

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 1959/2020

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS. FAREEHA PAUL ... MEMBER(E)

Hazrat Bilal, Ex Warder Central Prison, Peshawar R/o Tarkha Mohallah Mula Khel, P.O Tarujabba, Tehsil Pabbi, District Nowshera.

.... (*Appellant*)

Versus

1. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
2. Assistant Director, Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent Headquarters Prison Peshawar.

... (*Respondents*)

Mr. Aslam Khan Khattak
Advocate

...

For appellant

Mr. Muhammad Adeel Butt
Addl. Advocate General

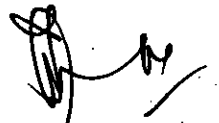
.....

For respondents

Date of Institution.....17.03.2020
Date of Hearing.....01.06.2022
Date of Decision.....01.06.2022

JUDGEMENT

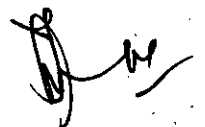
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 16.12.2019 whereby the appellant has been compulsorily retired from service with immediate effect and order dated 27.02.2020 whereby his departmental appeal dated



18.12.2019 was rejected. The appellant has impugned both the orders with the prayer to set them aside and reinstate him in service with all back benefits.

2. Brief facts of the case, as per available record, are that the appellant was inducted in prison service on 13.05.2019. While attached with Central Prison Peshawar, he got sick during 2019 and was under treatment at different hospitals/clinics. On remaining absent from duty an inquiry was ordered by the Superintendent Headquarters Prison, Peshawar on 12.09.2019 and Senior Assistant Superintendent Central Prison, Peshawar was nominated as Inquiry Officer. Brief history of the official as provided in that memo indicated that the appellant was awarded penalties ranging from period of absence treated as leave without pay, stoppage of annual increments to major penalty of reduction to lower stage in his pay scale. He was awarded penalty of removal from service on 05.08.2016 which in the light of judgement of Service Tribunal dated 04.12.2018 was set aside and he was conditionally reinstated in service alongwith stoppage of three annual increments. He was again absent w.e.f 10.05.2019. Inquiry was conducted and based on the report the appellant was awarded major penalty of compulsory retirement from service vide order dated 16.12.2019. His departmental appeal dated 18.12.2019 was also rejected vide order dated 27.02.2020. Hence this service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. The learned counsel for the appellant as



well as the Assistant Advocate General were heard and case file with connected documents was gone through in detail.

4. Learned counsel for the appellant contended that major penalty had been imposed for mere absence from duty and that too without conducting an inquiry. He further stated that the appellant was sick and that he could not be denied medical leave as per rules.

5. The learned Additional Advocate General argued that the service record of the appellant was spotty and that he had been awarded major penalty of removal from service due to his irresponsible attitude and habit of willful desertion. He referred to Prison Rules 2018, Rule No. 1083 which stated, "Whenever any subordinate officer is at any time prevented by sudden illness or other unavoidable cause, from attending the prison or performing his duties he shall forth-with give notice to the Superintendent along with his reasons for absence. The Superintendent shall then make suitable arrangements for the due performance of his duties." The learned Additional Advocate General contended that the appellant did not inform his highups, violated the rules governing his service and hence was treated accordingly.

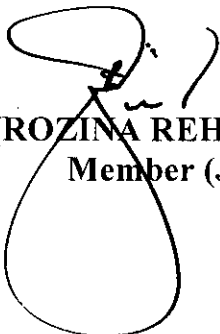
6. The record indicates careless and casual attitude of the appellant. No application for medical leave of the appellant could be found in the case file. On the other hand the inquiry report annexed with the reply of the respondents was also sketchy and deficient. There was no charge sheet and statement of allegations attached with the report. Statement obtained from the applicant during inquiry proceedings was also missing. It



appeared that he was not issued a show cause notice and the competent authority awarded him major penalty without completing the required codal formalities. This was a sheer violation of the Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011.

7. In view of the above, appeal in hand is allowed with directions to the respondents to reinstate appellant in service and conduct a de-novo inquiry, take necessary action and submit report within 60 days of the receipt of this order. Service benefits to the appellant are linked with the outcome of de-novo inquiry. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 1st day of June, 2022.*


(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)


Service Appeal No. 1959/2020

01.06.2022

Mr. Aslam Khan Khattak, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, we have arrived at the conclusion that the appeal in hand is allowed with the directions to the respondents to reinstate appellant in service and conduct a de-novo inquiry, take necessary action and submit report within 60 days of the receipt of this order. Service benefits to the appellant are linked with the outcome of de-novo inquiry. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 1st day of June, 2022.*


(ROZINA REHMAN)
Member (J)

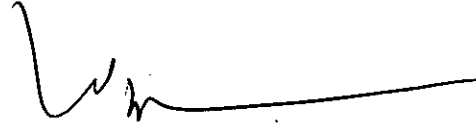

(FARETHA PAUL)
Member (E)

30.11.2021

Counsel for the appellant present.

Mr. Muhammad Adeel Butt, learned Additional Advocate General alongwith Mr. Ehsan-ud-Din Deputy Superintendent for respondents present.

Former submitted rejoinder which is placed on file and requested for adjournment. Adjourned. To come up for arguments on 23.02.2022 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

23.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 01.06.2022 for the same as before.

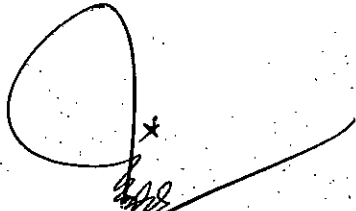

Reader

11.03.2021

Junior to counsel for the appellant present. Addl: AG
alongwith Mr. Junaid Khan, Junior Clerk for respondent
present.

Written reply on behalf of respondents not submitted.
Representative of the respondents seeks time to submit written
reply/comments on the next date of hearing. Granted but as a
last chance.

Adjourned to 20.05.2021 before S.B.


(Mian Muhammad)
Member (E)

20.05.2021

Due to demise of the Worthy Chairman the Tribunal is
defunct, therefore, case is adjourned to 07.07.2021 for the same
as before.


Reader

07.07.2021

Counsel for the appellant and Mr. Kabirullah Khattak,
Addl. AG alongwith Suleman, Instructor for the
respondents present.

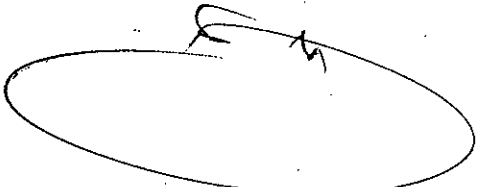
Respondents have furnished reply/comments. The appeal
is entrusted to D.B for arguments on 30.11.2021.


Chairman

26.11.2020

Appellant in person alongwith Mr. Aslam Khan Khattak, Advocate, are present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Written reply on behalf of respondents not submitted. Learned Additional Advocate General is directed to ensure presence of the representative of the department and submit reply on the next date positively. Adjourned to 18.01.2021 on which date file to come up for written reply/comments before S.B.




(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

18.01.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Written reply of respondents was not submitted. Case is adjourned on the request of learned A.A.G for submission of reply/comments. To come up for written reply/comments on 11.03.2021 before S.B.



(Rozina Rehman)
Member (J)

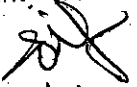
05.08.2020

Mr. Aslam Khan Khattak, Advocate for appellant is present.

The question for consideration as agitated by the learned counsel for the appellant is that the absence of his client from duty was due to catching of certain disease in his eye as well as in his body and he was under medical treatment but he was declined leave even on medical grounds which as a matter of rule cannot be denied. While rendering 9/1/2 years of service he had sufficient earned leave at his credit in his leave account for the intended object but even then he was denied medical leave. That the major penalty imposed is not commensurate with the alleged default so made.

These are questions put forth for resolution besides other which require consideration and proper adjudication, therefore, the appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments. File to come up for written reply/comments on 05.10.2020 before S.B.

Appellant Deposited
Security & Process Fee


6/8/20


(MUHAMMAD JAMAL KHAN)
MEMBER

05.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to furnish reply/comments. He is required to contact the respondents and facilitate the submission of requisite reply/comment on next date positively.

Adjourned to 26.11.2020 before S.B.



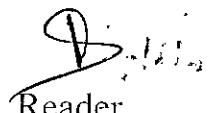

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1959 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/03/2020	<p>The appeal of Mr. Hazrat Bilal presented today by Mr. Aslam Khan Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please</p> <p> REGISTRAR</p>
2-	19/03/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/05/2020</u>.</p> <p> MEMBER</p>
	04.05.2020	<p>Due to COVID-19, the case is adjourned to 05.08.2020 for the same, before S.B.</p> <p> Reader</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No: 1959/2020

Hazrat Bilal, Ex Warder, Central Prison, Peshawar R/o Tarkha
Mohallah Mula Khel, P.O Tarujabba, Tehsil Pabbi, District Nowshera

.....Appellant

VERSUS

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar &
Others

.....Respondents

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S#	Description of Documents	Annexure	Page No's
1	Memo of Appeal		1-4
2	Impugned order dated 06/12/2019	"A"	5
3	Medical treatment certificates	"B1-12"	6-17
4	Departmental Appeal dated 18/12/2019	"C"	18
5	Impugned order dated 27/02/2020	"D"	19
6	Leave Rules	"E"	20
7	Wakalat Nama		21

Dated: 17 /03/2020

H. Balal
Appellant

Through

aslam
Aslam Khan Khattak
Advocate, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No: 1959 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 2138

Dated 17-3-2020

Hazrat Bilal, Ex Warder, Central Prison, Peshawar R/o Tarkha Mohallah Mula Khel, P.O Tarujabba, Tehsil Pabbi, District Nowshera.

.....Appellant

Versus

1. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
2. Assistant Director, Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent Headquarters Prison Peshawar.

.....Respondents

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 06/12/2019 VIDE ANNEXURE "A" WHEREBY THE APPELLANT HAS BEEN COMPULSORY RETIRED FROM SERVICE WITH IMMEDIATE EFFECT AND ALSO AGAINST THE FINAL IMPUGNED ORDER DATED 27/02/2020 VIDE ANNEXURE 'D' WHEREBY THE APPELLANT'S DEPARTMENTAL APPEAL DATED 18/12/2019 HAS BEEN REJECTED.

Filed to-day

Registrar

17/3/2020

PRAYER:

ON ACCEPTANCE OF APPEAL, THE ABOVE REFERRED TWO IMPUGNED ORDERS AT ANNEXURE A AND D MAY BE SET ASIDE AND THE APPELLANT SHALL BE

**REINSTATED IN SERVICE WITH ALL
BACK BENEFITS.**

Respectfully Sheweth:-

The appellant respectfully submits as under:-

1. That the appellant having been inducted in service on 13 May 2009 and has performed his duty throughout his whole service with clean record and to the entire satisfaction of his Superiors.
2. That the appellant's absence from the duty was not intentional but he was sick due to the disease of his eyes as well as his body and was under medical treatment as revealed from annexure B1-12.
3. That the appellant has filed departmental appeal dated 18/12/2019 vide annexure "C" which has been rejected vide impugned order dated 27/02/2020 at annexure "D" and hence this appeal inter-alia on the following grounds:-

GROUND:

- A. That the appellant during the entire period was unable to perform the duty due to disease of his eyes as well as in his body and as per rule, the leave on medical grounds shall not be refused.
- B. That no authorized officer was appointed and the authority has himself performed the whole action

(3)

against the appellant and as per law the authority cannot assume the power of authorized officer. So to this effect both the impugned orders are illegal and are liable to be set aside.

C. That the appellant has more than 9-1/2 years of service and is entitled to 4 days leave on full way pay within a month vide annexure "E". So his absence period may be converted into leave with full pay. So both the impugned orders may be set aside and the appellant may be reinstated in service with full pay.

D. That the major penalty of compulsory retirement has been imposed upon the appellant for mere absence from duty which cannot be imposed upon him. So to this effect both the imposed orders dated 06/12/2019 & 27/02/2020 vide annexure "A & D" are liable to be set aside.

E. That no inquiry in the matter has been conducted. So the major penalty of compulsory retirement cannot be imposed upon the appellant.

F. That both the imposed orders dated 06/12/2019 & 27/02/2020 vide annexure A & D are illegal, malafide, without jurisdiction and without lawful authority and are liable to be set aside.

14


G. That the appellant seeks leave of this Hon'ble Tribunal to rely on additional grounds at the time of arguments.

It is, therefore, most respectfully prayed that on acceptance of appeal, both the impugned orders dated 06/12/2019 and 27/07/2020 vide annexure A & D may be set aside and the appellant shall be reinstated in service with all back benefits.

Dated: 17 /03/2020


Appellant

Through


**Aslam Khan Khattak
Advocate, High Court,
Peshawar.**

Annexure A/
(5)

OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
No: 1983 P/B Dt: 06/12/2019
E-mail: hqprisonpeshawar@gmail.com

OFFICE ORDER

WHEREAS, inquiry against the accused Warder (BPS-05) Hazrat Bilal attached to Central Prison Peshawar was entrusted to Mr. Badshah Said, Sr. Assistant Superintendent Central Prison Peshawar with his previous record vide this HQs. memo No. 1177/P.B dated 12-09-2019 in light of the Superintendent Central Prison Peshawar report 8533 dated 13-7-2019, who submitted his report on 18-09-2019 concluding that "Ultimately, after examining his entire service record from each angle, it is crystal clear that the accused Warder is not interested in job, but only to create hurdles for the administration and to squalid the environment for other staff."

AND WHEREAS, in light of Rule 14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011, the accused was served with Final Show-Cause Notice vide this HQs. No. 1390 dated 18-10-2019, whose reply was submitted by the accused on 22-10-2019.

AND WHEREAS, in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused Warder was afforded the reasonable opportunity of personal hearing on 04-12-2019 vide this HQs. memo No. 1735 dated 21-11-2019. During personal hearing, he produced nothing in his defense. Moreover the accused in front of Lines Officer Mr. Shamroz Khan & Lines Moharrar Mr. Yardad Khan of Central Prison Peshawar confessed that he cannot perform duties at night. He is habitual absconder and not fit for the Prison Job.


NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of the evidence, record and report of the inquiry officer and his confession, the undersigned being Competent Authority hereby pleased to award him the major penalty of Compulsory Retirement from Service with immediate effect.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1984-89-7

Copy of the above is forwarded to the: -

- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 2- Superintendent Central Prison Peshawar with reference to his report dated 28-06-2018. Proper entry at this effect may be made in his Service Book.
- 3- Mr. Badshah Said, Sr. Assistant Superintendent, Central Prison Peshawar (Inquiry Officer) with reference to his Inquiry Report No. NIL dated 18-09-2019 for information.
- 4- Accountant General, Khyber Pakhtunkhwa, Peshawar please.
- 5- Head Clerk (Pay Branch) Central Prison Peshawar. His pay may be released with immediate effect.
- 6- Official concerned.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
E-mail: hqprisonpeshawar@gmail.com

Attested
as



OUTPATIENT DEPARTMENT (OPD)

LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, KP

Amra

Anneuse B

Appointment Time : 12:16⁽⁶⁾

Amount Paid : 20

Invoice No : K02192612394

Invoice Date : 02-SEP-19 10:49:53

MRNo : K0200003717879

Name : HAZRAT BILAL

Father / Husband Name : MUHAMMAD ISMAIL

Gender : Male

Age : 29 Year(s)

District : Nowshera

Visit Type : REGULAR

Clinic : EYE

Room No : 3

Complaints: VEED HAMEED

Counter : MAIN OPD

Rx

VA $\left\{ \begin{array}{l} 6/6 \\ 6/18 \end{array} \right.$

of headache
Diplopia

Findings:

of Diplopia, metamorphopsia

has episode of vomiting (25) days back

Investigations:

Admission

B/L

Established
proptosis

MRI Brain + orbit

Ref to Neurology

Diagnosis:

RH (8)

Attested
as

Next Visit:

16 Sep

Consultant Name:

Signature:

Phone: 921130
Radiology
R.H. Peshawar

website: www.lrh.gov.pk

CANON R-30

DATE: 29/09/19 12:26

No. : 02692

NAME:

Dr. Gul Shad Ali

M.B.B.S, M.C.P.S, D.O.M.S

Eye Specialist

7)

RIGHT **UD** UD: D.O

SPH CYL AX
-0.25 -0.25 104

LEFT **UD**

-0.50 -0.25 10

Name قوت علی

Age 29/9 Gender M

Add: گڑھی

Date 29.9.19

40 D^uBE

VAR

VAL

IOP

Fundi <

R. Feroz Khan Fa
 21/2/2019
 S. Khalid - Abs.
 P. P. P. (2019)
 S. M. P. SR (10)

Attestd
as

Please Report for Checkup after.....

Not valid for court matters

انٹاک کارڈ

شام 4:30 تک
اتوار: صبح 9:00 سے شام تک

برائے رابطہ یہی: 0345-6998414

پیشگی بروز جمعہ

پہلی کلینک:

زر کلینک نزد جناز گاہ روڈ دوسری منزل میں بازار یہی



DEPARTMENT OF RADIOLOGY

(8)

Lady Reading Hospital
Peshawar

PH: 0992 91 9211430 B
Web: www.lrh.gov.pk

Radiology Request Form for Quality Assurance (QA)

Page: 1

Patient Name: <u>Harved Bilal</u>		Clinical Data:	
Mit No: <u>3717379</u> Address: <u>Nowshera</u> Sex: <u>M</u> Age: <u>29 yr.</u> Contact No. <u>0302-8351082</u>		<u>Head ache, Diplopia, Episode of vomiting</u> <u>25 days back. Metamorphosis ???</u> <u>Papilloedema - (clinical notes)</u>	
Investigation Requested: <u>MRI Brain</u> <u>+ Orbit</u>		Verification by Radiologist/ Resident for indication of MRI/CT: <u>Dr.</u> Name & signature	
Office use only Serial No. allotted to patient <input type="checkbox"/>		Previous Record (X-rays, CT and MRI) Attached: Yes / No Ward <input type="checkbox"/> IBP <input type="checkbox"/> Private <input type="checkbox"/> OPD <input checked="" type="checkbox"/>	
Contra indications to MRI/CT <u>NIC</u> 1. Pace maker <input checked="" type="checkbox"/> 2. Metallic implants <input type="checkbox"/> 3. Metallic foreign body / bullet <input type="checkbox"/> 4. Dental Braces <input type="checkbox"/> 5. aneurysmal clips <input type="checkbox"/> 6. Insulin pumps <input type="checkbox"/>		Radiographer's Notes and Protocol Name of Radiographer: _____ Consultant in charge/ Requesting practitioner: <u>DR. USMAN (Neuro Surgery ???)</u> Doctor Requesting (PRINT) _____ Pregnant / Not pregnant Yes/ No <input checked="" type="checkbox"/> Period of gestation: <input type="checkbox"/> Breast Feeding Yes/ No <input type="checkbox"/> Signature of the patient: _____	
Patient Condition: Walking <input type="checkbox"/> Chair <input type="checkbox"/> Bed <input type="checkbox"/> IV <input type="checkbox"/> Oxygen <input type="checkbox"/> Sedation <input type="checkbox"/> Anesthesia <input type="checkbox"/>			

Notes:

- For contrast study, page 2 must be filled and signed.
- For Anesthesia/ Sedation, page 3 must be filled and signed.

(0.53)
creat

Attended
as



DEPARTMENT OF RADIOLOGY

Ph. No. 0092-91-9211430-5

Web: www.lrh.gov.pk

Lady Reading Hospital
Peshawar

Page: 2

* For Contrast Media:

Age > 65 years Yes/ No

Have you had a previous reaction to X-ray contrast media/ iodine? Yes/ No

Are you allergic to other drugs, bee stings, have eczema or asthma? Yes/ No

Do you have poor kidney function? Yes/ No

Current Serum Creatinine/ Urea: Urea: _____ / Creatinine: _____

Are you on any Diabetic medication (METFORMIN)? Yes/ No

Any past history of Heart Failure/ shock Yes/ No

If you have any concerns, please raise them with staff member prior to your study.

Patient Acceptance of Injection of contrast Medium.

I have read and understood the above information. I give my permission to have an X-ray contrast injection as part of my examination.

Patient Name: _____

Date: _____

Patient/ Legal Guardian Name: _____

Consultant / Resident authorises contrast injection and monitors the contrast injection post cannulation.

No contrast to be injected without cannulation.

Consultant / Resident Name and Signature: _____



OUTPATIENT DEPARTMENT (OPD)

LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, KP

(9)

Appointment Time : 12:16

Amount Paid : 20

Invoice No : K02192612394

Invoice Date : 02-SEP-19 10:49:58

MRNo : K0200003717879

Name : HAZRAT BILAL

Father / Husband Name : MUHAMMAD ISMAIL

Gender : Male

Age : 29 Year(s)

District : Nowshera

Visit Type : REGULAR

Clinic : EYE

Room No : 3

Complaints : VEED HAMEED

Rx

Counter : MAIN OPD

Findings:

VA $\left\{ \begin{array}{l} 6/6 \\ 6/18 \end{array} \right.$ of headache
 Diplopia
 has episode of vomiting (25) days back
 metamorphopsia

Investigations:

MRG Brain + orbit
 B/L Established
 profused
 Refr to Neurologist

Diagnosis:

RAH (3)

Attested
ab

Next Visit:

16 Sep 2019

Consultant Name:

Signature:





OUTPATIENT DEPARTMENT (OPD)
LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, KP

(10)

Appointment Time : 12:10

Amount Paid : 20

Invoice No : K02192

Invoice Date : 17-SEP-2010 10:15

OPD No : K02192/0733671

Name : HAZRAT BILAL

Father / Husband Name : MUHAMMAD SAJJAD

Gender : M

Age : 18 Year(s)

District : Peshawar

Visit Type : REGULAR

Clinic : NEUROSURGERY

Room No : 40

Complaints : I GUL

Counter : MAIN OPD

Findings:

R
Papla dem
MM @

AB LP monitoring
ref to neuros.

Investigations:

Diagnosis:

Next Visit:

Consultant Name:

Signature:

Attested
AB

Phone: 9211430

website: www.lrh.gov.pk

Lady Reading Hospital, MTI Peshawar

Lady Reading Hospital, MTI Peshawar Phone 091-9211430, Fax --
Email. info@lrh.gov.pk, Website. www.lrh.gov.pk

(11)



Department of Radiology

VIEW: 17-Sep-2019 12:30:41

MRI Report

Page 1 of 1

MRNO : K02-00003717879

Dept Ref# : 19-0179149

Name : HAZRAT BILAL

Age/Sex : 29 Year(s)/Male

Address : , NOWSHERA - PAKISTAN

CNIC# : 17201-6463217-5

Order By : Dr. Adnan Alam

Referring Physician : Asif Iqbal

In-house Consultant : Asif Iqbal

Destination(s) of Report :

Request Date : 02-Sep-2019 12:26:42 PM

Perform Date : 16-Sep-2019 10:33:48 AM

Report Date : 17-Sep-2019 10:52:47 AM

CPT : MRI BRAIN WITHOUT CONTRAST

HISTORY : bilateral established pihilloedema ✓

REPORT : Extra-axial spaces: [Normal in size and morphology for the patient's age.]
Intracranial hemorrhage: [None]
Ventricular system: [Normal in size and morphology for the patient's age.]
Basal cisterns: [Normal.]
Cerebral parenchyma: [Normal.]
Midline shift: [None.]
Cerebellum: [Normal.]
Brainstem: [Normal.]
Calvarium: [Normal.]
Mastoid air cells: [Clear.]
Sella and pituitary fossa: [Normal.]
Skull base: [Normal.]
Orbits: [Normal.]

CONCLUSION : Normal study.

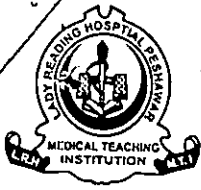
RUKHSANA AZIZ

Electronically verified report, no signature(s) required.

DR TAHIRA NISHTAR
Consultant Radiologist
Head of Department

MUHAMMAD IMRAN KHAN
Consultant Radiologist

Attested
asif



OUTPATIENT DEPARTMENT (OPD)

(12) 102

LADY READING HOSPITAL
MEDICAL TEACHING INSTITUTION
PESHAWAR, KP

Appointment Time : 10:48

Amount Paid : 20

Invoice No : K02192713325

Invoice Date : 11-SEP-19 10:16:51

46

MRNo : K0200003733671

Name : HAZRAT BILAL

Father / Husband Name : MUHAMMAD ISMAIL

Gender : Male

Age : 18 Year(s)

District : Peshawar

Visit Type : REGULAR

Clinic : NEUROSURGERY

Room No : 40

Counter : MAIN OPD

Complaints: HAYAT GUL

R_X

- Diplopia
- Head heaviness

Findings:

ADV. 37E
B/L Papilloedema

MRI Brain with contrast

Investigations:

RFT's - Urea = 34
Creat = 1.2

not needed
CSF pressure normal

Diagnosis:

Next Visit:

Consultant Name:

Signature:

Attested
abz

Phone: 9211430

website: www.lrh.gov.pk

44

(13)



OUTPATIENT DEPARTMENT (OPD) LADY READING HOSPITAL MEDICAL TEACHING INSTITUTION PESHAWAR, KP

Appointment Time : 11:22

Amount Paid : 20

Invoice No : K02192805771

Invoice Date : 18-SEP-19 10:02:29

Handwritten signature

MRNs : K0206003717879

Name : HAZRAT BILAL

Father / Husband Name : MUHAMMAD ISMAIL

Gender : Male

Age : 29 Year(s)

District : Nowshera

Visit Type : REGULAR

Clinic : EYE

Room No : 3

Complaints: AVEED HAMEED

Counter : MAIN OPD

Rx

Findings:

2/6 Papilloedema

Needs

CSF Pressure evaluation

Neurology

Investigations:

Refer to Neurology

Diagnosis:

① Cal. Azon 200

(3 9 1 1 1)

Next Visit:

Consultant Name:

Signature:

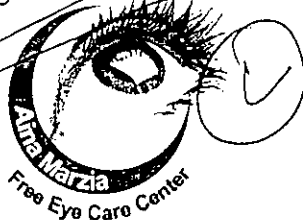
*Attested
ABZ*



Reg # 4313

EYE CARE
Welfare Organization

33



Reg # 04308

Dilated 10:26 AM

(14)
عينا مرضية
فرقی آئی کسیر سنٹر
عراق آباد اکوڑہ خٹک

Serial No: **80780** Date: **21-Nov-19** Religion: **Muslim**

Name: **Hazrat Bilal** Age: **29** Gender: **M**

Address: **Taru Jabba**

Contact: _____ CNIC No: _____

Rt Eye VA <u>6/36</u> PH _____				Lt Eye VA <u>6/60</u> PH _____			
Auto Ref	Sphere	Cylinder	Axis	Auto Ref	Sphere	Cylinder	Axis
	0.50				0.75		
Systemic Illness	Diabetes	Cardiac	H/O Jaundice				
	HT	IHD	ASTHAMA				
Invest	IOP	BP	Urine	RBS			
Prognosis	Good	Fair	Poor	Guarded			
History / Examination							
WFL e refraction							
Fund → Disk Swelling				Rx EID Barinep HIT			
				Adv OCT Disc. Refer to KTH Peshawar.			
				Signature: _____ Incharge Doctor			

Attested
ash

Address: Iraq Abad, Akora Khattak, NSR. Phone: 0923-630500 Cell: 0334-9091694
Email: Freeeyecarecenter@gmail.com

Assistant Professor

DR. Shabir Hussain

M.B.B.S, F.C.P.S (Medicine)

Visiting Physician

Nowshera Medical College,

QHAMC And Teaching

Hospital Nowshera.



محکمہ اور برکت واسطہ اعمال

لماز، صدقہ، تہجد، قرآن کی تلاوت، طلال رزق، سادہ غذا، صلواتی مسلمان کا جہونا کھانا، استغفار کی کثرت، دنیا کی لالچ سے پرہیز

(15)

اسٹنٹ پروفیسر
ڈاکٹر شبیر حسین (میڈیکل پیڈیاٹر)

ایم بی بی ایس، ایف سی پی ایس (میڈیسن)
ماہر امراض شکر، ہڈی پریشورل، معدہ، سپرائٹس بی سی
سینر ویب، گرو، جوڑ، وٹھ، قانج

وزیٹنگ فزیشن نو شہر میڈیکل کالج QHAMC ٹیچنگ ہسپتال نو شہرہ

Name Haroon R. I. A. Age _____ Sex M Date 20/12/14

Working Diagnosis

Clinical Record

Rx

Vomiting
visual blurring

Raised intraocular pressure / ?

Bilateral papilloedema

HTN / Dangerous RFTs /

Acute urinary sediment

Clinical Findings

160/130

ChdA clear

Cvs S.S

حرارت

cap Diamox 50 2.50mg
Ob. R.I.

Tdb Zestril 10mg

Ob. W.D

Tdb Neger 20mg

Tdb penicillin

Ob. L.R.P.D

1.7.1

supp Metformin

Obd

Investigations

Adv

CBC

uric acid

creatinine

Obd W. L. R. P. D

0300-9194793
0331-3188288

رابطہ نمبرز:

پیشین میڈیکوز، بالمقال میاں راشد حسین شہید ہسپتال ہی

Attested
R.S.

(16)

ڈاکٹر سعد علی صدیقی



اسٹنٹ پروفیسر نیورالوجی
لیڈی ریڈنگ ہسپتال پشاور

Dr. Saad Ali Saddiqui
FCPS

Consultant Physician
and Neurologist

Name:-

حفیظہ اقبال

Age:-

29

Gender:-

M

Add:-

تاروہیہ

Date:-

25-12-19

P:

Tab Sensival 25

BP:

110/70

T:

Tab AZM 25

△△

1 + 1

Topagen 500

1/2 + 1/2

Neurological
consultation

Attested
ash

Not Valid for Court

دوبارہ معائنہ

چھٹی بروز
مفت اور اتوار

کلینک: خیبر میڈیکل سنٹر، کمرہ نمبر C-40، تیسری منزل، ڈگری گارڈن پشاور 0333-9142102

خدمت جناب انسٹرکٹرز آف پیپرٹ آئی جی جیک خانہ جات

Anneexure C
(18)

ایٹل برائے لوکری جاک

جناب عالی :-

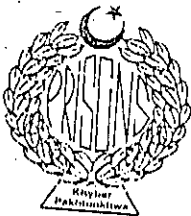
موردبانہ گزارش ہے کہ سائل اپنا ڈیوٹی ایمانداری سے ساتھ
 سنٹل جیک لپٹاور میں سرانجام دے رہا تھا۔ چونکہ سائل کو محمد صاحب نے پٹی ڈیوٹی
 تقابلی سے سائل کا 9 سے 12 ڈیوٹی تھی چونکہ راتق عید دار نے سائل کو ڈیوٹی سے واپس کیا اور
 ایک ڈیوٹی نہیں ہے سائل نے کتاب چیا کیا تو سائل کی ڈیوٹی کتاب سے کٹ گئی تھی جب
 صبح سائل محمد صاحب نے پاس کیا اور بولوا کہ میری ڈیوٹی کتاب پر نہیں ہے تو محمد صاحب نے بولوا
 آئی 9 سے 12 ڈیوٹی تھی میں نے بولوا کہ عید دار نے مجھے واپس کیا تھا پھر بولوا محمد صاحب نے کہ
 ایک 12 سے 3 ڈیوٹی تھی اور سائل کو غیر حاضر نہ دیا سائل نے بار بار محمد صاحب کے پاس آکر بولوا کہ یا
 مجھے ڈیوٹی پر لویا صبح سیرٹیفکٹ صاحب نے پاس پیش کرو۔ ملین محمد صاحب نے ایک بجے نہیں کیا اس
 دوران سیرٹیفکٹ صاحب عمر کے لیے چلے گئے۔ واپس آکر میرے اوپر انوائسری تھی جس کا ہنر
 بادشاہ سید صاحب تھا ملین میں نے بادشاہ سید صاحب کو دیکھا ہی نہیں اور سارا پوچھ تاج مجھ
 سے مصروف تھا اس سے پتہ نہ چھوڑا تو اس کو اس ملین اس دن رات سوونے کی بناء پر
 میرا دماغ سے نکلے گا ملین سیرٹیفکٹ صاحب نے دعویٰ بھی ڈیوٹی پر کیا ملین سائل کا نظریہ صواب
 تھا سائل نے محمد یار احمد ملین ہنر لیت بولوا کہ ملین سائل کا ملین ہے میرے ساتھ ڈیوٹی میں (ملین
 کہیں سیرٹیفکٹ صاحب کی پیشکش ملین اس نے نہیں کیا چونکہ سائل کی آنکھیں خراب ہو رہی تھی
 ہنر سائل کو سیرٹیفکٹ صاحب نے سامنے پیش کیا سائل نے سیرٹیفکٹ صاحب کو تمنا بانس بنائی ملین
 ملین سیرٹیفکٹ نے سائل کو پھیری ریٹائرڈ کر دیا چونکہ سائل کا 10 سال میں پچھ دن کر کے اور
 سائل کا ہنر پیش نہیں تھا چونکہ 13 مئی 2019ء کا چھٹی ہے اور نہ سائل نے اور پتہ ہنر کی ہوسٹل
 اب سائل کو نکلے گا صبح ملین ہے اسلئے آپ صاحبان میری باقی کرے سائل کو دوبارہ ڈیوٹی پر بحال کیا
 جائے اور سائل کے موجودہ حال پر رحم کیا جائے۔

Attested
ASU

(0302-8357082)

DR No
30032
18.12.19

ایکاتاہر وارڈر حضرت بلال سنٹل جیل لپٹاور



918
28-02-2020

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 🏠 091-9213445

No. Estb/Ward/Orders/ Kc. 7466 - 1-
Dated 27-2-2020 - 1-

Annexure

D

(19)

ORDER:

WHEREAS, Warder Hazrat Bilal S/O Muhammad Ismail while attached to Central Prison Peshawar was awarded the major penalty of "compulsory retirement from service" with immediate effect by the Superintendent Headquarters Prison Peshawar vide his office order No. 1983 dated 06-12-2019.

AND WHEREAS, the said warder preferred his departmental appeal for setting-aside the penalty awarded to him, which was examined in light of the available record of the case and it was observed that the charges leveled against the appellant was proved.

AND WHEREAS, he was afforded an opportunity of personal hearing on 25-02-2020. During the course of hearing, he failed to justify his innocence. In addition, his past service record is full of red entries due to his ill-disciplined career.

NOW THEREFORE, keeping in view the facts on record, the provision of rules in vogue, in exercise of power conferred under Rule-5 of Khyber Pakhtunkhwa Civil Servants Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance.

ADDITIONAL INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Endst; No. 7467-7469 - 1-

Copy of the above is forwarded to-

1. The Superintendent, Headquarters Prison Peshawar for information and necessary action with reference to his letter No.442-WE dated 07-02-2020.
2. The Superintendent Central Prison Peshawar for information.
3. Accountant General of Khyber Pakhtunkhwa Peshawar for information.

DS/PB/L

28.2.2020

ASSISTANT DIRECTOR

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

27-2-2020

Attested
as!

(5) The Inquiry Officer or the Committee as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorised Officer, submit his or its findings and the grounds thereof to the authorised Officer.

Note—In the case of staff in grades 1 to 5, the authorised Officer may, at his discretion, permit the accused to be assisted by another Railway servant.

7. Powers of Inquiry Officer and Inquiry Committee—(1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1933 (Act V of 1933), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits, and
- (d) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 233 of the Pakistan Penal Code (Act XLV of 1860).

8. Rule 5 not to apply in certain cases.—Nothing in rule 5 shall apply to a case:—

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of fine or of imprisonment; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. Procedure of inquiry against officers lent to Provincial Government, etc.—(1) Where the services of a Railway servant to whom these rules apply, are lent to a Provincial Government or other authority hereinafter in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules:

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings as the case may be.

Provided further that the borrowing authority shall obtain prior approval of the President before taking any action under these rules against an All-Pakistan United Grades officer in Grade 17 and above.

Railway servant in terms of sub-rule (1), the borrowing authority is of opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in the rules.

10. Appeal—A person on whom a penalty is imposed shall have such right of appeal as prescribed in rules 1717, 1723, 1731 and 1732 of the Pakistan Railways Establishment Code:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the person concerned may apply for review of the order.

11. Appearance of Counsel.—No party to any proceedings under these rules before the authority, the authorised officer, an Inquiry Officer or an Inquiry Committee shall be represented by an advocate.

THE REVISED LEAVE RULES, 1930

S.R.O. 1313 (IV) S.O. dated 20th December 1980 (Govt. Secy. Rev. Pt. II, 12-80).—In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:—

1. Short title, application and commencement.—(1) These rules may be called the Revised Leave Rules, 1930.

(2) They shall apply to all civil servants other than those who were employed before the first day of July, 1973, and opted not to be governed by the Revision of Leave Rules issued under the Finance Division's Office Memorandum No. F.1 (2)-Rev. 1/73, dated the 21st September, 1973.

(3) They shall come into force at once.

2. When leave earned.—(1) All service rendered by a Civil servant qualifies him to earn leave in accordance with these rules but shall not be earned during the period of leave.

(2) Any period spent by a civil servant in foreign service qualifies him to earn leave provided that contribution towards leave salary is paid to the Government on account of such period.

3. Earning and accumulation of leave.—(1) A civil servant shall earn leave only on full pay which shall be calculated at the rate of four days for every calendar month of the period of duty rendered and credited to his leave account as "Leave on Full Pay", duty period of fifteen days or less in a calendar month being ignored and those of more than fifteen days being treated as a full calendar month for the purpose.

(2) If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than fifteen days, the leave to be credited for both the incomplete months shall be restricted to that admissible for one full calendar month only.

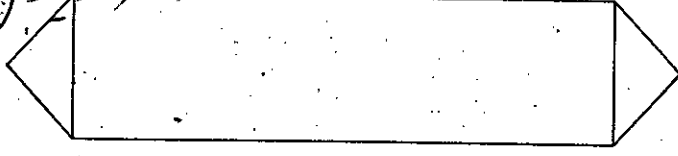
(3) There shall be no maximum limit on the accumulation of such

Attested
as2

120

Approved
F

بعدالت جناب KPK سرور ٹریڈنگ کمپنی لیسٹڈ



17 مارچ 2020ء منجانب ایڈووکیٹ

حضرت نلال بنام الیکٹرک سہولتیں جیل خانہ جات
لیسٹڈ وغیرہ

سرور ٹریڈنگ

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام لیسٹڈ کیلئے اسلم خان صاحب

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

Attested & accepted

Aslam

H. Baqil

17 مارچ 2020ء

ماہ

المرقوم

العبد گدگ واہ العبد

کے لئے منظور ہے۔

لیسٹڈ

مقام

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

In the matter of Service Appeal No. 1569/2020

Hazrat Bilal Ex-warder Central Prison Peshawar

.....**Appellant**

VERSUS

The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar and Others

.....**Respondents**

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DEPONENT

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In Service Appeal No. 1959/2020

Hazrat Bilal, Ex-Warder, Central Prison Peshawar,
r/o Tarkha Mohallah Mula Khel,
P.O Tarujabba, Tehsil Pabbi, District Nowshera **Appellant.**

VERSUS

- 1- **Inspector General of Prisons**,
Khyber Pakhtunkhwa Peshawar.
- 2- **Assistant Director**,
Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.
- 3- **Superintendent**,
Circle Headquarters Prison Peshawar..... **Respondents.**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO 1, 2 & 3

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 of the appellant is badly time barred.

FACTUAL OBJECTION:-

1. Admitted to the extent that he was appointed as Warder on 13th May 2009 in the Khyber Pakhtunkhwa Prisons Department, but he never took his job in serious manner. The appellant had a spotty service record, which is clearly evident from his service record. Photocopy of his previous service record / service Book is attached as **(Annex-A)** for ready reference. The appellant had already been awarded the major penalty of removal from service due to his irresponsible attitude and habit of willful desertion. The appellant was to create hurdles for the administration and to squalid the environment for the other staff. Order of compulsory retirement is **(Annex-B)**.
2. Not admitted. The appellant was in habit of desertion from the very beginning and digging false pretexts in his defense, which were no more fruitful and brought himself to the current status.
3. His appeal was rejected by the appellant authority due to having no solid proof against the order dated 06-12-2019 and could not prove himself innocent.

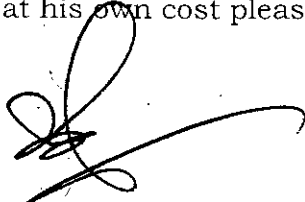
OBJECTION ON GROUNDS:

- A. Not admitted. In his previous service, he had been awarded the penalty of Removal from service due to his irresponsible and poor attitude

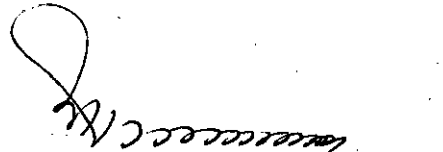
towards his duties when he was fit for services / duties. His plea at this para is concocted and to revise the habit of digging false pretext as per past practice.

- B. Not admitted. The inquiry was entrusted to Inquiry Officer and the appellant was afforded full opportunity to prove himself innocent during the entire course of proceedings, but failed (~~Annual C to F~~)
- C. Not admitted. Most of his absence period has been treated as leave without pay and thus cannot be reckoned as duty.
- D. Not admitted. As elaborated in Para (1) & (2) above.
- E. Not admitted. As elaborated in Para (B) above.
- F. Not admitted. Both the orders issued by the respondents will be clarified by the Respondents to the entire satisfaction.
- G. Any other grounds raised at the time of arguments will be clarified by the Respondents to the entire satisfaction.


In the light of above, it is humbly prayed that the above appeal may be dismissed at his own cost please.



INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.1)



ASSISTANT DIRECTOR
Inspectorate General of Prisons,
Khyber Pakhtunkhwa, Peshawar
(Respondent No.2)



SUPERINTENDENT
Headquarters Prison Peshawar
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

In the matter of

Service Appeal No. 1959/ 2020

Hazrat Bilal Ex-Warder,

attached to Central Prison Peshawar-----Appellant

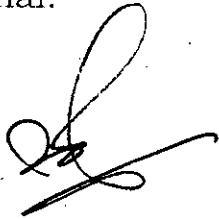
VERSUS

- 1- **Inspector General of Prisons,**
Khyber Pakhtunkhwa, Peshawar.
- 2- **Assistant Director,**
Inspector General of Prisons
Khyber Pakhtunkhwa Peshawar.
- 3- **Superintendent,**
Circle Headquarters Prison Peshawar-----Respondents

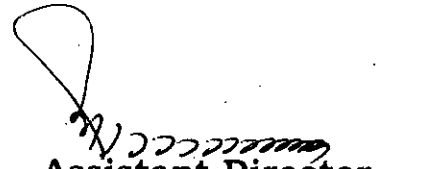
COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENTS

No. 1, 2 & 3.


We, the undersigned respondents do hereby solemnly affirm and declare that the contents of the para-wise comments in the above cited appeal are true and correct to the best of our knowledge and belief that no material/ facts have been kept concealed from this Honorable Service Tribunal.



Inspector General of Prisons
Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)



Assistant Director,
~~Inspector General of Prisons~~
Khyber Pakhtunkhwa
Peshawar.
(Respondent No. 2)



Superintendent,
Headquarters Prison
Peshawar
(Respondent No. 3)

1	2	3	4	5	6	7	8	
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant	nature of the other in al colt
<p>5765-05 Ward 5400-280-13200 C.P.M.</p>		<p>Pay Rs = 6440/-</p>						<p>Signature of the Government servant</p>
								<p>Signature of the Government servant</p>
								<p>Signature of the Government servant</p>
								<p>Signature of the Government servant</p>
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								<p>Signature of the Government servant</p>
								<p>Signature of the Government servant</p>

Intermittent W.E. from 16¹/₁₅ to 13²/₁₅

Re-instated into Service with immediate effect with further the absence period May 3-5-2013 to 13-6-2013 is hereby treated as leave without pay.

SUPERINTENDENT
CENTRAL PRISON HARIPUR

[Handwritten signature]

9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Leave		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
<p>SUPERINTENDENT Central Prison Peshawar</p>	<p>16/2/13 Service Verified upto & From 16-01-2012</p>	<p>Reason of termination (such as promotion, transfer, dismissal, etc.)</p>	<p>Signature of the head of the office or other attesting officer.</p>			<p>Transferred to C.P. Haripur vide Supt H.O. Peshawar No-1367-76 dt 15/2/13</p>	
<p>Sandhu Jala Supt. Haripur Central Prison Haripur</p>			<p>Superintendent Central Prison Peshawar</p>			<p>SUPERINTENDENT Central Prison Peshawar</p>	
				<p>S-1160 15/3/13</p>	<p>S-256 15/2/13</p>	<p>92/2012-6440 P.O. 13/2/13</p>	
				<p>1/1/13 to 15/1/13</p>		<p>To 28/2/13</p>	
				<p>10/3/13</p>		<p>21/2/13</p>	
						<p>21/2/13</p>	
						<p>Superintendent Central Prison Haripur</p>	

14/6/2013 - Placed under Suspension in a disciplinary case, vide Superintendent H.O. Prison Haripur order No-1078 dated 14-6-2013

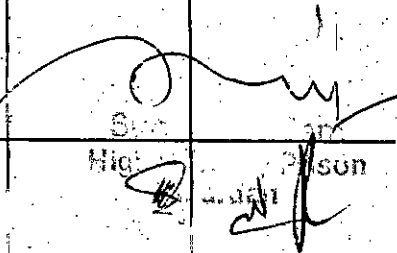
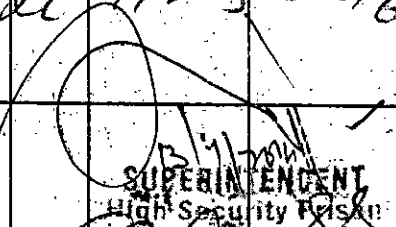
9	10	11	12	13		14	15
Name and Designation of the officer attesting in columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer.	Leave.		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
30 ¹¹ / ₁₄	Service verified up to & far 30-11-14 from the Acquaintance Roll & other available office record.	& from the Acquaintance Roll & other available office record.		1 ¹² / ₁₄	FOR THE YEAR-2013 Granted Annual increment of Rs. 260= raising his pay from Rs. 6440= to Rs. 6700= P.M.		
	Sardar Bahar					Sardar Bahar Superintendent Central Prison Haripur	
	Sardar Bahar						
1 ¹⁵ / ₁₅	Service verified up to & far 8-1-15 from the Acquaintance Roll & other available office record.		8 ¹⁵ / ₁₅	Transferred to District Jail / High Security Prison Mardan vide I.G. Prison - K.P.K. Peshawar order No. 458 dated - 6-1-2015			
	Sardar Bahar					Sardar Bahar Superintendent Central Prison Haripur	
13 ¹⁰ / ₂₀₁₅	31 ⁰⁷ / ₂₀₁₅ TO 10 ⁰⁷ / ₂₀₁₅	Absentee Period w.e. from 31 ⁰⁷ / ₂₀₁₅ TO 10 ⁰⁷ / ₂₀₁₅ (101) Days may be treated as leave with-out pay			MA 407		
	No - 380 dt-13-10-2015.						
	7 ¹⁵ / ₁₅	SUPERINTENDENT High Security Prison Mardan			14883		31 ¹⁵ / ₂₀₁₅
	8=86852						17/2
							16/02

8685/22

1	2	3	4	5	6	7	8
Name of Post	Whether substantive or officiating and whether permanent or temporary.	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term "pay"	Date of Appointment	Signature of Government servant
Wardet	BPS-05				8685/185	12/10	
6985-340-17185	H.S.P. Mardan.		B. Pay	8685/185			

Wardet BPS-05
 6985-340-17185
 H.S.P. Mardan.

B. Pay = 6985/11 03
 2016

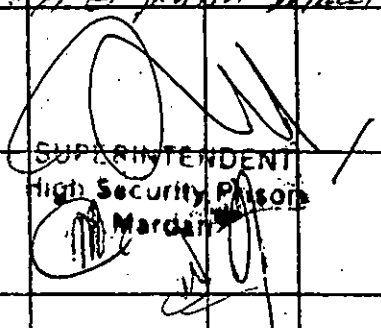
9 Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal, etc.)	12 Signature of the head of the office or other attesting officer.	13 Leave		14 Signature of the head of the office or other attesting officer	15 Reference to any recorded punishment or censure, or reward or praise of the Government Servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
					Period Government to which debitable		
30 ¹¹ / ₁₅	For 30-11-15				01 ¹² / ₁₅ Annual Per. of R. Rais. from	8685/-	8685/-
						 Sign. High Security Prison	
11 ⁰³ / ₂₀₁₆		UPON completion of proceedings under R.P Govt. servants (Efficiency & Discipline) Rules 2011 initiated vide this H.O order No-734-36 dt 25-01-2016, waded H.O. Pr. Bikel					is hereby awarded the major Penalty of a <u>REDUCTION TO LOWEST STAGE</u> in his present time pay scale with further orders as under.
②		His Absence Period w.e from 19-01-2016 (A.M) To 11-03-2016 (F.M) (51-Days) is hereby treated as extra ordinary leave without pay vide Superintendent circle H.O Pr. Bikel order No-841-44 dt-11-03-2016.					 SUPERINTENDENT High Security Prison Bikel

(For use in Police and other similar Departments)

RECORD OF POSTINGS

District & Post	No. of District Order	Date	District & Post	No. of District Order	Date
(i)	76/16		<p>upon completion of proceedings under KPR. (efficiency) & discipline roll 2011. In view of the fact H/O was awarded an order NO. 1751-53 dt: 27/05/2016 in R/O Wazir Hadrat Bilibi S/O Muhammad Jinnat albatu to HSP Marla is hereby awarded the penalty of stoppage of one (1) annual increment with further order as under vide serial H/O D/O Marla NO: 1792-96 dt: 07/06/2016.</p>		
(ii)			<p>H/O absence period w.r. from 07/05/16 to 25/05/2016 (18) days is hereby treated as leave without pay.</p>	<p>16/06/16</p>	

SUPERINTENDENT
 District Security Police
 Malakand
 16/06/16


9	10	11	12	13 Leave		14	15	
Signature and Designation of the head of the office or other attesting officer in attestation of columns 1 to 8	Date of termination or appointment	Reason of termination (such as Promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer.	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant
					Period	Government to which debitable		
	05/8/16							
<p>The accused warden not only failed to resume duties till date, but also failed to justify his willful absence. In addition to this concerned official is habitual of absenting himself from line and duties and discipline, lethargic duty attitude, which is crystal cleared thru his service record.</p> <p>Now, therefore in exercise of Powers conferred under Rule-9 of K.P.M. Government Servants (Efficiency & Discipline) Rule 2011, the undersigned being competent authority after observing all legal procedural formalities hereby award major penalty of <u>"REMOVED FROM SERVICE"</u> from the date of absence i.e. 3-6-2016</p> <p>Mr. Hazrat Bibi S/O Muhammad Ismail attached to H.S.P. Mardan for his misconduct/willful absence. vide SUP/11-HQ/10001/MALE/M NO: 2235-38 dt: 05/8/2016.</p>								
 SUPERINTENDENT High Security Prisons Mardan								

To Mr. Badshah Said
Sr. Assistant Superintendent
Central Prison Peshawar.

Subject: INQUIRY AGAINST WARDER HAZRAT BILAL ATTACHED TO CENTRAL PRISON PESHAWAR.

Memo: You are hereby nominated to inquire the case regarding willful absence/ desertion from duty in respect of Warder Hazrat Bilal attached to Central Prison Peshawar and submit your report/recommendations to this Headquarters within a week time positively for further necessary action, brief history of his service is narrated below: -

- 1- Name: Hazrat Bilal
- 2- Father Name: Muhammad Ismail
- 3- District: Nowshera
- 4- Date of appointment: 13-05-2009
- 5- Absence period w.e.f 10-09-2012 to 17-09-2012 (07 days) was treated as leave without pay.
- 6- Absence period w.e.f 03-05-2013 to 13-06-2013 (40 days) was treated as leave without pay.
- 7- On 04-09-2013, he was awarded the penalty of stoppage of annual increments for 03 years also his period of absence w.e.f 05-08-2013 to 02-09-2013 (29 days) was treated as leave without pay.
- 8- On 13-10-2015, his period of absence w.e.f 31-03-2015 to 10-07-2015 (101 days) was treated as leave without pay.
- 9- On 11-03-2016, he was awarded the major penalty of Reduction to lowest stage in his present time pay scale, also his period of absence w.e.f 16-01-2016 to 11-03-2016 (51 days) was treated as leave without pay.
- 10- On 07-06-2016, he was awarded the penalty of stoppage of annual increment for 01 year, also his period of absence w.e.f 07-05-2016 to 25-05-2016 (18 days) was treated as leave without pay.
- 11- On 05-08-2016, he was awarded the major penalty of REMOVAL FROM SERVICE due to absence from duty and being habitual.
- 12- Upon the decision of KPK Service Tribunal dated 04-12-2018, he was conditionally re-instated into service and his penalty was converted into stoppage of 03 annual increments and attached to Central Prison Peshawar for all purposes.
- 13- Now, as per report of the Superintendent Central Prison Peshawar vide his No. 8533 dated 13-07-2019, that he is absent w.e.f 10-05-2019 and still at large.


SUPERINTENDENT 12.9.19
HEADQUARTERS PRISON PESHAWAR
E-mail: hqprisonpeshawar@gmail.com

To

The Superintendent
Circle HQs. Prison Peshawar.

Subject: INQUIRY AGAINST WARDER HAZRAT BILAL ATTACHED TO
CENTRAL PRISON PESHAWAR.

R/ Sir,

Reference your good-office memo No. 1177/P.B dated 12-09-2019.

It is submitted that as per report received vide above cited memo and as well as his Service Book, Warder Hazrat Bilal was appointed in 13-05-2009, but from the very initial stages, his record is spotty and full of red entries. Even on 05-08-2016 he was awarded the major penalty of Removal from Service on account of willful absence, but he was conditionally re-instated into service by the order of Service Tribunal KPK Peshawar on 04-12-2018 and the penalty was converted into stoppage of annual increment for 03 years and was attached to Central Prison Peshawar for all purposes.

After re-instatement into service, the accused Warder reported his arrival for duty at Central Prison Peshawar but on the very next day again absented himself and remained at large (till date) without intimation.


On 13-09-2019, a letter was sent to him on his address also called through his cell No. 0302-8357082 to appear for personal hearing on account of so long absence and accordingly he appeared on 16-09-2019. Statement obtained from him during personal hearing is enclosed herewith for your kind perusal.

Furthermore, when he was asked that why he is not submitting reply to the Show-Cause Notice, he stated that when I am not being produced before Saib, so there is no need to submit my reply.

Ultimately, after examining his entire service record from each angle, it is crystal clear that the accused Warder is not interested in job, but only to create hurdles for the administration and to squalid the environment for other staff.

Therefore it is strongly recommended that the accused official may be dealt with iron hands so that the department may be defecated from suchlike absconders please.

PB
For further process


(BADSHAH SAIB)
Sr. Asstt: Supdt.
Central Prison Peshawar
Officer

OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
No: 1983 P/B Dt: 06/12/2019
E-mail: hqprisonpeshawar@gmail.com

OFFICE ORDER

WHEREAS, inquiry against the accused Warder (BPS-05) Hazrat Bilal attached to Central Prison Peshawar was entrusted to Mr. Badshah Said, Sr. Assistant Superintendent Central Prison Peshawar with his previous record vide this HQs. memo No. 1177/P.B dated 12-09-2019 in light of the Superintendent Central Prison Peshawar report 8533 dated 13-7-2019, who submitted his report on 18-09-2019 concluding that "Ultimately, after examining his entire service record from each angle, it is crystal clear that the accused Warder is not interested in job, but only to create hurdles for the administration and to squalid the environment for other staff."

AND WHEREAS, in light of Rule 14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011, the accused was served with Final Show-Cause Notice vide this HQs. No. 1390 dated 18-10-2019, whose reply was submitted by the accused on 22-10-2019.

AND WHEREAS, in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused Warder was afforded the reasonable opportunity of personal hearing on 04-12-2019 vide this HQs. memo No. 1735 dated 21-11-2019. During personal hearing, he produced nothing in his defense. Moreover the accused in front of Lines Officer Mr. Shamroz Khan & Lines Moharrar Mr. Yardad Khan of Central Prison Peshawar confessed that he cannot perform duties at night. He is habitual absconder and not fit for the Prison Job.

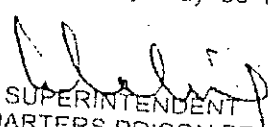
NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of the evidence, record and report of the inquiry officer and his confession, the undersigned being Competent Authority hereby pleased to award him the major penalty of **Compulsory Retirement from Service with immediate effect.**


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1984-39.

Copy of the above is forwarded to the: -

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
2. Superintendent Central Prison Peshawar with reference to his report dated 28-06-2018. Proper entry at this effect may be made in his Service Book.
3. Mr. Badshah Said, Sr. Assistant Superintendent, Central Prison Peshawar (Inquiry Officer) with reference to his Inquiry Report No. NIL dated 18-09-2019 for information.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar please.
5. Head Clerk (Pay Branch) Central Prison Peshawar. His pay may be released with immediate effect.
6. Official concerned.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
E-mail: hqprisonpeshawar@gmail.com

خدمت جناب انسٹرکٹرز آف پرنٹ آئی جی جیل خانہ جات

اپنی برائے نوکری بجالک

Annexure C
(18)

جناب عالی :

مودبانہ گزارش ہے کہ سائل اپنا ڈیوٹی ایمانداری سے ساتھ

سٹل جیل لپٹا اور سیت سرانجام دے رہا تھا۔ چونکہ سائل کو محمد صاحب نے پکی ڈیوٹی

تعماتی تھی سائل کا 9 سے 12 ڈیوٹی تھی چونکہ رانق عبدالدار نے سائل کو ڈیوٹی سے واپس کیا اور

اپنی ڈیوٹی نہیں لے سائل نے کتاب چیا کیا تو سائل نے ڈیوٹی کتاب پر نہیں لے تو محمد صاحب نے بولا کہ

صبح سائل محمد صاحب نے پاس کیا اور بولا کہ میری ڈیوٹی کتاب پر نہیں لے تو محمد صاحب نے بولا کہ

آپ کی 9 سے 12 ڈیوٹی تھی میں نے بولا کہ عبدالدار نے مجھے واپس کیا تھا مجھے بولا کہ محمد صاحب نے بولا کہ

اپنی 12 سے 3 ڈیوٹی تھی اور سائل کو غیر حاضر کر دیا سائل نے بار بار محمد صاحب کے پاس آکر بولا کہ یا

مجھے ڈیوٹی پر لویا مجھے سپرنٹنڈنٹ صاحب نے پاس پیش کرو۔ سائل محمد صاحب نے ایک بجے نہیں لیا اس

دوران سپرنٹنڈنٹ صاحب عمرے کے لیے چلے گئے۔ واپس آکر میرے اوپر انکو انری تھی جسکا اسپنر

بادشاہ سید صاحب تھا سائل میں نے بادشاہ سید صاحب کو دھماکی نہیں ادا سارا پوچھ تاج مجھ

سے مصروف کیا اس سے پہلے نہ مجھے کوئی شوق اس لوٹس مل اس دن رات سوینے کی بناء پر

میرا دماغ سے نطفہ کا مسئلہ ہو گیا سپرنٹنڈنٹ صاحب نے مجھے ڈیوٹی پر لیا سائل کا نظریہ کتاب

تھا سائل نے محمد یار احمد ان اسپنر کو لیت بولا کہ میری ڈیوٹی کا مسئلہ ہے میرے ساتھ ڈیوٹی میں رعایت

کرنا سپرنٹنڈنٹ صاحب کی پیشکش سائل نے اس نے نہیں لیا چونکہ سائل کی کٹھنھے خراب ہو رہی تھی

میرے سائل کو سپرنٹنڈنٹ صاحب نے سامنے پیش کیا سائل نے سپرنٹنڈنٹ صاحب کو تمام باتیں بتائی سائل

سائل سپرنٹنڈنٹ نے سائل کو پھری ریٹائر کر دیا چونکہ سائل کا 10 سال میں پوچھ دن کمرے اور

سائل کا مینڈیشن نہیں بننا چونکہ 13 اگست 2009ء کا بھیجی ہے اور نہ سائل کی ام صندھری ہو سکتی

اب سائل کو نطفہ کا بھی مسئلہ ہے اسلئے ایسا بیان میرا بنی کرے سائل کو دوبارہ ڈیوٹی پر بحال کیا

جائے اور سائل کے وجودہ حال پر رقم دیا جائے۔ مودف 2019-12-18 موہا میں

ایکاتالہ دار وارڈر حضرت بلال سٹل جیل لپٹا اور

(0302-8357082)

PP No 30032

18.12.19

7



27-02-2020

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. Estb/Ward-/Orders/ Ke 7466 1-

Dated 27-2-2020 1-

ORDER:

WHEREAS, Warder **Hazrat Bilal S/O Muhammad Ismail** while attached to Central Prison Peshawar was awarded the major penalty of "compulsory retirement from service" with immediate effect by the Superintendent Headquarters Prison Peshawar vide his office order No. 1983 dated 06-12-2019.

AND WHEREAS, the said warder preferred his departmental appeal for setting-aside the penalty awarded to him, which was examined in light of the available record of the case and it was observed that the charges leveled against the appellant was proved.

AND WHEREAS, he was afforded an opportunity of personal hearing on 25-02-2020. During the course of hearing, he failed to justify his innocence. In addition, his past service record is full of red entries due to his ill-disciplined career.

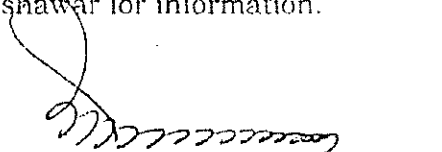
NOW THEREFORE, keeping in view the facts on record, the provision of rules in vogue, in exercise of power conferred under Rule-5 of Khyber Pakhtunkhwa Civil Servants Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance.

ADDITIONAL INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Endst; No. 74677469 1-

Copy of the above is forwarded to-

1. The Superintendent, Headquarters Prison Peshawar for information and necessary action with reference to his letter No.442-WE dated 07-02-2020.
2. The Superintendent Central Prison Peshawar for information.
3. Accountant General of Khyber Pakhtunkhwa Peshawar for information.


ASSISTANT DIRECTOR

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

A 27-2-2020

DS/PB

27.2.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No:1569/2020

Hazrat Bilal, Ex- Warder, Central Prison, Peshawar.

.....Appellant

Versus

Inspector General of Prison, KPK, Peshawar & Others.

.....Respondents

APPELLANTS REJOINDER

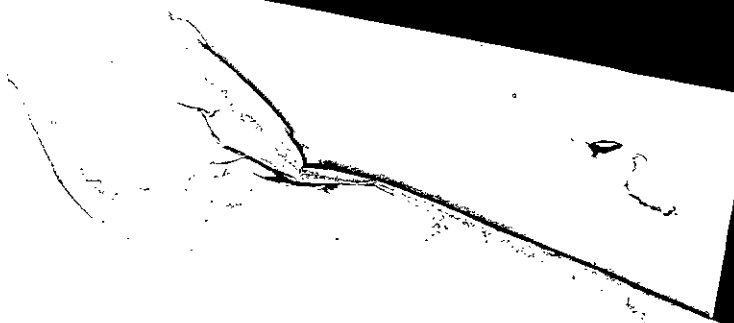
Respectfully Sheweth:-

Preliminary Objections:-

That the 6 preliminary objections raised by the respondents in their written statement are wrong, illegal, incorrect and are denial in every detail. The Appellant has a genuine cause of action and his appeal does not suffer from any formal defect.

Facts:

1. Correct to the extent that the appellant was appointed as warden on 13 May 2009. Rest of the contents of appeal are correct and its reply is incorrect.
2. Incorrect. That the appellant's absence for 3 months was not intentional but he was sick and was unable to perform his duty.
3. Incorrect.



as
to



Grounds:

A to C: Incorrect. Grounds A to C of Appeal are correct and its replies are incorrect.

D. That the appellant during the entire period was sick and was unable to perform the duty and the penalty imposed upon the appellant is illegal and is not sustainable under the law and is liable to be set aside.

E & F: Incorrect. Grounds E & F of the appeal are correct and replies of the same grounds are incorrect.

It is, therefore, most respectfully prayed that on acceptance of appeal and rejoinder, both the impugned orders dated: 06/12/2019 & 07/07/2020 vide annexure A & D may be set aside and the appellant shall reinstated in service with all back benefits.

Dated: 26/11/2021

H. Beldi
Appellant

Through

Aslam
Aslam Khan Khattak
Advocate, High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No:1569/2020

Hazrat Bilal, Ex- Warder, Central Prison, Peshawar.

.....Appellant

Versus

Inspector General of Prison, KPK, Peshawar & Others.

.....Respondents

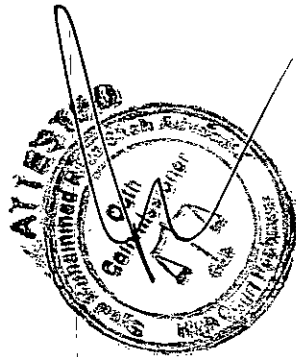
AFFIDAVIT

I, Hazrat Bilal, Ex- Warder, Central Prison, Peshawar, do hereby solemnly affirm & state on oath that all contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

H. Bilal
DEPONENT

Identified By

Aslam
Aslam Khan Khattak
Advocate, High Court,
Peshawar.



26 NOV 2021

10. Copies of signed judgment be released to the parties according to the procedure of the Tribunal.

N.L.R. 1991 TD 274

Before Abdul Hamid Khan, Member, Punjab Service Tribunal Lahore

Appeals Nos. 333, 334 & 335 of 1989 decided on 2-9-90

MUHAMMAD BAKHSH, ETC.—Appellants

versus

ADDITIONAL SUPERINTENDENT OF POLICE, SARGODHA, ETC.—Respondents.

(a) Efficiency and Discipline Rules, 1973 (Punjab)—

Rules 4, 5, 6. Charges which are found to be vague, unfounded and not supported by credible evidence cannot be sustained in disciplinary proceedings.

(b) Ibid—

Rule 5. Charges of unauthorised absence if proved against civil servant would not justify imposition of major penalty of dismissal from service. Service Tribunal in such case setting aside major penalty of dismissal from service and substituting it with forfeiture of two years approved service with order that intervening period between dismissal and reinstatement shall be treated as leave extraordinary without pay.

M. A. Riaz, for appellants.

Manzoor Hussain D.A. for respondents.

Date of hearing: 12-8-90.

JUDGMENT

MR. ABDUL HAMID KHAN, MEMBER.—This judgment disposes of the three appeals bearing Nos. 333, 334 and 335, all of which were filed by the appellants Muhammad Bakhsh, Muhammad Nawaz and Manzoor Ahmad respectively as these involve identical questions of law and are directed against the same impugned order dated 31-1-1989 of the Additional Superintendent of Police, Sargodha/Respondent No. 1 whereby the three appellants were dismissed from service and an order dated 23-5-89 passed in appeal by the DIG of Police, Sargodha Range/Respondent No. 2.

2. The facts of the case are that on 2-10-1988 the above named constables are alleged to have conducted illegal and unauthorised checking on Sargodha-Jhawarian Road outside the municipal limits in this way extorted illegal gratification from drivers of public transport. On receiving a telephonic tip a police party reached the spot and found the above named three constables and another one (Muhammad) indulging in unauthorised traffic checking and taking bribe from the drivers. However, as soon as they saw the raiding party they immediately sped away in a taxi which was standing by. One of the

drivers, Nazir Hussain, gave his statement before the police that he was checked by Manzoor Ahmad whom he gave Rs. 20/- as illegal gratification. While he recognised the appellants, Muhammad Aslam could not be recognised by him.

3. After necessary investigations, a challan was submitted in the court of the Special Judge, Anti-Corruption Sargodha against the appellants. Simultaneously, departmental proceedings were also initiated against the appellants. The Enquiry Officer found them guilty of the charges. After giving them an opportunity of personal hearing the Authority/ Addl. S. P. Sargodha (Respondent No. 1) dismissed them from service. Their appeals against the dismissal orders were also rejected by the Appellate Authority i.e. the DIG Police, Sargodha Range (Respondent No. 2).

4. The learned counsel for the three appellants and the learned District Attorney have been heard and the relevant record produced before the Tribunal examined. The learned counsel for the appellant submitted that the impugned orders were liable to be set aside on the following grounds:

- (i) The appellants were not given due opportunity of cross-examining the prosecution witnesses;
- (ii) Copies of the enquiry report were not furnished to the appellants;
- (iii) The impugned order dated 31-1-1989 is based on a misconception of facts that the appellants were caught red handed while extorting money as illegal gratification from the truck driver;
- (iv) The prosecution witness Nazir Hussain, truck driver, who was the star witness in this case as also complainant in criminal case FIR No. 559 dated 2-10-1988, disowned his complaint and called the entire police story as fabricated. There was no other prosecution witness except the members of the raiding party;
- (v) No recovery was effected from the appellants although the raiding party comprised seven police-men who had come in a wagon;
- (vi) The appellants have been acquitted by the Special Judge Anti Corruption Sargodha of all the charges as there was absolutely no probability of conviction of any of the accused in this case.

5. The learned District Attorney vehemently opposed and rebutted the contentions of the learned counsel for the appellants and submitted that the very first objection raised by the learned counsel for the appellants and the appellants were not allowed to cross examine the witness was legally incorrect. He produced before the Tribunal the witness's statement of the three accused officials had cross examined the witness and noted at the end of each statement "admitted as correct". As regards the objection raised by the learned counsel for the appellants with regard to the technical requirements of the E & D Rules, 1975 had been observed. The appellants were given abundant opportunity to put up their defence which is evident from the fact that some defence witnesses were produced by them. As regards acquittal in the criminal case the learned D.A. stated that the appel-

lants were not acquitted on merits or honourably but under section 249-A of Cr. P.C. for lack of adequate evidence. He pointed out that acquittal in a criminal case does not necessarily mean that the departmental proceedings should also result in the exoneration of the accused civil servant. In response to the explanation offered by the appellants that they had gone to a village to enquire about the health of the friend, spent the night there and were only standing on the road side the next morning awaiting for a bus to take them back to Sargodha and were, therefore, not on duty at that time, the D.A. called it a cock and bull story. He stated that they were wearing uniforms and that too outside the municipal limits of Sargodha which clearly indicated that they were upto something. He, therefore, concluded that the appellants had rightly been punished through proceedings which did not suffer from any defect. He urged the Tribunal to uphold the impugned orders which according to him were perfectly legal. The learned D.A. could not, however, adequately defend the omission of non supply of a copy of the enquiry report.

6. The three charges levelled against the appellants are examined hereunder in the light of the submissions made by the learned counsel for the appellants and the learned D.A.

Charge No. 1

"On 2-10-1988, you alongwith other 3 Constables conducted illegal and unauthorised traffic checking on Sargodha—Jhavarian Road and extorted money as illegal gratification from different trucks/public vehicles' drivers."

7. The only fact specified in the charge is the date. All other matters mentioned there are non specific; the names of the other constables have not been mentioned; the point at which the appellants were making the unauthorised checking on Sargodha Jhavarian road has not been specified; the amounts of illegal gratification received from the drivers of vehicles have not been mentioned; the numbers of the vehicles and the names of the drivers have not been given. The charge is, therefore, patently vague and non specific and could rightly be termed as based on surmises and conjectures and, therefore, unfounded.

Charge No. 2

"Case FIR No. 559 dated 2-10-1988, u/s. 5/2/47, P.C.A., and 168 PP. PS Sadder was also registered against you because of your indulgence and thereby captured red-handed while you were busy in carrying out and accepting illegal gratification from public vehicles/truck drivers."

8. The appellants have been acquitted of the charges contained in the aforementioned FIR. The prosecution failed because in the light of the evidence on record the court felt that there was absolutely no probability of conviction of any of the accused in this case. This allegation in the charge sheet was wholly based on the FIR 559 dated 2-10-1988 which on the basis of the criminal proceedings. Since the criminal proceedings failed, this charge too should fall.

Charge No. 3

"Moreover, the point of traffic checking on which you were found carrying out illegal traffic checking was beyond the Municipal Limits for which you were restricted and quite unauthorised to perform the traffic duties. But, you because of your ulterior motives, violated the orders of your officers by conducting traffic checking beyond the Municipal Limits."

9. It has nowhere been denied by the appellants that they were standing on Sargodha-Jhavarian road although they have given their own reasons for their presence at the place and at that time. They have also not denied the fact that they were in uniforms. It is also admitted that the place where they were standing on Sargodha-Jhavarian Road was on the outskirts of Sargodha and outside the municipal limits. It is also evident that they left the municipal limits without permission from the competent authority. It was incumbent on them to obtain leave for going out of Sargodha notwithstanding the fact that they were not on duty at that time. Thus this charge is proved to the extent that appellant's absence from Sargodha was unauthorised and the appellants have not been able to offer any plausible explanation of this misconduct.

10. Before concluding some other weaknesses in the case made out by the prosecution may as well be mentioned. In the departmental proceedings the three appellants were accused of being caught red handed while accepting illegal gratification whereas in the FIR only Manzoor Ahmad was so accused. In the FIR driver Nazir Hussain, prosecution witness in both the criminal and departmental proceedings, did not support the prosecution case during the course of both the proceedings. The prosecution could not produce even a single witness who could state that he saw any of the accused accepting any amount as illegal gratification from any person nor the amount of Rs. 20/- stated to have been given by Nazir Hussain' driver, to Manzoor Ahmad, appellant, was recovered from him. It is, therefore, not correct to say that any of the appellant was caught red handed. The prosecution did not produce two important eye witnesses for reasons best known to it. They are the drivers of the wagon in which the raiding party travelled and driver of the taxi in which the appellants are stated to have fled away. None of the appellants could be apprehended by the raiding party in spite of the fact that they were seven in number and had come in a vehicle. It is surprising that despite the raiding party being mobile it did not give the appellants a chase. The departmental proceedings and the written objections filed by respondents clearly show that no effort was made by the raiding party to chase the appellants. Thus so far as the first two charges are concerned, it is evidently a case of no evidence.

11. As already stated, the learned D.A. did not controvert the contentions of the learned counsel for the appellants. The copies of the enquiry report were not supplied to the appellants which prevented them from putting up their defence adequately. In the light of the judgments in cases reported as PLD 1981 SC 176, 1984 SCMR 451 and 1987 SCMR 1562 cited by the learned counsel for the appellant this defect in the departmental proceedings is sufficient to quash the proceedings on this ground alone.

12. Taking all the aspects of the three appeals into consideration it is held that the first two charges are vague, unfounded and not supported by credible evidence. However, the third charge relating to the unauthorised absence of the appellants has not been assailed successfully. Viewed in this context, the penalty of dismissal from service would seem to be a bit too harsh. Resultantly the impugned orders of dismissal are set aside, the three appellants are reinstated and the penalty of dismissal is converted into forfeiture of two years approved service in each case which should meet the ends of justice. The intervening period between their dismissal and reinstatement shall be treated as leave extraordinary without pay. There are no orders as to costs. *Penalty Reduced.*

N L R 1991 TD 278

Before Mr. Muhammad Mehmud Aslam Pirzada, Chairman,
Mr. Abdul Hamid Khan, Member, Punjab Service Tribunal Lahore

Appeal No. 576/1057/88 accepted on 5-8-90

CH. NAZIR AHMAD—Appellant

versus

THE DIRECTOR EDUCATION FAISALABAD
DIVISION, ETC.—Respondents

(a) Annual Confidential Reports (ACR)—

Remarks that civil servant was "egoist" should not be considered as adverse nor should it be used against him in matters relating to grant of annual increment or any other service benefit. Similarly, remark like "Negative consideration" under heading Integrity should not have adverse rating on civil servant's integrity. (P 280,281)

(b) Ibid—

Adverse remarks against civil servant having clean and blotless service record for 37 years. Circumstances showing that reporting officer had manifestly acted whimsically while recording adverse remarks. Countersigning Officer merely affixing his signatures on report without underlining adverse remarks as required by Para 13 "Instructions for filling the ACR Forms" Appeal against adverse remarks accepted and expunction ordered. (P 279,280,281,282)

Ch. Muhammad Ikram Zahid, Advocate for appellant.

Ch. Manzoor Hussain District Attorney for respondent.

Date of hearing : 26-6-1990 at Faisalabad.

JUDGMENT

MR. ABDUL HAMID KHAN, MEMBER.—The appellant, Nazir Ahmad, while posted as Subject Specialist, Government Comprehensive High School, Faisalabad was given the following adverse remarks by the Headmaster of the school in the appellant's ACR for the year 1984 :

Part-B

5. Integrity :

(iii) Believed to be corrupt :

(b) Other consideration

Negative consideration.

Part-C

General Remarks :

He is an egoist and I have found him an irresponsible servant.

2. Appellant's representation against the above remarks was rejected by the competent authority vide orders dated 30-3-1986/11-8-1988 after obtaining and taking into consideration comments of the reporting officer. The present appeal is directed against the above impugned orders whereby the said representation of the appellant was rejected.

3. We have heard the parties and have also examined the relevant record made available to the Tribunal. During his submissions before this Tribunal the learned counsel for the appellant pointed out that the adverse remarks conveyed to the appellant, who has since retired, suffer from inherent contradictions and infirmities. He argued that these adverse remarks were actually the result of an incident which had annoyed the Headmaster. According to the learned counsel for the appellant there was difference of opinion between the Headmaster and the appellant in handling a situation when a relative of the Headmaster had misbehaved with the students. The appellant had recommended for action in the staff meeting against this relative of the Headmaster but the suggestion did not find favour with the Headmaster. The counsel for the appellant further submitted that a person cannot become irresponsible overnight if he was punctual, dutiful and honest only last year. He further added that to be an egoist and to be irresponsible are traits of character which if found in a person persist for years and should have found mention in the previous ACRs also. He, therefore, urged the Tribunal to expunge these remarks which were whimsical in nature and which the reporting officer has failed to substantiate. He also pointed out that in the comments offered by the reporting officer it has clearly been recommended that he had no objection if the adverse remarks were expunged.

4. Learned District Attorney placing reliance largely on the written objections submitted by the respondents argued that the defects pointed out by the reporting officer in the ACR were the result of his observations during the period of the impugned report which he had faithfully and honestly recorded with which the Countersigning Officer had also agreed. These adverse remarks were thus correctly communicated to the appellant in the hope that he would remove these defects. He, therefore, submitted that no exception may be taken against the impugned order rejecting the representation of the appellant.

5. The assertion of the learned counsel for the appellant that except for this solitary report for the year 1984 the CR dossier of the appellant does not contain any other adverse report which are all clean and

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CIVIL SERVICES

accepted and recognized principle, which has been explained by many authors in textbooks and Judges in precedents---Statutory functionaries in a democratic set up cannot make any individual distinction for an extraneous reasons and exercise of discretion must be free of arbitrariness and caprice."

13. In a recent reported case titled Ibrahim Flour and General Mills District, Sheikhpura through Chief Executive v. Government of Punjab through Secretary to the Government of the Punjab, Food Department, Lahore and another PLD 2008 Lahore 184, the point of discrimination was thoroughly examined, dilated upon and held "the point of discrimination calls for interference and exercise of powers of judicial review."

14. When it is admitted on record that the similarly placed employees of High Courts, Office of the Punjab Bar Councils, Office of Attorney-General for Pakistan, Federal Tax Ombudsman, and Wafaqi Mohtasib are getting the benefits but the petitioner and his colleagues are being deprived of the same, the respondents' action being a violative of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 cannot remain in field.

15. The Deputy Secretary, Finance Department, Government of the Punjab (departmental representative) candidly submits that the precedents of employees of Office of Attorney-General for Pakistan etc., cannot be made the basis of petitioner's claim because the Office of Attorney-General for Pakistan belongs to Federal Government and the petitioner and his colleagues are employees of Provincial Government's attached department.

16. Suffice it to refer a judgment reported as Dr. Navceda Tufail and 72 others v. Government of Punjab and others 2003 SCMR 91 which is a sufficient answer to the department's contentions.

17. Viewing from all angles it is held that the petitioner and his colleagues working in the Office of Advocate-General Punjab are entitled for the relief claimed in the prayer clause of the writ petition.

The writ petition is allowed. The respondents are directed to extend the said benefit to the petitioner and his colleagues within a period of two months positively from the date when the employees of office of Attorney-General for Pakistan were granted the said benefit i.e. w.e.f. 29-11-2008.

H.B.T./S-47/L

Petition allowed.

P.L.C (Series)

2008

2008

CIVIL SERVICES

1055

2008 P.L.C (C.S.) 1055

[Federal Service Tribunal]

Before Qazi Muhammad Hussain Siddiqi and
Rashid Ali Mirza, Members

MUHAMMAD YAQOOB

versus

KARACHI ELECTRIC SUPPLY
CORPORATION LTD. and another

Appeal No. 854(K)(CE) of 2003, decided on 27th January, 2006.
Government Servants (Efficiency and Discipline) Rules, 1973---

---Rr. 4(1)(h)(iv)---Service Tribunals Act (LXX of 1973). S.4---
Dismissal from service---Appeal---Appellant who had a long service of
10 years was dismissed from service only on the ground of unauthorized
absence from duty---Authorities had not shown, if due to absence of
appellant, authorities had to sustain any kind of loss or suffered in any
way---For mere unauthorized absence, major penalty of dismissal from
service imposed upon appellant, was extremely harsh one and not
commensurate with the petty misconduct born out of the absence of the
appellant---Penalty of dismissal from service awarded to appellant was
modified to that of withholding of two increments for a period of two
years without any cumulative effect---Penalty was modified on the
compassionate ground as appellant who was a petty employee of the
Authority had been litigating unsuccessfully before the Tribunal since
long---Period of absence of the appellant be treated as leave of
sort that could be due to him---Appellant was reinstated in service.
[p. 1057] A

Ch. Latif Saghar for Appellant.

Asliq Ali Anwar Rana for Respondent.

Date of hearing: 10th December, 2005.

JUDGMENT

RASHID ALI MIRZA, (MEMBER)---The appellant who was
working as Karkun in the respondent's Corporation since 1988 had a
chronic medical history of being kidney patient. He was treated while in
the employment at Karachi and was also operated upon. He applied for
Ex-Pakistan leave for medical treatment and was initially granted leave
for six months w.e.f. 8-1-1998 to 9-7-1998. He requested for extension
of further leave on the same ground which was granted upto 20-10-1999.
On 27-6-2000 when the appellant in terms of letter dated 26-2-2000 came

P.L.C (Series)

the appellant. We, therefore, accept the request of the learned counsel for the appellant and modify the penalty of dismissal of the appellant from service to that of withholding of two increments for a period of two years without any cumulative effect. We have modified the penalty of dismissal of the appellant from service on the compassionate ground also as the appellant, who is a petty employee of respondent No. 1, had been litigating unsuccessfully before this tribunal since long. The period of absence of the appellant be treated as leave of any kind at may be due to him. The appellant be reinstated in service.

No order as to costs.

5. Copies of the judgment be sent to the parties (under registered cover) and to the relevant quarters under rule 21 of Service Tribunal.

H.B.T./10/FST

Order accordingly.

2008 P L C (C.S.) 1058

[Federal Service Tribunal]

Before Qazi Muhammad Hussain Siddiqui
and Rashid Ali Mirza, Members

NOOR MUHAMMAD LASHIARI

versus

FEDERATION OF PAKISTAN through Divisional
Superintendent Pakistan Railways and 6 others

Appeal No. 129(K)(C.S.) of 2002, decided on 25th April, 2006.

Removal from Service (Special Powers) Ordinance (XVII of 2000)

---Ss. 3, 5(4) & 10---Service Tribunals Act (LXX of 1973), S.4
Dismissal from service---Appeal---Appellant was dismissed from service
after issuing him show-cause notice but without holding regular inquiry
against him on an allegation of misconduct, misappropriation of
government funds and fraudulent activities---Appellant having denied
allegations levelled against him, holding regular inquiry was absolutely
necessary, but neither regular inquiry was held nor appellant was given
opportunity of personal hearing---Effect---Employee could be declared
guilty only through a regular inquiry, but Authority dispensed with the
inquiry without assigning any reason in the show-cause notice---Fact
finding inquiry could never be a substitute for a regular inquiry and it
could not be used against an accused employee for awarding major
penalty of dismissal from service---Impugned order was set aside and

appeal was remanded with direction to Authorities to reinstate the appellant and hold de novo disciplinary proceedings against him on the same allegation/charges within a specified period.

[pp. 1062, 1063.] A. B. C. D & E

2001 SCMR 256; 2004 SCMR 316=2004 PLC (C.S.) 344; 1986 PLC (C.S.) 419; 2003 PLC (C.S.) 365; PLD 2004 (SC) 451 and PLJ 2003 SC 54 ref.

1984 PLC (C.S.) 641; 1986 PLC (C.S.) 591; PLD 1994 SC 222; 1985 PLC (C.S.) 245; 2004 SCMR 1663 and 1993 SCMR 603 rel.

Sanaullah Noor Ghauri for Appellant.

Muhammad Latif Saghar for Respondents.

Date of hearing: 18th February, 2006.

JUDGMENT

RASHID ALI MIRZA (MEMBER).--- Through the instant appeal under section 4 of the Service Tribunals Act, 1973, the appellant has challenged the impugned order, dated 21-7-2001 of his dismissal from service under Removal from Service (Special Powers) Ordinance, 2000, praying therein to allow the appeal, set aside the impugned order and direct the respondents to reinstate him in service with all back-benefits.

2. Briefly the facts, leading to this appeal as mentioned in the memo. of appeal are that while the appellant posted as Senior Commercial Assistant Booking was placed under suspension. He was served with show-cause notice dated 3-5-2001 along with statement of allegations which are reproduced as under:--

"No. 170E/12274/P.1., dated 3-5-2001

Show-Cause Notice

Whereas, you Mr. Noor Muhammad son of Abdul Razzaque C-9/A/Booking Rohri BPS-7 have committed the following irregularities:--

Charges:--

Whereas, by reason of above, you are guilty of misconduct and liable to disciplinary action under the Government Servants (Efficiency and Discipline) Rules, 1973/ Delegation of Powers under Removal from Service (Special Powers) Ordinance, 2000.

And whereas, in the light of the facts and circumstances of the

(5) The Inquiry Officer or the Committee as the case may be, shall within a term days of the conclusion of the proceedings or such longer period as may be allowed by the authorised officer, submit his or its findings and the grounds thereof to the authorised Officer.

Note—In the case of staff in grades 1 to 5, the authorised Officer may, at his discretion, permit the accused to be assisted by another Railway servant.

7. Powers of Inquiry Officer and Inquiry Committee—(1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits, and
- (d) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

8. Rule 5 not to apply in certain cases.—Nothing in rule 5 shall apply to a case:—

- (a) where the accused is dismissed or removed from service or reduced in rank, on the ground of conduct which has led to a sentence of fine or of imprisonment; or
- (b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

9. Procedure of inquiry against officers lent to Provincial Government, etc.—(1) Where the services of a Railway servant to whom these rules apply, are lent to a Provincial Government or other authority hereinafter in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules:

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as the lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings as the case may be.

Provided further that the borrowing authority shall obtain prior approval of the President before taking any action under these rules against an All-Pakistan Unified Grades officer in Grade 17 and above.

Railway servant in terms of sub-rule (1), the borrowing authority is of opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action as prescribed in the rules.

10. Appeal—A person on whom a penalty is imposed shall have such right of appeal as prescribed in rules 1717, 1723, 1731 and 1732 of the Pakistan Railways Establishment Code:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the person concerned may apply for review of the order.

11. Appearance of Counsel.—No party to any proceedings under these rules before the authority, the authorised officer, an Inquiry Officer or an Inquiry Committee shall be represented by an advocate.

THE REVISED LEAVE RULES, 1930

S.R.O. 1313 (1) 80, dated 20th December, 1980 (Gaz. Part. P. 11, 21-12-80).—In exercise of the powers conferred by section 25 of the Civil Servants Act, 1973 (LXXI of 1973), the President is pleased to make the following rules, namely:—

1. Short title, application and commencement.—(1) These rules may be called the Revised Leave Rules, 1930.

(2) They shall apply to all civil servants other than those who were employed before the first day of July, 1973, and opted not to be governed by the Revision of Leave Rules issued under the Finance Division's Office Memorandum No. F. 1 (2)-Rev. 1/73, dated the 21st September, 1973.

(3) They shall come into force at once.

2. When leave earned.—(1) All service rendered by a Civil servant qualifies him to earn leave in accordance with these rules but shall not be carried during the period of leave.

(2) Any period spent by a civil servant in foreign service qualifies him to earn leave provided that contribution towards leave salary is paid to the Government on account of such period.

3. Earning and accumulation of leave.—(1) A civil servant shall earn leave only on full pay which shall be calculated at the rate of four days for every calendar month of the period of duty rendered and credited to his leave account as "Leave on Full Pay", duty period of fifteen days or less in a calendar month being ignored and those of more than fifteen days being treated as a full calendar month for the purpose.

(2) If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than fifteen days, the leave to be credited for both the incomplete months shall be restricted to that admissible for one full calendar month only.

(3) There shall be no maximum limit on the accumulation of such leave.

[Handwritten signature]

(2) Leave applied for on medical certificate shall not be refused :

Provided that the authority competent to sanction leave may, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or Medical Board, as the case may be, to have the applicant medically examined.

21. Leave when starts and ends.—Instead of indicating whether leave starts or ends in the forenoon or afternoon, leave may commence from the day following that on which a civil servant hands over the charge of his post and may end on the day preceding that on which he resumes duty.

22. Recall from leave, etc.—(1) If a civil servant is recalled to duty compulsorily with the personal approval of the head of his office from leave of any kind that he is spending away from his headquarters, he may be granted a single return fare plus daily allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty.

(2) In case the civil servant is recalled to duty at headquarters and his remaining leave is cancelled, the fare then admissible shall be for one way journey only.

(3) If the return from leave is optional, the civil servant is entitled to no concession.

23. Overstay after sanctioned leave, etc.—(1) Unless the leave of a civil servant is extended by the head of his office, a civil servant who remains absent after the end of his leave shall not be entitled to any remuneration for the period of such absence, and without prejudice to disciplinary action that may be taken against him, double the period of such absence shall be debited against his leave account.

(2) Such debit shall, if there is insufficient credit in the leave account be adjusted against future earning.

24. Any type of leave may be applied.—A civil servant may apply for the type of leave which is due and admissible to him and it shall not be refused on the ground that another type of leave should be taken in the particular circumstances, for example, a civil servant may apply for extraordinary leave or leave on half pay even if leave on full pay is otherwise due and admissible to him, or he may proceed on extraordinary leave followed by leave on half pay and full pay rather than that on full pay, half pay, and without pay.

25. Combination of different types of leave, etc.—One type of leave may be combined with joining time or with any other type of leave otherwise admissible to the civil servant :

Provided that leave preparatory to retirement shall not be combined with any other kind of leave.

26. Civil Servant on leave not to join duty without permission before its expiry.—Unless he is permitted to do so by the authority which sanctioned his leave, a civil servant on leave may not return to duty before the expiry of the period of leave granted to him.

27. Leave due may be granted on abolition of post, etc.—(1) When a post is abolished, leave due to the civil servant, whose services are terminated in consequence thereof, shall be granted without regard to the availability of a post for the period of leave.

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**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
HOME AND TRIBAL AFFAIRS DEPARTMENT.**

NOTIFICATION

Peshawar, dated the 14th March 2018.

No.SO(P&R)HD/3-3/2018.-In exercise of the powers conferred by section 59 of the Prisons Act, 1894 (IX of 1894) and in supersession of rules issued in this behalf, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

**THE KHYBER PAKHTUNKHWA
PRISONS RULES, 2018.**

**Chapter-1
General Provision**

1. Short title and commencement.---(1) These rules may be called the Khyber Pakhtunkhwa Prisons Rules, 2018.

(2) It shall come into force at once.

2. Definitions.---(1) In these rules, unless otherwise prescribed the following expressions shall have the meaning hereby respectively assigned to them, that is to say-

- (a) "Act" means the Prisons Act, 1894 (Act IX of 1894);
- (b) "Additional Inspector General" means Additional Inspector General of Prisons appointed by Government under these rules;
- (c) "Assistant Superintendent" means Assistant Superintendent of the Prisons and includes Senior Assistant Superintendent or Senior Lady Assistant Superintendent appointed by Government;
- (d) "Central Prison" means a Central Prison declared as such by Government;
- (e) "Chief Warder" means Chief Warder either male or female, as the case may be, in respective ward in a Prison;
- (f) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);
- (g) "condemned prisoner" means prisoner sentenced to death and his sentence of death confirmed by the Supreme Court of Pakistan;

(2) Every member of the Warder establishment of a circle shall be liable to serve at any place in or prison or outside his Circle when required, if such circles exist.

(3) No subordinate officer shall be posted to a Prison, other than a Central Prison, in his home district without the sanction of the Inspector General

(4) It shall be the duty of every candidate for employment and of every subordinate officer to forthwith inform the Superintendent if he is in any way related to or connected with another officer employed in the same prison, or with any prisoner confined in that prison.

1078. Prohibition against employment of Officers/officials persons dismissed or punished criminally.---(1) Officers or officials who have been dismissed from Government Service shall not be employed in the Prisons Department without the special sanction of Government. Government shall, be given a full statement of the facts relating to such dismissal.

(2) Officers or officials who have been convicted of any offence against the Criminal Law and punished with imprisonment and shall not be employed in the Prison Department without the special sanction of the Inspector General.

(3) Only persons of good conduct and respectable character shall be employed as prison officers.

1079. Candidates to disclose previous punishment.---(1) Before any person is temporarily or permanently appointed as prison officer, he shall be required to make a declaration that he has not at any time been dismissed from Government service or convicted of any offence and punished with imprisonment.

(2) If any such person has been dismissed or convicted and punished, he shall instead of making a declaration as aforesaid, make a full disclosure of the circumstances attending such dismissal or conviction and punishment, for the information and orders of the proper authority.

1080. Prohibition against business and pecuniary transactions.---(1) No prison officer shall directly or indirectly engage in any trade, business or employment other than his legitimate duties.

(2) No prison officer shall lend money to, borrow money from, enter into any pecuniary transaction with, or incur any obligation in favor of any other officer or any prisoner.

1081. Residential quarters.---(1) Rent free residential quarters shall ordinarily be provided at each prison for the Superintendent, Deputy Superintendent, Senior Assistant Superintendent, Assistant Superintendents, Senior Medical Officer, Medical Officer, Pharmacy Technician, Assistants and Clerical Staff, Storekeepers, Instructors, Teachers, Head Warders and the Warders.

(2) Every prison official for whom the residential quarters are not available in prison shall reside within such distance from the prison as the Superintendent may direct,

1082. Leave to Subordinate Officers.---(1) No subordinate officer shall, at any time, without the permission of the Deputy Superintendent, if such officer is subordinate to him, and, in any other case, of the Superintendent, be absent from the prison premises, whether by day or night.

(2) The Deputy Superintendent shall not, without the sanction of the Superintendent, grant leave of absence to any subordinate officer, or permit any such officer to remain absent, for any period exceeding four hours at any one time.

(3) Whenever any leave is granted by the Deputy Superintendent to any subordinate officer he shall, at the time the leave is granted, record the fact, and the period of leave in his report book.

(4) Every subordinate officer shall immediately on return from leave report the fact to the Deputy Superintendent, who shall forthwith record his arrival in his report book.

(5) The Deputy Superintendent shall similarly record in his report book, all leave granted by the Superintendent and all reports made of return from leave.

(6) Fifteen (15) days recreation leave shall be granted to every employee of Department once in a calendar year on rotation basis.

1083. Absence caused by illness or other unavoidable cause.---Whenever any subordinate officer is at any time prevented by sudden illness or other unavoidable cause, from attending the prison or performing his duties he shall forth-with give notice to the Superintendent along with his reasons for absence. The Superintendent shall then make suitable arrangements for the due performance of his duties.

1084. Acquaintance with these rules and directions.---It shall be the duty of every prison officer to make himself thoroughly acquainted with the duties of his office and these rules and directions. He shall discharge his duties with zeal, efficiency, honesty, alacrity and regularity.

1085. Note Book.---Every subordinate officer shall keep a notebook with him in which he shall record every order given to him by his superior officers.

1086. Subordinate Officer to render prompt obedience.---It shall be the duty of every subordinate officer at all times to render prompt and implicit obedience to every lawful order, given to him by superior officer, with proper courtesy and respect.

1087. Prohibition against communicating with prisoners, their-relatives and friends.---(1) No subordinate officer shall, otherwise than with the special permission of the Superintendent, at any time,-

- (a) correspond or communicate with any relative or friend of any prisoner;
 - (b) hold any unauthorized communication with any prisoner;
 - (c) correspond or communicate with any discharged prisoner; or
 - (d) permit any discharged prisoner or any relative of any prisoner to visit or remain at his quarters.
- (2) No subordinate officer shall, at any time,-
- (a) hold any unnecessary conversation with any prisoner; or
 - (b) treat any prisoner with familiarity; or
 - (c) discuss any matter relating to the discipline or of the prison with or within the hearing of any prisoner.

1088. ---[incorporated in Uniform Chapter]

1089. Officer not to leave place of duty idle about or quarrel.---(1) Every subordinate officer when on duty, except when ordered by a superior officer to go elsewhere, shall not leave his beat or place of duty. Idleness or lounging about the prison premises is prohibited.

(2) No subordinate officer shall at any time, while on duty, smoke, sing or talk loudly, or cook or eat his food, or do any act likely to distract his attention from his duty, or in any way conduct himself in an unseemly or disorderly manner.

(3) All quarrelling or disputes between prison officers is prohibited. Any dispute between subordinate officers about any matter connected with their duties shall at once be referred to the Deputy Superintendent.

(4) When any subordinate officer is accused or suspected of having committed any of the following offences, and a prima facie case against him exists, a proceedings shall be initiated,-

- (a) willfully or negligently permitting a prisoner to escape or any other serious offence punishable under the Penal Code
- (b) any offence punishable under section 42 of the Act.
- (c) any breach of rule 1094 or clause (c) of rule 1095; and
- (d) any breach of section 9 or section 10 of the Act.

1090. Visitors to subordinate officers.---No subordinate officer shall at any time be permitted to receive any visitor inside the prison or while on duty outside the prison.

1091. Complaints.---(1) Any subordinate officer desiring to make any complaint of any kind shall do so in writing to the Superintendent with in twenty-four hours of the occurrence of the cause of complaint.

(2) The making of frivolous, vexatious or false complaints is prohibited.

1092. Combined action by officers forbidden.---Subordinate officers are forbidden from taking part in any agitation for the redress of any grievance or supposed grievance, or for any other purpose whatsoever.

1093. Care and Custody of Keys.---(1) No subordinate officer who is at any time entrusted with any key shall, under any circumstances or any pretext whatsoever,-

- (a) take any key belonging to a lock in use for securing the custody of any prisoner out of the prison; or
- (b) leave any such key lying about; or
- (c) deliver any such key to any person other than a Prison officer duly authorized to receive such key or to have the care or custody thereof; and
- (d) leave his post of duty or the prison without delivering such key to the officer duly authorized to receive the same from him.

(2) The key of any cell, barrack, ward, godown, main gate or main gate wicket, shall not, under any circumstances or under any pretext, be at any time made over to any prisoner.

(3) If any key is lost or misplaced, the lock shall at once be condemned and destroyed by the Superintendent. The Officer held responsible for the loss shall be liable to pay the cost of the lock.

(4) Every warder shall keep the bunch of keys secured to his waist belt with a stout chain.

(5) Locks supplied to prisons shall not be provided with duplicate keys.

1094. Officers not to resign without Notice.---No subordinate officer shall, without permission in writing of the Superintendent, resign or otherwise leave service, unless he has submitted a notice in writing for a period of not less than two months, of his intention to resign and the period of such notice has expired.

1095. Prohibitions against sleeping on duty or other irregularities.--No subordinate officer shall at any time,-

- (a) be in a state of intoxication;
- (b) sleep while on duty;

- (c) enter any enclosure reserved for women prisoners unless he is authorized to do so under the rules and is accompanied by a woman wader;
- (d) commit, or permit or abet the commission of any irregularity in the supply of distribution of food, clothing, or other articles to prisoners;
- (e) display cowardice in the discharge of his duties;
- (f) be guilty of any act of insubordination, disobedience, breach of discipline or neglect of duty; and
- (g) malingering or render himself unable or unfit to discharge his duties.

1096. Grant of leave by whom sanctioned.---(1) Leave, other than casual leave, to Deputy Superintendents, Senior Assistant Superintendents, Assistant Superintendent, Budget and Accounts Officer, Clerical Staff, Teacher, Instructor, Psychologist, Junior Pharmacy Technician, etc., shall be sanctioned by the Appointing Authority but any officer to whom a certificate of sickness is granted by the Medical Officer, may be allowed to proceed on leave in anticipation of the sanction of the Inspector General.

(2) In the case of others, the grant of all kinds of leave shall rest with the Superintendent.

(3) Application for leave from officers mentioned in sub-rule (1) shall be submitted to the Inspector General one month before the date on which the leave is required.

1097. Communication of address during leave.---(1) Whenever a prison officer proceeds on leave or is absent from the station he shall leave his address and phone number at the prison office and keep it informed of any subsequent change of address.

(2) Whenever a Superintendent proceeds on leave, he shall communicate his address and phone number to the Inspector General.

1098. Leave to Warders.---The leave granted to Warders shall be so arranged that not more than ten percent of their sanctioned strength shall be absent from all causes at any one time. For this purpose warders shall be required to apply for leave well before the date on which the leave is required.

1099. Superintendent may stop or cancel leave.---The Superintendent may stop all leave or recall any officer on leave except in the case of leave on medical grounds during the prevalence of unusual sickness in the prison or on the occurrence of any circumstances requiring his presence.

1100. Service books.---(1) A service book shall be prepared for every non-gazetted officer on appointment (at his own expense), in which all changes of appointment, offences, punishments, leave, transfers, and changes of pay, shall be recorded under the signatures of the Superintendent. It shall be kept in the office of the Line Officer of the

prison to which the officer is attached. On transfer of an officer his service book, after recording necessary entries in it, shall be sent under registered cover without delay, to the Superintendent of the prison to which he is transferred. On the resignation or discharge without fault of an officer except retirement on pension his service book may be given to him, after making an entry to this effect in his service book.

(2) The entries on the opening page of service books shall be attested at least once in five years, and the signatures of the officers and the Superintendent be taken on that page and dated.

(3) Every step in the official life of a Government servant must be recorded in his service book and each entry shall be attested by the Superintendent. The head of the office must see that all entries are duly made and attested and that the service book contains no erasure or overwriting. All corrections shall be neatly made and properly attested.

(4) Every period of suspension from employment and every other interruption of service must be noted, with full details of duration and entry made across the page of the service book and must be attested by the attesting officer. It is the duty of the attesting officer to see that such entries are promptly made.

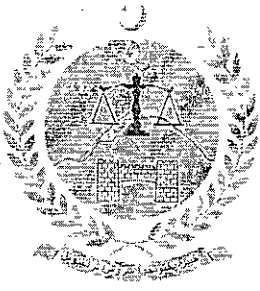
(5) Personal certificates of character shall not, unless the Inspectorate General directs, be recorded in a service book, but if a Government servant is reduced to a lower substantive post the reason of the reduction shall be briefly shown. The Superintendent may, however, record his opinion about the work, conduct and integrity of each member of the Warder establishment at the end of the year in his service book.

(6) It is the duty of every Government servant to see that his service book is properly maintained as prescribed in sub-rule (3), so that there may be no difficulty in verifying his service for pension. The Superintendent may permit an officer to examine his service book if he desires to do so.

1101. to 1107. ---[Deleted]

1108. Powers regarding subordinate officers.---All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Deputy Superintendent shall perform such duties as may be imposed on them by the Deputy Superintendent with the sanction of the Superintendent.

1109. ---[Deleted]



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

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

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

No. _____/ST Dated ____/____/2022

To:

The Superintendent Headquarters Prison, Peshawar.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 1959/2020, HAZRAT BILAL VERSUS THE INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA, PESHAWAR AND OTHERS.

I am directed to forward herewith a certified copy of order dated 01.06.2022, passed by this Tribunal in the above mentioned appeal for compliance.

Encl. As above.

(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



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