

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1337/2022	
Arshad Farooq	(Appellant)
Arshad Farooq	Eastly of the Care Har The Contract of

VERSUS

1. Government of Khyber Pakhtunkhwa, through Home Secretary, Khyber Pakhtunkhwa Civil Secretariat Peshawar.

2. The Inspector General of Prisons, Khyber Palit

3. The Superintendent Carrier Secretary (Carrier Superintendent Carrier Superintendent Superinte

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30/05/223

Deponent

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

ICE

- 1. Govt: of Khyber Pakhtunkhwa, through Home Secretary, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
- 2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 3. The Superintendent, Central Prison, Bannu...... (Respondents)

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No.01,02& 03 ARE AS UNDER

Respectfully Sheweth;

Preliminary objections

- i. That the Present service appeal is incompetent in its present form.
- ii. That the appellant has got no locus standi to file the instant appeal.
- iii. That the appellant has been estopped by his own conduct to file appeal.
- iv. That the appellant has not come to this Honourable Service Tribunal with clean hands.
- v. That the present appeal is bad for mis- joinder and non-joinder of necessary parties.
- vi. That the present appeal is badly Time-barred.

Factual Objection:

- 1. Pertains to record.
- 2. Pertains to record.
- 3. The matter pertains to internal management of Jail, hence needs no comments.
- 4. That the Respondent No.03 allotted duties to all ministerial staff as well as IT staff on Saturday & Sunday on rotation basis every month, however, the appellant being duty bound to obey the lawful order of the Jail authority/of the immediate boss, however the appellate declined to perform the assigned duties which creates administrative hurdles for the authority.
- 5. Incorrect and not admitted, proper inquiry was conducted by the respondents and statement of allegation/charge sheet as well as opportunity of personal hearing was also given to the appellant to prove himself innocent but failed himself to justify his innocence. Therefore, minor penalty of withholding of increment for a period of 01 year without cumulative effect was awarded to

Q)

the present appellant by the competent authority vide office order dated 19/04/2022.

6. Pertains to record.

Facts

- A. Incorrect. The appellant as well as all subordinate staff are dealt with rules & regulation as such proper inquiry was initiated and opportunity of hearing was also given to appellant but he failed to defend his case and consequently a minor penalty of withholding of one annual increment was awarded to the appellant.
- B. Incorrect. As stated above in Para-4 that all subordinate staff are allotted duties on close dayson rotation basis every month for disposal of emergency affairs but the appellant disobeyed the lawful order of his superior.
- C. Incorrect. As stated at Para-A above, an inquiry was initiated and opportunity of hearing was also given to the appellant.
- D. Incorrect. Charge is fully proved against the appellant as he failed to defend the case and he was recommended for penalty by the Inquiry Officer.
- E. Incorrect. The appellant wilfully disobeyed the Lawful orders of his superior which is gross negligence and misconduct on his part due to which he was reported for disobedience.

Prayer

It is therefore most humbly prayed that on acceptance of the Joint Para wise comments on behalf of Respondents No.01, 02 and 03 the instant appeal may very kindly be dismissed with cost, being devoid of merit and law please.

SUPERINTENDENT
CENTRAL PRISON BANNU
(Respondent No.03)

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No.02)

盘

SECRETARY TO GOVERNMENT HOME & TAS DEPARTMENT KHYBER PAKHTUNKHWA (Respondent No.01)

REFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1337/2022 Arshad Farooq (Appellant)

VERSUS

- 1. Govt: of Khyber Pakhtunkhwa, through Home Secretary, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
- 2. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- 3. The Superintendent, Central Prison, Bannu....... (Respondents)

COUNTER AFFIDAVIT

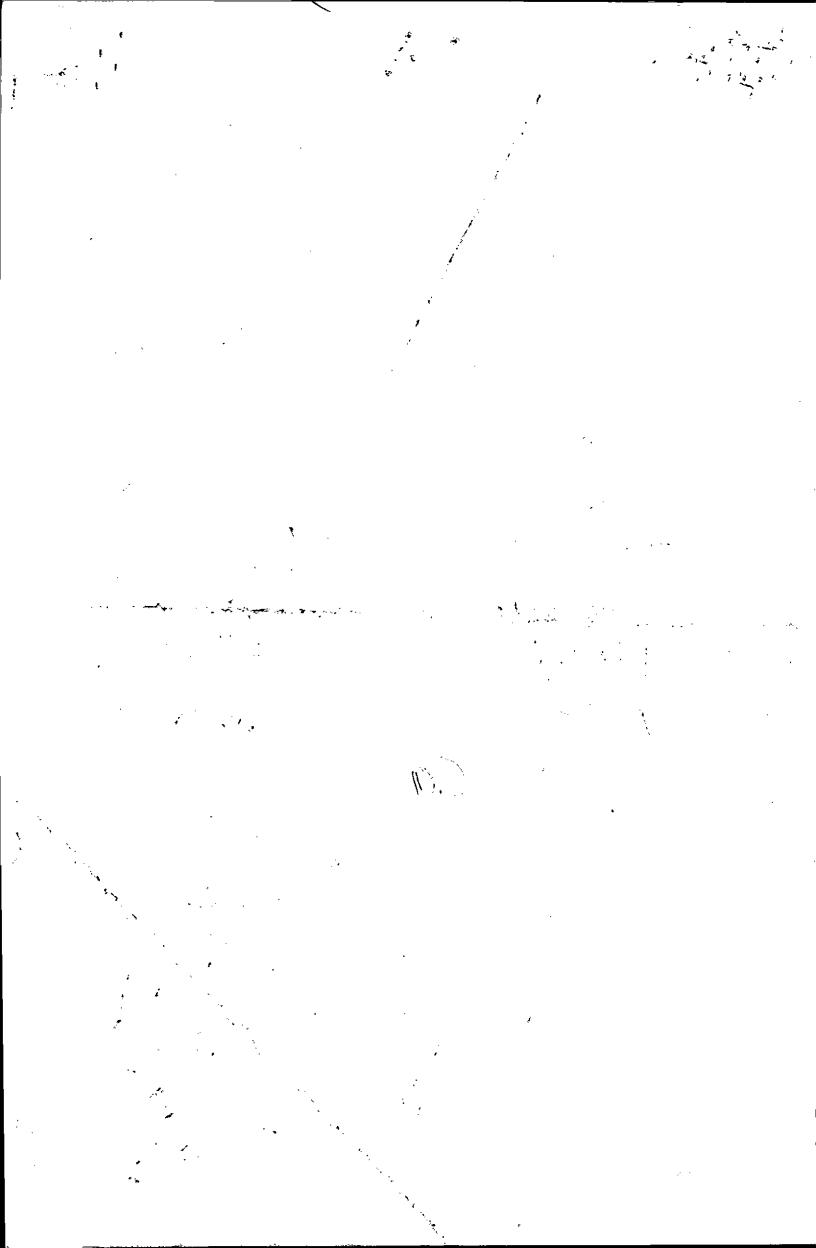
We the following respondents do hereby solemnly affirm and declare that the contents of Para-wise Comments are true and correct to the best of our Knowledge and belief and nothing have been concealed from this Honorable Service Tribunal.

SUPERINTENDENT CENTRAL PRISON BANNU (Respondent No.02) INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No.03)

1

SECRETARY TO GOVERNMENT HOME & TAS DEPARTMENT KHYBER PAKHTUNKHWA (Respondent No.01)





(3)

FAX NO. : 0928533327

1 Jan. 2001 12:8520 pt

OFFICE OF THE
SUPERINTE DENT
CENTRAL PRISON BANNU
7035WE

No.

<u> V.I.G</u> D.D.

Icia Fax#0928-633327

Emailicpbannuacmail.com

Dated: 6 12 /2021

SEEN

CENTRAL PRISON BAN

To

The Worthy Inspector General of Prisons, 1.G. Khyber Pakhtunkhwa Peshawar.

Subject: DISCIPLINARY ACTION.

R Sit.

It is submitted in your good self that the IT staff as well as ministerial staff of this Jah quallotted duties on Saturday & Sunday every months in order to run the affair of Jail smoothly. However, Mr. Arshad Farooq Computer Operator refused to perform duty in Suncay and submitted written statement and notifications of Govt. of Khyber Pal htmkhwa Moninistration Department, which is great negligence on his part. (Written statement alongwith converted document are enclosed herewith for kind perusal and ready reference).

It is therefore, requested that stern disciplinary action may kindly be initiated above named computer Operator under Efficiency & Disciplina Rules-2011, please.

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ASSISTANT DIRECTOR
INSPECTORATE GENERAL DE PRISONS
KHYBER PAKHTULIKHWA PESHAWAR

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Description States

LLOTMENT OF DUTIES ON SATURDAYS OF IT & MINISTERIAL STANT FOR THE MONTH OF 12/2021.

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5. 1.	DATE	NAME OF OFFICIALS	DESIGNATION	SIGNATURE	
	04:12:2020	Anshed Percog	Gombates (glesstos	conti Medical	Ber Salt Endy
2	12.12.2021 05.12.2021	Salman Khan	- Steno Typist	20	
3	11,12,2020 18,12,2020	Pahim Raza	Computer Operator	6	
4	26 12 2021 19 12 2021 25 12 2021	Waqas	Computer Operator	society.	
	- 2011 2:2021	j į			

MINISTERIAL/CLERICAL STAFF

*			X	
S. #.	DATE	NAME OF OFFICIALS	DESIGNATION	SIGNATURE
1	04.12.2021	Muzzanii Khan	Juntor Clork	L Q
2	11,12,2021	Gul Dad	Senior Glerk	Mr.
9	18 12 2021	Sikender	Senfor Clerk	ler
2	25.12.202 1	Shemsher All	Sentor Clock	Slank

The IT stell performing duttes on Sunday will be on leave on nex succeeding Monday.

The II & Ministerial/Clerical stall should ensure their presence on duty enhe day and date noted against their names.

SUPERINTENDENT CENTRAL PRISON BANNU

and No. 7661-602

Copy of the above is forwarded to the inspector Clement of Petrons. inter Pakhnenkhwa, Peshawar for information, please.

S/2)

डापभूतिसाराम्बर्धेर्धेकार् CONTRAL PRESON BANNU





INSPECTORATE GENERAL OF PRISONS, KHYBER PAKHTUNKHWA PESHAWAR. NO. 2/2-1/3 - 40783 DATED. 7-1/2 - 2021

Amy D

DISCIPLINARY ACTION

I, Khalid Abbas, I.G.Prisons Khyber Fakhtunkhwa, as the competent authority, am of the opinion that Mr. Arshad Farooq Computer Operator (BPS-16) posted at Central Prison Bannu 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

As reported by Superintendent Central Prison Bannu vide his letter No. 7938-WE dated 06-12-2021 (copy enclosed) that the ministerial and computer staff are allotted duties on Saturday & Sunday on rotation basis every month. However, when ne was allotted duties on Saturday & Sunday in rotation in every month but he refused to perform duty on Sunday, thus he has committed grave misconduct on his part.

- 2. For the purpose of inquiry proceedings against the afore-said accused with reference to the above allegations, Mr. Binyamin Khan Deputy Inspector General at Regional Prisons Office Bannu is hereby appointed as Inquiry Officer, under Rule-10(1)(a) of the E&D Rules, 2011.
- 3. The Inquiry Officer—shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to the punishment or other appropriate action against the accused.
- 4. The accused and a well conversant representative of Central Prison Bannu shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA PESHAWAR

ENDST; NO. 40784-87/.,

Copy of the above is forwarded to:

- 1. Superintendent Central Prison Bannu for information and necessary action with reference to his letter No. 7938-WE dated 06-12-2021. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt to this office in token of its receipt.
- 2. Mr. Binyamin Khan Deputy Inspector General at Regional Prisons Office Bannu the Inquiry Officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. A copy of charge sheet is enclosed herewith.

3. Mr. Arshau Farooq Computer Operator C/O Superintendent Central Prison Bannu for information.

4. PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa Peshawar for information.

INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA PESHAWAR

ASSISTANT DIRECTOR
INSPECTORATE GENERAL OS SOUSOUS
KHYBER PAKHTUNKHWA FESTIAL

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CHARGE SHEET

1, Khalid Abbas, I.G.Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge Mr. Arshad Farooq as follows:

That you, while posted as Computer Operator (BPS-16) attached to Central Prison Bannu committed the following irregularities/misconduct:

As reported by Superintendent Central Prison Bannu vide his letter No. 7938-WE dated 06-12-2021 (copy enclosed) that the ministerial and computer staff are allotted duties on Saturday & Sunday on rotation basis every month. However, when you were allotted duties on Saturday & Sunday in rotation in every month but you refused to perform duty on Sunday, thus you have committed grave misconduct on his part.

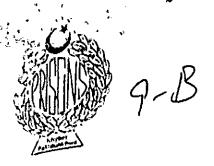
- 2. For the reasons above, you appear to be guilty of inefficiency/misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.
- 3. You are, therefore required to submit your written defense within seven (07) days of the receipt of this Charge Sheet to the Inquiry Officer, as the case may be.
- 4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

INSPECTOR GENERAL OF PRISONS, KHYBER PAKHTUNKHWA PESHAWAR

ASSISTANT DIRECTOR
ENSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR



INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406

091-9213445

DATED 60 -

To.

Muhammad Binyamin Khan. Deputy Inspector General of Prisons. Regional Prison Office at Central Prison Bannu.

AGAINST REPORT MR. ARSHAD FAROOQ COMPUTER OPERATOR ATTACHED TO CENTRAL PRISON BANNU.

Memo:

I am directed to refer to the subject and to return herewith your letter No.64-WE dated 25-01-2022 alongwith its enclosures on the caption subject with the remarks that reply to the Charge Sheet furnished by the accused official was not appended with the report. In addition, you have also failed to make cross examination from Superintendent Central Prison Bannu that when he allotted duties on holidays in rotation to such staff next day was allowed to off or not. Morcover, all documents which were appended with Inquiry Report may be attested.

Keeping in view the lacunas, afresh Inquiry Report, mentioning clear cut findings as to whether the charges were fully proved, partially proved or not proved against the accused official.

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

ENDST NO. 5208 --- 69/-

Copy of the above is forwarded to:

✓. The Superintendent Central Prison Bannu for information.

2. The PS to Special Assistant to Chief Minister (For Prisons) Khyber Pakhtunkhwa Peshawar for information.

ASW/ASH/LO/SC

RECTOR (E)

INSPECTORAZE CENERAL OF PRISONS

KHYBER PAKHTUNKHWA PESHAWAR

For N/A

INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR



JPERINTENDENT CENTRAL PRISON D.I.KHAN No 1196 / Dt: 10/03/2022 PH&FAX NO. 0966-9280299

Cpdikhan1@gmail.com

Τо,

The Inspector General Of Prisons, Khyber Pakhtunkhwa, Peshawar.

Subject:

ARSHAD MR. AGAINST REPORT INOUIRY ATTACHED TO CENTRAL COMPUTER OPERATOR <u>BANNU.</u>

Respected Sir,

- Kindly refer to your office No. 5207-we dated 02.02.2022 in which the undersigned was nominated as inquiry officer in the subject cited case.

It is submitted that as per your directions de-novo inquiry was conducted in which:

- Statement of accused official Mr. Arshad Farooq has been obtained and placed as Annex-A.:
- Cross question from Arshad Farooq and his replies obtained, placed as Annex-B 2.
- Cross examination from Mr. Tahir Shahbaz Superintendent Central Prison Bannu obtained and placed as Annex- C
- All other documents related to the inquiry has been attached as annex-D.

Conclusion:-

Going through the record, reply of accused official and that of cross examination from Superintendent Central Prison Bannu it becomes clear crystal that the accused official Mr. Arshad Farooq Computer Operator attached to Central Prison Bannu is guilty of misconduct and also found of omission of lawful orders. He also made examples for other staff members by instigating them from his words and actions, therefore, liable to be punished under Khyber Pakhtunkhwa E & D Rules and is hereby placed before your good-self for disciplinary action as deemed appropriate at your end.

T DIRECTOR INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR PRISON DIKELAN

مال در کیا اکتو ہم اورد سے آئی ڈوروئی الوارکو سکتی التع بر المعد سے سے اللہ ایان مجھے رس و تست مرند سفے کو مگن میں اسکے سد دیا سر شاز فان آ کے 'لو انور کی ڈید "کی شروع کسی کئی ۔ سوال: آیک علاده بندن ایل بن کے کبراز آبراج ان : ور ے سبت تونل ۱۱ کسر تر بربیر تعیار سوال: - کیا آب کے علادن در سر سی آبرین اتور کی دید تو کر سے جی یا ایک دادی بحی الوار کے دن لگاکی مائی ہے۔ ان : ای یا ن آئی و پوئ کانی کے دران کا کانی در ان تی اور وه دین څیوی کر ته یی. سرال: جب وه تین این و بوق کر ع س ده آیے نے و ہوت سے کہوں انکار کیا اع : النف والدون بن في في الله توك الم جبکر اتوال واح دن کورنٹ کے نوفرکن

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رس اور تربنی صاف ع سرمر عطابق. اردوار ه اله دن و بدنی تو نظر زنداز بنا. " " ا سران:- کی انجی آ ہے اتوا سے دن فوہوئی . ا کر رہے میں بابسے اے آب ہر رہور ت سوی ہے تو آب ڈبوئی سی کر رہے۔ ح - بس انوار وال د بوی کس کرریا. سوال نه انوار کی تریدی ارد ایک ماه کی کننی برجہ کرن بیڑی ہے۔ · コレーダーン・レーベー・で · سوال: انورد کی دیوی مرکم نے کی وجے کیا سر المار و دوه نرون ک در سے صو صلال ہوا تھا۔ جے: جی سجھے نوشی دیا کیا تھا۔ بر فلرک ادر آس اثن کو اتوار واج دن میری کس رازار ا بر سوال مواب اب ن د کیو سے اور س بھ

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TO RECTOR

الرائد مارو في كوي كرية من الرائد مارو في كوي كرية من الرائد مارو في كوي كرية من الرائد مارو في كرية من الرائد ما الرائد من ا الوار کے دن وروی کی سالی جمی کو ایکے دن بیشی سرموار کو الم نفر فار دی کو بحت دی wills, ت - على ارف فارول كو الوار كود، فيون ك بزلے سوسوال دائے دن جھنی کی اجاز ہے 'کی سُن دہ آلٹ ہے سورد مرن سے اوں سے تاہوں کے تحدث 一丁三色色成分之間の一個 سوال: کی الوار کے دن کی ایک بدے سوصوار سی محقی کرے کا جارے کا وجور ہے۔ العرفاري اتوار الوزيوى الرياس c. 60° ے: یک یا مارند فاروش اثوارے سرے ہوئی۔ ك دن جعتى ملے كال وجور بك الهاركر. و بوت کر نے سے انظرن ج سرال بر کیا ارسن ناروی کے ملادن بانی سفانی کو بھی سے اور الوار کے دنا فریہ ہے۔

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الرام و کری کر ما یا اور د در من دن " مرریا ہے۔ ن از ایک اور ساف میر ن فین کا دن くとしんしかりたととじずら الم المالي المال ا حکاما ت ک با بدری کررہے ہیں۔ 2 (4/18/1/03/ - 01 1/2 1/2) سد ادخرناروی 5 بری کرنے بررائی くというじょうりょう ح :- جي ني - تا مال ڏه اين هند بر ادا بوري Paris

ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

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Answer:- since October 2021.



Question No.02:- were you allotted day duty on Sunday since October 2021?

Answer:- In October 2021 Superintendent jail was Sami Ullah Khan and in his time I was allotted day duty on Saturdays only and then Tahir Shahbaz Started.

Question No.03:- In total, how many Computer Operators are posted at central Prison Bannu?

Answer:- There are total 04 Computer Operators posted at Central Prison Banau including me.

Ouestion No.04:- Do the other computer operators perform duty on Sundays, or the other computer operators are also allotted duties on Sundays?

Answer:- yes the other computer operators are allotted duty on Sundays on rotation basis and they perform their duties on Sundays.

Catestion No.05:- when the other 03 computer operators are performing their duties on Sunday then why you refused the same?

Answer:- I perform my day duty on Saturdays while on Sundays I refused it in the light of notification of the Government and circular of Inspector General Of Prisons Khyber Pakhtunkhwa Peshawar.

Clestion No. 06:- are you now performing duty on Sundays or, after being reported, till date you have not performed duty on Sunday?

Answer:- No, I am not yet performing duty on Sunday.

Question No.07:- how many times day duty on Sundays are allotted in a single month?

Answer:- one time in a month.

Question No. 08:- Were you served with explanation notice for not performing duty on Sunday.

Answer:- yes, I was served with explanation notice. Moreover, the clerks and effice assistants are not allotted duty on Sundays.

All the questions and answers have been seen and heard by me.

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INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR

図記 691-9213445 091-9210334, 9210406

ORDER

WHEREAS, the accused official Arshad Faroog Computer Operator (BFS-16) attached to Central Prison Bannu proceeded against under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on charges mentioned in the charge sheet served up on him.

AND WHEREAS, Mr. Binyamin Khan Superintendent Central Prison D.I Khan was appointed as Inquiry Officer for conducting inquiry in the matter vide this office Endst: No.40784-87-WE dated 17-12-2021.

AND WHEREAS, the Inquiry Officer concerned submitted his findings according to which charges were fully proved against him.

AND WHEREAS, the undersigned being competent authority granted hin-coportunity of personal hearing on 18-04-2022 as provided under rules ibid. During the course of personal hearing the accused official failed to justify his innocence and requested to be pardoned being first offence.

NOW THEREFORE, in exercise of powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, explanation of the accused official as well as the inquiry report, and after affording the opportunity of personal hearing, the undersigned being competent authority is pleased to impose minor penalty of "withholding of increment for a period of one year without cumulative effect" on accused Arshad Farooq Computer Operator.

> INSPECTOR GENERAL OF PHISONS, KHYBER PAKHTUNKHWA PCSHAWAR

ENDST: NO. 13600 - 04

Copy of the above is forwarded to:

1. The Superintendent, Central Prison Bannu for information and necessary action.

Necessary entry may please be made in his Service Books under proper attestation.

- 2. Mr. Binyamin Khan, Superintendent Central Prison D.I Khan (Inquiry Officer) for information with reference to his letter No.1196 dated 10-03-2022.
- 3. The District Accounts Officer Bannu for information.

Official concerned C/O Superintendent Central Prison Bannu.

5. Confidential clerk for placing a copy of this order in C/R.

Received on 30/2 at 30/04/3022 at 3:00 p.m =

ASYVASH/LO/SČ

DIRECTOR E

INSPECTORATE GENERAL OF PRISONS,

KHYBER PAKHTUNKHWA PEJHAWAR

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OFFICE OF THE INSPECTORATE GENERAL OF PRISONS KHYBER PAKHTUNKHWA PESHAWAR 091-9210334, 9210406 091-9213445

No	•	
NO	 	
Dated		

AUTHORITY LETTER

Mr.Sulaiman, Law Officer(BPS-17) attached to the office of Inspector General of Prisons Khyber Pakhtunkhwa Peshawar is hereby authorized to make affidavit, to file comments/reply/report and to attend the Lower Courts, Ombudsperson, Khyber Pakhtunkhwa Service Tribunal, Peshawar High Court Peshawar, Supreme Court of Pakistan Islamabad, Federal Shariat Court, meeting of scrutiny committee at Law Department and also to attend the office of Advocate General Khyber Pakhtunkhwa at Peshawar on each and every date of hearing, on behalf of the Inspector General of Prisons Khyber Pakhtunkhwa.

INSPECTOR GENERAL OF PRISONS KHYBER RAKHTUNKHWA PESHAWAR

Aller 24/05/2023