

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	24.11.2017	<p style="text-align: center;">3</p> <p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b>  <b>Service Appeal No. 1245/2016</b>  Date of Institution ... 19.12.2016  Date of Decision ... 24.11.2017</p> <p>Owais Ali Ex-Warden No.7471 S/o Liaqat Ali R/o Nowshera Cantt Nowshera.-----<b>Appellant</b></p> <p style="text-align: center;"><b>Versus</b></p> <ol style="list-style-type: none"> <li>1. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.</li> <li>2. Superintendent Head Quarters Prison Peshawar.</li> <li>3. Superintendent Central Prison Peshawar.</li> <li>4. Secretary Home and Tribal Affairs Government of Khyber Pakhtunkhwa Civil Secretariats Peshawar.</li> </ol> <p style="text-align: right;"><b>Respondents</b></p> <p><b><u>JUDGMENT</u></b>  <b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for the appellant present. Learned Assistant Advocate General respondents present.</p> <p>2. The appellant has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 against the respondents and made impugned the order dated 18.07.2016 of respondent No. 2 whereby the major penalty of removal from service was awarded to the appellant on the ground of absence from duty. The appellant has also challenged the order dated 18.11.2016 of respondent No. 1 whereby departmental appeal filed by the appellant was rejected.</p> <p>3. Learned Counsel for the appellant argued that the impugned orders are unlawful and void. Further argued that the appellant was condemned unheard and without observing codal formalities. Further argued that the impugned order dated 18.11.2016 is</p>

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discriminatory in as much as another employee of the same institution was reinstated by the appellate authority. Further argued that the impugned orders are also harsh as the appellant could not attend to his duties due to serious illness and in this respect the medical prescriptions are available on file.

4. As against that Learned Assistant Advocate General resisted the present appeal and argued that the appellant was remained willfully absent from his duties without any application and permission, hence the impugned orders were rightly passed.

5. Arguments heard. File perused.

6. Perusal of the record would show that the appellant was removed from service after issuance of show cause notice dated 27.06.2016 on the allegations that the appellant had deserted himself from the allotted duty without prior permission on 16.06.2016 and was still at large.

7. Perusal of material on record would also show that Mr. Khalil Ullah, Ex-Warder who also remained absent from duty for thirty five (35) days was reinstated in service by the appellate authority while converting the major penalty to minor penalty. The appellant has taken the stance that he could not attend to his duty being severely ill, moreover there is no allegation of corruption/ill-reputation against the appellant. Hence the punishment in the shape of removal from service appears to be harsh one. Consequently the present appeal is accepted in terms that the major punishment of removal from service is modified and converted to withholding of

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two (02) annual increments for a period of three (03) years. Absence period and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

**ANNOUNCED**  
**24.11.2017**

13.06.2017

Appellant in person and Addl:AG alongwith Mr. Sheharyar Khan, ASJ for respondent present. Written reply submitted. Cost of Rs. 1000/- also paid and receipt thereof obtained from the appellant. To come up for rejoinder and arguments on 01.08.2017 before D.B.

  
(Ahmad Hassan)  
Member

01.08.2017 •

Counsel for the appellant and Addl: AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 24.01.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

24.11.2017, Learned counsel for the appellant present. Learned Assistant Advocate General for the respondents present. Vide our separate judgment of today placed on file the present appeal is accepted in terms that the major punishment of removal from service is modified and converted to withholding of two (02) annual increments for a period of three (03) years. Absence period and intervening period shall be treated as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

**ANNOUNCED**

24.11.2017

08.03.2017

Counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 03.04.2017 before S.B.

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

03.04.2017

Appellant in person and Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 08.05.2017 before S.B.

  
Chairman

08.05.2017

Appellant in person present. Mr. Muhammad Butt, Additional: AG for the respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 13.06.2017 before S.B.

  
Chairman

28.12.2016

Learned counsel for the appellant argued that the appellant was serving as Warden when removed from service on the allegations of willful absence vide impugned order dated 18.07.2016 where-against departmental appeal of the appellant was also rejected vide final order dated 18.11.2016 and hence the instant service appeal on 19.12.2016.

That absence of the appellant was not willful. That the prescribed procedure for enquiry was not adhered to by the competent authority and appellant condemned unheard.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 2.2.2017 before S.B.

Appellant Deposit  
Security & Process Fee

  
Chairman

02.02.2017




Appellant in person and Mr. Sheharyar, ASJ alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted and requested for adjournment. To come up for written reply/comments on 08.03.2017 before S.B.

  
(ASHFAQUE TAJ)  
MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 1245/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19/12/2016	<p>The appeal of Mr. Owais Ali presented today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	20-12-2016 	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28-12-2016</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1245 /2016

Owais Ali Ex-Warden .....Appellant

VERSUS

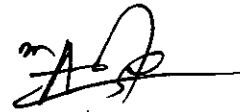
Inspector General of Prisons and others.....Respondents

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S.No.	Description of Documents	Annex	Pages
1.	Memo of Appeal and Affidavit	-	1- 5
2.	Addresses of Parties		6
3.	Copy of appointment order	A	7
4.	Copies of Medical documents	B - B4	8-12
5.	Copy of order dated 18-07-2016	C	13
6.	Copies of appeal and order dated 18-11-2016	D & E	14-16
7.	Copy of Bank Statements	F	17-18
8.	Wakalat Nama		

Appellant

Through



**Muhammad Arif Jan**

Advocate, Peshawar

Office: Office No.210, Al-Mumtaz Hotel  
G.T. Road Peshawar.

Cell: 0333-2212213

Dated: 17/12/2016



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....1245...../2016

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 1299

Dated 19-12-2016

Owais Ali Ex-Warden No-7471

S/o Liaqat Ali R/o Nowshera Cantt District Nowshera.....Appellant

VERSUS

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
2. Superintendent Head Quarters Prison Peshawar.
3. Superintendent Central Prison Peshawar.
4. Secretary Home and Tribal Affairs Government of Khyber Pakhtunkhwa civil Secretariats Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18-11-2016 PASSED BY RESPONDENT NO-1 WHEREBY HE MAINTAINED THE IMPUGNED ORDER DATED 18-07-2016 OF RESPONDENT NO-2 IN RESPECT OF REMOVAL OF THE APPELLANT FROM HIS SERVICE.

Filed today  
Sund 19/12/16  
Registrar

PRAYER IN APPEAL:

On acceptance of the instant appeal, the impugned orders dated 18-11-2016 and 18-07-2016 passed by respondents No- 1 & 2 respectively may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Respectfully Sheweth:

1. That the appellant was initially appointed as Warder by respondent No-1 vide office order dated 22-01-2015 and was posted at respondent No-3. (Copy of appointment order is attached as ANNEX-A).
2. That the appellant was suffered with the disease namely "Sciatica" and as per the Doctor advice, he remained on complete bed rest since 16-06-2016 and finally on 26-09-2016 after examination by his Doctor, the appellant was declared fit for duty through the fitness certificate which is attached as (ANNEX-B to B4 respectively).
3. That the then the appellant approached for his duties where he was stunned on 30-09-2016 when he was conveyed in respect of his removal from service order dated 18-07-2016 by respondent No-2. (Copy of order dated 18-07-2016 is attached as ANNEX-C).
4. That then the appellant preferred an appeal before respondent No-1 which was too rejected vide office order dated 18-11-2016. (Copies of appeal and rejection order are attached as ANNEX-D & E respectively).
5. That being aggrieved and having no other efficiaous remedy except to file the instant appeal on the following amongst other grounds.

GROUND:

- A. That the acts, commissions and omissions of the respondents 1 & 2 and the office order dated 18-11-2016 and 18-07-2016 passed by respondent No-1 & 2 (**hereinafter impugned**) are patently illegal,

unlawful, without lawful authority, of no legal effect, having no value in the eyes of law thus be declared illegal and to be set-aside and the appellant may kindly be reinstated in his service with all back benefits.

- B. That in fact the appellant was suffered with the disease namely "**Sciatica**" and was unable to join his duties that's why also could not informed the authorities concerned about his medical rest advised by the competent Doctor and the same fact was also brought before respondent No-1 which was not considered and the illegal order passed by respondent No-2 was upheld.
- C. That the respondent No-2 knowingly the facts of illness of the appellant passed the impugned order without considering the medical rest as well as conducting inquiry into the matter which is not only against the fundamental rules but also against the law, rules and regulation governing the subject matter.
- D. That the appellant was not given/provided the opportunity of personal hearing, show cause, charge sheet, statement of allegation and cross examination etc to meet the ends of justice, but the respondent No-2 by misusing the vested powers, removed the appellant from his service by adopting the principle of "**Might is right**" hence needs consideration of this Hon'ble Tribunal.
- E. That no any inquiry has been conducted in proper manner to ascertained the ends of justice which is guaranteed in the Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 and the appellant was not treated equally thus the rights of the appellant which are protected under Article-4 of the Constitution of Islamic Republic of Pakistan, 1973 are violated by the respondents while passing the impugned orders.

F. That the appellant have been discriminated as many other similarly placed officials were been reinstated by the appellate authority and the appellant being deservable was intentionally ignored and deprived from his right of service which is against the norms of justice.

G. That the fact of medical rest by the Doctor was well within the knowledge of the respondents that's why, the appellant was paid his monthly salaries till the month of August, 2016. (Copy of Bank statement is attached as ANNEX-F).

H. That the respondents are/were duty bound to abide the Law and not to violate their own rules and policies but in the present case, they have badly failed to follow the procedure and rules.



I. That any other ground which has not been specifically asked for and is fit in the circumstance may also be allowed in favor of the appellant against the respondents.

**It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned orders dated 18-11-2016 and 18-07-2016 passed by respondents No- 1 & 2 respectively may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits.**

**Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.**

Dated; 17-12-2016

Through

  
Appellant  
  
Muhammad Arif Jan  
Advocate, Peshawar.

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No...../2016

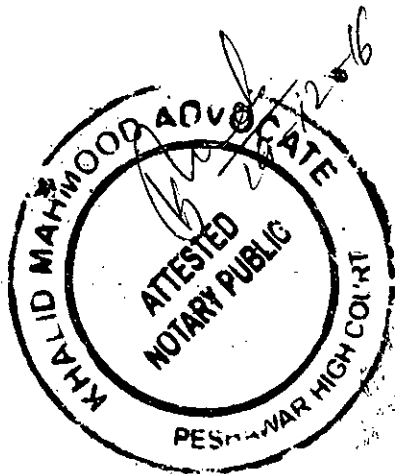
Owais Ali Ex-Warden .....Appellant

VERSUS

Inspector General of Prisons and others.....Respondents

**AFFIDAVIT**

I Owais Ali Ex-Warden No-7471 S/o Liaqat Ali R/o Nowshera Cantt District Nowshera do hereby solemnly affirm and declare on oath that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing have been concealed from this Hon'ble Tribunal.



*Owais Ali*  
DEPONENT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No...../2016

Owais Ali Ex-Warden .....Appellant

VERSUS

Inspector General of Prisons and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

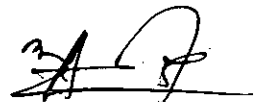
Owais Ali Ex-Warden No-7471 S/o Liaqat Ali R/o Nowshera Cantt District  
Nowshera.

**RESPONDENTS**

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
2. Superintendent Head Quarters Prison Peshawar.
3. Superintendent Central Prison Peshawar.
4. Secretary Home and Tribal Affairs Government of Khyber  
Pakhtunkhwa civil Secretariats Peshawar.

Appellant

Through



Date: 30/08/2016

**Muhammad Arif Jan**  
Advocate, Peshawar.



7

OFFICE OF THE  
**SUPERINTENDENT**  
HEADQUARTERS PRISON PESHAWAR  
No. 7971 /P.B/ Dt: 22/01/2015

To

Mr. OWAIS ALI S/O LIAQAT ALI  
R/o New Mohallah House No. 475, Tehsil & Distt: Nowshera

Subject: **APPOINTMENT AS WARDER (BPS-05)**

Memo:

Reference your test/ interview for the subject post.

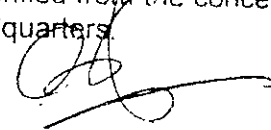
You are hereby offered the post of temporary Warder in BPS-05 (5400-260-13200) and all other usual allowances as admissible under the rules subject to the following conditions: -

- 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 High Security Prison Mardan for duties.

  
**SUPERINTENDENT**  
HEADQUARTERS PRISON PESHAWAR

Endorsement No. 7482-231

- 1- Copy of the above is forwarded to the Superintendent High Security Prison Mardan. 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, Mardan.

  
**SUPERINTENDENT**  
HEADQUARTERS PRISON PESHAWAR

Musawer/-

Attested  


# D.H.Q. HOSPITAL NOWSHERA

## OUTDOOR PATIENTS TICKET



57

Yearly OPD No: 5835

Name

محمد علی

Date

16/6/66

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Effort

7c nerves

P

7c Lumbosacral  
C10 121

7c Cervical  
C6 121

7c Cervical  
C6 121

7c Cervical  
C6 121

ACU

Carriage home bed

rest for 01 month

Orthopedic Surgeon  
D.H.Q. Hospital  
Nowshera

Attested

MAST



10

9

# D.H.Q. HOSPITAL NOWSHERA

## OUTDOOR PATIENTS TICKET



59

Yearly OPD No: 2872

Name

محمد علی

Date

15/7/16

B/1

*Benifan  
L. Coax*

*of*

*Pass & velop 4 days*

*1-2*

*Pass Maden 75mg*

*1+1-2*

*Pass Car 100mg*

*0.1*

*1-1*

*Complete home bed*

Atti

*rest for 01 month*

Orthopedic Surgeon  
D.H.Q. Hospital  
Nowshera

*Attested*  
*[Signature]*

10

B/2

# D.H.Q. HOSPITAL NOWSHERA

## OUT.DOOR PATIENTS TICKET



60

Yearly OPD No: 7225

Name: محمد علی Date: 13/8/16

Squint eye  
Blepharitis  
Laceration

yc Dyclo

P

Tab. Bimat  
1-1

Tab. Dexam DS  
1-1

Tab. Bropin  
1-1

Tab. Eriam 400mg

Acc

Complete home bed rest  
for 01 month

Chief Surgeon  
D.H.Q. Hospital  
Nowshera.

Attested

# D.H.Q. HOSPITAL NOWSHERA

## OUT.DOOR PATIENTS TICKET



Yearly OPD No: 4132

62

Name

*U. U. 91*

Date

10/9/16

(11)

B/3

*Justice  
R. P. 001*

*P*

*Tabl Oseton  
1-1*

*Tabl Diclofenac 75mg  
1+1-1*

*Tabl nimesulid  
1-1*

ACU

*Complete home bed*

*rest for (02) weeks wcz*

*12/9/16*

*Orthopedic Surgeon  
D.H.Q. Hospital  
Nowshera*

*Adhesed*

*[Signature]*

26-4-2000

12

# D.H.Q. HOSPITAL NOWSHERA

## OUT.DOOR PATIENTS TICKET



Rs:10

Yearly OPD No: \_\_\_\_\_

B/4

Name                      48 Date 26/09/2000

*Sickness certificate*

*certified that Mr  
Anees Ali Iqbal  
is sick today on  
account, 26-9-00  
He is feverish (F14)  
in my*

*[Signature]*  
HOSPITAL  
NOWSHERA

*Attested*  
*[Signature]*



13

Anex - C<sup>3</sup>

OFFICE OF THE  
SUPERINTENDENT  
HEADQUARTERS PRISONS PESHAWAR  
No: 1895 /P.B/ Dt: 18/07/2016

ORDER

WHEREAS, the accused Warder Owais Ali 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. 1538-40 dated 27-06-2016.

AND WHEREAS, he was called to show cause of his long absence i.e. w.e.f 16-06-2016 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**" with immediate effect to the accused Warder.

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1896-A001 -

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- Accountant General, Khyber Pakhtunkhwa Peshawar.
- 4- Head Clerk (Pay Branch) Central Prison Peshawar.
- 5- Official concerned attached to Central Prison Peshawar.

*Attested*  
*[Signature]*

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

14

Amex - B

To: - The Inspector General,  
Prison, Khyber Pakhtunkhwa Peshawar.

Subject: - **APPEAL FOR RE-INSTATEMENT IN SERVICE**

Respected Sir,

With due respect I beg to submit that I have been awarded a Major punishment of Removal from service by the Superintendent Head Quarters Prison Peshawar, for the allegation of absence from duty from 16/6/2016 to 18/7/2016 vide copy of his office order attached against which I am going to submit the present Appeal on the following grounds/justifications for favorable and sympathetic consideration:-

1. While posted in Central Prison Peshawar, I fell ill seriously (suffering from Sciatica Rt. Foot + Back Pain) & was unable to perform duty.
2. I have consulted Orthopedic Surgeon DHQ Hospital Nowshera vide OPD No.5835 dated 16/6/2016 who advised me Medical Treatment & complete home bed rest for 1 month.
3. After taking treatment/rest I was still ill and old On 15/7/2016, I was brought to DHQ Hospital Nowshera & was given treatment by Orthopedic Surgeon DHQ Hospital Nowshera vide OPD No.2872 with advice of 1 month home bed rest.
4. Similarly on 13/8/2016 when I was not fully recovered, I was brought to DHQ Hospital Nowshera & was given treatment by Orthopedic Surgeon DHQ Hospital Nowshera vide OPD No.7225 with advice of 1 month home bed rest.
5. On 10/9/2016, I was feeling severe pain and was brought to DHQ Hospital Nowshera & was given treatment by Orthopedic Surgeon DHQ Hospital Nowshera vide OPD No.4172 with advice of 2 weeks home bed rest.
6. Non submission of reply of show cause notice etc. and not producing medical certificates at that time was due to reason that I was lying on bed. Furthermore, no departmental enquiry was conducted as required under the rules.
7. The absence was not intentionally and it was just due to my serious illness. Besides, I was lying on bed and unable to produce medical certificates regarding my illness in time, which

8. Due to this impugned order, I have been put in great financial loss and my service career has also been damaged.
9. I have no other source of income and am in great tension.
10. If my Appeal is accepted, I will assure you sir, I will perform my duties up to the entire satisfaction of my superiors at all the times.
11. Delay in submission of Appeal is due to the reason that I was not conveyed the Removal order and I myself taken its copy later on, on 30-9-2016

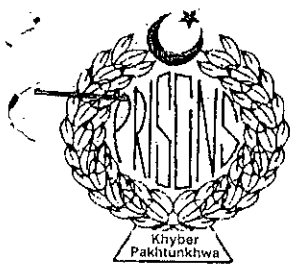
Therefore, I approach your good self to kindly accept my Appeal, the order of Major punishment (Dismissal from Service) awarded by the Superintendent Head Quarters Prison Peshawar may kindly be withdrawn and I may kindly be re-instated in service, for which I shall be highly obliged and will pray for your long life and prosperity. At the same time it is also requested that the period of my absence from 16-06-2016 to 25-90-2016 may be counted as leave on medical grounds:

Note: MCs a/w fitness certificate is enclosed herewith.

Yours Obediently,

*Owais Ali*  
(Owais Ali)  
Ex-Warden No.7471  
s/o Liaqat Ali  
r/o Nowshera Cantt.  
Tehsil & District Nowshera.

*Alhesta*  
*[Signature]*



16

Amex-E

6116  
18/11

OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No.Estb/Ward-/Orders/ 27000 /-

Dated 18-11-2016 /-

ORDER

WHEREAS, Ex-warder Owias Ali S/O Liaqat Ali attached to Central Prison Peshawar, was awarded the major penalty of "Removal from Service" by the Superintendent Headquarters Prison Peshawar vide his office order No. 1895 dated 18-7-2016 due to his willful absence with effect from 16-6-2016 till the date of removal from service.

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 it was observed that the appellant remained absent for long period and legal/ procedural formalities as required under the E&D Rules -2011 have also been observed by the competent authority.

AND WHEREAS, he was afforded an opportunity of personal hearing on 16-11-2016. During the course of hearing he failed to justify his willful absence. In addition, his appeal was also found time barred.

NOW THEREFORE, keeping in view the facts on record, the provision of rules in vogue and in exercise of power conferred under Rule-5 of Khyber Pakhtunkhwa Civil Servants Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance.

INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR.

ENDST;NO. 27001-27003

Copy of the above is forwarded to :-

1. The Superintendent, Headquarters Prison Peshawar for information and necessary action with reference to his letter No.3312-WE dated 31-10-2016.
2. The Superintendent, Central Prison Peshawar for information and necessary action with reference to the Superintendent HQ Prison Peshawar order referred to above. He is directed to inform the appellant accordingly and also to make necessary entry in his Service Book under proper attestation.
3. Mr.Owias Ali Ex-warder, C/O Superintendent Central Prison Peshawar for information.

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

18/11

18/11



17

Amex-F

MEEZAN BANK LIMITED  
3901-NOWSHERA BRANCH  
Shobra Hotel, Main GT Road, Nowshera,  
STATEMENT OF ACCOUNT

Print Date : 16 DEC 2016 11:02:11

AWAIS ALI

IBAN : PK17MEZN0039010101858489  
Old Account No :  
Account No : 0101858489  
Product : MEEZAN RUPEE CURRENT ACCOUNT  
Currency : Pakistan Rupee  
From Date : 01 JAN 2013  
To Date : 15 DEC 2016  
Generated By : ALIA.13064

H#475 MUHALLAH NIYA NOWSHERA CANTT  
TEH & DISTT NOWSHERA-PAKISTAN  
24100

<= OPENING - BALANCE =>

0.00

Date(DD/MM)	Value	*****Doc.No*****	***Particulars*****	*****Debit*****	*****Credit*****	*****Balance*****
12/10/15	12/10/15		Cash Deposit 3336857		1,000.00	
12/10/15	12/10/15		BANK CHARGES STAN(455777) NOWSHERA BRANCH VISA Annual Fee 2015	-350.00		
12/10/15	12/10/15		BANK CHARGES STAN(455777) NOWSHERA BRANCH FED Amount	-56.00		
17/10/15	17/10/15		BANK CHARGES STAN(484982) NOWSHERA BRANCH SMS Annual Fee 2015	-400.00		594.00
17/10/15	17/10/15		BANK CHARGES STAN(484982) NOWSHERA BRANCH FED Amount	-64.00		
02/12/15	02/12/15		Batch Transfer - Credit SALARY NOV 15		17,989.00	130.00
02/12/15	02/12/15		VISA-ATM Cash Withdrawal STAN (454926) NOWSHERA BRANCH	-10,000.00		
09/12/15	09/12/15		VISA-ATM Cash Withdrawal STAN (882327) NOWSHERA BRANCH	-2,000.00		8,119.00
11/12/15	11/12/15		VISA-ATM Cash Withdrawal STAN (490666) NOWSHERA BRANCH	-1,000.00		6,119.00
14/12/15	14/12/15		BANK CHARGES AC-PKR1716300013901 NOWSHERA BRANCH PSH MEVA MANDI PESHAWAR	-15.00		5,119.00
14/12/15	14/12/15		VISA-ATM Cash Withdrawal STAN (096390) NOWSHERA BRANCH PSH MEVA MANDI PESHAWAR	-5,000.00		
02/01/16	02/01/16		Internal Transfer AG SAL DEC SADDAR ROAD CANTT-PEW		16,556.00	104.00
04/01/16	04/01/16		VISA-ATM Cash Withdrawal	-12,000.00		16,660.00

18

09/07/16	09/07/16	VISA-ATM Cash Withdrawal STAN (883264) NOWSHERA BRANCH PSH. GUR MANDI PESHAWAR	-5,000.00	
09/07/16	09/07/16	BANK CHARGES AC-PKR1716300013901 NOWSHERA BRANCH PSH G.T.ROAD PESHAWAR	-15.00	
09/07/16	09/07/16	VISA-ATM Cash Withdrawal STAN (288540) NOWSHERA BRANCH PSH G.T.ROAD PESHAWAR	-1,000.00	
01/08/16	01/08/16	Batch Transfer - Credit AG POFCE SLRY JUL 16	19,370.00	397.00
05/08/16	05/08/16	BANK CHARGES AC-PKR1716300013901 NOWSHERA BRANCH JAMIA MASJID NOWSHER NOWSHERA	-15.00	19,767.00
05/08/16	05/08/16	VISA-ATM Cash Withdrawal STAN (937760) NOWSHERA BRANCH JAMIA MASJID NOWSHER NOWSHERA	-10,000.00	
10/08/16	10/08/16	BANK CHARGES AC-PKR1716300013901 NOWSHERA BRANCH UBL AMEEN RAJA BAZAR RAWALPINDI	-15.00	9,752.00
10/08/16	10/08/16	VISA-ATM Cash Withdrawal STAN (753056) NOWSHERA BRANCH UBL AMEEN RAJA BAZAR RAWALPINDI	-9,000.00	
15/08/16	15/08/16	BANK CHARGES AC-PKR1716300013901 NOWSHERA BRANCH F-10 MARKAZ BR. ISB ISLAMABAD	-15.00	737.00
15/08/16	15/08/16	VISA-ATM Cash Withdrawal STAN (971744) NOWSHERA BRANCH F-10 MARKAZ BR. ISB ISLAMABAD	-500.00	
		<= CLOSING - BALANCE =>		222.00

Total No. of Credit Transaction 12  
 Total No. of Debit Transaction 82  
 Total Credit Turnover 165,557.00  
 Total Debit Turnover -165,335.00

*Handwritten Signature*

1. As per directives of State Bank of Pakistan (SBP), please note your International Bank Account Number (IBAN) for receiving remittances from abroad. You can visit the nearest Meezan Bank Branch or our website [www.meezanbank.com](http://www.meezanbank.com) for IBAN related information and guidance.

2. Please note that as per SBP's Prudential Regulations, business/charity related transactions and/or any activity for the purpose of collection of donations is not allowed in accounts opened and maintained with banks for savings and personal use.

3. If your CNIC has expired after opening of your account, kindly provide us an attested copy of the valid CNIC at your earliest. This requirement does not apply to individuals over 65 years of age.

4. As per prevailing rules and regulations, any account not operated for one year gets classified as 'Dormant Account'. In order to have your dormant account activated, kindly visit your branch along with original valid CNIC. If any account remains inoperative for a period of 10 years, shall become unclaimed and will be surrendered to SBP as per provision of Banking Companies Ordinance, 1962.

5. For any complaints that remain unresolved beyond 45 days, you may write to Banking Mohtasib Pakistan, Shaheen Complex, M.R. Kiyani Road, Karachi or visit [www.bankingmohtasib.gov.pk](http://www.bankingmohtasib.gov.pk).

6. Any discrepancy observed in this statement must be reported to pertinent branch of Meezan Bank within 45 days after date of receipt, failing which the statement will be deemed to be correct.

آگاہت: ایسی صورت میں کہ کسی قسم کے اختلاف کی صورت میں ان معلومات کے حصول ہونے کے بعد 45 دن کے اندر مزید ان بینک کی متعلقہ برانچ سے رابطہ کریں۔ صورت دیگر نہ رہا، آگاہت انتہائی اہم اور مستحق توجہ ہے۔

قیمت 10 روپے



57048

ایڈووکیٹ / محتفلین  
بار کونسل ابار ایسوسی ایشن  
رابطہ نمبر: 333 2212213

پشاور بار ایسوسی ایشن، خیبر پختونخوا

بعدالت جناب: *محمد امجد علی صاحب*

مخاطب: <i>محمد امجد علی</i>	دعویٰ:
	موضوع:
	مزموم:
	تھانہ:

### بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پر وی دی جواب دہی کاروائی متعلقہ  
 ان مقام پر *محمد امجد علی صاحب* نے *محمد امجد علی صاحب* کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا ایگزیکٹو وکیل صاحب کو  
 راضی نامہ کرنے و تقریرات و فیصلہ برطاعت دینے جواب دعویٰ اقبال دعویٰ اور درخواست اذہر قسم کی تصدیق  
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز ضرورت عدم پیروی یا ڈگری یا ایمل کی برآمدگی اور منسوخی، نیز  
 دائر کرنے ایمل نگرانی و پیروی کرنے کا مختار ہوگا اور ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقریر کا اختیار ہو گا اور صاحب  
 مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ہی داخل منظور قبول ہوگا دوران مقدمہ  
 میں جو خرچہ ہر جہان التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وکیل کرنے کا مختار ہوگا کوئی تاریخ پیشی مقام  
 دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیر وی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 17 دسمبر 2016

العبد \_\_\_\_\_ واہ شد \_\_\_\_\_ العبد

مقام \_\_\_\_\_ کے لئے منظور ہے۔

وقت: اس وقت، رات کو کوئی تامل نہیں ہوگی۔

*Attested & accepted*  
*A J*

*Amjad Ali*

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

In the matter of

Service Appeal No. 1245/ 2016

Owais Ali Ex-Warder No. 7471

S/o Liqat Ali R/o Nowshera District Nowshera .....

Appellant/Petitioner

VERSUS

1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.

2- Superintendent Headquarters Prison Peshawar.

3- Superintendent Central Prison Peshawar.

4- Secretary Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa Civil Secretariat  
Peshawar.....

Respondents

Written statement 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 stopped 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 SHEWETH.

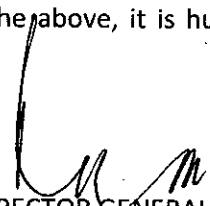
- 1- Correct, pertains to the record.
- 2- Incorrect, misleading. On 24-06-2016 he was served with Show-Cause Notice under Rule-5(1) read with rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of willful absence/ desertion from his duty as well as jail premises without prior intimation, wherein he was clearly directed to submit his reply/ written defense within 07 days but failed, nor reported back and remained at large till the order dated 18-07-2016 (**Annex-A**). Furthermore report of the Superintendent clearly reveals that he was not interested in his duty (**Annex-B**)
- 3- Not admitted, irresponsible attitude and habit of leaving his duties without intimation resulted into Removal from Service of the appellant.
- 4- Having no solid grounds to satisfy the appellate authority, his appeal was dismissed on 18-11-2016.
- 5- His appeal may be dismissed on the above grounds please.

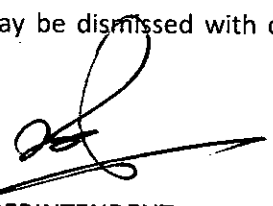
GROUNDS:

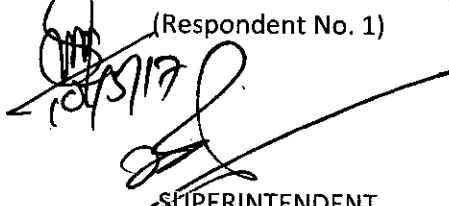
- A- Incorrect, misleading. Orders dated 18-07-2016 & 18-11-2016 passed by the Respondent No. 1 & 2 respectively are legal, valuable in the eyes of law.
- B- Incorrect, the appellant was required to submit reply to the Show-Cause Notice already served upon him on 27-06-2016, but neither he informed the Competent Authority about his illness nor sent any medical rest till the order dated 18-07-2016.
- C- Incorrect, misleading, as elaborated in Para(B) above.
- D- Incorrect. The appellant was served with Show-Cause Notice duly received by him on 27-06-2016. He was required to report back and to submit his reply, but failed and remained at large till the order dated 18-07-2016.


- E- Incorrect, initial inquiry was conducted into the case. He was served with Show-Cause Notice on 24-06-2016 under relevant rules, which he did not submit reply till the order of his Removal from Service i.e. 18-07-2016.
- F- Incorrect, misleading. Every member of Watch & Ward Staff is being treated in light of the relevant rules. Decisions are taken in individual cases according to circumstances and facts.
- G- Incorrect, as elaborated in Para (B) above.
- H- Incorrect, as elaborated in Para (A) above.
- I- The respondents seek leave to raise additional grounds at the time of arguments.

In light of the above, it is humbly prayed that appeal of the appellant may be dismissed with costs please.

1-   
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 1)

2-   
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR.  
(Respondent No. 2)

3-   
SUPERINTENDENT  
CENTRAL PRISON PESHAWAR  
(Respondent No. 3)

4-   
SECRETARY TO GOVERNMENT OF KPK  
HOME & T.AS DEPARTMENT, PESHAWAR  
(Respondent No. 4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

In the matter of

Service Appeal No. 1245/ 2016

Owais Ali Ex-Warder No. 7471

S/o Liqat Ali R/o Nowshera District Nowshera .....

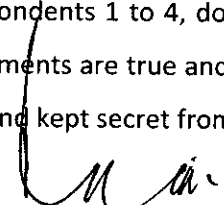
Appellant/Petitioner

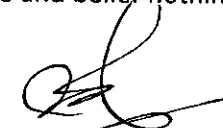
VERSUS

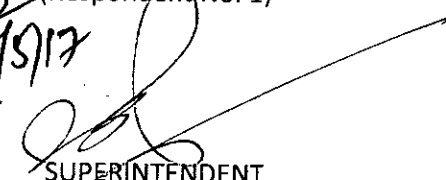
- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
- 2- Superintendent Headquarters Prison Peshawar.
- 3- Superintendent Central Prison Peshawar.
- 4- Secretary Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar..... Respondents


AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 1 TO 4.

We, the respondents 1 to 4, do hereby solemnly affirm and declare on oath that the contents of the reply/ para-wise comments are true and correct to the best of our knowledge and belief nothing material/ fact has been concealed and kept secret from this Honourable Tribunal.

1-   
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 1)

2-   
SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
(Respondent No. 2)

3-   
SUPERINTENDENT  
CENTRAL PRISON PESHAWAR  
(Respondent No. 3)

4-   
SECRETARY TO GOVERNMENT OF KPK  
HOME & T.AS DEPARTMENT, PESHAWAR  
(Respondent No. 4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

In the matter of

Service Appeal No. 1245/ 2016

Owais Ali Ex-Warder No. 7471

S/o Liqat Ali R/o Nowshera District Nowshera .....

Appellant/Petitioner

VERSUS

- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
- 2- Superintendent Headquarters Prison Peshawar.
- 3- Superintendent Central Prison Peshawar.
- 4- Secretary Home & Tribal Affairs Department, Government of Khyber Pakhtunkhwa Civil Secretariat Peshawar..... Respondents

Written statement 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 stopped 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.

Para-wise comments on behalf of the respondents.

RESPECTFULLY SHEWETH.

- 1- Correct, pertains to the record.
- 2- Incorrect, misleading. On 24-06-2016 he was served with Show-Cause Notice under Rule-5(1) read with rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on account of willful absence/ desertion from his duty as well as jail premises without prior intimation, wherein he was clearly directed to submit his reply/ written defense within 07 days but failed, nor reported back and remained at large till the order dated 18-07-2016 (Annex-A). Furthermore report of the Superintendent clearly reveals that he was not interested in his duty (Annex-B)
- 3- Not admitted, irresponsible attitude and habit of leaving his duties without intimation resulted into Removal from Service of the appellant.
- 4- Having no solid grounds to satisfy the appellate authority, his appeal was dismissed on 18-11-2016.
- 5- His appeal may be dismissed on the above grounds please.

GROUND:

- A- Incorrect, misleading. Orders dated 18-07-2016 & 18-11-2016 passed by the Respondent No. 1 & 2 respectively are legal, valuable in the eyes of law.
- B- Incorrect, the appellant was required to submit reply to the Show-Cause Notice already served upon him on 27-06-2016, but neither he informed the Competent Authority about his illness nor sent any medical rest till the order dated 18-07-2016.
- C- Incorrect, misleading, as elaborated in Para(B) above.
- D- Incorrect. The appellant was served with Show-Cause Notice duly received by him on 27-06-2016. He was required to report back and to submit his reply, but failed and remained at large till the order dated 18-07-2016.

Annex-A

SHOW-CAUSE NOTICE UNDER RULE-5 (1) READ WITH RULE-7 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES

- E- Incorrect, initial inquiry was conducted into the case. He was served with Show-Cause Notice on 24-06-2016 under relevant rules, which he did not submit reply till the order of his Removal from Service i.e. 18-07-2016.
- F- Incorrect, misleading. Every member of Watch & Ward Staff is being treated in light of the relevant rules. Decisions are taken in individual cases according to circumstances and facts.
- G- Incorrect, as elaborated in Para (B) above.
- H- Incorrect, as elaborated in Para (A) above.
- I- *The respondents seek leave to raise additional grounds at the time of arguments.*  
In light of the above, it is humbly prayed that appeal of the appellants may be dismissed with costs please.

1- INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 1)

2- SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR  
(Respondent No. 2)

3- SUPERINTENDENT  
CENTRAL PRISON PESHAWAR  
(Respondent No. 3)

4- SECRETARY TO GOVERNMENT OF KPK  
HOME & T.A.S DEPARTMENT, PESHAWAR  
(Respondent No. 4)

*AGG Please vet. 26.07.2017*

*30A-1*

*Vetted Subject to correction,  
attachment of annex, affidavit  
and approval of AGG*

*Approved 26.04.2017*

**ABIR ULLAH KHATTAK**  
Asstt. Advocate General  
Service Tribunal K.P.K.  
Peshawar



# Annex-A

## SHOW-CAUSE NOTICE UNDER RULE-5 (1) READ WITH RULE-7 OF THE KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES 2011.

You, **Warder (BPS-05) Owais Ali** attached to Central Prison Peshawar deserted yourself from your allotted duties as well as jail premises without prior permission of the Competent Authority on 16-06-2016 and are still at large, which constitutes gross misconduct.

I, **Masud-ur-Rahman**, Superintendent Headquarters Prison Peshawar as Competent Authority, am satisfied by the report received through the Superintendent Central Prison Peshawar and there is no need of holding any further inquiry.

Now therefore, you above named **Warder** are hereby called to show cause within 07 days of the receipt of this notice as to why the penalty of "Removal from Service" may not be imposed upon you for your above cited act of misconduct.

In case your reply does not reach this office within stipulated period, ex-parte action shall be taken against you.

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1538-40 /- dated: 27/06/2016

Copy of the above is forwarded to the:

- 1- The Superintendent Central Prison Peshawar with reference to his report dated 21-06-2016.
- 2- Head Clerk (Pay Branch) Central Prison Peshawar. Pay of the above named accused Warder may be stopped/ frozen till finalization of the proceedings.
- 3- **Warder Owais Ali** C/o Superintendent Central Prison Peshawar.

SUPERINTENDENT  
HEADQUARTERS PRISON PESHAWAR

*Masud-ur-Rahman*  
*27/06/2016*

۱۸۱۷/۱۱۶ Amen-13

درد اولیٰ علی بیگ ۱۶-۶-۱۶ کو دیوانہ اور لٹن میں حکم صادر ہوا تھا  
اور بیگ ۱۶-۶-۱۶ کو شوکار نوٹس دیا ہے اور جواب نہیں دیا ہے

نئی دہلی بیڑی  
۱۸-۷-۱۶

R/Sir.

جانب عالی

درد اولیٰ علی بیگ کے شوکار نوٹس  
کا جواب نہیں دیا۔ اس سے یہ ظاہر ہے کہ اس کے  
ساتھ کوئی مقول جواب نہیں ہے۔ اس لیے  
قانون کاروائی کا جارج - اس کے شوکار  
ساتھ کوئی وجہ نہیں رکھتا۔ لہذا اس کا  
عہدہ ہے۔

1817/116

1817/2076

He has not submitted  
reply to the Privy Council  
office which means that  
either he has no plans  
reason to offer or has admit  
his guilt thereby. Penalty of Rem  
from service is advised. 1817/2076

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No 2597 /ST

Dated 05/12/2017

To


The Superintendent Head Quarters Prison,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: **JUDGEMENT IN APPEAL NO. 1245/16, MR. OWAIS ALI.**

I am directed to forward herewith a certified copy of Judgment dated 24/11/2017 passed by this Tribunal on the above subject for strict compliance.

**Encl: As above**

o/c

  
REGISTRAR.  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.