J)
Camp Court, Swat

04.01.2021

Due to Covid-19, case is adjourned to 01.03.2021 for the same as before.

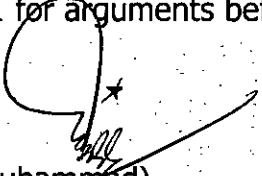

Reader

01.03.2021

Nemo for parties.

Noor Zaman Khan Khattak learned District Attorney present.

Preceding date was adjourned on a Reader's note, therefore, notice be issued to both the parties for 03.05.2021 for arguments before D.B at Camp Court, Swat.



(Mian Muhammad)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

*Due to covid-19 therefore to
come up for the same on*

04/10/2021


Reader

18

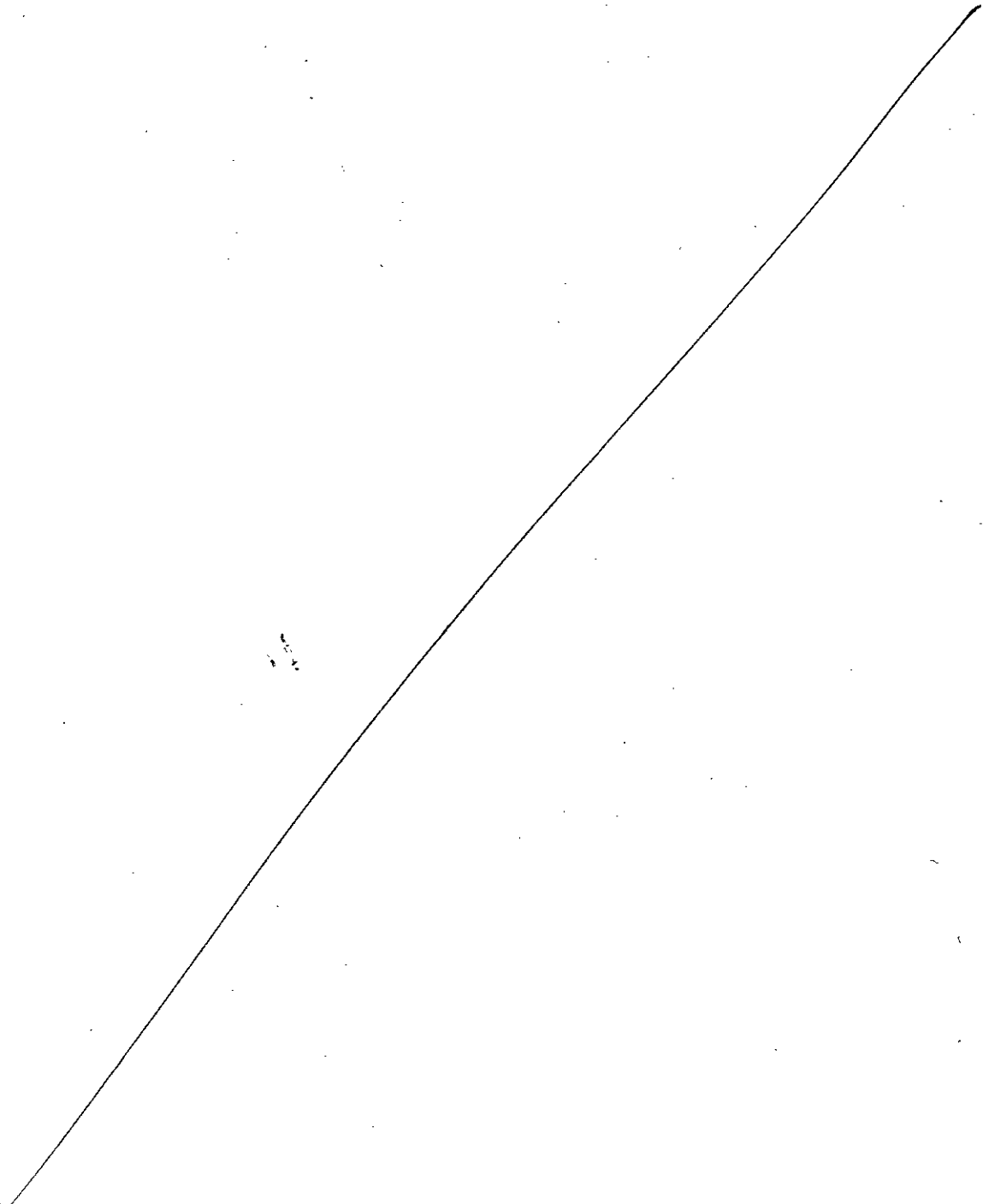
02.11.2020

Appellant in person present. Mr. Muhammad Jan, learned DDA alongwith Khawas Khan Inspector for respondents present.

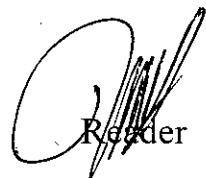
Representative of respondents submitted written reply/comments, which is placed on file. To come up for rejoinder if any, and arguments on 04.01.2020 before D.B at Camp Court, Swat.



Member (E)
Camp Court, Swat



02.06.2020 Due to Covid-19, the case is adjourned. To come up for the same on 09.07.2020, at camp court Swat.

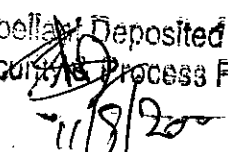

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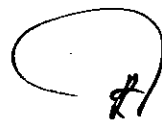
09.07.2020 Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 10.09.2020, at camp court Swat.


Reader

10.09.2020 Appellant alongwith counsel present. Preliminary arguments heard. File perused.

Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 02.11.2020 before S.B

Appellant Deposited
Security & Process Fee

11/9/20



Member (J)
Camp Court, Swat

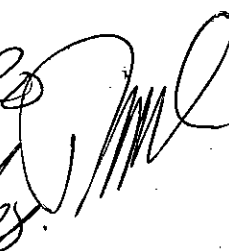
04.03.2020

Learned counsel for the appellant present.

The order of appellate authority was passed on 17.07.2019 and the present service appeal was instituted on 23.12.2019.

Learned counsel for the appellant contended that upon the issuance of order of the appellate authority, the appellant filed departmental revision/appeal to the higher authority/PPO and when the same was not decided, the appellant has approached this Tribunal after 90 days of the filing of departmental revision/appeal before Provincial Police Officer. Learned counsel for the appellant seeks adjournment to meet the issue of limitation. Adjourn. To come up for preliminary hearing on 07.04.2020 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.

Due to corona virus
tour to camp court
swat has been cancelled.
To come up for the
same on - 02/06/2020
Reader 

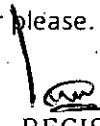

21

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 184/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	06/01/2020	<p>The appeal of Mr. Rahim Khan resubmitted today by Mr. Shabir Ahmad Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 6/1/2020</p> <p>2-</p>		<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>04-03-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>


(22)

The appeal of Mr. Rahim Khan son of Amir Salam Khan Ex-Head Constable No. 1373 received today i.e. on 23.12.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal preferred by the appellant to respondent no. 2 mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- ~~Two~~ more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2249 /S.T.

Dt. 23.12/2019.


 REGISTRAR
 SERVICE TRIBUNAL
 KHYBER PAKHTUNKHWA
 PESHAWAR.

Mr. Shabir Ahmad Khan Adv. Swat.

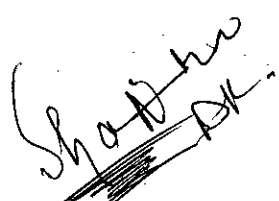
Sir,

All objections have removed.

1. Copy of departmental appeal to respondent No 2 has been annexed at P.No. 08.

2. Affidavit attested.

3. Three more copies also annexed with main appeal. Submitted pl.


 SHABIR A Khan (Dawled Khasal)
 Advocate H/court Swat.

Dated : 2/1/2020.

(23)

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTUNKHWA AT PESHAWAR

Service Appeal No. 184 of 2019

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Head Constable B. No. 1373) Now: 66

...Appellant

V E R S U S

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar and others.Respondents

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Appellant
Through Counsel

Shabir Ahmad Khan (Dawlatkhei)
Advocate High Court, Swat.

Dated: 18.08.2019

(24)

BEFORE THE SERVICE TRIBUNAL
KHYBER PUKHTUNKHWA AT PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 184 of 2019

Case No. 2173

Dated 23/12/19

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif,
District Swat (Ex-Head Constable B. No. 1373).

...Appellant

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.
4. S.P Investigation District Swat.

...Respondents

Appeal under Section 4 of the Service Tribunal Act, 1974, against the impugned order of respondent No. 2 to the extent of awarding punishment that (i) reduction in salary by three stages (ii) period out of service counted as leave without pay, dated 18.07.2019 whereby appellant preferred departmental appeal to respondent No. 1 but the departmental appeal was not decided by respondent No. 1 within the stipulated/prescribed period i.e. 90 days, hence the instant service appeal.

Filed to day
Registrar
23/12/19

Re-submitted to - day
and filed.

Registrar

6/01/2020

Respectfully Sheweth:
The appellant submits as under:

1. That initially, appellant was recruited in police department as constable and then after qualifying various courses, the appellant promoted to rank of Head

Constable but later on in case FIR No. 756 dated 01.11.2018 U/S 279, 337G, 320PPC, respondent No. 2 removed the appellant from service with immediate effect on 04.01.2019. (Copy of removal order dated 04.01.2019 is herewith attached as **Ann: A**).

2. That the appellant preferred departmental appeal (**Ann: B**) to respondent No. 2 but the same was not disposed off by respondent No. 2, then the appellant preferred revision petition to respondent No. 1, but in vain.
3. That then the appellant preferred service appeal no. 655/2019 (**Ann: C**) before this Hon'ble Tribunal which was admitted on 12.06.2019 for regular hearing, but in the meanwhile the respondent No. 2, on 15.07.2019 called the appellant to his office and then on 18.07.2019 the appellant was reinstated into service by respondent No. 2 but later on when the reinstatement order was communicated on 30.07.2019 to the appellant then the appellant came to know that the respondent No. 2 awarded punishment of reduction of salary and period spent out of service was counted as leave without pay which is totally against norms of justice. (Copy of reinstatement order dated 18.07.2019 is herewith attached as **Ann: D**).
4. That aggrieved from the order of respondent No. 2 dated 18.07.2019, the appellant filed departmental appeal to respondent no. 1 and on 03.09.2019, the appellant preferred application (**Ann: E**) for conditional withdrawal before this Hon'ble court in appeal No. 655/2019 and withdraw the said appeal with the permission to file a fresh one, if the respondent No. 1 has not been redressed the grievances of the appellant, and the application of the appellant, this Hon'ble Tribunal dismissed the service appeal no. 655/2019 as withdrawn

on 03.09.2019 (Ann: F) with the permission to file fresh one according with law and rules. *while departmental appeal to respondent no 1 is Annex G,*

5. That the prescribed time i.e. 90 days has been lapsed but the fate of the departmental appeal has not yet been decided by respondent No. 1, hence the instant appeal, inter alia on the following amongst other grounds:-

GROUND:-

- a. That the order of respondents to the extent of awarding punishment is unlawful, illegal, hence liable to be set aside.
- b. That the respondents did not give proper opportunity of hearing to the appellant.
- c. That the appellant was not treated accordance with law and illegally and unlawfully awarded punishment to the appellant.
- d. That the inquiry officer run one way traffic and did not provided opportunity to the appellant to present his stance nor given opportunity to cross examined the witnesses, as the local police have charged the appellant baselessly.
- e. That the appellant was not treated in accordance with law and rules on subject and impugned order has passed flagrant violation of law and rules tainted with malafide intention

and is therefore not sustainable and liable to be set aside.

- f. That the allegations leveled against the appellant are baseless and frivolous.
- g. That neither proper inquiry of appellant was conducted nor proper opportunity of hearing was given to the appellant.
- h. That the impugned order to the extent of awarding punishment already mentioned above is un-reasonable, arbitrary and is liable to be set aside.
- i. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Tribunal.

PRAYER:-

It is, therefore, humbly prayed that by acceptance of this service appeal, the impugned order to the extent of awarding punishment may be set aside and all the back benefits and seniority from the date of removal may be given/extended to the appellant. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to the appellant.

Appellant
Through Counsel

Shabir Ahmad Khan
Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court. Swat
Dated: 18.12.2019

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTUNKHWA AT PESHAWAR

Service Appeal No. _____ of 2019

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Ex-Head Constable B. No. 1373).

...Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar and others.

....Respondents

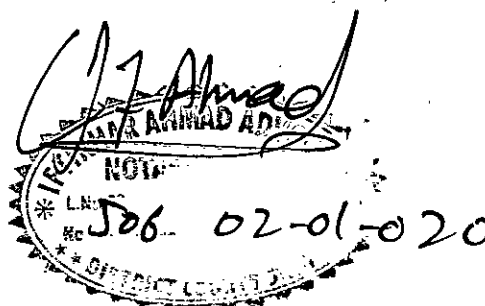
AFFIDAVIT

It is stated on oath that all the contents of the attached appeal are true and correct to the best of my knowledge and belief. Moreover, appeal no. 655/2019 has already been decided by this Hon'ble Tribunal of the appellant on the written request of the appellant details of which has already been discussed in the instant service appeal.



Deponent: _____

Rahim Khan (B. No. 1373) himself



29

BEFORE THE SERVICE TRIBUNAL
KHAYBER PUKHTUNKHWA AT PESHAWAR

Service Appeal No. _____ of 2019

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Ex-Head Constable B. No. 1373).

...Appellant

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa at Peshawar and others.

....Respondents

MEMO OF ADDRESSES

Address of appellant:

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Ex-Head Constable B. No. 1373).

NIC No: 15602-0396083-5

Mobile No: 0346-7301500

Addresses of respondents:

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.
4. S.P. Investigation District Swat.

Appellant
Through Counsel

Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.
Dated: 18.12.2019

(30)

(34)

Amir

Amir "A"

ORDER

This order will dispose of Departmental Enquiry against Head Constable Rahim Khan No. 1373 of Investigation Wing Swat. He while posted to Police Station Bunn was alleged of gross misconduct as an application was moved by applicants namely Umar Ishaq and Umar Raziq t/o Islampur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against the delinquent Head Constable vide No. 756, dated 01-11-2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 320 had been incorporated in the case. It has been learnt that he was driving the vehicle while he was intoxicated which resulted in the accident. A show cause notice was issued to him vide this office No. 551/PA, dated 12-11-2018. He was summoned in Orderly Room and heard in person but he failed to present any cogent reason to rebut the allegations leveled against him.

He was issued a charge sheet and statement of allegations vide this office No. 96/PA, dated 17-12-2018 and Addl. SP Swat was appointed as Enquiry Officer to conduct proper departmental enquiry against the delinquent Head Constable. The Enquiry Officer after carrying out proper enquiry reported that the allegations leveled against the Police Officer under enquiry were proved.

The Head Constable is guilty of gross misconduct as he remained involved in a case of heinous nature. He has hit two individuals in which one has died and another seriously injured. It has also been learnt that the officer was drunk at the time of incident which is serious violation of discipline and code of conduct for Police Officer. By doing so he has brought a bad name for Police Department and stigmatized sanctity of the force. His conduct is detrimental to discipline and his further retention in Police is bound to affect conduct of other personnel of the Force. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules - 1975, I Syed Ashfaq Anwar, PSE, District Police Officer, Swat being competent authority, am constrained to award him major punishment of removal from service with immediate effect.

Order announced.

District Police Officer
Swat

O.B. No. 04

Dated: 6-01-2019

Mirza

18/1/19

Copy to SP Investigation, Swat for information and necessary action please.

Advocate High Court
& Federal Shariat Court

Attested to be True Copy

Shabir Ahmad (Lat Khel)
Advocate High Court
& Federal Shariat Court

18/1/19

1/2

1/2



1/2

31

08

476
15/1/09

Dinesh
B

R.P.O صاحب مقام سید شریف

مقامی ملازمت

مناجیاتی؟ گزرتیں عید سائیل فکا پولیس سوات
 میں قیمت عید سائیل شعبہ الزم گنہین
 قحانہ بند میں ڈیوٹی سدا انجام دے رہا تھا
 اس دوران سائیل کو ایک منہ گھرت التزام
 نے پیشہ نظر تھا کہ ہر طرف کیا گیا ہے
 سائیل ایک غریب گھرانے سے تعلق رکھتا ہے
 اور اپنے زندگی کا کافی حصہ فکا پولیس
 کے خدمت میں صرف کیا ہے۔ سائیل نے گناہ
 اور بے بنائی وغیرہ کے وقت ملازمت سے
 علیحدہ کیا گیا ہے۔

No 604
14-01-1019

For detail
Comments and
copying file

Office
Muzahid at Saidu Akhbar

مقامی ملازمت سے علیحدہ کیا گیا ہے
 اور بے گناہ ہو کر سدا نظر رکھتے ہوئے سائیل
 کے حالات بارہم فرما کر حال و حال کا فکا
 ملازمتی

For Court

District Police Office
14/1/09

مقامی ملازمت سے علیحدہ کیا گیا ہے۔

مقامی ملازمت سے علیحدہ کیا گیا ہے۔

03-467301580

Shahid

Shahid A. Khan
Advocate of Court

(32)
BEFORE THE SERVICE TRIBUNAL
KHYBER PUKHTUNKHWA AT PESHAWAR

Amir C

Service Appeal No. 655 of 2019

Rahim Khan son of Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Ex-Head Constable B. No. 1373).

...Appellant
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 784
Dated 21/5/2019

1. Inspector General of Police, Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Malakand Range-III at Saidu Sharif, District Swat.
3. District Police Officer Swat at Gulkada.
4. S.P Investigation District Swat.

...Respondents

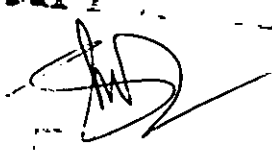
Appeal under Section 4 of the Service Tribunal Act, 1974, against the impugned order of respondent No. 3 dated 04.01.2019 whereby appellant was removed from service with immediate effect against which appellant preferred departmental appeal to respondent No. 2 but the departmental appeal as not decided by respondent No. 2 within the stipulated/prescribed period i.e. 90 days, then the appellant preferred revision to review committee of respondent No. 1 but the same was also pending and not decided by respondent No. 1 yet.

Filed today
21/5/19
Registrar

Respectfully Sheweth:

The appellant submits as under:

1. That the appellant was initially inducted in Police Department as constable and with the passage of time

ATTESTED

Kh. ...
Peshawar

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

the appellant qualifying various courses and promoted to Head Constable. During service, the appellant performed his duty with great zeal and enthusiasm.

2. That on 01.11.2018, an FIR No. 756 dated 01.11.2018 under Section 279, 337 G PPC has been lodged in Police Station Saidu Sharif against unknown person. Later on section 320 and 421 PPC have been added and the appellant has been charged in the above mentioned case. It is pertinent to mentioned here that the appellant got injured in a road accident on the same day but the alleged incident in which the above mentioned FIR lodge, the appellant have no knowledge regarding the said alleged incident but on the very next day the appellant went to the hospital for medical treatment and the local police arrested the appellant in the above mentioned case from hospital. Now the appellant is bail out and the case is still pending before the learned Additional Session Judge-II Swat in which 21.05.2019 has been fixed for evidence. (Copy of FIR, Murasila, Card of arrest and medical documents of the appellant are attached herewith as **Ann: A, B, C & D**).

3. That on 08.11.2018, charge sheet was issued to appellant vide No. 74/E by respondent No. 4 and DSP Matta Pir Said Khan was appointed as inquiry officer while on 12.11.2018 a show cause notice was issued to the appellant vide No. 551/PA dated 12.11.2018 by

ATTESTED

[Signature]
F
K
S

Peshawar

Handwritten notes in Urdu script along the right margin.

respondent No. 3 but in the meanwhile on 17.12.2018 another charge sheet No. 96 was issued to the appellant by respondent No. 3 and Additional S.P Swat was appointed as inquiry officer. (Copy of Show Cause notice and charge sheets are attached herewith as **Ann: E, F & G**).

4. That after conducting inquiry by Additional S.P Swat, submitted his findings report to respondent No. 3 and inquiry documents of the rest charge sheet issued by the respondent No. 4 have also been sent to respondent No. 3, in short inquiry officer Additional S.P on charge sheet No. 96 conducted inquiry and recorded the statements and submitted his finding reports to respondent No. 3. But no opportunity of cross examination on witnesses was given to the appellant.
5. That on the recommendation of inquiry officer, the respondent No. 3, without giving opportunity of hearing given to the appellant, illegally and unlawfully straightaway removed the appellant from service. (Copy of impugned order is attached herewith as **Ann: H**).
6. That against the impugned order of respondent No. 3 the appellant preferred Department Appeal before respondent No. 2 but the prescribed time i.e. 90 days elapsed but the respondent No. 2 didn't decided the departmental appeal of the appellant. (Copy of departmental appeal is herewith attached as **Ann: I**).

ATTACHED

Khyber Pakhtunkhwa
Services Commission
Peshawar

7. That not passing the order on departmental appeal of the appellant by respondent No. 2 within the stipulated period i.e. 90 days, then the appellant preferred revision petition before respondent No. 1 but still yet the respondent No. 1 also not decided the revision petition of the appellant, hence the instant service appeal is submitted on the following amongst other grounds:-
(Copy of revision petition to respondent No. 1 is attached herewith as **Ann: J**).

GROUNDS:-

- a. That the inquiry officer run one way traffic and did not provided opportunity to the appellant to present his stance nor given opportunity to cross examined the witnesses, as the local police have charged the appellant baselessly.
- b. That the appellant was not treated in accordance with law and rules on subject and impugned order has passed flagrant violation of law and rules tainted with malafide intention and is therefore not sustainable and liable to be set aside.
- c. That the allegations leveled against the appellant are baseless and frivolous.

ATTACHED
D
R.
S.
P.
1/2

proper inquiry of appellant was conducted nor proper opportunity of hearing was given to the appellant.

- e. That the impugned order is un-reasonable, arbitrary and is liable to be aside.
- f. That other important points will be raised during the course of arguments with prior permission of this Hon'ble Court.

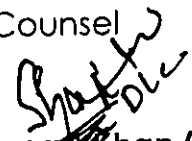
PRAYER:-

It is, therefore, humbly prayed that by acceptance of this service appeal, the appellant may kindly be re-instated in service with all back benefits and the impugned order of respondent No. 3 may graciously be set aside. Any other relief as deemed appropriate in the circumstances of the case and not specifically asked/prayed for, may also be granted to the appellant.

Appellant
Through Counsel



Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.
Dated: 18.05.2019



Certificate:-

It is certified that no such like appeal is either pending or decided by this Hon'ble Court.



Shabir Ahmad Khan (Dawlatkhel)
Advocate High Court.





(66) (37)
Ann: "D" 3

**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND**

AT SAIDU SHARIF SWAT.

Ph: 0946-9240381-88 & Fax No. 0946-9240390

Email: digmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Ex-Head Constable Rahim Khan No. 1373 of Investigation Wing Swat District for reinstatement in service.

Brief facts of the case are that Ex-Head Constable Rahim Khan No. 1373 of Investigation Wing, Swat while posted to Police Station Bunn was alleged of gross misconduct as an application was moved by applicant namely Umar Ishaq and Umar Raziq r/o Islampur, citing an incident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported that an FIK had already been registered in this matter against the delinquent Head Constable and following the death of one of the two injured persons. Section 320 had been incorporated in the case. It has been learnt that the delinquent Head Constable was driving the vehicle he was intoxicated condition which resulted in the accident. Consequently he was issued Charge Sheet coupled with statement of allegation and Addl: SP/ Swat was appointed as enquiry officer. The enquiry officer after conducting proper departmental enquiry against the delinquent HC submitted his findings wherein the allegation leveled against him were proved. The delinquent HC was also called in Orderly Room and heard him in person but he failed to produce any plausible reason in his defence. Being found guilty of the charges leveled against him the DPO, Swat awarded him major punishment of removal from service vide his office OB No. 04 dated 04/01/2019

He was called in Orderly Room on 15/07/2019 and heard him in person. The appellant explained his poor family backgrounds. The punishment awarded to him is seems to be very harsh, hence set aside and Ex-Head Constable Rahim Khan is hereby reinstated in service. However, he is awarded with the punishment of reduction in salary by three stages. The period he spent out of service to be treated as leave without pay.

Order announced.

(M. M. SAEED), PSP
Regional Police Officer,
Malakand, at Saidu Sharif Swat
Naqi

No. 97644-44/E,

Dated 17 / 07 / 2019.

Copy of above for information and necessary action to the:-

1. District Police Officer, Swat with reference to his office Memo: No. 1675/E, dated 28/01/2019.
2. SP Investigation Swat with reference to his office Memo: No. 4543/E, dated 09/04/2019. Service record of the above named HC is returned herewith for record in your office.

OB 115

18-7-19

Attested to be True Copy

Shahir Akbar (Dawat Khet)
Advocate, J. Court
& Federal Shariat Court

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
AT PESHAWAR

38

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Amir "E"

Head constable Rahim Khan Belt No. 1373 Now 66

V/S

IGP and others



Service Appeal

Application for conditional withdrawal of the above title service appeal.

Respectfully sheweth!

1. That the above title service appeal is pending before this honorable tribunal and fixed for today i-e 03-09-2019.
2. That vide order dated 18-07-2019 the respondent No.2 re-instated the appellant into service but, awarded punishment of reduction of salary by three stages and the period spent out, out of service be treated as leave without pay (copy of re-instatement order is attached herewith for your kind perusal.
3. That now the appellant filed appeal against the order of respondent No.2 to respondent No.1 and want to withdraw the above titled service appeal with the conditional that if the grievances of the appellant has not been redress then the appellant will approach to this honorable tribunal for filing an appeal afresh one.

It is therefore humbly prayed that the instant application may kindly be accepted as prayed for.

[Handwritten Signature]
Appellant

[Handwritten Signature]

Head Constable Rahim Khan

Belt No.1373 Now 66

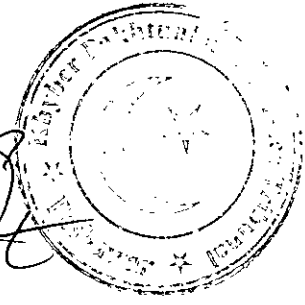
Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Ann: "F"

Appeal No. 655/2019
Rahim Khan vs Govt



03.09.2019

Learned counsel for the appellant present and sought withdrawal of the present service appeal by submitting application for conditional withdrawal of the same.

In view of above, the present service appeal is hereby dismissed as withdrawn with the permission to file fresh one in accordance with law/rules. No order as to costs. File be consigned to the record room.

(Muhammad Hamid Mughal)
Member
Camp Court, Swat.

ANNOUNCED.
03.09.2019

Copy of the appeal
Service Appeal
Performance

Number of
1200
1200
1200
09-12-19
09-12-19
09-12-19

(40)

(17)

Amni G

BEFORE THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA AT PESHAWAR

Departmental Appeal No. _____ of 2019

Head constable Rahim Khan S/o Amir Salam (Belt No. 1373)

R/o Islampur, Saidu Sharif, Tehsil Babozai, District Swat

.....Appellant

VERSUS

1) Regional Police Officer Malakand at Saidu Sharif, Swat

2) District Police Officer Swat at Gulkada Swat

...Respondents

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1.	Departmental appeal		1-4
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3	Copy of reinstatement order dated 18/07/2019		6


Appellant

Head constable Rahim Khan S/o Amir Salam (Belt No. 1373) R/o Islampur, Saidu Sharif, Tehsil Babozai, District Swat

Attested  the True Copy

Shabir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

18/12/2019

(41)

(18)

BEFORE THE INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA AT PESHAWAR

Departmental Appeal No. 184 of 2020

Head constable Rahim Khan S/o Amir Salam (Belt No. 1373)

R/o Islampur, Saidu Sharif, Tehsil Babozai, District Swat

.....Appellant

VERSUS

- 1) Regional Police Officer Malakand at Saidu Sharif, Swat
- 2) District Police Officer Swat at Gulkada Swat

.....Respondents

Appeal against impugned order of respondent

No.1 to the extent of awarding punishment i.e. (i)

Reduction in Salary by three stages (ii) Period out of

service counted as leave without pay.

Respectfully Sheweth:

Appellant submits as under;

Attested & be True Copy

Shabir Ahmad Khan (Dawlat Khel)
Advocate High Court
& Federal Shariat Court

18/12/20

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1. That initially appellant was recruited in police department as constable and then after qualifying various courses the appellant promoted to the rank of Head Constable but later on in case FIR No. 756 dated 01/11/2018 U/S 279,337G,320-PPC respondent No. 2 removed appellant from service with immediate effect on 04/01/2019. (Copy of removal order dated 04/01/2019 is attached herewith as annexure "A")
2. That the appellant preferred departmental appeal to respondent No.1 but the same was not disposed off by respondent No. 1 then appellant preferred revision petition to your good office i.e. Review Committee Board but in vain.
3. That then appellant preferred service appeal before Service Tribunal KPK at Peshawar which was admitted on 12/06/2019 for regular hearing, but in the

Attested to be True Copy
Shabir Ahmad Khan (Dawlat Khan)
Advocate High Court
& Federal Shariat Court
18/12/2019

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meanwhile the respondent No. 1 on 15/07/2019 called the appellant to his office and then on 18/07/2019 the appellant was reinstated into service by respondent No.1, but later on when the reinstatement order was communicated on 30/07/2019 to the appellant then the appellant came to know that the respondent No.1 awarded punishment of reduction in salary and period spent out of service was counted as leave without pay which is totally against norms of justice. (Copy of reinstatement order dated 18/07/2019 is attached herewith as annexure "B")

4. That the appellant aggrieved from the order of respondent No. 1 to the extent of awarding punishment hence the instant department appeal.

Attested to be True Copy
Shahir Ahmad Khan (Dastat Khat)
Advocate High Court
& Federal Shariat Court
18/12/2019

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5. That the order of respondent No. 1 is liable to be set aside to extent of awarding illegal and unlawful punishment.

6. That the instant service appeal is submitted on the following grounds amongst others.

Grounds:

- i. That the order of respondents to the extent of awarding punishment is unlawful, illegal hence liable to be set aside.
- ii. That the respondents did not give proper opportunity of hearing to the appellant.
- iii. That the appellant is innocent.
- iv. That the appellant was not treated in accordance with law and illegally and unlawfully awarded punishment to the appellant.

Attested to be True Copy
Shabir Ahmad Khan (Dawlat Khan)
Advocate High Court
& Federal Shariat Court
18/12/2024

45


23

It is, therefore humbly prayed that by acceptance of instant departmental appeal, the impugned order to the extent of awarding punishment may be set aside and all the back benefits and seniority from the date of removal may be given / extended to the appellant.

Any other relief as deemed appropriate to the circumstances of the case and not specifically asked / prayed for, may also be granted to the appellant.


Appellant

Head Constable Rahim Khan
S/o Amir Salam (Belt No. 1373)
R/o Islampur, Saidu Sharif, Tehsil
Babozai, District Swat
Dated: 20/08/2019

Attested to be True Copy

Shabir Ahmad Khan (Dawalat Khet)
Advocate High Court
& Federal Shariat Court
18/12/2019

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23

BEFORE THE SERVICE TRIBUNAL KHAYBER PUKHTUNKHWA
AT PESHAWAR

WAKALAT NAMA

Case No: _____ of 2019

TITLE:-

Head Constable Rahim Khan **VERSUS** I.G.P and others.

I/we do hereby appoint **SHABIR AHMAD KHAN (DAWLATKHEL)** Advocate High Court in the above mentioned case, to do all or any of the following acts, deeds and things:

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
3. To receive payment of, and issue receipts for, all money that may be or become due and payable to us during the course of the proceedings.
4. To do any act necessary or ancillary to the above acts, deed and things.
5. To appoint any other counsel to do any/all of the acts, dee and things.
6. I/We, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non-appearance, any adverse judgment/order/decreed is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this **Wakalat Nama** hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Signature of Executant
Rahim Khan/appellant

Attested and Accepted by:

SHABIR AHMAD KHAN (DAWLATKHEL)
Advocate High Court.
Cell #: 0341-5666363

(59)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 184/2019

Rahim Khan S/O Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Head Constable B.NO.1373) Now 66

..... Appellant


VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.
4. S.P Investigation, Swat.

..... Respondents

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**District Police Officer, Swat
(Respondent No. 3)**

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1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 184/2019

Rahim Khan S/O Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Head Constable B.NO.1373) Now 66

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VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.
4. S.P Investigation, Swat.

..... Respondents

PARAWISE REPLY BY RESPONDENTS

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appeal is badly barred by Law & limitation.
2. That the appellant has got no Cause of action and locus standi to file the present appeal.
3. That the appeal is bad due to misjoinder and nonjoinder of necessary parties.
4. That the appellant has not come to the Tribunal with clean hands.
5. That the instant appeal is not maintainable in its present form.
6. That the appellant has concealed the material facts from this Hon'ble Tribunal.

FACTS:

1. Correct to the extent that appellant was removed from service due to his involvement in a criminal case vide FIR No.756 dated 01/11/2018 u/s 279-337G-320 PPC by the respondent No.03, not by the respondent No.02 i.e Regional Police Officer, Malakand.
2. Incorrect. Departmental appeal of the appellant was thoroughly examined by the respondent No.02, where after taking lenient view his punishment of removal from service was modified and converted into reduction in salary by three stages while the period spent out of service was counted as leave without pay vide order dated 17/07/2019 (annexure "A").

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(2)

3. As stated above, his appeal was examined by the respondent No.02 after thorough examination where his punishment of removal from service was modified and converted into reduction in salary by three stages while the period spent out of service was counted as leave without pay.
4. Incorrect. First regular departmental appeal has been disposed of in time wherein the major punishment was converted into minor one. Revision Petition has no value under the rules. Rest of the Para pertains to record.
5. That the punishment awarded to the appellant was legal and in accordance with law. There is a principle of natural justice that "No work no pay" as the petitioner was remained out of service, therefore he was rightly awarded punishment of reduction in salary by three stages while the period spent out of service was counted as leave without pay


GROUND:

- a. Incorrect. The orders of the respondents are lawful, legal and in accordance with law/rules.
- b. Incorrect. All the opportunities of self defense and personal hearing have been provided to the appellant during the course of departmental probe.
- c. Incorrect. The appellant has been treated in according with law/rules.
- d. Incorrect. All the opportunities of self defense and personal hearing have been provided to the appellant during the course of departmental probe, wherein the allegation leveled against the appellant were proved.
- e. Incorrect. As stated above, the appellant has been treated in according with law/rules and no violation of law has been made by the respondent.
- f. Incorrect. The allegations leveled against the appellant have been proved during departmental probe without any shadow of doubt.
- g. Incorrect. As stated above, proper departmental enquiry has been conducted wherein all the codal formalities have been fulfilled under the law/rules.


- h. Incorrect. The orders of the respondents are reasonable and accordance with law/rules.
- i. That other grounds not specifically answered in the reply, will be agitated with the permission of honorable Tribunal at the time of arguments.

PRAYER:

Keeping in views the above facts and circumstances, it is humbly prayed that the appeal of appellant being devoid of legal force may kindly be dismissed with costs.



**Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)**

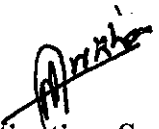


**Regional Police Officer,
Malakand Region
(Respondent No. 2)**

**Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.**



**District Police Officer Swat
(Respondent No. 3)**



**SP Investigation, Swat
(Respondent No. 4)**

Service Appeal No. 184/2019

Rahim Khan S/O Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat
(Head Constable B.NO.1373) Now 66

..... Appellant

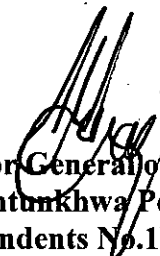
VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.
4. S.P Investigation, Swat.

..... Respondents

AFFIDAVIT

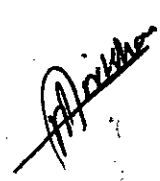
We, the above respondents do hereby solemnly affirm on oath and declare that the contents of the appeal are correct/true to the best of our knowledge/ belief and nothing has been kept secret from the honorable Tribunal.


**Inspector General of Police
Khyber Pakhtunkhwa Peshawar
(Respondents No.1)**


**Regional Police Officer
Malakand Region
(Respondents No.2)**

**Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat**


**District Police Officer, Swat
(Respondents No.3)**


**S.P Investigation, Swat
(Respondents No.4)**

Service Appeal No. 184/2019

Rahim Khan S/O Amir Salam Khan resident of Islampur, Saidu Sharif, District Swat (Head Constable B.NO.1373). Now 66

..... Appellant


VERSUS


1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer Malakand at Saidu Sharif Swat.
3. District Police Officer Swat.
4. S.P Investigation, Swat.

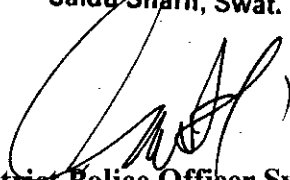
..... Respondents

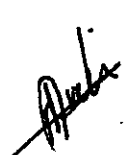
AUTHORITY LETTER

We, the above respondents do hereby authorized Mr. Naeem Hussain DSP/Legal Swat to appear before the Tribunal on our behalf and submit reply etc in connection with titled Service Appeal.


**Inspector General of Police
Khyber Pakhtunkhwa, Peshawar
(Respondent No. 1)**


**Regional Police Officer
Malakand Region
(Respondent No. 2)
Regional Police Officer,
Malakand Region,
Saidu Sharif, Swat.**


**District Police Officer Swat
(Respondent No. 3)**


**S.P Investigation, Swat
(Respondent No. 4)**

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Amir "A"

Amir "A"

ORDER

This order will dispose of Departmental Enquiry against Head Constable Rahim Khan No. 1373 of Investigation Wing Swat. He while posted to Police Station Bunnr was alleged of gross misconduct as an application was moved by applicants namely Umar Ishaq and Umar Raziq v/o Islampur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against the delinquent Head Constable vide No. 756, dated 01-11-2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 520 had been incorporated in the case. It has been learnt that he was driving the vehicle while he was intoxicated which resulted in the accident. A show cause notice was issued to him vide this office No. 551/PA, dated 12-11-2018. He was summoned in Orderly Room and heard in person but he failed to present any cogent reason to rebut the allegations leveled against him.

He was issued a charge sheet and statement of allegations vide this office No. 96/PA, dated 17-12-2018 and Addl. SP Swat was appointed as Enquiry Officer to conduct proper departmental enquiry against the delinquent Head Constable. The Enquiry Officer after carrying out proper enquiry reported that the allegations leveled against the Police Officer under enquiry were proved.

The Head Constable is guilty of gross misconduct as he remained involved in a case of heinous nature. He has hit two individuals in which one has died and another seriously injured. It has also been learnt that the officer was drunk at the time of incident which is serious violation of discipline and code of conduct for Police Officer. By doing so he has brought a bad name for Police Department and stigmatized sanctity of the force. His conduct is detrimental to discipline and his further retention in Police is bound to affect conduct of other personnel of the Force. Hence, in exercise of the powers vested in the undersigned under Rules 2 (iii) of Police Disciplinary Rules - 1975, I Syed Ashfaq Anwar, PSE, District Police Officer, Swat being competent authority, am constrained to award him major punishment of removal from service with immediate effect.

Order announced.

District Police Officer
Swat

O.B. No. 04

Dated: 6-01-2019

Noted
18/1/19

Copy to SP Investigation, Swat for information and necessary action please.

Advocate High Court
& Federal Shariat Court

Attested to be True Copy

Shahid (Advocate High Court & Federal Shariat Court)

18/12/18



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Ann. D³

6

OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
 AT SAIDU SHARIF SWAT.
 Ph: 0946-9240381-88 & Fax No. 0946-9240399
 Email: digmalakand@yahoo.com

ORDER:

This order will dispose off appeal of Ex-Head Constable Rahim Khan No. 1373 of Investigation Wing Swat District for reinstatement in service.

Brief facts of the case are that Ex-Head Constable Rahim Khan No. 1373 of Investigation Wing, Swat while posted to Police Station Bunnr was alleged of gross misconduct as an application was moved by applicant namely Umar Ishaq and Umar Raziq r/o Islampur, citing an incident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against the delinquent Head Constable and following the death of one of the two injured persons. Section 320 had been incorporated in the case. It has been learnt that the delinquent Head Constable was driving the vehicle he was intoxicated condition which resulted in the accident. Consequently he was issued Charge Sheet coupled with statement of allegation and Addl. SP Swat was appointed as enquiry officer. The enquiry officer after conducting proper departmental enquiry against the delinquent HC submitted his findings wherein the allegation leveled against him were proved. The delinquent HC was also called in Orderly Room and heard him in person but he failed to produce any plausible reason in his defence. Being found guilty of the charges leveled against him the DPO, Swat awarded him major punishment of removal from service vide his office QB No. 04 dated 04/01/2019.

He was called in Orderly Room on 15/07/2019 and heard him in person. The appellant explained his poor family backgrounds. The punishment awarded to him is seems to be very harsh, hence set aside and Ex-Head Constable Rahim Khan is hereby reinstated in service. However, he is awarded with the punishment of reduction in salary by three stages. The period he spent out of service to be treated as leave without pay.

Order announced.

(Signature)
 (M. MAHMOOD SAIED), PSP
 Regional Police Officer,
 Malakand, at Saidu Sharif Swat
 Naqib

No. 9764.2.4.91E,

Dated 17-7-2019.

Copy of above for information and necessary action to the:-

1. District Police Officer, Swat with reference to his office Memo: No. 1675/E, dated 28/01/2019.
2. SP Investigation Swat with reference to his office Memo: No. 4543/E, dated 09/04/2019. Service record of the above named HC is returned herewith for record in your office.

OB/115

18-7-19.

Attested to be True Copy

(Signature)
 Shabir Ahmad Khan (Dawlat Khet)
 Advocate, High Court
 & Federal Shariat Court

18/7/19



67

از دفتر ایڈیشنل سپرنٹنڈنٹ آف پولیس
ضلع سوات

فون نمبر 0946-9240253

Email: additionalspswat@gmail.com

فائینڈنگ رپورٹ

بر خلاف رحیم خان ہیڈ کانسٹیبل نمبر 1373 انوسٹی گیشن ویگ

الزامات: ہیڈ کانسٹیبل رحیم خان نمبر 1373 متعینہ انوسٹی گیشن سٹاف پر الزام ہے کہ اس نے مورخہ 01-11-018 کو بذریعہ موٹر کار خود بمقام روڈ شاہی نزد ٹیلی فون ایکس چینج اسلام پور مسمیان شفیع الرحمان ولد محمد رحمان اور محیب الرحمان ولد عمر رحمان ساکنان اسلام پور کو کلر مار کر بعد میں کچھ مصافحت پر دیوار بھینک آذان عمر رازق کو بھی کلر مار کر نقصان رسیدہ کیا ہے جس پر جناب ڈسٹرکٹ پولیس آفیسر صاحب نے چارج شیٹ نمبری PA/96 مورخہ 17-12-018 جاری کرنے من ایڈیشنل SP کو انکوائری آفیسر مقرر کیا۔

تحقیقات: انکوائری ہو کر ہیڈ کانسٹیبل مذکورہ اور عمر رازق کا بیان قلم بند کر کے شامل ہے اس طرح ابتدائی انکوائری منجانب SDPO سرکل سید و شریف بر خلاف ہیڈ کانسٹیبل مذکورہ حاصل کر کے بیانات اور نقل FIR سے معلوم ہوا کہ ہیڈ کانسٹیبل نے بمقام بمقام روڈ شاہی نزد ٹیلی فون ایکس چینج اسلام پور ہر دو کسان بالا کو بذریعہ موٹر کار کلر مار کر سڑک پر بے یار و مددگار چھوڑ کر بھاگ نکلا اور کچھ مصافحت پر دیوار بھینک آذان عمر رازق کو کلر مار کر نقصان رسیدہ کیا ہے۔ عمر رازق کے بیان کے مطابق ہیڈ کانسٹیبل مذکورہ بعد ازاں کتاب جرم موٹر کار سے نکلے پاؤں اتر کر ادھر ادھر دوڑ رہا تھا، غل غپاڑہ اور نہایت غلیظ لب و لہجہ استعمال کر رہا تھا جس کو بے امداد دیگر کسان قابو میں کیا گیا۔ ہیڈ کانسٹیبل مذکورہ کے خلاف انہی جرائم کے پاداش میں مقدمہ علت 756 مورخہ 01-11-018 جرم PPC 427-337G-279 تھانہ سید و شریف درج رجسٹر ہو کر ہر دونوں مجروحین میں سے شفیع الرحمان اسی حادثہ کی وجہ سے LRH ہسپتال میں زیر علاج تھا فوت ہونے پر جرم PPC 320 کی ایزادگی کی گئی ہے اور ہیڈ کانسٹیبل مذکورہ زیر بحث مقدمہ میں گرفتار ہو کر عدالت مجاز سے ضمانت پر رہا ہو چکا ہے۔

نتیجہ: انکوائری ہذا سے میں اس نتیجہ پر پہنچ چکا ہوں کہ ہیڈ کانسٹیبل مذکورہ نے ہر دونوں کسان بالا کو بذریعہ موٹر کار کلر مار کر نتیجہ کے طور پر شفیع الرحمان فوت جب کہ محیب الرحمان زخمی ہو کر تاحال زیر علاج ہے۔ اس طرح دیوار بھینک آذان عمر رازق کو کلر مار کر نقصان رسیدہ کیا ہے۔ جہاں تک دوران ڈرائیونگ مغلوب النشہ ہونے کا تعلق ہے تو دیوار سے کلر مارنے کے بعد ہیڈ کانسٹیبل رحیم خان کا لب و لہجہ، غل غپاڑہ ادھر ادھر بھاگ دوڑ جیسے حرکات و سکنات نشہ جیسے لعنت سے کم نہیں۔ انکوائری سے ہیڈ کانسٹیبل رحیم خان نمبر 1373 قصور وار پایا جاتا ہے رپورٹ عرض ہے۔

خان خلیل

ایڈیشنل ایس پی سوات

24 دسمبر 2018ء

(68) (1)

CHARGE SHEET

I, Syed Ashfaq Anwar, PSP District Police Officer, Swat being competent authority, hereby charge you, Head Constable Rahim Khan No. 1373/Inv while posted to Police Station Bunnr as follows:-

You committed the following act/acts, which is/are gross misconduct on your part as defined in Rules 2 (iii) of Police Disciplinary Rules 1975 with amendments 2014 vide Notification No.3859/Legal, dated 27-08-2014 of the General of Police, Khyber Pakhtunkhwa, Peshawar.

An application was moved by applicants, namely Umar Ishaq and Umar Raziq r/o Islam Pur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDP Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against you vide No. 756, dated 01-11-2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 320 had been incorporated in the case. It has been learnt that you were driving the vehicle while you were intoxicated which resulted into the accident. A show cause notice was issued to you vide this office No. 551/PA dated 12-11-2018 to explain your position but you failed to present any cogent reason to rebut the allegations leveled against you. You were therefore, issued this charge sheet and statement of allegations.

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

3. You are, therefore, required to submit your written reply within seven (07) days of the receipt of this Charge Sheet to the Enquiry officer.

4. Your written reply, 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 in that case ex-parte action shall follow against you.

5. Intimate as to whether you desire to be heard in person or not.

6. A statement of allegations is enclosed.

No. 96 /PA,

Dated: 17-12 /2018.

District Police Officer
Swat

OR No. 205
17.12.18

(69)

DISCIPLINARY ACTION

I, **Syed Ashfaq Anwar, PSP District Police Officer, Swat** being competent authority, is of the opinion that he **Head Constable Rahim Khan No. 1373/Inv** while posted to **Police Station Bunnr** has rendered himself liable to be proceeded against departmentally as he has committed the following acts/omissions as defined in Rule 2 (iii) of Police Rules 1975 with amendments 2014 vide Notification No.3859/Legal, dated 27-08-2014 of the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar, as per Provincial Assembly of Khyber Pakhtunkhwa Notification No. PA/Khyber Pakhtunkhwa/ Bills/ 2011/44905 dated 16/09/2011 and C.P.O, K.P.K Peshawar Memo: No. 3037-62/Legal, dated 19/11/2011.

STATEMENT OF ALLEGATIONS

It has been reported that he while posted to **Police Station Bunnr** committed the following act / acts, which is / are gross misconduct on his part as defined in Rules 2 (iii) of Police Rules 1975.

An application was moved by applicants, namely Umar Ishaq and Umar Raziq r/o Islam Pur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. SDPO Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against him vide No. 756, dated 01-11-2018 u/s 279-337(G)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons, Section 320 had been incorporated in the case. It has been learnt that he was driving the vehicle while he was intoxicated which resulted into the accident. A show cause notice was issued to him vide this office No. 551/PA, dated 12-11-2018 to explain his position but he failed to present any cogent reason to rebut the allegations leveled against him.

2. For the purpose of scrutinizing the conduct of the said officer with reference to the above allegations, **Addl: SP Swat** is appointed as Enquiry Officer.

3. The enquiry officer shall conduct proceedings in accordance with provisions of Police Rules 1975 and shall provide reasonable opportunity of defense and hearing to the accused officer and submit his findings immediately.

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


District Police Officer
Swat

No. 96 /PA, Dated Gulkada the, 17-12 2018.

Copies of above to:-

1. **Addl: SP Swat** for initiating proceeding against the accused Officer/Official namely **Head Constable Rahim Khan No. 1373/Inv** under Police Rules, 1975.
2. **Head Constable Rahim Khan No. 1373/Inv**

With the direction to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer for the purpose of enquiry proceeding.

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S-A IVU 01

OFFICE OF THE DISTRICT POLICE OFFICER, SWAT.

No. 551 /PA, Dated Gulkada the 12-11-18

SHOW CAUSE NOTICE.

1

(Under Rule 5 (3) K.P.K Police Rules, 1975)

You Head Constable Rahim Khan No. 1373/Inv while posted to Police Station Bunn have rendered yourself liable to be proceeded under Rule 5 (3) of the Khyber Pakhtunkhwa Police Rules 1975 for following misconduct/s:

An application was moved by applicants, namely Umar Ishaq and Umar Raziq /to Islam Pur, citing an accident in the limits of Police Station Saidu Sharif and complaining against the role of Police personnel in the aftermath of the accident. Saidu Circle initially probed the matter and reported that an FIR had already been registered in this matter against you. No. 756, dated 01-11-2018 nos 279-337(SV)-427 PPC, Police Station Saidu Sharif and following the death of one of the two injured persons. Section 320 had been incorporated in the case. It has been learnt that you were driving the vehicle while you were intoxicated which resulted in the accident. Your this act is against discipline and unbecoming of a Police officer which warrants strict departmental action. You are therefore issued this show cause notice.

2. That by reason of above, as sufficient material is placed before the undersigned, therefore, it is decided to proceed against you in general Police proceeding without aid of enquiry officer;
3. That the misconduct on your part is prejudicial to good order of discipline in the Police force;
4. That your retention in the Police force will amount to encourage in efficient and unbecoming of good Police officer;
5. That by taking cognizance of the matter under enquiry, the undersigned as competent authority under the said rules, proposes stern action against you by awarding one or more of the kind punishments as provided in the rules
6. You are, therefore, called upon to show cause as to why you should not be dealt strictly in accordance with the Khyber Pakhtunkhwa Police Rules, 1975 for the misconduct referred to above
7. You should submit reply to this show cause notice with 07 days of the receipt of the notice failing which an ex parte action shall be taken against you.
8. You are further directed to inform the undersigned that you wish to be heard in person or not.
9. Grounds of action are also enclosed with this notice.

(Handwritten signature and scribbles)

District Police Officer
Swat
(Handwritten initials)

Received by _____
Dated _____ /2018.