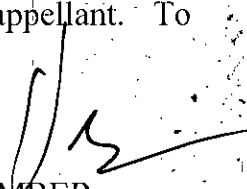


11.7.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for rejoinder on 2.10.2014.

  
MEMBER

  
MEMBER

02.10.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Sheryar, ASJ for the respondents present. Rejoinder received and placed on file. Copy handed over to the learned AAG. To come up for arguments on 29.1.2015.

29.1.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. Arguments heard. To come up for order on 10.2.2015.

  
MEMBER

  
MEMBER

10.2.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Sheryar, Assistant Superintendent Jail for the respondents present. Arguments already heard. Record perused. Vide our detailed order of to-day in connected Service Appeal No. 1559/2012, titled Abdul Ayaan Versus the Government, Govt. of KPK Home & T.As Department, Peshawar etc.", this appeal is also disposed of as per detailed order. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED  
10.02.2015

  
MEMBER

  
MEMBER

Appeal No. 1560/2013  
Mr. Murtaza Rehman

03.02.2014

Appellant with counsel (Mr. Sajid Amin, Advocate)

present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the order dated 19.09.2013, he filed departmental appeal on 25.09.2013 which has been rejected on 05.11.2013 communicated to the appellant on 07.11.2013. He further contended that the impugned order has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules-1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 20.03.2014.

Appellant deposited  
process fee & security  
Rs. 180/- Bench ready  
attached with file

Member

03.02.2014

This case be put before the Final Bench 11 for further proceedings.

Chairman

20.3.2014

Counsel for the appellant and AAG with Sheryar, ASJ for the respondents present and requested for time. To come up for written reply on 22.5.2014.

MEMBER

MEMBER

22.5.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present and requested for time. To come up for written reply on 11.7.2014.

MEMBER

MEMBER



Form- A

FORM OF ORDER SHEET

Court of

Case No:

1560/2013

S.No.	Date of Order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/12/2013	The appeal of Mr. Matiur Rehman presented today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.   REGISTRAR
2	S-12-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>3-2-2013</u>   CHAIRMAN

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

Appeal No. 1560 /2013

MR. Matiur Rehman

V/S

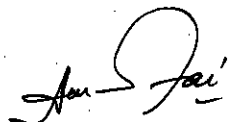
I.G. Prison, KPK Peshawar etc.

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S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Copy of Show Cause Notice	- A -	04
3.	Copy of Reply	- B -	05
4.	Copy of Order dt.19.9.2013	- C -	06
5.	Copy of Appeal	- D -	07
6.	Copy of Rejection Order (5.11.2013)	-E-	08
7.	Copy of Communication letter (7.11.2013)	-F-	09
8.	Vakalat Nama	-----	10

APPELLANT  
Matiur Rehman

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

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

Appeal No. 1560 /2013

G.W.F. Peshawar  
No. 1606  
Date 03/12/13

Mr. Matiur Rehman, Head Warder,  
Headquarter Prisons, Peshawar.

**APPELLANT**

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Home and Tribal Affair Department, Civil Secretariat, Peshawar.
2. The Inspector General, (Prisons), Khyber Pakhtunkhwa, Peshawar.
3. The Superintendent Circle, HQ, Prison, Peshawar.

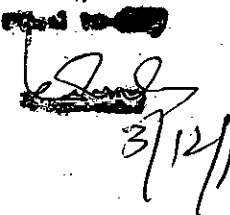
**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 READ WITH RULE-19 OF THE KPK E&D RULES, 2011 AGAINST THE ORDER DATED 05.11.2013 COMMUNICATED TO THE APPELLANT ON 7.11.2013 WHEREBY THE APPEAL AGAINST THE PENALTY ORDER DATED 19.9.2013 (REDUCTION TO LOWEST STAGE) HAS BEEN REJECTED FOR NO GOOD GROUNDS.

.....

**PRAYER:**

 THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 5.11.2013 COMMUNICATED ON 7.11.2013 AND THE PENALTY ORDER DATED 19.9.2013 MAY BE SET ASIDE AND THE APPELLANT MAY BE RESTORED TO HIS ORIGINAL STAGE IN PAY AND SCALE.. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:**

1. That while performing duty as Head Warder in the Central Jail Peshawar, the appellant was issued show cause notice for negligence in his duty which was properly replied by the appellant and denied all allegations leveled in the show cause notice. Copies of Show Cause Notice and Reply are attached as Annexure-A and B.
2. That in the slipshod manner vide order dated 19.9.2013, the penalty of reduction to lowest stage in his present time pay scale was imposed without specifying any period. Copy of Order is attached as Annexure-C.
3. That on 25.9.2013, the appellant filed Departmental Appeal but the same was rejected on 5.11.2013 without showing any reasons. The order dated 5.11.2013 was communicated to the appellant on 7.11.2013. Copies of Appeal, Rejection Order and Communication letter are attached as Annexure-D, E and F.
4. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the other.

**GROUNDS:**

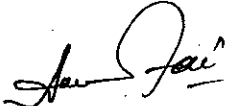
- A) That the order dated 5.11.2013 communicated to the appellant on 7.11.2013 and order dated 19.9.2013 are against the law, rules, norms of justice and material on record, therefore, not tenable and liable to be set aside.
- B) That the reduction order is not a speaking order which the violation of Section-24(A) of the General Clauses Act and also the Supreme Court Judgment reported as 1991 SCMR Page-2330.
- C) That the appellant has been condemned unheard and no chance of personal hearing was provided to the appellant.
- D) That the major penalty has been imposed upon appellant without conducting regular enquiry and recording statements of other witnesses & without opportunity of cross examination. Thus the appellant remained undefended through out.

- E) That no charge sheet or statement of allegation was served on appellant, thus basic law has been violated.
- F) That even no order in black and white with has been passed for dispensing with the enquiry proceedings and showing reasons, which is the violation of E&D Rules, 2011 and due to which whole proceedings are become null and void.
- G) That even the penalty of reduction to lowest stage is against the spirit of E&D Rules, 2011 because punishment of reduction to lowest stage is no where mentioned in the E&D Rules, rather penalty can be imposed of one stage reduction of lower stage. Thus, the penalty order is arbitrary order and is not sustainable in the eyes of law.
- H) That no period has been specified in the penalty order dated 19.9.2013 which the violation of FR-29 and as such the order is not sustainable.
- I) That major penalty has been imposed upon appellant without regular inquiry. Therefore, the verdicts of the superior Courts have been violated.
- J) That the punishment does not commensurate with the guilt of appellant, therefore, the impugned penalty is very harsh.
- K) That the appellant has not been dealt according to law and rules and has been penalized for no fault on his part.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT  
Matiur Rehman

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.


SHOW CAUSE NOTICE

A-7-10

I, Ahtazaz Ahmad Jadoon, Superintendent Headquarters Prison Peshawar as Competent Authority, under the Khyber Pakhtunkhwa, government servants (Efficiency & Discipline) Rules 2011, do hereby serve you Head Warder Matiur Rahman (Under suspension) attached to Central Prison Peshawar with this Show Cause Notice, on the basis of material on record, I am satisfied that you have committed the following acts/ omission specified in Rule-5 (1) (a) read with rule-7 of the said rules: -

- 1- As per report of the Supdt: Central Prison Peshawar dated 09-09-2013, "that on 07-09-2013 at about 11:50, when checked by Mr. Muhammad Ayub Khan Senior Assistant Supdt: Central Prison Peshawar and also checked by the Supdt: Central Prison Peshawar yours place of duty allotted to you on the most sensitive cell i.e Cell No. 16, you opened the lock for Head Warder Abdul Diyan to come out from the cell yard and involved in gossiping with him, which could pave the way for any untoward incident as the external duty was yours responsibility to have vigilance on the locks and the surroundings/ suburbs of the said cells. You pathetically left the door open and committed the blunder that could leave devastating effect/ repercussions on the administration of the jail. You left the security of the cell at the mercy of the invaders (God forbade) which shows inefficiency, gross negligence and misconduct in the performance of your duty and also violated the prescribed rules of PPR."
- 2- And whereas in exercise of powers Rule-5 (1)(a) of the same Rules, I am satisfied that sufficient evidence is available in the materials collected against you that took the competent authority to dispense further inquiry in the case/ blunder committed by you.
- 3- As a result thereof, I, as competent authority, have reached to the conclusion that there is no need of holding any further inquiry in this case and have tentatively decided to impose upon you the major penalty of "Removal from Service" under rule-4 of the E&D Rules 2011.
- 4- You are, therefore required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 5- If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

  
SUPERINTENDENT  
CIRCLE HQS. PRISON PESHAWAR.

  
1- Head Warder Matiur Rahman  
Attached to Central Prison Peshawar

ATTESTED  




۳  
بھٹو صاحب سید شہزاد صاحب سید علی حسین اور

جواب طلبی سرکار نوشہرہ

۱

مہنگا

پرائیویٹ ٹریڈنگ کمپنی کے لیے

اور بائیں طرف پر مہنگا ڈیپو کے لیے

عبدالصمد صاحب اور شہزاد صاحب کے نام

وہ رعایت جو شہزاد صاحب کے لیے

کے لیے اور بائیں طرف پر مہنگا ڈیپو کے لیے

کے لیے رعایت نہیں ہے اس لیے

ہاں کے لیے رعایت نہیں ہے اس لیے

اوپر مہنگا ڈیپو کے لیے رعایت نہیں ہے

اس لیے رعایت نہیں ہے اور نہ ہی

مہنگا ڈیپو کے لیے رعایت نہیں ہے

۱۵

۱۵

ایک یا سید محمد علی صاحب کے لیے رعایت نہیں ہے

ATTESTED

—



OFFICE OF THE  
SUPERINTENDENT  
HEADQUARTER PRISON PESHAWAR  
No: \_\_\_\_\_ /PB Dt: 13/09/2013

OFFICE ORDER

6

Consequent upon completion of proceedings under Government of Khyber Pakhtunkhwa efficiency & discipline (E&D) rules 2011, after issuing show-cause notices, affording the opportunity of personal hearing and cross examination as well in case of gross negligence from their duties, the following Head Warders attached to Central Prison Peshawar are hereby re-instated into service with immediate effect with further orders as under: -

2- They are hereby awarded the major penalty of "Reduction to lowest stage in their present time pay scale."

- i) Head Warder Abdul Ayan
- ii) Head Warder Matiur Rahman

SUPERINTENDENT  
CIRCLE HQS. PRISONS PESHAWAR

Endst: No. 3385-871-

Copy of the above is forward to the: -

- 1- Superintendent Central Prison Peshawar for information. The above named Head Warders may be taken on duty and proper entry at this effect may be made in this Service Books.
  - 2- Accountant General, Khyber Pakhtunkhwa Peshawar.
  - 3- Head Clerk (Pay Branch) Central Prison Peshawar.
- For information & further necessary action.

SUPERINTENDENT  
CIRCLE HQS. PRISONS PESHAWAR

19/9/13

ATTESTED

30/9/13

To

The Inspector General of Prison,  
Khyber Pakhtunkhwa, Peshawar.

Subject:- Departmental appeal against the impugned order  
Dated 19-09-2013.

Through:- PROPER CHANNEL.

Sir,

I have the Honour to submit that the major penalty has been imposed upon me for which I request that the same may be set aside in view of the following grounds:-

GROUNDS:-

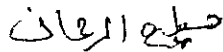
- A. That I have not committed any misconduct therefore, the imposed penalty upon me is illegal and is liable to be set aside.
- B. That no opportunity of self defence has been given to me and only one sided action has been taken against me.
- C. That my ~~MMS~~ my whole service record of 28 Years is clean which is sufficient reason to set aside the impugned order dated 19.9.2013.
- D. That no loss has been secured to the Government.

It is, therefore, prayed that on acceptance of this departmental appeal, the impugned order dated 19.9.2013 may kindly be set aside with all back benefits to meet the ends of natural justice.

I beg to remain sir,

Dated 25.09.2013.

Yours most Obedient Servant,

  
(Matiur Rehman) Head warden,  
Headquarter Prisons, Peshawar.

ATTESTED



*Date- 05/11/2013*

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

*E*

NO. 31972

DATED 05-11-2013

*(8)*

To

The Superintendent,  
Headquarters Prison Peshawar.

Subject:- DEPARTMENTAL APPEAL  
Memo:

I am directed to refer to your letter No.2534-WE dated 07-10-2013 on the subject and to convey that appeal of Head warder Mati-ur-Rehman for set asiding the penalty of reduction to lowest stage in his present time pay scale has been considered and dismissed by the competent authority(I.G).

Please inform him accordingly.

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

*DS/C-B*  
*[Signature]*

*[Signature]*  
*5/11*

ATTESTED  
*[Signature]*



OFFICE OF THE  
 SUPERINTENDENT  
 CIRCLE HQs. PRISON PESHAWAR  
 No. 2813 P.B. dt: 07/11/2013

F  
=

To

The Superintendent  
 Central Prison, Peshawar.

9

Subject: DEPARTMENTAL APPEAL

Memo:

Appeals regarding setting aside the penalty of reduction to lowest stage in their present time pay scale in respect of the following Head Warders attached to your jail have been considered and dismissed by the competent authority i.e. Worthy I.G Prisons Khyber Pakhtunkhwa Peshawar vide his letter No. 31924 & 31972 dated 05-11-2013 respectively.

- 1- Head Warden Abdul Ayan
- 2- Head Warden Matiur Rahman

They may be informed accordingly.

SUPERINTENDENT  
 CIRCLE HQs. PRISON PESHAWAR

Endorsement No: 2814 / 1-

Copy of the above is forwarded to the Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information with reference to above please.

SUPERINTENDENT  
 CIRCLE HQs. PRISON PESHAWAR

RECEIVED

A

# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Mahier Rehman (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Prisons Dept. etc (Respondent)  
(Defendant)

I/We Mahier Rehman (Appellant)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

Signature of Client

( CLIENT )

ACCEPTED

Signature of M. Asif Yousafzai

**M. ASIF YOUSAFZAI**  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**

Room No.1, Upper Floor,  
Jamia Club Building,  
Cyber Bazar Peshawar.  
091-2211391-  
0333-9103240

Signature of Sajid Anis  
**Sajid Anis**  
Advocate



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In the matter of

Service Appeal No.1560/2013

Matiur Rahman Head Warder

Attached to Headquarters Prison Peshawar.....**Appellant.**

**VERSUS**

- 1- The Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department, Peshawar.
- 2- The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent Circle, Headquarters Prison Peshawar.....**Respondents**

**PARAWISE REPLY ON BEHALF OF RESPONDENTS**

**PRELIMINARY OBJECTIONS.**

- vii. That the appellant has got no cause of action.
- viii. That the appeal is incompetent and is not maintainable in its present form.
- ix. That the appellant is estopped by his own conduct to bring the present appeal.
- x. That the appellant has no locus standi.
- xi. That the appeal is bad for mis joinder and non-joinder of necessary parties.
- xii. That the appeal is badly time barred.

**ON FACTS:**

- 1- Correct to the extent that keeping in view the material on record and as per rule-7 of the E&D Rules 2011 he was issued Show Cause Notice due to his gross negligence in the performance of his duties by opening the lockup for Head Warder Abudl Ayaan to come out from the Cell Yard and involved with gossiping with him on that very time at Cell No. 16 and also left the door open of the said Cell, where High Profile Prisoner Namely Dr. Shakeel Afridi is confined when checked by Mr. Muhammad Ayub Khan Senior Assistant Superintendent Jail, Central Prison Peshawar and by the Superintendent Central Prison Peshawar himself, so just a little bit lapse/ fault could pave the way for a critical untoward incident, but it is incorrect that he denied all allegations leveled in the show-cause notice during personal which is clearly evident from the "**Sawalnama**" enclosed as **Annex-A** wherein he has admitted his fault which is also duly signed by him on the spot.





- 2- Not admitted. The Competent Authority awarded the major penalty of reduction to lowest stage in his present time pay scale in accordance with the rules to be a lesson for others.
- 3- Pertains to the record, hence no comments.
- 4- His service appeal may please be dismissed on the below noted grounds:

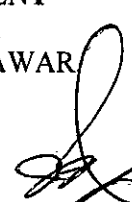
**GROUND:**

- A- Not admitted. That the penalty of reduction to lowest stage in his present time pay scale awarded to him is strictly in accordance with prescribed rules on account of his gross negligence from duty.
- B- Not admitted. As elaborated in Para (A) above.
- C- Not admitted. The appellant was afforded full opportunity of personal hearing by the Competent Authority as well as by the Appellate Authority.
- D- Not admitted. As explained in the preceding Paras.
- E- Not admitted. As narrated in Para-I above, there is no need to serve Charge Sheet/ Statement of Allegations as under Rule-7 the Competent Authority can serve direct Show Cause Notice to the accused official.
- F- Not admitted. All legal formalities were observed in the proceedings.
- G- Not admitted. As explained in the preceding Paras.
- H- Not admitted. According to E&D Rules 2011, maximum period for such like penalty is five years.
- I- As explained above, provision under rule-7 of the E&D rules 2011, direct show-cause notice can be served upon the accused official if the material on record is available.
- J- Not admitted. The penalty awarded to him is strictly in accordance with prescribed rules in the light of his gross negligence in the performance of his duties.
- K- Not admitted. As elaborated in Para (J) above.
- L- Not admitted. As elaborated in Para (J) & (K) above.

In view of above comments on behalf of the respondents, it is humbly prayed that the appeal submitted by appellant may be dismissed with cost please.

  
SECRETARY TO GOVERNMENT  
KHYBER PAKHTUNKHWA  
HOME & T.AS DEPARTMENT PESHAWAR  
(Respondent No. 1)

  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 2)

  
SUPERINTENDENT  
CIRCLE HQ. PRISON PESHAWAR  
(Respondent No. 3)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

In the matter of

Service Appeal No.1560/2013

Matiur Rahman Head Warder

Attached to Headquarters Prison Peshawar.....Appellant.

**VERSUS**

- 1- The Secretary to Government of Khyber Pakhtunkhwa  
Home and Tribal Affairs Department, Peshawar.
- 2- The Inspector General of Prisons,  
Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent  
Circle, Headquarters Prison Peshawar.....Respondents

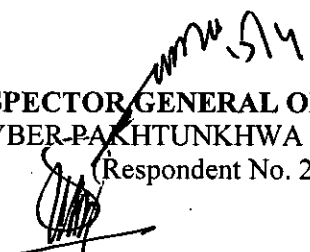
**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.**

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.

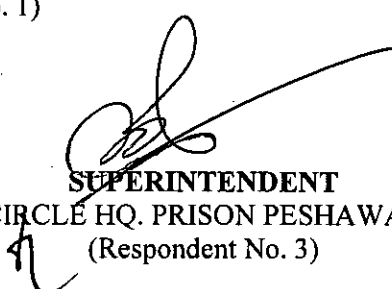


SECRETARY TO GOVERNMENT  
KHYBER PAKHTUNKHWA  
HOME & T.AS DEPARTMENT PESHAWAR.  
(Respondent No. 1)

INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 2)



SUPERINTENDENT  
CIRCLE HQ. PRISON PESHAWAR  
(Respondent No. 3)



## SHOW CAUSE NOTICE

I, Ahtazaz Ahmad Jadoon, Superintendent Headquarters Prison Peshawar as Competent Authority, under the Khyber Pakhtunkhwa, government servants (Efficiency & Discipline) Rules 2011, do hereby serve you **Head Warder Matiur Rahman (Under suspension)** attached to Central Prison Peshawar with this Show Cause Notice, on the basis of material on record, I am satisfied that you have committed the following acts/ omission specified in Rule-5 (1) (a) read with rule-7 of the said rules: -

1- As per report of the Supdt. Central Prison Peshawar dated 09-09-2013, "that on 07-09-2013 at about 11:50, when checked by Mr. Muhammad Ayub Khan Senior Assistant Supdt. Central Prison Peshawar and also checked by the Supdt. Central Prison Peshawar yours place of duty allotted to you on the most sensitive cell i.e Cell No. 16, you opened the lock for Head Warder Abdul Diyan to come out from the cell yard and involved in gossiping with him, which could pave the way for any untoward incident as the external duty was yours responsibility to have vigilance on the locks and the surroundings/ suburbs of the said cells. You pathetically left the door open and committed the blunder that could leave devastating effect/ repercussions on the administration of the jail. You left the security of the cell at the mercy of the invaders (God forbade) which shows inefficiency, gross negligence and misconduct in the performance of your duty and also violated the prescribed rules of PPR."

2- And whereas in exercise of powers Rule-5 (1)(a) of the same Rules, I am satisfied that sufficient evidence is available in the materials collected against you that took the competent authority to dispense further inquiry in the case/ blunder committed by you.

3- As a result thereof, I, as competent authority, have reached to the conclusion that there is no need of holding any further inquiry in this case and have tentatively decided to impose upon you the major penalty of "**Removal from Service**" under rule-4 of the E&D Rules 2011.

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

5- If no reply to this notice is received within seven days of its delivery, it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

  
SUPERINTENDENT  
CIRCLE HQS. PRISON PESHAWAR.  
77

1- **Head Warder Matiur Rahman**  
Attached to Central Prison Peshawar

کے متعلقہ باب - اور اللہ تعالیٰ سے دعا ہے کہ یہ سب کچھ جلد سے ہو سکے۔

عنوان: جواب طلبی شوکانہ لوشن

صبا - عالی

جو دہائی تراشیں بعد مورخہ 7/9/13

عبد العزیز

جگہ نمبر 9 سے 12 تک کی پورٹی پر تھا۔ پورٹ 11-12  
ایک مندرجہ ذیل سے مندرجہ ذیل روٹی وغیرہ آکر چوندی

جگہ نمبر 16 کی ریمارکس دیکھو جو خود لکھا اس وجہ سے  
بند و وارڈر صلح الرکن نے دروازہ کھول کر چھ لیا کہ

سبزہ روٹی وغیرہ چھ لیا کر کے ڈال کر کھول کر دو  
بند و وارڈر نے بالکل دروازے کی لاک بائیں کی طرف سے سامان

چھ لیا درست بائیں ڈال کر کھول کر دو  
بند و وارڈر نے دروازہ کھلے ڈال کر سامان سے لے کر بائیں طرف

بند و وارڈر نے آئینے کی جگہ سے پورٹا کھول کر اور پورٹ  
بائیں کی طرف سے لے کر بائیں طرف سے لے کر بائیں طرف سے

دیکھا جا سکتا ہے اور ایوب خان نے چھ لیا تو میں نے کمرے کے  
بغیر اس سے پورٹا آ کر جھانک کر دیکھا اس کے بائیں طرف سے

نظر آئیں مندرجہ بالا حقیقت کی روٹی میں نہ تو میں نے کوئی کمی  
پورٹا سے اور میں نے روٹی سبزہ لیکر دروازہ کھلے پورٹا

بند و وارڈر کو التوا سے لے کر التوا سے لے کر التوا سے لے کر التوا سے

حضرت صاحب سید محمد زین العابدین علیہ السلام

مقام عالی  
جو ان سوکھا خوش

میرا دل ہے کہ جو روضہ کی دریاں مسائل اور

فکر و فکر میرا اور ماہی و دریاں مسائل اور

میرا قبری میرا دریاں مسائل اور

نہ دریاں مسائل اور

میرا دریاں مسائل اور

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ایمان عالی میرا دریاں مسائل اور

میرا دریاں مسائل اور

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~~Reply of above named officer is as follows  
Satisfactory he admitted his fault  
during personal hearing of Court  
& a meritorious hearing of Court  
provided for lowest stage  
Referred to Service.~~

P.B.

79/9





OFFICE OF THE  
**SUPERINTENDENT**  
 CIRCLE HQs. PRISON PESHAWAR  
 No. 2536/ AP.B. dt: 07/10/2013

To

The Inspector General of Prisons  
 Khyber Patkhunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL


R/Sir,

Please refer to your letter No. 28677-WE dated 01-10-2013 on the subject noted above.

The requisite information/ comments on behalf of the undersigned in respect of Head  
 Warder Matiur Rahman attached to Central Prison Peshawar are submitted herewith on the tabulated  
 form for further necessary action as desired please:-

S.No	Name & Parentage	Rank	Date of Birth	Date of appointment	Punishment awarded during his entire service with date & nature of offence.
1	Matiur Rahman s/o Muhammad Khan	H/ Warder BPS-07	10-01-1967	21-05-1985 (As Warder)	<p>(i) 26-10-2000, One increment was stopped on account of absence.</p> <p>(ii) 10-4-2002, placed under suspension when he was found sleeping during duty then was re-instated with stoppage of 03 increments, from 10-4-02 to 3-5-02 was treated as leave without except pay allow.</p> <p>(iii) 5-3-2011, One day absence period was treated as warning.</p> <p>(iv) On 9-9-13, he was placed u/ suspension in disciplinary case and on 19-9-13 was re-instated by reverting to lower stage.</p>

He was allotted the duty on the most sensitive cell i.e. Shakeel Afridi's Cell, he opened the lock for H/Warder Abdul Ayan to come out from the cell yard and involved him in gossiping with him, which could pave the way for any untoward incident as the external duty was his responsibility to have vigilance on the locks and the surroundings/suburbs of the said cells, but he pathetically left the door open and committed the blunder that could have devastating effect/ repercussion on the administration of the jail, he left the security of cell on the mercy of God and remained busy in gossips, hence the penalty of "Reduction to lowest stage" awarded to him on this account is totally in accordance with rules and legal, therefore <sup>it is</sup> requested that his appeal may be rejected in the best interest of this department as well as public interest please.

  
 SUPERINTENDENT  
 CIRCLE HQs. PRISON PESHAWAR



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

Service Appeal No. 1560/2013

Mati-ur-Rehman

VS

Prisons Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(i-vi) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Incorrect. The appellant properly replied to show cause notice and denied all allegations leveled in the show cause notice.
- 2 Incorrect. The respondents awarded major penalty of reduction to the lowest stage in slipshod manner without fulfilling codal formalities.
- 3 No comments endorsed by the respondents which mean that para 3 of the appeal is correct.
- 4 Incorrect. The service appeal of the appellant may please be accepted on the following grounds.


**GROUNDS:**

- A) Incorrect. While A of the appeal is correct.
- B) Not replied according to contents of para B of the appeal. Therefore para-B of appeal is correct.
- C) Incorrect. The respondents passed the order dated 19.9.2013 in slipshod manner with out giving any chance of personal hearing to the appellatant.
- D) Incorrect. While Para-D of the appeal is correct.
- E) Incorrect. Charge sheet and statement of allegation is necessary before the giving the penalty so that the appellatant could know about the allegation which is leveled upon the appellatant.
- F) Incorrect. No inquiry proceedings were conducted by the respondents before passing the order dated 19.9.2013, which is the violation of E&D Rules 2011 and due to which the order dated 19.9.2013 is liable to be set-aside.
- G) Not replied according to para G of the appeal.
- H) Incorrect. No specific period in the penalty order dated 19.9.2013 is mentioned which is the violation of FR-29 and hence such order is liable to be set aside and also because of lowest stage mentioned in impugned penalty order.
- I) Not replied according to para I of the appeal.
- J) Incorrect. The penalty imposed upon the appellatant is very harsh and not accordance with law and rules.
- K) Incorrect. While para K of the appeal is correct.
- L) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

  
APPELLANT  
Mati-ur-Rehman

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT**

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.

  
DEPONENT

