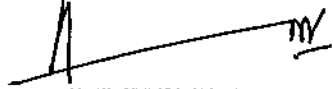


FORM OF ORDER SHEET

Court of _____

Case No.- 222/2023

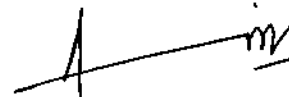
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/1/2023	<p>The appeal of Mr. Nisar Ali resubmitted today by Mr. Kifayat Ullah Shahabkhel Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi is given to appellant/counsel.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

The appeal of Mr. Nisar Ali son of Saeed ur Rehman Assistant Supdt. Jail Peshawar received today i.e. on 13.03 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. 215 /S.T.

Dt. 18-01 /2023



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Kifayatullah Khan Adv.
High Court Pesh.

Objection removed file Resubmitted.



Advocate.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Nisar Ali

Appeal No. 222/2023

..... Appellant

VERSUS

IG KPK etc

..... Respondents

INDEX

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Appellant

Through

Kifayat Ullah Shahabkhel

Advocate High Court

Peshawar

Gmail: Amjidali007@gmail.com

①

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

Nisar Ali S/o Saeed Ur Rehman R/o Shabqadar Barozai Tehsil Shabqadar District
Charsadda (Assistant Superintendent) Jail BPS-16 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 was compulsory retired from his service.**

“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 is removed from service me kindly be reinstated on his services with
back benefits”

Respectfully Sheweth,

1. That the appellant, Assistant Superintendent Jail BPS-16 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.

(2)

3. That the appellant is ^{was compulsory retired} 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 Home 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 Assistant Superintendent Jail BPS-16 Central Jail Peshawar and 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 warden.
- 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.

3

- 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.
- 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 38 years with full devotion 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.
- l. That after his removal/ ^{Complaints Verdict} from service the appellant felt down an acute mental and physical suffering and anguish.


4

compulsory retirement

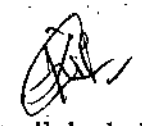
- m. That the order of the respondent is removal from service is a very harsh and against the law hence not tenable.
- n. That no proper show cause notice issued to the appellant to defend himself and hence condemned unheard.
- o. That the appellant belongs to a poor family and having minor children's 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.


"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. 13/01/2023


Appellant

Through

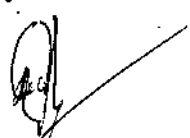

Kifayat ullah shahab khel
Noor Rahman wazir


Amjid Ali

Advocates High Court Peshawar

Affidavit

I Nisar Ali S/o Saeed Ur Rehman R/o Shabqadar Barozai Tehsil Shabqadar District Charsadda (Assistant Superintendent) Jail BPS-16 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: 17101-4084616-5

ANX-A

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CHARGE SHEET

I, Khalid Abbas, I.G. Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge Mr. Nisar Ali Assistant Superintendent Jail (under suspension) as follows:

That you, while posted at Sub Jail Dossu Kohistan as Assistant Superintendent Jail (SP5-16) committed the following irregularities/misconduct:

You were assigned the duties as incharge 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 MPA Faisal Zaman 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 Officer, as the case may be.
4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR



2071
28-04-22

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.
NO. 14476
DATED 28-04-2022

6

DISCIPLINARY ACTION

I, Khalid Abbas, I.G. Prisons Khyber Pakhtunkhwa, as competent authority, am of the opinion that Nisar Ali Assistant Superintendent Jail (BPS-16) (under suspension) presently attached to Central Prison Peshawar has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

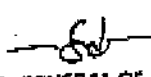
He was assigned to duties as Incharge Sub-Jail MPA Hostel Peshawar. Due to his gross negligence/inefficiency in the performance of duties, on 22-04-2022 at about 09:31 PM, the accused MPA Faisal Zaman escaped from Sub Jail in broad day light. Thus he, has committed grave misconduct on his part.

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 officer shall join the proceedings on the date, time and place fixed by the inquiry committee.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST. NO. 14477-83

Copy of the above is forwarded to:

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.
2. 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 officer concerned.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Any-B I 2/11

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

PA
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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 Hashratullah 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), Rooh ulah (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

the shape of ladder was the responsibility of the Police to prevent a. unfortunately the Police failed to prevent the escape of the accused using ladder. (8)

Nisar Ali Assistant Superintendent submitted that notifying Rooms of MPA hostel, having no CCTV 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 Zaman 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.

Replying to a number of question the accused official stated that he performed his duties from 12:00PM to 40:00 PM on the day of occurrence and that he was informed telephonically by warder Ali Akbar at about 40:50 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

Rochullah, 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 *Juma* 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 14.09.2020 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.

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:-

~~3~~ (14)

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 as 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.

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

~~257~~

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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 through 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 the 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

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. Roohullah, 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 whatsoever and deemed appropriate to avoid such like incidents in future.

Submitted as desired for further necessary action please

~~Eashmatullah~~

DEPUTY DIRECTOR
INSPECTORATE OF PRISONS
KHYBER PAKHTUNKHWA
PESHAWAR



Muhammad Arif Khan
SUPERINTENDENT 19/5/22
DISTRICT JAIL TIMERGARA



**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

091-9210334, 9210406, 091-9213445

No. 114/J-22-232031

Dated 27-09-2022

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. 14468-75 & 14476-83 dated 28-04-2022:

1. Mr. Nisar Ali, Assistant Superintendent Jail (BPS-16)
2. Mr. Nawab Ali, Chief Head Warder (BPS-11)
3. Muhammad Kashif S/O Fazal Mir, Warder (BPS-07)
4. Roohullah S/O Shakirullah, Warder (BPS-07)
5. Ali Akbar S/O Bakht Muhammad Khan, Warder (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. Muhamamd Arif, the then Deputy Superintendent-cum-Superintendent District Jail Timergera
2. Mr. Hashmatullah, the then Deputy Superintendent -cum-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 ibid. 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

Name of officer/officials	Penalty awarded
Mr. Nisar Ali, Assistant Superintendent Jail (BPS-16)	Compulsory retirement from service with immediate effect
Mr. Nawab Ali, Chief Head Warder (BPS-11)	Compulsory retirement from service with immediate effect
Muhammad Kashif S/O Fazal Mir, Warder (BPS-07)	Reduction to lower stages in time pay scale for a period of 03 years without cumulative effect.



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**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210406

☎ 091-9213445

No. _____ /-

Dated 29 - 09 - 2021

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

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

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

INDST NO. _____

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 Hashmatullah, A.I.G Prisons, Inspectorate of Prisons, Peshawar for information.
7. Officers/Officials concerned C/O Superintendent Central Prison Peshawar.
8. PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa Peshawar for information.
9. Confidential clerk for placing 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**

Annx-D

فائل شوکار توش (Ead)

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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, **Mr. Nisar Ali Assistant Superintendent Jail (BPS-16) (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 "Compulsory retirement 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.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

Anx E

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جناب انسپکٹر جنرل صاحب جلیخانہ جات خیبر پختونخواہ پشاور (صاحب اختیار حاکم)

جواب شوکاژ نوٹس بسلسلہ فراری ملزم فیصل زمان MPA از سب جیل MPA ہاسٹل پشاور

جناب عالی!

اس سے پہلے کہ میں شوکاژ نوٹس کے سلسلے میں اپنی وضاحت پیش کروں بڑے ادب و احترام کے ساتھ عرض گزار ہوں کہ اس کیس میں نواٹکوٹری کی گئی ہے۔ اور رپورٹ تیار کر کے پیش کیا گیا ہے۔ وہ نہ تو غیر جانبدار ہے نہ منہم و فرست اور انکوٹری کے مرید ضابطوں اور اصولوں کے مطابق ہے۔ رپورٹ کے مندرجات صاف ظاہر کرتا ہے کہ انکوٹری کمیٹی کے معزز ممبران صاحبان نے انکوٹری کے نتیجہ اخذ کرنے تک انکوٹری میں دیئے گئے میرے بیان کو کچھ پڑھنے اور اس پر توجہ دینے کی زحمت گوارا نہیں کی ہے۔ یا اسے یکسر جھٹلایا ہے۔ انکوٹری سے متعلق روڈ ضابطوں اور انصاف کے تقاضوں کے مطابق انکوٹری کے ممبران صاحبان کو چاہیے تھا بلکہ وہ پابند تھے کہ وہ تھل اور احساس ذمہ داری کے ساتھ میرے جواب کو پڑھتے اور تمام واقعاتی شہادتوں کو مد نظر رکھتے اور پھر اگر حقیقت اور صحیح معنوں میں اسے مسترد کرنا ضروری سمجھتے تو ٹھوس قانونی جواز اور وجوہات کی روشنی میں اپنی رائے دیتے ہوئے نام منظور کرتے۔

یہاں پر میں رپورٹ کے فائنڈنگ میں خامیوں کی نشاندہی کرنے کی بھی اجازت چاہوں گا۔ فائنڈنگ کے جز ترکیبی نمبر 3 کے مطابق جو الزام لگایا گیا ہے کہ ملزم کو بند کرنے کے سلسلے میں جیل تو انین کی خلاف ورزی کی گئی ہے۔ اور مزید یہ کہ اسے کڑی نگرانی میں نہیں رکھا گیا تھا۔

جناب عالی! ملزم کو جوڈیشل حوالات میں رکھنے کیلئے MPA ہاسٹل پشاور میں بلاک D کے کمرہ نمبر 11 کو سب جیل کا درجہ دیا گیا تھا۔ اور ملزم کو اسی کمرہ میں قانون کے مطابق بند کیا جاتا تھا جہاں سے وہ فرار بھی ہو چکا ہے۔ جہاں تک ملزم کو کڑی نگرانی میں رکھنے کا تعلق ہے۔ اس سلسلے میں غرض ہے کہ ملزم جوڈیشل حوالات میں رکھنے کے دوران اس کے محفوظ حراست میں رکھنے میں کوئی کوتاہی نہیں برتی گئی تھی اور اس کو کڑی نگرانی میں رکھا گیا تھا۔ لیکن جیسے کہ میں پہلے بھی اپنے بیان میں واضح کر چکا ہوں کہ ہاسٹل کے کمرے کو جیل کا درجہ دیتے ہوئے سنگین جرم میں ملوث ملزم فیصل زمان کو سنٹرل جیل سے نکال کر سب جیل میں منتقلی کے وقت سب جیل کو محفوظ کرنے کیلئے ضروری اقدامات نہیں اٹھائے گئے تھے۔ نہ تو کمرے سے باہر کوئی دوسرا حصار (دیوار) تھا اور نہ ہی CCTV کا نظام نصب کیا گیا تھا۔ کمرے کے دروازے اور کھڑکیاں لکڑی کے ہیں جسے بند کرنے کے بعد یعنی بند گنتی کے دوران ڈیوٹی پر موجود جیل اہلکاری کو قیدی اور حوالاتی کے حرکات و سکنات نظر نہیں آتے۔ جبکہ جیلوں میں بند دروازوں کی بجائے لوہے کے جھٹے ہوتے ہیں۔ جہاں

سے کتنی بند کرنے کے بعد بھی ملزم کو دیکھ کر نگرانی میں رکھا جاتا ہے۔ لہذا سب جیل کے کمرے کو جو خامیاں تھیں اور جس کا فائدہ اٹھا کر ملزم فرار ہوا تھا اُس کا بوجھ اور ذمہ داری بھی میرے اوپر ڈال دی گئی ہے۔ یہاں یہ امر قابل ذکر ہے کہ اگرچہ انکوآری رپورٹ میں میرے خلاف جیل رولز کے خلاف ورزی کا بھی الزام لگا گیا ہے مگر کسی رول کا حوالہ نہیں دیا ہے کہ میں نے کس رول کی خلاف ورزی کی ہے اور اگر اسکی خلاف ورزی نہ کرتا تو فراری کی کوشش نام ہو جاتا۔ لہذا عمومی قسم کے الزامات لگا کر میرے خلاف سخت ترین سزا یعنی جبری ریٹائرمنٹ تجویز کی گئی ہے۔ جو قرین انصاف نہ ہے اسی نائنڈنگ کے جز ترکیبی نمبر 6 میں الزام لگایا گیا ہے۔ کہ ملزم کے سرگرمیوں اور حرکات وغیرہ کی نگرانی نہیں کی گئی تھی۔

اس سلسلے میں موڈ بانڈ گزارش ہے کہ ملزم کی اسمبلی اجلاسوں میں شرکت کیلئے پولیس کو حوالگی کا باقاعدہ اجازت تھی اور اجلاس میں شرکت کیلئے ملزم کو پولیس کے حوالہ کرتے وقت اور اسمبلی سے واپسی پر ملزم کی جیل قانون کے مطابق باقاعدہ تلاشی لی جاتی تھی تاکہ کوئی ایسی شے اپنے پاس نہ لائے جو فراری وغیرہ میں مددگار ہو۔ اسمبلی سے واپسی پر ملزم کو فوراً اپنے کمرے میں بند کیا جاتا چونکہ کمرہ نمبر 11 میں اس کیلئے سب جیل تھا۔ لہذا کمرے میں گھومنے پھرنے، ٹہلائی اور واش روم وغیرہ جانے میں اُس پر کوئی پابندی نہیں لگائی جاسکتی تھی اس کے علاوہ جہاں تک اجلاس میں شرکت کیلئے پولیس کو حوالگی کے بعد کا تعلق ہے تو جب تک ملزم پولیس کی حراست میں ہوتا ہے۔ تو اُس کی حفاظت محفوظ طریقے سے پیشی اور واپسی کی ساری ذمہ داری پولیس کی ہوتی ہے۔ چونکہ جیل حکام کے پاس اسمبلی کے کاروائی یا اوقات کا کوئی جدول (Schedule) نہیں ہوتا۔ کہ ملزم کو واپس بروقت لایا گیا ہے یا دیر کر دی گئی ہے لہذا جیل سے باہر کے گھومنے پھرنے یا حرکات سکنا ت کیلئے جیل اہلکاروں پر ذمہ داری ڈالنا سمجھ سے بالاتر ہے۔

جناب عالی! انکوآری رپورٹ انتہائی بے ربط قسم کی ہے۔ جو کہ کئی نقاط پر متضاد ہے۔ اور صحیح اور جامع تجزیہ پر مبنی نہ ہے۔ بلکہ واقعہ کی صحیح تحقیق و تفتیش کی بجائے غیر منطقی طور پر نتیجہ (Conclusion) کی طرف چھلانگ لگا کر بغیر کسی دلیل کے میرے خلاف Disobedience کے الزامات لگائے ہیں اور بغیر کسی جواز کے وہ سزا تجویز کی ہے۔ جو کوئی سرکاری ملازم ارادی طور پر یا بدعنوانی کے غیر قانونی عمل پر اُسے دی جاتی ہے۔

جناب عالی! میں گزشتہ 37 سالوں سے محکمہ میں فرائض سرانجام دے رہا ہوں میں نے اس تمام عرصہ میں اپنے فرائض قانون اور اپنے سینئر افسران صاحبان کی مکمل اطمینان کے مطابق اور اس خوف سے کہ روز آخرت میں اللہ تعالیٰ کے سامنے جوابدہ ہوں گا۔ پوری ایمانداری سے ڈیوٹی سرانجام دی ہے۔ اور اسی وجہ سے مجھے تمام ملازمت کے دوران کبھی

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سزا نہیں دی گئی ہے۔

لہذا آپ صاحبان سے میری انتہائی مودبانہ گزارش ہے کہ مجھ پر لگائے گئے الزامات سے مجھے بری کیا جائے۔ اور نہ کردہ جرم کی سزا نہ دی جائے اور مجھے اور میرے بیوی بچوں کو اس ذہنی اذیت اور کوفت سے نجات دلائی جائے۔ جس سے ہم گزشتہ تین مہینوں سے گزر رہے ہیں۔

جناب عالی! مجھے اپنے سامنے پیش کرنے اور ذاتی طور پر سننے کی بھی اجازت فرمائی جائے۔ جس کیلئے ہم ساری عمر آپ صاحبان کیلئے دہا گور ہیں گے۔

آپ کا تابع دار
ثاری لاء ایس/س
اسٹنٹ سپرنٹنڈنٹ سنٹرل جیل پشاور

To

Annex F

(20)

The Home Secretary
Government of Khyber Pakhtunkhwa,
Peshawar

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

Respected Sir!

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

- 1. That the Appellant along with other officials, had been deputed at MPA Hostel Peshawar, that was declared as a Sub Jail for the Accused, MPA namely Faisal Zaman.*
- 2. That the said Accused MPA was allotted Room No 11 at Block D, MPA Hostel Peshawar which was given the status of Sub Jail. The Appellant and other officials were entrusted with duty to look after and keep watchful eye on the Accused MPA.*
- 3. That the said Accused MPA escaped from the MPA Hostel on 22/04/2022. Later on, it revealed that Personal Guard and Driver of the said MPA were the facilitators to make the escape possible.*

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4. *That at the time of Accused MPA escape, the Appellant was performing duty at his office and was informed by his subordinates about the unfortunate incident.*
5. *The Appellant has taken all the humanly possible measures to recapture the Accused MPA but despite all his sincere efforts it went in vain.*
6. *That the Department issued Show Cause Notice Dated 28/04/2022 to the Appellant which was replied accordingly but to the utmost surprise of the Appellant, his bona fide assertions were overlooked and Appellant was compelled for forced retirement.*
7. *That feeling aggrieved from the said impugned order the Appellant, now, file this Departmental Appeal for the redressal of his grievances, inter alia, on the following ground:-*

Grounds:-

- a) *That equating the security scales/measures of proper Jail/ Prison and Sub Jail is impossible. An established Jail by all means is considered highly secured than Sub jail in terms of security and look after of the prisoners.*

✓

- b) *While Declaring MPA Hostel Peshawar as Sub Jail for Accused MPA namely Faisal Zaman not all the protective facilities were provided. MPA Hostel has large premises both territorially and constructionally and to safeguard each and every corner of the said Hostel there need a considerable numbers of security Personals. Unfortunately we were lacking reasonable numbers of security Personal in terms of security and looking after the Accused MPA.*
- c) *That having some privileges and immunities we were unable to escort the Accused MPA from Assembly to the Hostel and vice versa, as it was the responsibility of police, hence, we could not keep an eye on said MPA all the time. Apart from this we are not given the schedule of Assembly Session and possible departure and Arrival time table of the said MPA.*
- d) *That as stated above, a Personal Guard and Driver of the Accused MPA played a pivotal rule in his escape, I am unable to understand under what law and conditions they were allowed to keep the company of the said MPA.*
- e) *That due to lack of security Personals the Accused MPA has preferred an unusual route to make his escape possible, hence, stringent actions against the Appellant make no sense in the circumstances.*

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- f) *That the Appellant has neglected nothing intentionally and whatever happened is beyond his powers and approach.*
- g) *That the Appellant has devoted his life for this Department by rendering, for more then 37 years service, hence, an arbitrary order of forced retirement is nothing more than unjust conclusion of his services for the Department.*
- h) *That any other grounds may be raised at the time of Personal hearing with the prior permission of your good office.*

It is therefore most humbly prayed that keeping in view of a long service period of the Appellant and in the circumstances, this Departmental Appeal be kindly accepted by setting aside the previous order and the Appellant may graciously be reinstated as a superintendent with all back benefits.

Dated:- 05/10/2022

Appellant

Nisar Ali
Assistant Superintendent Jail
(BPS-16)
Cell No 0301-5969884

