

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.695/2018

Date of Institution ... 10.05.2018

Date of Decision ... 05.10.2020

Muhammad Ayub Khan, Superintendent Judicial Lockup, District Swabi.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and two others.

... (Respondents)

Mr. Muhammad Asif Yousafzai,
Advocate ... For appellant.

Mr. Muhammad Jan,
Deputy District Attorney ... For respondents.

MRS. ROZINA REHMAN ... MEMBER (J)

MR. ATIQ-UR-REHMAN WAZIR ... MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER : The captioned appeal has been filed against the order dated 26.09.2017 whereby penalty of reduction to a

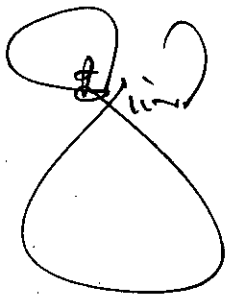
05/10/20

lower stage for three years in present time scale was imposed upon appellant.

2. The brief facts forming the background of the captioned appeal are that in response to news item published in the Daily Mashriq dated 24.11.2016 reporting illegal release of prisoners from District Jail Mansehra, Provincial Ombudsman while taking cognizance of the news, asked the Inspector General of Prisons to submit details for their further action. In the meanwhile, basic information on similar lines from Central Prison Haripur was also demanded and it was reported by the Superintendent Central Prison Haripur that the dealing hands in that jail have manipulated the illegal releases of the prisoners by tempering with the record of the jail.

3. In response, thereto the Inspector General of Prisons constituted the committee consisted of Mr. Sabihzada Shah Jehan Superintendent HSP Mardan and Muhammad Zahid Deputy Superintendent Incharge Sub Jail Dassu Kohistan for conducting preliminary fact finding inquiry into the illegal releases.

4. Pursuant thereto, inquiry was initiated and during proceedings, eight officers of the prisons department were placed under suspension including the present appellant under Rule-6 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, by the Provincial Government. The committee found sixteen convicts to have been benefitted of illegal remission either by way of tempering, making fake entries in the relevant record or on bogus education certificates etc. Formal inquiry was entrusted to Mr. Farrakh Sair Member-II Board of Revenue Khyber Pakhtunkhwa with direction to conduct inquiry into the charges leveled against the officers/officials under Khyber Pakhtunkhwa


05/10/20

Government Servants (Efficiency & Discipline) Rules, 2011 and submit report within 30 days which was accordingly submitted and keeping in view the findings of inquiry officer, the competent authority served separate show cause notices to all the officers/officials. All of them except Mr. Ubaid Ahmad submitted their replies to the show cause notices within the stipulated period and requested for personal hearing before the competent authority. As per contents of summary for Chief Minister, Mr. Daud Khan Secretary Transport was authorized by the Chief Minister to give opportunity of personal hearing to the accused officers/officials on his behalf which was accordingly given. All the officers/officials were personally heard and report was submitted for approval of the Chief Minister and lastly the penalty of reduction to a lower stage for three years in present time scale was imposed upon the appellant vide order dated 26.09.2017 (communicated on 08.02.2018). He then filed review petition which was not attended to hence the present service appeal.

5. Learned counsel for appellant contended that the order dated 26.09.2017 is against law, facts and norms of justice, therefore, not tenable and liable to be set aside. He argued that the inquiry proceedings were defective because statements were not recorded in presence of appellant and he was not given the opportunity of cross-examination. He contended that the appellant was made victim of discrimination without any just and reasonable cause and that the order was passed without applying proper law and rules. He contended that the appellant was condemned unheard and his departmental appeal was not adjudicated. He submitted that the warrant branch played fraud and for that Noor ul Basar and Ubaid Ahmad were responsible who also confessed his guilt but even then, the appellant

3/1/20

05/10/20

was penalized and lastly, he submitted that the appellant is not guilty of the charge of misconduct or corruption which is evident from the contents of the charge sheet, therefore, the impugned order may kindly be declared as illegal and unlawful.

6. Conversely, learned DDA fully supported the impugned order and contended that all coldal formalities were fully complied with by the inquiry officer. He submitted that the impugned order was properly communicated to the appellant because there exists proper mechanism for official communication. He submitted that post of Deputy Superintendent Jail is an important post and that higher the post, higher are the responsibilities and graver are the implications and consequences of their neglect. He submitted that all officers/officials were afforded the opportunity of personal hearing in terms of Section-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and Mr. Daud Khan was authorized by the Chief Minister to give opportunity of personal hearing on his behalf which was accordingly given and vide his report dated 19.09.2017, Khalid Abbas was recommended to be exonerated from all the charges. In the instant case recommendation furnished by the authorized officer who afforded the opportunity of personal hearing was approved and accordingly Khalid Abbas was exonerated from the charges. He submitted that the proposed penalty in show cause notice was found excessive by the authorized officer who vide order of the Chief Minister afforded the opportunity of personal hearing to all the accused officers/officials including the present appellant in the light of Section-15 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and penalty of reduction to a lower stage for three years in his present time scale was


05/10/20

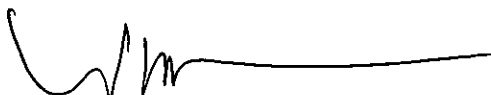
recommended which recommendations were approved by the Chief Minister. He submitted that case of the present appellant is entirely different from the case of Khalid Abbas, therefore, his appeal was requested to be dismissed.

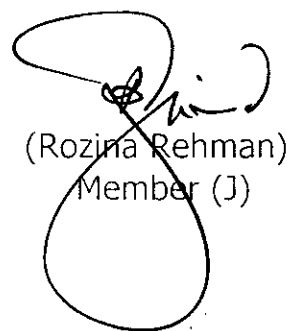
7. For what has been discussed above, we are of the considered opinion that the charges of negligence/ inefficiency were established against the appellant (Muhammad Ayub) and others. It is also an admitted fact that the main perpetrator behind granting illegal educational remissions based on fake and manipulated documents was Ubaid Ahmad Warder (BPS-5), who admitted his guilt that he alone was responsible for manipulation and preparation of fake documents. Mr. Ubaid Ahmad Warder however, was dismissed from service and FIR lodged against him but other accused including the appellant cannot be absolved of the responsibilities to the extent of negligence. It however was noted that the fraudulent act of granting educational remissions to convict prisoners spreads over a period of four years, where the main culprit Mr. Ubaid Ahmad, who was a dealing hand and who manipulated and prepared fake documents in due course, very easily misguided the whole hierarchy of officers, hence they fell prey to the act of negligence. It was further noted that penalty recommended by the inquiry officer does not commensurate with the gravity of the guilt of the appellant as he was not directly involved in the crime and for act of negligence, reduction to a lower stage for three years in present time scale was too harsh. There is no gain in saying that charges of guilty of misconduct or corruption are always considered at higher pedestal than the charge of inefficiency. No doubt the competent authority had jurisdiction to award any punishment to the Government employee according to law but for the purpose of safe administration of justice, such punishment should

8
05/10/20

be awarded which commensurate with the magnitude of the guilt otherwise the law dealing with the subject will lose its efficacy. In the instant case admittedly appellant is not guilty of the charge of misconduct or corruption, therefore, the penalty of reduction to a lower stage for three years in present time scale is converted into reduction to a lower stage for one year in present time scale with no orders as to costs. File be consigned to record room.

ANNOUNCED.
05.10.2020


(Attiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

05.10.2020

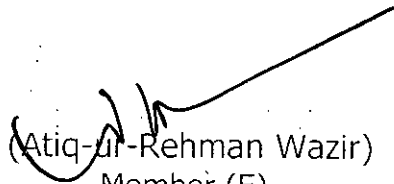
Appellant with counsel present.

Mr. Muhammad Jan learned Deputy District Attorney
alongwith Sulaiman Senior Instructor for respondents present.

All the relevant documents including notification dated
01.03.2017, order dated 19 December 2017, statement of Mr.
Ubaid Ahmad and charge sheet were produced before the
Tribunal.

Vide detailed judgment of today of this Tribunal placed on file,
the penalty of reduction to a lower stage for three years in
present time scale is converted into reduction to a lower stage
for one year in present time scale with no orders as to costs.
File be consigned to record room.

ANNOUNCED.
05.10.2020


(Atiq-ur-Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)


03.09.2020

Counsel for the appellant present.

Mr. Muhammad Jan learned Deputy District Attorney
alongwith Mr. Suleman Senior Instructor for respondents
present.

Arguments heard. To come up for order on 29.09.2020
before D.B.


(Attiq ur Rehman)
Member (E)

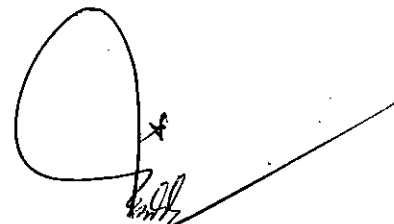

(Rozina Rehman)
Member (J)

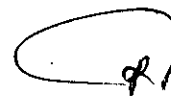
29.09.2020

Appellant present in person.

Mr. Muhammad Jan learned Deputy District Attorney
for respondents present.

Case was fixed for orders but record shows that
certain documents necessary for the just disposal of
case are not available on file. Therefore, learned DDA is
directed to make sure presence of all those documents
including the statement of one Ubaid Ahmad which was
sent through fax to the competent authority, on or
before 05.10.2020 before this D.B

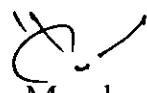

(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

27.02.2020

Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 03.04.2020 before D.B.

— 
Member

— 
Member

03.04.2020

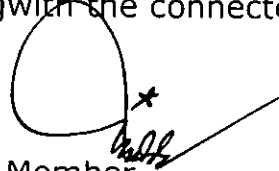
Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 22.06.2020 before D.B.


Reader

22.06.2020

Learned counsel for the appellant and Additional AG for the respondents present.


Adjourned to 06.08.2020 for arguments before D.B alongwith the connected appeal.


Member


Chairman

06.08.2020

Due to summer vacation case to come up for the same on 03.09.2020 before D.B.



Reader

10.12.2019

Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Shehreyar Assistant Superintendent for the respondents present. Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 16.01.2020 before D.B.



Member



Chairman

16.01.2020

Appellant in person present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 12.02.2020 before D.B.



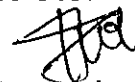
Member



Member

12.02.2020

Appellant in person present. Mr. Kabirullah Khattak learned Additional AG for the respondents present. The worthy Chairman is on leave, therefore the case is adjournment. To come up for further proceedings/arguments on 27.02.2020 before D.B.



(Hussain Shah)

Member

30.08.2019

Junior to counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Asif, DSP for respondents present. Junior to counsel for the appellant stated that the present service appeal was heard by the bench comprising of Hon'able Chairman and Learned Member, Hussain Shah, therefore the case may be adjourned and fixed before the bench which partially heard the arguments. Adjourned. To come up for arguments on 04.10.2019 before D.B.


Member


Member

04.10.2019

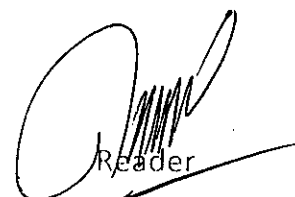
Counsel for the appellant present. Mr. Addl: AG alongwith Mr. Suleman, Senior Instructor for respondents present. Order contained in the previous order sheet was not complied with by the office staff of this Tribunal. The Registrar was called in person and directed that the matter may be brought to the notice of the worthy Chairman for further orders. Adjourned. To come up for further proceedings on 06.11.2019 before D.B.


Member


Member

06/11/2019

Due to incomplete bench the case is adjourned to come for the same on 10/12/2019


Reader

27.05.2019

Clerk to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 24.06.2019 before D.B.


Member


Member

24.06.2019


Appellant in person present. Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 22.07.2019 before D.B.


Member


Member

22.07.2019

Learned counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 30.08.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

05.04.2019

Appellant alongwith counsel and Mr. Ziaullah DDA alongwith Sher Yar, ASJ for the respondents present.

Representative of respondents has provided the copies of requisite record comprising the proceedings of enquiry against the appellant which is placed on file. To come up for further proceedings on 29.04.2019 before this D.B.


Member


Chairman

29.04.2019

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Learned counsel for the appellant requests for adjournment due to over work before the Peshawar High Court today.

Adjourned to 27.05.2019 for arguments before D.B.


Member


Chairman

01.04.2019

Appellant alongwith Mr. Muhammad Asif Yousafzai, Advocate and Mr. Ziaullah, DDA alongwith Sher Yar, ASJ for the respondents present.

Learned counsel for the appellant concluded his arguments, wherein, repeated reference was made to the enquiry report dated 02.05.2017. Even otherwise, we consider that the availability of record regarding departmental proceedings including the statements recorded therein shall be necessary for just conclusion of the matter.

Representative of respondents is, therefore, required to produce the requisite record on 05.04.2019. The representative shall also apprise the Tribunal regarding criminal proceedings initiated against Ubaidullah who was performing duty as Warder/Computer Operator Warrant Branch at the relevant time.



Member



Chairman

20.12.2018

Clerk of counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Muhammad Junaid, Assistant for the respondents present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for rejoinder and arguments on 15.02.2019 before D.B.



(Hussain Shah)
Member



(Muhammad Amin Khan Kundi)
Member

15.02.2019

Clerk to counsel for the appellant and Mr. Riaz Paindakhle learned Assistant Advocate General for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and also requested for adjournment. Adjourned. To come up for arguments on 01.04.2019 before D.B



(Hussain Shah)
Member



(Muhammad Amin Khan Kundi)
Member

28.08.2018

Counsel for the appellant and Mr. Kabirullah Khattak AAG alongwith shehryar, superintendent for the respondent also present. Written reply not submitted on behalf of the respondents. Requested for adjournment. Adjourned. To come up written reply/comments on 27.09.2018 before S.B



(Muhammad Amin Kundi)
Member

27.09.2018

Mr. Mujeebur Rahman, Clerk of counsel for the appellant present. Mr. Muhammad Junaid, Assistant alongwith Mr. Kabirullah Khattak, Addl. AG for the respondents present and made a request for adjournment. Granted. To come up for written reply/comments on 15.11.2018 before S.B.



Chairman

14.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 20.12.2018. Written reply received on behalf of respondents by Mr. Sheryar Senior ASP and placed on file.



Reader

03.07.2018

None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance for 23.07.2018 before S.B.

M.A.
(Muhammad Amin Khan Kundi)
Member

23.07.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant is aggrieved against the order dated 26.09.2017 whereby he was awarded punishment of reduction to a lower stage for three (03) years in his present time scale.



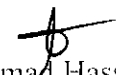
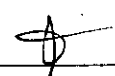
Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 28.08.2018 before S.B.

Appellant Deposited
Security & Process Fee

M.A.
Member

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 695/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	21/05/2018	<p>The appeal of Mr. Muhammad Ayub resubmitted today by Mr. Ased Zeb Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	28/05/18.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/06/18.</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	05.06.2018	<p>Appellant in person present and seeks adjournment. Adjourned. To come up for preliminary hearing on 21.06.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>
	21.06.2018	<p>Counsel for the appellant present and seeks adjournment. To come up for preliminary hearing on 03.07.2018 before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

(Ahmad Hassan)
Member


This is an appeal filed by Mr. Muhammad Ayub today on 10.05.2018 against the order dated 26.09.2016 against which he preferred/made a departmental appeal dated 12-02-2018 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and removing the following deficiencies.

- 1- Annexure-L of the appeal is illegible which may be replaced by legible/better one.


No. 1003 /S.T,

Dt. 11/05 /2018


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ad Zeb Khan Adv. Pesh.

As per E E D Rules, 2011, after submission of departmental appeal, appellant will wait for 60 days and at expiry of 60 days, service appeal would be filed. So appellant after expiry of 60 days, filed the instant appeal. However, now the instant appeal also became competent, because 90 days period has been expired. So the appeal is resubmitted for fixation.


Adv.

BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 695 /2018

Muhammad Ayub Khan _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa and others _____ Respondents

INDEX

S.No	Description of documents	Annex	Pages
1	Service appeal		1-5
2	Affidavit		6
3	Addresses of Parties		7
4	Application for suspension of impugned order and affidavit		8-9
5	True copy of charge sheet, statement of allegations,	A & B	10-11
6	Copy of letter dated: 01-03-2017, 02-03-2017, 04-03-2017 and reply	C to F	12-18
7	Copy of inquiry report & Objection petition	G & H	19-65
8	Copy of show cause notice and reply	I & J	66-73
9	Copy of impugned order dated: 26-09-2017 & letter dated: 08-02-2018	K & L	74-75
9	Copy of departmental review	M	76-80
10	Wakalat Nama		81

Appellant

Through

Asad Zeb Khan
Advocate High Court
Al-hajj Plaza, Yousaf Abad, Dalazak
Road, Peshawar
0346-9800565

Dated:-10/05/2018

①
**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. 695 /2018

Khyber Pakhtunkhwa
Service Tribunal

Muhammad Ayub Khan
Superintendent Judicial Lockup, District Swabi.

Diary No. 677

Dated 10-5-2018

..... Appellant

Versus

1. **Government of Khyber Pakhtun Khwa,**
Through Chief Secretary,
Civil Secretariat, Peshawar.
2. **Secretary Home and Tribal Affairs,**
Province of Khyber Pakhtun Khwa,
Civil Secretariat, Peshawar.
3. **Inspector General of Prisons,**
Province of Khyber Pakhtun Khwa,
District Courts, Peshawar.

..... Respondents

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE
TRIBUNAL ACT, 1974 AGAINST THE ACT OF THE
RESPONDENTS WHO ISSUED IMPUGNED ORDER Dated: 26-09-
2017 (RECEIVED TO THE APPELLANT ON 08-02-2018), VIDE
WHICH PENALTY OF REDUCTION TO A LOWER STAGE FOR
THREE YEARS IN PRESENT TIME SCALE WAS IMPOSED UPON

Filed to-day

Registrar THE APPELLANT.

10/5/18.

Prayer:-

- (i) On acceptance of the instant appeal, the impugned order of the Respondents Dated: 26-09-2017 may be set aside and the penalty of reduction to a lower stage for three years in present time scale may be declared illegal and void and the appellant may kindly be exonerated from the penalty.

②

(ii) Any action taken pursuant to impugned order dated: 26.09.2017 be declared void and without lawful authority.

RESPECTFULLY SHEWETH:

1. **That** the appellant served under the kind supervision of respondent No. 3 as Assistant Superintendent Jail/Prison and Deputy Superintendent Jail/ Prison at various prisons including Central Prison Haripur. At present, the appellant is working as Superintendent Judicial Lockup, Swabi.

2. **That** the appellant was charged for gross negligence and inefficiency in performance of duty under E & D Rules, 2011 and resultantly, the appellant was suspended and charge sheet and statement of allegations was served upon the appellant. The main allegation which has been attributed to the appellant are that he while acting/serving as Senior Assistant Superintendent Jail and Deputy Superintendent Jail illegally granted educational remissions on the basis of fake and manipulated documents. The appellant duly replied the allegations levelled in the charge sheet/statement of allegations on 09-03-2017.

{True copy of charge sheet, statement of allegations, letter dated: 01-03-2017, 02-03-2017, 04-03-2017 and reply are attached, marked as Annex-A to F}

3. **That** the enquiry officer conducted the inquiry against the present appellant and others officers of the department and recommended penalty of compulsory retirement from service against the appellant vide inquiry report dated: 02-05-2017. It would be relevant to state that the appellant duly objected the proceedings of inquiry committee/officer by submitting his objections vide letter dated: 09-05-2017, wherein the appellant mainly objected the proceedings on the pretext of non-observing E & D Rules, 2011 in its true letter and spirit by the inquiry officer.

{True copy of inquiry report & Objection petition is attached, marked as Annex-G & H}

3

4. That after submission of inquiry report, competent authority issued show cause notice to the appellant, which was duly replied by the appellant by submitting written reply to the same.

{True copy of show cause notice and reply are attached, marked as Annex-I & J}

5. That to the utter shock and dismay of the appellant, the competent authority (Chief Minister) while throwing the important iota of evidence which leads to innocence of appellant and not considering the illegalities committed by the inquiry officer, was pleased to issue the impugned order dated: 26-09-2017 vide which **penalty of reduction to a lower stage for three years in present time scale** was imposed upon the appellant. It would be relevant to mention that the said order was never communicated to the appellant because the appellant was posted during the inquiry proceedings at District Jail Buner at Daggar but later on the appellant was transferred and posted as Superintendent Judicial Lockup, Swabi so the appellant approached to Superintendent District Jail Buner at Daggar through a letter and the worthy Superintendent District Jail Buner at Daggar vide letter dated: 08-02-2018 transmitted/communicated the impugned order to the appellant.

{True copy of impugned order dated: 26-09-2017 & letter dated: 08-02-2018 are attached, marked as Annex-K & L}

6. That the appellant after receiving the impugned order dated: 26-09-2017 through letter dated: 08-02-2018, moved departmental review dated: 12-02-2018 through proper channel to the competent authority, but to no avail.

{True copy of departmental review is attached, marked as Annex-M}

7. That appellant feeling aggrieved and dissatisfied with the actions and inactions of the Respondents, and having no other alternate adequate remedy, seeks the indulgence of this Hon'ble Tribunal on the following among other grounds.

GROUND

(14)

- A. **Because** the impugned order dated: 26-09-2017 is against law, facts, hence liable to be set-aside.
- B. **Because** the respondents in **utter disregard to the principles of the fairness, merit and transparency** passed the present impugned order dated: 26-09-2017, hence the impugned order of the respondent is against the law, illegal, unlawful and void ab initio and liable to be turned down.
- C. **Because** the impugned order has been passed in blatant violation of service laws and the E & D Rules, 2011 have been smashed in a very cursory manner, hence the impugned order is nullity in the eyes of law.
- D. **Because** the E & D Rules, 2011 under which the impugned action has been taken, is not properly applied. As the same provides that proper opportunity of cross examining witnesses may be given to the accused/Govt. officer/official against whom the proceedings are carried out but in the present case, despite of objection over inquiry report, no opportunity was given to the appellant to cross examine the witnesses who deposed against the appellant.
- E. **Because** the impugned order is passed without adopting proper criteria and codal requirements by the respondents, which is against the worthy ruling of the Hon'ble Superior Courts of Pakistan and therefore, the same is illegal practice and such practice adversely effects efficiency of incumbents and also reduces their confidence and faith in public, hence the impugned order referred above is liable to be un-held on this score also.
- F. **Because** the appellant had been made victim of discrimination, demerits, partiality and favoritism without any just and reasonable cause thereby offending the fundamental rights of the appellant as provided by the constitution of 1973, hence the impugned order detailed above is liable to be set at naught.
- G. **Because** the impugned order has been passed without applying proper law and rules over the subject.

- (5)
- H. **Because** the appellant was condemned unheard; his departmental appeal is not adjudicated till date. Further no chance of personal hearing was given to the present appellant in order to redress his grievances which show the malafide of the Respondents, hence needs interference of this Hon'ble Tribunal.
- I. **Because** the present impugned order is illegal, illogical, against facts, without jurisdiction and suffering from material irregularity, hence the same is untenable and liable to be struck down.
- J. **Because** the Respondents erroneously exercised their powers against judicial principle, and have passed the impugned order and opened a new Pandora box in clear violation of Service law, hence, the said impugned order is liable to be set aside and the appellant may kindly be exonerated from the charges leveled against him.
- K. **The** appellant craves for leave of the Hon'ble court to raise additional grounds at the time of arguments.

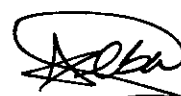
PRAYER:-

It is humbly submitted that on acceptance of the present service appeal, this Hon'ble Tribunal may graciously be pleased to:

- i. **Declare** the impugned order dated: 26-09-2017 vide which **penalty of reduction to a lower stage for three years in present time scale** was imposed upon the appellant as illegal, unlawful, without lawful authority and void ab initio by setting aside the said order and thereby exonerate the appellant from the charges levelled against him.
- ii. Any action taken pursuant to impugned order dated: 26.09.2017 be declared void and without lawful authority.
- iii. **Any** further better relief may also kindly be granted in the circumstances of the appellant's case.


Appellant

Through


Asad Zeb Khan
Advocate High Court

6

BEFORE THE SERVICE TRIBUNAL KPK, PEHSAWAR

Service Appal No. _____/2018

Muhammad Ayub _____ Appellant

Versus


Govt. of Khyber Pakhtun Khwa and others

_____ Respondents

AFFIDAVIT

I, **Muhammad Ayub**, Deputy Superintendent Central Prison, Mardan do hereby solemnly affirm and declare upon oath that the contents of accompanied **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honourable Court.

Identified By:


Deponent

NIC# 17301-0851387-1

ASAD ZEB KHAN
Advocate High Court.

(7)

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. _____/2018

Muhammad Ayub Khan _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa and others
_____ Respondents

ADDRESSES OF THE PARTIES

Muhammad Ayub Khan
Superintendent Judicial Lockup, District Swabi.

..... Appellant

Versus


- 1. Government of Khyber Pakhtun Khwa,**
Through Chief Secretary,
Civil Secretariat, Peshawar.
- 2. Secretary Home and Tribal Affairs,**
Province of Khyber Pakhtun Khwa,
Civil Secretariat, Peshawar.
- 3. Inspector General of Prisons,**
Province of Khyber Pakhtun Khwa,
District Courts, Peshawar.

..... Respondents


Appellant

Through

Dated:10-05-2018


Asad Zeb Khan
Advocate High Court
Peshawar.



**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. _____/2018

Muhammad Ayub Khan _____ Appellant

Versus

Govt. of Khyber Pakhtun Khwa and others _____ Respondents

**Application for and on behalf of appellant/applicant for
suspension of the operation of impugned order dated: 26-09-
2017 till final disposal of main appeal.**

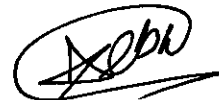
Respectfully Sheweth:

1. That the appellant/applicant filed the captioned service appeal in which no date of hearing is fixed.
2. That at the time disposal of this application, the appeal and its supportive documents may be considered as integral part of this application.
3. That the impugned order dated: 26-09-2017 has been passed in blatant violation of service laws and rules and the same has never been communicated to the appellant, so the propriety demands that the impugned order may kindly be suspended. The applicant has a genuine prima facie case in his hand and he is sanguine in respect of his success.
4. That there is no legal cavil in passing of order of suspension of impugned order dated: 26-09-2017 and if the said order is not suspended and status quo is not ordered, the appellant will be burdened with an irreparable loss.

It is, therefore, most respectfully prayed that the operation of the impugned order dated: 26-09-2017 may kindly be suspended and status quo be maintained till final disposal of main service appeal.

Through


Appellant



ASAD ZEB KHAN
Advocate High Court, Peshawar

Dated: 10/05/2018

9

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA,
PESHAWAR

Service Appeal No: _____ of 2018

Muhammad Ayub Khan _____ Appellant

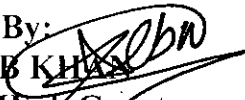
Versus

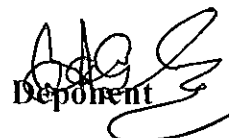
Govt. of Khyber Pakhtun Khwa and others

_____ Respondents

AFFIDAVIT

I, **Muhammad Ayub Khan**, Superintendent Judicial Lockup, District Swabi do hereby solemnly affirm and declare upon oath that the contents of accompanied application are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Honourable Tribunal.

Identified By: 
ASAD ZEB KHAN
Advocate High Court.


Deponent

NIC # 17301-0851387-1

10
CHARGE SHEET

A

I, **Pervaz Khattak**, Chief Minister Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Muhammad Ayub Khan, Deputy Superintendent Jail (BPS-17) attached to Central Prison Haripur**, as follows:

That you, while posted as **Senior Assistant Superintendent (BPS-16) and Deputy Superintendent Jail (BPS-17) at Central Prison Haripur** committed the following irregularities:

Due to your gross negligence / inefficiency in performance of your duty, the following convicts were prematurely released from that Jail on granting illegal education remission on the basis of fake and manipulated documents, thus you have violated Rule-115, 122 (1), 123 and 1019 (d) read with Rule 1044 (IV) of Khyber Pakhtunkhwa Prison Rules 1985:

S#	Name of Convict	Total Illegal Education Remission Granted	Date of Release
1	Sawab Gul S/O Haji Mumtaz	Premature release of about 40 days	02-06-2015
2	Shoaib S/O Badshah	1440 days	28-06-2016
3	Jehangir S/O Ashraf	360 days	28-06-2016
4	Aqeel Ahmad S/O Raza Khan	1080 days	04-07-2016

2. By reason of the above, you appear to be guilty of inefficiency / misconduct under rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the E&D Rules, 2011.

3. You are, therefore required to submit your written defence within seven days of the receipt of this **Charge Sheet** to the Inquiry Officer / Inquiry Committee, as the case may be.

4. Your written defence, if any, should reach the Inquiry Officer within the specified period, failing which, it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

Pervaz Khattak
(PERVAZ KHATTAK)
CHIEF MINISTER KHYBER
PAKHTUNKHWA

ATTACHED

(11)

B

DISCIPLINARY ACTION

I, **Pervaz Khattak, Chief Minister Khyber Pakhtunkhwa**, as the competent authority, am of the opinion that **Mr. Muhammad Ayub Khan, Deputy Superintendent Jail (BPS-17) attached to Central Prison Haripur**, has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:

STATEMENT OF ALLEGATIONS

Due to his gross negligence / inefficiency in performance of his duty, while attached to Central Prison Haripur as Senior Assistant Superintendent (BPS-16) and Deputy Superintendent Jail (BPS-17), the following convicts were prematurely released from that Jail on granting illegal education remission on the basis of fake and manipulated documents, thus he has violated Rule-115, 122 (1), 123 and 1019 (d) read with Rule 1044 (IV) of Khyber Pakhtunkhwa Prison Rules 1985:

S#	Name of Convict	Total Illegal Education Remission Granted	Date of Release
1	Sawab Gul S/O Haji Mumtaz	Premature release of about 40 days	02-06-2015
2	Shoaib S/O Badshah	1440 days	28-06-2016
3	Jehangir S/O Ashraf	360 days	28-06-2016
4	Aqeel Ahmad S/O Raza Khan	1080 days	04-07-2016

2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee, consisting of the following is constituted under Rule-10(1)(a) of the E&D Rules, 2011:

- i. Mr. Pervaz Khattak Sawi (Pcs EG Bs-20)
- ii. _____

3. The Inquiry Officer/Inquiry Committee shall, in accordance with the provisions of the rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to the punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry officer/Inquiry Committee.

Pervaz Khattak
(PERVAZ KHATTAK)
CHIEF MINISTER
KHYBER PAKHTUNKHWA

(11)

ATTACHED



02

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT**

ORDER

SO(Com/Enq)/HD/1-39/C.P.Haripur/2017 The Competent Authority is pleased to appoint Mr. Farrakh Sair (PCS EG BS-20), OSD E&A Department, Khyber Pakhtunkhwa as Inquiry Officer to conduct Inquiry proceedings against the following Officers / Officials under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 in the case regarding "Fraudulent releases based on manipulated cases of Education Remissions in Central Prison Haripur".

- i. Mr. Khalid Abbas, (BS-19)
 - ii. Mr. Sardar Zaman Baber, (BPS-17)
 - iii. Mr. Muhammad Ayub Khan, (BPS-17)
 - iv. Mr. Noor-ul-Basar, (BPS-16)
 - v. Mr. Badshah Said, (BPS-14)
 - vi. Mr. Jawad Gill, (BPS-14)
 - vii. Mr. Abdur Raziq, (BPS-14)
 - viii. Mr. Ubaid Ahmad, (BPS-5)
2. The Inquiry Officer shall submit his report / findings within the stipulated period.

**SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA HOME DEPARTMENT.**

Endst. SO(Com/Enq)/HD/1-39/ C.P.Haripur/2017 Dated Peshawar the 01/03/2017

Copy forwarded to the following: -

1. Mr. Farrakh Sair (PCS EG BS-20), OSD E&A Department, Khyber Pakhtunkhwa. Copy of charge sheets and statement of allegations against the accused officers / official are enclosed.
2. The Inspector General Prisons, Khyber Pakhtunkhwa, Peshawar alongwith copies of Charge Sheets / statement of allegations against the accused officers/ officials (in duplicate) to serve upon them and one copy of each thereof may be returned to this department as token of receipt for record. He is further requested to provide all necessary documents / record pertaining / assistance to the subject matter, to the inquiry officer please.
3. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.


SECTION OFFICER (Com/Enq)


ATTESTED



(13) OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 ☎ 091-9213445

No. 4803-807-1-116

Dated 02-03-2017

To

The Superintendents,

1. Central Prison Peshawar, Haripur & Bannu.
2. District Jail Timergara.
3. District Jail Bunir at Daggar. ✓

Subject:- **DISCIPLINARY ACTION AGAINST THE STAFF OF CENTRAL PRISON HARIPUR IN PRE-MATURE RELEASES CASE.**

Memo:

I am directed to forward herewith copies of Home Department orders No.SO(Com/Enq)/HD/1-39/C.P. Haripur/2017 dated 01-3-2017 containing suspension order in respect of the below mentioned officers/officials, nomination of Inquiry Officer alongwith statement of allegations /charge sheets (in duplicate) to be served upon them:-

1. Mr.Khalid Abbas, Superintendent CP Haripur.
2. Sardar Zaman Babar, Dy;Supdt; presently attached to DJ Timergara.
3. Muhammad Ayub, Deputy Supdt; presently attached to DJ Bunir. ✓
4. Mr.Noorul Basar Senior Asstt; Supdt; Jail Haripur.
5. Mr.Badshah Said , A/ Supdt; Jail presently attached to CP Peshawar.
6. Mr.Jawad Gill, Asstt; Supdt; Jail presently attached to CP Peshawar.
7. Mr.Abdul Raziq, Asstt; Supdt; Jail presently attached to CP Bannu.
8. Mr.Obaid Ahmad, warder CP Haripur.

One copy of the charge sheet duly signed and dated by the accused officers/officials concerned may be returned to this office immediately as token of its receipt. In addition, replies of the accused officers/officials furnished by them may be sent directly to the Inquiry Officer concerned within stipulated period.

[Signature]
ASSISTANT DIRECTOR(ADMN)
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST;NO. _____/.,

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa Home & T.As Department Peshawar for information with reference to Home Department orders referred to above please.
2. Mr.Farakh Sair, (PCS EG-BS-20) OSD E&A Department Khyber Pakhtunkhwa for information with reference to Home Department order referred to above. Mr.Sakhawat Shah Office Superintendent attached to this office is appointed as a departmental representative in the subject cited case and he will produce relevant record of the case and will also assist during proceeding.
3. Mr.Sakhawat Shah Office Superintendent, for information and compliance.

[Signature]
ASSISTANT DIRECTOR(ADMN)
FOR INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

(14)

OFFICE OF THE

**SUPERINTENDENT
DISTRICT JAIL BUNER**

E

No 527-WE Dated 04/3/17


To

Mr. Muhammad Ayub
Deputy Superintendent Jail

Subject: DISCIPLINARY ACTION AGAINST THE STAFF
OF CENTRAL PRISON HARIPUR IN PRE-MATURE
RELEASES CASE.

Memos-

Enclosed please find herewith duplicate
copy of Charge Sheet and statement of allegations
received from worthy Inspector General of Prisons KPK
Peshawar letter No 4803-807/PWB dated 02-3-2017
for compliance and duly signed and dated
by you and returned one copy to this
office positively please


**SUPERINTENDENT
DISTRICT JAIL BUNER**
04/3/17

Enclst No _____

Copy of the above is forwarded to the
worthy Inspector General of Prisons Khyber
Pakhtunkhwa Peshawar for information with
reference to his No refer to above please

Sd/-
**SUPERINTENDENT
DISTRICT JAIL BUNER**

15

F

To,

Mr. Farakh Sair (PCS EG-BS-20),
Member Board of Revenue ,
Khyber Pakhtunkhwa Peshawar.

Subject :- **REPLY OF THE CHARGE SHEET.**

Respected Sir,

With reference to the charge sheet served me with the
worthy Inspector General of Prisons Khyber Pukhtunkhwa memo No.
4803-807/WE dated 02/03/2017 (hand over to me on 05-03-2017),
reply of the charge sheet is submitted herewith for favorable
consideration please.

Handwritten signature

9

(MUHAMMAD AYUB KHAN)
Deputy Superintendent
Under suspension

Dated 10/03/2017.

Copy forwarded to the Worthy Inspector General of
Prisons Khyber Pakhtunkhwa Peshawar for Information with reference
to above please.

Handwritten signature

9

(MUHAMMAD AYUB KHAN)
Deputy Superintendent
Under suspension

Handwritten signature
10/3/2017
PS to MBR

Handwritten signature
Receipt
10-3-2017

Respected Sir,

With reference to the charge sheet served upon me vide Inspector General of Prisons Khyber Pukhtunkhwa memo No.4803-807/WE dated 02/03/2017 (handed to me on 05-03-2017) I have to submit my reply as under:-

- 1- It is correct that warrants of all prisoners whose release become due in any month shall be examined on the 20th day of the month preceding to ascertain their correctness as per rule 115 but in the case of convict Sawab Gul S/O Haji Mumtaz whose release was already fixed by the Assistant Superintendent Incharge warrant branch as 02/06/2015 and it was his responsibility who was permanent Incharge of warrant branch and his charge cannot be attributed to me as I was holding the additional charge of warrant branch just for one day as the permanent Assistant Superintendent was away from the station and thus rule 115 does not apply in the instant case upon me.

- 2- The check dates and final date of release of convicts (1)- Shaoib S/O Badshah (2) Jehangir S/O Ahsraf and (3) Aqeel Ahmad S/o Raza Khan were fixed by Assistant Superintendent Incharge warrant branch as per rule 113,115 and 116 and therefore by observing procedure as explained in rule 122 (1) the prisoners were released from Jail after completion of all codal formalities as mentioned in Rule 122 (1) but as these remissions were manipulated by warder Obaid Ahmad for which he has been charged for the illegal releases of all 16 Nos convicts and who himself admitted his guilt (photocopy of his confessional statement is attached herewith as annexure-A) with further clarification that in his such act no staff members/officers was in connivance with him. Therefore his sins cannot be attributed to other people including me.

ATTESTED

17

Rule 123 was fully observed as no impersonation has taken place in the instant cases as all the four prisoners were released carefully identified by reference to their personal description and marks of identification as recorded in the admission register.

- 3- As per rule 1019 the education remission of these prisoners were manipulated/tampered by warder Obaid Ahmad who was under the direct command and charge of Assistant Superintendent warrant branch and as per rule 113,114 and 115 it was his responsibility to satisfy himself of all releases before producing the prisoners before the Deputy Superintendent / Superintendent for release as the whole record pertaining to warrant branch is lying under his custody and not of the Deputy Superintendent / Superintendent and hence his responsibility cannot be attributed to me.
- 4- It is correct that I always performed all my duties and responsibilities assigned to me by the Superintendent Jail as per rule 1044 and as explained in para 1 above that I was holding additional charge on 02/06/2015 when convict Sawab Gul S/O Haji Mumtaz was released as his Final date of release was already fixed by Assistant Superintendent warrant branch in released diary Register No. 4 and therefore I fully complied with Rule 1044 of the Pakistan Prison Rules.

As explained above I performed my duties & responsibilities to the best of my abilities, capabilities, to the entire satisfaction of my superiors and observing all rules and regulations and never been involved in malpractices or thought to be a part of a traitor or to support any traitor. In this specific case warder Obaib Ahmad has played the role of a traitor in Department as well as in the history of this department as in my 28 years service no such charge has ever been imposed on me nor heard about it.


AFFECTED


18

Keeping in view the above explanation it is humbly prayed that these charges may please be dropped against me and I may be honorably exonerated.

I wish to be heard in person.

Thanking you sir.

Dated 09/03/2017.



9/3/17

(MUHAMMAD AYUB KHAN)
Deputy Superintendent
Under suspension



ATTN: PER

(19)

9

Subject: - INQUIRY REPORT REGARDING (I) KHALID ABBAS,
(II) SARDAR ZAMAN BABER, (III) MUHAMMAD AYUB
KHAN, (IV) NOOR-UL-BASAR, (V) BADSHAH SAID, (VI)
JAWAD GILL, (VII) ABDUL RAZIQ, (VIII) UBAID AHMAD.

BRIEF FACTS OF THE CASE:

A news item was published in the "Daily Mashriq" dated 24.11.2016 (F/A) reporting illegal / fraudulent release of prisoners from District Jail Manshra. Provincial Ombudsman while taking cognizance of the news report asked Inspector General of Prisons to submit details for their further action. Meanwhile, basic information on similar lines from Central Prison Haripur was demanded and it was reported by the Superintendent Central Prison Haripur (F/B) that the dealing hands in that Jail have manipulated the illegal releases of the prisoners by tampering with the record of the Jail.

Preliminary / facts finding Inquiry was ordered (F/B1) to make an inquiry into the cases of remissions recommended or attested by the Jail authorities of Central Prison Haripur for the year 2013 to 2016 (four years). The Committee consisted of Sahibzada Shah Jehan (Superintendent High Security Prison Mardan) and Muhammad Zahid (Deputy Superintendent-cum-Superintendent sub Jail Dasu). The committee found sixteen convicts to have been benefited of illegal remission either by way of tampering, making fake entries in the relevant record or on bogus education certificates etc.

The documents in the case regarding fraudulent releases based on manipulated cases of education remissions in Central Prison Haripur were received on 08.03.2017. Charge sheets were issued and served on the following officers / officials:

- i) Mr. Khalid Abbas, Superintendent (BS-19) Central Prison Haripur.
- ii) Mr. Sardar Zaman Baber, Deputy Superintendent (BS-17) at Central Prison Hairpur.
- iii) Mr. Muhammad Ayub Khan, Senior Assistant Superintendent (BS-16) and Deputy Superintendent Jail (BS-17) at Central Prison Haripur.
- iv) Mr. Noor-ul-Basar, Senior Assistant Superintendent Jail (BS-16) attached to Central Prison Haripur.
- v) Mr. Badshah Said, Assistant Superintendent (BS-14) at Central Prison Haripur.
- vi) Mr. Jawad Gill, Assistant Superintendent Jail (BS-14)
- vii) Mr. Abdul Raziq, Assistant Superintendent Jail (BS-14)

Shah Jehan
04/11/17

ATTACHED

20

viii) Mr. Ubaid Ahmad, Warder (BS-05)

Mr. Sakhawat Shah (Office Superintendent) attached to Prisons Inspectorate Peshawar was appointed as Departmental representative for the inquiry.

(A) Allegations against Khalid Abbas.

Statement of allegations (F/C) was issued to Mr. Khalid Abbas, Superintendent Central Prison Haripur (BPS-19) which is reproduced as under;

(i) *Due to his gross negligence / inefficiency in performance of his duty, he submitted education remission cases of the below noted convicts without proper scrutiny or consulting original record of these cases and recommended their cases for grant of remission on fake / bogus certificates of various exams, which resulted their illegal releases, thus he has violated Rule 940(ii) of Khyber Pakhtunkhwa Prison Rules 1985:*

- (a) Zafar Iqbal s/o Zarshad
- (b) Naveed s/o Zuhra Gul
- (c) Aqeel Ahmad s/o Raza Khan

(ii) *Being a Superintendent of circle Headquarter, he failed to transfer local Warders particularly Warder Ubaid Ahmad who has been posted at Central Prison Haripur since 2002 despite the repeated directions of Inspectorate of Prisons and in violation of Rule 1117 of Khyber Pakhtunkhwa Prison Rules 1985 due to which the said Warder played a main role in fraudulent releases / remission cases of sixteen (16) convicted prisoners from Central Prison Haripur on the basis of fake / bogus and manipulated documents.*

(iii) *According to Rule-122(ii) every order for the final discharge of a prisoner shall be signed by the Superintendent, but he failed to perform his duty as per the rule.*

(iv) *According to Rule 209(iv) all remissions recorded on the prisoners History ticket shall be entered every quarter on the remission sheet and signed by the Superintendent, but he failed to perform his duty as per the rule.*

Now, I will discuss each charge separately in the light of evidence which was collected during the inquiry proceedings.

Sakhawat Shah
22/5/17
✓
✓

Sakhawat Shah
ATTN

2A

Allegation (i)

Due to his gross negligence / inefficiency in performance of his duty, he submitted education remission cases of the below noted convicts without proper scrutiny or consulting original record of these cases and recommended their cases for grant of remission on fake / bogus certificates of various exams, which resulted their illegal releases, thus he has violated Rule 940(ii) of Khyber Pakhtunkhwa Prison Rules 1985:

- (a) Zafar Iqbal s/o Zarshad
- (b) Naveed s/o Zuhrab Gul
- (c) Aqeel Ahmad s/o Raza Khan

The reply of the accused officer (Mr. Khalid Abbas) to the charge sheet was received on 13.03.2017 (F/D) and statement of accused officer ((F/E) was recorded on 04.04.2017. The accused officer stated that during the crucial dates of releases, he was either on ex-Pakistan leave or was on duty in other stations detailed by competent authority. He stated that all the three certificates of convicts namely (1) Zafar Iqbal s/o Zarshad (F/E1) (2) Naveed s/o Zuhrab Gul (F/E2) and (3) Aqeel Ahmad s/o Raza Khan (F/E3) were not attested by him rather these were duly certified and attested by Qari Uzair Incharge Taleemul Quran Trust, Mr. Badshah Said Assistant Superintendent Incharge Warrant branch and Mr. Sardar Zaman Baber, the Deputy Superintendent. He also stated that education remission cases of convicts are always forwarded and recommended to competent authority for further necessary action on the basis of character of the convicts as per Rule 215 (ii) (F/2). He also stated that the verification and authentication of education remission certificate is not the responsibility of the Superintendent rather it is the duty and responsibility of the Assistant Superintendent (Incharge Warrant branch) and is further verified and checked by the Deputy Superintendent. He added that Superintendent has to certify only the character and conduct of the prisoner. He further stated that certificates of Zafar Iqbal and Naveed bear the same serial number but the same were attested and verified by Incharge Taleemul Quran Trust (Qari Uzair), Assistant Superintendent (Warrant branch) and the Deputy Superintendent.

Handwritten signature and date: 02/5/17

RECORDED

Relevant record as well as remission sheet of convict Zafar Iqbal was examined and it was found that a remission of 720 days was illegally awarded to him on the basis of fake and manipulated certificate for passing translation of the Holy Quran examination held in 2013. As a matter of fact, a certificate bearing

22

serial No. 0624 dated 31.12.2013 was originally issued in the name of lifer convict Nasir s/o Buner (F/E4) who had already been benefited of the admissible remission on that account. However, subsequently, in a copy of the same certificate bearing the same serial number and date, a fake certificate (F/E1) was prepared in the name of convict Zafar Iqbal s/o Zarshad and in its support his case for sanction of education remission was recommended / processed vide Superintendent Central Prison Haripur letter No. 5728/WE dated 10.09.2014 (F/F). Accordingly the requisite sanction was accorded vide IG Prisons letter No. 23883 dated 23.09.2014 (F/F2). Thus on the basis of fake / bogus passing certificates of translation of the Holy Quran, the convict Zafar Iqbal was benefitted of 720 days illegal remission. This fact was even verified and checked through the original record available with Qari Uzair by the inquiry officer. Similarly, in a photocopy of the same certificate (F/E2), name of convict Naveed s/o Zuhra Gul was subsequently inserted in it and thereafter his case for the grant of remission was recommended / sent to IG Prisons by the Superintendent Central Prison Haripur, Mr. Khalid Abbas. As a result, sanction was accorded by IG Prisons Khyber Pakhtunkhwa vide letter No. 23883 dated 23.09.2014 (F/F2). Hence, benefit of 720 days illegal remission was given to the convict on the manipulated / bogus passing certificate of the Holy Quran examination.

Similarly, remission was awarded to Aqeel Ahmad s/o Raza Khan by IG Prisons vide letter No. 23883 dated 23.09.2014 (F/F2) on recommendation of Superintendent Jail Haripur in support of manipulated passing certificate (F/E3). Originally the said certificate was awarded to convict Shiraz Khan s/o Muhammad Rasan Khan bearing serial No. 004346 for passing Nazira Quran in December 2011 (F/F1). During checking of the record it was found that the case for education remission of Aqeel Ahmad s/o Raza Khan was recommended by Superintendent CP Haripur, Mr. Khalid Abbas for passing examination of translation of the Holy Quran held in 2011 vide letter No. 5728-WE dated 10.09.2014 (F/F). But the bogus certificate of Aqeel Ahmad s/o Raza Khan for passing Nazira Quran in December 2011 was attached with the letter of Superintendent. 360 days remission for Nazira Quran was illegally granted to Aqeel Ahmad by Haripur Jail authority. It shows that too much negligence on the part of the Jail staff including Superintendent Mr. Khalid Abbas has been made.

Handwritten signature and date
02/5/17

ATTACHED

23

Nevertheless, Mr. Khalid Abbas pointed out in his reply to the charge sheet that there is a scrutiny committee at the level of IG Prisons office which scrutinizes and evaluates each such case and submit for approval. He in fact wanted to point out that the scrutiny committee at IG Prisons office had also showed negligence in checking the cases of recommendation. For this purpose statement of Farman Ali (Office Superintendent IG Prisons office) (F/G) was recorded on 03.04.2017 who stated that the scrutiny committee during the period under inquiry consisted of (1) Mr. Zafar Iqbal (2) Rizwanullah and (3) Farman Ali (Mr. Zafar Iqbal has died while Mr. Rizwanullah is retired from service). He further stated that the cases of education remission of 21 convicts including the three, i.e. (1) Zafar Iqbal s/o Zarshad 92) Naveed s/o Zuhrab Gul and (3) Aqeel Ahmad s/o Raza Khan were received from Superintendent Central Prison Haripur vide No. 5728/WE dated 10.09.2014 (F/F). He also stated that the education remission rolls were found signed from Incharge Warrant branch duly checked and signed by Deputy Superintendent as well as Superintendent Jail and was certified by Superintendent Jail that the concerned convicts passed the concerned examination and were entitled to the grant of education remission as per rule and were recommended for remission. However, during cross examination he stated that it is correct that the serial number affixed to certificates of convicts Zafar Iqbal s/o Zarshad and Naveed s/o Zuhrab Gul were the same but the scrutiny committee could not note it.

Keeping in view the above factual position, I have come to a conclusion that the charge against the accused officer (Mr. Khalid Abbas) is established on the basis of the following grounds;

- a) The certificates of the convicts Zafar Iqbal s/o Zarshad and Naveed s/o Zuhrab Gul were not checked thoroughly as these documents were bogus and factitious. The case was recommended by Mr. Khalid Abbas, Superintendent Central Prison Haripur on the basis of fake and bogus certificates.
- b) The two certificates (photocopies) of Zafar Iqbal s/o Zarshad (F/E1) and Naveed s/o Zuhrab Gul (F/E2) were of the same serial number 0624 dated 31.12.2013 which were overlooked by all the concerned Jail staff including the Superintendent (Mr. Khalid Abbas). A bit attention would have revealed that both the certificates were bogus.
- c) Case of Aqeel Ahmad s/o Raza Khan for remission on passing translation of the Holy Quran in 2011 was recommended. The bogus certificate

Farman Ali
02/15/17

ATTESTED

24

attached with the recommendation letter in the name of Aqeel Ahmad s/o Raza Khan bearing serial No. 004346 (F/E3) was in fact in the name of Sheraz Khan s/o Muhammad Rasan (F/F1). It shows that too much negligence on the part of Jail staff including Superintendent, Mr. Khalid Abbas was made.

Hence the allegation (i) against the accused officer Mr. Khalid Abbas Superintendent that he submitted education remission cases of convicts Zafar Iqbal s/o Zarshad , Naveed s/o Zuhra Gul and Aqeel Ahmad s/o Raza Khan without scrutiny or consulting original record and recommended for grant of remission on fake / bogus certificates which resulted their illegal releases and thus he has violated Rule 940(ii) (F/3) of Khyber Pakhtunkhwa Prison Rules 1985 is proved.

Allegation (ii)

Being a Superintendent of circle Headquarter, he failed to transfer local Warders particularly Warder Ubaid Ahmad who has been posted at Central Prison Haripur since 2002 despite the repeated directions of Inspectorate of Prisons and in violation of Rule 1117 of Khyber Pakhtunkhwa Prison Rules 1985 due to which the said Warder played a main role in fraudulent releases / remission cases of sixteen (16) convicted prisoners from Central Prison Haripur on the basis of fake / bogus and manipulated documents.

In response to allegation (ii) the accused officer, Mr. Khalid Abbas gave reply to the charge sheet (F/D) wherein he stated that a letter No. 32160-63 dated 06.11.2015 (F/H) regarding transfer of local watch and ward staff was circulated to all four headquarter prisons followed by judgment of the honorable Peshawar High Court DI Khan Bench dated 03.12.2015 passed in WP No. 761-D/2015 (F/H1) wherein the above circular was suspended. After the decision of the honorable High Court dated 13.12.2016 issued on 03.01.2017 (F/H2) another directive was issued vide letter No. 178 dated 04.01.2017 (F/H3) by IG Prisons directing immediate postings of all local watch and ward staff. The directives were complied with and Warder Ubaid Ahmad was transferred to sub Jail Dasu vide order No. 138 dated 17.01.2017 (F/H4) and relieved prior to target date given by IG Prisons, i.e. 01.02.2017.

Reply to the charge sheet, statement of Mr. Khalid Abbas and all other available record was perused. It came to light that Warder (BPS-05) Mr.

ATTESTED

Handwritten signature and date 02/5/17

25

Ubaid Ahmad s/o Maqsood Ali Khan (under suspension) attached to Central Prison Haripur was transferred to sub Jail Dasu (F/H4). Hence Mr. Khalid Abbas, accused officer, is right to state that Mr. Ubaid Ahmad, Warder was relieved prior to target date i.e. 01.02.2017. Mr. Khalid Abbas, accused officer, in his reply has pointed out that he was charged for not transferring Warder Ubaid Ahmad posted illegally at Central Prison Haripur since 2002. But he added that he was posted as Superintendent CP Haripur in July 2015 and further added that action be taken against all those responsible for not transferring the said official since 2002. He is also right in pointing out in his reply to the charge sheet that equality and fairness would require and demand departmental action against all those responsible for retaining the local watch and ward staff contrary to Rule 1117, in different circles and Jails of the province.

Keeping in view the above facts, the allegation (ii) against Mr. Khalid Abbas is not proved.

Allegation (iii)

According to Rule-122(ii) every order for the final discharge of a prisoner shall be signed by the Superintendent, but he failed to perform his duty as per the rule.

As far allegation (iii), the accused officer, Mr. Khalid Abbas stated in his reply (F/D) that he provided the entire record to the head of the inquiry team constituted vide letter dated 05.12.2016 bearing endorsement No. 28241-243 (F/B1). He also stated that he was either on ex-Pakistan leave or on official duty at other stations and none of the final release warrants were signed by him. Supplementary statement of Mr. Sardar Zaman Baber (F/L2) and statement of Mr. Muhammad Ayub (F/J) are very much elaborative as the thirteen release warrants were signed by Mr. Sardar Zaman Baber mentioned in his charge sheet (F/K) while the signature of Mr. Muhammad Ayub is available on final release warrant of the three convicts as mentioned in their statements. However, Mr. Najam Abbasi, Deputy Superintendent recorded statement on 28.04.2017 (F/D1) wherein he stated that Mr. Khalid Abbas entered the Jail at 10:59 am and went out at 03:20 pm on 11.12.2014, while on 31.08.2015 he entered the Jail at 09:46 am and went out at 05:25 pm. It, therefore, shows that on two dates of releases Mr. Khalid Abbas, Superintendent Central Prison Haripur was available at Jail, but he did not sign the final release of the prisoners.

✓

2/15/2017
Khalid Abbas

ATTACHED

26

Keeping in view the above facts, I am of the considered opinion that the charge (iii) against the accused officer (Mr. Khalid Abbas) is partially proved as he failed to sign the two orders dated 11.12.2014 and 31.08.2015 for the final discharge of prisoners under Rule 122(ii).

Allegation (iv)

According to Rule 209(iv) all remissions recorded on the prisoners History ticket shall be entered every quarter on the remission sheet and signed by the Superintendent, but he failed to perform his duty as per the rule.

Regarding allegation (iv) the accused officer, Mr. Khalid Abbas stated that only two types of remissions are recorded on History ticket, i.e. blood remission and Superintendent special remission. He also stated that education remission has never been recorded on the remission sheet of the convicts with the history ticket of the prisoners rather it is always recorded on the remission sheet of the convicts with the warrants.

But Rule 209(iv) (F/9) indicates that all remissions recorded on the prisoner's history ticket shall be entered every quarter on the remission sheet and signed by the Superintendent. Hence, it becomes the responsibility of Superintendent to record all remissions including education remissions on the prisoner's history ticket and shall be entered every quarter on the remission sheet. Had he recorded education remission on the prisoner's history ticket, the convicts (having bogus documents) would not have been released so easily. Moreover, some remission sheets (letter of Superintendent CP Haripur at F/Z1 is for ready reference) having no signature or initial of responsible officer / official went unnoticed due to non recording on the prisoner's History ticket by the Superintendent and other Jail staff. Superintendent is the overall Incharge of Jail and he should have taken all steps in following prison rules in letter and spirit.

Sardar Zaman Baber
02/5/17

Hence the allegation (iv) against the accused officer (Mr. Khalid Abbas) is proved.

(B) Allegation against Sardar Zaman Baber.

Statement of allegation (F/K) was issued to Mr. Sardar Zaman Baber, Deputy Superintendent Jail (BPS-17) presently attached to District Jail Timergara which is reproduced as under;

ATTESTED

27

Due to his gross negligence / inefficiency in performance of his duty while posted as Deputy Superintendent Central Prison Haripur, the following convicts were prematurely released from that Jail on granting illegal education remissions on the basis of fake and manipulated documents, thus he has violated Rule 122(i), 123 and 1019(d) of Khyber Pakhtunkhwa Prison Rules 1985:

S#	Name of convict	Total Illegal Education Remission granted	Date of release
1.	Zafar Iqbal s/o Zarshad	780 days	11.12.2014
2.	Naveed s/o Zuhrab Gul	780 days	11.12.2014
3.	Sawab Gul s/o Haji Mumtaz	Premature release of about 40 days	02.06.2015
4.	Javed Iqbal s/o Sher Muhammad	1080 days	29.06.2015
5.	Noor-ud-Din s/o Baz Muhammad	720 days	10.07.2015
6.	Iftikhar Ahmad s/o Atlas	360 days	16.07.2015
7.	Zafar s/o Wali	1279 days	31.08.2015
8.	Fazal Malik s/o Said Karim	180 days	11.09.2015
9.	Bilal s/o Yar Zada	1080 days	23.09.2015
10.	Muhammad Akram s/o Muhammad Zaman	360 days	23.09.2015
11.	Zia-ur-Rahman s/o Siraj Muhammad	360 days	04.04.2016
12.	Tawab Khan s/o Khan Wali	1267 days	11.05.2016
13.	Feroz Shah s/o Nasir	1093 days	11.05.2016

Brief facts about the convicts mentioned in the charge sheet, issued to Mr. Sardar Zaman Baber, accused officer, are as follows;

1. Zafar Iqbal s/o Zarshad:

Relevant record as well as remission sheet of convict Zafar Iqbal was examined and it was found that a remission of 720 days was illegally awarded to him on the basis of fake and manipulated certificate for passing translation of the Holy Quran examination held in 2013. As a matter of fact, a certificate bearing serial No. 0624 dated 31.12.2013 was originally issued in the name of lifer convict Nasir s/o Buner (F/E4) who had already been benefited of the admissible remission on that account. However, subsequently, in a copy of the same certificate bearing the same serial number and date, a fake certificate (F/E1) was prepared in the name of convict Zafar Iqbal s/o Zarshad. The bogus and fake certificate was attested by Mr. Sardar Zaman Baber, Deputy Superintendent CP Haripur. The convict Zafar

Sardar Zaman Baber
02/15/17

ATTESTED

28

Iqbal s/o Zarshad was prematurely released by Mr. Sardar Zaman Baber as Deputy Superintendent on granting illegal remissions on the basis of fake and manipulated documents.

2. Naveed s/o Zuhrab Gul:

The name of Naveed s/o Zuhrab Gul was inserted by Jail staff in a photocopy of the original certificate of Nasir s/o Buner. The original certificate is at (F/E4) while the fake certificate is at (F/E2). The bogus and fake certificate was attested by Mr. Sardar Zaman Baber, Deputy Superintendent CP Haripur. The case of the convict for the grant of remission was recommended / sent to IG Prisons. As a result, sanction was accorded by IG Prisons Khyber Pakhtunkhwa vide letter No. 23883 dated 23.09.2014 (F/F2). Hence, benefit of 720 days illegal remission was given to the convict on the manipulated / bogus passing certificate of the Holy Quran examination. The convict Naveed s/o Zuhrab Gul was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

3. Sawab Gul s/o Haji Mumtaz

The name of convict Sawab Gul was nowhere mentioned under any serial number in sanction letter No. 4540/WE dated 24.2.2015 (F/K1). At a letter stage, by way of tampering, in a scanned copy of the said letter (F/K2) the name of convict Sawab Gul was inserted at serial No. 27 in place of original name of Hidayat ur Rehman s/o Shahzar Gul and hence he was benefited 360 days illegal remission. The convict Sawab Gul s/o Haji Mumtaz was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

Sardar Zaman Baber
02/5/17

4. Javed Iqbal s/o Sher Muhammad:

Record about convict Javed Iqbal s/o Sher Muhammad was checked and it was found that a remission of 360 days for passing Nazira Quran examination held in 2011 vide letter No. 7971 dated 27.04.2012 was awarded to him. The sanction letter is nowhere available. Even Mr. Sakhawat Shah (Office Superintendent, IG Prisons office) has given statement (F/K3) that this sanction is not available. Hence illegal remission was granted. Similarly remission for passing translation of the Holy Quran was awarded by tampering the original sanction letter 13389 dated 19.05.2015, in a scanned copy of the same inserted the name of Javed

Sardar Zaman Baber
02/5/17

24

Iqbal s/o Sher Muhammad (F/K4). In the original sanction (F/K5), name of Muhammad Khaliq is mentioned. The convict Javed Iqbal s/o Sher Muhammad was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

5. Noor-ud-Din s/o Baz Muhammad:

Noor-ud-Din s/o Baz Muhammad was given sanction of 360 days for passing Nazira Quran examination vide IG Prisons No. 8765 dated 25.05.2012 and 360 days for passing SSC examination held in 2012 vide IG Prisons sanction letter 25679 dated 21.9.2014 under the initial of Noor-ul-Basar, Senior Assistant Superintendent. But record shows that these sanction letters were not issued from Head office (F/K3) and hence the reference on the remission sheets were fake and bogus. The convict Noor-ud-Din s/o Baz Muhammad was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

6. Iftikhar s/o Atlas:

Record about convict Iftikhar s/o Atlas shows that a remission of 360 days for passing BA exam held in 2013 was granted vide IG Prisons sanction letter No. 15107 dated 03.06.2015 (F/K6). But name of the convict, Iftikhar s/o Atlas was nowhere mentioned under any serial No. of the said letter. The remission was granted illegally with malafide intention. The convict Iftikhar s/o Atlas was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

Handwritten signature and date: 21/5/20

7. Zafar s/o Wali

Record of Zafar s/o Wali shows that remission was granted on account of passing translation of the Holy Quran examination held in December 2013 vide IG Prisons sanction letter No. 23883 dated 23.09.2014. The original letter contained 21 convicts (F/K7) but in the scanned copy of the said letter the name of Zafar was inserted at serial No. 22 (F/K8a). Moreover, remission for passing SSC exam held in 2015 was granted vide IG Prisons sanction letter No. 23394/WE dated 28.08.2015. The said sanction contained names of 19 prisoners (F/K9) but Zafar Khan was found nowhere under any serial number. This shows that the remission

ATTESTED

30

was granted illegally. The convict Zafar s/o Wali was prematurely released by Mr. Sardar Zaman Baber as Deputy Superintendent on the basis of fake and manipulated documents.

8. Fazal Malik s/o Said Karim:

Fazal Malik s/o Said Karim convict was granted remission for passing exam of Nazira Quran held in 2014 vide IG Prisons sanction letter 13389 dated 19.5.2015. The name of convict Fazal Malik was nowhere recorded under any serial No. of the said letter. But later on, in a scanned photocopy, name of Fazal Malik was inserted at serial No. 17 in place of Sher Baz s/o Mir Wais. Thus remission of 180 days was illegally granted by jail staff. Original letter is at (F/K10) while fake letter is at (F/K11). The convict Fazal Malik s/o Said Karim was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

9. Bilal s/o Yar Zada:

Convict Bilal s/o Yar Zada was granted remission of 360 days on account of passing Al-Lisanul Arabia exam held in 2011 vide IG Prisons letter No: 23883 dated 23.09.2014 But on verification, it was revealed that name of convict Bilal s/o Yar Zada was inserted at serial No. 22. The original letter is at (F/K7) while fake is at (F/K8). Similarly, remission was granted on account of passing translation of the Holy Quran exam. The original sanction letter No. 13389 dated 19.05.2015 is at (F/10). The name of convict Bilal s/o Yar Zada was inserted on serial No. 09 in place of Ikramullah s/o Sanaullah in a scanned copy of the said letter (F/11). Hence, remission was granted on fake and bogus documents. The convict Bilal s/o Yar Zada was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

Sardar Zaman Baber
02/5/17

ATTESTED

10. Muhammad Akram s/o Muhammad Zaman:

Case of convict Muhammad Akram s/o Muhammad Zaman was prepared and sent to IG Prisons to grant education remission for Nazira Quran vide No. 1953/WE dated 26.03.2013 (F/K12) and sanction was granted vide IG Prisons letter No. 10075/WE dated 05.04.2013 (F/K13) but remission of 720 days for passing translation of the Holy Quran was granted by Jail authorities in Haripur which was an excess and illegal. The convict Muhammad Akram s/o Muhammad

31

Zaman was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur; on the basis of fake and manipulated documents.

11. Zia-ur-Rehman s/o Siraj Muhammad:

Record about convict Zia-ur-Rehman s/o Siraj Muhammad was perused and it was observed that on his remission sheet (F/K14) for passing some exam, subsequently, by way of overwriting, shown as FA examination held in 2014 vide IG Prisons letter No. 25902 dated 21.10.2014 (F/K15), a remission of 360 days (in overwriting) was given to him. However, instead of 360 days (twelve months) twenty four months were added in remission shown in column of months. In other words, by the award of 360 days remission, the total remissions in the months column would go up from 179 months to 191 months, but contrary to the same, it has been shown 203 months in the relevant column. The convict Zia-ur-Rehman s/o Siraj Muhammad was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

12. Tawab Khan s/o Khan Wali:

Record about the convict Tawab Khan was perused and it was found that the Superintendent CP Haripur vide his letter No. 2667 dated 21.04.2014 (F/K16) recommended education remission cases of two convicted prisoners namely Muhammad Afzal s/o Asghar and Malak Taj s/o Gul Faraz. Accordingly sanction was accorded vide IG Prisons sanction letter No. 14143 dated 27.05.2014 (F/K17). However, later on the staff of Haripur Jail, by way of tampering in copy of the said letter (F/K18), inserted the name of convict Tawab Khan s/o Khan Wali in place of real convict Malak Taj s/o Gul Faraz. Thus, he was granted benefit of 360 days illegal remission on fake documents. In addition, IG Prisons accorded sanction to the grant of education remission for 29 prisoners vide No. 18492 dated 07.07.2014 (F/K19). However, later on in photocopy of the said letter name of Tawab Khan was inserted at serial No. 08 by the Jail staff of Haripur and thus on the basis of fake documents the convicted prisoner Tawab Khan was further benefitted of 720 days illegal remission. Fake copy is at (F/K20). Similarly, education remission of 187 days was awarded to Tawab Khan s/o Khan Wali, by the staff of Haripur Jail on the basis of making similar fraudulent and fake entry in photocopy of IG Prisons sanction letter No. 12318 dated 04.05.2016. Original letter

Sardar Zaman Baber
02/5/17

ATTACHED

32

is at (F/21) and fake letter is at (F/K22). The convict Tawab Khan s/o Khan Wali was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

13. Feroz Shah s/o Nasir:

The name of convict Feroz Shah s/o Nasir was inserted in a scanned copy of sanction letter No. 14143 dated 27.05.2014 by staff of Haripur Jail (F/K18). The original letter is at (F/K17). Hence, illegal remission was granted to the instant convict. Similarly, the name of convict Feroz Shah s/o Nasir was inserted at serial No. 10 of sanction letter No. 18492 dated 07.07.2014 (F/K20). The original sanction is at (F/K19) where the name of Kamran s/o Rahmanullah is available at serial No. 10. Hence, illegal remission of 360 days was granted. Similarly, the name of Feroz Shah s/o Nasir Khan was inserted in a scanned copy of sanction letter No. 12318 dated 04.05.2016 (F/K22). The original sanction is at (F/K21) where the name of Ijaz Ali s/o Nazifullah is mentioned at serial no. 08. The convict Feroz Shah s/o Nasir was prematurely released by Mr. Sardar Zaman Baber, as Deputy Superintendent and Superintendent Central Prison Haripur, on the basis of fake and manipulated documents.

Mr. Sardar Zaman Baber, accused officer, stated in his reply (F/L) that the convicts on the dates mentioned were brought up to him alongwith all relevant documents (remission sheet, conviction warrant, History ticket, attached educational photocopies of education sanction of worthy IG Prisons and Register No. 3 and release diary). He also stated that after thorough checking and identification with reference to personal description and marks of identification as entered in the Register, convict warrant, History ticket and release diary and checking of all remissions as entered on the remission sheet especially the education remission alongwith attached supporting letter of sanction of worthy IG Prisons, the prisoner was released.

He further stated that as per rule 1019(d) (F/9) he had taken all measures necessary and expedient to avoid premature release as all documentary evidence brought up before him from the warrant branch supported the release. He also stated that he had performed his duties and released the convicts according to all the documents made available to him from the warrant branch. He also stated that later, Mr. Khalid Abbas Superintendent Central Prison Haripur upon inquiry

Sardar Zaman Baber
02/5/17

TESTED

33

from Inspector General of Prisons Khyber Pakhtunkhwa in pursuance of a press clipping clarified the matter from Warder Ubaid Ahmad concerning the releases. Warder Ubaid admitted and gave a written statement that he had used fraudulent methods and had caused tampering in the letters of grant of educational remissions received (F/M). (Though the same was denied by Mr. Ubaid Ahmad in his statement before the Inquiry officer (F/e). Mr. Sardar Zaman Baber stated that he had executed the releases in good faith and without any knowledge that the attached photocopies of educational remissions with the warrant had been tampered. He also stated that Warder Ubaid being a government official and entrusted with computer duties in warrant branch in the public interest, misused his official position and deliberately caused the illegal releases. He also stated that he had served this department with dedication and honesty and in the instant case he was deliberately and fraudulently made to cause the illegal releases through tampered documents without his knowledge or malafide intention.

While recording his statement (F/L1) before the inquiry officer, the accused officer, Mr. Sardar Zaman Baber stated that he had not seen the original qualification certificates of convicts namely Zafar Iqbal and Naveed. He also stated that the serial number affixed on the certificates of Zafar Iqbal and Naveed were the same but he could not notice it during checking. He further stated that the release warrants of Zafar Iqbal and Naveed who were wrongly granted remission of 60 days was not checked and verified while signing the final release of both the convicts.

Moreover, he also stated that the original letter of IG Prisons in respect of the convicts regarding education remission at serial No. 3 to 13 in the charge sheet (F/K) was not checked by him and he relied mainly on photocopies attached with warrants / remission sheets of each convict. Similarly, in his supplementary statement (F/L2) he stated that remission sheets and release warrants of the thirteen convicts mentioned in his charge sheet had been signed by him in the capacity of Deputy Superintendent-cum-Superintendent Central Prison Haripur.

It merits mentioning that there are some convicts whose remission sheets had not been signed by any officer or official (F/Z1) but even then Mr. Sardar Zaman Baber put his signature on the warrants of releases which has been admitted by him while recording his supplementary statement (F/L2).

ATTESTED

34

Keeping in view the above factual position, the charge against Mr. Sardar Zaman Baber is established on the following grounds;

- a) Mr. Sardar Zaman Baber had not seen the original qualification certificates of convicted prisoners namely Zafar Iqbal s/o Zarshad (F/E1) and Naveed s/o Zuhra Gul (F/E2) while forwarding the same to Superintendent Jail. The certificates relating to both the convicts were fake and bogus but were attested by Mr. Sardar Zaman Baber, accused officer.
- b) The serial number affixed on the certificates of Zafar Iqbal and Naveed are the same, but Mr. Sardar Zaman Baber did not notice it during checking, which is tantamount to great negligence on his part.
- c) The original documents of the convicts from serial No. 03 to 13 as mentioned above were not demanded though all these documents were supposed to be available in the premises of Central Prison. Record shows that reference about these convicts written on the remission sheets was based on fake and bogus documents. Mr. Sardar Zaman Baber, accused officer, put signature on the release warrants of these convicts.
- d) The entries regarding grant of remission (in remission sheet) of some of the convicts were not signed by any officer or official (F/Z1) and even then the convicts were released and sign of the acting Superintendent, Mr. Sardar Zaman Baber is available on the warrant release.
- e) Convicts Zafar Iqbal and Naveed were granted 60 days Provincial Special remission on 27.12.2011 when they were confined at CP Sakkar (Sindh). Keeping in view their date of convictions, reckoned w.e.f. 08.07.2005, they were not entitled to the grant of further provincial special remission on or before 07.07.2012. Contrary to that they were again benefited of 60 days special remission on 28.05.2012. Under Rule 216 (F/5) of Prison Rules a prisoner cannot be benefited of the grant of special remission beyond 60 days in a conviction year. This fact was also overlooked by Mr. Sardar Zaman Baber, Deputy Superintendent-cum-Superintendent while signing the release warrants.

ATTESTED

Hence, it has been proved that the thirteen convicts were prematurely released from the Jail on granting illegal education remissions on the basis of fake and manipulated documents by Mr. Sardar Zaman Baber

35

and has violated Rule 122(i), 123 and 1019 (F/9) Khyber Pakhtunkhwa Prison Rules 1985.

(C) Allegations against Muhammad Ayub Khan

Statement of allegations (F/N) was issued to Mr. Muhammad Ayub Khan, Deputy Superintendent Jail (BPS-17) attached to Central Prison Haripur which is reproduced as under;

Due to his gross negligence / inefficiency in performance of his duty, while attached to Central Prison Haripur as Senior Assistant Superintendent (BPS-16) and Deputy Superintendent Jail (BPS-17), the following convicts were prematurely released from that Jail on granting illegal education remission on the basis of fake and manipulated documents, thus he has violated Rule-115, 122(1), 123 and 1019(d) read with Rule 1044(IV) of Khyber Pakhtunkhwa Prison Rules 1985:

S#	Name of convict	Total Illegal Education Remission granted	Date of release
1	Sawab Gul s/o Haji Mumtaz	Premature release of about 40 days	02.06.2015
2	Shoaib s/o Badshah	1440 days	28.06.2016
3	Jhangir s/o Ashraf	360 days	28.06.2016
4	Aqeel Ahmad s/o Raza Khan	1080 days	04.07.2016

Handwritten signature and date: 21/5/20

Brief facts about the convicts mentioned in the charge sheet, issued to Mr. Muhammad Ayub Khan, accused officer, are given below;

1. Sawab Gul s/o Haji Mumtaz

The name of convict Sawab Gul was nowhere mentioned under any serial number in sanction letter No. 4540/WE dated 24.2.2015 (F/K1). At a later stage, by way of tampering, in a scanned copy of the said letter (F/K2) the name of convict Sawab Gul was inserted at serial No. 27 in place of original name of Hidayat ur Rehman s/o Shahzar Gul and hence he was benefited 360 days illegal remission. The convict Sawab Gul s/o Haji Mumtaz was prematurely released by Mr. Muhammad Ayub as Senior Assistant Superintendent on granting illegal education remission on the basis of fake and manipulated documents.

ATTACHED

36

2. Shoaib s/o Badshah:

Record of convict Shoaib s/o Badshah shows that on passing FA as well as Urdu examinations by convict Shoaib (both held in 2015), the Superintendent CP Haripur vide letter No. 2656 dated 25.03.2016 (F/N1) sent his education remission case to IG Prisons for sanction. Accordingly, sanction was accorded vide IG Prisons letter No. 10235 dated 18.04.2016 (F/N2). But contrarily, he was awarded 360 days remission for passing Nazira Quran examination held in 2012 instead of Urdu under the said sanction letter. Thus he was granted 360 days illegal remission for passing Nazira Quran. Similarly, by way of tampering in IG Prisons sanction letter bearing No. 15450 dated 13.06.2016 (F/N3) the Haripur Jail staff inserted the name of convict Shoaib s/o Badshah at serial No. 17 and 61 in a scanned copy of the said letter. Copy of the said manipulated letter is at (F/N4) while the original IG Prisons sanction letter is at (F/N3) contains the name of Parvaiz s/o Zawar Gul and Dildar s/o Qasim at serial No. 17 and 61. As a result of such tampering he was awarded $720 + 360 = 1080$ days illegal remission on passing translation of Holy Quran held in 2014 and Urdu proficiency examination held in 2015. The convict Shoaib s/o Badshah was prematurely released by Mr. Muhammad Ayub as Deputy Superintendent and Superintendent Jail haripur on granting illegal remission on the basis of fake and manipulated documents.

Handwritten signature and date: 02/5/17

3. Jehangir s/o Ashraf:

Remission of 360 days was awarded to Jehangir s/o Ashraf Hussain at serial No. 46 in a scanned copy of sanction letter bearing No. 15450 dated 13.06.2016 (F/N3). The original letter is at (F/N4) whereas at serial No. 46 is Dawood s/o Aleem Khan. Hence, illegal remission of 360 days was granted. The convict Jehangir s/o Ashraf was prematurely released by Mr. Muhammad Ayub Khan as Deputy Superintendent Jail on granting illegal education remission on the basis of fake and manipulated documents.

4. Aqeel Ahmad s/o Raza Khan:

The record shows that actually convict Saeed s/o Shoukat Ali had appeared in the examination of translation of the Holy Quran held in December 2015 (F/J1) and on passing such examination, a certificate bearing No. 0718 was issued to him. At a later stage, as a result of tampering, the name of Aqeel Ahmad was inserted in a photocopy of the said certificate (F/J2) and as such his case was processed and recommended / sent to IG Prisons by Mr. Muhammad Ayub Khan as

ATTESTED

37

acting Superintendent Central Prison Haripur (F/J3), for grant of remission. Consequently, the requisite sanction was accorded vide IG Prisons No. 23883 dated 23.09.2014 (F/F2). The convict Aqeel Ahmad s/o Raza Khan was prematurely released by Mr. Muhammad Ayub Khan as Deputy Superintendent and Superintendent Haripur Jail on granting illegal remission on the basis of fake and manipulated documents.

Mr. Muhammad Ayub Khan, accused officer, in his reply (F/O) stated that the warrants of all prisoners whose release become due in any month shall be examined on 20th day of the month preceding to ascertain their correctness as per Rule 115.

He stated that the check dates and final dates of release of convicts (i) Shoaib s/o Badshah (ii) Jehangir s/o Ashraf and (iii) Aqeel Ahmad s/o Raza Khan were fixed by Assistant Superintendent – Incharge warrant branch as per rule 113, 115 and 116 (F/9) and therefore by observing procedure as explained in rule 122(i) (F/9) the prisoners were released from Jail after completion of all codal formalities as mentioned in rule 122(i). He also stated that these remissions were manipulated by Warder Ubaid Ahmad for which he has been charged for the illegal releases of 16 convicts and as such his sins cannot be attributed to other. He further stated that the education remission of these prisoners were manipulated / tampered by Warder Ubaid Ahmad who was under the direct command and charge of Assistant Superintendent warrant branch. He added that as per rule 113, 114 (F/9) and 115, it was the responsibility of Assistant Superintendent warrant branch to justify himself of all the releases before producing the prisoners before the Deputy Superintendent for release as the whole record pertaining to warrant branch was lying under his custody and not of the Deputy Superintendent.

The statement of Mr. Muhammad Ayub Khan, accused officer was recorded on 03.04.2017 (F/J) wherein he stated that it is correct that the original letter of Inspector General of Prisons Khyber Pakhtunkhwa in respect of the convicts regarding education remissions at serial No. 2 to 4 in the charge sheet, i.e. Shoaib s/o Badshah, Jehangir s/o Ashraf and Aqeel Ahmad s/o Raza Khan were not checked by him and he relied mainly on photocopies. He also stated that his signature for Superintendent Jail (as he was on leave) is available on the final release warrant of three convicts (Shoaib, Jehangir and Aqeel Ahmad). He further stated that it is incorrect to suggest that while forwarding remission case of convict

Handwritten signature
02/11/17

ATTESTED

38

Aqeel Ahmad s/o Raza Khan the original certificate for translation of the Holy Quran was not seen. He further added that photocopy which was duly verified by Qari Uzair was also signed by him.

The charge against Mr. Muhammad Ayub Khan, accused officer is established on the basis of the following grounds;

- a) By way of tampering in IG Prisons sanction letter bearing No. 15450 dated 13.06.2016 (F/N4) the Haripur Jail authorities inserted the name of convict Shoaib s/o Badshah at serial No. 17 and 61 and name of convict Jehangir at serial No. 46 in a scanned copy of the said letter. The original IG Prisons sanction letter bearing No. 15450 dated 13.06.2016 (F/N3) contains the names of Parvaiz s/o Zavar Gul and Dildar s/o Qasim at serial No. 17 & 61 and Dawood s/o Haleem Khan at serial No. 46. The accused officer Mr. Muhammad Ayub did not check the said original letter though it was his responsibility to check and verify the documents / record as Deputy Superintendent.
- b) Since Superintendent Mr. Khalid Abbas was on leave, Mr. Muhammad Ayub accused officer put his signature as acting Superintendent on the release warrants of Shoaib, Jehangir and Aqeel Ahmad without verification and checkup
- c) Mr. Muhammad Ayub accused officer submitted / recommended case for remission of convict Aqeel Ahmad s/o Raza Khan without verification and going through the original documents. The record shows that actually convict Saeed s/o Shoukat Ali had appeared in the examination of translation of the Holy Quran held in December 2015 (F/J1) and on passing such examination, a certificate bearing No. 0718 was issued to him. At a later stage, as a result of tampering, the name of Aqeel Ahmad was inserted in a photocopy of the said certificate (F/J2) and as such his case was processed and recommended / sent to IG Prisons by Mr. Muhammad Ayub Khan as acting Superintendent Central Prison Haripur (F/J3).
- d) The remission sheets of Shoaib s/o Badshah and Aqeel s/o Raza Khan were not signed by any officer / official (F/Z1). Even then Mr. Muhammad Ayub, accused officer, put his signature on the warrant release.

Handwritten signature and date: 11/5/2017

ATTESTED

39

e) Remission of 360 days was awarded to Jehangir Khan s/o Ashraf Hussian at serial No. 46 in a scanned copy of sanction letter (F/N4). The original letter is at (F/N3) where at serial No. 46 is Dawood s/o Aleem Khan. Hence illegal remission of 360 days was granted. The convict Jehangir Khan s/o Ashraf Hussain was prematurely released on the basis of fake documents.

Keeping in view the above facts, the charge against the accused officer Mr. Muhammad Ayub Khan is proved.

(D) Allegations against Noor-ul-Basar.

Statement of allegations (F/Q) to Mr. Noor-ul-Basar was issued which is reproduced as under;

Due to his gross negligence / inefficiency in performance of his duty while attached to Central Prison Haripur as Incharge Warrant Branch, the following convicts were prematurely released from that Jail on granting illegal education remission on the basis of fake and manipulated documents, thus he has violated Rule-115, 122(1), 123 and 1019(d) read with Rule 1044(IV) of Khyber Pakhtunkhwa Prison Rules 1985:

S#	Name of convict	Total illegal education remission granted	Date of release
1.	Zafar Iqbal s/o Zarshad	780 days	11.12.2014
2.	Naveed s/o Zuhraab Gul	780 days	11.12.2014
3.	Javed Iqbal s/o Sher Muhammad	1080 days	29.06.2015
4.	Noor-ud-Din s/o Baz Muhammad	720 days	10.07.2015
5.	Zafar s/o Wali	1279 days	31.08.2015
6.	Fazal Malik s/o Said Karim	180 days	11.09.2015
7.	Zia-ur-Rahman s/o Siraj Muhammad	360 days	04.04.2016
8.	Tawab Khan s/o Khan Wali	1267 days	11.05.2016
9.	Feroz Shah s/o Nasir	1093 days	11.05.2016
10.	Aqeel Ahmad s/o Raza Khan	1080 days	04.07.2016

Handwritten signature and date: 02/5/17

Brief facts about the convicts mentioned in the charge sheet, issued to Mr. Noor-ul-Basar, accused officer, are given as below;

ATTACHED

40

1. Zafar Iqbal s/o Zarshad:

Relevant record as well as remission sheet of convict Zafar Iqbal was examined and it was found that a remission of 720 days was illegally awarded to him on the basis of fake and manipulated certificate for passing translation of the Holy Quran examination held in 2013. As a matter of fact, a certificate bearing serial No. 0624 dated 31.12.2013 was originally issued in the name of lifer convict Nasir s/o Buner (F/E4) who had already been benefited of the admissible remission on that account. However, subsequently, in a copy of the same certificate bearing the same serial number and date, a fake certificate (F/E1) was prepared in the name of convict Zafar Iqbal s/o Zarshad. The convict Zafar Iqbal s/o Zarshad was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

2. Naveed s/o Zuhra Gul:

The name of Naveed s/o Zuhra Gul was inserted by Jail staff in a photocopy of the original certificate of Nasir s/o Buner. The original certificate is at (F/E4) while the fake certificate is at (F/E2). The case of the convict for the grant of remission was recommended / sent to IG Prisons. As a result, sanction was accorded by IG Prisons Khyber Pakhtunkhwa vide letter No. 23883 dated 23.09.2014 (F/F2). Hence, benefit of 720 days illegal remission was given to the convict on the manipulated / bogus passing certificate of the Holy Quran examination. The convict Naveed s/o Zuhra Gul was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

Handwritten signature and date:
02/5/17

ATTESTED

3. Javed Iqbal s/o Sher Muhammad:

Record about convict Javed Iqbal s/o Sher Muhammad was checked and it was found that a remission of 360 days for passing Nazira Quran examination held in 2011 vide letter No. 7971 dated 27.04.2012 was awarded to him. The sanction letter is nowhere available. Even Mr. Sakhawat Shah (Office Superintendent, IG Prisons office) has given statement (F/K3) that this sanction is not available. Hence illegal remission was granted. Similarly remission for passing translation of the Holy Quran was awarded by tampering the original sanction letter 13389 dated 19.05.2015, in a scanned copy of the same inserted the name of Javed

CU

Iqbal s/o Sher Muhammad (F/K4). In the original sanction (F/K5), name of Muhammad Khaliq is mentioned. The convict Javed Iqbal s/o Sher Muhammad was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

4. Noor-ud-Din s/o Baz Muhammad:

Noor-ud-Din s/o Baz Muhammad was given sanction of 360 days for passing Nazira Quran examination vide IG Prisons No. 8765 dated 25.05.2012 and 360 days for passing SSC examination held in 2012 vide IG Prisons sanction letter 25679 dated 29.9.2014 under the initial of Noor-ul-Basar, Senior Assistant Superintendent. But record shows that these sanction letters were not issued from Head office (F/K3) and hence the reference on the remission sheets were fake and bogus. The convict Noor-ud-Din s/o Baz Muhammad was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

5. Zafar s/o Wali

Record of Zafar s/o Wali shows that remission was granted on account of passing translation of the Holy Quran examination held in December 2013 vide IG Prisons sanction letter No. 23883 dated 23.09.2014. The original letter contained 21 convicts (F/K7) but in the scanned copy of the said letter the name of Zafar was inserted at serial No. 22 (F/K8a). Moreover, remission for passing SSC exam held in 2015 was granted vide IG Prisons sanction letter No. 23394/WE dated 28.08.2015. The said sanction contained names of 19 prisoners (F/K9) but Zafar Khan was found nowhere under any serial number. This shows that the remission was granted illegally. The convict Zafar s/o Wali was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

2/15/20
Noor-ul-Basar

6. Fazal Malik s/o Said Karim:

Fazal Malik s/o Said Karim convict was granted remission for passing exam of Nazira Quran held in 2014 vide IG Prisons sanction letter 13389 dated 19.5.2015. The name of convict Fazal Malik was nowhere recorded under any serial

ATTACHED

42

No. of the said letter. But later on, in a scanned photocopy, name of Fazal Malik was inserted at serial No. 17 in place of Sher Baz s/o Mir Wais. Thus remission of 180 days was illegally granted by jail staff. Original letter is at (F/K10) while fake letter is at (F/K11). The convict Fazal Malik s/o Said Karim was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

7. Zia-ur-Rehman s/o Siraj Muhammad:

Record about convict Zia-ur-Rehman s/o Siraj Muhammad was perused and it was observed that on his remission sheet (F/K14) for passing some exam, subsequently, by way of overwriting, shown as FA examination held in 2014 vide IG Prisons letter No. 25902 dated 21.10.2014 (F/K15), a remission of 360 days (in overwriting) was given to him. However, instead of 360 days (twelve months) twenty four months were added in remission shown in column of months. In other words, by the award of 360 days remission, the total remissions in the months column would go up from 179 months to 191 months, but contrary to the same, it has been shown 203 months in the relevant column. The convict Zia-ur-Rehman s/o Siraj Muhammad was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

8. Tawab Khan s/o Khan Wali:

Record about the convict Tawab Khan was perused and it was found the Superintendent CP Haripur vide his letter No. 2667 dated 21.04.2014 (F/K16) recommended education remission cases of two convicted prisoners namely Muhammad Afzal s/o Asghar and Malak Taj s/o Gul Faraz. Accordingly sanction was accorded vide IG Prisons sanction letter No. 14143 dated 27.05.2014 (F/K17). However, later on the staff of Haripur Jail, by way of tampering in copy of the said letter (F/K18), inserted the name of convict Tawab Khan s/o Khan Wali in place of real convict Malak Taj s/o Gul Faraz. Thus, he was granted benefit of 360 days illegal remission on fake documents. In addition, IG Prisons accorded sanction to the grant of education remission for 29 prisoners vide No. 18492 dated 07.07.2014 (F/K19). However, later on in photocopy of the said letter name of Tawab Khan was inserted at serial No. 08 by the Jail staff of Haripur and thus on the basis of fake documents the convicted prisoner Tawab Khan was further benefitted of 720

C/1/5/20
Noor-ul-Basar
02/5/11

ATTESTED

43

days illegal remission. Fake copy is at (F/K20). Similarly, education remission of 187 days was awarded to Tawab Khan s/o Khan Wali, by the staff of Haripur Jail on the basis of making similar fraudulent and fake entry in photocopy of IG Prisons sanction letter No. 12318 dated 04.05.2016. Original letter is at (F/21) and fake letter is at (F/K22). The convict Tawab Khan s/o Khan Wali was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

9. Feroz Shah s/o Nasir:

The name of convict Feroz Shah s/o Nasir was inserted in a scanned copy of sanction letter No. 14143 dated 27.05.2014 by staff of Haripur Jail (F/K18). The original letter is at (F/K17). Hence, illegal remission was granted to the instant convict. Similarly, the name of convict Feroz Shah s/o Nasir was inserted at serial No. 10 of sanction letter No. 18492 dated 07.07.2014 (F/K20). The original sanction is at (F/K19) where the name of Kamran s/o Rahmanullah is available at serial No. 10. Hence, illegal remission of 360 days was granted. Similarly, the name of Feroz Shah s/o Nasir Khan was inserted in a scanned copy of sanction letter No. 12318 dated 04.05.2016 (F/K22). The original sanction is at (F/K21) where the name of Ijaz Ali s/o Nazifullah is mentioned at serial no. 08. The convict Feroz Shah s/o Nasir was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

10. Aqeel Ahmad s/o Raza Khan:

The record shows that actually convict Saeed s/o Shoukat Ali had appeared in the examination of translation of the Holy Quran held in December 2015 (F/J1) and on passing such examination, a certificate bearing No. 0718 was issued to him. At a later stage, as a result of tampering, the name of Aqeel Ahmad was inserted in a photocopy of the said certificate (F/J2) and as such his case was processed and recommended / sent to IG Prisons by Mr. Muhammad Ayub Khan as acting Superintendent Central Prison Haripur (F/J3). The convict Aqeel Ahmad s/o Raza Khan was prematurely released by Mr. Noor-ul-Basar as Senior Assistant Superintendent Hairpur Jail (Incharge Warrant branch) on granting illegal remission on the basis of fake and manipulated documents.

[Handwritten signature]
02/5/17

[Handwritten initials]

44

In his reply (F/R), Mr. Noor-ul-Basar stated that although Rule 123 was not directly related to him but the ancillary obligations to be performed by him by virtue of his office were accordingly met. He also stated that Rule 1019(d) Rule 1044(iv) (F/9) are not directly related to him but whenever any duty was assigned to him, he did everything lawful and according to rules. He also stated that he remained Incharge of the Warrant Branch Central Prison Haripur and the dealing concerned clerk was Mr. Ubaid Ahmad, Warder Central Prison Haripur. He further stated that tampering was made by Mr. Ubaid Ahmad for illegal gains and he had nothing to do with them.

Mr. Noor-ul-Basar recorded his statement on 29.03.2017 (F/S). He stated that prisoners Zafar Iqbal s/o Zarshad and Naveed s/o Zuhrab Gul had wrongly been granted special remission of 60 days. He also stated that the reference on the remission sheet of IG Prisons letter No. 13389 dated 19.05.2015 (F/S1) had been initialed by him but he was not aware at that time that it was factitious. Copy of the original sanction letter of IG Prisons bearing No. 13389 dated 19.05.2015 is at (F/S2). He further stated that some tampering on Zia-ur-Rehman s/o Siraj Muhammad had been made and he admitted that the same had duly been initialed by him. He further stated that IG Prisons sanction letter No. 25679 dated 21.09.2014 is not available with remission sheet or in the office of IG Prisons or Haripur Jail record. He also admitted that his initial is available on the tampered sanction regarding Zafar Khan s/o Wali Khan, Fazal Malik s/o Said Karim, Feroz Shah s/o Nasir Khan and Tawab Khan s/o Khan Wali.

Handwritten signature and date: 11/5/20

It is worth mentioning that some entries regarding grant of remission (in the remission sheet) were not signed by any responsible officer/official (F/Z1). Even then the convicts were released by Mr. Noor-ul-Basar, accused officer by signing their warrant release.

ATTESTED

Keeping in view the above factual position, the charge against Mr. Noor-ul-Basar, the accused officer is established on the following grounds;

- a) The original documents of the convicts from serial No. 1 to 10 as mentioned above were not demanded though all these documents were supposed to be available in the premises of Central Prison Haripur. Record shows that reference written on the remission sheets were based

45

- on fake and manipulated documents. Mr. Noor-ul-Basar, Senior Assistant Superintendent (Incharge Warrant branch) put signature on the release warrants of the convicts (mentioned in his charge sheet).
- b) The serial number affixed on the certificates of Zafar Iqbal and Navced are the same, but Mr. Noor-ul-Basar did not notice it during checking, which is tantamount to great negligence on his part.
 - c) The entries regarding grant of remission (in remission sheet) of some of the convicts were not signed by any officer or official (F/Z1) and even then the convicts were released and sign of Mr. Noor-ul-Basar, Senior Assistant Superintendent CP Haripur is available on the warrant release.
 - d) Convicts Zafar Iqbal and Naveed were granted 60 days Provincial Special remission on 27.12.2011 when they were confined at CP Sakkar (Sindh). Keeping in view their date of convictions, reckoned w.e.f. 08.07.2005, they were not entitled to the grant of further provincial special remission on or before 07.07.2012. Contrary to that they were again benefited of 60 days special remission on 28.05.2012. Under Rule 216 (F/5) of Prison Rules a prisoner cannot be benefited of the grant of special remission beyond 60 days in a conviction year. This fact was also overlooked by Mr. Noor-ul-Basar, Senior Assistant Superintendent (Incharge Warrant branch) while signing the release warrants.

Hence, the charge against the accused officer, Mr. Noor-ul-Basar is proved.

(E) **Allegation against Badshah Said.**

Statement of allegation (F/T) was issued to Mr. Badshah Said, Assistant Superintendent (BS-14) presently attached to Central Prison Peshawar which is reproduced as under;

- (i) *Due to his gross negligence / inefficiency in performance of his duty, while attached to Central Prison Haripur as Assistant Superintendent Jail, he prepared education remission cases of the below noted convicted without proper scrutiny OR consulting original record of these cases for grant of remission on fake / bogus certificates of various exams, which resulted their illegal releases, thus he has violated Rule-122(1) and 1045 of Khyber Pakhtunkhwa Prison Rules, 1985:*

Handwritten signature and date: 02/11/12

AFFECTED

46

- (a) Zafar Iqbal s/o Zarshad
- (b) Naveed s/o Zuhrab Gul
- (c) Aqeel Ahmad s/o Raza Khan

Brief facts about the convicts mentioned in the charge sheet, issued to Mr. Badshah Said, accused officer, are as follows;

1. Zafar Iqbal s/o Zarshad:

Relevant record as well as remission sheet of convict Zafar Iqbal was examined and it was found that a remission of 720 days was illegally awarded to him on the basis of fake and manipulated certificate for passing translation of the Holy Quran examination held in 2013. As a matter of fact, a certificate bearing serial No. 0624 dated 31.12.2013 was originally issued in the name of lifer convict Nasir s/o Buner (F/E4) who had already been benefited of the admissible remission on that account. However, subsequently, in a copy of the same certificate bearing the same serial number and date, a fake certificate (F/E1) was prepared in the name of convict Zafar Iqbal s/o Zarshad. The case of convict Zafar Iqbal s/o Zarshad was prepared by Mr. Badshah Said, Assistant Superintendent for the grant of remission on the basis of fake and bogus certificates. The same was forwarded to Superintendent Haripur Jail for onward submission to IG Prisons for sanction.

Badshah Said
02/5/17

2. Naveed s/o Zuhrab Gul:

The name of Naveed s/o Zuhrab Gul was inserted by Jail staff in a photocopy of the original certificate of Nasir s/o Buner. The original certificate is at (F/E4) while the fake certificate is at (F/E2). The case of convict Naveed s/o Zuhrab Gul was prepared by Mr. Badshah Said, Assistant Superintendent for the grant of remission on the basis of fake and bogus certificates. The same was forwarded to Superintendent Haripur Jail for onward submission to IG Prisons for sanction.

3. Aqeel Ahmad s/o Raza Khan:

Relevant record and remission sheet of convict Aqeel Ahmad s/o Raza Khan was examined and it was found that convict Shiraz Khan s/o Muhammad Rasan Khan was awarded certificate bearing serial number 004346 for passing Nazira Quran in December 2011 (F/F1). The name of convict Aqeel Ahmad s/o Raza Khan was inserted in it (F/E3). Case of convict Aqeel Ahmad s/o Raza Khan

ATTACHED

47

was prepared by Mr. Badshah Said, Assistant Superintendent for the grant of remission on the basis of fake and bogus certificate. The same was forwarded to Superintendent Jail Haripur for onward submission to IG Prisons for sanction.

Mr. Badshah Said, Assistant Superintendent in his reply to the charge sheet (F/U) stated that 21 education remissions were put up before him on 09.09.2014 when he was holding additional charge of warrant branch including the remission rolls of convicts mentioned in the charge sheet and the photocopies of the educational certificates were initialed by him which were duly certified by Qari Uzair Incharge Taleemul Quran Trust. His statement (F/V) was recorded on 30.03.2017. He stated that it is correct that he had not seen the original certificate of Nazira Quran in the name of Aqeel Ahmad, certificate of translation of the Holy Quran in the name of Zafar Iqbal and Naveed. Moreover, he admitted that the serial number of the certificates of Zafar Iqbal and Naveed were the same, but he could not point out the same at that time. Qari Uzair, Incharge Taleemul Quran had attested the fake and bogus certificates of Zafar Iqbal s/o Zarshad, Naveed s/o Zuhra Gul and Aqeel Ahmad s/o Raza Khan, but Qari Uzair stated in his statement (F/g) that it was not his signatures. But test of Forensic Science Laboratory (FSL) Peshawar (F/h) shows that these were his signatures.

Keeping in view the above factual position, the charge against Mr. Badshah Said is proved, as he prepared education remission cases of the above noted convicts without proper scrutiny or consulting original record and forwarded the cases for grant of remission on fake and bogus certificates. .

(F) **Allegation against Jawad Gill.**

Statement of allegation (F/W) was issued to Mr. Jawad Gill, Assistant Superintendent Jail, which is reproduced as below:

Due to his gross negligence / inefficiency in performance of his duty, the following convicts were prematurely released from that Jail on granting illegal education remission on the basis of fake and manipulated documents, thus he has violated Rule-115, 122(1), 123 and 1019(d) read with Rule 1044 (IV) of Khyber Pakhtunkhwa Prison Rules 1985:

Handwritten signature and date: 22/5/17

ADMITTED

48

S#	Name of Convict	Total Illegal Education Remission Granted	Date of Release
1.	Shoaib S/O Badshah	1440 days	28.06.2016
2.	Jehangir S/O Ashraf	360 days	28.06.2016

Brief facts about the convicts mentioned in the charge sheet, issued to Mr. Jawad Gill, accused officer, are given as below;

1. Shoaib s/o Badshah:

Record of convict Shoaib s/o Badshah shows that on passing FA as well as Urdu examinations by convict Shoaib (both held in 2015), the Superintendent CP Haripur vide letter No. 2656 dated 25.03.2016 (F/N1) sent his education remission case to IG Prisons for sanction. Accordingly, sanction was accorded vide IG Prisons letter No. 10235 dated 18.04.2016 (F/N2). But contrarily, he was awarded 360 days remission for passing Nazira Quran examination held in 2012 instead of Urdu under the said sanction letter. Thus he was granted 360 days illegal remission for passing Nazira Quran. Similarly, by way of tampering in IG Prisons sanction letter bearing No. 15450 dated 13.06.2016 (F/N3) the Haripur Jail staff inserted the name of convict Shoaib s/o Badshah at serial No. 17 and 61 in a scanned copy the said letter. Copy of the said manipulated letter is at (F/N4) while the original IG Prisons sanction letter is at (F/N3) contains the name of Parvaiz s/o Zawar Gul and Dildar s/o Qasim at serial No. 17 and 61. As a result of such tampering he was awarded $720 + 360 = 1080$ days illegal remission on passing translation of Holy Quran held in 2014 and Urdu proficiency examination held in 2015. The convict Shoaib s/o Badshah was prematurely released by Mr. Jawad Gill, Assistant Superintendent Jail Haripur, on granting illegal education remission on the basis of fake and manipulated documents.

C/1/5/20
Shoaib s/o Badshah

2. Jehangir s/o Ashraf:

Remission of 360 days was awarded to Jehangir s/o Ashraf Hussain at serial No. 46 in a scanned copy of sanction letter bearing No. 15450 dated 13.06.2016 (F/N3) the original letter is at (F/N4) whereas at serial No. 46 is Dawood s/o Aleem Khan. Hence, illegal remission of 360 days was granted. The convict Jehangir s/o Ashraf was prematurely released by Mr. Jawad Gill, Assistant Superintendent Jail Haripur, on granting illegal education remission on the basis of fake and manipulated documents.

RECEIVED