### Form- A

## FORM OF ORDER SHEET

Court of	 
Case No	1337/ <b>2022</b>

The appeal of Mr. Arshad Farooq received today by post to Masood-ur-Rehman Wazir Advocate. It is fixed for prelimina before Single Bench at Peshawar on Notices be appellant and his counsel for the date fixed.  By the drder of Chairman REGISTRAR	
Masood-ur-Rehman Wazir Advocate. It is fixed for prelimina before Single Bench at Peshawar on Notices be appellant and his counsel for the date fixed.  By the order of Chairma REGISTRAR	
By the drder of Chairma REGISTRAR	ry hearing
REGISTRAR	:
	<b>60</b> '



Service Appeal No. 1337 /2022.

Arshad Faroog Computer Oprator Central Prison (Appellant)
Banny.

#### Versus

Government of Khyber Pakhtunkhwa through Secretary Home Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar and others.

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Dated: 9-9-22

Appellant

Arshad Farooq

Through,

Masood Ur Rehman Wazir Advocate, High Court, Bannu 0333 97 40 590

Service Appeal No. 1337 /2022.

Arshad Farooq ......(Appellant)

Versus.

- 1. Government of Khyber Pakhtunkhwa through Secretary Home Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar .
- 2. Inspector General of prison Khyber Pakhtunkhwa Peshawar.

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL ACT 1974 AGAINST MINOR

PUNISHMENT DATED:19/04/2022 WHERE BY

WITHHELD INCREMENT FOR A PERIOD OF ONE YEAR

WITHOUT CUMULATIVE EFFECT.

PRAYER: ON ACCEPTANCE OF INSTANT SERVICE APPEAL AND TO

SET ASIDE THE PUNISHMENT OF WITHHOLDING OF

INCREMENT GRANTING SENIORITY ARREAR OF PAY

AND OTHER BACK BENEFITS.

### RESPECTFULLY SHEWETH:

- 1) That, appellant is Posted at the post of Computer Operator in the respondent department and having above 9 year clean service record. And till date no complaint what so ever has been given to the respondent.
- 2) That, on dated:14/09/2018 respondent No.2 Issued instruction to all the superintendent of jail in Khyber Pakhtunhwa were Saturday and Sunday declared closed.(Copy of notification is annexed in 'A').



- 3) That, there are 12 Clerical Staff in the Central Prison Bannu were 4 are belong to IT Branch. But respondent No.3 made discrimination in Distribution in awarding duty on the closed days "Saturday and Sunday".
- 4) That after appellant is given direction to perform his duty on closed days "Saturday and Sunday" due to which petitioner made application for not awarding duty on closed days resultantly respondent No.3 made Complaint against appellant to respondent No.2 due to which send show case notice to the appellant for which reply is also submitted. (Copies of the Show Case notice and reply is Annexed 'B' & 'C')
- examination once again on dated 17/12/2021 disciplinary action is initiated once again statement of allegation is forward to the appellant for which appellant also submitted written defense but respondents without inquiry personal hearing without giving inquiry report and without cross examination on witness forward the inquiry and thus on dated 19/04/2022 impugned Minor punishment order issued against appellant (Copy of the Statement of allegation inquiry report and minor punishment is annexed 'D','E' & 'F')
- 6) That appellant made departmental appeal on dated 23/05/2022 to the respondent No.1 but till date not decided hence approach this Honourable Service Tribunal enter alia the following grounds. (Copies of service appeal, Covering letter & registry receipt are annexed as 'G','H' & 'I')

#### **GROUNDS:**

A) That, appellant is not treated according to law, rules and regulations and as per Judgment deliver by the Apex Courts.



- B) That, respondents made discrimination in awarding duties to the clerical staff on closed day.
- C) That, no inquiry is constituted nor personal hearing are made and proceeding against appellant is mala fide and color full exercise of power.
- **D)** That, Charge is not proved against appellant so the Whole proceeding is based on victimization.
- **E)** That, Punishment on appellant is stigma on his service record without misconduct and according to service law unlawful order of superior or not binding on subordinate.

It is, therefore, humbly prayed that on acceptance of instant service appeal the punishment order dated: 19/04/2022 may kindly be declared as illegal against law against Khyber Pakhtunhwa E & D Rules 2011 and appellant may kindly be given all back benefits.

Dated: 9-9-22

Appellant

Ārshad Faroofi

Through,

Masood Ur Rehman Wazir Advocate, High Court, Bannu



<u>Service</u>	<u>Appeal No/2022.</u>
	• h
Arshad Farooq	( <u>Appellant</u> )
•	Versus.
1. Government of K	hyber Pakhtunkhwa through Secretary Home
	r Pakhtunkhwa Civil Secretariat Peshawar.
	al of prison Khyber Pakhtunkhwa Peshawar.
	Central prison Bannu.
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## **AFFIDAVIT**

I Arshad Farooq Computer Operator posted at Central Prison Tehsil & District Bannu, do hereby solemnly affirm and declare that the contents of the above noted appeal are true correct and noting has been kept secret or concealed from this Honourable Court.

M.SHOAIB SURRANI
Advocate

Advocate
Oath Commissioner District
& Session Court Bannu

Deponent

Arshad Farooq



Service Appeal No. /2022.

### **MEMO OF ADDRESS**

	Arshad Farooq(Appellant)
	Versus.
2.	Government of Khyber Pakhtunkhwa through Secretary Home Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar . Inspector General of prison Khyber Pakhtunkhwa Peshawar. Superintendent Central prison Bannu.
••••	

Dated:

Appellant

Arshad Faroog

Through,

Masood Ur Rehman Wazir Advocate, High Court, Rannu

OFFICE OF THE INSPECTOR GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR

Pace fronk ID, https://www.fucebnoh.com/k Datod\_\_111/05/13.

1) All Superintendent of Julia/Lockupa. 2) All Incharge Internment Centres.

in the Khyber Pakhtunkhwa Province.

NOTIFICATION.

Subject: -

Memo; I am directed to forward herewith a copy of Government of Khyber Pakhtunkhwa Administration Department Notification No. SO(ADMN)/AD/4/(1)/2014 Page 17.09-2018 on the subject for information and necessary action.

> BURECTOR (ADMN) FOR INSPECTOR GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR

COPY OF GOVT: OF KHYBER PAKHTUNKHWA ADMINISTRTION DEPARTMENT COPY COTIFICATION NO.SO(ADMN)/AD/4/(1)/2014 DATED 11-09-2013

The Provincial Government of Khyber Pakhtunkhwa has been pleased to dopt the following timings in the Provincial Government Offices including Divisional & pistrict Government office, with immediate effect.

Monday to Friday

On Monday to Thursday from 09.00 A.M. to 05.00 P.M with 30 Minutes break for prayer from 01.00 P.M. to 01.30 p.m. On Friday from 09.00 A.M. to 05.00 P.M. with one hour and thirty Minutes break for prayer from 12.30 P.M. to 02.00 P.M.

curday and Sunday

Sdxxxxx CHIEF SECRETARY, GOVT: Of KHYBER PAKHTUNKWA

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### CHARGE SHEET

I, Khalid Abbas, I.G.Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge Mr. Arshad Farooq as follows:

That you, while posted as Computer Operator (BPS-16) attached to Central Prison Bannu committed the following irregularities/misconduct:

As reported by Superintendent Central Prison Bannu vide his letter No. 7938-WE dated 06-12-2021 (copy enclosed) that the ministerial and computer staff are allotted duties on Saturday & Sunday on rotation basis every month. However, when you were allotted duties on Saturday & Sunday in rotation in every month but you refused to perform duty on Sunday, thus you have committed grave misconduct on his part.

For the reasons above, you appear to be guilty of inefficiency/misconduct under Rule-3 of the 2. Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penaltics specified in Rule-4 of the Rules ibid.

You are, therefore required to submit your written desense within seven (07) days of the receipt 3. of this Charge Sheet to the Inquiry Officer, as the case may be.

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

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

A statement of allegations is enclosed. 6.

> F PRISONS. KHYBER PAKHTUNKHWA\PESHAWAR

To



The Inquiry Officer, D.I.G, South Region, Bannu.

### REPLY TO THE CHARGE SHEET.

R/Sir

Reference to the worthy Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar office Endst No. 40784-87 dated: 17/12/2021.

It is submitted that I have received the charge sheet on dated: 20/12/2021.

In response applicant submit as follow:-

That I have not committed any misconduct as per Disciplinary & Efficiency Rules 2011, because Saturday and Sunday are declared by the Provincial Government as a holiday to save energy, therefore I am bound to give official duty as per Government Notification No.So (AD)4(3)2010 dated 03/05/2012 and Notification No. So (Admin)/AD/4/(1)/2014 dated: 11/09/2018 (Attached for ready reference), furthermore applicant will be give emergency duty as per directions of the competent authority and such no emergency duty received by applicant from the competent authority.

That other colleagues i.e Office Assistant and Clerical Staff of the applicant are not assigned duty on Sunday except I.T Staff through the clouds of mollified nepotism/favoritism and against good governance, because we are posted 4 to 5 Nos of Clercks and 2, to 3 Nos of Office Assistant, but only I,T Staff is targeted, and according to law all are equal before law and entitled to equal protection

Official record (in duplicate) may kindly be also perused and all the record may kindly be included in the inquiry and I will also like to cross examine the witness if any against me. Force labor is forbidden by the constitution of Pakistani-1973 and as well as in islam

It is humbly prayed that applicant may kindly be exempted from disciplinary proceedings and inquiry may kindly be filed.

Yours obediently

94/12/27

Arshad Farooq

Computer Operator Central Prison Bannu

4:





# INSPECTORATE GENERAL OF PRISONS, DATED

### DISCIPLINARY ACTION

I, Khalid Abbas, I.G. Prisons Khyber Fakhtunkhwa, as the competent authority; am of the opinion that Mr. Arshad Farooq Computer Operator (BPS-16) posted at Central Prison Bannu 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

As reported by Superintendent Central Prison Bannu vide his letter No. 7938-WE dated 06-12-2021 (copy enclosed) that the ministerial and computer staff are allotted duties on Saturday & Sunday on rotation basis every month. However, when ne was allotted duties on Saturday & Sunday in rotation in every month but he refused to perform duty on Sunday, thus he has committed grave misconduct on

- For the purpose of inquiry proceedings against the afore-said accused 2. with reference to the above allegations, Mr. Binyamin Khan Deputy Inspector General at Regional Prisons Office Bannu is hereby appointed as Inquiry Officer, under Rule-10(1)(a) of the E&D Rules, 2011.
- The Inquiry Officer 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.
- The accused and a well conversant representative of Central Prison Bannu shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

### INSPECTOR GENERAL OF PRISONS. KHYBER PAKHTUNKHWA PESHAWAR

ENDST; NO. 40 784-87/.,

Copy of the above is forwarded to:

- 1. Superintendent Central Prison Bannu for information and necessary action with reference to his letter No. 7938-WE dated 06-12-2021. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt to this office in token of its receipt.
- 2. Mr. Binyamin Khan Deputy Inspector General at Regional Prisons Office Bannu the Inquiry Officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Pracipline) Rules 2011. A copy of charge sheet is enclosed herewith.

3! Mr. Arshad Farooq Computer Operator C/O Superintendent Central Prison Bannu for information.

4. PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa Peshawar for information.

KHWA PESHAWAR



10

SUPERINTENDENT
CENTRAL PRISON D.I.KHAN
No 1/96 / Dt: 10/03/2022
PH&FAX NO. 0966-9280299
Cpdikhan1@gmail.com

Juis +

The Inspector General Of Prisons, Khyber Pakhtunkhwa, Peshawar.

Subject:

INQUIRY REPORT AGAINST MR. ARSHAD FAROOQ COMPUTER OPERATOR ATTACHED TO CENTRAL PRISON BANNU.

Respected Sir,

Kindly refer to your office No. 5207-we dated 02.02.2022 in which the undersigned was nominated as inquiry officer in the subject cited case.

It is submitted that as per your directions de-novo inquiry was conducted in which:

- 1. Statement of accused official Mr. Arshad Farooq has been obtained and placed as Annex-A.
- 2. Cross question from Arshad Faroog and his replies obtained, placed as Annex-B
- 3. Cross examination from Mr. Tahir Shahbaz Superintendent Central Prison Bannu obtained and placed as Annex- C
- 4. All other documents related to the inquiry has been attached as annex-D.

#### Conclusion:-

Going through the record, reply of accused official and that of cross examination from Superintendent Central Prison Bannu it becomes clear crystal that the accused official Mr. Arshad Farooq Computer Operator attached to Central Prison Bannu is guilty of misconduct and also found of omission of lawful orders. He also made examples for other staff members by instigating them from his words and actions, therefore, liable to be punished under Khyber Pakhtunkhwa E & D Rules and is hereby placed before your good-self for disciplinary action as deemed appropriate at your end.

5397

SUPERINTENDENT CKNTRAL PRISON DIKHAN



INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406

09:-9213445

**ORDER** 

WHEREAS, the accused official Arshad Faroog Computer Operator (3PS-16) attached to Central Prison Bannu proceeded against under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on charges mentioned in the charge sheet served upon him.

AND WHEREAS, Mr. Binyamin Khan Superintendent Central Prison D.I Khan was appointed as Inquiry Officer for conducting inquiry in the matter vide this office Endst: No.40784-87-WE dated 17-12-2021.

AND WHEREAS, the Inquiry Officer concerned submitted his findings according to which charges were fully proved against him.

AND WHEREAS, the undersigned being competent authority granted him opportunity of personal hearing on 18-04-2022 as provided under rules ibid. During the course of personal hearing the accused official failed to justify his innocence and requested to be pardoned being first offence.

NOW THEREFORE, in exercise of powers conferred under Rule 14 of Khyber. Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, explanation of the accused official as well as the Inquiry report, and after affording the opportunity of personal hearing, the undersigned being competent authority is pleased to impose minor penalty of "withholding of increment for a period of one year without cumulative effect" on accused Arshad Faroog Computer Operator.

> INSPECTOR GENERAL OF PRISONS. KHYBER PAKHTUNKHWA PESHAWAR

ENDST: NO. 13600 - 04 /.

Copy of the above is forwarded to:

1. The Superintendent, Central Prison Bannu for information and necessary action.

Necessary entry may please be made in his Service Books under proper attestation.

- 2. Mr. Binyamin Khan, Superintendent Central Prison D.I Khan (Inquiry Officer) for information with reference to his letter No.1196 dated 10-03-2022.
- 3. The District Accounts Officer Bannu for information.

Official concerned C/O Superintendent Central Prison Bannu.

5. Confidential clerk for placing a copy of this order in C.R.

Received on 30 on p.m. =

INSPECTORATE GENERAL OF PRISONS.

KHYBER PAKHTUNKHWA PESHAWAR

The Home Secretary. Khyber Pakhtunkhwa, Peshawar.

Subject:

REVEIVE UNDER RULE 17 OF THE DISCIPLINARY RULES 2011. EFFICIENCY

Respected Sir,

That applicant submitted as follow.

- 1. That order dated 19/04/2022, received by the applicant on 28/04/2022, is against the service norms, nor any show cause neither any prior warning letter was issued to the applicant.
- 2. That the charge is not proved according to the statements recorded by the inquiry officer nor documentary evidence is against, so imposition of penalty is against good governance.
- 3. That all the preceding against the applicant is based on mollified and
- 4. Not even a single iota of any evidence is recorded by the inquiry officer
- 5. That recommendation of competent Authority against the applicant is not
- 6. That withholding/ deduction of increment is a stigma on the career of
- 7. That whole proceeding is abusing power theirfore it is requested that the punishment awarded (stoppage of increment) be reverted back.
- 8. Forwarded for your kind consideration please...

Yours obediently

Arshad Faroog Compater Operator Central Prison Bannu



Amia H (13)

### OFFICE OF THE SUPERINTENDENT CENTRAL PRISON BANNU

No. 27 11/2022 Tele & Fax#0928-633327/633326 Email: epbannuugmail.com

То

The Worthy Inspector General of Prisons. Khyber Pakhtunkhwa Peshawar.

1

Subject: -

APPEAL/ REVEIVE UNDER RULE 17 OF THE EFFICIENCY

& DISIPLINARY RULES-2011.

R/Sir,

An appeal/Reveive (self-explanatory) against the order No. 13590 () dated: 19/04/2022 in respect of Mr. Arshad Farooq Computer Operator, presently serving in this Jail is hereby submitted for onward submissions to the Secretary to Government of Khyber Pakhtunkhwa Home Department Peshawar for further disposal, piease.

SUPERINTENDENT CENTRAL PRISON BANNI

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وعوىل اع في جرا كا مقدمه مندرجه بالاعنوان بالامين اپني طرف سے واسطے بيروي وجواب دئي وكل كارركوائي معلمان مقام سی در کے لئے مسعود الرهی درسر ارمردلیک مقرر کرے اقرار کیاجا تاہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا میں کہ کا کامل اختیار ہوگا نیز وکیل صاحب کوراضی نامه دمقرر ثالث و فیصله برحلف دیئے جواب دہی اورا قبال دعویٰ اور بصورت ڈگری کرانے اجراءاور وصولی جیک روپییا ورعرضیٰ دعویٰ اور درخواست ہرشم کی تقىدىق زراس پردستخط كرنے كاختيار موگا۔ نيز بصورت عدم بير دى يا ڈ گرى يكظرفه یا پیل کی برآ مدگی اورمنسوخی دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا اختیار ہوگا اور ی بصورت ضرورت مقدمه ندکور کے کل یا جزوی کارروائی کے واسطے اوروکیل یا مختار قانونی كواييخ بمراه يااين بجائے تقرر كا اختيار مو گا اور صاحب مقرر شده كو بھي وہي جمله مذكوره بالا اختیارات حاصل ہوں گے اور اس کاساختہ پر داختہ منظور وقبول ہوگا اور دورانِ مقدمہ میں جوخرچہ وہرجاندالتوائے مقدمہ کے سبب سے ہوگا۔اس کے مستحق وکیل صاحب موصوف موں گے۔ نیز بقایا وخرچہ کی صولی کرنے کا بھی اختیار ہوگا۔اگر کوئی تاری نیبٹی مقام دورہ پر ہوگا تھانہ باہر ہوتو وکیل صاحب یا بند ہوں گے کہ پیروی مقدمہ مذکور کریں۔ لہٰذاو کالت نامہ کھودیا کہ سندرہے۔ 0332-1906588 11101-36768165