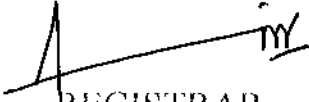


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **221/2023** _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/1/2023	<p>The appeal of Mr. Ali Akbar resubmitted today by Mr. Kifayat Ullah Shahabkhel Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to appellant/counsel.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Ali Akbar son of Bakhat Muhammad Khan r/o Alabad Charbagh Distt. Swat received today i.e. on 13.01.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of removal order mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Spare copies of the appeal are without index.
- 3- Annexures of the appeal are not in sequence.
- 4- Approved file cover is not used.

No 214 / S.T.

Date 18-01-2023


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Krayatullah Khan Adv.
High Court Pesh.

Objection Removed File Resubmitted.


Advocate.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 221 of 2023

Ali Akbar. Appellant

VERSUS

IG Prison etc


..... Respondents

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Petitioner

Through


Kifayat Ullah Shahabkhel
Advocate High Court Peshawar

Gmail: Amjid Ali Khan007@gmail.com

**BEFORE THE HONORABLE SERVICE
TRIBUNAL KHYBER PAHTUNKHWA,**

PESHAWAR

Appeal no. 221/2023

Ali Akber S/O Bakhat Muhammad Khan R/O Alabad Charbagh District Swat,
warder BPS-7 Central Jail Peshawar

..... *Appellant*

Versus

1. IG Prison KP, Peshawar
2. Home secretary KP, Peshawar

.....*Respondents*

**Appeal against the impugned order dated 29/09/2022 whereby
the appellant is removed from services.**

“It is most humbly prayed before your honor that upon acceptance of this appeal the impugned order dated 29/09/2022 may kindly be set aside and the appellant ^e removed from service me kindly be reinstated on his services with back benefits”

Respectfully Sheweth,

1. That the appellant ,warder BPS-07 central jail, Peshawar was deputed for the security of MPA Faisal Zaman at Room No. 11 MPA hostel Peshawar which was made a Sub Jail for the reason because of murder allegations against him.
2. That an unfortunate incident occurred whereby the MPA Faisal Zaman escaped from the sub jail / room No.11 MPA Hostel Peshawar.
3. That the appellant is removed from his services due to the above mentioned incident which is against law and justice. (Copy of order is attached).

4. That being aggrieved from the impugned order dated 29/09/2022 the appellant approach to the home secretary Government of KPK Peshawar in appeal but the failed to decide the same within the stipulated period therefore the appellant approached to this honorable court and seek justice on the following grounds amongst others.

Grounds.

- a. That the appellant was appointed as a warder BPS-07 central jail, Peshawar in the year 2013 and since he was performing his duties with full efforts and left no deficiency to be objected by the high ups.
- b. That the appellant was deputed for security of MPA Faisal Zaman at sub jail/room No. 11 MPA hostel Peshawar. It is pertinent to mention here that the appellant was performing his duty at the side of the front door with keen watchful eyes as per the instructions and order of the chief warder.
- c. That there were no instructions and order from the high ups regarded the access of the driver and personal security Guard of MPA Faisal Zaman to his room / sub jail.
- d. That the sub jail/room No.11 MPA hostel Peshawar was having a back door and a balcony at the back side whereby the security on the back side door was not in the domain of the appellant.
- e. That the appellant was also having no order and authority to have access inside the sub jail / room No. 11 MPA hostel Peshawar.
- f. That unfortunately the MPA Faisal Zaman secretly and with the connivance of his driver and personal security guard, escaped from the sub jail through the back door and then used a wooden stairs to exit the MPA hostel.
- g. That as per the KP prisoners rules 2018 the appellant is only bound for the internal security and it is the police who bound by law for external security.

- (3)
- h. That soon after the MPA decamped from the sub jail the matter was duly and in time reported to other officials present in the MPA hostel but they blink no eyes. It is pertinent to mentioned here that the CCTV footage was seen whereby it was clearly noted that the MPA Faisal Zaman escaped with his personal security guard and his driver. Moreover it is to say that the negligence of the security on the main gate of MPA hostel also made the clean escape of the MPA.
- i. That the MPA Faisal Zaman did not escape on the way front of the sub jail/ room No.11 MPA hostel Peshawar but on the way which was not in the security domain of the appellant.
- j. That the appellant is highly energetic person and perform his duties from about 09 years with full devótion and dedications_ and left no space to be objected by the high ups and having no complaint before the instant incident.
- k. That the appellant approached the home secretary department but the home secretary yet not provide any justice to the appellant nor he initiate any proceedings on the appeal made to him. (copy attached)
- l. That after his removal from service the appellant felt down an acute mental and physical suffering and anguish.
- m. That the order of the respondent is removal from service is a very harsh and against the law hence not tenable.
- n. That no proper show cause notice issued to the appellant to defend himself and hence condemned unheard.
- o. That the appellant belongs to a poor family and having minor children's and is supporting his whole family.

p. That any other ground will be agitated at the time of arguments with the prior permission of this honorable court.

(4)

“It is therefore most humbly prayed before your honor that upon acceptance of this appeal the impugned order dated 29/09/2022 may kindly be set aside and the appellant may kindly be reinstated on his services with back benefits”

Date. 09/01/2023



Appellant

Through



Kifayat ullah shahab khel

Adv. High court

& 

Noor Rahman wazir

Advocates Peshawar

Affidavit

I Mr. Ali Akber S/O Bakhat Muhammad Khan R/O Alabad Charbagh District Swat, warder BPS-7 Central Jail Peshawar do hereby affirm and declared on oath that the contents of the above appeal are true and correct as to the best of my knowledge and nothing is intentionally concealed from this honorable court.

Deponent



CNIC #. 15602-4364057-5

CHARGE SHEET

ANX-C

7

I, Khaid Abbas, I.G. Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge:

1. Nawab Ali Chief Head Warder (BPS-11) (under suspension) presently attached to Central Prison Peshawar.
2. Kashif Warder (BPS-07) (under suspension) presently attached to Central Prison Peshawar.
3. Rooh Ullah Warder (BPS-07) (under suspension) presently attached to Central Prison Peshawar.
4. Ali Akbar Warder (BPS-07) (under suspension) presently attached to Central Prison Peshawar.

That you, while posted at Sub Jail MPA Hostel Peshawar committed the following irregularities/misconduct:

You were assigned duties at Sub Jail MPA Hostel Peshawar. Due to your gross negligence/inefficiency in the performance of duties, on 22-04-2022 at about 04:31 PM, the accused Faisal Zaman MPA escaped from Sub Jail in broad day light. Thus, you have committed grave misconduct on your part.

2. For the reasons above, you appear to be guilty of inefficiency/misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.
3. You are, therefore required to submit your written defense within ten (10) days of the receipt of this Charge Sheet to the Inquiry committee, as the case may be.
4. Your written defense, if any, should reach the Inquiry committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

To,

The worthy Inspector General Of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject: **REPLY TO CHARGE SHEET AND STATEMENT OF ALLEGATIONS**

Respected Sir,

That the charges leveled against me are baseless, result of some biased and prejudicial misinformation and hence I wholesale deny the same and explain my position as follows:-

Charge-wise explanation:

1. That initially I was recruited against the post of Warder way back in the year 2013. Since then has been performing duties to the entire satisfaction of the high-ups. I was never proceeded against departmentally.
2. That on eventful day, I was performing my duties at Sub-Jail at MPA Hostel, Jail Road, Peshawar where accused/MPA Faisal Zaman was brought and resultantly entered Judicial Lock-up. It is worth-mentioning to note here that Sub-Jail having two rooms a door with same/single entrance/exit where I was discharging duties to keep watch on him.
3. That through balcony/terrace of the Sub-Jail, the said accused/MPA in connivance with personal Driver fled away from the judicial lock-up through the stairs provided by him. It is important to narrate here that the duty as assigned to me was Personnel on-duty outside the building.
4. That I was vigilantly performing my duties where through CCTV it was revealed that the accused/MPA ran away from Judicial Lock-up in his private vehicle with his personal Driver and Guard, therefore, I cannot be blamed for the occurrence because the way as adopted by the accused/MPA is not generally used rather it was the duty of the Police personnel to handle/control the external security.
5. That all of sudden, I was subjected for the departmental proceedings by issuing the instant Charge Sheet and Statement Allegations under Rule-3 of the Government Servants (Efficiency & Discipline) Rules, 2011. In this backdrop of the matter, it is contended that the charges as leveled against me are ambiguous and it is cardinal principle of law that the delinquent civil servant has to be provided with full chance of defense by furnishing clear language of charges.
6. That on the fateful day, I was performing my duties alongside other Warders. Moreover, it is crystal clear from the CCTV footage that the accused/MPA fled away from the Judicial Lock-up via balcony for which I should not be subjected to departmental proceedings because as a human

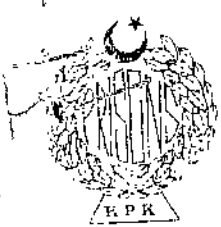
being it is not possible to keep watch on two opposite sides of a building. As other Police Personnel were also there to perform their duties and it was their responsibility to restrain the accused/MPA from escaping from the Judicial Lock-up.

7. That it is steadfast principle of law that whenever Sub-Jail is declared by the Home Department, a Notification is circulated to the concerne^{3d} quarters wherein the accused is also pointed out, therefore, the In-charge of the Police Officials is also responsible for the said act because when accused/MPA left through the Main Gate, the personnel on duty did not bother to inquire from the accused/MPA about his exit there-from. Moreover, the In-charge namely Nisar Khan directed me to strictly perform my duty at the Main gate of the Sub-Jail.
8. That I have rendered more than 9 years unblemished service for the Department even without any single warning, therefore, keeping in view my elegant service record, I may kindly be exonerated from the charges leveled against me.
9. **That I also request for personal hearing.**

In wake of the explanation offered hereinabove, I request that the charges leveled against me may kindly be withdrawn and I may be exonerated there from.

Yours Faithfully
Ali Akbar
Warder (BPS-7)
MPA Hostel, Peshawar
Presently under suspension.

Dated: __/08/2022



2064
28-04-22

APX-AD

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.
NO. 14468
DATED 28-04-2022

6

DISCIPLINARY ACTION

I, Khalid Abbas, I.G. Prisons Khyber Pakhtunkhwa, as competent authority, am of the opinion that the below noted Watch & Ward Staff attached to Central Prison Peshawar (under suspension) have rendered themselves liable to be proceeded against, as they committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:

1. Nawab Ali Chief Head Warder (BPS-11)
2. Kashif Warder (BPS-07)
3. Rooh Ullah Warder (BPS-07)
4. Ali Akbar Warder (BPS-07)

STATEMENT OF ALLEGATIONS

They were assigned duties at Sub Jail MPA Hostel Peshawar. Due to their gross negligence/inefficiency in the performance of duties, on 22-04-2022 at about 04:31 PM, the accused MPA Faisal Zaman escaped from Sub Jail in broad day light. Thus, they have committed grave misconduct on their part.

2. For the purpose of inquiry proceedings against the afore-said accused with reference to the above allegations, the below noted inquiry committee is hereby constituted, under Rule-10(1)(a) of the E&D Rules, 2011:

1. Muhammad Arif Deputy Superintendent-cum-Superintendent District Jail Timergara.
2. Mr. Hashmatullah Deputy Superintendent/Deputy Director Inspectorate General of Prison Peshawar.

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

4. Mr. Mohy Ud Din Shah Deputy Superintendent Jail Peshawar is hereby nominated as Departmental representative. He and the accused watch & Ward Staff shall join the proceedings on the date, time and place fixed by the Inquiry committee.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST; NO. 14469-757 WE

Copy of the above is forwarded to:

Ali Akbar
Warder

1. The Secretary to the Government of Khyber Pakhtunkhwa Home & TA's Department Peshawar for information with reference to this office letter No. KC/13956/WE dated 23-04-2022. Superintendent Central Prison Peshawar for information and necessary action. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt. An extract copy of Rule-13 of E&D Rules 2011 regarding duties of departmental representative may be handed over to nominated officer.
3. Muhammad Arif Deputy Superintendent-cum-Superintendent District Jail Timergara.
4. Mr. Hashmatullah Deputy Superintendent/Deputy Director Inspectorate General of Prisons.
For initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. A copy of charge sheet is enclosed herewith. An extract copy of Rule-11 of E&D Rules 2011 regarding procedure to be followed by Inquiry committee is enclosed for ready reference please.
5. Mr. Mohy Ud Din Shah Deputy Superintendent Jail Central Prison Peshawar (Departmental Representative) for information.
6. PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa Peshawar for information.
7. Accused official concerned.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

(10)

A-11-11

24/1

INQUIRY REPORT REGARDING ESCAPE OF ACCUSED FAIZAL ZAMAN
MPA FROM SUB JAIL AT MPA HOSTEL PESHAWAR

R/Sir,

In compliance of the order of Inspector General of Prison Khyber Pakhtunkhwa Peshawar vide No.144468 dated 28.04.2022 and No. 14476 dated 28.04.2022 visited Central Prison Peshawar & MPA Hostel, along with Hashmatullah Deputy Director I.G Prisons Office Peshawar, and Syed Mahayuddin Shah Deputy Superintendent Central Prison Peshawar (Departmental Representative) for inspection of the Room No.11-D Block (Sub Jail) at MPA Hostel declared for confinement of accused Faisal Zaman (MPA) and place of escape and recorded statements of the Sub Jail staff i.e. Nisar Ali Assistant Superintendent Jail, Nawab Ali (Chief Head Warder), Kashif (Warder), Roshanullah (Warder) and Ali Akbar (Warder).

The following statements were recorded which are reproduced as under along with question put to them and replies in order to know the factual position and digging out ground realities of the unpleasant incidence of escape:-

STATEMENTS:-

1. STATEMENT OF NISAR ALI, ASSISTANT SUPERINTENDENT JAIL

Nisar Ali, Assistant Superintendent Jail (BPS-16)/In-charge Sub Jail stated on oath that he was detailed/ deputed on 31.03.2022, in Sub Jail MPA hostel Peshawar where Faisal Zaman, MPA was required to be confined, and that on 22.04.2022 the accused MPA was kept/lodged in room No.11 of Block D after attending Assembly session after proper search but he made good his escape due to unsafe building with the help of his driver and other friends and that as per order contained in the relieving docket, Room No.11 of MPA hostel had been declared as Sub Jail and the adjacent areas outside the Jail and were fall under the jurisdiction of Police Station East and Police force had been deployed for surveillance of the outside area and that there was no facility of CCTV to observe the movements of the accused in the room/ Sub jail and that observing movement of the accused outside the room was responsibility of the Police as per law and rules and that the outside help provided by the driver and his friend in

(U)

the shape of ladder was the responsibility of the Police to prevent but unfortunately the Police failed to prevent the escape of the accused using ladder.

Nisar Ali Assistant Superintendent submitted that notifying Rooms of MPA hostel, having no CCFV system, doors and windows of iron grills, was highly unsafe and that when the wooden doors and windows would remained closed they would unable to monitor movement of the accused.

Replying to a number of questions the accused official stated that he was present in his room allotted to him in front of the room notified as Sub Jail and that one Chief warder and three Warders had been deployed for safe and secured custody of the accused MPA, and that a police constable would remain present with him round the clock and that the accused MPA escaped at about 4:30 PM.

(Annexure-A)

2. STATEMENT OF NAWAB ALI . CHIEF WARDER.

Nawab Ali, Chief Warder (BPS-11) stated on oath that he was detailed/deputed for duties in Sub Jail MPA Hostel Peshawar on 31.03.2022, where accused Faisal Zaman MPA. was required to be confined and that on 22.04.2022 he went to sleep at 02:00 PM after performing his duties and that at about 05:00 PM was awakened by warder Ali Akbar and informed that accused Faisal Zaman has escaped and that all present staff searched all parts of the MPA hostel but could not find the accused prisoner.

Replying to a number of questions, the accused official stated that after performing his duties upto 02:00 PM he went guards room and slept and that he was informed at about 5:00 PM by warder on duty that the accused/ prisoner is not present in the room/Sub Jail and that they searched all parts of the hostel but could not find him and that he remained unaware of any plan for escape.

(Annexure-B)

3. STATEMENT OF ALI AKBAR WARDER.

Stated that the charges level against him is baseless, result of some biased and prejudicial misinformation and he deny the same and explained his position as follows:

1. That initially he was recruited against the post of warder way back in the year 2013, since then has been performing duties to the entire satisfaction of the high-ups. He was never proceeded against departmentally.

2. That on eventful day, he was performing duties at Sub jail at MPA Hostel, jail Road, Peshawar where accused/MPA Faisal Zanian was brought and resultantly entered judicial lock-up. Sub jail having two rooms a door with same/single entrance/exit where he was discharging duties to keep watch on him.
3. The accused official stated that through balcony/terrace of the Sub jail the said accused/MPA in connivance with the personal Driver fled away from the judicial lockup through the stair provided by him. It is important to narrate here that the duty as assigned to him was that of internal in nature where external duty was the responsibility of the police personnel on duty outside the building.
4. That he was vigilantly performing his duties where through CCTV it was revealed that the accused/MPA ran away from Judicial Lock-up in his private Vehicle with his personal Driver and Guard, therefore, He cannot be blamed for the occurrence because the way as adopted by the accused/MPA is not generally used rather it was the duty of the Police personnel to handle/control the external security.
5. That all sudden, he was subjected for the departmental proceedings by issuing the instant Charge Sheet and Statement Allegations under Rule-3 of the Government Servants (Efficiency & Discipline) Rules, 2011. In this backdrop of the matter, it contended that the charge as leveled against him are ambiguous and it is cardinal principle of law that the delinquent civil servant has to be provided with full chance of defense by furnishing clear language of charges.
6. That on the day, he was performing duties alongside other warders. Moreover, it is crystal clear from the CCTV footage that the accused/MPA fled away from the judicial lockup via balcony for which he should not be subjected to departmental proceedings because as a human being it is not possible to keep watch on two opposite side of the a building. As other Police Personnel were also there to perform their duties and it was their responsibility to restrain the accused/MPA from escaping from the Judicial Lockup.

- 7. That it is steadfast principle of law that whenever Sub-Jail is declared by the Home Department, a Notification is circulated to the concerned quarters wherein the is also printed out, therefore, the In-charge of the Police Official is also responsible for the said act because accused/MPA left through the main Gate, the personnel on duty did not bother to inquire from the accused/MPA about his exit there-from. Moreover, Nisar Khan In-charge was also present on the eventful day with him.
- 8. That he has rendered more than 9 years unblemished services for the Department even without any single warning, therefore, keeping in view his elegant service record, and may kindly be exonerated for the charges leveled against him

Replying to a number of questions the accused official stated that at about 4:30 PM along with Assistant Superintendent adjacent to the room of MPA. Police Constable Haspenullah came at that time and said that his charger has left there. He stated shouting after some time that MPA is not present his room. The accused did not escape on the main entrance but he escaped in the second/ back door, which is opening towards balcony from room of confinement of MPA. He said that the accused scaled down on the stairs from balcony with the help of his driver. He was confined in room No.11-D Block, while his driver and cook were also allotted another room, No.12-D (Annexure-C)

4. STATEMENT OF MUHAMMAD KASHIF KHAN, WARDER

Muhammad Kashif Khan, Warder stated on oath that he was detailed/ deputed for duties in Sub Jail MPA Hostel Notified as Sub Jail for Confinement of Faisal Zaman, MPA and in compliance, he performed his duties and that on 22.04.2022, he performed his duties from 12:00 PM to 04:00 PM, efficiently, effectively and honestly and that he was not negligent in the performance of his duties and that nothing unlawful/illegal happened during his duty time, and that during his duties MPA had not escaped from custody and that as per prison Rules, external security is the responsibility of the police and that he is innocent in the instant case and may be re-instated in to service.

[Handwritten signature]

(14)

Replying to a number of question the accused official stated that he performed his duties from 12:00PM to 4:00 PM on the day of occurrence and that he was informed telephonically by warder Ali Akbar at about 4:50 PM regarding the escape of the accused MPA, and that he participated in search of the surrounding area to re-arrest the accused but could not find him.

(Annexure-D)

5. STATEMENT OF ROOHULLAH, WARDER

Roohullah, Warder Stated on Oath that he was detailed/deputed for duties to Sub Jail in MPA Hostel Peshawar and that on 22.04.2022, he performed his duties from 08:00 am to 12:00PM as per duty roaster and that he made preparation for *Jumá* Prayer after performing his duties and that he never made any negligence in the performance of his duties and that on 22.04.2022, at 04.30 PM he was not on duty and that the incident of escape of prisoner not happened due to his negligence and that according to prison rules, external security of the Jail is responsibility of the Police and that he may be exonerated from the charges and the departmental proceedings may be closed.

Replying to a number of Questions he stated that he performed his duties from 08:00 AM to 12:00 PM and that he had gone to bazar for shopping and that he was informed by Ali Akbar, warder telephonically regarding the escape of prisoner and that he participated in search of all parts of the MPA hostel but could not find the prisoner as he had escaped in his vehicle from the hostel. (Annexure-E)

FACTS OF THE CASE:-

1. Faisal Zaman MPA was under trial prisoner in Case FIR No.7 dated 14.05.2020 U/S 302.324.34.427.21-1-ATA of Police station CTD Hazara and remained confined in District Jail Abbottabad.
2. Speaker of the Provincial Assembly of Khyber Pakhtunkhwa vide production order No.PA/Khyber Pakhtunkhwa/Legis-1/produ:Orders/2022/7011 dated 09.03.2022 issued directions that Mr. Faisal Zaman MPA to be produced at the commencement of each sitting of 21st Session of the provincial Assembly of Khyber Pakhtunkhwa.

(15)

3. In compliance to the production order of the Provincial Assembly Khyber Pakhtunkhwa, Faisal Zaman MPA was shifted from District Jail Abbottabad to Central Prison Peshawar on 14.03.2022. He was produced for attending before sessions of Provincial Assembly of Khyber Pakhtunkhwa till 31.03.2022 from Central Prison Peshawar.
4. The Provincial Government of Khyber Pakhtunkhwa vide Home Department Notification No. SO(P&R)HD/2-26/2021/Decl:Sub: Jail dated 30.03.2022 declared Sub Jail at MPA Hostel Room No.11 Block D for further confinement of accused Faisal Zaman MPA. Accordingly he was shifted on 31.03.2022 for further production of Faisal Zaman MPA before the Provincial Assembly, Khyber Pakhtunkhwa continued from the Sub Jail at MPA Hostel Peshawar.
5. The following Officer and Staff of prison Department of Central Prison Peshawar was deployed on Sub Jail declared at MPA Hostel for Faisal Zaman MPA.
 - a. Mr. Nisar Ali, Assistant Superintendent Jail (BPS-16), In-charge Sub Jail MPA Hostel Peshawar.
 - b. Mr. Nawab Ali Chief Warder (BPS-11) attached to Sub Jail MPA Hostel Peshawar.
 - c. Warder Kashif (BPS-07), attached to Sub Jail MPA Hostel Peshawar.
 - d. Warder Rooh Ullah (BPS-07), attached to Sub Jail MPA Hostel Peshawar.
 - e. Warder Ali Akbar (BPS-07), attached to Sub Jail MPA Hostel Peshawar.
6. District Police Squad in the charge of Sub Inspector Haroon along with staff was also deployed which besides providing security to the Sub Jail was also producing the Faisal Zaman MPA before the Provincial Assembly, Khyber Pakhtunkhwa.
7. On 22.04.2022 Faisal Zaman MPA returned from the Provincial Assembly Khyber Pakhtunkhwa around 02:40 PM and was confined in his room. Around 04:45 PM the staff deployed on duty found that Faisal Zaman MPA is not present in his room and they forthwith started searching him there but

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failed to find him as per reported by Superintendent Central Prison Peshawar vide letter No. 4612-WE/ASH dated 22.04.2022.

In compliance of order of Special Assistant to Chief Minister for Prisons Khyber Pakhtunkhwa regarding inquiry into the matter in hand, vide order No.D.O/SACM/PR/SONS/F-2/22 dated 23.04.2022, the following queries were mentioned for clarification and conducting inquiry. Questions 1 to 7 and their replies/explanation for digging out facts and reality of the case are as under:-

S#	Questions	Reply
1	To inquire that who was the in-charge of Sub Jail MPA Hostel Peshawar, as he maintained the visitor book properly, as he inspect the Sub Jail daily?	Nisar Ali, Assistant Superintendent Jail, detailed from Central Prison Peshawar as In-charge of that Sub Jail, along with One Chief Warder and 03 Warders.
2	The Security measures were checked or not before the approval?	Relates to police Department & In-Charge Security; however their security measures were insufficient and very weak and room declared as Sub Jail a well building was made secure.
3	As proper NOC was obtained from the August Court to shift the under trial prisoner from Abbottabad District Jail to Peshawar Central Jail to attend the Assembly Session?	Pertains to District Jail Abbottabad however No NOC is required in such cases from trial court.
4	That as proper permission/approval was granted from the competent authority to declare the MPA Hostel as a Sub Jail?	Yes, as per Notification No.SO(P&R)-HD/2-26/2021 /Decl/Sub: Jail dated 30.03.2022. Room No.11 of block-D was notified/ declared as Sub Jail.
5	For how many days the MPA Hostel was declared as Sub Jail?	Till end of 21 st session as per notification.
6	Why the prisoner was not shifted suddenly to the central Jail Peshawar when the Assembly Session has been expired? And	Pertains to Home Department however session was still in progress.
7	Further inquire that when this incident happened what kinds of important steps were taken in the matter?	FIR was lodged by Superintendent Jail Central Prison Peshawar against staff of the Sub Jail. IG Prisons submitted report to Govt and inquiry proceedings against them and requested (CCPO) for his re-arrest of the accused MPA.

(17)

FINDINGS OF THE CASE:-

After recording all statements of accused official and Watch & Ward staff and visit of the Sub Jail in question from where accused Faisal Zaman MPA (Involved in Murder case facing trial in ATC Abbottabad) made good his escape around 4:40 PM on 22.04.2022, it is concluded that the concerned prisoner MPA escaped due to the gross negligence of all on duty, both Police and prison staff. As far as the role of prison staff is concerned all were not performing their duties as efficiently as required under the prison rules, nor vigilant enough to prevent the escape in question due to the following reasons.

1. Nisar Ali Assistant Superintendent (In-charge) was not present at the time of escape at his place of duty and MPA Hostel, and failed to perform his duty as efficiently as required and directed, resulting in escape of under trial prisoner. He did not reside in the room allotted to them for duty at MPA Hostel, which was right in front of Room No.11-D (Sub Jail) hence committed gross negligence and inefficiency in the performance of his allotted duty and lack of control over his subordinate staff.
2. Chief Warder Nawab Ali, failed to perform his duty efficiently and remained absent from duty during night hours and committed gross negligence and highly irresponsible approach in the performance of duty at Sub Jail, nor taken any measures for prevention of escape or any other unpleasant situation and also failed to prevent escape.
3. Nisar Ali, Assistant Superintendent (In-charge) failed to report the arrival of concerned accused MPA back till late hours at night after Assembly session, which speaks volume of no check and violation or not following the provisions of Prison rules for confinement of prisoner properly in Sub Jail and keeping vigilant eye on his movement in the premises of MPA Hostel.
4. Warder Ali Akbar on duty at the time of escape failed to prevent escape of concerned prisoner as he was not vigilant and sitting in the allotted room, nor noticed the escape or informed Police staff timely for its prevention, nor

performed duty as efficiently as required under the provision of prison rules, hence totally responsible for occurrence of escape of accused MPA.

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5. Other Warders Kashif & Roohullah were also not present in the premises of MPA Hostel at the time of escape nor performed their duties as efficiently as required under the prison rules due to the loose control of Assistant Superintendent Jail over staff on duty.
6. No steps for proper control/custody of prisoners (MPA) at Sub Jail were taken either by Jail/ Police staff, nor there was any co-ordination, nor proper security plan for safe and sound custody of prisoner in question at Sub Jail, was chalked out and no measures were adopted for ensuring strict control and supervision over movement of prisoner and activities of accused MPA.
7. No CCTV cameras are installed in corridor or his rooms or around the specific building of MPA Hostel though which the movement of accused MPA out of his room of confinement can be monitored or supervised by staff. The room of his confinement cannot be locked from outside as required, besides another door in the room opening towards balcony, through which the accused MPA is stated to be escaped by prison staff, which was only option for him as stated by prison staff in their statements, otherwise there was no restriction/check on him for leaving his room and roaming around in the premises of MPA Hostel or outside MPA Hostel on his own sweet will and manner through police staff. The outer security of the that Sub Jail was the responsibility of Police staff deputed at Sub Jail and his private vehicle as well as his personal driver was also allowed by Police staff, giving easy and free access to him for roaming around in Peshawar City till late hours as evident from the record of the Jail, enclosed as Annexure- F along with other documents.
8. The role of police and I/C of staff detailed for outer security in the escape of that Sub jail, their disobedience, insubordination, vigilance and inefficiency as well as non-adoption of any preventive measures or check on movement of going outside the premises of MPA Hostel cannot be ruled out and is the key factor in managing escape of accused MPA from Sub Jail with the

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convenience of his driver in vehicle as shown in the footage of CCTV Cameras.

9. Accused MPA (Faisal Zaman) is still absconding and escapee, his re-arrest has also been requested to CPO, Peshawar/DPO Abbottabad vide letter No.13957-63 dated 23.04.2022 efforts of police department are under way but in vain till date.

10. FIR lodged by superintendent Central Prison Peshawar against Prison Staff on duty at Sub Jail on the day of occurrence of escape i.e: 22.04.2022 and all concerned were released on bail from concerned court due to charging them under bailable offences on 23.04.2022.

11. Taking the plea by concerned prison staff of responsibility of security by police cannot absolve them from the charge leveled against them, nor it is the ambit of police Department to keep the prisoner in safe custody as per prison rules in Jail as In-Charge of that Jail was the custodian of concerned prisoner.

CONCLUSION:

After conducting a thorough inquiry into the allegations/charges leveled against the accused officials it is crystal clear that the charges leveled against Mr. Nisar Ali Assistant Superintendent Jail (In-Charge) Sub Jail at MPA Hostel Peshawar, Chief Warder Nawab Ali and Warder Ali Akbar are fully proved without any shadow of doubt for which they are liable to be proceeded against under the Government Servants (Efficiency & Discipline) Rule 20(1) and punished accordingly for gross negligence, their inefficiency and disobedience in the performance of their duties as well as lack of responsibility for safe and sound custody of Faisal Zaman MPA (under trial prisoner) resulting in escape of accused MPA in question from Sub Jail at MPA Hostel Peshawar. The allegations/Charges leveled against Warder Rookhullah and Kashif are partially proved as they were not on duty at the time of escape.

RECOMMENDATION:

1. It is recommended that the accused officials being guilty and violated Prison rules of Khyber Pakhtunkhwa Rules 2018 regarding safe custody and control of prisoners involved in heinous offence and prevention of escape.

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from Sub Jail as well as failure on part on prison staff for taking security measures/ steps, non-submission of reports of unauthorized & unlawful movements of prisoner and careless approach towards proper security and negligence by Police staff to Inspector General of Prisons are liable be punished under Government servant (E&D) Rules 2011, therefore they may be awarded the following punishments as recommended below:-

1. Nisar Ali, Assistant Superintendent (BPS-16) may be awarded major penalty of "Compulsory Retirement from service".
 2. Nawab Ali, Chief Warder (BPS-11) may be awarded major penalty of "Compulsory Retirement from service".
 3. Ali Akbar, Warder (BPS-07) may be awarded the major penalty of "Removal From Service".
 4. Raohullah, Warder (BPS-07) and Kashif Warder (BPS-07) may be awarded major punishment of "Reduction to lower stage in pay scale".
2. As the outer security and security audit of that Sub Jail is the responsibility of Police Department and concerned officers and official, and detrimental for safe and secure place of confinement of prisoner in such like circumstances and cases. A committee comprising representative of Home Department and of police, prison, and Elite Force officers may be constituted for recommendation of proper place and building whenever required and for who-so-ever and deemed appropriate to avoid such like incidents in future.

Submitted as desired for further necessary action please

Hashmatullah

DEPUTY DIRECTOR
INSPECTORATE OF PRISONS
KHYBER PAKHTUNKHWA
PESHAWAR

Muhammad Arif Khan

Muhammad Arif Khan
SUPERINTENDENT 9/5/22
DISTRICT JAIL TIMERGARA

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29-9-22

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**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

091-9210334, 9210406 091-9213445

No. 14478-22

Dated 29/9/22

ORDER

WHEREAS, the following accused officer/officials (under suspension) attached to Central Prison Peshawar proceeded against under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on charges mentioned in the charge sheets served upon them vide this office orders No. 14478-76 & 14478-85 dated 28-04-2022:

1. Mr. Nisar Ali, Assistant Superintendent Jail (BPS-12)
2. Mr. Nawab Ali, Chief Head Warden (BPS-11)
3. Muhammad Kashif S/O Faiza, Mr. Warden (BPS-07)
4. Khattak S/O Shaktullah, Mr. Warden (BPS-07)
5. Ali Akbar S/O Bakht M. Khattak, Mr. Warden (BPS-07)

AND WHEREAS, an Inquiry Committee consisting of the following officers was constituted vide this office orders No. referred to above for conducting inquiry in the matter:

1. Mr. Haris Ali, the then Deputy Superintendent and Superintendent District Jail, Tangera
2. Mr. Hashmatullah, the then Deputy Superintendent, Senior-Deputy Director, Inspectorate of Prisons, Peshawar

AND WHEREAS, the Inquiry Committee concerned submitted their findings according to which charges against accused officer/officials at serial No. 01, 02 & 05 above fully proved and charges against accused officials at serial No. 03 & 04 above partially proved.

AND WHEREAS, the undersigned, being competent authority, issued the Show Cause Notices to the accused officer/officials mentioned above and they furnished their replies but failed to prove their innocence.

AND WHEREAS, the undersigned, being competent authority, granted them the opportunity of personal hearing on 27-09-2022 as provided under rules and. During the course of personal hearing, the accused officer/officials failed to prove their innocence.

NOW THEREFORE, in exercise of powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, having considered the charges, evidence on record, explanation of the accused officer/officials as well as recommendations of the Inquiry Committee and after affording the opportunity of personal hearing, the undersigned, being competent authority, is pleased to impose the penalties as noted against their names.

S#	Name of officer/officials	Penalty awarded
1	Mr. Nisar Ali, Assistant Superintendent Jail (BPS-12)	Compulsory retirement from service with immediate effect
2	Mr. Nawab Ali, Chief Head Warden (BPS-11)	Compulsory retirement from service with immediate effect
3	Muhammad Kashif S/O Faiza, Mr. Warden (BPS-07)	Reduction in pay stages in pay scale for a period of 03 years without cumulative effect.

ATTESTED



**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210406

☎ 091-9213445

No. _____ /-

Dated 20 06 2021

- 1. Roohullah S/O Siakinullah Reduction to lower stages in time pay scale for a period of 03 years without cumulative effect. (BPS 07)
- 2. Akbar S/O Bakht Removal from service with immediate effect (Muhammad Khan) (BPS 07)

Officers at serial No. 03 & 04 above (Muhammad Kasif & Roohullah Warders) are hereby reinstated in service with immediate effect and the period of suspension in respect of officers at serial No. 01, 02, 03 & 04 is hereby treated as duty for all purposes.

**INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR**

10/8/2021

Copy of the above is forwarded to

- 1. Secretary to the Government of Khyber Pakhtunkhwa Home & TA's Department for information.
- 2. Accountant General Khyber Pakhtunkhwa Peshawar for information.
- 3. The Superintendent Circle HQ's Prison Peshawar for information.
- 4. The Superintendent Central Prison Peshawar for information.

Necessary entry may please be made in the Service Books of the officer/officials under proper attestation.

- 5. Muhammad Arif Deputy Inspector General Regional Prisons Office Mardan for information.
- 6. Mr. Masoomullah A.G Prisons Inspectorate of Prisons Peshawar for information. Officers/Officials concerned C/O Superintendent Central Prison Peshawar.
- 7. S to Secy. Assistant to Chief Minister, For Prisons Khyber Pakhtunkhwa Peshawar for information.
- 8. Confidential clerk for making a copy of this order in C.R. dossier of the officer at serial No. 01 above.

**DEPUTY DIRECTOR(E)
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR**

ATTACHED

3

Anx-A

SHOW CAUSE NOTICE

I, Saadat Hassan, Inspector General of Prisons Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Ali Akbar Warder (BPS-07) (under suspension) posted at Central Prison Peshawar as following :

- i. That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing;
- ii. That on going through the findings and recommendations of the Inquiry Committee, the material on record and other connected papers including your defense before the Inquiry Committee;

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

(a). Charge of gross negligence /inefficiency fully proved.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty of "Removal from service" under rule-4 of the said rules.
3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen (15) days of its delivery, it shall be presumed that you have no defense to put in and in that case, ex-parte action shall be taken against you.
5. A copy of the findings of the Inquiry Committee is enclosed.

Hassa
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Anx-F

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To

The Home Secretary
Government of Khyber Pakhtunkhwa,
Peshawar

Subject:- DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 29/09/2022, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE.

Respected Sir!

Succinctly stated facts giving rise to file the instant Departmental Appeal against the impugned order dated ²⁹⁻⁹⁻²² are as under:-

1. Vide Show cause Notice Dated 28/04/2022 whereby the Appellant was required to submit his reply for the alleged Negligence committed by the Appellant during his duty at MPA Hostel Peshawar. After duly replying the said Show cause Notice the Authority concerned being dissatisfied from the said reply, terminated the service of the Appellant, hence, this Departmental Appeal.
2. That the Appellant was appointed as a Warder in the year 2013 and since then performed his duties honestly, with dedication and to the entire satisfaction of his superior until, bolt from the blue, the unfortunate incident at MPA Hostel occurred, caused him removed from service for some baseless and groundless allegations.

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3. *That on the fateful day the Appellant along with other officials was deputed at MPA Hostel Peshawar, which was declared as a sub jail for Accused MPA namely Faisal Zaman. The Room wherein the accused MPA was settled has one entrance/ exit door and a balcony/terrace at the rear side.*
4. *That the appellant as per directions of his superior was assigned the duty to sit adjacent to the front door of the room ibid, performing his duty vigilantly with a watchful eyes. Later on he learnt that the Accused MPA with the connivance of his guard and driver has, surreptitiously, scaled down through stairs from balcony/terrace side, and showed a clean pair of heels.*
5. *That the most astonishing aspect of this whole debacle is a fact that how a Personal guard and Driver of the Accused MPA were allowed to have access and entrance to the MPA Hospital , after the same was declared as a Sub Jail for the Accused MPA namely Faisal Zaman such access or permission was neither in the knowledge nor in the domain/authority of the Appellant.*
6. *That the High ups have failed to ascertain and fix responsibilities on those who allowed Accused MPA's*

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Personal Guard and Driver to have access to the MPA Hostel.

7. *That MPA Hostel is consist of a large and wide premises and it was impossible for such small numbers of deputed Personals to protect and secure the nook and cranny of the MPA Hostel.*
8. *That soon after the incident that the Accused MPA has decamped the matter was, duly and timely , intimated to the other officials on duty, CCTV photoge were examined wherein the escape of the Accused MPA was shown through vehicle with a Personal Guard and Driver on board along . Its pertinent to mention that security Personal deputed on the main Gate have also not taken any step to prevent the escape , their negligence too provide opportunity to the Accused MPA to make his clean escape.*
9. *That the Appellant had, neither done anything wrong ,nor committed any negligence, hence any security lapse, not within the lawful domain of Appellant can't be ascribed to him .Furthermore the Accused MPA has not escaped from the side/Door guarded my the Appellant but way that was not with in his assigned watch.*


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10. *That the Appellant has served the Department for around 9 years, with devotion, whole heartedly, not a single complaint under his belt before, and enjoyed unblemished service until confronted with the said baseless and unreasonable allegations. The Appellant is the only earning hand of his family, thus, depriving him from his service causing severe financial crises to him and his family.*
11. *That, after being removed from service the Appellant has envisaged to acute mental and physical suffering and anguish.*
12. *That any other grounds may be raised during Personal hearing with the prior permission of your good office.*

It is therefore , most humbly prayed , that on acceptance of this Departmental Appeal the impugned decision dated 29/09/2022 may kindly be set aside and the Appellant may kindly be ordered to be reinstated with all back benefits.


Dated:- 05/10/2022

Appellant

Ali Akbar 
S/o Bakht Muhammad Khan
Warder (BPS- 7)
MPA Hostel, Peshawar.
Cell No 0315-9709896

قیمت 50 روپے	57100			
ایڈوکیٹ:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: 35-078				
رابطہ نمبر: 5844181-5360				

بعدالت جناب: سر سید سید سید علی احمد

منجانب: <i>A. Mulla</i>	دعویٰ:
 <p>بنام سید سید علی احمد</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی کا روائی متعلقہ
 آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے اور تفر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زرین پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل باجزدی
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم:

سر سید سید سید علی احمد کے لیے منظور ہے

*Sid Aliullah
Suresh Gul
Adil*

نوٹ: اس وکالت نامہ کو وکالی نامہ قابل قبول ہوگی۔

علی احمد کے لیے منظور ہے