

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

In the matter of
Service Appeal No.1918/2023.
Ihsan Ullah S/O Mian Abdullah R/O Ziarat Talash Tehsil Timergara District Dir
Lower presently posted as Sweeper(BPS-03) at District Jail Timergara.

.....**Appellant.**

VERSUS

1. The Superintendent, District Jail Timergara, Dir (Lower).
2. Assistant Superintendent Sub Jail Dir (Upper).
3. District Accounts Officer, Dir (Lower).
4. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

.....**Respondents.**

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06-02-24

Swat.



SUPERINTENDENT
DISTRICT JAIL TIMERGARA

①

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

In the matter of

Service Appeal No.1918/2023.

Ihsan Ullah S/O Mian Abdullah R/O Ziarat Talash Tehsil Timergara District
Dir Lower presently posted as Sweeper(BPS-03) at District Jail Timergara.

.....Appellant.

VERSUS

**Khyber Pakhtunkhwa
Service Tribunal**

1. The Superintendent, District Jail Timergara, Dir (Lower).
2. Assistant Superintendent Sub Jail Dir (Upper).
3. District Accounts Officer, Dir (Lower).
4. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

Diary No. 10530
Dated 12-1-2024

.....Respondents.

SUBJECT: JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

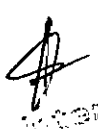
No.01,02 & 04

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS:

- i. That the present service appeal is incompetent in its present form.
- ii. That the appellant has got no locus standi to file the instant appeal.
- iii. That the appellant has estopped by his own conduct to file appeal.
- iv. That the appellant has not come to this Honorable Service Tribunal with clean hands.
- v. That the present appeal is bad for mis-joinder and non-joinder of necessary parties.
- vi. That the present appeal is badly Time-barred.
- vii. That the present appeal is not based on solid ground hence liable to be dismissed with cost.



Attested

Superintendent
District Jail Timergara

Objection on Facts:

1. Pertain to record, hence no comment
2. Pertains to record, hence no comment.
3. Incorrect, misleading as conduct of the appellant remained unsatisfactory and he was verbally directed several times to abide by rules and the appellant was also served explanation **(Copy attached as Annexure-A)** for ignoring the orders of the competent authority.
4. Incorrect, misleading as the appellant refused to obey the lawful orders of the competent authority. As per report of the Chief Chakkar dated 13/12/2022 **(Copy attached as Annexure-B)** of the District Jail

②

Timergara, pipeline of flush system of few Cells of High Security Zone were blocked and the floor of the toilets was dirty and the appellant was directed to clean the toilets and remove the blockage but he refused to obey the lawful orders and perform his duty efficiently. Hence, he violated Rule 804 of the Khyber Pakhtunkhwa Prison Rules 2018 as well as Rule 1109-B of the ibid rules wherein, it is stated that;

"every member of Prison Staff must act in conformity with these rules and obey any lawful instructions of the Superintendent and inform the Superintendent promptly of any breach of these rules and any abuses or impropriety" (Copy of Relevant rule as Annex-C).

The appellant also violated Section-02 of Sub clause (i) of Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011 **"Inefficiency means failure to efficiently performs functions assigned to a government servant in the discharge of his duties" (Copy of rules attached as Annexure-D),** and the appellant was guilty of misconduct as provided under Section 03 sub clause(b) **(Relevant rule Annex-E).** Hence, the appellant has violated the mandatory provision of the rules ibid and committed gross misconduct.

5. Incorrect, misleading and false as the toilets of the High Security Zone were swept and cleaned by a volunteer prisoner as there was unbearable bad smell in the High Security Zone and its surroundings.
6. Correct to the extent that the appellant was reported by the Chief Chakkar Muhammad Ilyas to the Superintendent District Jail Timergara regarding his misconduct.
7. Incorrect and misleading as the charges/allegations were based on fact and were proved correct after proper inquiry by the Inquiry Officer.
8. Admitted to the extent that the appellant was proceeded through statement of allegations **(Copy enclosed as Annex-F)** and a proper inquiry was also conducted into the matter. The inquiry officer submitted his findings to the competent authority on 04/02/2023 wherein the inquiry officer proved the allegations/charges leveled against the appellant **(Copy of Inquiry Report attached as Annexure-G).** A Show Cause Notice **(Copy attached as Annexure-H)** was also served upon the appellant by proposing the major Penalty of Removal from Service. It is up to the Competent Authority to agree or disagree with the recommendation of the Inquiry Officer and imposed a lesser punishment in the shape of Stoppage of Three Annual Increments was awarded to him vide order of the Competent authority dated 22/03/2023 **(Copy enclosed as Annex-I).**
9. Correct to the extent that the appellant preferred departmental appeal to the Inspector General of Prisons Khyber Pakhtunkhwa Peshawar. The appellant authority after examining the record of the case upheld the


Attended
Superintendent
District Jail Timergara

decision of the competent authority and rejected the departmental appeal on the basis of time barred **(Copy of order dated 27/07/2023 is attached as Annex-J).**

10. Pertains to the legal rights of the appellant under the rules, hence no comment.

OBJECTION ON GROUNDS.

1. Incorrect, misleading as order of the competent authority dated 22.03.2023 and order of the Appellate authority dated 27.07.2023 are correct, judicious, in accordance with the law and Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011 and has been passed judiciously after fulfilling all legal formalities and are not liable to be set aside.
2. Correct to the extent that the appellant has been appointed as Sweeper and he refused to comply the lawful orders of the competent authority of cleaning toilets of the High Security Zone and he has never been asked or directed to perform the duties of a Plumber.
3. Incorrect, misleading as the filth of the flush system had been spread on the floor of the Cells and the Sweepers were asked and directed to clean the floor but the appellant and other colleagues refused to clean the floor and toilets which were later on cleaned and corrected by a Volunteer prisoner.
4. Incorrect, misleading as the appellant and his colleagues had not made any attempt to clean the floor and toilets of the Cells. A volunteer prisoner not only cleaned the toilets and floor of the cells but also unblocked the drain of the flush system.
5. Incorrect and not admitted as the appellant had neither been asked nor directed to perform the duties of a Plumber as he refused to clean the toilets and floor of the cells.
6. Incorrect and misleading as the allegations/charges of refusing to clean the toilets of the High Security Zones stand fully proved against the appellant as the appellant argued that cleaning of toilets and flush system is the responsibility of a Christian Sweeper **(Copy of statement /cross questions of the appellant attached as Annexure-K).**
7. Incorrect, misleading as order of the competent authority the Superintendent District Jail Timergara dated 22.03.2023 is correct, judicious, based on facts, in accordance with the law and Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011 and has been passed judiciously after fulfilling all legal formalities and are not liable to be set aside.
8. Incorrect and misleading as elaborated at Para No. 01 above of grounds.

Attested

[Signature]

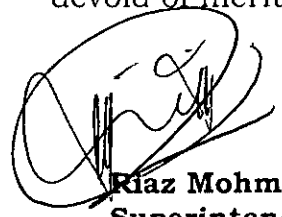
[Signature]

Dist. Jail Timergara

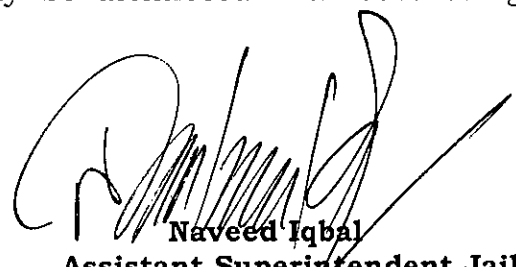
- 9. Incorrect, misleading as the appeal is badly time barred and is not maintainable in its present form.
- 10. Pertains to the Powers of this Court, hence no comment.
- 11. The respondent would also seek permission of the Honourable Service Tribunal to raise additional objection at the time of arguments.

PRAYER :

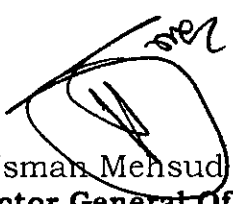
It is therefore, most humbly prayed that on acceptance of this instant reply/joint para wise comments of the respondent No.01,02 & 04, the appeal of the appellant may kindly be dismissed with cost being devoid of merit and law.



Riaz Mohmand
Superintendent
District Jail Timergara Dir Lower
(Respondent No.01)
Superintendent
District Jail Timergara



Naveed Iqbal
Assistant Superintendent Jail
Sub Jail Dir Upper
(Respondent No.2)



Usman Mehsood
Inspector General Of Prisons
Khyber-Pakhtunkhwa, Peshawar
(Respondent No.04)



(5)

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

In the matter of

Service Appeal No.1918/2023.

Ihsan Ullah S/O Mian Abdullah R/O Ziarat Talash Tehsil Timergara District
Dir Lower presently posted as Sweeper(BPS-03) at District Jail Timergara.

.....**Appellant.**

VERSUS

1. The Superintendent, District Jail Timergara, Dir (Lower).
2. Assistant Superintendent Sub Jail Dir (Upper).
3. District Accounts Officer, Dir (Lower).
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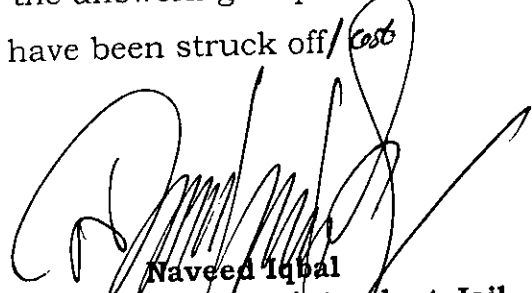
.....**Respondents.**

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENTS No.1,2 & 4.


We, the following undersigned respondents do hereby solemnly affirm and declare that the contents of the Para-wise comments in the above cited appeal are true and correct to the best of our knowledge and belief and that no material/ facts have been kept concealed from this Honorable Service Tribunal. It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense have been struck off/ *cost*



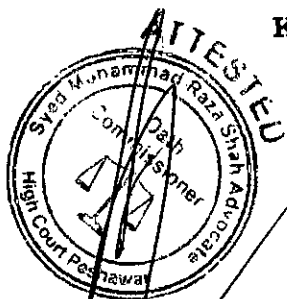
Riaz Mohmand
Superintendent
District Jail Timergara Dir Lower
(Respondent No.01)
~~Superintendent~~
District Jail Timergara



Naveed Iqbal
Assistant Superintendent Jail
Sub Jail Dir Upper
(Respondent No.2)



Usman Mehsud
Inspector General Of Prisons
Khyber-Pakhtunkhwa, Peshawar
(Respondent No.04)



(6)

Annexure - A

از دفتر سپرنٹنڈنٹ ڈسٹرکٹ جیل تیرگرہ

نمبر 859 تاریخ 04-10-22

نوٹس بنام: 1- محمد رسول خان خاکروب ڈسٹرکٹ جیل تیرگرہ

2- احسان اللہ خاکروب ڈسٹرکٹ جیل تیرگرہ

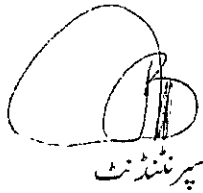
3- سلیمان خاکروب ڈسٹرکٹ جیل تیرگرہ

عنوان: طلب وضاحت / نوٹس

حسب الحکم وزارت انسانی حقوق حکومت پاکستان اور انسپکٹر جنرل جیل خانہ جات خیبر پختونخوا پشاور چھٹی نمبر
KC-31358-409/WE مورخہ 16-09-2022 تمہیں بہورخہ 03.10.2022 کو لائنز آفسر محمد اسماعیل، حضرت محمد اسٹنٹ

سپر انٹنڈنٹ، اور لعل رحمان ہیڈ وارڈرنے ہدایت کی کہ جیل کے اندر قیدیوں / حوالاتیوں کے بارکوں کے غسل خانوں اور بیت الخلاء کے صفائی
کرو لیکن تم نے غسل خانوں اور بیت الخلاء کے صفائی کرنے سے انکار کر دیا اور موقف اختیار کیا کہ یہ عسائیوں کا کام ہے۔ اپنے فریض منہی
آدا کرنے سے انکار سنگین بدکرداری کے زمرے میں آتا ہے۔

لہذا تمہیں ہدایت کی جاتی ہے کہ تین دن کے اندر اپنی پوزیشن کی وضاحت کریں کہ کیوں نہ تمہارے خلاف خیبر پختونخوا حکومت کے
تادیبی قوانین / قواعد مجریہ 2011 کے تحت کارروائی کی جاتی۔ جس میں تمہیں نوکری سے برخاست کیا جاسکتا ہے۔ بصورت دیگر تمہارے
خلاف یکطرفہ کارروائی عمل میں لائی جاسکتی ہے۔



سپر انٹنڈنٹ

ڈسٹرکٹ جیل تیرگرہ

نمبر _____ تاریخ _____



سپر انٹنڈنٹ

ڈسٹرکٹ جیل تیرگرہ

کافی برائے اطلاع یابی:

جناب انسپکٹر جنرل آف جیل خانہ جات خیبر پختونخوا پشاور

Attested
Superintendent
District Jail Timergara

S/C

جناب عالی! خود بانگراش کی جاتی ہے کہ قرظینہ کے نکالنے اور
 کھودنے سے صواب ہے۔ اور مکمل طور پر بند ہے۔ اور گندگی
 باہر فرس نہیں جاتے ہیں۔ اور اُن گندگی سے
 بہت زیادہ بدبو آتی ہے۔ اور قرظینہ والوں کو
 بہت تکلیف ہے۔ میں صفائی والوں کو پھر بار بار حکم دتا ہوں
 کہ ان کے صفائی کرے۔ بسلیں احسان اللہ، حبیب
 اور محمد رسول خان کو ان کے صفائی کرنے سے انکار دیتے
 ہیں۔ لہذا آپ احسان اللہ کو پھر پانی کرے ان کے خلاف قانونی
 کارروائی کرے۔

رپورٹ ویراں ہے

Call for explanation
 from the concerned
 that why they refused

الحاج علی محمد
 13/12/2013
 ضلع ایف ایس

ایمان علی

Attested

Superintendent
 District Jail Timergara.

**Chapter-45
Warder Establishment**

1109.A Prison work as a public service.---(1) Prisons shall be managed within an ethical context which recognizes the obligation to treat all prisoners with humanity and with respect for the inherent dignity of the human person.

(2) Staff shall operate to high professional standards and shall at all times conduct themselves and perform their duties in such a manner as to influence the prisoners by good example and to command their respect. Management shall provide effective leadership for this purpose.

(3) The duties of staff go beyond those required of mere guards and shall take account of the need to facilitate the reintegration of prisoners into society after their sentence has been completed, through a programme of positive care and assistance.

(4) Prison authorities shall give high priority to observance of these rules concerning staff and shall pay particular attention to the management of the relationship between first line prison staff and the prisoners under their care.

1109.B General duty of prison staff.---Every member of prison staff must act in conformity with these rules and obey any lawful instructions of the Superintendent and inform the Superintendent promptly of any breach of these rules and any abuse or impropriety.

1109.C Code of ethics and conduct.--- Government shall approve a code regulating the conduct and discipline of prison staff. The code shall include procedures which may be invoked where it is suspected that the acts or omissions of a member of prison staff may constitute misconduct and the rights to fair hearing and of appeal of any such member of prison staff.

Attested
[Signature]

- (v) maintaining a standard of living beyond known sources of income; or
- (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "misconduct" includes-
- (i) conduct prejudicial to good order or service discipline; or
- (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
- (iii) conduct unbecoming of Government servant and a gentleman; or
- (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
- (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or
- (vi) making appointment or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
- (vii) conviction for a moral offence by a court of law.
- (3) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber

Attested
Superintendent
District Jail Timergara

Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.—A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any unauthorized person, and his retention in service is prejudicial to national security; or
- (f) entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

4. Penalties.—(1) The following are the minor and the major penalties, namely:

(a) Minor penalties:

- (i) censure;
- (ii) withholding, for a specific period, promotion or increment subject to a maximum of three years, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post:

Provided that the penalty of withholding increments shall not be imposed on a Government servant who has reached the maximum of his pay scale:

- (iii) recovery of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order;

(b) Major penalties:

- (i) reduction to a lower post or pay scale or to a lower stage in a time scale for a maximum period of five years:

Provided that on a restoration to original pay scale or post, the penalized Government servant will be placed below his erstwhile juniors promoted to higher posts during subsistence of the period of penalty;]

Attested
J

Superintendent
District Jail Timarnah



Annexure - F

SUPERINTENDENT
DISTRICT JAIL TIMERGARA
Phone/Fax: 0945-9250095
Email: districtjailtimergara@gmail.com

(11)

No. 1088 / dated: 26/12/2022.

DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIME

DISCIPLINARY ACTION

I, Amin Shuaib, Superintendent District Jail Timergara, as competent authority, am of the opinion that (1). **Habib Khan Sweeper (BPS-3)** (2). **Muhammad Rasool Khan Sweeper (BPS-3)** and (3) **Ihsanullah Sweeper (BPS-3)** attached to District Jail Timergara has rendered themselves liable to be proceeded against, as they committed the following acts/commission, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline Rules, 2011.

STATEMENT OF ALLEGATIONS

چیکر چیف محمد الیاس چیف دارڈر اور سیکرٹری انچارج تاج محمد ہیڈ وارڈر کے رپورٹ کے مطابق ہائی سیکورٹی زون کے بچوں کا فلش سسٹم بند تھا 12-13 پر دوران ڈیوٹی ترقی کو چیکر چیف محمد الیاس چیف دارڈر نے بچوں کے بند فلش سسٹم کی صاف اور ٹھیک کرنے کو کہا تو تم نے حکم ماننے سے انکار کیا۔ اس اقدام کے بنا پر ترقی نے حکومت خیر بختون خواہ کے سول سروسٹ رول 2011 اور خیر بختون خواہ قواعد جیل خانہ جات 2018 خلاف ورزی کی ہے اور یہ کہ تم نے فرائض منصبی ادا کرنے سے انکار کر دیا۔

2. For the purpose of inquiry proceeding against the above named accused with reference to the above allegation, an inquiry Officer/inquiry committee consisting of the following is constituted under rule 10(1)(a) if said ibid rules.

1. Mr. Naveed Iqbal Assistant Superintendent/ Incharge Sub Jail Dir Upper.

3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make within Sixty days of the receipt of this order recommendation as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join proceeding on the date, time and place fixed by the inquiry officer/inquiry committee.

SUPERINTENDENT
DISTRICT JAIL TIMERGARA

Endst. No. 1089-93

Copy of the above is forwarded to:

1. The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
 2. Mr Naveed Iqbal Assistant Superintendent Incharge Sub Jail Dir Upper for initiating proceedings against the above named accused Sweepers under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011.
 3. Habib Khan Sweeper (accused)
 4. Muhammad Rasool Khan Sweeper (accused)
 5. Ihsanullah Sweeper (accused)
- Attached to District Jail Timergara with the direction to appear before the Inquiry Officer for the purpose of inquiry proceedings.

o/c
SUPERINTENDENT
DISTRICT JAIL TIMERGARA

Attested
Superintendent
District Jail Timergara



Annexure - G
✓

OFFICE OF THE SUPERINTENDENT
SUB JAIL DIR UPPER
Email: subjaildir@gmail.com
0944-881062

13

No. 241 / WE Dated 04 / 02 / 2023

To,

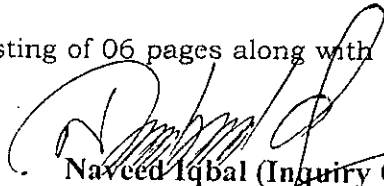
The Superintendent,
District Jail Timergara.

Subject: INQUIRY REPORT AGAINST SWEEPER 1.HABIB KHAN 2.MUHAMMAD RASOOL KHAN 3.IHSAN ULLAH ATTACHED TO DISTRICT JAIL TIMERGARA.

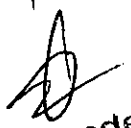
R/Sir,

Reference to your good-self office Endst: No.1089-93 dated 26-12-2022 on the subject noted above.

I enclosed herewith my inquiry report consisting of 06 pages along with relevant annex A to I for favour of further disposal please.


Navced Iqbal (Inquiry Officer)
Assistant Superintendent
Sub Jail Dir Upper.

2023
OFFICE OF THE SUPDT. DIST. JAIL TIMERGARA
No. 133
Date 16-02-2023

Attested

Superintendent
District Jail Timergara

TO,

The Superintendent,
District Jail Timergara.

14

Subject: DISCIPLINARY ACTION AGAINST ACCUSED SWEEPER
1.HABIB KHAN 2.MUHAMMAD RASOOL 3.IHSAN ULLAH
ATTACHED TO DISTRICT JAIL TIMERGARA.

R/Sir,

Reference to your good-self office Endst: No.1089-93 dated 26-12-2022 on the subject noted above.


As per Charge sheet, Sweeper Habib Khan, Muhammad Rasool and Ihsan Ullah attached to District Jail Timergara have committed an act of misconduct, while performing their duties inside the jail on 13-12-2022. They refused to clean the toilets of high security zone. The accused sweepers were further directed to furnish their written reply in defence within the stipulated period to the Inquiry officer.

The Superintendent District Jail Timergara, being competent authority, is pleased to appoint the undersigned as Inquiry officer in this case under rule No-03 of the KPK Government Servant E&D Rules. In the light of above-mentioned order, the undersigned proceeded to District Jail Timergara on 16-01-2023, being an Inquiry officer, to conduct proper inquiry. Inquiry of the said accused sweepers was conducted in District Jail Timergara on 16-01-2023. Findings and recommendations are as under.

Written Reply of Accused Habib Khan Sweeper (BPS-03)

As per his reply (Annex-A) accused sweeper stated, that on 13-12-2022, he was performing his duty inside the jail. The Chakkar Chief, Ilyas Khan, asked him to clean the blocked toilet of four cells of high security zone. And that he obeyed the order and started cleaning them, but he failed to open blocked toilets. He asked the Chakkar Chief, Ilyas Khan, and Sector Incharge, Taj Muahmmad, to arrange a plumber for it because these toilets/bathrooms are very old and they have no arrangements to repair it. Due to which a disciplinary proceeding was started against them. According to him he was ready to clean bathroom. But cleanliness of block pipes was not possible without plumber. And that he never neglected his duties. He apologised and requested for removal of all these allegations.

Attested


Superintendent
District Jail Timergara

The questionnaire duly answered by the accused sweeper as (Annex-B). While responding to question No.1, He was appointed as sweeper on dated 25-01-2021 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper is cleanliness. Responding to question No.03 Cleanliness of toilets/bathroom is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilets, He tried his best to clean the toilet but he failed to clear block flush system. When Chakkar Chief, Ilyas Khan, and sector Incharge, Taj Muhammad, reported him to the Superintendent Jail, he appeared and told him that these flush are totally out of order and they required reconstruction. Responding to question No.05, No on the incident day, He had not cleaned the toilet/bathroom.

Written Reply of Accused Muhammad Rasool Sweeper (BPS-03)

As per his reply (Annex-C) accused sweeper stated, that on 13-12-2022, he was performing his duty inside the jail. The Chakkar Chief, Ilyas Khan, asked him to clean the blocked toilets of four cells of high security zone. He obeyed the order and started cleaning of blocked toilets but he failed to clear the blocked toilets. He asked the Chakkar Chief, Ilyas Khan, and Sector Incharge, Taj Muahmmad, to arrange a plumber for it. Because these toilets/bathrooms are very old and that they had no arrangements to repair them. Due to which a disciplinary proceeding was started against them. And that he was ready to clean bathroom. But cleanliness of blocked-pipes was not possible without plumber. That he never neglected his duties. He apologised and requested for removal of all these allegations.

Cross Examination.

The questionnaire duly answered by the accused sweeper as (Annex-D). While responding to question No.1, He was appointed as sweeper on dated 06-06-2006 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper is cleanliness. Responding to question No.03 Cleanliness of toilets/bathrooms is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilets, He tried his best to clean the toilets but he was failed to clear blocked toilets. Responding to question No.05, yes it is.

Written Reply of Accused Ihsan Ullah Sweeper (BPS-03)

As per his reply (Annex-E) accused sweeper stated, that on 13-12-2022, he was performing his duty inside the jail. That the Chakkar Chief, Ilyas Khan, asked

Attested

1) 2
Superintendent
District Jail Timergara

him to clean the blocked toilets of four cells of high security zone. He obeyed the order and started opening the blocked toilets but in vain. He, then, asked the Chakkar Chief, Ilyas Khan, and Sector Incharge, Taj Muahmmad, to arrange a plumber for it. Because these toilets/bathrooms are very old and that they have no arrangements to repair them. Due to which a disciplinary proceeding was started against them. He was ready to clean the bathrooms. But cleanliness of block pipes is not possible without plumber. That he never neglected his duties. He apologised and requested for removal of all these allegations.

Cross Examination.

The questionnaire duly answered by the accused sweeper as (Annex-F). While responding to question No.1, He was appointed as sweeper on dated 25-01-2021 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper are cleanliness. Responding to question No.03 Cleanliness of toilets/bathrooms is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilet, that he tried his best to clean the toilet but all in vain. Then he told Chakkar Chief. Ilyas Khan, and sector Incharge, Taj Muahmmad, that assistance of plumber is needed for it. Responding to question No.05. No, on the incident day, I have not cleaned the toilet/bathroom because it's the responsibility of Christian.

Statement of Ilyas Khan Chakkar Chief

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. We, on duty staff, asked sweepers, Habib Khan and Ihsan Ullah, to clean the dirty materials/wastages and clean the toilets. But they refused and told that this is not their responsibility, then we asked sweeper, Muhammad Rasool, to clean these dirty materials/wastages and clean washrooms, but he also refused and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then why he should do it.

Cross Examination.

The questionnaire duly answered by the Chakkar Chief as (Annex-G). Responding to question No.1, he was appointed on 04-11-1992. Responding to question No.02, he performed his duties at Central Prison D.I Khan, District Jail Timergara, Sub Jail Dir Upper, District Jail Swat and Internment Center Paitham. Responding to

Attest

(N) 3

Superintendent
District Jail Timergara

question No.03, Sector Incharge, Taj Muhammad, reported that toilets of four cells of high security zone were completely out of order. Responding to question No.04, he called sweepers Habib Khan, Muhammad Rasool, Ihsan Ullah and Suliman and asked them to clean the dirty materials/wastages and toilets. Sweeper Habib Khan replied that it is not our responsibility, it is the responsibility of Christian. Sweeper Ihsan Ullah also replied the same. Sweeper Muhammad Rasool also refused and stated that if the other sweepers are not ready to clean these wastages then why I should do it. Sweeper Suliman Khan said that he is a servant and poor and that he is ready to clean these wastages and started cleaning them. Responding to question No.05, sweeper Habib Khan and Ihsan Ullah refused to clean the wastages and toilets while sweeper Muhammad Rasool stated, that if these two sweepers are not ready to clean these wastages then I, too, am not ready.

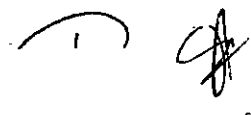
Statement of Mr. Taj Muhammad (Sector Incharge)

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. We, on-duty staff, asked sweeper Habib Khan and Ihsan Ullah to clean the dirty materials/wastages and clean the toilets. But they refused and told that this is not their responsibility, then we asked sweeper Muhammad Rasool to clean these dirty materials/wastages and clean washroom, but he also refused and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then why I should do it.

Cross Examination.

The questionnaire duly answered by the sector Incharge as (Annex-H). Responding to question No.1, he was appointed on 08-03-2006. Responding to question No.02, he performed his duties at Central Prison Mardan, District Jail Timergara and Sub Jail Dir Upper. Responding to question No.03, Sector Incharge, Taj Muhammad, reported that four cells of high security zone were completely out of order. Responding to question No.04, he called sweepers Habib Khan, Muhammad Rasool, Ihsan Ullah and Suliman and asked them to clean the dirty materials/wastages and toilets. Sweeper Habib Khan replied that it is not their responsibility, it is the responsibility of Christian. Sweeper Ihsan Ullah also replied the same. Sweeper Muhammad Rasool also refused

Attested



Sector Incharge
District Jail Timergara

and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then he, too, is not ready. Sweeper Suliman Khan said that he is a servant and poor, and that he is ready to clean these wastages and he started cleanliness. Responding to question No.05, sweeper Habib Khan and Ihsan Ullah refused to clean the wastages and toilets while sweeper Muhammad Rasool stated that if these two sweepers are not ready to clean these wastages he too denied the same.

Statement of Mr. Asghar Ali (Warder)

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. His duty was on high security zone from 08:00 AM to 12:00 PM. From last one week he continuously brought in the notice of sector Incharge but no action was taken on it.

Cross Examination

The questionnaire duly answered by the on duty Warder, Asghar Ali, is attached as (Annex-I). Responding to question No.1, he was appointed on 18-10-2021. Responding to question No.02, he performed his duties at Central Prison Mardan and District Jail Timergara. Responding to question No.03, he himself checked and saw that the toilets/Bathrooms were disordered then he immediately reported to Sector Incharge, Taj Muhammad, and Chakkar Chief, Ilyas Khan. Responding to question No.04, No, sweeper Habib Khan, Muhammad Rasool and Ihsan Ullah were not ready to clean the toilets/Bathrooms.

Statement of Mr. Muhammad Ismail (Line Officer)

The Chakkar Chief sent report that washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. On duty staff asked sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah to clean the dirt and wastages but they denied to clean the toilets, due to which the Chakkar Chief sent report to the Deputy Superintendent against these sweepers.

(Signature)
(Signature)
(Signature)
Superintendent
District Jail Timergara

Record.

Relevant record produced before me which was physically examined.

Findings.

After going through the relevant record and statements of all concerned, it has been observed and found that:-

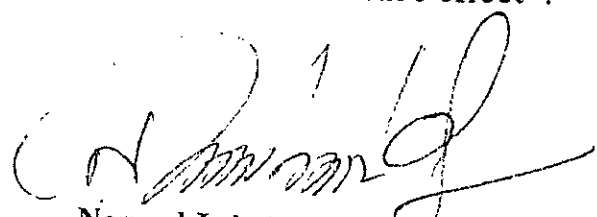
- I. The accused Sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah were found guilty.
- II. Allegation levelled against them is correct and genuine/authentic.

The charge levelled against them, thus, stands proved.

Recommendations.

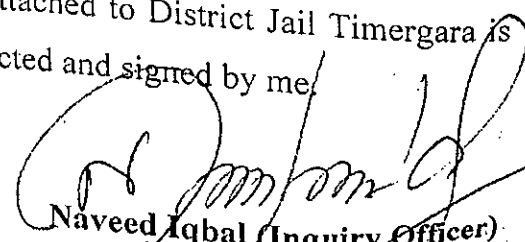
The allegation levelled against the accused officials is **PROVED** for which they are liable to be proceeded under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011.

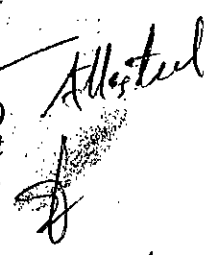
It is, therefore, recommended that the accused officials may be awarded the penalty of, "Stoppage of 03 Annual increments without future effect".


 Naveed Iqbal (Inquiry Officer)
 Assistant Superintendent
 Sub Jail Dir Upper

CERTIFICATE

It is Certified that the report regarding the accused sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah (BPS-03), attached to District Jail Timergara is consisting on six (06) number of pages duly corrected and signed by me.


 Naveed Iqbal (Inquiry Officer)
 Assistant Superintendent
 Sub Jail Dir Upper.

Attested


Superintendent
District Jail Timergara

SHOW CAUSE NOTICE

I, Amin Shuaib, Superintendent District Jail Timergara, as competent authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline Rules, 2011, do hereby serve you, **Ihsanullah Sweeper (BPS-3)** Sweeper (BPS-3) attached to District Jail Timergara as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee for which you were given opportunity of hearing vide communication No.1088 dated 26.12.2022.

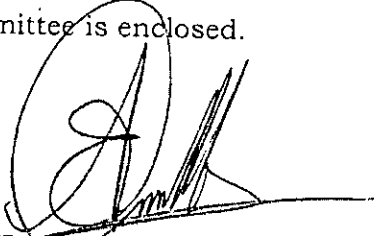
(ii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee,-

I, am satisfied that you have committed the following acts/omissions specified in rule 3 of said rules:

چکر چیف محمد ایاس چیف وارڈ اور سیکرٹری انچارج تاج محمد میڈ وارڈ کے رپورٹ کے مطابق ہائی سیکورٹی زون کے جیلوں کا فلٹس سسٹم بند تھا 2022-12-13 پر دوران ذیابنی تم کو چکر چیف محمد ایاس چیف وارڈ نے جیلوں کے بند فلٹس سسٹم کی صاف اور ٹھیک کرنے کو کہا تو تم نے حکم ماننے سے انکار کیا۔ اس اقدام کے بنا پر تم نے حکومت خیر بختون خواہ کے سول سرورٹ رول 2011 اور خیر بختون خواہ قواعد جیل خانہ جات 2018 خلاف ورزی کی ہے اور یہ کہ تم نے فرائض منصبی آدا کرنے سے انکار کر دیا۔

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the Major penalty of "**Removal from Service**" under rule 4 of the said rules.
3. You are, thereof, required to show cause as to why the aforesaid penalty should be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry officer/inquiry committee is enclosed.

o/c


SUPERINTENDENT
DISTRICT JAIL TIMERGARA

Endst. No. 240-41 / dated 22.02.2023

Copy of the above is forwarded to:-


1. The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
2. Ihsanullah Sweeper (BPS-3) District Jail Timergara.

میں نے اپنا سٹو کار کا جی واپس لیا
سورپریس ایسٹنٹ ایسٹنٹ ایسٹنٹ
24/02/2023

o/c


SUPERINTENDENT
DISTRICT JAIL TIMERGARA

Attested


Superintendent
District Jail Timergara



Annexure - I

SUPERINTENDENT
DISTRICT JAIL TIMERGARA
Phone/Fax: 0945-9250095
Email: districtjailtimergara@gmail.com

21

No. 374 / dated: 22/3/2023.

DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER, DISTRICT JAIL TIMERGARA DIR LOWER

OFFICE ORDER

WHEREAS, accused official/ Sweeper (BPS-03) **Ihsanullah** attached to District Jail Timergara was charged within the meaning of Rule-3 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline Rules, 2011 for the charge of the misconduct contained in statement of Allegations/Charge Sheet served upon him vide this office endorsement No.1088 dated 26.12.2023 wherein Mr. Naveed Iqbal Assistant Superintendent Sub Jail Dir Upper was appointed as inquiry Officer.

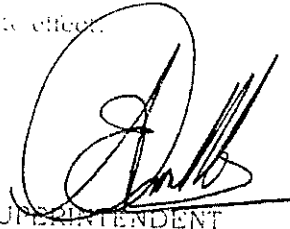
AND WHEREAS, he appeared before the Inquiry Officer, who inquired into his case, went through the available record and provide him reasonable opportunity of hearing to defend his case. Charges/allegations were proved and the Inquiry Officer recommended that he is liable to be proceeded against under the Rules ibid.

AND WHEREAS, the accused official was proceeded against under Rule-14 (4) for the Charge of misconduct/as mentioned in the Show Cause Notice No.240 / 11 dated 22.02.2023.

AND WHEREAS, he furnished his written reply/delence to the Show Cause Notice which was found un-satisfactory.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 09.03.2023 as provided for under rules, ibid. The accused official completely failed to defend his case with documentary proof of defence.

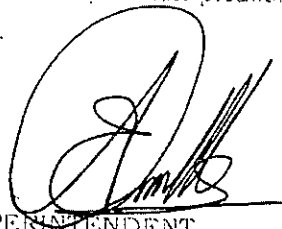
NOW THEREFORE, in exercise of powers conferred under Rule 14(5) of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline Rules, 2011), having considered the charge levelled against him, Inquiry report, evidence available on record and recommendation of the inquiry Officer, the undersigned being competent authority, he is hereby awarded the **minor penalty** of **"Stoppage of three annual increment"** with immediate effect.


SUPERINTENDENT
DISTRICT JAIL TIMERGARA

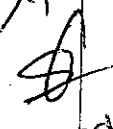
Endst. No. _____ / _____

Copy of the above is forwarded to:-

- 1. The Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
- 2. Mr. Naveed Iqbal Assistant Superintendent (IO) Sub Jail Dir Upper for information please.
- 3. The District Account Officer, Dir Lower for information and necessary action please.
- 4. Ihsanullah Sweeper BPS-03 (accused) District Jail Timergara.


SUPERINTENDENT
DISTRICT JAIL TIMERGARA

میں نے ان کی 27/3/2023 کو باوجود
1-1-2023

Attested

Superintendent
District Jail Timergara

True Copy

Annex-J

22

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
No. Estab/ward-/Orders/ 27118
Dated. 27.07.2023

ORDER

WHEREAS, MR. IHSAN ULLAH, Sweeper (BPS-03) attached to District Jail Timergara was awarded the minor penalty of "Stoppage of 03 annual increments" by the superintendent District Jail Timergara vide No.374-78 dated 22-03-2023 due to his misconduct.

AND WHEREAS, the said sweeper preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

AND WHEREAS, his appeal was examined in light of the available record of the case and it was observed that the penalty was awarded to him by the competent authority due to his misconduct after observing all legal and codal formalities as required under Government Servants (Efficiency & Disciplinary) Rules, 2011. Moreover, the appeal was filed on 13.07.2023 and is time barred by 02 months and 21 days.

NOW THEREFORE, having considered the charges, evidences/facts on record, explanation of the accused official, the provision of rules in vogue and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance and badly time-barred.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Endst; No.27119-20

Copy of the above is forwarded to the;

1. Superintendent District Jail Timergara for Information and necessary action with reference to above. He is directed to inform the appellant accordingly and to make necessary entry in his service Book with proper attestation.
2. Me. Ihsan Ullah, Sweeper (BPS-03) C/O Superintendent District Jail Timergara for information.

--sd--

DEPUTY DIRECTOR
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Attended
Superintendent
District Jail Timergara

**ORDER:**

WHEREAS, Mr. Ihsan Ullah, Sweeper (BPS-03) attached to District Jail Timergara was awarded the minor penalty of "Stoppage of 03 annual increments" by Superintendent District Jail Timergara vide Order No.374-78 dated 22-03-2023 due to his misconduct.

AND WHEREAS, the said Sweeper preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

AND WHEREAS, his appeal was examined in light of the available record of the case and it was observed that the penalty was awarded to him by the competent authority due to his misconduct after observing all legal and codal formalities as required under Government Servants (Efficiency & Discipline) Rules, 2011. Moreover the appeal was filed on 13-07-2023 and is time barred by 02 months and 21 days.

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

— sd —

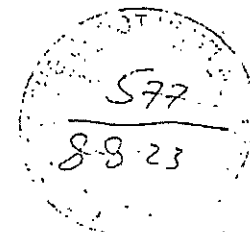
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR

ENDST: NO. 27119-20 /1-

Copy of the above is forwarded to the:

1. Superintendent District Jail Timergara for information and necessary action in reference to above. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book with proper attestation.
2. Mr Ihsan Ullah, Sweeper (BPS-03) C/O Superintendent District Jail Timergara for information.

DEPUTY DIRECTOR
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR



D-Office Working/Cell Appeal/...

Attested
Superintendent
District Jail Timergara

احمد اللہ Sweeper

سورنامہ معلم جوابات

Dated: 16-01-2023

س 1: آپ کب اور کونسی پوسٹ پر جیلخانیہ جات میں تعیناتی ہوئے ہو؟

جواب: میں مورخہ 25-01-2021 کو سوپیر کے پوسٹ پر تعیناتی ہوا ہوں۔

س 2: کیا آپ کو علم ہے کہ سوپیر کی کیا ڈیوٹی ہوتی ہے؟

جواب: جی ہاں مجھے علم ہے کہ سوپیر کی ڈیوٹی صفائی کرنا ہے۔
سوال: آپ کی ڈیوٹی ٹائم کونسی ہے؟

جواب: فلٹرا باقوادم کی صفائی سب کی ذمہ داری ہے۔

س 3: مورخہ 13-12-2022 کو چکر چیف ایسا اور سیکرٹری اچارج

ناج عمر (ایڈوارڈز) نے جیلوں کے بین فلٹرا سسٹم کی صفائی اور ٹھیک کرنا کو کہا تھا؟ آپ نے صفائی کرنے سے انکار کیا۔

جواب: جناب عالی میں نے فلٹرا سسٹم کی صفائی اور ٹھیک کرنے سے

انکار نہیں کیا ہے۔ میں نے فلٹرا سسٹم کے ٹھیک کرنے کی ہر پور کوشش کی لیکن اس کو ٹھیک کرنا میرا بس کا کام نہیں تھا۔ میں نے چکر چیف ایسا اور سیکرٹری اچارج تاج عمر سے کہا کہ اس کو ٹھیک کرنے کیلئے پلمبر کی ضرورت ہے۔

س 4: وقوعہ کے دن کیا آپ نے فلٹرا باقوادم کی عام صفائی کی تھی؟

جواب: یہ میرا کام ہے میرا نہیں ہے۔

Attested
[Signature]

Attested
[Signature]

Superintendent
District Jail Timergara



OFFICE OF THE
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR
☎ 091-9210334, 9210406 📠 091-9213445

No. _____

Dated _____

AUTHORITY LETTER

Mr.Sulaiman, Law Officer(BPS-17) attached to the office of Inspector General of Prisons Khyber Pakhtunkhwa Peshawar is hereby authorized to make affidavit, to file comments/reply/report and to attend the Lower Courts, Ombudsperson, Khyber Pakhtunkhwa Service Tribunal, Peshawar High Court Peshawar, Supreme Court of Pakistan Islamabad, Federal Shariat Court, meeting of scrutiny committee at Law Department and also to attend the office of Advocate General Khyber Pakhtunkhwa at Peshawar on each and every date of hearing, on behalf of the Inspector General of Prisons Khyber Pakhtunkhwa .


**INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**