



3/1/2018

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar.

No. S/ 1091 /18, dated Peshawar the 26/03/2018.

To : The Regional Police Officer,  
Mardan.

- 32

Subject: DEPARTMENTAL APPEALS.

ANNEX L

Memo:

Saleem Khan and Muddasir Khan ASIs of district Mardan had filed departmental appeal before your good office against the orders bearing OB No. 2266 & 2291 dated 06.10.2017 respectively of District Police Officer, Mardan vide which penalty of reversion from the rank of Sub-Inspector to the rank of ASI was imposed on them.

Both the departmental appeals were submitted to CPO for disposal as your office has reportedly conducted enquiries against them. The Appellate Board examined the cases which revealed that Charge Sheet and Statement of allegations were issued to the appellants by the District Police Officer, Mardan and proper enquiry was conducted by Ali Bin Tariq PSP Sub Divisional Police Officer Takhtbhaj. There is nothing on record about any proceedings on the part of your office. The disposal of first appeals by CPO will deprive the appellants of their right of 2nd appeal / revision.

Foregoing in view, the Board is of the opinion that your office may decide the departmental appeal at your end purely on merit.

(SHER AKBAR)  
PSP, S.St

Deputy Inspector General of Police HQrs,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.

ORDER.

ANNEX M-33

This order will dispose-off the appeal preferred by ASI Mudasir Khan No. 416/MR of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded Major punishment of Reversion from the rank of Sub Inspector to the rank of ASI vide District Police Officer, Mardan OB No. 2291 dated 06.10.2017.

Brief facts of the case are that the appellant while posted as SHO Toru, one Mashal Khan s/o Muhammad Iqbal Khan, a student of Journalism Department Abdul Wali Khan University, Mardan was lynched by a Mob of students on account of unconfirmed charged of blasphemy. On receipt of information the appellant arrived to the University at 1351 hours and remained there till the end of incident. However, during a preliminary enquiry conducted by the undersigned in this matter, it was found that he shown slackness in disposal of his official duty and failed to take concrete steps against the agitating students, resultantly the unfortunate mob justice incident took place. Therefore he was proceeded against departmentally through the then SDPO/Takht Bhai. The Enquiry Officer after fulfilling necessary process submitted his finding report & recommended him for stoppage of five increments. He was called by the then District Police Officer, Mardan for Orderly Room on 03.10.2017 & awarded him Major Punishment of reversion from the rank of SI to the rank of ASI.

He was called in orderly room held in this office on 28.03.2018 and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the then District Police Officer, Mardan. Appeal is rejected.

ORDER ANNOUNCED.

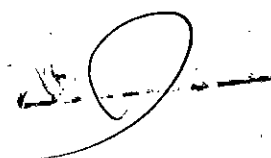
(Muhammad Alam Shihwari)PSP  
Regional Police Officer,  
Mardan

No. 2157-58/ES, Dated Mardan the 02/04 /2018.

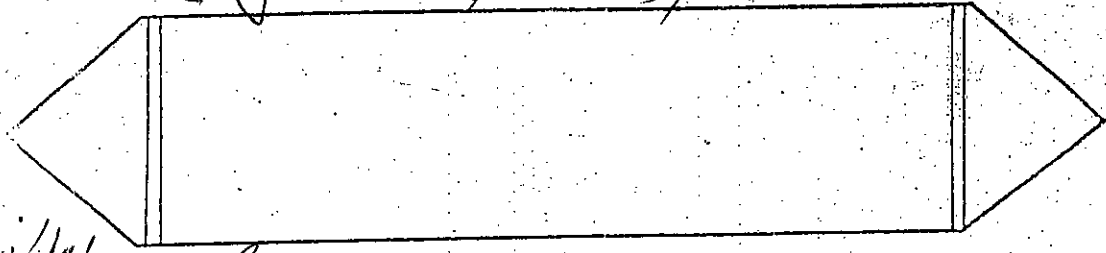
Copy forwarded to the:-

1. Worthy Provincial Police Officer Khyber Pakhtunkhwa, Peshawar for favour of information w/r to his office Memo: No. S/1091/18 dated 26.03.2018 please.
2. District Police Officer, Mardan for information and necessary action. The Service Record is returned herewith.

(\*\*\*\*\*)



# بعدالت و غیر خواہش سے پیروی کیلئے



2018ء منجانب املاک

مدتہ خان بینام بولہ

منورہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام گھنٹہ گھر کیلئے ہائل گھنٹہ گھر

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالت ہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی براندگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے دہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 10 ماہ 10/2018

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

ہ کے لئے منظور ہے۔

بمقام

Attested  
Accepted

OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN

Tel: 0937-9230109  
Fax: 0937-9230111  
Email: [dpo\\_mardan@yahoo.com](mailto:dpo_mardan@yahoo.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

No. 7741-12/PA

Dated 8/18 /2017

DISCIPLINARY ACTION

I, Dr. Mian Saeed Ahmad (PSP), District Police Officer Mardan, as competent authority am of the opinion that SI Mudasir Khan, himself liable to be proceeded against, as he committed the following acts/omissions within the meaning of Police Rules, 1975.

STATEMENT OF ALLEGATIONS

Whereas, SI Mudasir Khan, while posted as SHO Police Station Toru (now Police Lines Mardan), on 13.04.2017 one Mashal Khan son of Muhammad Iqbal Khan, a student of Journalism Department Abdul Wali Khan University Mardan who was lynched by a mob of students on account of unconfirmed charges of blasphemy while, on receipt of the information he arrived to the University at 1351 hours and remained till 1501 hours however, during the course of preliminary enquiry conducted by the Worthy Regional Police Officer Mardan, it was found that he has shown slackness in disposal of his official duty, resultantly the unfortunate mob justice incident, took place.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations, ASP (T/B) is nominated as Enquiry Officer.

The Enquiry Officer shall, in accordance with the provision of Police Rules 1975, provides reasonable opportunity of hearing to the accused Police Officer, record/submit his findings and make within (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused Officer.

SI Mudasir Khan is directed to appear before the Enquiry Officer on the date, time and place fixed by the Enquiry Officer.

ATTESTED

(Dr. Mian Saeed Ahmad) PSP  
District Police Officer,  
Mardan.



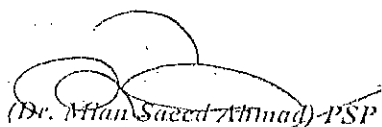
OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN

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Fax: 0937-9230111  
Email: [dpo\\_mardan@yahoo.com](mailto:dpo_mardan@yahoo.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

CHARGE SHEET

I, Dr. Mian Saeed Ahmad (PSP), District Police Officer, Mardan, as competent authority, hereby charge SI Mudasir Khan while posted as SHO PS Toru (now Police Lines Mardan), as per attached above Statement of Allegations.

1. By reasons of above, you appear to be guilty of misconduct under Police Rules, 1975 and have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this Charge Sheet to the Enquiry Officer, as the case may be.
3. Your written defense, if any, should reach the Enquiry Officer within the specified period, failing which, it shall be presumed that you have no defense to put-in and in that case, ex-parte action shall follow against you.
4. Intimate whether you desired to be heard in person.

  
(Dr. Mian Saeed Ahmad) PSP  
District Police Officer,  
Mardan.

  
MARDAN



OFFICE OF THE  
DISTRICT POLICE OFFICER  
MARDAN

Tel: 0937-9230109  
Fax: 0937-9230111  
Email: [dpo\\_mardan@yahoo.com](mailto:dpo_mardan@yahoo.com)  
Facebook: District Police Mardan  
Twitter: @dpomardan

No. 9042-46 /PA

Dated 8 / 10 /2017

ORDER ON ENQUIRY OF SI MUDASIR KHAN

This order will dispose-off a departmental enquiry under Police Rules 1975, initiated against the subject Police Official, under the allegations that while posted as SHO PS Toru, (now Police Lines), One Mashal Khan Son of Muhammad Iqbal Khan, a student of Journalism Department Abdul Wali Khan University Mardan was lynched by a Mob of Students on account of unconfirmed charges of blasphemy. On receipt of information, SI Mudasar Khan arrived to the University at 1351 hours and remained there till 1501 hours. However, during a preliminary enquiry conducted by Worthy Regional Police Officer Mardan in this matter, it was found that he has shown slackness in disposal of his official duty, resultantly the unfortunate mob justice incident took place.

To ascertain real facts, SI Mudasar Khan was faced departmentally through Captain @ Ali Bin Tariq SDPO Takht Bhai vide this office Disciplinary Action No.7741-42/PA dated 08.08.2017, who after fulfilling necessary process, submitted his Finding Report to this office vide his office letter No.2275/ST dated 29.09.2017, recommending stoppage of his five increments.

Final Order

SI Mudasar Khan was heard in O.R held at Police Lines on 03.10.2017 & awarded major punishment of reversion to the rank of ASI with immediate effect, in exercise of the power vested in me under P.R 1975.

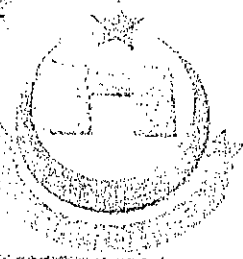
O.B No. 2291

Dated 6 / 10 2017.

  
District Police Officer,  
Mardan.

Copy forwarded for information & n/action to:-

1. The Deputy Inspector General of Police Mardan Region-I, Mardan, please.
2. The SP Operations Mardan
3. The DSP/HQrs: Mardan.
4. The Pay Officer & E.CV (Police Office) Mardan.
5. The OSI (Police Office) Mardan with ( ) Sheet.



OFFICE OF THE  
SUB-DIVISIONAL POLICE OFFICER,  
TAKHT BILAI CIRCLE

Tel. & Fax: 0937552211, E-Mail: dsp.tbi@gmail.com

No. 2275 /ST, Dated: 29/09/2017.

To,

The Worthy District Police Officer,  
Mardan

24

Answer F

Subject: DISCIPLINARY ACTION AGAINST SI MUDASIR KHAN SHO  
PS TORU

Memo:

Kindly refer to your office Diary No. 7741-42/PA, dated 08.08.2017.

In pursuance of your kind order, the undersigned completed enquiry in the above subject case. Its step-wise detail is given below.

STATEMENTS OF ALLEGATIONS:

Whereas, SI Mudasar Khan, while posted as SHO Police Station Toru (now police lines Mardan), on 13.04.2017 one Mashal Khan son of Muhammad Iqbal Khan, a student of journalism Department Abdul Wali Khan University Mardan who was lynched by a mob of students on account of unconfirmed charges of blasphemy while, on receipt of the information he arrived to the university at 13:51 hours and remained till 15:01 hours however, during the course of preliminary enquiry conducted by the Worthy Regional Police Officer Mardan, it was found that he has shown slackness in disposal of his official duty, resultantly the unfortunate mob justice incident, took place.

PROCEEDINGS:

The defaulter SI was summoned; heard in detail, the charge and summary of allegation were served upon him, he submitted his written reply and statement of all concerned officials were also recorded.

STATEMENT OF SI MUDASIR KHAN:

He stated in his statement that on 13.04.2017 he was on routine gust on M/way service road, on hearing emergency call, taking responsibility myself without been call by control room. He reached to university where W/SPOP & DSP SMT was present already on the occasion. further stated that it was his foremost to carry out the order of senior order. Everything was done according to their senior orders. It was not in his authority to initiate beaten charge & firing on his own well. The dead body of Mashal khan was rescued from been burnt by the

ATTESTED

angry mob by helping the senior officers in taking it to the official vehicle. He took active part in bringing the situation into control inside the university and in the end arresting the culprits from the mob after the order of W/DPO Mardan. -25-

STATEMENT OF CONSTABLE HAZRAT ALI NO.2004 MIR AFZAL NO.1223 (GUNNER) & SHAKIR HUSSAIN NO.412 WIRELESS OPERATOR PS TORU:

They all corroborated the stance of defaulter SI Mudasir Khan and declared his statement of reaching to university without call of control room as true & correct.

FINDING/RECOMMENDATION:

From the perusal of available record the undersigned came to know that the defaulter SI Mudasir the then SHO PS Toru came to university at 13:51 hrs and can be seen inside hostel where Mashal was lynched. He helped SP Ops and DSP SMT in taking the dead body from mob.

Therefore, he may please be awarded a punishment of stoppage of his five increments instead of dismissal from service.

Encl : ( 10 )

Captain (R)  PSP  
Sub-divisional Police Officer,  
Takht Bhai



ORDER.

This order will dispose-off the appeal preferred by **ASI Mudasir Khan No. 416/MR** of Mardan District Police against the order of the District Police Officer, Mardan, whereby he was awarded Major punishment of Reversion from the rank of Sub Inspector to the rank of ASI vide District Police Officer, Mardan OB No. 2291 dated 06.10.2017.

Brief facts of the case are that the appellant while posted as SHO Toru, one Mashal Khan s/o Muhammad Iqbal Khan, a student of Journalism Department Abdul Wali Khan University, Mardan was lynched by a Mob of students on account of unconfirmed charged of blasphemy. On receipt of information the appellant arrived to the University at 1351 hours and remained there till the end of incident. However, during a preliminary enquiry conducted by the undersigned in this matter, it was found that he shown slackness in disposal of his official duty and failed to take concrete steps against the agitating students, resultantly the unfortunate mob justice incident took place. Therefore he was proceeded against departmentally through the then SDPO/Takht Bhai. The Enquiry Officer after fulfilling necessary process submitted his finding report & recommended him for stoppage of five increments. He was called by the then District Police Officer, Mardan for Orderly Room on 03.10.2017 & awarded him Major Punishment of reversion from the rank of SI to the rank of ASI.

He was called in orderly room held in this office on **28.03.2018** and heard him in person, but he did not produce any substantial evidence about his innocence. Therefore, I find no grounds to intervene the order passed by the then District Police Officer, Mardan. **Appeal is rejected.**

ORDER ANNOUNCED.

(Muhammad Alam Shinwari)PSP  
Regional Police Officer,  
Mardan

No. 2157-58 ES, Dated Mardan the 02/04 /2018.

Copy forwarded to the:-

1. Worthy Provincial Police Officer Khyber Pakhtunkhwa, Peshawar for favour of information w/r to his office Memo: No. S/1091/18 dated 26.03.2018 please.
- ✓ 2. District Police Officer, Mardan for information and necessary action. The Service Record is returned herewith.

(\*\*\*\*\*)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 501/2018

Mudassir Khan ASI District Police Mardan ..... Appellant

Versus

District Police Officer, Mardan & others ..... Respondents

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**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO REPLY FILED BY RESPONDENTS.**

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Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous. Appellant has availed the jurisdiction of this Hon'ble Tribunal with clean hands and for that matter having cause of action. Nothing has been concealed from this Hon'ble Tribunal. Estoppel cannot run against the law, appeal is maintainable, and all the necessary parties are arrayed in the title service appeal.

**Facts:**

1. Needs no rejoinder.
2. Incorrect hence denied. Being responsible official appellant took all necessary measures to save the innocent student of the said university. Appellant was posted as a SHO of the Police Station Toru and the occurrence took place in the premises of Police Station Sheikh Maltoon. Appellant received blows, strokes and kicks of the mob participants but appellant tried his best in the whole case. Furthermore, the high ups were also present on the spot where appellant performed his duty under their supervision.

3. Incorrect. Appellant reached to spot alongwith high-ups/seniors who were also present on the spot. Appellant having no authority to handle the matter in presence of the seniors. Department has badly failed to point out that what kind of slackness was committed by the appellant. Rest of the para is misconceived.
4. Incorrect hence denied. The statement of the said Professor supported the stance of the appellant who categorically mentioned in the Statement U/S 164 Cr.P.C. before the Judicial Magistrate that he had informed the high-ups and requested the then SSP Operations to save innocent students but no heed was paid. Therefore, being a subordinate Officer, appellant performed as per the order of the high-ups. Even otherwise it was not the job of single person among the huge throbbing mob of almost two thousand students to tackle the situation alone.
5. Erroneous hence denied. Mere allegations are nothing until and unless the same have been proved against the appellant upon solid grounds, therefore, the appellant in his detailed reply explained his position each and every aspect of the matter but unfortunately his reply was not given due consideration.
6. Untrue hence denied. No impartial enquiry was conducted against the appellant and the basic requirements of law regarding imposition of penalty have been violated and in very hasty manner, without considering the facts of the case in arbitrary manner, the Enquiry Officer recommended the appellant for the punishment.
7. False. It is a settled legal principle of law that every individual should be treated as per law whereas in case of appellant the mandatory requirement which has been enshrined under the relevant law that without issuing final Show Cause Notice as well as opportunity of personal hearing, appellant was awarded major punishment of reversion to the rank of ASI with immediate effect.
8. Incorrect hence denied. Appellant preferred Departmental Appeal, however, the appellate authority instead of deciding the same

referred the same to Respondent No.1 with observation that he had conducted enquiry against the appellant but no such record was available, therefore, the same was again transmitted to the same authority for decision as per law.

9. Untrue hence vehemently denied.

Grounds:

- A. Incorrect. The appellant was not treated according to law and rules. The impugned orders are unjust and unfair, therefore, liable to be struck down.
- B. Incorrect hence denied. As earlier been submitted that Professor of the said University stated in his statement before the competent Court of law that he had requested the SSP Operation to save the innocent but no heed was paid, therefore, being subordinate, appellant acted upon the orders of the high-ups at the time of occurrence.
- C. Misconceived hence denied. The place of occurrence was within the jurisdiction of PS Sheikh Maltoon while appellant was posted as SHO at PS Toru. In spite of the same he approached the place of occurrence to prevent the huge mob from taking law in their hands.
- D. Untrue hence emphatically denied. It is not only the mandatory requirement of law but also demand of natural justice that before proceeding against a person, the Department shall be duty bound to conduct a regular enquiry instead of a fact finding enquiry as well as provide the chance of personal hearing whereas all the proceedings have been conducted at the back of the appellant, therefore, the same are not sustainable in the eye of law and liable to be struck down.
- E. Incorrect hence vehemently denied. The basic requirement of F.R 29 has been denied whereby no time limit for the continuation of revision has been specified which is a legal requirement under the

said law, therefore, the impugned orders are nullity in the eye of law and liable to be set aside.

F. Untrue hence vehemently denied. The inquiry officer recommend appellant for minor punishment but department malafide awarded major punishment without any legal justification muchless lawful and without Final Show Cause Notice for enhanced punishment.

G-J. Detail rejoinder has already been given in the preceding paras. It is explained that discriminatory treatment has been made against appellant and other officials who were also present on the spot but no proceedings have been initiated against them.

K. Needs no rejoinder.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through


Appellant

Khaled Rahman  
Advocate, Peshawar

Dated: 16 /10/2018

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Appellant

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 501/2018

Mudassir Khan ASI District Police Mardan ..... Appellant

Versus

District Police Officer, Mardan &amp; others ..... Respondents

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**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE  
TO REPLY FILED BY RESPONDENTS.**


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Respectfully Sheweth,

**Preliminary Objections:**

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**Facts:**

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- E. Incorrect hence vehemently denied. The basic requirement of F.R 29 has been denied whereby no time limit for the continuation of revision has been specified which is a legal requirement under the



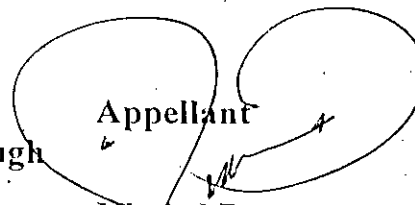
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Through  Appellant  
Khaled Rahman  
Advocate, Peshawar

Dated: /6 /10/2018

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Appellant

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. 501/2018**

Mudassir Khan ASI District Police Mardan ..... Appellant

Versus

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**Facts:**

1. Needs no rejoinder.
2. Incorrect hence denied. Being responsible official appellant took all necessary measures to save the innocent student of the said university. Appellant was posted as a SHO of the Police Station Toru and the occurrence took place in the premises of Police Station Sheikh Maltoon. Appellant received blows, strokes and kicks of the mob participants but appellant tried his best in the whole case. Furthermore, the high ups were also present on the spot where appellant performed his duty under their supervision.

3. Incorrect. Appellant reached to spot alongwith high-ups/seniors who were also present on the spot. Appellant having no authority to handle the matter in presence of the seniors. Department has badly failed to point out that what kind of slackness was committed by the appellant. Rest of the para is misconceived.
4. Incorrect hence denied. The statement of the said Professor supported the stance of the appellant who categorically mentioned in the Statement U/S 164 Cr.P.C. before the Judicial Magistrate that he had informed the high-ups and requested the then SSP Operations to save innocent students but no heed was paid. Therefore, being a subordinate Officer, appellant performed as per the order of the high-ups. Even otherwise it was not the job of single person among the huge throbbing mob of almost two thousand students to tackle the situation alone.
5. Erroneous hence denied. Mere allegations are nothing until and unless the same have been proved against the appellant upon solid grounds, therefore, the appellant in his detailed reply explained his position each and every aspect of the matter but unfortunately his reply was not given due consideration.
6. Untrue hence denied. No impartial enquiry was conducted against the appellant and the basic requirements of law regarding imposition of penalty have been violated and in very hasty manner, without considering the facts of the case in arbitrary manner, the Enquiry Officer recommended the appellant for the punishment.
7. False. It is a settled legal principle of law that every individual should be treated as per law whereas in case of appellant the mandatory requirement which has been enshrined under the relevant law that without issuing final Show Cause Notice as well as opportunity of personal hearing, appellant was awarded major punishment of reversion to the rank of ASI with immediate effect.
8. Incorrect hence denied. Appellant preferred Departmental Appeal, however, the appellate authority instead of deciding the same

referred the same to Respondent No.1 with observation that he had conducted enquiry against the appellant but no such record was available, therefore, the same was again transmitted to the same authority for decision as per law.

9. Untrue hence vehemently denied.

Grounds:

- A. Incorrect. The appellant was not treated according to law and rules. The impugned orders are unjust and unfair, therefore, liable to be struck down.
- B. Incorrect hence denied. As earlier been submitted that Professor of the said University stated in his statement before the competent Court of law that he had requested the SSP Operation to save the innocent but no heed was paid, therefore, being subordinate, appellant acted upon the orders of the high-ups at the time of occurrence.
- C. Misconceived hence denied. The place of occurrence was within the jurisdiction of PS Sheikh Maltoon while appellant was posted as SHO at PS Toru. In spite of the same he approached the place of occurrence to prevent the huge mob from taking law in their hands.
- D. Untrue hence emphatically denied. It is not only the mandatory requirement of law but also demand of natural justice that before proceeding against a person, the Department shall be duty bound to conduct a regular enquiry instead of a fact finding enquiry as well as provide the chance of personal hearing whereas all the proceedings have been conducted at the back of the appellant, therefore, the same are not sustainable in the eye of law and liable to be struck down.
- E. Incorrect hence vehemently denied. The basic requirement of F.R 29 has been denied whereby no time limit for the continuation of revision has been specified which is a legal requirement under the

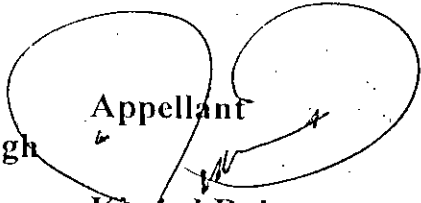
said law, therefore, the impugned orders are nullity in the eye of law and liable to be set aside.

F. Untrue hence vehemently denied. The inquiry officer recommend appellant for minor punishment but department malafide awarded major punishment without any legal justification muchless lawful and without Final Show Cause Notice for enhanced punishment.

G-J. Detail rejoinder has already been given in the preceding paras. It is explained that discriminatory treatment has been made against appellant and other officials who were also present on the spot but no proceedings have been initiated against them.

K. Needs no rejoinder.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through  Appellant  
Khated Rahman  
Advocate, Peshawar

Dated: 16 /10/2018

Verification

Verified that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Appellant

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

Service Appeal No. 501/2018.

Mudassir Khan ASI District Police Mardan.....Appellant.

**VERSUS.**

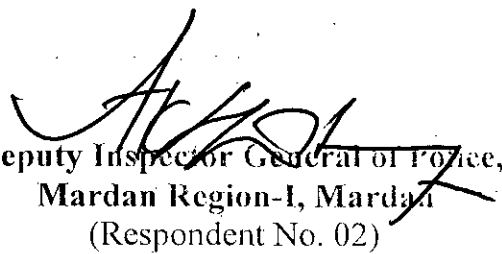
District Police Officer, Mardan & others.....Respondents.

**AUTHORITY LETTER.**

Mr. Atta-ur-Rahman Sub-Inspector Legal, (Police) Mardan is hereby authorized to appear before the Honourable Service Tribunal, Khyber Pakhtunkhwa, Peshawar in the above captioned service appeal on behalf of the respondents. He is also authorized to submit all required documents and replies etc. as representative of the respondents through the Addl: Advocate General/Govt. Pleader, Khyber Pakhtunkhwa Service Tribunal, Peshawar.



Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 01)



Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
(Respondent No. 02)



District Police Officer  
Mardan  
(Respondent No. 03)

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 262 /ST Dated 13/02/2019


To

The District Police Officer,  
Government of Khyber Pakhtunkhwa,  
Mardan.

Subject: - JUDGMENT IN APPEAL NO. 501/2018, MR. MUDASIR KHAN.

I am directed to forward herewith a certified copy of Judgement dated 08.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

C

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,  
PESHAWAR.

Service Appeal No. 501/2018.

Mudassir Khan ASI District Police Mardan.....Appellant.

VERSUS.

District Police Officer, Mardan & others.....Respondents.

**Respectfully Sheweth:**

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has not come to this Honourable Tribunal with clean hands.
2. That the appellant has got no cause of action.
3. That the appellant has concealed material facts from this Honourable Tribunal.
4. That the appellant is estopped by his own conduct, by law to bring the instant appeal.
5. That the present appeal is bad in its present form hence not maintainable and liable to be dismissed.
6. That the appeal is bad due to non-joinder of necessary parties and mis-joinder of unnecessary parties.

**REPLY ON FACTS.**

1. Pertains to record, hence, no comment.
2. Correct to the extent of brutal murder of a student namely: Mashal Khan in Abdul Wali Khan University, Mardan by a mob and registration of FIR to that effect. The appellant, however, being SHO and a responsible Police Officer could not succeed to defend life of an assaulted student rather failed to show his professional tactics/measures to handle such like situations.
3. Correct. As the fact is admitted in this Para to the extent that he, though was at five/seven minutes drive i.e at Police Station Toru, Mardan and reached to the spot later than other officials/officer. This shows that he has not developed still his sources of information in the locality, if so, he would have been timely informed of the occurrence which has been erupted at 12 clock and thereafter too he lacked professional skills to cope with the situation rather ran here and there but with no success. Rest of the allegations carried in this Para are biased & baseless, hence, denied.
4. Incorrect. The appellant alongwith other subordinates/junior officers were being properly instructed by the high ups present on the spot and it is the SHO/junior officer who remain more practical and involved in such like situations. The appellant, being SHO, has failed to follow the instructions of his seniors rather showed slackness in the performance of his duty which led to wastage of a precious life. This is why those Police Officers who shows bravery, and professionalism are always bestowed rewards and awards and remembered in good words, publically and in their parent departments, too.
5. Incorrect. The charges leveled against appellant are founded and there is no element of malafide and conspiracy. Hence, denied. **(Copy of Inquiry is attached as Annexure-A).**
6. Incorrect. Proper departmental inquiry has been conducted and all codal formalities has been complied with.
7. Incorrect. The appellant has been treated as per rules/law and all codal formalities has been fulfilled. The appellant was given opportunity of personal hearing and heard in orderly room held on 03.10.2017 in the office of respondent No. 03. **(Copy of order of respondent No. 03 is attached as Annexure-B).**
8. Incorrect. As the preliminarily inquiry in the matter was conducted by the office of respondent No. 02, so, the departmental appeal was referred to Central Police Office, Peshawar which was returned with the observation that **"...the Board is of the opinion that your office may decided the departmental appeal at your end purely on merit."** In compliance the respondent No. 02 called upon the appellant on 28.03.2018 and heard him in person, however, on the ground his failure to prove his innocence, the appeal was rejected accordingly vide order No. 2157-58/ES dated 02.04.2018 **(Copy of rejection order is attached as Annexure-C).**
9. Incorrect. The impugned order dated 02.04.2018 is lawful and in accordance with rules/law, hence, the instant appeal holds no grounds, legal or moral, to stand here on in this Honourable Court.




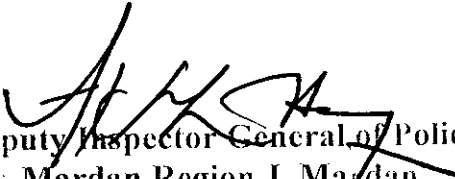
**REPLY ON GROUNDS:-**


- A. Incorrect. The appellant has been treated as per rules/law and there is no violation of any article of the Constitution of Pakistan. Hence, the impugned orders are legal, fair and sustainable in the eyes of law.
- B. Incorrect. The appellant was SHO of the Police Station adjacent i.s 5 to 7 minutes away from place of occurrence and being responsible officer was bound to have taken all precautionary measure professionally and timely. His failure to tackle the situation professionally has led to loss of a precious life.
- C. Incorrect. This is not the only occurrence in the history of Police as they always face and manage such like situations. The Police officers are more practical, well-trained and skilful in handling such like situations but the appellant has shown slackness and had not shown his professional skills which he was required to practice timely.
- D. Incorrect. Proper inquiry under rules/law was conducted by providing opportunities of hearing/defence and dealt the appellant without any malafide/prejudice. Hence, denied.
- E. Incorrect, hence, denied. As replied above.
- F. Correct as the inquiry officer has taken lenient view of a tragic and brutal incident and the role played by the appellant. The respondent No. 03, being competent authority, did not agree with the recommendation of inquiry officer and awarded penalty which the appellant deserved as per rules/law.
- G. Incorrect. The Police Station Toru and the Police Station Sheikh Maltoon are adjacent and share their boundaries on one side. Besides, the Police Station Toru is just 02 Km away from the place of occurrence and the appellant could reach the incident in maximum of 5 to 7 minutes. Further, the appellant too did not play the role which he was required to play in such like incidents. Further added, in such like troublous situations Police Officials from the nearest Police Stations are immediately summoned and remains there till the situation is cool down.
- H. Incorrect and baseless, hence, strongly denied. As replied above.
- I. Incorrect. The appellant has been dealt in accordance with rules/law and there is no discrimination, hence, denied.
- J. Pertains to record, however, the instant penalty is the result of misconduct he committed during a tragic incident which was too at an educational institution and led to bad image of Police not only in Pakistan but throughout the world.
- K. The respondents also seek permission to raise additional grounds, if any, at the time of arguments.

**PRAYER:-**

The prayer of the appellant, being baseless & devoid of merits, is liable to be dismissed with costs.

  
**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 01)**

  
**Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
(Respondent No. 02)**

  
**District Police Officer,  
Mardan  
(Respondent No. 03)**

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

**Service Appeal No. 501/2018.**

Mudassir Khan ASI District Police Mardan.....Appellant.

**VERSUS.**

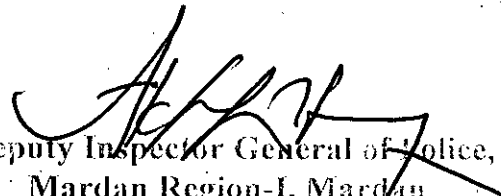
District Police Officer, Mardan & others.....Respondents.

**COUNTER AFFIDAVIT.**

We, the respondents do hereby declare and solemnly affirm on oath that the contents of the Para-wise comments in the service appeal cited as subject are true and correct to the best of our knowledge and belief and nothing has been concealed from this Honourable Tribunal.



**Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondent No. 01)**



**Deputy Inspector General of Police,  
Mardan Region-I, Mardan  
(Respondent No. 02)**



**District Police Officer,  
Mardan  
(Respondent No. 03)**