


## FORM OF ORDERSHEET

Court of

Case No.

5681/Neem/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	27/09/2023	<p>The present appeal was decided by this Hon'ble Service Tribunal on 22.03.2021. Thereafter, against the judgment of this Tribunal Civil Petition was filed before the Supreme Court Pakistan and the Supreme Court of Pakistan vide its order/direction dated 12.05.2023 converted the Civil Petition into an appeal and remanded the same to this Tribunal for decision afresh after hearing the parties, in accordance with law. Let it be fixed for hearing before Division Bench at Peshawar on <u>02-10-2023</u> Parties be informed accordingly.</p> <p style="text-align: right;">By the Order of Chairman    REGISTRAR</p>

Ph: 9220581  
Fax: 9220406

SCANNED  
KPST  
Peshawar

20/9/23

REGISTERED  
No. C.A. 501/2023 - SCJ  
**SUPREME COURT OF PAKISTAN.**

Islamabad, dated 31-8, 2023.

From

The Registrar,  
Supreme Court of Pakistan,  
**Islamabad.**

To

The Registrar,  
K.P.K., Service Tribunal,  
**Peshawar.**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7931

Dated 26-09-23

**Subject: CIVIL APPEAL NO. 501 OF 2023.**

**OUT OF**

**CIVIL PETITION NO. 318-P OF 2021.**

Inspector General of Prisons Khyber Pakhtunkhwa,  
Peshawar & others.

Versus

Sahib Nawaz.

On appeal from the Judgment/Order of the K.P.K., Service  
Tribunal, Peshawar dated 22.03.2021, in S.A. No. 5681/2020.

Dear Sir,

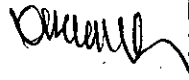
I am directed to forward herewith a certified copy of the  
Order/Judgment of this Court dated **12.05.2023**, converting into appeal  
the above cited civil petition, allowing and remanding the same, in the  
terms stated therein, for information and necessary action.

I am also to invite your attention to the directions of the Court  
contained in the enclosed Order for immediate compliance.

Please acknowledge receipt of this letter along with its  
enclosure immediately.

**Encl: Order:**

Yours faithfully



(MUHAMMAD MUJAHID MEHMOOD)  
ASSISTANT REGISTRAR (IMP)  
FOR REGISTRAR

84/23

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

Mr. Justice Umar Ata Bandial, C.J.  
Mr. Justice Athar Minallah

**Civil Petition No.318-P of 2021**

(Against the judgment dated  
22.03.2021 of the K.P. Service Tribunal  
Peshawar passed in Service Appeal  
No.5681 of 2020)

Inspector General of Prisons Khyber Pakhtunkhwa,  
Peshawar and others ... Petitioner(s)

Versus

Sahib Nawaz ... Respondent(s)

For the petitioner(s): Sultan Mazhar Sher, Addl. A.G. K.P.

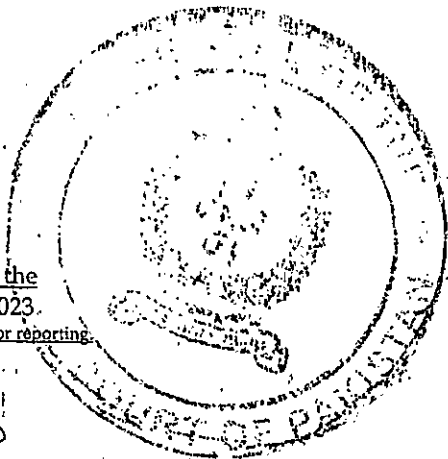
For the respondent(s): In person.

Date of hearing: 12.05.2023

**ORDER**

Umar Ata Bandial, C.J.- The learned Additional Advocate General, K.P. has pointed out that in the impugned judgment the Tribunal has misread the record in assuming that the absence of the respondent from duty for a period of 33 days is justified because of his admission to the Police Hospital. He has adverted to the statement of the respondent dated 26.09.2019 recorded by the Inquiry Officer which indicates that the respondent had been advised bed-rest for only two days and not 33 days. The remaining period of his absence was not substantiated properly by the respondent before the Inquiry Officer. The second ground in the impugned order is that no punishment was awarded to the 14 Warders who were identically placed regarding their absence from duty. The documents on record, however, reflect that the said Warders had been subjected to withholding of their annual increment for one year. Consequently, the impugned judgment which sets aside the penalty imposed on the respondent is contrary to the record.

3. The submissions made by the learned Addl. A.G. have some merit. However, we consider it appropriate that the factual pleas taken before us ought to be examined by the K.P. Service Tribunal for the reason that we only consider a substantial question of law of public importance while hearing petitions under Article 212(3) of the Constitution. Resultantly, the impugned judgment is set aside. This petition is converted into appeal, allowed and remanded to the K. P. Service Tribunal for decision afresh after hearing the parties, in accordance with law.



Islamabad, the  
12<sup>th</sup> May, 2023.  
Not approved for reporting.  
Minister Media

23/5/23

Sd/- HCT  
Sd/- J

Certified to be True Copy

*Me*  
Court Associate  
Supreme Court of Pakistan  
Islamabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 5681/2020

Date of Institution: 09.06.2020

Date of Decision: 22.03.2021

SCANNED  
KPST  
Peshawar

Mr. Sahib Nawaz Warder, Central Jail Peshawar.

... (Appellant)

VERSUS

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar and two other.

... (Respondents)

Mr. Aslam Khan Khattak  
Advocate

... For Appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney

... For Respondents

MR. HAMID FAROOQ DURRANI  
MR. ATIQ UR REHMAN WAZIR... CHAIRMAN  
... MEMBER (E)JUDGMENT: -

Mr. ATIQ UR REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant, while serving as Warder in Prison department, was proceeded against on the charges of absence from duty and was awarded major penalty of removal from service vide order dated 14-07-2016, against which the appellant filed departmental appeal, which was also rejected on 18-11-2016. The appellant filed service appeal No. 228/2017, which was accepted vide judgment dated 06-08-2019 and the appellant was re-instated in service and de-novo inquiry was conducted. As a result of de-novo inquiry, major penalty of reduction to lower stage in his present time scale for three years was imposed upon the appellant along with treatment of the intervening period (14-07-2016 to 13-09-2019) as leave without pay vide order dated 01-11-2019, against which the appellant filed departmental appeal dated 01-11-2019. The respondents

considered his appeal and major penalty was converted into minor penalty of withholding of increments for two years vide order dated 12-03-2020, against which the appellant filed the instant service appeal with prayers that impugned orders dated 01-11-2019 and 12-03-2019 may be set aside and the appellant may be allowed all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant contended that absence of the appellant from duty was never intentional but he was sick, which is evident from his bed rest granted by Police & Services hospital Peshawar. Learned counsel for the appellant referred to section 20(2) of Revised Leave Rules, 1980, which provides that leave on medical grounds shall not be refused. The learned counsel added that as per verdict of this Tribunal, the appellant was re-instated in service and as per law, re-instatement would mean to restore a person to its former state of condition with all back benefits and now punishing him again is not permissible under the law. Reliance was place on 2000 PLC (CS) 1101. That the inquiry officer in the de-novo inquiry have admitted, that nor any regular inquiry nor opportunity of defense was afforded to the appellant and he was condemned unheard in earlier proceedings. Learned counsel for the appellant contended that the appellant was illegally kept away from his lawful duty and now refusal of back benefits is against law and rule. Reliance was placed on 2007 PLC (CS) 560 and 2007 SCMR 296. That this Tribunal vides its judgment dated 11-07-2017 in Service Appeal No 292/2015 have granted back benefits in similar case. Learned counsel for the appellant added that in similar cases, the respondents have re-instated the warders in service vide order dated 23-09-2016 without imposing any penalty upon them, who were also absent from duty, hence the appellant also deserve the same treatment, otherwise it shall be discriminatory, which is not permissible under the law.

Learned counsel for the appellant further added that both stoppages of increments as well as declaring the intervening period without pay is illegal, malafide, without jurisdiction and without legal authority, which are liable to be set aside.

05. Learned Deputy District Attorney appeared on behalf of official respondents contended that the appellant was proceeded against as per law in the de-novo proceedings and every opportunity of defense was afforded to him. That the appellant joined the proceedings and opportunity of personal hearing was also afforded to the appellant, but the appellant did not prove his innocence. That taking a lenient view, major penalty was converted into minor penalty of stoppage of increments upon decision on his departmental appeal. The learned Deputy District Attorney prayed that the instant appeal being devoid of merit may be dismissed.

06. We have heard learned counsels for the parties and perused the record. Record reveals that the appellant was removed from service vide order dated 14-07-2016 on the charges of 39 days absence from duty without conducting a regular inquiry and without taking notice of the cause of absence. Only Show Cause Notice was sent on his home address, which also was not delivered to the appellant. The appellant however was re-instated by orders of this Tribunal vide judgment dated 06-08-2019. The Tribunal however in its judgment has observed that while passing order on his departmental appeal, the respondents did not cater for the aspect of illness of the appellant. During the course of de-novo proceedings, the inquiry officer admitted that neither any inquiry was conducted nor the appellant was afforded any opportunity of personal hearing. The inquiry officer have further admitted that since the appellant was not imparted any training to acquaint him with law and rule, hence inadvertently admitted that not taking prior leave on medical grounds by appellant was a pardonable act, so was recommended for minor penalty of withholding of annual increment. We have also observed that there is no history of absenteeism nor the stated absence was willful, but the competent authority again awarded him major penalty of reduction to

lower stage in his present time scale for a period of three years as well as declaring the intervening period as leave without pay, which however was converted into minor penalty of withholding of increments for two years upon taking decision on his departmental appeal. We have noted that there was no justification for award of even minor penalty, once it was admitted in the de-novo proceedings that his removal from service was not in accordance with law. We are in agreement with learned counsel for the appellant that the appellant was kept away illegally from his lawful duty, which is also evident from the judgment dated 06-08-2019 of this Tribunal as well as from the inquiry report of the de-novo proceedings. The respondents also did not provide any plausible reason for an order dated 23-09-2016, where fourteen warders have been reinstated in service without imposing any penalty, which obviously is discriminatory.

07. In view of the situation, the impugned orders dated 01-11-2019 and 12-03-2019 are set aside and the instant appeal is accepted as prayed for. No orders as to costs. File be consigned to record room.

ANNOUNCED  
22.03.2021

  
(HAMID FAROOQ DURRANI)  
CHAIRMAN

  
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)

22.03.2021


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

Vide detailed judgment of today of this Tribunal placed on file, the impugned orders dated 01-11-2019 and 12-03-2019 are set aside and the instant appeal is accepted as prayed for. No orders as to costs. File be consigned to record room.

ANNOUNCED  
22.03.2021



(HAMID FAROOQ DURRANI)  
CHAIRMAN



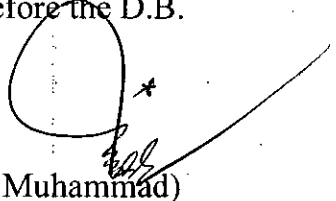
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)



09.11.2020

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Suleman, Instructor for respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 19.01.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member (E)

19.01.2021

Counsel for the appellant and Addl. AG for the respondents present.

Former has submitted rejoinder regarding reply of respondents No. 1 to 3. Placed on record. To come up for arguments before D.B on ~~18.03.2021 before the D.B.~~

  
(Mian Muhammad)  
Member(E)

  
Chairman

08.03.2021

Counsel for the appellant and Mr. Asif Masood Ali Shah, DDA alongwith Suleman, Law Officer for the respondents present.

Arguments heard. To come up for order on 22.03.2021 before this D.B.

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

  
Chairman

1862

03.07.2020

Learned counsel for the appellant present.

Contends that as a result of denovo inquiry conducted in pursuance to the judgment of this Tribunal, the appellant was though reinstated into service but without back benefits. Besides, he was awarded major penalty of deduction to lowest stage in his present time Pay Scale for period of three (03) years. The impugned order was not sustainable as per the judgment reported as 2007 SCMR 296.

Instant appeal is admitted to regular hearing, subject to all just exceptions in order to look into the legality of the impugned order. 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 01.09.2020 before S.B.

Appellant Deposited  
Security & Process Fee  
3/9/20

Chairman

01.09.2020

Counsel for the appellant and Addl. AG alongwith Musaver Senior Clerk for the respondents present.

Written statement of respondents has been submitted. Placed on record. The appeal is assigned to D.B for arguments on 09.11.2020. The appellant may furnish rejoinder, within a fortnight, if so advised.



Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 5687 /2020

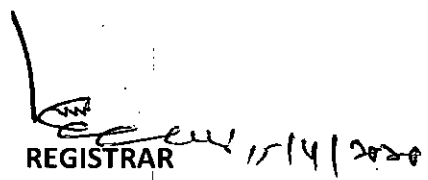
1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/06/2020	<p>The appeal of Mr. Sahib Nawaz resubmitted today by Mr. Aslam Khan Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 9/6/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/07/20</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Sahib Nawaz, Warder received today i.e. on 15.04.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Page 10 of the appeal is illegible which may be replaced by legible one.

No. 1019 /S.T,

Dt. 20-04 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Aslam Khan Khattak, Advcate, Peshwar.

*Received on 9-6-2020 and resubmitted after  
completion please.*

*asw*  
9.6.2020

*Registrar*

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

Appeal No: 5687/2020  
*Heem*

Sahib Nawaz, Warder, Central Jail, Peshawar

.....Petitioner

**VERSUS**

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar &  
Others

.....Respondents

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9	Order dated 20-9-2016	"G"	19
10	Wakalat Nama	-	-

Dated: 16/04/2020

*Sahib Nawaz*  
Appellant

Through

*Aslam Khan Khattak*  
Aslam Khan Khattak,  
Advocate, High Court,  
Peshawar.

- 1 -

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

Appeal No: 5687/2020  
*Neem*

Khyber Pakhtunkhwa  
Service Tribunal

Diary No: 2511

Dated: 15/4/20

Sahib Nawaz, Warder, Central Jail, Peshawar.

.....Appellant

Versus

1. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
- ✓ 2. Assistant Director General of Prisons, Khyber Pakhtunkhwa, Peshawar.
- ✓ 3. Superintendant Headquarters Prison Peshawar.

.....Respondents

**APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 1-11-2019 VIDE ANNEXURE "A" WHEREBY THE INTERVENING PERIOD W.E.F 14-7-2016 TO 13-9-2019 WHICH HAS BEEN TREATED AS LEAVE WITHOUT PAY AND ALSO AGAINST THE FINAL IMPUGNED ORDER DATED 12-3-2020 VIDE ANNEXURE "B" WHEREBY THE REDUCTION TO LOWEST STAGE FOR A PERIOD OF THREE YEARS HAS BEEN CONVERTED INTO MINOR PENALTY OF WITHHOLDING OF INCREMENTS FOR TWO YEARS.**

**PRAYER:**

**ON ACCEPTANCE OF APPEAL, THE IMPUGNED ORDERS DATED 1-11-2019 AT ANNEXURE "A" THROUGH**

Filed to  
Registrar  
15/4/2020

Re - sub - fitted  
to - day  
9/6/2020

**WHICH THE INTERVENING PERIOD W.E.F 14-7-2016 TO 13-9-2019 WHICH HAS BEEN TREATED AS LEAVE WITHOUT PAY AND ALSO THE MINOR PENALTY OF WITHHOLDING OF INCREMENTS FOR TWO YEARS WHICH HAS ALSO BEEN IMPOSED THROUGH FINAL IMPUGNED ORDER DATED 12-3-2020 AT ANNEXURE "B" MAY BE SET ASIDE AND THE APPELLANT SHALL BE ALLOWED ALL BACK BENEFITS..**

***Respectfully Sheweth:-***

*The appellant respectfully submits as under:-*

1. That the appellant having been appointed in service as Warder (BPS-5) on 22-1-2015 and was posted at Central Prison Peshawar vide annexure "C".
2. That the appellant during the service has become ill and he was directed to report to service and police hospital at Peshawar for medical treatment. He was granted two days medical leave.
3. That the appellant went to his home at Bannu but did not recover within two days and thereafter ex-parte action was taken against him and was removed from service vide order dated 14-7-2016 at Annexure "D".
4. That the appellant thereafter has filed an appeal before this Hon'ble KPK Service Tribunal Peshawar which has been accepted. (Copy is attached at Annexure "E").

5. That the appellant has been reinstated in service and Respondent No.2 thereafter has imposed the major penalty of reduction to lower stage in his present time scale for 3 years with immediate effect and the appellant's intervening period w.e.f 14-7-2016 to 13-9-2019 has been treated as leave without pay for 3 years as revealed from Annexure "A".
6. That the appellant thereafter has filed his departmental appeal dated 1-11-2019 to Respondent No.1 vide Annexure "H" against the order dated 1-11-2019.
7. That the Respondent No.2 has converted the major punishment of reduction to the lower stage by minor penalty i.e. withholding of increments for two years vide Annexure "B".
8. That the appellant has filed departmental appeal dated 1-11-2019 vide Annexure "F" against the impugned order dated 1-11-2019 which has been rejected vide impugned order dated 12-3-2020 vide Annexure "B" and hence this appeal inter-alia on the following grounds:-

**GROUND:**

- A. That the appellant's absence from the duty was never intentional but he was sick as revealed from the judgment of this Hon'ble Tribunal (attached at Annexure "E"). So punishing the appellant is an extreme harsh punishment as the leave on medical



certificate cannot be refused under the law and so both the impugned orders are liable to be set aside.

B. That the appellant has been reinstated in service and as per law, the reinstatement would mean to restore a person or thing to its former state of condition and now punishing the appellant is not permissible under the law.

C. That the respondents have reinstated the warders in service without imposing any minor penalty on them who were absent from duty alike the appellant vide Annexure "G" and so the appellant also deserves the same treatment under the law otherwise it shall be discrimination which is not permissible under the law.

D. That both the impugned orders through which the minor penalty of stoppage of annual increment for two years and his intervening period i.e. w.e.f 14-7-2016 to 13-9-2019 which has been treated as

leave without pay are illegal, malafide, without jurisdiction and without legal authority and are liable to be set aside.

E. That the appellant seeks leave of this Hon'ble Tribunal to rely on additional grounds at the time of arguments.

*It is, therefore, most respectfully prayed that on acceptance of appeal, both the impugned orders through which the annual increment for two years which has been stopped and the intervening period i.e w.e.f 14-7-2016 to 13-9-2019 which has been treated as leave without pay vide Annexure "A" & "B" may be set aside and back benefits to this effect may be allowed to the appellant to meet the ends of justice.*

Dated: 16/04/2020



**Appellant**

**Through**



**Aslam Khan Khattak  
Advocate, High Court,  
Peshawar.**

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

Appeal No: \_\_\_\_/2020

Sahib Nawaz, Warder, Central Jail, Peshawar

.....Petitioner

**VERSUS**

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar &  
Others

.....Respondents

**APPLICATION FOR CONDONATION OF DELAY IF ANY**

**RESPECTFULLY SHEWETH**

The Petitioner prays for condonation of delay if any on the following grounds:-

**GROUND:**

- A. That the grounds mentioned in appeal may be treated as the integral part of this application.
- B. That it is the settled principle of the August Supreme Court of Pakistan that the cases be decided on merits and not on technicalities such as limitation.

C. That the Provincial Government had already announced gazette holdings since 24-3-2020 and now it has been extended upto 18-4-2020.

D. That the delay if any has been occurred due to virus which is not the fault of Petitioner. It is further submitted that the petitioner has been deprived from pay which is continuous cause of action and no limitation runs against it.

It is, therefore, prayed that on acceptance of this application, the delay if any may be condoned.

Dated: 16/4/2020

*el*  
Petitioner  
Through *ashu*  
Aslam Khan Khattak  
Advocate High Court  
Peshawar.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Appeal No: \_\_\_\_/2020

Sahib Nawaz, Warder, Central Jail, Peshawar

.....Petitioner

**VERSUS**

Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar &  
Others

.....Respondents

**AFFIDAVIT**

I, *Sahib Nawaz, Warder Central Jail Peshawar*, do hereby solemnly affirm and state on oath that all contents of the application for condonation of delay if any is true and correct and nothing wrong has been stated by me in the matter.

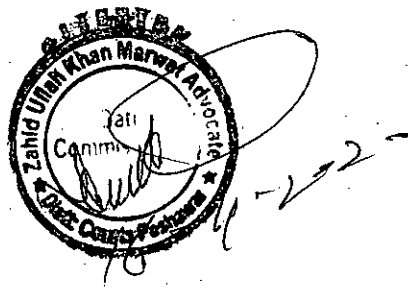
*SAWS*

DEPONENT

**Identified By:**

*Aslam Khan Khattak*

**Aslam Khan Khattak**  
Advocate, High Court,  
Peshawar.



Amendments A  
(9)

**SUPERINTENDENT**  
**HEADQUARTERS PRISON PESHAWAR**  
No: 1557 P/B Dt: 01/11/2019

**OFFICE ORDER**

**WHEREAS**, the accused Warder (BPS-05) Sahib Nawaz attached to Central Prison Peshawar was proceeded against under Rule(5)(1) Read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in Show-Cause Notice No. 1514-16 dated 21-06-2016.

**AND WHEREAS**, the above accused Warder failed to submit his reply/ written defense within stipulated period, resultantly he was awarded the major penalty of **REMOVAL FROM SERVICE** as ex-parte action vide Superintendent HQs. Prison Peshawar Order No. 1864 dated 14-07-2016.

**AND WHEREAS**, his appeal for re-instatement into service was rejected by the I.G Prisons Khyber Pakhtunkhwa Peshawar vide his No. 20945 dated 18-11-2016.

**AND WHEREAS**, the accused Wader instituted an appeal before the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar bearing No. 228/ 2017 against the order dated 14-07-2016.

**AND WHEREAS**, the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar ordered vide judgment dated 06-08-2019 that a regular inquiry against the appellant may be conducted.

**AND WHEREAS**, in light of above judgment, a regular inquiry against the accused was conducted, wherein Mr. Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera was nominated as Inquiry Officer under rule 10(1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused was provided fair opportunity of defending his cause of departmental proceedings. The inquiry officer submitted his report vide No. 2973/WE dated 26-09-2019.

**AND WHEREAS**, in light of Rule-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he was served with Final Show-Cause Notice vide this HQs. No. 1307-09 dated 19-10-2019, who reply was submitted by him on 22-10-2019, which was considered.

**AND WHEREAS**, in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused Warder was afforded the reasonable opportunity of personal hearing on 29-10-2019, but he failed to prove himself innocent and the charges against him were proved partially.

**NOW THEREFORE**, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of the evidence, record and report of the inquiry officer, the undersigned being Competent Authority hereby pleased to award him the major penalty of **Reduction to lowest stage in his present time pay scale for a period of 03 years with immediate effect.**

2- His intervening period i.e. w.e.f 14-07-2016 to 13-09-2019 is hereby treated as leave without pay.

*sd*  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1558-63

Copy of the above is forwarded to the: -

- 1- Honourable Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to his letter No. 1495/ST dated 26-08-2019 please.
- 2- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 3- Superintendent Central Prison Peshawar. Proper entry to this effect may be made in his Service Book.
- 4- Accountant General, Khyber Pakhtunkhwa, Peshawar please.
- 5- Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera, with reference to his report quoted above.
- 6- Head Clerk (Pay Branch) Central Prison Peshawar.

*[Signature]*  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Attested  
ast

Annexure B

10

Better Copy

IN THE OFFICE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
091-9210354, 0210400 Fax: 091-9213445  
No. \_\_\_/Order: \_\_\_  
Dated: 12-03-2020

**ORDER**

**WHEREAS**, warder Sahib Nawaz S/o Lashta Mir while attached to Central Prison Peshawar was awarded major penalty of "Reduction to lowest stage in his present pay scale" for a period of three years by the Superintendent Headquarters Prison Peshawar vide his office order No: 1561 dated 01/01/2019.

**AND WHEREAS**, the said warder preferred his departmental appeal for setting aside the penalty awarded to him, which was examined in light of the available record of the case and he was observed that the charged leveled against the appellant was prayed.

**AND WHEREAS**, he was offered an opportunity of personal hearing on 18-03-2020. During the course of hearing, he explained his position and found that the penalty imposed upon him by the competent authority is very harsh.

**NOW THEREAFTER**, keeping in view, the facts on record, the provision of rules and regulation in exercise of power conferred under Rule 5(C)) of Khyber Pakhtunkhwa Civil Service Appeal Rules 1985, the major penalty of Reduction of the lowest stage for a period of three years is hereby converted to minor penalty i.e. "Withholding of increment for two years".

ADDITIONAL INSPECTOR GENERAL OF  
PRISONS  
KHYBER PAKHTUNKHWA, PESHAWAR.

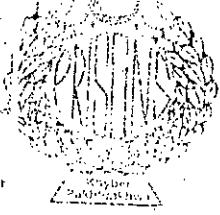
Attested  
asht

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

Copy of the above is forwarded to:-

1. Superintendent, Headquarters Prison Peshawar for information and necessary action
2. - \_\_\_\_\_
3. Accountant General of Khyber Pakhtunkhwa Peshawar for information.

ASSISTANT DIRECTOR  
FOR INSPECTOR GENERAL OF PRISON  
KHYBER PAKHTUNKHWA PESHAWAR



13-03-2020

OFFICE OF THE INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

Annexure B  
10

TEL: 091-9210334, 9210400 FAX: 091-9213445

No. (Genl. Order) 102/977/16

Dated 12-03-2020

**ORDER:**

WHEREAS, <sup>Peshawar</sup> ~~Warden~~ Sahib Nawaz S/O Lashta Mir while attached to Central Prison ~~Warden~~ was awarded the major penalty of "Reduction to lowest stage in his present pay scale for a period of three years" by the Superintendent, Headquarters Prison Peshawar vide his office order No. 1551 dated 01-11-2019

AND WHEREAS, the said warden preferred his departmental appeal for setting-aside the penalty awarded to him, which was examined in light of the available record of the case and it was observed that the charges leveled against the appellant was proved.

AND WHEREAS, he was afforded an opportunity of personal hearing on 12-03-2020. During the course of hearing, he explained his position and found that the penalty imposed upon him by the competent authority is very harsh.

NOW THEREFORE, keeping in view the facts on record, the provision of rules in regard and in exercise of power conferred under Rule-5(c) of Khyber Pakhtunkhwa Civil Servants Appeal Rules 1985, the major penalty of Reduction to the lowest stage for a period of three years is hereby commuted to minor penalty i.e. "withholding of increment for two years".

ADDITIONAL INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR.

Encls. No. 9797-78 - 1

Copy of the above is forwarded to:-

- 1. The Superintendent, Headquarters Prison Peshawar for information and necessary action to be taken in reference to his letter No. 395 dated 04-02-2020.
- 2. Assistant General Khyber Pakhtunkhwa Peshawar for information.

MB/HC/Lo  
*[Signature]*

*[Signature]*  
ASSISTANT DIRECTOR  
FOR INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR.

Affected  
*[Signature]*



*Annexure C*  
OFFICE OF THE *11*  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
No. *(74)* P.P/DC/22/01/2015

To

Mr. SAHIB NAWAZ S/O LASHTA MIR  
R/o North Waziristan Agency, Presently Murghab, Tehsil & Distt: Bannu

Subject

APPOINTMENT AS WARDER (BPS-05)

Memo:

Reference your test/ interview for the subject post.

You are hereby offered the post of temporary Warder in BPS-05 (5400-260-13200) and all other usual allowances is admissible under the rules subject to the following conditions: -

- 1- You are liable to serve anywhere in the Jails/ Judicial Lockups/ Internment Centers of Khyber Pakhtunkhwa.
- 2- Your appointment is purely temporary and your services can be terminated at any time without assigning any reason during probationary period.
- 3- For all other purposes such as pay, T.A & medical attendance etc, you will be governed by the rules applicable to the government servants of your category.
- 4- The terms and conditions of your appointment as Warder (BPS-05) will be those as laid down in the Khyber Pakhtunkhwa Prison Rules 1985, Prisons Department (Recruitment, Promotion & Transfer) rules 1980 and all other rules and regulations prescribed for Government Servants or the rules which may be promulgated by the Government from time to time in this behalf.
- 5- Your appointment will be subject to your medical fitness and prescribed physical standard.
- 6- No TA/ DA will be admissible to you on joining your first appointment.
- 7- You cannot resign from the service immediately but will have to put in writing at least one month prior notice or in lieu thereof, one month pay shall be forfeited from you.
- 8- Your appointment is subject to fulfillment of all the conditions laid down in the service rules.
- 9- You will be on probation for a period of two years extendable to one more year.
- 10- Your appointment will be subject to verification of your antecedents/ character.
- 11- If you report for duty, it will be taken for granted that you have accepted all the above terms and conditions and if you failed to report within 10 days of the receipt of this appointment order, it will be presumed that you have declined to accept this offer, hence this order of appointment shall stand cancelled/ withdrawn.
- 12- You are directed to report to the Superintendent Central Prison Peshawar for duties.

*Attested  
ASJ*

Enclosurement No: *0750-57*

*[Signature]*  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

- 1- Copy of the above is forwarded to the -  
Superintendent Central Prison Peshawar. The above named newly appointed Warder is attached with his jail for all purposes. He may be got medically examined by the Medical Superintendent concerned and a copy of his Medical Examination Certificate may be sent to this office for record. His SSC certificate may also be verified from the concerned board within one month and the result be communicated to this Headquarters.
- 2- Accountant General, Khyber Pakhtunkhwa, Peshawar.

*[Signature]*  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Memo No:



Annexure D  
12

OFFICE OF THE  
**SUPERINTENDENT**  
HEADQUARTERS PRISONS PESHAWAR  
No: 1864 /P.B/ Dt:     /     /2016

ORDER

WHEREAS, the accused **Warder Sahib Nawaz** attached to Central Prison Peshawar was proceeded against under Rule-5(1) Read with Rule-7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in Show Cause Notice served upon him vide this Headquarters No. 1514-16 dated 21-06-2016.

AND WHEREAS, he was called to show cause of his long absence within 07 days of the receipt of Show-Cause Notice but he failed to obey the lawful orders and remained at large, till date.

NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, the undersigned being Competent Authority, hereby awards the major penalty of "**REMOVAL FROM SERVICE**" as Ex-parte action with immediate effect to the accused Warder.

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1865-68 /-

Copy of the above is forwarded to the: -

- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 2- Superintendent Central Prison Peshawar. Necessary entry may please be made in the Service Book of the official concerned under proper attestation.
- 3- Head Clerk (Pay Branch) Central Prison Peshawar.
- 4- Official concerned attached to Central Prison Peshawar.

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

*Attested  
as*

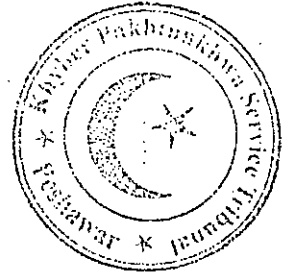
Annexure  
E  
13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 228/2017

Date of Institution ... 03.03.2017

Date of Decision ... 06.08.2019



Sahib Nawaz, Ex-Warder Central Prison, Peshawar. ... (Appellant)

VERSUS

The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and one other. ... (Respondents)

Present:

Mr. Taimur Ali Khan,  
Advocate. ... For appellant

Mr. Ziaullah,  
Deputy District Attorney, ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

ATTESTED


JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant feeling aggrieved from orders dated 14.07.2016 and 18.11.2016 passed by respondent No. 2 and respondent No. 1, respectively has preferred instant appeal on 03.03.2017.

The available record suggests that the appellant was appointed as Warder (BPS-05) on 22.01.2015 and was posted at Central Prison, Peshawar. On account of unauthorized absence without leave he was proceeded against and the order of removal from service was passed against the appellant on 14.07.2016. His departmental appeal also did not prevail and was rejected on 18.11.2016.

Attested  
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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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2. Learned counsel for the appellant, learned Deputy District Attorney on behalf of respondents heard and available record examined.

Learned counsel for the appellant argued that the procedure provided through Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 was not followed by the respondents while proceeding against the appellant. Similarly, no regular enquiry was held against him and only a show cause notice was issued on 21.06.2016. It was also argued that at the time of issuance of show cause notice the absence of appellant was for 39 days and, in view of the default attributable to appellant, the awarded penalty was harsh. In support of his arguments learned counsel relied on judgments reported as 2006-SCMR-1120, PLD 2003-Supreme Court-724, 2004-PLC (C.S) 1014 and 1997-SCMR-1552.

Controverting the stance of the appellant, learned Deputy District Attorney contended that the departmental appeal preferred by appellant was beyond the period prescribed for the purpose as it was received on 06.10.2016, while the order impugned therein was passed on 14.07.2016. He further contended that the appellant was on probation at the relevant time when was proceeded against on account of absence, therefore, there was no need of conducting a regular enquiry against him. He relied on 2013-SCMR-911.

3. By now it is well settled that in cases where major penalty is imposed upon civil servant a regular departmental enquiry is all the more necessitated in order to reach a just conclusion regarding allegations against the official. Admittedly, in the instant case no regular enquiry was ever conducted against the appellant. It was noted in the show cause notice that in view of the report received through the Superintendent Central Prison Peshawar there was no need of holding further

ATTESTED

  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar



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enquiry. In our view, the endorsement by the competent authority to the said effect could not at all be regarded as a cogent reason for dispensing with the enquiry.


The stance of appellant, as put forth through his departmental appeal, was to the effect that he had fallen ill on 06.06.2016 and was advised two days rest by the Police & Services Hospital, Peshawar. For the requisite rest the appellant proceeded to his home but did not get well, therefore, could not perform his duty for the alleged absence period. The order dated 18.11.2016 passed on the departmental appeal of appellant, on the other hand, did not cater for decision regarding the aspect of illness of the appellant.

4. We are unable to agree with the arguments of learned Deputy District Attorney regarding the competence of appeal in hand on the ground of delay in submission of departmental appeal. It is noticed that the departmental appeal of the appellant was decided on 18.11.2016, on its merits. There was a mention of appeal being time barred in the order but the delay was not made basis for its rejection. It shall not be out of place to mention that the date on the departmental appeal was provided as 03.08.2016.

We are also not in agreement with the submission of learned DDA regarding dispensing with of proper enquiry in the case of appellant who was on probation at the relevant time. In the said regard, we seek guidance from judgment of Apex Court (1997-SCMR-1552), wherein it has been laid down that where a person is to be condemned for misconduct, even if he is a temporary employee or a person employed on contract basis or probationer, he is entitled to a fair opportunity by way of regular enquiry in terms of Efficiency & Discipline Rules.



**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Attested  
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5. For what has been discussed above, the appeal in hand is allowed and the impugned orders are set aside. The respondents are required to conduct a regular enquiry against the appellant in accordance with law. The proceedings of enquiry shall be concluded within ninety days from the date of communication of copy of instant judgment. Needless to note that the appellant shall be provided with opportunity of defending his cause in the departmental proceedings. The actual of back benefits in favour of appellant shall be determined in the light of outcome of enquiry proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.

(MUHAMMAD HAMID MUGHAL)  
MEMBER

(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
06.08.2019.

Certified to be true copy

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Completion of \_\_\_\_\_ 26-08-19  
Number of \_\_\_\_\_ 1600  
Copying Fee \_\_\_\_\_ 20-00  
Urgent \_\_\_\_\_ 4-00  
Total \_\_\_\_\_ 24-00  
Name of \_\_\_\_\_  
Date of Completion of \_\_\_\_\_ 26-08-19  
Date of Delivery of Copy \_\_\_\_\_ 26-08-19

Attested

کراچی میں مندرجہ ذیل

سائلوں کے جوابات

مشرقی جیل میں تعیناتی کی۔

سائل ابنی لڑکی / فرانسس پوری ہمت ، خوش اسلوبی اور نہایت اہلکار  
 سے مرہم دینا دیا۔ مگر بد قسمتی کہ 06-06-16 کو سائل نے دانستہ طور  
 پر وہ درود لگا جسکی وجہ سے بخار بھی تھا۔ جیل ڈاکٹر نے پولیس سٹیشن  
 ہسپتال دیکھا گیا۔ جس پر سائل پولیس سٹیشن ہسپتال گیا، جہاں ڈاکٹر  
 دندانہ سائل کے مبرا دانت نکال دیا۔ ڈاکٹر صاحب نے دو دن کا آنکھ  
 تجویز کیا۔ جس کے بعد مبرا ڈاکٹر کی تجویز شہ سلیب لائٹس محکمہ کے  
 حوالے کیا اور ماولا جلا آیا۔ اگلے دن درود والا دانت نکالنے سے ذمہ مزید  
 بگڑ گیا اور منہ سوجھ گیا۔ مختلف ادویات کے استعمال کی وجہ سے مجھے درد  
 کے نیچے بچھلے جسے میں درد شروع ہوا۔ اور خون آنا شروع ہو گیا۔ ڈاکٹر  
 سے رجوع کیا تو خوف لوا سیرکس تجویز ہوا، ادھر چھوٹا آہن سٹین لیا  
 آہن سٹین نہ کروانے پر حلیمی ادویات اور گھریلو ٹیبلٹوں کا استعمال جاری رکھا  
 اور جب خون آنا بند ہوا تو فولڈ لڑکی پر آیا۔ حاضر ہی دی تو لائٹس محکمہ  
 نے لڑکی / حاضر ہی لینے سے انکار کیا اور برخواستگی کا حکم نامہ مبرا حوالے کیا  
 جناب عالی اس سے پہلے مجھے کوئی سرکاری نوکری یا شوکان میں ملا  
 نہیں ملتی ۲۰۲۰ سے ہے اور خاندان کا بھلا سیکھتی ملازم ہوتی ہوں  
 محکمہ جانی مادی / قانونی مادی / درخواست / کا تلیم نہ ہونے کی وجہ سے  
 اجازت نامہ لینے سے قاصر رہا۔ جس پر نہایت شرمناک ہوں  
 محمود والا! سائل خاندان کا واحد سارا ہے، سائل کی بیوی جہاں  
 اور من بھائی اُنسلی ذمہ داری ہیں علاوہ ازیں سائل کی بیوی اور  
 تین کم سن بچے ہیں۔ سائل حلال دینی کما کر اپنی ذمہ داری ادا  
 کر رہے ہیں۔

انتہائی موردانہ التعملا لایا ہوں کہ سائل کو جسے سائل کے  
 سائل میں بحال کرنا چاہئے اور سائل کے سائل کے سائل کے سائل کے  
 تاکہ سائل اپنی ذمہ داری ادا کر سکیں اور سائل کے سائل کے سائل کے  
 سائل کے سائل کے سائل کے سائل کے سائل کے سائل کے سائل کے

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کی جائے۔ سائل، اسکے بچے، امد بودھی ماں تا عمر دعاگو رہے گے۔

عمل درآمد فرما کر الفافائی مثال قائم کی جائے  
اللہ پاک آپکو اسکا اجر دے، آپکی مشغلات تقالیف کو  
دور کرے امد اپنے خزانوں سے مزید لطف عطا فرمائے

سائل حلفاً اقرار کرتا ہے کہ اسکا بیان حقیقت پر مبنی ہے۔  
سائل جناب عالی کے حکم کا مدنظر رہیگا

الحاضر

فرمانبردار وارڈر

صاحب فیضان  
ولہ  
راستہ میر

نوٹ: حکم نامہ نمبر ۱۵۵۶، مورخہ ۱۹/۱۱/۵۷  
کا عدم فرما کر سائل کو تمام مرعات جو آپ  
مناسب سمجھیں کے ساتھ بحال فرمایا جائے۔

Attested  
as



دردن سید نائل خیر صاحب

Amr. P. 2016  
19



OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 ☎ 091-9213445

No. Estb/Ward-Orders/ 22791 -1-

Dated 23-09-2016 -1-

ORDER

Consequent upon the re-statement in service vide office order No. 22706, 22711, 22716, 22721, 22726, 22731, 22736, 22741, 22746, 22751, 22756, 22761, 22766 & 22771 dated 23-9-2016 the following postings/transfers are hereby ordered in public interest:-

S.No.	Name of official with designation	From	To
1.	Warder (BPS-5) Asad Khan.	Central Prison Peshawar	HSP Mardan against the vacant post
2.	Warder (BPS-5) Waqas-ul-Amin.	Central Prison Peshawar.	HSP Mardan against the vacant post
3.	Warder (BPS-5) Imran Zeb.	Central Prison Peshawar.	HSP Mardan against the vacant post
4.	Warder (BPS-5) Hakeemullah.	Central Prison Peshawar	HSP Mardan against the vacant post
5.	Warder (BPS-5) Abid Jan.	Central Prison Peshawar.	HSP Mardan against the vacant post.
6.	Warder (BPS-5) Syed Azam Jan.	Central Prison Peshawar.	HSP Mardan against the vacant post.
7.	Warder (BPS-5) Saeed Ahmad	Central Prison Peshawar.	HSP Mardan against the vacant post.
8.	Warder (BPS-5) Umar Hayat.	Central Prison Peshawar.	HSP Mardan against the vacant post.
9.	Warder (BPS-5) Muhammad W. Haec.	Central Prison Peshawar.	HSP Mardan against the vacant post.
10.	Warder (BPS-5) Behar-e- Ayub.	Central Prison Peshawar.	HSP Mardan against the vacant post.
11.	Muhammad Kamran. <i>Warder (BPS-5)</i>	Central Prison Peshawar.	HSP Mardan against the vacant post.
12.	Warder (BPS-5) Waseemullah	Central Prison Peshawar.	HSP Mardan against the vacant post.
13.	Warder (BPS-5) Muhammad W. li.	Central Prison Peshawar.	HSP Mardan against the vacant post.
14.	Warder (BPS-5) Muhammad Arif	Central Prison Peshawar.	HSP Mardan against the vacant post.

NOTE

- All should be relieved immediately by making local arrangement.
- No TADA is allowed.

*[Signature]*  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

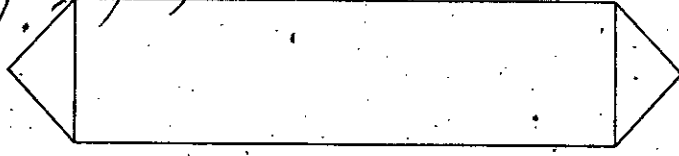
ENDST. NO. 22792-96

Copy of the above is forwarded to :-

- The Accountant General Khyber Pakhtunkhwa Peshawar, for information
- The Superintendents, HQ Prison Peshawar & Mardan for information.
- The Superintendent, Central Prison Peshawar.
- The Superintendent, HSP Mardan  
For information and necessary action.
- The District Accounts Officer Mardan for information.

ASSISTANT DIRECTOR GENERAL  
FOR INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

بعدالت صلح KPK سروسز ٹریڈ اینڈ اینڈ



16 اپریل 2020ء منجانب اسٹالٹ  
صحیح عہد نامہ وزارت دارالحکومت بنام IGP لٹا "و" و 60

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام لٹا اور کیلئے اسلم خان صاحب ایڈووکیٹ  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک در و پیسہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے دہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Attested &  
accepted  
asla

16 اپریل 2020ء

ماہ

المرقوم

اسلم خان  
ایڈووکیٹ

العہد العہد العہد العہد العہد العہد

کے لئے منظور ہے۔

16

مقام

In the matter of  
Service Appeal No. 5681/2020  
Sahib Nawaz, Warder attached to Central Prison Peshawar.....Appellant

**Versus**

- 1- **Inspector General of Prisons,**  
Khyber Pakhtunkhwa, Peshawar.
- 2- **Assistant Director (Admn),**  
Inspectorate General of Prisons  
Khyber Pakhtunkhwa Peshawar.
- 3- **Superintendent**  
Headquarters Prison Peshawar. ....Respondents

**Written Statements on behalf of the Respondents.**

Preliminary objections.

- 1- That the appeal is incompetent and is not maintainable in its present form.
- 2- That the appellant is estopped by his own conduct to bring the present appeal.
- 3- That the appellant has got no cause of action.
- 4- That the appellant has no locus standi.
- 5- That the appeal is bad for mis-joinder and non-joinder of necessary party.
- 6- That the appeal is hit by laches.

Respectfully Shewith

**Para-wise comments on behalf of respondent No. 01, 02 & 03 are as under:-**

**ON FACTS**

- 1- Pertains to record, therefore needs no comments to be offered.
- 2- Correct to the extent that 02 days leave was granted to him on the basis of Doctor advice. However, the appellant was required to be present in the Jail premises but he failed to do so and remained absent from his official duties as well as Jail premises, which is against the decorum of Government services in all respect, and clearly amounts desertion.
- 3- Incorrect, misleading. As elaborated in preceding Para-2 above. The appellant himself admits his offense that: "He left for his home at Bannu". It was required that the appellant intimate his prolong illness by obtaining and advice of Doctor of any Government Hospital regarding his illness and the said alongwith his request for extension in the medical leave required to be submitted to the competent authority but the appellant shows an un-discipline method and remained absent without any formal intimation to the competent authority. Resultantly, the competent authority left with the sole option to intimate him Show Cause Notice regarding his wilful absence for a long period w.e.f 14-07-2016 to 13-09-2019. The Show Cause Notice was accordingly delivered on his home address through registered official mail. Being an employee of

Next page...

the Central Prison Peshawar, presently the Prisons Services is considered to be the most sensitive in nature as the Central Prison Peshawar presently having the abode of the High Profile Targets and it is also a considered factor that even the appellant himself having life threats from the miscreants/militants, therefore the competent authority was compelled to timely served him Show Cause Notice for his long wilful absence, so that to avoid any sorts of futuristic complications thereof.

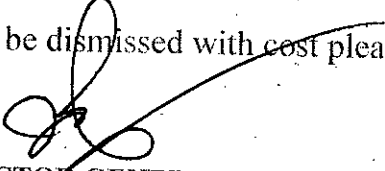
- 4- Correct, to the extent that the appellant filed a Service Appeal wherein his services was re-instated conditionally with further direction to the competent authority for De-novo Inquiry.
- 5- Incorrect, Pursuant to the Judgement of the Provincial Service Tribunal, De-novo inquiry accordingly conducted and after fulfilment of all legal codal formalities, major penalty of Reduction to Lowest Stage for the period of 03 years was imposed upon him by the competent authority.
- 6- Correct to the extent that on the basis of Departmental Presentation to the next Higher authority i.e the Inspector General of Prisons Khyber Pakhtunkhwa Peshawar, the penalty of Reduction to Lowest Stage for the period of 03 years was converted into withholding of increment for 02 years, thus the imposed major penalty also been reduced to the level of minor penalty. (Copy of the de-novo inquiry alongwith Final Show-Cause Notice are enclosed herewith as **Annex-A & B**).
- 7- Correct, as explained in Para-6 above.
- 8- Correct to the extent that his Departmental Appeal was accordingly found without sound footing and filed on the grounds that there is no concept of 2<sup>nd</sup> Departmental Appeal in the E&D Rules. The appellant himself admit that in this very issue he availed the opportunity of Departmental Presentation which was accordingly considered earlier by Inspector General of Prisons Khyber Pakhtunkhwa Peshawar and accordingly grant him the desired relief.


#### **GROUND**

- A- As elaborated in Para-3 above.
- B- Incorrect, the Denovo Inquiry has been conducted in accordance to the spirit of Provincial Service Tribunal Judgment *ibid*.
- C- Incorrect, no discrimination has been done with the appellant, all cases having its own separate perspective.
- D- Incorrect, misleading. The imposition of minor penalty of stoppage of increment for 02 years has been imposed in light of the findings of the Denovo Inquiry in compliance of the Khyber Pakhtunkhwa Service Tribunal Judgment *ibid*. However, the intervening period from 14-07-2016 to 13-09-2019 was treated as Leave


without Pay, because the department on the basis of well settled principal "No work having no pay" could not pay salary to the appellant for the period during which he did not performed his duty.


In view of the above submission, it is therefore prayed that the instant Service Appeal may be dismissed with cost please.

  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(RESPONDENT NO. 1)

  
ASSISTANT DIRECTOR (ADMN)  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(RESPONDENT NO. 2)

  
18-08-2020

  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
(RESPONDENT NO. 3)

  
17/8/20

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In the matter of  
Service Appeal No. 5681/2020  
Sahib Nawaz, Warder attached to Central Prison Peshawar.....Appellant

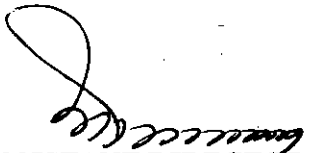
**Versus**


- 1- **Inspector General of Prisons,**  
Khyber Pakhtunkhwa Peshawar.
- 2- **Assistant Director (Admn)**  
Inspectorate General of Prisons  
Khyber Pakhtunkhwa Peshawar.
- 3- **Superintendent**  
Headquarters Prison Peshawar. ....Respondents

**AFFIDAVIT**

We the undersigned do hereby solemnly affirm and declare on oath that the contents of para-wise comments on behalf of respondent No. 1, 2 & 3 are true and correct to the best of our knowledge and belief that nothing has been kept concealed from this Honourable Tribunal.

  
**INSPECTOR GENERAL OF PRISONS**  
KHYBER PAKHTUNKHWA PESHAWAR  
(RESPONDENT NO. 1)

  
**ASSISTANT DIRECTOR (ADMN)**  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(RESPONDENT NO. 2)

  
18.8.2020  
**SUPERINTENDENT**  
HEADQUARTERS PRISON PESHAWAR  
(RESPONDENT NO. 3)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 228/2017

Date of Institution ... 03.03.2017

Date of Decision ... 06.08.2019



Sahib Nawaz, Ex-Warder Central Prison, Peshawar. ... (Appellant)

VERSUS

The Inspector General of Prison, Khyber Pakhtunkhwa, Peshawar and one other ... (Respondents)

Present.


Mr. Taimur Ali Khan, Advocate. ... For appellant

Mr. Ziaullah, Deputy District Attorney, ... For respondents

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

**ATTESTED**

JUDGMENT

  
CHAIRMAN  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar


HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant feeling aggrieved from orders dated 14.07.2016 and 18.11.2016 passed by respondent No. 2 and respondent No. 1, respectively. He preferred instant appeal on 03.03.2017.

The available record suggests that the appellant was appointed as Warder (BPS-05) on 22.01.2015 and was posted at Central Prison, Peshawar. On account of unauthorized absence without leave he was proceeded against and the order of removal from service was passed against the appellant on 14.07.2016. His departmental appeal also did not prevail and was rejected on 18.11.2016.



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2. Learned counsel for the appellant, learned Deputy District Attorney on behalf of respondents heard and available record examined.

Learned counsel for the appellant argued that the procedure provided through Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 was not followed by the respondents while proceeding against the appellant. Similarly, no regular enquiry was held against him and only a show cause notice was issued on 21.06.2016. It was also argued that at the time of issuance of show cause notice the absence of appellant was for 39 days and, in view of the default attributable to appellant, the awarded penalty was harsh. In support of his arguments learned counsel relied on judgments reported as 2006-SCMR-1120, PLD 2003-Supreme Court-724, 2004-PLC (C.S) 1014 and 1997-SCMR-1552.

Controverting the stance of the appellant, learned Deputy District Attorney contended that the departmental appeal preferred by appellant was beyond the period prescribed for the purpose as it was received on 06.10.2016, while the order impugned therein was passed on 14.07.2016. He further contended that the appellant was on probation at the relevant time when was proceeded against on account of absence, therefore, there was no need of conducting a regular enquiry against him. He relied on 2013-SCMR-911.

3. By now it is well settled that in cases where major penalty is imposed upon civil servant a regular departmental enquiry is all the more necessitated in order to reach a just conclusion regarding allegations against the official. Admittedly, in the instant case no regular enquiry was ever conducted against the appellant. It was noted in the show cause notice that in view of the report received through the Superintendent Central Prison Peshawar there was no need of holding further

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar






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enquiry. In our view, the endorsement by the competent authority to the said effect could not at all be regarded as a cogent reason for dispensing with the enquiry.

The stance of appellant, as put forth through his departmental appeal, was to the effect that he had fallen ill on 06.06.2016 and was advised two days rest by the Police & Services Hospital, Peshawar. For the requisite rest the appellant proceeded to his home but did not get well, therefore, could not perform his duty for the alleged absence period. The order dated 18.11.2016 passed on the departmental appeal of appellant, on the other hand, did not cater for decision regarding the aspect of illness of the appellant.

4. We are unable to agree with the arguments of learned Deputy District Attorney regarding the competence of appeal in hand on the ground of delay in submission of departmental appeal. It is noticed that the departmental appeal of the appellant was decided on 18.11.2016, on its merits. There was a mention of appeal being time barred in the order but the delay was not made basis for its rejection. It shall not be out of place to mention that the date on the departmental appeal was provided as 03.08.2016.

We are also not in agreement with the submission of learned DDA regarding dispensing with of proper enquiry in the case of appellant who was on probation at the relevant time. In the said regard, we seek guidance from judgment of Apex Court (1997-SCMR-1552), wherein it has been laid down that where a person is to be condemned for misconduct, even if he is a temporary employee or a person employed on contract basis or probationer, he is entitled to a fair opportunity by way of regular enquiry in terms of Efficiency & Discipline Rules.

ATTESTED

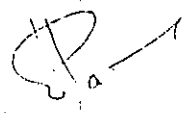
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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5. For what has been discussed above, the appeal in hand is allowed and the impugned orders are set aside. The respondents are required to conduct a regular enquiry against the appellant in accordance with law. The proceedings of enquiry shall be concluded within ninety days from the date of communication of copy of instant judgment. Needless to note that the appellant shall be provided full opportunity of defending his cause in the departmental proceedings. The actual of back benefits in favour of appellant shall be determined in the light of outcome of enquiry proceedings.

Parties are left to bear their respective costs. File be consigned to the record room.



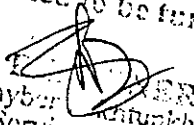
(MUHAMMAD HAMID MUGHAL)  
MEMBER



(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
06.08.2019.

Certified to be true copy



MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation 26-08-19  
 Number of Copies 1600  
 Copying Fee 70-00  
 Urgent 4-00  
 Total 24-00  
 Name of Copy [Signature]  
 Date of Completion of 26-08-19  
 Date of Delivery of Copy 26-08-19

(2)

Annexure A  
(9)

**SUPERINTENDENT**  
**HEADQUARTERS PRISON PESHAWAR**  
No: 1537 P/B Dt: 01/11/2019

**OFFICE ORDER**

**WHEREAS**, the accused Warder (BPS-05) Sahib Nawaz attached to Central Prison Peshawar was proceeded against under Rule(5)(1)- Read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in Show-Cause Notice No. 1514-16 dated 21-06-2016.

**AND WHEREAS**, the above accused Warder failed to submit his reply/ written defense within stipulated period, resultantly he was awarded the major penalty of **REMOVAL FROM SERVICE** as ex-parte action vide Superintendent HQs. Prison Peshawar Order No. 1864 dated 14-07-2016.

**AND WHEREAS**, his appeal for re-instatement into service was rejected by the I.G Prisons Khyber Pakhtunkhwa Peshawar vide his No. 20945 dated 18-11-2016.

**AND WHEREAS**, the accused Wader instituted an appeal before the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar bearing No. 228/ 2017 against the order dated 14-07-2016.

**AND WHEREAS**, the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar ordered vide judgment dated 06-08-2019 that a regular inquiry against the appellant may be conducted.

**AND WHEREAS**, in light of above judgment, a regular inquiry against the accused was conducted, wherein Mr. Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera was nominated as Inquiry Officer under rule 10(1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused was provided fair opportunity of defending his cause of departmental proceedings. The inquiry officer submitted his report vide No. 2973/WE dated 26-09-2019.

**AND WHEREAS**, in light of Rule-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he was served with Final Show-Cause Notice vide this HQs. No. 1397-99 dated 19-10-2019, who reply was submitted by him on 22-10-2019, which was considered.

**AND WHEREAS**, in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused Warder was afforded the reasonable opportunity of personal hearing on 29-10-2019, but he failed to prove himself innocent and the charges against him were proved partially.

**NOW THEREFORE**, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of the evidence, record and report of the inquiry officer, the undersigned being Competent Authority hereby pleased to award him the major penalty of **Reduction to lowest stage in his present time pay scale for a period of 03 years with immediate effect.**

2- His intervening period i.e. w.e.f 14-07-2016 to 13-09-2019 is hereby treated as leave without pay.

*Sd*  
**SUPERINTENDENT**  
**HEADQUARTERS PRISON PESHAWAR**

Endorsement No: 1558-63 1.

Copy of the above is forwarded to the :-

- 1- Honourable Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to his letter No. 1495/ST dated 26-08-2019 please.
- 2- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 3- Superintendent Central Prison Peshawar. Proper entry to this effect may be made in his Service Book.
- 4- Accountant General, Khyber Pakhtunkhwa, Peshawar please.
- 5- Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera, with reference to his report quoted above.
- 6- Head Clerk (Pay Branch) Central Prison Peshawar.

*Sd*  
**SUPERINTENDENT**  
**HEADQUARTERS PRISON PESHAWAR**

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

Appeal No: 5681/2020

Sahib Nawaz, Warder

Versus

Inspector General of Prisons KPK Peshawar & Others

**APPELLANT'S REJOINDER IN**  
**RESPONSE TO REPLY OF**  
**RESPONDENTS NO: 1 TO 3.**

**Respectfully Sheweth,**

**Preliminary objections:-**

The six preliminary objections raised by the respondents in their written statement are illegal, wrong, incorrect and are denied in every detail. The appellant has a genuine cause of action and his appeal does not suffer from any formal defects whatsoever.

**Facts:-**

1. Needs no comments.
- 2 +3: correct to the extent that the appellant was granted 2 days medical leave and he went to his home at Bannu and did not has reported for duty because he was sick and

the leave on medical grounds are not to be refused under the law, so he was illegally removed from service.

4+5: That the appellant's appeal thereafter was accepted and he was reinstated in service, so thereafter, punishing the appellant is illegal because the reinstatement would mean reinstate, re-establish or restore person on thing to its former state in condition with all back benefits.

6 to 8: Needs no comments.

Grounds:-

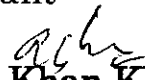
A to D: Incorrect. Grounds A to D of appeal are correct and its replies are incorrect.

E. That the respondents have illegally punished the appellant and so they may not be allowed to raise any illegal argument in the matter.

*It is, therefore, most respectfully prayed that the relief as prayed for by the appellant in his appeal may be granted to him to meet the ends of justice.*

Through

  
Appellant

  
Aslam Khan Khattak  
Advocate, High Court,  
Peshawar.

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

Appeal No: 5681/2020

Sahib Nawaz, Warder

Versus


Inspector General of Prisons KPK Peshawar & Others

**AFFIDAVIT**

I, Sahib Nawaz, warder Central Jail Peshawar, do hereby solemnly affirm and state on oath that all contents of appeal and rejoinder are true and correct to the best of my knowledge and belief and nothing wrong has been stated by me in the matter.

  
Deponent

Identified By:-

  
**Aslam Khan Khattak**  
Advocate High Court  
Peshawar



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 638-39 /ST

Dated 05/04/2021


To

1. The Assistant Director General of Prisons,  
Government of Khyber Pakhtunkhwa,  
Peshawar.
2. Superintendent Headquarters Prison,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 5681/2020, MR. SAHIB NAWAZ.

I am directed to forward herewith a certified copy of Judgement dated 22.03.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

*o/c*

To,

The Superintendent,  
Head Quarters Prison Peshawar.

Subject: **INQUIRY AGAINST WARDER SAHIB NAWAZ.**

R/Sir,

Reference your good office letter No. 1192-WE Dated: 13-09-2019 on the subject noted above.

Allegation:

As per change sheet Ex-Warder Sahib Nawaz attached to Central Prison Peshawar willfully absented himself from allotted duties as well as jail premises without prior permission of the competent authority w.e.f 06-06-2016. Show cause notice was sent to him on his home address vide registry No.1231 dated 22-06-2016. but he failed to submit his reply within stipulated period, therefore he was awarded the major penalty of "Removal From service" by the superintendent HQs: Prisons Peshawar as Ex-party action vide his no 1864 dated 14-07-2016, suchlike irresponsible attitude on part of the warder concerned is intolerable and constitutes gross misconduct.

**STATEMENT OF ACCUSED WARDER:**

- I was performing my duty in Central Prison Peshawar since 22 February 2015.
- I performed my duty efficiently, devotedly, and honestly.
- I was never given any explanation, show cause or warning since joining duty as warder
- On 06-06-2016, I was having several tooth ache, hence I went to police service hospital in emergency.
- On 06-06-2016, my tooth was removed and I was granted 02 days bed rest.
- I submitted my leave application for 02 days and medical report to line muharer (HW Sher Alam Khan) and went to village.
- In my village, I experienced extreme lower abdomen pain and bleeding, which later proved to be haemorrhoids.
- I consulted doctor; he recommended forth night rest that's why could not come to duty.
- In the mean while I was given explanation and Show- Cause, which I did not receive on my home address.
- I come to join my duty on 09-07-2016 but was not allowed to join my duty and was handed over order of removal from service.
- I appeared before worthy Inspector General of Prisons but unfortunately, I was not
- reinstated.



**FINDINGS:**

The accused warder Sahib Nawaz S/O Lashtah Mir absented himself from duty for a month i.e 06-06-2016 to 09-07-2016, but failed to justify his absence apart from 02 days medical rest from Police Services hospital.

The accused warder Sahib Nawaz wished to join his duty but due to long absenteeism, he was abstained from joining his duty.

The fact remains ambiguous regarding receiving of explanation and show cause on his home address, as the person in question denied receiving any explanation or show cause.

Proof of medical treatment was not presented i.c. hemorrhoids treatment.

**RECOMMENDATIONS:**

After thorough inquiry the following are recommendations for further consideration please.

1. The accused warder is found guilty of misconduct under rule 3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules. 2011, by wilfully absenting himself from duty.
2. Proper procedure was not followed for availing and sanctioning of leaves from competent authority.
3. The fact cannot be overlooked that a chance of hearing is not provided to the accused warder on arrival from wilful absenteeism. Neither was he provided any chance of personal hearing/ inquiry.
4. On the lenient note, the accused warder as usual is not imparted any training to acquaint him with laws, Rules, regulations and capacity building.
5. The concerned warder may be charged under rule 04 (a) (ii) i.e. withholding of increment, or as deemed appropriate by the competent authority please.

**Inquiry Officer**  
Mian Manzoor Ahmad  
Assistant Superintendent  
Judicial Lockup Nowshera

Original inquiry

The Superintendent,  
Head Quarters Prison Peshawar.

Subject: INQUIRY AGAINST WARDER SAHIB NAWAZ.

R/Sir,

Reference your good office letter No. 1192-WH Dated: 13-06-2016 on the subject noted above.

Allegation:

As per charge sheet Ex-Warder Sahib Nawaz alleged that he willfully absented himself from allotted duties as well as did not appear without prior permission of the competent authority w.e.f 06-06-2016. He was granted leave on his home address vide registry No. 1234 dated 22-06-2016. He did not appear within stipulated period, therefore he was awarded "leave without pay" by the superintendent HQs: Prisons Peshawar as per order dated 14-07-2016, suchlike irresponsible attitude on the part of the accused is intolerable and constitutes gross misconduct.

Statement of accused Warder:

- I was performing my duty in Central Prison Peshawar.
- I performed my duty efficiently, devotedly, and honestly.
- I was never given any explanation, show cause or warning.
- On 06-06-2016, I was having several tooth ache, hence I was in emergency.
- On 06-06-2016, my tooth was removed and I was granted leave.
- I submitted my leave application for 02 days and was granted leave (Mam Khan) and went to village.
- In my village, I experienced extreme lower abdominal pain, which was to be hemorrhoids.
- I consulted doctor; he recommended tooth night rest, which was not possible.
- In the mean while I was given explanation and was granted leave on my home address.
- I come to join my duty on 09-07-2016 but was not allowed to work on the order of removal from service.
- I appeared before worthy Inspector General of Prisons Peshawar and was reinstated.

## Findings:

The accused warder Sahib Nawaz S/O Lashtah Mir absented himself from duty for a month i.e 06-06-2016 to 09-07-2016, but failed to justify his absence apart from 02 days medical rest from police services hospital.

- The accused warder Sahib Nawaz wished to join his duty but due to long absenteeism, he was abstained from joining his duty.

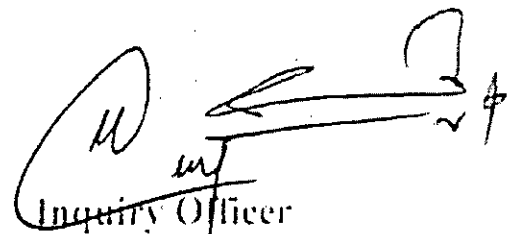
- The fact remains ambiguous regarding receiving of explanation and show cause on his home address, as the person in question denied receiving any explanation or show cause.

- Proof of medical treatment was not presented i.e. hemorrhoids treatment.

## Recommendations:

After thorough inquiry the following are recommendations for further consideration please.

1. The accused warder is found guilty of misconduct under rule 3 of Khyber Pakhtunkhwa Government servants (Efficiency of discipline) Rules, 2011, by willfully absenting himself from duty.
2. Proper procedure was not followed for availing and sanctioning of leave from competent authority.
3. The fact cannot be overlooked that a chance of hearing is not provided to the accused warder on arrival from willful absenteeism. Neither was he provided any chance of personal hearing/ inquiry.
4. On the lenient note, the accused warder as usual is not imparted any training to acquaint him with laws, Rules, regulations and capacity building.
5. The concerned warder may be charged under rule 04(a)(ii) i.e. withholding of increment or as deemed appropriate by the competent authority please.



Inquiry Officer  
Mian Manzoor Ahmad  
Assistant Superintendent  
Judicial Lockup Nowshera

No. 1397-99

dated 19/10-2019

FINAL SHOW-CAUSE NOTICE

I, Khalid Abbas, Superintendent Headquarters Prison Peshawar as Competent Authority under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you, **Warder Sahib Nawaz** attached to Central Prison Peshawar as follows: -

(i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing, vide this Headquarters communication No. 1194/PB dated 13-09-2019.


(ii) On going through the findings and recommendations and other connected papers including your defense, after detailed inquiry conducted by the Inquiry Officer vide above cited communication, it was concluded that *"the accused Warder is found guilty of misconduct under rule-3 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 by willfully absenting himself from duty. Proper procedure was not followed for availing and sanction of leave from the Competent Authority. The fact cannot be overlooked that a chance of hearing is not provided to the accused Warder on arrival from Willful absenteeism, neither was he provided any chance of personal hearing/inquiry. On the lenient note, the accused Warder is not imparted any training to acquaint him with law, rules, regulations and capacity building. The concerned Warder may be charged under rule 04(a)(ii) i.e. withholding on increment of as deemed appropriate by the Competent Authority."*

2- As a result thereof, I, as Competent Authority have tentatively decided to impose upon the major penalty of **"Removal from Service"** under section 3 of the said ordinance.

3- You are therefore required to show cause as to why the aforesaid penalty should not be imposed upon you, also intimate whether you desire to be heard in person.

4- If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put it and in that case ex-parte action will be taken against you.

5- An extract of the inquiry report is attached.

  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
E-mail: [hqprisonpeshawar@gmail.com](mailto:hqprisonpeshawar@gmail.com)

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مستطاب

OFFICE OF THE  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
No: 1557 P/B Dt: 01/11/2019

OFFICE ORDER

**WHEREAS**, the accused Warder (BPS-05) Sahib Nawaz attached to Central Prison Peshawar was proceeded against under Rule(5)(1) Read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in Show-Cause Notice No. 1514-16 dated 21-06-2016.

**AND WHEREAS**, the above accused Warder failed to submit his reply/ written defense within stipulated period, resultantly he was awarded the major penalty of REMOVAL FROM SERVICE as ex-parte action vide Superintendent HQs. Prison Peshawar Order No. 1864 dated 14-07-2016.

**AND WHEREAS**, his appeal for re-instatement into service was rejected by the I.G Prisons Khyber Pakhtunkhwa Peshawar vide his No. 20945 dated 18-11-2016.

**AND WHEREAS**, the accused Wader instituted an appeal before the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar bearing No. 228/ 2017 against the order dated 14-07-2016.

**AND WHEREAS**, the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar ordered vide judgment dated 06-08-2019 that a regular inquiry against the appellant may be conducted.

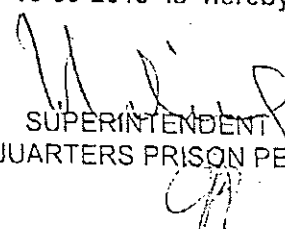
**AND WHEREAS**, in light of above judgment, a regular inquiry against the accused was conducted, wherein Mr. Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera was nominated as inquiry Officer under rule 10(1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused was provided fair opportunity of defending his cause of departmental proceedings. The inquiry officer submitted his report vide No. 2973/WE dated 26-09-2019.

**AND WHEREAS**, in light of Rule-14(4) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, he was served with Final Show-Cause Notice vide this HQs. No. 1397-99 dated 19-10-2019, who reply was submitted by him on 22-10-2019, which was considered.

**AND WHEREAS**, in light of Rule-15 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the accused Warder was afforded the reasonable opportunity of personal hearing on 29-10-2019, but he failed to prove himself innocent and the charges against him were proved partially.

**NOW THEREFORE**, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 having considered the charges leveled against him in light of the evidencce, record and report of the inquiry officer, the undersigned being Competent Authority hereby pleased to award him the major penalty of Reduction to lowest stage in his present time pay scale for a period of 03 years with immediate effect.

2- His intervening period i.e. w.e.f 14-07-2016 to 13-09-2019 is hereby treated as leave without pay.

  
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1558-631

Copy of the above is forwarded to the :-

- 1- Honourable Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to his letter No. 1495/ST dated 26-08-2019 please.
- 2- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 3- Superintendent Central Prison Peshawar. Proper entry to this effect may be made in his Service Book.
- 4- Accountant General, Khyber Pakhtunkhwa, Peshawar please.
- 5- Mian Manzoor Ahmad, Assistant Superintendent Judicial Lockup Nowshera, with reference to his report quoted above.
- 6- Head Clerk (Pay Branch) Central Prison Peshawar.

  
SUPERINTENDENT

### حالات و مسائل

کڑاڑی مردہ سے معائنہ

مسائل سے عمومی نکات اور مسائل اور مسائل سے متعلقہ مسائل

مسائل میں فضائی کی

مسائل میں / فراغی / لوری ہمت ، جوس اسٹون اور سیٹ اپنا اور

سے سرانجام دینا دیا۔ مگر بد قسمتی کہ 06-06-16 کو مسائل کے دانت میں

مذہبہ درد تھا جسکی وجہ سے محاذ بھی تھا۔ جیل ڈاکٹر کے یو ایس میں

ہیٹال ریفر کیا۔ جس پر مسائل یو ایس میں ہسپتال گیا، جہاں ڈاکٹر

دندان سادے میں دانت نکال دیا۔ ڈاکٹر صاحب نے دو دن کا آرام

تجویز کیا۔ جس کے بعد ڈاکٹر کی تجویز شہ سلیب لائے محسوس

کئے گیا اور منہ سو جھٹ گیا۔ مختلف ادویات کے استعمال کی وجہ سے

بگڑ گیا اور منہ سے درد شروع ہوا اور خون آنا شروع ہو گیا۔ ڈاکٹر

کے سے مجھے حصے میں درد شروع ہوا اور جھوٹا آبرجس تجویز کیا

سے رجوع کیا تو خون کی لوا سیرکس تجویز ہوئی ، اور جھوٹا آبرجس تجویز کیا

آبرجس نہ کرنے پر طبی ادویات اور ٹھہریلو کی لٹوں کا استعمال کیا گیا

اور جب خون آنا بند ہوا تو فوڈ لوزری ہرا آیا۔ حاضر کیا تو لائن محسوس

نے لوزری / حاضر کیا جس سے التار کیا اور برخواستگی کا حکم نامہ مبرا کئے گیا

منایا عالی اس سے پہلے مجھے کوئی سرکاری نوٹس یا شوکان میں ملا

میں تعلق F.R سے ہے اور خاندان کا مسئلہ سرکاری ملازم ہو گیا اور

مکہ جاتی مادوائی / فوائی مادوائی / درخواست / کا حکم نہ لوتی وقت سے

اعانت نامہ لینے سے قاصر رہا۔ جس پر نہایت شرمناک ہوا

موجود والا مسائل خاندان کا واحد نسل ہے ، مسائل کی لوزری مان

اور میں نے اسکی ذمہ داری میں علاوہ ادویات مسائل کی تجویز اور

تین کم سن بچے ہیں۔ مسائل خاندان میں خواتین میں دانت لوزری

نہ لے

کی جائے۔ سائل، اس کے بچے، اعدا بودھی ماں تا عمر  
دعا کی دیے گئے۔

عمل درآمد فرما کر انصاف کی مثال قائم کی جائے  
اللہ پاک آپ کو اس کا اجر دے، آپ کی مشغلات تقابلاً  
دور کر اور اپنے خزانوں سے مزید ترقی عطا فرمائے

سائل حلفاً اقرار کرتا ہے کہ اس کا بیان حقیقت پر مبنی ہے۔  
سائل جناب عالی کے حکم کا مدنظر رہیگا

### الحاضری

فرمانسردار وارڈر،

صاحبان  
ولہ  
لا شہ میر

نوٹ: حکم نامہ نمبر ۱۵۵۶، مورخہ ۱۹ آئی  
کا عدم فرما کر سائل کو تمام سرکاری جواب  
مناسب سمجھیں گے ساتھ بحال فرمایا جائے۔

Annexure B  
10

OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

DE 091-9210334, 9210406 FAX 091-92113445

No. Enquiry/Order: 14-03-2020

Dated: 12-03-2020

original order

ORDER:

WHEREAS, <sup>Peshawar</sup> ~~Warden~~ Sahib Nawaz S/O Lashta Mir while attached to Central Prison ~~Peshawar~~ was awarded the major penalty of "Reduction to lowest stage in his present pay scale for a period of three years" by the Superintendent, Headquarters Prison Peshawar vide his office order No. 1581 dated 01-11-2019

AND WHEREAS, the said warden preferred his departmental appeal for setting-aside the penalty awarded to him, which was examined in light of the available record of the case and it was observed that the charges leveled against the appellant was proved.

AND WHEREAS, he was afforded an opportunity of personal hearing on 12-03-2020. During the course of hearing, he explained his position and found that the penalty imposed upon him by the competent authority is very harsh.

NOW THEREFORE, keeping in view the facts on record, the provision of rules in regard to in exercise of power conferred under Rule-3(c) of Khyber Pakhtunkhwa Civil Services Appeal Rules 1968, the major penalty of Reduction to the lowest stage for a period of three years is hereby commuted to minor penalty i.e. "Withholding of increments for two years".

ADDITIONAL INSPECTOR GENERAL OF PRISONS

KHYBER PAKHTUNKHWA, PESHAWAR.

Encl. No. 9797-78

Copy of the above is forwarded to:-

1. The Superintendent, Headquarters Prison Peshawar for information and necessary action to be taken in the matter to the extent of No. 305 dated 04-02-2020.

2. Accountant General Khyber Pakhtunkhwa Peshawar for information.

MB/H/L  
Amir Hashim

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



Annexure B

100

Better Copy

IN THE OFFICE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
091-9210354, 0210400 Fax: 091-9213445  
No. \_\_\_\_\_ /Order: \_\_\_\_\_  
Dated: 12-03-2020

**ORDER**

WHEREAS, warder Sahib Nawaz S/o Lashta Mir while attached to Central Prison Peshawar was awarded major penalty of "Reduction to lowest stage in his present pay scale" for a period of three years by the Superintendent Headquarters Prison Peshawar vide his office order No: 1561 dated 01/01/2019.

AND WHEREAS, the said warder preferred his departmental appeal for setting aside the penalty awarded to him, which was examined in light of the available record of the case and he was observed that the charged leveled against the appellant was prayed.

AND WHEREAS, he was offered an opportunity of personal hearing on 18-03-2020. During the course of hearing, he explained his position and found that the penalty imposed upon him by the competent authority is very harsh.

NOW THEREAFTER, keeping in view, the facts on record, the provision of rules and regulation in exercise of power conferred under Rule 5(C) of Khyber Pakhtunkhwa Civil Service Appeal Rules 1985, the major penalty of Reduction of the lowest stage for a period of three years is hereby converted to minor penalty i.e. "Withholding of increment for two years".

ADDITIONAL INSPECTOR GENERAL OF  
PRISONS  
KHYBER PAKHTUNKHWA, PESHAWAR.

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

Copy of the above is forwarded to:-

1. Superintendent, Headquarters Prison Peshawar for information and necessary action
2. \_\_\_\_\_
3. Accountant General of Khyber Pakhtunkhwa Peshawar for information.

ASSISTANT DIRECTOR  
FOR INSPECTOR GENERAL OF PRISON  
KHYBER PAKHTUNKHWA PESHAWAR