


ORDER  
25.01.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of the today, passed in Service Appeal bearing No. 1145/2018 "titled Manzoor Khan Versus Government of Khyber Pakhtunkhwa, through Chief Secretary Peshawar and three others", the instant service appeal is accepted and the appellant is entitled for salaries and all other benefits which would have accrued in his favor, has he been not removed from service. Parties are left to bear their respective costs. File be consigned to the record room.

ANNOUNCED  
25.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

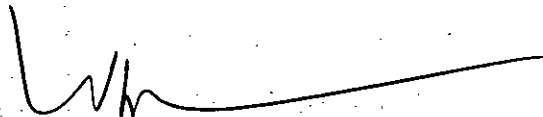
  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

23.11.2021

Junior to counsel for appellant present.

Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

As per statement of learned A.A.G, similar nature Service Appeal bearing No.1067/2018 titled Muhammad Arif Vs. Government of Khyber Pakhtunkhwa is fixed for hearing on 25.01.2022, therefore, a request was made for adjournment in the instant service appeal; allowed. To come up for arguments alongwith connected service appeal, on 25.01.2022 before D.B.



(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

25.01.2022

Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah, DDA for the respondents present.

Former seeks short adjournment as learned counsel for the appellant is not in attendance due to general strike of the lawyers. Request is accorded. To come up for arguments on 26.01.2022 before the D.B.

(Atiq-Ur-Rehman Wazir)  
Member (E)

  
Chairman

13.01.2021

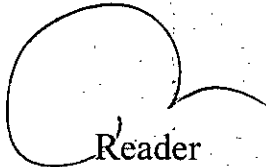
Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG for respondents present.

Due to COVID-19, the case is adjourned for the same on 20.04.2021 before D.B.

  
READER

20.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 12.08.2021 for the same as before.

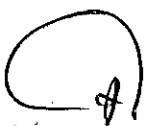
  
Reader

12.08.2021

Appellant present through counsel.

Javid Ullah learned Assistant A.G for respondents present.

Former made a request for adjournment in order to prepare the brief; granted. To come up for arguments on 23.11.2021 before D.B.

  
(Rozina Rehman)  
Member (J)

  
Chairman

16.06.2020

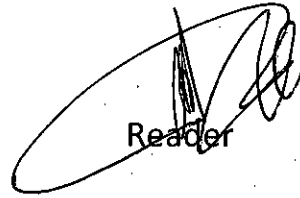
Junior to counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General for respondents present. Request made for adjournment. Adjourned. To come up for arguments on 27.08.2020 before D.B

  
(Rozina Rehman)  
Member

  
(M. Amin Khan Kundi)  
Member

27.08.2020


Due to summer vacation, the case is adjourned to 03.11.2020 for the same as before.

  
Reader

03.11.2020

Junior to counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 13.01.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member

  
Chairman

27.11.2019

Appellant in person present. Asst: AG alongwith Mr. Suleman, Law Officer for respondents present. Appellant seeks adjournment as his counsel is not available today. Adjourn. To come up for arguments on 30.01.2020 before D.B.

  
Member

  
Member

30.01.2020

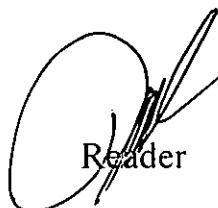
None for the appellant present. Mr. Ziaullah, DDA for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 26.03.2020 before D.B. Appellant be put on notice for the date fixed.

  
Member

  
Member

26.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 16.06.2020 before D.B.

  
Reader

13.06.2019

Counsel for the appellant and Addl. AG alongwith Atta Muhammad, Law Officer for the respondents present.

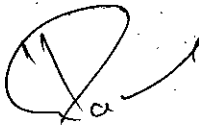
Joint parawise comments on behalf of respondents No. 1, 2, 3 & 4 submitted which are placed on record. To come up for arguments before the D.B on 07.08.2019. The appellant may submit rejoinder, within a fortnight, if so advised.

  
Chairman

07.08.2019

Junior to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney alongwith Sulaiman Senior Instructor present. Junior to counsel for the appellant submitted rejoinder, placed on file and seeks adjournment. Adjourn. To come up for arguments on 31.10.2019 before D.B.

  
Member

  
Member

31.10.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Notice be issued to the appellant and his counsel for attendance <sup>and arguments</sup>. Adjourn. To come up for further proceedings on 27.11.2019 before D.B.

  
Member

  
Member

04.2.2019

Nemo for appellant. Addl. AG for the respondents present.

Learned AAG states that representative of respondents has not contacted him regarding preparation of requisite comments, therefore, the matter may be adjourned for the needful. Adjourned to 27.3.2019 before S.B.

  
Chairman

27.03.2019

Clerk to counsel for the appellant present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 26.04.2019 before S.B.

  
Member

26.04.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG requests for adjournment to procedure written reply/comments from the respondents.

Adjourned to 13.06.2019 for written reply/comments.

  
Chairman

14.12.2018

Counsel for the appellant Noor Islam present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Prison Department as Warder. It was further contended that during service, the appellant was removed from service however, after removal from service, the appellant filed service appeal before this Tribunal which was partially accepted vide judgment dated 01.03.2008 and major penalty of removal from service was converted into withholding of three increments for three years while the period in which the appellant remained out of service was ordered to be decided by the department in accordance with rules i.e gainful employment during the period. Therefore, the appellant was reinstated in service however, back benefits were not granted to the appellant, therefore, the appellant filed departmental appeal which was not decided, hence the appellant filed service appeal within time. It was further contended that since the appellant was not gainful employee therefore, for the period in which the appellant remained out of service, the appellant is entitle for back benefits but the respondent-department is reluctant to grant back benefits to the appellant.

The contention raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days thereafter, notice be issued to the respondents for written reply/comments for 04.02.2019 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

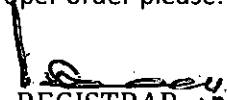


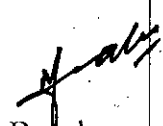
Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1002/2018

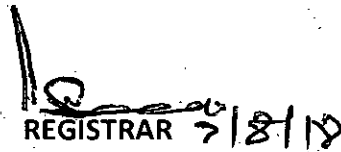
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/08/2018	<p>The appeal of Mr. Noor Islam resubmitted today by Mr. Javed Iqbal Gulbella Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 13/8/18</p>
2-	15-8-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-9-2018</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.09.2018	<p>Mr. Jamroz Khan, Clerk of counsel for the appellant present and requested for adjournment. Granted. To come up for preliminary hearing on 30.10.2018 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	30.10.2018	<p>Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 14.12.2018.</p> <p style="text-align: right;"> Reader</p>

The appeal of Mr. Noor Islam Warden Central Jail Lakki Marwat received today i.e. on 07.08.2018 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Copy of reinstatement order of the appellant is not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.


No. 1541 /S.T,

Dt. 7-8 /2018.

  
REGISTRAR 7/8/18  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Javed Iqbal Gulbela adv. Pesh.

Respected. sir. objection removed  
and please resubmit



(4)

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A 1002 /2018

Noor Islam

**VERSUS**

Home Secretary Government of Khyber Pakhtunkhwa  
and others

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Dated: 02/08/2018

*Appellant*

Through

*JAVED IQBAL GULBELA*

&

*SAGHIR IQBAL GULBELA*

Advocate High Court  
Peshawar.

(1)

BEFORE THE HONBLE. KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR

In Re S.A 1002 /2017

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1240

Noor Islam Warden (BPS-5) Central Jail Lakki Marwat

06-8-2018

-----(*Appellant*)

VERSUS

1. Home Secretary Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Inspector General of prisons Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Jail, Central Jail Lakki Marwat.

-----(*Respondents*).

APPEAL U/S 4 OF THE SERVICE TRIBUNAL  
ACT 1974, AGAINST THE NON ISSUING THE  
SALARIES/ARREARS FROM 17/03/2014 TO  
01/03/2018 TO THE APPELLANT.

Respectfully Sheweth

1. That the appellant is warden (BPS-5) and is presently posted at Central Jail Haripur

Filed to-day  
Registrar  
5/8/18

2. That that infact prior to the instant posting the appellant was posted at District Jail Laki Marwat were in an undesirable even took place and a prisoner ran away from jail. Many of the jail employees were booked for the alleged

Re-submitted to-day  
and filed.

Registrar  
13/8/18

accuracy, wherein the appellant was also included in departmental proceedings were initiated against the appellant as well as against the rest of his colleagues, which culminated in removal of the appellant and similar or less or more major penalties for rest of his colleagues.

3. That the appellant approached this Hon'ble Tribunal for his reinstatement into service with all back benefits, which was allowed by this Hon'ble Tribunal wide judgment and order dated 1-3-2018. (Copy of the order and judgment dated 1-3-2018 is annexed as annexure "A")
4. That the payment of back benefits/arrears was made conditional to the fact that if the appellant has carried any service or job, then no payment is to be made, but if the appellant remained jobless then he would be entitled for all the back benefit.
5. That the applicant not only remained jobless, but being belonging to a very poor family lived his and his family life on getting loan from people and buying goods/daily articles on loan from shop keepers.
6. That after being inducted back into service the appellant moved department appeal for

payment of his due arrears i.e. from 17/03/2014 to 01/03/2018 on 28/04/2018, but inspite of lapse of statutory period nothing come up. (Copy of the departmental appeal is annexed as annexure "B")

7. That feeling aggrieved the appellant prefers the instant appeal for releasing of salaries from 17-03/2014 to 01/03/2018 i.e. four years; upon the following grounds, inter alia:-

***GROUND:***

A. That the non releasing of the monthly salaries and the profit thereof to the appellant is highly illegal, unjust and void.

B. That the appellant has not carried any job or service during this period, but rather struggled and fought battle for re instatement during all this long period.

C. That the appellant persistently took loans from relatives, friends and villagers for substances of his family.

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D. That any other ground not raised here may graciously be allowed to be raised at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of the instant Appeal, the salaries/arrears of salaries from 17/03/2014 to 01/03/2018 may graciously be released and paid to the appellant.,

Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case.

Dated: 02/08/2018

  
Appellant

Through

  
JAVED IQBAL GULBELA

&  
  
SAGHIR IQBAL GULBELA

Advocate High Court  
Peshawar.

NOTE:-

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.

  
Advocate.

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Noor Islam

**VERSUS**

Home Secretary Government of Khyber Pakhtunkhwa  
and others

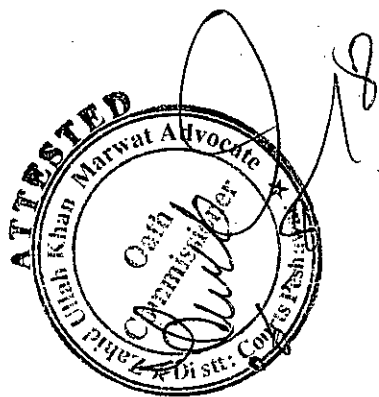
**AFFIDAVIT**

I , Noor Islam Warden (BPS-5) Central Jail Lakki Marwat, do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

*[Signature]*  
**DEPONENT**

Identified By:

*[Signature]*  
Javed Iqbal Gulbela  
Advocate High Court  
Peshawar.





6

**BEFORE THE HONBLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

In Re S.A \_\_\_\_\_/2018

Noor Islam

**VERSUS**

Home Secretary Government of Khyber Pakhtunkhwa  
and others

**ADDRESSES OF PARTIES**


**APPELLANT**

Noor Islam Warden (BPS-5) Central Jail Lakki Marwat.


**RESPONDENTS:**

1. Home Secretary Government of Khyber Pakhtunkhwa at Civil Secretariat Peshawar.
2. Inspector General of prisons Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Jail, Central Jail Lakki Marwat.

Dated: 02/08/2018

  
Appellant

Through

  
JAVED IQBAL GULBELA  
&

  
SAGHIR IQBAL GULBELA

Advocate High Court  
Peshawar.

(7)

Amir  
'A'

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 880/2014

Date of Institution ... 18.06.2014

Date of Decision ... 01.03.2018



Manzoor Khan, Ex-Warder (BPS-5) District Jail, Lakki Marwat.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and 3 others. ... (Respondents)

Mr. Yasir Saleem, Advocate.  
Mr. Javed Iqbal Gulbela, Advocate  
Arbab Saiful Kamal, Advocate  
Mst. Uzma Syed, Advocate

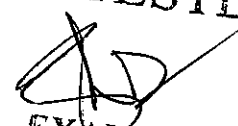
... For appellants

Mr. Ziaullah,  
Deputy District Attorney,

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

CHAIRMAN  
MEMBER

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- This judgment shall also dispose of connected service appeals No. 777/2014 Malik Afab, No. 799/2014 Amir Basir, No. 819/2014 Muhammad Arif, No. 871/2014 Hamid Ullah, No. 878/2014 Zaib Nawaz, No. 879/2014 Muhammad Sajid, No. 908/2014 Noor Islam and No. 909/2014 Sher Ali Baz as in all the appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

**FACTS**

3. An under trial prisoner escaped from Lakki Jail in the year, 2013. The appellants being servants of the said prison were charge sheeted for the escape of the said prisoner. Finally the enquiry officer held the appellants guilty and the Authority imposed penalty of removal from service on all the appellants before this Tribunal. Some other officers/officials were either exonerated or were awarded other penalties. All the appellants then filed departmental appeals within time which were not responded to and there-after they approached this Tribunal within time.

**ARGUMENTS.**

4. All the learned counsel representing the appellants argued that the charge sheet against the appellants were mainly based on violation of Prison Rules in the performance of their duties. That in none of the charge sheet it was specifically written that when and from where the prisoner escaped. That the whole findings of the enquiry officer were based on surmises and conjectures and on presumptions. That some of the officials who were held responsible at par with the appellants were awarded minor penalties. That no one could be awarded penalty without assigning specific role followed by specific proof of the role. That a criminal case was also registered against some of the appellants. That all the appellants were acquitted of the charges in the criminal case.

**ATTESTED**

5. On the other hand, the learned Deputy District Attorney argued that all the formalities of due process were complied with. That under the circumstances of the case, the prisoner could not escape the jail without the active connivance of the appellants as the appellants were posted on different stations in the Prison. That the prisoner did not break open any wall, room etc. and, hence it was proved that he must have been helped by the present appellants in escaping from the prison. The learned DDA pressed into service a judgment of the august Supreme Court of Pakistan in a case entitled *"I.G Prisons Khyber Pakhtunkhwa Vs. Muhammad*

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Israil" decided on 19.06.2006 bearing C.P No. 741-P/2004. While banking on this judgment, the learned DDA argued that in this very case, the august Supreme Court of Pakistan took a serious view and also issued notices to those employees of the prison for enhancement of penalty.

**CONCLUSION.**

6. All the charge sheets against the appellants do not attribute any specific role to any of the appellants except the charge of violating the Prison Rules. These allegations of violating the rules were also based not on any solid ground. The enquiry officer in his report opined that since the accused/civil servants before him were required to have a vigilant eye on the station of their posting within the jail and if a prisoner escaped from jail it would give presumption that each individual official failed to perform his duty and then concluded on this presumption that each one of such employees would be guilty of helping the prisoner escaped from the prison. On the basis of such presumption, the appellants have been awarded the major penalty of removal from service. It is a settled principle of administrative law that charge against an employee should be proved on the basis of evidence and especially when a major penalty is imposed. If we go through the report of the enquiry officer we will not find any proof of the fact that any one of the appellants violated his duty except the presumption that the escape of the prisoner would give the impression that each one of the appellants violated the rules.

ATTESTED

7. The Authority after receiving the enquiry report and fulfilling other formalities awarded different penalties to different employees charged for the escape of the prisoner. All the appellants before this Tribunal were awarded the major penalty of removal from service. The other officials were either compulsorily retired or were awarded penalty of stoppage of three annual increments. The findings of the enquiry officer qua all the 13 accused employees were similar. For example Mr. Nasir Mahmood accused (official not before this Tribunal) was

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar


10

awarded the penalty of stoppage of three annual increments though his role was the same as those of others and he was also held responsible for the escape of prisoner on the same ground as were the appellants.

8. The judgment of the august Supreme Court of Pakistan relied upon by the learned DDA was gone through in detail and it was found by this Tribunal that the charges and the circumstances of the escape of 5 prisoners in that appeal were totally different. In that appeal it was alleged that five prisoners escaped by opening the room by cutting the iron wires. It was also proved in that case that one of the warders was not present at the place of his duty and that some other warders were also not present in place of their duties. Similarly the Deputy Superintendent Jail was absent from the prison during night without permission. Similarly, Muhammad Israil was held responsible due to his administrative negligence as none of the warders who were required to be on duty at the relevant time were so present and available. The august Supreme Court of Pakistan further held in that case that even cutting of wire etc. must have been heard by the officials stationed on duty and concluded that they were responsible for the same. But in the present case no such finding of the enquiry officer is there by which it could be gathered that anyone of the appellants was not present or that the prisoner escaped through breaking some door/wall etc. Therefore, this case cannot be at par with the one decided by the august Supreme Court of Pakistan. At the most the Authority should have awarded minor penalty, if in his opinion the collective responsibility should have been the cause of the penalty or that in his opinion the presumptions could be drawn for violating the prison rules but imposition of major penalty was not the case of the appellants and especially when one or two co-accused, co-employees were awarded minor penalties of stoppage of three annual increments as discussed above.

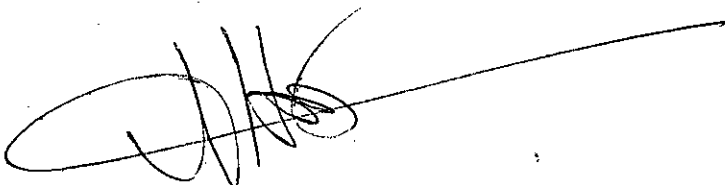
9. This Tribunal is therefore, of the view that though it is not proved that the appellants were in any way involved in the escape of the prisoner, however, due to

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

their collective responsibility and presumptions they could at the most be awarded minor penalty at par with others as mentioned above.

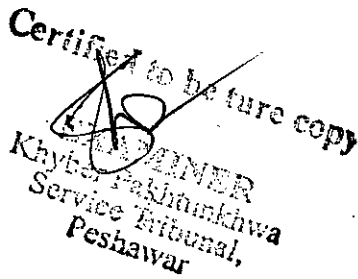
10. Resultantly, the major penalty of removal is converted to withholding of three increments for three years and the appeal is disposed of in the above terms. The period in which the appellants remained out of service should be decided by the department in accordance with rules i.e. gainful employment during the period. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAIN)  
MEMBER

  
(NIAZ MUIHAMMAD KHAN)  
CHAIRMAN

ANNOUNCED  
01.03.2018

*Certified to be true copy*  
  
CHAIRMAN  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 02-08-18  
Number of Words 7000  
Copying Fee 12  
Urgent 2  
Total 14  
Name of Copyist [Signature]  
Date of Completion of Copy 02-08-18  
Date of Delivery of Copy 02-08-18

Am  
"B"

(12)

## بخدمت جناب ہوم سیکرٹری صاحب خیبر پختونخواہ پشاور

عنوان: درخواست برائے ادائیگی تنخواہ 17-03-2014 سے لیکر 01-03-2018 تک

جناب عالی

مودبانہ گزارش کی جاتی ہے کہ سائلان محکمہ جیل خانہ جات کے ملازمین ہیں۔ 17-03-2014 کو ڈسٹرکٹ جیل لگی مروت سے ایک حوالاتی کی فراری کے کیس میں ریویو فرام سروس کیے گئے تھے۔ بعد میں سائلان کی اپیل پر سروس ٹریبونل میں سروس پر بحال کر دیا۔ اور سالانہ 3 انگریمنٹ بند کر دیے۔ اس کے بعد آئی جی جیل خانہ جات کے حکم پر سائلان نے سنٹرل جیل ہری پور میں ڈیوٹی پر حاضری کی۔ اور ریویو فرام سروس کی دوران تنخواہ With out pay کر دی گئی ہے۔

جناب عالی

سائلان کو 17-03-2014 سے لیکر 01-03-2018 تک کل تنخواہیں نہیں ملیں۔ ریویو فرام سروس کے دوران بیروزگاری رہی ہے۔

جناب عالی

سائلان کا تعلق غریب خاندان سے ہے۔ اور ریویو فرام سروس کے دوران لوگوں سے قرضے لیکر اپنے ضروریات پوری کرتے تھے۔ کیونکہ اس سروس کے علاوہ سائلان کا کوئی دوسرا ذریعہ معاش نہیں ہے۔ سرکاری ڈیوٹی ایماندار اور احسن طریقے سے انجام دیتے ہیں۔ لہذا آگے رمضان کا مہینہ شروع ہونے والا ہے۔ اور سائلان کے ضعیف العروال دین اور چھوٹے چھوٹے بچے ہیں۔ انکی تعلیم و تربیت، خوراک اور علاج وغیرہ سے مجبور ہیں۔

جناب عالی سے عاجزانہ التماس ہے کہ 17-03-2014 سے لیکر 01-03-2018 تک سائلان کی دادرسی فرماتے ہوئے بلاشبہ تنخواہ کی اجراء کے احکامات صادر فرمائیں۔ تاکہ سائلان ماہ رمضان میں اپنی ضروریات پوری کر سکیں۔ سائلان تاحیات آپ کے لیے دعا گو رہیں گے۔

ادرس

سائلان وارڈ

شیر علی باز خان

JAVED IQBAL Gul Beta  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9466501

نور اسلم خان

عرض گزار سنٹرل جیل ہری پور ہزارہ

05.01.2018

Counsel for the appellant present. Asst: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.03.2018 before D.B.

(13)

(Am)

"C"

(Ahmad Hassan)  
Member(E)

(M.Amin Khan Kundi)  
Member (J)



01.03.2018

Counsel for the appellant and Mr. Ziaullah, DDA alongwith Sher Yar, Asstt. Supdt. Jail for the respondents present. Arguments heard and record perused.

This appeal is disposed of as per our detailed judgment of today in connected appeal No. 880/2014 entitled "Manzoor Khan Vs. Government of Khyber Pakhtunkhwa through Chief Secretary and others". Parties are left to bear their own costs. File be consigned to the record room.

*[Signature]*  
MEMBER

*[Signature]*  
CHAIRMAN

ANNOUNCED  
01.03.2018

Certified to be true copy  
EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application	02-08-18
Number of Words	2860
Copying Fee	16.00
Urgent	2.00
Total	18.00
Name of Applicant	<i>[Signature]</i>
Date of Copying	
Date of Delivery of Copy	02-08-18



12.06.2017

Clerk of the counsel for appellant and Mr. Shehryar Khan, Supdt along with Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 11.09.2017 before D.B.

(Gul Zeb Khan)  
Member

(Muhammad Amin Khan Kundi)  
Member

11.09.2017

Counsel for the appellant and Addl: AG alongwith Mr. Sohrab Khan, H.C for the respondents present. Learned AAG requested for adjournment. Adjourned. To come up for arguments on 25.10.2017 before D.B.

Member  
(Executive)

Member  
(Judicial)

25.10.2017

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Sheryar, ASJ for the respondents present. Counsel for the appellant is not in attendance. Requested for adjournment. Granted. To come up for arguments on 05.01.2018 before the D.B.

Member

Chairman

ATTESTED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

05.10.2016

Counsel for the appellant and Mr. M.Jan, GP for respondents present. Counsel for the appellant requested for adjournment as his co-counsel in the connected appeal was busy in Supreme Court of Pakistan, Islamabad. Adjournment granted. To come up for arguments on 28.12.2016.

(M. AAMIR NAZIR)  
(MEMBER)

(PIR BAKHASH SHAH)  
MEMBER

28.12.2016

Clerk to counsel for the appellant and Assistant AG for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 30.03.2017 for arguments before D.B.

Chairman

30.03.2017

Counsel for appellant present. Mr. Sohrab Khan, Assistant alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Learned Additional AG requested for adjournment for producing inquiry record. Last chance is given. To come up for arguments on 12.06.2017 before D.B.


(Ahmad Hassan)  
Member

(Muhammad Amin Khan)  
Member

RECORDED  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

25.08.2015

Appellant in person and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 11.11.2015 before S.B.

  
Chairman

11.11.2015

Appellant in person and Mr. Sohrab, Junior Clerk alongwith Addl: A.G for respondents present. Para-wise reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 28.3.2015.

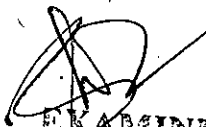
  
Member

28.03.2016

Appellant with counsel and Mr. Ziaullah, - GP for respondents present. Arguments could not be heard due to non-availability of D.B. Therefore, the case is adjourned to 18.05.2016 for arguments.

  
Chairman

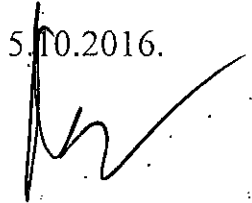
**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

18.5.2016

Counsel for the appellant and Shehryar Khan, ASI alongwith AAG for respondents present. Additional AG requested for produce of record. Last opportunity granted. To come up for arguments on 5.10.2016.

Member



  
Member

17

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05.03.2015

Clerk of counsel for the appellant and Asst: AG for the respondents present. Clerk of counsel for the appellant requested for adjournment. To come up for preliminary hearing on 14.04.2015.



Member

14.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that against the impugned order identical service appeals No.878,879 and 880/2014 have already been admitted to regular hearing.

In view of the above, this appeal is also admitted to regular hearing. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 13.07.2015 before S.B.

Appellant Deposited Security & Process Fee



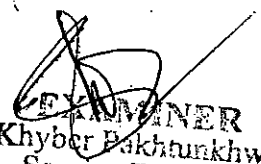
Chairman

8

13.07.2015

Appellant in person and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 25.8.2015 before S.B.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



Chairman

29.09.2014

Counsel for the appellant present. Preliminary arguments partly heard. The matter required further clarification, therefore, pre-admission notice be issued to the learned AAG/GP with the direction to contact the respondents for submission of complete record of the appellant. To come up for preliminary hearing on 01.12.2014.

  
Member

Reader Note:

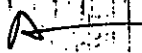
01.12.2014

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Asst: AG for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 02.02.2015 for the same.


  
Reader

02.02.2015

Counsel for the appellant and Mr. Kabirullah Khattak, Asst: Advocate General for the respondent present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 05.03.2015.

  
Member

ATTESTED

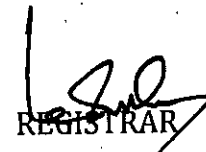

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

19  
Form-A


FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 908/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	02/07/2014	The appeal of Mr. Noor Islam resubmitted today by Mr. Javed Iqbal Gulbela Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.   REGISTRAR
2	9-7-2014	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>29-9-2014</u> .   CHAIRMAN

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar


20

The appeal of Mr. Noor Islam ex-warden Distt. Jail Lakki Marwat received today i.e. on 27.06.2014 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of order dated 17.3.2014 mentioned in the heading of the appeal is not attached with the appeal which may be placed on it.
- 2- One spare copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1014 /S.T.

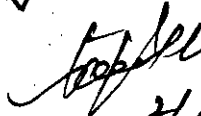
Dt. 30/6 /2014.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

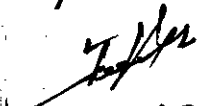
Mr. Javed Iqbal Gulbela Adv. Pesh.

Respected Sir,

Re-submitted after necessary completion.

  
21/7/2014

Note: Impugned order dt: 17-3-2014 is at pages no. 7 & 8, please.

  
21/7/2014

JAVED IQBAL Gul Bela  
Daudzai Law Chamber,  
District High Court Peshawar  
Peshawar  
Mob: 0345-9405601

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**IN THE HON'BLE COURT SERVICES TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR**

*Appeal No. 908/2014*

Noor Islam Ex-warden (BP-5) District Jail, Lakki  
Marwat

...Appellant

Versus

Chief Secretary Khyber Pakhtunkhwa Civil  
Secretariat Peshawar etc.

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3.	Departmental appeal	A & B	5-11
4.	Wakalat nama	C	12-15

Appellant

**JAVED IQBAL Gul Bela**  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9436361

**NOOR ISLAM**

Through

*[Signature]*  
**JAVED IQBAL GULBELA**

Advocate High Court  
Peshawar

Dated: 27-06-2014



(4) (22)

**IN THE HON'BLE SERVICES TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWAR,**

*Appeal no. 908/2014*



Noor Islam Ex-Warden (BP-5) District Jail, Lakki Marwat

...Appellant

**VERSUS**

*984  
27-6-2014*

1. Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department.
3. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
4. Superintended District Jail Lakki Marwat

....Respondents

**ATTESTED**

*[Signature]*  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL  
ACT 1974 AGAINST THE IMPUGNED OFFICE ORDER  
DATED SO (COM/END) /HD/LAKKI JAIL /2013, DATED  
17<sup>TH</sup> MARCH, 2014 OF THE OFFICE OF SECRETARY TO  
GOVERNMENT OF KPK HOME DEPARTMENT, WHEREBY  
THE APPELLANT HAS BEEN REMOVED FROM SERVICE**

**RESPECTFULLY SHEWETH**

The Appellant Humbly submits as under:-

1. That the appellant had been warden (BP-5) and posted District Jail, Lakki Marwat.
2. That the Appellant had been appointed in the subject post after being gone through the ordeals of tests and interview and since his appointment in the department has been the most devoted and fair subordinate, who never left any stone unturned in

*[Signature]*  
27/6/14

Co-submitted to ~~the~~  
and filed.

*[Signature]*  
27/7/14


(4)

23

the performance of his duties devotedly, honestly, impartially and without any fear or self-interest.

3. That the appellant never committed any unwarranted or illegal act through his career that would cause any curse or any abominable remarks by his superior.
4. That it was during the posting at the subject district Jail that the most unfortunate event took place, wherein neither the appellant had any fault, nor had done any other criminal omission or negligence, but rather had been made a scape goat and condemned ruthlessly.
5. That neither the appellant had facilitated the run of the under trial prisoner escaping from prison, nor can even think of that, but even then was removed from service vide the impugned office order No SO (Com/End/HD/Lakki Jail/2013, dated 17 March, 2014 of the office of the Secretary KPK. (Copy of the impugned office order is annexed).
6. That neither any proper inquiry had ever been conducted, nor a fact finding committee was sought to dig out the real facts, nor the appellant was even heard properly, nor was allowed to cross-examine any witness and thus has been condemned without any fault; so feeling aggrieved the appellant preferred a Departmental appeal against the impugned order of removal from services, but in spite of stipulated statutory period the appeal was not decided and was shelved (Copies of appeal annexure)

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(3) (24)

7. That feeling aggrieved now the appellant moves the instant appeal for setting aside the removal from service order, upon the following grounds, inter Alia:-

#### GROUNDS

- A. That the impugned office order of removal from service is illegal, void ab- inito and unwarranted, hence liable for setting aside.
- B. That for imposition of major penalty a proper mechanism is provided in the law and that in mandatorily to be followed. The appellant must be properly heard in person, must be allowed to cross-examine any witness adducing against the Appellant, a proper show cause notice, final show cause notice, statement of allegation and its proper services upon the Appellant; but nothing as such has taken place in case of the appellant which is not unwarranted under the law.
- C. That the impugned order has been passed cursorily and without realizing the fact that the Appellant had not fault or criminal omission or negligence at all in the occurrence of that alleged event.
- D. That the appellant has rendered 6 years of service and during all this period no complaint was ever made against him and now without any fault on his part was condemned.
- E. That even the departmental representation of the appellant went futile and the same was shelved without any finding thereupon and thus again the appellant was condemned unheard.

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

(25)

F. That from all four corners of law, the order of removal from service is illegal and is liable to be discarded.

It is, therefore, most respectfully prayed that on acceptance of instant appeal, the office order No SO (Com/End) /HD/Lakki Jail /2013, dated 17<sup>th</sup> March, 2013 of the office of Secretary to Government of KPK home Department, be set aside and the Appellant be restored into service with all back benefits.

Appellant

NOOR ISLAM

Date of Presentation of Application 02-08-18  
 Number of Words 2800  
 Copying Fee 16.00 Through \_\_\_\_\_  
 Urgent 2.00  
 Total 18.00  
 Name of Copyist \_\_\_\_\_  
 Date of Copying 02-08-18  
 Date of Delivery of Copy 02-08-18

  
JAVED IQBAL GULBELA

Advocate High Court

Peshawar

**JAVED IQBAL GULBELA**  
 Advocate High Court, Peshawar  
 & Federal Shariat Court of Pakistan

Dated 26-6-2014

AFFIDAVIT

I, Amir Nawaz Khan Advocate counsel for the appellant, do here by solemnly affirm and declared on oath that as per instruction of my client the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

Certified to be true copy

Khayber Bakhsh  
 Service Tribunal,  
 Peshawar

**ATTESTED**

Zahid Ullah Khan Advocate  
 District Court,  
 Peshawar

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14 15

OFFICE OF THE  
SUPERINTENDENT  
DISTRICT JAIL LAKKI MARWAT

Amri

Phone & Fax No: 0969-510547

NO: 359-66/we  
Dated: 19-03-14

To,

1. Warder Muhammad Sajid
3. Warder Noor Islam
5. Warder Aamir, Basir
7. Warder Manzoor Khan
2. Warder Sheir Ali Baz
4. Warder Mohammad Arif
6. Warder Hameed Ullah
8. Warder Aftab Malik

Subject:-

DEPARTMENTAL PROCEEDING IN THE ESCAPE OF UNDERTRIAL PRISONER  
UMAR RAUF @ AMRI S/O PIR GHULAM VILLAGE ESAK KHEL TEHSIL & DISTRICT  
LAKKI MARWAT CHARGE UNDER SECTION 302/34 PPC FIR NO. 509 DATED 29-  
11-2008.

Memo

Enclose find herewith a copy of Inspector General of Prisons Khyber Pakhtunkhwa Peshawar Letter No.5/14-J-2013/7138-44/we Dated: 19-03-2014 along-with its enclosures on the subject noted above for information.

SUPERINTENDENT  
DISTRICT JAIL LAKKI MARWAT

Endst: No \_\_\_\_\_

Copy of the above is forwarded to

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information with reference to his letter as referred to above Please.
2. Junior Clerk Hamuyan Gul for necessary entry in the Service Book of the Office; Watch / Warder Staff attached to this Jail may be done now.

SUPERINTENDENT  
DISTRICT JAIL LAKKI MARWAT

JAVED IQBAL GUL BELA  
Advocate  
Peshawar

JAVED IQBAL Gul Bela  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9405501



IMMEDIATE/BY FAX

To

- The Superintendents,  
1) Headquarters Prison D.I.Khan.  
2) Central Prison Peshawar.  
3) Central Prison/Borstal Institution Bannu.  
4) District Jail Lakki Marwat & Karak.  
5) Judicial Lockup Tank.

Subject:-

DEPARTMENTAL PROCEEDINGS IN THE ESCAPE OF UNDER  
PRISONER UMAR RAUF @ AMRI S/O PIR GHULAM VILLAGE  
KHEL TEHSIL & DISTRICT LAKKI MARWAT CHARGE UNDER SEC  
302/34 PPC FIR NO.509 DATED 29-11-2008.

Sir,

I am directed to refer to the subject and to forward herewith a copy of No.SO(Com/Eng)/HD/Lakki Jail/2013 dated 17-3-2014 received from Government of Pakhtunkhwa Home and T.As Department, on the captioned subject(self explanatory) for info and necessary action. Also make necessary entries in the Service Books of all officials concerned under proper attestation.

ASSISTANT DIRECTOR (ADMIN)  
FOR INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

ENDST/NO. \_\_\_\_\_

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa Home & T.As Department Peshawar, for information with reference to Home Department Order referred to above
2. The District Accounts Officers, Bannu, Lakki Marwat, Karak & Tank for information and necessary action. A copy of Home Department order referred to above is enclosed herewith.

ASSISTANT DIRECTOR (ADMIN)  
FOR INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

JAVED IQBAL Gul Bela  
District Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9405501

JAVED IQBAL Gul Bela  
District Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9405501

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(B) (7)

Ab-B



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT



ORDER

SG(Com/Eng)/HD/Lakki Jail/2013, WHEREAS, The following officer / officials of the Inspectorate of Prisons, Khyber Pakhtunkhwa, were proceeded against under rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 for the charges mentioned in the show cause notices dated 17/12/2013, served upon them individually.

AND WHEREAS, the competent authority i.e the Chief Secretary, Government of Khyber Pakhtunkhwa, granted them an opportunity of personal hearing as provided for under Rules ibid.

NOW THEREFORE, the competent authority (The Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges, evidences on record, the explanation of the accused officer / officials and affording an opportunity of personal hearing to the accused, findings of the enquiry committee and exercising his power under rule-3 read with Rule-14 (5) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 has been pleased to pass the following orders noted against the name of each officer / officials with immediate effect;

S.No	Name & Designation	Orders
1.	Mr. Usman Ali (BPS-17), Deputy Superintendent Jail, District Jail Lakki Marwat.	Compulsory retirement
2.	Mr. Amir Faraz, Warder (BPS-05), District Jail Lakki Marwat.	Compulsory retirement
3.	Mr. Hamayun Gul, Junior Clerk (BPS-07), District Jail Lakki Marwat.	Stoppage of three (03) annual increments.
4.	Mr. Nasir Mehmood, Warder (BPS-05), District Jail Lakki Marwat.	Stoppage of three (03) annual increments.
5.	Mr. Sher Ali Baz, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
6.	Mr. Hamidullah, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service

JAVED IQBAL Gul Bala  
Daudzai Law Chamber  
Adocate High Court Peshawar  
Mob: 0345-9405501

ABDUL QADIR  
Advocate High Court Peshawar  
& Federal Shariat Court Islamabad

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# GOVERNMENT OF KHYBER PAKHTUNKHWA HOME & TRIBAL AFFAIRS DEPARTMENT

7.	Mr. Muhammad Arif, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
8.	Mr. Noor Islam, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
9.	Mr. Muhammad Sajid, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
10.	Mr. Zaib Nawaz, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
11.	Mr. Manzoor Khan, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
12.	Mr. Amir Baseer, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service
13.	Mr. Aftab Malik, Warder (BPS-5) District Jail Lakki Marwat.	Removal from service

SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA HOME DEPARTMENT

Encl. No. SO(Com/End)/HD/Lakki Jail/2013 Dated Peshawar the March 17, 2014

Copy of the above is forwarded to the:-

1. ✓ Inspector General of Prisons, Inspectorate of Prisons, Khyber Pakhtunkhwa Peshawar
2. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. PS to Secretary Establishment, Khyber Pakhtunkhwa Peshawar.
4. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.
5. Officer/officials concerned.

12/3  
SECTION OFFICER (Com/End)

6250  
18-3-14

Advocate Khair Uddin Peshawar  
Mob: 3399999999



7/5	اندر	مستند	مستند
7/10	اندر	مستند	مستند
7/15	اندر	مستند	مستند
7/20	اندر	مستند	مستند
7/25	اندر	مستند	مستند
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7/55	اندر	مستند	مستند
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8/8	اندر	مستند	مستند
8/9	اندر	مستند	مستند
8/10	اندر	مستند	مستند
8/11	اندر	مستند	مستند
8/12	اندر	مستند	مستند
8/13	اندر	مستند	مستند
8/14	اندر	مستند	مستند
8/15	اندر	مستند	مستند
8/16	اندر	مستند	مستند
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8/30	اندر	مستند	مستند

(31) Date: 24/5/13

دینار صاحب 3 مہودے الہ آباد، گل دربار، تحصیل گورکھ پور  
کلاں نورا صاحبہ، صاحبہ لہیر، گل دربار، تحصیل گورکھ پور  
دینار آفتاب، طالبہ علیہ، گل دربار، تحصیل گورکھ پور  
دینار صاحبہ سکر، گل دربار، تحصیل گورکھ پور  
مہینہ گلشن، گل دربار، تحصیل گورکھ پور  
دینار گلشن، گل دربار، تحصیل گورکھ پور  
دینار لوار، گلشن  
دینار لوار، گلشن  
علیہ گلشن، گلشن  
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131 06:10 P.M. وردان

دینار صاحبہ، گل دربار، تحصیل گورکھ پور  
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صاحبہ گلشن، گل دربار، تحصیل گورکھ پور  
صاحبہ گلشن، گل دربار، تحصیل گورکھ پور

Advocate High Court, Peshawar  
Mob: 0845-9405701

Advocate High Court, Peshawar  
Mob: 0845-9405701

# ابتدائی اطلاعی رپورٹ

ابتدائی اطلاعی رپورٹ جرم قابل دست اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجرم نامہ طاہرہ جوادانی

۵۱-۱۴۸۱  
۲۷-۵-۱۳

مطلع نمبر ۲۴

تاریخ ۲۴/۵/۱۳

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تاریخ وقت رپورٹ	۲۴/۵/۱۳	وقت ۲۱-۵۵	۲۱-۳۵
نام و سکونت اطلاع دہندہ شخصیت	سید شہدائے گل خانہ جیل گھوٹہ سندھ		
مظہر کیفیت جرم (موردہ) حال اگر پہچان لیا گیا ہو	۲۲۲-۲۲۳-۲۲۴		
جائے وقوعہ یا اطلاع دہندہ سے اور بہت	کراچی		
نام و سکونت مجرم	کراچی		
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع دہندہ کرنے میں وقت ہوا تو وجہ بیان کر	بہت سیدھے نمبر ۵۱ پر رپورٹ کیے		
تعداد سے روانگی کی تاریخ و وقت	مید سیریز نمبر ۱۳-۲۴۵		

ابتدائی اطلاعی رپورٹ کے درج کردہ گھوٹہ جیل گھوٹہ سندھ میں واقع ہے۔ اطلاع دہندہ سید شہدائے گل خانہ جیل گھوٹہ سندھ میں مقیم ہیں۔ اطلاع دہندہ نے اطلاع دی کہ وہ اپنے گھوٹہ میں مقیم ہیں اور ان کے پاس ایک گھوٹہ ہے جس کے نام سے اطلاع دہندہ نے اطلاع دی ہے۔ اطلاع دہندہ نے اطلاع دی کہ وہ اپنے گھوٹہ میں مقیم ہیں اور ان کے پاس ایک گھوٹہ ہے جس کے نام سے اطلاع دہندہ نے اطلاع دی ہے۔ اطلاع دہندہ نے اطلاع دی کہ وہ اپنے گھوٹہ میں مقیم ہیں اور ان کے پاس ایک گھوٹہ ہے جس کے نام سے اطلاع دہندہ نے اطلاع دی ہے۔

Asi Lakk  
24.05.2013

To,

The Worthy Chief Minister,  
Khyber Pakhtunkhwa  
Chief Minister Secretariat  
Peshawar

Subject:- Department Representation against the impugned office order dated SO (Com/End)/HD/Lakki Jail/2013, dated 17<sup>th</sup> March, 2013 of the office of Secretary to Government of KPK Home Department, whereby the Appellant has been removed from service.

Respected Sir,

The Appellant humbly submits as under:-

- 1) That the Appellant had been Warden (BPS-5) and posted at District Jail, lakki Marwat.
- 2) That the Appellant had been appointed in the subject post after being gone through the ordeals of tests and interviews and since his appointment in the department has been the most devoted and fair subordinate, who never left any stone unturned in the performance of his duties devotedly, honestly, impartially and without any fear or self-interest.
- 3) That the Appellant never committed any unwarranted or illegal act through his career that would cause any curse or any abominable remarks by his superiors.
- 4) That it was during the posting at the subject District Jail that the most unfortunate event took place, wherein neither the Appellant had any fault, nor had done any

JAVED IQBAL Gul Bela,  
Daudzai Law Chamber  
Advocate High Court Peshawar.  
Mob: 0345-945501

JAVED IQBAL Gul Bela,  
Daudzai Law Chamber  
Advocate High Court Peshawar  
& Federal Court Islamabad

(34)      ✓      (B)

other criminal omission or negligence, but rather had been made a scape goat and condemned ruthlessly.

- 5) That neither the Appellant had facilitated the run of the under trial prisoner escaping from prison, nor can even think of that, but even then was removed from service vide the impugned office order No SO (Com/End)/HD/Lakki Jail/2013, dated 17<sup>th</sup> March, 2014 of the office of the Secretary Home Department, which order had been passed by the worthy Chief Secretary KPK. (Copy of the impugned office order is annexed).
- 6) That neither any proper inquiry had ever been conducted, nor a fact finding committee was sought to dig out the real facts, nor the Appellant was even heard properly, nor was allowed to cross-examine any witness and thus has been condemned without any fault; so feeling aggrieved moves the instant appeal for setting aside the removal from service order, upon the following grounds, inter-alia:-

**GROUND:-**

- A) That the impugned office order of removal from service is illegal, void ab-initio and unwarranted, hence liable for setting aside.
- B) That for imposition of major penalty a proper mechanism is provided in the law and that in mandatorily to be followed.

The Appellant must be properly heard in person, must be allowed to cross-examine any witness adducing against the

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Appellant, a proper show cause notice, final show cause notice, statement of allegation and its proper services upon the Appellant; but nothing as such has taken place in case of of the Appellant which is not unwarranted under the law.

- C) That the impugned order has been passed cursorily and without realizing the fact that the Appellant had not fault or criminal omission or negligence at all in the occurrence of that alleged event.
- D) That the Appellant has rendered 06 years of service and during all this period no complaint was ever made against him and now without any fault on his part was condemned.
- E) That from all four corners of law, the order of removal from service is illegal and is liable to be discarded.

It is, therefore, most respectfully prayed that on acceptance of instant Appeal, the office order No SO (Com/End)/HD/Lakki Jail/2013, dated 17<sup>th</sup> March, 2013 of the office of Secretary to Government of KPK Home Department, be set aside and the Appellant be restored into service with all back back benefits.

Appellant

(NOOR ISLAM)  
Ex-Warden (BPS-5)  
District Jail, Lakki Marwat  
Cell No 0334-8845065

JAVED IQBAL Gul Bela  
Dawoodi Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9405501

Dated: -10-04-2014

Affidavit,

Declared on oath that contents of the instant appeal are true & correct & nothing is concealed.

Deponent

JAVED IQBAL QURESHA  
Advocate High Court, Peshawar  
& Federal Shariat Court of Pakistan

#

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Service Appeal No.908/2014  
Noor Islam, Ex- Warder

(41)

attached to District Jail Lakki Marwat.....**Appellant.**

**VERSUS**

- 1- Chief Secretary,  
Government of Khyber Pakhtunkhwa,
- 2- Secretary to Government of Khyber Pakhtunkhwa,  
Home and Tribal Affairs Department Peshawar.
- 3- Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar.
- 4- Superintendent  
District Jail Lakki Marwat.....



**Respondents.**

**PARAWISE REPLY ON BEHALF OF RESPONDENTS**

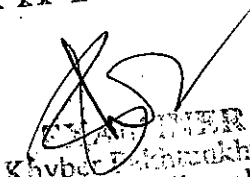
**Preliminary Objections.**

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

**ON FACTS**

- 1- Pertains to record, hence no comments.
- 2- Pertains to personal / official record of the appellant hence no comments.
- 3- Pertains to record, hence no comments.
- 4- Incorrect, mis-leading. As evident from the inquiry report relevant portion (Annexure-1) and as admitted by the appellant that an unfortunate event took place but very tactfully the appellant keeps mum over the "mis-happen of the event" and its intensity i.e. a notorious Gang leader made his escape from the Lakki Jail. The said escapee was put-in at barrack No.1 and it has been proved in the inquiry report that the escape was made during 12:00 Noon to 03:00 PM on 24-05-2011 (while the appellant was assigned the duty of Sector No. 1 as patrolling officer). The inquiry report further reveals that the Barrack in which the escapee was put-in had no other exit door, windows etc. which proves the fact that the said escape took place from the solitary exit passing through Ihata No. 1, where the appellant was performing as

**ATTESTED**

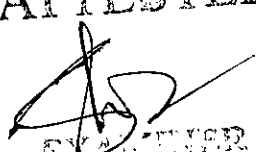
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

patrolling officer. So for as any other omission/ negligence is concerned, it seems that the appellant did not realize the intensity and severity of the dreadful escape from Lakki Jail. The negligence on the part of appellant duly proved is quite established against him and that is why, he was proceeded against departmentally under the E&D Rules. Copy of charge sheet-statement of allegation inquiry report and final show cause notices are "A, B, C and D".

- 5- Incorrect, misleading. Lame excuse it is fact that (a notorious gang leader) under trial prisoner made good his escape on specific time and day as mentioned in the inquiry report, while the appellant was then performing as Patrolling officer of Ihatta No.1 and this fact is also very clearly established in the inquiry report that the escapee had used the solitary exit passing through said Ihatta where the appellant was incharge Patrolling Officer thereby proving that the sheer negligence falls on the shoulders of the appellant that has facilitated the escape of the escapee and bringing a bad name for the entire management of the Lakki Jail and it has also blemished the Prison Department as a whole, and even then the appellant is shedding crocodile tears as if nothing in term of misconduct/negligence is due to him.
- 6- Incorrect, just blemishing the senior seasoned inquiry officer who also having sufficient skill of investigation and proving the facts against the appellant who is denying it through lame excuses. All codal formalities were dully filled in, necessary procedure was properly adopted, ample opportunities provided for the defense of each accused yet the appellant pretending that such and such short comings are there and trying to create dilemma in order to have space to declare himself innocent.
- 7- No comments. However detail reply of the grounds are as under:-

**GROUND:** -

- A. Incorrect, a lawful order issued by the competent authority within the prescribed parameter and competency hence the question of setting aside such order does not arise.
- B. Incorrect, whatever has been discussed in the instant Para, all steps /stages as the Prerequisite of any Departmental inquiry and in the instant case all such stages


**ATTESTED**  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar





alongside codal requirements duly followed in and procedure prescribed for the purpose has been adopted in to-to. The plea of the appellant is to deny the reality that took place in the instant case.

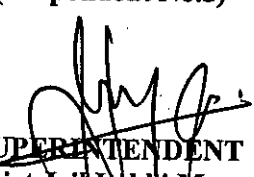
- C. Incorrect, lame excuse when the fact established on the part of the appellant within the domain of sheer negligence and high misconduct on his part then how one can deny such hard facts.
- D. Incorrect, its seems that the appellant yet not out of the dogma because a notorious under trial prisoner has escaped from the Jail and yet the appellant is in try to declare himself faultless which again seems the brain child of an immature personality.
- E. Incorrect, departmental presentation properly proceeded but having no sound and strength, worth consideration, that is why it could not be acceded to and accordingly filed by the order of the competent authority. Thus getting no relief and now the appellant is showing his aggrieved sense.
- F. The impugned order is in accordance with Law and Rules .


In view of the above Para-wise Comments, the appeal of Noor Islam Ex-Warder may kindly be dismissed with cost please.

  
**CHIEF SECRETARY**  
 Khyber Pakhtunkhwa  
 (Respondent No.1)

  
**SECRETARY TO GOVERNMENT**  
 Khyber Pakhtunkhwa  
 Home & T.As Department Peshawar.  
 (Respondent No.2)

  
**INSPECTOR GENERAL OF PRISONS**  
 Khyber Pakhtunkhwa Peshawar  
 (Respondent No.3)  
 18/8/18

  
**SUPERINTENDENT**  
 District Jail Lakki Marwat  
 (Respondent No.4)

*Certified to be true copy*  
  
**OFFICER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Service Appeal No.908/2014  
Noor Islam, Ex- Warder

attached to District Jail Lakki Marwat.....Appellant.

**VERSUS**

- 1- Chief Secretary,  
Government of Khyber Pakhtunkhwa,
- 2- Secretary to Government of Khyber Pakhtunkhwa,  
Home and Tribal Affairs Department Peshawar.
- 3- Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar.
- 4- Superintendent  
District Jail Lakki Marwat.....Respondents.

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

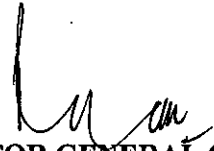
We the undersigned respondents do hereby solemnly affirm and declare that the contents of the Para-wise Comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.



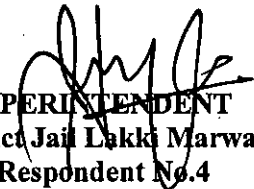
**CHIEF SECRETARY**  
Khyber Pakhtunkhwa  
(Respondent No.1)



**SECRETARY TO GOVERNMENT**  
Khyber Pakhtunkhwa  
Home & T.As Department Peshawar.  
(Respondent No.2)



**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.3)



**SUPERINTENDENT**  
District Jail Lakki Marwat  
(Respondent No.4)

*12/8/15*

**JAVED IQBAL** Gul Bela  
Daudatal Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9493501

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*Amir A*

## CHARGE SHEET

I, Muhammad Shehzad Arbab, Chief Secretary Khyber Pakhtunkhwa, as competent authority, hereby charge you Noor Islam, as follows:

That you, while posted as warder (BPS-5) at District Jail Lakki Marwat committed the following irregularities:

You were assigned duties at watch Tower No.2 on 24-5-2013 from 12.00 noon to 3.00 p.m. Due to your gross negligence/inefficiency in the performance of your duties, one undertrial prisoner Umar Rauf @ Amri S/O Pir Ghulam escaped from the jail during your duty hours, thus you have violated Rule-1072 & 1095(f) of Khyber Pakhtunkhwa Prison Rules 1985.

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

*01/06/13*

*23-8-13*

*M. Shehzad*  
(MUHAMMAD SHEHZAD ARBAB)  
CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA

*[Signature]*  
Gul Bela  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 0345-9405301

(96) Amir B

AT

DISCIPLINARY ACTION

I, Muhammad Shehzad Arbab, Chief Secretary Khyber Pakhtunkhwa, as the competent authority, am of the opinion that Warder Noor Islam (BPS-5) District Jail Lakki Marwat 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 duties at watch Tower No.2 on 24-5-2013 between 12.00 noon to 3.00 p.m. Due to his gross negligence/inefficiency in the performance of his duties, one undertrial prisoner namely Umar Rauf @ Amri S/O Pir Ghulam escaped from the jail during his duty hours, thus he has violated Rule-1072 & 1095(f) of Khyber Pakhtunkhwa Prison Rules 1985.


2. For the purpose of inquiry against the said accused with reference to the above allegations, an Inquiry Officer/Inquiry Committee, consisting of the following is constituted under Rule-10(1)(a) of the rules ibid:-

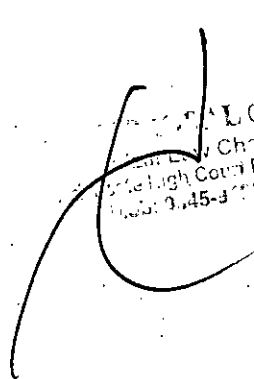
i. Mr. Kaleem ulah

ii. \_\_\_\_\_

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

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Inquiry officer/Inquiry Committee.

  
(MUHAMMAD SHEHZAD ARBAB)  
CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA

  
L. Cul Bela  
Chamber  
High Court Peshawar  
No. 45-3

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~~Annexed~~

Zahid  
Process ke  
26/5/13

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**PRELIMINARY INQUIRY REPORT IN ESCAPE CASE OF UNDERTRIAL PRISONER UMAR RAUF @ AMRI SON OF PIR GHULAM ON 24-5-2013 FROM DISTRICT JAIL LAKKI MARWAT.**

**Report:**

The instant inquiry was ordered by the competent authority i.e. the worthy Inspector General of Prisons Khyber Pakhtun Khwa Province Peshawar vide office Endst : No. 3617-18 dated 24-5-2013.

The undersigned proceeded to District Jail Lakki Marwat on 25-5-2013, inspected the Jail building, the barracks & the Watch Tower # 1 (*the alleged place of escape*), thoroughly examined the case & probed into the matter, the accused officers/officials were heard in person & their written statements were recorded on the spot. They alongwith some inmates of Lakki Jail were cross-examined & all the relevant staff/inmates furnished their statements which are enclosed herewith alongwith relevant Jail record i.e. Register No. 16, Duty Register, Roznamcha, Duty Roster for 04 & 05/2013, for your kind perusal and ready reference please. Assistant Superintendent Jail Mr. Muhammad Ibrahim was on leave on the day of incident. His duty was allotted to Junior Clerk Mr. Hamayun Gul duly noted by him and approved by the Superintendent Jail (Annexed-A).

**Findings:**

After thoroughly examining the case and material of record on the ground, it has been observed that there is a vast contradiction in written defense replies and replies furnished during the cross-examination by above mentioned concerned staff which clearly speaks volume of lack of performance in the duties and negligence on the part of Jail administration of District Jail Lakki as it has been observed that some thing is wrong in the bottom. The Jail record i.e. Roznamcha dated 24-5-2013 (*the day of occurrence*) reveals that the sanctioned strength of warders is 66, 30 warders on duty in one day as stated by Line Muharar of Lakki Jail while some warders were absolutely spare and they if were utilized inside the Jail by assigning them duties it would be better and such untoward incident could be averted but the administration of District Jail Lakki Marwat did not concentrate over it.

It is worth mention that escape is not a desirable practice in Jails & this fact cannot be ignored that administration/especially Superintendent Jail of Lakki Jail badly failed to manage their obligations due to which such undesirable incident occurred. Double duties were at liberty by W & W staff and the Superintendent Jail of Lakki Jail failed to satisfy the undersigned on this important issue which was communicated recently to all Jails of the Province for strict compliance, by the competent authority i.e. the Inspector General of Prisons Khyber Pakhtun Khwa Province Peshawar. At the day of escape 08 Warders out of 10 were on double duties & 01 Warder namely Arif performed duty as Sentry Gate from 09:00 A.M to 12:00 Noon & from 12:00 Noon to 03:00 P.M at Watch Tower # 1 (*the alleged place of escape*).

The undersigned keenly observed the scenario & it has come to the notice that the

**ABDUL IQBAL GANI**  
District Law Chamber  
Associate High Court Peshawar  
Mob. 0345-0495301

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was observed over W & W Staff from Jail administration especially Superintendent Jail .

The Registers etc were left unsigned by the Superintendent & Deputy Superintendent Jail. Though no clue was obtained i.e. the said undertrial prisoner made good escape from Jail through watch tower (OR) Main Dewri of Gate, yet it is crystal clear that this could be a conspiracy by the courtesy of Prisons staff with the escapee undertrial prisoner as the statement of Warder Abdullah Parvez (Relief Chakkar) shows that he had strong hold inside the Jail rather he was all in all & thus he took the advantage to make escape from Jail without any hindrance/impediment. Many prisoners, likely escapee, like dangerous prisoners were roaming inside the Jail from one sector to other freely and frequently & no sentry or Numbardar were deputed on the sector entrance/phatak.

The Jail administration could not convinced the undersigned about this ugly incident and they were in dilemma to clear their position in this regard from all aspects.

Mr. Usman Ali Superintendent Jail Lakki failed to timely inform the Home Department, the I.G Prisons about the incident & also has failure in lodging FIR which was required to be lodged immediately while the same was lodged as 09:30 P.M as is evident from the enclosed copy of FIR P.S Lakki Marwat. He also failed to maintain discipline among the W & W staff and Jail inmates. He is unfit for further service as the Prison Service is a Semi-Military service. His replies to the verbal as well as written queries were quite unconvincing/unsatisfactory.

Line Muharar Warder Amir Faraz has also the same position & he was immediately relieved from Lakki Jail to Central Prison Peshawar by the telephonic order of the worthy I.G Prisons on 25-5-2013 as he was found guilty of mis-management amongst the W & W staff and due to his own consent the W & W staff was at liberty to perform double duties. Moreover, the concerned W & W staff at the time of duty from 12:00 Noon to 03:00 P.M on the day of occurrence also failed to foil the escape of said undertrial escapee either through Watch Tower or Main Dewri.

Further, Warder Aftab may be transferred to any far flung Jail of the Province as he is also a suspected person in this matter as is evident from the enclosed statement of Warder Abdullah Parvez (Relief Chakkar). The escapee undertrial prisoner escaped after 2:00 PM when Relief Chakkar (Warder Abdullah Pervaz) handed over the charge to Incharge Chakkar (Head Warder Noor Zaman) with "SAB ACHA" as evident during cross examination by Incharge chakkar, therefore relief is not responsible. Moreover

there was no evidence that escapee prisoner escaped from watch tower, however all the staff from 12:00 noon to 3:00 PM on duty tower, Main Gate, patrolling officer etc. are responsible as well as line office, line Muharar, Assistant Superintendent and main responsibility is on shoulders of Superintendent Jail.

IOBAZ GulBela  
Judzai Law Chamber  
The High Court Peshawar  
Peshawar 25001  
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In wake of above submissions, the responsibility of such ugly incident is purely on following officers/officials:-

1. Mr. Usman Ali Superintendent Jail
2. Mr. Humayun Gul J/Clerk
3. Mr. Noor Zaman Head Warder (Incharge Chakkar)
4. Warder Sher Ali Baz Patrolling Officer (Sector # 1) from 12:00 to 3:00 PM
5. Warder Hamidullah Patrolling Officer (Sector # 2) from 12:00 to 3:00 PM
6. Warder Muhammad Arif Watch Tower # 1 from 12:00 to 3:00 PM
7. Warder Noor Islam Watch Tower # 2 from 12:00 to 3:00 PM
8. Warder Muhammad Sajid Talashi Gate from 12:00 to 3:00 PM
9. Warder Zaib Nawaz Madadgeer from 12:00 to 3:00 PM
10. Warder Nasir Mahmood Sentry Gate from 12:00 to 3:00 PM
11. Warder Manzoor Khan Darban Jail from 12:00 to 3:00 PM
12. Warder Amir Baseer Khan Beat # 2 from 12:00 to 3:00 PM
13. Warder Aseel Janan Sector # 2
14. Warder Amir Faraz Line Muharar
15. Warder Aftab *Malik* May be transferred to any other Jail of the province.

Submitted for information and further necessary action as considered suitable please.

*[Handwritten Signature]*

(EHTIZAZ AHMAD JADOON)  
Inquiry Officer  
Superintendent Jail BPS-18  
Central Prison Bannu

**OFFICE OF THE SUPERINTENDENT CENTRAL PRISON BANNU**

No. 3118/WE

Dated: 26/05 /2013.

Forwarded to the Inspector General of Prisons Khyber PukhtunKhwa Province Peshawar for information and necessary action w/r to above quoted order please.

*Confidential*

JAVED IQBAL Gul Bela  
Peshawar Law Chamber  
Associate High Court Peshawar  
Mob: 9945-9205304

*[Handwritten Signature]*  
SUPERINTENDENT  
CENTRAL PRISON BANNU

~~Annexure - C~~ (50) Annexure "C"

## INQUIRY REPORT

Subject: DEPARTMENTAL PROCEEDINGS INTO THE ESCAPE OF UNDERTRIAL PRISONER UMER RAUF @ AMRI S/O PIR GHULAM FROM DISTRICT JAIL LAKKI MARWAT.

### Background

One under trial prisoner named Umar Rauf @ Amri S/O Pir Ghulam Village Esak Khel, Distt. Lakki Marwat escaped from the District Jail Lakki Marwat on 24.05.2013. He was involved in case FIR No. 440 dated 02.09.2009, U/S 302, 324-34 PPC, Police Station Lakki District Lakki and case FIR No. 202 dated 29.11.2008 U/S 302, 34 PPC Police Station Lakky, Distt. Lakky Marwat. Hence he was involved in two murder cases. He escaped from the Jail on 24/05/13 in broad day light, at the time in between 1:15 PM to 1:45 PM. No lock, no prison wall, no window, door or any gate was broken. No tunnel was dug; no instruments like hammer, spade, scissor, knife, rope or ladder have been used in this escape. And the prisoner involved in two murder cases escaped by throwing a dust in the eyes of all watch and ward staff of Distt. Jail Lakky in particular, and in the eyes of prison management system, in general.

2. Apparently it seems that whole system of watch and ward and prison security arrangements, and the overall frame work of prisons management have become ineffective, corrupt and irresponsible. It seems that a huge old structure is crumbling which may fall at any time. The frequent incidents of Jail break and escape of prisoners from the jails is just a tip of an ice-burg. It is an early warning sign of an impending colossal tragedy.

3. The prison authority of District Jail Lakki Marwat have been un-aware about the escape of prisoner for about half an hour and later on when they got wind of this incident they informed the I.G Prison and Police Department and got the case FIR No. 287 dated 24.05.2013 U/S 222, 223, 224, PPC PS Lakky, Distt. Lakky Marwat registered against the six subordinates officials on duty. They were suspended and a preliminary inquiry by Mr. Ehtesham Ahmad Jadoon, Superintendent Jail Bannu was conducted. The inquiry officer involved 15 officers/officials in this inquiry, but astonishingly absolved one Abdullah Pervez (chakkar Relief) actual In charge of inner Jail staff and security from 12.00 to 1500 hours, from all charges. Abdullah Pervaz is an accused nominated in the FIR, and the Inquiry Officer didn't give any solid reason/proof for that, except the statement of Abdullah Pervez himself. Moreover The Inquiry officer didn't find any fault in the role played by sentries of Levy Force who were manning outer towers of Lakky Jail. In prima facie, men of Levy Force, doing duty at that particular time on the outer towers of Lakky Jail are equally guilty. Preliminary inquiry report is (Annex-A).

### Proceedings

All relevant record was thoroughly scrutinized, site of escape was inspected, and detailed discussions were held with the prison staff, local Police, IG Prison Office and the concerned prisoners still confined in Lakky Jail, before firming up the recommendations. Moreover, the relevant rules were deliberated upon (Annex-B) and the service record of the accused persons was minutely checked. All the



accused were called along with their written defense. (Annex-C) They were examined and cross-examined (Annex-D) in presence of departmental representative Mr. Muhtarm Shah, Budget Officer, I.G Prison Office. Accused were personally heard and were given a free chance to put their oral, written or circumstantial evidence/defense.

### Site Inspection

District Jail Lakki Marwat was visited. The entry and exit ways were thoroughly inspected. The total area of Distt Jail Lakky Marwat is 14 kanals and 01 marla, and the total area of inner Jail would be hardly 08 kanals, which is guarded by 20 feet high wall and on the top of this wall, live and bare electric wires run across. It is the area where four barracks for the prisoners, a big kitchen, washrooms, two internal watch towers, a tuck-shop and a reasonable courtyard are situated. An internal wall separates the courtyard in two portions. An Iron gate, in this wall, connects two portions of courtyard. The prisoners of each portion freely come and go to other portion. As informed by Lakky Jail administration, there is no sentry on this gate to limit the movements of prisoners in their respective portions. The total strength of Officials/officer present at the time of occurrence was 48. There is cultivated agricultural land on the eastern, western and the southern side of Lakky Jail. It is an old jail. The newly built Jail in Distt Lakky Marwat is under the physical possession of Army. The outer wall and outer watch towers are guarded by Police and Levy Force. It is a very small Jail and the strength of 48 watch & ward staff, excluding police and Levy personals is more than enough for such a small area.

All the accused, prison staff, and other prisoners were examined and cross-examined but no one admitted to have seen the escape with his own eyes. All the accused denied the charges leveled against them in the charge sheet. All claim to be as pure dew.

### Individual Responsibility.

#### 1) Mr. Usman Ali, Dy: Supdt: cum Supdt: District Jail Lakki Marwat (BS-17).

He denies the charge No. 1 & 2 as mentioned in his charge sheet reply. The allegation on him is that on the day of incident there were 8 warders out of 10 on double duties and Supdt: Usman Ali didn't prevent this practice of double duties. He was charged with lack of interest in the affair of administration. His written reply is, "it is a common practice in jails that the warder perform double duties and substitute duty hours with their colleagues". It means that all jail warders were competent enough to make laws, rules for themselves and to decide how to run Jail and their boss Supdt: Jail gave a tacit approval to this practice. The reply of charge No. 4 by accused officer is an eye wash. He could not explain that why such huge staff could not prevent this incident. The reply of accused officer in response of charge No. 5 is not very convincing, keeping in view statement of other accused. The officer denies the charge but actually escapee prisoner Umar Rauf was an established Don of the jail being facilitated and treated by the jail staff as a VVIP. No solid defense was produced about charge No. 6 by Usman Ali.

#### 2) Noor Zaman, Head Warder (BPS-7).

As per his statement, he came into Jail at 08:00 morning performed his duty

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11:00. He again entered into Jail at about 2.00pm, and came to know about the escape of prisoner Umar Rauf. He remained there in the Jail and made exit at 06.55 pm. His statement is correct as verified and confirmed from Register No. 16 of Distt. Jail Lakki. The escape occurred in between 01.15pm to 01.45pm when Abdullah Pervez (11.00 to 14.00) was actual in charge of the affairs in the Inner Jail. So Noor Zaman Head Warder is innocent in this case. It is further added the said Abdullah Pervez has not been included in this Inquiry by the Inquiry Officer Mr. Ehtizaz Ahmad Jadoon, Suptt. Jail Bannu, without providing any solid reason or defense, except the statement of Abdullah Pervez himself is despite the fact that his name was included in the FIR by Mr. Usman Ali, Supdt Jail, in his earlier report.

3) Humayun Gul, Junior Clerk (BPS-7)

He is a junior clerk by designation. Due to granting three days casual leave from 24.05.2013 to 26.05.2013 to Mr. Muhammad Ibrahim Asst Suptt; Jail, he was entrusted with his duties. His nature of job is quite different. However his boss entrusted him with the duty of Asstt; Suptt; Jail. He couldn't refuse, and he shouldn't refuse. He is a junior Clerk whose job duty is to deal with files and papers. Dealing with hardened criminals requires particular training skills and strong nerves. It is a total different job. Here much fault lies with his boss who tried to make a lamb a lion by giving him the garb of a lion, and expecting him to act with a force of lion. Here the wrong man was doing the wrong job.

4) Sher Ali Baz, Warder (BPS-5)

He was patrolling officer in Ihatta No.1 (12:00 to 3:00). The escapee Umar Rauf was confined in Ihatta No. 2. But there is no gate, door or window in Ihatta No. 2. All entry exit ways are located in Ihatta No. 1. The escapee must have used Ihatta No. 1 to escape. Hence patrolling officer at that particular time is direct responsible. Moreover Umar Rauf prisoner was not an ordinary prisoner. He was well known Don of Jail. Being patrolling officer he must have kept a vigilant eye on him specially, but he badly failed. Either he was in connivance with Amri, the escapee, or have slept well during his duty hours 12:00 to 3:00 pm. In both cases he is delinquent character in this story. A witness, in his cross examination, pointed out that said Sher Ali Baz was most upset at 2.00 pm when he entered into jail and saw him.

5) Hamidullah Warder (BPS-5)

He was patrolling officer in Ihatta No.2 (12:00 to 3:00). The escapee Amri was confined in Ihatta No. 2 too. But there is no gate, door or window in Ihatta No. 2. The escapee must have walked through the area, where this warder was doing duty. Hence patrolling officer at that particular time is direct responsible. Moreover Amri prisoner was not an ordinary prisoner. He was well known Don of Jail. Being patrolling officer he must have kept a vigilant eye on him specially, but he badly failed. Either he was in connivance with Amri, the escapee, or has slept well during his duty hours 12:00 to 3:00 pm. In both cases he is delinquent character in this story. Moreover during his cross examination, he admitted that he cannot read his own statement written in Urdu and he is illiterate. He didn't know spelling of a word "English." He further added that he was appointed by ex- Minister Prison.

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6) Muhammad Arif Warder. (BPS-5)

He did double duty, first from 9:00 am to 12:00 noon as sentry main gate, and second from 12.00 pm 03.00 pm as Sentry Tower No.1 in place of warder Qayum Nawaz. In his reply he contended that he had simply obeyed the orders and didn't do double at his own will. Internal Tower No.1, where this warder was doing duty, is an alleged place of escape of escapee prisoner. During discussions, it is alleged by his fellow colleagues that he (M. Arif) was in collusion with the escapee, and he facilitated him safe exit through his place of duty i.e. Tower No.1. The accused could not defend the charge in a convincing way. He was either in collusion with the escapee or was full asleep at the tower.

7) Noor Islam Warder(BPS-5)

He also performed double duty, first from 9.00 am to 12.00 noon on a place near Tower No.2 and secondly he was sentry at Tower No.2 from 12:00 noon to 3:00 pm. From this tower the movements of all the prisoners are watched. Moreover all the movements of all the visitors at the main gate of the Jail are also watched from this tower. This warder has badly failed to do his duty in an efficient way: He was either in collusion with the escapee or was full asleep at the tower.

8) Muhammad Sajid Warder(BPS-5)

He was doing his search duty in the main gate from 12.00 noon to 03.00 pm. In case the prisoner escaped from the main gate he is directly responsible in his escape.

9) Zeb Nawaz Warder(BPS-5)

He was doing his duty as Madadgir (Helper) from 12.00 noon to 03.00 pm in the main gate. In case the prisoner escaped from the main gate he is directly responsible in his escape.

10) Nasir Mahmood Warder(BPS-5)

He was doing his duty as sentry at main gate. In case the prisoner escaped from the main gate he is directly responsible in his escape.

11) Manzoor Khan.Warder(BPS-5)

He was doing his duty as gate keeper at main gate from 12.00 noon to 03.00 pm. In case the prisoner escaped from the main gate he is directly responsible in his escape.

12) Amir Baseer Khan Warder (BPS-5)

He was assigned duties at Beat No. 2 from 12.00 noon to 03.00 pm. In case he kept a vigilant eye on that prisoner who was Don of Lakky Jail and his movements he would not had escaped. Either this warder was in collusion with the escapee or was full asleep during his duty hours. He is directly responsible for the escape.

13) Aseel Janan Warder(BPS-5)

SAVED IQBAL Gul Belt  
Daudzai Law Chamber  
Advocate High Court, Peshawar  
Phone: 0345-9405501

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He has wrongly been involved in this case. As mentioned earlier the actual time of escape is in between 01.15 pm to 01.45 pm. When the prisoner has escaped and the Supdt. Jail was busy in registering a case against the accused officials, this warder was called in to perform duty in place of warder Wali Ayaz, and to avert any untoward situation. He came performed his duty and made exit at 06.50 pm. This fact is duly supported by Register No. 16. So he is innocent.

14) Amir Faraz Warder (Line Muharar) (BPS-5)

There are two charges on this accused. Being Line Muharar, he continued the illegal practice of assigning double duties and he was in collusion with the escapee. From the statements of accused and discussions it transpired that he was the de facto Supdt. of Lakky Jail. He used to assign duties to warders, recommend leaves for the staff, order opening and closing of prisoners barracks, supervise the management of tuck-shop and prisoners kitchen (langer- khawana), keep custody of keys and locks of jail barracks, manage meeting of prisoners with their visitors etc.

Moreover he belonged to the same village from which the escapee Amri belonged. All witnesses, accused and prisoners confirmed that escapee Amri was very close to Amir Faraz Muharar Line. The accused couldn't defend either charge. The charge of assigning double duties has been proved against him, and the charge of collusion has not been defended by him.

15) Aftab Malik Warder (BPS-5)

This warder was assigned the duty to run a tuck shop inside the Jail. He has been charged for having close relations with the accused. He admitted in his cross examination that prisoners have cell phones inside the Jail but he never snatched or recovered any cell phone from any prisoner. Having cell phones inside the Jail is impossible without the collusion of Jail Staff. In his written reply he claims to have been out of Jail at the time of occurrence. It is correct as verified from the record. But he could not defend the charge of having close relation and collusion with the escapee. At the time of occurrence his absence from the Jail is an evidence of his collusion with the escapee prisoner. Moreover during discussions with accused and prisoners it came to light that escapee Amri was often seen sitting and having hours long discussions with this warder. The accused badly failed to defend the charge.

Findings of Inquiry

- i) Usman Ali Dy: Supdt: cum Supdt: is very poor administrator, and a very weak commander to perform his duties in very effective manner. He badly lacks initiatives and quite incapable of shouldering his responsibilities. He didn't know a bitter reality that subordinates often sell their boss, if and when they get a chance to do so. Unfortunately he let himself to be auctioned at the hands of his subordinates.
- ii) Usman Ali gave tacit approval to the warders to perform double duties and to substitute duty hours with mutual consent of each other. Hence he threw away the whole responsibility to run the Jail to his subordinate staff and afforded them an opportunity to make rules / laws for themselves. It seems, he never exerted himself nor invoked any positive action under the rules against the defaulter subordinates.
- iii) Owing to this slack attitude the prisoner Umār Rauf involved in two murder cases, was first encouraged to become a Don of Distt: Jail Lakki Marwat and then managed to win some warders and other officials and planned a

PROBATION OFFICER  
District Jail, Lakki Marwat  
Address: High Court Post, Lakki Marwat  
Mob: 0345-940333



- iv) It is quite evident from the statements, examination and cross-examination of all witnesses and accused that the escapee prisoner was a well known figure and a prominent Don of the prison. He was treated as a VVIP. After lock up time, the lock of Barrack was opened if he (Amri) desired so. It speaks volumes of mismanagement and poor Jail Administration. Jail lower staff deduced that by doing help of Umar Rauf in his escape, they would surely get scot-free and this collusion would not hurt them, because the beneficiary was an influential person, an established Don and VVIP.
- v) The Jail warders were mostly political appointees. During cross-examination it came to surface that one warder namely Hameed Ullah was quite illiterate. He could not even read his own statement written in Urdu. He did not know the spelling of the word "English". Such appointments, with no regard to merit and qualification, lead to poor administration and ultimate collapse of a system. The loyalties of such appointees can easily be won either through bribes or through their mentors. They are commodities open for sale in an open market. Besides this, such appointment is a big injustice to the deserving, dedicated and committed youth.
- vi) The Jail staff, specially the lower formation, is poorly equipped, poorly paid, politically abused, poorly managed and badly treated. The overall morale of the force is low. The high ups have an empathic attitude towards its genuine problems and issues.
- vii) Many warders were on double duty at the time of occurrence. There existed a tacit agreement between the constables/warders and Jail Authorities to substitute duty hours among themselves. The warders benefited from this agreement by enjoying more leisure/leaves and Jail Authorities felt relaxed by not assigning frequent duties, frequent checking and frequent patrolling. Hence there became a mess which resulted in this way.
- viii) The culture of double duties is still prevalent in all the Jails of Khyber Pakhtunkhwa. It urgently needs to be discouraged and prevented. During visit to Lakki Jail it transpired that most of warders were doing double duties. Double duty devours the energy, initiative and degree of alertness of warders. Hence the quality of vigilance and resultant security level is compromised. This fact has also been admitted by Supt: Usman Ali in his cross examination.
- ix) Two outer towers were manned by sentries of Levy force which is under Administrative control of Deputy Commissioner Lakki Marwat. It is a matter of common sense that this force must have been placed under the executive command of Supdt: Lakki Marwat Jail. But unfortunately Supt; Jail was not their immediate boss. Their boss i.e. Deputy Commissioner was sitting on the other side of river. So the sentries of such a force were their own bosses. Here the fault lies with high level managers of Prison System. As a result these sentries badly failed to prevent this escape due to two reasons.
- I) Either the sentries on duty on the two outer towers were not present at the time of escape.
  - II) OR the sentries on the outer two towers were also in collusion with the escapee prisoner.

In both cases they are equally responsible and have played a major role in the escape of this prisoner.

- x) Superintendent Jail could not manage to inform the I.G. Prison well in time. No

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224 PPC Police Station Lakki Marwat it transpired that, the written report of escape was delivered to local police station very late; as the FIR was registered at 21:30, while the distance between Lakki Jail and Police Station Lakki is only three furlong. If the time of occurrence is 14:00 hours, it might have been registered at 14:30. But it was registered at 21:30. There is a delay of about full seven hours, which cannot be defended by any way.

x) Most of prisoners have mobile phones with themselves in Lakky Jail. It is impossible without the connivance of Jail staff.

**Recommendations:**

- 1) Major penalty of compulsory retirement may be imposed on Deputy Supdt./Cann Supdt: Mr. Usman Ali (BPS-17).
- 2) Noor Zaman Head warder (BPS-7) and, Aseel Janan Warder (BPS-5) may be exonerated from the charges.
- 3) Amir Faraz Line Muharir, (BPS-5) may be compulsory retired from service.
- 4) Hamayun Gul, Junior Clerk (BPS-7), may be given minor punishment of stoppage of three annual increments.
- 5) Minor penalty of stoppage of three increments may be imposed on Nasir Mehmud. Warder (BPS-5)
- 6) Major penalty of removal from service may be imposed on following:-
  - i) Muhammad Arif Warder BS-5.
  - ii) Aftab Malik, Warder BS-5.
  - iii) Shar Alibaz, Warder BS-5.
  - iv) Noor Islam, Warder BS-5.
  - v) Hamidullah, Warder BS-5.
  - vi) Amir Baseer, Warder BS-5.
  - vii) Manzoor Khan, Warder BS-5.
  - viii) Zab Nawaz, Warder BS-5.
  - ix) Muhammad Sajid, Warder BS-5.
- 7) Formal departmental proceedings may be initiated against Abdullah Pervez Warder BS-5.(Chakker relief).
- 8) Formal Departmental Proceedings may be initiated against those men of Levy Force and Police who were on duty at that particular time on 24.05.2013. in Lakky Jail.

KALIMULLAH KHAN BALOCH (PMS BS -18)  
CONTROLLER/INQUIRY OFFICER  
Govt. Printing & Stationery Deptt  
Khyber Pakhtunkhwa, Peshawar.

SAUDZAI, Gul Bela  
Saudzai Law Chamber  
Advocate High Court Peshawar  
Mob. 0345-9405301

(57)

~~Amir~~

**SHOW CAUSE NOTICE-**

I, Muhammad Shehzad Arbab, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Noor Islam, Warder (BPS-5) attached to District Jail Lakki Marwat, as follows:

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer / inquiry committee for which you were given opportunity of hearing vide communication No.193-207/CP&S, date:20-08-2013; and.
- (ii) on going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee;-

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

- (a) Inefficiency / Negligence.


2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the 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 days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of findings of the inquiry officer/inquiry committee is enclosed.

28/12/2013

  
(MUHAMMAD SHEHZAD ARBAB)  
CHIEF SECRETARY,  
KHYBER PAKHTUNKHWA.

Gul Bela  
Law Chamber  
High Court Peshawar  
Mob: 0345-9463331



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OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 27751 WE 1-

Dated 19-09-2013 1-

IMMEDIATE/BY FAX

To

The Superintendent  
District Jail Lakki Marwat.

Subject:-

DEPARTMENTAL PROCEEDINGS IN THE ESCAPE OF UNDERTRIAL PRISONER UMAR RAUF @ AMRI S/O PIR GHULAM VILLAGE ESAK KHEL TEHSIL & DISTRICT LAKKI MARWAT CHARGE UNDER SECTION 302/34 PPC FIR NO.509 DATED 29-11-2008.

Memo;

I am directed to refer to the subject and to forward herewith a copy of letter No.582 dated 19-9-2013 received from Mr.Kaleemullah Baloch Controller Government of Khyber Pakhtunkhwa on the captioned subject (self explanatory) for information and with the direction to inform the below noted accused officer/officials to ensure their presence at District Jail Lakki Marwat on 21-9-2013 at 9.00 AM before the Inquiry Officer in the subject cited case :-

1. Mr.Usman Ali, Deputy Superintendent-cum-Superintendent Jail(BPS-17).
2. Head warder(BPS-7) Noor Zaman.
3. Junior Clerk(BPS-7) Hamayun Gul.
4. Warder(BPS-5) Sher Ali Baz.
5. Warder(BPS-5) Hamidullah.
6. Warder(BPS-5) Muhammad Arif.
7. Warder(BPS-5) Noor Islam.
8. Warder(BPS-5) Muhammad Sajid.
9. Warder(BPS-5) Zaib Nawaz.
10. Warder(BPS-5) Nasir Mehmood.
11. Warder(BPS-5) Manzoor Khan.
12. Warder(BPS-5) Amir Baseer Khan.
13. Warder(BPS-5) Aseel Janan.
14. Warder(BPS-5) Amir Faraz.
15. Warder(BPS-5) Aftab Malik

ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST;NO. 27752-54 1,

Copy of the above is forwarded to the: -

1. Secretary to Government of Khyber Pakhtunkhwa Home and T. As Department Peshawar for information with reference to above please.
2. Mr.Kaleem Ullah, PCS SG Controller Government Printing Press Khyber Pakhtunkhwa Peshawar for information.
3. Mr.Mokhtarim Shah, Budget & Accounts Officer of this office is directed to attend the inquiry proceeding at District Jail Lakki Marwat on 21-9-2013 being a departmental representative.

SAVED IQBAL Gul Bela  
Dudai Law Chamber  
District High Court Peshawar  
Tsh: 0345-940003

ASSISTANT DIRECTOR(ADMN)  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

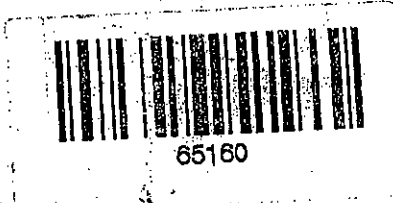


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**GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT**



**NOTIFICATION**

**SO(Com/Eng)/HD/Lakki Jail/2013** The Government of Khyber Pakhtunkhwa is pleased to appoint Mr. Kaleem Ullah, PCS SG (BS-18), Controller, Govt. Printing Press, Khyber Pakhtunkhwa as Inquiry Officer to conduct inquiry proceeding against the following Officer / Officials under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 in the case regarding " Departmental Proceedings in the escape of Undertrial prisoner Umar Rauf @ Amri S/O Pir Ghulam village Esak Khel Tehsil & District Lakki Marwat charged u/s 302/34 PPC FIR No.509 dated 29/11/2008".

- |   |                                      |
|---|--------------------------------------|
| 1. Mr. Usman Ali, Deputy Supdt-cum-Supdt: Jail (BPS-17) | 9. Zaib Nawaz, Warder (BPS-5)        |
| 2. Noor Zaman, Head Warder (BPS-7)                      | 10. Nasir Mehmood, Warder (BPS-5)    |
| 3. Hamayun Gul, Junior Clerk (EPS-7)                    | 11. Manzoor Khan, Warder (BPS-5)     |
| 4. Sher Ali Baz, Warder (BPS-5)                         | 12. Amir Baseer Khan, Warder (BPS-5) |
| 5. Hamidullah, Warder (BPS-5)                           | 13. Aseel Janan, Warder (BPS-5)      |
| 6. Muhammad Arif, Warder (BPS-5)                        | 14. Amir Faraz, Warder (BPS-5)       |
| 7. Noor Islam, Warder (BPS-5)                           | 15. Aftab Malik, Warder (BPS-5)      |
| 8. Muhammad Sajid, Warder (BPS-5)                       |                                      |

*AD (Compl)*  
*Process*  
*15/8*

The inquiry Officer shall submit his report / findings within the stipulated period.

**SECRETARY TO GOVERNMENT OF  
KHYBER PAKHTUNKHWA HOME DEPARTMENT.**

Endst. SO(Com/Eng)/HD/Lakki Jail/2013 Dated Peshawar the 15/08/2013

Copy forwarded to the following:

- Mr. Kaleem Ullah, PCS SG (BS-18), Controller, Govt. Printing Press, Khyber Pakhtunkhwa. Copies of Charge Sheets and statement of allegations against the accused officers/ Officials are enclosed please.
- The Inspector General Prisons, Khyber Pakhtunkhwa, Peshawar along with copies of Charge Sheets / statement of allegations against the accused officers/ officials (in duplicate) to serve upon them and one copy of each thereof may be returned to this department as token of receipt for record. He is further requested to provide all necessary documents / record pertaining to the subject matter, to the inquiry officer please.
- PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.

**TAJVID IQBAL Gul Bela**  
Daudzai Law Chamber  
Advocate High Court Peshawar  
Mob: 9345-9405501



*[Handwritten signature]*  
**(BAHSIR / UMAD)**

**SECTION OFFICER (Com/Eng)**  
Ph. No. 091-9214149



**OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210408      ☎ 091-9213446  
No.Estb/Ward/Orders/ 10725 1-  
Dated 04/04/18 1-

*Ds/12/Sc*  
*for n/a on the arrival*  
*of officials concerned*

**ORDER**

In pursuance of the Khyber Pakhtunkhwa Service Tribunal Judgment dated 03-2018 in service appeals, cases of the below noted officials, the penalties awarded to them vide Department Order No. SO(Com/Enq)/HD/Lakki Jall/2013 dated 17-03-2014 are hereby nullified as noted against their names as under:-

Name of official	Penalty awarded by the competent authority.	Decision of the Service Tribunal dated 01-03-2018.
✓ Warden Noor Islam.	Removal from Service.	Withholding of three (03) annual increments for three (03) years.
✓ Warden Sher Ali Baz.	-do-	-do-
✓ Warden Manzoor Khan.	-do-	-do-
✓ Warden Malik Allah.	-do-	-do-
✓ Warden Zail Nawaz.	-do-	-do-
✓ Warden Haider Ullah	-do-	-do-
✓ Warden Muhammad Arif.	-do-	-do-
✓ Warden Muhammad Sajid.	-do-	-do-
✓ Warden Amir Baseer.	-do-	-do-

Officials from S.No.01 to 08 are hereby re-instated into service with immediate effect. Intervening period of these officials shall be treated as extra-ordinary leave without pay.

Upon re-instatement into service, they are hereby transferred and posted to Central Prison Haripur against the vacant posts for all purposes, except official at S.No.9 viz Amir Baseer, who has died during the intervening period as per some reliable information.

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

CONT.NO. 10726-40

Copy of the above is forwarded to :-

- The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar for information with reference to his letter No.586/ST dated 19-03-2018 please.
- The Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar for information please.
- The Superintendents Headquarters Prison Haripur for information and further necessary action.
- The Superintendents Headquarters Prison Bannu & D.I.Khan for information and similar necessary action.
- The Superintendent, Central Prison Haripur for information and necessary action.
- The Superintendent, District Jail Lakki Marwat for information and necessary action. He is directed to contact legal heirs of warden Amir Baseer for producing his death certificate issued by competent forum for further action.
- The District Accounts Officers Lakki Marwat & Haripur, for information.
- Appellants concerned.

*[Signature]*  
**ASSISTANT DIRECTOR (Litg) 04/04/18**  
**FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.**

# وکالت نامہ

بعدالت: کرسٹین سٹریٹس ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ  
 لکھنؤ بنام حکومت فہم اگنیو کو اعلیٰ  
 منجانب مسٹر دعویٰ Appeal  
 تاریخ 2/8/2018

باعث تحریر آنکہ مقدمہ مندرجہ بالا عنوان اپنی طرف سے واسطے پیروی و جوابدہی بمقام ایڈووکیٹ ہائی کورٹ گوڈریں شری وکیل کیلئے جاوید اقبال گل بیلہ مسٹر ایڈووکیٹ ہائی کورٹ گوڈریں شری وکیل مقرر کیا ہے۔ کہ میں ہر پیشی کا خود یا بزرگیہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کی کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اگر مقدمہ علاوہ صدر مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر من مظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختار نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کوکل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل و نگرانی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کے روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور سپروٹالشی و راضی نامہ فیصلہ برخلاف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا قرتی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط ادائیگی علیحدہ مختار نہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا یا مقدمہ مذکورہ یا اس کے کسی جزو کی کاروائی کے واسطے یا بصورت اپیل، اپیل کے واسطے دوسرے وکیل یا پیر سٹر کو بجائے اپنے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کے ہر امر دہی اور ویسے ہی اختیارات حاصل ہوں گے جیسے کے صاحب موصوف کو حاصل ہیں۔ اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا۔ اور صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا کہ سند رہے۔ مورخہ 2/8/2018۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

ایڈووکیٹ

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Accepted

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Handwritten signature and date 2/8/2018

original

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

SERVICE APPEAL NO: 1002/2018

Noor Islam (Warder)

District Jail Lakki Marwat .....APPELLANT

**VERSUS**

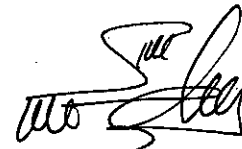
1. Government of Khyber Pakhtunkhwa through Secretary Home.

2. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar

3. Superintendent District Jail Lakki Marwat..... RESPONDENTS

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3-	I.G Office order No.1725 dated 04-04-2018	A	4
4-	I.G Office letter No. 19359 dated 27-06-2018	B	5



**DEPONENT**

21203-8890814-7

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

In the matter of

Service Appeal No. 1002/2018

Noor Islam Warder District Jail Lakki Marwat ..... **Appellant**

**VERSUS**

1. Home Secretary Government of Khyber Pakhtunkhwa  
Peshawar
2. Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar
3. Superintendent  
District Jail Lakki Marwat ..... **Respondents.**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2&3.**

**PRELIMINARY OBJECTIONS.**

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

**ON FACTS**

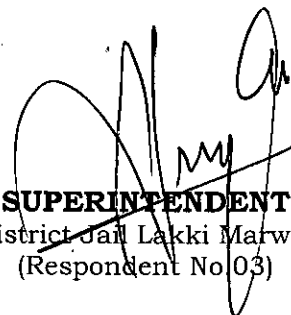
- 1) Pertains to record. Hence no comments.
- 2) Admitted.
- 3) Correct to the extent that the appellant was re-instated into service by Khyber Pakhtunkhwa Learned Service Tribunal Peshawar vide Order dated, 01-03-2018 by converting major penalty of "Removal from Service" into minor penalty of withholding of three Annual increments for three (03) years. The said order also let the Department to decide the period during which the appellant was removed from service.
- 4) Not admitted correct. The competent authority treated the intervening period (from 18-03-2014 to 01-03-2018) of the appellant as Extraordinary Leave Without Pay vide office order Endst; No 10725 dated, 04-04-2018 **(Annexure-A)**, because the Department could not pay salary to the petitioner for the period during which he did not performed duty.
- 5) Irrelevant, hence no comments.
- 6) Not admitted correct. The appellant was not considered and informed vide this office letter No. 19359 dated, 27-06-2018 **(Annexure-B)**.

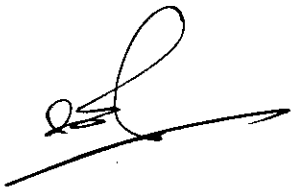
- 7) That the appeal of the appellant may graciously be dismissed on the following grounds :-


**GROUNDS:-**

- A) As replied in Para-4 above.  
 B) Irrelevant, and misleading, hence not considerable.  
 C) As per Para-B above.  
 D) That the respondents also seek permission to raise additional grounds at the time of hearing.

In view of the above Para-wise comments/reply, appeal of the appellant may graciously be dismissed with cost.

  
**SUPERINTENDENT**  
 District Jail Lakki Marwat  
 (Respondent No.03)

  
**INSPECTOR GENERAL OF PRISONS**  
 Khyber Pakhtunkhwa Peshawar  
 (Respondent No.02)

  
**HOME SECRETARY**  
 Khyber Pakhtunkhwa, Peshawar  
 (Respondent No.01)

3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

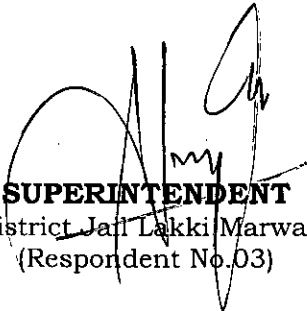
In the matter of  
Service Appeal No. 1002/2018  
Noor Islam Warder District Jail Lakki Marwat .....**Appellant**

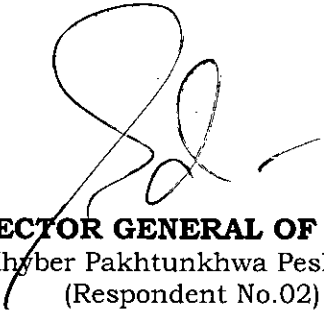
**VERSUS**

1. Home Secretary Government of Khyber Pakhtunkhwa  
Peshawar
2. Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar
3. Superintendent  
District Jail Lakki Marwat .....**Respondents.**

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS No. 1 to 3**

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

  
✓ **SUPERINTENDENT**  
District Jail Lakki Marwat  
(Respondent No.03)

  
✓ **INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.02)

**HOME SECRETARY**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.01)



**OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR**

☎ 091-9210334, 9210406      ☎ 091-9213445  
No. Estb/Ward./Orders/ 10725 /-  
Dated 04/04/18 /-

*DS/Le/Sc  
for n/a on the arrival  
of officials concerned*

*6*      *AS*

**ORDER**

In pursuance of the Khyber Pakhtunkhwa Service Tribunal Judgment dated 03-03-2018 in service appeals, cases of the below noted officials, the penalties awarded to them vide Department Order No. SO(Com/Enq)/HD/Lakki Jall/2013 dated 17-03-2014 are hereby nullified as noted against their names as under:-

Name of official	Penalty awarded by the competent authority.	Decision of the Service Tribunal dated 01-03-2018.
✓ Warden Noor Islam.	Removal from Service.	Withholding of three (03) annual increments for three (03) years.
✓ Warden Sher Ali Baz.	-do-	-do-
✓ Warden Manzoor Khan.	-do-	-do-
✓ Warden Malik Aftab.	-do-	-do-
Warden Zahir Nawaz.	-do-	-do-
✓ Warden Hamid Ullah	-do-	-do-
✓ Warden Muhammad Arif.	-do-	-do-
✓ Warden Muhammad Sajid.	-do-	-do-
Warden Amir Baseer.	-do-	-do-

Officials from S.No.01 to 08 are hereby re-instated into service with immediate effect. Intervening period of these officials shall be treated as extra-ordinary leave without pay. Upon re-statement into service, they are hereby transferred and posted to Central Prison Haripur against the vacant posts for all purposes, except official at S.No.9 viz Amir Baseer, who has died during the intervening period as per some reliable information.

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

CONT. NO. 10726-40 /-

Copy of the above is forwarded to :-

1. The Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar for information with reference to his letter No.586/ST dated 19-03-2018 please.
2. The Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar for information please.
3. The Superintendents Headquarters Prison Haripur for information and further necessary action.
4. The Superintendents Headquarters Prison Bannu & D.I.Khan for information and similar necessary action.
5. The Superintendent, Central Prison Haripur for information and necessary action.
6. The Superintendent, District Jail Lakki Marwat for information and necessary action. He is directed to contact legal heirs of warden Amir Baseer for producing his death certificate issued by competent forum for further action.
7. The District Accounts Officers Lakki Marwat & Haripur, for information.
8. Appellants concerned.

*[Signature]*  
**ASSISTANT DIRECTOR(Litg)** *04/4/18*  
**FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.**

*[Signature]*  
*04/4/18*





OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 ☎ 091-9213445

No. Misc; Draft/2016// 19359 1-1/E

Dated 27-06-2018 1-

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Home and Tribal Affairs Department Peshawar.

Subject: - **APPLICATION.**

Sir,

I am directed to refer to Home Department letter No.SO(P&R)HD/2-2/2018 dated 21-05-2018 on the subject and to convey that request of the applicant cannot be considered owing to the decision / orders of the August Supreme Court of Pakistan vide No.2003-SCMR/228 (Copy enclosed).

Submitted for information please.

  
ASSISTANT DIRECTOR (ADMN)  
FOR INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

In the matter of

Service Appeal No. 1002/2018

Noor Islam Warder District Jail Lakki Marwat ..... **Appellant**

**VERSUS**

1. Home Secretary Government of Khyber Pakhtunkhwa  
Peshawar
2. Inspector General of Prisons  
Khyber Pakhtunkhwa Peshawar
3. Superintendent  
District Jail Lakki Marwat ..... **Respondents.**

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2&3.**

**PRELIMINARY OBJECTIONS.**

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

**ON FACTS**

- 1) Pertains to record. Hence no comments.
- 2) Admitted.
- 3) Correct to the extent that the appellant was re-instated into service by Khyber Pakhtunkhwa Learned Service Tribunal Peshawar vide Order dated, 01-03-2018 by converting major penalty of "Removal from Service" into minor penalty of withholding of three Annual increments for three (03) years. The said order also let the Department to decide the period during which the appellant was removed from service.
- 4) Not admitted correct. The competent authority treated the intervening period (from 18-03-2014 to 01-03-2018) of the appellant as Extraordinary Leave Without Pay vide office order Endst; No 10725 dated, 01-04-2018 **(Annexure-A)**, because the Department could not pay salary to the petitioner for the period during which he did not performed duty.
- 5) Irrelevant, hence no comments.
- 6) Not admitted correct. The appellant was not considered and informed vide this office letter No. 19359 dated, 27-06-2018 **(Annexure-B)**.

- 7) That the appeal of the appellant may graciously be dismissed on the following grounds :-


**GROUND:-**

- A) As replied in Para-4 above.  
B) Irrelevant, and misleading, hence not considerable.  
C) As per Para-B above.  
D) That the respondents also seek permission to raise additional grounds at the time of hearing.

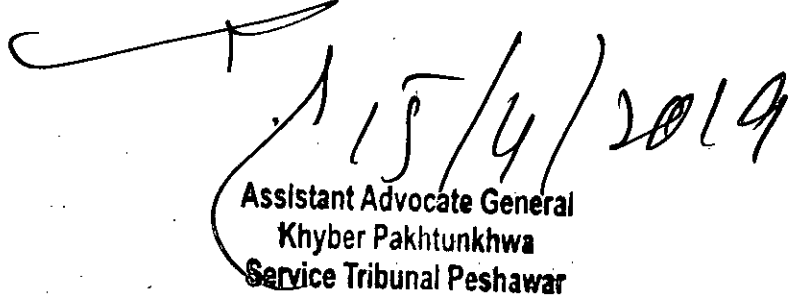
In view of the above Para-wise comments/reply, appeal of the appellant may graciously be dismissed with cost.

  
**SUPERINTENDENT**  
District Jail, Jalkki Marwat  
(Respondent No.03)

**INSPECTOR GENERAL OF PRISONS**  
Khyber Pakhtunkhwa Peshawar  
(Respondent No.02)

  
**HOME SECRETARY**  
Khyber Pakhtunkhwa, Peshawar  
(Respondent No.01)

*Facts of the instant S. Appeal are same  
with S. Appeal no 2/2019.*

  
**Assistant Advocate General**  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 1002/2018

Noor Islam

**Versus**

Home Secretary Government of Khyber Pakhtunkhwa, and  
Others

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2	Affidavit	4

Dated: 05/08/2019

*Noor Islam*  
Appellant

Through

  
**JAVED IQBAL GULBELA,**

&

**SAGHIR IQBAL GULBELA**

Advocates High Court

Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 1002/2018

Noor Islam

**Versus**

Home Secretary Government of Khyber Pakhtunkhwa, and  
Others

**REJOINDER ON BEHALF OF THE**  
**APPELLANT TO THE COMMENTS**  
**FILED BY THE RESPONDENTS NO:**  
**1, 2 & 3**

**Respectfully Sheweth,**

**Reply to Preliminary objection:**

1. Incorrect and Denied. The appellant has got a good cause of action.
2. Incorrect and denied. Moreover the appeal of the appellant is according to law and Rules.
3. Incorrect and denied.
4. Incorrect and denied. The appellant has a locus standi to file instant appeal for

recognition of his right before this Hon'ble Tribunal.

5. Incorrect, malicious, misleading, hence denied.

6. Incorrect, malicious, misleading, hence denied. Moreover the appeal of the appellant is within time.

**On facts**

1. Misleading and hypocritical hence denied.

2. No Comments.

3. Misleading, hypocritical, wrong and malicious hence denied. While true and detailed picture is given in the corresponding para of the main appeal.

4. Misleading, hypocritical, wrong and malicious hence denied. While true and detailed picture is given in the corresponding para of the main appeal.

5. Misleading and Hypocritical hence denied.

6. Misleading, hypocritical, wrong and malicious hence denied. While true and detailed picture is given in the corresponding para of the main appeal.

7. Misleading, hypocritical, wrong and malicious hence denied.

**On Grounds:-**

A. Misleading, hypocritical, wrong, incorrect and malicious hence denied. While true and detailed picture is given in the corresponding para of the main appeal.

B. Misleading, hypocritical, wrong, incorrect and malicious hence denied. While true and detailed picture is given in the corresponding para of the main appeal.

C. Misleading and hypocritical. True and detailed picture is given above and as well as in appeal.

D. Misleading and hypocritical hence denied.

*It is, therefore, most humbly prayed that on acceptance of instant rejoinder, the appeal of the appellant may graciously be allowed, as prayed for therein.*

Through

*Noor Islam*  
Appellant

*Javed Iqbal Gulbela*  
Javed Iqbal Gulbela,

&

Saghir Iqbal Gulbela,  
Advocates, High Court,  
Peshawar.

Dated: 05/08/2019

**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

In S.A# 1002/2018

Noor Islam

**Versus**

Home Secretary Government of Khyber Pakhtunkhwa, and  
Others

**AFFIDAVIT**

I, **Noor Islam**, do hereby solemnly affirm and declare on oath that contents of the **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

*Noor Islam*  
**Deponent**

**Identified By:-**

*Javed Iqbal Gulbela*  
**Javed Iqbal Gulbela**  
Advocate High Court  
Peshawar

