23.01.2017

Counsel for the appellant and Additional AG alongwith Mr. Shehryar Khan, Assistant Supdt: Jail for the respondents present. Learned AAG requested for adjournment. To come up for final hearing on 05.06.2017 before D.B.

05.06.2017

Appellant in person present. Mr. Shehryar Khan, Assistant Superintendent Jail alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 01.08.2017 before D.B.

02.06.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl AG for respondents present. Copy of fact finding inquiry submitted which is placed on file. Since all learned counsels for the appellants are not present today before the court, therefore, case could not be heard. Adjourned for arguments to 28.9.16 before D.B.

28.09.2016 Counsel for the appellant and Mr. Shehrayar Khan, ASJ alongwith Addl: AG for respondents present. Learned Addl: AG requested for adjournment. To come up for arguments on 22.11.2016 before D.B.

22.11.2016 Counsel for the appellant and Mr. Sohrab Khan, Junior Clerk alongwith Assistant AG for respondents present. Learned counsel for the appellant submitted before the court that the instant case has been partially heard by the other bench, therefore, it would be appropriate to assign this case to the bench concerned. Perusal of the order sheet dated 16.03.2016 revealed that previously the case in hand was partly heard by other bench, therefore the instant cases be placed before the learned Chairman for entrustment to the bench concerned. To come up for arguments on 23.1.2017.

16.02.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. The learned Member (Executive) is on official tour to Abbottabad, therefore, Bench is incomplete. To come up for arguments on 16.3.2016.

16.03.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. During the course of arguments it transpired that a fact-finding inquiry was also conducted report of which is not available on record. The same is very important for the disposal of the case, therefore, respondents are directed to produce the copy of fact finding inquiry on the next date. To come up for such record and arguments on 31.5.16 before D.B.

31.05.2016 Counsel for the appellant and Addl. AG for respondents present. Inquiry report placed on file. Learned counsel for the appellant submitted before the court that the instant, case has been partially heard by the other bench. Therefore, it would be appropriate to assign this case to the other bench. Perusal of the order sheet revealed that previous by case in hand was partly heard by other bench, therefore the instant case be placed before the learned Chairman for entrustment to the bench concerned. To come up for arguments on 2.6.2016

705/2013

24.3.2015 Counsel for the appellant and Sr.GP with Sheryar, ASJ for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 29.09.2015.

29.09.2015 Appellant with counsel and Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan, therefore, case is adjourned to 16-09-16 for arguments.

12.3.2014 Clerk of counsel for the appellant and Mr. Sheharyar Kha Assistant Supdt. Jail for respondents with AAG present. Written rep received on behalf of the respondents, copy whereof is handed over the clerk of counsel for the appellant for rejoinder alongwith connect appeal on 9.6.2014.

9.6.2014 Mr.Imdad Hussain, Advocate on behalf of counsel for the appellant and Mr.Sheharyar, Assistant Supdt. Jail for respondents with AAG present. Rejoinder has not been received, and request for further time made on behalf of the appellant. Another chance is given for rejoinder alongwith connected appeal on 19.9.2014

19.09.2014 Mr. Imdad Khan, Advocate on behalf of counsel for the appellant and Mr. Sheharyar Khan, Assistant Supdt. Jail on behalf of respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned Sr. GP for arguments alongwith connected appeal on 28.03.2015.

Appeal No. 705/2013
Mr. Sakhawat Hussain

5. 13.09.2013 Counsel for the appellant present and heard on preliminary. He filed the instant appeal against the final order dated 21.03.2013 on 18.04.2013 which is within time. He further contended that the appellant has not been treated in accordance with the law/rules. The appellant still aggrieved and he has been removed from service vide order dated 20.12.2012. Before the issuing of the impugned order dated 20.12.2012 no charge sheet, statement of allegations were issued nor proper enquiry conducted as required under the law. Points raised need consideration at the Bar. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 11.12.2013 for submission of written reply.

the appellant deposited Security & Process fee Rs 360/- Bank receipt attached on file

6. 13.09.2013 This case be put before the Final Bench for further proceedings.

11.12.2013 Counsel for the appellant and Mr. Sheharyar Khan, Assistant on behalf of respondents with AAG present. Written reply has not been received. To come up for written reply/comments on 12.3.2014.

3. 4.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 18.7.2013.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 705/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/04/2013	The appeal of Mr. Sakhawat Hussain presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.

4. 18.07.2013. No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 13.09.2013.

12.10.2017 Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present. The present case may be fixed before the D.B concerned for further proceeding on 18.10.2017.

Member (Judicial) Member (Judicial)

18.10.2017 Counsel for the appellant and Mr. Usman Ghani, D.A for respondents present. Due to none availability of concerned D.B arguments could not be heard. Case is adjourned. To come up for further proceedings on 14.11.2017 before D.B.

Member (Executive) Member (Judicial)

14.11.2017 Counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 15.12.2017 before D.B.

(Gul Zeb Khan) Member (Muhammad Hamid Mughal) Member

✓ 15.12.2017 Clerk of counsel for the appellant present. Learned DDA for the respondents present. Vide our separate/common judgment of today placed on file of appeal No.943/2013 filed by Abdul Satar, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(GUL ZEB KHAN) MEMBER (MUHAMMAD HAMID MUGHAL) MEMBER

1/8/2017 Counsel for the appellant and Mr. Sheharyar Khan, Assistant Superintendent Jail alongwith Mr. Muhammad Adeel Butt, AAG for the respondents present. Learned AAG requested for adjournment. To come up for argument on 28/8/2017 before DB.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD HAMID MUGHAL)
MEMBER

0----25 28.08.2017 Agent to counsel for appellant and Mr. Usman Ghani, District Attorney for the respondent present. Agent to counsel for appellant seeks adjournment. Adjourned. The appellant is directed to submit fresh Wakalatnama on behalf of appellant on or before the next date of hearing. To come up for arguments on 21.09.2017 before D.B.

(Muhammad Hamid Mughal)
Member (J)

(Gul Zeb Khan)
Member (E)

21.09.2017 Counsel for the appellant present. Learned Additional Advocate General for the respondents present. Partially arguments heard. To come up for further proceedings on 12.10.2017 before D.B.

Member
(Executive)

Member
(Judicial)

23.01.2017 Counsel for the appellant and Additional AG alongwith Mr. Shehryar Khan, Assistant Supdt: Jail for the respondents present. Learned AAG requested for adjournment. To come up for final hearing on 05.06.2017 before D.B.

Member Chairman

05.06.2017 Appellant in person present. Mr. Shehryar Khan, Assistant Superintendent Jail alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 01.08.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

02.06.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl AG for respondents present. Copy of fact finding inquiry submitted which is placed on file. Since all learned counsels for the appellants are not present today before the court, therefore, case could not be heard. Adjourned for arguments to 28.9.16 before D.B.

MEMBER MEMBER

28.09.2016 Counsel for the appellant and Mr. Shehrayar Khan, ASJ alongwith Addl: AG for respondents present. Learned Addl: AG requested for adjournment. To come up for arguments on 22.11.2016 before D.B.

Member Chairman

22.11.2016 Counsel for the appellant and Mr. Sohrab Khan, Junior Clerk alongwith Assistant AG for respondents present. Learned counsel for the appellant submitted before the court that the instant case has been partially heard by the other bench, therefore, it would be appropriate to assign this case to the bench concerned. Perusal of the order sheet dated 16.03.2016 revealed that previously the case in hand was partly heard by other bench, therefore the instant cases be placed before the learned Chairman for entrustment to the bench concerned. To come up for arguments on 23.1.2017.

(MUHAMMAD AAMIR NAZIR)
MEMBER

(ABDUL LATIF)
MEMBER

16.02.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. The learned Member (Executive) is on official tour to Abbottabad, therefore, Bench is incomplete. To come up for arguments on 16.3.2016.

Member

16.03.2016 Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. During the course of arguments it transpired that a fact-finding inquiry was also conducted report of which is not available on record. The same is very important for the disposal of the case, therefore, respondents are directed to produce the copy of fact finding inquiry on the next date. To come up for such record and arguments on 31.5.16 before D.B.

MEMBER MEMBER

31.05.2016 Counsel for the appellant and Addl. AG for respondents present. Inquiry report placed on file. Learned counsel for the appellant submitted before the court that the instant case has been partially heard by the other bench. Therefore, it would be appropriate to assign this case to the other bench. Perusal of the order sheet revealed that previous by case in hand was partly heard by other bench, therefore the instant case be placed before the learned Chairman for entrustment to the bench concerned. To come up for arguments on 2.6.2016.

Member Member

705/2013

24.3.2015 Counsel for the appellant and Sr.GP with Sheryar, ASJ for the respondents present. Counsel for the appellant requested for adjournment. Therefore, case is adjourned to 29.09.2015.

MEMBER MEMBER

29.09.2015 Appellant with counsel and Addl: AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan, therefore, case is adjourned to 16-02-16 for arguments.

Member

12.3.2014 Clerk of counsel for the appellant and Mr. Sheharyar Khan, Assistant Supdt. Jail for respondents with AAG present. Written reply received on behalf of the respondents, copy whereof is handed over to the clerk of counsel for the appellant for rejoinder alongwith connected appeal on 9.6.2014.

Chairman

9.6.2014 Mr.Imdad Hussain, Advocate on behalf of counsel for the appellant and Mr.Sheharyar, Assistant Supdt. Jail for respondents with AAG present. Rejoinder has not been received, and request for further time made on behalf of the appellant. Another chance is given for rejoinder alongwith connected appeal on 19.9.2014

Chairman

19.09.2014 Mr. Imdad Khan, Advocate on behalf of counsel for the appellant and Mr. Sheharyar Khan, Assistant Supdt. Jail on behalf of respondents with Mr. Usman Ghani, Sr. GP present. Rejoinder received on behalf of the appellant, copy whereof is handed over to the learned Sr. GP for arguments alongwith connected appeal on 25.03.2015.

Chairman

Appeal No. 705/2013
Mr. Sakhawat Hussain

5. 13.09.2013 Counsel for the appellant present and heard on preliminary. He filed the instant appeal against the final order dated 21.03.2013 on 18.04.2013 which is within time. He further contended that the appellant has not been treated in accordance with the law/rules. The appellant still aggrieved and he has been removed from service vide order dated 20.12.2012. Before the issuing of the impugned order dated 20.12.2012 no charge sheet, statement of allegations were issued nor proper enquiry conducted as required under the law. Points raised need consideration at the Bar. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 11.12.2013 for submission of written reply.

Member.

the appellant deposited Security & Process fee Rs 3604 Bank receipt attached on file

6. 13.09.2013 This case be put before the Final Bench I for further proceedings.

Chairman

11.12.2013 Counsel for the appellant and Mr. Sheharyar Khan, Assistant on behalf of respondents with AAG present. Written reply has not been received. To come up for written reply/comments on 12.3.2014.

Member Chairman

4.

18.07.2013 No one is present on behalf of the appellant. Case is adjourned. To come up for preliminary hearing on 13.09.2013.

Member

3. 4.6.2013 Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 18.7.2013.

Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. **705/2013**

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/04/2013	The appeal of Mr. Sakhawat Hussain presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR
2	22-4-2013.	This case is entrusted to Primary Bench for preliminary hearing to be put up there on 4-6-2013. CHAIRMAN

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 705 /2013.

SAKHAWAT HUSSAIN VS IGP PRISONS & OTHERAS

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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVIE TRIBUNAL PESHAWAR

APPEAL NO. 705 **/2013**

Mr. Sakhawat Hussain, Jail Warder (BPS-7),
Central Jail Haripur, District Haripur ..... **APPELLANT**

VERSUS

1- The Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2- The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3- The Superintendent Headquarter Prisons, Khyber Pakhtunkhwa Peshawar.
4- The Superintendent Central Prison Haripur, District Haripur.
..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDERS DATED 20.12.2012 AND 21.3.2013 WHEREBY MAJOR PENALTY OF DISMISSAL FROM SERVICE WAS IMPOSED ON THE APPELLANT UNDER THE NEWLY AMNEDED (E&D) RULES 2011 WHICH WAS LATER ON CONVERTED TO REMOVAL FROM SERVICE ON THE DEPARTMENTAL APPEAL OF APPELLANT

PRAYER:

That on acceptance of this appeal the impugned order of removal dated 21.3.2013 may be set aside and the appellant may be very kindly be re-instated in to service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant

18/4/13

R.SHEWETH:

FACTS:

1- That the appellant was appointed as Jail warder (BPS-7) in the respondent Department vide order dated 31.7.2004. That appellant has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors. Copies of the appointment order, transfer order and medical certificate are attached as annexure ..... **A, B and C.**

2- That appellant while working as Jail warder at the central jail Haripur a show cause notice was served upon the appellant in which it was alleged that appellant while deputed at the central jail Haripur as jail warder had failed to performed duty efficiently and also failed to prevent escape of Four prisoners. That in response to that show cause notice appellant denied all the allegations which were leveled against him. Copies of the show cause notice and reply are attached as annexure ..... **D and E.**

3- That after issuance of the show cause notice the appellant was straight away dismissed from service with pout conducted regular inquiry in the matter vide order dated 20.12.2012. That feeling aggrieved appellant filed Departmental appeal agai9nst the said impugned order vide dated 1.1.2013. Copies of the impugned order and departmental appeal are attached as annexure ..... **F and G.**

4- That in the said departmental appeal the appellant had calri9ifed his position that he was deputed out side the jail while the prisoners have made their escape from inside the jail, thus officials who were deputed inside the jail were responsible instead of appellant. That in response another order was issued on the said departmental appeal due to which appellant dismissal from service has been converted to that of removal from service vide order dated 21.3.2013. Copy of the order is attached as annexure ..... **H.**

5- That as having no other remedy appellant prefers this appeal on the following grounds amongst the others.

GROUNDS:

A- That the impugned orders dated 20.12.2012 and 21.3.2013 are against the law, facts and norms of natural justice, hence not tenable and liable to be set aside.

B- That the appellant has not been treated in accordance with law and rules by the respondent Department on the subject above and as such the respondents violated Article 4 and 25 of the Constitution of Pakistan 1973.

C- That no charge sheet and statement of allegations were served upon the appellant which is mandatory under the newly amended (E&D) rules 2011.

D- That all the Employees along with respondent No.4 who were directly responsible and who were deputed out side the jail premises have been exonerated from the charges

whereas, the appellant has been dismissed from service which is illegal, discriminatory and against the law.

E- That no chance of personal hearing/defense has been given to appellant while issuing the impugned orders against the appellant.

F- That the appellant had not been provided opportunity to cross examine the witnesses produced against the appellant by the respondent Department and as such the law of Audi Altrem Partem has been violated by the respondents.

G- That the appellant has been made scapegoat in the above mentioned issue, while those officials who were directly responsible along with respondent No.4 have been exonerated which is malafide on the part of respondents.

H- That no regular inquiry has been conducted in the matter which is mandatory under the law and against the Supreme Court Judgments given in this regard.

I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

SAKHAWAT HUSSAIN

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

A-(4)

OFFICE OF THE
SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR
PB Order NO. 1018 /-Dt 31/3/04

To,

Mr. Sakhawat Hussain S/O Mubasher Hussain

R/Of: Village Welton Qalandar Abad Tehsil and District Abbottabad.

Subject:- APPOINTMENT AS WARDER

MEMO:

17.2.2004.

Reference your interview-dated ___/__/2004.

2100-100-5700

I am pleased to offer you a post of temporary Warder in the BPS-5 (1400-66-2390) plus RSA of Rs. 390 and other usual allowances as admissible under rules subject to the following conditions: -

1- You are liable to serve anywhere in the Jails of NWFP.

2- Your appointment is purely temporary and your services can be terminated at any time without assigning any reasons.

3- For all other purposes such as pay, TA and Medical attendance etc he will be governed by rule applicable to the Government Servant of his category.

4- The term and conditions of his appointment as warder will be those as laid down in the warders service rules 1960 NWFP, Prisons Department (Recruitment and Transfer) Rules 1980 and all other rules and regulations prescribed in this respect in the Prison Act / Pakistan Prison Rules and any other rules which may be promulgated by / applicable to Government servants or the rules which may be promulgated by the Government from time to time in this behalf.

5- His service will be subject to his medical fitness.

6- No TA/DA will be admissible to you or joining your first appointment.

7- You can not resign the service immediately but you have put in writing at least one month prior and in lieu thereof, one-month pay shall be forfeited from him.

8- If you accept the appointment on the above terms and condition then you may please report to the Superintendent Headquarter Jail Peshawar for duty within 15 days of the receipt of this orders.

9- On your assuming duties it will be taken for that you have accepted all the above terms and conditions.

10- Your appointment is subject to fulfillment of all the conditions laid down in the service rules.

(KHALID ABBAS)
SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR 31/3/04

ENDST. NO. 1019-26 /-

Copy of the above is forwarded to :-

1- All Superintendent of Jails in NWFP for information and necessary action please.
2- All District Account Officer in NWFP for information and necessary action.

(KHALID ABBAS)
SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR 31/3/04

ATTESTED

AYAZ

B-(5)

OFFICE OF THE
SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR
PB Order NO. 1220 /-Dt 7/4/04

To,

The Superintendent,
Central Jail / District Jail/ Sub Jail/Judicial Lockup,

Haripur

Subject:- APPOINTMENT / POSTING.
MEMO:-

On his arrival in response of his appointment order issued vide Superintendent Headquarter Jail Peshawar No. 1018 dated 31/3 /2004, warder Sakhawat Hussain S/O Mubashir Hussain is hereby posted to Central Jail / District Jail / Sub Jail /Judicial Lockup, Haripur against the existing vacancy. His Medical examination has already been carried out in Police and Services Hospital Peshawar. His original Medical fitness Certificate is enclosed herewith.

SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR
7/4/04

Endst: No. 1221-22 /-

Copy of the above is forwarded to:-

1- The Superintendent Central Jail Haripur for information and further necessary action.
2- The Accountant General / District Accounts Officer Haripur for information please.

SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR
7/4/04

AYAZ/-

ATTESTED

N.W.F.P., Med. No. 4

GS&PD—NWFP—27 FS—2000 P of 100—29-7-98—(16)

C — (6)

MEDICAL CERTIFICATE

Name of Official SAKHAWAT HUSSAIN

Caste or race Awan

Father's name MUBASHIR HUSSAIN

Residence Tehsil and Distt Abbottabad

village & p/o Tanawal

Date of birth 22-4-1979 (13101-0922283-9

Exact height by measurement 5.7"

Personnal mark of identification Black Mole on right side of neck.

Signature of the Official

Signature of head of office

Seal of Office

Superintendent
Headquarters Prison Peshawar
7/4/07

I do hereby certify that I have examined Mr. Sakhawat a candidate for employment in the Office of the Constabulary Prisons Department and can not discover that he had any disease communicable or other constitutional effection or bodily infirmity except Nil

I do no consider this as disqualification for employment in the office of the ..... His age according to his own statement 25 year and by appearance about Twenty Five year.

LEFT HAND THUMB AND FINGER IMPRESSIONS

ATTESTED

07/04/2004

Medical Superintendent,
Civil Hospital,
Hospital

07.4.2004

D-(7)

SHOW CAUSE NOTICE

I, **Khalid Abbas,** I.G.Prisons Khyber Pakhtunkhwa , as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline)Rules 2011, do hereby serve you, **Warder (BPS-5) (under suspension) Sakhawat Hussain** attached to Central Prison Haripur, as following :-

i. That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing

ii. On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defence before the Inquiry Officer.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:-

You were performed duty as Patrolling Officer outside the parameter wall from 12.00 to 3.00 AM in the night between 20/21-10-2012 do not check the staff on duty at outer beats and also failed to keep them alert and present on duty which resulted into escape. Thus you have violated Rule-712 of NWFP Prison Rules 1985.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty of **"dismissal from service"** under rule-4 of the said rules.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, 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. A copy of the findings of the Inquiry Officer is enclosed.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

4/12/12

ATTESTED

بخدمت جناب اختر سعید صاحب ڈی سپرنٹنڈنٹ جیل ڈیپارٹمنٹ ہیڈ کوارٹر خیبر پختونخوا ایبٹ آباد

زبانی آفیسر صاحب سنٹرل جیل ہری پور

E — (8)

جواب بحوالہ شوکاز نوٹس نمبر 7934 مورخہ 2/11/12

وارڈر سعادت حسین

جواب مدعا زیل ہے

جناب عالی: گذارش ہے کہ سائل بحیثیت وارڈر سنٹرل جیل ہری پور میں آجکل رات کی ڈیوٹی مورخہ 12/11/12 کو شب 3:00AM تا 12:00AM بجے تک بیرونی جیل روڈ گشت بطور پٹرولنگ آفیسر ڈیوٹی تھی۔ جس میں تمام بیرونی جیل بشمول سپرنٹنڈنٹ جیل بنگلہ اور گارڈنگ سٹاف شامل ہیں۔ سائل نے باقاعدہ چیکنگ کی ہے اور تمام بیرونی سنگری پر موجود ملازمین کو وقتاً فوقتاً چیک کیا۔ جو کہ اپنے اپنے پوائنٹ (Beats) پر الرٹ کھڑے تھے۔

سائل نے پٹرولنگ آفیسر ڈیوٹی سرانجام دے دی تھی تو اس کے کو محسوس ہوئی کہ جہاں وہ کھڑا ہے وہاں سے سرانجام دے سکے۔ اسے تمام بیرونی اطراف پر چیکنگ کی جاتی ہے۔ اور یہ ایریا ڈیوٹی کو مشکل سے جس زیادہ بنتا ہے۔ اور اسکا چیکنگ میں ایک گھنٹہ صرف ہوتا ہے۔ بیرونی گشت والے افسر وغیرہ جیل کی نقل و حرکت پر نظر نہیں رکھ سکتے۔ یہ اندرونی گشت والے یا ڈیوٹی والے ملازمین کو پتہ چلتا ہے جو کہ روزانہ گشت سے پہلے گشتی نوٹ بک پر سرٹیفکیٹ دیتے ہیں۔ اور اس پر دستخط کرتے ہیں کہ ۔۔۔ بعد از تلاشی نیند کیے اور کوئی ممنوعہ چیز برآمد نہ کی نیز تالے، جنگلہ ٹھیک پائے گئے۔"

سائل کی دوران گشت میں ایسا کوئی بھی ناخوشگوار واقعہ رونما نہیں ہوا ہے۔ سائل نے اپنی گشت ختم کر کے ٹائٹ آفیسر کی موجودگی میں گشت رپورٹ بک کو چیک کر کے دوسرے گشت کنندہ ملازمان کو دیا

ATTESTED

اور اپنی بیرک میں چلا گیا۔ بعد میں ایمرجنسی والا دروازہ پر پولیس کے عہدیداران نے اٹھایا۔ تو سائل حملے سے ڈیوڑھی ٹوٹ چکا تھا۔ تو معلوم ہوا کہ جیل سے فراری ہوئی تھی۔ جس میں 3 قیدیان بھاگ گئے اور ایک ... پکڑا گیا۔ چنانچہ سائل دیگر قیدیان کی تلاش کیلئے باقی جیل عملہ کے ساتھ ہو گیا۔ سائل نے اس سے پہلے بھی اپنی ڈیوٹی بخوبی سرانجام دی ہے اور آئندہ بھی احسن طریقے سے سرانجام دیتا رہے گا۔ لہذا اس میں سائل کی طرف سے کسی قسم کی کوئی بھی کوتاہی یا غفلت نہیں ہوئی تھی۔

استدعا ہے کہ سائل کا شوکاز نوٹس داخل دفتر کرنے کا حکم صادر فرمایا جاوے۔

العبد سائل وارڈر سعادت حسین

22/11/20

حال سنٹرل جیل ہری پور

F-9

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

NO. 2/14-5-2010-PL/32056

DATED 20-12-2012

ORDER

On completion of proceedings and in exercise of powers conferred under Rule-14 sub rule-5 of Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules 2011, after having considered the charges, evidence on record , the explanations of the accused officers/officials and affording an opportunity of personal hearing to the accused and keeping in view of recommendation of the Inquiry Officer, the undersigned being competent authority is pleased to pass the orders as noted against each officers/officials with immediate effect in a case regarding escape of four prisoners from Central Prison Haripur in the night between 20/21-10-2012 :-

S.No.	NAME OF /OFFICERS/ OFFICIALS	ORDERS/PENALTY
1.	Mr.Muhammad Naeem, Senior Assistant: Superintendent Jail (BPS-16).	Reduction to lower post/grade of Assistant Superintendent Jail (BPS-14).
2.	Mr.Fazal Mehmood, Senior Assistant Superintendent Jail (BPS-16).	Dismissal from service.
3.	Head warder(BPS-7) Abdul Sattar.	Dismissal from service.
4.	Warder(BPS-5) Bahrawar.	Compulsory retirement from service.
5.	Warder(BPS-5) Siddique Muhammad.	Compulsory retirement from service.
6.	Warder(BPS-5) Shah Qaiser.	Dismissal from service.
7.	Warder(BPS-5) Sher Bahadar.	Dismissal from service.
8.	Warder(BPS-5) Jamal-ul-Din.	Compulsory retirement from service.
9.	Warder(BPS-5) Manzoor Khan.	Dismissal from service.
10.	Warder(BPS-5) Muhammad Rishtiaque.	Dismissal from service.
11.	Warder(BPS-5)Hameed Gul.	Dismissal from service.
12.	Warder(BPS-5) Akhtar Zaman.	Dismissal from service.
13.	Warder(BPS-5) Muhammad Ibrahim.	Dismissal from service.
14.	Warder(BPS-5) Zamarak Khan.	Dismissal from service.
15.	Warder(BPS-5) Sakhawat Hussain.	Dismissal from service.
16.	Warder(BPS-5) M.Saeed Khan S/O Mir Subhan.	Dismissal from service.
17.	Warder(BPS-5) Muhammad Yasir.	Dismissal from service.

The period for which Official at S.No.8 above(Jamal-ud-Din) remained under suspension shall be treated as duty for all purposes.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST;NO. 32057-65 /.,

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa , Home and T.As Department Peshawar, for information.
2. Deputy Secretary(D/F) Home and T.As Department Peshawar (Inquiry Officer) for information with reference to his letter No.PA(DS(D&F)HD/Escape inquiry/2012 dated 29-11-2012.
3. The Superintendent, Headquarters Prison Haripur/Peshawar, for information and necessary action.
4. The Superintendent, Central Prison Haripur.

ATTESTED

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OFFICE OF THE
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

NO. _____

DATED _____

5. The Superintendent, Sub Jail Battagram.
   for information and immediate necessary action. All concerned may be informed and necessary entries may also please be made in their Service Books under proper attestation.
6. The District Accounts Officer Haripur Battagram., for information.
7. Office Record Keeper for placing a copy of the said orders in personal files of officers at S.No.1 & 2 above.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

20/12/17

ATTESTED

G-(11)

To

The Secretary,
Home & Tribal Department,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION.**

Sir,

1. Reference impugned dismissal order No. 2/14-J-2010-P2/32056 dated 20/12/2012 on the subject.

2. That the appellant was appointed as warder and posted at central prison Haripur in 2004. The appellant served at the prison with complete devotion and dedication to the entire satisfaction of his superiors and left no stone unturned in the way of his service.

3. That the appellant was served with charge sheet and statement of allegations having baseless allegations, that the appellant had failed to perform duty efficiently and also failed to prevent the escape and left the place between 2.45 to 3.10 AM. The appellant replied and denied the baseless allegations. Hence, the appellant also denied the allegations leveled in the final show cause notice as the appellant performed his duties with due care and complete devotion as per the required standred.

ATTESTED

1-1-13

B.C.No 49064

4. That the inquiry officer did not provide opportunities to the appellant to defend his case and conducted partial inquiry. Following this, the I.G (prison) Khyber Pakhtunkhwa illegally dismissed the appellant from service vide impugned, dismissal order dated 20/12/2012. The impugned dismissal order is illegal, without lawful justification, void, discriminatory and against the law liable to be set-aside on the following grounds:-

GROUNDS:-

a. That the inquiry officer conducted partial inquiry and did not record the accurate factual position and circumstances which led the prisoners escaped and gave the findings on mere surmises and conjuncture.

b. That the appellant has not been provided opportunities to cross examine the witnesses during the inquiry. Therefore the inquiry has illegally been conducted by the inquiry officer. Hence the impugned dismissal order dated 20/12/2012 is liable to be set-aside. That punishment cannot be awarded on the statement of a witness unless the witness is duly cross-examined by the appellant.

ATTESTED

c. That no statements of witnesses were recorded in presence of the appellant.

d. That some employees, against whom similar allegations were leveled against them, have not been dismissed whereas, the appellant has been dismissed which is illegal discriminatory and against the law.

e. That the appellant is innocent and have blotless /clean service record at his credit and he has been made scapegoat, whereas, the others similarly placed who are blue eyed chape as well as senior in ranks have not been awarded major penalty and others who were responsible in the incident were excluded from the inquiry, which is malafide and against the principle of natural justice and equality as enshrined in Article 25 of the constitution of Islamic Republic of Pakistan, 1973.

f. That the rules quoted against the appellant in the statement of allegations do not applicable to the appellant and the dismissal order dated 20/12/2012 is void, discriminating and against the law and is liable to be cancelled.

ATTESTED

g. That the appellant was deployed on patrolling for more than 1½ km out side area of Jail. Besides, the appellant was also to check training centre, alongwith banglow of Superintendent Jail. The appellant was not to stay at a particular point. Hence, no lapse has been committed by the appellant in performance of his duties. The appellant was present at tower No. 2 and went to Tower No. 1 at 2.45 AM to 3.00 AM and thereafter handed over the charge to his substitute at 03.00 AM and the incident took place after 3.05 AM, which was not in the duty timing of the appellant.

h. That the finding of the inquiry officer reads as under:-

1. "The incident was a very coordinated and well-planned. The escaped prisoners were preparing for the escape for quite long time as they not only cut the thick iron bar of the window of their barrack but also prepared a ladder for which they stock the prohibited articles like ropes and wooden rods of TV Antenna".

Ans :- If it was the situations then who were those in whose presence all these criminal acts were being carried out inside the prison for a long

ATTESTED

time. The appellant is not responsible for all these acts done in the prision premises.

2. "The convict officers/numbardars of the barrack also extended their support as 'they neither searched the barrack effectively nor stopped the escaped prisoners from cutting the iron bar".

Ans: "The appellant is not responsible for the acts done inside the Jail".

3. "Staff deployed during day-time also failed to notice the prohibited articles near their barrack which were subsequently used in the escape. It was responsibility of the entire staff to be vigilant and prevent occurrence of such incident".

Ans: The inquiry was not conducted against the responsible all the staff, including the administrative officer but the appellant has been made scapegoat which is discriminatory.

4. "There was no lighting system near the factory and the escaped prisoners took full advantages of this. After breaking the iron bar, they came out, went to the factory side, stayed there for preparing the ladder and waited for the watch and

ATTESTED

ward staff to leave their places of duty and go for change of guard. Since the staff neither performed duty till their duty time nor reach their place of duty well in time, therefore, they succeeded in escape in those 10-15 minutes when there was no one either on beat No. 4 & 5 or outside parameter wall. Staff deployed on watch towers also couldn't notice the escape which shows that they were not alert all the time".

Ans: It is submitted that beat No. 4 & 5 is situated inside the prison but the appellant was available on his place of duty and no action was taken against the staff who were responsible for lightening the area, which is discriminatory.

5. "There were 20 beats in Haripur jail since its very inception but now their number has been reduced to 8 and at some time some of these are also without any watch and ward staff. Discussions with the staff members revealed that warders are deployed at the bungalow of the Superintendent".

Ans: That who and why 20 beats in the said prision has been reduced to 8 beats and why action has not been initiated against the superintendent for deploying warders at his banglows. The appellant

ATTESTED

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with limited staff was present at the place of duty on patrolling.

6. "Lock up of prisoners is a very elaborate process and requires presence and attention of the senior officers, incharge of the sectors to ensure that the procedure laid down in PPRs is strictly followed. But it is being taken a Business as usual".

Ans: "Here again the concerned officers etc. are responsible and not the appellant who was awarded major penalty and which is illegal and discriminatory".

In view of the above, it is prayed that the impugned dismissal order dated 20/12/2012 may be declared illegal, discriminatory, void against the law and be set-aside and the appellant may be re-instated in service with all back benefits.

Note: Dismissal order is attached.

Dated: 01/01/2013

Sincerely yours

01-01-2013

(SAKHAWAT HUSSAIN)
S/o Mubashar Hussain,
Jail Warder, Central Jail,
Haripur
Village & P.O Tanan
Tehsil & District, Abbottabad

ATTESTED

H — (18)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

53667

Dated **Peshawar** the March 21, 2013

ORDER

SO(Com/Enq)/HD/1-39-B/2012-13 **WHEREAS**, The following officials of the Inspectorate of Prisons, Khyber Pakhtunkhwa; were proceeded against under rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the show cause notices dated 04/12/2012, served upon them individually.

AND WHEREAS, the competent authority i.e. the Inspector General of Prisons, Khyber Pakhtunkhwa granted them an opportunity of personal hearing as provided for under Rules ibid and awarded major penalty i.e. Dismissal from Service.

NOW THEREFORE, the dismissed officials of Inspectorate of Prisons, Khyber Pakhtunkhwa submitted an appeal to the Appellate Authority i.e. the Home Secretary, Khyber Pakhtunkhwa, against the order of dismissal from service dated 20/12/2012. The Appellate Authority (The Home Secretary, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officials and affording an opportunity of personal hearing to the accused, findings of the enquiry committee and exercising his power under rule-3 read with Rule-17 (2) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 has been pleased to pass the following orders noted against the name of each official with immediate effect;

S.No	Name & Designation	Orders
1	Fazal Mahmood, Ex-Sr. Asstt: Supt: Jail Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
2	Muhammad Yasir, Ex-Warder,C.P. Haripur.	His order of dismissal from service has been set aside by converting it into stoppage of one increment without accumulative effect.
3	Zamarik Khan. Ex-Warder,C.P.Haripur.	His order of dismissal from service has been set aside by converting it into Removal from Service from the date of his dismissal order
4	Sakhawat Hussain, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Removal from Service from the date of his dismissal order
5	Hameed Gul. Ex-Warder, C.P. Haripur	His appeal has been accepted and he is Exonerated from the charges.

ATTESTED

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GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

6	Muhammad Manzoor, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
7	Sher Bahadar, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
8	Muhammad Ibrahim, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Removal from Service from the date of his dismissal order
9	Muhammad Rishtique, Ex-Warder, C.P. Haripur	His appeal has been rejected and his Dismissal from Service will remain intact
10	Akhtar Zaman, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
11	Shah Qaiser, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
12	Abdus Sattar, Ex-Warder, C.P. Haripur	His order of dismissal from service has been set aside by converting it into Compulsory Retirement from Service from the date of his dismissal order
13	Muhammad Saeed, Ex-Warder,C.P. Haripur.	His order of dismissal from service has been set aside by converting it into stoppage of one increment without accumulative effect.

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA HOME DEPARTMENT

Endst. No. SO(Com/Enq)/HD/1-39-B/2012-13, Dated **Peshawar** the March 21, 2013

Copy of the above is forwarded to the: -

1. Inspector General of Prisons, Inspectorate of Prisons, Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.

21/3/13

(BAHSIR AHMAD)
SECTION OFFICER (Com/Enq)
Ph. No. 091-9214149

21/3/13

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar.

_____ OF 2013

Sakhawat Hussain (APPELLANT) (PLAINTIFF) (PETITIONER)

VERSUS

IGP Prisons & others (RESPONDENT) (DEFENDANT)

I/We Sakhawat Hussain

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated._____/_____/2013

CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.705/2013
Sakhawat Hussain, Ex-Warder
attached to Central Prison Haripur.....**Appellant.**

VERSUS

1- Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar.

2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.

3- Superintendent
Headquarters Prison Peshawar.

4- Superintendent
Central Prison Haripur .....**Respondents**

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 TO 4

Preliminary Objections.

i. That the appellant has got no cause of action.
ii. That the appeal is incompetent and is not maintainable in its present form.
iii. That the appellant is estopped by his own conduct to bring the present appeal.
iv. That the appellant has no locus standi.
v. That the appeal is bad for mis joinder and non-joinder of necessary parties.
vi. That the appeal is barred by law.

ON FACTS

1- Pertains to record, however no comments.

2- Correct to the extent that due to his gross negligence while performing his duties in the capacity of Patrolling Officer outside the parameter wall from 03:00 AM to 06:00 AM in the night between 20/21-10-2012, the escapee successfully materialized their plot of escape. Thus four prisoners, three convicted and one under trial escaped. Resultantly Show Cause Notice was served upon him, later on, inquiry officer has established the charges against him and he was accordingly **dismissed from service** but later on his departmental presentation his **dismissal from service** was converted in to **removal from service**.

3- Incorrect, misleading. As elaborated in the receding Para, the appellant was properly proceeded alongwith other co-accused and after fulfilling all the laid down parameters and finally after establishing the charges against the appellant, major penalty was imposed upon him. There is no lapse with regard to the conduct of formal inquiry proceedings against all the accused in the instance case.

4- Incorrect. Here in this Para the appellant at the same time while submitting certain arguments in support of his appeal unknowingly, deny the arguments put forth in Para-3 of the instant appeal. So far the escape of the escapee is concerned it is a fact that they were confined and made their attempt from inside but as per Prison Rules the appellant was deputed outside the parameter wall with the intention and expectation that he would mobilize the subordinate/co-warders deployed outside the parameter wall to foil any such attempt from outside also, if these responsible for the inside security failed to perform to the required extent.

5- Comments with regard to the grounds arguments are as under:-

GROUNDS: -

A. Incorrect. The orders is strictly in accordance with rules and tenable in the eyes of law.

B. Incorrect, no violation of any Article of the constitution made in the instant case. All codal formalities were accordingly fulfilled. All the accused were given ample opportunities to depend themselves by any means.

C. Incorrect, misleading. As evident from **Annex-A and B** proper charge sheet/statement of allegations were served upon the appellant at proper time.

D. Incorrect, as elaborated above, his **dismissal from service** already been converted into **removal from service,** hence no discrimination has been done with any accused. All of them were treated strictly according to the relevant law/rules.

E. Incorrect, the appellant himself in the same breath is admitting and denying the fact. If he did not get the chance of personal hearing than on what grounds conversion of penalty came into existence.

F. Incorrect, all possible opportunities were granted/provided to the appellant.

G. Incorrect, misleading. No malafide took place and all were treated in accordance with the law.

H. As elaborated in Para-E above. **(Copy of inquiry report is enclosed as Annex-C).**

I. No comments. However, the respondents seek permission of Honorable Tribunal to raise additional ground at the time of arguments.

It is therefore, humbly prayed that on acceptance of this reply, instant appeal may kindly be dismissed with cost throughout.

2- INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.2)

17/12/13

1- CHIEF SECRETARY GOVERNMENT
Khyber Pakhtunkhwa.
(Respondents No.1)

3- SUPERINTENDENT
Headquarters Prison Peshawar
(Respondent NO.3)

4- SUPERINTENDENT
Central Prison Haripur
(Respondent NO.4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.705/2013
Sakhawat Hussain, Ex-Warder
attached to Central Prison Haripur.....**Appellant.**

VERSUS

1- Government of Khyber Pakhtunkhwa through Chief Secretary
Khyber Pakhtunkhwa Peshawar.

2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.

3- Superintendent
Headquarters Prison Peshawar.

4- Superintendent
Central Prison Haripur .....**Respondents**

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 4.

We the undersigned respondents do hereby solemnly affirm and declare that the contents of the parawise comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.

2- INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.2)

1- CHIEF SECRETARY GOVERNMENT
Khyber Pakhtunkhwa.
(Respondents No.1)

3- SUPERINTENDENT
Headquarters Prison Peshawar
(Respondent NO.3)

4- SUPERINTENDENT
Central Prison Haripur
(Respondent NO.4)

Annex-XVII

Annex-A

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OFFICE OF THE
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

NO. 27934

DATED 02-11-2012

DISCIPLINARY ACTION

I, **Shafirullah** I.G.Prisons Khyber Pakhtunkhwa as the competent authority , am of the opinion that **Warder(BPS-5)(under suspension) Sakhawat Hussain 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

He was performed duty as Patrolling Officer outside the parameter wall from 12.00 to 3.00 AM in the night between 20/21-10-2012 did not check the staff on duty at outer beat, and also failed to keep them alert and present on duty which resulted into escape. Thus he has violated Rule-712 of NWFP Prison Rules 1985.

2. For the purpose of inquiry against the said accused with reference to the above allegations, **Mr.Akhter Saeed Turk Deputy Secretary (Finance/Dev;) Home and T.As Department Peshawar** is hereby appointed as Inquiry Officer under Rule-10(1)(a) of the ibid rules.

3. The Inquiry Officer shall, in accordance with the provisions of the ibid 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 punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of Central Prison Haripur shall join the proceedings on the date, time and place fixed by the Inquiry officer.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST;NO. 27935-38 +NS

Copy of the above is forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa Home & T.As Department Peshawar, for information.
2. **Mr.Akhter Saeed Turk Deputy Secretary (Finance/Dev;) Home and T.As Department Peshawar,** the Inquiry Officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. A copy of charge sheet is enclosed herewith.
3. The Superintendent Central Prison Haripur, with the direction to produce the relevant record before the Inquiry Officer and assist him during the Inquiry proceedings.Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by above named official may be returned to this office in token of its receipt.
4. Warder (under suspension) Sakhawat Hussain attached to Central Prison Haripur with the direction to appear before the Inquiry Officer, on the date, time and place fixed by the Inquiry Officer, for the purpose of inquiry proceedings.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Annex - XVII - A

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بخدمت جناب اختر سعید صاحب ڈی سی سٹی ڈسٹرکٹ ہیڈ کوارٹر ہسپتال پشاور

انکوائری آفیسر جناب سید ریاض حسین شاہ

جواب بحوالہ شوکاز نوٹس نمبر 27934 مورخہ 3/11/12

وارڈر۔ سخاوت حسین

جواب مندرجہ ذیل ہے

جناب عالی! گذارش ہے کہ سائل بحیثیت وارڈر سٹریل جیل ہری پور میں تعینات ہے

سائل کی ڈیوٹی مورخہ 15/12 کو شب 3:00AM تا 12:00AM بمطابق

تک بیرونی جیل روڈ گشت بطور پٹرولنگ آفیسر ڈیوٹی تھی۔ جس میں

تمام بیرونی جیل بشمول سپرنٹنڈنٹ جیل بنگلہ اور آفیسرز میس شامل ہیں۔ سائل نے باقاعدہ چیکنگ کی ہے اور تمام بیرونی سنگری پر موجود ملازمین کو وقتاً فوقتاً چیک کیا۔ جو کہ اپنے اپنے پوائنٹ (Beats) پر الرٹ کھڑے تھے

سائل چونکہ پٹرولنگ آفیسر ڈیوٹی سرانجام دے رہا تھا تو اس کیلئے کوئی مخصوص جگہ نہیں ہوتی کہ جہاں وہ کھڑا ہی رہے سرانجام دے سکے۔ اسے تمام بیرونی اطراف پر چیکنگ کرنا ہوتی ہے۔ اور یہ ایریا ڈیوٹی کو سب سے زیادہ وقت لیتا ہے۔ اور ایک چیکنگ میں ایک گھنٹہ صرف ہوتا ہے۔ بیرونی گشت والے اندرونی جیل کی نقل و حرکت کا پتہ نہیں چلا سکتے۔ یہ اندرونی گشت والے یا ڈیوٹی والے ملازمین کو پتہ چلتا ہے تو کہ روزانہ گشت سے پہلے گشتی شب بند ہر سرٹیفکیٹ دیتے ہیں۔ اور اس پر دستخط کرتے ہیں کہ دوران تلاشی تمام کیے اور کوئی ضروری چیز برآمد نہ کی نیز تالے، جنگلہ ٹھیک پائے گئے۔

سائل کی دوران گشت میں ایسا کوئی بھی ناخوشگوار واقعہ رونما نہیں ہوا ہے۔ سائل نے بھی گشت مکمل کر کے نائٹ آفیسر کی موجودگی میں گشت رپورٹ بک کر چارج دوسرے گشت کنندہ زیارک جہاں کو

P.T.O

اور اپنی بیرک میں چلا گیا۔ بعد میں ایمرجنسی الارم پر پولیس عہدداروں نے اٹھایا تو سائل حوالدار سے ڈیوٹی والا پوچھا گیا تو معلوم ہوا کہ جیل سے فرار ہوئی ہے جس میں 3 قیدیان بھاگ گئے اور ایک حوالاتی پکڑا گیا۔ چنانچہ سائل بھی قیدیان کی تلاش کرنے باقی جیل عملہ کے ساتھ ہو گیا۔ سائل نے اس سے پہلے بھی اپنی ڈیوٹی بخوبی سرانجام دی ہے اور آئندہ بھی احسن طریقے سے سرانجام دیتا رہے گا۔ لہذا اس میں سائل کی طرف سے کسی قسم کی کوئی بھی کوتاہی یا غفلت نہیں ہوئی ہے۔

لہذا استدعا کی جاتی ہے کہ سائل کا شوکاز نوٹس داخل دفتر کرنے کا حکم صادر فرمایا جاوے۔

العبد سائل وارڈر سعادت حسین

حال ڈسٹرکٹ جیل بہاولپور

Annex-B 41

CHARGE SHEET

I, **Shafirullah,** I.G.Prisons Khyber Pakhtunkhwa Peshawar , as competent authority, hereby charge you **Mr.Sakhawat Hussain** as follows :

That you, while posted as **Warder (BPS-5)** at Central Prison Haripur committed the following irregularities:

You were performed duty as Patrolling Officer outside the parameter wall from 12.00 to 3.00 AM in the night between 20/21-10-2012 do not check the staff on duty at outer beat and also failed to keep them alert and present on duty which resulted into escape. Thus you have violated Rule-712 of NWFP Prison Rules 1985.

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 rules ibid.

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

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUN KHWA ESHAWAR.

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT

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NO. PA (DS(D&F)/ HD/Escape Inquiry/2012
DATED 29TH NOVEMBER, 2012

Annex-C

To

Inspector General of Prisons
Khyber Pakhtunkhwa,
Peshawar.

Subject: - **INQUIRY UNDER E&D RULES 2011 AGAINST STAFF OF CENTRAL PRISON HARIPUR WITH REGARD TO THEIR CONDUCT IN THE ESCAPE OF PRISONERS ON THE NIGHT BETWEEN 20TH AND 21ST OCTOBER,2012.**

Reference is invited to the subject noted above and charge sheets & statements of allegations served upon various staff members of Central Prison Haripur. The undersigned was nominated as Inquiry Officer in the subject case.

Enclosed find herewith the Inquiry Report containing 24 pages alongwith all Annexures as mentioned in the enclosed Inquiry Report for further necessary action.

Receipt of the Inquiry Report may kindly be acknowledged.

(AKHTAR SAEED TURK)
Deputy Secretary (D&F)

ENCL: As above.

ENDST. NO.AND DATE EVEN

Copy of above is forwarded for information to PS to Secretary Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa.

Deputy Secretary (D&F)

21057
30-11-12

3/12/202

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ENQUIRY UNDER E&D RULES AGAINST CENTRAL PRISON HARIPUR STAFF

INTRODUCTION

On account of escape of four prisoners, three convicted and one under-trial, from Central Prison Haripur on night between 20th and 21st October, 2012, fact finding inquiry was conducted to fix responsibility. Subsequently Inspector General of Prisons has served charge Sheets and Statements of Allegations on some officers and officials of Central Prison Haripur and nominated the undersigned as Inquiry Officer to probe their conduct vis-à-vis these charges.

ENQUIRY PROCEEDINGS

Superintendent central jail Haripur was informed vide **Annex-I**, that the undersigned shall visits the central jail on 21/11/2012 and requested to inform all the accused and to ensure their presence on the date along with their written defence. All the accused were present on the date. They were given ample opportunity for their defence and were cross examined in the presence of relevant staff. Relevant record was procured from the office of the Superintendent Central Jail Haripur.

CHARGES AGAINST THESE EMPLOYEES AND THEIR REPLIES ARE REPRODUCED BELOW.

S.#	CHARGES	JIST OF THEIR REPLIES
1.	**Charges Against Muhammad Naeem Khan Senior Assistant Superintendent Jail (Annex-II)** i. As per statement of recaptured under trial prisoner Muhammad Safdar, iron cutter and tranquilizer tablets were provided to the escapees by their brother Irshad in interview on 25/09/2012 which shows failure on his part as in-charge interviews and resulted into the mishap of escape of four prisoners from the jail in the night between 20/21-10-2012. ii. The escapes kept on cutting the iron bar of the window of the barrack for 4/5 days but neither had he noticed it which shows negligence/inefficiency on his part. He also failed to properly search his sector/barrack to recover the prohibited articles despite	i. He in his reply at **Annex-II-A**, has denied the charges and stated that it is the responsibility of he warder staff who have been assigned duties of search on the main entrance, main gate of the jail and chakkar. No items are passed/given through Interview room rather the items pass through the Main Gate. Under rule 559 of the PPR it was/is the responsibility of the warder to search every prisoner before and after interview. ii. He has performed his duties efficiently and there is no violation of any rule. He had attended all the lock-ups except that of 20th October,2012 as he was on leave. Checking and searching the barracks is the duty

	provision in rules and despite repeated instructions recorded by the Superintendent jai in his journal. Meaning thereby that locks up were made without following the procedure given in rule 704 of prisons rules. Thus he has violated rule 657, 705, 1072 and 1095(f) of the NWFP Prison rules 1985.	of watch and ward staff as envisaged under various rules of PPR. iii. Since there is no adverse report or explanation has ever been called of him therefore he has not violated rule 1095(f).
2.	**Charges Against Zahoor Elahi Senior Assistant Superintendent Jail (Annex-III)** He supervised lockups of sector 4 on 20/10/2012 but failed to ensure that the procedure laid down in rule 704 properly and effectively carried out which resulted into the mishap of escape of four prisoners from the jail in the night between 20/21-10-2012. Thus he has violated rule 657, 705, 1072 and 1095(f) of the NWFP Prison rules 1985.	i. He vide his statement at **Annex-III-A**, denied the charges leveled against him and took the plea that he was not responsible for Sector 4 as he has been assigned Sector 1 by the Superintendent.
3.	**Charges against Fazal Mehmood Senior Assistant Superintendent Jail (Annex-IV)** **i.** Due to his gross negligence / inefficiency in the performance of his duties four prisoners made good their escape from the jail in the night between 20/21-10-2012 at about 03:00 AM, thus he has violated rule 657, 1072 and 1095(f) of the NWFP Prison Rules 1985. **ii.** he failed to keep proper supervision over the staff on duty. **iii.** He also failed to ensure timely change of guard and presence of warder staff on duty till arrival of substitute in the night of occurrence.	i. He denied all the charges vide statement at **Annex-IV-A**, and stated that he performed his duties efficiently and honestly. ii. He supervised all the staff under his control. iii. Change of guards was carried out well in time by him.
4.	**Charges against Head Warder Abdul Sattar (Annex-V).** **i.** The escaped prisoners kept on cutting the iron bar of the window of the barrack for 4/5 days but neither	He also denied all the charges against him vide his statement at **Annex-V-A** and stated that he performed his duties well and effeciently and the incident had not occurred during his duty hours.

	had he noticed it which shows negligence / inefficiency of his part being in-charge of sector No. 4 and resulted into mishap of escape of four prisoners from jail in the night between 20/21-10-2012. He also failed to properly search his sector / barrack to recover the prohibited articles despite provision in the rules and despite repeated instructions recorded by the Superintendent jail in his journal. Meaning thereby that lockup were made without following the procedure given in rule 704 of the prison rules. Thus he has violated rule 1139 of the NWFP Prison Rules 1985. **ii.** He did not act in accordance with the procedure in rule 704 of the rules ibid and locked up the prisoners without search and without testing the windows gratings in violation of rule 704 of the NWFP Prison Rules 1985 although he certified in the lock register that prisoners were locked up after search and all locks, gratings were checked.	He checked all the gratings and found in order.
5.	**Charges against Warder Bahrawar (Annex-VI).** As per statement of recaptured under trial prisoner Muhammad Safdar, iron cutter and tranquilizer tablets were provided to the escapees by their brother Irshad in interview on 25/09/2012 which shows failure on his part as search duty in interview room on that day afforded full advantage to the escapees to make good their escape from the Jail in the night between 20/21-10-2012.	He denied the charges against him vide statement at **Annex-VI-A**, and stated that his duty was not in Interview Room rather he was assigned duty on main gate. He performed his duty of search effeciently. No prohibitted article has entered into jail during his duty hour or through main gate.
6.	**Charges against Warder Siddique (Annex-VII).** As per statement of recaptured under trial prisoner Muhammad Safdar, iron	He denied the charges against him vide statement at **Annex-VII-A** and stated that his duty was not in Interview Room rather he was assigned duty on

	cutter and tranquilizer tablets were provided to the escapees by their brother Irshad in interview on 25/09/2012 which shows failure on his part as search duty in interview room on that day afforded full advantage to the escapees to make good their escape from the Jail in the night between 20/21-10-2012.	main gate. He performed his duty of search effeciently. No prohibitted article has entered into jail during his duty hour or through main.
7.	**Charges against Warder Shah Qaisar (Annex-VIII).** He was performing the duty of patrolling officer from 12:00 AM to 03:00 AM in the night between 20/21-10-2012, failed to perform his duties of keeping at alert the warders in beats inside parameter wall and on watch towers and checking the Numberdars counting the prisoners and testing bolts, locks, grating. Thus he has violated rule 712 of the NWFP Prison Rules 1985.	He denied the charges leveled against him and stated vide statement at **Annex-VIII-A** that he performed his duties efficiently. He had handed over charge to his substitute Tajdar Ali well in time and everything was ok then. All the staff on duty during 11:00 PM to 3:00 AM has given OK report.
8.	**Charges against Warder Sher Bahadur (Annex-IX).** He was performing the duties as Round / Patrolling officer Chakkar from 01:00 AM to 03:00 AM in the night between 20/21-10-2012 failed to keep staff and Numberdar in sector No. 4 barrack No. 5 alert in violation of rule 712 of the NWFP Prison Rules 1985 ibid due to which the prisoners succeeded in slipping out their barrack.	He vide statement at **Annex-IX-A** has refuted the charges against him and stated that he performed his duty in effective manner by checking all the concerned staff and numberdar who were alert.He further stated that he didn't leave his place of duty before time. Rather he handed over charge to his substitute Jamal ud Din on time. In his statement in Urdu (**Annex-IX-B**) he has not offered any defence.
9.	**Charges against Warder Jamal Uddin (Annex-X).** He was performing the duties of round officer Chakkar from 03:00 AM lockout in the night between 20/21-10-2012 did not reach sector 4 in time and failed to notice the escape of the prisoners from the barracks which delay rendered their recapture	He denied the charges against him vide **Annex-X-A** and stated that he took over charge at 3:00 AM, made a round and met the Night Duty Officer Fazal Mahmood. Suddenly they received a call from the Main gate asking for reaching to the gate immediately. On reaching the Main gate they saw that an escaped prisoner

	impossible.	was recaptured. He stated that the incident has occurred much before his arrival and not during his duty hours.
10.	**Charges against Warder Manzoor Khan (Annex-XI).** He was performing the duty in sector No 4 from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 bitterly failed in performance of his duties and did not keep the Numberdar alert nor did ensure the safety of the prisoner in violation of rule 711 of NWFP Prison Rules 1985 ibid due to which the escapes slipped out of the barrack while the Numberdar was asleep.	He vide statement at **Anex-XI-A** also denied the charges against him and stated that he performed his duty very well,made around of Sector 4 and found the numberdars alert and the incident has taken after 3:00 AM when he had left the charge. As per his statement no one is assigned duty in Chakkar after 3:00 AM to 6:00 AM.
11.	**Charges against Warder Hameed Gul (Annex-XII).** He was posted inside beat No 5 from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 did not prevent the escape as he left his place of duty early and without arrival of substitute in violation of rule 1149 of NWFP Prison Rules 1985.	As per his statement at **Annex-XII-A** he performed his duty in effective manner and didn't leave his place of duty before time. He left the charge after arrival of his substitute. The incident has not occurred during his duty hours.
12.	**Charges against Warder Rishtiaque (Annex-XIII).** He was posted inside beat No 4 from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 did not prevent the escape as he left his place of duty early and without arrival of substitute in violation of rule 1149 of NWFP Prison Rules 1985.	He has stated vide statement at **Annex-XIII-A** that the incident has not taken place during his duty hours. He did his job in efficient manner. As per his statement left he left the place of duty after Night Duty Officer told that no substitute was available for him and he ould go after 3:00 AM.
13.	**Charges against Warder Akhtar Zaman (Annex-XIV).** He did not perform duty properly at tower No 2 from 12:00 AM to 03:00AM in the night between 20/21-10-2012 failed to prevent escape although the area from where	He also denied the charges vide **Annex-XIV-A** and stated that he performed his duty very well. It was he who noticed the the recaptured escapee after having heard sound of falling of something and shouted at his height to make the people alert and

	escape took place was visible from tower.	asked for help. Two colleagues came and recaptured the escapee. Being locked in the tower he couldn't come out to capture the escapee. He tried to fire shots but the gun didn't work.
14.	**Charges against Warder Mohammad Ibrahim (Annex-XV).** i. He did not perform duty properly at tower No 3 from 12:00 AM to 03:00AM in the night between 20/21-10-2012 failed to prevent escape although the area from where escape took place was visible from tower. ii. He left his place of duty early without arrival of his substitute violating rules 1149 of NWFP Prison Rules 1985.	He, vide **Annex-XV-A**, also denied the charges and stated that lighting system in the area was out of order. The place i.e beat No.4 wherefrom the escape had taken place is nearer to tower No.2 and not tower No.3 where he was deployed. Since he was locked in the tower therefore leaving the place without waitig for a substitute doesn't arise.
15.	**Charges against Warder Zamarak Khan (Annex-XVI).** He was posted as patrolling officer outside the parameter wall from 03:00 AM to 06:00 AM in the night between 20/21-10-2012 did not reach his place of duty due to which assistance to the warders who captured one of the escapees reached late and search operation was delayed.	He also refuted the charges against him. As per his statement at **Annex-XVI-A** he took charge from Sakhawat Hussain at 3:05 AM and was making a round when he heard a voice of fire. He went towards Tower No.4 and then Tower No.3 when he saw that warder Imran had captured/controlled the escaped prisoner Safdar.
16.	**Charges against Warder Sakhawat Hussain (Annex-XVII).** He was performing duties as patrolling officer outside the parameter wall from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 did not check the staff on duty at outer beats and also failed to keep them alert and present on duty which resulted into escape. Thus he has violated rule 712 of NWFP Prison Rules 1985.	He refuted the charges against him (**Annex-XVII-A**) and stated that he performed his duties in effective manner and keep the staff alert constatnly. The incident has not taken place in his duty hours.
17.	**Charges against Warder Muhammad Saeed (Annex-XVIII).** He was performing duties duly	He also denied the charges vide **Annex-XVIII-A** and stated that he handed over charge to his substitute

	armed at outer beat from tower No 2 to 3 from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 failed to perform his duty properly and left his place of duty early and without arrival of substitute in violation of rule 1149 of NWFP Prison Rules 1985, due to which the escapees safely crossed the parameter wall.	Shah Faisal near Tower No.3 at 3:05 AM and everything was ok at that point of time. The escape has not taken place during his duty hours.
18.	**Charges against Warder Muhammad Yasir(Annex-XIX).** He was performing duties duly armed at outer beat from tower No 2 to 3 from 12:00 AM to 03:00 AM in the night between 20/21-10-2012 failed to perform his duty properly and left his place of duty early and without arrival of substitute in violation of rule 1149 of NWFP Prison Rules 1985, due to which the escapees safely crossed the parameter wall	He also denied the charges and stated vide his reply at **Annex-XIX-A** that he handed over charge to his substitute Imran near Tower No.3 at 3:05 AM and everything was ok at that point of time. The escape has not taken place during his duty hours.

Before discussing the findings against each of the accused it would be appropriate to highlight the relevant rules concerning the procedure for management of prisoners, their locking and unlocking and the duties and responsibilities of the Prison staff.

Discipline and movements of prisoners

Rule 657.-- Prisoners shall be kept and shall remain under strict order, discipline and control both by day and night. All movements of prisoners shall be conducted in an orderly and regular manner, under strict control.

Unlocking of prisoners

Rule 660.-- One hour before sunrise the bugler shall sound the reveille, and the prisoners shall rise as soon as it is sounded. They shall arrange their bedding and spare clothing neatly on their sleeping berths and shall then sit there and counted by the convict officers. On the arrival of the Deputy-Superintendent or Assistant

Superintendent and warder, each barrack shall be unlocked; the prisoners marched in pairs and counted by the day head warder. The officer detailed for this duty shall verify the number of prisoners counted out of each barrack by comparison with the entries in the lock-up register. When the prisoners have been counted and the Deputy Superintendent has satisfied himself that the number of prisoners unlocked is correct, the night duty warden shall be marched out of the prison. The completion of unlocking shall be announced by the bugle call.

Distribution into work parties

Rule 664.-- (i) After breakfast, the prisoners shall be distributed into their respective work parties. A record of the names of the prisoners made over to each warder during the day shall be kept in a register and every subsequent change of a prisoner from one party to another shall be recorded therein. Each party shall be made over to its responsible officer and marched to its working place.

(ii) Prisoners who 'are to work in the prison factory shall be assembled in an orderly manner at the factory gate under the supervision of chief warder or head warder. They shall be handed over to the head warder incharge of the factory who will count them and give a proper receipt for them. He shall maintain a daily attendance register of all prisoners working in the factory. The same procedure will be observed in the afternoon at the closure of the factory. All prisoners leaving the factory shall be searched by the head warder in the presence of the Assistant Superintendent incharge of the factory.

The duties of warders Incharge of outside parties

Rule 702.--Every warder Incharge of a pony working outside the prison shall keep a vigilant eye on the prisoners in his party and shall not allow them to wander or go out of work area on any pretext whatever. He shall be personally responsible for their safe custody throughout the whole period of his duty. He shall check the prisoners frequently during his hours of duty. Prisoners working all day at a distance from the prison shall be provided with a temporary latrine in close proximity to the work and under the eye of the warder incharge. Permanent warders with experience should be placed in charge of out-parties. Every warder incharge of an out-party shall keep a list of prisoners which shall be initialed by the checking officer at the time of his visit.

Checking of out-parties

Rule 703. (i) The chief warder or a head warder shall check the out-parties at least twice daily once before noon and once in the afternoon.

(ii) The Deputy Superintendent or an Assistant Superintendent shall check the out-parties twice daily once in the morning and again in the afternoon at uncertain hours.

(iii) The Superintendent shall pay surprise visits to the out-parties at least once a month and satisfy himself that the rules are duly complied with and shall record the fact in his order book.

Evening count and lock up of prisoners

Rule 704.-- After the evening meal as over the prisoners shall be locked up hi the following manner:-

(i) Every barrack, ward and cell shall be searched by the head warder Incharge. Clothing, bedding and other articles of prisoners shall also be searched. The gratings of doors and windows shall also be checked by him.

(ii) The head warder, warders and convict officers shall then carefully search every, prisoner with due regard to privacy and decency.

(iii) The name of every prisoner shall then be called from the attendance register of the barrack who shall then enter the barrack. The head warder shall keep a count of the prisoners. The prisoners shall sit on their berths where the convict officers on night duty shall again count them and report the number to the head warder. When the head warder is satisfied that the number is correct he shall lock the barrack. The number lock-up in the barrack shall be written by chalk on a black slab outside the barrack door.

(iv) When all the prisoners, except the convict Officers on duty in enclosures and main wall, have been locked up, the total number of prisoners shall be verified. The number of prisoners locked up in each barrack, ward and cell block as well as the total number of prisoners in the prison shall be recorded in the lock up register to which the Deputy Superintendent shall append his signatures in token of correctness.

(v) Lock up of prisoners shall be completed before sunset.

Deputy Superintendent, Assistant Superintendents to be present at lock up

Rule 705.-- All Assistant Superintendents shall be present in their respective charges at evening lock up and ensure that the procedure laid down in the preceding rule is being properly and effectively carried out. The Deputy Superintendent shall be present in, the prison at this time, and shall ascertain by surprise visits to various parts of the prison, that all officers are present at their posts, and lock up is being carried out properly.

Duties of warders on night watch

Rule 711.-- The duties of every warder on night watch are:-

(i) To patrol the main wall of the prison, he shall not quit his nest or sit down, and shall be armed with a baton;

(ii) To watch the prisoners and premises vigilantly in order to preserve silence, order and security;

(iii) To see that convict officers do not sit but patrol the barracks constantly during their watch; -

(iv) To be constantly on the move examining each barrack to see that every prisoner is no his berth, and that the ward is property lighted.

(v) To examine frequently bolts, locks, gratings and doors in order to satisfy himself fully that they are intact;-

(vi) To get the prisoners counted by convict officers on duty at least once in every hour arid-to satisfy himself that the number is correct and

(vii) To give immediate alarm by blowing his whistle on the happening of any occurrence requiring prompt action such as escape, riot, fire etc.

Duties of patrolling Officers

Rule 712.-- The duties of every head warder or warder on patrol duty at night are:-

(i) To see that night sentries both inside and outside the barracks are on the alert;

(ii) To go around each barrack or cell block ones every hour, examining lock, bolts, gratings, doors, walls and roofs in order to satisfy himself fully that they are intact;

(iii) To frequently get the prisoners counted by convict officers on duty and to satisfy himself that the number is correct;

(iv) To see that every association barrack confining prisoners is well lighted;

(v) To patrol the main wall and ensure that warder convict officers are alert and watch tower sentries are vigilant;

(vi) To report immediately any cases of serious sickness to the junior Medical Officer and the Assistant Superintendent on duty who shall, if necessary, take steps for the removal of the sick prisoner to hospital and

(vii) To raise alarm and send immediately information to the Assistant Superintendent on night duty and the Deputy Superintendent of any occurrence requiring prompt action, such as an escape, riot, fire etc.

System of watch inside the barracks at night

Rule 715.-- Every Barrack in which prisoners are confined shall be patrolled inside by a convict officer at a time who shall be relieved at the time the warder guard is

changed. A roster showing the names of the convict officers detailed for duty in each barrack or ward, with the hours of duty shall be kept in the night duty register of convict officers. The duties of these convict officers shall be changed at every fortnight. When exceptional precautions are necessary or a barrack is on unusual length, more convict officers may be placed on duty at one time, each being allotted a definite beat.

General Duties

Rule 1044.-- (i) An assistant superintendent shall, subject to the orders of the superintendent, be competent to perform any of the duties, and be subjected to all the responsibilities, of a Deputy Superintendent under the Prisons Act, or any rule there under.

(ii) Assistant Superintendent shall be subordinate to the Deputy Superintendent and shall obey all orders issued by him.

(iii) The Assistant Superintendent may be assigned to the Assistant Superintendent when this officer is temporary absent or incapacitated for duty.

(iv) Some of the duties of the Deputy Superintendent may be assigned to the Assistant Superintendents, who shall perform such duties under the general supervision of the Deputy Superintendent.

Assignment of duties

Rule 1045.-- (i) The Assistant Superintendent shall perform such duties as the superintendent may prescribe in writing in his order book. The duties shall be clearly prescribed and shall be changed periodically to afford them every opportunity to acquire a thorough training and all round experience of every detail of prison management.

(ii) The following duties shall ordinarily be allocated to the Assistant Superintendents: -

(1) Direct charge of a section of the prison including the prisoners confined there and the Government property that may be located there.

(2) Admission, transfer and release of prisoner.

(3) Award of ordinary remission to prisoners.

(4) Appeals and petitions of prisoners.

(5) Supervision of factories.

(6) Supervision and drill of warder guard.

(7) Supervision of cookhouse, issue of rations to the cooks and the examination of cooked food and its distribution.

(8) Supervision of interviews and letters of prisoners.

(9) Search of prisoners and buildings under their charge.

(10) Maintenance of registers pertaining to their duties and responsibility for their correctness.

(11) Maintenance of report book, when incharge of a factory or circle to record discharge of their daily duties, and any important matter concerning their duties which may be necessary to bring to the notice of the Superintendent.

(12) Presence and supervision at distribution of meal and at evening lock-up.

(13) Night round on turn and search of relieving and relieved night guard once a week.

(iii) The Assistant Superintendents shall perform all other duties as are prescribed in the various chapters of the Prison Rules.

Weekly checking of clothing and equipment

Rule 1047.-- Every Thursday evening the Assistant Superintendents incharge of circles shall bold a parade of the prisoner confined in their circles and shall-

(a) Carefully inspect every prisoner;

(b) Examine and check the clothing bedding, utensils and history tickets of every prisoner

(c) Check the barrack register and satisfy themselves that every prisoner is present or accounted for; and
satisfy themselves generally that everything is in proper order. They shall record in their report book the shortages (if any), the state of clothing, cleanliness of barracks and yards and any other matter of important relating to prisoners of their circle

Duties of chief warder and head of chief warder*Rule 1138.*-- The chief warder in Central and first class District Prisons and the senior head warder in other prison shall: -

(a) Post the warders under the orders of the Deputy Superintendent explaining to each warder the duties and responsibilities of his post and supervise the warders on duty:

(b) Assist the Deputy Superintendent at unlocking midday count and look-up and in the distribution of various parties in the morning and their collection in the evening and the maintenance of attendance register.

(c) Visit and count at uncertain hours all parties working inside the prison and for with report to the Deputy Superintendent any unusual occurrence.

(d) Visit the main wall and satisfy him that the convict officers on the main wall duty are preset at their posts, and are on the alert.

(e) Supervise the distribution of food and the conservancy arrangements.

(f) Cause all gratings door or other openings of enclosures and barracks in which prisoners are confined to be secured and satisfy himself by personal inspection that they are secure.

(g) Pay surprise is its to all outside parties and visit them at least once daily and,

(h) Be responsible for the general cleanliness of the warders line, and see that all warders live in the quarters provided for them. He shall report warders who absent themselves without leave, or who permit released prisoners or friends and relatives of prisoners to remain in or to visit their quarters.

Duties of Head warder

Rule 1139.-- It shall be the duty of every head-warders to: -

(a) Superintendent the warders subordinate to him in the discharge of their duty ties;

(b) Assist in every possible way in the management of the prison, the prevention of escapes and the maintenance of order and discipline generally amongst subordinate officers and prisoners;

(c) Comply with the requirement of all rules regulations, and orders-about the duties he is to perform and the manner in which he is to perform them;

(d) Assist the Deputy Superintendent in all routine duties;

(e) Open the cells barracks and other compartments each morning and count the prisoners;

(f) Distribute the prisoners, who are liable to labour to their work parties each morning;

(g) Cause the name and prison number of every prisoner placed in-charge of any warder to be entered in the attendance register;

(h) Issue all necessary tools: raw materials and other articles required for the day's work and to keep a record of all articles issued;

(i) Collect all such articles, together with the produce of the prisoners labor in the evening;

(j) Satisfy him self that all articles issued have been duly returned to him or accounted for;

(k) Measure or check the task performed by each prisoner and note the same in, the task sheet;

(l) Supervise the use of latrines, bathrooms and the distribution of meals

(m) Check all prisons at each change of guard

(n) Check all gratings, locks bolts and the like daily and satisfy him that they are secure.

(o) Keep all the building under his charge neat and clean and in proper state of repair.

(p) Cause all bamboos, scantlings, poles, Ladders, ropes, well-gear and other articles likely to facilitate escape to be removed and, kept in a safe place, beyond reach of prisoners.

(q) Keep constantly moving about while on day duty amongst the prisoners, supervising the work and discipline of the prison and keeping the warders and Convict officers on the alert.

(r) In the presence of the Assistant Superintendent, to count, search and lock the prisoners in cells, barracks, etc., at the prescribed time, each evening and

(s) Give the warders half an hour's drill daily.

Duties of Head warders on reliving guard*Rule 1140.*-- (i) No head-warder or warder shall keep his post of duty until be has been duly relieved and his responsibility shall continue till he is relieved.

(ii) The senior head-warder shall, at least ten minutes before the hour fixed for reliving the guard on duty, collect the warders of the relieving guard in the main gate. At the proper time he shall march the relieving guard to their respective posts and remove the guard to be relieved. The relief shall be carried out with military precision.

(iii) No relief whether by day or night shall be effected otherwise than in the presence of both the relieved and the relieving officers and also of the senior head warder carrying out the relief such head warder shall satisfy himself that the party is complete and corresponds with the number in the attendance register.

(iv) Warder whether going on or off duty shall be marched, in double file. When the relief is complete the relieved head-warder shall march the relieved wader to the main gate.

Detailed duties

Rule 1148.-- It shall be the duty of every warder: -

(a) Not to take off any portion of his uniform or lie or sit down while on duty.

(b) To know the number of prisoners in his charge, to count them frequently during his hours of duty and to satisfy himself that he has in his custody, not only the correct number, but also the particular prisoners for whom he is responsible

(c) To search the prisoners as well as the factories, cells and barracks in which they ire confined at the time of receiving and making over charge.

(d) To report every prisoner whom he considers to have committed a prison offence;

(e) To see that any prisoner who has to go to the latrine at unauthorized times, is made over to the charge of a responsible officer whilst away from the party

(f) To maintain scrupulous cleanliness in the buildings in his charge and see that the drains are clean and kept free from silt;

(g) To bring to the notice of the Assistant Superintendent and Junior Medical Officer any prisoner appearing to be ill or complaining of illness.

(h) To report any plots for escape, assault, out-break, or for obtaining prohibited articles.

(i) To give an immediate alarm by blowing, his whistle if a prisoner is missing, or if any disturbance appears imminent or takes place.

(j) To prepare prisoners for parades and see that each prisoner takes his place in proper order and behaves well; and.

(k) To keep his arms and accoutrements clean, in good order and fits for immediate use.

No warder to leave his post

Rule 1149.-- No warder shall, while on duty, at any times, under any circumstances, on any pretext, leave his post or absent himself from duty until relieved in due course and released from duty. Provided that he may leave his seat to prevent an escape or to assist in sub during a disturbances taking place within his sight when he is on main-wall duty or when is in-charge of prisoners, if he can do so without serious risk to the safe custody of his prisoners.

Duties on being relieved

Rule 1150.-- A warder on being relieved shall explain to his successor what the duties of the charge are, and shall bring to the notice any long-termed and dangerous prisoners. The relieving warder shall, before taking charge, satisfy himself that the property and the number of prisoners made over to him are correct.

FINDING

Each accused was given full opportunity to explain his position. From the statements of the recaptured prisoner, accused officers and officials, inspection of all the sites of jail including Interview room and site of occurrence following facts came to the fore:-

1. The incident was a very coordinated and well-planned. The escaped prisoners were preparing for the escape for quite long time as they not only cut the thick iron bar of the window of their barrack but also prepared a ladder for which they stock the prohibited articles like ropes and wooden rods of TV Antenna.
2. The convict officers/numbardars of the barrack also extended their support as they neither searched the barrack effectively nor stopped the escaped prisoners from cutting the iron bar.

3. Staff deployed during day-time also failed to notice the prohibited articles near their barrack which were subsequently used in the escape. It was responsibility of the entire staff to be vigilant and prevent occurrence of such incident.
4. There was no lighting system near the factory and the escaped prisoners took full advantage of this. After breaking the iron bar, they came out, went to the factory side, stayed there for preparing the ladder and waited for the watch and ward staff to leave their places of duty and go for change of guard. Since the staff neither performed duty till their duty time nor reach their place of duty well in time, therefore, they succeeded in escape in those 10-15 minutes when there was no one either on beat No.4 &5 or outside parameter wall. Staff deployed on watch towers also couldn't notice the escape which shows that they were not alert all the time.
5. There were 20 beats in Haripur jail since its very inception but now their number has been reduced to 8 and at some time some of these are also without any watch and ward staff. Discussions with the staff members revealed that warders are deployed at the bungalow of the Superintendent.
6. Gate Keeper Register is not properly maintained. This register if properly maintained and entries made well on time will show exact time of the persons be they staff members or visitors who enter or leave the main gate. Relevant pages of the said register at **Annex-A** are silent about entry and exit time of some of the accused.
7. Lock up of prisoners is a very elaborate process and requires presence and attention of the senior officers, incharge of the sectors to ensure that the procedure laid down in PPRs is strictly followed. But it is being taken a Business as usual.

8. **MUHAMMAD NAEEM KHAN SENIOR ASSTT. SUPERINTENDENT**

The said Senior Assistant Superintendent Jail is serving the Prisons Department since long. Being incharge of Sector 4 he was responsible for the duties as enshrined in rules 1044 to 1047 as highlighted above.

First charge of negligence on his part while performing duty in Interview Room is not proved as he is not supposed to check and search the articles brought by the visitors for their relative prisoners.This is the responsibility of the warders deputed at the main gate to check these items. Moreover, there are more than three points where search of items meant for the prisoners is carried out.

The second charge that he didn't perform his duty as Sector Incharge is partially proved. Though he was on leave on 20th October, 2012 but under the rules being Sector incharge he was supposed/required to supervise that

unlocking and locking of prisoners is carried out as per rules/procedure mentioned in the Pakistan Prison Rules which he couldn't' t ensure. Had he ensured that all the barracks of Sector 4 has been carried out by the Head Warder and Warders and prohibited articles recovered this incident might not have occurred. Under rule 1072, he along with other staff was required to take all lawful measures to prevent the commission of any prison offence and to enforce all rules, regulations and orders for the time being in force in regard to conduct and discipline of the prisoners and the administration of the prison. Though he was on leave on 20th october,2012 but even two days before he failed to lock up the prisoners in Sector 4 though he was incharge. Zahoor Elahi locked up the prisoners in Sector 4 as is evident from initials in Ginti Band (lock up) register which is also called AAmad Kharij Register at **Annex-B** (initials are highlighted). Lock ups of prisoners is a crucial process in the prisons but it has become a routine matter and is not taken seriously. Most of the time prisoners are locked up under the supervision of Head Warders and not Assistant Superintendent and anyone put his initial on the register.

9. ZAHOOR ELAHI ASSISTANT SUPERINTENDENT

Charge against him stands proved.Though he was not incharge of Sector 4 on that fateful night but he supervised the lock up process. If he was not responsible for Sector 4 then why he signed the "Amad Kharij Register" (relevant pages at **Annex-B**) which proves that he supervised the counting of prisoners, scrutinized the newly entered prisoners in Sector and the prisoners shifted to other sectors or released. He failed to ensure that lock up is carried out as per procedure laid down in rule 704 of the PPR. He also failed to perform duties as prescribed in rule 1045 of the PP. As is evident from his initials and entries at Annex-A, he locked up the prisoners in Sector 4 two days earlier as well.

10. FAZAL MAHMOOD KHAN ASSISTANT SUPERINTENDENT

Charges against Fazal Mahmood Khan stand proved. Though he made rounds, checked the staff on duty for some time but failed to ensure that all he staff on duty is alert. Further he failed to ensure that change of guards is carried out well in time and as per procedure laid down in the PPR. Warders on duty left their places of duty before 3:00 AM but he not only failed to ensure that they are on their duty places till the time of duty i.e 3:00 AM but didn't report that matter. At night he was responsible for the whole jail. Had he kept them alert all the time

the incident might not have occurred. Mere escape of four prisoners is sufficient to prove that he could not properly supervise the jail at night.

11. ABDUL SATTAR HEAD WARDER

Charges against him proved as he failed to carry out search and check duty in Sector 4 for which he was responsible as per rule 704 of the PPR. Had he properly performed duty he would have found that iron cutter was available with the escaped prisoners which they used for some days for cutting the bar but he failed to notice even the cutting process. As per rule 704 he was required to search every barrack. Clothing, bedding and other articles were also to be searched. Gratings of doors and windows were also to be checked by him but he failed to do which resulted into the escape of four prisoners. He had reported in register that all gratings and windows were checked and found in order as is evident from entries in the register (relevant pages are at **Annex-C**. As per statement of the recaptured prisoner Safdar at **Annex-D** which was recorded immediately his recapture they succeeded in cutting the iron bar completely on 20-10-2012 and at 2:25 AM they escaped from the barrack and entered the factory area and stayed there for some time waiting for the change of guards. They perhaps had noted the routine in jail and were aware of the fact that watch and ward staff leave their place of duty ahead of their time which helped them a lot in their escape.

12. BAHRAWAR WARDER

Charges against him partially proved. He was on duty on Main gate and not in Interview Room as stated/alleged in the charge sheet and statement of allegations. All the statements of other accused officials and discussion with Mr. Riaz Moharrar, the representative of Superintendent Central Prison Haripur show that the iron cutter did not pass through the main gate or interview room rather the same was stolen from the factory where these articles are available in abundance. However about tranquillizer tablets their reply is not satisfactory. Discussions with doctors of the jail reveal that they only prescribe medicine on proper investigation/examination. It is most likely that these tranquillizers were passed through main gate under the pretext of medicines.

13. SIDDIQUE WARDER

Charges against him partially proved. He was on duty on Main gate and not in Interview Room as stated/alleged in the charge sheet and statement of allegations. All the statements of the accused officials and discussion with Mr. Riaz Moharrar, the representative of Superintendent Central Prison Haripur show that the iron cutter did not pass through the main gate or interview room rather the same was stolen from the factory where these articles are available in abundance. However about tranquillizer tablets their reply is not satisfactory. Discussions with doctors of the jail reveal that they only prescribe medicine on proper investigation/examination. It is most likely that these tranquillizers were passed through main gate under the pretext of medicines.

14. SHAH QAISER WARDER

He was responsible for patrolling duty inside the parameter wall and to keep vigil on the staff posted inside the wall on beats but he utterly failed to perform his duty as per provisions of PPRs. He was required under rule 711and 712 of the PPRs to examine frequently bolts, locks, gratings and doors in order to satisfy himself that they are fully intact. Though he denied the charge and stated that he performed his duty efficiently but circumstantial evidence goes against him. Had performed his duties the incident could have been averted.

15. SHER BAHADAR WARDER

Charges against him stand proved. Though he denied the allegations vide his statement at **Annex-IX-A**. But in his another written statement at **Annex-IX-B** (in Urdu) he has not written in his defence rather shifted his responsibility to others. Had he performed his duty with full devotion and followed the procedure as laid down in the PPRs the incident might not have occurred.

16. JAMAL UD DIN WARDER

Charge against him proved though he also denied in his statement but circumstances and statement of other co-accused show that the incident had occurred at the time of change of guards. Since neither the guards waited for their substitutes and left their place of duty much before time nor the releivers reached in time which culminated in the escape. Had reached to his place of duty well in time the recapture would have become possible.

17. MANZOOR KHAN WARDER

Charges against him also proved as he failed to perform his duty as per provisions of the PPRs. He was on duty in Sector 4 on that night but failed to

check the gratings, keep the numberdars alert all the time. Though for some time he performed his duty but left his place before his duty time. This negligence on his part resulted into the escape. Had he checked the gratings he would have noticed that the iron bar was not intact and in order. This fact he has admitted in his statement in Urdu at **Annex-XI-B** that he could not check the gratings as the prisoners protest and shout over such checking.

18. HAMEED GUL WARDER

Charges against him proved. He denied the fact that the incident has occurred in his duty time. As per his statement he left the place of duty i.e beat No. 5 after arrival of substitute however statement of other accused officials and escape of prisoners show that he left his place of duty i.e beat No. 5 well before time which is violation of rule 1149 which provides that no warder shall leave his place of duty in any circumstances, on any pretext or absent himself from duty untill relieved in due course and released from duty. His statement is silent on the issue of time of his releaving.

19. RISHTIAQUE WARDER

Charges against him proved. He is one the main responsible officials for this escape. He not only failed to perform his duty efficiently as per PPRs but also left his place of duty much before time which resulted into this mishap. In his written statement he has admitted that he left his place of duty without arrival of substitute. Beat No.4 where he was posted is the place wherefrom the escape took place. Had he been on duty till his exact time and alert the escape might have averted. Though he stated that he was asked by Fazal Mahmood Khan Night Duty Officer to leave the place but rules doesn't allow such kind of attitude towards performance of duty as required under the rules.

20. AKHTAR ZAMAN WARDER

He was posted as Sentry at Watch Tower No.2 and was required under the rules to be alert, keep a vigil on his place of duty. Beat No.4 and 5 wherefrom the escape had taken place is visible from his tower. But he could not keep an eye on those places and failed to notice the escape of prisoners. Though he denied the charges but circumstantial evidence shows that he failed miserably in performance of his duties. Had he been vigilant he would have noticed the escapees and the escape might not have occurred.

21. MUHAMMAD IBRAHIM WARDER

Charges against him proved partially. The charge that he left his place i.e tower cannot be proved as he was locked in the tower and keys of towers are kept in the main gate and the relieving warder takes keys with him and unlock the warder on duty in the tower. However the first charge stands proved as he was posted as Sentry at Watch Tower No.3 and was required under the rules to be alert, keep a vigil on his place of duty. Beat No.4 and 5 wherefrom the escape had taken place is visible from his tower. But he could not keep an eye on those places and failed to notice the escape of prisoners. Though he denied the charges but circumstantial evidence shows that he failed miserably in performance of his duties. Had he been vigilant he would have noticed the escapees and the escape might not have occurred.

22. ZAMARAK KHAN WARDER

He was performing duty as patrolling Officer outside the parameter wall of jail but he failed to keep the warders on duty between watch towers No. 2 &3 alert but also failed to notice the escape. Charge against him proved. His timing of duty was 3:00 AM to 6:00 AM (lock out) but as per his statement he took charge from Sakhawat Hussain his predecessor at 3:05 AM thus admitted late arrival. He was supposed to be on his place of duty at 3:00 AM. In the instant case even a single minute mattered a lot.

23. SAKHAWAT HUSSAIN WARDER

Charge against him proved as it was during his duty hours that the escape took place. It appears from the statement of the recaptured prisoner at Annex-B and other statements of the co-accused that the escape took place between 2:45 AM to 3:10 AM. Had he not left his place before time and had he been vigilant and kept the staff alert the incident might not have occurred.

24. MUHAMMAD SAEED WARDER

Charge against him proved as he failed to ensure his presence on the place of his duty i.e beat between tower No. 2 &3. He not showed irresponsible attitude towards his duty for being not alert but also left his place of duty before time. As per the statement of the warders at **Annex-E**, who captured one of the escaped prisoner Safdar Mr. Muhammad Saeed alongwith his colleague Yasir left charge near hostel located between Towers No. 3 and 4 which is far away

Naeem

(23)

from their place of duty. This fact is supported by circumstantial evidence and escape of the prisoners. They were required to hand over their charge of duty to their relievers at fixed time and on the proper place of duty. Though he and Mr. Yasir denied the fact that the incident took place between their duty hours but circumstantial evidence and statement of the recaptured prisoner reveal that escape occurred in their duty hours.

25. MUHAMMAD YASIR WARDER

Charge against him proved as he failed to ensure his presence on the place of his duty i.e beat between tower No. 2 &3. He not showed irresponsible attitude towards his duty for being not alert but also left his place of duty before time. As per the statement of the warders who captured one of the escaped prisoner Safdar, he alongwith his colleague Muhammad Saeed warder left charge near hostel located between Towers No. 3 and 4 which is far away from their place of duty. They were required to hand over their charge of duty to their relievers at fixed time and on the proper place of duty. Though he and Mr. Yasir denied the fact that the incident took place between their duty hours but circumstantial evidence and statement of the recaptured prisoner reveal that escape occurred in their duty hours.

RECOMMENDATIONS

In view of the facts narrated above following recommendations are submitted for approval of the competent authority:-

1. Any one of the major penalties given in rule 4 of the E&D Rules 2011 (**Annex-F**) may be imposed on the following officers and officials:-

I. Muhammad Naeem Khan Senior Assistant Superintendent
II. Zahoor Elahi Senior Assistant Superintendent
III. Fazal Mahmood Senior Assistant Superintendent
IV. Abdul Sattar Warder
V. Bahrawar warder
VI. Siddique warder
VII. Shah Qaisar Warder
VIII. Sher Bahadar warder
IX. Jamal ud Din warder
X. Manzoor Khan warder
XI. Rishtiaque warder
XII. Hameed Gul warder
XIII. Akhtar Zaman warder
XIV. Muhammad Ibrahim warder

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XV. Zamarak Khan warder
XVI. Sakhawat Hussain warder
XVII. Muhammad Saeed warder
XVIII. Muhammad Yasir warder

2. **Instructions may be issued to all superintendents of jail to ensure compliance of PPRs at all cost and not to comprise on the efficient management of prisons so as to avert such like incidents.**

29/11/2012

AKHTAR SAEED TURK
DEPUTY SECRETARY (D&F)
HOME DEPARTMENT/INQUIRY OFFICER

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 705/2013

SAKHAWAT HUSSAIN VS POLICE DEPARTMENT

REJOINDER ON BAHALF OF APPELLANT IN RESPONSE TO THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWEHT:
PRELIMINARY OBJECTIONS:
(1 TO 4):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

1- Admitted correct by the respondents hence need no comments.

2- Incorrect and not replied accordingly. That there is no documentary proof of misconduct in respect of appellant and as such the allegation raised against the appellant by the respondents is totally false and baseless and as such the impugned orders dated 20.12.2012 and 21.3.2013.

3- Incorrect and not replied accordingly. That no regular inquiry has been conducted by the respondents against the appellant. Moreover the appellant in his Departmental appeal clarified his position that appellant was deputed out side the jail while the prisoners have made their escape from inside the jail, thus officials who were deputed inside the jail were responsible instead of appellant but inspite of that the respondents issued the impugned orders dated 20.12.2012 and 21.3.2013 against the appellant..

4- Incorrect and not replied accordingly. That as explained above in para NO.3 of the rejoinder that appellant can not be held responsible for the guilt of others.

5- Incorrect and not replied accordingly hence denied.

GROUNDS:

(A TO G):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the respondent Department has removed the appellant from his service without any clear justification and the respondents have not followed the prevailing rules i.e. not conducting regular inquiry against the appellant while issuing the impugned order dated 20.12.2012 and 21.3.2013 which as per Supreme Court Judgments is necessary in punitive actions against the civil servant. Moreover the appellant in his Departmental appeal has clarified his position that appellant was deputed out side the jail while the prisoners have made their escape from inside the jail, thus officials who were deputed inside the jail were responsible instead of appellant but inspite of that the respondents issued the impugned orders dated 20.12.2012 and 21.3.2013 against the appellant.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT

SAKHAWAT HUSSAIN

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE