


132/2015

01.11.2016

None present on behalf of the appellant despite repeated calls. Mr. Muhammad Jan, GP for respondents present. Notice be issued to appellant and his counsel for rejoinder and arguments for 8-3-17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

08.03.2017

None present for appellant. Addl: AG for respondents present. The court time is about to over but non-appeared on behalf of the appellant nor the appellant was present in person despite issuance of the notice to appellant and his counsel, therefore, the instant appeal is hereby dismissed in default. File be consigned to the record room

Announced:
08.03.2017


(MUHAMMAD AAMIR NAZIR)
MEMBER


(ASHFAQUE TAJ)
MEMBER

10.02.2016

Petitioner with counsel and Mr. Sheharyar Khan, ASJ alongwith Addl: A.G for respondents present. Reply to application submitted. To come up for arguments on application for restoration of appeal on 26.4.2016 before S.B.


Chairman

26.4.2016

Petitioner with counsel and Addl. AG for the respondents present. Arguments on application heard and record perused.


The appeal was dismissed in default on 01.10.2015 while application for restoration of appeal was submitted on 30.10.2015 for the reason stated in the application. Application is accepted and the appeal restored. Appellant is granted last opportunity for deposit of security and process fee which he shall deposit within 3 days where-after notices be issued to the respondents. To come up for written reply/comments on 21.07.2016 before S.B.

Appellant Deposited
Security & Process Fee


Chairman

21.07.2016




Counsel for the appellant and Mr. Sheharyar Khan, ASJ alongwith Additional AG for the respondents present. Para-wise reply on behalf of the respondents submitted. The appeal may be placed before D.B for rejoinder and final hearing for 01.11.2016. The Chairman may assign the appeal to appropriate D.B.


MEMBER

FORM OF ORDER SHEET

Court of _____

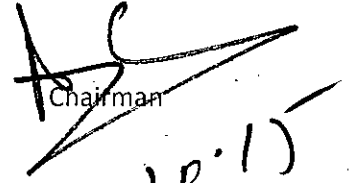
Misc. Application No. 139 /2015

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/10/2015	<p style="text-align: center;">The application for restoration of appeal no. 206/2015 submitted by Shaheen Shah through Mr. Muhammad Fayaz Mohmand Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right; margin-right: 50px;">  REGISTRAR </p> <p style="text-align: center;">This Misc. application be put up before S. Bench on <u>12-11-15</u>.</p> <p style="text-align: right; margin-right: 50px;">  CHAIRMAN </p>
2-	12.11.2015	<p style="text-align: center;">None present for applicant. Notice be issued to counsel for the applicant for 10.2.2016 before S.B. Record be also requisitioned.</p> <p style="text-align: right; margin-right: 50px;">  Chairman </p>

01.10.2015

None present for appellant despite repeated calls. Security has also not been deposited. The Court time is about to over. The appeal is dismissed for want of prosecution. File be consigned to the record.

ANNOUNCED
01.10.2015


Chairman
01.10.15

3

02.04.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Warder in the Prison Department when vide impugned order dated 10.6.2014 he was compulsorily retired from service on the ground of wilful absence. That the appellant preferred departmental appeal against the impugned order on 8.7.2014 in which the punishment was modified and vide order dated 20.11.2014 the services of the appellant were reduced to lowest stage in the present time scale for four years and his absence was treated as leave without pay. That in respect of delay in filing service appeal the appellant has preferred application for condonation of delay.

That the impugned order is against facts and law and that the inquiry was not conducted in the prescribed manners.

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 29.6.2015 before S.B. Notice of condonation application be also issued for the date fixed.


Chairman

4

29.06.2015

Counsel for the appellant present. Security and process fee have not been deposited. Requested for further time. The same be deposited within a week, where-after notices be issued to the respondents for written reply for 1.10.2015 before S.B.

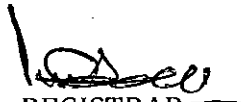


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____

205 /2015

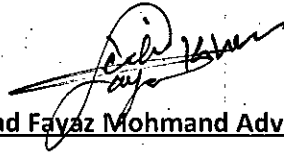
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.03.2015	<p>The appeal of Mr. Shaheen Shah resubmitted today by Mr. Muhammad Fayaz Mohmand Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-3-15	<p>This case is entrusted to Bench <u>F</u> for preliminary hearing to be put up thereon <u>3-4-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Shaheen Shah Warder at Haripur Central Jail received to-day i.e. on 02.03.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- ✓ 1- Memorandum of appeal may be got signed by the appellant.
- ✓ 2- Affidavit may be got attested by the Oath Commissioner.
- ✓ 3- Index of the appeal may be prepared according to Khyber Pakhtunkhwa Service Tribunal rule 1974.
- ✓ 4- Copy of first departmental appeal mentioned in para-9 of the memo of appeal is not attached with the appeal which may be placed on it.
- ✓ 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal.
- ✓ 6- Annexures of the appeal may be attested.
- ✓ 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 268 /S.T,

Dt. 3/3 /2015



Mr. Muhammad Fayaz Mohmand Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

All requirements fulfilled
Dated 11/03/2015.

To,

7-15/2015
The Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

V - PAGE 54

Subject: SENIORITY OF SsP BS-18 AS STOOD ON 06-04-2015

Respected Sir,

Kindly refer to Seniority List issued vide letter No.2044/SE-I, dated 06.04.2015 in which my name is placed at Serial No.08 is wrong and unjustified as per reason below :-

1. As per judgment dated 12-01-2012 Khyber Pakhtunkhwa Service Tribunal Peshawar, the relevant portion of the judgment at Flag-"A" is as under :-
"In view of above the appeal is accepted. The impugned order date 04-07-2011 is set aside and the appellant is confined from the date of appointment i.e. 28-03-1975 with seniority and other consequential benefits".
2. Notification No.683/ES-Confirmation dated 05-03-2012 for ASI from the date of appointment. Copy attached at Flag-"B".
3. Notification No.867/ES Confirmation dated 13-03-2012 for Sub Inspector with effect from 26-06-1981. Copy attached at Flag-"C"
4. For the revised seniority list to the rank of Inspector and DSP DSC meeting held on 24-04-2012, the case was refer to Sub Committee. Copy attached at Flag-"D".
5. Sub Committee submit report on 22-05-2012 with the relevant portion at Flag-"E" is as under :-
"We have come to the conclusion in the light of Police Rules-12.2.13.1 and 13.3, that seniority of Muhammad Idrees and Younas Javed deserve to be revised in list-F and subsequently in the seniority of DSsP from the date of appointment i.e. 28.03.1975. Since they were deferred by Departmental Promotion Committee, therefore, it is recommended that they may be re-considered for promotion to the rank of SP according to the revised seniority assigned to them".
6. DSC meeting held on 12-06-2012 at Flag-"F" with the approval as under :-
"Seniority disputes of DSsP Idrees Khan and Younas Javed. These two officers will regain their due seniority as DSsP in the light of Service Tribunal judgment. They will be given their due seniority in list-F of DSsP".

7. PPO issued Notifications for revised seniority for list-F as well for revised seniority of DSP in the light of DSC Committee meeting dated 12-06-2012. Notification No.10213/E-II, dated 30-04-2013 and No.S/2996/13 dated 16-05-2013 is attached at Flag-"G" & "H".
8. During the process of revised seniority WP No.3268-P/2012 was filed in the Peshawar High Court Peshawar as Service Tribunal KPK became in functional, writ was decided on 21-05-2013 and in the light of that judgment dated 31-05-2013 revised Notification No.12450 dated 31-05-2013 for confirmation as Inspector is issued by PPO. (9)

It is worth to mention that no placement is made out in the said Notification as no Notification for the revised seniority to the rank of DSP is issued so far.

The case of implementation is pending before the Service Tribunal till now.

Respected Sir,

My bad luck is that from the judgment dated 12-01-2012 till now my name is not inducted in the right place of any seniority list of Inspector, DSP and SP.

According to the Notification No.S/2996/13 dated 16-05-2013 for the revised seniority of DSP, my name was placed above the name of DSP Muhammad Daud Khan.

It is, therefore, requested that my name may please be placed above the name of Muhammad daud where his name exist in the seniority list of SsP.

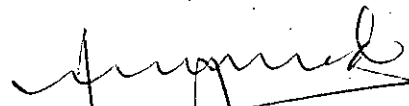
Encls: As Above.

Dated: ~~10/05/2015~~

28-4-2015

D.V. No 410/SEI

28-4-2015



(YUNAS JAVED)
Superintendent of Police,
CPO, Peshawar.

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A. NO. 206 /2015

Shaheen Shah

VERSUS

Government of Khyber Pakhtunkhwa etc

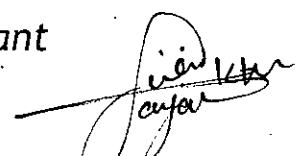
INDEX

S.No	Description	Annexure	Pages
1.	Memo of appeal, condonation Application		1-6 & 7
2.	Medical Certificate	A & A1	8-9
3.	Fitness Certificate	B	10
4.	Copy of the superintendent order	C	11
5.	Appeal / application to the Inspector General Prisons Khyber Pakhtunkhwa	D	12-14
6.	Order of IG KP	E	15
7.	Wakalat Nama		16

Dated: 11/03/2015

Appellant / applicant

Through


MUHAMMAD FAYYAZ MOHMAND
Advocate, High Court Peshawar
Contact No.0345 9000466

①

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A. NO. 206 /2015

Service Tribunal
Entry No. 172
Dated 02-03-15

Shaheen Shah Warder at Haripur Central Jail, resident of Warsak Road, Hindo Kissi, Mohallah Said Abad, Peshawar.

.. APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
2. Inspector General Prisons, KP, Peshawar.
3. Superintendent Circle Headquarters Prisons, D.I. Khan.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF I.G. PRISONS KHYBER PAKHTUNKHWA ORDER NO. 28242, DATED 20/11/2014, WHEREBY THE APPELLANT WAS REDUCED TO LOWER STAGE FOR 4 YEARS AND THE ABSENCE OF APPELLANT FROM 16/03/2014 TO 20/11/2014 WAS CONSIDERED AS LEAVE WITHOUT PAY

PRAYER: -

ON ACCEPTANCE OF THE INSTANT APPEAL THE ORDER OF I.G. PRISONS KHYBER PAKHTUNKHWA NO. 28242, DATED 20/11/2014, BE SET ASIDE AND THE APPELLANT BE ALLOWED TO CONTINUE ON WITH SERVICE ACCORDING TO FULL PAY SCALE AND ALONG WITH ALL BACK BENEFIT

Filed to the
Registrar
2/3/15

RESPECTFULLY SHEWETH,

1. That the appellant was appointed at Prison department as Warder and served in different prisons with full zeal and commitment.
2. That the appellant during his posting at interment Center Kohat, where he fell seriously ill and rushed to medical officer for medical treatment 24/04/2014.
3. That the appellant continued his treatment from authorized medical doctor where he was advised to take rest for 1 month initially and later on being not recovered was asked to take 2 months compulsory rest.
4. That the appellant informed the competent authorities at interment center Kohat about his serious illness and treatment along with medical certificates, the authorities were also informed about the advice of doctors of taking compulsory rest. (Medical Certificates of treatment are attached as Annex "A")
D A2)
5. That the competent authorities instead of granting leave to the appellant initiated departmental proceedings / inquiry against the appellant.
6. That on 07/06/2014 the appellant was granted fitness certificate by medical officer / doctor and was allowed to join his duties, in pursuance of which the appellant joined his duties at interment center Kohat.

(fitness certificate annexed as "B")

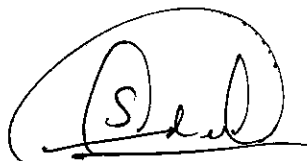
7. That in the meanwhile and ex-part order was passed by the superintendent circle headquarters prisons DI Khan on 10/06/2014 against the appellant, whereby the appellant was awarded major penalty of compulsory retirement. (Copy of the order attached). as annexure "C")
8. That the appellant was given no opportunity of fair hearing and rules of natural justice was clearly violated.
9. That aggrieved by the order of superintendent the appellant moved a departmental appeal to IG Prisons KP on 03/07/2014. (Copy of appeal annexed as "D")
10. That the IG Prisons vide its order **NO.** 28242, dated 20/11/2014, set aside the order of superintendent DI Khan and regularized the absence of appellant as leave without pay and in the same order awarded major penalty to appellant by reducing him to the lower stage in the present time scale for four years. (Copy of order Annexed as "E")
11. That once regularized ^{the} absence as leave without pay by the IG Prisons, then the orders of reducing to lower stage is against the law, facts and justice.
12. That till the time of compulsory retirement the appellant has served in prisons department for 7 years, during which period the appellant served with utmost determination and devotion and not even a single complaint being made against him.
13. That the absence was because fo illness and was not intentional.

14. That both the orders are against the law fact and natural justice, hence liable to be set aside / cancelled.

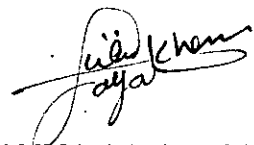
15. That other points be raised at the time of arguments with permission of this Honourable Court.

It is, therefore, most humbly prayed that on acceptance of the instant appeal the order of I.G. Prisons Khyber Pakhtunkhwa No. 28242, dated 20/11/2014, be set aside and the appellant be allowed to continue on with service according to full pay scale and along with all back benefit.

Any other remedy deemed fit in the circumstance may also be granted in favour of the appellant.


Appellant

Through



MUHAMMAD FAYYAZ MOHMAND,
Advocate, High Court Peshawar

Date 02/3/2015

AFFIDAVIT

Declared on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent



ATTESTED



BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A. NO. _____/2015

Shaheen Shah

VERSUS

Government of Khyber Pakhtunkhwa etc

Application for condonation of delay in filing of above titled appeal

Respectfully Sheweth,

1. *That the above titled appeal is being filed today, in which no date of hearing is yet been fixed.*
2. *That the appellant is posted at Haripur Jail and due to security reasons a very short and limited leaves are granted to appellant.*
3. *That even other than this reason an application against the order impugned was also moved once again to IG Prisons, but the same was returned after keeping in pending for a period of 1 month and 15 days, whereby directing him verbally to file an appeal before this Forum as IG is not competent for 2nd Appeal hearing. (copy of application attached)*
4. *That there is no legal bar in allowing the instant application and appeal, as the law favors justice rather than technicalities.*

(6)

Case law relied upon: -

2004 PLC (C.S) 1014

It is, therefore, most humbly prayed that on acceptance of the instant application the delay if any in filing of the instant appeal may kindly be condoned to the appellant in the larger interest of justice.

Appellant / applicant

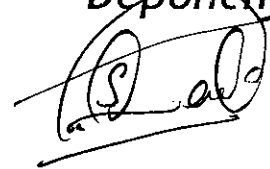
Through


MUHAMMAD FAYYAZ MOHMAND
Advocate, High Court Peshawar

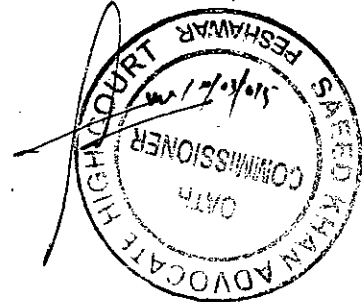
AFFIDAVIT

Declared on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent



ATTESTED



حکومت پنجاب ایگزیکٹو سیکرٹریٹ میں ماہ صلیحانہ طور پر ۲۲/۱۲/۲۰۱۴

درخواست

محمد ابراہیم دادری کے نام سے درخواست
تاریخ: ۰۴/۱۱/۲۰۱۴ تا ۲۰/۱۱/۲۰۱۴

تین سال کے تین ایگزیکٹو بندوں کے ساتھ ساتھ
بیمال بنایا گیا ہے۔ ڈیڑھ سال کی بیماری اور تین ماہ کی بیماری
کیلئے اجازت و حکم درکار ہے۔

ضابطہ عالیہ! شامل حسب ذیل عرض کیا ہے۔

- ۱۔ پندرہ سال کی عمر میں ۲۰/۱۱/۲۰۱۴ کو بحال کیا گیا ہے۔
- ۲۔ پندرہ سال کی عمر میں ڈیڑھ سال کے عرصہ کے ساتھ ساتھ بحال کیا گیا ہے اور ۰۴/۱۱/۲۰۱۴ تا ۲۰/۱۱/۲۰۱۴ کی تین ماہ کی بیماری تھی۔
- ۳۔ پندرہ سال کی عمر میں ادھیڑ چھ اور *Intermittent Period* بھی لیتا ہے جس کی وجہ سے کئی بار ڈیڑھ ماہ کے عرصہ کے لئے ڈیڑھ ماہ کے عرصہ کے لئے بحال کیا گیا ہے۔
- ۴۔ ڈیڑھ سال کی بیماری کے ساتھ ساتھ بحال کیا گیا ہے اور تین ماہ کی بیماری تھی اور ۰۴/۱۱/۲۰۱۴ تا ۲۰/۱۱/۲۰۱۴ کی بیماری تھی اور اجازت و حکم درکار ہے۔

Attested to be true copy
Signature

انہذا سند محمد ابراہیم دادری کے نام سے بحال کیا گیا ہے اور ۰۴/۱۱/۲۰۱۴
تاریخ: ۲۰/۱۱/۲۰۱۴

صاحب کی عمر درازی کیلئے درخواستیں

۱۲
۲۲ ۲۰۱۴

الکاحیہ

ڈاؤنڈر سید شاہین شاہ ولد سید محمد شاہ
مال کیسٹا سسرٹیفیکیشن چیمبر

D.No = 24211

(10)

'B'

Jamy Reading Hospital
Peshawar
Out-Patients Department

3848585688

07-June-2014

Shaheen Shah

Orthopedic

Fitness Certificate

It is certified that I have
MR. Shaheen Shah. He is fit
for duty w.e from 07/06/2014

[Signature]

Attested to be
true copy.

[Signature]

The appellant was required to be
join the duties at Interment Centre Kohat, but on
24.4.2014 the appellant felt serious ill and rushed to
Medical officer for medical treatment. The appellant



OFFICE ORDER

On the completion inquiry proceedings under the relevant rules and law keeping in view recommendation of Inquiry Officer against Warder Shaheen Shah attached to Interment Centre Kohat as recommended by the Inquiry Officer the punishment of ex-parte action is hereby awarded i.e. Compulsory Retirement approved with immediate effect all the full opportunities were given in his defense but he not produced any replies to the inquiry officer as well as of the show cause notice served through Assistant Superintendent Incharge Interment Centre Kohat vide this office No.4039/WE dated 19-05-2014 and also called hard in person on dated 10-06-2014 vide No.7066 dated 06-06-2014 and on the eve of hard in person not produce any reply/proof in his defense thus charge leveled against him is proved.

OFFICE OF THE
SUPERINTENDENT
CIRCLE H/Qs PRISON D.I.KHAN

No. 7242/H/Q Dated 10/6/14

OT
SUPERINTENDENT
CIRCLE H/Qs PRISON DIKHAN
10/6

NO 7242-15 DATED 10/06/2014.

Copy of the above is forwarded to:-

1. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.
2. Superintendent Headquarter Prison Peshawar for information please.
3. Assistant Superintendent / In-charge Interment Centre Kohat for information and necessary action.
4. District Accounts Officer, Kohat.

OT
SUPERINTENDENT
CIRCLE H/Qs PRISON DIKHAN
10/6

*Attended to be
true copy*

(Annexure "D")

12

"B"


BEFORE THE INSPECTOR GENERAL PRISON, K.P.K, PESHAWAR.

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER OF
COMPULSORY RETIREMENT DATED 10.6.2014 PASSED BY
SUPERINTENDENT CIRCLE HQRS PRISON D.I.KHAN
WHEREBY THE APPELLANT AWARDED COMPUSLORY RETIRMENT
FROM SERVICE WITH IMMEDIATE EFFECT.

Respected Sir,

With due respect I beg to submit the following
few lines for your kind consideration and favourable action please:-

1. That the appellant was appointed as Warder Prison department and was served in different prisons and last posted to Circle HQrs Prison D.I.Khan.
2. That the appellant performed his duties to the best of his ability and potential and there is no complaint again him from any quarters.
3. That on while posted in Interment Centre Kohat the appellant transfer order was made to Central Jail Bannu and the appellant tied for the cancellation of the said transfer order and the order of transfer to Bannu has been cancelled.
4. That after cancellation of the transfer order to Central Prison Bannu the appellant was required to be join the duties at Interment Centre Kohat, but on 24.4.2014 the appellant felt serious ill and rushed to Medical officer for medical treatment. The appellant

Attached to be
true copy


continued his treatment from the doctor and informed the competent authority at Interment centre Kohat. (Medical chits are attached).

- 5. That on 6.6.2014 the appellant joined the duties at Interment Centre Kohat, but the authority concerned started inquiry against the appellant and last the appellant has been awarded major punishment of compulsory retirement from service. Copy of order is attached.
- 6. That the order of compulsory retirement from service is against the law, facts and material available on record, hence liable to be cancelled.
- 7. That the appellant join the Prison department and served to the department with zeal and efficiency.
- 8. That the absence from duty was because of serious illness and was not wilfully or deliberately which was beyond his control.
- 9. That the appellant served about ^{Seven} 7 years service with unblemished record.
- 10. That the absence from duty for the reason of illness was about 2 months.
- 11. That additional points will be raised at the time of argument/personal hearing.

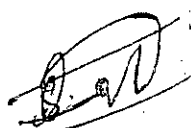
Attached to be true copy
[Signature]

12. That the appellant is a poor man and having no sources of income except the salary to earn his family.

It is therefore, requested that on acceptance of this appeal the order of compulsory retirement dated 10.6.2014 of Superintendent Circle HQrs Prison D.I.Khan may kindly be set aside/cancelled and the appellant be allowed to remain on duty in Prison department in the larger interest of justice.

Thanking you.

Yours Sincerely

Shaheen Shah 
Ex- Warder Interment Centre Kohat
R/O Warsak Road, Hinda Kissi
Moh: Said Abad, Peshawar.

Dated: 8.7.2014

*Attested to be
true copy
[Signature]*

15

(Amex E)

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

NO. 28242

DATED 20/11/2014



ORDER

On acceptance of departmental appeal the penalty of compulsory retirement from service awarded to warder Shaheen Shah by Superintendents Headquarter Prison D.I.Khan vide his office Order No.7241 dated 10-6-2014 is hereby modified and converted into "reduction to lowest stage in present time pay scale for four years" and he is re-instated in service with immediate effect.

The intervening period i.e from the date of compulsory retirement from service to the date of re-instatement in service shall be treated as leave without pay. The period for which he remained absent i.e 16-3-2014 to 9-6-2014 is also hereby treated as leave without pay.

On re-instatement in service, he is hereby posted to Central Prison Haripur against the vacant post.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST;NO. 28243-48

Copy of the above is forwarded to :-

1. The Superintendent, Headquarters Prison Haripur & D.I.Khan.
2. The Superintendents.
3. Central Prison Haripur.
3. The Incharge Internment Centre Kohat.
4. The District Accounts Officers Haripur & Kohat for information.
5. Warder concerned for compliance.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

4260-A
~~28242~~
24-11-14

D.B./L.O.
To make necessary
entries in Service Documents.
DS 24/11/14

Attempted to be
true copy

BEFORE THE HONORABLE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

Misc-Application no. 132/2015

Shakeen Shah

A.W.F. Province
Service Tribunal

Diary No. 1269

Dated 30/10/2015

Versus

PRISON.

APPLICATION FOR RESTORATION OF THE ABOVE TITLED APPEAL
WHICH IS DISMISSED FOR NON APPEARANCE/PROSECUTION,
THROUGH ORDER DATED 01/10/2015.

Respectfully Sheweth:

Appeal No. 206/2015.

- 1) That the above titled appeal was pending before this Honorable Service Tribunal in which previous date i.e 01/10/2015 was fixed for reply.
- 2) That on previous date the counsel became seriously ill and was unable to attend the court, but the client/appellant was informed about this fact and was directed to attend the court in person.
- 3) That the appellant is serving in jail and due to the prevailing law and order situation he was not granted leave and was therefore not able to attend the court.
- 4) That due to non appearance the case was dismissed for no prosecution through order dated 01/10/2015.

(Attested copy of the order)

(2)

- 5) That the appellant/applicant now approaches this honorable forum for the restoration of the appeal.
- 6) That the appellant/applicant will appear and discharge his duties on each and every date fixed in future, if the appeal is restored.
- 7) That this Tribunal has got ample powers to restore the present appeal and there is no bar in its restoration.

It is therefore humbly requested that the instant appeal may kindly be restored in the best interest of justice and equity.

Dated 30/10/2015.

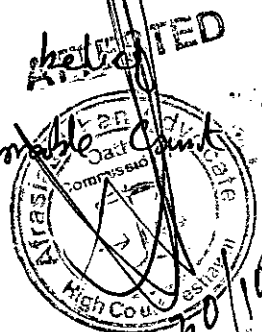
Applicant/appellant

~~Fayaz~~ Through
Muhammad Fayaz Mohmand
Advocate.

AFFIDAVIT

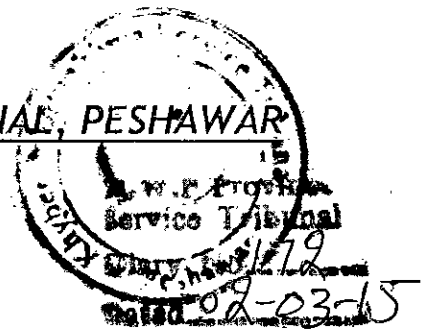
It is declared and affirmed on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable

~~Fayaz~~
Deponent.



①

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR



S.A. NO. 206 /2015

Shaheen Shah Warder at Haripur Central Jail, resident of Warsak Road, Hindo Kissi, Mohallah Said Abad, Peshawar.

.. APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
2. Inspector General Prisons, KP, Peshawar.
3. Superintendent Circle Headquarters Prisons, D.I. Khan.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF I.G. PRISONS KHYBER PAKHTUNKHWA ORDER NO. 28242, DATED 20/11/2014, WHEREBY THE APPELLANT WAS REDUCED TO LOWER STAGE FOR 4 YEARS AND THE ABSENCE OF APPELLANT FROM 16/03/2014 TO 20/11/2014 WAS CONSIDERED A.S. LEAVE WITHOUT PAY

Certified by Registrar
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar.

01.10.2015

None present for appellant despite repeated calls. Security has also not been deposited. The Court time is about to over. The appeal is dismissed for want of prosecution. File be consigned to the record.

SAY
Chairman

ANNOUNCED
01.10.2015

Date of ... 30.10.2015
 ... 4
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 Date of ... 30.10.2015
 Date of ... 30.10.2015

Shahkeen Shah

Versus

Prison.

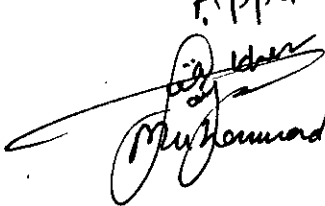
APPLICATION FOR CONDONATION OF DELAY IN SUBMITTING
THE APPLICATION FOR RESTORATION OF THE APPEAL.

Respectfully Sheweth:

- 1) That the above titled appeal was dismissed on 01/10/2015 for no prosecution.
- 2) That the applicant/appealant filed application for restoration of the appeal after a delay of 14 days.
- 3) That the delay was not wilful because the applicant was serving in prison and was unable to come to the tribunal neither aware of the dismissal.
- 4) That the counsel also was unaware of the fact of dismissal orders and when came to the knowledge, instantly filed the restoration application.

It is therefore requested that on acceptance of this application the delay may kindly be condoned in the best interest of justice.

Dated 30/10/2015.

Applicant/appealant
Through

Muhammad Fayaz Mohammad
advocate.

BEFORE THE COURT OF HONORABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA.

SHAHEEN SHAH

Versus

PRISON.

APPLICATION FOR ALLOWING/EXTENDING TIME TO, THE
APPELLANT/APPLICANT FOR DEPOSITING SECURITY WITHIN
10 days.

Respectfully sheweth:

- 1) That the appellant has not deposited the security charges in the titled appeal.
- 2) That non-depositing of security was not wilful but because of his nature of service in prison which did not allow him a leave for this purpose.
- 3) That now the appellant/applicant is ready to deposit the security within no time if so allowed.

It is therefore requested that the appellant/applicant may kindly extended time for depositing of security charges in the best interest of justice.

Dated 30/10/2015.

Applicant

~~Fayaz~~
Fayaz
Muhammad Fayaz Mohammad

Advocate

①

BEFORE THE HONORABLE CHAIRMAN KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

MISC-APPLICATION NO. 132/2015

Shaheen Shah

Versus

PRISON.

APPLICATION FOR RESTORATION OF THE ABOVE TITLED APPEAL
WHICH IS DISMISSED FOR NON APPEARANCE/PROSECUTION
THROUGH ORDER DATED 01/10/2015.

Respectfully Sheweth:

Appeal No. 206/2015

- 1) That the above titled appeal was pending before this Honorable Service Tribunal in which previous date i.e 01/10/2015 was fixed for reply.
- 2) That on previous date the counsel became seriously ill and was unable to attend the court, but the client/appellant was informed about this fact and was directed to attend the court in person.
- 3) That the appellant is serving in jail and due to the prevailing law and order situation he was not granted leave and was therefore not able to attend the court.
- 4) That due to non appearance the case was dismissed for non prosecution through order dated 01/10/2015.

①

BEFORE THE HONORABLE CHAIRMAN KHYBER PAKHTO
SERVICE TRIBUNAL, PESHAWAR.

Shakeen Shah

Versus

PRISON.

APPLICATION FOR RESTORATION OF THE ABOVE TITLED APPEAL
WHICH IS DISMISSED FOR NON APPEARANCE / PROSECUTION,
THROUGH ORDER DATED 01/10/2015.

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5) That the appellant/applicant now approaches this hono-
rable forum for the restoration of the appeal.

6) That the appellant/applicant will appear and discharge
his duties on each and every date fixed in future, if
the appeal is restored.

7) That this Tribunal has got ample powers to restore
the present appeal and there is no bar in its restoration.

It is therefore humbly requested that the
instant appeal may kindly be restored in the best
interest of justice and equity.

Dated 30/10/2015.

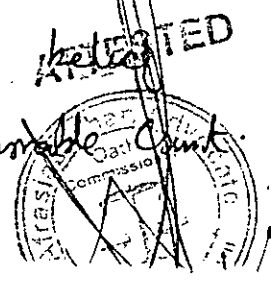
Applicant/appellant

~~Fayaz~~ Through
Muhammad Fayaz Mohmand
Advocate.

AFFIDAVIT

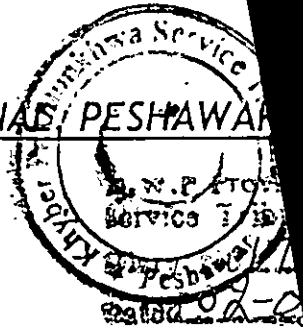
It is declared and affirmed on oath that the
contents of the instant application are true and
correct to the best of my knowledge and belief
and nothing has been concealed from this honorable Court.

~~Fayaz~~



1

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



S.A. NO. 206 /2015

Shaheen Shah Warder at Haripur Central Jail, resident of Warsak Road, Hindo Kissi, Mohallah Said Abad, Peshawar.

.. APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
2. Inspector General Prisons, KP, Peshawar.
3. Superintendent Circle Headquarters Prisons, D.I. Khan.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF I.G. PRISONS KHYBER PAKHTUNKHWA ORDER NO. 28242, DATED 20/11/2014, WHEREBY THE APPELLANT WAS REDUCED TO LOWER STAGE FOR 4 YEARS AND THE ABSENCE OF APPELLANT FROM 16/03/2014 TO 20/11/2014 WAS CONSIDERED A.S. LEAVE WITHOUT PAY

Certified in presence of
 P. V. S. Khan
 N. Y. S. Prisons
 Service Tribunal
 Peshawar

01.10.2015

None present for appellant despite repeated calls. Security has also not been deposited. The Court time is about to over. The appeal is dismissed for want of prosecution. File be consigned to the record.

SAN
Chairman

ANNOUNCED
01.10.2015

Date of Presentation of Application 30.10.2015
 Number of Pages 400
 Copies 4
 Urgent 2
 Total 6
 Name of Copy [Signature]
 Date of Completion of Copy 30.10.2015
 Date of [unclear] 20.10.2015

Shahveen Shah

Versus

Prison.

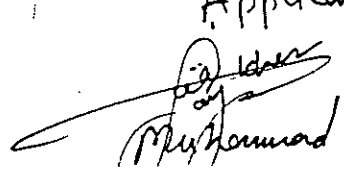
APPLICATION FOR CONDONATION OF DELAY IN SUBM.
THE APPLICATION FOR RESTORATION OF THE APPEAL.

Respectfully Sheweth:

- 1) That the above titled appeal was dismissed on 01/10/2015 for no prosecution.
- 2) That the applicant/appealant filed application for restoration of the appeal after a delay of 14 days.
- 3) That the delay was not wilful because the applicant was serving in prison and was unable to come to the tribunal neither aware of the dismissal.
- 4) That the counsel also was unaware of the part of dismissal orders and when came to the knowledge, instantly filed the restoration application.

It is therefore requested that on acceptance of this application the delay may kindly be condoned in the best interest of justice.

Dated 30/10/2015.

Applicant/appealant
Through

Muhammad Fayaz Mohammad

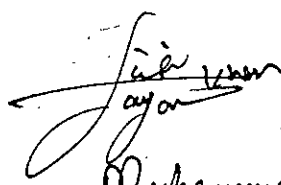
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- 7) That this Tribunal has got ample powers to restore
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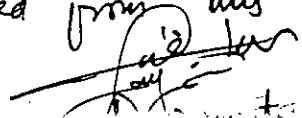
Dated 30/10/2015.

Applicant/appellant

Through

Muhammad Fayaz Mohmand
Advocate.

AFFIDAVIT

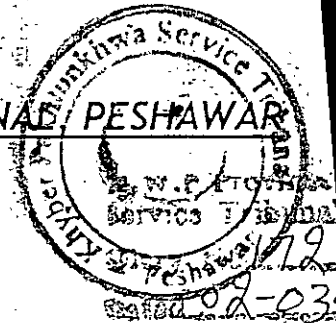
It is declared and affirmed on oath that the
contents of the instant application are true and
correct to the best of my knowledge and ~~nothing~~
nothing has been concealed from this honorable





1

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



S.A. NO. 206 /2015

Shaheen Shah Warder at Haripur Central Jail, resident of Warsak Road, Hindu Kissi, Mohallah Said Abad, Peshawar.

.. APPELLANT

VERSUS

- 1. Government of Khyber Pakhtunkhwa, through Chief Secretary.
- 2. Inspector General Prisons, KP, Peshawar.
- 3. Superintendent Circle Headquarters Prisons, D.I. Khan.

... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER OF I.G. PRISONS KHYBER PAKHTUNKHWA ORDER NO. 28242, DATED 20/11/2014, WHEREBY THE APPELLANT WAS REDUCED TO LOWER STAGE FOR 4 YEARS AND THE ABSENCE OF APPELLANT FROM 16/03/2014 TO 20/11/2014 WAS CONSIDERED AS LEAVE WITHOUT PAY

Certified to be true copy
 P. X. S. M. S. R.
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

01.10.2015

None present for appellant despite repeated calls. Security has also not been deposited. The Court time is about to over. The appeal is dismissed for want of prosecution. File be consigned to the record.

SAY
Chairman

ANNOUNCED
01.10.2015

Date of Presentation of Application 30.10.2015
 Number of Words 400
 Copying fee 4
 Urgent 2
 Total 6
 Name of Copy Shah
 Date of Completion of Copy 30.10.2015
 Date of ... 2

Shahkeen Shah

Versus

Prison.

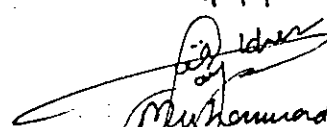
APPLICATION FOR CONDONATION OF DELAY IN SUBMITTING
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Respectfully Sheweth:

- 1) That the above titled appeal was dismissed on 01/10/2015 for no prosecution.
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- 4) That the counsel also was unaware of the part of dismissal orders and when came to the knowledge, instantly filed the restoration application.

It is therefore requested that on acceptance of this application the delay may kindly be condoned in the best interest of justice.

Dated 30/10/2015.

Applicant/appealant
Through

Muhammad Fayaz Mohammad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of

Misc: application No. 132/2015 in Service Appeal No. 206/2015

Shaheen Shah Warder

attached to Central Prison D.I. Khan..... **Appellant.**

VERSUS

- 1- **Chief Secretary**
Government of Khyber Pakhtunkhwa
- 2- **Inspector General of Prisons,**
Khyber Pakhtunkhwa Peshawar
- 3- **Superintendent,**
Circle Headquarters Prison D.I. Khan **Respondents.**

PARAWISE REPLY ON BEHALF OF RESPONDENTS

Preliminary Objections


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


ON FACTS

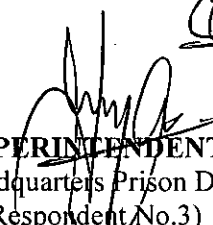
- 1- Incorrect, misleading. The Plea of the appellant is not based on facts because the previous service appeal referred to in this appeal has already been dismissed by the Learned Service Tribunal on 01-10-2015.
- 2- Incorrect, misleading because no formal application with regard to sickness of the counsel was submitted to the Honorable Tribunal on previous date, that strengthened the idea that having certain vested interest counsel of the appellant intentionally remained outside the Honorable Service Tribunal and did not attend the proceedings.
- 3- Incorrect, misleading. The appellant intentionally remained absent with malafide intention to gain sympathy with regard to his appeal. The appellant never ever applied for leave for the purpose with regard to his appeal and now concocted the story of security risk / law & order situation to gain sympathy.
- 4- It is the sole jurisdiction of the Honorable Service Tribunal to its satisfaction either to accept / reject any appeal totally or partially on any grounds / reasons. However petitioner willfully remained absent from the proceedings and tribunal / rightly dismissed the appeal.

- 5- The request of the appellant is not based on facts having no lawful reasons /logic. It is therefore, submitted that request may be rejected / refused, because the Learned Service Tribunal already dismissed his appeal and consigned the file to record, as there is no lawful reason for reactivation / restoration of said appeal, the chapter already has been closed.
- 6- It is the domain of Learned Service Tribunal to its satisfaction and the previous decision of dismissal of appeal is based on certain reasons / satisfactory logics, thus the plea of the appellant is void of logical / reasons.
- 7- Correct to the extent that the Learned Tribunal having the jurisdiction / powers of restoration, however earlier decision of the Learned Tribunal is also based on sound footing so the restoration request seems void of satisfactory reasons.

In view of the above Para-wise comments, the appeal / application of Shaheen Shah Warder may please be dismissed with cost throughout.


CHIEF SECRETARY
 Government of Khyber Pakhtunkhwa
 (Respondent No.1)


INSPECTOR GENERAL OF PRISONS
 Khyber Pakhtunkhwa Peshawar
 (Respondent No.2)


SUPERINTENDENT
 Circle Headquarters Prison D.I. Khan
 (Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR


In the matter of
Misc: application No. 132/2015 in Service Appeal No. 206/2015
Shaheen Shah Warder
attached to Central Prison D.I. Khan.....**Appellant.**

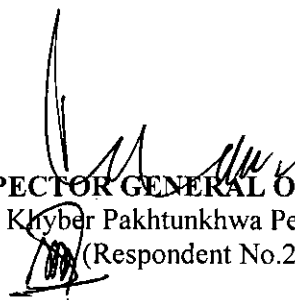
VERSUS

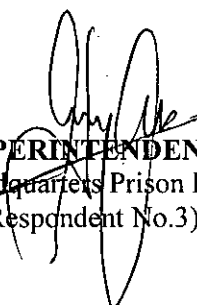
- 1- **Chief Secretary**
Government of Khyber Pakhtunkhwa
- 2- **Inspector General of Prisons,**
Khyber Pakhtunkhwa Peshawar
- 3- **Superintendent,**
Circle Headquarters Prison D.I. Khan**Respondents.**

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 3.

We the undersigned respondents do hereby solemnly affirm and declare that the contents of the parawise comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.


CHIEF SECRETARY
Government of Khyber Pakhtunkhwa
(Respondent No.1)


INSPECTOR GENERAL OF PRISONS
Khyber Pakhtunkhwa Peshawar
(Respondent No.2)


SUPERINTENDENT
Circle Headquarters Prison D.I. Khan
(Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Misc: application No. 132/2015 in Service Appeal No. 206/2015
Shaheen Shah Warder
attached to Central Prison D.I. Khan..... **Appellant.**

VERSUS

- 1- **Chief Secretary**
Government of Khyber Pakhtunkhwa
- 2- **Inspector General of Prisons,**
Khyber Pakhtunkhwa Peshawar
- 3- **Superintendent,**
Circle Headquarters Prison D.I. Khan **Respondents.**

PARAWISE REPLY ON BEHALF OF RESPONDENTS

Preliminary Objections


- i. That the appellant has got no cause of action.
- ii. That the appeal is incompetent and is not maintainable in its present form.
- iii. That the appellant is estopped by his own conduct to bring the present appeal.
- iv. That the appellant has no locus standi.
- v. That the appeal is bad for misjoinder and non-joinder of necessary parties.
- vi. That the appeal is badly time barred.

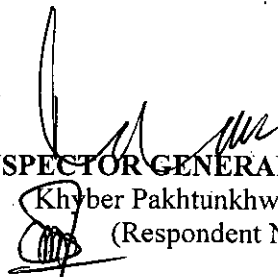
ON FACTS

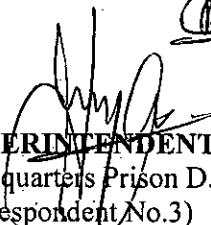
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- 4- It is the sole jurisdiction of the Honorable Service Tribunal to its satisfaction either to accept / reject any appeal totally or partially on any grounds / reasons. However petitioner willfully remained absent from the proceedings and tribunal / rightly dismissed the appeal.

- 5- The request of the appellant is not based on facts having no lawful reasons /logic. It is therefore, submitted that request may be rejected / refused, because the Learned Service Tribunal already dismissed his appeal and consigned the file to record, as there is no lawful reason for reactivation / restoration of said appeal, the chapter already has been closed.
- 6- It is the domain of Learned Service Tribunal to its satisfaction and the previous decision of dismissal of appeal is based on certain reasons / satisfactory logics, thus the plea of the appellant is void of logical / reasons.
- 7- Correct to the extent that the Learned Tribunal having the jurisdiction / powers of restoration, however earlier decision of the Learned Tribunal is also based on sound footing so the restoration request seems void of satisfactory reasons.

In view of the above Para-wise comments, the appeal / application of Shaheen Shah Warder may please be dismissed with cost throughout.


CHIEF SECRETARY
 Government of Khyber Pakhtunkhwa
 (Respondent No.1)


INSPECTOR GENERAL OF PRISONS
 Khyber Pakhtunkhwa Peshawar
 (Respondent No.2)


SUPERINTENDENT
 Circle Headquarters Prison D.I. Khan
 (Respondent No.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR


In the matter of
 Misc: application No. 132/2015 in Service Appeal No. 206/2015
 Shaheen Shah Warder
 attached to Central Prison D.I. Khan..... **Appellant.**

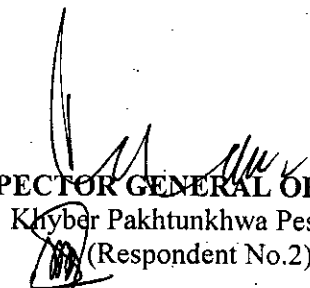
VERSUS

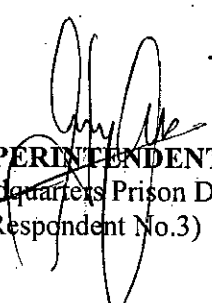
- 1- **Chief Secretary**
 Government of Khyber Pakhtunkhwa
- 2- **Inspector General of Prisons,**
 Khyber Pakhtunkhwa Peshawar
- 3- **Superintendent,**
 Circle Headquarters Prison D.I. Khan **Respondents.**

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 TO 3.

We the undersigned respondents do hereby solemnly affirm and declare that the contents of the parawise comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.


CHIEF SECRETARY
 Government of Khyber Pakhtunkhwa
 (Respondent No.1)


INSPECTOR GENERAL OF PRISONS
 Khyber Pakhtunkhwa Peshawar
 (Respondent No.2)


SUPERINTENDENT
 Circle Headquarters Prison D.I. Khan
 (Respondent No.3)