

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Ahmad Yar
..... Appellant

Versus

1GP, KPK & Others
..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
3.	Whether appeal is within time?	√	
4.	Whether the enactment under which the appeal is filed mentioned?	√	
5.	Whether the enactment under which the appeal is filed is correct?	√	
6.	Whether affidavit is appended?	√	
7.	Whether affidavit is duly attested by competent Oath Commissioner?	√	
8.	Whether appeal/annexures are properly paged?	√	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
10.	Whether annexures are legible?	√	
11.	Whether annexures are attested?		
12.	Whether copies of annexures are readable/clear?	√	
13.	Whether copy of appeal is delivered to AG/DAG?	√	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
15.	Whether numbers of referred cases given are correct?	√	
16.	Whether appeal contains cutting/overwriting?	x	
17.	Whether list of books has been provided at the end of the appeal?	√	
18.	Whether case relate to this court?	√	
19.	Whether requisite number of spare copies attached?	√	
20.	Whether complete spare copy is filed in separate file cover?	√	
21.	Whether addresses of parties given are complete?	√	
22.	Whether index filed?	√	
23.	Whether index is correct?	√	
24.	Whether Security and Process Fee deposited? On _____		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
26.	Whether copies of comments/reply/rejoinder submitted? On _____		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Rizwanullah Adv

Signature:- [Signature]

Dated:- 22-12-2021

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 7911 /2021

I. Ahmad Yar, Ex-LHC No: 742, District Police, Nowshera.

APPELLANT

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa and others.

RESPONDENTS

I N D E X

S#	Particulars	Annexure	Pages #
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2	Affidavit	-	09
3	Copy of FIR No. 644 dated 30-08-2020	"A"	10
4	Copy of charge sheet and statement of allegation	"B"	11-12
5	Copy of reply	"C"	13
6	Copy of inquiry report	"D"	14-15
7	Copy of show cause notice	"E"	16
8	Copy of reply to show cause notice	"F"	17
9	Copy of dismissal order dated 29-12-2020	"G"	18
10	Copy of departmental appeal	"H"	19
11	Copy of rejection order dated 29-01-2021	"I"	20-21
12	Copy of revision petition dated 03-02-2021	"J"	22
13	Copy of order of IGP dated 18-08-2021	"K"	23
14	Copy of order of this Tribunal to withdraw appeal	"L"	24-25
15	Copy of de-novo inquiry report	"M"	26
16	Copy of restoration of dismissal order	"N"	27
17	Copy of departmental appeal dated 13-11-2021	"O"	28
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Through

Dated: 22-11-2021


Appellant


Rizwanullah

Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2021

1. Ahmad Yar, Ex-LHC No.742, District Police, Nowshera.

APPELLANT

VERSUS

1. The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region-I, Mardan.
3. The District Police Officer, Nowshera.
4. The Superintendent of Police (Investigation), Nowshera.

RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
ORDER DATED 10-11-2021 PASSED BY
THE DISTRICT POLICE OFFICER,
NOWSHERA (RESPONDENT NO. 3)
WHEREBY THE PREVIOUS ORDER OF
DISMISSAL OF APPELLANT DATED
29-12-2020 WAS RESTORED. A
DEPARTMENTAL APPEAL WAS FILED
WITH THE REGIONAL POLICE
OFFICER, MARDAN REGION-I,
MARDAN (RESPONDENT NO.2) ON
13-11-2021. BUT THE SAME WAS
REJECTED ON 13-12-2021.**

Prayer in Appeal

By accepting this appeal, the impugned orders dated 10-11-2021 alongwith order dated 29-12-2020 & 13-12-2021 may very graciously be set aside and the appelliant may kindly be reinstated in service with full back wages and benefits.

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

RESPECTFULLY SHEWETH,

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

1. That the appellant joined the Police department in-capacity as Constable on 28-12-2010. He rose up to the post of LHC on account of his dedication, devotion and commitment to his job. The appellant had rendered 10 years of service accordingly.
2. That the appellant was performing his duty with great zeal, zest and devotion. But unfortunately, he was falsely involved in a criminal case FIR No. 644 dated 30-08-2020 u/s 381-A PPC Police Station Cantt: Nowshera. Resultantly, he was arrested and then released on bail granted by the competent court of jurisdiction.

(Copy of FIR is appended as Annex-A)

3. That the Competent Authority initiated disciplinary proceedings against the appellant and as such, he was served with a charge sheet alongwith statement of allegation.

(Copy of charge sheet alongwith statement of allegation is appended as Annex-B)

4. That the appellant submitted elaborate and exhaustive reply, denied the allegation and also termed it as fallacious, malicious and misconceived. He prayed that he may kindly be exonerated of the so-called allegation.

(Copy of reply is appended as Annex-C)

5. That the above reply was not found satisfactory and Mr. Zareef Khan, Deputy Superintendent of Police, Nowshera was appointed as Inquiry Officer to conduct departmental inquiry. During the course of inquiry, the said Inquiry Officer was transferred and the matter was entrusted to Mr. Abdur Rauf, Inspector Investigation Wing, Nowshera for

completion of Inquiry. He finalized the inquiry in utter violation of law and held the appellant guilty of the allegation.

(Copy of inquiry report is appended as Annex-D)

6. That thereafter, the appellant was served with a show cause notice on 09-11-2020. He submitted reply but the same too was not deemed satisfactory and ultimately, he was awarded harsh and extreme penalty of dismissal from service on 29-12-2020.

(Copy of dismissal order is appended as Annex-E, F & G)

7. That the appellant felt aggrieved by the said order, filed a departmental appeal with the respondent No. 2 but the same was rejected on 29-01-2021. He then filed revision petition under rule 11(A) of the Khyber Pakhtunkhwa Police Rules, 1975 with the respondent No. 1 on 03-02-2021. But it was not decided within reasonable time and as such he invoked the jurisdiction of this Hon'ble Tribunal by way of filing service appeal No. 5913/2021.

(Copy of departmental appeal, rejection order alongwith revision petition are appended as Annex-H, I & J)

8. That during the pendency of service appeal, the revision petition was partially accepted and the Competent Authority was directed to conduct de-novo inquiry in accordance with the procedure with opportunity of defence to appellant vide order dated 18-08-2021.

(Copy of order of IGP is appended as Annex-K)

9. That in view of the above position, the appellant moved an application before this Hon'ble Tribunal for withdrawal of service appeal and also sought permission which was allowed accordingly vide order dated 09-12-2021.

(Copy of order of this Tribunal is appended as Annex-L)

10. That the de-novo inquiry was also not conducted in a manner prescribed by law and as such, the appellant was found guilty of

allegation. However, the Inquiry Committee made the following recommendations/findings:

- i. Although Ahmad Yar, Ex-LHC is guilty but his brother namely Asfandyar has already been martyred in the service. Ahmad Yar has also small children and aged parents which stand askance from police about their livelihood.
- ii. keeping in view the above reasons has five years approved service may be forfeited and he be reinstated

(Copy of de-novo inquiry report is appended as Annex-M)

11. That the Competent Authority was not agreed with the findings of the Inquiry Committee and restored the previous order of dismissal of service of appellant vide order dated 10-11-2021.

(Copy of dismissal order is appended as Annex-N)

12. That the appellant being dissatisfied with the said order and filed departmental appeal on 13-11-2021 which was rejected on 13-12-2021.

(Copy of departmental appeal and rejection order are appended as Annex-O & P)

13. That it is worthwhile to mention here that the appellant was duly acquitted in all the three criminal cases and thereafter, no grounds whatsoever exist to remain the basis for the disputed punishment.

(Copy of court orders are appended as Annex Q, R & S)

14. That the appellant now again files this appeal before this Hon'ble Tribunal inter-alia on the following grounds within the statutory period of law.

GROUND OF APPEAL

- A. That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of **Article 4 of the Constitution of Islamic Republic of Pakistan, 1973**. Therefore, the impugned order is not sustainable in the eye of law.
- B. That the so-called regular inquiry was conducted in utter violation of law as neither any witness was examined in the presence of appellant nor he was provided any opportunity of cross-examination. Similarly, he was also not provided any chance to produce his defence in support of his version. The above defect in enquiry proceeding is sufficient to declare entire process as sham and distrustful. Moreover, right of fair trial is a fundamental right by dint of which a person is entitled to a fair trial and due process of law however, notwithstanding above, the appellant has been unabashedly deprived of his indispensable fundamental right of fair trial as enshrined in **Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973**. Besides, there was only one allegation levelled against the appellant in the charge sheet in respect of criminal case vide FIR No. 644 dated 30-08-2020 u/s 381-A PPC and the inquiry officer was under statutory obligation to confine himself to the said allegation alone but he travelled beyond the charge sheet and most surprisingly, inquiry was conducted in two other FIRs also which were neither part nor parcel of charge sheet. It is underscored that the object of charge sheet was to tell the accused employee as precisely and concisely as possible the matter in which the employee was charged and it must convey him with sufficient clarity and certainty what department intended to prove against him and of which, he would have to clear himself during disciplinary proceedings. But the needful was not done and as such the inquiry officer had violated the law laid down by august Supreme Court of Pakistan in various judgements. Therefore, the findings of the inquiry officer are perverse and are not sustainable under the law. Thus, the impugned orders passed on the basis of such findings are not warranted by law.
- C. That the Competent Authority (respondent No. 4) was under statutory obligation to have considered the case of appellant in its true perspective and also in accordance with law besides to see whether

the regular inquiry was conducted in consonance with law and that the allegations thereof were proved against the appellant without any shadow of doubt or otherwise. however, he has overlooked this important aspect of the case without any cogent and valid reasons and awarded harsh and extreme penalty of dismissal from service to the appellant. Thus, the impugned orders are liable to be set aside on this count alone.

- D. That the appellate Authority (respondent No.2) was under statutory obligation to have applied his independent mind to the merit of the case by taking notice about the illegality and lapses committed by the inquiry officers as well as by the Competent Authority as enumerated in earlier paras. Nevertheless, he failed to do so and rejected the departmental appeal without any cogent reasons. Therefore, the impugned orders are not tenable under the law
- E. That during the pendency of service appeal, the revision petition filed by the appellant was partially accepted and the Competent Authority was directed to conduct de-novo inquiry in accordance with law after providing due opportunity of defence to the appellant. in light whereof, the appellant submitted an application before this Hon'ble Tribunal for the withdrawal of his service appeal in order to exhaust legal remedy and in case of adverse order if any, permission was also sought which was allowed accordingly vide order dated 09-12-2021.
- F. That prior to conduct de-novo inquiry, it was incumbent upon the Competent Authority to have served the appellant with a charge sheet alongwith statement of allegations. But he failed to do so.
- G. That ironically, the de-novo inquiry was also not conducted in a manner prescribed by law and the same illegalities and irregularities were yet again brazenly committed as enumerated in earlier Para-B. The appellant was held guilty illegally however, in the recommendation/findings, it was proposed to forfeit five years approved service of appellant and that he may also be reinstated. But the Competent Authority was not agreed with the findings of the inquiry committee and shockingly restored the previous dismissal

order of appellant vide order dated 10-11-2021 without serving him with a show cause notice and providing him an opportunity of personal hearing being the requirements of law.

H. That when the order of de-novo inquiry was passed by the Revisional Authority (respondent No.1) then the same clearly shows that the regular inquiry was quashed and on the basis of such inquiry, the previous dismissal order dated 29-12-2020 also fell on the ground automatically. Thereafter, the Competent Authority had no power under the law to restore the said order which was struck down by his superior (Revisional Authority). But he did not bother for the same and flouted the above order. Therefore, the impugned orders are bad in law.

I. That once the appellant was acquitted in all three cases by the competent court of jurisdiction thereafter, no ground whatsoever existed to remain the edifice of punishment awarded to him by the respondent No. 3. Moreover, It is well settled law that where the criminal charges were not proved against the accused Civil Servant before the Competent Court of jurisdiction and the civil servant was acquitted on these charges then, the Departmental proceedings exactly based on the same charges, would be wholly irrelevant and unjustified. Reliance can be placed on judgment of august Supreme Court of Pakistan reported in **2001-PLC-(SC)-page-316-(citation-d)**. It would be advantageous to reproduce herein the relevant citation for facility of reference: -

2001-PLC-(SC)-page-316
(Citation-d)

Where the criminal charges were not established before a competent Court of law and the civil servant was acquitted on those specific charges, the departmental proceedings exactly on the same charges, would be wholly irrelevant and unjustified.

J. That the impugned orders are against law, facts of the case and norms of natural justice. Therefore, the same are not warranted under the law.

- K. That the impugned orders were passed as a "law of jungle" without fulfilling legal and codal formalities, thus the same are not tenable in law.
- L. That the respondent No. 2, 3 & 4 have passed the impugned orders in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic principle of administration of justice. Thus, the impugned orders are bad in law.
- M. That the impugned orders are based on conjectures and surmises. Hence, the same are against the legal norms of justice.
- N. That the appellant would like to seek the permission of this Hon'ble Tribunal to advance some more grounds at the time of arguments.

In view of the above narrated facts and grounds, it is, therefore, humbly prayed that the impugned orders dated 10-11-2021 alongwith order dated 29-12-2020 & 13-12-2021 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

Through

Dated: 20-12-2021


Appellant

Rizwanullah

M.A. LL.B

Advocate High Court, Peshawar.

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. _____/2021

1. Ahmad Yar, Ex-LHC No. 742, District Police, Nowshera.

APPELLANT

VERSUS

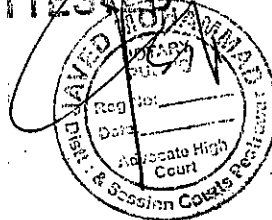
1. The Inspector General of Police, Khyber Pakhtunkhwa and others.

RESPONDENTS

AFFIDAVIT

I, Ahmad Yar, Ex-LHC No. 742, District Police, Nowshera., do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

ATTESTED



22 DEC 2021


DEPONENT



Annex-B
~~Handwritten scribbles~~


11

CHARGE SHEET

I, Superintendent of Police, Investigation Nowshera as competent authority, hereby charge you LHC Ahmad Yar No. 742 as per statement of Allegations enclosed.

1. By reasons of the above, you appear to be guilty of gross misconduct as defined by the Police Disciplinary Rules 1975 and have rendered yourself liable to all or any of the penalties defined under the said Rules.
2. You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegations 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 desire to be heard in person.

Attested
~~Handwritten signature~~
Attested


Superintendent of Police,
Investigation Nowshera

~~ATTESTED~~

51

10/10

No. 3353 /PA,

Dated 03/09/2020

DISCIPLINARY ACTION


I, Superintendent of Police Investigation, Nowshera as competent authority, is of the opinion Ahmad Yar No. 742/LHC has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of Police Disciplinary Rules 1975.

STATEMENT OF ALLEGATIONS

That Ahmad Yar No. 742/LHC, while posted as Muharrir Investigation Police Station Azakhel, is involved in car lifting and in this connection a case vide FIR No. 644 dated 30.08.2020 u/s 381-A PPC has also been registered in Police Station Cantt Nowshera against him which amounts to gross misconduct on his part.

For the purpose to scrutinize the conduct of the said accused Police official with reference to the above allegations Mr. Zareef Khan (DSP Inv: HQrs Nowshera) is appointed as Enquiry Officer to conduct departmental enquiry.

The Enquiry Officer in accordance with the provisions of Police Rules 1975 shall provide reasonable opportunity of hearing to the accused officer, record its findings and make recommendations as to punish or other appropriate action against the accused Police officer.



Superintendent of Police,
Investigation Nowshera.

No. _____ /PA, dated Nowshera the ____ / ____ /2020.

Copy of above is submitted to the District Police Officer, Nowshera for favour of information, please.

NO. 28/DSP Invst.
dt. 26.9.20.20.

Superintendent of Police,
Investigation Nowshera.

Attested

Attestant

~~TESTED~~

(13)

جنا عیالی

بوالہ ہجارت سینا فیملی PA/3553 فودم 1/2016 03 فیم دفوا خدمت بیرون له

منا ۱۷۱۱۲۱۲۱ یاد رقم 742 سے مقدمہ عدلت 644 فودم 08/2016 (26) 581A سے

تقاضا نو حصرہ کینٹ سینا بطور ندرت نامہ در پیوستہ ہم جواب طلبی کی گئی ہے

جو اندر میں بارہ کنز اسٹیٹ کے کہ منا ۱۷۱۱۲۱۲۱ یاد رقم 08/2016 (26) 581A کی

بالا میں واقع ہے تاہم بلازمت اور دیگر بیرونیات کی خاطر منا ۱۷۱۱۲۱۲۱

کی اہلیت دیکھ کر آج کے بار میں ریٹس پڈیم بیرون چیکہ دیکھ فودم

ایچ آئی ای کے میں میرٹ فالو میں بیرون ڈٹا کی ہے فیم میں اول درمیال

ریٹس پڈیم کے ساتھ اس کے ایک رٹس دار سمیاد یہ نامی شخص

نہ ایک عدد نوٹر کارڈ 1998 ہے جس کا نمبر ہے مقدم میں بطور امانت

کے ڈی کی ہے تاہم جو طلبہ منا ۱۷۱۱۲۱۲۱ بلازمت اور دیگر بیرونیات

کی وجہ سے دیکھ فودم میں جاتا بیرون دیکھ کے اس بار کے مطالعہ

کا کوئی علم نہیں تھا جب مقدمہ شروع ہوا بالاسا عدالت نے اسے نوٹر کارڈ کی کیت

تعمانہ نو حصرہ کینٹ میں رپورٹ درج کر والی تھی علم میں آئے کہ

آئی ای ٹور میں میرٹ فالو میں اس کے گاڑی امانت ڈی کی کی تھی

جو یو سی کا کینٹ عدلت پر آئی ہے تاہم حلفیہ بیان کرتا بیرون

کہ نہ تو منا ۱۷۱۱۲۱۲۱ گاڑی شذکرہ بالاسا سے نہ بیاد عدت سے اور نہ ہی

اندر میں بارہ کنز کے علم تھا بالکل بگناہ بیرون میں میرٹ میں

جو درست و حقیقت پر مبنی ہے

Attested

Appellant

۱۲۱ یاد رقم 742/۱۷۱۱۲۱
ATTESTED

انکوائری رپورٹ

انکوائری زیر دفعہ (iv) 5 پولیس رولز 1975 برخلاف LHC احمد یار 742 متعینہ محررا نوٹس گیشن تھانہ اضاحیل۔

تھانہ کاروائی برخلاف LHC احمد یار 742 بحوالہ حکم نمبری 3353/PA مورخہ 03/09.2020 برائے تحقیقات DSP INV بحیثیت انکوائری افسر ارسال کی ہے۔

حالات مختصر یوں ہے کہ مذکورہ LHC احمد یار 742 متعینہ محررا نوٹس گیشن تھانہ اضاحیل مقدمہ 644 مورخہ 30.08.2020 جرم 381A تھانہ نوشہرہ کینٹ میں ملوث پاکر جس پر چارج شیٹ سہری آف الگیشن تقسیم ہوا۔ اس نے اپنا تحریری بیان پیش کر کے جس میں تحریر ہے کہ اس کا آبائی گھر جو خوشی بالی میں واقع ہے سائل نے اپنے لئے دیہہ حکیم آباد میں بھی ایک گھر تعمیر کیا ہے جو کہ وقت نا وقت اپنے بیوی بچوں کی خبر گیری کیلئے آتا جاتا ہے۔ بدیں وجہ اپنے بیوی بچوں کو اپنے آبائی گھر سے حکیم آباد والے گھر شفٹ کئے ہیں جب کے آبائی گھر میں اس کا خالور ہائش پذیر ہے اس کے خالو کے کسی وسیم نامی دوست نے ایک عہد موٹر کار ماڈل 1998 کھڑی کی تھی جو کہ تھانہ کینٹ سے سرزد شدہ تھا پولیس نے برآمد کیا ہے۔ بقول احمد یار مذکورہ گاڑی کے بارے میں اسکو کوئی علم نہیں مذکورہ LHC نے اپنے آپ کو جملہ حالات سے بے خبر اور بے گناہ تحریر کیا ہے۔ جب کہ دوران سوال و جواب مذکورہ LHC نے اس بات کی تائید کی کہ وہ اپنے خالو کے بارے میں پہلے سے جانتا تھا کہ وہ ایک جرائم پیشہ ہے مذکورہ LHC کا تحریری بیان شامل کاروائی کی گئی ہے۔

اسی طرح محرر تھانہ نوشہرہ کینٹ نے مذکورہ LHC کی گرفتاری منجانب SHO زرداد خان کی نقلد 27 روز نامہ 12.09.2020 تھانہ نوشہرہ کینٹ پیش کی اور تفتیشی افسر اعجاز خان ASI نے مذکورہ LHC سے کی گئی تفتیش کی نسبت اپنا تحریری بیان پیش کر کے جس میں مذکورہ LHC کے قبضہ سے مقدمہ علت 644 مورخہ 03.09.2020 جرم 381A تھانہ نوشہرہ کینٹ میں مطلوبہ موٹر کار کی برآمدگی، مذکورہ LHC اور ہمراہی اش کے بیانات زیر دفعہ 161 ض ف کی روشنی میں مذکورہ LHC کو گنہگار ٹھہرانا تحریر کیا ہے لہذا تفتیشی افسر اعجاز خان ASI کا بیان شامل کاروائی کی۔

انچارج انوشی گیشن تھانہ نوشہرہ کلاں انسپکٹر انور علی خان OII نے مذکورہ LHC کے قبضہ سے مقدمات (1)۔ علت 769 مورخہ 08.09.2019 جرم 381A تھانہ کلاں (2)۔ علت 497 مورخہ 27.06.2020 جرم 381A تھانہ کلاں میں دو عدد دیکری ڈبہ برآمد کی اور ملزم مذکورہ LHC کا بیان زیر دفعہ 161 ض ف و دیگر تفتیشی کاروائی سے گنہگار ٹھہرایا ہے جس کا تحریری بیان بھی شامل کاروائی کی۔

مزید انچارج انوشی گیشن تھانہ اضاحیل شعیب خان SI نے بھی اپنا تحریری بیان پیش کر کے جس میں تحریر ہے کہ مذکورہ LHC ڈیوٹی میں دلچسپی نہیں لیتا تھا۔ جس کو کوئی بار سمجھانے کی کوشش کی مگر مذکورہ اپنے حرکات سے باز نہیں آیا۔ جس کے خلاف بحوالہ مد 16 روز نامہ 29.08.2020 تھانہ اضاحیل میں رپورٹ غیر حاضری درج روز نامہ کرنا اور بعد میں SHO تھانہ نوشہرہ کینٹ کی جانب سے مذکورہ LHC کی کاریفٹنگ مقدمہ میں گرفتاری تحریر کی ہے جس کا بیان شامل کاروائی کی۔

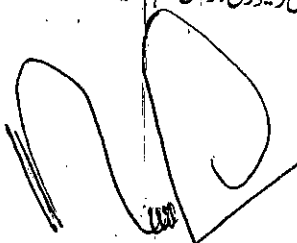
اسی طرح بخت روان HC محرر تھانہ اضاحیل نے بھی تحریری بیان پیش کر کے جس میں مذکورہ نے تحریر کیا ہے کہ LHC احمد یار کا زیادہ تر تعلق انوشی گیشن سٹاف سے تھا زیادہ تر وقت انوشی گیشن سٹاف کے ساتھ گزارتا تھا البتہ امثلا جات کی تکمیل کے لئے دفتر روز نامہ آتا تھا جس کے خلاف انچارج انوشی گیشن نے بحوالہ مد 14 مورخہ 29.08.2020 تھانہ اضاحیل میں رپورٹ غیر حاضری درج روز نامہ کی ہے۔

Appellant

15

جناب DSP صاحب ظریف خان کے تبادلہ پر انکوائری ہذا ایضاً مکمل کرنے میں انسپکٹر کے حوالہ ہو کر بعد مطالعہ انکوائری رپورٹ مذکورہ LHC کے سروں ریکارڈ کی نسبت انچارج سروں بک (اعمال نامہ) کو تحریری درخواست ارسال کر کے جس پر انچارج سروں بک نوشہرہ نے مفصل رپورٹ پیش کر کے جو شامل کاروائی کی۔ بحیثیت انکوائری افسر بعد مطالعہ تفتیشی افسران، انچارج انوشی گیشن تھانہ اضاحیل، محرم تھانہ اضاحیل، احمد یار LHC اور تقدمات رپورٹ غیر حاضری، گرفتاری اور سروں ریکارڈ اس نتیجہ پر پہنچا ہوں کہ مذکورہ LHC احمد یار واقعی گنہگار ہے۔

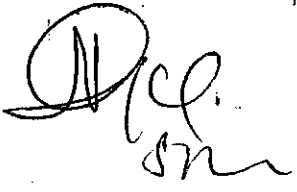
مگر مذکورہ LHC احمد یار 742 جس کے خلاف تین عدد مقدمات بہ جرم 381A جس میں ریکوری ہو چکی ہے زیر تجویز عدالت ہیں۔


انسپکٹر عبدالرؤف
انوشی گیشن ونگ نوشہرہ

Issue Final Show Cause
notice

Attested

Appellate


2-11-20

Annex-E

FINAL SHOW CAUSE NOTICE

Whereas, you LHC Ahmad Yar No. 742 while posted as Muharrir Investigation Police Station Azakhel, is involved in car lifting and in this connection a case vide FIR No. 644 dated 30.08.2020 u/s 381-A PPC has also been registered in Police Station Cantt: Nowshera against you.

On account of which you were suspended, closed to Investigation Headquarters and proceeded against departmentally through Inspector Abdul Rauf Khan I/C Prosecution Cell Nowshera, who after fulfillment of legal formalities submitted his report to the undersigned, wherein he proved the allegations leveled against you.

Therefore, it is proposed to impose Major/Minor penalty including dismissal as envisaged under Rules 4(b) of the Khyber Pakhtunkhwa Police Rules 1975.

Hence, I Noor Jamal, Superintendent of Police Investigation Nowshera, in exercise of the powers vested in me under Rules 5(3) (a) & (b) of the Khyber Pakhtunkhwa Police Rules 1975, call upon you to Show Cause finally as to why the proposed punishment should not be awarded to you.

Your reply shall reach this office within 07 days of the receipt of this notice, failing which, it will be presumed that you have no defence to offer.

You are at liberty to appear for personal hearing before the undersigned.

Superintendent of Police,
Investigation Nowshera.

No. 5125 /PA.

Dated 09/11/2020.

Attest
Appellant

سید احمد یار کے خلاف کارٹا کیس نمٹانے کے لیے درخواستیں جمع کروائیں۔

2. 10/11/20

بہان اذان احمد پار LHC/742 متعینہ معطل انوسٹی گیشن ونگ نوشہرہ

جناب عالی!

مکالمہ مشمولہ فائل شوکار نمبر 5125/PA مورخہ 09.11.2020 جاریہ جناب SP صاحب انوسٹی گیشن نوشہرہ معروض خدمت ہوں کہ من LHC سے مقدمہ عدالت 644 مورخہ 30.08.2020 جرم 381A تھانہ نوشہرہ کینٹ میں ملزم نامزد ہونے پر جواب طلبی فرمائی گئی ہے اندر میں بارہ معروض خدمت ہوں کہ مقدمہ مذکورہ بالا میں من LHC بالکل بے گناہ ہے اور مجھے ناجائز طور پر ایک سوچے سمجھے منصوبہ کے تحت مقدمہ میں صرف اس بنیاد پر پھنسا یا گیا ہے کہ موٹر کار نمبر LHV-8348 جس مکان سے برآمد کی گئی ہے وہ میرا پدری مکان ہے۔ لیکن اس اہم بات کو کہ مکان مذکورہ جس سے موٹر کار برآمد کی گئی ہے اس میں میرا سگہ خالو میر زمان عرف بیرو لد بدیع الزمان سکھ حال خیشگی بالا رہائش پذیر تھا جس کے ساتھ میں نے باقاعدہ کرایہ نامہ شامپ بیپر پر تحریر کیا تھا جو بطور ثبوت موجود ہے مگر پھر بھی کسی دوسرے شخص کے کئے گئے غلط فعل کی سزا من LHC کو دی جارہی ہے۔

اندر میں بارہ من LHC نے اپنی بے گناہی کی درخواست افسران بالا صاحبان کے خدمت میں پیش کی ہے جس پر CPO پشاور میں افسران بالا صاحبان کی نگرانی میں ایک انکوائری زیر غور ہے، مزید یہ کہ مقدمہ مذکور عدالت سینئر سول جج صاحب نوشہرہ میں زیر سماعت ہے چونکہ نہ تو CPO میں جاری انکوائری نا حال مکمل کی گئی ہے اور نہ ہی عدالت مجاز نے مقدمہ مذکورہ کے بارے میں کوئی حکم صادر فرمایا ہے۔ مقدمہ بالا میں میرے گنہگار ہونے یا نہ ہونے کا فیصلہ عدالت ہی بہتر طور پر کر سکتی ہے لہذا استدعا کی جاتی ہے کہ انکوائری ہذا کو تا فیصلہ عدالت ملتوی رکھا جائے۔

الذ
احمد پار خدیو ملک

Attested

Attested
Appellant

Attested

Attested

نواب
نہ عمر
کامی
سبا
نت

ORDER

JJ

10
Annex-67

18


This order will dispose-off a Departmental Enquiry against Ahmad Yar No. 742/LHC under the allegations that he while posted as Muharrir Investigation P.S Azakhel, was involved in car lifting and a case vide FIR No. 644 dated 30.08.2020 u/s 381-A PPC was registered against him in Police Station Cantt: Nowshera.

In this connection he was suspended and closed to Investigation HQrs: vide this office O/B No. 85 dated 31.08.2020. Similarly he was served with Charge Sheet and Statement of Allegations vide this office No. 3353/PA, dated 03.09.2020. DSP Zareef Khan of Investigation HQrs: Nowshera was appointed as Enquiry Officer but on his transfer the enquiry papers were entrusted to Inspector Abdur Rauf Khan Incharge Prosecution Cell. The enquiry officer, after fulfillment of legal formalities in the enquiry process, submitted his enquiry report wherein he held the delinquent official guilty of the said misconduct. Subsequently, he was served with final show cause notice vide this office No. 5125/PA, dated 09.11.2020 to which he submitted his reply to which the undersigned was not satisfied. Finally he was heard in person but again the defaulter official failed to produce any solid materials in his favour.

Therefore, Ahmad Yar No. 742/LHC is hereby awarded major punishment of "dismissal from service" with immediate effect, in exercise of the power vested in me under Police Rules 1975.

OB No 140

Dated 29/12/2020


(NOOR JAMAL)

Superintendent of Police,
Investigation Nowshera.

No 5975-81 /PA: dated Nowshera the 29/12/2020.

Copy for information and necessary action to the:-

1. The Regional Police Officer, Mardan.
2. The District Police Officer, Nowshera
3. Establishment Clerk
4. Accountant/Reader/OHC/FMC.

Attested

Appellate

copy Ahmad Yar

~~ATTACHED~~

درخواست در بارہ بحالی نوکری

Anner-H
جناب عالی!

گزارش ہے کہ سائل کو جناب SP صاحب انوسٹی گیشن نے مقدمہ علت 644 مورخہ 30.08.2020 جرم 381A تھانہ نوشہرہ

کینت میں ملوث ہونے کی الزام میں بحوالہ OB نمبر 140 مورخہ 29.12.2020 محکمہ سے برخواست کیا ہے۔ (نقل ہمراہ لف ہے)

یہ کہ جب من سائل بحیثیت محررانوسٹی گیشن تھانہ اضاحیل میں تعینات تھا تو SI سیف اللہ جو اس وقت تھانہ اضاحیل میں بحیثیت SHO تعینات تھے کے ساتھ متعدد غیر قانونی احکامات جاری کرنے پر اختلاف پیدا ہو کر مورخہ 30.08.2020 کو میرے موبائل نمبر پر کال کی اور مجھے پہلے تھانہ اضاحیل اور پھر تھانہ نوشہرہ کینت آنے کا کہا جب میں تھانہ نوشہرہ کینت پہنچا تو SI مذکورہ نے SI اللہ خان (جو اس وقت SHO تھانہ نوشہرہ کینت) کی گاڑی میں من سائل کو بٹھا کر خود کہیں اور چلا گیا اور میں SHO کینت کے ساتھ گاڑی میں رہا بعد ازاں مجھے معلوم ہوا کہ مذکورہ SI سیف اللہ نے میرے خالو میر زمان عرف پیر کے مکان سے ایک سروقہ موٹر کار برآمد کی ہے، اور مجھے بھی اسی مقدمہ میں بے گناہ پھنسا یا جا رہا ہے میں نے کافی منت سماجت کی مگر میری ایک نہ سنی اور قریب 17 دن تک کبھی ضلع سردان، کبھی ضلع چارسدہ اور کبھی نوشہرہ کے متعدد تھانہ جات اور چوکیات میں غیر قانونی طور پر من سائل کو نہ صرف جس بے جا میں رکھا بلکہ انتہائی تشدد کا نشانہ بنایا اور اس دوران مجھے 30 اگست سے ہی تھانہ اضاحیل میں غیر حاضر کر دیا۔ مقدمہ مذکورہ بالا میں من سائل بالکل بے گناہ ہے اور مجھے ناجائز طور پر ایک سو پچھتر ہجے منسوبہ اور انتقامی کارروائی کے تحت نہ صرف مقدمہ مذکورہ بالا بلکہ تھانہ نوشہرہ کلاں کے مزید 2 مقدمات میں من سائل کو صرف اس بنیاد پر پھنسا یا گیا ہے کہ موٹر کار نمبر LHV-8348 جس مکان سے برآمد کی گئی ہے وہ میرا پوری مکان ہے۔ لیکن اس اہم بات کو کہ مکان مذکورہ جس سے موٹر کار برآمد کی گئی ہے اس میں میرا سگہ خالو میر زمان عرف پیر ولد بدیع الزمان سکندہ حال خٹکی بالا بعد اہل و عیال پر رہائش پذیر تھا جس کے ساتھ میں نے باقاعدہ کرایہ نامہ شامپ نیچے پر تحریر کیا تھا جو بطور ثبوت موجود ہے مگر پھر بھی کسی دوسرے شخص کے کئے گئے غلط فعل کی سزا من سائل کو دی جا رہی ہے۔ (نقل کرایہ نامہ ہمراہ لف ہے)

یہ کہ متذکرہ افسران نے من سائل کی کردار کشی کی نیت سے ایک بے بنیاد پریس کانفرنس منعقد کی جس میں من سائل کے قبضے سے 5 عدد گاڑیوں کی برآمدگی ظاہر کی جس میں ایک کیری وین نمبر LWA-3611 جو کہ من سائل کی ذاتی ملکیت تھی، کاغذات وغیرہ مکمل درست تھے وہ بھی بطور سروقہ ظاہر کی جو مقدمہ علت 497/2019 تھانہ کلاں میں مدعی مقدمہ شاہد کو حوالہ کرتے وقت مدعی نے کیری وین وصول کرنے سے انکار کیا اور کہا کہ یہ میری کیری وین نہیں ہے۔ اندر میں بارہ مدعی نے عدالت حضور میں ایک تحریری درخواست بابت تو ہیں عدالت بھی دائر کی ہے (نقل ہمراہ لف ہے)

یہ کہ اس بارے میں من سائل نے ایک تحریری درخواست افسران بالا صاحبان کو پیش کی جس پر افسران بالا نے SI سیف اللہ کے خلاف انوکواری کرنے اور مقدمات کی دوبارہ تفتیش کرنے کا حکم فرمایا جس پر انوکواری اور دوبارہ تفتیش کارروائی جاری ہے۔ (نقل ہمراہ لف ہے) مزید یہ کہ ہر سہ مقدمات عدالت میں زیر سماعت ہیں جن میں عدالت نے میری گنہاری یا بے گناہی کی نسبت تا حال کوئی فیصلہ جاری نہیں کیا ہے۔ گزشتہ دنوں مقدمہ علت 644 متذکرہ بالا میں مدعی مقدمہ سردار ولی نے بدوران کراس بیان عدالت کے رد و اس بات کا اعتراف کیا ہے کہ اس نے من سائل کے خلاف دعویداری صرف اور صرف SI سیف اللہ کے ذمہ داری کی ہے۔ (نقل 164 ضیف ہمراہ لف ہے)

یہ کہ سائل ایک شریف اور غریب خاندان سے تعلق رکھتا ہے اور سائل کا نوکری کے علاوہ کوئی دوسرا ذریعہ آمدن موجود نہ ہے سائل کی بیوی اور چھوٹے چھوٹے بچے ہیں اس کے علاوہ سائل کا ایک بھائی اسفندیار شہید جو محکمہ پولیس میں بطور کنسٹیبل تھانہ نٹھامپور میں تعیناتی کے دوران بدنام زمانہ گل متی گروپ کے ساتھ پولیس مقابلہ میں شہید ہوا ہے جس کی بیوہ اور 3 یتیم بچوں کی کفالت بھی سائل کے ذمہ ہے۔
انتہائی عاجزانہ استدعا ہے کہ سائل کی بے گناہی، گھریلو فریب اور ذمہ داریوں کو مد نظر رکھتے ہوئے سائل کو تا فیصلہ عدالت نوکری پر واپس بحال کرنے کا حکم فرمایا جائے۔

نوازش ہوگی۔

Attested
Appel Comit.

ATTESTED

العبد

~~Annex-I~~ 20

ORDER.

This order will dispose-off the departmental appeal preferred by Ex-LHC Ahmad Yar No. 742 of Investigation Wing, Nowshera against the order of Superintendent of Police Investigation, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB: No. 140 dated 29.12.2020. The appellant was proceeded against departmentally on the allegations that he while posted as Moharrar Investigation Police Station, Azakhel was found involved in the following cases:-

- i. FIR No. 769 dated 08.09.2019 u/s 381-A PPC P.S Nowshera Kalan.
- ii. FIR No. 497 dated 27.06.2020 u/s 381-A PPC P.S Nowshera Kalan.
- iii. FIR No. 644 dated 30.08.2020 u/s 381-A PPC P.S Nowshera Cantt.

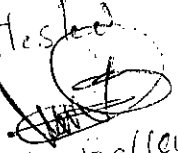
Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Deputy Superintendent of Police Investigation, Nowshera was nominated as Enquiry Officer but on his transfer the enquiry was entrusted to Inspector Abdur Rauf Khan Incharge Prosecution Cell, Nowshera. The Enquiry Officer after fulfilling codal formalities submitted his findings, wherein he recommended the delinquent Officer for major punishment.

He was issued Final Show Cause Notice to which his reply was received and found unsatisfactory.

He was also provided opportunity of self defense by summoning him in the Orderly Room by the Superintendent of Police Investigation, Nowshera, but he failed to advance any cogent reasons in his defense. Hence, he was awarded major punishment of dismissal from service vide OB: No. 140 dated 29.12.2020.

Feeling aggrieved from the order of Superintendent of Police Investigation, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 27.01.2021.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Besides, case property in shape of stolen cars has been recovered from the active possession of the appellant which clearly shows the nexus of appellant with the commission of offence. Moreover, the involvement of appellant in these heinous criminal cases is clearly a stigma on his conduct. On perusal of service record of the appellant, it was noticed that prior to this, the appellant was also dismissed from service for his involvement in corrupt practices. During his posting in Nowshera Traffic, the appellant had issued

Attested

Appellant


~~ATTESTED~~

21

a ticket of fine to the tune of Rs. 5000/- and deposited Rs. 100/-. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has himself indulged in criminal activities.

Keeping in view the above, I, Sher Akbar, PSP S.St Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.


Regional Police Officer,
Mardan.

No. 556-57/ES, Dated Mardan the 29-01- /2021.

Copy forwarded for information and necessary action to the:-

1. District Police Officer, Nowshera.
2. Superintendent of Police Investigation, Nowshera w/r to his office Memo: No. 220/H.C dated 14.01.2021. His service record alongwith enquiry file is returned herewith for record in your office.

(*****)

Attested

Appellate

~~ATTESTED~~
ATTESTED

Office of the District Judge
(Special Branch) S.O. No. 100
No. 33-3300

22
Anney-T
بجسٹریٹ
جناب عالی

گزارش ہے کہ سائل کو جناب SP صاحب انٹیلیجنس نے مقدمہ عدلت 644 مورخہ 08.20.2020م 381A تھانہ نوشہرہ کیسٹ میں ملوث ہونے کی الزام میں بحوالہ OB نمبر 140 مورخہ 29.12.2020 عکس سے درخواست کیا ہے۔ (مقل ہمراہ لف ہے) بعدہ سائل نے جناب DIG صاحب مردان رنجن کو نوکری پر بحال کے لئے حکمانہ اپیل دائر کر کے جو صاحب موصوف نے بحوالہ آڈر نمبر 556-57.ES مورخہ 29.01.2021 خارج کیا ہے (مقل ہمراہ لف ہے)

یہ کہ جب سائل بحیثیت محرر انٹیلیجنس تھانہ اضانیل میں تعینات تھا تو SI سیف اللہ جو اس وقت تھانہ اضانیل میں بحیثیت SHO تعینات تھے کے ساتھ متعدد غیر قانونی احکامات جاری کرنے پر اختلاف پیدا ہو کر مورخہ 30.08.2020 کو پھر سے موہاں نمبر پر کالی اور مجھے پہلے تھانہ اضانیل اور پھر تھانہ نوشہرہ کیسٹ آنے کا کہ جب میں تھانہ نوشہرہ کیسٹ پہنچا تو SI مذکورہ نے SI الطاف خان (جو اس وقت SHO تھانہ نوشہرہ کیسٹ) کی گاڑی میں سناں کو بٹھا کر خود کہیں اور چلا گیا اور میں SHO کیسٹ کے ساتھ گاڑی میں رہا بعدہ مجھے معلوم ہوا کہ مذکورہ SI سیف اللہ نے میرے خالو میر زمان عرف پیر کے مکان سے ایک سرورڈ سوز کار برآمد کی ہے، اور مجھے بھی اسی مقدمہ میں بے گناہ پھنسا دیا جا رہا ہے میں نے کافی مدت سماجت کی مگر میری ایک نہ سنی اور قریب 17 دن تک کبھی ضلع مردان، کبھی ضلع چارسدہ اور کبھی نوشہرہ کے متعدد تھانہ جات اور چوکیات میں غیر قانونی طور پر سناں کو نہ صرف جس بے جا میں رکھا بلکہ انتہائی تشدد کا نشانہ بنایا اور اس دوران مجھے 30 اگست سے ہی تھانہ اضانیل میں غیر حاضر کر دیا۔ مقدمہ مذکورہ بالا میں سناں بالکل بے گناہ ہے اور مجھے ناجائز طور پر ایک سو پچیسے منسوب، اور انصافی کاروائی کے تحت نہ صرف مقدمہ مذکورہ بالا بلکہ تھانہ نوشہرہ کلاں کے مزید 2 مقدمات میں سناں کو صرف اس بنیاد پر پھنسا دیا گیا ہے کہ سوز کار نمبر LHV-8348 جس مکان سے برآمد کی گئی ہے وہ میرا پڑری مکان ہے۔ لیکن اس الزامات کو کہ مکان مذکورہ جس سے سوز کار برآمد کی گئی ہے اس میں میرا منگ خالو میر زمان عرف پیر ولد بدیع الزمان سکند حال ضلع کالی بالا بعد اہل رعایا رہائش پذیر تھا جس کے ساتھ میں نے باقاعدہ کر ایہ نامہ سٹامپ پیچہ پر تحریر کیا تھا جو بطور ثبوت موجود ہے مگر پھر بھی کسی دوسرے شخص کے گئے غلطی کی سزا میں سناں کو نوکری جاری ہے۔

یہ کہ تذکرہ افسران نے سناں کی کردار کشی کی کثرت سے ایک بے بنیاد پریس کانفرنس منعقد کی جس میں سناں کے قبضہ سے 5 عدد گاڑیوں کی برآمدگی ظاہر کی، جن میں ایک کیری وین نمبر LWLA-3611 جو مقدمہ عدلت 497/2019 تھانہ کلاں میں مدعی مقدمہ شاہد کو حوالہ کرتے وقت مدعی نے کیری وین وصول کرنے سے انکار کیا اور کہا کہ یہ میری کیری وین نہیں ہے۔ اندر میں بارہ مدعی نے عدالت حضور میں ایک تحریری درخواست بابت توہین عدالت بھی دائر کی ہے (مقل ہمراہ لف ہے)

یہ کہ جو دوسری کیری وین نمبر ADB-474 جو میری ذاتی ملکیت تھی کا غزات وغیرہ درست موجود ہیں وہ بھی مقدمہ عدلت 769/2019 تھانہ کلاں میں بطور مال سرورڈ شمار کی گئی اور تصدیق بذریعہ ڈیپارٹمنٹ نمبر تہذیب کے سرورڈ کیری وین کا چیسر نمبر درج کیا گیا، سناں کی درخواست پر تذکرہ کیری وین FSL کا معائنہ کیا گیا جس کی FSL رپورٹ کے مطابق چیسر پلیٹ کٹ کیا گیا ہے، اور دوسرا چیسر نمبر پلیٹ لگا گیا ہے۔ (مقل ہمراہ لف ہے)

یہ کہ اس بارے میں سناں نے ایک تحریری درخواست افسران بالا صاحبان کو پیش کی، جس پر افسران بالا نے SI سیف اللہ کے خلاف انٹوائیٹی پروسیجر شروع کرنے اور مقدمہ کی دوبارہ تفتیش کرنے کا حکم فرمایا جس پر انکو ازری اور دوبارہ تفتیش کارروائی جاری ہے۔ (مقل ہمراہ لف ہے) مزید یہ کہ ہر مقدمہ عدالت میں زیر سماعت ہیں جن میں عدالت نے میری گتہ نگاری یا بے گناہی کی نسبت تا حال کوئی فیصلہ جاری نہیں کیا ہے۔ گزشتہ دنوں مقدمہ عدلت 644 مذکورہ بالا میں مدعی مقدمہ سردار ولی نے بددعا کر کے بیان عدالت کے رد و اس بات کا اعتراف کیا ہے کہ اس نے سناں کے خلاف دو چوہاری صرف اور صرف SI سیف اللہ کے ذمہ داری ہے۔ (مقل 164 ضف ہمراہ لف ہے)

یہ کہ سائل ایک شریف اور غریب خاندان سے تعلق رکھتا ہے اور سائل کا نوکری کے علاوہ کوئی دوسرا ذریعہ آمدن موجود نہ ہے سائل کی بیوی اور بچوں نے چھوٹے بچے ہیں اس کے علاوہ سائل کا ایک بھائی اسفندیار شہید جو محکمہ پولیس میں بطور کنسٹیبل تھانہ مظاہر میں تعیناتی کے دوران بدنام زمانہ قتل متی گردپ کے ساتھ پولیس مقابلہ میں شہید ہوا ہے جس کی بیوہ اور 3 یتیم بچوں کی کفالت بھی سائل کے ذمہ ہے۔ انتہائی عاجزانہ استدعا ہے کہ سائل کی بے گناہی، گھر پلورٹ اور ذمہ داریوں کو مد نظر رکھتے ہوئے سائل کو نوکری پر واپس بحال کرنے کا حکم فرمایا جائے۔ سائل آپ جناب کی اقبال بلندی کے لئے تاخیر دعا گو رہے گا۔

No. 6 AP
3-2-2021
OS/Secy
Pro

AGIE
DIG/PPs
2/2

ATTESTED

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

No. S/

2700

/21, dated Peshawar the 18/08/2021.

23

Annex-K

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-LHC Ahmad Yar No. 742. The petitioner was dismissed from service by Superintendent of Police, Investigation, Nowshera vide OB No. 140, dated 29.12.2020 on the allegations that he while posted as Moharrar Investigation Police Station Azakhel was found involved in the following cases:-

- i. FIR No. 769, dated 08.09.2019 u/s 381-A PPC Police Station Nowshera Kalan.
- ii. FIR No. 497, dated 27.06.2020 u/s 381-A PPC Police Station Nowshera Kalan.
- iii. FIR No. 644, dated 30.08.2020 u/s 381-A PPC Police Station Nowshera Cantt.

His appeal was rejected by Regional Police Officer, Mardan vide order Endst: No. 556-57/ES, dated 29.01.2021.

Meeting of Appellate Board was held on 06.05.2021 wherein petitioner was heard in person. Petitioner contended that he was falsely charged in the cases. He also produced statement of Sardar Wali s/o Akhtar Muhammad and Shahid Khan s/o Mir Abdullah before Judicial Magistrate-I, Nowshera and Judicial Magistrate-II, Nowshera respectively in support of his contention.

The contention of petitioner involve a factual controversy which needs proper enquiry for ascertaining the truth of the matter. Therefore, the Board decided de-novo enquiry proceeding and proper enquiry in accordance the prescribed procedure and providing opportunity of defence may be conducted.

Sd/-

KASHIF ALAM, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 2701-10/21.

Copy of the above is forwarded to the.

1. Regional Police Officer, Mardan. One Service Roll and one Page Missal of the above named Ex-LHC received vide your office Memo: No. 1163/ES, dated 26.02.2021 is returned herewith for your office record.
2. District Police Officer, Nowshera with the direction to conduct de-novo enquiry against above named Ex-Constable. One enquiry file (38 pages) of the above named Ex-Constable received vide your office Memo: No. 1070/PA, dated 03.05.2021 is returned herewith for your office record.
3. Superintendent of Police, Investigation, Nowshera.
4. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
6. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
8. Office Supdt: E-IV CPO Peshawar.

(IRFAN ULLAH KHAN) PSP
AIG/Establishment,
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

(24)

Anwar - L

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

5913
Service Appeal No. /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5833

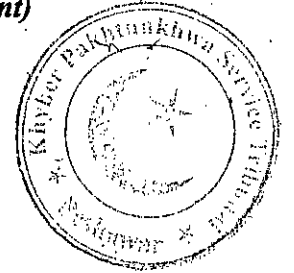
Dated 02/06/2021

Ahmad Yar,
Ex-LHC No.742, District Police
Nowshera.

(Appellant)

VERSUS

1. The Inspector General Police, Khyber Pakhtunkhwa,
Peshawar.
2. Superintendent of Police, Investigation,
Nowshera.
3. Deputy Inspector General of Police, Mardan Region 1
Mardan.
4. The District Police Officer, Khyber Pakhtunkhwa,
Nowshera.



(Respondents)

APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974, AGAINST THE
ORDER DATED 29.12.2020, WHEREBY THE
APPELLANT HAS BEEN AWARD THE
MAJOR PUNISHMENT OF "DISMISSAL
FROM SERVICE" AGAINST WHICH THE
DEPARTMENTAL APPEAL OF THE
APPELLANT HAS ALSO BEEN REJECTED
VIDE ORDER DATED: 29.01.2021, AGAINST
WHICH THE REVISION FILED BY THE
APPELLANT TO THE INSPECTOR
GENERAL POLICE IS NOT REPLIED TO
YET.

Filed to-day

Registrar

02/06/2021

Re-submitted to-day

accepted.

Registrar

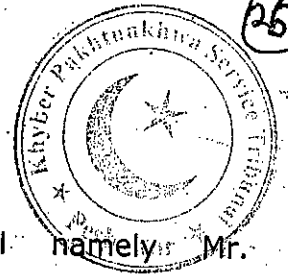
8/6/2021

Prayer in Appeal

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Service Appeal No. 5913/2020.



09.12.2021 Petitioner alongwith his counsel namely Mr. Rizwanullah, Advocate, present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the petitioner submitted an application to the effect that during pendency of the service appeal, the authority while partially accepting revision petition of the appellant, ordered de-novo enquiry. On submission of enquiry report, did not agree with the recommendation of enquiry officer and restored pervious penalty of dismissal from service imposed vide order dated 29.12.2020. The request for withdrawal of the service appeal in hand is allowed. File is consigned to record room.

ANNOUNCED
09.12.2021.

(Mian Muhammad)
Member (E)

Date of Presentation of Application 14/12/21
Number of Words 830
Copying Fee 10/-
Urgent 4/2
Total 14/2
Number of Copies 2
Date of Completion of Copy 14/12/21
Date of Delivery of Copy 14/12/21

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Annex - 19

(26)

No. 6243 /PA

Dated: 25/11/2021

**DE-NOVO ENQUIRY AGAINST EX-LHC AHMAD YAR No. 742
OF DISTRICT NOWSHERA.**

ALLEGATIONS:-

Ex-LHC Ahmad Yar No. 742 while posted as Moharrar Investigation Wing PS, Azakhel was awarded Major punishment of dismissal from service on account of involvement in criminal cases.

PROCEEDINGS:-

Ex-LHC Ahmad Yar No. 742 has been dismissed from service. The undersigned alongwith DSP/Akora Arshid Ahmad have been tasked to carry out the de-novo enquiry against him. Ahmad Yar Ex-LHC was summoned and questioned about the matter. His statement alongwith cross examination was recorded which is attached with enquiry paper. The LHC failed to satisfy the enquiry officers in the cross examination. Moreover, case vide FIR No. 769 dated 08.09.2019 u/s 381-A PPC, FIR No. 497 dated 27.06.2020 u/s 381-A PPC of Police Station Nowshera Kalan and FIR No. 644 dated 30.08.2020 u/s 381-A PPC of Police Station Nowshera Cantt. were also perused wherein the investigation officer has declared the LHC has guilty.


Secret probe against the LHC was also made which shows him as a criminal person having ties with notorious people. Service Record of Ahmad Yar Ex-LHC was obtained and perused. As per his service record he has been dismissed from service. He has other minor penalties in his service record. All the evidences have been collected which shows him guilty having blemished track record.

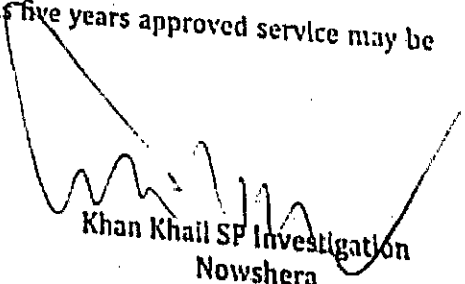
FINDINGS:-

Although Ahmad Yar Ex-LHC is guilty but his brother namely Asfandyar has already been martyred in the service. Ahmad Yar has also small children and aged parents which stand askance from police about their livelihood.

Keeping in view the above reasons has five years approved service may be forfeitured and he be re-instated.


Arshad Ahmad Khan,
DSP Akora

Attested

Appellant


Khan Khail SP Investigation
Nowshera

ORDER

Annex-N (27)

This order will dispose of the de-novo enquiry initiated under Khyber Pakhtunkhwa Police Rules, 1975 against EX- LHC Ahmad Yar No.742, that while posted as Moharrar Investigation Wing PS, Azakhel was awarded major punishment of dismissal from service by SP Investigation, Nowshera vide OB No. 140, dated 29.12.2020 on account of involvement in the following cases:

1. Case FIR No. 769 dated 08.09.2019 u/s 381-A PPC PS Nowshera Kalan.
2. Case FIR No. 497 dated 27.06.2020 u/s 381-A PPC PS Nowshera Kalan.
3. Case FIR No. 644 dated 30.08.2020 u/s 381-A PPC PS Nowshera Kalan.

Against the aforementioned punishment, he preferred appeal before the Regional Police Officer, Mardan but the same was rejected. Later-on, he submitted mercy petition before the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar. On 06.05.2021, meeting of appellate board was held wherein he was heard in person and the board decided to conduct de-novo enquiry proceeding against him in accordance with the prescribed procedures.

De-novo enquiry was conducted through Mr. Waqas Rafiq, ASP Cantt Nowshera, who after fulfillment of legal formalities submitted his report to the undersigned vide his office No.92. /St: dated 31.08.2021, suggesting therein that statement of SI Saif Ullah, the then SHO PS Azakhel given in the enquiry conducted on the complaint of EX-FC Ahmad Yar revealed that initially Ahmad Yar was arrested in the case registered vide FIR No. 644 dated 30.8.2021 u/s 381-A/411 PS Cantt. During interrogation, Motor Car No. 8348 was recovered from his (Ahmad Yar) possession. He further disclosed that he is also involved in 02 cases of Car lifting of PS Nowshera Kalan. Recovery in both the cases was effected from his possession. Furthermore, in addition to his involvement in Car theft/lifting cases, he was also found involved in missing important criminal case files. As on 04.09.2020, SI Shoaib Khan recovered dozens of case files along with case diaries from his (Ahmad Yar) house.

It has been found that indeed, the alleged police officer was involved in these crimes. He forced the complainant of these cases to give statement before court in his favor. After perusal of statement and record found the official involved in different kind of crimes. Recently a case FIR No. 452 dated 17.06.2021 u/s 506/337A(iii)/342/337A(ii) PPC PS Nowshera Cantt registered against him by his wife Mst: Amrozia. Similarly, the alleged official registered FIR No. 456 dated 11.07.2021 u/s 324/34 PPC at PS Risalpur against his wife Mst: Amrozia and father-in-law Karim Khan. During investigation it was found that the firearm injuries to him were self-made. He asked his brother Asif to shot him on left arm in order to implicate his wife and father-in-law in this case so that she can be pressurized to withdraw case against him (FIR No. 452 dated 17.06.2021 u/s 506/337A(iii)/342/337A(ii) PPC). The whole chain of events in FIR No. 456 u/s 324/34 PPC at PS Risalpur were mere eye wash to malign and implicate his wife and father-in-law. Statements of eyewitnesses in this case recorded u/s 164 Cr.PC, therefore, sections 201/202/182/211/324 PPC were added against complainant (Ahmad Yar) and his brother Asif.

Besides, he while posted as Ticketing Officer in Traffic Staff, issued challan to the tune of Rs: 5000/- under violation code No.542 and received the same on spot but deposited /paid Rs: 100/- hence a complaint filed by Imran Khan r/o Risalpur Cantt to Deputy Project Manager A2Z E-Payment (PVT) Ltd, Peshawar. Enquiry was conducted into the matter through the then SDPO Cantt, Nowshera wherein it was found that the said ticket was tempered, therefore, he was awarded major punishment of dismissal from service by the then DPO Nowshera. Defaulter official, during his service, earned a bad reputation by being involved in criminal activities. His such involvement has ruined the good image of police department. Moreover, as per intelligence source report defaulter official Ahmad Yar has a criminal background, therefore, recommended that the major punishment awarded to him by the SP Investigation Nowshera may be retained.

On 15.09.2021, he was heard in orderly room, wherein he took the stance that he was not provided full opportunity of defending himself, therefore, SP Investigation, Nowshera and DSP Akora were nominated as enquiry officers, who after fulfillment of legal formalities submitted their report to the undersigned vide SP Investigation office No. 6243/PA dated 09.11.2021, wherein it was highlighted that Ex-LHC Ahmad Yar is guilty, but his brother was also martyred in the service, and he also has small children and aged parents, therefore, recommended that he may be awarded minor punishment of forfeiture of approved service.

The undersigned did not agree with the recommendations of enquiry officers, therefore, his major punishment of dismissal awarded by the then SP Investigation, Nowshera is hereby kept intact, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB No. 1174
Dated 10/11/2021


District Police Officer,
Nowshera

No. 3207-11 /PA, dated Nowshera, the 10/11/2021.
Copy for information and necessary action to:

1. The Additional Inspector General of Police, Headquarter, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan w/r to his office diary No. 3326/ES dated 26.06.2021.
3. The Assistant Inspector General of Police, Establishment, Khyber Pakhtunkhwa, Peshawar w/r to his office issued vide No. S/2700-10 dated 18.08.2021.
4. SP Investigation, Nowshera.
5. FMC with its enclosure (72 sheets).

درخواست در بارہ بحالی نوکری

جناب عالی!

من سائل کو جناب ڈسٹرکٹ پولیس آفیسر صاحب ضلع نوشہرہ نے بحوالہ OB.No.1174 مورخہ 10.11.2021

de.novo انکوائری میں نوکری سے بدستور برخاست رکھنے کا حکم صادر فرما کر اندریں بارہ بہ تفصیل ذیل معروض خدمت ہوں۔

من سائل محکمہ پولیس میں ملازم تھا اور تھانہ اضاحیل میں تعینات تھا کہ اس دوران میرے خالو میر زمان عرف پیر ولد بدیع الزمان سکند باباجی

کے حال خیشگی بالا کے رہائشی مکان سے ایک عدد موٹر کار نمبر LHV-8348 برآمد کی گئی جو بحوالہ مقدمہ علت 644 مورخہ 30.08.2021 تھانہ نوشہرہ

کینٹ سے مسروقتھی جبکہ میر زمان عرف پیر موقع پر موجود نہ تھا، بعدہ مجھے مقامی پولیس نے تھانہ کینٹ بلا کر غیر قانونی طور پر حراست میں لے کر

10/12 دن تک مردان، نوشہرہ اور چارسدہ کے مختلف تھانہ جات اور چوکیات میں محبوس رکھ کر تشدد کا نشانہ بناتے رہے پھر مجھے بالا مقدمہ کے علاوہ

تھانہ نوشہرہ کلاں کے 2 ان ٹریس مقدمات علت (1) علت 769 مورخہ 08.09.2019 جرم 381A تھانہ کلاں (2) علت 497 مورخہ

27.06.2020 جرم 381A تھانہ نوشہرہ کلاں میں بھی غیر قانونی اور ناجائز طور پر نامزد کیا گیا، میرا گناہ یہ تھا کہ جس مکان میں میر زمان عرف پیر

رہائش پذیر تھا وہ ہمارا پدری مکان ہے لیکن ہم نے اپنی خالہ کی درخواست پر خالو میر زمان کو کرایہ پر دیا تھا جس کا کرایہ نامہ کا شامپ پیپر بھی موجود

ہے۔ من سائل کی ذاتی کیری وین نمبر ADB-474 جس کے کاغذات، خریدنے کا شامپ پیپر اب بھی سائل کے پاس موجود ہیں کو لے آ کر

مقدمہ علت 769 بالا میں بطور مال باز یافتہ شمار کر کے مزید یہ کہ میرے کیری ڈبہ کا قصدا "عمدا" چیسر نمبر پلیٹ تبدیل کیا جو مقدمہ کے مدعی نے عدالت

میں کہا کہ یہ میری کیری وین نہ ہے اور کیری وین لینے سے انکاری ہوا۔ (کاغذات مرفوف ہیں)

اندریں بارہ من سائل نے اپنی بے گناہی اور اپنے ساتھ ہونیوالی زیادتیوں کے ازالہ کی امید لئے افسران بالا صاحبان کے خدمت میں ایک

تحریری درخواست پیش کی جس پر CPO پشاور میں افسران بالا صاحبان کی نگرانی میں ایک انکوائری ہوئی انکوائری افسر نے بھی من سائل کے ساتھ

ہونے والی زیادتیوں کا نوٹس لے کر دوبارہ انکوائری کرنے کا حکم صادر فرمایا۔

اس طرح جن تین مقدمات میں من سائل کو بے گناہ پھنسا یا گیا تھا ان تینوں مقدمات میں عدالت مجاز نے من سائل کو بے گناہ قرار دے کر

باعزت طور پر بری کرنے کا حکم صادر فرمایا ہے۔ (آرڈر عدالت مرفوف ہیں)

من سائل ایک غریب آدمی ہے اور پولیس نوکری کے سوا من سائل کا کوئی دوسرا ذریعہ آمدن موجود نہ ہے سائل کے چھوٹے چھوٹے بچے

ہیں۔ اس کے علاوہ سائل کا چھوٹا بھائی اسفندیار خان شہید جو محکمہ پولیس نوشہرہ میں بطور کنسٹیبل ملازم تھا اور 2018 میں تھانہ نظاپور میں بدوران

ڈیوٹی بدنام زمانہ گل متی گروپ کے ساتھ پولیس مقابلہ میں شہید ہو کر جس کے بال بچوں کی کفالت بھی سائل کے ذمہ ہے۔ سائل کی بے گناہی، غربت

اور گھریلو ذمہ داریوں کو مد نظر رکھتے ہوئے سائل کو محکمہ پولیس میں واپس بحال کرنے کا حکم فرمایا جاوے تاکہ سائل اپنے بچوں کو عزت کی روزی کھلا سکے

سائل آپ جناب کی اقبال بلندی اور آپ کے بچوں کی حیاتی کے لئے تا عمر دعا گو رہے گا۔



العبد

احمد یار 742-LHC-EX ضلع نوشہرہ 0311.9292566

Received

13-11-21

ESTABLISHMENT

Branch RPO mardan

Annex - P

29

ORDER.

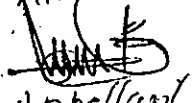
This order will dispose-off the departmental appeal preferred by Ex-LHC Ahmad Yar No. 742 of Nowshera District Police, against the order of District Police Officer, Nowshera, whereby he was awarded major punishment of dismissal from service vide OB: No. 1174 dated 10.11.2021. The appellant was proceeded against departmentally on the allegations that he while posted as Moharrar Investigation Wing Police Station, Azakhel, District Nowshera was awarded major punishment of dismissal from service by SP Investigation, Nowshera on account of involvement in the following cases:

1. Case FIR No. 769 dated 08.09.2019 u/s 381-A PPC PS Nowshera Kalan.
2. Case FIR No. 497 dated 27.06.2020 u/s 381-A PPC PS Nowshera Kalan.
3. Case FIR No. 644 dated 30.08.2020 u/s 381-A PPC PS Nowshera Kalan.

Against the aforementioned punishment, he preferred appeal to this office but the same was rejected by the then Regional Police Officer, Mardan vide this office order endorsement No. 556-57/ES dated 29.01.2021. Later-on, he submitted revision petition before the Inspector General of Police, Khyber Pakhtunkhwa, Peshawar. On 06.05.2021, meeting of appellate board was held wherein he was heard in person and the board decided to conduct de-novo enquiry proceeding against him in accordance with the prescribed procedures vide CPO/Peshawar Order No. S/2800/21 dated 18.08.2021.

Proper departmental enquiry proceedings were initiated through Mr. Waqas Rafiq, ASP Cantt Nowshera. The Enquiry Officer after fulfillment of legal formalities submitted his report to District Police Officer, Nowshera, suggesting therein that statement of SI Saif Ullah, the then SHO PS Azakhel given in the enquiry conducted on the complaint of EX-FC Ahmad Yar revealed that initially Ahmad Yar was arrested in the case registered vide FIR No. 644 dated 30.8.2021 u/s 381-A/411 Police Station, Nowshera Cantt. During interrogation, Motor Car No. 8348 was recovered from his (Ahmad Yar) possession. He further disclosed that he is also involved in 02 cases of Car lifting of Police Station Nowshera Kalan. Recovery in both the cases was affected from his possession. Furthermore, in addition to his involvement in Car theft/lifting cases, he was also found involved in missing important criminal case files. As on 04.09.2020, SI Shoaib Khan recovered dozens of case files along with case diaries from his (Ahmad Yar) house.

It has been found that indeed, the delinquent Officer was involved in these crimes. He forced the complainant of these cases to give statement before court in his favour. After perusal of statement and record the delinquent Officer was

Attested

Appellant

ASP

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found involved in different kind of crimes. Recently a case FIR No. 452 dated 17.06.2021 u/s 506/337-A(iii)/342/337A(ii) PPC Police Station Nowshera Cantt registered against him by his wife Mst. Amrozia. Similarly, the delinquent Officer registered FIR No. 456 dated 11.07.2021 u/s 324/34 PPC at Police Station Risalpur against his wife Mst. Amrozia and father-in-law Karim Khan. During investigation it was found that the firearm injuries to him were self-made. He asked his brother Asif to shot him on left arm in order to implicate his wife and father-in-law in this case so that she can be pressurized to withdraw case against him (FIR No. 452 dated 17.06.2021 u/s 506/337A(iii)/342/337A(ii) PPC). The whole chain of events in FIR No. 456 u/s 324/34 PPC at Police Station, Risalpur were mere eye wash to malign and implicate his wife and father-in-law. Statements of eyewitnesses in this case recorded u/s 164 Cr.PC, therefore, sections 201/202/182/211/324 PPC were added against complainant (Ahmad Yar) and his brother Asif.

Besides of the above, he while posted as Ticketing Officer in Traffic Staff, issued challan to the tune of Rs. 5000/- under violation code No.542 and received the same on spot but deposited /paid Rs. 100/- hence a complaint filed by Imran Khan r/o Risalpur Cantt to Deputy Project Manager A2Z E-Payment (PVT) Ltd, Peshawar. Enquiry was conducted into the matter through the then Sub Divisional Police Officer (SDPO) Cantt, Nowshera, wherein it was found that the said ticket was tempered, therefore, he was awarded major punishment of dismissal from service by the then District Police Officer, Nowshera. Defaulter, official, during his service, earned a bad reputation by being involved in criminal activities. His such involvement has ruined the good image of police department. Moreover, as per intelligence source report defaulter official Ahmad Yar has a criminal background, therefore, recommended that the major punishment awarded to him by the Superintendent of Police Investigation, Nowshera may be retained.

On 15.09.2021, he was heard in orderly room by the District Police Officer, Nowshera, wherein he took the stance that he was not provided full opportunity of defending himself, therefore, Superintendent of Police Investigation, Nowshera and Sub Divisional Police Officer (SDPO) Akora were nominated as enquiry officers. The enquiry Officers after fulfillment of legal formalities submitted their report to the District Police Officer, Nowshera, wherein it was highlighted that the delinquent Officer is guilty, but his brother was also martyred in the service, and he also has small children and aged parents, therefore, recommended that he may be awarded minor punishment of forfeiture of approved service.

Attested

 Appellant

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The District Police Officer, Nowshera did not agree with the recommendations of enquiry officers, therefore, his major punishment of dismissal awarded by the then Superintendent of Police Investigation, Nowshera kept intact vide his office OB: No. 1174 dated 10.11.2021.

Feeling aggrieved from the order of District Police Officer, Nowshera, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 13.12.2021 during which the appellant denied his involvement in the aforementioned cases.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. Moreover, the involvement of appellant in this heinous criminal cases is clearly a stigma on his conduct. Hence, the retention of appellant in Police Department will stigmatize the prestige of entire Police Force as instead of fighting crime, he has indulged himself in criminal activities. Moreover, he could not present any cogent justification to warrant interference in the order passed by the competent authority.

Keeping in view the above, I, Yaseen Farooq, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit.

Order Announced.



Regional Police Officer,
Mardan.

No. 7121 /ES, Dated Mardan the 13-12- /2021.

Copy forwarded to District Police Officer, Nowshera for information and necessary w/r to his office Memo: No. 3514/PA dated 13.12.2021. His Service Record is returned herewith.

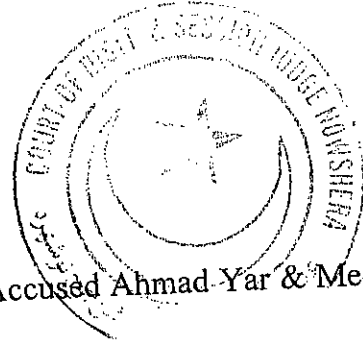
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Attested

Appellant

Annex-Q

(32)

Order-
04.02.2021

Learned APP for the State present. Accused Ahmad Yar & Meer Zaman on bail alongwith counsel present. Co-accused Waseem is absconding while Naseem Khan absent. Complainant also not in attendance.

Arguments on an application u/s 249-A heard & record perused.

Perusal of file reveals that complainant had lodged the instant FIR against the accused Ahmad Yar & Meer Zaman for theft of his motorcar No.LOV-8348. Co-accused Waseem and Naseem Khan were not charged by complainant in case FIR but by accused Ahmad Yar & Meer Zaman during investigation. Furthermore, case FIR is not prompt one. Moreover, there is no ocular evidence of the alleged occurrence though complainant directly charged accused Ahmad Yar & Meer Zaman in case FIR & even recovery of stolen motorcar effected from both the accused but police concerned made non compliance of provision of section 103 Cr.PC in respect of recovery proceeding. It is pertinent to note that on 22.12.2020, statement of complainant recorded as PW-1 & during cross examination, he stated that he would have got no objection on acquittal of accused. In addition to that during bail stage of co-accused Naseem Khan, complainant appeared & recorded his statement in respect of release of co-accused Naseem Khan at bail stage & his acquittal at trial stage. ^{So} There seems no probability of the conviction of accused and proceeding further in the case in hand would

Judicial Magistrate
Nonshera

NOV 2021
Branch B.S.D. Nonshera

(70)

be a futile exercise. Thus by invoking the provision of section 249-A Cr.PC, the accused facing trial as well as co-accused Naseem Khan alongwith absconding accused Waseem are hereby acquitted from the charges leveled against them. Sureties are discharged from their liabilities. Case property, be dealt in accordance with law. File be consigned to Record Room after its completion.

Order Announced:
Dated: 04.02.2021

M
Maliha Allauddin,
 Judicial Magistrate-II
 Nowshera
 District Nowshera
 F-10, Nowshera

ATTESTED
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 Branch: N.S.J. Nowshera
 18 NOV 2021

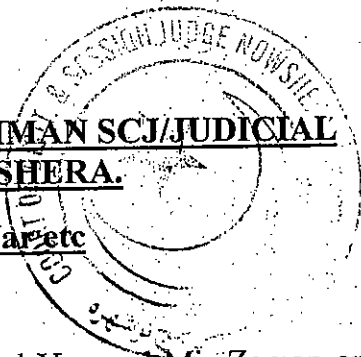
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Annex - R

34

**IN THE COURT OF MOHIB-UR-REHMAN SCJ/JUDICIAL
MAGISTRATE-I, NOWSHERA.**

State...Vs...Ahmad Yar etc



Order No.16
08.07.2021

- 1). SPP for state present. Accused Ahmad Yar and Mir Zaman on bail present.
- 2). Arguments on application under section 249A Cr. PC heard and file perused.
- 3). Brief facts of the case are: that on **02.07.2020**, Shahid Khan (**complainant**) reported to local police of Police Station Nowshera Kalan that on 27.06.2020 he went to Mardan by road. On the way he stopped for performing prayer and entered into the Masjid. When he returned from Masjid his carry dabba was missing. In this respect he lodged instant FIR. Later on in zennies accused facing trial have been charged by local police.
- 4). Case was registered against accused facing trial and **FIR No.497 dated 27-06-2020 under sections 381A PPC of PS Nowshera Kalan** was registered against accused (named above). Accused surrendered themselves to the process of law and were released on bail.
- 5). On completion of investigation, complete challan was submitted against them. Accused were served through process of court. They appeared before court. Copies of relevant documents, as required u/s 241-A CrPC, were supplied to them. Formal charge was

MOHIB-UR-REHMAN
 Senior Judicial
 Section 38 Cr.P.C.
 Magistrate-I, Nowshera

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ATTESTED
 10/09/2021
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 Branch, O.S.J. Nowshera

framed against accused facing trial under Sections 381A-411 PPC to which, they pleaded not guilty and claim trial.

6). Prosecution examined Bilal No. 985, Lal Hassan HC No. 1077 and Shahid Khan son of Mir Abdullah (complainant), whereas accused facing trial submitted instant application for their acquittal on the ground that there is no probability of their conviction hence they may be acquitted.

a. A look over contents of FIR would suggest that alleged occurrence has taken place at day time but there is no eye witness of the alleged occurrence. Complainant himself is not an eye witness of occurrence. He has not cited any person in his report who might have seen accused facing trial for commission of offence thus alleged occurrence is unseen.

b. Complainant is not eye witness of occurrence. Neither complainant charge accused in his statement under section 161 Cr. PC not in his statement under section 164 Cr. PC before court. Complainant in his cross examination admitted that the alleged Carri dabba is not his carry dabba. He further admitted that carry dabba is planted against accused facing trial by the police. Complainant is star prosecution witness and since he is affirming innocence of accused and is not supporting case of prosecution thus there is no probability of accused being

8/11/21


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ATTESTED
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Examiner Copying Agency
 Branch U.S.J. Newah

- convicted, hence, further proceedings in the instant case would be a futile exercise.
- c. Accused facing trial remained in police custody but they have not confessed their guilt before the Court.
- d. Section 249-A CrPC empowers a Magistrate to acquit accused at any stage of proceeding if, after hearing prosecutor and accused, they are satisfied that charge against accused is groundless or there is no probability of accused being convicted.
- e. For the reasons stated above, this Court is satisfied that there is no probability of accused being convicted even if entire remaining evidence is recorded therefore instant application is accepted. Resultantly, accused facing trial are acquitted from charges leveled against them. They are already on bail therefore their sureties are discharged from liability of bail bonds. Case property (if any) be disposed of according to law after period prescribed for appeal/revision, if not wanted in any other case. Police file be returned while file of this be consigned to record room after necessary completion and compilation.

Announced
08.07.2021

ATTESTED

16 09 NOV 2021

Examiner Copying Agency
Branch, D.S.J. Nowshera

MOHIB-UR-REHMAN
(Mohib-ur-Rehman)
Magistrate-I, Section 30 Cr.P.C.
Nowshera

Annex - S

(37)

1

Annex - S

**IN THE COURT OF MOHIB-UR-REHMAN SCJ/JUDICIAL
MAGISTRATE-I, NOWSHERA.**

State...Vs...Ahmad Yar etc

Order No.22
08.11.2021

- 1). SPP for state present. Accused Ahmad Yar and Mir Zaman on bail present.
- 2). Arguments on application under section 249A Cr. PC heard and file perused.
- 3). Brief facts of the case are: that on 16.09.2019, Bazud-Din son of Ameer Khan (complainant) reported to local police of Police Station Nowshera Kalan that on 08.09.2021 he parked his Carry Dabba near the shop and went to perform Isha prayer's and entered into the Masjid. When he returned from Masid at 20:00 hours his carry dabba was found missing. In this respect he lodged instant FIR. Lateron in his statement under section 164 Cr. PC he charged accused facing trial.
- 4). Case was registered against accused facing trial and FIR No. 769 dated 08-09-2019 under sections 381A PPC of PS Nowshera Kalan was registered against accused (named above). Accused surrendered themselves to the process of law and were released on bail.
- 5). On completion of investigation, complete challan was submitted against them. Accused were served through process of court. They appeared before court. Copies of relevant documents, as required u/s 241-A CrPC, were supplied to them. Formal charge was framed against accused facing trial under Sections 381A-411 PPC to which, they pleaded not guilty and claim trial.
- 6). Prosecution examined Bilal No. 985, Sadiq Akbar son of Hashmant Khan and Irshad Khan Inspector, whereas accused facing trial submitted instant application for their acquittal on the ground that

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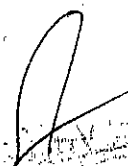
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e. For the reasons stated above, this Court is satisfied that there is

there is no probability of their conviction hence they may be acquitted.

- a. A look over contents of FIR would suggest that alleged occurrence has taken place at congested area time but there is no eye witness of the alleged occurrence. Complainant himself is not the eye witness of occurrence. He has not cited any person in his report who might have seen accused facing trial for commission of offence thus alleged occurrence is unseen.
- b. Occurrence has taken place on 08.09.2019 but complainant reported the matter to local police on 16.09.2019 i.e after a delay of almost 08 days without any plausible jurisdiction, creating serious doubt's in prosecution story. Complainant charged accused facing trial after one year of occurrence without disclosing his source of information and satisfaction. PW-03 stated in his cross examination that no recovery or discovery has been effected from the direct possession of accused facing trial which create serious doubt in the case of prosecution, hence, further proceedings in the instant case would be a futile exercise. No identification parade has been made by the investigation officer.
- c. Accused facing trial remained in police custody but they have not confessed their guilt before the Court.
- d. Section 249-A CrPC empowers a Magistrate to acquit accused at any stage of proceeding if, after hearing prosecutor and accused, they are satisfied that charge against accused is groundless or there is no probability of accused being convicted.
- e. For the reasons stated above, this Court is satisfied that there is no probability of accused being convicted even if entire remaining evidence is recorded therefore instant application is

CC/11/2021



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accepted. Resultantly, accused facing trial are acquitted from charges leveled against them. They are already on bail therefore their sureties are discharged from liability of bail bonds. Case property (if any) be disposed of according to law after period prescribed for appeal/revision, if not wanted in any other case. Police file be returned while file of this be consigned to record room after necessary completion and compilation.

Announced
08.11.2021

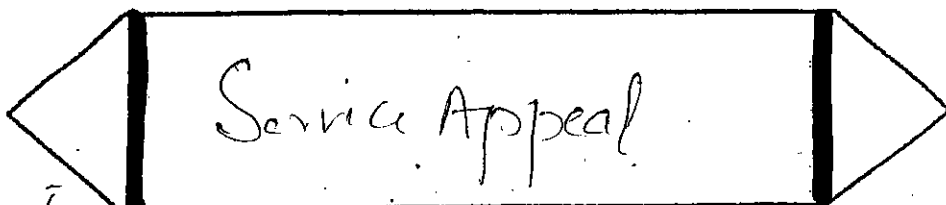
(Mohib-ur-Rehman)
SCJ/Judicial Magistrate-I,
Nowshera

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08/11/21
Nowshera

5

Before the Honorable Chairman KPK
Service Tribunal, Peshawar

بعدالت



(Appellant) 2021 مہمانب

بنام Ahmad Yar

VS

1 GP, KPK & others

موزخہ


مقدمہ

دعویٰ

جزم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام Peshawar کیلئے Rizwanullah Advi مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار دیا گیا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپید اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جات التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حدیب سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔


Appellant

2021 December

18/11

الرقوم

واہ العب

Att. sta. accepted
T. Advi

کے لئے منظور ہے۔ Peshawar only

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Recd

Appeal No. 7911 of 20 21

Ahmad Yar Appellant/Petitioner

Versus

I-G. P. K. P. S. Pesh: Respondent

Respondent No. 2

Notice to: The Regional Police officers, Mardan
Region-1 Mardan.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 8/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.


Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 12/12

Day of May 20 22

(For Reply)


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. SB

No.

7911

21

Recd

Appeal No. of 20 ..

Ahmad Yar

Appellant/Petitioner

I.C.P KPK *Versus* P-sh:

Respondent

Respondent No.

The Dist. Police Officer, Nowshera.

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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office Notice No.....dated.....

12th

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 ..

May 22

(For Reply)


Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. 7911 of 2021.

Recd

Ahmad Yar Appellant/Petitioner

Versus

I.C.P. KP Pesh. Respondent

Respondent No. 4

Notice to: The Superintendent of Police (Investigation)
Nowshera.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 8/6/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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 off. Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 12th

Day of May 20

(For Reply)

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

S.B

No.

Appeal No. 7911 of 2011

Ahmad Yar Appellant/Petitioner
Versus

I.C.P. KPK Pesh. Respondent

Respondent No. 1

Notice to: The Inspector General of Police KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 8/6/2011 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence:

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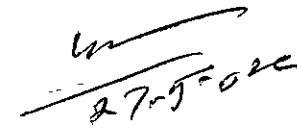
Day of May 20

(For Reply)


Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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27-5-2011

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7911/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/12/2021	<p>The appeal of Mr. Ahmad Yar presented today by Mr. Rizwan Ullah 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</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>14/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	14.02.2022	<p>Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 09.05.2022. for the same as before.</p> <p style="text-align: right;"> Reader</p>

09.05.2022

Appellant present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 08/06/2022 before S.B.

Rs-600/-
Appellant Deposited
Security & Process Fee

A. M. J. / 09/5/22



(Rozina Rehman)
Member (J)

08.06.2022

Junior to counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Reply on behalf of respondents is still awaited. Learned AAG requested for adjournment in order to submit reply/comments. Opportunity is granted. To come up for reply/comments on 19.07.2022 before S.B.

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(Rozina Rehman)
Member (J)