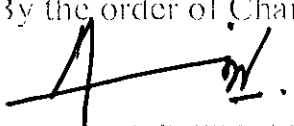


# FORM OF ORDER SHEET

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

**Appeal No.** 1890/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/09/2023	<p>The appeal of Mr. Gohar Rehman presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>21-09-2023</u>.</p> <p>By the order of Chairman  REGISTRAR</p>

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

In Re S.A No. 1890 /2023

Goher Rehman Ex-Head Warder

Versus

The Additional Inspector General & Others

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Dated: 18/09/2023

Through

کابیر ریحانی

APPELLANT

*Kabir Ullah Khattak*

Advocate, High Court

(1)

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

Appeal No. 1890 /2023

Goher Rehman Ex-Head Warder S/o Habib  
Muhammad Central Prisons Mardan R/o Village  
Latifay, Sakhakot District Malakand.

-----*(Appellant)*

**VERSUS**

1. The Additional Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent Circle Headquarter Prison Mardan.

-----*(Respondents)*

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL  
ACT -1974 AGAINST THE IMPUGNED  
ORDER DATED 27/01/2023 WHEREBY  
THE APPELLANT HAS BEEN  
AWARDED MAJOR PENALTY OF  
REMOVAL FROM SERVICE  
COMMUNICATED TO THE APPELLANT  
ON 23.02.2023 WHEREBY THE  
APPELLANT FILED DEPARTMENTAL  
APPEAL ON 01.03.2023 WHICH WAS  
REJECTED ON 11.05.2023  
COMMUNICATED TO THE APPELLANT  
ON 08.09.2023 ON NO GOOD GROUNDS**

**PRAYER IN APPEAL:-**

**ON ACCEPTANCE OF THIS APPEAL THE  
IMPUGNED ORDERS DATED 27/01/2023,  
11/05/2023 MAY KINDLY BE SET ASIDE AND  
THE APPELLANT MAY KINDLY BE  
REINSTATED IN SERVICE ALONG WITH  
ALL BACK BENEFIT.**

**Respectfully Sheweth;**

Appellant Submits as under:-

1. That the appellant was appointed as Ex-Head Warden since long in the respondent department.
2. That the appellant performed his duty with great Zeal and devotion, sincerity in to the entire satisfaction of his superiors.
3. That while performing his official duties with respondent department domestic problem has been arises to the appellant at the month of October 2022 due to which the appellant was unable to perform his official duty with respondent department.
4. That due to the reason mention in para No.3, the appellant has been removed from service on 27.01.2023 w.e.f 28.11.2022 by the respondent department (Copy of impugned order is attached as annexure "A").
5. That after solving the domestic problems when the appellant visited to respondent department for resume his official duty on 23.02.2023 whereby the appellant came to know regarding the impugned order 27.01.2023.

6. That feeling aggrieved from the above order the appellant filed the departmental appeal on 01.03.2023 to respondent No.1, however the same was rejected on 11.05.2023 which was communicated to the appellant 08.09.2023. (Copies of departmental appeal and rejection order are attached as annexure "B" & C")
7. That feeling aggrieved from both the impugned order the appellant filed this service appeal on the following grounds inter alia:

Grounds:

- A. That the impugned order is void order because it has been passed against the law, facts and principal of natural justice.
- B. That impugned orders are against Article 10A & 25 of the Constitution of the Islamic Republic of Pakistan 1973.
- C. That no show cause notice has been issued or served to the appellant nor departmental or regular inquiry has been conducted against the appellant.
- D. That no opportunity of personal hearing has been provided to the appellant and it is a well settle principal of law and no one can be condemned unheard.

4)

- E. That the absence of the appellant was not deliberate but due to the reason mentioned in para-3 of the facts.
- F. That the impugned order is also come under the definition of void order because it has been passed from the retrospective effect as well as passed without fulfilling the codal formalities.
- G. That the absence of the appellant was not willful but due the reason mentioned in para 3 of the facts.
- H. That the punishment has been awarded to the appellant is a harsh punishment.
- I. That the appellant is jobless since then and the whole family of the appellant face miserable condition.

*It is therefore humbly prayed that on acceptance of this appeal the impugned orders dated 27/01/2023, 11/05/2023 may kindly be set aside and the appellant may kindly be reinstated in service along with all back benefit.*

Dated: 18/09/2023.

Appellant

Through

*Kabir Ullah Khattak*

& *Roeeda Khan*

Advocates, High Court  
Peshawar.

(5)

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

In Re S.A No. \_\_\_\_\_/2023

Goher Rehman Ex-Head Warder

Versus


The Additional Inspector General & Others

**AFFIDAVIT**

I, Goher Rehman Ex-Head Warder S/o Habib Muhammad Central Prisons Mardan R/o Village Latifay, Sakhakot District Malakand, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

گوهر رحمان  
DEPONENT

*Identified by:*

 **Roeda Khan**  
Advocate High Court  
Peshawar.

6

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

In Re S.A No. \_\_\_\_\_/2023

Goher Rehman Ex-Head Warder

Versus

The Additional Inspector General & Others

**ADDRESSES OF PARTIES**

***PETITIONER.***

Goher Rehman Ex-Head Warder S/o Habib  
Muhammad Central Prisons Mardan R/o Village  
Latifay, Sakhakot District Malakand

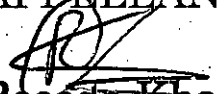
**ADDRESSES OF RESPONDENTS**

1. The Additional Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
2. The Superintendent Circle Headquarter Prison Mardan.

عبد الرحمن خان

APPELLANT

Through

  
Roeda Khan

Advocate, High Court  
Peshawar.

Dated: 18/09/2023



7

**BEFORE THE KPK SERVICE TRIBUNAL**  
**PESHAWAR**

Goher Rehman Ex-Head Warder

Versus

The Additional Inspector General & Others

**APPLICATION FOR CONDONATION OF DELAY**

**RESPECTFULLY SHEWETH:-**

Applicant submits as under.

1. That the above mentioned appeal has been filing before this Hon'ble Court in which no date is fixed for hearing so far.
2. That while performing his official duties with respondent department domestic problem has been arises to the appellant at the month of October 2022 due to which the appellant was unable to perform his official duty with respondent department.
3. That after solving the domestic problems when the appellant visited to respondent department for resume his official duty on 23.02.2023 whereby the appellant came to know regarding the impugned order 27.01.2023.
4. That feeling aggrieved from the above order the appellant filed the departmental appeal on 01.03.2023 to respondent No.1, however the same was rejected on 11.05.2023 which was communicated to the appellant 08.09.2023.





'A'

①

⑨

## OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. \_\_\_\_\_/PB Dated: \_\_\_/01/2023, E-Mail: mardanjail@gmail.com, 0937-843114

**OFFICE ORDER**

**WHEREAS**, the accused official/Head Warder Gohar Rehman S/O Habib Muhammad attached to Central Prison Mardan was proceeded against under Rule-3 read with 9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his wilful absence w.e.f 28-11-2022, and absence notice was served upon at his home address vide this Headquarters letter No. 4827 dated. 06-12-2022.

**AND WHEREAS**, due to no response from him, another notice was published in the leading newspaper of the Province, "Daily Pakhtunkhwa News" Mardan on 30-12-2022 and "Daily Mashriq" Peshawar on 02-01-2023 as provided under the series ibid.

**AND WHEREAS**, the accused official failed to resume duties till date as reported by the Superintendent Central Prison Mardan vide his office letter No.685 dated 19-01-2023.

**AND WHEREAS**, the accused official is habitual of absenting himself from line and duties and undisciplined, having lethargic duty attitude, which is crystal cleared from his service book, as the said accused official was "**Dismissed from Services**" vide HQ's Jail Peshawar order No. 29/A.PB dated. 01-02-2001 and **re-instated into services** vide Service Tribunal NWFP Peshawar dated. 30-12-2002, the accused official again "**Placed under Suspension**" in disciplinary case vide HQ's Peshawar order No. 299 dated. 02-12-2004 and **re-instated into service** vide HQ's Peshawar order No. 40 dated. 17-02-2005, again the accused official was "**Remove from Services**" due to wilful absence vide HQ's Prison Peshawar order No. 5093/PB dated. 27-09-2011 and **re-instated into service** vide HQ's Prison Peshawar order No. 735 dated. 27-04-2018 on acceptance of his service appeal before Service Tribunal Peshawar appeal No. 198/2012 dated. 07-02-2012, and the accused official was **awarded Minor Penalties so many times due to his wilful absentees** vide HQs Prison Mardan Order No. 1383-86 dated. 13-08-2020, order No. 1378 dated. 13-08-2020, order No. 6203-04 dated. 02-09-2020, order No. 100-103 dated. 27-01-2021, order No. 105-08 dated. 27-01-2021 and order No. 1307-12 dated. 29-03-2022. As per report of Superintendent Central Prison Mardan dated. 07-11-2022 the accused official again absented himself without permission w.e.f 25-10-2022 to 25-11-2022 thirty (30) days wilful absence in response this office appointed Mr. Bakht Rawan Deputy Superintendent District Jail Timergara as inquiry officer against the accused official with reference to the above allegation under Rule, but the accused official again absented himself w.e.f 28-11-2022 this office served absent notice to the accused official letter No. referred to above on his home address with no response, after lapse of 15 days' time period as reported by Superintendent Central Prison Mardan vide his report dated 21-12-2022, another notice published in two leading Newspapers as mentioned above but he failed to resume his duty nor submitted reply with in stipulated time period as reported by Superintendent Central Prison Mardan vide his office letter No. 685 dated 19-01-2023. The accused official neither resumed his duty nor appeared for inquiry proceedings not intimated the reasons of absence.

**NOW THEREFORE**, in exercise of powers conferred under Rule-9) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the undersigned being competent authority after observing all legal procedural formalities, hereby awarded the major penalty of "**Removal from Service**" with immediate effect to the accused official/Head Warder Mr. Gohar Rehman S/O Habib Muhammad attached to Central Prison Mardan for his wilful absence w.e.f 28-11-2022.

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDANEnds: No. 343-46/Dated: 27/01/2023

Copy of the above is forwarded to:-

1. The Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
2. The Superintendent Central Prison Mardan, for information and necessary action, with reference to his report dated 06-12-2022, please.
3. The District Accounts Officer, Mardan for information and necessary action please.
4. Official concerned C/O Superintendent Central Prison Mardan.

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

"B" (10)

The Inspector General of Police  
Prison KPK Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST  
THE IMPUGNED ORDER DATED  
27.01.2023 WHEREBY THE APPELLANT  
HAS BEEN REMOVE FROM SERVICE  
WITH EFFECT FROM 28.11.2022

Respected Sir,

The appellant submits as under.

1. That the Petitioner belongs to a respectable family and law abiding citizen of Pakistan.
2. That the petitioner was appointed as Warder in 2000 in prison department.
3. That after appointment the Petitioner perform his duty regularly with full devotion and hard work and no complaint whatsoever has been made against the petitioner.
4. That while performing his official duty with respondent department domestic problem has been arise to the appellant at the month

of October 2022 due to which the appellant was unable to performed his official duty with respondent department.

5. That due to the reason mentioned in para-4 the appellant has been removed from service on 27.01.2023 w.e.f 28.11.2022 by the respondent department.
6. That the absence of appellant was not deliberate but due to the reason mentioned in para-4.
7. That after solving the said domestic problem when the appellant visited to respondent department for resume his official duty on 23.02.2023 whereby the appellant came to know regarding the impugned order dated 27.01.2023.
8. That no procedure has been adopted according to law and rules before imposing the major penalty.
9. That no show cause notice has been issued or served to the appellant nor departmental or regular inquiry was conducted against the appellant.

(12)

10. That no opportunity of personal hearing has been provided to the appellant.

11. That from every angle, the impugned order is wrong, illegal void is liable to be set aside.

It is therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 27.01.2023 may kindly be set aside and the appellant may kindly be reinstated on his service along with all back benefits.

Dated: 01-03-2023

Goher Rehman

Appellant

Goher Rehman  
S/o Habib Muhammad  
Ex-Head Warder  
Central Prison Mardan



OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 📠 091-9213445

No. Estb/Ward-/Orders/ 17929 /-

Dated 11-05-2023 /-

**ORDER:**

**WHEREAS,** Ex-Head Warder Gohar Rehman, S/o Habib Muhammad attached to Central Prison Mardan was awarded the major penalty of "Removal from Service" by Superintendent HQs Prison Mardan vide order No. 342 dated 27-01-2023 due to his willful absence w.e.f. 28-11-2022 till the date of his removal from service on 27-01-2023.

**AND WHEREAS,** the said Ex-Head Warder preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

**AND WHEREAS,** he was afforded an opportunity of personal hearing on 09-05-2023. His appeal was examined in light of the available record of the case and it was observed that the penalty was awarded to him by the competent authority on his willful absence after observing all legal and codal formalities as required under Government Servants (Efficiency & Discipline) Rules, 2011. During the course of hearing, the appellant failed to justify his innocence.

**AND WHEREAS,** entire service history of the appellant is filled with red entries and he had been awarded 10 penalties. He is habitual of absenting himself from duties as per his service record.

**NOW THEREFORE,** having considered the charges, evidences/facts on record, explanation of the accused official, his entire service history, the provision of rules in vogue and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance and fact.

**ADDL: INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

ENDST: NO. 17930 - 34 /-

Copy of the above is forwarded to the:

1. Deputy Inspector General of Prisons Regional Prison Office Mardan for information.
2. Superintendent, Headquarters Prison Mardan for information and necessary action with reference to his letter No. 1032/WE dated 29-03-2023.
3. Superintendent Central Prison Mardan for information and necessary action. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
4. Mr. Gohar Rehman S/o Habib Muhammad (Ex-Head Warder) C/o Superintendent Central Prison Mardan for information.
5. PS to Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information.

**DEPUTY DIRECTOR**  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

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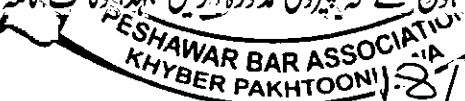
50	9822	پشاور بار ایسوسی ایشن، خیبر پختونخوا
ایڈوکیٹ:		
بار کونسل ایسوسی ایشن نمبر:	09-2814	
رابطہ نمبر:	0333026895	

بعدالت جناب:

منجانب:	دعوی:
لوہن خان نام لیسٹ	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

### باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالثت و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پر داخست منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے سبب سے ہوگا وکالی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندانہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے



المرقوم: 9/20 23

العبد واہ شد العبد

مقام کے لیے منظور ہے۔

تو کلام