


FORM OF ORDER SHEET

Court of _____

Appeal No. 1903 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/10/2024	<p>The appeal of Mr. Shafaqat Ullah refiled today by registered post through Mr. Muhammad Mohsin Ali Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on 21.10.2024. Counsel for the appellant has been informed telephonically.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shafaqat Ullah received by registered post today on 18.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent nos.1 & 2 are un-necessary/improper parties, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Affidavit is not signed by the appellant.
- 3- Annexures of the appeal are unattested.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 802 /Inst./2024/KPST,

DI. 19/9 /2024.

Amatullah
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Mohsin Ali Adv.
Supreme Court at D.I.Khan.

Respected Sir,
Resubmitted. The objections no. 1 to 4 have been removed. While to the extent of objection no. 5, it is stated that the address of the appellant is complete.

Mohsin
Muhammad Mohsin Ali
Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Appeal No. 1903 /2024

Shafqat Ullah

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

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Dated: 09/09/2024

Humble Appellant

Shafqat Ullah
Through Counsel

Muhammad Mohsin Ali
Advocate Supreme Court.

Haji Muhammad Shakeel
Advocate High Court
District Bar, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

PESHAWAR.

Appeal No. 1903 /2024

Shafqat Ullah (Ex-Head Constable No. 5) son of Inayatullah caste Siyal
resident of Paroa, District Dera Ismail Khan.

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home
Department, Govt. of K.P.K, Peshawar.
2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer / D.I.G, Dera Ismail Khan Region, Dera
Ismail Khan.
4. District Police Officer, Tank.

.....RESPONDENTS

**APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED
OFFICE ORDERS BEARING NO. 701/PA (OB No. 279) dated
01.03.2022 and No. 858/PA (OB No. 311) DATED 11.03.2022
ISSUED BY RESPONDENT NO. 4 VIDE WHICH HE AWARDED
MAJOR PUNISHMENT TO APPELLANT AND DISMISSED /
REMOVED HIM FROM SERVICE.**

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PRAYER; On acceptance of instant appeal this Honourable Tribunal may be pleased to declare the impugned Office Orders bearing No. 701/PA (OB No. 279) dated 01.03.2022 and No. 858/PA (OB No. 311) DATED 11.03.2022 issued by respondent No. 4 as illegal, without lawful authority, without jurisdiction, void *ab initio* and ineffective upon the rights of the appellant and is liable to be set aside and to reinstate the appellant to the subject alongwith all back benefits on the grounds appearing hereinafter;

OR

GRANT any other relief considered just and appropriate under the given circumstances of the case.

Respectfully sheweth:

1. That the appellant was serving as Head Constable (No.05) in the District Police Tank and during the performance of his official duties on 07.08.2021, while appellant was on duty as Moharrir in the Police Station, the District Police Officer Tank with DSP Rural, came to the police station at 10:00 PM and inquired from appellant about his cell phone and took the same in his possession and then appellant was instructed by the DPO to accompany the DSP Rural towards Hathala Check Post. At Hathala Check Post, SHO of police Station Saddar, D.I.Khan, namely Karam Elahi Khan, arrived with police party. DSP Rural handed over them my cell phone and also directed appellant to go with them.
2. That, the appellant was brought to the Police Lines D.I.Khan and was asked to stay in the room of Magazine Guard and wait for further orders. Meanwhile, at 02:00 AM on 08.08.2021, three persons in civil clothes came there

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and the SHO informed me that they belong to secret agencies and the said persons stated to have some interrogation from appellant. The SHO also handed over them my cell phone. They asked questions from appellant, and after about two hours they left the room with my cell phone, while appellant was kept in the magazine guard room of Police Lines D.I.Khan till 10.08.2021. On 10.08.2023, DSP Headquarters, D.I.Khan, informed the appellant that he was required to CTD D.I.Khan and thereafter he, after tying a cloth on my eyes, shifted the appellant to an unknown place which was a torture cell of a secret agency. The personnel of security agency severely

tortured the appellant and inquired about his other cell phone. Appellant told them that his other cell phone is lying at his house in a box. They with the local police took the appellant to his house at 02:00 am in the night and seized the cell phone with box along with the saving amount lying in it. Appellant was kept in the torture cell under severe torture for five days and then; on 15.08.2023 he was handed over to the staff of CTD D.I.Khan. There a case vide FIR No.51 dated 15.08.2021 under Section 21 (I) & (J) of ATA was registered against appellant and he was taken under the police remand from the Court and then upon completion of remand period on 21.08.2021 the appellant was sent to the judicial lock-up. Finally, appellant was released on bail on 11.09.2021. Copy of FIR is enclosed as Mark-A.

3. That, due to severe mental and physical torture, appellant became mentally upset and physically unfit, therefore, upon release on bail, appellant started taking medical treatment. In the meanwhile, DPO Tank while marking absence w.e.f. 07.09.2021 initiated departmental proceedings against appellant. Appellant replied the charge sheet that due to mental distress owing to torture and jail life; he may be

given some time to recover from the trauma but, the DPO, Tank dismissed the appellant from service vide: Office Order No.701/PA (OB No.279) dated 01.03.2022. Similarly, another inquiry was conducted against appellant due to registration of FIR No.51 against, and in that case too appellant was dismissed from service by the DPO Tank vide office Order NO. 858/PA (OB No.311) dated 11.03.2022. Copies of reply to charge sheet, order dated 01.03.2022 and office order dated 11.03.2022 are enclosed as **Mark-B to D** respectively.

4. That appellant was not in the knowledge of impugned office orders and the same were never communicated to appellant; thus, he remained totally unaware of his dismissal from service and remained under the impression that due to his worse health conditions, he has been given leave without pay. The appellant gained knowledge in the last week of December 2023. Hence, he filed the departmental appeal on 8/01/2024 to Worthy Regional Officer / DIG, Dera Ismail Khan Region. But, the appeal of the appellant is not decided. Copy of departmental appeal is enclosed as **Mark-E**.

GROUND:

- I. That prior to issuance of both the dismissal letters, final show cause notice was not issued to the appellant.
- II. No opportunity of audience was afforded to the appellant.
- III. The inquiry was not conducted in a transparent manner.
- IV. No proper opportunity of defense and cross examining the record/evidence, so collected by the inquiry officer, was afforded to appellant.

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- V. The inquiry report was not communicated to the appellant for placing defense thereof before the competent authority.
- VI. The appellant despite having 27 years transparent and unblemished service career and having devotion and loyalty to his profession, was made a scapegoat in false case vide FIR No.51, which was a thunderbolt for him. Besides, appellant was also subjected to severe & inhuman torture. The torture exposed the appellant to spinal-cord and heart problems. It would not be out of place to mention that the appellant has been acquitted in the above referred criminal case.
- VII. No material, except self-assumed decision of the inquiry officer, could be collected in the support of charge sheet and summary of allegations.
- VIII. "Fair Trial" is the constitutional right of every person, held accused of certain charges; but in this case a fair trial has not been conducted. Thus, legal- sanctity cannot be attached to the office orders in question.
- IX. That the impugned dismissal from service order is legally unwarranted. Moreover, an already dismissed official cannot be dismissed again.
- X. That the respondent No. 4 not properly appreciated the material available on record and facts and erroneously awarded the major punishment to appellant and dismissed him from service. Moreover, the respondent No. 3 failed to decide the appeal of the appellant within statutory period; hence the appellant is filling the instant appeal. The impugned orders of respondent No. 4 is based on malafide, arbitrary, against the canon of justice, equity and fair play. Thus the same is liable to be set aside.
- XI. That the grounds of departmental appeal may kindly be considered as integral part of the instant appeal

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and the counsel for the appellant may kindly be allowed to argue the additional grounds at the time of arguments.

It is, therefore, prayed that on acceptance of this appeal this Honourable Tribunal may be pleased to pass orders as prayed for in the heading of this appeal.

Dated: ___/___/2024

Humble Appellante

Shafaat Ullah
Through Counsel

Muhammad Mohsin Ali
Advocate Supreme Court.

Haji Muhammad Shakeel
Advocate High Court
District Bar, D.I.Khan.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2024

Shafqat Ullah

.....APPELLANT

VERSUS

Govt. of K.P.K and others

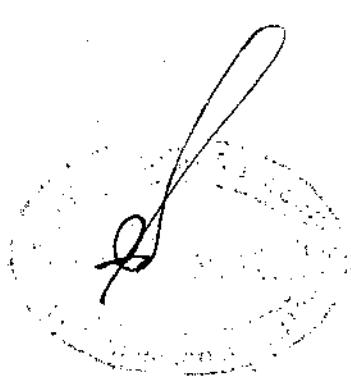
.....RESPONDENTS

AFFIDAVIT

I, the appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Tribunal.


Identified by Counsel


Deponent



(8)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____/2024

Shafqat UllahAPPELLANT

VERSUS

Govt. of K.P.K and othersRESPONDENTS

ADDRESSES OF THE PARTIES

Shafqat Ullah (Ex-Head Costable No. 5) son of Inayatullah caste Siyal
resident of Paroa, District Dera Ismail Khan.

.....APPELLANT

-
1. Govt. of Khyber Pakhtunkhwa through Secretary Home Department, Govt. of K.P.K, Peshawar.
 2. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
 3. Regional Police Officer / D.I.G, Dera Ismail Khan Region, Dera Ismail Khan.
 4. District Police Officer, Tank.


.....RESPONDENTS

Dated: 09/09/2024

Humble Appellant


Shafqat Ullah
Through Counsel


Muhammad Mohsin Ali
Advocate Supreme Court.


Haji Muhammad Shakeel
Advocate High Court
District Bar, D.I.Khan.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

In Appeal No. _____/2024

Shafqat Ullah

.....APPELLANT

VERSUS

Govt. of K.P.K and others

.....RESPONDENTS

**APPLICATION FOR CONDONATION OF DELAY FOR
FILLING THE ABOVE TITLED APPEAL.**

RESPECTFULLY SHEWETH:

1. That the present petitioner is filling the above titled appeal petition before this Honourable court.
2. That the impugned orders are against the law and facts.
3. That appellant was not in the knowledge of impugned office orders and the same were never communicated to appellant; thus, he remained totally unaware of his dismissal from service and remained under the impression that due to his worse health conditions, he has been given leave without pay. The appellant gained knowledge in the last week of December 2023. Furthermore, the appellant was also subjected to severe & inhuman torture. The torture exposed the appellant to spinal-cord and heart problems. Hence, the delay of filling the appeal is liable to be condoned. Copies of medical descriptions are attached.
4. That due to unavoidable circumstances the delay was occurred, therefore, the delay for filling the appeal may kindly be condoned as the appellant has got a very good prima facie case

and It is a very important issue, which requires an authoritative pronouncement, therefore, the court has got the suo motu powers to condone the delay.

5. That this august tribunal has got vast power to entertain the instant petition.


It is therefore, humbly prayed that on the acceptance of instant petition, the delay for filling the appeal may kindly be condoned.

Dated: 09/09/2024

Humble Appellant


Shafaat Ullah
Through Counsel


Muhammad Mohsin Ali
Advocate Supreme Court.


Haji Muhammad Shakeel
Advocate High Court
District Bar, D.I.Khan.

AFFIDAVIT:

I, the appellant, do hereby solemnly affirm and declare on Oath that all the para-wise contents of the petition are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable court.


Deponent

بحوالہ شمولہ چارج شیڈ نمبری 84-384 مورخہ 2-9-2021 بجاریہ جناب DPO صاحب ٹانک معروض ہوں کہ مورخہ 2021-8-7 کو حسب معمول ڈیوٹی پر تھانہ صدر میں موجود تھا۔ کہ بوقت 22:00 بجے جناب DPO صاحب ہمراہ صاحب رولر تھانہ تشریف لائے۔ جناب DPO صاحب نے فرمایا کہ محرر آپ کے پاس کونسا موبائل ہے؟ میں نے عرض کیا جناب میرے ہاتھ میں موجود موبائل میرے زیر استعمال ہے۔ میرا موبائل سیٹ جناب DPO صاحب نے لے لیا اور مجھے کہا کہ کوئی تھوڑا سا سلسلہ ہے میرے دفتر چلتے ہیں۔ DPO صاحب کے آفس میں پہنچے تو جناب DPO صاحب نے کہا کہ آپ شیخ وقاص کو جانتے ہیں؟ میں نے کہا بالکل نہیں جانتا۔ دوبارہ پوچھا کہ آپ کفایت اللہ سب انسپکٹر کو جانتے ہیں؟ میں نے کہا جی ہاں کفایت اللہ کو اچھی طرح جانتا ہوں اور کافی جگہوں پر ایک ساتھ ڈیوٹی سرانجام دی ہے۔ پھر جناب DPO صاحب نے موبائل فون پر رابطہ کیا اور مجھے کہا کہ آپ جناب DSP صاحب رولر کے ساتھ ہتھالہ چیک پوسٹ پر چلے جائیں۔ DPO صاحب ڈیرہ آپ سے کچھ معلومات کرتے ہیں۔ میں جناب DSP رولر کے ساتھ ہتھالہ چیک پوسٹ پر پہنچے تو تھوڑی دیر بعد ایس ایچ او تھانہ صدر ڈیرہ کرم الہی خان ہمراہ نفری ہتھالہ چیک پوسٹ پہنچے تو جناب DSP صاحب رولر نے میرا موبائل سیٹ ایس ایچ او صدر ڈیرہ کے حوالے کیا اور مجھے حکم دیا کہ آپ ایس ایچ او صاحب کے ساتھ ڈی آئی خان پولیس لائن جائیں۔ جو میں، ایس ایچ او صدر مع نفری ڈی آئی خان کیلئے روانہ ہو گئے۔ جب پولیس لائن ڈیرہ پہنچے تو ایس ایچ او صاحب نے کہا کہ میگزین گاڑ پراگلے حکم کا انتظار کرتے ہیں۔ اسی دوران رات 2 بجے ایک پرائیویٹ گاڑی میگزین گاڑ کے سامنے رکی اور اس میں سے 3 آدمی سول پرچات میں اترے اور میگزین گاڑ پر آئے تو ایس ایچ او صاحب نے میرا موبائل سیٹ انکے حوالے کر دیا اور انہوں نے مجھے کہا کہ آپ سے تھوڑی اشارو گیشن کرنی ہے۔ جن کا تعلق خفیہ ادارے سے تھا تقریباً دو گھنٹے اشارو گیشن سوال جواب جاری رہے۔ اسکے بعد وہ اہلکار میرے موبائل ساتھ لیکر چلے گئے۔ اور مجھے کہا کہ آپ یہاں کمرے میں سو جائیں۔ اسی طرح 3 دن میں ڈی آئی خان میگزین گاڑ روم میں بیٹھا رہا اور پھر چوتھے دن مورخہ 2021-8-10 کو جناب DSP صاحب ہیڈ کوارٹر ڈیرہ میرے پاس آئے اور کہا کہ آؤ میرے ساتھ۔ اپنے دفتر لے گئے۔ اور وہاں پر مجھے بتایا کہ افسران بالا کی جانب سے حکم ہے کہ آپ کو CTD ڈیپارٹمنٹ کے حوالے کیا جائے اور مجھے ہتھکڑی لگا کر آنکھوں پر پٹی باندھ کر DSP صاحب ہیڈ کوارٹر ڈیرہ اپنی گاڑی میں سوار کر کے روانہ ہو گئے۔ تھوڑی دیر سفر کرنے کے بعد کسی نامعلوم مقام پر مجھے کسی ٹارچر سیل منتقل کر کے واپس ہوئے۔ جہاں پر بدوران اشارو گیشن معلوم ہو کہ یہ کسی خفیہ ادارے کا ٹارچر سیل ہے اور خفیہ ادارے کے اہلکار مجھے انتہائی بے دردی سے ٹارچر کرتے رہے۔ اور مجھے کہا کہ آپ نے CTD میں رہ کر شہید چلیل خان انسپکٹر کے ساتھ مل کر بہت سے ایسے کارنامے کئے اب کدھر جاؤ گے وغیرہ۔ اور آپ کے پاس ایک دوسرا موبائل سیٹ ہے وہ کہاں ہے۔ میں نے کہا کہ وہ میرے گھر میں میرے سرکاری بکس میں پڑا ہے۔ تو کافی تشدد کے بعد مجھے گاڑی میں ہمراہ کر کے رات کے کوئی 2:00 بجے کا وقت ہو گا۔ آئے اور ہمراہ مقامی پولیس میرے گھر کے اندر گھس گئے اور چھاپہ زنی کر کے میرے بچوں کو خوف اور دہشت میں مبتلا کر کے کمرہ میں رہائشی میں پڑے سرکاری بکس کا تالا توڑ کر موبائل سیٹ اٹھایا اور جو نمبری بکس میں پڑی رقم جو میری چھوٹی بیٹی نے ہر ماہ مجھ سے پانچ ہزار لے کر جمع کرتی دیکھتے ہی خفیہ اہلکار نے موبائل واپس بکس میں رکھتے ہوئے دوسرے ماتحت کو کہا کہ یہ سارہ بکس لے جاتے ہیں۔ تو بکس اٹھا کر واپس ہوئے۔ پانچ یوم تک مسلسل ٹارچر اور موبائل رکارڈ سے جب کچھ نہ ملا تو مورخہ 2021-8-15 کو مجھے گاڑی میں سوار کر کے وقت کا صحیح اندازہ تو نہیں ہوتا تھا کیونکہ آنکھوں پر پٹی اور مسلسل 72 گھنٹوں سے نیند سے جگائے رکھا گیا۔ اور مجھے تھانہ CTD ڈیرہ پہنچایا گیا جہاں پر خفیہ اہلکاروں نے میرے موبائل سیٹ اور میرے گھر سے اٹھایا گیا

وہاں تک کہ اس کے نتیجے میں 5 مئی 1975ء کو پاکستان میں حالات خراب ہو گئے۔

اللہ اعلم

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پہلی بار پور پور میں ہو گیا۔ اور اس کے نتیجے میں پاکستان میں حالات خراب ہو گئے۔
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Am I



OFFICE OF THE
DISTRICT POLICE OFFICER,
TANK

No. 701 /PA dated Tank the 01 /03/2022.

OFFICE ORDER

My this order will dispose off departmental enquiry initiated against Head Constable Shafiqat Ullah No. 05 of Police Lines, Tank, on the allegation that of his willful absence from the lawful duty w.e from 07.09.2021. to till date without any leave or reasonable cause from the competent authority. Due to which, he was properly charge sheeted and served upon him properly. DSP / Rural, Tank was nominated as Inquiry Officer for conducting fair and impartial departmental inquiry and submitting finding report. The enquiry was conducted. The enquiry report was received and perused. The defaulter official's reply to Charge Sheet has been received, thoroughly pursued and found guilty.

Now, in the light of recommendations of the Inquiry Officer, and other relevant materials placed before me, I MR. WAQAR AHMED, DISTRICT POLICE OFFICER, TANK in exercise of powers conferred upon me under Khyber Pakhtunkhwa Police Rules 1975 amended 2014, award him Major Punishment of Dismissal from service with immediate effect, and his absence period is treated as Leave Without Pay.

Order announced
01.03.2022


(WAQAR AHMED)
District Police Officer,
Tank

Copy _____ /PA

Copy of above is submitted for information to the:-
1. Regional Police Officer, Dera Ismail Khan.
2. Establishment Clerk, Tank.

(نوٹ 18 صفحات)

(WAQAR AHMED)
District Police Officer,
Tank

OB No. 279

dt. 1.3.22



A. 7. 26 (D), 15

B-2

OFFICE OF THE
DISTRICT POLICE OFFICER,
TANK

No. 858 /PA

dated

Tank

the 11 /03/2022.


OFFICE ORDER

My this order will dispose off the departmental enquiry initiated against Head Constable Shafaat Ullah No. 05 of Police Lines, Tank, on the allegation that he involved in case FIR No. 51 dated 15.08.2021 w/s 21 (i), 21 (j) II NATA.118, Police Act Police at Station/CTD Dera Ismail Khan. Due to which, he was properly charge Sheeted along-with summary of allegations. Mr. Hussain Ghulam DSP/Rural, Tank was nominated as enquiry officer for conducting proper departmental enquiry, the enquiry officer submitted his findings report in which he stated that the defaulter Head Constable has found guilty of the charges leveled against him.

As the defaulter Head Constable has already been dismissed from service in another enquiry vide this office order No. 702-3/PA dated 01.03.2022, therefore, in view of above recommendations of the Enquiry Officer, I MR. WAQAR AHMED, DISTRICT POLICE OFFICER, TANK in exercise of powers conferred upon me under Khyber Pakhtukhawa Police Rules 1975 amended 2014, award the same Major Punishment of "Dismissal" in the instant enquiry.

Order announced


(تذکرہ قطعات، 55)


(WAQAR AHMED)
District Police Officer,
Tank

No. 859-60

Copy of above is submitted for information to the:-
Regional Police Officer, Dera Ismail Khan.

2. Establishment Clerk, Tank.


(WAQAR AHMED)
District Police Officer,
Tank

OR No-311
Of: 11.3.22

To: The Worthy Regional Police Officer/D.I.G.
Dera Ismail Khan Region,
Dera Ismail Khan.

Subject: APPEAL UNDER RULE 11 OF THE K.P. POLICE RULES, 1975, ALONG WITH OTHER ENABLING PROVISIONS OF LAW, AGAINST THE DISMISSAL FROM SERVICE ORDERS BEARING NO.701/PA (OB No.279) DATED 01.03.2022 AND NO.858/PA (OB NO.311) DATED 11.03.2022, BOTH ISSUED BY THE DISTRICT POLICE OFFICER, TANK.

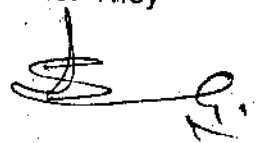
Enclosures:

1. Office Order bearing No.701/PA (OB.No.279) dated 01.03.2022
2. Office Order bearing No.858/PA (OB NO.311) dated 11.03.2022
3. FIR No.51 dated 15.08.2021 of PS CTD D.I.Khan
4. Medical prescriptions of appellant.

Yours Excellency,

The appellant has the honour to submit the following few submissions for your good-self kind considerations:

1. That the appellant was serving as Head Constable (No.05) in the District Police Tank and during the performance of his official duties on 07.08.2021, while appellant was on duty as Moharrir in the Police Station, the District Police Officer Tank with DSP Rural, came to the police station at 10:00 PM and inquired from appellant about his cell phone and took the same in his possession and then appellant was instructed by the DPO to accompany the DSP Rural towards Hathala Check Post. At Hathala Check Post, SHO of Police Station Saddar D.I.Khan, namely Karam Elahi Khan, arrived with police party. DSP Rural handed over them my cell phone and also directed appellant to go with them.
2. From there appellant was brought to the Police Lines D.I.Khan and was asked to stay in the room of Magazine Guard and wait for further orders. Meanwhile, at 02:00 AM on 08.08.2021, three persons in civil clothes came there and the SHO informed me that they belong to secret agencies and the said persons stated to have some interrogation from appellant. The SHO also handed over them my cell phone. They


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asked questions from appellant and after about two hours they left the room with my cell phone, while appellant was kept in the magazine guard room of Police Lines D.I.Khan till 10.08.2021.

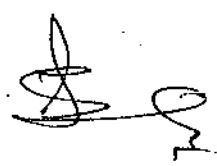
3. On 10.08.2023, DSP Headquarters, D.I.Khan, informed the appellant that he was required to CTD D.I.Khan and thereafter he, after tying a cloth on my eyes, shifted the appellant to an unknown place which was a torture cell of a secret agency. The personnel of security agency severely tortured the appellant and inquired about his other cell phone. Appellant told them that his other cell phone is lying at his house in a box. They with the local police took the appellant to his house at 02:00 am in the night and seized the cell phone with box along with the saving amount lying in it. Appellant was kept in the torture cell under severe torture for five days and then, on 15.08.2023, he was handed over to the staff of CTD D.I.Khan. There a case vide FIR No.51 dated 15.08.2021 under Section 21 (I) & (J) of ATA was registered against appellant and he was taken under the police remand from the Court and then upon completion of remand period on 21.08.2021 the appellant was sent to the judicial lock-up. Finally, appellant was released on bail on 11.09.2021.
4. Due to severe mental and physical torture, appellant became mentally upset and physically unfit, therefore, upon release on bail, appellant started taking medical treatment. In the meanwhile, DPO Tank while marking absence w.e.f. 07.09.2021 initiated departmental proceedings against appellant. Appellant replied the charge sheet that due to mental distress owing to torture and jail life; he may be given some time to recover from the trauma but, the DPO Tank dismissed the appellant from service vide Office Order No.701/PA (OB No.279) dated 01.03.2022.
5. Similarly, another inquiry was conducted against appellant due to registration of FIR No.51 against, and in that case too appellant was dismissed from service by the DPO Tank vide office order dated 858/PA (OB No.311) dated 11.03.2022.
6. The penalty of dismissal from service, awarded to appellant twice by the DPO Tank, is liable to be cancelled/set aside and appellant is entitled to be reinstated on the following reasons amongst others:



- i. That prior to issuance of both the dismissal letters, final show cause notice was not issued to the appellant.
- ii. No opportunity of audience was afforded to the appellant.
- iii. The inquiry was not conducted in a transparent manner.
- iv. No proper opportunity of defence and cross examining the record/evidence, so collected by the inquiry officer, was afforded to appellant.
- v. The inquiry report was not communicated to the appellant for placing defence thereof before the competent authority.
- vi. The appellant despite having 27 years transparent and unblemished service career and having devotion and loyalty to his profession, was made a scapegoat in false case vide FIR No.51, which was a thunderbolt for him. Besides, appellant was also subjected to severe & inhuman torture. Thus, petitioner could not bear, being an honest police official, could not bear the mental & physical shock. The torture exposed the appellant to spinal-cord and heart problems.

It would not be out of place to mention that the appellant has been acquitted in the above referred criminal case.

- vii. No material, except self-assumed decision of the inquiry officer, could be collected in the support of charge sheet and summary of allegations.
 - viii. "Fair Trial" is the constitutional right of every person, held accused of certain charges; but in this case a fair trial has not been conducted. Thus, legal sanctity cannot be attached to the office orders in question.
 - ix. That the impugned dismissal from service order is legally unwarranted. Moreover, an already dismissed official cannot be dismissed again.
7. That appellant was not in the knowledge of impugned office orders and the same were never communicated to appellant; thus, he remained totally unaware of his dismissal from service and remained under the



impression that due to his worse health conditions, he has been given leave without pay. The appellant gained knowledge in the last week of December 2023, and hence, filing this request. Therefore, the delay so occurred is condonable in the overall interest of justice and in the pecuniary circumstances of the present case.

In view of the above humble submissions, the appellant beseeches your kind honour to please cancel/set aside both the dismissal from service orders and appellant may please be reinstated into service with all back benefits.

Yours most obedient Servant,

Dt. 08.01.2024

SHAFQATULLAH
ex-Head Constable No.5
Police Lines, Tank.

AFFIDAVIT:

It solemnly affirmed & declared on oath that all the para-wise contents of this appeal are true and correct to the best of my knowledge and belief, and nothing has been deliberately concealed.

Deponent

NIC = 12101-0989223-9
Mob = 63411944375



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Fyber Pakhtunkhwa Bar Council

B.C.No. [] - [] [] [] []



RS/-100

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وکالت نامہ

DBA

بعدالت جناب محمد خٹوا نگرہ سرور ٹریبونل لیٹاور

منجانب ایبیل

شہادت اللہ بنام گورنمنٹ آف فیڈریشن ٹرانس واریٹ

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

سرور ایبیل

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے پرووی واسطے و جواہدی برائے پیچھے تصفیہ مقدمہ مقام
محمد حسن علی ایڈووکیٹ سرور / حاجی محمد شکیل ایڈووکیٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا ہوں گا۔ اور ہر پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گے، اگر پیشی پر مظہر حاضر نہ ہوا۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طرح پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گا۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جتار نہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروا خطہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا درخواست اجرائے ڈگری و نظر ثانی اپیل نگرانی دہرتم درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از کچہری صدر بیروی مقدمہ مذکورہ نظر ثانی و اپیل و نگرانی و برآمد کی مقدمہ یا منسوخی ڈگری ایک طرف یا درخواست حکم امتناع یا ترقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ ضمانت بیروی کا اختیار ہوگا اور تمام ساختہ پروا خاستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑیگا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیروی نہ کریں اور ایسی صورت میں میرا مطالبہ کسی قسم کا صاحب موصوف کے برخلاف ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند رہے

مورخہ _____ ماہ _____ 20

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد
Accepted

MObi 0341-94 4375

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Accepted by