


SA No. 1554/2019

01.02.2023 Clerk of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. To come up for arguments on 20.03.2023 before the D.B.

SCANNED
KPST
Peshawar


(FAREEHA PAUL)
Member(E)

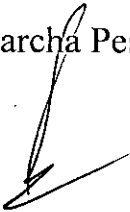

(SALAH-UD-DIN)
Member (J)


20.03.2023 Appellant present through counsel.

Fazal Shah Mohmand, learned Additional Advocate General for respondents present.

SCANNED
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Peshawar

Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 25.05.2023 before D.B. Parcha Peshi given to the parties.

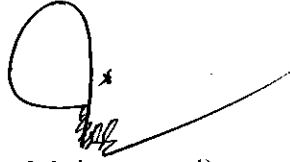

(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

28.11.2022

Mr. Zartaj Anwar, Advocate, for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant stated that as connected service appeals are fixed for arguments before D.B-I, therefore, the appeal in hand may also be sent to the said D.B for disposal. The appeal in hand is sent to worthy Chairman Service Tribunal for further appropriate order. Learned counsel for the parties shall appear before the worthy Chairman Service Tribunal today at 10:45 A.M.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

28th Nov. 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. Advocate General for the respondents present.

This case be fixed before a bench of which one of us (learned Chairman) is not a member. To come up for arguments on 01.02.2023 before the D.B.



(Fareeha Paul)
Member (E)



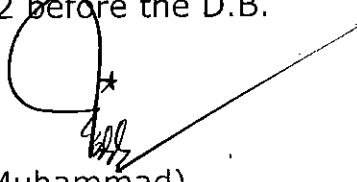
(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

13.09.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for arguments on 02.11.2022 before the D.B.



(Mian Muhammad)
Member (Executive)



(Salah-Ud-Din)
Member (Judicial)

2nd Nov., 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 28.11.2022 before the D.B.



(Fareeha Paul)
Member (E)

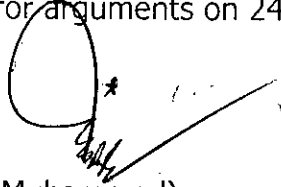


(Kalim Arshad Khan)
Chairman

01.06.2022

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Miss Lubna, Law Officer for the respondents present.

Representative of the respondents stated at the Bar that connected service appeal No. 1226/2019 titled "Muhammad Saqib Versus Government of Khyber through Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa Peshawar and others" is fixed for arguments on 24.06.2022, therefore the appeal in hand may also be fixed for the said date. Learned counsel for the appellant is having no objection on the adjournment. Adjourned. To come up for arguments on 24.06.2022 before D.B.



(Mian Muhammad)
Member (E)

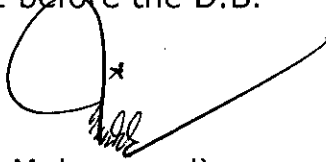


(Salah-ud-Din)
Member (J)

24.06.2022

Learned counsel for the appellant present. Mr. Atta Muhammad, Law Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 13.09.2022 before the D.B.



(Mian Muhammad)
Member (E)

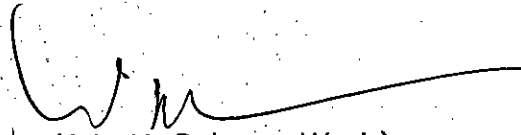


(Salah-ud-Din)
Member (J)

05.01.2022

Appellant in person present. Mr. Muhammad Rasheed, Deputy District Attorney for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments before the D.B on 09.02.2022.


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


Chairman

Due to retirement of the
hon,ble chairmen to come up
for on 1-06-2022


Chairman

1-10-21

D.B is on Tour case to come up
For the same on Dated. 2-12-21

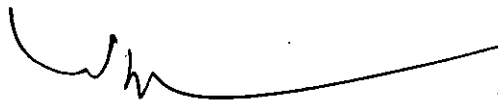
^B
Rendered

02.12.2021

Junior to counsel for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Former made a request for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 05.01.2022 before D.B.



(Atiq Ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

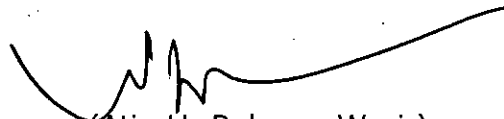


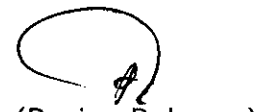
04.01.2021 Junior to counsel for the appellant present.

Kabirullah Khattak learned Additional Advocate General
alongwith Suleman Law Officer for respondents present.

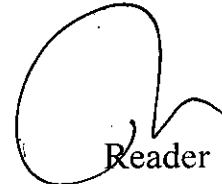
Junior to counsel for the appellant requested for
adjournment as senior counsel for the appellant is busy
before Hon'ble Peshawar High Court, Peshawar.

Adjourned to 14.04.2021 for rejoinder, if any, and
arguments before D.B.


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


(Rozina Rehman)
Member (J)


14.04.2021 Due to demise of the Worthy Chairman, the Tribunal is
non-functional, therefore, case is adjourned to
29.07.2021 for the same as before.


Reader

29.07.2021 Appellant present in person.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General
alongwith Suleman Instructor for respondents present.

Former made a request for adjournment as his counsel is not
available today. Request is accorded. To come up for arguments on
01.10.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

06.08.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Suleman, Senior Instructor for the respondents are also present.

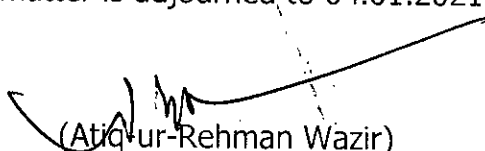
Representative of the department submitted joint para-wise comments on behalf of respondents No. 1 to 3 which are placed on file. To come up for arguments on 28.10.2020 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.


(MUHAMMAD JAMAL KHAN)
MEMBER

28.10.2020

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

The Bar is observing general strike, therefore, the matter is adjourned to 04.01.2021 before the D.B.


(Atiqur-Rehman Wazir)
Member


Chairman

Service Appeal No. 1554/2019

09.03.2020

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sheharyar Khan, Assistant Superintendent Jail for the respondents present. Representative of the department seeks further time to furnish reply. To come up for written reply/comments on 31.03.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

31.03.2020

Due to public holiday on account of COVID-19, the case is adjourned to 23.06.2020 for the same. To come up for the same as before S.B.



Reader

23.06.2020

Appellant in person present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

Learned AAG requested for adjournment. Last chance is given. To come up for written reply/comments on 06.08.2020 before S.B.


Member


20.12.2019

Counsel for the appellant present.

The appellant has submitted an application to place on record certain documents relevant for the purpose of instant appeal. The application as well as annexed documents are made part of the record.

Contends that the denovo enquiry, culminating into the impugned order dated 11.04.2019, was not conducted by the respondents in accordance with rules. None of the witnesses appearing before the enquiry officer were exposed to appellant for cross-examination. On this ground only the impugned order, awarding major penalty to the appellant, is not sustainable. The appellant was not provided opportunity of setting-forth his defence, it was added.

In view of arguments of learned counsel and the available record, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 14.02.2020 before S.B.


Chairman

14.02.2020

Appellant in person and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Suleman, Litigation Officer for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for time to file written reply. To come up for written reply/comments on 09.03.2020 before S.B.

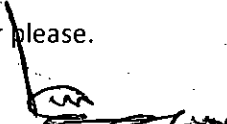


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A.

FORM OF ORDER SHEET

Court of _____

Case No. - 1554/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/11/2019	<p>The appeal of Mr. Muhammad Zahid resubmitted today by Mr. Zartaj Anwar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 15/11/19</p>
2-	18/11/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/12/19</u>.</p> <p> CHAIRMAN</p> <p><i>10/1/20</i></p>

The appeal of Mr. Muhammad Zahid Deputy Superintendent Jail Bannu received today i.e. on 29.10.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Copies of show cause notice dated 21.6.2012 and its reply mentioned in the memo of appeal (Annexure-A&B) are not attached with the appeal which may be placed on it.
- 5- Copies of dismissal order dated 12.12.2012 and departmental appeal against it (Annexures C&D) are not attached with the appeal which may be placed on it.
- 6- Annexure-M of the appeal is illegible which may be replaced by legible/better one.
- 7- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1905 /S.T,

Dt. 30/10 /2019.


REGISTRAR

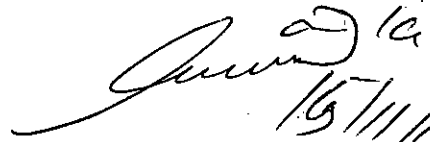
30/10/19

SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr.Zataj Anwar Adv. Pesh.

Sir

Re Submitted of late Complaint
Please Re-ent in this Court


15/11/19.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. _____/2019

Muhammad Zahid, Deputy Superintendent Jail, Central Prison Bannu.

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber
Pakhtunkhwa, Peshawar and others.


(Respondents)

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1	Memo of Appeal		1-4
2	Affidavit		
3	Copies of the Show Cause Notice and reply to Show Cause Notice are attached	A & B	8-13
4	Copy of the Dismissal Order dated 12.12.2012 is attached	C	14
5	Copy of the Departmental Appeal dated 03.01.2013, is attached	D	15-23
6	Copy of the service appeal and order and judgment date 01.09.2015 is attached	E & F	24-33
7	Copy of the Charge sheet dated 12.01.2017 and reply dated 10.02.2017 are attached	G & H	34-53
8	Copy of the show cause dated 27.11.2017 and reply are attached	I & J	54-70
9	Copies of the order dated 11.04.2019, departmental appeal and rejection order dated 30.09.2019 are attached	K, L & M	71-77
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Appellant

Through


ZARTAJ ANWAR
Advocate Peshawar

1

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1519

Dated 29-10-2019

Appeal No. _____/2019

Muhammad Zahid, Deputy Superintendent Jail, Central Prison Bannu.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, read with Section 19 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, against the Order dated 11.04.2019, whereby the appellant has been awarded the major penalty of "Reduction to a lower stage in a time scale for period of three years" against which his Departmental Appeal has also been rejected vide order dated 30.09.2019.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 11-04-2019, may please be set-aside and the appellant be restored to his original position with all arrears and benefits.

Filed to-day
Registrar
29/10/19

Respectfully Submitted:

1. That the appellant started his service as Assistant Superintendent Jail in the year 1986, he was promoted as Deputy Superintendent Jail in the year 2005. He remained posted at different jails and has performed his duties quite diligently, vigilantly, honestly and with his utmost loyalty. Ever since the appointment of the appellant, there was no complaint whatsoever regarding his performance.
2. That the appellant while posted as Deputy Superintendent-cum-Superintendent Central Prison Bannu, in the mid night of 14/15 April, 2012, a good number of militants (more then 300) attacked

the Jail with heavy weapons, the jail officials started firing at them, however they out numbered the security staff of the jail and managed in helping the escape of certain condemned prisoners from the Jail. They also damaged part of the Jail premises with their heavy weaponry.

3. That the Provincial Government conducted a fact finding inquiry, however its report was not made public.
4. That due to the said incident a show cause notice was served upon the appellant on 21.06.2012, containing certain false and baseless allegations. The appellant duly replied the Show Cause Notice and refuted the allegations leveled against him vide reply dated 28.06.2012. The contents of the reply to the show cause notice may be read as an integral part of this appeal. **(Copies of the Show Cause Notice and reply to Show Cause Notice are attached as Annexure A & B)**
5. That thereafter without conducting regular inquiry quite illegally the appellant was awarded the major penalty of *Dismissal from Service* vide order dated 10.12.2012. **(Copy of the Dismissal Order dated 10.12.2012 is attached as Annexure C).**
6. That against the order dated 10.12.2012, the appellant submitted his departmental appeal dated 03.01.2013, however it has not been responded despite the lapse of 90 days statutory period. The facts and grounds mentioned in the departmental appeal may be read as part of this appeal. **(Copy of the Departmental Appeal dated 03.01.2013, is attached as Annexure D).**
7. That the Appellant being aggrieved from the inaction of the Respondent through which he was dismissed from service, challenged the same before this Hon'ble Tribunal vide service appeal No.587/2013, which was heard by the Hon'ble Tribunal, while disposing off service appeal, re-instated the present Appellant into service for the purpose of fresh departmental proceedings and the issue of back benefits was subjected to the outcome for fresh proceedings vide the Order dated 01-09-2015. **(Copy of the service appeal and order and judgment dated 01.09.2015 is attached as annexure E&F).**
8. That the departmental proceeding was initiated in which the Appellant was served with charge sheet vide dated 12.01.2017, which was duly replied by the appellant by denying all the baseless allegations. **(Copy of the Charge sheet dated 12.01.2017 and reply dated 10.02.2017 are attached as annexure G & H).**
9. That thereafter inquiry was conducted and the appellant was served with show cause notice vide dated 27.11.2017, which was duly replied by the appellant by denying all the allegations leveled

against the appellant. (Copy of the show cause dated 27.11.2017 and reply are attached as annexure I & J).

10. That the respondent department without considering the plea of the Appellant, with utmost surprise appellant was illegally awarded a major penalty of "Reduction to a lower stage in a time scale for a maximum period of three (03) years vide order dated 11.04.2019, received on 17.5.2019 against which the appellant filed a departmental appeal which was rejected on 30.09.2019. (Copies of the order dated 11.04.2019, departmental appeal and rejection order dated 30.09.2019 are attached as annexure K, L & M).
11. That the impugned order dated 11.04.2019, is illegal unlawful against law and facts therefore, liable to be set aside inter alia on the following grounds:-

GROUND OF APPEAL:

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty of Reduction to a lower stage in a time scale for a maximum period of three (03) years to the appellant, the inquiry conducted was based on question answers and did not ascertained the actual positions but only based on the self-conclusion of the inquiry Officer.
- C. That according to the finding of the inquiry Officer the Appellant under the prison rules did not run the affairs of the prison Bannu strictly in accordance with the lay down provisions and also his incompetence, inefficiency, and slackness shoulder the responsibilities of the incident while Appellant fulfilled his responsibilities strictly in accordance with the provisions of the rules, in this regard no place of duty was left unguarded, deployed armed guarded jail wardens on important security points equipped with the Govt. Provided arms i.e. AK47 along with necessary ammunitions, furthermore all available means had been used and necessary measures in jail security adopted, as the dire need of external challenge the Appellant requested the then Commissioner Bannu Division for provision of one FC Platoon through letter NO. 1184 dated 30.05.2009, for the shortage of FRP Platoon deployed on duty. They also requested to the office of DPO Bannu through letter No.3769 dated 29.10.2011, while explaining the external security position of Bannu jail and request was made for provision of sufficient number of patrolling Police guards to strengthen outer security of Bannu jail to avoid any untoward situation but all in vain. When no help assistance was provided by

any of the authority the Appellant requested the I.G Prison KPK to transfer condemned prisoner Adnan Rasheed from C.P.Bannu to some safer jail vide letter No.4139 dated 13.12.2011, but the request was rejected through letter No.860 dated 14.01.2012.

- D. That the show cause served upon the Appellant was duly replied in detail on each point of allegation by denying with the required correspondence may be taken as a part of the appeal and may also be considered. **(Copy of reply of show cause is attached as annexure N)**
- E. That during the inquiry proceedings no witness has been examined against the appellant or if so examined neither their statements have been taken in the presence of appellant nor he was allowed the opportunity to cross examine those who may have spoken against him.
- F. That as regard to the allegations leveled against the appellant, it is submitted that the same are baseless and unfounded, in this behalf the reply to the show cause notice may be taken as integral part of this appeal. Moreover, the appellant has left no stone unturned in taking safety measure and providing security to the Jail and in this behalf he has made several requests to the high ups for enhancing security personal and supply of equipments in order to avoid such like incidents, however those requests were either turned down or not responded. **(Copies of correspondences made are attached as Annexure O)**
- G. That the charges leveled against the appellant were never proved during the inquiry proceedings, the inquiry officer gave his findings on surmises and conjunctures.
- H. That the Appellant was awarded major penalty for his no fault as he explained each and every point mentioned at the charge sheet or show cause by explaining each and every point with proof but all of them were ignored to made the present Appellant in a scape goat for those who were the main culprit in a shape of department by not honouring the request made by the Appellant for the providence of proper/ equipped FC Platoon or other required weapons etc.
- I. That the Appellant was remained jobless from the period of dismissal from service till his re-instatement i.e. 10.12.2012 to 20.01.2016, which is also unlawful punishment awarded on account of absence which was not deliberate, furthermore for such period he was not given the pay and increments for the long 31-months which unlawful and violative upon the rights of the Appellant.
- J. That in the same incident the higher authorities in Bannu jail attack case was acquitted a police and district administration and made the Appellant as a scape goat for no fault.

- K. That to another similar incident taken place in Central jail D.I.Khan, which was happened in a very similar circumstances/ situation but the Superintendent jail was exonerated and did not made the so called allegations/ inefficiency alleged to the Appellant in the present case.
- L. That adopting shorter procedure in the instant case was uncalled for and illegal the charges were never admitted by the appellant hence the issuance of show cause notice has prejudice his case and in fact he was condemned unheard.
- M. That the appellant is also discriminated against as in the said incident one Shabir Hussain Shah Inspector/ SHO Police Station Domail, Bannu, who was also awarded the major penalty of Compulsory Retirement, on his departmental appeal the penalty was converted into minor penalty of *stoppage of one increment for one year* vide order dated 28.02.2013, however the appellant has been awarded the major penalty of reduction to a lower stage and time scale for a period of 03-years. (Copy of the order dated 28.02.2013 is attached as Annexure P)
- N. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has illegally been awarded the major penalty.
- O. That the case of the appellant is covered under FR-54 which provides that:
- “F.R.54---Where a Government Servant has been dismissed or removed is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty—*
- a) If he is honorably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed, and, by an order to be separately recorded, any allowance of which he was in receipt prior to his dismissal removal; or*
- b) If otherwise, such portion of such pay and allowances as the revising or appellate authority may prescribed.*
- In a case falling under clause (a), the period of absence from duty will be treated as a period spent on duty unless the revising appellate authority so directs.*

Since the appellant has been Honourable acquitted in criminal case, therefore on his reinstatement he cannot be denied the back benefits of service to which he would have been entitled had he been in service.

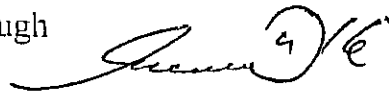
- P. That it has also been held by the Superior courts in a number of reported cases that all acquittals are honorable and there can be no acquittal that can be termed as dis-honourable, reliance is places on 1998 SCMR 1993 and 2001 SCMR 269.
- Q. That the Appellant was twice punished for the so called alleged incompetency firstly he was not paid the salaries of 31-months as kept away by the respondent department through the order of dismissal till his ere-instatement and treated the period as leave without pay and Secondly after the de-novo enquiry again major punishment of Reduction to a lower stage in a time scale for a period of 3-years, so it counts in a definition of Double Jeopardie as punished twice although he got sufficient leave on his chart as to be considered for leave with pay purpose.
- R. That the appellant has more than 34 years spotless service career, however, his unblemished service career has never been considered while awarding the major penalty.
- S. That the penalty imposed upon him is too harsh and liable to be set aside.
- T. That the grounds taken in the departmental appeal may also be read as part of the instant appeal.
- U. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal,

Prayer in Appeal: -

“On acceptance of this appeal the impugned order dated 11-04-2019, may please be set-aside and the appellant be restored to his original position with all arrears and benefits.”


Appellant

Through


ZARTAJ ANWAR
Advocate Peshawar

8
SHOW CAUSE NOTICE old Am. A.

I, **Ghulam Dastgir Akhtar**, Chief Secretary Khyber Pakhtunkhwa, as Competent Authority under the Khyber Pakhtunkhwa Government Servants (E&D), Rules, 2011 do hereby serve you, **Mr. Muhammad Zahid**, the then Deputy Superintendent-cum-Superintendent (BPS-17) Central Prison Bannu as follows:-

1. That consequent upon the findings of the Inquiry Report regarding militants attack on Bannu Jail, you have committed the following acts of commission/omission specified in Rule-3 of above mentioned Rules:-

- a. Failed to properly deploy FRP, leaving front exposed.
- b. Failed to provide leadership and ensure proper defence of jail by his armed personnel.
- c. Failed to have Contingency Plan for Jail.
- d. Failed to ensure presence of Night Duty Officer in Jail during attack.
- e. Failed to ensure the presence of deployed staff in jail during the fateful night.

2. By virtues of the above, you appear to be guilty of inefficiency and misconduct and have made yourself liable to penalties specified in Rule-4 of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011.

3. And whereas in exercise of powers Rule-5(1)(a) of the same Rules, I am satisfied that sufficient evident is available in the aforementioned inquiry report warranting to dispense with further inquiry.

4. Now, therefore, I **Ghulam Dastgir Akhtar** Chief secretary Khyber Pakhtunkhwa, Competent Authority, call upon you through this Notice to explain why the major penalty of dismissal from service should not be imposed upon you.

5. Your reply must be received within seven days of receipt of this Notice, failing which it will be presumed that you have no defence and in that case ex-parte action shall be taken against you.

6. A copy of the relevant extract of the inquiry report is enclosed.


(GHULAM DASTGIR AKHTAR)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA



9

F. A.

Ann. B

To,


The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject:- REPLY OF SHOW CAUSE NOTICE.

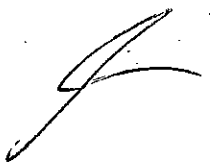
Sir,

Enclosed please find herewith reply to the show cause notice served upon me by the Chief Secretary Khyber Pakhtunkhwa for onward transmission to the quarter concerned.

Yours Obediently,


28/6/2014

(MUHAMMAD ZAHID KHAN)
DEPUTY SUPERINTENDENT JAIL



10

The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

Through: PROPER CHANNEL.

Subject:- REPLY OF SHOW CAUSE NOTICE.

Sir,
In relation to the incident of sudden & violent Armed attack of Taliban on Central Prison Bannu on the night of 14/15 April 2012, a show cause notice dated Nil was served upon me on 21/6/2012 for reply within the stipulated period of seven days. Before furnishing reply I would like to explain my position as under:-

In the capacity of Deputy Superintendent jail I was transferred from District Jail Kohat to Central Prison Bannu in October 2009. On February 20, 2012, Mr. Usmani Ali Khan the then Superintendent Jail Bannu was transferred from Central Prison Bannu to District Jail Timergara and as such I was assigned the additional charge as Deputy Superintendent cum Superintendent Central Prison Bannu since February 20, 2012.

My point to point reply of show cause notice is as under:-

(a) Deployment of F.R.P Platoon.

The sanctioned strength of FRP Platoon deployed at Central Prison Bannu was 1-4-40 as per detail tabulated below:-

Sanctioned Strength.

- i- Platoon Commander.....01
- ii- Head Constables.....04
- iii- Constables.....40

On availability of its full strength, previously FRP guarding personnel were deployed at all important pints. However with the passage of time the concerned authorities (Superintendent Police FRP) Bannu withdrew a considerable No. of FRP constables and the outer jail security was left at the mercy of one platoon commander, 02 Head constables & 23 to 24 constables including those constables who were employed on Kot duty, line Muharrer, Cooking duty etc.



Only 18 constables were left for guarding duty out of which six would remain present on duty at one time as per their own approved duty schedule. Duty points of F.R.P on western, southern and eastern Jail outer parameter wall were of high degree importance as local Wazir tribes & dangerous gangs of miscreants were residing close to the area. However due to shortage of F.R.P 03 Jail warders armed with Kalashnikovs & one with 303 were deployed on front side. In addition the Superintendent of Police F.R.P was addressed vide letter No.3134 dated 12-9-2011, (copy Annex-'A') and was requested to remove the shortage of FRP constables and bring the same in conformity with its sanctioned strength but such request was never entertained despite pursuing verbally as well as telephonically. Resultantly the Front side of Jail had to be guarded by the jail armed warders.

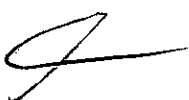
It would also be worth mentioning to add that the Taliban who were armed with modern weapons, Rocket Launchers High explosives and hand grenades, had entered the prison area not mere through front gat but also from western boundary wall of the Jail where two FRP constables were deployed and one of them sustained injury on abdomen in an attack of hand grenade by Taliban. Hence on such score no point on any side may be declared as of no or lesser importance.

(b) Failure To Provide Leadership To Armed Jail Personnel

It would be fit to re-iterate that the time of armed attack of Taliban on the late-full night (ie.14-15 April 2012) was 1-15Am. It was sudden, violent & with the help of heavy weapons. No prior information regarding extra ordinary movements of 04/05 hundred Taliban was communicated / intimated by any police or intelligence agency. Had I received any such information, I would have adopted all additional precautionary measures and provided leadership to the guarding staff to counter the attack.

(c) Failed To Have Contingency Plan For Jail

Under the specific instructions of the Inspector General of Prisons Khyber Pakhtunkhwa Peshawar contained in his letter No.14396-99 dated 19-7-2011 & No.14735-756 dated 23-7-2011, the contingency plan was prepared by the then Superintendent Jail. The internal security was strengthened with in available Jail resources. The prevailing position, Action Plan and further requirements/demands were intimated to I.G. Prisons vide Superintendent Jail



Bannu letter No.2595 dated 19-7-2011 and No.2685 dated 26-7-2011 which copies are annex-'B' & 'C' for kind perusal. It is however pertinent to add that no steps were taken for enhancing outer Jail security. On coordination with District Police Bannu and request of the then Superintendent Jail (Mr. Usman Ali Khan) only 04 SMG rifles with ammunition were provide by the D.P.O Bannu through DSP Bannu, however regretted provision of Mobile Police Squad for outer Jail security.

In addition to the above & keeping in view the continued tense situation in the area the following authorities were addressed / requested for help and enhancing outer Jail security through various letter as noted below against each but all in vain.

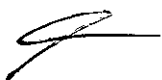
Letter No. & date.	Addressed to	Purpose	Response	Annexure.
1020 dt: 28-8-06	I.G. Prisons.	Deployment of one FC Platoon	Regretted vide Home & T.As. Department letter No.4/20-SO (L&O)HD dated 28-8-2006	D & D-1
1184 dt: 30-5-09	Commission Bannu Division.	-do-	No response.	E
3769 dt: 28-10-2011	D.P.O Bannu	Arranging of patrolling police guard for outer Jail security.	Request was not entertained.	F

Despite all forging no assistance / help necessary steps for enhancing outer security was afforded by any higher authority.

Regarding sudden attack of Taliban, the concerned night duty officer (Mr. Jalat Khan Asst: Superintendent Jail), timely informed the District Police. The District Police supported by armed forces turned up for help however they camped near police station Basia Khel which is situation at a distance of 2/3 Kilometer from Central Prison Bannu. They were hearing our cries and sounds of Bomb blasting / Rocket Shelling but did not make any advance for help or plan for counter attack on Taliban. They only watched the scenario of Taliban convoy who after completion of their task returned in the shape of convoy in about 70 to 80 vehicles.

(d) Presence of Night Duty Officer.

The duty as night duty officer was assigned to Mr. Jalat Khan on the late full night and he was present on duty.



13

Presence of deployed staff.

All duty staff armed and un-armed were present on their respective beats none was reported absent

PRAYER. Keeping in view my previous record & no fault in the instant case it is requested that I may very kindly be exonerated of all the above charges. I wish to be heard in person.

Yours Obediently,

M. Zahid Khan

(MUHAMMAD ZAHID KHAN)
DEPUTY SUPERINTENDENT JAIL

J

GOVERNMENT OF KHYBER PAKHTUNKHWA
HOME & TRIBAL AFFAIRS DEPARTMENT

Annex C
14



45277

Dated Peshawar the December 10, 2012

ORDER

SO(Com/Eng)/HD/1-40/2011 WHEREAS, The following officers of the Inspectorate of Prisons, Khyber Pakhtunkhwa; now under suspension, 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 14/06/2012, 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, evidence on record, the explanation of the accused officers 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 with immediate effect;

S.No	Name & Designation	Orders
1.	Mr. Usman Ali (BPS-17), The then Deputy Supdt-cum-Superintendent, Central Prison Bannu.	Exonerated
2.	Mr. Muhammad Zahid (BPS-17), The then Deputy Supdt-cum-Superintendent, Central Prison Bannu.	Dismissal from Service.
3.	Mr. Shah Salman (BPS-17), The then A.I.G Prison, Khyber Pakhtunkhwa.	He is counselled to be a little more careful in processing cases.

SECRETARY TO GOVERNMENT OF
KHYBER PAKHTUNKHWA HOME DEPARTMENT

Endst. No. SO(Com/Eng)/HD/1-40/2011, Dated Peshawar the December 10, 2012

Copy of the above is forwarded to the: -

1. Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Inspector General of Prisons, Inspectorate of Prisons, Khyber Pakhtunkhwa Peshawar.
4. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary Establishment, Khyber Pakhtunkhwa Peshawar.
6. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.
7. Officers concerned.

SECTION OFFICER (Com/Eng)

10/12/12

15

(13)

To,

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENT APPEAL AGAINST THE ORDER NO.SO(Com/Eng) HD/1-40/2011 DATED 10-12-2012 PASSED BY THE CHIEF SECRETARY, GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR ENDORSED TO THE APPELLANT BY THE INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA, VIDE LETTER /ENDST: NO.31125-37 DATED 11-12-2012.

R/sir,

I submit the subject department appeal, comprising of 08 pages together with relevant annexures A , B & C for onward submission to the Honourable Chief Minister, Khyber Pakhtunkhwa (Appellate Authority) for consideration please.

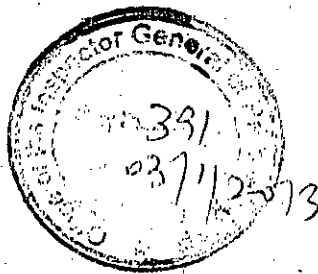
Yours Obediently,

Dated 03/01/2013

Handwritten signature and date: 03/01/2013

(Muhammad Zahid Khan)
Son of
Muhammad Sadiq Khan
Village Charguli,
Police Station Rustam
Tehsil and District Mardan.
Mob: # 0332-9195337

Handwritten signature



Handwritten signature

16

Before the Honourable Chief Minister, Khyber Pakhtunkhwa,
Peshawar

Sub:- Departmental Appeal against the order No. SO (Com/Eng) HD/I-40/2011 dated 10.12.2012 passed by the Chief Secretary, Govt of Khyber Pakhtunkhwa, Peshawar endorsed to the appellant by the Inspector General of Prisons, Khyber Pakhtunkhwa, vide letter/Endst NO. 31125-37 dated 11.12.2012

Respected Sir,

The appellant respectfully submits as under :-

- 1) The appellant started his service career as Assistant Superintendent, Jail in BS 14 w.c.f. 18.1.1986. He was promoted as Deputy Superintendent in the year 2005. The appellant remained posted in various Jails and has been performing his duties quite diligently, vigilantly, honestly and with his utmost loyalty. There has been no complaint against the appellant. No show cause notice or charge sheet has ever been issued to the appellant during the past service of more than 26 years. He has unblemished service record. The appellant has large family, he has 4 sons and 03 daughters to feed up.
- 2) The appellant was transferred from District Jail, Kohat to Central Prison, Bannu in October, 2009. On 20th February, 2012, Mr. Usman Ali, Deputy Superintendent -cum-Superintendent was

transferred from Central Prison, Bannu to District Jail , Timergara and the appellant was assigned the charge as Deputy Superintendent-cum-Superintendent, Central Prison , Banu w.c.f. February 20,2012.

- 3) That due to incident of sudden and violent armed attack of Taliban on Central Prison, Bannu on the night of 14/15th April,2012, a show cause notice was served upon the appellant on 21.6.2012 . Copy of the show cause notice is **Annex-A**.
- 4) That the appellant submitted exhaustive reply to the show cause notice in which he denied the charges vehemently and explained factual position, the contents of the reply may be read as an integral part of this appeal, copy of the reply alongwith all supporting documents is **Annex-B**.
- 5) That on 17th April, 2012 , a fact finding Committee visited the Jail premises , probed the matter , examined various persons and also called the appellant . They completed fact inquiry proceedings in a single day and never examined any witness in presence of the appellant, the appellant was not given any opportunity to cross examine witnesses, the appellant was also not afforded to put forth his oral as well as documentary defence evidence , hence he has been denied valuable right of defence . No copy of the inquiry report was given to the appellant. Only

the Chief Secretary gave personal hearing to the appellant .
Finally vide order dated 10.12.2012, conveyed to the appellant
by the Inspector General of Prisons through letter dated 11.12.2012
(Annex-C) major penalty of dismissal from service has been
imposed against the appellant hence this appeal before your
honour on the following amongst other :-

GROUNDS

- A) That the appellant was having more than 26 years blotless service and major penalty has been imposed against the appellant in summary manner on the basis of fact finding inquiry report.
- B) That no witness was examined in presence of the appellant, no opportunity of cross examination was afforded to the appellant , no opportunity was given to the appellant to produce defence evidence . The appellant was having sufficient documentary and oral evidence in his favour , but was deprived of this legal vested right of producing the same and controverting the charges , hence he has been awarded major penalty in hasty manner and hurriedly , therefore, the penalty awarded to the appellant is not sustainable and is liable to be set aside. It has been laid down by the Honourable Supreme Court of Pakistan

in various authoritative judgments that before awarding major penalty, holding of regular inquiry is must. The Honourable Supreme Court of Pakistan has held repeatedly that evidence of witnesses may be recorded in presence of the civil servant, he may be afforded opportunity to cross examine them, the civil servant may be given full opportunity to lead oral as well as documentary evidence, in order to disprove the charges leveled against him, if it is not done so, the civil servant is entitled for reinstatement with back benefits. In case titled as "Muhammad Saleem Vs. Chief Executive Officer reported in 2010 PLC (CS) 306, the Honourable Supreme Court of Pakistan has held that civil servant has right to know nature of the documentary evidence in possession of the competent authority on the basis of which competent authority decided not to hold inquiry and did not provide opportunity to him, to put his defence. The Apex Court set aside the penalty. In case titled as "Muhammad Alamzeb Khan Vs. Registrar, Peshawar High Court reported in PLJ 2009 SC 235 the Honourable Supreme Court of Pakistan set aside the penalty as major penalty of removal from service was imposed without

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adopting the required and mandatory procedure . In case titled as " Muhammad Zaheer Khan Vs. Govt of Pakistan " reported in PLJ 2010 SC 829 the Honourable Supreme Court has held that it is mandatory for an inquiry officer to provide the accused officer the opportunity of cross examination of the witness appearing against him and it is right of the accused officer to adduce defence and penalty was set aside ". In case titled as " Pakistan Water and Power Development Authority " reported in PLJ 2007 SC 54 the Honourable Supreme Court of Pakistan has held that dispensation of regular inquiry would amount to deprive a person from the right of defence and fair opportunity of hearing and penalty was set aside.

- C) That law declared by the Honourable Supreme Court of Pakistan is binding on all subordinate courts and the functionaries of the State and they are bound to follow the same.
- D) That in this case , only the Inquiry Committed visited the Jail for one day, examined various persons and on the same day submitted fact finding inquiry report . No regular inquiry was held , no copy of the inquiry report

was supplied, the appellant was having sufficient documentary evidence but no opportunity was given.

- E) It is settled law that no penalty can be imposed on the basis of fact finding inquiry.
- F) That the appellant has been awarded major penalty without appointing any Enquiry Officer, only show cause notice was issued and appellant submitted detailed reply and then order of dismissal has been passed against the appellant which is also not speaking one and is in violation of section 24-A of the General Clauses Act which envisages that the authority passing any order must give reasons and pass speaking order which is lacking in this case.
- G) That appellant has rendered unblemished service, prior to this no penalty was imposed against the appellant and no show cause notice was issued to the appellant.
- H) That the appellant is out of job since the date of dismissal of service and is not working for any gain.
- I) That none of the charges are attracted or made out against the appellant and there is no evidence in proof of the same hence the penalty awarded to the appellant is liable to be

set aside and he is entitled for reinstatement with back benefits.

J) That following charges were leveled against the appellant in the show cause notice :-

- a) Failed to properly deploy FRP leaving front.
- b) Failed to provide leadership and ensure proper defence of jail by his armed personnel.
- c) Failed to have contingency plan for jail.
- d) Failed to ensure presence of Nigh Duty Officer in Jail during attack.
- e) Failed to ensure the presence of deployed staff in jail during the fateful night.

The appellant has submitted detailed reply to these charges with supporting documents and explained and clarified each and every thing. In view of the submissions made by the appellant in reply to the show cause notice, no charge of misconduct is either attracted or proved against the appellant and the competent authority has not looked into the entire material and passed order of penalty without going into the facts of the case and submissions made by the appellant in reply to show cause notice. Each and every thing is explained

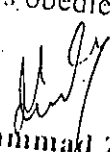
with documentary proof through exhaustive and detailed reply submitted by the appellant.

K) That there is no fault of the appellant. The appellant deserved to be exonerated from the charges.

In view of above, it is humbly requested that appeal may be accepted, order of dismissal from service passed by the competent authority may be set aside and the appellant may be reinstated in service with back benefits.

The appellant may also be heard in person.

Yours obediently,


03/01/2013
Muhammad Zahid Khan
Son of
Muhammad Sadiq
Village Charguli
Police Station : Rustam
Tehsil and Distt Mardan
0332-9195337

Dt. _____
Encl : All documents

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**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Appeal No. ____/2013

Muhammad Zahid, Ex- Deputy Superintendent-cum-Superintendent
(BPS-17) Central Prison Bannu.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
3. The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, read with Section 19 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, against the Order dated 10.12.2012, whereby the appellant has been awarded the major penalty of "Dismissal from Service" against which his Departmental Appeal dated 03.01.2013 has not been replied despite the lapse of 60 days statutory period.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 10-12-2012, may please be set-aside and the appellant be re-instated in service with all back benefits of service.

Respectfully Submitted:

1. That the appellant started his service as Assistant Superintendent Jail in the year 1986, he was promoted as Deputy Superintendent Jail in the year 2005. He remained posted at different jails and has performed his duties quite diligently, vigilantly, honestly and with his utmost loyalty. Ever since the appointment of the appellant, there was no complaint whatsoever regarding his performance.
2. That the appellant while posted as Deputy Superintendent-cum-Superintendent Central Prison Bannu, in the mid night of 14/15 April, 2012, a good number of militants (more then 300) attacked the Jail with heavy weapons, the jail officials started firing at them,

however they outnumbered the security staff of the jail and managed in helping the escape of certain condemned prisoners from the Jail. They also damaged part of the Jail premises with their heavy weaponry.

3. That the Provincial Government conducted a fact finding inquiry, however its report was not made public.
4. That due to the said incident a show cause notice was served upon the appellant on 21.06.2012, containing certain false and baseless allegations. The appellant duly replied the Show Cause Notice and refuted the allegations leveled against him vide reply dated 28.06.2012. The contents of the reply to the show cause notice may be read as an integral part of this appeal. (Copies of the Show Cause Notice and reply to Show Cause Notice are attached as Annexure A & B)
5. That thereafter without conducting regular inquiry quite illegally the appellant was awarded the major penalty of *Dismissal from Service* vide order dated 10.12.2012. (Copy of the Dismissal Order dated 12.12.2012 is attached as Annexure C).
6. That against the order dated 10.12.2012, the appellant submitted his departmental appeal dated 03.01.2013, however it has not been responded despite the lapse of 60 days statutory period. The facts and grounds mentioned in the departmental appeal may be read as part of this appeal. (Copy of the Departmental Appeal dated 03.01.2013, is attached as Annexure D).
7. That the impugned order is illegal unlawful against law and facts therefore, liable to be set aside inter alia on the following grounds:-

GROUNDS OF APPEAL:

- A. That the appellant have not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before awarding the penalty of dismissal from service to the appellant, neither regular inquiry has been conducted, nor the appellant has been associated with the inquiry nor any witness has been examined against him during the inquiry, thus the whole proceedings are nullity in the eye of law.
- C. That the appellant has not been given proper opportunity to defend himself nor he has been allowed proper opportunity of personal hearing, thus he has been condemned unheard.

- D. That during the inquiry proceedings no witness has been examined against the appellant or if so examined neither their statements have been taken in the presence of appellant nor he was allowed the opportunity to cross examine those who may have spoken against him.
- E. That as regard to the allegations leveled against the appellant, it is submitted that the same are baseless and unfounded, in this behalf the reply to the show cause notice may be taken as integral part of this appeal. Moreover, the appellant has left no stone unturned in taking safety measure and providing security to the Jail and in this behalf he has made several requests to the high ups for enhancing security personal and supply of equipments in order to avoid such like incidents, however those requests were either turned down or not responded. (Copies of correspondences made are attached as Annexure E)
- F. That the appellant has not been provided the findings of the inquiry report along with show cause notice which is mandatory in case of awarding major penalty, thus he has not been given fair opportunity to put forward his defense with regard to the charges leveled against him and is thus virtually condemned unheard.
- G. That the charges leveled against the appellant were never proved during the inquiry proceedings the inquiry officer gave his findings on surmises and conjunctures.
- H. That adopting shorter procedure in the instant case was uncalled for and illegal the charges were never admitted by the appellant hence the issuance of show cause notice has prejudice his case and in fact he was condemned unheard. it is pertinent to mention that one SI Muhammad Jalil of Police Department, who was also dismissed from service in the same incident after adopting shorter procedure of Show Cause Notice, however on his Departmental appeal, the Regional Police Officer Bannu ordered his re-instatement vide order dated 20.02.2013, accordingly he was re-instated into service vide order dated 26.02.2013 on the ground that proper procedure had not been followed. (Copies of the orders dated 20.02.2013 and 26.02.2013 are attached as F & G)
- I. That the appellant is also discriminated against as in the said incident one Shabir Hussain Shah Inspector/ SHO Police Station Domail, Bannu, who was also awarded the major penalty of Compulsory Retirement, on his departmental appeal the penalty was converted into minor penalty of *stoppage of one increment for one year* vide order dated 28.02.2013, however the appellant has been dismissed from service.(copy of the order dated 28.02.2013 is attached as Annexure H)

- J. That the matter in hand required a full fledged regular inquiry, for the proof or otherwise of the charges, in the absence of regular inquiry major penalty can not be imposed, it has also been consistently held by the superior courts that in case of awarding major penalty holding of regular inquiry is mandatory.
- K. That the appellant has never committed any act or omission which could be termed as misconduct albeit he has illegally been dismissed from service.
- L. That the appellant has more than 26 years spotless service career, however, his unblemished service career has never been considered while dismissing him from service.
- M. That the appellant is jobless since his illegal dismissal from service. The penalty imposed upon him is too harsh and liable to be set aside.
- N. That the grounds taken in the departmental appeal may also be read as part of the instant appeal.
- O. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the hearing of this appeal,

It is, therefore, humbly prayed that On acceptance of this appeal the impugned order dated 10-12-2012, may please be set-aside and the appellant be re-instated in service with all back benefits of service.




Appellant

Through

IJAZ ANWAR
Advocate Peshawar

&

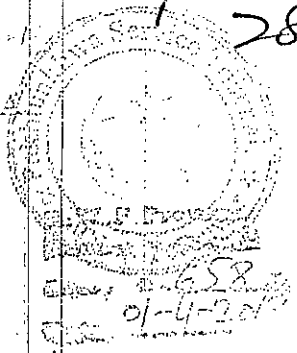


SAJID AMIN
Advocate Peshawar

Photo Copy Services Tribunal KPK
dt 1-9-2015

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Judg-
Services Tribunal
28

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR



Appeal No. 587/2013

Muhammad Zahid, Ex- Deputy Superintendent-cum-Superintendent
(BPS-17) Central Prison Banna.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary/ Khyber Pakhtunkhwa, Peshawar.
2. Secretary Home and Tribal Affairs Department, Khyber Pakhtunkhwa, Peshawar.
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Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, read with Section 19 of the Khyber Pakhtunkhwa Government Services (E&D) Rules, 2011, against the Order dated 10.12.2012, whereby the appellant has been awarded the major penalty of "Dismissal from Service" against which his Departmental Appeal dated 03.01.2013 has not been replied despite the lapse of 60 days statutory period.

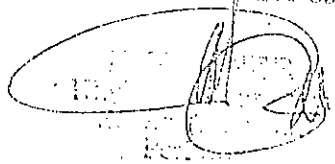
01.09.2015

Counsel for the appellant (Mr. Ijaz Anwar, Advocate) and Mr. Ziaullah, Government Pleader with Sheryar, ASJ for the respondents present. Arguments heard and record perused. Vide our detailed judgment of to-day in connected appeal No. 484/2013, titled "Aminullah Versus Government of Khyber Pakhtunkhwa through Secretary Home & T.As Department, Peshawar etc.", this appeal is also disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
01.09.2015

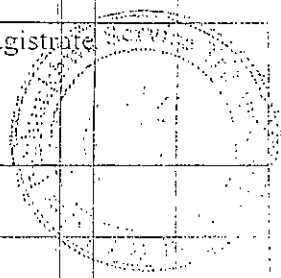
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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 4842013

Aminullah Versus Government of Khyber Pakhtunkhwa through Secretary Hom & T.A Deptt. Peshawar etc.

JUDGMENT

01.09.2015

PIR BAKHSI SHAH, MEMBER. - Counsel for the appellant (Mr.

Ijaz Anwar, Advocate) and Government Pleader (Mr. Ziaullah) with Sheryar, ASJ for the respondents present.

2. On the night between 14th and 15th April, 2012 at about 1.30 AM militants reached in about 25 vehicles of different types and attacked the Bannu Central Jail. The militants were armed with automatic weapons. They broke open the main outer and inner gates using RPG and fired at boundary wall watchtower. Having secured entrance, they attacked barracks, broke open locks by firing and asked 382 prisoners to flee and move towards the nearby ping hills in the Frontier Region area. In this incident, the Government of Khyber Pakhtunkhwa vide notification No.SO(Com/Eng)/HD/1-40/2012 dated 16.4.2012 constituted a five members enquiry committee headed by Dr. Ehsan-ul-Haq, then Director, Reform Management & Monitoring Unit, Chief Secretary's Office, Khyber Pakhtunkhwa. The committee submitted its elaborate report comprising of about 19 pages. To make the findings of this enquiry report as basis for departmental proceedings

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against the appellants, the step of regular enquiry was dispensed with and the respective competent authorities straight-away issued show cause notices to the appellants. The appellants belong to various departments of the province. At the end of the day, the appellants were awarded punishment as follows:-

<u>S.No.</u>	<u>Appeal No.</u>	<u>Name</u>	<u>Designation</u>	<u>Department</u>	<u>Punishment</u>	<u>Date of Order</u>
1.	484/2013	Aminullah	Warder	Prisons	Dismissed	12.12.2012
2.	485/2013	Mir Liaq	Warder	"	"	"
3.	486/2013	M. Saqib	Warder	"	"	"
4.	487/2013	Raqibaz	Warder	"	Reduction	"
5.	488/2013	Saved Khan	Warder	"	Dismissed	"
6.	489/2013	M. Ibrar	Warder	"	"	"
7.	490/2013	Abid Ullah	Warder	"	"	"
8.	491/2013	Asif Ali Shah	Warder	"	"	"
9.	492/2013	Hafiz Mir Hussan Shah	Warder	"	"	"
10.	493/2013	Gul Mir Dali	Warder	"	"	"
11.	587/2013	M. Zahid	Dy.Supt.	"	"	30.12.2012
12.	1261/2012	M. Ghulam	Section Officer	Establishment	"	5.1.2012
13.	1244/2012	Daftar Khan	A.P.A	"	Reduction	7.2.2012

3. The Departmental also failed, hence these appeals. In view of common legal issues of these appeal, the Tribunal would like to decide all these appeals by way of this single judgment.

4. The learned counsel for the appellants contended that the appellants have been victimized, discriminated and made scape-goat for the reasons that the senior responsible officers like Commissioner etc. have been exonerated and the appellants at the lower rung of the ladder

and
have

were punished. It was further submitted that the fact finding enquiry was general in nature and not specific against the appellants to find their faults, which never fixed responsibility on the appellants; However, the high ups of the departments concerned in order to save their faces, by adopting method of pick & choose targeting the appellants which is against the norms of justice, fair-play, equal treatment and treatment in accordance with law and rules. The learned counsel for the appellants further maintained that no opportunity of personal hearing was provided to the appellants and while confronting them with imposition of major penalty without any regular enquiry the appellants have been denied opportunity of defence and proper presentation. Lastly it was submitted that all the appeals may be accepted in the interest of justice and the appellants may be reinstated in service to their original position with back-benefits.

5. The learned Government Pleader resisted these appeals on the ground that the competent authority was legally empowered to have dispensed with regular enquiry under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. It was next submitted that in the light of the fact finding enquiry, the competent authority was having sufficient materials in its hands which led to the decision to do away with the regular enquiry. It was finally submitted that all the appeals being without merits, may be dismissed.

6. We have heard learned counsel for the appellants and learned Government Pleader for the respondents at length and have perused the record with their assistance.

7. Copy of the report of the enquiry committee was found in appeal No. 587/2013, titled "Muhammad Zahid Versus Government of Khyber Pakhtunkhwa and others" annexed by the respondents with its written comments/reply. Admittedly a short cut procedure of issuing show cause notice has been adopted against the appellants. The basis of departmental action against the appellants is the fact finding enquiry. We have gone through this enquiry report and unable to find that the enquiry committee had specifically fixed responsibility on the appellants. The enquiry committee while highlighting lapses on the part of various departments like Tribal Area Administration/FR Bannu, Police Department, Frontier Constabulary, Local Army Command, Civil Administration, Jail Administration, Frontier Reserve Police, Home & T.As Department, Inspector General of Prisons and Intelligence Agencies had put forth a number of recommendations. It is hardly to say that names of the appellants were specified to be responsible for the lapses and thus recommended for departmental action in this enquiry report. After a thorough perusal of the record, a big question mark that comes before the Tribunal would be that, in the absence of regular enquiry against the appellants and other specific materials against them, how the alleged misconduct and inefficiency etc. of a particular appellant can be assessed? This observation of the Tribunal is relevant when we see that high and responsible officials of the appellants' departments have been let off and exonerated. This policy seems to be in conflict with findings and requirements of the enquiry report. Moreover, this pick & choose and discrimination on its face is also

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against Article 25 of the Constitution of the country. To skip over the procedure of regular departmental enquiry, the Tribunal is also of the considered view that adequate and proper opportunity of defence and representation has not been provided to the appellants.

8. In the light of the foregoing discussion, the procedure adopted and the penalties imposed, against cannot be appreciated for which reason, the Tribunal is constrained to interfere in the case. Consequently, the impugned orders are set aside, the case is remanded back to the respective respondent/department to initiate fresh departmental proceedings against the appellants strictly in accordance with the law and rules. Needless to mention that adequate and meaningful opportunity of defence and personal hearing be provided to the appellants. The concerned appellants are reinstated into service for the purpose of fresh departmental proceedings. Back benefits etc. will be subject to outcome of fresh proceedings. All the aforementioned appeals are disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
01.09.2015.

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Sd/- Mr. Abdul Wahid Chah
Sd/- Abdul Latif

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CHARGE SHEET

Boon ✓ *Assessed 9*

I, **Abid Saeed**, Chief Secretary Khyber Pakhtunkhwa, as competent authority, hereby charge you **Mr. Muhammad Zahid**, as follows:

That you, while posted as **Deputy Superintendent-cum-Superintendent Central Prison Bannu** and according to findings of the Inquiry Commission regarding militants attack incident on Central Prison Bannu the night between 14/15-4-2012, you have committed the following irregularities/omissions:

- i. To act on prior intelligence conveyed by DCO.
 - ii. To inform police and civil administration.
 - iii. To have Contingency Plan for Jail.
 - iv. Due to your inefficiency /gross negligence in the performance of duties, the militant took full advantage and succeeded in Bannu Jail break on the above night and resultantly 381 prisoners including high profile prisoners were got released, beside other damages.
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.

Abid Saeed
12/11/2017

**(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA**

DISCIPLINARY ACTION

I, **Abid Saced, Chief Secretary Khyber Pakhtunkhwa**, as the competent authority, am of the opinion that **Mr. Muhammad Zahid Deputy Superintendent Jail (BPS-17) presently attached to Sub Jail Dassu Kohistan** 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

While he was attached to Central Prison Bannu as Deputy Superintendent -cum- Superintendent and according to findings of the Inquiry Commission regarding militants attack incident on Central Prison Bannu on the night between 14/15-4-2012 he failed:-

- i. To act on prior intelligence conveyed by DCO.
- ii. To inform police and civil administration.
- iii. To have Contingency Plan for jail.
- iv. Due to his inefficiency /gross negligence in the performance of duties, the militants took full advantage and succeeded in Bannu Jail break on the above night and resultantly 381 prisoners including high profile prisoners were got released, besides other damages.

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 ibid rules:-

- i. Mr. Tasbeem Khan
- ii. _____

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

Abid Saced
12/11/2017

(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA

✓ Appendix - 11
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REPLY TO THE CHARGE SHEET

BY

MUHAMMAD ZAHID
DEPUTY SUPERINTENDENT
NOW SUPERINTENDENT SUB JAIL DASSU KOHISTAN

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STATEMENT OF ANNEXURES RELATED TO THE MILITANT ATTACK ON BANNU JAIL

In connection with

Reply to Charge Sheet by Muhammad Zahid

INDEX			
S#	Description of Documents	Annexure	Page #
1	Reply to the charge sheet (16 Pages)	--	1 to 16
2	Dismissal order dated 10-12-2012	A	17
3	Copy of Judgment dated 1-9-2015 Services Tribunal KPK Peshawar. (5 Pages)	B	18-22
4	Letter No 1020 dated 28-6-2006 from Supdtt Jail Bannu. (2 Pages)	C	24
5	Letter No 4/20-(SO L&O) Home Deptt 28-8-2016	C-1	25
6	Letter No 1184 dated 10-5-2009 from Supd Jail Bannu	D	26
7	Letter No 10939 dated 4-6-2009 I.G. Prisons KPK	E	27
8	Letter No 3769 dated 28-10-2011 Supdtt Jail Bannu	F	28
9	Letter No 3134 dated 12-9-2011 Supdtt Jail Bannu	G	29
10	Letter No 4139 dated 13-12-2011 Supdtt Jail Bannu	H	30
11	Letter No 860 dated 14-1-2012 IG Prisons KPK	H-1	31
12	Letter No 2595 dated 19-7-2011 Supdtt Jail Bannu (2 Pages)	I	32-33
13	Letter No 2685 dated 26-7-2011 Supdtt Jail Bannu	J	34
14	Letter No 2827 dated 13-11-2009 Supdtt Jail Bannu (3 Pages)	K	35-37
15	Report of Five member Inquiry Committee into the incident of Armed Militant Attack on Bannu Jail. (17 Pages)	L	38-54
16	Commissioner Bannu Div Bannu Reply to Show Cause related to Bannu Jail Attack (7 Pages).	M	55-61

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REPLY TO THE CHARGE SHEET:

Respectfully submitted that I am in receipt of memorandum bearing No. 26/14-J/2012-1700-1702/WE dated 26-01-2017 from Inspector General of Prisons Khyber Pakhtunkhwa Peshawar, enclosing therewith a charge sheet/statement of allegations, whereby I have been asked to explain my position for commission of certain omission during my posting as Deputy Superintendent, cum Superintendent Jail Bannu. The charges so framed against me are as under:

While attached to Central Prison Bannu as Deputy Superintendent cum Superintendent Jail, as per findings/fact finding report of inquiry commission regarding militants attack/incident on Central Prison Bannu on the night of 14/15-4-2012, I failed to;

- i. Act on prior intelligence conveyed by DCO ✓
- ii. Inform Police & Civil administration ✓
- iii. Have contingency plan for jail ✓
- iv. Due to such inefficiency/gross negligence in the performance of duties the militants took full advantage & succeeded in Bannu Jail break on the said night & resultantly 384 prisoners including high profile condemned prisoners Adnan Rasheed were got released besides other damages. ✓

Before furnishing reply to the charge sheet, I would like to give sketch of certain facts related to the subject matter as under.

1. Central Prison Bannu :

1. It was established in the year 2004 on the pattern of district jail but latter on it was declared as central jail. The landed area on which it is built is 170 Kanals and is located on old Bannu Kohat road near Bannu Township.

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2. It is distant some 10 km from main Bannu City, Police line etc.
3. Its accommodating capacity of prisoners is 610 against which 846 prisoners were confined therein on 14/15-4-2012, including the high profile condemned prisoner Adnan Rasheed. ✓

2. Warder Staff Of Central Prison Bannu :

In order to help in the Management/Maintaining discipline among jail inmates, to cause the jail neat & clean, duties on management of cook house, distribution of food/breakfast amongst prisoners at proper times, to guard convicted prisoners employed on labour in the jail compound area, control internal disturbances, keep watch on prisoners movements by day & night inside the jail, to conduct their searches on daily basis inside the jail as well as during the course of their interview with interviewers and to act effectively in cases of internal jail break as required under rule 610 of Pakistan Prison Rule.

In order to cope with the above situation including internal jail disturbances the required strength of watch and ward staff was available adequately and were employed on their duties properly as required under the N.W.F.P (KPK) Prison Rules.

3. Arms & Ammunitions:

For the control of internal jail disturbances/jail break and prisoners escape, the following arms & ammunitions were available at Central Prison Bannu.

Type of Weapon	Quantity
AK-47(KLASHNIKOV old received from mal khana)	19 (Including 4 unserviceable)
Rifle 303	10
China Rifle	15
LMG	4

4/10

4. Personal Position:

In the capacity of Deputy Superintendent Jail, I was transferred from District Jail Kohat to Central Prison Bannu in October 2009, & in the same capacity served there upto 19-02-2012 under the direct subordination to Mr. Usman Ali Khan the then Superintendent Central Prison Bannu.

On February 20, 2012 Mr. Usman Ali Khan, was transferred from Central Prison Bannu to District Jail Timergarah & as such I was assigned the Additional Charge as Deputy Superintendent Cum Superintendent Jail Bannu w.e.f. 20-02-2012.

5. Armed Militants Attack On Central Prison Bannu :

On the night of April 14-15/2012 armed militant launched sudden and violent attack on Central Prison Bannu at about 1:15 AM midnight at the time of power load shedding. The attack was sudden in which hundreds of Taliban/Militants attacked the jail using modern weapons, hand grenades, shelling of rockets/RPG and exploding high explosive, as a result of which front line of the jail was paralysed, outer jail *phattack* as well as both of the main gates of the jail were destroyed and in a swift manner about 150 armed Taliban entered into the jail while the rest in hundreds were left behind to guard them

At the time of the armed attack at midnight I was on my bed at my residence in jail residential colony. On hearing sounds of fire arms, hand grenades, shelling of rocket/RPG etc, I woke up and contacted with the jail staff employed in main gate of the jail who responded that the jail was badly attacked by armed militants and added that the situation was very worst. Thereafter due to heavy bomb blasts the PTCL telephone line became unserviceable/ destroyed. Hence on mobile phone cell

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information about the attack and affording help was immediately conveyed to police station township Bannu as well as district police through police control room district Bannu.

On the request from this end the police of township police station as well as district police came out and reached but camped at some distance from Bannu jail. They were also in support of elite force, FC as well as military force well equipped with weapons and APC but could not make any advance to help the Bannu jail administration/counter Taliban attack. They camped there for long time but perhaps viewing the extraordinary strength of armed militants and due to fear of possible suicide attack on them they failed to counter militant. They watched the scenario and left the jail administration at the mercy of Almighty Allah.

Sufferings:

In relation to the above incident and the report of 05 members inquiry committee I was served with showcause notice by the competent authority (Chief secretary KPK), in which a number of charges were levelled against me. I furnished exhaustive reply to the charge sheet but was rejected and I was dismissed from service by an order Dated: 10-12-2012 copy (Annex-A).

I challenged the impugned order in appeal before Khyber Pakhtunkhwa services tribunal Peshawar which was finally heard/ decided on 01-09-2015. By setting aside the impugned order of my dismissal, I was reinstated in service, however back benefits etc were ordered/ subjected to be the outcome of fresh/departmental proceeding. Copy of judgment dated: 01-09-2015 of the services tribunal is (Annex-B).

Against the above decision of services tribunal the department filed appeal/civil petitions before the August supreme court of Pakistan which was heard and dismissed by the apex supreme court on 17-12-2015. Consequently

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in the light of final decision of the apex court I was reinstated in service in February 2016, & hence the present proceedings initiated.

While parting with the above submissions, I proceed to furnish my reply to the charge sheet/statement of allegations on point to point basis as under.

Charge No. 1:

Failed to act on prior intelligence by DCO:

In this regard it is respectfully submitted that in relation to this charge I have already explained my personal position in foregoing paragraph. However once again it is reiterated in summary that;

- i. Mr. Usman Ali Khan, (My predecessor) had served continuously for 13 years as Superintendent Jail Bannu, whereas in the capacity of Deputy Superintendent I worked under his subordination at Bannu Jail. The entire intelligence informations were conveyed to all concerned including Mr. Usman Ali Khan, during his stint as Superintendent Central Prison Bannu. He, who was also charged for commission of certain omissions has already been exonerated of all charges vide order; shown placed, as **Annex-A** in which for reasons not explained I was dismissed from service. It is repeated that in the capacity of Deputy Superintendent Jail I was transferred from District Jail Kohat to Central Prison Bannu in September 2009. I served as Deputy Superintendent Jail under his subordination up to 20-02-2012. During the said period on receipt of various intelligence information the internal jail security was further strengthened within the available resources. He also co-ordinated with the District Police as a result of which Mr. Shafique DSP Bannu on behalf of DPO Bannu visited Central Jail Bannu frequently. He was apprised about the

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internal jail security and also the need for strengthening the external jail security by deploying sufficient strength of patrolling police along outer jail boundary wall.

- ii. Mr. Usman Ali Khan Superintendent jail was transferred from Central Prison Bannu to District Jail Timergara on February 20, 2012. He relinquished and handed over the charge of Central Prison Bannu to me on even date.
- iii. I assumed the charge as Deputy Superintendent Cum Superintendent Central Prison Bannu on **20-02-2012**, and since then I was to deal with my responsibilities as superintendent jail under the Prison Rules.
- iv. The period of my stint as Deputy Superintendent Cum Superintendent Central Prison Bannu w.e.f. 20-02-2012, to 14/15-4-2012, amounts to 54 days only. During the period, I was not in receipt of any intelligence information either from DCO Bannu or other authority. Hence the charge on such account levelled against me is not commensurable or applicable to me and is liable to be withdrawn.

Charge No. 2:

Failed to inform Police & Civil Administration:

This charge is strongly denied on the following grounds & facts on record:

- i. In relation to this charge, it is held and reiterated that soon after the attack of armed militants on Central Prison Bannu on the night of 14/15-4-2012, the Police control room as well as local police station at Township Bannu was timely informed about the armed militant attack on Bannu jail & request was made for quick help. On oursuch request the local police, district Police, FC, Elite Force and Armed Forces reached and

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camped in the township area near police station Basyakhel. On our repeated telephonic calls to Police station Township, *Muharrar* of the said police station would respond that all the guarding staff of the police station as well as district police and other forces have come out and they will soon reach to help you. However unfortunately they failed to come up for help despite passage of considerable time of more than two hours. The police personnel explained that due to large number of armed militants and fear of their suicide attack, the police and other forces were not in a position to make advance or counter them. This situation was explained to the five members' inquiry committee on their arrival to Bannu jail not only by me but also other witnesses/ police who were interrogated on the spot.

Keeping in view the foregoing facts on the record, the 05 member's inquiry committee in their inquiry report did not attribute any role to me concerning failure to inform police & civil administration. Likewise, owing to such facts on record, I was not previously alleged/Charge sheeted on the said account. At this belated stage, I am unable to understand as to how did & from which source (After the lapses of about 05 years) this new charge erupted and levelled against me.

As I had timely informed the police concerning the incident of armed militant attack on Central Prison Bannu, besides, I was neither blamed nor charge sheeted in that regard, therefore, this charge carries no force in relation to facts and circumstances or any failure on my part. Hence, the charge being without force and false may be withdrawn.

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Charge No. 3:

Failure to have Contingency Plan for the jail:

Before responding to the above charge, it would be fit to describe a summary of the situation/phenomenon in which the need for making a contingency plan was felt by the Inspector General of Prisons KPK Peshawar and conveyed orders to the Superintendent Central Prison Bannu in that regard. The situation in summary is explained as under:

It would be exhaustive, rather of little importance to discuss, "who are Taliban/Miscreants/Militants? Where did they come from and entered into the territories of Pakistan? How did they develop their organization or moved towards settle areas of the country etc?" I am simply/just concerned with the subject to the extent of detention of Taliban in jail, its adverse effect on the jail administration and making of contingency plan for the jail. Hence I restrict my explanation to the said extent as under.

- i. Prior to the recent military operations launched by Pak Armed forces against militants in Swat, North & South Waziristan Agencies etc, the activities of Taliban organization were in its full swing. Many of their commanders or other cronies after arrest by Police were lodged in various jails of the province including Central Prison Bannu, which gave birth to a worst situation & administrative problems for the jail. In this regard some references are referred to as under:

In June 2006, some groups of Taliban associated organization, confined in Central Prison Bannu, committed various acts of breach of jail discipline, for which they were subjected to cell confinement in the best interest of jail administration. They started giving threats to the officers of Bannu Jail Administration. This situation was drafted and sent to the Inspector General of Prisons KPK, Peshawar in a letter

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bearing No 1020 dated: 28-06-2006, which copy is enclosed as (AnnexC). At the culminating paragraphs of the said letter, a request for the enhancing of outer jail security was made in terms which (for convenience) inverbatim is reproduced as under:

"Condition of jail is normal and inner security of the jail has further been strengthened. However as your good self is well aware of the fact that this jail is situated in a dangerous and isolated zone, therefore it would be in the fitness of things if the higher authorities could be approached for deployment of FC platoon for external security of this jail. Sd—xxxxxxx

Superintendent Jail Bannu"

Strictly on the lines of our request, the Inspector General of Prisons KPK Peshawar took up the matter with the Provincial Government in Home Department. The Home Department onward took the matter with the Commandant FC and the latter regretted. In this regard Home Department letter No 4/20-SO/HD2006 dated 28-08-2006 is (Annex-C-1).

Due to continuous tense situation in the region, the proximity of Central Prison Bannu to the hardened & turbulent areas, various authorities, i.e. Local government/Commissioner Bannu Division, the District Police Officer Bannu, Superintendent Police FRP Bannu & Provincial government through Inspector General of Prisons KPK were addressed & requested for enhancing outer security of Bannu Jail, through many letters of request but with no positive response on the part of any of the said authorities. In relation to the same the following correspondence are relevant & annexed herewith.

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TABLE:

S#	Letter No & date	Addressed to	Purpose	Response	Annex
1	1020 dt:28-6-2006 from Bannu jail	IG Prisons	Deployment of one FC Platoon	Regretted vide Home & TAs Deptt No.4/20- SO(L&O)/HD/2006 dt: 28-8-2006 (Enclosure C-1)	C & C-1
2	1184 dt :30-5- 2009 from Supdt Jail Bannu	Commissioner Bannu Division	-do-	No Response	D
3	10939 dt: 04-06- 2009 from IG Prison	Home & TA,s Department Peshawar	Deployment of one FC Platoon for external security of Bannu jail	Not Arranged	E
4	3769 dt: 28-10- 2011Supdt Jail Bannu	D.P.O Bannu	Provision of sufficient no of patrolling staff for jail.	Request was not entertained	F
5	3134 dt: 12-09- 2011Supdt Jail Bannu	Superintende nt Police FRP	To remove Shortage of FRP guarding personnel.	Request was not entertained	G
6	4139 dt: 13-12- 2011 from Supdt jail Bannu	IG Prisons	To obtain sanction of govt for shifting of high profile condemned prisoner Adnan Rasheed from Bannu to CP Haripur	Request was not entertained/reject ed vide IGP No 860 dt 14-1-2012 (Enclosure H-1)	H & H-1
7	2595 dt: 19-7- 2011 from Supdt Jail Bannu 02 page sheets	IG Prisons	Intimating therein SOP, Contingency plan of Bannu jail security, additional demands/ requirements.	Additional demands were not met/ fulfilled.	I
8	2685 dt: 26-07- 2011 from supdt jail Bannu	IG Prisons	Information about contingency plan/additional requirements	Not fulfilled	J
9	2827 dt: 13-11- 2009 from sub jail Bannu	IG Prisons	Bannu jail security versus problems/shortco mings with suggestions	Action not intimated	K

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To further elaborate & explain the position concerning Bannu Jail security, it would be more useful to explain it analytically i.e. in terms of internal jail security & external Jail security.

1. INTERNAL JAIL SECURITY:

Under the provision of rule No 610 of N.W.F.P(KPK) Prison rules, it is the responsibility of Superintendent jail to handle over and control different situation in relation to internal jail disturbances/jail break & prisoners escape etc from inside the jail.

In relation to the above, it may be added that after the armed militant attack on Bannu jail, a 05 members committee constituted by the provincial government visited Bannu jail on 16/17 April 2012, conducted detailed preliminary inquiry into the incident and submitted their report/findings (**Annex-L**) to the provincial government their remarks/findings in relation to rule 610 of prison rule as set forth on page No 07/19 of their inquiry report is reproduced as under.

VIEWS OF INQUIRY COMMITTEE:

Joint Security Review

"As required by the provincial government, the RPO Bannu ordered a joint security review of the jail through DPO Bannu in September 2011. The security arrangements were considered satisfactory. The review examined a three tiered security system; the inner cordon managed by jail staff, the layer outside perimeter manned by FRP while the outermost layer was managed through continuous patrolling by PS Township staff. Later on during the same month as per demand of jail administration, the local police had provided four LMG for watch tower staff.

*It may be noted that under **Rule 610 Of NWFP Prison Rules** jail authorities are required to have security arrangements for internal disturbances i.e. Prisoners escape or outbreaks. However,*

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*even in these cases if they are overwhelmed, the District Police is bound to come to their assistance when called up. The external security is primarily the responsibility of the District Police. This is for the obvious reasons that jail administration has to look after **unarmed** interns & the level of security is aimed to respond to any internal law and order situation. It is not meant to match the capability of armed attackers from outside."*

Request for Shifting of High Profile Condemned Prisoner Adnan Rasheed:

Keeping in view the proximity of Central Prison Bannu to adjacent hardened and turbulent areas, it was considered necessary to shift High Profile condemned prisoner Adnan Rasheed from C.P. Bannu to C. P. Haripur etc. in this connection proposal/recommendations were sent to the Inspector General of Prisons KPK vide Superintendent Central Prison Bannu letter No 4139 dated 13-12-2011(Annex-H), requesting therein that the Provincial Government may be approached for according sanction to the transfer of the said dangerous, condemned prisoner from Bannu Jail to Haripur Jail. The request was not acceded to & rejected vide Inspector General of Prisons KPK letter No 860 dated 14-01-2012 (Annex-H-1).

2. EXTERNAL JAIL SECURITY:

In order to explain this subject, I hold & reiterate that for the external security of Bannu Jail there was coordination with the District Police Officer Bannu. For enhancing outer jail security, the DSP Bannu, on behalf of DPO Bannu paid frequent visits of Bannu jail. He was apprised about the internal jail security as well as the need for enhancing outer jail security by deploying sufficient patrolling police on outer boundary wall of Bannu Jail. However no proper arrangements were made by the police for the purpose. It would be wrong to presume

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that the police was not informed about any intelligence information or threats from militants by the jail or civil administration Bannu. In this regard it is held that there was coordination with the DPO Bannu on the subject matter. In addition, meetings were held at the level of local government at Bannu for the purpose of making district security plan including enhancing outer jail security.

To substantiate the fact on the above account, I enclose herewith a copy of reply to the charge sheet furnished by Mr. Abdullah Khan Mehsud, the then Commissioner Bannu division Bannu, copy (Annex-M). For convenience relevant contents on page 04 & 05 of 07 of his reply to show cause notice are reproduced as under.

"On November 25, 2011, I convened and chaired a meeting of Regional Intelligence Coordination Committee and Law & Order. It was attended by Commander 325 Brigade, RPO Bannu, DCO Bannu and Lakki, OC ISI, Bannu, OC MI, DOFC Bannu and Daryoba, Deputy Director IB and group Officers (Special Branch) Bannu and Lakki. The meeting reviewed the threat to jails and it was decided that both the DCOs along with DPOs shall visit the jails in their respective districts and suggest measures for improvement of jail security and other related matters. It was also decided that jail staff shall ensure that no prisoner is allowed the use of mobile/cell phone. It was further decided that the Home department will be approached for installation of Jammers in the jail. On 15-12-2011 the commissioner office endorsed the decision to the Home department even though the minutes of the meeting had been already sent to the Home department. Subsequently, the RPO, Bannu informed me that security of Bannu jail has further been strengthened by deploying one platoon of

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FRP in addition to provision of 04 machine guns to the jail staff along with necessary training to operate them.

On 05-01-2012, I circulated an information report on probable terrorist activity against targets including Bannu jail this information was transmitted to the Regional police officer, District coordination Bannu, Political agent north Waziristan, Commander 325 Brigade with endorsement to Home department."

The very gist of what has been explained above is that,

- i. The DPO Bannu was not only apprised by Bannu jail authorities (time and again) about enhancing outer jail security, but was also sensitized by the commissioner Bannu division in his meeting dated: 25-11-2011 as quoted above.
- ii. The Superintendent jail Bannu had prepared their own contingency plan for coping their internal jail disturbances under rule 610 of N.W.FP (KPK) Prison rules.

In the light of what has been explained above it may be held that;

- i. The jail break was not the result of internal disturbances but was a result of external aggression/raid of large number of armed militants who reached Bannu jail unhindered which responsibility lies with the Police who failed to prevent or counter them before & after their attack on Bannu jail.
- ii. It would be wrong to presume that there was no contingency plan for Bannu jail.
- iii. The contingency plan was prepared and submitted to the Inspector General of Prisons KPK vide Superintendent Central Prison Bannu letter No 2595 dated 19-7-2011 which has been placed as **(Annex I & J)** respectively.

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- iv. Pursuant to the order of Inspector General of Prisons KPK Peshawar, the additional demands/requirements, necessary for the jail security were also sent to the Inspector General of Prisons KPK vide letter No 2685 dated: 26-07-2011 Copy already shown placed as (Annex-J).
- v. There was a contingency plan for the internal jail security.

Hence in the light of foregoing submissions substantiated by relevant documentation, the charge levelled against me would carry no room for existence and is liable to be withdrawn being not applicable to me.

Charge No.4:

Due to such inefficiency/gross negligence in the performance of duties the militants took full advantage & succeeded in Bannu Jail break on the said night & resultantly 384 prisoners including high profile condemned prisoners Adnan Rasheed were got released besides other damages.

In relation to this charge I have already explained everything in detail and need not to be repeated. However it may be added that the damages caused due to external aggression armed attack by hundreds of militants, in which they used shelling of rockets/RPGs and detonating high explosive. Hence it was but natural that the damages would have been resulted.

In the light of my above explanation in relation to this charge, the same may also kindly be withdrawn.

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Prayer:

- i. I have served in Prison Department for more than 30 years.
- ii. I carry spotless and clear service record and have always performed my duties honestly and efficiently as required under the rules and that is why that my service record is fair.
- iii. That all the charges levelled against me in the present charge sheet are baseless, and are not applicable to me in terms of my responsibilities & I have denied all of those on valid grounds.

It is therefore requested that all the baseless charges levelled against me may be withdrawn. I may be set at liberty with all back benefits.

In addition to the above I may also be given opportunity of personal hearing.

dc
10/02/2017
Muhammad Zahid
Deputy Superintendent
Incharge Sub Jail Dassu Kohistan



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Appendix I

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 24/14-7-2017-28480-85 I.W.E

Dated 27-11-2017 /.

MOST IMMEDIATE/REGISTERED

To

The Superintendents,

1. Central Prison Mardan, Bannu & D.I.Khan.
2. District Jail Timergara, Kohat & Lakki Marwat.

Subject:-

SERVICE APPEALS NO.587,484,585,486,487,488,489,490,491,492,493/2013 & 1261 MUHAMMAD ZAHID EX-DEPUTY SUPDT; JAIL, AMINULLAH, MIR LIAQ, MUHAMMAD SAQIB, RAQIB BAZ, SAVED KHAN, MUHAMMAD IBRAR, ABIDULLAH, ASIF ALI SHAH, HAFIZ MIR HASSAN SHAH, GUL MIR DALI EX-WARDER / SHOW CAUSE NOTICES.

Memo:

I am directed to forward herewith Show Cause Notices (in duplicate) for service upon the below noted officer/officials attached to your jail:-

1. Muhammad Zahid, Deputy Superintendent Jail attached to Distt; Jail Timergara.
2. Mr. Aminullah warder attached to CP Mardan.
3. Mr. Gul Mir Dali warder attached to CP Mardan.
4. Hafiz Mir Hussan Shah warder attached to CP Mardan.
5. Muhammad Ibrar No.1 warder attached to CP D.I.Khan.
6. Mr. Asif Ali Shah, warder attached to CP Bannu.
7. Mr. Saved Khan warder attached to CP Bannu.
8. Mr. Abidullah warder attached to CP Bannu.
9. Mr. Mir Liaq warder attached to CP Bannu.
10. Mr. Muhammad Saqib warder, attached to Distt; Jail Kohat.
11. Mr. Raqibaz warder, attached to Distt; Jail Lakki Marwat.

One copy of the same duly signed and dated by the accused officer/officials concerned may be returned to this office immediately as token of its receipt.

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

ENDST; NO. _____ /.

Copy of the above is forwarded to the Secretary to Government of Khyber Pakhtunkhwa Home & T.As Department Peshawar for information with reference to Home Department letter No. SO(P&R)HD/8-4/2017 dated 17-11-2017.



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

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SHOW CAUSE NOTICE

I, **Muhammad Azam Khan**, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, **Mr. Muhammad Zahid**, Deputy Superintendent (BS-17), Central Prison Bannu, as follows:

1. (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing by the Inquiry officer on 25.02.2017; 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;-

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

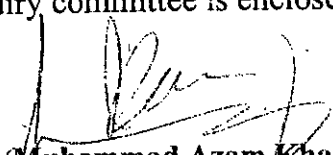
- (a) Inefficiency / misconduct.

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.


(Muhammad Azam Khan)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA.

30/4/17

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APR 15 2014 J

REPLY TO SHOW CAUSE NOTICE

BY

MUHAMMAD ZAHID

DEPUTY SUPERINTENDENT

CUM SUPERINTENDENT DISTRICT JAIL TEMARGARA

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To.

The Worthy Chief Secretary,

Khyber Pukhtoon Khwa, Peshawar.

Through: PROPER CHANNEL

Subject:- REPLY TO SHOW CAUSE NOTICE.

Sir.

I respectfully submit in summary the grounds leading to the subject show cause as under.

Personal position:

In personnel capacity as Deputy superintendent jail I was transferred from district jail Kohat to central prison Bannu in oct 2009 and in the same capacity served there up to 20/02/2012. On the said date Mr.Usman Ali Khan was transferred from C.P Bannu to Distract jail Timargara and as such I was assigned the additional charge of deputy superintendent cum-superintendent Bannu on 20-02-2012.

Militants attack:

After the passage of about 50 days of assumption of my charge, i-e on the night of April 14/15 2012, at about 01:15am, hundreds of Taliban/Miscreants armed with heavy modern weapons, Hand Grenades, RPG/rocket launchers and high explosive launched sudden and violent attack on Bannu jail. As a result of rocket shelling and detonating high explosive, they destroyed the outer pattock as well as both the gates of jail deudy/Main Gate. They paralyzed the front line/ outnumbered the jail guarding sentries & succeeded to enter into the jail swiftly. They broke open locks by firing, got freed about 381 prisoners and took them towards Ping hills in I'R area. In order to probe into the matter a five member committee was appointed by home department, to conduct fact finding inquiry into the matter and submit their report which the committee submitted.

On the basis of their facts finding inquiry report, I was directly served with a show cause notice, duly signed by competent authority, directing there in to furnish reply within seven days of its receipt. Accordingly, exhaustive reply to the show cause notice was submitted, but was not considered favorably & major penalty i-e dismissal from service was awarded to me. My departmental appeal was also not decided within statutory of 60 days hence, I challenged the impugned order in appeal before the services tribunal Khyber Pukhtoonkhwa Peshawar which was finally decided on 1-09-2015 Copy Annex "A" where in by set-asideing the impugned order

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of my dismissal, I was reinstated in service while back benefits were ordered to be the outcome of de novo departmental proceedings. Against the said order, the department filed civil petition before august Supreme Court of Pakistan which dismissed vide short order of the apex Court dated 17.12.2015 Copy Annex "B" and the judgment/order of services tribunal was maintained.

In the light of court orders, the competent authority i-e honorable Chief Secretary K.P.K was pleased to appoint Mr. Tasleem.Khan Deputy Commissioner Haripur as inquiry officer, with the mandate to conduct regular inquiry proceedings against me and other accused jail warders to whom charge sheet/statement of allegations were sent directly. I furnished my defense reply to the charge sheet and sent it to the inquiry officer with in the stipulated period of seven days and there after I was directed by Mr. Tasleem.Khan deputy commissioner Haripur (inquiry officer) to attend his office at 9:00am on 25-02-2017 for the purpose of further proceedings. On the date fixed, right from 9:00am to 11:30pm, I and 11 other accused warders were examined. On completion of inquiry proceedings **in his office at Haripur**, he subsequently submitted his report, findings and recommendations to the competent authority in the light of which the present show cause notice was issued and served upon me through inspector general of prisons K.P.K Peshawar vide his No:28480-85 dated 27-11-2017 Copy Annexed "C" with the direction to furnish my reply to the show cause notice as to why the proposed major penalty removal from service may not be imposed upon me for alleged negligence/misconduct on my part in the discharge of my official functions.

The charges of inefficiency/misconduct and the proposed major penalty have been distilled from defective and incomplete inquiry report of inquiry officer and I rebut the same on following grounds.

Grounds

- 1) The inquiry officer completed the inquiry proceedings within the **limits of his office at Haripur**, and did not bother to initiate proceedings at central prison Bannu where the incident of Taliban attack had taken place on the fateful night.
- 2) The inquiry officer examined all the accused warders in isolation (one by one). He subjected them to many questions and recorded their answers whichever he felt necessary & helpful for implicating me on whatever pretext e.g weather they were provided with vessels torches etc. I was not in knowledge about their replies, until the receipt of copy of inquiry report of inquiry officer with the present show cause notice.
- 3) The inquiry officer as per law/rules was required to have examined the accused warder in my presence and should have given me opportunity of cross examining them in relation to their such statements which were recorded of them and were used against me in the findings of the inquiry officer.
- 4) The inquiry officer neither consulted relevant record of Bannu jail nor recorded statement of any independent witness during the de novo departmental proceedings. He just made reliance on the statement of accused warders and on the basis of the

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same held me responsible for act of negligence which is against the principals, rules & law on the subject.

- 5) I have not committed the act of misconduct or any such act of omission in the discharge of my duties which may lead to imposition/award of any penalty to me.

In addition to the above, I respectfully reiterate that the charges leveled against me in the presence show cause notice are the jest of defective inquiry proceedings and finding recommendations of the afore said inquiry officer. In order to make the position more clear on the subject I would like to rebut the findings/recommendations of the inquiry officer in annotation as under.

S#	Findings of inquiry officer	Reply by M.Zahid (accused officer)
1.	Under the Pakistan Prisons Rules- 939,940, and 971 (special precautions for security) he was responsible to run the affairs of central prison, Bannu strictly in accordance with the laid down provisions but due to his incompetence, inefficiency and slackness shouldering the responsibilities to his subordinates instead of owing the same rather did exert control and check over subordinate staff.	<p>“Rule-939, 940” Strictly in accordance with the provisions of these rules, the prison was managed in all respects relating to the discipline, care, custody and control of all prisoners confined there in. In this regard no place of duty was left unguarded. With my utmost efforts I had deployed armed guarding jail warders on important security points, specifically trained & experienced watch & ward staff, as required under-the provision of Rule 1146(ii) of prison rules. None out of the 11 armed sentries posted on various pickets points were objected to be incompetent or unfit in any way. In addition they were equipped with AK-47 (Kalashnikovs) along with necessary ammunition. In addition necessary instructions on weekly roll calls would also be given to them, with a view to make them alert and conscious with regard to discharge of their duties.</p> <p>“Rule 971”</p> <p>In conform to this rule, all available means had been used & necessary measures for jail security adopted. Internal security arrangements were strengthened, so as to avoid any untoward situation.</p> <p>To cope with any external challenge (relating to Bannu jail) we were in dire need of FC/police to heighten the external jail security. In this regard when our request on the said account were not acceded to; by the higher authorities then the commissioner Bannu division was requested for provision one FC platoon through letter No:1184 date 30-05-2009 (copy Ann-D), but such request was not considered. Consequently we requested SP F.R.P Bannu through letter No: 3184 dated 12-09-2011 (copy Ann-E) to remove the shortage of F.R.P platoon already deployed on duty at</p>

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Bannu jail with further request to replace the slack FRP personnel by duty full and experienced one but his response was also nil. We did not lose courage and went to the doors of the office of DPO Bannu through letter No: 3769 dated 29-10-2011 (**Ann-F**), where in the position of Bannu jail external security was explained & request was made for provision of sufficient number of patrolling police guards to strengthen outer security of Bannu jail & avoid any untoward situation but all in vain.

When no help/assistance was provided by any of the above authorities we were constrained to seek and adopt other security steps necessary for Bannu jail security. In this regard there was no alternative except the one i-e to transfer condemned prisoner Adnan Rashid from C.P.Bannu to some safer jail. Consequently through letter No: 4139 we dt 13-12-2011. (**Copy Ann-G**), the I.G Prisons of prisons KPK, Peshawar was requested to obtain necessary sanction of the provincial government for transfer the said high profile condemn prisoner from Bannu jail to C.P.Peshawar, but such final request was also rejected through letter No: 860 dt 14-01-2012 (**copy Ann-II**).

As a matter of **internal security measures**, two senior warders as night watch were deployed on watch duty of all dangerous condemn prisoners including the high profile prisoner Adnan Rashid. Furthermore the strength of 22 condemn prisoners and 08 other dangerous prisoners would regularly be recorded in relevant register and other statements in this regard the statement showing names of dangerous prisoners were mentioned in relevant **Parcha** delivered to night duty officer and patrolling officer which copy is attached as (**Ann-I**).

Viewing all my aforesaid precautionary measures, deployment of trained and experienced guarding staff on important duty points under proper chain of command, there appears no room to make me responsible for any act of supposed inefficiency, slackness, accused of shouldering responsibilities to my subordinates. Hence on such score, the recommendation of inquiry officer can be termed as forceless and without valid grounds.

2. He did not take up case with the relevant authorities to take precautionary

It may be reiterated that all precautionary measures at the jail level with in the means/ available resources had been taken properly as per prison rules.

All precautionary measures pertaining to previous threat alerts

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measures to avert any threat alert which reflects that he was/is potential-less officer having no capability/vision to exercise control, vigilance and assigned responsibilities or forestall and threat.

3. He did not act upon the intelligence report conveyed to him by authorities, established no contact with police and civil administration, failed and preparing the contingency for jail, due to his negligent/inefficient act/performance the militants/terrorists succeeded in getting escape their wanted prisoners from the jail without any resistance.

had been taken which were considered necessary for the prison and its security. In this regard I have amply explained everything in the preceding paragraph. No specific lapses on my part have significantly referred to by the inquiry officer against me. Finding of the inquiry officer as mentioned at serial No:2 (parallely carries no base or footings to stand upon).

The intelligence report (presumed to have been conveyed to me) was never received by me, on the basis of which I could again have taken the matter with the police or civil administration or further steps to be taken in the light of that un-sent intelligence information. Regarding non receipt of the said intelligence information from D.C.O Bannu, my present denial regarding receipt of the said intelligence information is not anew, rather, on the said account I had also informed the five member committee appointed by provincial government for conducting facts findings inquiry into the incident of militants attack on Bannu jail and all other authorities in my replies to show cause notice and in the process of appeal etc from time to time.

During the course of de novo inquiry proceedings, (held and conducted by Mr. Tasleem. Khan Deputy commissioner Haripur, on 25-02-2016). in response to my request, held that the main charge circulating around me was the said intelligence information from D.C.O Bannu conveyed to jail which was not acted upon by me. On the spot I responded him that the said intelligence information was never sent to Bannu jail or received by me. In that regard I had informed the five members facts findings inquiry committee on their visit to Bannu jail on 16/17 April 2012 and other authorities during subsequent proceedings at all levels from time to time. Despite my request, the said intelligence information presumed to have been sent to me/Bannu jail was not even shown to me by the inquiry officer (Mr. Tasleem. Khan) during the regular inquiry proceedings. That is why, I wrote and submitted written supplementary statement to him which is **Ann-J**, requesting therein to afford me opportunity concerning facts related to the said intelligence information. On my such written request, the inquiry officer asked Mr. Abdur-Raziq assistant supdt jail (rep:of Bannu jail Supdt) to ascertain facts on the subject. The said officer

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replied to him that such information concerning militants attack was never received or conveyed to Bannu jail authorities by D.C.O Bannu. The inquiry officer further asked the supdt C.P.Bannu, to furnish certificate concerning receipt or otherwise regarding the said intelligence information. Accordingly after verification, a certificate regarding non receipt of the subject information was furnished to the I.O by the Supdt Jail Bannu. At the time when the inquiry proceedings in the office D.C Haripur/I.O were in progress. However in this regard the inquiry officer did not discuss anything in his inquiry report regarding the fate of said disputed letter as to whether or not same was sent by the D.C.O Bannu or its receipt by the Bannu jail authorities. Non making such facts as part of the inquiry proceedings by the inquiry officer creates doubts about his role in the disposal of the inquiry proceedings in fair and judicious manner. It was sensed that something was going to be done by him quite predetermined and was belt upon implicating me for no fault.

Leaving the above proceedings untouched, the inquiry officer randomly held me responsible for the receipt of such information and of taking no precautionary measures in the light thereof which resulted into militants attack on Bannu jail.

All presumptions of the inquiry officer, based on baseless grounds and dragging me from accusation to the proposed major penalty is injudicious and unfounded.

4. He even did not arrange necessary equipment for jail required to cope with the any eventuality/emergency situation.

This presumption is also totally wrong and negation of facts contained in following letters addressed to I.G.Prisons.

1. **Annex-K** is Letter //2827 dated 13-11-2009 along with enclosed format representing security related needs and requirements of Bannu jail all consisting of 4 page sheets addressed to I.G Prisons. In order to cope with any eventuality/emergency situation, following requirements were placed before the office of I.G Prisons
 - a) Construction of 4 watch towers on outer jail boundary wall along with additional 14 guarding staff to be recruited.
 - b) Modern security needed equipments i-e metal and detectors, 03. bullet proof jackets, 04. walky talky set=15, walk through gate, 01. high power electricity generator=01.
 - c) Provision of sophisticated arms and ammunitions i-e Ak47= 50 (with 5,000 ammunitions), and LMG=04 (with

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2,000) ammunitions and rounds and to fill the shortage of staff.

2. Letter #3274 dated 22-09-2011 **Ann-L** for the provision of generator - 02 Nos of different capacities with cost estimate incurring on its purchase.
3. Letter #2595 dated 09-7-2011 **Ann-M** under which all requirements of the aforesaid nature and some additional were sent to I.G.Prisons to meet the requirements of Bannu jail.

In view of the above substantial facts on record, it can rightly be inferred that findings of the inquiry officer, as contained under para No-4 of his recommendations, is totally incorrect, baseless, supposititious, not relevant to facts on record and misleading towards any proposed penalty against me.

5. All the accused warders admitted that they were not provided with torches, whistles and bulletproof jackets. Being head of the jail he even did not bother to take up a case with high ups. The warders in their statement disclosed that FRP personnel were not present on duty on fate full night, at the most would remain absent, being in charge he never bothered to inform the authorities concerned, despite high security risks. In this regard statement of Aminullah, outer round officer and

i) **Equipments:** In this regard findings of the inquiry officer are totally incorrect. All requirements of the equipments, necessary from security point of view had been sent to the I.G.Prisons KPK in various letters as explained in detail in the preceding paragraph, against finding No:4 which is worth perusal.

ii) **Non Presence of FRP on duty.** Without examining independent whiteness at Bannu jail, the inquiry officer laid blind reliance on statement of accused warders, particularly that of accused warder Hafiz Mir Hussain shah front sentry. As a matter of fact the F.R.P duty guarding staff was deployed mostly on north west of jail parameter wall other than front side. That is why the deployed F.R.P personnel's at the back and sides of the parameter wall were out of sight of the said front sentry.

It may further be added that the five members fact finding inquiry committee, who, after militants armed attack, inspected the spot on 16/17-04-2012, and recorded statement of various witnesses, confirmed in their inquiry report that the F.R.P personnel's were deployed at the back and sides of the jail parameter wall, while front side of the main gate was guarded by jail watch and ward staff.

The F.R.P guarding staff was present on their respective places of duty at the back and sides of the jail parameter wall. Although their strength was shortened by concerned S.P (F R P) and the

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Hafiz Mir Hussain shah front sentry are very much relevant meaning there by that Mr.M.Zahid had never undertaken any surprise visit to check the security situation/deployment of forces at nights. The statement of Mr.Aminullah outer round officer that while performing his duties he never saw night officer Mr.Jalat .Khan this was corroboratively confirmed by Hafiz Mir Hussain shah. All this show that every official was performing duties to his own convenience whims and wishes, both the officials who were performing duties outside were without torches and whistles, which shows share negligence on the part of officials head warden in charge armory as well as superintendent who never bothered to arrange lights for warders as envisaged in rules 717(iv) and rules 1145(g)(k)(c). Mr.

withdrawn personnel were deployed elsewhere in the district other than Bannu jail, to which effect the S.P (F.R.P) as well as D.P.O Bannu vide letters already placed as **(Ann-E and F respectively)** had been informed with repeated requests to fill the shortage but all in vain.

In all walks in relation to prison administration I had deployed experienced, senior and trained guarding staff under proper chain of command and I had carried out surprised rounds of the jail after appropriate intervals under the prison rules at uncertain times. The inquiry officer has brought the charge on such account without consulting relevant jail record or recorded independent witnesses on that account e-g night report book, register number 16 maintained in jail main gate and service books of those negligent warder who were awarded different types of punishments on the basis of my reports on my surprise rounds of the jail. This part of finding of the inquiry officer is baseless and no record pertaining to the same has been consulted by him nor had asked me to produce the same in defense.

Regarding statement of accused warder Mr.Aminullah (outer round officer). I may again hold that the said official was neither examined in my presence nor I was afforded any opportunity to cross examine him in relation to his statement.

In view of the above substantial facts, once again I may rightly hold that findings of the inquiry officer, as set forth parallelly, are not relevant to facts and record, rather misleading.

Rule 717(iv) of prisons rule strictly in accordance with the provisions of this rule, all parts of jail where prisoners of all kinds and classes were confined, adequate lighting arrangements through led lights were available and the patrolling staff inside the jail were also equipped with their own torches as usual. Likewise led light arrangements inside the main gate picket had also been made. Regarding special measure during the course of power load shedding at night, the requirements for the provision two generators of different capacities along with cost estimate had already been sent to I.G.Prisons K.P.K Peshawar which has been placed with my this reply in the form as **Ann-L** which is worth perusal.

Duties of Head-Warder in-charge of armory

Rule-1145 Clause (c, g and k)----- Relevant clauses of this rule provide as under.

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Gul Mir Dali who was assigned the duties of compound sentry was also without torch and whistle.

(c) Inspect daily all arms, accoutrements and see that they are kept clean & fit for immediate use.

(g) See that torches & the like required for use at night in case of alarm are always kept ready and in serviceable condition; and

(h) Report to the Superintendent daily on his arrival that arms and ammunition are in good order & fit for use and any other matter of importance that has come to his knowledge.

The above sub clauses of quoted rule No-1145 describe duties/responsibilities of head warder incharge armory and does not speak anything about responsibilities of a superintendent jail in circumstances when all the arms ammunition etc were neat and clean, in good order and fit for use as required under the rule and when nothing to the adverse was observed by incharge armory.

The inquiry officer has given wrong reference of above quoted rule in relation to my responsibilities, which is misleading, not purposeful, and leading towards confusion and carries no force for consideration/using the said rule against me.

The need for construction of an additional watch tower over main gate and four other on boundary wall of Bannu jail was not only timely felt but cost estimate on the said account was also prepared and sent to I.G.Prisons from time to time. In this regard relevant letters addressed to I.G.Prisons have already been placed as **Ann-K** where in the following requirements were intimated.

- 1) 1x4 towers on four sides of outer Bannu jail boundary wall.
- 2) 1x1 tower over main gate of Bannu jail.
- 3) Provision of additional Watch and ward guarding staff for posting them on such five towers.

In order to avert any untoward situation and to meet a security related needs the above requirements along with cost estimate would surely reflect the sense of responsibility and foresightedness from all angles on my part.

Communication mechanism.

As regard findings and observations of the inquiry officer concerning insufficient communication mechanism, these findings are mere repetition of what he has pointed out earlier and replied to, by me. It may be repeated that for improving communication amongst jail duty staff as well as other security personnel the

6. Most importantly, no official watch tower/picket was available on the main gate to view/observe any untoward situation, moment or vehicles, flow of traffic towards main gate but being a senior officer, Mr.M.Zahid did not bother to have installed sand bags picket over main gate and properly manned could have been proved more effective as mentioned in Rules-F. There was no proper mechanism of communication available between

tower warders, out round officer, main gate warders, front sentry, compound sentry etc.

7. The lack of communication made an easy access of terrorists to jail who got escaped 381 prisoners including high profiles besides damages to jail. Despite the facts that high profile terrorists lodged in the jail and he was fully aware of the security situation elsewhere in the country and in the surrounding area, he did not bother to have made request to any forum i.e DPO, DCO, Commissioner, IG Prisons for help equipments main power etc. right from his assumption of charge till incident.

8. Regarding situation of duties of warder guard rule-1135 provides that the general duties of watch and ward, the posting and duties

requirements of 15 walky talky sets and wireless sets had already been conveyed to I.G.Prisons vide letter already placed as *Ann-K*. The provision of which was awaited.

The communication facilities were not made available to the full, despite the fact that request for provision of the facilities had been made/taken up with the competent authority. It would be wrong to hold as if owing to deficiency at the level of communication the incident resulted. On the fate full night, hundreds of armed militants being equipped with modern heavy weapons (quit un hindered at any level) reached to the outer jail gate and launched sudden and violent attack on the Bannu jail. After paralyzing the front line and blasting both the outer-as well as inner gate of jail *dewry* in a quick succession and reached their target/forced large number of prisoners to flee.

As regard measures for enhancing external jail security the district administration as well as provincial government through IG prisons had already been requested through various letters but the intended FC platoon was not provided, rather regretted in black and white, likewise the request for transferring high profile prisoner Adnan Rashid was also rejected by the I.G.Prisons Peshawar vide No 860 dated 14-01-2012 which copy is already *Ann-B*. When once all such requests were rejected concerning deployment of F.C. platoon and transfer of Adnan Rashid from Banna jail to C.P.Peshawar in January 2012. In the absence of any fresh grounds it was not advisable to retake the cases with higher authorities for re-consideration during the period of my 50 days stint as deputy supdt cum supdt jail Bannu. Had I received any fresh intelligence information from D.C.O Bannu during my stint of 50 days(or in Jan-2012). I would have been in a position to retake the said matters with all the stake holders and higher authorities for help. necessary for enhancing outer security including seeking sanctions to the transfer of high profile prisoner Adnan Rashid from C.P.Bannu to C.P.Peshawar/Haripur.

The contents under this seriatim#8 as recorded parallely, are actually the provisions of rule-1135 of F.p.k prisons rules and not personal findings of the inquiry officer in the inquiry proceedings. The inquiry officer was required to have referred to any act of inefficiency/negligence on my part if committed by me in the discharge of my duties/responsibilities. The deployment of duty

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of guards and sentries, the fixing of their periods of duty and their strength, and all matter relating to the protection of prisoners and the prison and the duties of warders and like, shall be regulated by the superintendent in accordance with the order of inspector general. In emergent cases or matters about which no provision has been made in any such order, the superintendent shall use his own discretion.

9. Rule-971 provides that the superintendent shall use his discretion in ordering such special precautions as may be necessary for the security of any important or dangerous prisoners, whether he has received any warning from the Magistrate or not. As the superintendent is the sole judge of the measures necessary for the safe custody of the

watch and ward staff on various points was made strictly under the provision of relevant rules. Nothing has been found or pointed out by the inquiry officer as contrary to the instant quoted or other related prison rule.

1) Rule-971 the quoted contents under this part are mere the laid down provisions of K.P.K prisons Rules No:971 and cannot be termed as recommendation in any way where is the inquiry officer has placed the contents of the said rule at serial#9 of his recommendation. Likewise: the inquiry officer has further quoted the provisions of:

Sub rule i & ii of Rule 1153 of Kpk Prison rules, but has not found any failure on my part if violatory either to the provision of any clause of the said Rule-1153 or even that of Rule-971 of KPK prisons rules.

It is strange to point out that when the inquiry officer failed to find any lapses on my part in terms of my responsibilities, in relation to the above rules, he slided to another subject i-e *"M.Zahid admitted that six FRP personnel duly armed would remain deployed outside the wall of jail but this mechanism was not in place on fate full night as disclosed in statement of Aminullah outer round officer and Hafiz Mir Hussain Shah front sentry."*

I confirm my statement concerning presence of FRP guarding staff on sides and back of Bannu jail parameter wall. Report of

prisoner, he shall be responsible for seeing that the precautions taken are reasonable, sufficient for purpose. Rule-1153 deals with the main gate picket which provides that (i) Three warders and one senior warder shall form the main gate picket. They should be especially selected and as far as possible be ex-soldiers. Their duties shall be changed after every four hours (ii) a check post shall be established at a reasonable distance from the main gate to check the motor vehicle and other traffic before they are allowed to approach the main gate of the jail. In his statement Mr.M.Zahid admitted that 6 FRP Personnel duly armed would remain deployed outside the wall of jail but his mechanism was not in place on late full night as disclosed in statement of Aminullah, and outer round officer,

five members facts findings inquiry committee in this regard and witnesses examined by the committee on the following day of the incident also support my statement. As a matter of fact warder Hafiz Mir Hussain Shah was posted as front sentry near jail main gate where as the deployed FRP personnel were at the back and sides of jail parameter wall hundreds of meters away and out of sight of the front sentry.

The pickets of F.R.P duty guard cannot be sighted by sentry main gate and hence it may rightly be held that the inquiry officer placed blind reliance on the statement of the said front sentry. On such score this part of findings of the inquiry officer may also be termed as baseless and misleading.

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and hafiz mir
Hussain shah. front
sentry.

10 The charges leveled against the accused officer Mr.M.Zahid the then Deputy superintendent cum-superintendent C.P Bannu presently serving as Superintendent sub jail Kohistan have been proved beyond in shadow of doubt. He there for, deserves imposition of major penalty under government of Khyber Pukhtoon Khwa (efficiency and discipline Rules-2011).

1) None of the charges as were mentioned in charge sheet have been proved by the inquiry officer against me at any level.
2) All findings of the inquiry officer are based on presumptions and unreliable statements of certain accused warders and not substantiated in support of cross examination or other valid documentary proof.
3) No charge against me has been proved by the said inquiry officer In terms of my responsibilities in relation to various rules quoted by him. Even the quoted prisons rules (at serial No:08 & 09) have also been numbered as his findings without deriving any conclusion about failure on my part if found violatory to the said rules
In addition many things have been mentioned in repetition with a view to exaggerate the bulk of his findings, and under the shadow of confusion tried to drive/lead it towards recommendations for imposition of predetermined major penalty against me.
In the light of my above explanations and other facts on record, it may be inferred that findings of the inquiry officer are baseless/groundless.

Distillation

- 1) The charges of inefficiency/misconduct leveled against me in the present show cause notice is distilled from the defective inquiry proceedings, findings and recommendations of the inquiry officer, which were carried out by him randomly/based on presumptions, without proper recourse to the facts on record as well as my earlier reply to the charge sheet and statement recorded on the day of proceedings.


Prayer

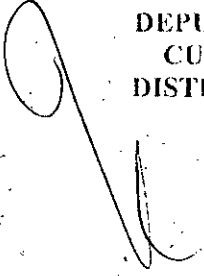
- 1) I have 32 years of service in prison department at my credit.
- 2) I carry spotless and clear service record and I have always performed my duties honestly and efficiently as required under the rules and that is why my service record is fair.
- 3) That due consideration may please be given to my present counter submissions to the random findings of the inquiry officer given by me in annotation as above.

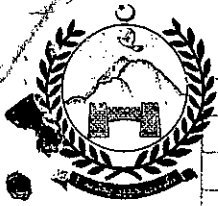
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It is therefore humbly prayed that the charges of misconduct and inefficiency leveled against me in the present show cause notice are baseless which may please be withdrawn along with grant of all back benefits of service.

In addition to the above, I may also be given chance of personal hearing.


MUHAMMAD ZAHID
(ACCUSED OFFICER)


DEPUTY SUPERINTENDENT
CUM-SUPERINTENDENT
DISTRICT JAIL TIMERGARA



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Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

14
ORDER

No. SO(P&R)/HD/8-4/Bannu Jail Break/2018/Vol-I: WHEREAS, Muhammad Zahid Deputy Superintendent Jail (BPS-17) of the Prisons Department, Khyber Pakhtunkhwa, was proceeded against under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet served upon him.

AND WHEREAS, the competent authority i.e the Chief Secretary, Khyber Pakhtunkhwa appointed Mr. Tasleem Khan (PMS-BS18) Deputy Commissioner Haripur vide order No.SO (Com/Enq)/HD/1-40/2012 dated 23.01.2017 for conducting denovo formal proceedings against the above named accused.

AND WHEREAS, the inquiry officer furnished his findings according to which the charges leveled against the above named accused officer stand proved.

AND WHEREAS, the competent authority granted opportunity of personal hearing to the accused under the rules.

NOW THEREFORE, the competent authority (the Chief Secretary, Khyber Pakhtunkhwa) after having considered the charges, evidence on record, the explanation of the accused officer, findings of the inquiry officer exercising his powers under rule-3 read with Rule-14 (5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to award major penalty of "**Reduction to a lower stage in a time scale for a maximum period of three (03) years**" to the above named accused officer.

The Competent Authority has further been pleased to order that the intervening period i.e from the date of dismissal from service on the basis of an earlier enquiry to the date of reinstatement in service (from 10-12-2012 to 20-01-2016) in respect of the officer is hereby treated as extra ordinary leave (leave without pay).

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal affairs Department

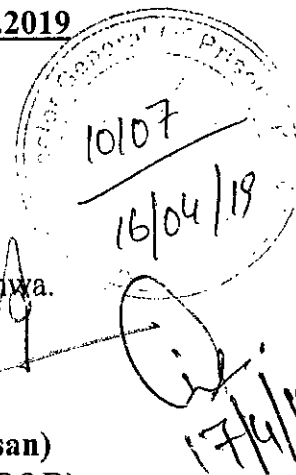
Endst No. SO(P&R)/HD/8-4/Bannu Jail Break/2018/Vol-I:

Dated 11.04.2019

C.c: -

1. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar
3. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. PS to Secretary Establishment, Khyber Pakhtunkhwa Peshawar.
5. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.
6. District Account Officer concerned.
7. Officer concerned.

(Maqsood Hassan)
Section Officer (P&R)





LG	
A.G.	
D.D.	
A.D.	

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Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

19

ORDER

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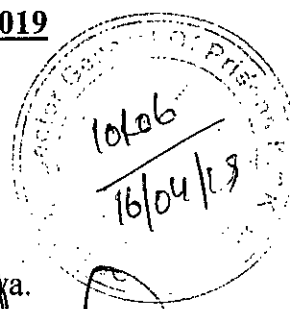
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Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal affairs Department

Endst No. SO(P&R)/HD/8-4/Bannu Jail Break/2018/Vol-I: Dated 11.04.2019

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2. Accountant General, Khyber Pakhtunkhwa, Peshawar
3. PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
4. PS to Secretary Establishment, Khyber Pakhtunkhwa Peshawar.
5. PS to Secretary, Home and Tribal Affairs Department, Khyber Pakhtunkhwa.
6. District Account Officer concerned.
7. Officer concerned.



(Maqsood Hassan)
Section Officer (P&R)
17/04/19

بخدمت جناب عزت مآب وزیر اعلیٰ صاحب خیبر پختونخواہ، پشاور

عنوان:- نظر ثانی اپیل برخلاف فیصلہ مصدرہ 11.04.2019

(موصولہ 17.04.2019) جسکی رو سے سائل پٹیشنر کی میجر پینلٹی یعنی ایک سال

تنزیلی برائے 03 سال دے گئی نیز دوران برخاستگی تنخواہ و دیگر فوائد سے بھی محروم

رکھا گیا۔

پس منظر:- پٹیشنر ہذا کا پس منظر بیان کرتے ہوئے معروض ہوں کہ سائل سنٹرل جیل بنوں میں سال 2005 سے بطور ڈپٹی سپرنٹنڈنٹ جیل تعینات تھا۔ بعد میں مورخہ 25.02.2012 کو جیل سپرنٹنڈنٹ کا تبادلہ کسی دیگر جیل کو ہوا اور یوں سائل پٹیشنر کو اضافی چارج بطور قائم مقام سپرنٹنڈنٹ جیل دیا گیا۔

کوئی ڈیڑھ مہینے بعد باہر سے سینکڑوں طالبان عسکریت پسندوں نے مورخہ 04-15-2012 کی درمیانی شب (بدوران لوڈ شیڈنگ) جیل پر حملہ آور ہوئے۔ اس حملے میں انہوں نے جدید ہتھیاروں / آتشیں اسلحہ، راکٹ لانچر سے شلینگ کی، بم بلاسٹ کئے۔ فائرنگ کا تبادلہ ہوا لیکن عسکریت پسند جیل کے فرنٹ لائن بشمول (بیرون گیٹ اور ڈیوڈھی گیٹ) جیل کے دونوں گیٹوں کو اڑانے کے بعد تیزی سے جیل میں اندر داخل ہوئے۔ جس پر ہم نے بروقت ضلعی انتظامیہ / پولیس سے مدد کے لئے رابطے کئے۔ پولیس فوج اور دیگر فورسز ہماری کال پر آئے۔ جیل سے کچھ فاصلے پر کیمپ ہوئے۔ بار بار کال کرنے کے باوجود کوئی ہماری مدد کے لئے پیش قدمی نہ کر سکا اور بالآخر بیرونی قوت اپنے مقاصد میں کامیاب ہو کر دو (02) گھنٹے کاروائی کے بعد واپس ہوئے، جیل کو نقصان پہنچایا۔ اور دھشت گرد عدنان رشید سمیت دیگر حوالا تیاں قیدیوں کو بطور ڈھال اپنے ساتھ لے گئے۔

مذکورہ واقعہ سے متعلق حقائق جاننے اور ذمہ داری کے لئے صوبائی حکومت نے ایک ہائی لیول پانچ رکنی کمیٹی تشکیل دی اور ہدایات دی کہ جلد از جلد اس معاملے میں وہ اپنی انکو انڈری رپورٹ پیش کریں۔ لہذا تشکیل شدہ کمیٹی نے مطلوبہ رپورٹ تیار کر کے صوبائی حکومت کو پیش کی۔ جس میں انہوں نے حملے میں کی نوعیت نقصانات، ذمہ داران سے متعلق اپنی رپورٹ پیش کی۔ مذکورہ رپورٹ میں کمیٹی نے ذمہ داری کا تعین کرتے ہوئے اور ایکٹ جیل خانہ کی رو سے جیل رول نمبر 610 کا مکمل متن و تشریح پیش کی اور واضح طور پر لکھا کہ جیل اندر سے نہیں توڑا گیا تھا۔ بلکہ جیل پر بیرونی قوت / سینکڑوں عسکریت پسندوں نے باہر سے حملہ کیا تھا اور مذکورہ جیل رول نمبر 610 کے مطابق پولیس / قانون نافذ کرنے والوں کی ذمہ داری بنتی تھی کہ وہ جیل سکیورٹی سے متعلق ضروری اقدام کرتے جس میں پولیس / قانون نافذ کرنے والے ادارے مکمل ناکام رہے۔ اس انکو انڈری رپورٹ کی روشنی میں پولیس، ضلعی

انتظامیہ و دیگر اداروں اور جیل عملے کے خلاف کاروائی ہوگئی، تاہم حکمانہ کاروائی میں بالآخر تمام پولیس ذمہ دارن، ضلعی انتظامیہ بشمول کمشنر بنوں ڈویژن نہ صرف بری ہوئے بلکہ انھیں ترقیاں بھی دی گئی۔ جبکہ سائل و دیگر چند جیل سپاہیوں کو Fact Finding انکوائری کی بنیاد پر ڈائریکٹ شوکاز دیا گیا اور نوکری سے برخاست کیا گیا۔ سروسز ٹریبونل میں اپیل کرنے پر سائل کو ڈسمسل آرڈر کو ختم کر کے بحال کیا گیا تاہم اس میں ازسرنو ریگولر انکوائری کا حکم صادر فرمایا گیا۔ نقل فیصلہ سروسز عدالت مصدرہ 01.09.2015 مشمولہ 1 ہے۔ جبکہ عدالت عظمیٰ سپریم کورٹ کا فیصلہ مشمولہ 2 ہے۔

یہ کہ عدالتی فیصلہ کی روشنی میں ریگولر انکوائری لی گئی جس میں سائل پبلسٹر کو چارج شیٹ اس چارج شیٹ کا مفصل جواب سائل نے انکوائری آفسر کو دیا۔ انکوائری آفسر نے کسی جرم کو ثابت کئے بغیر سائل پبلسٹر کے خلاف Major Penalty کی سفارش متعلقہ حکام کو پیش کی جس کی روشنی میں سائل کو آخری شوکاز نوٹس دیا گیا اور ساتھ ہی انکوائری آفسر کی انکوائری کی کاپی بھی لف کی۔ یہ کہ مجاز اتھارٹی کو بہتر طریقے سے پوزیشن واضح کرنے کے لئے سائل نے Annotated From میں جواب پیش کیا۔ اس ضمن میں چارج شیٹ اور شوکاز نوٹس کا جواب علی ترتیب شامل بطور مشمولہ 3، 4 ہیں۔ جو پبلسٹر ہذا کا لازمی جز کے طور پر ہمراہ لف کئے جاتے ہیں۔

یہ کہ سائل پر کوئی الزام ثابت کئے بغیر ویسے ہی بڑی ہذا یعنی major penalty of reduction to lower stage for maximum for the period of 03 years دی گئی نیز عبوری عرصہ دوران نوکری سے برحالیگی کے فوائد سے محروم رکھا۔ اس سزا سے متعلق ہوم ڈیپارٹمنٹ کی آرڈر کاپی بطور مشمولہ نمبر 5 لف ہے۔

حقائق :-

1- یہ کہ بحیثیت ڈپٹی سپرنٹنڈنٹ و بعد ازاں قائم مقام سپرنٹنڈنٹ جیل سائل نے صرف اندرونی جیل سیکورٹی و انتظامات بمطابق رولز جیل خانہ جات نہ صرف جیل کے اندرونی ذمہ داریوں اور اندرونی جیل سیکورٹی منظم طریقے سے انجام دیا بلکہ بیرونی جیل سیکورٹی کے لئے بھی تمام سٹیک ہولڈرز یعنی SP ایف آر پی، ڈی پی آونوں، کشمیر بنوں ڈویژن بنوں اور صوبائی حکومت کو بذریعہ آئی جیل خانہ کو بار بار اضافی سیکورٹی اہلکاران کی تعیناتی کے لئے آگاہ کیا۔ اس ضمن لیٹر نمبر 6 تا 9 منسلک کیئے جاتے ہیں۔ تاہم جیل کی طرف سے کسی بھی لیٹر پر خاطر خواہ غور نہیں کیا گیا۔ جب کسی بھی فورم سے مدونہ ملی تو خطرناک دہشت گرد عدنان رشید قیدی سزائے موت کو صوبے کے کسی محفوظ جیل میں منتقل کرنے کے لئے لیٹر نمبر 4139/we DATED 13.12.2011 منسلک

"10" صوبائی حکومت کو بذریعہ آئی جیل خانہ جات بھیجا گیا تھا۔ اور کوئی کسر نہیں چھوڑا گیا تھا لیکن کوئی شنوائی نہ ہوئی اور باآخروہی ہوا جس کا ڈر تھا۔

2- یہ کہ چارج شیٹ میں لگائے تمام الزامات میں سے کوئی بھی الزام ثابت کئے بغیر سائل پیشتر کو میجر پنیلٹی دی گئی جو صریحاً ظلم و ناانصافی کے زمرے میں آتی ہے۔

3- یہ کہ ہائی لیول تشکیل شدہ پانچ رکنی کمیٹی کی رپورٹ کی روشنی میں اصل ذمہ دارن یعنی پولیس، ضلعی انتظامیہ، کمشنر بنوں ڈویژن بنوں دیگر اعلیٰ حکام اور قانون نافذ کرنے والے اداروں کے ذمہ دارن کو نہ صرف جھمانہ کاروائی میں بریت دی بلکہ انھیں ترقیاں بھی دی گئی جبکہ سائل پیشتر سے بے گناہ ہونے کے باوجود ناانصافی کی گئی۔

4- یہ کہ سائل پیشتر کو امتیازی سلوک کا نشانہ بنایا گیا۔

5- یہ کہ سنٹرل جیل بنوں پر عسکریت پسندوں کی یلغار کے ایک سال بعد بالکل اسی طرح کا حملہ سنٹرل جیل ڈیرہ اسماعیل پور ہوا جس میں جملہ جیل عملہ بشمول سپرنٹنڈنٹ جیل بری کیا گیا۔

6- یہ کہ سائل از خود نوکری سے غیر حاضر نہیں ہوا تھا۔ بلکہ غلط طور پر درخواست کر کے عدالتوں کے چکر میں ڈالا گیا۔ جس دوران سائل نے کسی طور پر دوسری نوکری نہیں کی بلکہ اپنے کیس کا دفاع کرتا رہا۔

استدعائے اپیل:-

بذریعہ پیشتر ہذا ملتس ہوں کہ سائل کی پیشتر منظور فرماتے ہوئے سائل کو بری فرمایا جائے اور ساتھ ہی جملہ سروس فوائد بدوران سروس سے برخواستگی دینے کا حکم صادر فرمایا جائے۔

سائل کا عمر دعاً گور ہے گا۔

مورخہ: 14.05.2019

سائل پیشتر محمد زاہد ڈیپٹی سپرنٹنڈنٹ جیل حال سنٹرل جیل بنوں۔

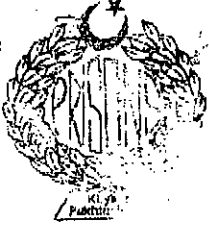
s/p 91

76

Approved: M

FROM : INSPECTOR GENERAL OF PRISON KP F... 091-9213441

30 Sep. 2019 12:27PM P1



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

☎ 091-9210334, 9210408 ☎ 091-9213445

No. 9/2-5-1986 29258 16VE

Dated 30-9-2019

Handwritten signature

The Superintendent,
Central Prison Bannu.

Subject:- REVIEW PETITION IN RESPECT OF MUHAMMAD ZAHID DEPUTY
SUPERINTENDENT JAIL.

Man:

I am directed to refer to this office endst; No.16845 dated 1-23-05-2018 subject
forward herewith ^{signed} copy of order No.SO(P&R)/HD/8-4/2018 dated 17-06-18 received
from Government of Khyber Pakhtunkhwa Home & T.As Department, on the
subject(self c. history) for information of the officer concerned.

Handwritten signature
ASSISTANT DIRECTOR
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Mr. Zahid Ali/HC

Handwritten signature
30/9/2019



Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

SEEN

Dated Peshawar the 19th September, 2019

ORDER

No. SO(P&R)/HD/8-4/2018 WHEREAS, Mr. Muhammad Zahid, Deputy Superintendent Jail (BPS-17) of Khyber Pakhtunkhwa Prisons Department, was awarded the major penalty of "reduction to a lower stage in a time scale for a maximum period of three years" by the Competent Authority (the Chief Secretary, Khyber Pakhtunkhwa) vide this Department Order of even number dated 11th April, 2019.

AND WHEREAS, feeling aggrieved with the above decision the said Deputy Superintendent Jail preferred the review petition for setting-aside the penalty awarded to him which was considered by reviewing authority (the Chief Minister, Khyber Pakhtunkhwa) in light of the record of the case and it was observed that legal / procedural formalities as required under E&D Rules, 2011 had been observed and the charges had been fully proved against him.

NOW THEREFORE, keeping in view the facts on record, the provision of orders in vogue and in exercise of power conferred under Rule-17 (2) (a) of Khyber Pakhtunkhwa Government Servants (E&D), the Reviewing Authority has rejected his review petition without any solid grounds.

Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department.

ENDST; NO & DATE EVEN.

Copy forwarded for information to the:-

1. Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.
4. PS to Special Secretary Home, Khyber Pakhtunkhwa Peshawar.
5. Appellate concerned.
6. Master file.

AD
PR convey it
to Mr. CP, BU.
at Peshawar



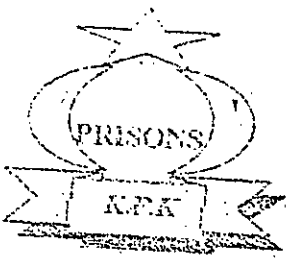
30-9

Handwritten notes and signatures

78

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 3769 / 1
DATED. 28/10/2011

Approved
N



TELE/FAX: 0925-633327

To,

The D.P.O.
Bannu.

By Fax
2

Subject- PROVISION OF SUFFICIENT NUMBER OF
PATROLLING STAFF FOR JAIL.

It is to apprise you that the present F.R.P Platoon deployed at
Jail are less in number and this Jail is in dire need for deployment of a
sufficient number of patrolling staff for outer beats as well as Jail boundary
for the reason that due to some reliable information/report of
intelligence agencies, the security of jail is in severe danger.

In view of above, it is requested that a sufficient number of
patrolling staff may be deputed at earliest convenience comprising of dutiful
senior staff for patrolling purpose on outer beats as well as Jail boundary
especially from evening to morning time to avert the chances of suicide,
etc. and other associated problems in the jail and also to ensure
security of jail to avoid any such untoward incident.

Matter Most Urgent.

28/10/2011

SUPERINTENDENT
CENTRAL PRISON BANNU

dca

Signature

79

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 3134 /
DATED. 12/09/2011



TELE/FAX: 0928-633327

To,
The Superintendent of Police,
F.R.P Bannu.

Subject:- SHORTAGE OF F.R.P PLATOON.

Memo:

It is to apprise you that the present F.R.P Platoon deployed at this Jail are less in number and there is shortage of F.R.P personnel due to which the security of Jail is in severe danger.

Moreover, as reported by F.R.P Platoon Commander detailed at this Jail, some of F.R.P staff leaves their duty beats at their own accord which is extremely undesirable as this Jail building is throughout under threat and bears the chances of escape, quarrel and other security related problems.

In view of above, it is requested that the shortage of F.R.P Platoon deployed at this Jail may be filled by deputing some dutiful and senior staff as well as the present staff may be replaced to ensure strict security of Jail and to avoid any untoward incident accordingly.

Handwritten signature

Received

*1/10/11
HC
12/9*

Handwritten signature
12/09/2011
SUPERINTENDENT
CENTRAL PRISON BANNU

80

211

MOST IMMEDIATE.

OFFICE OF THE
SUPERINTENDENT GENERAL PRISON, BAHAWALPUR.

NO. 6801 DATED 10/08/2010.

TO:-

The Deputy Director,
Works & Services Department Building Division,
Bahawalpur.

SUBJECT:-

REQUIREMENT OF GENERATOR.

Memo, It is submitted to inform you that Inspector General of Prisons, Khyber Pakhtoon Khwa Peshawar has ^{directed} for submission of rough cost estimate for the purchase of following items.

- 1. Generator small (For office use)
- 2. Generator large size. (For entire jail).

It is therefore requested that a competent/expert representative may be detailed to this office to work out as to what capacity of Generators with rough cost estimate would fulfill requirement of this office. Such information is urgently required for onward submission to Inspector General Khyber Pakhtoon Khwa Peshawar.

[Signature]
SUPERINTENDENT GENERAL PRISON, BAHAWALPUR.

O/C

REF: NO. 6802

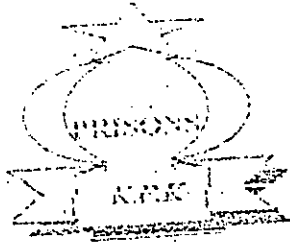
Copy of the above forwarded to the Inspector General of Prisons, Khyber Pakhtoon Khwa Peshawar for information with reference to his memo, NO. 16342-16363 dated 23.8.2010.

[Signature]
SUPERINTENDENT GENERAL PRISON, BAHAWALPUR.

O/C

81

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 234 /
DATED. 28/01/2012



TELE/FAX: 0928-633327

To:

The X.F.N
Works & Services Department Bannu.

Subject:

PROVISION OF GENERATOR.

Reference:

Reference this office letter No. 3980 dated 22-11-2011 on the subject.

It is therefore again requested that P.C.-cost estimate for the provision of Generator for this Jail may please be prepared and furnished to this office for onward submission to the competent authority for further necessary action as they are pressing hard for the same.

This may be treated as "MOST URGENT".

Received
236/234

Encl: No. 235 /

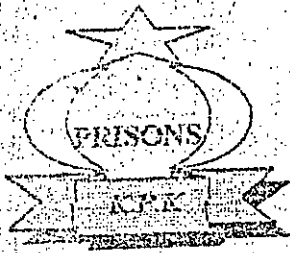
28/1/12
SUPERINTENDENT
CENTRAL PRISON BANNU

Copy forwarded to the Inspector General of Prisons Khyber Pakhtunkhwa Province Peshawar for information please.

No 236
date 22/1/12

7-D
File

28/1/12
SUPERINTENDENT
CENTRAL PRISON BANNU



TELE/FAX: 0928-633327

82
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 3980 /
DATED 22/11/2011

(E.M.)
26

To: The Deputy Director,
Works & Services Department Bannu.

Subject: PROVISION OF GENERATOR.

Memo: Reference the Inspector General of Prisons K.P.K. Province Peshawar letter reminder No. 22308-327 dated 11-11-2011 & No. 22743-758 dated 16-11-2011 on the subject.

It is therefore requested that cost estimate for the provision of Generator to this Jail may please be prepared and sent to this office for onward submission to the competent authority for further necessary action please.

Matter Most Urgent.

Enclst: No 3981 /

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

Copy forwarded to the Inspector General of Prisons, K.P.K. Province Peshawar for information w/r to his letter Nos. quoted above please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

Rangash S
22-11-11

7-D
File

83
OFFICE OF THE SUPERINTENDENT
CENTRAL PRISON BANNU K.P.K
NO 6883 / Dated: 21/9/2010

27

Tel/Fax : 0923-633327

To: The Inspector General of Prisons,
K.P.K Province, Peshawar.

Subject:- REQUIREMENT OF GENERATOR
Memo:

Reference your letter No. 17660-673 dated 15-9-2010 on the subject.

The Deputy Director Works & Services Department Bannu has already been consulted for the purpose and a copy thereof has been endorsed to your office vide this office Endst: No.6802 dated 08-9-2010.

The requisite cost estimate will be submitted as and when received from the concerned quarter please.

sclex
SUPERINTENDENT
CENTRAL PRISON BANNU

Endst: No. 6884 /

Copy forwarded to the Deputy Director Works & Services Department Bannu for information with reference to this office memo: No. 6801 dated 08-9-2010. It is requested that a representative of your department may be detailed at earliest to visit this Jail for the preparation of cost estimate for the purchase of Generator for this Jail as the high ups are pressing hard for the same.

21/9/10
SUPERINTENDENT
CENTRAL PRISON BANNU

SUPERINTENDENT
CENTRAL PRISON BANNU



89
98
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 3772
DATED. 29/10/2011

TELE/FAX: 0928-633327

To,
The Deputy Director,
Works & Services Department Bannu.

Subject:- PROVISION OF GENERATOR.

Memo:

Enclosed please find herewith a copy of the Inspector General of Prisons K.P.K Province Peshawar letter No. 20534-555 dated 20-10-2011 for information and perusal please.

It is therefore requested that PC-1/cost estimate for the provision of Generator for Central Prison Bannu may please be prepared and furnished to this office for onward submission to the competent authority for further necessary action.

Matter Most Urgent.

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

Encl No 3773 /

Copy forwarded to the Inspector General of Prisons, K.P.K Province Peshawar for information with reference to above please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

SUPERINTENDENT
CENTRAL PRISON BANNU

85
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 1555
DATED. 09/07/2009

TELE FAX: 0923933327

To:

The Chief Executive PESCO,
Peshawar

Subject:-

LONG TERM BREAK OUT/ELECTRICITY
FAILURE IN JAIL.

Memo:

The undersigned would like to draw your kind attention towards the problem of long-term electricity failure in this jail.

It is stated that now a days there is a break out of electricity for more than 12 hours daily which results in shortage of supply of drinking water to the inmates and likely to cause any mishap in the jail at night dark, which is extremely undesirable as this jail is situated in an isolated area and there is every possibility of suicide, escape, quarrel by the inmates and heat stroke inside the Jail which is extremely undesirable in the eye of law.

While contacting the concerned authorities for this problem they reply that the electricity supply lines have been disconnected /cut down and the supply of electricity will be restored in short span but it takes more than 20 hours and this has now become a daily problem.

In view of above, it is requested that the matter may please be resolved and the concerned authorities may kindly be directed to solve this problem on emergency basis to ensure regular supply of electricity to this jail to avoid any untoward incident.

12/3/09
SUPERINTENDENT
CENTRAL PRISON BANNU
ele

Encl: No. 1556-58

Copy forwarded to:-

- 1- The Director Regional Control Centre (Electricity) Islamabad
 - 2- The Deputy Manager (operations) PESCO Bannu
 - 3- The Inspector General of Prisons, NWFP Peshawar
- For information and necessary action please.

12/3/09
SUPERINTENDENT
CENTRAL PRISON BANNU
ele

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TELE: FAX : 0928633327

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 4868 /Dated 25/05/2009

To

The Director Load Shedding,
132KV Grid, Shahi Bagh Peshawar.

Subject:- EXEMPTION OF JAIL FROM LOAD SHEDDING.
Memo:

Reference telephonic conversation of the undersigned with your goodself on 25.05.2010 on the subject.

I would like to draw your kind attention towards a serious problem faced by the Jail authorities in connection of load shedding/power break down during the night time/at dark.

Now a days the hot season of summer has been started due to which power supply breaks down for load shedding purpose several times at day and even at night which causes danger to the security of jail as the jail building is of very sensitive nature and due to load shedding there is great chances of escape, suicide, quarrel and other associated problems/discomforts by the inmates of the jail which are extremely undesirable according to the Law. Moreover, this Jail is located in an isolated and dangerous area of Town ship opposite to the Power grid station but having inadequate facility of security.

In view of above tense situation in the area, it is requested that this Jail may please be exempted/avoided from the load shedding/power break down especially at night/dark during the whole season of summer to avoid any likely mishap and that the Jail security could be assured.

Encl: No 4868-72

ok

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

Copy forwarded to:-

- The Chief Executive PESCO Peshawar
 - The A.E.N./Incharge Grid station Pesco Bannu, opposite to Central Prison Bannu
 - The Manager (operations) PESCO Bannu
 - The Deputy Manager (operations) PESCO Bannu
- For information and necessary action please.

1027
25/5/2010

[Signature]
27/5/2009 27/5/09

ok

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

87

31

OFFICE OF THE SUPERINTENDENT
CENTRAL PRISON BANNU K.P.K.
NO 7008-7009 Dated: 06.1.2019

Tel/Fax: 0329 221227

To:

- 1- The Manager (operations) PESCO Bannu.
- 2- Deputy Manager (operations) PESCO Bannu.

Subject: EXEMPTION OF JAIL FROM LOAD SHEDDING.

Memor

In continuation to this office memo No 4588-89 dated 29-4-201 on the subject

in connection the undersigned would like to draw your kind attention towards a major problem faced by the jail authorities in connection of load shedding power break down during the day time & night dark

The winter season is being started due to which power supply breaks down for load shedding purpose several times of day and even at night which leads to the shortage of drinking water as well as endanger the security of jail for the reason that this jail building is of very sensitive nature and due to load shedding there is great chances of escape, suicide, quarrel and other associated problems/disorder by the inmates of the jail which are extremely undesirable according to the law. Moreover, this jail is located in an isolated and dangerous area of Tawa which is close to the Power grid station but having inadequate facility of security.

In view of above these situation in the area, it is requested that this jail may please be exempted from the load shedding power break down especially at night dark during the whole winter season to avoid any likely mishap so that the jail security could be assured.

Ref No-7010

N. H. Khan
o/c SUPERINTENDENT
CENTRAL PRISON BANNU

Copy forwarded to the X.E.N Incharge Grid station PESCO Bannu, Bannu for information and necessary action please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 9017 /
DATED. 08/06 /2011

TELE/FAX: 0928-633327

To.

The Director PEPCO,
Lahore.

Subject:- EXEMPTION OF THIS JAIL FROM LOAD SHEDDING.

Memo:

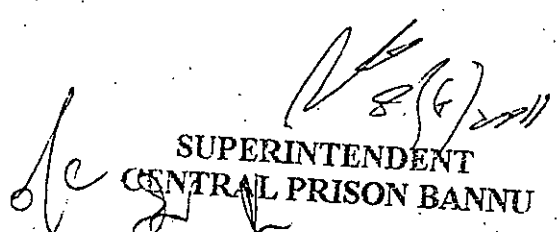
It is submitted that the hot summer season has been started in the country and especially there is a hot climate in the Bannu region due to which the load shedding in the locality has also been raised to extreme.

Due to such load shedding this Jail is facing great hurdles as there is maximum chances of escape, suicide, quarrel and other associated problems caused by non-availability of Electricity even in the day time but particularly ^{at} the night time.

Moreover, this Jail is located in an isolated area of township Bannu which is adjacent to the nearest tribal area, so there is a threat of security lapse and law and order situation amongst the prisoners, as the load shedding is observed in uncertain and undefined schedule.

In view of above, it is requested that this Jail may be exempted from load shedding in peak hours, particularly at night time so as to cope with the above mentioned threats.

Matter Most Urgent.


SUPERINTENDENT
CENTRAL PRISON BANNU

Ref. No. 2018-201

Copy forwarded to:-

The Director R.C.C Islamabad
The X.E.N 220 K.V Grid station Township Bannu
The Inspector General of Prisons K.P.K Province Peshawar
For information and necessary action please.


SUPERINTENDENT
CENTRAL PRISON BANNU

89
OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 13365

Dated 08-07-2011

To

The Chief Executive,
PESCO Peshawar.

Subject: EXEMPTION OF CENTRAL PRISON BANNU FROM LOAD SHEDDING.

Memo:

I am directed to enclose herewith a copy of Superintendent Central Prison Bannu memo: No.2017-20 dated 08.06.2011 with intimation that Central Prison Bannu is being subjected to unscheduled load shedding, which is a security risk for the Jail and also a cause of hardship for the prisoners confined therein.

It is therefore, requested to take steps for exemption of Central Prison Bannu from load shedding, special at night to avoid any untoward incident.

-sd-
(MASUD-UR-RAHMAN)
ASSISTANT INSPECTOR GENERAL
FOR I.G PRISONS
KHYBER PAKHTUNKHWAPESHAWAR

Encls: No. 13366-67/

Copy of the above is forwarded to the:

1. Executive Engineer, 220 KV Grid Station Township Bannu for information and necessary action with reference to Superintendent Central Prison Bannu memo; referred to above.

Superintendent Central Prison Bannu for information with reference to his memo; referred to above. He is advised to pursue the case with concerned authority and also make alternate arrangement for lighting purpose at night during the period of load shedding to avoid any untoward incident in the Jail.

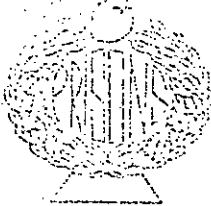
(MASUD-UR-RAHMAN)
ASSISTANT INSPECTOR GENERAL
FOR I.G PRISONS
KHYBER PAKHTUNKHWAPESHAWAR

HE
V/S/2011

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5: 11/11
" " " "



OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA
Tel: 9210334 Fax: 9213445

No. 15219
Date 30-07-2011

To

The Chief Executive,
PESCO, Peshawar.

Subject: LOAD SHEDDING DURING NIGHT HOURS IN JAILS OF KHYBER PAKHTUNKHWA.

Memo:

I am directed to refer to the subject and to state that the load shedding during night hours in Jails of this Province is alarming with regard to the security of Jails, as some prisoners escaped from Central Prison D.I.Khan during load shedding hours on the night between 23rd and 24th July 2011. Moreover, highly dangerous and extremist prisoners are confined in various Jails of the Province, particularly at Central Prisons Peshawar, D.I.Khan, Bannu and District Jails at Timergara, Kohat and Manshra and Sub Jail Daggar / Malakand.

I am further directed to convey that the exemption of all Jails from load shedding during night hours is required, therefore, necessary instruction in this regard may kindly issued to the XEN's of all Districts. It is also requested that arrangements for alternate supply line may also be considered for Jails. To work out a viable solution at District level may be sorted out through the concerned authorities in consultation with the Superintendent Jail concerned so as to cope with the issue in the best interest of Jail administration please.

Solaz
(MUHAMMAD ARIF KHAN)
P.S.O FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

25, No. 15220-15263,

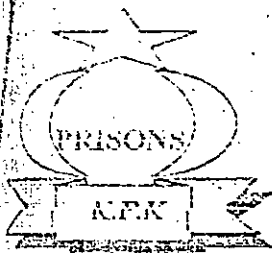
Copy of the above is forwarded to:

- 1. All DCO's for information and necessary action at your end please.
- 2. All Superintendent of Jails for information with the direction to make efforts and co-ordinate with DCO / XEN (PESCO) concerned for resolving the issue in proper manner and timely please.

Handwritten signatures and initials:
P.S.O
3/8/2011

Handwritten signature
(MUHAMMAD ARIF KHAN)
P.S.O FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

No. 1404
3/8/11
Page 21



91
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 4226 / 1
DATED. 22/12/2011

TELE/FAX: 0928-633327

The Manager Operations,
PESCO Bannu.

Subject: EXEMPTION OF THIS JAIL FROM LOAD SHEDDING.

Memo:

It is submitted that the cold winter season has been started in the country and especially there is a cold climate in the Bannu region due to which the load shedding in the locality has also been raised to extreme.

Due to such load shedding this Jail is facing great hurdles as there are maximum chances of escape, suicide, quarrel and other associated problems caused by non-availability of Electricity even in the day time but particularly at night time.

Moreover, this Jail is located in an isolated area of township Bannu which is adjacent to the nearest tribal area, so there is a threat of security lapse and law and order situation amongst the prisoners, as the load shedding is observed in uncertain and undefined schedule.

In view of above, it is requested that this Jail may be exempted from load shedding in peak hours, particularly at night time so as to cope with the above mentioned threats.

Matter Most Urgent.

o/c
SUPERINTENDENT
CENTRAL PRISON BANNU
22/12/2011

Encls: No. 4227-29 / 1

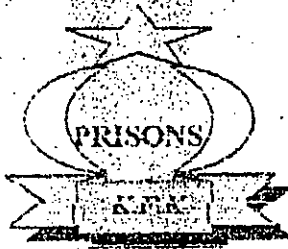
Copy forwarded to:-

1. The K.E.N 270 K.V Grid station Township Bannu
2. The Assistant Manager (operations) PESCO Bannu
(For information and necessary action please)
3. The Inspector General of Prisons K.P.K Province Peshawar for information please.

o/c
SUPERINTENDENT
CENTRAL PRISON BANNU
22/12/2011

Bangash
22-12-11

Pi o/c



TELE/FAX: 0928-633327

92
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
NO. 190
DATED. 26/01/2012

To,

The Inspector General of Prisons,
Khyber Pakhtun Khwa Province Peshawar.

Subject:- PROVISION OF 15 NOS. WIRELESS HAND SETS.

Memo:

Kindly refer to this office memo. No. 2827-WE
dated 13-11-2009.

In this connection it is submitted that in our memo under
reference 15 Nos. Walky Talky sets were demanded for communication
inside the jail but the same have not been provided yet.

It is pertinent to mention here that a base is available for
wireless set and presently no wireless sets are available to be used by staff
of this jail for communication purpose.

It is therefore requested that instead of Walky talky sets,
15 Nos. Wireless handsets may be provided to this jail for inter jail
communication of W & W staff to ensure timely communication in
emergency as well as normal course of duty so as to avoid any untoward
incident.

26/1/12
SUPERINTENDENT
CENTRAL PRISON BANNU

Handwritten signature in Urdu script.

FAX TELE: 0928: 633327

43
OFFICE OF THE SUPERINTENDENT
CENTRAL PRISON BANNU

No. 4139/WA Dated 13/12/2011

To

The Inspector General of Prisons,
Khyber Pakhtun Khwa Province,
Peshawar.

Subject: - TRANSFER OF CONDEMNED PRISONER ADNAN RASHID
S/O ABDUR RASHID FROM THIS JAIL TO CENTRAL
PRISON PESHAWAR/HARIQUR.

Memo:

It is submitted that the above named prisoner under sentence of death was received on transfer from Central Prison Peshawar on 25.09.2011 on administrative grounds. The said prisoner was awarded Death Sentence on 09.10.2005 as T1 PAF Act and after exhausting all judicial process his case for 2nd review is pending disposal before Supreme Court of Pakistan.

This jail is situated in an isolated and dangerous zone of FR. region where large number of miscreants resides. Keeping in view the sensitivity of this local region his confinement at this jail may be termed unsafe in the prevailing phenomenon of terrorism.

In wake of the above situation, it is requested that necessary sanction of the Provincial Government to the transfer of above named condemned prisoner from this jail to Central Prison Hariqur may please be obtained/ conveyed.

His descriptive roll is attached in duplicate.

13/12/2011
SUPERINTENDENT
CENTRAL PRISON BANNU

95
OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
☎ 9210937 / 9210334

No. 860 / -

Dated 14-01-2012 / -

To,

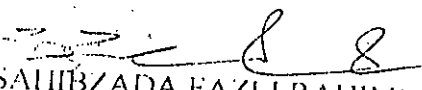
The Superintendent,
Central Prison Bannu.

Subject:-

TRANSFER OF CONDEMNED PRISONER ADNAN RASHID S/O
ABDUR RASHID FROM CENTRAL PRISON BANNU TO CENTRAL
PRISON PESHAWAR/HARIPUR.


Sir,

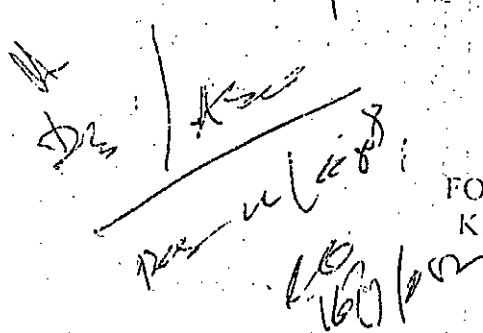
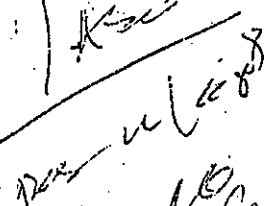
I am directed to refer to your memo: No.4139/WF: dated 13-12-2011 on the subject and to state that the above named condemned prisoner was transferred from Central Prison Peshawar to your Jail on administrative grounds by the order of Home Department Khyber Pakhtunkhwa vide No.SO(MP)/HD/1-5/09/Vol-IV dated 19-9-2011 and his re-transfer to Haripur is not advisable from the security point of view as his other colleagues might be in Haripur and was also threat to Haripur Jail due to his presence over there. Therefore, you are advised to keep the prisoner in question under strict supervision and ensure his maximum security in the Jail.


(SAHIBZADA FAZLI RAHIM)
ASSISTANT DIRECTOR (ADMN.)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Encls: No. _____

Copy of the above is forwarded to the Secretary to Government of Khyber Pakhtunkhwa, Home and T.As. Department, Peshawar for information please.


(SAHIBZADA FAZLI RAHIM)
ASSISTANT DIRECTOR (ADMN.)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR


A. Khan / K. Saeed
Per: 
16/01/12

No. 61
16/1/2011

ANNEX ①

ORDER

This departmental appeal has been preferred by Ex-Inspector Shabir Hussain Shah against the order of his compulsory retirement from service which was issued on 16.12.2012 by Regional Police Officer Bannu.

On his appeal comments were asked for from Regional Police Officer Bannu, which reveals that he, while posted as SHO Police Station Domail, failed to confront Militants during entry/exit point and also failed to supervise check post/police posts on relevant night when the militants attacked Bannu Jail.

On the basis of said allegation, the appellant was issued charge sheet by RPO Bannu, in response to which he submitted reply but his reply was not found satisfactory and thus he was compulsory retired from service by RPO Bannu as per Police Rules, 1975 and hence the present appeal.

It is pertinent to note that SDPO Saddar/Inspector Inayat Ali Shah was also charged with the same allegation, as the present appellant, by RPO Bannu but he was awarded minor punishment of stoppage of one increment for a period of

one year while the present appellant was awarded major punishment of compulsory retirement on the same charges by RPO Bannu which is discrimination and it is against the principle of justice. As per law/constitution everyone is to be treated equally.

In view of the above mentioned grounds, the competent authority (W/PPO), accepted the appeal of the appellant, set aside the order of RPO/Bannu and re-instate him in service by converting his punishment of compulsory retirement into minor punishment of forfeiture of one increment for a period of one year without cumulative effect and the period he remained out of service is treated as leave of the kind due.

(MOHAMMAD FAYAZ KHAN) PSP
AIG/LEGAL

For Provincial Police Officer
Khyber Pakhtunkhwa, Peshawar.

No. 4760-64 /Legal dated 28-2-2013.

Copy to the :-

1. Addl. IG/HQrs, Khyber Pakhtunkhwa, Peshawar.
2. PSO to PPO.
3. Regional Police Officer, Bannu Region Bannu for information and necessary action w/r to his letter No. 245/EC dated 24.1.2013.
4. OS Secret CPO

POWER OF ATTORNEY

In the Court of Hydrabad High Court
Muhammad Zahid

} For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of AP & others

} Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

ZARTAJ ANWAR ADVOCATE, my true and lawful attorney, for me in my same and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromise or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Zartaj Anwar

Advocate High Courts
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-3- 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshwar Cantt
Ph.091-5272154 Mobile-0331-9399185
BC-10-9851
CNIC:17301-1610454-5