

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	21.05.2015	<p style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p style="text-align: center;">Service Appeal No.895/2012,</p> <p>Said Rahman Versus Secretary, Government of Khyber Pakhtunkhwa Home & Tribal Affairs Department, Peshawar etc.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Appellant with counsel (Mr. Rizwanullah, Advocate) and Mr. Muhammad Jan, Government Pleader with Sheryar, Asstt. Superintendent Jail, for the respondents-department present.</p> <p>2. The instant appeal has been filed by Mr. Said Rahman, Ex-Warder under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 09.5.2012 passed by the Inspector General of Prisons Khyber Pakhtunkhwa. The appellant has prayed that the impugned order may be set aside and he may be reinstated in service with all back benefits.</p> <p>3. This judgment of ours will also dispose of the appeals submitted by other warders under Appeals No. 973/2012 Muhammad Ayub, No. 1016/2012 Ihsan Ullah, No. 1031/2012 Akhtar Munir and No. 1041/2012 Muhammad Saleem, who were aggrieved from the orders of competent and appellate authorities in the incident of escape of prisoners from central prison, D.I.Khan.</p> <p>4. Facts giving rise to the instant appeal are that appellant was</p>

serving as Warder in the Central Prison, D.I.Khan. That in the night of 23/24.07.2011 at 2.30 A.M five convict prisoners escaped from Barrak No. 6 Sector-2 of the prison. The aforesaid escape was attributed to the negligence of the concerned watch & ward staff. Appellant as well as appellants in the connected appeals were placed under suspension and criminal case was also registered against them under Sections 223, 224, 225, 225(A) PPC vide FIR No. 446 dated 24.07.2011 P.S Cantt. D.I.Khan. Enquiry was conducted and appellant was served with charge sheet and statement of allegations and as a result of that appellant was awarded major punishment of removal from service vide order dated 09.5.2012. The appellant preferred a representation against the said order of removal on 23.05.2012 which was not responded after lapse of statutory period, hence the instant appeal.

Q.F.1.

5. The learned counsel for the appellant argued that appellant was not associated with the enquiry nor was any prosecution witness examined in his presence. Statements of the appellant as well as his witnesses were also not recorded. That the duty of the appellant had to commence from 3.00 AM while the occurrence took place before the said time but the enquiry committee over looked that aspect. He further submitted that the Judicial Magistrate acquitted him and other of the charges made in the FIR vide judgment dated 19.05.2012. He further stated that the enquiry committee held other Warders such as Mr. Muhammad Saleem, Noor Islam and Ihsanullah guilty of mis-conduct and recommended major penalty against them but appellant was awarded major penalty of removal from service while other Warders were reduced to lowest stage in time pay scale for five years/withholding of annual increments for three years. He stated that

this amounted to discrimination and violation of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973. The august Supreme Court of Pakistan in various judgments held that equality is fundamental right of every citizen, thus the impugned order was not sustainable in the eyes of law. That the appellant was not provided with opportunity of personal hearing before imposition of the major penalty despite the fact that he requested for the same. Thus the impugned order is liable to be set aside on this score alone. He prayed that the appeal may be allowed and the impugned order may be set aside. He relied on 1997-SCMR-1073, 2004 PLC(C.S) 598, 2009-SCMR-187, PLD 2002 Supreme Court-46, PLD 2010-Supreme Court-745 and 2010-PLC(C.S)1299.

6. The learned Government Pleader argued that proper enquiry was conducted, charge sheet and statement of allegations were served upon the appellant and opportunity of personal defence was provided to him before imposition of the penalty. He submitted that enquiry depicted that occurrence of escape started at 2.30 AM and continued for almost two hours hence it proved negligence of the appellant who assumed duties at 3.00 AM. The enquiry report was therefore, comprehensive and did not ignore any aspect of the incident. He further argued that acquittal of the appellant in the criminal case has no bearing on the outcome of departmental proceedings which under the law can run simultaneously and end differently. He prayed that being devoid of any merits, the appeal may be dismissed.

7. Arguments of the learned counsel for the parties heard and record perused with their assistance.

8. On perusal of the record it transpired that the present appellant and appellants in the connected appeals were proceeded against for the charges as mentioned below against their names.

Sr. No.	Name of appellant	Charges.
1.	Said Rahman	On the night of occurrence of escape of five convicted prisoners from barrack No. 6 of Sector No. 2 of the jail on 23/24.07.2011, he performed duties at outer beat No. 2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform his duty efficiently and also failed to prevent the escape, which shows slackness on his part and contributed towards ugly incident
2.	Muhammad Ayub	On the night of occurrence of escape of the convicted prisoners from barrack No. 6 Sector No. 2 of the jail on 23/24.7.2011, he performed duties at inner beat No. 4 from 3.00 AM on 6.00 AM but he failed to report the fact that three bed sheets knotted together were lying at beat No. 4 which was used by the escapees in scaling over the wall. If he reported in time such un-usual thing to the concerned staff the escape could have been prevented as the escapees spent more than 01 hour and 45 minutes in jail factory before finally escaping from the jail, hence his this irresponsible act contributed towards such ugly incident and thus he has committed grave mis-conduct on his part by violating Rules-1072, 1095, 1147 and 1148 of NWFP Prison Rules, 1985.
3.	Ihsan Ullah	On the night of occurrence of escape of five convicted prisoners from barrack No. 6 of Sector No. 2 of the jail on 23/24-7-2011, he performed duties as Patrolling Officer of Sector No. 2 & 3 from 3.00 AM to 6.00 AM but he failed to keep the warder alert on duty beat No. 4 as well as to notice and report the fact that three

Q.F.1.

R.F.I.		bed sheets lying on ground at beat No. 4 which was used by the escapees in scaling over the wall. If he noticed and reported the incident timely then the escape could have been prevented as the escapees spent more than one hour and 25 minutes in jail factor before finally escaping from the jail, hence his this irresponsible act contributed towards such ugly incident and thus he has committed grave mis-conduct on his part by violating Rule 712 NWFP Prisons Rules, 1985.				
	4.	Akhtar Munir	On the night of occurrence of escape of five convicted prisoners from barrack No. 6 Sector No. 2 of the jail on 23/24-7-2011, he performed duties at inner beat No. 4 from 12.00 to 3.00 AM through which the escapees scaled over the wall between the jail and jail factory at about 2.30 AM, but he failed to prevent the escape and as such he was not alert on place of his duty and main culprit of this ugly incident, thus he has violated Rules-1072, 1095, 1147 & 1148 of NWFP Prison Rules, 1985.			
	5.	Muhammad Salim	On the night of occurrence of escape of five convicted prisoners from barrack No. 6 of Sector No. 2 of the jail on 23/24-7-2011, he performed duties at outer beat No. 3 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform his duty efficiently and also failed to prevent the escape, which shows slackness on his part and contributed towards ugly incident.			
<p>Findings of enquiry against the above noted appellants and recommendations of enquiry committee are as noted below:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Name of appellant</th> <th>Findings and recommendations of Enquiry Committee.</th> </tr> </thead> <tbody> <tr> <td>Said Rahman</td> <td>He was performing duties at outer beat No. 2 from 3.00 to 6.00 A.M which is the time</td> </tr> </tbody> </table>			Name of appellant	Findings and recommendations of Enquiry Committee.	Said Rahman	He was performing duties at outer beat No. 2 from 3.00 to 6.00 A.M which is the time
Name of appellant	Findings and recommendations of Enquiry Committee.					
Said Rahman	He was performing duties at outer beat No. 2 from 3.00 to 6.00 A.M which is the time					

		when escapees crossed the parameter wall and the boundary wall. He did not perform his duties and failed to stop escapees from the escape. Therefore, the committee recommends major penalty for him.
	Muhammad Ayub	He was performing the duties at Inner beat No. 4 from 3:00 to 6:00 AM on the night of the occurrence. He did not report about incident for timely action. Therefore, the committee recommends major penalty for him.
	Ihsan Ullah	He was patrolling officer of Sector no. 2 & 3 from 3:00 to 6:00 AM on the night of the occurrence Internal beat no. 4 also fell under his charge where from the escapees had scaled over the wall between the jail and the jail factory. Timely detection and reporting could have prevented the escape because of escapees spent more than 02 hours in the jail factory. He also failed to keep the warder at beat no. 4 alert thus he bitterly failed to perform his duties in accordance with Prison Rule 712, which facilitated the escapees from the jail. Therefore, the committee recommends Major Penalty for him.
	Akhtar Munir	He was performing duties at beat no. 4 from 12:00 to 3:00 which is the point at which the escapees scaled over the wall between the jail & the jail factory at about 2:30 AM. He failed to prevent the escape and is the main culprit. Therefore, the committee recommends Major Penalty for him.
	Muhammad Saleem	He was performing duties at outer beat no. 3 from 3:00 to 6:00 AM, the time when the escapees crossed the outer wall of the jail

Q.F.1.

factory and the compound wall between the jail and outer road. He did not perform his duties and failed to stop the escapees from crossing the jail walls. Therefore, the committee recommends Major Penalty for him.

9. This Tribunal feels that appellants were proceeded against for identical charge of failure to stop the escape of prisoners enquiry whereof was conducted by the enquiry committee which attributed the escape to the failure on the part of all of them and recommended major penalty for them as may be perused in concluding para of the enquiry report, and reproduced above. The competent authority while awarding punishment to the appellants imposed major penalty of removal on Mr. Said Rahman, Mr. Muhammad Ayub and Mr. Akhtar Munir while penalty of reduction to lowest stage of the pay scale was imposed on Mr. Ihsanullah and Mr. Muhammad Saleem. The treatment meted out to the appellants thus seems uneven and the Tribunal considers it appropriate to interfere and modify the impugned order dated 9.5.2012 to the extent of conversion of penalty of removal of Ex-Warder Said Rahman (Appeal No. 895/2012), Ex-Warder Muhammad Ayub (Appeal No. 973/2012), and Ex-Warder Mr. Akhtar Munir (Appeal No. 1031/2012) into reduction to the lowest stage of the pay scale for five years. ^A *The intervening period shall be treated leave of the type due.* ^A The rest of the penalties are left intact. Parties are left to bear their own costs. File be consigned to the record.


ANNOUNCED
21.5.2015.


(PIR BAKHSH SHAH)
MEMBER


(ABDUL LATIF)
MEMBER

5.5.2015

Appellant in person and Mr. Sheryar, ASJ for the respondents present. The learned Member (Judicial) is on leave, therefore, case to come up for order/further proceedings on 21.5.2015.



MEMBER

21.05.2015

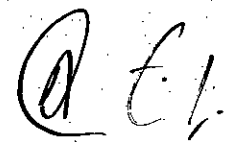
Appellant with counsel and Mr. Muhammad Jan, GP with Sheryar, Asstt. Supdt. Jail for the respondents present. Arguments heard. Record perused. Vide our detailed judgment of to-day and placed in this file, this appeal is disposed of as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED

21.05.2015



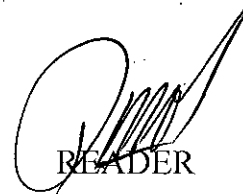
MEMBER



MEMBER

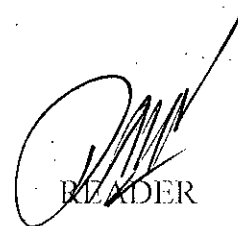
28.11.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Sheryar, ASJ for the respondents present. The Tribunal is incomplete. To come up for the same on 31.12.2014.


READER

31.12.2014

Clerk to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Sheryar, ASJ for the respondents present. The Tribunal is incomplete. To come up for the same on 18.2.2015.


READER

18.2.2015

Appellant with counsel and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. Arguments heard. To come up for order on 16.3.2015.


MEMBER


MEMBER

16.3.2015

Appellant in person and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. Perusal of record reveals that through the impugned order 10 accused-officials were penalized whereas only five appeals have been fixed for arguments. In order to avoid conflicting judgments, office is directed to club appeals of other appellants, if any, with the instant case. Case is adjourned to 5.5.2015 for order/further proceedings.


MEMBER


MEMBER

29.05.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. The learned GP needs time to go through the record. To come up for arguments on 26.6.2014.

MEMBER

MEMBER

26.6.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. Counsel for the appellant needs time. To come up for arguments on 26.09.2014.

MEMBER

MEMBER

26.09.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, ASJ for the respondents present. Due to incomplete Bench, case is adjourned to 21.10.2014 for arguments.

MEMBER

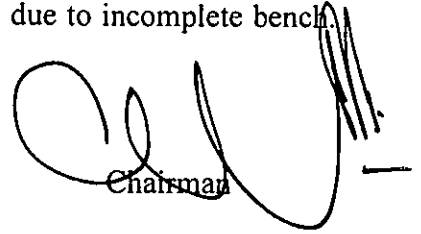
21.10.2014

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Sheryar, ASJ for the respondents present. Due to incomplete Bench, case is adjourned to 28.11.2014 for arguments.

MEMBER

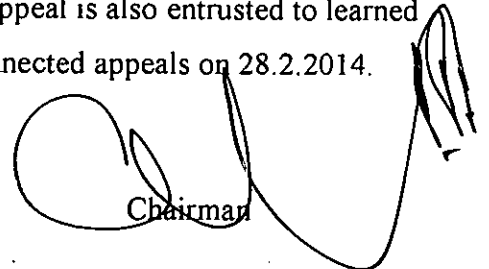
12.7.2013

Appellant with counsel and Mr. Sheharyar, Assistant for respondents with Mr. Usman Ghani, Sr. GP present. Representative of the respondents produced copies from record of the departmental proceedings. Arguments could not be heard due to incomplete bench. To come up for arguments on 2.1.2014.


Chairman

02.01.2014

Appellant with counsel and Mr. Sheharyar Khan, Assistant for respondents with AAG present. Representative of the respondents informed that three similar nature cases relating to the same incident are pending before learned Bench-II and fixed for arguments on 28.2.2014. Therefore, in order to avoid chances of conflicting decisions in similar nature case, this appeal is also entrusted to learned Bench-II for arguments alongwith connected appeals on 28.2.2014.


Chairman

28.2.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Sheryar, Assistant Supdt. Jail for the respondents present. Counsel for the appellant needs time. To come up for arguments on 22.4.2014.


MEMBER


MEMBER

22.4.2014

Junior to counsel for the appellant and AAG with Sheryar, ASJ for the respondents present. Due to general strike of the Bar, counsel for the appellant is not available. To come up for arguments on 29.5.2014.


MEMBER


MEMBER

28-11-12

Appellant Present in Person. The Honorable bench
is on leave therefore, case is adjourned to

4-1-13.

D
Reedus

04.01.2013.

Counsel for the appellant and Mr. Shehryar Khan, Assistant
with Mr. Shakirullah, GP for the respondents present. Written reply
on behalf of the respondents,
received/copy whereof is handed over to the learned counsel for the
appellant for rejoinder on 08.03.2013.

Member

Chairman

08.3.2013

Appellant with counsel and Mr. Sheharyar, Assistant with AAG
for the respondents present. Rejoinder has not been received, and learned
counsel for the appellant stated that there is no need to file rejoinder. The
learned counsel for the appellant requested for production of record of the
departmental proceedings by the respondent-department. Therefore, the
respondent-department is directed to produce complete record of the
departmental proceedings for arguments on 12.7.2013.

Chairman

Appeal No. 895/2012.
Mr. Saïd Reelmaan.

3. 2.10.2012

Counsel for the appellant present and heard. Contended that the appellant was appointed against the post of Warder Central Prison D.I.Khan. On 23/24.7.2011 five convict prisoners escaped from D.I.Khan Jail. The appellant alongwith other concerned staff were placed under suspension and FIR dated 24.7.2011 P.S. D.I.Kan was lodged. The appellant was served with a charge sheet. A so-called inquiry was conducted at the back of appellant. The appellant was not provided the opportunity to cross examine the witnesses. The statement of appellant was also not recorded during the inquiry. The duty of the appellant was commenced from 3.00 AM to 6.00 AM while the occurrence took place before the said time. The appellant has been acquitted of the charges on the basis of which he was terminated. The appellant has been discriminated as his other colleagues charged in similar circumstances, have been awarded minor penalties while the appellant has been awarded the penalty of removal from service. After exhausting departmental remedy on 23.5.2012, the appellant approached this Tribunal on 23.8.2012. In support of his arguments, the learned counsel for the appellant relied on PLD-2003-Supremem Court-187. Points raised 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. Case adjourned to 28.11.2012 for submission of written reply.

Appellant deposited security
Process fee Rs 180/- Bank receipt
is attached with file


Member.

4. 2.10.2012

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


Member.

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No. 895/2012.....of.....

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
1-	23/08/2012	<p>The appeal of Mr. Said Rehman presented today by Mr. Riazwanullah Adv; may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	3-9-2012	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>2-10-2012</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

In the matter
Service Appeal No. 895 /2012

Said Rahman
Ex-Warder

VERSUS

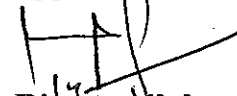
Secretary, Government of
Khyber Pakhtunkhwa,
Home & Tribal Affairs
Department Peshawar etc.

I N D E X

S.No	Particulars	Annexure	Pages #
1	<i>Service Appeal</i>	-	1-6
2	<i>Affidavit</i>	-	7
3	<i>Copy of Charge Sheet alongwith a statement of allegations</i>	"A and B"	8-9
4	<i>Copy of reply to the Charge Sheet</i>	"C"	10
5	<i>Copy of Enquiry Report</i>	"D"	11 to 13
6	<i>Copy of Judgment dated 19.5.2012</i>	"E"	14 to 19
7	<i>Copy of Show Cause notice</i>	"F"	20
8	<i>Copy of reply to the Show Cause notice</i>	"G"	21
9	<i>Copy of impugned order dated 9.5.2012</i>	"H"	22
	<i>Copy of Departmental Appeal dated 23.5.2012</i>	"I"	23-24
10	Wakalatnama		25

Through

Appellant


Rizwanullah
M.A. LL.B

Advocate High Court,
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 895 /2012

Said Rahman S/O Abdullah Jan
Ex-Warder R/O Chowarkhel
Tehsil and District Lakki Marwat,

Appellant

VERSUS

1. The Secretary,
Government of Khyber Pakhtunkhwa,
Home & Tribal Affairs Department
Peshawar.
2. The Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar.
3. The Superintendant,
Central Prison,
D.I.Khan

Respondents

**APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED ORDER NO. 3/14-J-
1979/10924 DATED 9.5.2012 PASSED BY
THE INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA, PESHAWAR
(RESPONDENT NO.2).**

Prayer in Appeal

*On acceptance of this appeal, the impugned order
No. 3/14-J-1979/10924 dated 9.5.2012 in respect of
appellant may very graciously be set aside and the*

appellant may be re-instated in Service with full back wages and benefits.

Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. *That the appellant was serving as Warder (B-5) in Central Prison, Dera Ismail Khan at the relevant time under the Administrative control of Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar.*
2. *That the appellant was performing his duty with great zeal and vigour and no complaint whatsoever was received against him to his superiors.*
3. *That on 23/24.07.2011 at 02:30 AM (Mid Night) five convict prisoners escaped from Barrack No. 6 Sector 2 of Central Prison D.I.Khan. The aforesaid escape had been allegedly attributed to the negligence of the concerned Watch and Ward staff. Therefore, the appellant as well as other employees were placed under suspension and a criminal case was also registered against them under sections 223-224-225-225(A) PPC vide FIR No. 446 dated 24.7.2011, Police Station Cantt, D.I.Khan.*
4. *That the appellant was served with a Charge Sheet alongwith statement of allegations (copy Annex-A and B).*
5. *That the appellant submitted reply to the Charge Sheet wherein, he denied the allegations leveled against him (Copy Annex-C).*

6. *That the respondent No. 2 conducted so-called enquiry at the back of the appellant in which the appellant had neither participated nor any witness was examined in his presence.*
7. *That the appellant was not provided any opportunity to cross-examine the prosecution witnesses. The statements of the appellant as well as his witnesses were also not recorded during the enquiry. Thus, he was denied opportunity of defence.*
8. *That the duty of the appellant had to commence from 03:00AM to 06:00AM while, the occurrence took place before the said time as apparent from the Enquiry Report (Copy Annex-D). But the enquiry committee has over looked this aspect of the case. Therefore, the appellant could not be made responsible for the said lapses.*
9. *That the appellant including other employees were tried by the learned Judicial Magistrate-1, D.I.Khan and were acquitted from the charges leveled against them in the FIR vide Judgment dated 19.5.2012 (Copy Annex-E).*
10. *That the appellant was served with Show Cause notice (Copy Annex-F). He submitted reply and denied the allegations and also termed the findings of the enquiry committee as illegal and perverse (Copy Annex-G).*
11. *That the appellant was awarded major penalty of removal from service by an order dated 9.5.2012 passed by respondent No. 2 (copy Annex-H).*
12. *That the appellant felt aggrieved by the aforesaid order No. 3/14-J-1979/10924 dated 9.5.2012 filed a Departmental Appeal / Representation with the respondent No. 1 on*

23.05.2012 (Copy Annex-I). But no reply was given after lapse of statutory period of 60 days as required under the law.

13. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds.

GROUND OF APPEAL

- A. That the enquiry committee held Muhammad Salim, Noor Islam, Ihasanullah and Said Rehman (Appellant) Warders guilty of mis-conduct and recommended major penalty. But, the Competent Authority had awarded major penalty to the appellant only and the remaining Warders were imposed lesser punishment of "reduction to lowest stage in present time pay scale for five years/withholding of annual increment for three years". This is a disparity and anomaly and is also violation of Article 25 of the Constitution of Islamic republic of Pakistan, 1973 which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is fundamental right of every citizen. Thus, the impugned order is not sustainable in the eyes of law.
- B. That the enquiry committee also held Musharaf Shah Assistant Superintendant Jail guilty of mis-conduct but was recommended minor penalty on the ground that he was "newly appointee and was untrained person". Thus, the enquiry committee has protected the said officer without any valid justification while the rest of low paid employees were recommended for awarding major penalty. Hence, the act of the enquiry committee was discriminatory in nature.

23.05.2012 (Copy Annex-I). But no reply was given after lapse of statutory period of 60 days as required under the law.

13. That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds.

GROUND OF APPEAL

A. That the enquiry committee held Muhammad Salim, Noor Islam, Ihasanullah and Said Rehman (Appellant) Warders guilty of mis-conduct and recommended major penalty. But, the Competent Authority had awarded major penalty to the appellant only and the remaining Warders were imposed lesser punishment of **“reduction to lowest stage in present time pay scale for five years/withholding of annual increment for three years”**. This is a disparity and anomaly and is also violation of Article 25 of the Constitution of Islamic republic of Pakistan, 1973 which has unequivocally laid down that all citizens placed in similar circumstances are entitled to equal treatment and protection of law. The Hon'ble Supreme Court of Pakistan through various judgments has maintained that equal treatment is fundamental right of every citizen. Thus, the impugned order is not sustainable in the eyes of law.

B. That the enquiry committee also held Musharaf Shah Assistant Superintendant Jail guilty of mis-conduct but was recommended minor penalty on the ground that he was **“newly appointee and was untrained person”**. Thus, the enquiry committee has protected the said officer without any valid justification while the rest of low paid employees were recommended for awarding major penalty. Hence, the act of the enquiry committee was discriminatory in nature.

- C.** *That no fair and impartial enquiry was constituted against the appellant. The prosecution witnesses were not examined in the presence of the appellant. He was also not provided any opportunity to cross-examine the witnesses. The statements of appellant and his witnesses were also not recorded by the enquiry committee. Thus, the appellant has been condemned/penalized without being heard, contrary to the basic principle of natural justice known as "Audi Alteram Partem". Therefore, the impugned order is against the spirit of law.*
- D.** *That the appellant was not provided any opportunity of personal hearing before imposition of major penalty of removal from service despite the fact that the appellant had made a request for the said opportunity of personal hearing. Thus, the impugned order is liable to be set-aside on this score alone.*
- E.** *That respondent No. 2 has passed impugned order in mechanical manner and the same is perfunctory as well as non-speaking and also against the basic principle of administration of justice. Therefore, the above order is not warranted by law.*
- F.** *That the impugned order of respondent No. 2 is suffering from legal infirmities and as such has caused miscarriage of justice.*
- G.** *That the impugned order of respondent No. 2 is the result of misreading and non-reading of relevant documents. Hence, it is liable to be set aside.*

H. That the impugned order of respondent No. 2 is against law, facts of the case and norms of natural justice. Therefore, the same is untenable in the eyes of law.

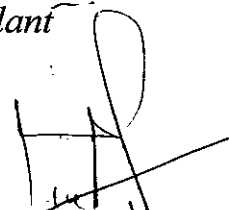
I. That the impugned order is based on surmises and conjectures. Hence, the same is not sustainable under the law.

In view of the above narrated facts and grounds, It is, therefore, humbly prayed that the impugned order No. 3/14-J-1979/10924 dated 9.5.2012 of the respondent No.2 may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.

Any other relief deemed proper and just in the circumstances of the case, may also be granted.

S. Rehman
Appellant

Through


Rizwanullah
M.A. LL.B

Advocate High Court, Peshawar

BEFORE THE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

In the matter
Service Appeal No. _____/2012

Said Rahman
Ex-Warder

VERSUS

Secretary, Government of
Khyber Pakhtunkhwa,
Home & Tribal Affairs
Department Peshawar.

AFFIDAVIT

I, Said Rahman S/O Abdullah Jan R/O Chowarkhel Tehsil and District Lakki Marwat, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal



23/08/12

S. Rehman
Deponent

8

Annex - A

CHARGE SHEET

I, **Qudratullah Khan Marwat** I.G. Prisons Khyber Pakhtun Khwa Peshawar, as competent authority, hereby charge you **warder (under suspension) Said Rahman** attached to Central Prison D.I.Khan as follows :-

On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, you performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform your duty efficiently and also failed to prevent the escape, which shows slackness on your part and contributed towards ugly incident.

2. By reasons of the above you appear to be guilty of inefficiency/misconduct under Section-3 of the **NWFP Removal from Service (Special Powers) Ordinance 2000**, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.
3. You are, therefore directed to submit your written defence within seven days of the receipt of this **Charge Sheet** to the Inquiry Officer/Committee, as the case may be.
4. Your, defence, if any, should reach the Inquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to forward in and in that case ex parte action shall follow against you.
5. Intimate whether you desire to be heard in person or not.
6. A statement of allegations is enclosed.

**INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUN KHWA PESHAWAR.**

All set
H
A
28/8/2012

Annex-13



OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA
Tel: 9210384 Fax: 9213445

No. 17165

Dated 25/08/2011

DISCIPLINARY ACTION

I, **Qudrattullah Khan Marwat**, I.G.Prisons Khyber Pakhtunkhwa, as competent authority, am of the opinion that warder (under suspension) **Said Rahman** attached to Central Prison D.I.Khan rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of Section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000.

STATEMENT OF ALLEGATIONS

On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, he performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform his duty efficiently and also failed to prevent the escape, which shows slackness on his part and contributed towards ugly incident.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Inquiry Committee consisting of the following is constituted under section-5 of the Ordinance:-

- i. **Mr.Ehtazaz Ahmad**, Superintendent, District Jail Kohat.
- ii. **Mr.Muhammad Zahid**, Deputy Superintendent Jail attached to Central Prison Bannu.

3. The Inquiry Committee shall in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record their findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Central Prison D.I.Khan shall join the proceedings on the date, time and place fixed.

Signature

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST; NO. 17166-69

Copy of the above is forwarded to:

- 1. **Mr.Ehtizaz Ahmad**, Superintendent, District Jail Kohat.
- 2. **Mr.Muhammad Zahid**, Deputy Superintendent Jail, attached to Central Prison Bannu.

The Inquiry Committee for initiating proceedings against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000. A copy of charge sheet is enclosed herewith.

3. ✓ **Warder (under suspension) Said Rahman** attached to Central Prison D.I.Khan, with the direction to appear before the Inquiry Committee on the date, time and place fixed by the Inquiry Committee, for the purpose of inquiry proceedings.

4. The Superintendent, Central Prison D.I.Khan with the direction to produce the relevant record before the Inquiry Committee and assist them during the Inquiry proceedings. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt.

Signature

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Att. 560
1-11
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بخدمت جناب چیئر مین انکوائری ایبلی اسپرنڈنٹ ڈسٹرکٹ جیل کوہاٹ صوبہ خیبر پختونخواہ

عنوان :- جراب شوکار نوٹس نمبر 49-17146 مورثہ 25-08-2011

شوکار وصولہ مورثہ 7-09-2011

جناب عالی

سائل بجاوش شوکار نوٹس مندرجہ عنوان بالا ذیل عرض کرتا ہے۔

1) یہ کہ سائل بے گناہ ہے اور سائل نے اپنی ایبلیٹی کی اہم اہم ایس کی تم کی اہم اہم اسٹی سے کام لیا ہے۔ سائل کوٹھک، بھٹس و غنا اور بدینتی سے اس کیس میں ملوث کیا گیا ہے۔
2) یہ کہ ابتدائی انکوائری رپورٹ جیل حکام نے اپنی اپنی تالیف و تالیف کا اہم اہم اسٹی سے کام لیا ہے اور سرسری طور پر ایبلیٹی کا تجزیہ کیا ہے اور فراری کے واقع کے پس منظر میں جانے کا کوشش نہیں کی گئی ہے۔ یہ درست ہے کہ سائل کی ایبلیٹی رپورٹ کوٹ موٹہ نمبر 2 پر مبنی ہے سے صبح چھ بجے تک ہی مگر یہ کہنا کہ ایبلیٹی 3 بجے فرار ہوئے ہیں۔ بالکل غلط ہے بنیادی اور مبنی پر مضمون ہے۔ کیونکہ سائل کے ساتھ دیگر ان وارڈران کو بیٹے کے شوکار نوٹس میں 2:30 بجے کا وقت دیا ہے۔ جو کہ خود بھی اصل حقائق کے متضاد ہے۔ زمین حقائق کو مدنظر رکھتے ہوئے جو ماہر جیل اہلکار ان ڈیوٹی پر چندہ منٹ دیر سے پہنچتے ہیں۔ نیز ہر ڈیوٹی کوٹ موٹہ نمبر 2 وارڈران کے ہارکوں سے کافی فاصلے پر ہے۔ کوٹ موٹہ نمبر 2 پر ہے۔ بلکہ کوٹ موٹہ نمبر 1 تک کافی فاصلہ ہے۔ جو کہ تقریباً دو فرلانگ ہوگا۔ نیز کوٹ موٹہ نمبر 2 تا کوٹ موٹہ نمبر 3 تک روشنی کا کوئی انتظام نہیں تھا۔ سائل بلب گولڈیں لیز ہو چکے تھے مگر جیل کے اعلیٰ حکام نے اس اہم اہم ایبلیٹی میں ماادہ ازیں کوٹ موٹہ نمبر 2 تا کوٹ موٹہ نمبر 3 تک کئی کی فصل جو کہ اونچائی نے آدی کے ذرے کے برابر ہے۔ اور اس حالت میں کوٹ موٹہ نمبر 2 سے کوٹ موٹہ نمبر 3 تک کچھ بھی نظر نہیں آتا۔

3) یہ کہ سائل محکمہ جیل خانہ جات کے ملازم ہے اور بدین وچہ ذریعہ قیام نہیں ملتا ہے۔ ایسی کارروائی کا حق ہے نہ کہ KPK Removal from Service (Spl: Power) Ordinance 2000 کے تحت کیونکہ دو قوانین کے تحت سائل کے خلاف کارروائی کرنا بالکل نااہل بلکہ فطری اللہ اف کے اصولوں کے خلاف ہے۔

4) یہ کہ میر تقی خان گشت کنندہ نے 3 تا 1 بجے کے رپورٹ میں OK رپورٹ لکھی ہے۔ بدین وچہ یہ انداز لکرنا کہ فراری 3 بجے ہوئی ہے۔ غلط ہے بنیاد اور برخلاف ذمہ داری حقائق ہے۔ میر تقی خان گشت کنندہ کے رپورٹ سے یہ عیاں ہے کہ 3 بجے تک کسی قسم کی فراری نہیں ہوئی ہے۔ لہذا یہ حقیقت سائل کو بے گناہ ثابت کرتا ہے۔ (نقل رپورٹ میر تقی خان ہے)

5) یہ کہ سائل کے خلاف تمام کینٹ ڈیرہ اسماعیل خان میں ایک مقدمہ عدالت نمبر 446 مورثہ 24-07-2011 زیر دفعہ 223, 224, 225 PPC درج ہو چکا ہے اور سائل مذکورہ مقدمہ میں پر ضمانت ہے جبکہ مقامی عدالت میں مذکورہ مقدمہ زیر سماعت ہے۔ لہذا سائل کے خلاف ٹھکانہ تا وہی کارروائی مقدمہ کے فیصلہ ہونے تک التوا میں رکھا جائے کیونکہ ملزم کو ایک جرم میں صرف ایک سزا دی جاسکتی ہے۔ اور دوسری سزات قانون و آئین پاکستان 1973 کی رو سے جائز نہیں۔ (نقل ایف آئی آر اف ہے)

لہذا درج بالا گزارشات کو مدنظر رکھتے ہوئے سائل کو عائد شدہ الزامات سے بری الزام قرار دینے کے احکامات صادر فرمائیں۔

نوٹ :- سائل زبانی طور پر پیش ہو کر اپنا موقف بیان کرنا چاہتا ہے۔

مورثہ: 12-9-2011

S. Rehmani

وارڈر سید الرحمن ولد عبد اللہ جان چوڑھیل کی مروت

Attest
H.A.
Adv
20/9/11

INQUIRY REPORT

The real and true facts are that the following five convicted prisoners escaped from barrack No. 6 of sector No. 2 of Central Prison D.I.Khan on the night of 23/24-07-2011.

- 1- Fazal Subhan S/o Roohul Amin
- 2- Maloon s/o Painsa Khan
- 3- Taj Rahman s/o Gul Rahman
- 4- Muhammad Islam s/o Fazal Dad
- 5- Riaz Ahmad s/o Smir Nawaz.

The convict Fazal Subhan and Maloon were recaptured by jail authorities soon after the escape with the help of local police. An FIR also been lodged with Police Station Cantt. D.I.Khan and following officials have been charged in the FIR on account of negligence of performance in duties. They all were handed over to police on 24-07-2011 and also been placed under suspension. They all have been committed to jail on judicial remand on 25-07-2011.

- 1- Warder Fazalur Rahman, patrolling officer sector 2 & 3 inside the jail from 12-00 to 3-00 AM.
- 2- Warder Ehsanullah No. 1, Patrolling officer sector 2 & 3 from 3-00 to 6-00 AM inside the jail.
- 3- Warder Akhtar Munir, performing his duty on inner beat No. 4 from 12-00 to 3-00 AM.
- 4- Warder Muhammad Ayub, sentry on inner beat No. 4 from 3-00 to 6-00 AM.
- 5- Warder Mir Qabaz Khan, night watch officer inside jail 1-00 to 3-00 AM.
- 6- Warder Muhammad Imran, round officer from 3-00 to lockout.
- 7- Warder Noor-Islam, round officer outer beat 3-00 AM to 6-00 AM.
- 8- Warder Muhammad Saleem No. 1 Sentry on outer beat No. 3 from 3-00 to 6-00 AM.
- 9- Warder Said Rahman, sentry on outer beat No. 2 from 3-00 to 6-00 AM.
- 10- Mr. Musharaf Shah Assistant Superintendent jail, incharge sector No. 2 and night duty officer.

A committee consisting of Mr. Masood ur-Rahman A.I.G Prisons and Mr. Muhammad Ramzan, Additional Secretary (Prisons) Home Department was entrusted the task for preliminary enquiry and fixing of responsibility on the officials / officers at fault or failure who conducted an elaborate enquiry and submitted its report to the Home Department. The Home Department submitted the same to the competent authority with the recommendation of disciplinary proceedings against the staff for their misconduct/ inefficiency on their parts. The competent authority approved the recommendations of the inquiry committee and Home Department and directed for initiating disciplinary proceedings against the above officials/ officers and in light of the recommendations of preliminary/ fact findings enquiry, charge sheets and statement of allegations were issued and as such the present formal enquiry is in hand.

That all the escapee prisoners were confined in barrack No. 6 of sector No. 2 where they started their plan at about 2:30 AM during load shedding. They climbed the wall between jail factory and the sector wall at inner beat No. 4 with the help of three bed sheets. The prisoners in question made their way out of the barrack at about 2:30 AM, walked a considerable distance from the place of their confinement to beat No. 4 and crossed the wall between jail and jail factory unnoticed. Then they spent more than 1 hour in search of escape facilitating tools. In the meanwhile electricity had been resumed at 3:00 AM. Both the recaptured prisoners stated that they had heard the Fajar Azan when they were still in jail factory.

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That the escape plan initiated at 2:30 AM continued for about more than 2 hours till its success but was not noticed/ reported until about 5:00 AM, when the Head warders of the sector came for un-locking of the prisoners in the evening.

It was felt and found during the enquiry that junior prison management i.e. Superintendent and Deputy Superintendent had taken all the measures provided in the rules like manning all the beats (Internal & external), arranging duties of patrolling officers and night watch of corner round officers as immediate supervisory staff and assigning the duties of overall supervision to an Assistant superintendent i.e. Night duty officer. Likewise the duties of Numberdars were also properly assigned for internal supervision of barrack. The duties were properly documented in precise manner and noted by all the staff. Re-arrest of two escapees is also a result of prompt post incident action on part of senior prison administration, it was found failure on part of the staff who were charge sheeted and who were allotted duties on the night between 23/24-07-2011.

The committee examined the replies to the charge sheet submitted by all the accused officials, officers and other office record as well as they were provided the opportunity of personal hearing. Going through the facts of the case, the committee was convinced that the following accused officers/ officials are found guilty of inefficiency, misconduct and negligent in the escape of five convicted prisoners from Central Prison D. Khan. They also failed to produce any sort of proof for their innocence moreover they also admitted/ confessed that they failed to perform their duties efficiently and according to rules. They were also given the opportunity of cross examination. The following officers/ officials are discussed with regard to their charges and their negligence inefficiency in performance of their duties.

1- Mr. Musharaf Shah, Assistant Superintendent, Jail.

He was incharge of Sector No. 2 where the five escapees had been making plans and where the plan was executed and he was also night duty officer on the night of the occurrence and was supposed to ensure alertness of the staff and the convict officers as well as safety of the prison and prisoners as required under the rules. He committed misconduct/ inefficiency during the performance of his duties, but he is also newly appointed and untrained therefore committee recommend minor penalty of stoppage of annual increments for 3 years.

2- Warder Fazalur Rahman,

He was patrolling officer of Sector No. 2, 3 from 12:00 to 3:00 AM on the night of occurrence. Internal beat No. 4 wherefrom the escapees scaled over the wall between jail and the jail factory also fell under his charge. He did not keep the warder on duty at beat No. 4 alert, thus he failed to perform duties in accordance with rules 712 which facilitated the escape from jail. Therefore the committee recommend Major Penalty for him.

3- Warder Ihsanullah No.1,

He was patrolling officer of Sector No. 2 & 3 from 3:00 to 6:00 on the night of the occurrence. Internal beat No. 4 also fell under his charge where from the escapees had scaled over the wall between the jail and the jail factory. Timely detection and reporting could have prevented the escape because the escapees spent more than 02 hours in the jail factory. He also failed to keep the warder at beat No. 4 alert thus he bitterly failed to perform his duties in accordance with the Prison Rule 712, which facilitated the escape from the jail. Therefore the committee recommend Major Penalty for him.

4- Warder Akhtar Munir

He was performing duties at beat No. 4 from 12:00 to 3:00 which is the point at which the escapee scaled over the wall between the jail & the jail factory at about 2:30 AM. He failed to prevent the escape and is the main culprit. Therefore the committee recommend Major Penalty for him.

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5- Warder Muhammad Ayub:

He was performing the duties at Inner beat No. 4 from 3:00 to 6:00 AM on the night of the occurrence. He did not report about incident for timely action. Therefore the committee recommend major penalty for him.

6- Warder Mir Qabaz Khan.

He was night watch officer from 1:00 to 3:00 AM when the escape took place from barrack/ and he failed to prevent/ detect the escape by not taking the requisite action under prison rules 712. Therefore the committee recommend Major Penalty for him.

7- Warder Muhammad Imran:

He was night watch officer from 3:00 AM to Lock-out. He failed to notice and report the incident for timely action. Therefore the committee recommend minor penalty of stoppage of 03 annual increments for him.

8- Warder Noor Islam:

He was performing duties of external round Officer from 3:00 AM to 6:00 AM. Charged with the responsibility of keeping the sentry at outer post alert and prevent any mishap/ escape. He failed to keep the sentries at outer post No. 2 and 3 alert due to which the escape took place. Therefore the committee recommend major penalty for him.

9- Warder Muhammad Saleem No. 1.

He was performing duties at outer beat No. 3 from 3:00 AM to 6:00 AM, the time when the escapees crossed the outer wall of the jail factory and the compound wall between the jail and outer road. He did not perform his duties and failed to stop the escapees from crossing the jail walls. Therefore the committee recommends Major Penalty for him.

10- Warder Said Rahman:

He was performing duties at outer beat No. 2 from 3:00 to 6:00 AM which is the time when the escapees crossed the parameter wall and the boundary wall. He did not perform his duties and failed to stop the escapees from the escape. Therefore the committee recommends Major penalty for him.

Submitted for necessary action as deemed appropriate please.

Attested
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Atizaz Ahmad, Superintendent
District Jail Kohat.
(Enquiry Officer)

-2- Muhammad Zahid, Deputy Superintendent
Central Jail Bannu
(Enquiry Officer)

**IN THE COURT OF NISAR MUHAMMAD KHAN,
JUDICIAL MAGISTRATE-I, DERA ISMAIL KHAN.**

Criminal Case Number _____ 483/1 of 2011
Date of submission of challan _____ 14/10/2011
Date of decision of the case _____ 19/05/2012

ملفوظات
محمود علی احمد صاحب
ڈیڑا اسماعیل خان
19/5/12
2011
483/1

- 1) The State through
- 2) **Khalid Abbas Khan Superintendent
Central Jail, Dera Ismail Khan**
.....(Complainant)

VERSUS

1. Matoon S/O Painsa Khan Caste Sherani R/o Sheikh Mela Darazinda.
2. Fazal Subhan S/o Roah-Ul-Amin Caste Mehmand R/o Tangi Charsada.
3. Constable Fazal-Ur-Rehman.
4. Constable Akhter Munir.
5. Constable Mir Qabaz.
6. Constable Ihsan Ullah.
7. Constable Muhammad Imran.
8. Constable Said Rehman
9. Constable Muhammad Saleem
10. Constable Muhammad Ayub.
11. Constable Muhammad Javed.
12. Constable Noor-Ul-Islam (presently posted at Central Jail, Dera Ismail Khan.

.....(Accused)

1. Taj-Ur-Rehman Son of Gul Rehman
2. Muhammad Islam S/o Fazal Dad
3. Riaz Ahmed S/o Amir Nawaz

.....(Absconding Co-Accused)

Charged under section(s) 223-224-225-225-A PPC Vide FIR No.446 dated 24/07/2011 of Police Station Cantt, D.I.Khan.

Judgment

Instant case has been registered on the basis of letter written by Superintendent Central Prison, D.I.Khan bearing

ATTESTED
Examiner
21/5/12

NISAR MUHAMMAD KHAN
Judicial Magistrate I
Dera Ismail Khan.

Handwritten signature/initials

No. 3442/WB dated 24.07.2011. According to FIR five convicted prisoners namely Taaj-Ur-Rehman S/o Gul Rehman R/o Mohmand Agency, Muhammad Islam S/o Fazal Dad R/o Chabeen, Peshawar, Riaz Ahmed S/o Ameer Nawaz R/o Paniala, Matoon S/o Painsa Khan R/o Sheikh Mela Darazinda and Fazal Subhan S/o Roh-ul-Amin R/o Tangi, Charsada had escaped from Central Prison, D.I.Khan at 02:30 AM mid night of 23/24 July 2011. The said escape had been attributed to the gross negligence of concerned watch and ward staff consisting of co-accused Fazal Rehman, Akhter Munir, Mir Qabaz, Ahsan Ullah, Muhammad Imran, Syed Rehman, Muhammad Saleem, Muhammad Ayub, Muhammad Javed and Noor Islam. Particulars of convicted prisoners who made escape from the Jail and Jail staff have been mentioned in the said letter and FIR. Co-accused Matoon and Fazal Subhan were arrested after the incident while condemned prisoners Taj Rehman, Muhammad Islam & Riaz Ahmed succeeded to escape from the jail and are still absconding. Proceedings against the above referred absconding accused were initiated under Section 512 Cr.P.C.

After observing codal formalities, co-accused Matoon and Fazal Subhan were charge sheeted under Section(s) 224 & 225 PPC while Jail staff (co-accused) Fazal Rehman etc were charge sheeted under Section(s) 223 & 225-A PPC. Accused persons denied the charges and claimed trial.

ATTESTED

Examiner

21/5/12

NISAR MUHAMMAD KHAN
Judicial Magistrate
Dera Ismail Khan

Prosecution produced five witnesses in support of its case against the accused persons. Gist of prosecution evidence is given below:-

PW-1 Zamir Hussain ASI PS Cantt

Zamir Hussain has stated on oath that he is the marginal witness to recovery memo Ex.PW-1/1 vide which investigation officer had recovered five bad-sheets from the spot of occurrence. The said witness further stated that he is marginal witness to the recovery memo exhibit PW-1/2. He has admitted the recovery memos as correct bearing his signatures.

PW-2 Muhammad Baran Circle Officer Investigation

PW-2 has conducted investigation in the present case and had arrested the accused persons except absconding accused and had issued their cards of arrest. Site plan Ex.PW-2/1, recovery memo Ex.PW-1/1, Bance and one pipe were recovered and prepared by him. He has also taken 20 photographs of the place of occurrence and has placed them on file.

**PW-3 Khalid Abbas Superintendent General Jail,
Peshawar**

**NISAR MUHAMMAD KHAN
Judicial Magistrate I
Dera Ismail Khan.**

This witness was posted as superintendent Jail, D.I.Khan during the days of occurrence and had got information of the occurrence in his official residence on the morning of 24.07.2011. He had reported the matter to local

ATTESTED

Examiner

21/5/12

police for the registration of FIR and re-capture of escaped prisoners. He had also informed his superior officers about the occurrence. He had admitted contents of Murasila Ex.PW-3/1 & Ex.PW3/2 as correct.

PW-4 Muhammad Nawaz Khan S.H.O PS Cantt

PW-4 had incorporated the contents of Murasila in FIR Ex.PW-4/1 which correctly bears his signature. Complete-challan was submitted by him in the Court.

PW-5 Nekam Khan No. 1733 PS Cantt

This witness was entrusted with warrant issued under Section 204 Cr.P.C against absconding accused Taj Rehman, Muhammad Islam & Riaz Ahmed. Reports of PW-5 in that respect are placed on file as Ex.PW-5/1 to Ex.PW-5/3 which were admitted as correct by him. Report of said witness in respect of proclamation notices issued under Section 87 Cr.P.C are placed on file as Ex.PW-5/4 to Ex.PW-5/6.

Statements of accused persons namely Ihsan Ullah, Fazal Rehman, Muhammad Saleem, Akhter Munir, Muhammad Imran, Matoon, Fazal Subhan, Said-Ur-Rehman, Noor Islam, Muhammad Ayub Khan, Mir Qabaz Khan, Javed Khan were recorded under Section 342 Cr.P.C in which the accused persons had denied the charges leveled against them by terming the case in hand as baseless. However, they did not wish to produce evidence in their defense nor did they wish to be examined on oath.

ATTEST

Examiner

Perusal of record shows that convicted prisoners in the FIR have committed offences under Section(s) 225 PPC and glaring proof of involvement of co-prisoners in the said offences is that co-accused Matoon and Fazal Subhan were arrested by Police on 24.07.2011 at the Jail compound while the absconding convicted prisoners/accused have succeeded to escape and are absconding. Accused persons Matoon and Fazal Subhan convicted under Section(s) 224 & 225 PPC respectively are punished to undergo rigorous imprisonment for two years each on the said account which shall run concurrently alongwith fine of Rs. 5,000/- each in default of payment of said fine they shall further undergo 10 days S.I.

As accused Taj-Ur-Rehman Son of Gul Rehman Muhammad Islam S/o Fazal Dad & Riaz Ahmed S/o Anwar Nawaz are already absconding, therefore, the above said accused are declared as proclaimed offenders. Perpetual warrants of arrest be issued against them and be sent for necessary action to District Police Officer, D.I.Khan. In this respect notice be issued to the D.P.O to enter the names of above said absconding accused in the register of proclaimed offenders. Case property be kept intact till arrest of absconding accused. No case stands made out against the jail employees charged under Sections 223 & 225-A PPC in the light of prosecution evidence. They are acquitted of the

ATTESTED

Examiner

NISAR MUHAMMAD KH
Judicial Magistrate
Dera Ismail Khan

21/5/12

SHOW CAUSE NOTICE

I, **Khalid Abbas**, Inspector General of Prisons Khyber Pakhtunkhwa, as competent authority, under Section 5(4) of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000, do hereby serve you, **warder (under suspension) Said Rehman** with this Show Cause Notice, as following that the material on record I am satisfied that you have committed the following acts/omissions specified in Section-3 of the said Ordinance:-


On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, you performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform your duty efficiently and also failed to prevent the escape, which shows slackness on your part and contributed towards ugly incident.

2. As a result thereof, I as competent authority, have tentatively decided to impose upon you the minor/major penalty of "**Removal from Service**" as defined under section-8 read with section-3 of the said Ordinance.

3. 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.

4. If no reply to this notice is received within seven days of its delivery in the normal course of circumstance, it shall be presumed that you have no defence to put forward and in that case exparte action shall be taken against you.

5. Copy of the findings of the Inquiry Officer is enclosed.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Warder (under suspension) Said Rehman,
Attached to Central Prison D.I.Khan.

Attested
At
Aeiv
28/8

بخدمت جناب انسپکٹر جنرل جیل خانہ جات خیبر پختونخواہ پشاور

جواب شوکاژ نوٹس

شوکاژ موصولہ تاریخ: 28-04-2012

جناب عالی!

سائل بجواب شوکاژ نوٹس درج ذیل عرض کرتا ہے۔

- 1- یہ کہ انکوآڑی کمیٹی نے انکوآڑی کرتے وقت موجود مسلہ قواعد کی خلاف ورزی کی ہے۔ گواہان پر جرح کرنے کا موقع نہیں دیا گیا۔
- 2- یہ کہ انکوآڑی کمیٹی نے ابتدائی انکوآڑی کی سفارشات کو بنیاد بنا کر انکوآڑی کی ہے۔ مزید حقائق کو سامنے لانے میں ناکام رہے۔ انکوآڑی کمیٹی نے اپنی سفارشات کرتے ہوئے ملزم کی مجرمیت کے وجوہات اور شہادت پر کسی قسم کی بحث نہیں کی ہے۔ اور نہ ہی اپنی سفارشات کیلئے کوئی دلائل دیئے ہیں۔ یہ امر انکوآڑی کو صحیحانہ اور متنازعہ بنا دیتی ہے۔ بدیں وجہ من مسائل بڑی سزا کا حقدار نہیں بلکہ قانوناً نوکری پر دوبارہ بحالی پر مستحق ہے۔
- 3- یہ کہ سائل بے گناہ ہے سائل نے اپنی ڈیوٹی کی انجام دہی میں کسی قسم کی غفلت اور سستی سے کام نہیں لیا ہے۔ سائل کو شک، بعض وعناد اور بدینتی سے اس کیس میں ملوث کیا گیا ہے۔
- 4- یہ کہ ابتدائی انکوآڑی رپورٹ جیل حکام نے اپنی پسند و ناپسند کی بنیاد پر مرتب کی ہے اور سرسری طور پر حالات کا تجزیہ کیا ہے اور فراری کے واقع کے پس منظر میں جانے کی کوشش نہیں کی گئی ہے یہ درست ہے کہ سائل کی ڈیوٹی بیرونی کوٹ موقع نمبر 2 پر تین بجے سے صبح چھ بجے تک تھی مگر یہ کہنا کہ قیدیان تین بجے فرار ہوئے ہے۔ بالکل غلط، بے بنیادی اور جہنی پر مفروضہ ہے کیونکہ سائل کے ساتھ دیگران وارڈران کو دیئے گئے شوکاژ نوٹس میں 2:30 am بجے کا وقت دیا ہے۔ جو کہ خود بھی اصل حقائق کے متضاد ہے زمینی حقائق کو مد نظر رکھتے ہوئے عموماً جیل اہلکاران ڈیوٹی پر پندرہ منٹ دیر سے پہنچتے ہیں۔ نیز بیرونی کوٹ، واقع نمبر 2 وارڈران کے بارکوں سے کافی فاصلے پر ہے۔ کوٹ موقع بیرونی نمبر 2 سے لیکر کوٹ موقع نمبر 3 تک کافی فاصلہ ہے۔ جو کہ تقریباً دو فرلانگ ہوگا۔ نیز کوٹ موقع نمبر 2 تا کوٹ موقع نمبر 3 تک روشنی کا کوئی انتظام نہیں تھا۔ سارے بلب قبل ازین فیوز ہو چکے تھے۔ مگر جیل کے اعلیٰ حکام نے اس بابت توجہ نہیں دی علاوہ ازیں کوٹ موقع نمبر 2 تا کوٹ موقع نمبر 3 تک مکئی کی فصل جو کہ اونچائی آدی کے قد کے برابر ہے اور اس حالت میں کوٹ موقع نمبر 2 سے کوٹ موقع نمبر 3 تک کچھ بھی نظر نہیں آتا۔
- 5- یہ کہ سائل محکمہ جیل خانہ جات کے ملازم ہے اور بدیں وجہ زیر تو انڈین جیل خانہ جات تادیبی کارروائی کا مستحق ہے نہ کہ K.P.K. Removel from Service (Spl:Power) ordinance 2000 کے تحت کیونکہ دو قوانین کے تحت سائل کے خلاف کارروائی کرنا ملکی قانون بلکہ فطری انصاف کے اصولوں کے خلاف ہے۔
- 6- یہ کہ میر قباز خان گشت کنندہ نے 1 am تا 3 am بجے کے رپورٹ میں لکھی ہے۔ بدیں وجہ یہ اخذ کرنا کہ فراری 3:00 am بجے ہوئی ہے۔ غلط ہے بنیاد اور برخلاف زمینی حقائق ہے۔ میر قباز گشت کنندہ کے رپورٹ سے یہ عیاں ہے کہ 3:00 am بجے تک کسی نامی فراری نہیں ہوئی ہے۔ لہذا یہ حقیقت سائل کو بے گناہ ثابت کرتا ہے۔
- 7- یہ کہ سائل کے خلاف تھانہ کینٹ ڈیرہ اسماعیل خان میں ایک مقدمہ عدالت نمبر 446 مورخہ 24-07-2011 زیر دفعہ 223, 224, 225A P.P.C درج ہو چکا ہے۔ اور سائل مذکورہ مقدمہ میں ضمانت پر ہے جبکہ مقامی عدالت میں مذکورہ مقدمہ زیر سماعت ہے۔ لہذا سائل کے خلاف محکمہ تادیبی کارروائی مقدمہ کے فیصلہ ہونے تک التواء میں رکھا جائے۔ کیونکہ ملزم کو ایک جرم میں صرف ایک سزا دی جاسکتی ہوں۔ اور دوسری سزا قانون و آئین پاکستان 1973ء کی رو سے جائز نہیں۔ لہذا درج بالا گزارشات کو مد نظر رکھتے ہوئے سائل کو جانبدارہ الزامات سے بری الزامہ قرار دینے کے احکامات صادر فرمائیں۔

نوٹ:- سائل زبانی طور پر پیش ہو کر اپنا موقف بیان کرنا چاہتا ہے۔

مورخہ: 04-05-2012

S.Rahman

سائل سید الرحمن ولد عبد اللہ جان سکندہ چواریل تحصیل و ضلع لکی مروت



Annex-H

22

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

NO. 314-T-1979/10924

DATED 9/5/2012

ORDER

On completion of proceedings and in exercise of powers conferred under Section-3 read with Section-8 of NWFP Removal from Service (Special Powers) Ordinance 2000, after personal hearing and keeping in view of recommendation of the Inquiry Officer as well as unsatisfactory replies, the competent authority is pleased to award the penalties to the officials as noted below against each with immediate effect in a case regarding escape of five convicted prisoners from Central Prison D.I.Khan in the night between 23/24-7-2011 :-

S.No.	NAME OF OFFICIALS	PENALTY
1.	Mr.Musharaf Shah, Assistant; Superintendent Jail(BPS-14).	Withholding of annual increment for two years.
2.	Warder(BPS-5) Fazal-ur-Rehman.	Compulsory retirement from service.
3.	Warder(BPS-5) Akhtar Munir.	Removal from Service.
4.	Warder(BPS-5) Mir Qabaz Khan.	Compulsory retirement from service.
5.	Warder(BPS-5) Ehsanullah No.1	Reduction to lowest stage in present time pay scale for five years.
6. ✓	Warder (BPS-5) Muhammad Imran	Withholding of annual increment for three years.
7.	Warder (BPS-5) Said Rahiman.	Removal from Service.
8.	Warder(BPS-5) Muhammad Saleem No.1.	Reduction to lowest stage in present time pay scale for five years.
9.	Warder(BPS-5) Muhammad Ayub.	Removal from Service.
10.	Warder (BPS-5)Noor Islam.	Reduction to lowest stage in present time pay scale for five years.

Officials at S.No. 5,6,8 & 10 are hereby re-instated into service with immediate effect. The period for which officials at S.No.1,2,4,,5,6,8 & 10 remained under suspension shall be treated as duty for all purposes.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST, NO. 10925-929

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa, Home and T.As Department Peshawar, for information with reference to his letter No.2/52-SO(Prs)HD/11 Vol-II dated 10-8-2011.
2. The Superintendent, Headquarters Prison D.I.Khan, for information and necessary action. Officials at S.No.5,6,8 & 10 shall be transferred immediately to other jails of your Circle and compliance reported through Fax.
3. The Superintendent, Headquarters Prison Peshawar, for information and necessary action ..
4. The Superintendent, Central Prison D.I.Khan, for information and immediate necessary action.
5. The District Accounts Officer D.I.Khan., for information.

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

Copy of the above is forwarded to :-
to make necessary
arrangements

N. 766
Dt 16-5-12

All in
1/1
28/8
Acw

To

The Secretary,
Home and Tribal Affairs Department
Khyber Pakhtunkhwa, Peshawar

Subject : Appeal / Representation against the Order dated 09-05-2012, whereby I have been awarded the Major Punishment of Removal From Service.

Prayer in Appeal:

On acceptance of this Appeal the Order dated 09.05.2012 may please be set aside and I may be reinstated in service with all back benefits and wages.

Respected Sir,

I humbly submit the following few lines for your kind and sympathetic consideration:-

1. That I was appointed as Wardar in the Prison Department in the year 2009 and was posted at Central Prison D. I. Khan. Ever since my appointment I have performed my duties as assigned to me with full devotion and there was no complaint whatsoever regarding my performance.
2. That on 23/24.07.2011, (Mid Night) five convicted prisoners escaped from barrack No. 6 of Sector No. 2 of Central Prison D.I. Khan. I along with other jail official were placed under suspension and a criminal case under Section 223 / 224 / 225 PPC vide F.I.R dated 24.07.2011 was also registered against me.
3. That I was served with Charge Sheet and Statement of allegations dated 25.08.2011 containing the baseless allegations that "I failed to perform duty efficiently and also failed to prevent the escape". I received the charge sheet on 07.09.2012. I duly replied the charge sheet on 12.09.2011 and refuted the allegation leveled against me.
4. That a partial inquiry was conducted and the inquiry committee without associating me properly with the inquiry gave its findings and quite illegally recommended me for major penalty.
5. That on 28.04.2012, I was served with final Show Cause Notice, I replied the Show Cause Notice on 04.05.2012, and again refuted the allegations and also stated that I may be given opportunity of personal hearing.
6. That thereafter, vide order dated 09.05.2012, quite illegally I was awarded the major punishment of **Removal from Service**.
7. That I pray for the acceptance of my appeal / representation inter alia on the following ground:-

Grounds of Appeal

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.

Attested
H.D.
28/9/12

- B. That no proper procedure has been followed during the inquiry proceedings. I have never been associated properly with the inquiry proceedings. The inquiry committee has never considered my defence nor it bother to brought true facts regarding the occurrence and only relied on the findings of the preliminary enquiry. The inquiry committee thus gave its findings on surmises and conjuncture.
- C. That no witness is examined against me during the inquiry, or if so examined, neither their statement has been recorded in my presence nor I have been given opportunity to cross examine the same. Further, the charges were never proved against me during the inquiry however, quite illegally I have been awarded major penalty of Removal from Service.
- D. That even during the criminal court, the charges have not been proved against me and I have been acquitted of the charges by the learned Judicial Magistrate-I D.I.Khan on 19.05.2012, thus I deserve to be reinstated in service.
- E. That similarly placed employees, those who were also on duty on the night occurrence and were proceeded against in the same case are reinstated and some have been awarded minor punishment, however, I have been treated differently which is discrimination.
- F. That I have not been given proper opportunity of hearing, thus I have been condemned unheard.
- G. That I have never committed any act or omission which could be termed as misconduct, I have performed my duties vigilantly and never remained negligent.
- H. That I am young and energetic and wants to service for the department, however my illegal removal from service has restrained me to do so.
- I. That I have two years spotless service career the penalty imposed is harsh and liable to be set aside.
- J. That I have a large family dependent upon me, since therefore, my removal from service is not only suffering me but also my whole family.
- K. That I am jobless since my illegal discharge from service.

It is, therefore, humbly prayed that on acceptance of this Appeal / Representation the order dated order 09-05-2012, may please be set aside and I may be reinstated in service with all back benefits and wages.

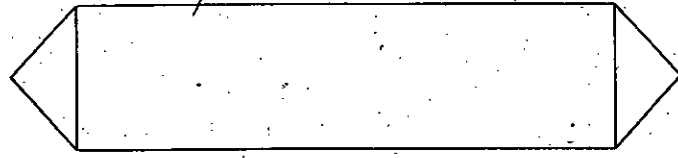
Yours Obediently

S. Rehman
 (SAID REHMAN)
 Ex-Warder Prison Deptt.
 (Attached to Central Jail D.I. Khan)
 S/O Abdullah Jan
 Village : Chuhar Khel
 Tehsil & District, Lakki Marwat

Dated: 23 / 05 / 2012

After
 23/5

بعدالت جناب حسین فداکام وس لم قبول لیاور



2 منجانب
بنام

سید رحمان

مورخہ

مقدمہ

دعویٰ

جرم

سپریمی ملکہ داخلہ وصالی اندر حسین محمد خواجہ
بنام
عبدالرحمن

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لیاور کیلئے رہوان التدا بد دلست لیاور
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ 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 لکھ دیا کہ سند رہے۔

S. Rahman

2012ء

السبت

ماہ

22

المرقوم

Accepted

العبد گواہ

کے لئے منظور ہے۔

لیاور

مقام

PLD 2003 Supreme Court 187

Present: Rana Bhagwandas, Abdul Hameed Dogar and Khalil-ur-Rehman Ramday, JJ
SHAMAS-UD-DIN KHAWAJA---Petitioner

Versus

GOVERNMENT OF PAKISTAN through Secretary Establishment, Islamabad and 2 others---Respondents Civil Petition No.2500 of 2001, decided on 9th October, 2002.

(On appeal from the judgment dated 25th June, 2001 of the Federal Service Tribunal, Islamabad, passed in Appeal No.763(R)/(CS)/2000).

Government Servants (Efficiency and Discipline) Rules, 1973--

---Rr. 6, 5 & 4---Service Tribunals Act (LXX of 1973), S.4---Compulsory retirement---Inquiry procedure---Full-fledged inquiry is to be made whereby an Authorised Officer is required to frame a charge and inform the accused civil servant of the statement of allegations against him---Provision of R.6(1)(2), Government Servants (Efficiency and Discipline) Rules, 1973 clearly stipulates that the accused official shall be provided not less than 7 or more than 14 days' period to put in his defence, oral or documentary evidence, and also to cross-examine the witnesses against him---Mere factum of taking in hand inquiry proceedings under the Rules against a civil servant cannot be equated with the procedure prescribed in R.6(1)(2)(3) of the Rules---Ample convincing and reliable evidence has to be on the record which could safely go to prove the charges levelled against the civil servant and only then findings of compulsory retirement could be recorded--**Where the departmental proceedings were**

initiated only on the basis of criminal charge, which was not subsequently proved by the competent Court of law and resulted in acquittal, order of Service Tribunal upholding the order of compulsory retirement by the Department was set aside by the Supreme Court.

Attaullah Sheikh v. WAPDA and others 2001 SCMR 269 ref.

S.M. Abdul Wahab, Advocate Supreme Court instructed by M.A. Zaidi, Advocate-on-Record for Petitioner.

Hafiz S.A. Rehman, Deputy Attorney-General instructed by Ch. Muhammad Akram, Advocate-on-Record for Respondents.

Date of hearing; 9th October, 2002.

JUDGMENT

ABDUL HAMEED DOGAR, J.--Petitioner Shamas-ud-Din Khawaja seeks leave to appeal against the judgment dated 25th June, 2001 of the Federal Service Tribunal, Islamabad, passed in Appeal No.763(R)/(CS)/2000 whereby the same was dismissed and order dated 18-7-2000 of compulsory retirement from service was confirmed.

2. The relevant facts leading to filing of the instant petition are tot the petitioner Shamas-ud-Din Khawaja was serving as A.S.-I. in the Intelligence Bureau, Islamabad. It was on 10-5-1998 at about 10-00 p.m., Farhan Khawaja younger brother of the petitioner, had gone to a private clinic at Peshawar Morr. Islamabad, alongwith the petitioner's wife and their sister. While returning to home, they were followed by two strangers to a red car up to their residence. Farhan Khawaja rushed to house located at G-9/4, Islamabad and informed the petitioner about the hot chase made by the said strangers. They immediately reached the spot and while they were inquiring from the said persons about their chase, some neighbour called Rescue Police No. 15. Soon afterward police arrived at the spot and then took the petitioner as well as those strangers, namely, Dr. Munir Abro and Miran Bakhsh to Margala Police Station. Instead of registering the complaint of the petitioner, police, on the contrary, lodged F.I.R. No.116 dated 11-5-1998 under sections 506/342/34, P.P.C. against the petitioner and his brother and they were arrested and sent up to face trial.

3. On 24-8-1988, a show-cause notice was issued against the petitioner under section 5(1)(iii)(b) of the Government Servants (Efficiency and Discipline) Rules, 1973 (hereinafter called as "the Rules") disclosing the following charges:

(a) That according to F.I.R. No.116, dated 11-5-1998 registered in Margalla Police Station under sections 506/342/34, P.P.C., you alongwith your brother had beaten Dr. Munir Abro and Miran Bukhsh who followed the private vehicle No.LHH-6666, driven by your brother up to your residence because your brother had struck, his car with vehicle No.IDH-5578, driven by Dr. Munir Abro while overtaking him;

(b) that you were arrested by Islamabad Police on 25-6-1998, for your alleged involvement in manhandling of Dr. Munir Abro and Miran Bukhsh and you remained in judicial lock-up on June 25-26, 1998 and failed to inform your officer-in-charge about your arrest by the police and in order to cover your absence in the office on 25-26 June, 1998, you applied for leave on account of your mother's illness and tried to hide the facts from office;

(c) that due to your involvement in criminal case a news item was published in the press on June 26, 1998 about your arrest by the police which exposed the identity of an organization like I.B.;

(d) that you have misused your official positions by introducing yourself as Inspector whereas you are an A.S.-I. which set a bad precedent for others to emulate casting negative effects on the discipline and performance of the entire department.

4. The petitioner submitted written reply and vehemently refuted the above charges. He pleaded that no departmental action could be initiated against him during the pendency- of the above mentioned criminal proceedings. After the release of the petitioner on bail, order of his suspension was set aside by the competent authority and he was reinstated in service in January, 1999 and continued to be in service till major penalty of compulsory retirement under Rule 4 of the Rules was awarded against him vide order dated 18-7-2000.

5. Petitioner preferred departmental appeal which was rejected on 6-11-2000. Feeling aggrieved, he filed appeal under section 4 of the Federal Service Tribunals Act, 1973, which too was dismissed on 25-6-2001.

6. We have heard Mr. S.M. Abdul Wahab, learned Advocate Supreme Court for the petitioner and Hafiz S.A. Rehman, learned Deputy Attorney-General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

7. Mr. S.M. Abdul Wahab, learned Advocate Supreme Court for the petitioner, mainly urged that the very basis of awarding major penalty was the initiation of above mentioned criminal case which ended in compromise between the parties wherein the petitioner was acquitted by a competent Court of Law. According to him, competent authority as well as the Federal Service Tribunal had erred in taking into consideration above aspect of the matter while deciding the case of the petitioner. He lastly contended that in case of awarding a major penalty under the Rules, regular inquiry into the charges cannot be dispensed with thus in the instant case, authorised officer wrongly decided to dispense with regular inquiry in terms of Rule 5(1)(iii) of the Rules.

8. The impugned order on the face of it shows that no regular inquiry as contemplated under rule 6 of the Rules was ever conducted in this case. There is no cavil to the proposition that under this rule, a full-fledged inquiry is to be made whereby an authorised officer is required to frame a charge and inform the accused Government servant of the statement of allegations against him. Sub-rules (1) and (2) of Rule 6 clearly stipulate that the accused-official shall be provided not less than 7 or more than 14 days period to put in his written defence to the charges. Sub-rule (3) entitles him to produce in defence oral or documentary evidence and also to cross-examine the witnesses against him. Mere factum of taking in hand inquiry proceedings under the Rules against a civil servant cannot be equated with the procedure prescribed in the above mentioned sub-rules (1), (2) and (3) of rule 6. For imposing major penalty there must be ample convincing and reliable evidence placed on record which could safely go to prove charges levelled against civil servant and only then findings could be recorded. From the perusal of the above mentioned charges, it reveals that the departmental proceedings were initiated only on the basis of above mentioned criminal charge. This Court in the case *Attaullah Sheikh. v. WAPDA and others* (2001 SCMR 269) exactly under the similar circumstances allowed the appeal of the petitioner therein and reinstated him in service taking into consideration that the departmental proceedings initiated on the basis of Criminal charges was not subsequently proved against him by the competent court of Law and resulted in his acquittal.

9. For the foregoing reasons, the petition is converted into appeal and is allowed and the judgment of the Federal Service Tribunal, Islamabad, dated 25th June, 2001 is set aside. The appellant is reinstated in service. However, the period of his absence be treated as leave without pay.

Had a hospital visit checked all sectors, front cells, ponds, Mc Cells, guards.	Found the grate on catwalk well blast pipe, at school holding place, no access from reported accessibility, also available.	Handwritten notes in Urdu and English, including 'AM 230' and 'AM 230'.	Handwritten notes in Urdu and English, including 'AM 230' and 'AM 230'.
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AM 230	AM 230	AM 230	AM 230
all sectors, blankets	order, however at	prisoners were missing	at 2:00 AM & 3:00
10 jail	initially	checked	all was a good
2 cells	lock on	five convicted	reportedly, due to
black out	of	guards at points	2

Handwritten notes in Urdu and English, including 'AM 230' and 'AM 230'.

Handwritten notes in Urdu and English, including 'AM 230' and 'AM 230'.

PR 2024
3035

STATE BANK OF PAKISTAN

3rd of Oct 2012

ORIGINAL

Received from the bearer Saeed Rehman A. No 895/12
the sum of Rs 80/- Eighty only
to be credited to Government account under the head 8844
on account of State Bank of Peshawar Case No 895/12

PROVIDED

[Signature]
CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar
NWFP A&T 200.

RECEIVED IN CASH
19 OCT 2012

MANAGER

This portion to be returned to the payee accepted by the Agent.

Note: The Bank Agent is not to receive money unless both portions of the invoice are carefully checked and clearly filled in.

(See reverse)

[Signature]
Assistant Treasury Officer
Peshawar

Khy
Se
Sign

Saeed Rehman A. No 895/12

Total (A)

80/-

receipts.
Signature and full
designation of the
officer ordering the
money to be paid in

(a) (In words) Rupees

State Bank of PAK
SBP BSC (Bank) Peshawar
RECEIVED IN CASH

One Hundred only
Eighty one hundred

*To be used only in the
case of remittances to
Bank through an officer
of the Government.

Received

19 OCT 2012

Date

[Signature]

[Signature]

Treasury Officer
Manager

Treasurer

Accountant

Particulars

Amount
Rs. [Signature]
Assistant Treasury Officer
Peshawar

Coin

Notes (with details)

Cheques (with details)

Total:

[Signature]
CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

NWFP A&T 199.

Note: 1 In the case of payments at the Treasury Receipts for sums less than Rs. 500 do not require the signature of the Treasury Officer but only of the Accountant and the Treasury Receipts however for cash and cheque paid for service stamps should always be signed by Treasury Officer Act of C.A. Code Vol. I.

Note: 2 Particulars of money tendered should be given on the reverse.

Note: 3 In case where direct credit at Bank are permissible the columns "Head of account" will be filled in by the Treasury Officers, or the Accounts Officers as the case may be on receipts of the Bank Daily Sheet.

In case of "Duty on Impressing Documents" the amount creditable to each of the following detailed heads be noted:

- (a) Duty on embossing on anna receipt and cheque stamps.
- (b) Duty "On documents voluntarily brought" for adjudication (Section 31, Act II of 1899).
- (c) Duty on unstamped or insufficiently stamped documents levied under Chapter IV of Act II of 1899.
- (d) Other Items.

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of
Service Appeal No.895/2012
Said Rahman, Ex-Warder
attached to Central Prison D.I.Khan.....Appellant.

VERSUS

- 1- Secretary to Government of Khyber Pakhtunkhwa,
Home and T.A Department.
- 2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent
Central Prison D.I.Khan.....Respondents

Preliminary Objections.

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

ON FACTS

- 1- Pertains to record.
- 2- Incorrect, hence denied. Appellant concealed material facts from this honorable Service Tribunal. The slackness on his part speaks itself and confirm his cowardice in shape of escape of the prisoners.
- 3- Admitted to the extent that the appellant was assigned duties at outer beat No.2 on the night between 23, 24/7/2011 but according to preliminary inquiry report (**Annex-A**) as well as formal inquiry report (**Annex-B**) of the said incident the escapees plan initiated at 02:30 AM continued for about 2 hours till its success, thus appellant betterly failed to notice the incident as the escapees crossed the outer wall of the Jail Factory and compound wall between the Jail and outer road during his duty hours. So far as registration of FIR is concerned that is the criminal offence on the part of the appellant by providing opportunity to the escapee prisoners and the official proceedings with regard to misconduct and negligence on the part of appellant is not to be affected due to the result / outcome of FIR.
- 4- Correct to the extent that the appellant was charge sheeted alongwith statement of allegations (**Annex-C**).
- 5- Correct upto the extent that the appellant submitted reply to the charge sheet but that was not based on facts and law and the same was found unsatisfactory by the competent authority, therefore the same was rejected.
- 6- Incorrect and misleading. The inquiry conducted in the instant case was within the parameters of Provincial Government Rules, Regulations / proceedings. The appellant showing his dissatisfaction and terming the legal procedure as "so called" which is in itself showing the

irresponsible behavior and aggressive mode of the appellant which also leads to a sheer misconduct on the part of appellant.

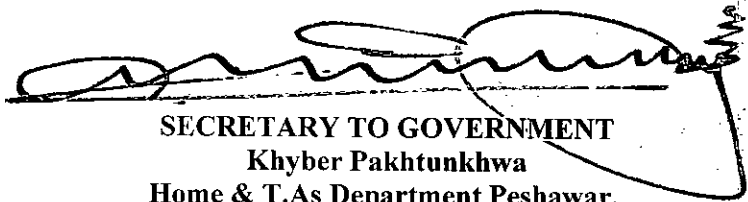
- 7- Incorrect, proper opportunities were given to the appellant alongwith his other co-accused but he failed to defend himself.
- 8- Incorrect, misleading. The quoted reference of inquiry report has been twisted just to mislead the learned Service Tribunal, because the appellant remain on duty from 03:00 AM to 06:00 AM at a outer beat No.2 of the said sector / barrack and the inquiry report depicts the occurrence of escape started from 02:30 AM and remain for two hours till its completion which comes to 04:30 AM, then how the appellant denied the fact. Inquiry committee has not ignored any aspect of the appellant case.
- 9- Acquittal in the FIR by the Judicial Magistrate only confirm the criminal offence on the part of the appellant i.e connivance of the appellant in the episode of escape while the departmental proceedings based on the hard and patent facts of escaping of prisoners from Central Prison D.I.Khan. Appellant showed negligence which amounts to preferred misconduct.
- 10- As already explained in the previous paras of this reply.
- 11- Correct.
- 12- Having no sound footing in the departmental presentation / appeal though it was processed but was not acceded to by the competent authority and accordingly rejected by the appellate authority (Home Secretary) vide "Annex-D".
- 13- Legally appeal cannot file any appeal against the speaking and lawful orders passed by the competent authority.

GROUNDS: -

- A. Incorrect, misleading, quoting such examples on one hand but ignoring on the other hand those co-accused who alongside the appellant were also removed from services as well as compulsory retired from service vide "Annex-E". Furthermore, it is an admitted facts that the constitution of Pakistan provides that all citizens of Pakistan are equal in the eyes of law, but even the superior Judiciary and almost all appellate courts awarding punishment and imposing penalties in accordance to the involvement of the accused, keeping in mind the level of responsibilities. In the instant case, the competent authority also adopt the said practice which is by no means contrary to natural justice.
- B. Incorrect, misleading, as elaborated in Para-A above. Penalty awarded to the appellant is strictly in accordance with the rules.
- C. Incorrect, misleading ample opportunities were provided during the course of inquiry and after fulfilling all codal formalities, the penalties were imposed upon the appellant alongwith other co-accused.
- D. Incorrect, almost all the accused including the appellant were provided the opportunities of personal hearing as evident from "Annex-F".
- E. Incorrect. The speaking orders passed by the competent authority is strictly in accordance with rules and tenable in the eyes of law.
- F. Incorrect, after fulfilling all norms of justice and going through the material on record and evidences, the said orders were passed by the competent authority.


- G. Incorrect, all relevant laws / rules were kept in mind and completing the due process and then the orders were passed.
- H. Incorrect, it is within the parameters of natural law and all codal formalities have been fulfilled.
- I. Incorrect, misleading the orders were passed in accordance to the relevant law / rules.
- In view of the above parawise comments the appeal of Said Rahman, Ex-Warder may be dismissed with cost please.

1-



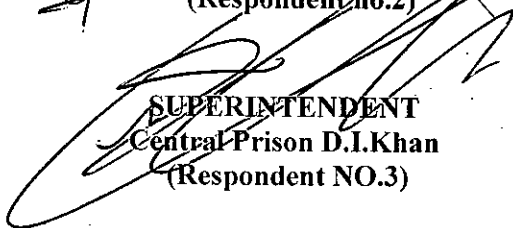
SECRETARY TO GOVERNMENT
Khyber Pakhtunkhwa
Home & T.As Department Peshawar.
(Respondents No.1)
Special Secretary (Home)
Khyber Pakhtunkhwa

2-



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

3-



SUPERINTENDENT
Central Prison D.I.Khan
(Respondent NO.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.895/2012
Said Rahman, Ex-Warder
attached to Central Prison D.I.Khan.....**Appellant.**

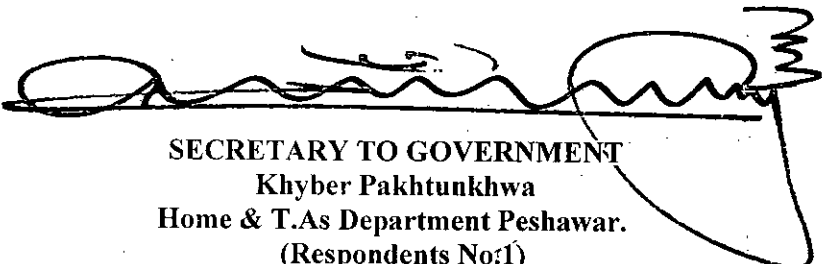
VERSUS

- 1- Secretary to Government of Khyber Pakhtunkhwa,
Home and T.A Department.
- 2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent
Central Prison D.I.Khan.....**Respondents**

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

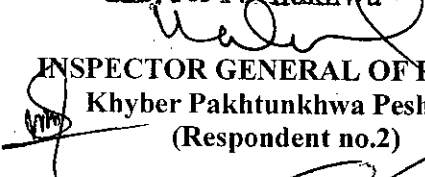
We the undersigned respondents do hereby solemnly affirm and declare that the contents of the parawise comments on the above cited appeal are true and correct to the best of our knowledge and belief and that no material facts has been kept secret from this Honorable Tribunal.

1-



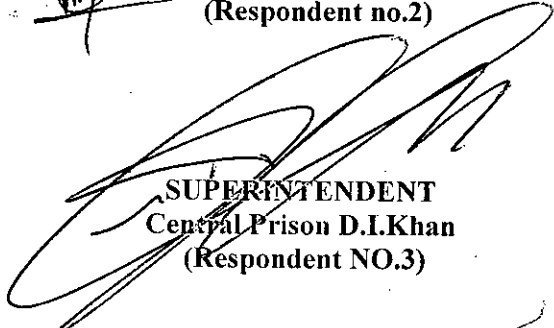
SECRETARY TO GOVERNMENT
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Home & T.As Department Peshawar.
(Respondents No:1)
Special Secretary (Home)
Khyber Pakhtunkhwa

2-



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

3-



SUPERINTENDENT
Central Prison D.I.Khan
(Respondent NO.3)

(Annex-A)

MS
203

INQUIRY REPORT INTO ESCAPE OF 05 PRISONERS FROM CENTRAL PRISON D.I.KHAN.

Five convicted prisoners escaped from barrack No.6 of sector No.2 of Central Prison D.I.Khan in the night between 23/24-7-2011. The particulars of escapee prisoners are given below;-

S.No.	Name with parentage.	Residence.	Offence.	Sentence.	Probable date of release
1.	Fazal Subhan s/o Rooh-ulAmin.	Tangi Nasratzai Charsadda.	302-B/324-PPC	25 years & fine of Rs.50 thousands or 6 months.	23-03-2023 IFP
2.	Matoon s/o Painsa Khan.	Sheikh mela FR DIKhan.	392-398-17 (Haraba)11/40-41-FCR	07 years & fine 1 lac or 1 year.	20-12-2016 IFP
3,	Taj Rahman s/o Gul Rahman.	Ekaghund lower Mohmand	302/397 PPC/11/40 FCR	20 years & fine 3 lac or 8 years.	25-02-2021 IFP
4,	Muhammad Islami s/o Fazal Dad.	Chabian The;& Distt;Pesh;	11 ZO/337-J	25 years & fine 10 thousands or 3 months & Daman 10 thousands.	02-01-2021 IFP
5	Riaz Ahmad son of Amir Nawaz.	Moh;Pir Khaki Shah Paniyala DIKhan.	302 PPC	25 years & fine 1 lac or 6 months.	28-02-2021 IFP.

2 The convict at Serial No.1 & 2 were recaptured soon after the escape with the help of local police. The remaining 3 are still at large. The incident was reported by the Superintendent Central Prison D.I.Khan to I.G.Prisons and Home Department vide his memo; No 3440 dated 24-7-2011 (Annex-A). An FIR has also been lodged with Police Station Cantt; D.I.Khan (Annex-B). The following 10 warders have been charged in the FIR on account of negligence in performance of duties;-

- I. Warder Fazal-ur-Rahman (Patrolling Officer Sector No.2&3)
- II. Warder Akhtar Munir (Inner beat No.4)
- III. Warder Muhammad Ayub. (inner beat No.4)
- IV. Warder Mir Qabaz. (Night Watch Officer Sector 2&3)
- V. Warder EhsanullahNo.1 (Night Watch Officer Sector 2&3)
- VI. Warder Muhammad Imran. (Officer Patrolling Sector 2&3)
- VII. Warder Said Rahman (Outer Beat No.20)
- VIII. Warder Muhammad Saleem N0.1 (Outer Beat No.3)
- IX. Warder Noor Isalam (Round Officer Outer Beats)

X. Warder Muhammad Javed No.2(Round Officer outer beats)

3. They all were handed over to Police on 24-7-2011 and have been placed under suspension. They have been committed to jail on judicial remand on 25-7-2011.

4. Assistant Superintendent Mr. Musharaf shah who was performing duties of Night Officer on the night of occurrence has also been placed under suspension by the I.G.Prisons on 24/7/2011.

5. Statements of the following were recorded in the course of inquiry;-

- i. Superintendent Central Prison DIKhan Mr.Khalid Abbas (Annex-C)
- ii. Deputy Superintendent Mr.Sardar Zaman Babar. (Annex-D)
- iii. Mr.Musharaf Shah Assistant Superintendent Jail. (Annex-E)
- iv. Mr.Mehnaz Gul Chief Warder. (Annex-F)
- v. Muhammad Jalil-ur-Rahman Head Warder. (Annex-G)
- vi. Warder Fazal-ur-Rahman (Patrolling Officer Sector No.2&3) (Annex-H)
- vii. Warder Akhtar Munir (Inner beat No.4) (Annex-I)
- viii. Warder Muhammad Ayub. (inner beat No.4) (Annex-J)
- ix. Warder Mir Qabaz. Night Watch Officer Sector 2&3) (Annex-K)
- x. Warder EhsanullahNo.1 (Night Watch Officer Sector 2&3) (Annex-L)
- xi. Warder Muhammad Imran. (Officer Patrolling Sector 2&3) (Annex-M)
- xii. Warder Said Rahman (Outer Beat No.20. (Annex-N)
- xiii. Warder Muhammad Saleem N0.1 (Outer Beat No.3) (Annex-O)
- xiv. Warder Noor Isalam (Round Officer Outer Beats) (Annex-P)
- xv. Warder Muhammad Javed No.2(Round Officer outer beats) (Annex-Q)
- xvi. 16 Convict Fazal-e-Subhan. (Recaptured escapee) (Annex-R)
- xvii. 17 Convict Matoon. (Recaptured escapee) (Annex-S)

6. Relevant record was also examined and copies of the following record were obtained;-

- a). Allotment of duties. (Annex-T)
- b). Lockup register (relevant page). (Annex-U)
- c). Entry/exist record (relevant page of register No.16). (Annex-V)
- d). Relevant page of Warders Duty Register. (Annex-W)
- e). Relevant page of Night Duty (Gasht register). (Annex-X)
- f). Staffing position. (Annex-Y)
- g). Relevant page of Convict officer duty register. (Annex-Z)
- h). Correspondence regarding exemption from load shedding. (Annex-AA)
- i). Duration of load shedding on 23/24-7-2011. (Annex-BB)
- j). Correspondence regarding shortage of staff. (Annex-CC)

7. The picture that emerged during the inquiry is that all the escapee prisoners were confined in barrack No.6 of sector No.2 of the jail. They had been planning to escape from jail well before 23rd July, 2011 except convict Matoon who was transferred to barrack No.6 from barrack No.8 on 22/7/2011 due to administrative reasons as he had a quarrel in barrack No.8. He joined the escapees at the time of execution of escape plan. On the night of occurrence one of the escapees i.e Fazal-e- Subhan was performing the duty of Numberdar in barrack No.6 from 12.00 to 3.00AM. Escapee Muhammad Islam cut the iron gratings of a corner window of the barrack near his sleeping berth with the help of brake cable of motor cycle and by using acid at about 2.30AM during load shedding. They scaled the wall between jail factory and the jail at inner beat No 4 with the help of 3 bed sheets knotted together like a rope. In addition they took 4 more bed sheets with them to facilitate scaling of another wall i.e the wall of jail factory. They landed in the jail factory shortly after 2.30AM and broke the wire guaze of Jai Namaz weaving shed in factory No.1 and took out one bamboo pole and one steel pole from the shed. There from they went to the wall jail of factory and scaled it with the help of bamboo pole by fastening 3 bed sheets with two poles and using the 4th bed sheet for climbing down the jail factory wall near watch tower between outer beats No.2&3. Thus they were out of the parameter wall of the jail. Thereafter they scaled over the compound wall along road in front of Police Lines and Cantt; Police station. They used a drain running along the compound wall of the jail to get out of the protected area in between the Cantt; Police station and jail compound wall by walking through it eastwards. 4 of them succeeded in slipping out of the area while the 5th one i.e convict Matoon could not succeed due to injuries on his left arm and other parts of the body which he sustained while slipping out of the barrack and during scaling over the walls. He was recaptured by the Prison staff with the help of Police personnel posted at Cantt; Police Station. Another escapee i.e Fazal-e-Subhan was arrested by Police authorities at a check point about 1 kilometer from jail on the main road.

8. The prisoners in question made their way out of the barrack at about 2.30AM, walked a considerable distance from the place of their confinement to beat No,4 and climbed over the wall between jail and jail factory unnoticed. Then they spent more than one hour in the jail factory in search of escape facilitating tools. In the meanwhile electricity had been resumed at 3.00AM. Both the recaptured prisoners stated that they had heard the Fajr Azans when they were still in jail factory. The time of Fajr Azans, it may be mentioned, is 3.50AM-4.00AM. It means that they finally escaped from the jail after 4.00AM. Their activities in jail factory could not be noticed because the jail factory has been closed for the last 7/8 months due to its precarious building condition.

9. The escapees crossed 04 walls of the jail as under (Sketch attached as (Annex-DD) 151

- a. The wall of Sector No2 (Height 6 feet).
- b. Wall between jail and jail factory (Height 14 feet).
- c. Wall between jail factory and outer compound (Height 15 feet).
- d. Compound wall between jail land and outside road (Height 8 feet)

10. It may be mentioned that the escape plan initiated at 2.30 AM continued for about 1 hour and 45 minutes till its success but was not noticed / reported until about 5.00AM when the prisoners of the barrack from where escape had taken place reported the incident to Head Warder I/C of the sector who had arrived for unlocking of the prisoners. During inquiry all the prisoners of barrack No 6 denied having any pre knowledge of planned escape or having witnessed the escape being taken place.

11. The incident is outcome of negligence / inefficiency on part of the following prison staff on duty on the night of occurrence;-

a). **Mr.Musharaf Shah, Assistant Superintendent.**

He was In-charge of sector No.2 where the escapees had been making plans and where the plan was executed. He was also Night Duty Officer on the night of the occurrence and was supposed to ensure alertness of the staff and the convict officers as well as safety and security of the prison and the prisoners in accordance with rules. He is newly appointed (recruited in October,2010) and untrained as he has mentioned in his statement (Annex EE) As is evident from the record entry/exist (Annex-FF) , he had rounds of the jail till 1.00AM. however he did not visit the jail after that till lockout. He has committed misconduct / inefficiency resulting into the ugly happening.

b). **Warder Mir Qabaz Khan.**

He was Night Watch Officer from 1.00 AM to 3.00AM when the escape took place from the barrack and he failed to prevent / detect the escape by not taking the requisite action under Prison Rule-711.

c). **Warder Muhammad Imran.**

He was Night Watch Officer from 3.00AM to lockout. He failed to notice and report the incident for timely action. He also failed to spot 03 bed sheets lying on ground at beat No.4 wherefrom the escapees had scaled over the wall between the jail and jail factory. Timely detection and reporting could have prevented the escape because the escapees spent about 1 hour 45 minutes in jail factory before finally escaping from the jail. He failed to perform duties in accordance with Prison rule-711, which is reproduced below;-

“Rule-711-The duties of every warder on night watch are;-

- (i) To patrol the main wall of the prison, he shall not quit his beat or sit down, and shall be armed with a baton;
- (ii) To watch the prisoners and premises vigilantly in order to preserve silence, order and security;
- (iii) To see that convict officers do not sit but patrol the barracks constantly during their watch;
- (iv) To be constantly on the move, examining each barrack to see that every prisoner is on his berth, and that the ward is properly lighted;
- (v) To examine frequently bolts, locks gratings and doors in order to satisfy himself fully that they are intact;
- (vi) To get the prisoners counted by convict officers on duty atleast once in every hour and to satisfy himself that the number is correct; and
- (VII) To give immediate alarm by blowing his whistle on the happening of any occurrence requiring prompt action such as escape, riot, fire, etc; ”

d). Warder Fazal Rahman

He was Patrolling Officer of sector No.2&3 from 12.00 to 3.00AM on the night of occurrence. Internal beat No.4 wherefrom the escapees scaled over the wall between jail and the jail factory also fell under his charge. He did not keep the warder on duty at beat No 4 alert. Thus he failed to perform duties in accordance with Prison Rule-712 which facilitated the escape from the jail.

e). Warder Akhtar Munir.

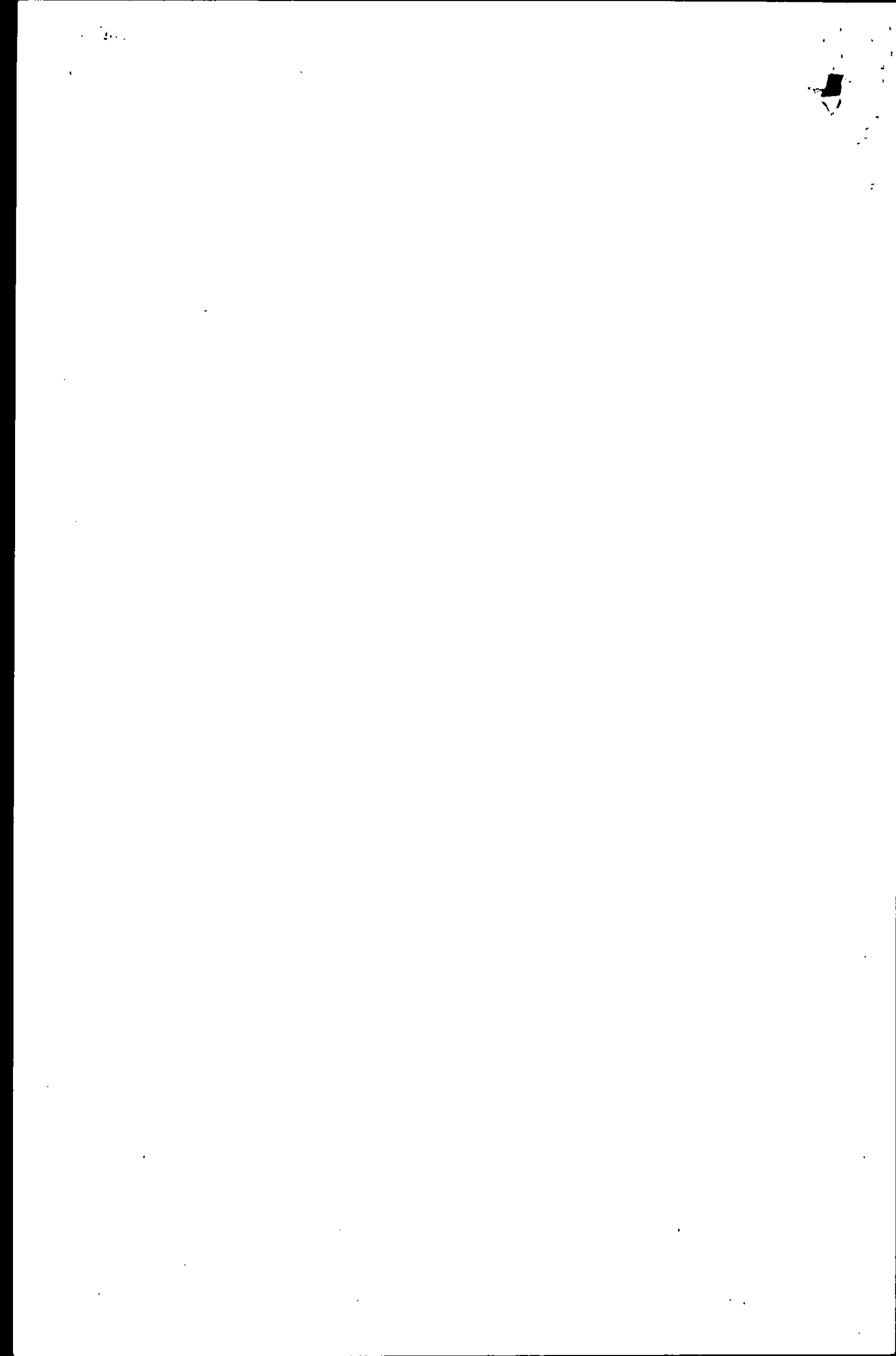
He was performing duty at inner beat No 4 from 12.00 to 3.00 am which is the point at which the escapees scaled over the wall between the Jail and the Jail Factory at about 2.30 am. He failed to prevent the escape and is the main culprit.

f). Warder Muhammad Ayub

He performed the duty at inner beat No 4 from 3.00 to 6.00 am on the night of occurrence. He did not report the fact that three bed sheets knotted together were lying at beat No 4 after the escapees had crossed the Wall. Had he reported the unusual thing to the concerned staff in time, the escape could have been prevented as the escapees spent more than 1hour and 45 minutes in Jail factory before finally escaping from the prison.

g). Warder Ehsanullah No.1

He was Patrolling Officer of sector No.2&3 from 3.00 to 6.00AM on the night of occurrence. Internal beat No.4 also fell under his charge. He failed to notice and report the incident for timely action. He also failed to spot 03 bed sheets lying on ground at beat No.4 wherefrom the escapees had scaled over the wall between the jail and jail factory. Timely detection and reporting could have prevented the escape because the escapees spent about 1 hour 45 minutes in jail factory. He also failed to



keep the Warder at beat No 4 alert. Thus he bitterly failed to perform duties in accordance with Prison Rule-712 which facilitated the escape from the jail. Rule 712 is reproduced below:-

“Rule-712-the duties of every Head Warder or Warder on patrol duty at night are;-

- i). To see that night sentries both inside and outside the barracks are on the alert;
- ii). To go around each barrack or cell block once every hour, examining the lock, bolts, gratings doors, walls and roofs in order to satisfy himself fully that they are intact;
- iii). To frequently get the prisoners counted by convict officers on duty and to satisfy himself that the number is correct;
- iv). To see that every association barrack confining prisoners is well lighted;
- v). To patrol the main wall and ensure that warders and convict officers are alert and watch tower sentries are vigilant;
- vi). To report immediately any cases of serious sickness to the Junior Medical Officer and the Assistant Superintendent on duty who shall, if necessary, takes steps for the removal of sick prisoners to hospital;
- VII). To raise alarm and send immediately information to the Assistant Superintendent on night duty and the Deputy Superintendent of any occurrence requiring prompt action, such as an escape, riot and fire etc;”

h). Warder Said Rahman.

He was performing duties at outer beat No.2 from 3.00AM to 6.00AM which is the time when escapees crossed the outer wall of jail factory and the compound wall between the jail and outer road. He did not perform his duty and failed to spot the escapees to prevent the escape.

i). Warder Muhammad Saleem No.1.

He was performing duties at outer beat No.3 from 3.00AM to 6.00AM which is the time when escapees crossed the outer wall of jail factory and the compound wall between the jail and outer road. Though on duty near the place of occurrence, he failed to spot the escapees to prevent the escape.

j). Warder Noor Islam

He was performing duty of outside Round Officer from 3.00 AM to 6.00 AM charged with the responsibility of keeping the sentry at outer post alert to prevent any mishap/escape. He failed to keep the sentries at outer post No,2&3 alert due to which the escape took place.

12. It is felt that senior prison management ie Superintendent and Deputy Superintendent had taken all the measures provided in the rules like manning all the beats (internal and external), arranging duties of Patrolling Officers and Night Watch Officers as immediate supervisory staff and assigning the duties of overall supervision to an Assistant Superintendent ie Night Duty Officer. Likewise the duties

of Numberdars were also properly assigned for internal watch of barracks. The duties were properly documented in precise manner and noted by all the staff. Re-arrest of two escapees is also a result of prompt post-incident action on part of senior prison management. It was failure on part of the staff on duty on the night of occurrence as pointed out and explained in para-11 above which resulted into untoward incident.

13. RECOMMENDATIONS

A. Disciplinary proceedings against the staff mentioned in para-11 above may be initiated under the relevant rules/law for misconduct / inefficiency mentioned therein. They have already been placed under suspension.

B. Warder Muhammad Javed No.2 who also has been placed under suspension and mentioned in the FIR was performing duties as Round Officer outside parameter wall from 12.00 to 3.00AM. It has now been established that the escapees crossed the outer jail wall around 4.00AM when the said official was not on duty and hence not at fault. Therefore he may be reinstated into service and further action against him may be dropped.

C. The jails/ Lock ups of the province may be exempted from night load-shedding as repeatedly requested by the jail authorities vide (Annex-GG)

D. At present there is acute shortage of staff at Central Prison D.I.Khan which may prove fatal to the discipline and security of the jail. The position is given at (Annex-HH). This shortage may be made good as also requested by the Jail Superintendent time and again vide Annex II. Majority of the staff is untrained which is a great draw back for jail administration. Therefore measures for capacity building of Prisons department in the fields of manpower, training and security equipments may be taken on war footing to prevent recurrence of such incidents.


MASUD-UR-RAHMAN
AIG PRISONS


MUHAMMAD RAMZAN
ADDITIONAL SECRETARY(HOME)

D/- 26.7.2011

INQUIRY REPORT

The real and true facts are that the following five convicted prisoners escaped from barrack No. 6 of sector No. 2 of Central Prison D.I.Khan on the night of 23/24-07-2011.

- 1- Fazal Subhan S/o Roohul Amin
- 2- Matoon s/o Painsa Khan
- 3- Taj Rahman s/o Gul Rahman
- 4- Muhammad Islam s/o Fazal Dad
- 5- Riaz Ahmad s/o Smir Nawaz.

The convict Fazal Subhan and Matoon were recaptured by jail authorities soon after the escape with the help of local police. An FIR also been lodged with Police Station Cantt. D.I.Khan and following officials have been charged in the FIR on account of negligence of performance in duties. They all were handed over to police on 24-07-2011 and also been placed under suspension. They all have been committed to jail on judicial remand on 25-07-2011.

- 1- Warder Fazalur Rahman, patrolling officer sector 2 & 3 inside the jail from 12-00 to 3-00 AM.
- 2- Warder Ehsanullah No. 1, Patrolling officer sector 2 & 3 from 3-00 to 6-00 AM inside the jail.
- 3- Warder Akhtar Munir, performing his duty on inner beat No. 4 from 12-00 to 3-00 AM.
- 4- Warder Muhammad Ayub, sentry on inner beat No. 4 from 3-00 to 6-00 AM.
- 5- Warder Mir Qabaz Khan, night watch officer inside jail 1-00 to 3-00 AM.
- 6- Warder Muhammad Imran, round officer from 3-00 to lockout.
- 7- Warder Noor Islam, round officer outer beat 3-00 AM to 6-00 AM.
- 8- Warder Muhammad Saleem No. 1 Sentry on outer beat No. 3 from 3-00 to 6-00 AM.
- 9- Warder Said Rahman, sentry on outer beat No. 2 from 3-00 to 6-00 AM.
- 10- Mr. Musharaf Shah Assistant Superintendent jail, incharge sector No. 2 and night duty officer.

A committee consisting of Mr. Masood-ur-Rahman A.I.G Prisons and Mr. Muhammad Ramzan, Additional Secretary (Prisons) Home Department was entrusted the task for preliminary enquiry and fixing of responsibility on the officials / officers at fault or failure who conducted an elaborate enquiry and submitted its report to the Home Department. The Home Department submitted the same to the competent authority with the recommendation of disciplinary proceedings against the staff for their misconduct/ inefficiency on their parts. The competent authority approved the recommendations of the inquiry committee and Home Department and directed for initiating disciplinary proceedings against the above officials/ officers and in light of the recommendations of preliminary/ fact findings enquiry, charge sheets and statement of allegations were issued and as such the present formal enquiry is in hand

That all the escapee prisoners were confined in barrack No. 6 of sector No. 2 where they started their plan at about 2:30 AM during load shedding. They climbed the wall between jail factory and the sector wall at inner beat No. 4 with the help of three bed sheets. The prisoners in question made their way out of the barrack at about 2:30 AM, walked a considerable distance from the place of their confinement to beat No. 4 and crossed the wall between jail and jail factory unnoted. Then they spent more than 1 hour in search of escape facilitating tools. In the meanwhile electricity had been resumed at 3:00 AM. Both the recaptured prisoners stated that they had heard the Fajar Azan when they were still in jail factory.

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That the escape plan initiated at 2:30 AM continued for about more than 2 hours till its success but was not noticed/ reported until about 5:00 AM, when the Head warders of the sector came for un-locking of the prisoners in the morning.

It was felt and found during the enquiry that senior prison management i.e Superintendent and Deputy Superintendent had taken all the measures provided in the rules like manning all the beats (Internal & external), arranging duties of patrolling officers and night watch officers/ round officers as immediate supervisory staff and assigning the duties of overall supervision to an Assistant superintendent i.e Night duty officer. Likewise the duties of Numberdars were also properly assigned for internal supervision of barrack. The duties were properly documented in precise manner and noted by all the staff. Re-arrest of two escapees is also a result of prompt post incident action on part of senior prison administration, it was found failure on part of the staff who were charge sheeted and who were allotted duties on the night between 23/24-07-2011.

The committee examined the replies to the charge sheet submitted by all the accused officials/ officers and other office record as well as they were provided the opportunity of personal hearing. Going through the facts of the case, the committee was convinced that the following accused officers/ officials are found guilty of inefficiency, misconduct and negligent in the escape of five convicted prisoners from Central Prison D.I.Khan. They also failed to produce any sort of proof for their innocence, moreover they also admitted/ confessed that they failed to perform their duties efficiently and according to rules. They were also given the opportunity of cross examination. The following officers/ officials are discussed with regard to their charges and their negligence/ inefficiency in performance of their duties.

1- Mr. Musharaf Shah, Assistant Superintendent Jail.

He was incharge of Sector No. 2 where the five escapees had been making plans and where the plan was executed and he was also night duty officer on the night of the occurrence and was supposed to ensure alertness of the staff and the convict officers as well as safety of the prison and prisoners as required under the rules. He committed misconduct/ inefficiency during the performance of his duties, but he is also newly appointed and untrained therefore committee recommend minor penalty of stoppage of annual increments for 3 years.

2- Warder Fazalur Rahman,

He was patrolling officer of Sector No. 2, 3 from 12:00 to 3:00 AM on the night of occurrence. Internal beat No. 4 wherefrom the escapees scaled over the wall between jail and the jail factory also fell under his charge. He did not keep the warder on duty at beat No. 4 alert, thus he failed to perform duties in accordance with rules 712 which facilitated the escape from jail. Therefore the committee recommend Major Penalty for him.

3- Warder Ihsanullah No.1,

He was patrolling officer of Sector No. 2 & 3 from 3:00 to 6:00 on the night of the occurrence. Internal beat No. 4 also fell under his charge where from the escapees had scaled over the wall between the jail and the jail factory. Timely detection and reporting could have prevented the escape because the escapees spent more than 02 hours in the jail factory. He also failed to keep the warder at beat No. 4 alert thus he bitterly failed to perform his duties in accordance with the Prison Rule 712, which facilitated the escape from the jail. Therefore the committee recommend Major Penalty for him.

4- Warder Akhtar Munir

He was performing duties at beat No. 4 from 12:00 to 3:00 which is the point at which the escapees scaled over the wall between the jail & the jail factory at about 2:30 AM. He failed to prevent the escape and is the main culprit. Therefore the committee recommend Major Penalty for him.

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5- Warder Muhammad Ayub:

He was performing the duties at Inner beat No. 4 from 3:00 to 6:00 AM on the night of the occurrence. He did not report about incident for timely action. Therefore the committee recommend major penalty for him.

6- Warder Mir Qabaz Khan.

He was night watch officer from 1:00 to 3:00 AM when the escape took place from barrack/ and he failed to prevent/ detect the escape by not taking the requisite action under prison rules 712. Therefore the committee recommend Major Penalty for him.

7- Warder Muhammad Imran:

He was night watch officer from 3:00 AM to Lock-out. He failed to notice and report the incident for timely action. Therefore the committee recommend minor penalty of stoppage of 03 annual increments for him.

8- Warder Noor Islam:

He was performing duties of external round Officer from 3:00 AM to 6:00 AM. Charged with the responsibility of keeping the sentry at outer post alert and prevent any mishap/ escape. He failed to keep the sentries at outer post No. 2 and 3 alert due to which the escape took place. Therefore the committee recommend major penalty for him.


9- Warder Muhammad Saleem No. 1.

He was performing duties at outer beat No. 3 from 3:00 AM to 6:00 AM, the time when the escapees crossed the outer wall of the jail factory and the compound wall between the jail and outer road. He did not perform his duties and failed to stop the escapees from crossing the jail walls. Therefore the committee recommends Major Penalty for him.

10- Warder Said Rahman:


He was performing duties at outer beat No. 2 from 3:00 to 6:00 AM which is the time when the escapees crossed the parameter wall and the boundary wall. He did not perform his duties and failed to stop the escapees from the escape. Therefore the committee recommends Major penalty for him.

Submitted for necessary action as deemed appropriate please.


1- Atizaz Ahmad, Superintendent

District Jail Kohat.

(Enquiry Officer)


2- Muhammad Zahid, Deputy Superintendent

Central Jail Bannu

(Enquiry Officer)

Annex - C

CHARGE SHEET

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I, **Qudratullah Khan Marwat** I.G.Prisons Khyber Pakhtun Khwa Peshawar , as competent authority, hereby charge you **warder (under suspension) Said Rahman** attached to Central Prison D.I.Khan as follows :-

On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, you performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform your duty efficiently and also failed to prevent the escape, which shows slackness on your part and contributed towards ugly incident.

2. By reasons of the above you appear to be guilty of inefficiency/misconduct under Section-3 of the **NWFP Removal from Service (Special Powers) Ordinance 2000**, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.
3. You are, therefore directed to submit your written defence within seven days of the receipt of this **Charge Sheet** to the Inquiry Officer/Committee , as the case may be.
4. Your, defence, if any, should reach the Inquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to forward in and in that case exparte action shall follow against you.
5. Intimate whether you desire to be heard in person or not.
6. A statement of allegations is enclosed.

**INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUN KHWA PESHAWAR.**

جناب عالی!
میں نے اس بارے میں سب سے پہلے ہی اطلاع دی تھی اور اس کے باوجود بھی یہ واقعہ رونما ہوا ہے۔
میں نے اس بارے میں سب سے پہلے ہی اطلاع دی تھی اور اس کے باوجود بھی یہ واقعہ رونما ہوا ہے۔
Said Rahman
10/9/11



OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA
Tel: 9210334 Fax: 9213445

No. 17165

Dated 25/08/2011

DISCIPLINARY ACTION

I, **Qudrattullah Khan Marwat**, I.G. Prisons Khyber Pakhtunkhwa, as competent authority, am of the opinion that **warder (under suspension) Said Rahman** attached to Central Prison D.I. Khan rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of Section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000.

STATEMENT OF ALLEGATIONS

On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, he performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform his duty efficiently and also failed to prevent the escape, which shows slackness on his part and contributed towards ugly incident.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Inquiry Committee consisting of the following is constituted under section-5 of the Ordinance:-
- Mr. Ehtazaz Ahmad, Superintendent, District Jail Kohat.**
 - Mr. Muhammad Zahid, Deputy Superintendent Jail attached to Central Prison Bannu**

3. The Inquiry Committee shall in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record their findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Central Prison D.I. Khan shall join the proceedings on the date, time and place fixed.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

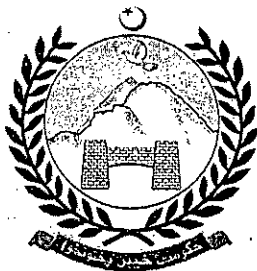
ENDST; NO. 17166-69 WE

Copy of the above is forwarded to:

- Mr. Ehtizaz Ahmad, Superintendent, District Jail Kohat.
 - Mr. Muhammad Zahid, Deputy Superintendent Jail, attached to Central Prison Bannu.
- The Inquiry Committee for initiating proceedings against the accused under the provisions of the NWFP Removal from Service (Special Powers) Ordinance 2000. A copy of charge sheet is enclosed herewith.
- Warder (under suspension) Said Rahman attached to Central Prison D.I. Khan, with the direction to appear before the Inquiry Committee on the date, time and place fixed by the Inquiry Committee, for the purpose of inquiry proceedings.
 - The Superintendent, Central Prison D.I. Khan with the direction to produce the relevant record before the Inquiry Committee and assist them during the Inquiry proceedings. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Annex-D



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

No. 8/3-SO (Pris-II)/HD/2012
Dated Peshawar the 11th December, 2012

To ✓

The Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar

Subject:- DEPARTMENTAL APPEALS

Dear Sir,

I am directed to refer to your letter No.28262-WE dated 08-11-2012 on the subject noted above and to state that on submission of the case, the competent authority has rejected the appeals of the following Warders of Central Prison D.I. Khan:

1. Ex-Warder Said Rehman.
2. Ex-Warder Muhammad Ayub.
3. Warder Muhammd Saleem No. 1.
4. Ex-Warder Akhtar Munir.

It is requested that the aforesaid appellants may be informed accordingly.

Yours faithfully

[Handwritten signature]
11/12

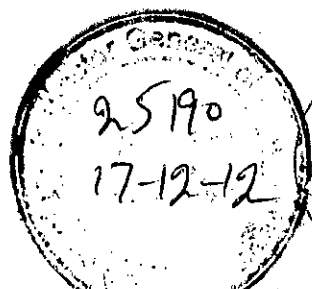
~~(KHAJANZAD BUN)~~
Section Officer (Prisons-II) 12

The appellants may be informed 17/12/12

Enst: No. & date even

Copy forwarded for information to the:

1. PS to Home Secretary, Khyber Pakhtunkhwa.
2. PS to Special Secretary Home, Khyber Pakhtunkhwa.



Section Officer (Prisons-II)

17/12/2012



Rezd

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 32346 — WE

DATED 26-12-2012

To

The Superintendent,
Central Prison D.I.Khan.

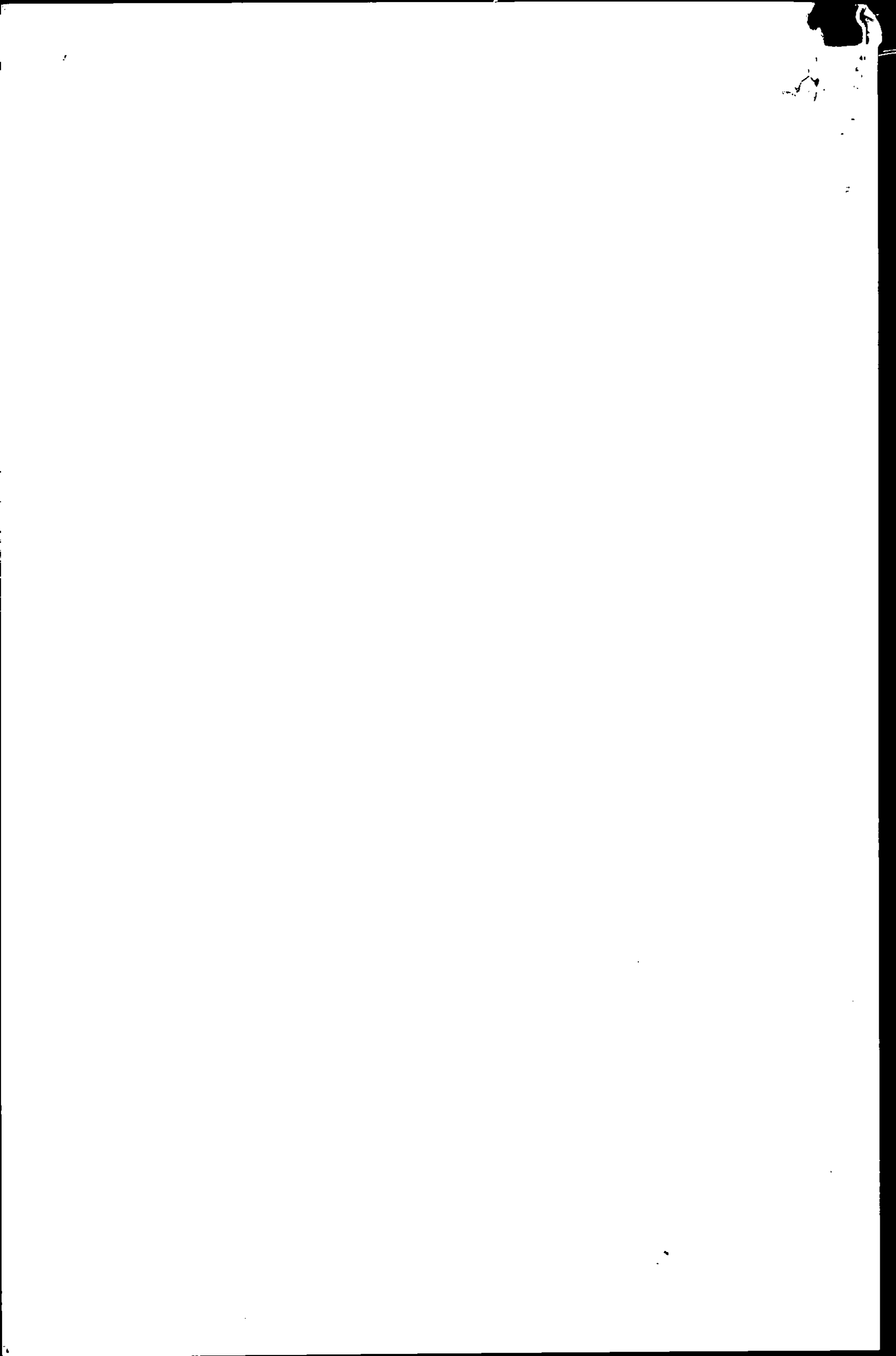
Subject:- **DEPARTMENTAL APPEAL**
Memo:

I am directed to refer to the subject and to forward herewith a copy of letter No..8/3-SO(Pris-II)HD/20129 dated 11-12-2012 received from Government of Khyber Pakhtunkhwa Home and T.As Department on the subject and to convey that the appeals in respect of following warder/Ex-warders has been considered and rejected by the Appellate Authority(Home Secretary Khyber Pakhtunkhwa):-

1. Ex-warder Said Rehman.
2. Ex-warder Muhammad Ayub.
3. Warder Muhammad Saleem No.1.
4. Ex-warder Akhtar Munir.

Please inform them accordingly.

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





(Annex - E)

189
OFFICE OF THE
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

NO. 314-J-1979/10924

DATED 9/5/2012

ORDER

On completion of proceedings and in exercise of powers conferred under Section- read with Section-8 of NWFP Removal from Service (Special Powers) Ordinance 2000, after personal hearing and keeping in view of recommendation of the Inquiry Officer as well as unsatisfactory replies, the competent authority is pleased to award the penalties to the officials noted below against each with immediate effect in a case regarding escape of five convicted prisoners from Central Prison D.I.Khan in the night between 23/24-7-2011 :-

S.No.	NAME OF OFFICIALS	PENALTY
1.	Mr.Musharaf Shah, Assistant; Superintendent Jail(BPS-14).	Withholding of annual increment for two years.
2.	Warder(BPS-5) Fazal-ur-Rehman.	Compulsory retirement from service.
3.	Warder(BPS-5) Akhtar Munir.	Removal from Service.
4.	Warder(BPS-5) Mir Qabaz Khan.	Compulsory retirement from service.
5.	Warder(BPS-5) Ehsanullah No.1	Reduction to lowest stage in present time pay scale for five years.
6.	Warder (BPS-5) Muhammad Imran	Withholding of annual increment for three years.
7.	Warder (BPS-5) Said Rahman.	Removal from Service.
8.	Warder(BPS-5) Muhammad Saleem No.1.	Reduction to lowest stage in present time pay scale for five years.
9.	Warder(BPS-5) Muhammad Ayub.	Removal from Service.
10.	Warder (BPS-5)Noor Islam.	Reduction to lowest stage in present time pay scale for five years.

Officials at S.No. 5,6,8 & 10 are hereby re-instated into service with immediate effect. The period for which officials at S.No.1,2,4,,5,6,8 & 10 remained under suspension shall be treated as duty for all purposes.



INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST;NO. 10925-929

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa , Home and T.As Department Peshawar, for information with reference to his letter No.2/52-SO(Prs)HD/11 Vol-II dated 10-8-2011.
2. The Superintendent, Headquarters Prison D.I.Khan, for information and necessary action. Officials at S.No.5,6,8 & 10 shall be transferred immediately to other jails of your Circle and compliance reported through Fax.
3. The Superintendent, Headquarters Prison Peshawar, for information and necessary action ..
4. The Superintendent, Central Prison D.I.Khan, for information and immediate necessary action.
5. The District Accounts Officer D.I.Khan., for information.


I. G PRISONS


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



Annex-F

(~~Annex A~~)

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

NO. 3/14-J-79/ 10740

DATED 7-5-2012

MOST IMMEDIATE/BY FAX

To

The Superintendents,
Central Prison D.I.Khan.

Subject:-

**ESCAPE OF FIVE CONVICTED PRISONERS FROM CENTRAL PRISON
D.I.KHAN BETWEEN THE NIGHT OF 23/24-7-2011/SHOW CAUSE
NOTICES**

Memo:

I am directed to refer to the subject and to ask you to please direct the below noted officials attached to your jail to appear before the worthy I.G on 09-5-2012 at 11.00 AM for personal hearing in the subject cited case:-

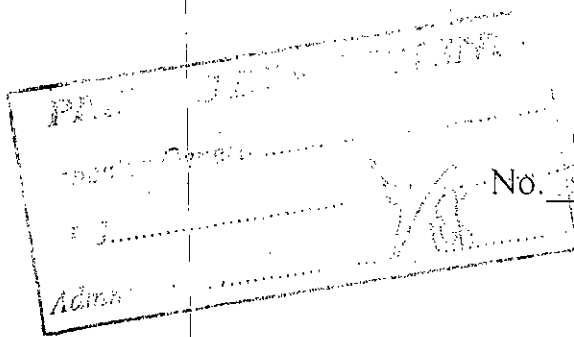
- 1.Mr.Musharaf Shah Assistant Superintendent Jail (BPS-14).
- 2.Mr.Fazal-ur-Rehman warder (BPS-5).
- 3.Mr.Akhtar Munir warder (BPS-5).
- 4.Mr.Mir Qabaz Khan warder (BPS-5).
- 5.Mr.Ehsanullah No.1 warder (BPS-5).
- 6.Mr.Muhammad Imran warder(BPS-5).
- 7.Mr.Said Rehman warder (BPS-5).
- 8.Mr.Muhammad Saleem No.1 warder (BPS-5).
- 9.Mr.Muhammad Ayub warder (BPS-5).
- 10.Noor Islam warder (BPS-5).

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

ENDST;NO. 10741

Copy of the above is forwarded to PA to I.G.Prisons Khyber Pakhtunkhwa Peshawar, for information.

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



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON D.I.KHAN
No. 3642-57/HC Dt: 7/5/2012

To,

- 1). Mr. Musharaf Shah Assistant Superintendent (BPS-14).
- 2). Mr. Mir Qabaz Khan warder (BPS-5).
- 3). Mr. Muhammad Imran warder (BPS-5).
- 4). Mr. Muhammad Saleem No.1 warder (BPS-5).
- 5). Mr. Noor Islam warder (BPS-5).
- 6). Mr. Fazal Rehman warder (BPS-5).
- 7). Mr. Akhtar Munir warder (BPS-5).
- 8). Mr. Ehsanullah No.1 warder (BPS-5).
- 9). Mr. Saif Rehman warder (BPS-5).
- 10). Mr. Muhammad Ayub (BPS-5).

Subject:- ESCAPE OF FIVE CONVICTED PRISONERS FROM CENTRAL PRISON DIKHAN BETWEEN THE NIGHT 0 23/24-7-2011 / SHOW CAUSE NTOICES.

Memo:-

Reference Inspector General of Prisons Khyber Pakhtukhwa Peshawar No.3/14-J-1979/9222-WE dated 23-4-2012.

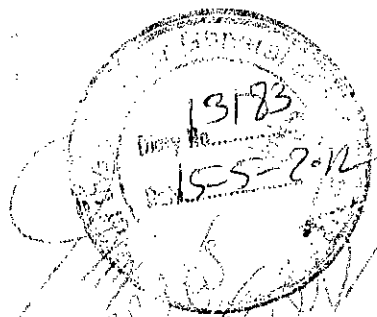
It is to inform you that personal hearing has been fixed on 09-5-2012, you are hereby directed to attend the office of Inspector General of Prisons Khyber Pakhtukhwa Peshawar on the date fixed please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON DIKHAN

Endst; No. 3652 dated 7-5-12,

Copy for the above is forwarded to the Inspector General of Prisons Khyber Pakhtukhwa Peshawar for information please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON DIKHAN



[Signature]



(Annex A)

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

NO. 3/24-J-79/ 10740

DATED 7-5-2012

MOST IMMEDIATE/BY FAX

To

The Superintendents,
Central Prison D.I.Khan.

Subject:-

**ESCAPE OF FIVE CONVICTED PRISONERS FROM CENTRAL PRISON
D.I.KHAN BETWEEN THE NIGHT OF 23/24-7-2011/SHOW CAUSE
NOTICES**

Memo:


I am directed to refer to the subject and to ask you to please direct the below noted officials attached to your jail to appear before the worthy I.G on 09-5-2012 at 11.00 AM for personal hearing in the subject cited case:-

- 1.Mr.Musharaf Shah Assistant Superintendent Jail (BPS-14).
- 2.Mr.Fazal-ur-Rehman warder (BPS-5).
- 3.Mr.Akhtar Munir warder (BPS-5).
- 4.Mr.Mir Qabaz Khan warder (BPS-5).
- 5.Mr.Ehsanullah No.1 warder (BPS-5).
- 6.Mr.Muhammad Imran warder(BPS-5).
- 7.Mr.Said Rehman warder (BPS-5).
- 8.Mr.Muhammad Saleem No.1 warder (BPS-5).
- 9.Mr.Muhammad Ayub warder (BPS-5).
- 10.Noor Islam warder (BPS-5).


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

ENDST:NO. 10741

Copy of the above is forwarded to PA to I.G.Prison Khyber Pakhtunkhwa Peshawar, for information.


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



PH. 13/14-J-1979/9222-WE
No: 3642-57/HC Dt: 7/5/2012

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON D.I.KHAN
No: 3642-57/HC Dt: 7/5/2012

365

To,

- 1). Mr. Musharaf Shah Assistant Superintendent (BPS-14).
- 2). Mr. Mir Qabaz Khan warder (BPS-5).
- 3). Mr. Muhammad Imran warder (BPS-5).
- 4). Mr. Muhammad Saleem No.1 warder (BPS-5).
- 5). Mr. Noor Islam warder (BPS-5).
- 6). Mr. Fazal Rehman warder (BPS-5).
- 7). Mr. Akhtar Munir warder (BPS-5).
- 8). Mr. Ehsanullah No.1 warder (BPS-5).
- 9). Mr. Saif Rehman warder (BPS-5).
- 10). Mr. Muhammad Ayub (BPS-5).

Subject:- ESCAPE OF FIVE CONVICTED PRISONERS FROM CENTRAL PRISON DIKHAN BETWEEN THE NIGHT 0 23/24-7-2011 / SHOW CAUSE NTOICES.

Memo:-
Reference Inspector General of Prisons Khyber Pakhtukhwa Peshawar No.3/14-J-1979/9222-WE dated 23-4-2012.

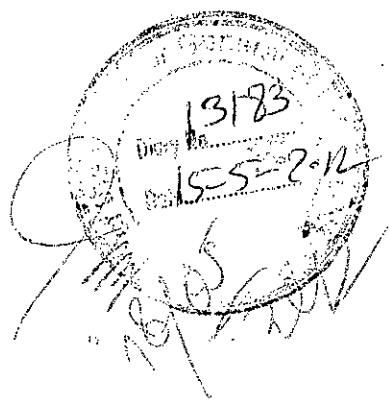
It is to inform you that personal hearing has been fixed on 09-5-2012, you are hereby directed to attend the office of Inspector General of Prisons Khyber Pakhtukhwa Peshawar on the date fixed please.

Glass
SUPERINTENDENT
CENTRAL PRISON DIKHAN

Endst; No. 3652 dated 7-5-12,

Copy for the above is forwarded to the Inspector General of Prisons Khyber Pakhtukhwa Peshawar for information please.

Q. Muhammad
SUPERINTENDENT
CENTRAL PRISON DIKHAN



WFA
[Signature]



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

No. 8/3-SO (Pris-II)/HD/2012
Dated Peshawar the 11th December, 2012

To ✓

The Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar

Subject:- DEPARTMENTAL APPEALS

Dear Sir,

I am directed to refer to your letter No.28262-WE dated 08-11-2012 on the subject noted above and to state that on submission of the case, the competent authority has rejected the appeals of the following Warders of Central Prison D.I. Khan:

1. Ex-Warder Said Rehman.
2. Ex-Warder Muhammad Ayub.
3. Warder Muhammd Saleem No. 1.
4. Ex-Warder Akhtar Munir.

It is requested that the aforesaid appellants may be informed accordingly.

Yours faithfully

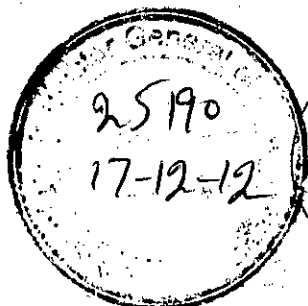
(Signature)
(KHANZAD GUL) 11/12/12
Section Officer (Prisons-II)

The appellants may be informed 17/12/12

Enst: No. & date even

Copy forwarded for information to the:

1. PS to Home Secretary, Khyber Pakhtunkhwa.
2. PS to Special Secretary Home, Khyber Pakhtunkhwa.



Section Officer (Prisons-II)

20/12/2012



Resh

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 32346 — WE

DATED 26-12-2012

To

The Superintendent,
Central Prison D.I.Khan.

Subject:- **DEPARTMENTAL APPEAL**
Memo:

I am directed to refer to the subject and to forward herewith a copy of letter No..8/3-SO(Pris-II)HD/20129 dated 11-12-2012, received from Government of Khyber Pakhtunkhwa Home and T.As Department on the subject and to convey that the appeals in respect of following warder/Ex-warders has been considered and rejected by the Appellate Authority(Home Secretary Khyber Pakhtunkhwa):-

1. Ex-warder Said Rehman.
2. Ex-warder Muhammad Ayub.
3. Warder Muhammad Saleem No.1.
4. Ex-warder Akhtar Munir.

Please inform them accordingly.


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

32346
26/12/2012

RS

So Courts
Home Dept

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of
Service Appeal No.895/2012
Said Rahman, Ex-Warder
attached to Central Prison D.I.Khan.....**Appellant.**

VERSUS

- 1- Secretary to Government of Khyber Pakhtunkhwa,
Home and T.A Department.
- 2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent
Central Prison D.I.Khan.....**Respondents**

Preliminary Objections.

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

ON FACTS

- 1- Pertains to record.
- 2- Incorrect, hence denied.. Appellant concealed material facts from this honorable Service Tribunal. The slackness on his part speaks itself and confirm his cowardice in shape of escape of the prisoners.
- 3- Admitted to the extent that the appellant was assigned duties at outer beat No.2 on the night between 23, 24/7/2011 but according to preliminary inquiry report (**Annex-A**) as well as formal inquiry report (**Annex-B**) of the said incident the escapees plan initiated at 02:30 AM continued for about 2 hours till its success, thus appellant betterly failed to notice the incident as the escapees crossed the outer wall of the Jail Factory and compound wall between the Jail and outer road during his duty hours. So far as registration of FIR is concerned that is the criminal offence on the part of the appellant by providing opportunity to the escapee prisoners and the official proceedings with regard to misconduct and negligence on the part of appellant is not to be affected due to the result / outcome of FIR.
- 4- Correct to the extent that the appellant was charge sheeted alongwith statement of allegations (**Annex-C**).
- 5- Correct upto the extent that the appellant submitted reply to the charge sheet but that was not based on facts and law and the same was found unsatisfactory by the competent authority, therefore the same was rejected.
- 6- Incorrect and misleading. The inquiry conducted in the instant case was within the parameters of Provincial Government Rules, Regulations / proceedings. The appellant showing his dissatisfaction and terming the legal procedure as "so called" which is in itself showing the

irresponsible behavior and aggressive mode of the appellant which also leads to a sheer misconduct on the part of appellant.

- 7- Incorrect, proper opportunities were given to the appellant alongwith his other co-accused but he failed to defend himself.
- 8- Incorrect, misleading. The quoted reference of inquiry report has been twisted just to mislead the learned Service Tribunal, because the appellant remain on duty from 03:00 AM to 06:00 AM at a outer beat No.2 of the said sector / barrack and the inquiry report depicts the occurrence of escape started from 02:30 AM and remain for two hours till its completion which comes to 04:30 AM, then how the appellant denied the fact. Inquiry committee has not ignored any aspect of the appellant case.
- 9- Acquittal in the FIR by the Judicial Magistrate only confirm the criminal offence on the part of the appellant i.e connivance of the appellant in the episode of escape while the departmental proceedings based on the hard and patent facts of escaping of prisoners from Central Prison D.I.Khan. Appellant showed negligence which amounts to preferred misconduct.
- 10- As already explained in the previous paras of this reply.
- 11- Correct.
- 12- Having no sound footing in the departmental presentation / appeal though it was processed but was not acceded to by the competent authority and accordingly rejected by the appellate authority (Home Secretary) vide "Annex-D".
- 13- Legally appeal cannot file any appeal against the speaking and lawful orders passed by the competent authority.

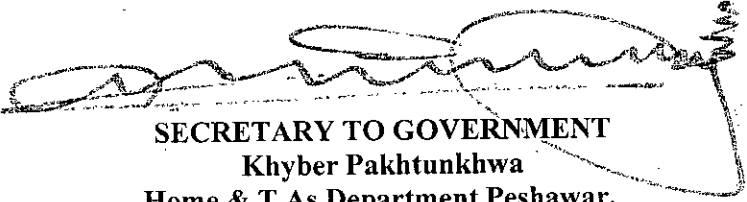
GROUNDS: -

- A. Incorrect, misleading, quoting such examples on one hand but ignoring on the other hand those co-accused who alongside the appellant were also removed from services as well as compulsory retired from service vide "Annex-E". Furthermore, it is an admitted facts that the constitution of Pakistan provides that all citizens of Pakistan are equal in the eyes of law, but even the superior Judiciary and almost all appellate courts awarding punishment and imposing penalties in accordance to the involvement of the accused, keeping in mind the level of responsibilities. In the instant case, the competent authority also adopt the said practice which is by no means contrary to natural justice.
- B. Incorrect, misleading, as elaborated in Para-A above. Penalty awarded to the appellant is strictly in accordance with the rules.
- C. Incorrect, misleading ample opportunities were provided during the course of inquiry and after fulfilling all codal formalities, the penalties were imposed upon the appellant alongwith other co-accused.
- D. Incorrect, almost all the accused including the appellant were provided the opportunities of personal hearing as evident from "Annex-F".
- E. Incorrect. The speaking orders passed by the competent authority is strictly in accordance with rules and tenable in the eyes of law.
- F. Incorrect, after fulfilling all norms of justice and going through the material on record and evidences, the said orders were passed by the competent authority.

- G. Incorrect, all relevant laws / rules were kept in mind and completing the due process and then the orders were passed.
- H. Incorrect, it is within the parameters of natural law and all codal formalities have been fulfilled.
- I. Incorrect, misleading the orders were passed in accordance to the relevant law / rules.

In view of the above parawise comments the appeal of Said Rahman, Ex-Warder may be dismissed with cost please.

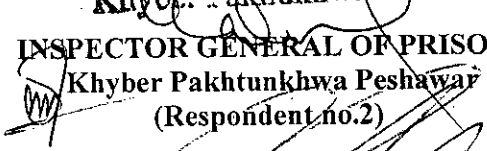
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SECRETARY TO GOVERNMENT
Khyber Pakhtunkhwa
Home & T.As Department Peshawar.

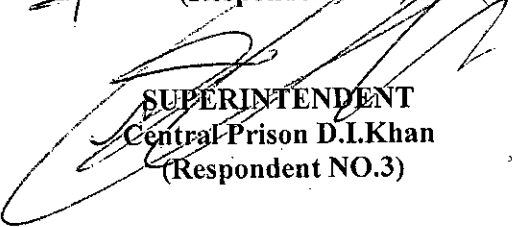
(Respondents No.1)
Special Secretary (Home)
Khyber Pakhtunkhwa

2-



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

3-



SUPERINTENDENT
Central Prison D.I.Khan
(Respondent NO.3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

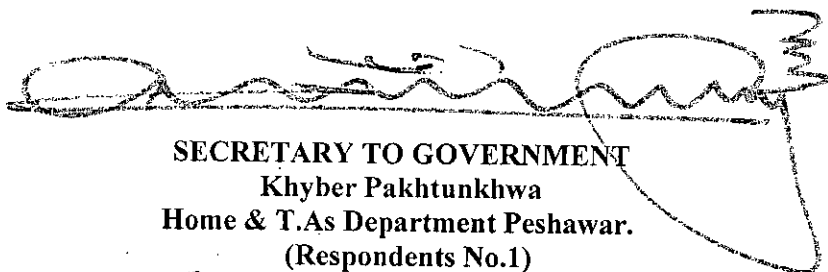
In the matter of
Service Appeal No.895/2012
Said Rahman, Ex-Warder
attached to Central Prison D.I.Khan.....**Appellant.**

VERSUS

- 1- Secretary to Government of Khyber Pakhtunkhwa,
Home and T.A Department.
- 2- Inspector General of Prisons,
Khyber Pakhtunkhwa Peshawar.
- 3- Superintendent
Central Prison D.I.Khan.....**Respondents**

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

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



1- **SECRETARY TO GOVERNMENT**
Khyber Pakhtunkhwa
Home & T.As Department Peshawar.
(Respondents No.1)
Special Secretary (Home)
Khyber Pakhtunkhwa

2- **INSPECTOR GENERAL OF PRISONS**
Khyber Pakhtunkhwa Peshawar
(Respondent no.2)

3- **SUPERINTENDENT**
Central Prison D.I.Khan
(Respondent NO.3)

(Annex-A)

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INQUIRY REPORT INTO ESCAPE OF 05 PRISONERS FROM CENTRAL PRISON D.I.KHAN.

Five convicted prisoners escaped from barrack No.6 of sector No.2 of Central Prison D.I.Khan in the night between 23/24-7-2011. The particulars of escapee prisoners are given below;-

S.No.	Name with parentage.	Residence.	Offence.	Sentence.	Probable date of release
1.	Fazal Subhan s/o Rooh-ulAmin.	Tangi Nasratzai Charsadda.	302-B/324-PPC	25 years & fine of Rs.50 thousands or 6 months.	23-03-2023 IFP
2.	Matoon s/o Painsa Khan.	Sheikh mela FR DIKhan.	392-398-17 (Haraba)11/40-41-FCR	07 years & fine 1 lac or 1 year.	20-12-2016 IFP
3,	Taj Rahman s/o Gul Rahman.	Ekaghund lower Mohmand	302/397 PPC/11/40 FCR	20 years & fine 3 lac or 8 years.	25-02-2021 IFP
4,	Muhammad Islām s/o Fazal Dad.	Chabian The;& Distt;Pesh;	11 ZO/337-J	25 years & fine 10 thousands or 3 months & Daman 10 thousands.	02-01-2021 IFP
5	Riaz Ahmad son of Amir Nawaz.	Moh;Pir Khaki Shah Paniyala DIKhan.	302 PPC	25 years & fine 1 lac or 6 months.	28-02-2021 IFP.

2 The convict at Serial No.1 & 2 were recaptured soon after the escape with the help of local police. The remaining 3 are still at large. The incident was reported by the Superintendent Central Prison D.I.Khan to I.G.Prisons and Home Department vide his memo; No 3440 dated 24-7-2011 (Annex-A). An FIR has also been lodged with Police Station Cantt; D.I.Khan (Annex-B). The following 10 warders have been charged in the FIR on account of negligence in performance of duties;-

- I. Warder Fazal-ur-Rahman (Patrolling Officer Sector No.2&3)
- II. Warder Akhtar Munir (Inner beat No.4)
- III. Warder Muhammad Ayub. (inner beat No.4)
- IV. Warder Mir Qabaz. (Night Watch Officer Sector 2&3)
- V. Warder EhsanullahNo.1 (Night Watch Officer Sector 2&3)
- VI. Warder Muhammad Imran. (Officer Patrolling Sector 2&3)
- VII. Warder Said Rahman (Outer Beat No.20)
- VIII. Warder Muhammad Saleem N0.1 (Outer Beat No.3)
- IX. Warder Noor Isalam (Round Officer Outer Beats)

X. Warder Muhammad Javed No.2(Round Officer outer beats)

3. They all were handed over to Police on 24-7-2011 and have been placed under suspension. They have been committed to jail on judicial remand on 25-7-2011.

4. Assistant Superintendent Mr. Musharaf Shah who was performing duties of Night Officer on the night of occurrence has also been placed under suspension by the I.G.Prisons on 24/7/2011.

5. Statements of the following were recorded in the course of inquiry;-

- i. Superintendent Central Prison DIKhan Mr.Khalid Abbas (Annex-C)
- ii. Deputy Superintendent Mr.Sardar Zaman Babar. (Annex-D)
- iii. Mr.Musharaf Shah Assistant Superintendent Jail. (Annex-E)
- iv. Mr.Mehnaz Gul Chief Warder. (Annex-F)
- v. Muhammad Jalil-ur-Rahman Head Warder. (Annex-G).
- vi. Warder Fazal-ur-Rahman (Patrolling Officer Sector No.2&3) (Annex-H)
- vii. Warder Akhtar Munir (Inner beat No.4) (Annex-I)
- viii. Warder Muhammad Ayub. (inner beat No.4) (Annex-J)
- ix. Warder Mir Qabaz. Night Watch Officer Sector 2&3) (Annex-K)
- x. Warder Ehsanullah No.1 (Night Watch Officer Sector 2&3) (Annex-L)
- xi. Warder Muhammad Imran. (Officer Patrolling Sector 2&3) (Annex-M)
- xii. Warder Said Rahman (Outer Beat No.20. (Annex-N)
- xiii. Warder Muhammad Saleem NO.1 (Outer Beat No.3) (Annex-O)
- xiv. Warder Noor Isalam (Round Officer Outer Beats) (Annex-P)
- xv. Warder Muhammad Javed No.2(Round Officer outer beats) (Annex-Q)
- xvi. 16 Convict Fazal-e-Subhan. (Recaptured escapee) (Annex-R)
- xvii. 17 Convict Matoon. (Recaptured escapee) (Annex-S)

6. Relevant record was also examined and copies of the following record were obtained;-

- a). Allotment of duties. (Annex-T)
- b). Lockup register (relevant page). (Annex-U)
- c). Entry/exist record (relevant page of register No.16). (Annex-V)
- d). Relevant page of Warders Duty Register. (Annex-W)
- e). Relevant page of Night Duty (Gasht register). (Annex-X)
- f). Staffing position. (Annex-Y)
- g). Relevant page of Convict officer duty register. (Annex-Z)
- h). Correspondence regarding exemption from load shedding. (Annex-AA)
- i). Duration of load shedding on 23/24-7-2011. (Annex-BB)
- j). Correspondence regarding shortage of staff. (Annex-CC)

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7. The picture that emerged during the inquiry is that all the escapee prisoners were confined in barrack No.6 of sector No.2 of the jail. They had been planning to escape from jail well before 23rd July, 2011 except convict Matoon who was transferred to barrack No.6 from barrack No.8 on 22/7/2011 due to administrative reasons as he had quarrel in barrack No.8. He joined the escapees at the time of execution of escape plan. On the night of occurrence one of the escapees i.e. Fazal-e-Subhan was performing the duty of Numberdar in barrack No.6 from 12.00 to 3.00AM. Escapee Muhammad Islam cut the iron gratings of a corner window of the barrack near his sleeping berth with the help of brake cable of motor cycle and by using acid at about 2.30AM during load shedding. They scaled the wall between jail factory and the jail at inner beat No 4 with the help of 3 bed sheets knotted together like a rope. In addition they took 4 more bed sheets with them to facilitate scaling of another wall i.e. the wall of jail factory. They landed in the jail factory shortly after 2.30AM and broke the wire guaze of Jai Nama weaving shed in factory No.1 and took out one bamboo pole and one steel pole from the shed. There from they went to the wall jail of factory and scaled it with the help of bamboo pole by fastening 3 bed sheets with two poles and using the 4th bed sheet for climbing down the jail factory wall near watch tower between outer beats No.2&3. Thus they were out of the parameter wall of the jail. Thereafter they scaled over the compound wall along road in front of Police Lines and Cantt; Police station. They used a drain running along the compound wall of the jail to get out of the protected area in between the Cantt; Police station and jail compound wall by walking through it eastwards. 4 of them succeeded in slipping out of the area while the 5th one i.e. convict Matoon could not succeed due to injuries on his left arm and other parts of the body which he sustained while slipping out of the barrack and during scaling over the walls. He was recaptured by the Prison staff with the help of Police personnel posted at Cantt; Police Station. Another escapee i.e. Fazal-e-Subhan was arrested by Police authorities at a check point about 1 kilometer from jail on the main road.

8. The prisoners in question made their way out of the barrack at about 2.30AM, walked a considerable distance from the place of their confinement to beat No,4 and climbed over the wall between jail and jail factory unnoticed. Then they spent more than one hour in the jail factory in search of escape facilitating tools. In the meanwhile electricity had been resumed at 3.00AM. Both the recaptured prisoners stated that they had heard the Fajr Azans when they were still in jail factory. The time of Fajr Azans, it may be mentioned, is 3.50AM-4.00AM. It means that they finally escaped from the jail after 4.00AM. Their activities in jail factory could not be noticed because the jail factory has been closed for the last 7/8 months due to its precarious building condition.

9. The escapees crossed 04 walls of the jail as under (Sketch attached as (Annex-DD) 151

- a. The wall of Sector No2 (Height 6 feet).
- b. Wall between jail and jail factory (Height 14 feet).
- c. Wall between jail factory and outer compound (Height 15 feet).
- d. Compound wall between jail land and outside road (Height 8 feet)

10. It may be mentioned that the escape plan initiated at 2.30 AM continued for about 1 hour and 45 minutes till its success but was not noticed / reported until about 5.00AM when the prisoners of the barrack from where escape had taken place reported the incident to Head Warder I/C of the sector who had arrived for unlocking of the prisoners. During inquiry all the prisoners of barrack No 6 denied having any pre knowledge of planned escape or having witnessed the escape being taken place.

11. The incident is outcome of negligence / inefficiency on part of the following prison staff on duty on the night of occurrence;-

a). **Mr.Musharaf Shah, Assistant Superintendent.**

He was In-charge of sector No.2 where the escapees had been making plans and where the plan was executed. He was also Night Duty Officer on the night of the occurrence and was supposed to ensure alertness of the staff and the convict officers as well as safety and security of the prison and the prisoners in accordance with rules. He is newly appointed (recruited in October,2010) and untrained as he has mentioned in his statement (Annex EE) As is evident from the record entry/exist (Annex-FF) , he had rounds of the jail till 1.00AM. however he did not visit the jail after that till lockout. He has committed misconduct / inefficiency resulting into the ugly happening.

b). **Warder Mir Qabaz Khan.**

He was Night Watch Officer from 1.00 AM to 3.00AM when the escape took place from the barrack and he failed to prevent / detect the escape by not taking the requisite action under Prison Rule-711.

c). **Warder Muhammad Imran.**

He was Night Watch Officer from 3.00AM to lockout. He failed to notice and report the incident for timely action. He also failed to spot 03 bed sheets lying on ground at beat No.4 wherefrom the escapees had scaled over the wall between the jail and jail factory. Timely detection and reporting could have prevented the escape because the escapees spent about 1 hour 45 minutes in jail factory before finally escaping from the jail. He failed to perform duties in accordance with Prison rule-711, which is reproduced below;-

“Rule-711-The duties of every warder on night watch are;-

- (i) To patrol the main wall of the prison, he shall not quit his beat or sit down; and shall be armed with a baton;
- (ii) To watch the prisoners and premises vigilantly in order to preserve silence, order and security;
- (iii) To see that convict officers do not sit but patrol the barracks constantly during their watch;
- (iv) To be constantly on the move, examining each barrack to see that every prisoner is on his berth, and that the ward is properly lighted;
- (v) To examine frequently bolts, locks gratings and doors in order to satisfy himself fully that they are intact;
- (vi) To get the prisoners counted by convict officers on duty atleast once in every hour and to satisfy himself that the number is correct; and
- (VII) To give immediate alarm by blowing his whistle on the happening of any occurrence requiring prompt action such as escape, riot, fire, etc; ”

d). **Warder Fazal Rahman**

He was Patrolling Officer of sector No.2&3 from 12.00 to 3.00AM on the night of occurrence. Internal beat No.4 wherefrom the escapees scaled over the wall between jail and the jail factory also fell under his charge. He did not keep the warder on duty at beat No 4 alert. Thus he failed to perform duties in accordance with Prison Rule-712 which facilitated the escape from the jail.

e). **Warder Akhtar Munir.**

He was performing duty at inner beat No 4 from 12.00 to 3.00 am which is the point at which the escapees scaled over the wall between the Jail and the Jail Factory at about 2.30 am. He failed to prevent the escape and is the main culprit.

f). **Warder Muhammad Ayub**

He performed the duty at inner beat No 4 from 3.00 to 6.00 am on the night of occurrence. He did not report the fact that three bed sheets knotted together were lying at beat No 4 after the escapees had crossed the Wall. Had he reported the unusual thing to the concerned staff in time, the escape could have been prevented as the escapees spent more than 1 hour and 45 minutes in Jail factory before finally escaping from the prison.

g). **Warder Ehsanullah No.1**

He was Patrolling Officer of sector No.2&3 from 3.00 to 6.00AM on the night of occurrence. Internal beat No.4 also fell under his charge. He failed to notice and report the incident for timely action. He also failed to spot 03 bed sheets lying on ground at beat No.4 wherefrom the escapees had scaled over the wall between the jail and jail factory. Timely detection and reporting could have prevented the escape because the escapees spent about 1 hour 45 minutes in jail factory. He also failed to

keep the Warder at beat No 4 alert. Thus he bitterly failed to perform duties in accordance with Prison Rule-712 which facilitated the escape from the jail. Rule 712 is reproduced below:-

“Rule-712-the duties of every Head Warder or Warder on patrol duty at night are;-

- i). To see that night sentries both inside and outside the barracks are on the alert;
- ii). To go around each barrack or cell block once every hour, examining the lock, bolts, gratings doors, walls and roofs in order to satisfy himself fully that they are intact;
- iii). To frequently get the prisoners counted by convict officers on duty and to satisfy himself that the number is correct;
- iv). To see that every association barrack confining prisoners is well lighted;
- v). To patrol the main wall and ensure that warders and convict officers are alert and watch tower sentries are vigilant;
- vi). To report immediately any cases of serious sickness to the Junior Medical Officer and the Assistant Superintendent on duty who shall, if necessary, takes steps for the removal of sick prisoners to hospital;
- VII). To raise alarm and send immediately information to the Assistant Superintendent on night duty and the Deputy Superintendent of any occurrence requiring prompt action, such as an escape, not and fire etc;”

h). Warder Said Rahman. ✓

He was performing duties at outer beat No.2 from 3.00AM to 6.00AM which is the time when escapees crossed the outer wall of jail factory and the compound wall between the jail and outer road. He did not perform his duty and failed to spot the escapees to prevent the escape.

i). Warder Muhammad Saleem No.1.

He was performing duties at outer beat No.3 from 3.00AM to 6.00AM which is the time when escapees crossed the outer wall of jail factory and the compound wall between the jail and outer road. Though on duty near the place of occurrence, he failed to spot the escapees to prevent the escape.

j). Warder Noor Islam

He was performing duty of outside Round Officer from 3.00 AM to 6.00 AM charged with the responsibility of keeping the sentry at outer post alert to prevent any mishap/escape. He failed to keep the sentries at outer post No,2&3 alert due to which the escape took place.

12. It is felt that senior prison management ie Superintendent and Deputy Superintendent had taken all the measures provided in the rules like manning all the beats (internal and external), arranging duties of Patrolling Officers and Night Watch Officers as immediate supervisory staff and assigning the duties of overall supervision to an Assistant Superintendent ie Night Duty Officer. Likewise the duties

of Numberdars were also properly assigned for internal watch of barracks. The duties were properly documented in precise manner and noted by all the staff. Re-arrest of two escapees is also a result of prompt post-incident action on part of senior prison management. It was failure on part of the staff on duty on the night of occurrence as pointed out and explained in para-11 above which resulted into untoward incident.

13. RECOMMENDATIONS


A. Disciplinary proceedings against the staff mentioned in para-11 above may be initiated under the relevant rules/law for misconduct / inefficiency mentioned therein. They have already been placed under suspension.

B. Warder Muhammad Javed No.2 who also has been placed under suspension and mentioned in the FIR was performing duties as Round Officer outside perimeter wall from 12.00 to 3.00AM. It has now been established that the escapees crossed the outer jail wall around 4.00AM when the said official was not on duty and hence not at fault. Therefore he may be reinstated into service and further action against him may be dropped.

C. The jails/ Lock ups of the province may be exempted from night load-shedding as repeatedly requested by the jail authorities vide (Annex-GG)

D. At present there is acute shortage of staff at Central Prison D.I.Khan which may prove fatal to the discipline and security of the jail. The position is given in (Annex-HH). This shortage may be made good as also requested by the Jail Superintendent time and again vide Annex II. Majority of the staff is untrained which is a great drawback for jail administration. Therefore measures for capacity building of Prisons department in the fields of manpower, training and security equipment may be taken on war footing to prevent recurrence of such incidents.


MASUD-UR-RAHMAN
AIG PRISONS


MUHAMMAD RAMZAN
ADDITIONAL SECRETARY(HOME)

D/- 26.7.2011

INQUIRY REPORT

The real and true facts are that the following five convicted prisoners escaped from barrack No. 6 of sector No. 2 of Central Prison D.I.Khan on the night of 23/24-07-2011.

- 1- Fazal Subhan S/o Roohul Amin
- 2- Matoon s/o Painsa Khan
- 3- Taj Rahman s/o Gul Rahman
- 4- Muhammad Islam s/o Fazal Dad
- 5- Riaz Ahmad s/o Smir Nawaz.

The convict Fazal Subhan and Matoon were recaptured by jail authorities soon after the escape with the help of local police. An FIR also been lodged with Police Station Cantt. D.I.Khan and following officials have been charged in the FIR on account of negligence of performance in duties. They all were handed over to police on 24-07-2011 and also been placed under suspension. They all have been committed to jail on judicial remand on 25-07-2011.

- 1- Warder Fazalur Rahman, patrolling officer sector 2 & 3 inside the jail from 12-00 to 3-00 AM.
- 2- Warder Ehsanullah No. 1, Patrolling officer sector 2 & 3 from 3-00 to 6-00 AM inside the jail.
- 3- Warder Akhtar Munir, performing his duty on inner beat No. 4 from 12-00 to 3-00 AM.
- 4- Warder Muhammad Ayub, sentry on inner beat No. 4 from 3-00 to 6-00 AM.
- 5- Warder Mir Qabaz Khan, night watch officer inside jail 1-00 to 3-00 AM.
- 6- Warder Muhammad Imran, round officer from 3-00 to lockout.
- 7- Warder Noor Islam, round officer outer beat 3-00 AM to 6-00 AM.
- 8- Warder Muhammad Saleem No. 1 Sentry on outer beat No. 3 from 3-00 to 6-00 AM.
- 9- Warder Said Rahman, sentry on outer beat No. 2 from 3-00 to 6-00 AM.
- 10- Mr. Musharaf Shah Assistant Superintendent jail, incharge sector No. 2 and night duty officer.

A committee consisting of Mr. Masood-ur-Rahman A.I.G Prisons and Mr. Muhammad Ramzan, Additional Secretary (Prisons) Home Department was entrusted the task for preliminary enquiry and fixing of responsibility on the officials / officers at fault or failure who conducted an elaborate enquiry and submitted its report to the Home Department. The Home Department submitted the same to the competent authority with the recommendation of disciplinary proceedings against the staff for their misconduct/ inefficiency on their parts. The competent authority approved the recommendations of the inquiry committee and Home Department and directed for initiating disciplinary proceedings against the above officials/ officers and in light of the recommendations of preliminary/ fact findings enquiry, charge sheets and statement of allegations were issued and as such the present formal enquiry is in hand

That all the escapee prisoners were confined in barrack No. 6 of sector No. 2 where they started their plan at about 2:30 AM during load shedding. They climbed the wall between jail factory and the sector wall at inner beat No. 4 with the help of three bed sheets. The prisoners in question made their way out of the barrack at about 2:30 AM, walked a considerable distance from the place of their confinement to beat No. 4 and crossed the wall between jail and jail factory unnoted. Then they spent more than 1 hour in search of escape facilitating tools. In the meanwhile electricity had been resumed at 3:00 AM. Both the recaptured prisoners stated that they had heard the Fajar Azan when they were still in jail factory.

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That the escape plan initiated at 2:30 AM continued for about more than 2 hours till its success but was not noticed/ reported until about 5:00 AM, when the Head warders of the sector came for un-locking of the prisoners in the evening.

It was felt and found during the enquiry that senior prison management i.e Superintendent and Deputy Superintendent had taken all the measures provided in the rules like manning all the beats (Internal & external), arranging duties of patrolling officers and night watch officers/ round officers as immediate supervisory staff and assigning the duties of overall supervision to an Assistant superintendent i.e Night duty officer. Likewise the duties of Numberdars were also properly assigned for internal supervision of barrack. The duties were properly documented in precise manner and noted by all the staff. Re-arrest of two escapees is also a result of prompt post incident action on part of senior prison administration, it was found failure on part of the staff who were charge sheeted and who were allotted duties on the night between 23/24-07-2011.

The committee examined the replies to the charge sheet submitted by all the accused officials/ officers and other office record as well as they were provided the opportunity of personal hearing. Going through the facts of the case, the committee was convinced that the following accused officers/ officials are found guilty of inefficiency, misconduct and negligent in the escape of five convicted prisoners from Central Prison D.I.Khan. They also failed to produce any sort of proof for their innocence, moreover they also admitted/ confessed that they failed to perform their duties efficiently and according to rules. They were also given the opportunity of cross examination. The following officers/ officials are discussed with regard to their charges and their negligence/ inefficiency in performance of their duties.

1- Mr. Musharaf Shah, Assistant Superintendent Jail.

He was incharge of Sector No. 2 where the five escapees had been making plans and where the plan was executed and he was also night duty officer on the night of the occurrence and was supposed to ensure alertness of the staff and the convict officers as well as safety of the prison and prisoners as required under the rules. He committed misconduct/ inefficiency during the performance of his duties, but he is also newly appointed and untrained therefore committee recommend minor penalty of stoppage of annual increments for 3 years.

2- Warder Fazalur Rahman.

He was patrolling officer of Sector No. 2, 3 from 12:00 to 3:00 AM on the night of occurrence. Internal beat No. 4 wherefrom the escapees scaled over the wall between jail and the jail factory also fell under his charge. He did not keep the warder on duty at beat No. 4 alert, thus he failed to perform duties in accordance with rules 712 which facilitated the escape from jail. Therefore the committee recommend Major Penalty for him.

3- Warder Ihsanullah No.1.

He was patrolling officer of Sector No. 2 & 3 from 3:00 to 6:00 on the night of the occurrence. Internal beat No. 4 also fell under his charge where from the escapees had scaled over the wall between the jail and the jail factory. Timely detection and reporting could have prevented the escape because the escapees spent more than 02 hours in the jail factory. He also failed to keep the warder at beat No. 4 alert thus he bitterly failed to perform his duties in accordance with the Prison Rule 712, which facilitated the escape from the jail. Therefore the committee recommend Major Penalty for him.

4- Warder Akhtar Munir

He was performing duties at beat No. 4 from 12:00 to 3:00 which is the point at which the escapees scaled over the wall between the jail & the jail factory at about 2:30 AM. He failed to prevent the escape and is the main culprit. Therefore the committee recommend Major Penalty for him.

5- Warder Muhammad Ayub:

He was performing the duties at Inner beat No. 4 from 3:00 to 6:00 AM on the night of the occurrence. He did not report about incident for timely action. Therefore the committee recommend major penalty for him.

6- Warder Mir Qabaz Khan.

He was night watch officer from 1:00 to 3:00 AM when the escape took place from barrack/ and he failed to prevent/ detect the escape by not taking the requisite action under prison rules 712. Therefore the committee recommend Major Penalty for him.

7- Warder Muhammad Imran:

He was night watch officer from 3:00 AM to Lock-out. He failed to notice and report the incident for timely action. Therefore the committee recommend minor penalty of stoppage of 03 annual increments for him.

8- Warder Noor Islam:

He was performing duties of external round Officer from 3:00 AM to 6:00 AM. Charged with the responsibility of keeping the sentry at outer post alert and prevent any mishap/ escape. He failed to keep the sentries at outer post No. 2 and 3 alert due to which the escape took place. Therefore the committee recommend major penalty for him.

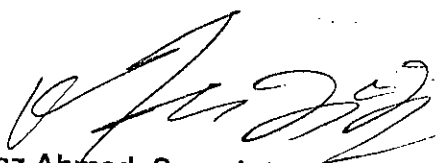
9- Warder Muhammad Saleem No. 1.

He was performing duties at outer beat No. 3 from 3:00 AM to 6:00 AM, the time when the escapees crossed the outer wall of the jail factory and the compound wall between the jail and outer road. He did not perform his duties and failed to stop the escapees from crossing the jail walls. Therefore the committee recommends Major Penalty for him.

10- Warder Said Rahman:


He was performing duties at outer beat No. 2 from 3:00 to 6:00 AM which is the time when the escapees crossed the parameter wall and the boundary wall. He did not perform his duties and failed to stop the escapees from the escape. Therefore the committee recommends Major penalty for him.

Submitted for necessary action as deemed appropriate please.


1- Atizaz Ahmad, Superintendent

District Jail Kohat.

(Enquiry Officer)


2- Muhammad Zahid, Deputy Superintendent

Central Jail Bannu

(Enquiry Officer)

Annex - C

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CHARGE SHEET

I, **Qudratullah Khan Marwat** I.G. Prisons Khyber Pakhtun Khwa Peshawar, as competent authority, hereby charge you **warder (under suspension) Said Rahman** attached to Central Prison D.I. Khan as follows :-

On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, you performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform your duty efficiently and also failed to prevent the escape, which shows slackness on your part and contributed towards ugly incident.

2. By reasons of the above you appear to be guilty of inefficiency/misconduct under Section-3 of the **NWFP Removal from Service (Special Powers) Ordinance 2000**, and have rendered yourself liable to all or any of the penalties specified in Section-3 of the Ordinance ibid.
3. You are, therefore directed to submit your written defence within seven days of the receipt of this **Charge Sheet** to the Inquiry Officer/Committee, as the case may be.
4. Your, defence, if any, should reach the Inquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defence to forward in and in that case exparte action shall follow against you.
5. Intimate whether you desire to be heard in person or not.
6. A statement of allegations is enclosed.

**INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUN KHWA PESHAWAR.**

جناب صاحب!
میں نے اس بارے میں
اپنی طرف سے
کامیاب رہا۔
سید رحمان
10/9/11



OFFICE OF THE
INSPECTOR-GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA
Tel: 9210334 Fax: 9213445

No. 17165

Dated 25/08/2011

DISCIPLINARY ACTION

I, **Qudrattullah Khan Marwat**, I.G.Prisons Khyber Pakhtunkhwa, as competent authority, am of the opinion that **warder(under suspension) Said Rahman** attached to Central Prison D.I.Khan rendered himself liable to be proceeded against as he has committed the following acts/omissions within the meaning of Section-3 of the NWFP Removal from Service (Special Powers) Ordinance 2000.

STATEMENT OF ALLEGATIONS


On the night of occurrence of escape of five convicted prisoners from barrack No.6 of Sector No.2 of the jail on 23/24-7-2011, he performed duties at outer beat No.2 from 3.00 AM to 6.00 AM which is the time when escapees crossed the outer wall of the jail factory and compound wall between the jail and outer road but he failed to perform his duty efficiently and also failed to prevent the escape, which shows slackness on his part and contributed towards ugly incident.

2. For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an Inquiry Committee consisting of the following is constituted under section-5 of the Ordinance:-
- Mr.Ehtazaz Ahmad, Superintendent, District Jail Kohat.
 - Mr.Muhammad Zahid, Deputy Superintendent Jail attached to Central Prison Bannu

3. The Inquiry Committee shall in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused, record their findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the Central Prison D.I.Khan shall join the proceedings on the date, time and place fixed.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST; NO. 17166-69 WE 

- Copy of the above is forwarded to:
- Mr.Ehtizaz Ahmad, Superintendent, District Jail Kohat.
 - Mr.Muhammad Zahid, Deputy Superintendent Jail, attached to Central Prison Bannu.

The Inquiry Committee for initiating proceedings against the accused under the provisions of the NWFP Removal from Service(Special Powers) Ordinance 2000.A copy of charge sheet is enclosed herewith.

- Warder(under suspension) Said Rahman attached to Central Prison D.I.Khan,with the direction to appear before the Inquiry Committee on the date, time and place fixed by the Inquiry Committee, for the purpose of inquiry proceedings.
- The Superintendent, Central Prison D.I.Khan with the direction to produce the relevant record before the Inquiry Committee and assist them during the Inquiry proceedings. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt.


INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR.

Annex-D



Government of Khyber Pakhtunkhwa
Home & Tribal Affairs Department

No. 8/3-SO (Pris-II)/HD/2012
Dated Peshawar the 11th December, 2012

To ✓

The Inspector General of Prisons,
Khyber Pakhtunkhwa,
Peshawar

Subject:- DEPARTMENTAL APPEALS

Dear Sir,

I am directed to refer to your letter No.28262-WE dated 08-11-2012 on the subject noted above and to state that on submission of the case, the competent authority has rejected the appeals of the following Warders of Central Prison D.I. Khan:

1. Ex-Warder Said Rehman.
2. Ex-Warder Muhammad Ayub.
3. Warder Muhammd Saleem No. 1.
4. Ex-Warder Akhtar Munir.

It is requested that the aforesaid appellants may be informed accordingly.

Yours faithfully

The appellants may be informed 17/11/12

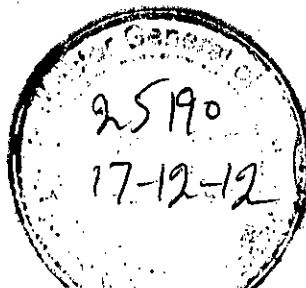
(KHANZAD GUL)

Section Officer (Prisons-II)

Enst: No. & date even

Copy forwarded for information to the:

1. PS to Home Secretary, Khyber Pakhtunkhwa.
2. PS to Special Secretary Home, Khyber Pakhtunkhwa.



Section Officer (Prisons-II)



Reed

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 32346 — WE

DATED 26-12-2012

To


The Superintendent,
Central Prison D.I.Khan.

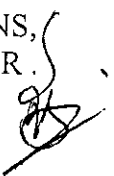
Subject:- **DEPARTMENTAL APPEAL**
Memo:

I am directed to refer to the subject and to forward herewith a copy of letter No..8/3-SO(Pris-II)HD/20129 dated 11-12-2012 received from Government of Khyber Pakhtunkhwa Home and T.As Department on the subject and to convey that the appeals in respect of following warder/Ex-warders has been considered and rejected by the Appellate Authority(Home Secretary Khyber Pakhtunkhwa):-

1. Ex-warder Said Rehman.
2. Ex-warder Muhammad Ayub.
3. Warder Muhammad Saleem No.1.
4. Ex-warder Akhtar Munir.

Please inform them accordingly.


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





(Annex - E)

OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 394-J-1979/1092

DATED 9/5/2012

ORDER

On completion of proceedings and in exercise of powers conferred under Section-8 of NWFP Removal from Service (Special Powers) Ordinance 2000 read with personal hearing and keeping in view of recommendation of the Inquiry Officer as well as unsatisfactory replies, the competent authority is pleased to award the penalties to the officials noted below against each with immediate effect in a case regarding escape of five convicts from Central Prison D.I.Khan in the night between 23/24-7-2011 :-

S.No.	NAME OF OFFICIALS	PENALTY
1.	Mr.Musharaf Shah, Assistant; Superintendent Jail(BPS-14).	Withholding of annual increment for two years.
2.	Warder(BPS-5) Fazal-ur-Rehman.	Compulsory retirement from service.
3.	Warder(BPS-5) Akhtar Munir.	Removal from Service.
4.	Warder(BPS-5) Mir Qabaz Khan.	Compulsory retirement from service.
5.	Warder(BPS-5) Ehsanullah No.1	Reduction to lowest stage in present time scale for five years.
6.	Warder (BPS-5) Muhammad Imran	Withholding of annual increment for three years.
7.	Warder (BPS-5) Said Rahman.	Removal from Service.
8.	Warder(BPS-5) Muhammad Saleem No.1.	Reduction to lowest stage in present time scale for five years.
9.	Warder(BPS-5) Muhammad Ayub.	Removal from Service.
10.	Warder (BPS-5)Noor Islam.	Reduction to lowest stage in present time scale for five years.

Officials at S.No. 5,6,8 & 10 are hereby re-instated into service with immediate effect. The period for which officials at S.No.1,2,4,,5,6,8 & 10 remained under suspension shall be treated as duty for all purposes.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR

ENDST;NO. 10925-929

Copy of the above is forwarded to :-

1. The Secretary to Government of Khyber Pakhtunkhwa , Home and T.As Department Peshawar, for information with reference to his letter No.2/52-SO(Prs)HD/11 Vol-II dated 10-8-2011.
2. The Superintendent, Headquarters Prison D.I.Khan, for information and necessary action. Officials at S.No.5,6,8 & 10 shall be transferred immediately to other jails of your Circle and compliance reported through Fax.
3. The Superintendent, Headquarters Prison Peshawar, for information and necessary action.
4. The Superintendent, Central Prison D.I.Khan, for information and immediate necessary action.
5. The District Accounts Officer D.I.Khan., for information.

INSPECTOR GENERAL OF PRISONS

INSPECTOR GENERAL OF PRISONS

ASSISTANT DIRECTOR(ADMN)
FOR INSPECTOR GENERAL OF PRISONS



Annex-F

~~(Annex F)~~

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

NO. 3/14-J-79/ 10740

DATED 7-5-2012

MOST IMMEDIATE/BY FAX

To

The Superintendents,
Central Prison D.I.Khan.

Subject:-

**ESCAPE OF FIVE CONVICTED PRISONERS FROM CENTRAL PRISON
D.I.KHAN BETWEEN THE NIGHT OF 23/24-7-2011/SHOW CAUSE
NOTICES**

Memo:

I am directed to refer to the subject and to ask you to please direct the below noted officials attached to your jail to appear before the worthy I.G on 09-5-2012 at 11.00 AM for personal hearing in the subject cited case:-

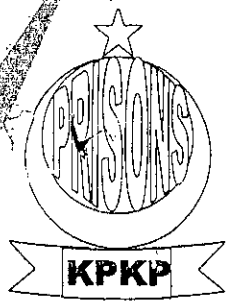
1. Mr. Musharaf Shah Assistant Superintendent Jail (BPS-14).
2. Mr. Fazal-ur-Rehman warder (BPS-5).
3. Mr. Akhtar Munir warder (BPS-5).
4. Mr. Mir Qabaz Khan warder (BPS-5).
5. Mr. Ehsanullah No.1 warder (BPS-5).
6. Mr. Muhammad Imran warder (BPS-5).
7. Mr. Said Rehman warder (BPS-5).
8. Mr. Muhammad Saleem No.1 warder (BPS-5).
9. Mr. Muhammad Ayub warder (BPS-5).
10. Noor Islam warder (BPS-5).

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

ENDST; NO. 10741

Copy of the above is forwarded to PA to I.G. Prisons Khyber Pakhtunkhwa Peshawar, for information.

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



To,

OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON D.I.KHAN
No: 3642-57/HC Dt: 7/5/2012

- 1). Mr. Musharaf Shah Assistant Superintendent (BPS-14).
- 2). Mr. Mir Qabaz Khan warder (BPS-5).
- 3). Mr. Muhammad Imran warder (BPS-5).
- 4). Mr. Muhammad Saleem No.1 warder (BPS-5).
- 5). Mr. Noor Islam warder (BPS-5).
- 6). Mr. Fazal Rehman warder (BPS-5).
- 7). Mr. Akhtar Munir warder (BPS-5).
- 8). Mr. Ehsanullah No.1 warder (BPS-5).
- 9). Mr. Saif Rehman warder (BPS-5).
- 10). Mr. Muhammad Ayub (BPS-5).

Subject:- ESCAPE OF FIVE CONVICTED PRISONERS FROM
CENTRAL PRISON DIKHAN BETWEEN THE NIGHT O 23/24-
7-2011 / SHOW CAUSE NTOICES.

Memo:-

Reference Inspector General of Prisons Khyber Pakhtukhwa Peshawar
No.3/14-J-1979/9222-WE dated 23-4-2012.

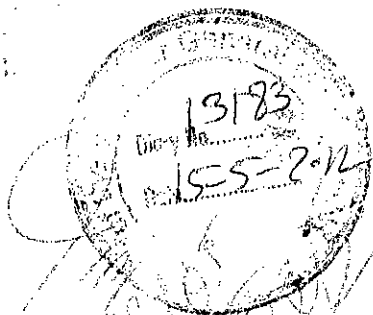
It is to inform you that personal hearing has been fixed on 09-5-2012,
you are hereby directed to attend the office of Inspector General of Prisons Khyber
Pakhtukhwa Peshawar on the date fixed please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON DIKHAN

Endst; No. 3652 dated 7-5-12,

Copy for the above is forwarded to the Inspector General of Prisons
Khyber Pakhtukhwa Peshawar for information please.

[Signature]
SUPERINTENDENT
CENTRAL PRISON DIKHAN



[Handwritten signature]