

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, D.I.KHAN

Service Appeal No. 634/2018

Date of Institution ... 23.04.2018
Date of Decision ... 16.12.2021

Muhammad Sharif S/O Abdul Haleem, Ex-Constable F.R.P Belt
No.7435 Mohallah Umar Khel Kulachi.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Inspector General
of Police (PPO) Peshawar and two others.

... (Respondents)

Malik Muhammad Hussain Jorr,
Advocate

... For appellant.

Noor Zaman Khan Khattak,
District Attorney

... For respondents.

Ahmad Sultan Tareen
Rozina Rehman

... Chairmann
... Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

"It is humbly prayed that the orders of respondent No.2 &
3 dated 01.06.2015 and 12.02.2018 may kindly be set
aside and the services of the appellant may be
reinstated with all back benefits."

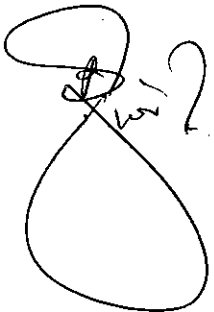
2. Brief facts of the case are that appellant was appointed as
Constable in the Frontier Reserve Police, D.I.Khan. He was charged
in case F.I.R No.276 dated 09.07.2014 U/S 387-120/B-365/A-511-

148-149-PPC/25 TGA. He was proceeded against departmentally and was awarded major punishment of dismissal from service. Feeling aggrieved, he filed departmental appeal which was also rejected, hence, the present service appeal.

3. We have heard Malik Muhammad Hussain Jorr Advocate learned counsel for appellant and Noor Zaman Khan Khattak, learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

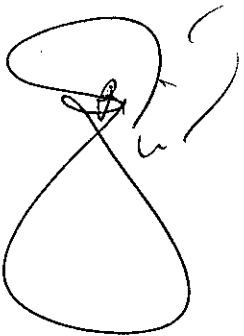
4. Malik Muhammad Hussain Jorr Advocate learned counsel for appellant in support of appeal submitted with vehemence that the impugned dismissal order is against law and facts as the appellant was not treated according to law. He further argued that appellant was acquitted by competent court of Law and that every acquittal is honorable but instead of giving benefit of acquittal to the appellant, his appeal was dismissed. Lastly, he submitted that appellant was dismissed from service just on the basis of his involvement in a criminal case and that the only stigma on the person of appellant is no more, therefore, he may kindly be reinstated in service. Reliance was placed on judgments of this Tribunal passed in Service Appeals No.616/2017, 1380/2014, 1025/2017 and 768/2018.

5. Conversely, learned District Attorney submitted that appellant remained absent from lawful duty w.e.f 24.06.2014 to 22.08.2014 without prior permission of the authority and in the meanwhile, he involved himself in criminal case vide F.I.R 276 dated 09.07.2014. It was further argued that the allegations of his involvement in criminal case were fully established against him during the course of inquiry and that being a member of the disciplined force, he developed links



with the criminals, therefore, major penalty was imposed upon him after observance of all codal formalities and that the punishment does commensurate with the gravity of misconduct of appellant.

6. From the record it is evident that plea which the respondents have tried to establish against the appellant through parawise comments and argument at the bar, is mainly linked with his involvement in the criminal case. It has been asserted on behalf of respondents that appellant being member of disciplined force earned bad name to the Department and that the departmental and criminal proceedings are of distinct nature and can work side by side and decision of the criminal court, if any, is not binding in the departmental proceedings. As per record, F.I.R No.276 dated 09.07.2014 was registered U/S 387-120/B-365/A-511- 148-149-PPC/25 TGA at Police Station Saddar District D.I.Khan. He was suspended and closed to FRP Police Line on 14.07.2014. He was departmentally proceeded against and was served with charge sheet and statement of allegations and ultimately was dismissed from service vide order dated 01.06.2015. He filed departmental appeal on 27.06.2015. During this time, Challan in criminal case mentioned above was put in court and the present appellant was tried. It was on 04.07.2017 when the present appellant alongwith co-accused including the absconding accused were acquitted U/S 265K Cr.PC by the Court of learned ASJ-I, D.I.Khan. His departmental appeal filed on 27.06.2015 was still pending and despite his acquittal by the competent court of Law, his departmental appeal was rejected vide order of the Commandant FRP Khyber Pakhtunkhwa Peshawar dated 12.02.2018. The registration of FIR No.276 dated 09.07.2014 was taken as ground for disciplinary action against the appellant. When the criminal case taken as a




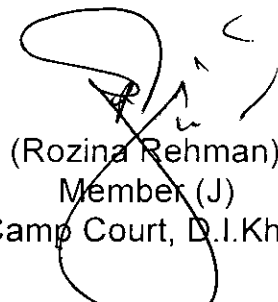
ground for disciplinary action against the appellant has failed at trial of the accused, the said ground having worked for disciplinary action against the appellant and imposition of major penalty upon him has vanished. We, therefore, hold that imposition of major penalty of dismissal from service upon appellant remained no more tenable. In this respect, we have sought guidance from 1998 PLC (C.S) 179, 2003 SCMR 2015; PLD 2010 Supreme Court 695 and judgments of this Tribunal rendered in Service Appeals No.1380/2014, 1025/2017, 616/2017 and 768/2018.

7. In view of the above factual and legal position, we set aside the impugned orders and direct that appellant be reinstated in service, however, absence period shall be treated as leave without pay while intervening period (right from the date of his arrest in criminal case till the date of his reinstatement) as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

16.12.2021


(Ahmad Sultan Tareen)
Chairman
Camp Court, D.I.Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

Order

16.12.2021

Appellant present through counsel.

Noor Zaman Khan Khattak learned District Attorney alongwith Muhammad Zubair Court Clerk for respondents present. Arguments heard and record perused.

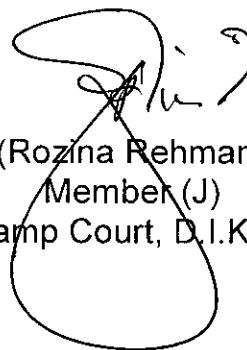
Vide our judgment of today of this Tribunal placed on file, we set aside the impugned orders and direct that appellant be reinstated in service, however, absence period shall be treated as leave without pay while intervening period (right from the date of his arrest in criminal case till the date of his reinstatement) as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

16.12.2021



(Ahmad Sultan Tareen)
Chairman
Camp Court, D.I.Khan



(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

27.10.2021

Nemo for appellant.

Muhammad Rasheed learned Deputy District Attorney
alongwith Muhammad Imran Constable for respondents
present.

Notice be issued to appellant/counsel for 16.12.2021 for
arguments before D.B at Camp Court, D.I.Khan.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, D.I.Khan

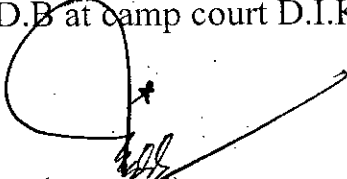


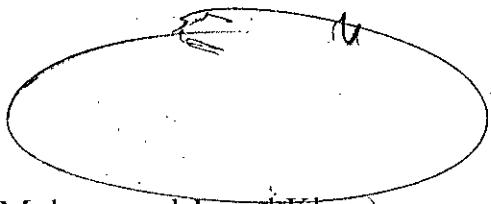
(Rozina Rehman)
Member(J)
Camp Court, D.I.Khan

28.10.2020

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

Since the Members of the High Court as well as of the District Bar Association D.I.Khan are observing strike today, therefore, the case is adjourned to 21.12.2020 for arguments before D.B at camp court D.I.Khan.


(Mian Muhammad)
Member(E)


(Muhammad Jamal Khan)
Member(J)
Camp Court D.I Khan

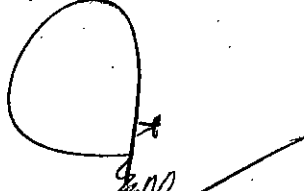
21.12.2020


Due to COVID 19, the case is adjourned to 25.3.2021 for the same.

25.03.2021

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

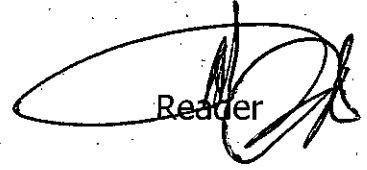
Today's date was posted on Note Reader, therefore, notice for prosecution of the appeal be issued to appellant as well as counsel for the appellant and to come up for arguments before D.B at Camp Court D.I.Khan on 23.06.2021.


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)
CAMP COURT D.I.KHAN


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN

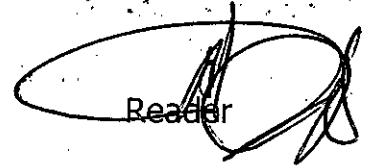
26/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/4/2020 at Camp Court, D.I Khan


Reader

22/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/09/2020 at Camp Court, D.I Khan



Reader


22.09.2020

Nemo for parties.

Mr. Muhammad Jan learned Deputy District Attorney present.

Notice be issued to appellant/counsel for 28.10.2020 for arguments before D.B at Camp Court D.I Khan.


(Atiq-ur-Rehman Wazir)
Member (E)
Camp Court, D.I Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I Khan

26.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 28.01.2020 for rejoinder and arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)

Member
Camp Court D.I.Khan


(M. Amin Khan Kundi)

Member
Camp Court D.I.Khan

28.01.2020

Appellant in person and Mr. Usman Ghani, District Attorney for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 25.02.2020 for rejoinder and arguments before D.B at Camp Court D.I.Khan.


(Hussain Shah)

Member
Camp Court D.I.Khan


(M. Amin Khan Kundi)

Member
Camp Court D.I.Khan

25.02.2020

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for respondents present. Record reveals that the Enquiry Officer has recorded the statements of the witnesses during enquiry proceedings but the same are not available on the record, therefore, the respondents are directed to direct the representative to attend this Tribunal and furnish copy of the statements recorded during the enquiry proceedings. Adjourned. To come up for arguments on 26.03.2020 before D.B at camp court D.I.Khan.


Member


Member
Camp Court D.I.Khan

26.03.2019

Appellant in person and Mr. Farhaj Sikandar, District Attorney for the respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply on 24.06.2019 before the S.B at camp court, D.I.Khan.

24.06.2019

Appellant in person and ~~Mr. Farhaj Sikandar~~ learned District Attorney for the respondents present. Representative of the respondent department is not in attendance, therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submitted written reply on the next date positively. Adjourned. To come up for written reply/comments on 26.08.2019 before S.B. at Camp Court, D.I Khan.


(M. Amin Khan Kundi)

Member

At Camp Court, D.I. Khan

26.08.2019

Appellant in person and Mr. Farhaj Sikandar, District Attorney for the respondents present. Learned District Attorney submitted written reply. The same is placed on record. Case to come up for rejoinder and arguments on 21.10.2019 before D.B at Camp Court D.I.Khan.

21/10/2019

Since tour to D.I.Khan has been cancelled, ~~Mr. Farhaj Sikandar~~ come for the same on 26/11/2019.



Member

Camp Court D.I.Khan


Member

29.11.2018

Neither appellant nor his counsel present therefore, notice be issued to appellant and his counsel for attendance and preliminary hearing for 19.12.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

19.12.2018

As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 19.12.2018 has been rescheduled and the case is re-fixed for 28.12.2018.



Reader

28.12.2018

Counsel for the appellant Muhammad Sharif present. Preliminary arguments heard. It was contended by the learned counsel for the appellant that the appellant was serving in Police Department as Constable. It was further contended that the appellant was involved in criminal case and due to criminal case, the appellant was dismissed from service vide impugned order dated 01.06.2015. It was further contended that the appellant filed departmental appeal on 27.06.2015 which was rejected on 12.02.2018 hence, the present service appeal. It was further contended that on communication of dismissal order of departmental appeal the appellant filed service appeal immediately on 23.04.2018. It was further contended that neither proper inquiry was conducted nor opportunity of personal hearing and defence was provided to the appellant and the appellant was hon'ble acquitted by the competent court of law therefore, the impugned order is illegal and liable to be set-aside.

Appellant Deposited
Security & Process Fee

The contention raised by the learned counsel for the appellant need consideration. The 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 the respondents for written reply/comments for 26.03.2019 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 634/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	10/05/2018	<p>The appeal of Mr. Muhammad Sharif received today by post through Malik Muhammad Hussain Jur Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p align="right"><i>[Signature]</i> REGISTRAR</p>
2-1	10/05/2018	<p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>13-9-18</u>. The appeal of Mr. Muhammad Sharif received today by post through Malik Muhammad Hussain Jur Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p align="right"><i>MA</i> MEMBER</p>
2-1	13.09.2018	<p>Neither appellant nor his counsel present. Notice be issued to appellant and his counsel for attendance and</p> <p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing for 24.10.2018 before S.B. at Camp Court at D.I.Khan. Malik Muhammad Hussain Jur Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p align="right"><i>MA</i> (Muhammad Amin Khan Kundi) Member...</p>
2-1	24.10.2018	<p>Tour is hereby cancelled Therefore the case is adjourned To come up on 29.10.2018 at Camp Court D.I.Khan</p> <p align="right"><i>[Signature]</i> Registrar</p>

The appeal of Mr. Muhammad Sharif son of Abdul Haleem Ex-Constable FRP Belt No. 7435 Kulachi received today i.e. on 23.04.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the counsel.
- 2- Annexures of the appeal may be attested.
- 3- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in approved file cover.

No. 885 /S.T,

Dt. 25/04 /2018.

[Signature]
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

25/4/18

Malik Muhammad Hussain Jour
Advocate High Court D.I.Khan.

to

Remarks: NOC is 3 in complete please

[Signature]
Advocate
03/05/2018

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 634 / 2018

Muhammad Sharif S/O Abdul Haleem ,
Ex- Constable F.R.P Belt No.7435
Mohallah Umar Khel
Police Station Kulachi.

Appellant.


V/S

1. Govt of Khyber Pakhtunkhwa through
Inspector General Police(P.P.O)
Peshawar.
2. Commandant, Frontier Reserve Police,
K.P.K Peshawar.
3. Superintendent ,Frontier Reserve Police D.I.Khan.

Respondents.

INDEX.

S.No.	Particulars of documents	Annexure	Pages.
1.	Memo and grounds of Appeal alongwith Condonation Application.		1-5
2.	Copy of F.I.R.	A	6
3.	Copy of Charge Sheet and show cause Notice.	B	7-9
4.	Copy of the Impugned order	C	10
5.	Copy of Departmental Appeal & Order.	D & E	11-13
6.	Copy of Acquittal order	F	14-20
7.	Wakalatnama		21

M. 
Muhammad Sharif
Appellant.
through Counsel.

Dated. 20.4.2018.

(1)

BEFORE THE SERVICE TRIBUNAL TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No. 634 / 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 612

Dated 23/4/2018

Muhammad Sharif S/O Abdul Haleem ,
Ex Constable F.R.P. Belt No. 7435
Mohallah Umar Khel
Kulachi.

Appellant.

VERSUS.

1. Govt : of Khyber Pakhtunkhwa
through Inspector General Police (P.P.O)
Peshawar.
2. Commandant, Frontier Reserve Police
K.P.K Peshawar.
3. Superintendent of F.R.P D.I.Khan.

Respondents.

Filed today

~~10/5/19~~

23/4/18

Re-submitted to -day
and filed.

~~10/5/19~~

Registrar

10/5/19

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED
ORDER NO. 519/FR DATED. 01.06.2015 AVIDELWHICH THE
APPELLANT WAS DISMISSED FROM SERVICES BY RESPONDENT
No. 3 AS WELL AS AGAINST THE ORDER No. 1267-68/EC
DATED 12.2.2018 PASSED BY THE RESPONDENT NO. 2
(BEING APPELLATE) AUTHORITY) VIDE WHICH THE
DEPARTMENTAL APPEAL OF THE APPELLANT HAVE BEEN
REJECTED.

8
Advocate

PRAYER.

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL THE
IMPUGNED ORDERS OF RESPONDENT NO. 3 DATED. 01.06.2015

2

AND IMPUGNED ORDER DATED. 12.2.2018 OF RESPONDENT NO.2 MAY PLEASE BE SET ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED ON HIS SERVICES WITH ALL BACK BENEFITS

Respected Sir,

1. That the Appellant was appointed as Constable in the Frontier Reserve Police D.I.Khan , wherein the Belt No. 7435 was allotted to the Appellant.
2. That the Appellant was enrped in Criminal Case by the Local Police with the Collusions of Private Complainant and Case was registered against the Appellant Copy of the F.I.R is enclosed as Annexure-A.
2. That during the pendency of the case so called Enquiry and Charge sheets have been issued in the back of Appellant. Copy of the So called Charge Sheet and show cause notice is enclosed as Annexure B
3. That the Appellant was dismissed from services by the Respondent No.3 vide impugned order No.519/FRP dated.01.06.2015 .Copy of the Impugned order dated. 01.06.2015 is enclosed as Annexure C.
4. That the Appellant preferred a Departmental Appeal before the Appellate Authority (Respondent No.2) Which was rejected. Copy of the Appeal and order dated 12.2.2018 is enclosed as Annexure D & E

Advocate

3

5. That the Appellant feeling aggrieved having no other adequate remedy humbly approach this Hon'ble Court through instant Appeal inter alia on the following grounds.

GROUNDSE.

1. That the Appellant has been falsely implicated in the instant Criminal Case. He was enroled in the case on the basis of presumption and speculation . He has nothing with case .

2. The Appellant was tried by the Court of law and he has been acquitted from the charges levelled against him. Copy of the Judgment and order dated 4.7.2017 . Copy of the Judgment and order dated.4.7.2017 of the learned Additional Session Judge -I D.I.Khan is enclosed as Annexure F

3. That Appellant submitted the Judgment/order of the Trial Court to the Respondent No.1 and 2 , they were required to consider his re-storation in services .Thus the act and omission of the Respondent is illegal ,unlawfull .

4. That no proper departmental enquiry /show cause notice have been initiated against the Appellant. The alleged proceeding have been exparte. Thus the same is liable to be set aside.

5. That the Counsel of the Appellant may also be allowed to raise additional grounds .

In wake of submissions made above it is humbly prayed that the orders of Respondent No.3 & 2 dated.12.2.2018 and order dated.01.06.2015 respectively may kindly be set aside and the Services of the Appellant may be re-instated with all back benefit.

APPELLANT.

Muhammad Sharif.
through Counsel.

Advocate

Dated. 18.4.2018.

4

BEFORE SERVICE TRIBUNAL K.P.K PESHAWAR

SERVICE APPEAL NO. /2018

Muhammad Sharif v/S Govt of K.P.K etc.

Affidavit.

I, Muhammad Sharif S/O Abdul Maleem D.I. Khan do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and that nothing has been kept secret.

M. Sharif

Deponent.

S.No. Date
ROBAC
Affidavit
Oath Commission
2018/18

[Handwritten mark]

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P.K PESHAWAR.

(5)

Muhammad Sharif V/S Govt of K.P.K etc

Application for Condonation of Delay
in Submission/filing of Instant Service
Appeal.

Respected Sir,

1. That the instant Condonation of delay Application is being filed/submitted alongwith the instant Appeal which may please be treated as part and parcel of each other.
2. That the Impugned order of rejection of Departmental Appeal from Appellate authority dated.18.2.2018 have not been received to the Appellant.Although it was endorsed to the Appellant through Police Station Kulachi . Which was not given to Appellant
3. That I have come to know one week before on 13.4.2018 that his Departmental Appeal has been rejected by the Appellate Authority .Thus copy of the same obtained on 13.4.2018 .Which is within time on receiving knowledge.

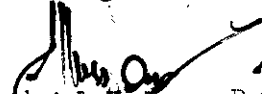
It is therefore humbly prayed that the Delay occurred may kindly be condoned. As it was not intentionally and due to nonknowledge of impugned order.

Advocate

Your Humble Appellant.

M. 
Muhammad Sharif.

through Counsel



محمد رفیق رحمان

Dated.20.4.2018.

Affidavit. I. Muhammad Sharif S/O Abdul Haleem R/O Kulachi do here by solemnly affirm and declare on oath that the contents of appeal are true and correct.

Dated.20.4.2018.

Deponent.

M. 



ابتدائی اطلاعی رپورٹ

(5) ابتدائی اطلاع نمبر جرم قابل دست اندازی پولیس رپورٹ شدہ کی دفعہ 146A کے تحت مضابطہ و جہاد کی

PA
 03467864762
 31 (276) 40

1	تاریخ و وقت رپورٹ	14/09/2018 بجے جاگ بیدارگی 9 بجے وقت 26:30
2	نام و سکونت اطلاع دہندہ مستفیض	خواجہ اعجاز حسین 146/149-25-TGA
3	مختصر کیفیت جرم (موردفعہ) حال اگر کچھ لیا گیا ہو	387-120B-365A-511-146/149-25-TGA
4	جائے وقوعہ قاصد تھانہ سے اور سمت	دو درستان چوک حاشیہ غرب لغامہ لہڑی کولمبہ از لگا
5	نام و سکونت ملزم	
6	کارروائی جو تفتیش کے متعلق کی گئی اور اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بیمار گھبراہٹ میں رہا تھا اور اس کی سہیلی کو خوف ہوا
7	تھانہ سے روانگی کی تاریخ و وقت	نیشنل پولیس رپورٹ

ابتدائی اطلاع نیچے درج کروستندت مندہ خانہ بہ کھڑی
 تھا کہ رپورٹ کرنا میں تقریباً 1/2 ماہ سے مجھے خوبصورتی خون لگنے والے مختلف اوقات
 میں ہفتہ میں ایک مختلف نمبرات سے دھماکا لہل رہی تھی جو میں کافی حسد
 رہتا تھا۔ جوڑے گاؤں میں ڈیڑھ سے دو سو سو ساٹھ لگاؤں خود گڑھارہا
 تھا کہ عورت 9:30 بجے شب دو درستان چوک کراں کھاٹو کے عقب دو سو سو ساٹھ
 بی بی ایم اور ایک لڑکے دیکھ کر مجھے خوف لاحق ہوا کہ ان لوگوں کا میں جو مجھے
 دھماکا دے رہے تھے۔ کھڑے میں دو سو ساٹھ لگاؤں کھڑے تھا۔ دو سو ساٹھ لگاؤں نے
 میرے کھاتے کے مجھے آواز دی کہ رگوں میں نہ رہنا دو سو ساٹھ لگاؤں کو خرید تیر
 بھگتا۔ اسی دوران ایک دو سو ساٹھ لگاؤں میں دو درستی میں سواری تھی مگر میرے دیگر
 ساتھی ان کو سمجھانے لگے۔ میں اپنے دو سو ساٹھ لگاؤں کے ساتھ میں کامیاب ہوا۔
 ڈیڑھ ایکسٹریاں آکر کچھ دن گزرنے کے بعد مجھے معلوم ہوا کہ جو آہنی میں دو درستان
 چوک میں ہیں یہ دو سو ساٹھ لگاؤں کے گڑھارے ہو چکے تھے۔ اور وہی آہنی میں دو درستان
 میں ہے جو کھالے کراہے میں۔ جیسا کہ میں نے دیکھا ہے۔ یہ لڑکی کو خرید تیر کے
 نام قمر خان ولد کریم خان شریف اللہ خان ولد عبدالکرم اہل انعام عثمان محل کٹرہ کھڑی
 معلوم ہوئے تھے قوی یقین کے کہ یہ دو درستی میں لگاؤں میں کسان اہل انعام
 معلوم تھے کہ وہ لگاؤں میں لگائے جاتے تھے۔ لیکن دو سو ساٹھ لگاؤں

Attested & Ado. Coste
 [Handwritten Signature]

ANNEX B
⑦

CHARGE SHEET.

WHERE AS, I am satisfied that a formal enquiry as contemplated by NWFP Police Disciplinary Rules 1975 is necessary and expedient to be conducted into the allegation contained in the statement attached herewith.

AND WHEREAS, I am of the view that the allegation if established would call for award of a major penalty including dismissal from service as defined in Rules 4(i)(B) of the aforesaid rules.

AND WHEREAS, as required by Police Rules 6(I) of the aforesaid rules, I, Mr. SANA ULLAH KHAN MARWAT, Superintendant of Police FRP, D.I.Khan Range D.I.Khan, hereby charge you Constable Sharif Ullah No.7435/FRP with the misconduct on the basis of the statement attached to this charge sheet.

AND, hereby directed you further, under rules 6 (I) (B) of the said rules to put in written defence with-in 7-days of receipt of this Charge sheet as to why you proposed action should not be taken against you and also state at the same time whether you desire to be heard in person.

In case your reply is not received with-in the prescribed period, without sufficient cause, it would be presumed that you have no defence to offer and the proceedings will be completed against you ex-parte.

(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

14/07

Attested
for
Advocate

(2)

DISCIPLINARY ACTION

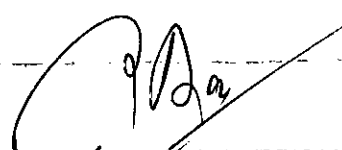
I, **Mr. SANA ULLAH KHAN MARWAT**, Superintendent of Police FRP, D.I.Khan Range D.I.Khan, as a competent authority am of the opinion that you **Constable Sharif Ullah No.7435/FRP**, have rendered yourself liable to be proceeded against and committed the following acts/ omissions within the meaning of the NWFP Police Disciplinary Rules-1975.

STATEMENT OF ALLEGATION

You have been involved and arrested in-Case FIR No.276 dated 09.07.2014 U/S 387-120B-365A-511-148-149-25 TGA PS/Saddar District D.I.Khan. This act on your part amounts to gross misconduct punishable under NWFP Police Disciplinary Rules, 1975.

Hence the statement of allegation.


1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation **SI Mushtaq Hussain LO/FRP** of FRP D.I.Khan Range is appointed as enquiry Officer to conduct proper departmental enquiry under NWFP Police Disciplinary Rules 1975.
2. The enquiry Officer shall in accordance with the provision of the ordinance, provided reasonable opportunity of the hearing to the accused, record its findings and make, within ten (10) days of the receipt of this order recommendations as to punishment or other appropriate action against accused.
3. The accused and a well conversant representative of the department shall join the proceedings on the date time and place fixed by the enquiry officers.

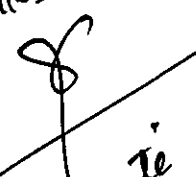

(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP,D.I.Khan Range, D.I.Khan.

No. 2102-3 /FRP, dated D.I.Khan the 17 /07/2014. 14/07

Copy to:-

1. **SI Mushtaq Hussain LO/FRP** D.I.Khan Range. The enquiry officer for initiating proceeding against the defaulter under the provision of NWFP Police Rules 1975. Enquiry papers containing ___ pages are enclosed.
2. **Constable Sharif Ullah No.7435/FRP**, with the direction to appear before the E.O on the date, time and place fixed by the E.O, for the purpose of enquiry proceeding.


(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP,D.I.Khan Range, D.I.Khan.

Attested

Advocate

3

FINAL SHOW CAUSE NOTICE.

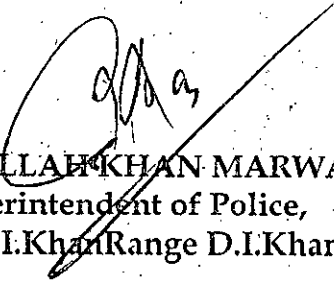
WHEREAS YOU, Constable Sharif Ullah No7435/FRP found guilty of following misconduct in violation of NWFP Police Disciplinary Rules 1975.

You have been involved in Case FIR No.276 dated 09.07.2014 U/S 387-120B-365A-511-148-149-25 TGA PS/Saddar District DIKhan. This act on your part amount to gross misconduct punishable under Police Disciplinary Rule,1975.


After completion the enquiry the Enquiry Officer submitted his finding in which the charges leveled against you were proved without any shadow of doubt.

As a result thereof, I SANA ULLAH KHAN MARWAT Superintendent of Police, FRP, D.I.Khan Range D.I.Khan as competent authority have tentatively decided to impose upon you the penalty of Major/ Minor punishment Under Section 3 of the said ordinance.

1. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you.
2. If no reply to this notice is received within 15-days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.


(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP D.I.Khan Range D.I.Khan.

Attest


Advocate

ANNEX - C
(10)ORDER:-

This Order will dispose off departmental enquiry conducted against Constable Shareef Ullah No.7435/FRP, D.I.Khan Range, on the Charges that during his posting at Police Station City DIKhan was charged and arrested in case FIR No.276 dated 09.07.2014 U/S 387-120/B-365/A-511-148-149-25TGA PS/Saddar District DIKhan.

On the basis of above, he was suspended and closed to FRP Police Line vide this office OB No.689, dated 14.07.2014. He was served with proper Charge Sheet and Statement of allegations through Superintendent Central Prison DIKhan, SI/PC Mushtaq Hussain, was appointed as an enquiry officer with the directions to complete the enquiry proceeding with in stipulated period. His reply to the said Charge Sheet and statement of allegation received through Superintendent Prison DIKhan vide his office endst: No.8391-WE/H-B dated 04.08.2014 which was found unsatisfactory. On 28.08.2014 DSP Muhammad Nadeem Siddique was appointed as an enquiry officer and later on he has been died on 31.01.2015 due to his natural death.

SI Rustam Khan was appointed as an enquiry officer. After completion of all codal formalities, the Enquiry Officer submitted his finding report along-with other relevant papers, in his finding he stated that the accused constable has been found guilty of gross misconduct, hence recommended defaulter Constable for Major Punishment in the light of finding report, he was served with Final Show Cause Notice, reply received which was found unsatisfactory. He was also heard in person but failed to prove his innocence.

Keeping in view the facts stated above, as well as recommendation of Enquiry Officer, I MR. SANA ULLAH KHAN MARWAT, Superintendent of Police FRP D.I.Khan in exercise of powers conferred upon me under NWFP Police Rules 1975 hereby **Dismissed** Constable Shareef Ullah No.7435/FRP, from service with immediate effect.

ORDER ANNOUNCED.Dated 01.06.2015.OB No. 519 /FRPDated 01 /06/2015.

(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

Attested



Advocate

11

بھضور والا شان جناب کمانڈنٹ صاحب FRP صوبہ خیبر پختونخواہ پشاور

اپیل برائے بحالی ملازمت

جناب عالی!

- ۱۔ گزارش بھضور انور ہے کہ مجھے مورخہ 01/06/2015 کو محکمہ پولیس سے برطرف کر دیا گیا ہے۔
- ۲۔ یہ کہ دوران انکوائری میں نے اپنے تردیدی بیان میں واضح کیا ہے کہ جس مقدمہ نمبر 276 مورخہ 09/07/2014 جرم زیر دفعہ TGA-149-25-511/148-365/A-120/B-387 تھانہ صدر ڈیرہ اسماعیل خان میں ملوث بتلایا گیا ہے وہ ناجائز اور میرے خلاف من گھڑت ہی دعویداری ہوئی ہے جس سے میرا کوئی تعلق واسطہ نہ ہے۔ یہی وجہ ہے کہ مقدمہ میں میری ضمانت بھی ہو گئی ہے۔
- ۳۔ یہ کہ جناب انکوائری آفیسر صاحب نے میرے تردیدی بیان کی جانب کوئی توجہ تک نہیں دی گئی ہے۔ جس میں واضح ذکر کیا ہے کہ مقدمہ میرے خلاف درست نہیں ہے اور وہ اب عدالت انصاف تک پہنچ چکا ہے۔ جہاں دودھ کا دودھ اور پانی کا پانی ہو جائیگا۔ اور میری بے گناہی کھل کر واضح ہو جائے گی اور عدالت انصاف میں میرے محکمہ کی ہونے والی تفتیش کا عمل بھی کھل کر سامنے آ جائیگا۔ لہذا کارروائی ڈیپارٹمنٹل انکوائری پر فیصلہ مؤخر رکھا جائے۔
- ۴۔ یہ کہ جناب انکوائری آفیسر صاحب نے انکوائری کا عمل بھی جانبداری سے کیا ہے اور صحیح صورت حال واضح نہیں کی ہے اور نہ ہی گواہان کو ایگزامینڈ کیا ہے کہ میں دوران ملازمت کیسے ایسے جرم کا ارتکاب کر سکتا ہوں جو کہ ناممکن ہے۔
- ۵۔ یہ کہ جناب انکوائری آفیسر صاحب نے ہم چوں گواہان کی شہادت جو قلمبند کی لیکن کوئی کر اس کا موقع نہ دیا گیا ہے۔
- ۶۔ یہ کہ میرے سابقہ دیئے گئے بیانات کی روشنی میں انکوائری کو نہ پرکھا گیا ہے اور نہ چلایا گیا ہے۔ اور ایک فرضی عمل اول سے آخر تک شروع ہو کر من گھڑت فائنل فائنڈنگ رپورٹ مرتب کر کے جناب SP صاحب کو پیش کر دی ہے جو کہ انتہائی انصاف کے منافی ہے اور میرے ساتھ ظلم عظیم ہے۔
- ۷۔ یہ کہ مدعی مقدمہ جس کی مدعیت میں میرے خلاف مقدمہ درج ہوا ہے کو رواجی طور پر اس امر کا احساس

Attested

Ado centi

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دلایا گیا ہے کہ میں بے گناہ ہوں اور مجھے پر آپ کی دعویداری غلط فہمی کا نتیجہ ہے۔ جس کی وجہ سے مدعی مقدمہ نے اپنی غلط فہمی کا اعتراف بھی کر لیا ہے۔ اور ایک تحریری بیان حلفی اس غلط فہمی پر دعویداری کے امر کی پاداش میں تحریر کر کے دے دیا ہے۔ جس کی فوٹو سٹیٹ ہمراہ لف ہے کہ میں واقعی مقدمہ میں بے گناہ ہوں اور مجھ پر دعویداری کی حد تک نتیجہ محض غلط فہمی ہے۔

لہذا استدعا ہے کہ میرے خلاف چارج از سر نو حسب بیان مدعی ختم ہو چکا ہے اور اپنی موت آپ مر چکا ہے۔ فوٹو سٹیٹ بیان حلفی ہمراہ لف ہے۔
مجھے میری ملازمت پر از تاریخ برخاستگی بحال فرمایا جاوے۔ عین ماتحت پروری ہوگی۔

مورخہ: 27/06/2015

ایکس کنسٹیبل محمد شریف نمبر 7435 ولد عبدالحلیم خان قوم عثمان خیل سکھ کلاچی ضلع ڈیرہ اسماعیل خان

رابطہ نمبر 03480960342

M. A. J.

Attest

Advocate

ORDER

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This order will dispose of the departmental appeal preferred by Ex-constable Muhammad Sharif No. 7435 of FRP DI Khan Range against the order of dismissal from service passed by SP FRP DI Khan Range, DI Khan vide Order OB No. 519, dated 01.06.2015. The applicant was proceeded against on the allegations that he while posted at Police Station City DI Khan was charged and arrested in case FIR No. 276 dated 09.07.2014 U/S 387-120/B-365/A-511-148-149 PPC-25 TGA Police Station Saddar District DI Khan.

Proper departmental enquiry was initiated against him. He was issued Charge Sheet alongwith Summary of Allegations and SI Rustam Khan was appointed as enquiry officer. The charge sheet along with statement of allegation was got served upon the appellent, reply of said charge sheet form appellent received through Superintendent Prison DI Khan vide his office endst: No. 8391-WE/H-B dated 04.08.2014 which was found unsatisfactory. After completion of all codal formalities, the Enquiry Officer submitted his findings in which he found him guilty of the charges leveled against him and recommended him for major punishment. Upon the findings of enquiry officer he was served with Final Show Cause Notice on 17.03.2015, to which he replied, but his reply was found unsatisfactory. He was also heard in person, but he failed to prove his innocence. Therefore, he was awarded major punishment of Dismissed form service.

Feeling aggrieved against the impugned order of SP FRP DI Khan Range, DI Khan, the applicant preferred the instant appeal. The applicant was summoned and heard in person in Orderly Room held on 07.12.2017. During the course of personal hearing he could not present any cogent justification for his innocence.

From perusal of the enquiry file and the service record of the applicant, it is abundantly clear that the delinquent official has been found involved in a criminal case with the intent of moral turpitude. Besides, the Deputy Inspector General of Police, Special Branch has also reported vide his office memo No. 01/PA/SB, dated 19.01.2018 that Ex- constable Muhammad Sharif No. 7435 (applicant) have links with local TTP Terrorists. The Deputy Inspector General of Police, Special Branch further reported that ex-constable Muhammad Sharif is concerned, reportedly developed the links with miscreants/kidnappers as he was played the role of a facilitator for the accused involved in kidnapping of Zulfiqar Hussain S/O Ghulam Rasool (Ahle Tashee). Keeping in view the facts mentioned above the applicant has been found to be an irresponsible person and have links with local TTP terrorists/kidnapers. Such conduct on the part of a police officer is bound to tarnish the image of the entire force.

Based on the findings narrated above, I, Muhammad Ijaz Khan, PSP Commandant FRP Khyber Pakhtunkhwa, Peshawar, being the competent authority, has found no substance in the appeal, therefore, the same is rejected and filed being meritless and time barred.

Order Announced.

Commandant

Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar.

Attended
Advocate

service record received today N/SRC

D File missal Request 19.2.18 SRE/otte for n/action

SD/PPD 19.02.18 the:-

IEC, dated Peshawar the 12/12/2018.

Copy of above is forwarded for information and necessary action to

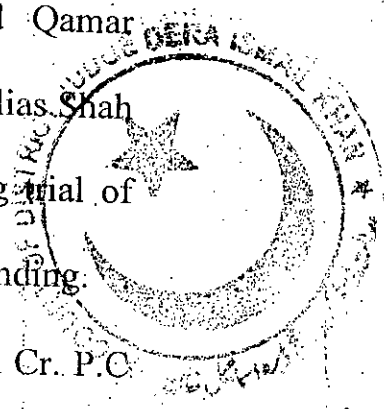
1. SP FRP DI Khan Range, DI Khan. His service record alongwith D file sent herewith.
2. Ex-Muhammad Sharif No. 7435 S/O Abdul Haleem, Mohallah Umar Khel, Police Station Kulalachi, District DI Khan.

ANNEX F

Order - 19
04.07.2017

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APP for the State present. Accused Sharif on bail along with counsel present, while accused Qamar Zaman is already exempted. Accused Saleem alias Shah Ji and Khalid Mansoor have been died during trial of the case, while rest of the accused are absconding. Arguments on application under section 265-K Cr. P.C heard and record perused.



This case is registered against the accused namely Qamar Zaman etc vide FIR No. 276 dated 26.06.2014 under sections 387/120-E/365-A/511/419/420/148/149 PPC read with section 25-D Telegraph Act/5 Explosive Substance Act and section 15 AA at Police Station Sadlar, D.I.Khan.

Brief facts of the case are such that it was reported by the complainant Zulfiqar Hussain on 09.07.2014 that for the last 5/6 months he has been receiving threatening phone calls from different mobile numbers regarding the payment of extortion money. In this regard, he was very careful regarding his security. That on 26.09.2014 at about 09.30 PM when he crossed Waziristan chowk he noticed two motorcycles boarded by five persons duly armed coming from his near side. The persons boarded on the motorcycles asked the

Attested.

Advocate

[Handwritten notes and signatures in the right margin, including '21/5/15', '26/9/14', and 'I BSA']


Additional Sessions Judge-I
Dera Ismail Khan

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complainant to stop but instead he throttled and ran away on his motorcycle. The persons coming chasing him on motorcycles took a fall and got injured. Subsequently, the complainant searched the said persons from the hospital record whom he found to be Qamar Zaman and Sharif Ullah and thus he charged them for the commission of the offence. However, later on the complainant also charged the accused Amin alias Malang, Nauroz alias Abu Bakar, Khalid Mansoor, Saleem alias Shah Ji and Aziz Ullah alias Khaksar in his supplementary statement dated 15.05.2015 for the commission of the offence.

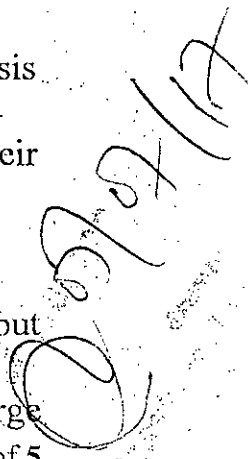
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Formal charge against the accused namely Zamar Zaman and Muhammad Sharif Khan was framed on 10.11.2015 to which they pleaded not guilty and claimed trial.

The prosecution in support of its case produced and examined only single witness i.e. the statement of complainant Zulfiqar Hussain as PW-1, who in his examination in chief reiterated the same story. However, in cross examination, he has exonerated the accused and stated that they were charged on the basis of suspicion and have got no objection on their acquittal.

Perusal of record reveals that the challan was put in Court for trial on 21.05.2015, while formal charge


 Additional Sessions Judge
 Dera Ismail Khan

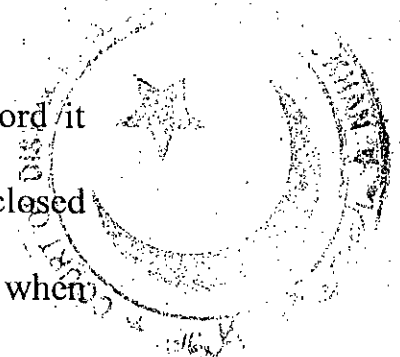


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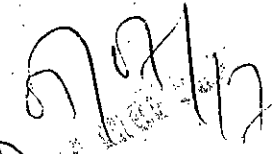

was framed against the accused on 10.11.2015 but the prosecution has been able to produce only one witness and the accused has suffered the agony of trial for about two years which shows failure of prosecution for establishing its case against the accused.

Moreover, as per contents of FIR and record it would reveal that no commission of offence is disclosed coupled with the fact that it is very strange that when the accused were not previously known to the complainant how did he trace them out from the hospital record which is highly doubtful and goes against prosecution/complainant. Similarly, no mobile data regarding the threatening calls for extortion money is available on record nor any mobile numbers have been given by the complainant in the FIR. Record further reveals that the accused have neither made any threats nor any attempt of actual kidnapping the complainant rather they asked the complainant to stop but the complainant flew away from the spot. Besides, there is an inordinate delay of 15 days in lodging of FIR as the occurrence is stated to have been taken place on 26.06.2014 at 09.30 PM whereas the report has been lodged on 09.7.2014 at 1400 hours but no plausible explanation has been put forward such a long delay. The complainant has not shown any source of his satisfaction coupled with the fact that identification



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onal Sessions Judge-1
Dera Ismail Khan



Page 3 of 5

(17)

parade has been conducted. It was an unseen occurrence and no eyewitness has been cited in the instant case.

Likewise, the FIR was chalked out against the accused on 09.07.2014 while the sanction for prosecution of the accused under section 5 ESA and 15 AA was accorded after about 09 months by the prosecution branch on 23.04.2015. It is also mentioned in the FIR that the hand grenades after their recovery from the accused have been disposed of by the BDS staff but when the same were sent to BDU for analysis after almost five months, the report of which reveals that the same are alive and dangerous and recommended for early destruction which creates doubt. Astonishingly, no separate FIR against the accused Qamar Zaman was lodged under section 5 Explosive Substance Act, while it was a separate incident. It is very astonishing to note that the number of hand grenade was mentioned as POF-1958 in the recovery memo dated 13.04.2014, while number of hand grenade which was sent to BDU for analysis is HE-36 which is totally different. The accused was booked in instant case vide FIR No.276 dated 09.07.2014 but parcel was received to the BDU on 31.12.2014 and thus there is a delay of more than five months of sending the alleged parcel to the BDU which delay is not sufficiently

Attest
Advocate

Additional Sessions Judge-I
Dera Ismail Khan

2017/17

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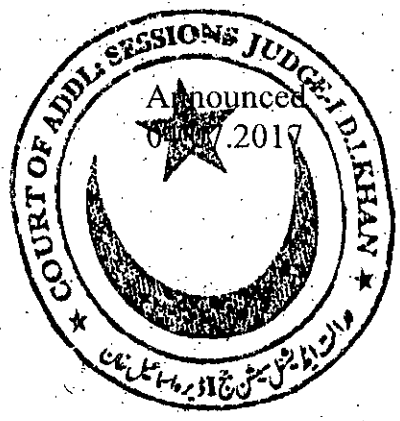
explained nor the statement of Moharrir of concerned police station is placed on file to determine that whether the same was placed in safe custody during the intervening period or otherwise.

In the light of above facts, there is no probability of the accused being convicted of the offence even if further evidence is recorded and recording of their statements would be a futile exercise and yield no useful result. Therefore, accused facing trial including the absconding accused are acquitted u/s 265-K Cr.P.C. Sureties of accused Muhammad Sharif and Qamar Zaman stand discharged from the liability of their bail bonds. So far as the accused Saleem alias Shah Ji and Khalid Mansoor are concerned, they have been died and in this respect, their challan in the shape of Ikhtamami report are also available on the file, therefore, proceeding against them stand abated.

Case property be disposed of according to law but after the expiry of period of appeal/revision. File of this court be consigned to Sessions Record Room after necessary completion.

Dist. J. Khan
Attested
[Signature]

Additional Sessions Judge-I
Dera Ismail Khan



[Signature]

LIAQAT ALI
ASJ-I, D.I. Khan

[Signature]
[Signature]
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Attest

[Signature]
Notary

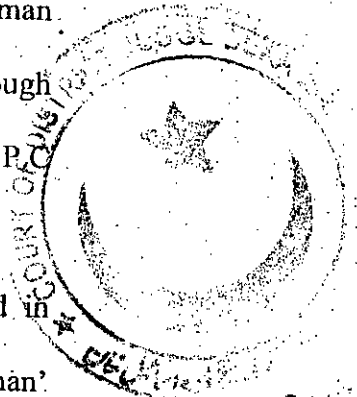
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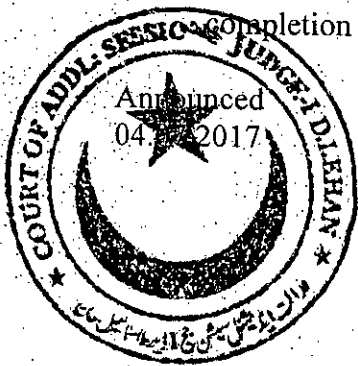
Order - 20
04.07.2017

APP for the state present. Accused Qamar Zaman being exempted from personal appearance through counsel present. Arguments under section 265-K Cr. P.C. heard and record gone through.

Vide my detailed order of even date, placed in Sessions case No.42/VII titled 'State Vs Qamar Zaman' accused Qamar Zaman is acquitted under section 265-K Cr. P.C. His sureties are discharged from the liabilities of the bail bonds. Case property be disposed of according to law, but after the expiry of period of appeal/revision. File be consigned to Sessions Record Room after its completion and compilation.



Attested
[Signature]
Advocate



by
am-tes.

LIAQAT ALI
ASJ-I, D.I.Khan

ATTESTED TO BE TRUE COPY

[Signature]
Examined
[Signature]

7
17

No- 617 / 1109
26/6/19

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 634/2018

Muhammad Sharif S/O Abdul Haleem, Ex- Constable FRP Belt No. 7435, Mohallah Umar Khel, Police Station Kulachi.....Appellant

VERSUS

1. *Commandant FRP Khyber*

Pakhtunkhwa Peshawar & Others.....Respondents.

S. NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Para-wise Comments		03
2.	Charge Sheet	"A"	01
3.	Reply	"B"	01
4.	Enquiry Report	"C"	01
5.	Verification Report	"D"	01
6.	Special Branch Report	"E"	01
Total			08


RESPONDENTS

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 634/2018

Muhammad Sharif S/O Abdul Haleem, Ex- Constable FRP Belt No. 7435, Mohallah Umar Khel, Police Station Kulachi.....Appellant

V E R S U S

- 1. Government of Khyber Pakhtunkhwa, Through Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.**
- 2. Commandant FRP, Khyber Pakhtunkhwa, Peshawar.**
- 3. Superintendent of Police, FRP DI Khan Range, DI Khan Respondents.**

PRELIMINARY OBJECTIONS:

1. That the appeal is badly time-barred.
2. That the appellant has approached the Hon'ble Court not with clean hands.
3. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That the Appellant has no cause of action.
5. That the Appellant is estopped due to his own conduct to file the instant appeal.

WRITTEN REPLY ON BEHALF OF RESPONDENTS IS AS UNDER:-

ON FACTS

1. Para No.1 pertains to the appellant record, needs no comments.
2. Incorrect and denied. The appellant was remained absent from lawful duty with effect from 24.06.2014 to 22.08.2014 for total period of 59 days, without prior permission of his seniors. In the meanwhile he involved himself in a moral turpitude nature criminal case vide FIR No. 276, dated 09.07.2014 U/S 387-120.B/, 365-A/511/148/149-25TGA Police Station Sadar District DI Khan. The allegations of his involvement in above criminal case were subsequently fully established against him, during the course of enquiry.
3. Incorrect and denied. The appellant being a member of disciplined force and also a custodian of the lives and property of public, he developed links with the criminals and involved himself in moral turpitude criminal case. In this regard proper departmental enquiry was initiated against him.
4. Incorrect and denied that the appellant being involved in a criminal case was placed under suspension and closed to line and proper departmental enquiry was initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and Enquiry Officer was nominated to conduct proper enquiry against him. The Charge Sheet was served upon him through Superintendent Prison DIK, to which he replied vide Superintendent Prison office Endst; No. 8391-WE/H.B, dated 04.08.2014, but his reply was found unsatisfactory. After completion of enquiry the Enquiry Officer submitted his findings, wherein the appellant was found guilty of the charges leveled against him and recommended for major punishment. After fulfillment of codal

formalities the appellant was dismissed from service by the competent authority. (Copies of Charge Sheet and his reply and Enquiry Report are attached as annexure A, B & C)

5. Para No. 5 is admitted to the extent that departmental appeal submitted by the appellant was thoroughly examined and rejected on sound grounds.
6. The appellant has no cause of action to file the instant appeal and the same may be rejected on the following grounds.

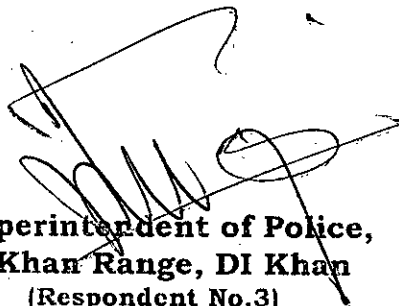
GROUND:

1. Incorrect and denied. The appellant was involved and arrested in a moral turpitude nature offence, which was later on fully proved against him during the course of enquiry.
2. Incorrect and denied. As criminal proceedings and departmental proceedings are two different entities and can run side by side. However, during the course of enquiry the appellant was found guilty of the charges leveled against him without any shadow of doubt.
3. Incorrect and denied. That on the allegations of involvement of criminal case the appellant was dealt with proper enquiry as explained in the preceding para No. 4 of facts and thereafter, issued the order of his dismissal from service by the competent authority vide OB No. 519, dated 01.06.2015. He submitted departmental appeal on 08.02.2017 before the respondent No. 2. For disposal of his departmental appeal the respondent No. 2 has requested to the Deputy Inspector General of Police, Special Branch for necessary verification of his conduct. The Deputy Inspector General of Police, Special Branch has reported vide his office memo No. 01/PA/SB, dated 19.01.2018 that Ex- constable Muhammad Sharif No. 7435 (appellant) have links with local TTP Terrorists. The Deputy Inspector General of Police, Special Branch further reported that appellant is concerned, reportedly developed the links with miscreants/kidnappers as he was played the role as a facilitator for the accused involved in kidnapping of Zulfiqar Hussain S/O Ghulam Rasool (Ahle Tashee). Keeping in view the facts mentioned above the applicant has been found to be an irresponsible person and have links with local TTP terrorists/kidnapers. Such conduct on the part of a police officer is bound to tarnish the image of the entire force. (The verification report alongwith letter of DIG Special Branch are attached herewith as D & E)
4. Incorrect and denied. The appellant was dealt with proper departmentally as he was placed under suspension and issued/served with Charge Sheet alongwith Summary of Allegations. The enquiry officer was found him guilty of the charges leveled against him and recommended for major punishment. Upon the findings of enquiry officer he was issued final Show Cause Notice to which he replied, but his reply was found unsatisfactory. He was also heard in person in orderly room, but he failed to present any justification before the competent authority regarding to his innocence. After fulfillment of codal formalities he was awarded major punishment of dismissal from service as per law/rules.

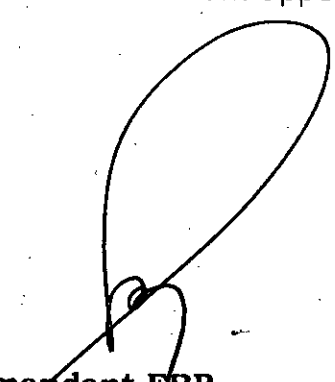
5. The respondents may also be permitted to advance additional grounds at the time of arguments.

PRAYERS:

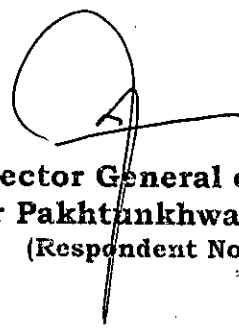
Keeping in view of above mentioned facts / submission the instant appeal may very kindly be dismissed with cost.



**Superintendent of Police,
DI Khan Range, DI Khan
(Respondent No.3)**



**Commandant FRP,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)**



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

ANNEX B
⑦

CHARGE SHEET.

WHERE AS, I am satisfied that a formal enquiry as contemplated by NWFP Police Disciplinary Rules 1975 is necessary and expedient to be conducted into the allegation contained in the statement attached herewith.

AND WHEREAS, I am of the view that the allegation if established would call for award of a major penalty including dismissal from service as defined in Rules 4(i) (B) of the aforesaid rules.

AND WHEREAS, as required by Police Rules 6(I) of the aforesaid rules, I, Mr. SANA ULLAH KHAN MARWAT, Superintendent of Police FRP, D.I.Khan Range D.I.Khan, hereby charge you Constable Sharif Ullah No.7435/FRP with the misconduct on the basis of the statement attached to this charge sheet.

AND, hereby directed you further, under rules 6 (I) (B) of the said rules to put in written defence with-in 7-days of receipt of this Charge sheet as to why you proposed action should not be taken against you and also state at the same time whether you desire to be heard in person.

In case your reply is not received with-in the prescribed period, without sufficient cause, it would be presumed that you have no defence to offer and the proceedings will be completed against you ex-parte.

(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

14/07

(2)

DISCIPLINARY ACTION

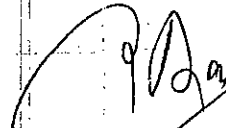
I, Mr. SANA ULLAH KHAN MARWAT, Superintendant of Police FRP, D.I.Khan Range D.I.Khan, as a competent authority am of the opinion that you Constable Sharif Ullah No.7435/FRP, have rendered yourself liable to be proceeded against and committed the following acts/ omissions within the meaning of the NWFP Police Disciplinary Rules-1975.

STATEMENT OF ALLEGATION

You have been involved and arrested in Case FIR No.276 dated 09.07.2014 U/S 387-120B-365A-511-148-149-25 WGA PS/Saddar District D.I.Khan. This act on your part amounts to gross misconduct punishable under NWFP Police Disciplinary Rules, 1975.

Hence the statement of allegation


1. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegation SI Mushtaq Hussain LO/FRP of FRP, D.I.Khan Range is appointed as enquiry Officer to conduct proper departmental enquiry under NWFP Police Disciplinary Rules 1975.
2. The enquiry Officer shall in accordance with the provision of the ordinance, provided reasonable opportunity of the hearing to the accused, record its findings and make, within ten (10) days of the receipt of this order recommendations as to punishment or other appropriate action against accused.
3. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry officers.


(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

No. 2102-3 /FRP, dated D.I.Khan the 17 /07/2014. 14/07

Copy to:-

1. SI Mushtaq Hussain LO/FRP D.I.Khan Range. The enquiry officer for initiating proceeding against the defaulter under the provision of NWFP Police Rules 1975. Enquiry papers containing _____ pages are enclosed.
2. Constable Sharif Ullah No.7435/FRP, with the direction to appear before the E.O on the date, time and place fixed by the E.O. for the purpose of enquiry proceeding.


(SANA ULLAH KHAN MARWAT)
Superintendent of Police,
FRP, D.I.Khan Range, D.I.Khan.

جناب عالی!

بحوالہ مشمولہ فائل چارج شیٹ معہ فائل فائنڈنگ رپورٹ گزارش بحضور انور یہ ہے کہ اس سے قبل اپنے چارج شیٹ معہ خلاصہ الزام کے بارے تفصیلی تحریری بیان تحریر کر چکا ہوں جو کہ یقیناً انکوائری کا حصہ رہا ہے لیکن جناب انکوائری آفیسر صاحب نے اپنی فائنڈنگ رپورٹ میں میرے بیان تفصیلی جسمیں جملہ ترویجی عمل واضح ہے کونہ ڈسکس کیا ہے اور نہ پرکھا ہے اور نہ ہی فائنڈنگ رپورٹ میں تذکرہ کیا ہے کیونکہ موجودہ پوزیشن واضح ہو چکی ہے کہ رجسٹریشن FIR نمبر 276 مورخہ 09.07.2014 جرم 365-A/387/511/120-B/148-149 تپ تھانہ صدر سے معاملہ عدالت انصاف کے سپرد ہو چکا ہے کی تائید میں پیش ہوگا۔ اور شہادت کا عمل جو ڈیپٹی سٹریٹس پر اور گواہان کے بیانات اور ان پر کراس ایگزامینیشن وغیرہ کی عدالتی کارروائی ہو کر ایک جامع فیصلہ عدالت انصاف سے ہونے کی قوی توقعات وابستہ ہیں۔ لہذا ان حالات میں عدالتی سطح سے پیش کردہ دوسری جانب ڈیپارٹمنٹل انکوائری کو ہرگز پروان نہیں چڑھایا جاسکتا ہے جب تک کہ عدالت انصاف کا فیصلہ اور کارروائی سماعت سامنے نہیں آجاتی ہے کیونکہ جملہ ڈیپارٹمنٹل انکوائری میں گواہان علاقہ سبھی عدالتی سطح پر اپنے بیانات دونوں فریقین اور انکے وکلاء کی موجودگی میں ریکارڈ کرائیں گے۔

لہذا میری انتہائی مؤذبانہ گزارش ہے کہ میرے خلاف ڈیپارٹمنٹل کارروائی پر فیصلہ کو انصاف کے تقاضوں کے تحت مؤخر رکھا جائے اور عدالتی فیصلہ اور عدالتی کارروائی کو اپنے فائل جواب میں پیش کرنے پر فیصلہ صادر فرمایا جائے تاکہ انصاف کے جملہ تقاضے پورے ہوں۔

عین ماتحت پروری ہوگی۔

مورخہ 31.03.2015

الارض

کنشیل محمد شریف خان نمبر 7435/FRP متعینہ پولیس لائن ڈیرہ اسماعیل خان

M. 

فائل رپورٹ

جارج ٹیٹ (جارج ٹیٹ) فرم 3-FRP-2102-20 فرم 7/14 جاریہ ضابطہ ایس پی ماہب ڈیڑھ ماہ پہلے
 لیڈر 9782 فرم 7/14 ضابطہ ایس پی ماہب انوشی کشن ذہیرہ جسین کسٹل شرفی اللہ 7435 FRP
 کوالہ سندھ 276 فرم 9/14 فرم 365A-387-S11-1200 تھانہ ہمد میں ملوث ہے
 پر گتہ نمبر کیا گیا اور حکم نامہ جاری کیا گیا جس پر ایس پی ماہب FRP نے مذکورہ بالا پر
 جارج ٹیٹ جاری کرتے ہوئے کہ متنازعین مل کو انوائری آفسر مقرر کیا اور جارج ٹیٹ
 پورا دستاویزات سیریزڈٹ کنٹرول میں ذہیرہ جوالہ لیسٹری 2135 فرم 7/14 جوانی گئی جو لہذا جوالہ لیسٹری 8391
 جارج ٹیٹ ذہیرہ ذہیرہ اور ملوث ہوئی جس میں کسٹل مل کے ملوث کیا گیا ہے گناہ ہوں میرے
 ادھر الٹرا مائیکرو گناہ ہے۔ ایسی طرح انوائری آفسر ندیم بدقی DSP بصورت تبادلہ انوائری
 صاحبزادے پر عائد ہے ہوئی DSP ماہب نے انوائری عمل میں لاتے ہوئے ذیل کو احسان
 رقم لکھو 1773۔ کل خان ASI فرم خانہ شی، محمد سعید 928، قفونہ 163، عمارت خان SHO تھانہ ہمد
 ذوالفقار حسین مدنی مقدمہ کو ملوث کر کے بیانات لیے۔ ایسی طرح ندیم بدقی DSP انوائری لکھو انوائری
 ہوتے ہر انوائری ذمہ دار ایس پی ماہب انوائری نے مل کو عائد فرمائی

انڈین سلسلہ میں انوائری ہوا گفتنی آفسر عبدالطیف خان کہ انوشی کشن کو بھی طلب
 کر کے بیان لیتے جو دفعہ صحراہ انوائری خدایں۔ ملوث کسٹل ضمانت پر
 رہا ہو گیا ہے۔ تمام بیانات باوجود کسٹل ملہر بالا لیے گئے جس اور ملوث
 کسٹل بالا کو صرح کا موقع بھی دیا گیا ہے۔ کسٹل ملہر بالا معطل لال ہے

عالمی جانہ

کئی انوائری، حالات، واقعات و بیانات مدعی اور گواہان گفتنی امیر
 لیے تاکہ جملہ قابل ملاحظہ ہیں۔ کسٹل مذکورہ مجسٹریٹم بالا مقدمہ ہوا ہے
 یہاں بیان ملوث کیا گیا ہے۔ جارج ٹیٹ پر ہے اور عمل لاش ہے
 کسٹل مذکورہ حکم پولیس میں ہوتے ہوئے مجسٹریٹم کا قتل ہے ہوا ہے
 مقدمہ ذہیرہ سے عدالت ہے۔ مذکورہ کا مقدمہ ہوا میں ملوث ہونا
 حکم پولیس کی بدنامی ہے اس لیے مذکورہ کسٹل رزا کا معقول ہے

EO.FRP.Diks
5-3-15

1558e

18/3/15



OFFICE OF THE COMMANDANT
FRONTIER RESERVE POLICE
KHYBER PAKHTUNKHWA, PESHAWAR
Ph: No. 091-9214114 Fax No. 091-9212602

No. 7663 ISI Legal, dated 13/12/2017.

To: The Additional Inspector General of Police,
Special Branch
Khyber Pakhtunkhwa, Peshawar.

Subject: VERIFICATION

Memo:

It is submitted that Ex- constable Muhammad Sharif No. 7435 of FRP DI Khan Range has preferred appeal against the order of SP FRP DI Khan Range, wherein he was dismissed from service.

Brief facts of the case are that ex-constable Muhammad Sharif No. 7435 was enlisted as constable in FRP DI Khan on 08.01.2011. He while posted at Police Station City District DI Khan was charged and arrested in criminal case vide FIR No. 276 dated 09.07.2014 U/S 357-120/B-365/A-511-148-149 PPC-25 TGA Police Station Sadder District DI Khan.

After observing all codal formalities he was Dismissed form service by the SP FRP DI Khan Range, DI Khan. Subsequently he was acquitted from criminal case by the Court of Mr. Liaqat Ali Additional Session Judge-II District DI Khan, vide judgment dated 04.07.2017.

After acquittal, he submitted departmental appeal for reinstatement in service. It is therefore, requested that necessary verification of his conduct may kindly be carried out, as to whether he has developed links with the miscreants/kidnapers or otherwise.

His service record alongwith departmental file sent herewith, which may please be returned when no longer required.

c/c
Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar. *letg*

Subject:- VERIFICATION.

The matter was enquired into through field staff which revealed that all the accused (of Tehsil Kolachi), involved in case FIR No. 276 dated 09.07.2014 u/s 365/A/387/511/148/148 PPC/25 TGA PS Sadder D.I.Khan, have links with local TTP terrorists. The accused except Constable Sharif Ullah were wanted to local police in various terrorism related cases. Accused Qamar Zaman and Sharif Ullah were arrested in the above case. During interrogation they named 05 other accused involved in kidnapping case. Sharif Ullah and Qamar Zaman affected a compromise with the complainant and have been acquitted. The remaining accused Amin Malang, Saleem and Khalid Mansoor have been killed in police encounters, while Noroz and Aziz Ullah are still at large.

As far as development of links with miscreants/kidnappers by Ex-Constable Sharif Ullah is concerned, reportedly he played the role of facilitator for the accused involved in kidnapping of Zulfiqar Husain s/o Ghulam Rasool (Ahle Tashee).

From: - The Deputy Inspector General of Police,
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

To: - The Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa,
Peshawar.

No. 01 /PA/SB, dated Peshawar the 19-1 /2018.

Subject:- VERIFICATION.

Memo: -

Please refer to your office letter No. 9663/SI Legal, dated
13.12.2017.

The requisite report is sent herewith as desired please.

En: (Enquiry report along with
x layout file complete
i) attached).

FOR DEPUTY INSPECTOR GENERAL OF POLICE,
SPECIAL BRANCH, KHYBER PAKHTUNKHWA,
PESHAWAR.

Sr/Legal
for information

Appeal Filed

8/2/18

632
19-01-18

خدمت جناب کمانڈنٹ FRP خیبر پختونخوا پشاور

جناب عالی!

گزارش بخضور انوریہ ہے کہ

1. مجھے مقدمہ نمبر 276 مورخہ 09.07.2014 TGA-149/25-511/148-B/365-A/120-387/120-تھانہ صدر ڈیرہ اسماعیل خان میں ملزمت کی پاداش میں محکمہ سے برطرف کیا گیا تھا۔
2. میں نے اپنی ابتدائی چارج شیٹ کے جواب میں جناب انکوآری آفیسر صاحب مرحوم رستم خان کو تحریر کر کے دیا تھا اور ساتھ ہی مدعی فریق کی جانب سے ایک تحریری بیان حلفی بھی پیش کیا تھا کہ وہ مقدمہ ہذا میں بے گناہ ہے اور انہوں نے کسی غلطی کی بنیاد پر دعویٰ کر دی ہے۔ جس کا اعتراف انہوں نے قبل از انکوآری کر کے تحریر بھی دیے دی تھی۔
3. مجھے پرسنل ہیئرنگ کا موقع بھی نہ تو جناب انکوآری آفیسر صاحب نے دیا اور نہ ہی پیش آمدہ گواہان کے خلاف کراس کا موقع دیا حتیٰ کہ جناب SP/FRP نے بھی مجھے نہ سنا۔ نتیجتاً مجھے محکمہ سے برطرف کیا گیا اور انکوآری کا فیصلہ قبل از وقت کر کے ایک ظلم عظیم کیا۔
4. میں نے بار بار یہی اصرار تحریری و زبانی بھی کیا کہ مقدمہ ہذا کی رجسٹریشن سے میرا معاملہ عدالت انصاف تک پہنچ چکا ہے اور عدالت انصاف کے فائل حکم آجانے تک کا انتظار کیا جائے اور ڈیپارٹمنٹ انکوآری کو تا تصفیہ مقدمہ روکا جائے لیکن کسی فورم پر بھی کسی آفیسر نے اپنی ذمہ دار پوری نہ کی اور بلا آخر آج عدالت انصاف کا ایک جامع فیصلہ ہو چکا ہے جس کی کاپی ہمراہ لف ہے اور اس میں میں باعزت بری ہو چکا ہوں اور استدعا کرتا ہوں کہ میرے خلاف درج شدہ مقدمہ واقعی غلط تھا جس کی حقیقت کھل کر سامنے آچکی ہے۔ مجھے اپنی ملازمت پر ان روز ڈسمسل بحال فرمایا جاوے۔ عین ماتحت پروری ہوگی۔

EC/SI/Legal
for action

مورخہ 07.07.2017

العارض

سابقہ کنشیل محمد شریف، 7435 ولد عبدالحمید خان قوم عثمان خیل سکنہ کلاچی ڈیرہ اسماعیل خان
رابطہ نمبر 03480960342

Received
By Bman

16/17

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23: عسکری اچھادی ٹریننگ میں کبھی حصہ لیا ہو: ہاں _____ نہیں _____

ہاں کی صورت میں کب (سال): _____ کہاں سے: _____

24: کالعدم مذہبی تنظیم سے وابستگی (موجودہ اساتذہ) ماضی میں اگر کسی مذہبی تنظیم سے وابستگی رہی ہو تو تنظیم کا نام: _____

عہدہ ہونے کی صورت میں عہدہ کا نام: _____ سال: _____

25: فیملی اکالم نمبر (22) کے کسی فرد کی کالعدم تنظیم سے وابستگی: _____

ماضی میں اگر کسی مذہبی تنظیم کا نام: _____

عہدہ ہونے کی صورت میں عہدہ کا نام: _____ سال: _____

اقرار نامہ

میں حلفاً اقرار کرتا ہوں کہ درج بالا کو ایک صحیح دے گئے ہیں اور اس سلسلہ میں کوئی پوشیدہ نہیں رکھی گئی ہے۔ اگر کوئی حقائق میں غلط بیانی سے کام لیا ہو تو میرے خلاف قانونی اور حکمانہ کارروائی کی جائے۔

دستخط: M.B. _____

نام: محمد رفیق _____

عہدہ: _____

حصہ دوم

(To be filled by parent Unit/Department)

26: تصدیق نامہ

تصدیق کی جاتی ہے کہ مذکورہ بالا پولیس ملازم _____ کے کوائف 1 تا 22 حصہ اول میں پولیس ریکارڈ کے مطابق درست ہیں۔ مزید

براہ فوری عمل اور سرورس رول میں کوئی اندراج بسلسلہ مزایا بی یا تعیناتی درج نہ ہے اور پر بیان نہ کیا گیا ہو (اگر تعیناتیوں کے سلسلہ میں کوئی اندراج یا حکم نامہ ہو تو اس کا واضح طور پر اندراج کیا جائے گا۔)

OHE / RP
ASP/DSP-HQRS.

تصدیق کنندہ:

نام: _____

عہدہ: _____

دستخط: _____

مورخہ: 21/8/14

بخدمت جناب انسپکٹر جنرل آف پولیس خیبر پختونخوا پشاور

اپیل برائے بحالی ملازمت بذریعہ ایپلیٹ ڈیپارٹمنٹل بورڈ CPO پشاور

جناب عالی!

گزارش بخضور انوریہ ہے کہ

1. مجھے مقدمہ نمبر 276 مورخہ 09.07.2014 TGA - 387/120-B/365-A/511/148-149/25

-تھانہ صدر ڈیرہ اسماعیل خان میں ملزمت کی پاداش میں محکمہ سے برطرف کیا گیا تھا۔

2. میں نے اپنی ابتدائی چارج شیٹ کے جواب میں جناب انکواری آفیسر صاحب مرحوم رستم خان کو تحریر کر کے دیا تھا اور ساتھ

ہی مدعی فریق کی جانب سے ایک تحریری بیان حلفی بھی پیش کیا تھا کہ وہ مقدمہ ہذا میں بے گناہ ہے اور انہوں نے کسی غلطی کی بنیاد پر

دعویٰ ردی کر دی ہے۔ جس کا اعتراف انہوں نے قبل از انکواری کر کے تحریر بھی دیے دی تھی۔

3. مجھے پرسنل ہیئرنگ کا موقع بھی نہ تو جناب انکواری آفیسر صاحب نے دیا اور نہ ہی پیش آمدہ گواہان کے خلاف کراس کا موقع دیا

حتیٰ کہ جناب SP/FRP نے بھی مجھے نہ سنا۔

نتیجتاً مجھے محکمہ سے برطرف کیا گیا اور انکواری کا فیصلہ قبل از وقت کر کے ایک ظلم عظیم کیا۔

4. میں نے بار بار یہی اصرار تحریری و زبانی بھی کیا کہ مقدمہ ہذا کی رجسٹریشن سے میرا معاملہ عدالت انصاف تک پہنچ چکا ہے اور

عدالت انصاف کے فائل حکم آجانے تک کا انتظار کیا جائے اور ڈیپارٹمنٹل انکواری کو تا تصفیہ مقدمہ روکا جائے لیکن کسی فورم پر بھی کسی

آفیسر نے اپنی ذمہ دار پوری نہ کی اور بلا آخر آج عدالت انصاف کا ایک جامع فیصلہ ہو چکا ہے جس کی کاپی ہمراہ لف ہے اور اس میں

میں باعزت بری ہو چکا ہوں اور استدعا کرتا ہوں کہ میرے خلاف درج شدہ مقدمہ واقعی غلط تھا جس کی حقیقت کھل کر سامنے آچکی

ہے۔ مجھے اپنی ملازمت پر از روز ڈسمسل بحال فرمایا جاوے۔ عین ماتحت پروری ہوگی۔

مورخہ 07.07.2017

العارض

سابقہ کنسٹیبل محمد شریف، 7435 ولد عبدالحلیم خان قوم عثمان خیل سکنہ کلاچی ڈیرہ اسماعیل خان

رابطہ نمبر 03480960342

M. [Signature]





**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 206 /ST

Dated: 31/01 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Superintendent F.R.P,
Government of Khyber Pakhtunkhwa
D.I. Khan.

Subject: JUDGMENT IN APPEAL NO. 634/2018 MR. MUHAMMAD SHARIF.

I am directed to forward herewith a certified copy of Judgement dated 16.12.2021 by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR