

26.07.2016

Appellant in person and Mr. Sheryar, ASJ
alongwith Addl. AG for the respondents present.
Written reply submitted The appeal is assigned to D.B
for rejoinder and final hearing for 17.10.2016.


Chairman

17.10.2016

Counsel for the appellant and Mr. Sohrab Khan, Junior Clerk
alongwith Assistant AG for respondents present. Learned counsel for the
appellant requested for time to file rejoinder. Request accepted. To come
up for rejoinder and arguments on 24-1-17 before D.B.


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

24.1.2017

Counsel for the appellant and Mr. Usman Ghani,
Senior Government Pleader alongwith Sheryar,
Assistant Superintendent Jail for the respondents
present. We have heard arguments of learned counsel
for the parties and perused the record.

Vide our detailed judgment of to-day in
connected service appeal No. 285/2016, titled
"Zeeshan Alam Versus Government of Khyber
Pakhtunkhwa through Inspector General of Prisons,
Peshawar and another", we accept the present appeal
also as per detailed judgment. Parties are left to bear
their own costs. File be consigned to the record room.


Member

ANNOUNCED
24.1.2017


Chairman

11.04.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Jail Warder when subjected to enquiry on the allegation of willful absence and dismissed from service vide impugned order dated 09.12.2015 where-against he preferred departmental appeal on 07.1.2016 which was rejected on 25.2.2016 where-after the instant service appeal was preferred on 25.3.2016.

Appellant Deposited
Security & Process Fee

That the appellant was neither absent from duty nor the enquiry was conducted in the prescribed manner and as such the impugned order is against facts and law.

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 01.6.2016 before S.B.


Chairman

01.06.2016



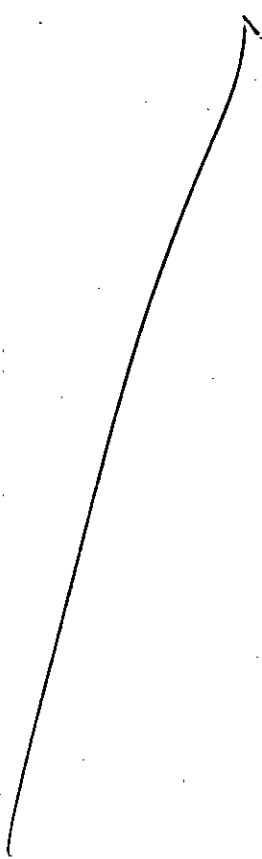
Appellant in person, and Mr. Sohrab Khan, Junior Clerk and Muhammad Umar, Head Warder alongwith Addl. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 26.07.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 338/2016


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	31.03.2016	<p>The appeal of Mr. Muradullah resubmitted today by Mr. Farmanullah Khanttak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	01-04-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>11-04-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p> 

The appeal of Mr. Murad Ullah son of Malik Farhad Khalil Ex-Jail Warden received to-day i.e. on 25.03.2016 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- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Annexure-E of the appeal is illegible which may be replaced by legible/better one.
- 6- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

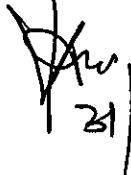
No. 297 /S.T,

Dt. 25/03 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Farmanullah Khattak Adv. Pesh.

Re-submitted and place before
the chairman


21/3/2016

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER
PAKHTUNKHAWA, PESHAWAR.

Service Appeal No. 338 of 216

Murad Ullah.Appellant

Versus

Government of Khyber Pakhtunkhwa through Inspector General of
Police and others. (Respondents).

INDEX

S.No.	Description of Documents	Annexures	Pages
1.	Ground of Service Appeal with affidavit.		1-5
2.	Address of parties.		6
3.	Copy of the Appointment order.	A	7
4.	Copy of letter letter no. 608, dated, 27-03-2015 address to the IGP prison.	B	8
5.	Copy of notice in News Paper.	C & D	9-10
6.	Copy of the Dismissal order, dated, 30-11-2015.	E	11
7.	Copy of Departmental Appeal and rejection order, dated, 15-02-2016.	F & G	12-14
8.	Vakalat Nama in original.		15

Your humble appellant,

Through


(Farmanullah Khattak),
Advocate High Court, Peshawar.

BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER
PAKHTUNKHAWA, PESHAWAR

Service Appeal No. 338 of 2016

A.W.P. Tribunal
Service Tribunal
Diary No. 267
Dated 25-03-2016

**Murad Ullah S/O Malik Farhad Khalil (Jail Warden), House No-1,
Mohallah Umer Zai Pawaka, Tehsil & District, Peshawar.**
..... (Appellant).

Versus

1. **Government of Khyber Pakhtunkhwa through Inspector General of Prisons, Peshawar.**
2. **Superintendent Circle Headquarter Prison, Mardan.**

..... Respondents.

APPEAL under Section-4 of the Khyber Pkhtunkhwa Service Tribunal Act, 1974 against order, Dated, 09-12- 2015, vide, which major penalty of dismissal from service has been imposed and against which departmental Appeal/Review petition had been rejected, vide, order dated, 25-02-2016.

PRAYER-IN-APPEAL

THAT on acceptance of the instant appeal, this Hon'ble Tribunal may graciously be pleased to set-aside the impugned order dated, 25-02-2016, passed by the appellate authority, vide, which dismissal order, dated, 09-12-2015 passed by respondent No. 2, has been rejected and the same may be declared illegal, void-ab-initio and of no legal effect and the appellant may be re-instated with all back benefits of service and wages OR any other remedy deemed proper and appropriate may also be allowed.

Filed to-day
Registrar
25/3/16

Respectfully Sheweth:

The appellant very humbly submitted as under:-

re-submitted to-day
and filed.
Registrar
1/4/16

1. That the appellant was appointed as a Jail Warden in the year 2012 on the basis of Test & Interview. (Copy of the appointment letter is enclosed **Annex-A**).
2. That ever since his appointment, appellant performed their duties with zeal and zest and to the entire satisfaction of their superiors and never gave any chances of complaint whatsoever regarding his willful absence from duty. It is also pertinent to mentioned here that appellant had also successfully completed her one year probation period.
3. That appellant was lastly attached with Circle Prison, Mardan, when petitioner was asked to perform their duties with Advisor to Minister Prison and to this effect letter no. 608, dated, 27-03-2015 address to the IGP prison by the Superiendent District jail Mardan. (Copy of the letter is hereby enclosed as **Annex-B**).
4. That since appellant was attached with Advisor to the Minister Prisons w.e.f. 15-09-2015, however, despite of the facts Respondent No-2, served a show cause notice under Rule-05 which was not received till date.
5. That Appellant got knowledge from the News Paper, that Respondent No-2 issued a Show Cause Notice of his long Absence and appellant tried to contact and meet Superintended Prison, Mardan to explain his position but he refused to meet him. (Copy of the Notice in the News Paper is hereby enclosed as **Annex-C & D**).
6. That without serving upon any show cause notice, charge sheet or allowing the opportunity of personal hearing, appellant had been finally dismissed from Service, vide, order, dated, 09-12-

2015 by Respondent No-2. (Copy of the dismissal order is hereby enclosed as **Annex- E**).

7. That appellant aggrieved from the illegal order of dismissal from service, filed department appeal before the Inspector General of Prisons and he explained the position of his absence in the personal hearing, however, the Appellate Authority without considering the ground realities, rejected the appeal of the appellant, however, order of dismissal of service was converted into removal of Service. (Copy of the Departmental Appeal and impugn order is hereby enclosed as **Annex-F & G** respectively).
8. That the appellant has illegally been terminated from service without any formal order of dispensation of enquiry and had thus been constrained to approach this Hon'ble Tribunal, inter-alia, on the following grounds:-

GROUND:

- a. That the order passed by the competent authority and upheld by the appellate authority, impugned herein are totally, illegal, un-lawful, arbitrary, legally and factually incorrect and against the E & D Rules, 2011 and thus are liable to be set-aside by this Hon'ble Tribunal.
- b. That the Superintendent Jail Mardan totally ignores that appellant was serving with the Advisor to the Minister Prison and he himself write a letter letter no. 608, dated, 27-03-2015 address to the IGP prison, as evident from the entry mentioned in Registered No-16 and during this period he was not found willful absence, despite of which a major penalty of dismissal of service has been imposed.

- c. That the impugn order of major penalty has been imposed without formal enquiry dispensation order under Sub-Rule (b) (ii) of Rule-5 of E & D Rules, 2011, beside, no opportunity of personal hearing has been provided and the ex-parte illegal order of dismissal has been passed against E & D Rules, 2011.
- d. That no proper procedure had been adopted before the dismissal order of the appellant, neither any show cause notice had been served upon appellant nor any inquiry has been conducted and appellant had been condemned un-heard, thus the impugn order of dismissal/removal is nullity in the eyes of law and liable to be struck down by this Hon'ble Tribunal on this score alone.
- e. That the Appellant was inducted as a Jail Warden after Test & interview by observing all codal formalities and he had performed his duties for more than 4 year without any explanation of willful absence, thus the impugn order of dismissal/removal of service is highly illegal, un-lawful and unfair on the face of record.
- f. That the Petitioner has never committed any act or omission which could be termed as misconduct as per E & D Rules, 2011, albeit the way he has been dismissal/removed from service is totally unfair and against the Rules.
- g. That the impugned order of dismissal/removal of service is bad in law and thus void ab-initio.

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- h. That the petitioner has been condemned unheard, thus the order of dismissal/removal is violative of law, rules and the principles of natural justice.
- i. That the appellant had served more than 4 years and the impugn dismissal/removed order is very harsh in order to derive them from earning bread and butter and liable to be set-aside by this Hon'ble Tribunal.
- j. That the appellant will seek permission of this Hon'ble Tribunal to urge additional grounds at the time of argument of this appeal.

It is therefore most humbly prayed that on acceptance of the instant appeal, this Hon'ble Tribunal may graciously be pleased to set-aside the impugn the impugn order dated, 25-02-2016 passed by the appellate authority, vide, which dismissal order, Dated, 09-12- 2015 passed by respondent No. 2, has been rejected and the same may be declared illegal, void-ab-initio and of no legal effect and the appellant may be re-instated with all back benefits of service and wages OR any other remedy deemed proper and appropriate may also be allowed.

Appellant,

Through

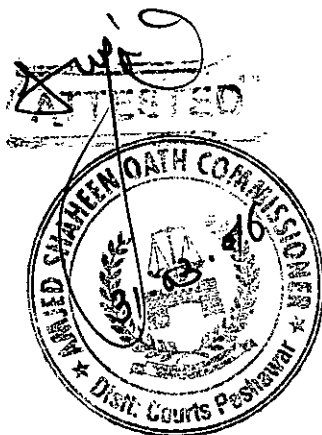

(Farmanullah Khattak),
Advocate High Court, Peshawar.

Affidavit.

I, Murad Ullah S/O Malik Farhad Khalil (Jail Warden), House No-1, Mohallah Umer Zai Pawaka, Tehsil & District, Peshawar, do hereby solemnly declare on oath that the contents of the above Service Appeal as given by me are true and correct to the best of my knowledge and that nothing has been concealed or kept secret from this Hon'ble Tribunal.

Deponent.





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**BEFORE THE PROVINCIAL SERVICE TRIBUNAL KHYBER
PAKHTUNKHAWA, PESHAWAR**

Service Appeal No. _____ of 216

Address of parties

Appellant:

**Murad Ullah S/O Malik Farhad Khalil (Jail Warden), House No-1,
Mohallah Umer Zai Pawaka, Tehsil & District, Peshawar.**

Respondents:

- 1. Government of Khyber Pakhtunkhwa through Inspector
General of Prisons, Peshawar.**
- 2. Superintendent Circle Headquarter Prison, Mardan.**

Your humble appellant,
Through



**(Farmanullah Khattak),
Advocate High Court Peshawar.**

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OFFICE OF THE
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR
No. 469 /P.B dt: 9/15 /2012

To

Mr. Muradullah Khalil s/o Malik Farhad Khan Khalil
Mohallah Umarzai, House No.1, Pawaki, Tehsil & Distt: Peshawar

Subject:

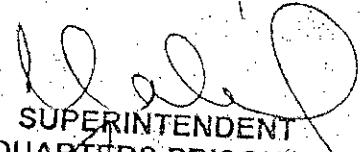
APPOINTMENT AS WARDER (BPS-05)

Memo:

Reference your test/ interview for the subject post.

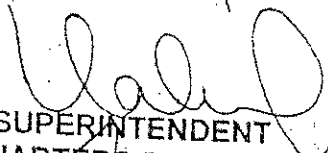
You are hereby offered the post of temporary Warder in (BPS-05) (5400-260-13200) and other usual allowances as admissible under the rules subject to the following conditions: -

- 1- ~~You are liable to~~ serve anywhere in the jails of Khyber Pukhtunkhwa.
- 2- Your appointment is purely temporary and your services can be terminated at any time without assigning any reason during probationary period.
- 3- For all other purposes such as pay, T.A & Medical attendance etc., you will be governed by the rules applicable to the government servants of your category.
- 4- The terms and conditions of your appointment as Warder will be those as laid down in the NWFP Prisons Rules 1985, Prisons Department (Recruitment, Promotions & transfer) rules 1980 and all other rules and regulations prescribed to Government Servants or the rules which may be promulgated by the Government from time to time in this behalf.
- 5- Your appointment will be subject to your Medical fitness.
- 6- No T.A/ DA will be admissible to you on joining your first appointment.
- 7- You cannot resign from the service immediately but will have to put in writing at least one month prior notice or in lieu thereof, one month pay shall be forfeited from you.
- 8- Your appointment is subject to fulfilment of all the conditions laid down in the services rules.
- 9- You will be on probation for a period of two years extendable to one more year.
- 10- On your report for duty, it will be taken for granted that you have accepted all the above terms and conditions and if you failed to report within 10 days of the receipt of this appointment order, it will be presumed that you have declined to accept this offer; hence this order of appointment shall stand cancelled.
- 11- You are directed to attend this office immediately for your Medical Examinations at Police & Services Hospital Peshawar


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 470-71

- Copy of the above is forwarded to the: -
- 1- Superintendent Judicial Lockup Malakand. The above named newly appointed Warder is attached with his Jail for all purposes.
 - 2- District Accounts Officer Malakand.


SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

9/15/12

(2)

(B)

OFFICE OF THE SUPERINTENDENT JUDICIAL LOCKUP MALAKAND

Phone No. 0932-413050 & Fax No. 0932-413050

No 562 dated 28 / 03 / 2015

To,

The Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.

PRISONS DEPARTMENT	
General
Admin

[Signature]
31/3/15

Subject:- **DETAILMENT OF UNAUTHORIZED WATCH AND WARD STAFF AND CLASS -IV STAFF.**

R/Sir:-

Reference this office memo No. 557 dated; 27-03-2015 on the subject noted above.

The requisite information is submitted as under.

S#	Name with parentage	Designation	Name of officer/officials to which he presently attached for duty purpose
01	Murad Ullah S/o Farhad Khalil	Warder	Chief Minister Adviser office

[Signature]
SUPERINTENDENT
JUDICIAL LOCKUP MALAKAND

6033
31-3-2015

<http://www.dailymashriq.com.pk>

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

پشاور روزنامہ

سید تاج میر شاہ

مشرق

سلسلہ اشاعت کے 49 سال

ABC CERTIFIED

پشاور رسالہ آزاد سبیک وقت شائع ہونے والی کثیر الاشاعت قومی اخبار

جلد 49 | محتہ ہرک 14 ستمبر 1437ھ 27 نومبر 2015ء 12 ستمبر 2015ء | صفحہ 108

نوٹس غیر حاضری

آپ محسبی مراد اللہ ولد ملک فرہاد ظلیل سکنہ محلہ عمر زئی، مکان نمبر 1، گاؤں پاؤ کہ ضلع پشاور بطور جیل وارڈر آپ مورخہ 15/09/2015 سے جوڈیشل لاک اپ ملاکنڈ سے غیر حاضر ہیں۔ آپ کو درج بالا پتہ پر سپرنٹنڈنٹ جوڈیشل لاک اپ ملاکنڈ نے بذریعہ نوٹس نمبر 2393 مورخہ 09/10/2015 سے مطلع کیا گیا تھا لیکن آپ نے کوئی جواب نہیں دیا۔ آپ کو ہیڈ کوارٹر جیل پشاور سے نوٹس نمبر 2082 مورخہ 27/10/2015 کو مطلع کیا گیا لیکن آپ نے کوئی جواب نہیں دیا آپ کو دوبارہ شوکاژ نوٹس ہیڈ کوارٹر پشاور جیل سے نمبر 14-1912 مورخہ 06/10/2015 کو مطلع کیا گیا لیکن آپ نے پھر بھی کوئی جواب نہیں دیا آپ کو بذریعہ اشتہار ہذا مطلع کیا جاتا ہے کہ 15 دن کے اندر اندر ڈیوٹی کے لئے جوڈیشل لاک اپ ملاکنڈ میں اپنی حاضری یقینی بنائیں اور اپنی وضاحت کریں ورنہ آپ کے خلاف یکطرفہ قانونی کارروائی کی جائے گی۔

سپرنٹنڈنٹ ہیڈ کوارٹر ہائی سکیورٹی جیل مردان

INF(P)5310

"SAY NO TO CORRUPTION"



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Ames

DAILY EXPRESS

روزنامہ ایکسپریس

پاکستان کے 11 مسرول سے کوئی ایک روزنامہ لاکھ لاکھ لاکھ

57.614 | جمرات 13 ستمبر 1437ھ 26 نومبر 2015ء ص 12 قیمت 12 روپے

نوٹس فی ریاضی

آپ سبھی میرا اللہ ولد ملک فرحان طویل سکنہ محلہ عمر زئی، مکان نمبر 1، گاؤں چاؤڈا کے ضلع پشاور بطور جیل وارڈن آپ جنوری 15/09/2015 سے جوڈیشل لاک اپ ملا کئے سے غیر حاضر ہیں۔ آپ کو درج بالا پتہ پر سپرنٹنڈنٹ جوڈیشل لاک اپ ملا کئے نے بذریعہ نوٹس نمبر 2393 مورخہ 09/10/2015 سے مطلع کیا تھا لیکن آپ نے کوئی جواب نہیں دیا۔ آپ کو ہیڈ کوارٹر جیل پشاور سے نوٹس نمبر 2082 مورخہ 27/10/2015 کو مطلع کیا گیا لیکن آپ نے کوئی جواب نہیں دیا آپ کو دوبارہ شوکار نوٹس ہیڈ کوارٹر پشاور جیل سے نمبر 14-19 مورخہ 06/10/2015 کو مطلع کیا گیا لیکن آپ نے پھر بھی کوئی جواب نہیں دیا آپ کو بذریعہ اشتہار ہذا مطلع کیا جاتا ہے کہ 15 دن کے اندر اندر ڈیوٹی کے لئے جوڈیشل لاک اپ ملا کئے میں اپنی حاضری یعنی نمائندگی اور اپنی وضاحت کر لیں ورنہ آپ کے خلاف یکطرفہ قانونی کارروائی کی جائے گی۔

سپرینٹنڈنٹ ہیڈ کوارٹر ہائی سکیورٹی جیل مردان

INF(P)5310 "SAY NO TO CORRUPTION"

(1)

Better Copy

OFFICE ORDER

In exercise of powers under Rule 9 of Khyber Pakhtunkhwa Government servants (Efficiency & Disciplinary) Rules 2011, warder Murad Ullah, attached to Judicial lockup Malakand absented himself from his allotted duties as well as jail premises without prior permission of the Competent Authority w.e.f 15.09.2015. he was served with direct show cause notice under Rule-5 of the ibid rules by the superintendent Headquarters Prison Peshawar Vide No.1912-14 date 16.10.2015 and was direct to submit his reply with stipulated period, but he failed and remained at large.

He was served with another notice (Urdu Version) on his home address the superintendent Headquarters Prison Peshawar Vide No.2082 date 27.10.2015 and was directed to appear before the Competent Authority and show cause of his long absence but with no response.

Subsequently a notice was published in the Daily Express on date 26.11.2015 and on the daily Mashriq date 27.11.2015 wherein he was directed to appear before the undersigned and show cause of his long absence.

In pursuance of this advertisement, he submitted reply to show cause notice and after considering his reply unsatisfactory, he was afforded an opportunity of personal hearing after, which was also found unsatisfactory.

Hence after going through all the legal formalities, the under signed is pleased to impose upon him the major penalty of "Dismissal From Service" with immediate effect.

**SUPERINTENDENT
CIRCLE HQS, PRISON MARDAN**

Endst: No. 333-37/-

Copy of the above is forwarded to the :-

1. Inspector General of Prison Khyber Pakhtunkhwa Peshawar Please.
2. Superintendent Headquarters Prison Peshawar for information please.
3. Superintendent Judicial Lockup Malakand for information with reference to his Endst: No.2208 dated 22.09.2015.
4. District Accounts Officer, Malakand
5. Official concerned R/o Mohallah Umar zai house No 1 Village _____ Peshawar.

**SUPERINTENDENT
CIRCLE HQS, PRISON MARDAN**

(11)

(E) 653
Annex
2/3

OFFICE OF THE
SUPERINTENDENT
CIRCLE HQS. PRISON MARDAN

No. _____ /Dt: 09/12/2015

OFFICE ORDER

In exercise of powers under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011, warder Murad Ullah attached to Judicial Lockup Malakand absented himself from his allotted duties as well as jail premises without prior permission of the Competent Authority w.e.f 15-09-2015. He was served with direct show cause notice under Rule-5 of the ibid rules by the Superintendent Headquarters Prison Peshawar Vide No.1912-14 date 06-10-2015 and was directed to submit his reply with stipulated period, but he failed and remained at large.

He was served with another notice (Urdu Version) on his home address by the Superintendent Headquarter Prison Peshawar Vide No.2082 date 27-10-2015 and was directed to appear before the Competent Authority and show cause of his long absence, but with no response.

Subsequently a notice was published in the daily Express on date 26-11-2015 and in the daily Mashriq date 27-11-2015 wherein he was directed to appear before the undersigned and show cause of his long absence.

In pursuance of this advertisement, he submitted reply to show cause notice and after considering his reply unsatisfactory, he was afforded an opportunity of personal hearing, which was also found unsatisfactory.

Hence after going through all the legal formalities, the under signed is pleased to impose upon him the major penalty of "Dismissal from Service" with immediate effect.

SUPERINTEDENT
CIRCLE HQS. PRISON MARDAN

NFA

Endorsement No: 333-37 /-

Copy of the above is forwarded to the:-

- 1- Inspector General of Prisons Khyber Pakhtunkhwa Peshawar please.
- 2- Superintendent Headquarters Prison Peshawar for information please.
- 3- Superintendent Judicial Lockup Malakand for information with reference to his Indst: No.2208 dated 22-09-2015.
- 4- District Accounts Officer, Malakand.

Official concerned R/O Mohalla Umar Zai House No.1 Village Zai Peshawar.

SUPERINTEDENT
CIRCLE HQS. PRISON MARDAN

جناب انسپکٹر جنرل جیل خانہ جات صوبہ خیبر پختونخواہ پشاور

(F)

Annex

درخواست عمراد خالی نوکری۔

(1) یہ کہ سائل تقریباً 4 سال سے بطور جیل وارڈر آپ صاحبان کے زیر سایہ فرائض انجام دے رہا ہے اور مزید یہ کہ نوکری مزکورہ عرصہ کے دوران سائل سے کوئی کوتاہی سرزد نہ ہوئی

(2) یہ کہ سائل نے مزکورہ عرصہ کی ڈیوٹی جوڈیسیل لاک اپ مالا کنڈ میں انجام دینے کے بعد مجھے جناب ایڈوائزر صاحب کے ساتھ فرائض انجام دینے کے احکامات ملے اس عرصہ میں نے اپنی ڈیوٹی

(3) یہ کہ سائل اپنی ڈیوٹی پر موجود تھا کہ ایک دن سائل کو اخبار سے پتہ چلا کہ سائل کے خلاف حکیمانہ کارروائی کی جا رہی ہے اور سائل کو شوکار نوٹس بھی اشو گیا گیا جو کہ سائل کو تاحال موصول نہیں ہوا

(4) یہ کہ اخبار سے پتہ چلنے پر سائل مردان جیل پہنچا اور سپرنٹنڈنٹ جیل صاحب سے ملنے کی کئی بار کوشش کی لیکن سپرنٹنڈنٹ صاحب ملنے سے انکاری رہے اور سائل کو

(5) سائل نے کئی بار کوشش کی کہ سپرنٹنڈنٹ صاحب کے روبرو پیش کر کے سارا معاہرہ لیکن سائل کو یہ ہی بتایا گیا کہ سپرنٹنڈنٹ صاحب چھٹی ہر ہیں موجود نہیں ہیں

Dismissal from Service

مینگ کے لیے گئے ہیں جو کہ سب جھوٹ تھا اور سائل کو اپنی
 صفائی پیش کرنے کا ایک بھی موقع نہ دیا گیا جو کہ
 سراسر ظلم ہے

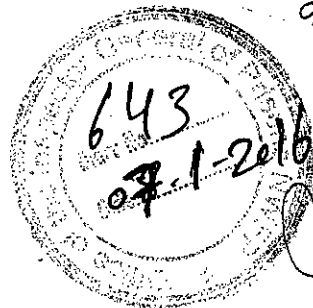
۶۱ یہ کہ سائل ایک مزید گھرانے سے تعلق رکھتا ہے
 اور سائل کا کوئی اور کفیل نہیں اسے گھر والوں کا خیال
 رکھنے کا

۶۲ یہ کہ سائل نے ہمیشہ اپنی ٹیوٹی نہایت اعلیٰ ندری سے کی اس
 کے باوجود سائل کو نوکری سے درخواست کر کے سخت سزا دی گئی
 جو کہ نہایت ظلم اور خلاف قانون اور ضابطہ کے اختلاف
 کے خلاف ہے

سائل آپ صاحبان سے بذریعہ درخواست التجاء کرتا
 ہے کہ سائل کو نوکری پر خیال کر کے اور اسکے بال طور
 اور والدین پر رحم فرمائیں۔ سائل اور اسکے معصوم
 بچے آپ صاحب کی سر بلندی کے لیے تا حیات دعا گو
 رہیں گے

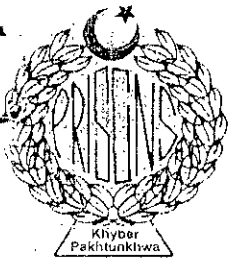
العادین

آپ کا فرما بردار
 مراد اللہ
 جیل وارڈر



08/01/16

12/01/16



14
OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No.Estb/Ward-/Orders/ 5315 1-

Dated 25-02-2016 1-

ORDER

WHEREEAS, Warder Murad Ullah s/o Malik Farhad Khalil attached to Judicial Lockup Malakand was dismissed from service by Superintendent Headquarters Prison Mardan vide Order No.332 dated 09-9-2015, due to his willful absence from duty with effect from 15-09-2015 to 08-12-2015.

AND WHEREAS, the said Warder preferred his departmental appeal for setting aside of his Dismissal order, which was examined in light of the available record of the case and it was observed that the appellant remained absent/absconder for the period as mentioned above but the competent authority awarded major penalty of "Dismissal from Service" instead of "Removal from Service" as required under Rule -9 of E&D Rules, 2011.

AND WHEREAS, he was afforded an opportunity of personal hearing on 23-02-2016. During the course of hearing he failed to defend / justify his willful absence and on the other hand competent authority has fulfilled all legal / codal formalities as defined in Rule-9 in the case in hand.

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

Endst; No. 5316-19 1-

25/2/16
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Copy of the above is forwarded to the: -

- (1) Superintendent Headquarters Prison Mardan for information and necessary action with reference to his letter No.771/WE dated 30-1-2016.
- (2) Superintendent Judicial Lockup Malakand.
- (3) District Accounts Officer Malakand .

For information and necessary action.

- (4) Appellant concerned for information.

35/2
ASSISTANT DIRECTOR (ADMN)
FOR INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Before Service Tribunal Khyber پیدالت

Pakhtunkhwa

Appellant 2 منجانب / Appeal No 2016

Murad Ullah

VS

Govt. of K.P. through Inspector General of Police باعث تحریر آئی

موزخه
مقدمہ
دعوی
جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی و دیگر کارروائی متعلقہ
آن مقام سروں کے لئے در حال کارروائی کے لئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعوی اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعوی اور درخواست ہر قسم کی تصدیق
زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لانا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پر داخست منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے رہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

المترقوم 18 02 2016

واہ العی

Accepted کے لئے منظور ہے

مقام
رہا

41

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

In the matter of

Service appeal No.338 of 2016

Ex-warder Muradullah attached to Judicial Lockup Malakand,
R/O Mohalla Umar Zai House No.1 Village Pawakai PeshawarAppellant.

---VERSUS---

(1) Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar,
(2) Superintendent Headquarter Prison MardanRespondents

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS

PRELIMINARY OBJECTIONS

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

PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENT FROM 1 TO 8

RESPECTFULLY SHEWITH.

- 1- Pertaining to the record, hence no comments.
- 2- Not correct, misleading, his current attitude does not fulfill the requirements and totally opposes the core of decorum and requirements of uniform job, Furthermore all the formalities have been completed under the rules in vogue, he has been afforded reasonable opportunity of showing cause of his long absence / desertion, but nor he appeared before the competent authority neither even bother to submit reply to show-cause within the stipulated period as mentioned there in the newspapers.
- 3- Incorrect, misleading, the appellant was attached to Judicial Lockup Malakand not to High Security Prison Mardan, neither the jail officials are allowed to perform their duties in out jurisdiction.
- 4- In correct, misleading, the appellant has been awarded the Major penalty of " Removal from Service" due to his gross misconduct/ long desertion while he was attached to Judicial Lockup Malakand, the appellant has mentioned this for the misappropriation of Honorable Tribunal that he was Removed from Service while he was attached to Advisor to CM (For Prisons).
- 5- Incorrect, misleading, he was served with show cause notice vide No. 1912-14 dated 06-10-2015,(Annex A) but he failed and did not bother to submit his written defense/reply, he was informed through the newspaper to appear before the Competent Authority to explain his

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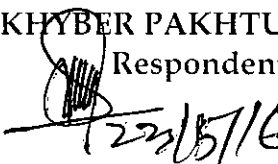
- position and to show cause of so long and unavoidable desertion, but he did not even bother to do so, which brought the current situation towards his major penalty which is totally covered with law and rules in vogue.
- 6- In correct, misleading, he was served with show cause notice vide No. 1912-14 dated 06-10-2015, and he was required to submit reply within stipulated period but he ever turned deaf year to the lawful orders of his high-ups. Lastly he was informed through press to comply, but again he put the orders flip-side, so no question arises that codal formalities are by-passed, furthermore his appeal has already been dismissed by Appellant Authority i.e. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar as being not covered with law and rules (Annex B).
 - 7- As already elaborated in para-6.
 - 8- As already elaborated in para-6 above.

GROUNDS

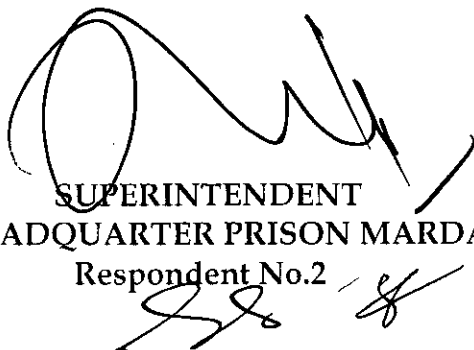
- a. Incorrect, misleading, the orders passed by the competent authority & Appellate Authority are totally in accordance with (E&D) Rules, 2011, thus the appeal filed by the appellant for setting aside the major penalty against him may be rejected being not in accordance with rules.
- b. In correct, misleading, no such like correspondence has been found, he was awarded the major penalty due to his long desertion from duty as evident from the Superintendent Judicial Lockup Malakand endorsement No.2206 dated 22-09-2015(Annex C).
- c. In correct, misleading, as already elaborated in Para-6 above.
- d. In correct, misleading, as already elaborated in Para-5.
- e. Pertaining to the record, hence no comments, furthermore he failed to perform his duties efficiently, which brought the current situation towards his major penalty.
- f. In correct, misleading, as already elaborated in Para-2 above.
- g. In correct, misleading, the order passed by the Competent Authority is totally in accordance with rules.
- h. In correct, misleading, he was tried to be contacted through every possible source for personal hearing and even through press, but he did not even bother to appear before the Competent Authority within stipulated period, hence the Competent Authority has the right to take ultimate steps against the appellant in light of his gross misconduct.
- i. In correct, misleading, the appellant had himself brought the current situation towards his major penalty.
- j. All the legal formalities and rules in vogue have been implemented.

It is therefore humbly prayed that the appeal filed by the Appellant may be rejected being not covered with law and rules please.

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


22/5/16

(2) SUPERINTENDENT
HEADQUARTER PRISON MARDAN
Respondent No.2


22/5/16

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

In the matter of

Service appeal No.338 of 2016


Ex-warder Muradullah attached to Judicial Lockup Malakand,
R/O Mohalla Umar Zai House No.1 Village Pawakai PeshawarAppellant.

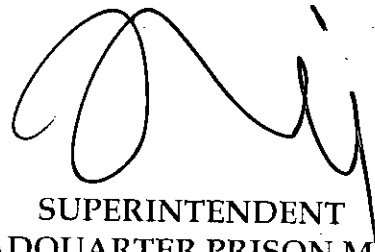
----VERSUS----

(1) Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar,
(2) Superintendent Headquarter Prison MardanRespondents

AFFIDAVIT

We, the respondents No.1 & 2, do hereby solemnly declare on oath that the contents of the reply are true and correct to the best of our knowledge and nothing has been concealed and kept secret from this Honorable Court.

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

(2) 
SUPERINTENDENT
HEADQUARTER PRISON MARDAN
Respondent No.2



OFFICE OF THE SUPERINTENDENT
JUDICIAL LOCKUP MALAKAND

Tel: 0932-413050, Fax: 0932-413050

No 2206 Dated 22/09/2015

47

To,

The Superintendent,
Circle HQ Prison Peshawar.

DNo 2690
29/9/15

Subject: - DISCIPLINARY ACTION.

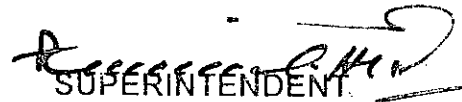
Memo,

It is submitted that **Warder Murad Ullah** was sent to Special Home Secretary Office for personal hearing, reference to the telephonic conversant by Mr. Zahid Nawaz, Superintendent, I.G Office Peshawar with the undersigned on 15-09-2015.

It is further submitted that the aforementioned warder has not resumed his duty after personal hearing and still absent from his duty as well as Jail Premises upto. date i.e. 22-09-2015 without permission of the competent authority.

It is therefore requested that strict disciplinary action may be initiated against the said Warder Efficiency & disciplinary Rules 2011.

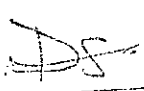
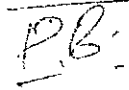
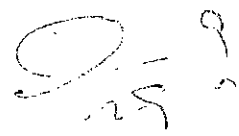
Submitted for further necessary action please.


SUPERINTENDENT
JUDICIAL LOCK UP MALAKAND 22/9/15

No _____/.

Copy of the above is forwarded to:

1. The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information please.
2. The Superintendent Circle HQ, High Security Prison Mardan for information please.


SUPERINTENDENT
JUDICIAL LOCK UP MALAKAND

C.A.

58

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

You, Warder Muradullah attached to Judicial Lockup Malakand were relieved to appear before the Special Home Secretary for personal hearing on 15-09-2015 and you were due to resume on the very next date, but you failed and are still at large, which constitutes gross misconduct on your part.

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

Now therefore, you above named Warder are hereby called to show cause within 07 days of the receipt of this notice as to why you should not be dismissed from service for your above stated act of misconduct.

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

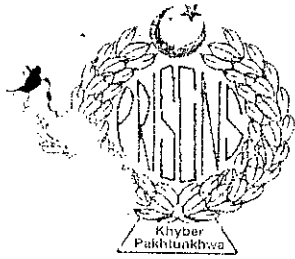
SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR

Endorsement No: 1912-14 / - dated: 06/10/2015

Copy of the above is forwarded to the: -

- 1- Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
- 2- Superintendent Judicial Lockup Malakand with reference to his report No. 2206 dated 22-09-2015.
- 3- Above named Warder C/o Superintendent Judicial Lockup Malakand.

SUPERINTENDENT
HEADQUARTERS PRISON PESHAWAR



Diry No 489
2-9/2/16

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No.Estb/Ward-/Orders/ 5315 / -

Dated 25-02-2016

ORDER

WHEREEAS, Warder Murad Ullah s/o Malik Farhad Khalil attached to Judicial Lockup Malakand was dismissed from service by Superintendent Headquarters Prison Mardan vide Order No.332 dated 09-9-2015, due to his willful absence from duty with effect from 15-09-2015 to 08-12-2015.

AND WHEREAS, the said Warder preferred his departmental appeal for setting aside of his Dismissal order, which was examined in light of the available record of the case and it was observed that the appellant remained absent/absconder for the period mentioned above but the competent authority awarded major penalty of "Dismissal from Service" instead of "Removal from Service" as required under Rule -9 of E&D Rules, 2011.

AND WHEREAS, he was afforded an opportunity of personal hearing on 23-02-2016. During the course of hearing he failed to defend / justify his willful absence and on the other hand competent authority has fulfilled all legal / codal formalities as defined in Rule-9 in the case in hand.

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

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

Endst; No. 5316-19 / -

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- (1) Superintendent Headquarters Prison Mardan for information and necessary action with reference to his letter No.771/WE dated 30-1-2016.
 - (2) Superintendent Judicial Lockup Malakand.
 - (3) District Accounts Officer Malakand .
- For information and necessary action.
- (4) Appellant concerned for information.

ASSISTANT DIRECTOR (ADMN)