


04.04.2019 None for the appellant present. Due to general strike of the bar, the case is adjourned. Case to come up for further proceedings on 06.05.2019 before S.B.


(Ahmad Hassan)
Member

06.05.2019 Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned to 21.06.2019 for preliminary hearing before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

21.06.2019 Appellant in person present and requested for adjournment on the ground that his counsel is ill today and cannot attend the Tribunal today. Adjourned to 06.08.2019 for preliminary hearing before S.B.


(Muhammad Amin Khan Kundi)
Member

06.08.2019 Nemo for the appellant.

It is already past 3:45PM and despite repeated calls no one is in attendance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to the record room.


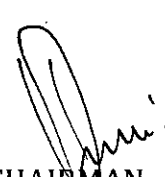
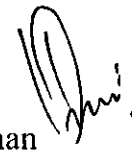

Announced:
06.08.2019


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1460/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/12/2018	<p>The appeal of Mr. Rehman-ud-Din presented today by Mr. Irfan Ali Yousafzai 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-	07/12/2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/01/2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	08.1.2019	<p>Nemo for appellant.</p> <p>Notices be issued to appellant/counsel for 19.02.2019 for preliminary hearing before S.B.</p> <p style="text-align: right;"> Chairman</p>
	19.02.2019	<p>Appellant absent. Learned counsel for the appellant absent. Adjourn. To come up for preliminary hearing on 04.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1460 /2018

Rehman-Ud-Din.....**Appellant**

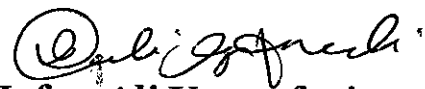
V E R S U S

IGP Prisons KPK & others**Respondents**

I N D E X

S. No	Description of Documents	Annex	Pages
1.	Grounds of service appeal & affidavit	*	1-7
2.	Copy of the service card	A	8-11
3.	Copy of the FIR & death certificate	B	12-13
4.	Copy of the show cause notice	C	14
5.	Copy of Reply to the Show Cause Notice	D	15
6.	Copy of Impugned order	E	16
7.	Copy of Representation/ Departmental Appeal along with order	F	17-18
8.	Addresses of Parties		19
9.	Wakalat Nama		20

Through Appellant


Irfan Ali Yousafzai
Advocate, High Court
Peshawar

Date: 27/11/2018

①

BEFORE THE SERVICES TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1460 /2018

Diary No. 1726

Dated 05/12/18

Mr. Rehman-Ud-Din Ex-Constable Prisons Department Khyber
Pakhtunkhwa, Peshawar
S/o Muhammad Israr
R/o Shaheen Muslim Town, Mohallah Qayum Abad No.4
Peshawar

Appellant

V E R S U S

1. Inspector General Prisons Khyber Pakhtunkhwa, Peshawar
2. Superintendent Central Prisons, Peshawar.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974 TO AFFECT THAT RESPONDENT NO. 2
MAJOR PENALTY OF "COMPULSORY
RETIREMENT" FROM SERVICE UPON THE
APPELLANT VIDE THE IMPUGNED ORDER
NO. 2522/P.B DATED 31-08-2017 IS
AGAINST THE LAW AND RULES ON THE
SUBJECT HENCE THE IMPUGNED ORDER
DATED 31-08-2017 IS LIABLE TO BE SET
ASIDE AND THE APPELLANT MAY KINDLY BE
REINSTATED WITH ALL BACK BENEFITS
INCLUDING HIS SENIORITY.

Filed to-day

Registrar

5/12/18

2

Prayer in Appeal:

On acceptance of this service appeal, the impugned order No. 2522/P.B dated 31-08-2017, passed by respondent No. 2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits including his seniority.

Respectfully Sheweth:

Brief facts giving rise to the appeal are as under:

1. That the appellant was appointed as constable in the Prisons Department, and he was performing his duty regularly to the entire satisfaction of his superior. **(Copy of the service card is attached as Annexure-A)**
2. That the Appellant is the only source of income to his family and his brother namely Nasir Khan who was performing his duty as a constable in the Counter Terrorism Department (Police Department) was martyred by the militance on 26/02/2016. **(Copy of the FIR & death certificate are attached as Annexure-B)**
3. That thereafter a FIR was registered against the unknown militance/accused as a result the facilitators of the militant were arrested by the law enforcing agencies and were confined in central prisons Peshawar in the year 2017.

3

4. That due to the arrest of the facilitator of the militant all the family members including the appellant were received savior threats and the appellant family were pressurized to withdraw the case and threatening them for savior consequences, if they did not withdraw their case.
5. That in these circumstances, the appellant was shocked to received a show cause notice No. 2490-92 dated 28-08-2016 regarding his 6 days absence. **(Copy of the show cause notice is attached as Annexure-C)**
6. That the appellant submitted written reply to the said Show Cause Notice wherein the appellant denied/ refused the so-called allegation leveled in the Show Cause against the Appellant vide reply to the Show Cause Notice dated 30/08/2017 within the time mentioned therein. Moreover the Appellant properly explain his position in the said reply. **(Copy of Reply to the Show Cause Notice is attached as Annexure-D)**
7. That to the extreme shock and dismay of the appellant Respondent No. 2 has issued an Order No. 2522/P.B Dated 31/08/2017 wherein major penalty was awarded to the Appellant by **COMPULSORY RETIREMENT** the Appellant from service. **(Copy of Impugned order is attached as Annexure-E).**
8. That feeling aggrieved from impugned Order No. 2522/P.B Dated 31/08/2017 the Appellant filed

④

Departmental Representation to the competent authority, which was regretted. **(Copy of Representation/ Departmental Appeal along with order is attached as Annexure-F).**

9. That feeling aggrieved from above referred order of respondent No. 2, the appellant assails these order before this Honorable Tribunal, inter alia, on the following grounds:

G R O U N D S :

- A. That the impugned order dated 31/08/2017 of respondent No.2, is against law, facts and record of the case, hence liable to be set aside.
- B. That the impugned order dated 31/08/2017 was issued due to mis-reading and non-reading regarding the problem which the appellant face.
- C. That the absence, which has been committed by the Appellant was not willful, and the respondent were in the knowledge regarding accident which is on record, moreover the Applicant never willfully absented himself from the duty but due to unavoidable circumstances.
- D. That the respondent No. 2 issued the said order without giving opportunity of personal hearing to the Appellant. It is well settled principle of law that no one can be condemn unheard, hence the

(5)

impugned order is not maintainable in the eyes of law.

- E. That the respondent No 2 ignored the entire facts, record, circumstances before issuance of impugned order in respect of Appellant violated the E&D Rules and malafidely issued the said impugned Order to deprive the appellant in his depended from his legal right.
- F. That the major penalty has been imposed upon the appellant by respondent No. 2 by compulsory retirement from service is illegally without holding regular independent inquiry, which was pre-requisite for imposing such penalty, so, non-holding of regular inquiry is against law, procedure and canons of principles of administration of justice.
- G. That the impugned order dated 31/08/2017 passed by respondent No.2 in a slipshod manner and is based on assumptions & presumptions, arbitrary and is not sustainable in the eyes of law.
- H. That appellant has not been provided an opportunity to explain his position with regarded to the charges leveled against him during the inquiry proceedings, so, he was condemned unheard.
- I. That impugned order is arbitrary, capricious and not maintainable and is the result of misreading and non-reading evidence, hence liable to be set aside.

(6)

- J. That appellant belongs to a poor family, low-scale employee, jobless since his compulsory retirement from service and is sole bread-earner of his entire family. He is not engaged in any profitable activity for earning butter & bread, so, his removal from service, in such circumstances, is against the rights of fundamental enshrined in Constitution of Islamic Republic of Pakistan, 1973.

- K. That any other ground may be adduced during the course of arguments, with the kind permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 31/08/2017, passed by respondent No. 2 may kindly be set aside and the appellant may please be reinstated in service with all back benefits including his seniority.

AND

Any other relief which may be deemed proper in circumstances of the case may also be granted in favor of the appellant.

Appellant *M. Zehra*

Through

Irfan Ali Yousafzai

**Irfan Ali Yousafzai
Advocate, High Court
Peshawar
Cell# 0314-9070658**

Date: 27/11/2018

6

**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2018

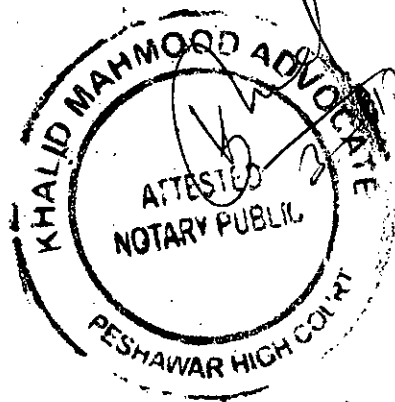
Rehman-Ud-Din.....**Appellant**

VERSUS

IGP Prisons KPK & others**Respondents**

AFFIDAVIT

I, **Mr. Rehman-Ud-Din Ex-Constable Prisons Department Khyber Pakhtunkhwa, Peshawar S/o Muhammad Israr R/o Shaheen Muslim Town, Mohallah Qayum Abad No.4 Peshawar**, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



[Handwritten Signature]
DEPONENT

(13)

DEPARTMENT OF FORENSIC MEDICINE,
KHYBER MEDICAL COLLEGE, PESHAWAR.

NO. 130 /FM/KMC.

DATED. 03/3/2016

DEATH CERTIFICATE.

Name of Deceased.

Nasir Khan

Father/Husband Name.

Muhammad Israr

Age

28-32 Years Sex. Male

Autopsy Number.

105/KMC/2016 Date. 07/02/2016

Brought by

Sirajul Amin 5250

Identified by:

Mian Samullah
Baqeer Muhammad

Police Station.

CTD Peshawar.

Cause of Death

Disease or condition directly leading to death.

A. The deceased died

Antecedent Causes.

B. due to injury to the

Other significant conditions contributing to the death.

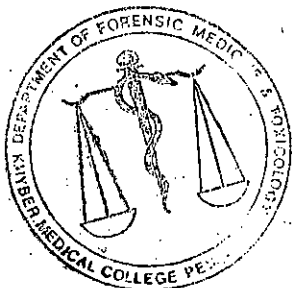
C. Brain due to fire.

[Signature]

for

[Signature]

HEAD,
DEPARTMENT OF FORENSIC MEDICINE
KHYBER MEDICAL COLLEGE, PESHAWAR.



DEPARTMENT OF FORENSIC MEDICINE
KHYBER MEDICAL COLLEGE, PESHAWAR.

ATTESTED

[Signature]

Annexure "C" (96)

SHOW CAUSE NOTICE UNDER RULE-5 (1) READ WITH RULE-7 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011.

You, Warder (BPS-05) Rahmanud Din attached to Central Prison Peshawar absented yourself from your allotted duties as well as jail premises without prior permission of the Competent Authority on 21-08-2017 (AN) and reported back on 28-08-2017 (FN) after 06 days willful absence, which constitutes gross misconduct.

I, Masud-ur-Rahman, Superintendent Headquarters Prison Peshawar as Competent Authority, am satisfied by the report received through the Superintendent Central Prison Peshawar and there is no need of holding any further inquiry.

Now therefore, you above named Warder (BPS-05) are hereby called to show cause within 07 days of the receipt of this notice as to why you should not be dismissed from service for above stated act of misconduct.

In case your reply does not reach this office within stipulated period, ex-parte action shall be taken against you.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 3490-82/- Dated: 28/08/2017

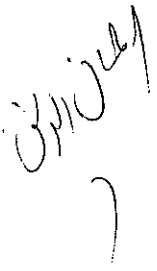
Copy of the above is forwarded to the: -

- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 2- Superintendent Central Prison Peshawar with reference to his report dated 28-08-2017.
- 3- Warder Rahmand Din C/o Superintendent Central Prison Peshawar.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

ATTESTED





مکتوبہ نمبر ۱۰۱۰۶/۱۰۱۰۶/۱۰۱۰۶
جنرل - جوائنٹ سروسز ڈسٹریکٹ

مقام عالی

جنرل ایچ ایم ایف

کمیونٹی سے سائل کو یوم عزیز فاضل سروسز ڈسٹریکٹ جاری کیا گیا

کلے جوائنٹ سروسز ڈسٹریکٹ عزیز فاضل سروسز ڈسٹریکٹ کا کوئٹہ ڈسٹریکٹ

تہہ سائل نے فینر تہہ سورسز ڈسٹریکٹ ۲۱-۰۸-۲۰۱۷ سے فینر بھی لے لی گئی

سے عزیز فاضل جوائنٹ سروسز ڈسٹریکٹ فاضل سروسز ڈسٹریکٹ

سے سائل نے فینر عزیز فاضل سروسز ڈسٹریکٹ ۱۷-۰۸-۲۰۱۷ کو

فاضل سروسز ڈسٹریکٹ اس سے پہلے کوئی فینر نہیں لے سکتا

کی اس غلطی کو نظر انداز کر کے فینر فرار سے

عین نواز میں ہوگا

آئی اے ایف او، جوائنٹ سروسز ڈسٹریکٹ، رحمان آباد

30/08/17

ATTESTED
Devi



Annexure E (16)

OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
No. 2522 / P.B/ DT: 31/08/2017

ORDER

WHEREAS, the accused Warder (BPS-05) Rahman-ud-Din attached to Central Prison Peshawar was proceeded against under Rule(5)(1) Read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in Show-Cause Notice served upon him vide this Headquarters endorsement No. 2490-92 dated 28-08-2017.

AND WHEREAS, the accused Warder absented himself from his allotted duties as well as jail premises without prior permission of the Competent Authority on 21-08-2017 (AN) and reported back on 28-08-2017 (FN) after 06 days willful absence.

AND WHEREAS, the accused Warder submitted reply to the Show-Cause Notice on 30-08-2017, which was found unsatisfactory.

AND WHEREAS, the accused Warder was afforded the opportunity of personal hearing on 31-08-2017 but he could not narrate any plausible reason for his willful absence.

NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of evidence and record, the undersigned being Competent Authority orders that the accused Warder is hereby awarded the penalty of "Compulsory Retirement from Service" with immediate effect.



SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 2523-271-

Copy of the above is forwarded to the: -

- 1- Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar please.
- 2- Superintendent Central Prison Peshawar with reference to his report dated 28-08-2017.
- 3- Accountant General, Khyber Pakhtunkhwa Peshawar.
- 4- Head Clerk (Pay Branch) Central Prison Peshawar.
- 5- Official concerned.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR


ATTESTED

Annex "F" (17)

To

The Inspector General of Prisons
Khyber Pakhtunkhwa Peshawar.

Subject: - **APPEAL FOR RESTORATION INTO SERVICE AGAINST THE JUDGEMENT OF SUPERINTENDENT HEADQUARTERS PRISON PESHAWAR**

R/Sir,

With reverently submitted that I have been compulsory retired from service by the Superintendent Headquarters Prison Peshawar vide Order No.2522/PB dated 31-08-2017 (Copy enclosed). In this connection a show cause was issued to me by the Superintendent Headquarters Prison Peshawar vide No.2490-92 dated 28-08-2017 (Copy enclosed) and accordingly I submitted my reply to the Show Cause Notice on 30-08-2017 (Copy enclosed).

R/Sir,

- 1) My brother namely Mr. Nasir Khan, who was a constable in Counter Terrorism Department (Police Department) was martyred by the militants on 06-02-2016 (Copy of Department of Forensic Medicine Khyber Medical College Peshawar and Service Certificate issued by CTD Police Department are enclosed for perusal).
- 2) That my brother was martyred by the militants and a FIR was registered against unknown militants as a result the facilitators of the militants were arrested by the Law Enforcement Agencies and were confined in Central Prison Peshawar in the year 2017.
- 3) That due to arrest of the facilitators of the militants, my family including me were receiving severe threats and several time we were pressurized for withdrawal of case and threatening for murdering my family members including me.
- 4) That the trial of these militants were in ATC Court Peshawar and the militants have repeatedly threatening to our family for withdrawal the case from ATC Court.
- 5) That due to my absence from duty, I was compulsory retired by the Superintendent Headquarters Prison Peshawar Order No.2522/PB dated 31-08-2017.
- 6) That due to these reasons explained above, I was nor in position to file a departmental appeal before the appellant authority neither I was able to continue my service in such threatening environment and my family also faced financial constraints, pension, gratuity and other retirement benefits were granted to my family / me.
- 7) Now, the security environment of the country have been normal and my family have also not receiving any severe threats, I desire to re-join the service.

It is therefore, humbly requested to kindly restore my service and I will deposit all back benefit that I have received so far into government exchequer. All relevant documents are attached for kind perusal.

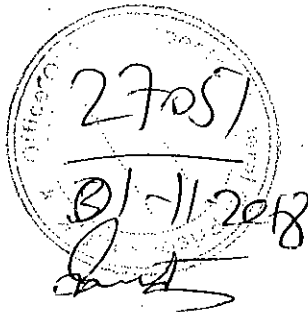
I shall be highly obliged of your this kindness please.

Yours Obediently

Rahman-ud-Din

(RAHMAN-UD-DIN)
Ex-Warder
Prisons Department
Khyber Pakhtunkhwa

Dated 01-11-2018



Devi



4178
14/11/018 (18)

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406

091-9213445

www.facebook.com/kpkprisons/

prisonsig@gmail.com

No. 33952 /-

Dated 14-11-2018 /-

To,

Mr. Rahman-Ud-Din (Ex-warder),
C/O Superintendent
Central Prison Peshawar.

Subject:- APPEAL FOR RESTORATION INTO SERVICE AGAINST THE
JUDGEMENT OF SUPERINTENDENT HEADQUARTERS PRISON
PESHAWAR.

Memo;

I am directed to refer to your application dated 01-11-2018 on the subject and to convey that your request has been considered and regretted by the competent authority, being time barred.

ASSISTANT DIRECTOR (ADMIN)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

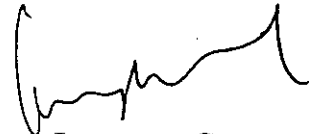
DS. P.B
F.O. w/A

SUPD
14/11/018

ATTESTED

SERVICE CERTIFICATE

It is certified that Mr. Nasir Khan s/o Muhammad Israr r/o District Peshawar bearing CNIC No 17301-3808808-1 remained a permanent Government employee in Police Department served in the Capacity of Constable belt No 347 in this Unit and embraced "SHAHADAT" on 06.02.2016.



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

Superintendent of Police HQRS
CTD Khyber Pakhtunkhwa,
Peshawar

ATTESTED



**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2018

Rehman-Ud-Din.....Appellant

V E R S U S

IGP Prisons KPK & othersRespondents

ADDRESSES OF PARTIES

APPELLANT

Mr. Rehman-Ud-Din Ex-Constable Prisons Department Khyber
Pakhtunkhwa, Peshawar R/o Shaheen Muslim Town, Mohallah
Qayum Abad No.4 Peshawar

RESPONDENTS

1. Inspector General Prisons Khyber Pakhtunkhwa,
Peshawar
2. Superintendent Central Prisons, Peshawar.
3. Accountant General, Khyber Pakhtunkhwa, Peshawar.

Through Appellant



**Irfan Ali Yousafzai
Advocate, High Court
Peshawar**

Date: 27/11/2018

