


01.02.2023

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

Since connected Service Appeal No. 1554/2019 titled "Muhammad Zahid Vs. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and two others" has been adjourned to 20.03.2023, therefore, this appeal is also adjourned to the said date. To come up for arguments on 20.03.2023 before the D.B.

SCANNED
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.

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.

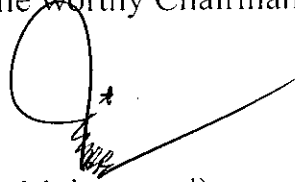

(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)


28.11.2022

Mr. Yasir Saleem, 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)



(Safah-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.

SCANNED
KPST
Peshawar



(Fareeha Paul)
Member (E)





(Kalim Arshad Khan)
Chairman

10.10.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Suleman Law Officer for respondents present.

Junior to learned counsel for the appellant requests for adjournment due to engagement of learned senior counsel for the appellant in Hon'ble High Court today. To come up for arguments on 02.11.2022 before D.B.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

2nd Nov, 2022

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

Learned counsel for the appellant seeks 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)

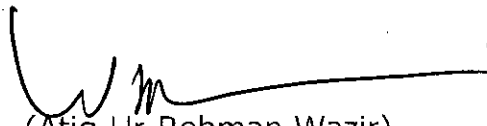

(Kalim Arshad Khan)
Chairman

03.08.2021

Counsel for the appellant present.

Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Former made a request for adjournment as he has not prepared the brief. Adjourned. To come up for arguments on 01.10.2021 before D.B.


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


(Rozina Rehman)
Member (J)

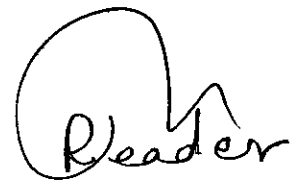
1-10-21

Due to non availability of the concerned DB the case is adjourned to 8-2-2022


Reader


8-2-2022

Due to retirement of the Hon'ble Chairman the case is adjourned to come up for the same as before on 1-6-2022


Reader

1-6-2022

Proper DB not available the case is adjourned to 10-10-2022


Reader

24.12.2020

Due to summer vacation, case is adjourned to 29.03.2021 for the same as before.



Reader

29.03.2021

Appellant present through counsel.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 21/06/2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

21.06.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

File to come up alongwith connected appeal No.1324/2019 titled Raqibaz Vs. Prisons Department, on 03.08.2021 before D.B


(Rozina Rehman)
Member(J)


Chairman

23.06.2020

Junior to counsel for the appellant present.

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

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



Member

06.08.2020

Junior counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Suleman, Senior Law Instructor for the respondents are also present.

Representative of the department submitted para-wise reply on behalf of respondents No. 1 to 4 which is placed on file. To come up for arguments on 26.10.2020 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.




(MUHAMMAD JAMAL KHAN)
MEMBER

26.10.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 24.12.2020 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member



Chairman

20.01.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

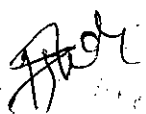
Learned AAG requests for time to contact the respondents and furnish reply/comments on the next date of hearing. Adjourned to 25.02.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

25.02.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional AG alongwith Mr. Suleman Law Officer for the respondents present.

Representative of the respondent department seeks time to furnish written reply/comments on the next date of hearing. Adjourned. To come up for written reply/comments on 31.03.2020 before S.B.


(Hussain Shah)
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

Form-A
FORM OF ORDERSHEET

Court of _____

Case No. 1364/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17/10/2019	<p>As per direction of the Worthy Chairman this case is submitted to the S. Bench for preliminary hearing along with office objection. To be put up there on <u>10/12/19</u>.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 17/10/19</p> <p>Counsel for the appellant present.</p> <p>On the strength of admitting note in Appeal No. 1324/2019, instant appeal is admitted to regular hearing. 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 31.01.2020 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> Chairman</p>

SCANNED
KUST
Peshawar
05.12.2019

Appellant Deposited
Security & Process Fee
[Signature]

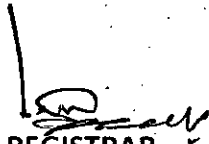
P-22
off. obje.

The appeal of Mr. Asif Ali Shah son of Tahir Ali Shah, Warder attached to central Jail Bannu received today i.e. on 17.09.2019 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- Affidavit may be got attested by the Oath Commissioner.
- 3- Annexures of the appeal may be flagged.
- 4- Annexures of the appeal may be attested.
- 5- Copy of reply to charge sheet and departmental appeal mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- 7- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1594 /S.T,

Dt. 18-9- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

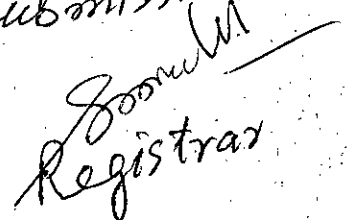
Mr. Yasir Saleem Adv. Pesh.

Sir,

Resubmitted with clear objection

9/10/19

Objection no. 5 is still stand,
The present appeal is returned to his
counsel for completion and resubmission
with 15 days.

No. 1718 /S.T,
dt. 10-10- /2019.


Registrar

Respected Sir,
The appellant is not in
possession of departmental appeal
though the name was not shown
in annexure with appeal. Reply to charge sheet in P.No-13
(Change of Reply to show cause)

4/11/19

Sir,

The objections of the office (No-5)
regarding copy of departmental appeal
and reply of counsel for the appellant is
submitted for order please.

16/10/19

Humble chairman.

Be fixed before SB for PH
along with office objections.

17/10

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Appeal No. 1367/2019

Asif Ali Shah S/O Tahir Ali Shah, Warder, attached to Central Jail Bannu, R/O Pir Khel Kakki, P.O Kakki District, Bannu.

(Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Home and Tribal Affairs Department Khyber Pakhtunkhwa, Peshawar and others.

(Respondents)

INDEX

S. NO	Description of documents	Annexure	Page No
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	Affidavit		4
2	Copy of the Dismissal Order dated 12.12.2012	A	5
3	Copy of the Order and Judgment dated 01.09.2015	B	6-10
4	Copies of the charge sheet & Reply	C	11-14
5	Copies of the statement of appellant and inquiry report	D & E	15-18
6.	Copies of show cause notice and reply	F & G	19-21
7.	Copy of the Office Order dated 11.04.2019	H	22
8.	Copy of the post receipt dated 15.05.2019	I	23
9.	Vakalatnama		24

Asif Ali Shah
Appellant

Through

Yasir Saleem
YASIR SALEEM
Advocate, High Court

Jawad Ur Rehman
JAWAD UR REHMAN
Advocate Peshawar

1
BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No. 1367/2019

Diary No. 1265

Dated 17/9/2019

Asif Ali Shah S/O Tahir Ali Shah, Warder, attached to Central Jail
Bannu, R/O Pir Khel Kakki, P.O Kakki District, Bannu.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Home and Tribal Affairs Department Khyber Pakhtunkhwa, Peshawar.
2. The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar.
3. Superintendent Circle Headquarters, Prison Peshawar.
4. The Superintendent Central Prison, Bannu.

(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, communicated to the appellant on 13.05.2019 whereby the appellant has been awarded the major penalty of "reduction to a lower stage in a time scale for a maximum period of three years" against which his Departmental Appeal dated 15.05.2019 (through post) conveyed to the Respondent on 17.05.2019 has not been responded within the stipulated period of ninety days.

Filed to-day

Registrar

17/9/19

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 11.04.2019, may please be set-aside and the pay of the appellant may please be restored to his original position with all back benefits.

Respectfully Submitted:

1. That the appellant was appointed as Warder in the Prison Department and was posted at the relevant time in Bannu Prison. Ever since his appointment the appellant was performing his duties as assigned to him with full devotion and there was no complaint whatsoever regarding his performance.
2. That the appellant while performing his duties in Bannu Jail, in the mid night of 14/15 April, 2012, a good number of militants (more than 300) attacked the Jail with heavy weapons, the appellant

along with other 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. The appellant also got wounded in cross firing.

3. That the Provincial Government conducted a fact finding inquiry, however it report was not made public.

4. That thereafter the appellant was served with Show Cause Notice containing the false and baseless allegations that during the attack on Bannu Jail, he failed to fire and confront militants effectively, the appellant duly replied the Show Cause Notice and refuted the allegations leveled against him.

5. That without conducting regular inquiry quite illegally the appellant was awarded the major penalty of Dismissal from Service vide general order dated 12.12.2012. *(Copy of the Dismissal Order dated 12.12.2012 is attached as Annexure A).*

6. That against the order dated 12.12.2012, the appellant filed his departmental appeal, however it was also rejected.

7. That the appellant also filed Service Appeal No. 491/2013 before this Honorable Tribunal which was partially allowed and the case of the appellant along with other connected cases were remanded back to the Respondent department vide order and judgment dated 01.09.2015 to conduct de-novo inquiry and the issue of back benefits were subjected to the out come of the de-novo inquiry. *(Copy of the Order and Judgment dated 01.09.2015 is attached as Annexure B)*

8. That thereafter the appellant was served with charge sheet and statement of allegations which was duly replied by the appellant and refuted the allegations leveled against him, reply copy has not been retained by the appellant. *(Copy of the charge sheet and reply attached as Annexure C)*

9. That a partial inquiry was also conducted wherein statement of the appellant was also recorded and after de-novo inquiry, the inquiry officer recommended the appellant for major penalty. *(Copies of the statement of appellant and inquiry report are attached as Annexure D & E)*

10. That the appellant was also served with show cause notice dated 06.12.2017 containing the same allegations to which the appellant duly replied vide his reply and again refuted the allegations leveled against him. *(Copies of show cause notice and reply are attached as Annexure F & G)*

- 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 major penalty to the appellant, neither the appellant has been associated with the inquiry proceedings 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 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 their statements have not been taken in the presence of appellant nor was he allowed the opportunity to cross examine them.
- E. That the allegations that during the attack on Bannu Jail by the militants the appellant failed to fire and confront militants effectively is totally false and baseless, he duly fired at them and confronted as long as he could, however due to complete dark he could not fire at them pointedly, moreover, he was not provided with sufficient bullets, however whatever the quantity of bullets available that was utilized by him. Moreover the appellant also got wounded during cross firing.

GROUNDS OF APPEAL:

13. That the impugned order is illegal unlawful against law and facts therefore, liable to be set aside inter alia on the following grounds:-
12. That feeling aggrieved from the penalty order dated 11.04.2019, the appellant filled his departmental appeal dated 15.05.2019, conveyed to the respondent (through post) on 17.05.2019, however the same has not been responded within the statutory period of ninety days, however the copy of the departmental appeal has not been retained by the appellant. (Copy of the post receipt dated 15.05.2019 is attached as Annexure I)
11. That without considering his reply, the appellant has been awarded the major penalty of reduction to a lower stage in a time scale for a maximum period of three years vide order dated 11.04.2019 communicated to the appellant on 13.05.2019. (Copy of the Office Order dated 11.04.2019 is attached as Annexure H)

- F. That the charges leveled against the appellant were never proved during the inquiry proceedings the inquiry officer gave his findings on surmises and conjunctures.
- G. 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.
- H. That the appellant has a spotless service career, however, his unblemished service career has never been considered while awarding the penalty.

It is, therefore, humbly prayed that On acceptance of this appeal the impugned order dated 11.04.2019, may please be set-aside and the pay of the appellant may please be restored to his original position with all back benefits

[Signature]
Appellant

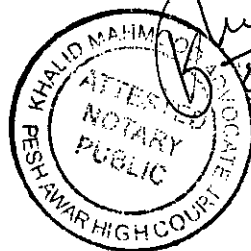
Through

[Signature]
YASIR SALEEM
Advocate, High Court

[Signature]
JAWAD UR REHMAN
Advocate Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.





Registered

Annex ^{12/12/12} = A¹¹ 13/12/12
OFFICE OF THE **S**
SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR.
No. 4120 R.B/Dt: 12/12/2012 ✓

OFFICE ORDER

In exercise of powers conferred under rule-14 of the E&D (Efficiency & Discipline) rule 2011, after reply to show-cause notice and affording the opportunity of personal hearing, the undersigned is pleased to award the major penalties to the below noted officials as mentioned against their names on account of their involvement/ gross misconduct in Central Prison Bannu incident:

S#	NAME OF ACCUSED OFFICIAL	AWARDED PENALTY
1 ✓	Warder Mir Laiq Khan	Dismissed from Service
2 ✓	Warder Saved Khan	-do-
3	Warder Hafiz Mir Hassan Shah	-do-
4	Warder Abidullah	-do-
5	Warder Asif Ali Shah	-do-
6 ✓	Muhammad Ibrar No. 1	-do-
7	Warder Gul Mir Dali	-do-
8 ✓	Warder Ameenullah	-do-
9	Warder Saqib	-do-
10	Warder Naseeb Gul	Reduction to lowest stage in his present time pay scale
11	Warder Raajda Khan	-do-

SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR

No. 4120-231

Copy of the above is forwarded to the
Worthy Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar for
information with reference to his letter No. 51208-WE dated 12-12-2012, also c.
Commandant, Central Prison Bannu

District Accounts Officer, Bannu
For information & further necessary action.

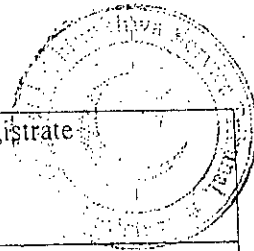
Lo/Bao/Hc

Attested

SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR

15/12/12

12/12/12



Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge/ Magistrate
	2	3
1.	01.09.2015	<p><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p>Service Appeal No. 4842013</p> <p>Aminullah Versus Government of Khyber Pakhtunkhwa through Secretary Hom & T.A Deptt. Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.</u>- Counsel for the appellant (Mr. Ijaz Anwar, Advocate) and Government Pleader (Mr. Ziaullah) with Sheryar, ASJ for the respondents present.</p> <p>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)/IID/1-40/2012 dated 16.4.2012 constituted a five numbers 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</p>

[Signature]
Attested

10

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.

Certified
10/09/2015

ANNOUNCED
01.09.2015

Sd/- P. B. Khatke Shah,
Member
Sd/- M. Deel Latif,
Member

2000 9.9.2015

12
2
14
9.9.2015

Attested

Date

Annex "C"

11

CHARGE SHEET

I, Abid Saeed, Chief Secretary Khyber Pakhtunkhwa, as competent authority, hereby charge you Mr. Asif Ali Shah, as follows:

That you, while posted as warder at Central Prison Bannu committed the following irregularities:

You were assigned the duties at Watch Tower No1 on the night between 14/15-4-2012 duly armed but you showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. 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
12/1/2017

(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA

Attested

رہنہ بین کمان میں 9 1/2 سال سے کئی جیل خانہ جات میں ملنڈر 08۔ بنوں جیل میں
 2007 سے لیٹر قومی روز تہذیب کی ہے۔ یہی ڈیڑھ لاکھ روپے کا ممبر ہے جس کی اور رات 12 بجے
 سے 3 بجے تک تھی۔ یہ پانس ہکڈ مشنوں سے 30 عدد کارٹونس موجود تھے

سولہ، صرف 14، 15 اپریل 2012 کی درمیانی شب رات 12 بجے سے 3 بجے تک ڈیڑھ لاکھ روپے کا ممبر
 (فونٹ) پر لیٹر لکھی تھی۔ رات سو ایک بجے دھشت زدوں کے خوف سے جیل دروازے کھولے
 آ رہے تھے، بڑی ناگوار حالت تھی جو تو موجود اسم (اسٹیم) کا لہجہ سے دھشت زدوں کو
 جیل کھانے کی کئی مشین مالدی ونگ کی کھینچ لی جا رہی تھی جس کے نتیجے میں 381 ممبری جن
 میں انتہائی فکرتوں کے ساتھ موجود تھے فرار کرنے میں کامیاب ہوئے جن سے گویا حکومت
 اور جیل مصلحتوں کے ساتھ اور اس کی بدنامی ہوئی اس بار میں آج کا لہجہ ہے۔

دریں صبح 14-15 اپریل 2012 کی درمیانی شب رات بارہ بجے سے تین بجے تک سر کی ڈانچ
 ڈیڑھ لاکھ روپے کا ممبر پر لیٹر لکھی تھی اور پانس ہکڈ مشنوں سے 30 روپے موجود تھے۔ رات تقریباً
 3 بجے دھشت زدوں میں ڈانچ سے 250-300 ممبر کے نام سے انوں
 نے جیل کی کھانے مشین کھول لی۔ جو اب میں سے ہے ان کی کھانے مشین کی اور مشین
 کارٹونس کھانے کے۔ اس کے بعد خالی خالی رہ گیا۔ مجھے اصل وقت یاد میں ہے لیکن تقریباً 10-11
 بجے سے بجے میں تھی اور مکمل اندھیرا تھا۔ پانس ہکڈ مشنوں کی کارٹونس تھی انہیں وسیلہ موجود تھی
 جس سے انوں نے فائرنگ شروع کی جس میں جینڈا کا موقع ملتا تھا جیسی میں نے نہیں دیکھی تھی۔ مجھ یاد ہے اس وقت
 میں اللہ اور رافقا مسٹر کے اندر وہ خود سے روٹے پر تھے کہ دھشت زدوں کا لہجہ شروع
 ہو گیا۔ اس وقت میں بھی فائرنگ سے بچ رہا۔ اس وقت سے کہ وہ کہہ سکتے تھے انہیں
 میں اپنی ڈانچ پر ڈیڑھ لاکھ روپے کا ممبر پر تھا۔ پانس ہکڈ مشنوں کے ساتھ ڈیڑھ لاکھ روپے کا ممبر
 وقت تبدیلیوں کے پانس ہکڈ مشنوں میں آئے اور اس کی رات ڈیڑھ لاکھ روپے کا ممبر
 پانس ہکڈ مشنوں کی کھانے مشین کے اندر وہ خود سے روٹے پر تھے کہ دھشت زدوں کا لہجہ شروع

عجیب

Ali Shah

Attested

میں سے لے کر لاکھوں روپے تک ہے۔ جو بھی زمینداروں سے روٹی مناتی ہے۔ اس لئے زمینداروں کے
 سے یہ زمینداروں کے ہاتھوں سے لاکھوں روپے تک مختلف ماہانہ مالکوں کا ٹیگا نظام موجود ہے۔ اس لئے
 میں سے آمد دھندلے گروں کی تعداد 3000-4000 ہے۔ اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک
 جو زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے

سوال Poison Rule 1154 میں وارڈز کا وائٹ میں ملکر اس کے تحت پٹی ٹیگا کا ٹیگا نظام ہے۔ اس لئے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
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 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے

جواب میں اس وقت تک اسٹیٹ ٹیگا کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے
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 اس لئے زمینداروں کے ہاتھوں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے

DEPUTY COMMISSIONER
 HARIPUR 25/2/17

Attested

Asst. Al Shaul
 اسٹیٹ ٹیگا کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے لاکھوں روپے تک فونڈ ہارنگ کا ٹیگا نظام ہے۔ اس لئے زمینداروں سے

Annex = "E"

17

848

DEPARTMENTAL / INQUIRY PROCEEDINGS AGAINST MR. ASIF ALI SHAH, THE THEN WARDER, CENTRAL PRISON, BANNU PRESENTLY POSTED AT CENTRAL JAIL, HARIPUR.

Background:

The Competent Authority i.e. Hon'able Chief Secretary, Khyber Pakhtunkhwa was pleased to appoint the undersigned as Inquiry Officer under Rule-10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, which was conveyed vide Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department, Peshawar order No. SO (Com/Enq)/HD/1-40/2012 dated 23.01.2017 with the mandate to inquire into the following allegations levelled against Mr. Asif Ali Shah, the then Warden, Central Prison, Bannu presently posted at Central Jail, Haripur as reflected in Charge Sheet / Statement of Allegations:-

While attached to Central Prison, Bannu, he was assigned the duties at Watch Tower No. 1 on the night between 14/15-4-2012 duly armed but he showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. Resultantly, 381 prisoners including high profile prisoners were got released, beside other damages.

Proceedings:

In pursuance of the direction contained in Para-4 of the Charge Sheet, the accused Official in his defense on 04.02.2017 (Copy attached as Annexure-A). The accused Officer was also summoned to appear before the undersigned on 25.02.2017 at 09:30 AM for inquiry proceedings. Mr. Abdul Raziq, Assistant Superintendent, Central Prison Bannu also attended the proceedings as departmental representative as authorized by Superintendent, Central Prison Bannu vide letter No. 996 dated 24.02.2017 under the directive of the Inspector General of Prisons, Khyber Pakhtunkhwa. The accused Officer attended the office of the undersigned on 25.02.2017.

Statement of the accused Official recorded who stated on oath that he was serving in Prisons Department for the last 09 and half years, was posted at Bannu Jail in the year 2007, his duty was on Watch Tower No. 1 from 12:00 to 03:00 am having AK-47 Rifle with 30 cartridges on the day of incident while responding the questions asked as under (Original questions and answers are attached as Annexure-B):-

Q.1: During the attack on 14/15 midnight April, 2012 he was deployed as Sentry at Watch Tower No. 01 from 12:00 AM to 03:00 AM for duty with AK-47 and 30 cartridges but he showed cowardice as he did not fire on terrorists and even not tried to prevent them outside the Jail as a result the attackers took away 381 prisoners including high profile from the Jail. Due to his cowardice, the State writ could not be established? What is your stance about it?

Ans: It is correct that he was on duty from 12:00 to 03:00 AM at Watch Tower No. 01 (front) duly armed with AK-47 with 30 cartridges. About 250/300 meter away terrorists started firing. In retaliation, he fired towards them and after extinguishing the cartridges he was empty hand. There was darkness. No torch was available with him. Mr. Aminullah, Outer Round Officer met him Aminullah also did firing. He does not know where he went. He remained on duty till last and did not leave the duty point. He could not see anyone due to darkness.

Q.2: Did he perform his duty according to provisions contained in sub clauses (d) not to leave his post without regular relief upon any pretext whatsoever, (e) not to allow any person to approach his post after dark, without challenging, (g) challenging on a dark night, on hearing voices or the approach of footsteps, if he receives no answer, or an unsatisfactory answer, to call the officer in charge of the picket, or, if necessary, give the alarm, (i) not to allow any person to

(TS) 847 (2)

crowd around him. (j) if he sees a person attempting to escape, to call on him to stand, and if he refuses to do so and there is no superior officer present, to fire on the prisoner, provided, he cannot otherwise prevent the escape. (k) if he is beyond call and has to raise the alarm, to fire a shot in the air as the signal for alarm and (l) if he sees any article in or near the jail likely to facilitate escape, or if any unusual incident comes under his observation, at once report the matter to the officer incharge of the picket of Rule 115^d of Pakistan Prison Rules?


Ans: He could not leave the duty station till last moment. Due to darkness he could not see anyone coming to him. He could not inform the seniors due to non-availability of any contact system.

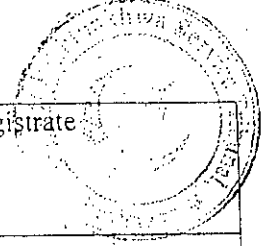
Heard and accepted.

Findings / Recommendations:

1. Under the Pakistan Prison Rules, he was responsible to run the security affairs of the Central Prison, Bannu strictly in accordance with the laid down provisions but due to his cowardice approach, he failed to confront the militants.
2. His duty was to remain alert and to confront the attackers.
3. He could not defend the charge levelled against him as he was having no concrete evidence in support of his contention.
4. He was not having the required skill / expertise to perform this responsible duty.
5. He admitted in his written reply to the Show Cause Notice that no sooner the attackers hit the Jail with heavy firing, the power went off i.e. 01:15 am. He also admitted to a question that he exhausted the available rounds in the air, and afterwards he had been trying to get more ammunition but there was no response from armory is quite strange and concocted. As per his statement, there was no means of communication between him and other points / duty places. He did not perform his duty under various clauses of
6. The charges levelled against the accused official Mr. Asif Ali Shah, the then Warden, Central Prison, Bannu presently posted at Central Jail, Haripur have been proved beyond any shadow of doubt. He deserves imposition of major penalty under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules-2011.

Attested


(Tasleem Khan)
Deputy Commissioner,
Haripur/Inquiry Officer



Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge/Magistrate
	2	3
1.	01.09.2015	<p><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</u></p> <p>Service Appeal No. 4842013</p> <p>Aminullah Versus Government of Khyber Pakhtunkhwa through Secretary Hom. & T.A Deptt. Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Ijaz Anwar, Advocate) and Government Pleader (Mr. Ziaullah) with Sheryae, ASJ for the respondents present.</p> <p>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)/IHD/1-40/2012 dated 16.4.2012 constituted a five numbers 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</p>

ATTACHED

Attested

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:-

S.No.	Appeal No.	Name	Designation	Department	Punishment	Date of Order
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	Haliz Mir Hussan Shah	Warder	"	"	"
10.	493/2013	Gul Mir Dali	Warder	"	"	"
11.	587/2013	M. Zahid	Dy.Supt.	"	"	10.12.2012
12.	1261/2012	M. Ghulam	Section Officer	Establishment	"	5.11.2012
13.	1244/2012	Daftar Khan	A.P.A	"	Reduction	17.7.2012

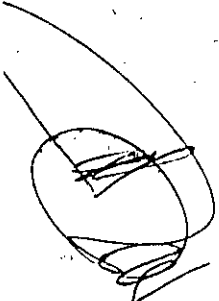
[Handwritten signature]

3. The Departmental ^{appeals} 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

Attested

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.

Attested

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

Attested

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.

Certificate

ANNOUNCED
01.09.2015

Sd/- P. B. Khatke Shah,
Member
Sd/- Abdul Latif,
Member

2000
12
2
14
9.9.2015

Attested

9.9.2015
A. A. ...

Annex "C"

11

CHARGE SHEET

I, Abid Saeed, Chief Secretary Khyber Pakhtunkhwa, as competent authority, hereby charge you Mr. Asif Ali Shah, as follows:

That you, while posted as warden at Central Prison Bannu committed the following irregularities:

- 1. You were assigned the duties at Watch Tower No1 on the night between 14/15-4-2012 duly armed but you showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. 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.

Ali Saeed
 12/1/2017
 (CHIEF SECRETARY)
 KHYBER PAKHTUNKHWA

Attested

12

DISCIPLINARY ACTION

I, Abid Saeed, Chief Secretary Khyber Pakhtunkhwa, as the competent authority, am of the opinion that warder Asif Ali Shah presently attached to High Security Prison, Mardan 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 attached to Central Prison Bannu, he was assigned the duties at Watch Tower No.1 on the night between 14/15-4-2012 duly armed but he showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. Resultantly, 381 prisoners including high profile prisoners were released, beside 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. Tasleem Khan

ii. _____

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

4. 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.

Attested

Abid Saeed
15/1/2017
(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA

اصغر پتیلان

Annex - "A"

انجمن خیریت جناب تسلیم خان اپنی محنت و صاحب منافع پوری ٹور
13

155

جواب شہوکار نوٹس نمبر 2454/24 مورخہ 17-2-2012

جناب عالی! مندرجہ حسب ذیل جواب پیش کرنا ہے۔

گزارش ہے کہ میں حکم جیل خانہ جات میں بطور رارڈر کی ڈیوٹی سرانجام دے رہا ہوں۔ ہمیشہ اپنی ڈیوٹی ایجا ٹوری فرض شناسی سے انجام دی ہے اور کبھی بھی اپنے افسران بالا کو شکایت کا موقع فراہم نہیں کیا ہے۔

میوری ڈیوٹی مورخہ 2012-04-15-16 کو بھیج کر

سنڈل جیل بنوں میں تھی۔ میں اپنی ڈیوٹی پر فرائض سرانجام دے رہا تھا کہ رات کو تقریباً 30 بجے فائرنگ کی آوازیں سنائی دیں۔ میں فائرنگ کی آواز سن کر پوری طرح پوزیشن منجھال لی اور اپنی سرکاری رائفل سینڈ الین۔ ایم جی جس میں 30 عدد کارٹوس موجود تھے بلٹ مار کر ریڈی ہو گیا تھا۔ جب جیل کے چاروں اطراف سے فائرنگ شروع ہوئی تو جلی بند ہو گئی اور میں نے اپنی سرکاری رائفل سے فائرنگ شروع کر دی تھی۔ میرے پاس صرف 30 عدد کارٹوس تھے جو کہ میں فائرنگ چکا تھا۔ مزید کارٹوس حاصل

Attested

کونہ کی بھڑ پور کو نشان کر دے اور کھین کا رٹوس نہ مل سکے
 یہی فائرنگ کو دیکھ کر دستگردوں نے یہاں آکر
 برج پر ابر فائر کے ثبوت برج پر لگے گولیوں کے نشان
 موجود ہیں میں نیچے (خالی صاف) پونے کے باوجود اپنی
 جان کی پرواہ کیے بغیر اپنی ڈیوٹی سرفاگ دیتا رہا اور
 اپنا ڈیوٹی فٹاک خالی نہیں چھوڑا تھا۔

دستگردوں کے پاس بھاری مقدار میں خود کار پھیندا
 تھے اور اعداد میں بہت زیادہ تھے۔ اس کے باوجود میں
 نے اپنی جان کی بازی لگا کر اپنے فیرالٹن منضی سے
 ایک قدم بھی پیچھے نہیں ہٹا۔

یہاں اوپر جو الزام قبوت خانہ کے نام سے لگایا گیا ہے
 سے تو کئی ہے لہذا یہاں۔

لہذا جناب سے رشتہ جاکر یہاں جواب پر خود
 ضرورت سے اسے منظور فرما کر شکور فرما دیں۔

جناب کی عین نوازش ہوگی۔
 فتوح خورشید 2017-02-04

آپ کا نا اہلاد وارڈر۔ آصف علی شاہ ولد طاہر علی شاہ

جنرل جیل پری پور
 Arrested

ALISHOHAN

4-2-2017

آصف علی شاہ وارڈ ماہیہ بنوں جیل عالی سنٹرل جیل لاہور

157
15

اصل بیان کیا گیا ہے کہ 9 1/2 سال سے جیل خانہ جات میں ملایا گیا ہے۔ بنوں جیل میں
2007ء سے لیڈر قیوم کے روزانہ ڈیوٹی کا یہ سہری گائیڈ وارڈ کا دفتر پر تھی اور رات 12 بجے
سے 3 بجے تک تھی۔ سہری میں کلڈ شیڈول نمبر 30 عدد کارٹوس موجود تھے

سولہ صبح 14، 15 اپریل 2012ء کی درمیانی شب رات 12 بجے سے دو بجے تک آپریشن وارڈ کا دفتر پر
روزانہ وارڈ کا دفتر پر لیڈر قیوم تھے۔ رات سو ایک بجے دھشت گردوں کا خوف سے جیل ڈراما ٹوانا
آپریشن انتہائی تیزی سے کیا گیا۔ رات چوتھے بجے موجود اسلحہ (اسٹیل گان) کا لہجہ سے دھشت گردوں کو
جیل گولڈنگ کی کئی مشین نالغہ کرنے لگیں اور کارڈاڈا کا جیل کے نتیجے میں 381 سہری جیل
میں انتہائی فکرائی ہوئے اور موجودہ فرار کرنے میں کامیاب ہوئے جس سے صوبائی حکومت
اور جیل انتظامیہ کو شدید پریشانی ہوئی۔ اس بار میں آپریشن کا بیان کیا جا رہا ہے۔

14-15 اپریل 2012ء کی درمیانی شب رات بارہ بجے سے تین بجے تک سہری ڈراما
وارڈ کا دفتر پر لیڈر قیوم تھے اور سہری میں کلڈ شیڈول نمبر 30 عدد کارٹوس موجود تھے۔ رات تیرہ بجے
تیس بجے تک دھشت گردوں میں ڈراما کیا گیا۔ تیس بجے سے 250-300 مشین گانوں کے نالغہ سے انوں
نے جیل کی کئی مشین نالغہ کی۔ چوبیس بجے میں آپریشن کی کئی مشین نالغہ کی اور سہری
کا رٹوس نالغہ کیا۔ اس کے بعد عالی عالی رہ گیا۔ چھ اصل وقت تیار میں 10-11 بجے
بجے سے بجے میں تھی اور کلڈ شیڈول نمبر 30 عدد کارٹوس میں تھی اسلحہ وسیلہ موجود تھی۔
جیل میں انوں نے نالغہ کی مشین جیل کے صحن میں لگا دیا۔ چھ بجے سے 10 بجے تک
سہری انتہائی فکرائی ہوئے اور موجودہ فرار کرنے میں کامیاب ہوئے جس سے صوبائی حکومت
اور جیل انتظامیہ کو شدید پریشانی ہوئی۔ اس بار میں آپریشن کا بیان کیا جا رہا ہے۔
میں اپنی ڈیوٹی پر اٹھی وقت تک موجود رہا۔ صبح چوبیس بجے کے شروع وارڈ کا دفتر پر تھی اور
وقت تیار میں تھی اور اس کے بعد فرار کرنے میں کامیاب ہوئے جس سے صوبائی حکومت
اور جیل انتظامیہ کو شدید پریشانی ہوئی۔ اس بار میں آپریشن کا بیان کیا جا رہا ہے۔

حاجی
[Signature]

ALI SHAH

Attested

میں سے لے کر لاکھ پچیس لاکھ تک ہے جو پچیس لاکھ سے زائد ہیں۔ اس میں سے
 صرف پچیس لاکھ کے اندر ہی ایک لاکھ سے زائد کے لوگ نظام موجود ہے۔ یہ سب
 میں سے ایک لاکھ کے اندر ہی ایک لاکھ سے زائد کے لوگ نظام موجود ہے۔ یہ سب
 میں سے ایک لاکھ کے اندر ہی ایک لاکھ سے زائد کے لوگ نظام موجود ہے۔ یہ سب
 میں سے ایک لاکھ کے اندر ہی ایک لاکھ سے زائد کے لوگ نظام موجود ہے۔ یہ سب

سوال Prison Rule 115A میں وارڈز کا ڈانٹا ہونے سے پہلے اس وقت ہی کیوں کیا گیا ہے اور
 اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے اس کا کیا
 اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے اس کا
 کیا اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے
 اس کا کیا اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا
 اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے

جواب میں اس وقت تک اس کی کوئی وجہ نہیں ہے اور اس کا وجود رہا۔ اس کے
 بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے اس کا
 کیا اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا
 اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے
 اس کا کیا اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا
 کیا اثر ہے اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے

DEPUTY COMMISSIONER
 HARIPUR 25/2/17

Attested

Asst. A. L. Shaha
 اس کے بعد اس وقت میں یہ کیوں نہیں کیا گیا اور اس کا کیا اثر ہے

Annex = "E"

17

845

DEPARTMENTAL / INQUIRY PROCEEDINGS AGAINST MR. ASIF ALI SHAH, THE THEN WARDER, CENTRAL PRISON, BANNU. PRESENTLY POSTED AT CENTRAL JAIL, HARIPUR.

Background:

The Competent Authority i.e. Hon'able Chief Secretary, Khyber Pakhtunkhwa was pleased to appoint the undersigned as Inquiry Officer under Rule-10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, which was conveyed vide Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department, Peshawar order No. SO (Com/Enq)/HD/1-40/2012 dated 23.01.2017 with the mandate to inquire into the following allegations levelled against Mr. Asif Ali Shah, the then Warder, Central Prison, Bannu presently posted at Central Jail, Haripur as reflected in Charge Sheet / Statement of Allegations:-

While attached to Central Prison, Bannu, he was assigned the duties at Watch Tower No. 1 on the night between 14/15-4-2012 duly armed but he showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. Resultantly, 381 prisoners including high profile prisoners were got released, beside other damages.

Proceedings:

In pursuance of the direction contained in Para-4 of the Charge Sheet, the accused Official in his defense on 04.02.2017 (Copy attached as Annexure-A). The accused Officer was also summoned to appear before the undersigned on 25.02.2017 at 09:30 AM for inquiry proceedings. Mr. Abdul Raziq, Assistant Superintendent, Central Prison Bannu also attended the proceedings as departmental representative as authorized by Superintendent, Central Prison Bannu vide letter No. 996 dated 24.02.2017 under the directive of the Inspector General of Prisons, Khyber Pakhtunkhwa. The accused Officer attended the office of the undersigned on 25.02.2017.

Statement of the accused Official recorded who stated on oath that he was serving in Prisons Department for the last 09 and half years, was posted at Bannu Jail in the year 2007, his duty was on Watch Tower No. 1 from 12:00 to 03:00 am having AK-47 Rifle with 30 cartridges on the day of incident while responding the questions asked as under (Original questions and answers are attached as Annexure-B):-

Q.1: During the attack on 14/15 midnight April, 2012 he was deployed as Sentry in Watch Tower No. 01 from 12:00 AM to 03:00 AM for duty with AK-47 and 30 cartridges but he showed cowardice as he did not fire on terrorists and even not tried to prevent them outside the Jail as a result the attackers took away 381 prisoners including high profile from the Jail. Due to his cowardice, the State writ could not be established? What is your stance about it?

Ans: It is correct that he was on duty from 12:00 to 03:00 AM at Watch Tower No. 01 (front) duly armed with AK-47 with 30 cartridges. About 250/300 meter away terrorists started firing. In retaliation, he fired towards them and after extinguishing the cartridges he was empty hand. There was darkness. No torch was available with him. Mr. Aminullah, Outer Round Officer met him Aminullah also did firing. He does not know where he went. He remained on duty till last and did not leave the duty point. He could not see anyone due to darkness.

Q.2: Did he perform his duty according to provisions contained in sub clauses (d) not to leave his post without regular relief upon any pretext whatsoever, (e) not to allow any person to approach his post after dark, without challenging, (g) challenging on a dark night, on hearing voices or the approach of footsteps, if he receives no answer or an unsatisfactory answer, to call the officer in charge of the picket, or, if necessary, give the alarm, (i) not to allow any person to

(18) 847 (2)

crowd around him. (j) if he sees a person attempting to escape, to call on him to stand, and if he refuses to do so and there is no superior officer present, to fire on the prisoner, provided, he cannot otherwise prevent the escape. (k) if he is beyond call and has to raise the alarm, to fire a shot in the air as the signal for alarm and (l) if he sees any article in or near the jail likely to facilitate escape, or if any unusual incident comes under his observation, at once report the matter to the officer incharge of the picket of Rule 115 of Pakistan Prison Rules?


Ans: He could not leave the duty station till last moment. Due to darkness he could not see anyone coming to him. He could not inform the seniors due to non-availability of any contact system.

Heard and accepted.

Findings / Recommendations:

1. Under the Pakistan Prison Rules, he was responsible to run the security affairs of the Central Prison, Bannu strictly in accordance with the laid down provisions but due to his cowardice approach, he failed to confront the militants.
2. His duty was to remain alert and to confront the attackers.
3. He could not defend the charge levelled against him as he was having no concrete evidence in support of his contention.
4. He was not having the required skill / expertise to perform this responsible duty.
5. He admitted in his written reply to the Show Cause Notice that no sooner the attackers hit the Jail with heavy firing, the power went off i.e. 01:15 am. He also admitted to a question that he exhausted the available rounds in the air, and afterwards he had been trying to get more ammunition but there was no response from armory is quite strange and concocted. As per his statement, there was no means of communication between him and other points / duty places. He did not perform his duty under various clauses of
6. The charges levelled against the accused official Mr. Asif Ali Shah, the then Warder, Central Prison Bannu presently posted at Central Jail, Haripur have been proved beyond any shadow of doubt. He therefore deserves imposition of major penalty under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules-2011.

Attested


(Tasleem Khan)
Deputy Commissioner,
Haripur/Inquiry Officer

Asif Ali Shah

Annex *26/02/17*
ref 55

(19)

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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. Asif Ali Shah, Warder (BS-05), 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.

- (i) 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.

[Signature]
Attested

[Signature]
(Muhammad Azam Khan)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA.

CHIEF SECRETARY,

Khyber Pakhtunkhwa

Subject: Reply to Show Cause Notice.

Respected sir,

With due respect, it is submitted that I have received a show cause notice, dated 07.12.2017 accusing the undersigned of the following charges:

- 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;-

Sir, I humbly want to bring the facts about the incident of Bannu Jail into your kind notice and would try to defend myself from the above -quoted charges, level against me, on the following grounds;

1. That the inquiry conducted was totally partial as the undersigned was associated neither in the proceedings nor given the opportunity of cross examining any witness if produced against the undersigned. Moreover the issuance of the show cause notice on the basis of preliminary inquiry and in form questioner and not holding proper inquiry is against the law and rules.
2. That the inquiry in not competent in the present form under the Khyber Pakhtunkhwa government servant (Efficiency and discipline) rules, 2011, where under section 11 procedure was lay down as to record the statements of the witnesses and departmental representative in the presence of accused and vice-versa, the so called inquiry conducted is defective in nature.
3. That the show cause notice issued by incompetent authority as the undersigned Warder (BS-05).
4. That on 15.04.2012 being warder (outer round officer), I was present on my duties and continuously keeping strict watch on the four watch towers of the Bannu jail to ensure the presence and alertness of the security personnel deputed there. Suddenly, at about 1:30 AM, I heard the sound of heavy firing. I, immediately rushed towards the watch tower no. 1, there, I saw one of the security personal namely, Mr. Asif Ali Shah, firing on the attackers who were present outside the jail premises. The security personnel deployed in the other three watch towers were also firing on the attackers; I also got position and started firing on the attackers.

Attested

5. That despite of the fact, the attackers were in large numbers and equipped with heavy arms and ammunition, i.e mortars, hand grenades and LMG etc. we showed every possible resistance to the attackers and engaged them in cross-firing with our light weapons and tried our best to create a real deterrence for the attackers, in order to retreat them. Meanwhile, the jail administration, immediately, informed the local police and army about the incident and requested them for immediate help, but unfortunately, they reached the spot too late i.e after passing of 1 ½ hours, at about 3:00 AM. Till that time we have fired all the ammunitions available with us and were remained empty handed. Although we tried our best to confront the militants effectively according to our capabilities and we never turned our backs to the attackers till the end.
6. Sir at the time of attack and firing, the electricity supply of the central prison Bannu was completely off and no one can say that the attackers didn't get any injuries of loss, but I can confidently say that they must have suffered loss. Although, the attackers have got the benefit of darkness, so they succeeded to take their wounded companions with themselves.
7. That, the statement of prisoners that we didn't show any resistance is totally false, frivolous, baseless and not true. No prisoner of any jail would ever talk about anything good of security personnel of jail nor were such statements cross examined.

Sir, they are criminals and are showing their criminal intimidation against the jail security staff.

Furthermore, I am ready to affirm on oath that we are patriot Pakistanis and after getting the additional responsibilities of the Govt servants, we also became the defenders of the interests of Pakistan, so we would never turned our backs to the enemies of Pakistan. We have totally submitted our lives for the protection, benefit and services of Pakistan.

In the light of the all above, it is once again requested to kindly exonerate the undersigned from the above-quoted charges by filing the same and oblige, please.

~~Attested~~

Thinking for anticipation!

You're obediently,

ASIF ALI SHAH
Warder, Central Prison, Bannu.



I.G	
A.I.G	
D.D.	
A.D.	

Annex-14
Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

ORDER

No. SO(P&R)/HD/8-4/Bannu Jail Break/2018/Vol-I: WHEREAS, Mr. Asif Ali Shah Warden (BPS-05) 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 official stood 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 official, 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 official.

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 12-12-2012 to 20-01-2016) in respect of the official is hereby treated as extra ordinary leave (leave without pay).

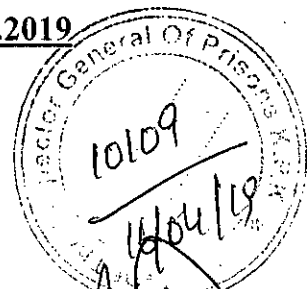
Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal affairs Department

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 Officers concerned.
7. Official concerned.



(Handwritten signature)
17/4/19

(Maqsood Hassan)
Section Officer (P&R)

13/5/2019

AMEX = 'T'

23

No. 833

RGL21551202

For notices see reverse.
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Rs. Ps.

Rs. 00

Received a registered*
addressed to

KPK

Date-Stamp

Initials of Receiving Officer

*Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.

Insured for Rs. (in figures)

(in words)

Insurance fee Rs.
Name and
address
of sender

Weight

Kilo

Grams

(in words)

18/05

ATTENDED

ATTENDED

POWER OF ATTORNEY,

29

In the Court of Service Tribunal Peshawar

Asif Ali Shah

{ For
{ Plaintiff
{ Appellant
{ Petitioner

VERSUS

Court of KPK

{ Defendant
{ Respondent
{ Accused

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

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

YASIR SALEEM,

Jawad Ur Rahman & Pirzada Muhammad Tayab Amin Advocates

AS my true and lawful attorney, for me in my name and on my behalf 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, Compromises 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 subpoena 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 _____

JAWAD UR RAHMAN
Jawad Ur Rehman

M. Tayab
Pirzada Muhammad Tayab Amin

YASIR SALEEM
Advocate, High Court, Peshawar

ADVOCATES, LEGAL ADVISORS,
SERVICE & LABOUR LAW CONSULTANT
F10-3 Fourth Floor, Bilal Plaza, Saddar Road, Peshawar, Cantt.
Contact No. 03318892589 | email: yasir.saleem@advocate@gmail.com

BEFORE THE LEARNED SERVICE TRIBUNAL
PESHAWAR.

In the matter of

Service Appeal No. 1367 of 2019

Asif Ali Shah S/O Tahir Ali Shah, Central Prison Bannu r/o Pir Khel Kakki District Bannu
.....Appellant

VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Department Peshawar
2. Inspector General of Prison Khyber Pakhtunkhwa Peshawar.
3. Superintendent Circle Headquarters Prison Peshawar.
4. Superintendent, Central Prison Bannu.....Respondent

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DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of

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2. Inspector General of Prison Khyber Pakhtunkhwa Peshawar.
3. Superintendent Circle Headquarters Prison Peshawar.
4. Superintendent, Central Prison Bannu.....Respondent

PARAWISE REPLY ON BEHALF OF RESPONDENTS No. 1 to 5.

Preliminary Objections

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

ON FACTS

- 1- No Comments.
- 2- In response to para No. 2 of the appeal, the appellant at that unfortunate night showed cowardice and lethargic with regards to his duties, due to his lethargic conduct, a number of militants attacked on Jail who were equipped with heavy weapons and the result of such attack's a number of condemned / convicted prisoners were escaped from Jail. He was duty bound to show resistance and to fire confront to the militants attacker's but the same was not done which is a serious misconduct on the part of his duties. During such attacks a numbers of watch and ward staff were sustained serious injuries and his name was not included therein inspite of the fact that he was on duty in that night (**list of watch & ward staff who were on duty at that night are Annexed As-"A"**).
- 3- Pertains to record, hence needs no comments.
- 4- Incorrect and not admitted, the allegations which is levelled against the appellant was fully proved against him. He failed to perform his duties efficiently and showed cowardice and negligence to fire confrontly to the militants. He has been also served with proper show

cause notice and charge sheet and he could not defend the allegations which is levelled against him. (Show cause notice and charge sheet are Annexed "B")


- 5- In response to para No. 5 of the appeal it is correct that he has been awarded major penalty of dismissal from service after thoroughly probe of the incident and proper inquiry. (Inquiry Report is Annexed "C")
- 6- Admitted & correct.
- 7- Admitted & correct.
- 8- Detail answer is given in para No. 4 of the factual objection.
- 9- In the light of de-novo inquiry by the order of honorable Tribunal proper opportunity of personal hearing was given to appellant. He failed to defend his own stance and awarded the major penalty as he was involved in such like heinous act of offence.
- 10- Detail answer is given in para No. 4 of the factual objection.
- 11- In response to para No. 11 full opportunity of defense was given to him and all proceedings which was initiated against him was according to law.
- 12- Pertains to record, hence needs no comments.
- 13- The punishment awarded to appellant is legal an was based o facts and circumstances of the case.


GROUND: -


- a. That the appellant fully treated according to Law and no discrimination was committed by the respondents.
- b. incorrect and not admitted all codal formalities are completely followed during the whole proceedings.
- c. Incorrect and not admitted detail answer is given in para No.9 of the factual objections..
- d. incorrect and not admitted. Answer of this para is given in para "B" of the objections on grounds.
- e. incorrect and not admitted. The assertions levelled by the appellant is totally baseless. He was duty bound to be vigilant while performing duties in such like high security prisons, but he was found indolent and negligent towards his duties and showed cowardice to fire actively and confrontly to the militants being equipped with heavy weapons. Due to his lethargic conduct the escape of numbers of Prisoners were possible so why could not he can be held responsible for the incident occurred at that night.
- f. incorrect and not admitted. Detail answer is given para No. 9 of the factual objections.
- G. incorrect and not admitted. Answer of this para is given in para No. "E" of objection on grounds.
- H. No Comments.


PRAYER

It is most humbly prayed that on the acceptance of this instant reply in the above service appeal on behalf of respondents the appeal may kindly be dismissed being devoid of law and merit.


SUPERINTENDENT
CENTRAL PRISON BANNU
(Respondents No.4)


INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
(Respondent No.2)


SUPERINTENDENT
HEADQUARTER PRISON PESHAWAR
(Respondents No.3)


SECRETARY TO GOVERNMENT
KHYBER PAKHTUNKHWA
HOME & T.A.S DEPARTMENT
PESHAWAR.
(Respondents No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of

Service Appeal No. 1367 of 2019


Asif Ali Shah S/O Tahir Ali Shah, Central Prison Bannu r/o Pir Khel Kakki District Bannu
.....Appellant

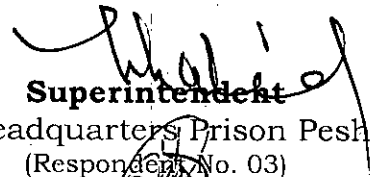
VERSUS

1. Secretary to Government of Khyber Pakhtunkhwa, Home & T.As Department Peshawar
2. Inspector General of Prison Khyber Pakhtunkhwa Peshawar.
3. Superintendent Circle Headquarters Prison Peshawar.
4. Superintendent, Central Prison Bannu.....Respondent


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

We the undersigned respondents do hereby solemnly affirm and declare that the contents of the Para-wise Comments in the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts have been concealed from this Honourable Service Tribunal.


Superintendent
Central Prison Bannu
(Respondent No. 04)


Superintendent
Circle Headquarters Prison Peshawar
(Respondent No. 03)

SECRETARY TO GOVT
OF KHYBER PAKHTUNKHWA
Home & T.As Department Peshawar.
(Respondent No. 01)


Inspector General of Prisons
Khyber Pakhtunkhwa Peshawar
(Respondent No. 02)



Registered

Annex ^{12/12/12} "A" ^{12/12/12} 5
OFFICE OF THE SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR.
No. 4120 R.B/DI: 12/12/2012 ✓

OFFICE ORDER

In exercise of powers conferred under rule-14 of the E&D (Efficiency & Discipline) rule 2011, after reply to show-cause notice and affording the opportunity of personal hearing, the undersigned is pleased to award the major penalties to the below noted officials as mentioned against their names on account of their involvement/ gross misconduct in Central Prison Bannu incident:

S.#	NAME OF ACCUSED OFFICIAL	AWARDED PENALTY
1 ✓	Warder Mir Laiq Khan	Dismissed from Service
2 ✓	Warder Saved Khan	-do-
3	Warder Hafiz Mir Hassan Shah	-do-
4	Warder Abidullah	-do-
5	Warder Asif Ali Shah	-do-
6 ✓	Muhammad Ibrar No. 1	-do-
7	Warder Gul Mir Dali	-do-
8 ✓	Warder Ameenullah	-do-
9	Warder Saqib	-do-
10	Warder Naseeb Gul	-do-
11	Warder Raajba Khan	Reduction to lowest stage in his present time pay scale
		-do-

SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR

Copy of the above is forwarded to the
Worthy Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar for
information with reference to his letter No. 3208-WE dated 12-12-2012
concerning Central Prison Bannu

District Accounts Officer, Bannu
For information & further necessary action.

Lo/B/O/Hc

Attested

[Signature]
SUPERINTENDENT
CIRCLE HQS. PRISON PESHAWAR
14/12/12

15/12/12

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Annex "C"

11

FROM : I G PRISONS

FRM NO. : 0919213445

3 Feb. 2017 12:36PM P1

CHARGE SHEET

I, Abid Saeed, Chief Secretary Khyber Pakhtunkhwa, as competent authority, hereby charge you Mr. Asif Ali Shah, as follows:

That you, while posted as warder at Central Prison Banna committed the following irregularities:

You were assigned the duties at Watch Tower No1 on the night between 14/15-1-2012 duly armed but you showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Banna Jail break on the above night. 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
12/1/2017

(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA

Attested

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12

PRISONS

FRM NO. : 8919213445

3 Feb. 2017 12:32PM P3

DISCIPLINARY ACTION

I, Abid Saeed, Chief Secretary Khyber Pakhtunkhwa, as the competent authority, am of the opinion that warder Asif Ali Shah presently attached to High Security Prison, Mardan 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 attached to Central Prison Bannu, he was assigned the duties at Watch Tower No.1 on the night between 14/15-4-2012 duly armed but he showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. Resultantly, 381 prisoners including high profile prisoners were go released, beside 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. Tasleem Khan
- ii. _____

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

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

Attested

Abid Saeed
12/1/2017
(CHIEF SECRETARY)
KHYBER PAKHTUNKHWA

Annex = "E"

17

DEPARTMENTAL / INQUIRY PROCEEDINGS AGAINST MR. ASIF ALI SHAH, THE THEN WARDER, CENTRAL PRISON, BANNU PRESENTLY POSTED AT CENTRAL JAIL, HARIPUR.

Background:

The Competent Authority i.e. Hon'able Chief Secretary, Khyber Pakhtunkhwa was pleased to appoint the undersigned as Inquiry Officer under Rule-10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, which was conveyed vide Government of Khyber Pakhtunkhwa, Home & Tribal Affairs Department, Peshawar order No. SO (Com/Enq)/IID/1-40/2012 dated 23.01.2017 with the mandate to inquire into the following allegations levelled against Mr. Asif Ali Shah, the then Warder, Central Prison, Bannu presently posted at Central Jail, Haripur as reflected in Charge Sheet / Statement of Allegations:-

While attached to Central Prison, Bannu, he was assigned the duties at Watch Tower No. 1 on the night between 14/15-4-2012 duly armed but he showed cowardice and failed to fire and confront militants effectively, with the result that there was no enemy loss and the militants took full advantage and succeeded in Bannu Jail break on the above night. Resultantly, 381 prisoners including high profile prisoners were got released, beside other damages.

Proceedings:

In pursuance of the direction contained in Para-4 of the Charge Sheet, the accused Officer in his defense on 04.02.2017 (Copy attached as Annexure-A). The accused Officer was summoned to appear before the undersigned on 25.02.2017 at 09:30 AM for inquiry proceedings. Mr. Abdul Raziq, Assistant Superintendent, Central Prison Bannu also attended the proceedings as departmental representative as authorized by Superintendent, Central Prison Bannu vide letter No. 996 dated 24.02.2017 under the directive of the Inspector General of Prisons, Khyber Pakhtunkhwa. The accused Officer attended the office of the undersigned on 25.02.2017.

Statement of the accused Official recorded who stated on oath that he was serving in Prisons Department for the last 09 and half years, was posted at Bannu Jail in the year 2007, his duty was on Watch Tower No. 1 from 12:00 to 03:00 am having AK-47 Rifle with 30 cartridges on the day of incident while responding the questions asked as under (Original questions and answers are attached

Q.1: During the attack on 14/15 midnight April, 2012 he was deployed as sentry at Watch Tower No. 01 from 12:00 AM to 03:00 AM for duty with AK-47 and 30 cartridges but he showed cowardice as he did not fire on terrorists and even not tried to prevent them outside the Jail as a result the attackers took away 381 prisoners including high profile from the Jail. Due to his cowardice, the State writ could not be established? What is your stance about it?

Ans: It is correct that he was on duty from 12:00 to 03:00 AM at Watch Tower No. 01 (front) duly armed with AK-47 with 30 cartridges. About 250/300 meter away terrorists started firing in retaliation, he fired towards them and after extinguishing the cartridges he was empty hand. There was darkness. No torch was available with him. Mr. Aminullah, Outer Round Officer met him Aminullah also did firing. He does not know where he went. He remained on duty till last and did not leave the duty point. He could not see anyone due to darkness.

Q.2: Did he perform his duty according to provisions contained in sub clauses (d) not to leave his post without regular relief upon any pretext whatsoever, (e) not to allow any person to approach his post after dark, without challenging, (g) challenging on a dark night, on hearing voices or the approach of footsteps, if he receives no answer, or an unsatisfactory answer, to call the officer incharge of the picket, or, if necessary, give the alarm, (i) not to allow any person to

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(18)

(2)

crowd around him. (ii) If he sees a person attempting to escape, to call on him to stand, and if he refuses to do so and there is no superior officer present, to fire on the prisoner, provided, he cannot otherwise prevent the escape. (iii) If he is beyond call and has to raise the alarm, to fire a shot in the air as the signal for alarm and (iv) If he sees any article in or near the jail likely to facilitate escape, or if any unusual incident comes under his observation, at once report the matter to the officer in charge of the prison of Rule 9154 of Pakistan Prison Rules?

Ans: He could not leave the duty station at that moment. Due to darkness he could not see anyone coming to him. He could not inform the seniors due to non-availability of any contact system.

Heard and accepted.

Findings / Recommendations:

1. Under the Pakistan Prison Rules, he was responsible to run the security affairs of the Central Prison, Bannu strictly in accordance with the laid down provisions but due to his cowardice approach, he failed to confront the militants.
2. His duty was to remain alert and to confront the attackers.
3. He could not defend the charge levelled against him as he was having no concrete evidence in support of his contention.
4. He was not having the required skill / expertise to perform this responsible duty.
5. He admitted in his written reply to the Show Cause Notice that no sooner the attackers hit the Hill with heavy firing, the power went off i.e. 01:15 am. He also admitted to a question that he exhausted the available rounds in the air, and afterwards he had been trying to get more ammunition but there was no response from armory is quite strange and concocted. As per his statement, there was no means of communication between him and other points / duty places. He did not perform his duty under various clauses of the charges levelled against the then official Mr. Asif Ali Shah, the then Warden, Central Prison, Bannu. The charges levelled against Mr. Asif Ali Shah, the then Warden, Central Prison, Bannu have been proved beyond any shadow of doubt. The charges levelled against Mr. Asif Ali Shah, the then Warden, Central Prison, Bannu are in violation of the provisions of the Pakistan Prison Rules-1973.

Attested

(Tasleem Khan)
Deputy Commissioner,
Haripur/Inquiry Officer

[Handwritten signature]

Annex *[Handwritten marks]*

19

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. Asif Ali Shah, Warder (BS-05), 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.

- (i) 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.

[Handwritten signature]
Attested

[Handwritten signature]
(Muhammad Azam Khan)
CHIEF SECRETARY,
KHYBER PAKHTUNKHWA.



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D.D.	
A.D.	

Annex-4
Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department.

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ORDER

No. SO(P&R)/HD/8-4/Bannu Jail Break/2018/Vol-I: WHEREAS, Mr. Asif Ali Shah Warder (BPS-05) 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 official stood 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 official, 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 official.

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 12-12-2012 to 20-01-2016) in respect of the official is hereby treated as extra ordinary leave (leave without pay).

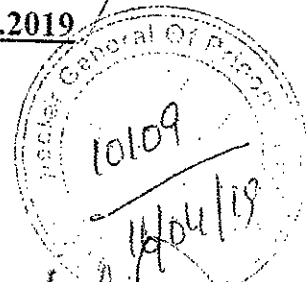
Secretary to Government of Khyber Pakhtunkhwa
Home & Tribal affairs Department

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 Officers concerned.
7. Official concerned.



(Magsood Hassan)

13/04/19