

**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR**

In the matter of

Service appeal No. 599/2024

Muhammad Yaseen, Head Warder attached to Central Prison Mardan

.....(Appellant)

**VERSUS**

3. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.

4. Superintendent Circle Headquarters Prison, Mardan

.....(Respondents)

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Deponent

26-06-24

Peshawar

S.B.

**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR**

In the matter of

Service appeal No. 599/2024

Muhammad Yaseen, Head Warder attached to Central Prison Mardan

.....(Appellant)

Khyber Pakhtunkhwa  
Service Tribunal

**VERSUS**

Diary No. 13606

Dated 20-06-2024

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.

2. Superintendent Circle Headquarters Prison, Mardan

.....(Respondents)

**Subject: JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1 & 2.**

**Respectfully Sheweth:-**

**PRELIMINARY OBJECTIONS:**

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

**OBJECTION ON FACTS:**

1. Pertains to record.
2. Incorrect and not admitted. Actually if look into his past service history, a number of penalties has been awarded to him on account of his willful absence from official duties time and again while posted at different jails in the province of Khyber Pakhtunkhwa. Detail of penalties **(Annex-A)**.The appellant while attached to Central Prison Mardan was caught red handed by the Incharge of Dewdi gate by smuggling of 02 Android phones inside the jail premises which is prohibited under the Rule of 690 of Khyber Pakhtunkhwa Prison Rules 2018 **(Annex-B)** and accordingly proceeded departmentally and ultimately awarded him the **Major penalty of Removal from Service vide Superintendent Headquarter Prison Mardan office order No.382-86 PB dated 01/02/2024**.The Prison services is a sensitive force service and his misconduct in such situation is highly undesirable, unacceptable by rendering himself for departmental proceedings. His previous service history is full of red entries and a number of punishment till date has been awarded to him while posted at different jails of KPK the details of penalties is hereby reproduced as under:-
  - a) Placed under Suspension in a disciplinary case vide Superintendent HQs Prison Haripur order No. 1078 dated 14.06.2013 and upon completion of inquiry proceedings the concerned official is hereby Re-instated into Service w.e.f 15.06.2013 with immediate effect with further order that he is hereby awarded the penalty of **"CENSURE"** vide Superintendent HQs Prison Haripur order No. 1408 dated 11.07.2013.

- b) Placed under Suspension with immediate effect in a disciplinary case against him while attached to Central Prison Peshawar vide office order No. 6064 dated 06.01.2016, upon completion of proceedings under KPK Government Servants (**Efficiency & Discipline Rules 2011**), initiated vide this HQs endorsement No.76-78 dated 07.01.2016 is hereby Re-instated into Service with immediate effect with further order as under:-  
His period of absence from 28.12.2015 to 03.01.2016 (06 Days) is hereby treated as leave on medical grounds on full average pay while his further absence w.e.f 04.01.2016 to 06.01.2016 (**03 days**) is hereby treated as **extra ordinary leave without pay** vide Superintendent HQs Prison Peshawar office order No. 249 dated 15.01.2016.
- c) Awarded the minor penalty of "**One increment stopped for one year**". The period of absence w.e.f 03.10.2016 to 03.11.2016 thirty two (**32**) days is hereby treated as **extra ordinary leave without pay** vide Superintendent HSP Mardan order No. 3601.04 dated 25.11.2016.
- d) The Absence period w.e.f 31.01.2017 to 08.03.2017 thirty six (36) days is hereby ordered to be treated as **leave without pay** and is hereby awarded the minor penalty of "**CENSURE**" vide Superintendent HQs Prison Mardan No. 946-49 dated 18.03.2017.
- e) The absence period w.e.f 04.04.2017 to 07.04.2017 three (03) days is hereby treated **without pay** vide Superintendent HQs Prison Mardan No. 2029-30 dated 03.05.2017.
- f) The absence period w.e.f 27.05.2017 to 01.06.2017 five (05) days is hereby treated as **leave without pay** vide Superintendent HQs Prison Mardan No. 3484-85 dated 02.06.2017.
- g) The competent authority Inspector General of Prisons KPK Peshawar vide order No. 10875 dated 18.03.2022, have been guilty of inefficiency and negligence in performance of their official duty of the said warder under suspension with immediate effect, the competent authority is hereby please to "Exonerate" him from the charges levelled against him and warn him to be careful in future. He is also re-instated into service with immediate effect vide I.G Prisons office order No. 15798 dated 17.05.2022.
- h) In exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011, the absence period w.e.f 11.03.2022 to 15.03.2022 five (05) days is hereby treated as leave without pay vide Superintendent HQs Prison Peshawar order No. 5084-87 dated 01.06.2022.
- i) The appellant was awarded the major penalty of "**Removal from Services**" for his misconduct/unlawful act of smuggling of two (02) Android phones inside the Jail through Dewry gate of the Jail vide Superintendent Circle Headquarter Prison Mardan Order No. 382-86/PB dated. 01-02-2024, after observing proper procedure and completion of all legal formalities.
- j) The appellant departmental appeal is hereby partially accepted and his major penalty "**Removal from Service**" is hereby converted into minor penalty "**Withholding of Increments for three years**". The Intervening period i.e. from the date of removal from service to the date of re-instatement in service is hereby treated as leave without pay vide Inspector General of Prisons Khyber Pakhtunkhwa office order No. 15082 dated 26.03.2024.
3. Incorrect and not admitted. A proper legal formalities have been fulfilled under the KP E&D Rules 2011. Statement of allegation (**Annex-C**) as well as charge sheet (**Annex-D**) was properly served upon him. Moreover, a regular inquiry (**Annex-E**) was also conducted against him before awarding major penalty a proper Show Cause Notice (**Annex-F**) was also served upon him but the reply on the part of appellant was found unsatisfactory.

Opportunity of personal hearing (**Annex-G**) was also provided to the appellant to prove himself innocent but he could not do so. Resultantly, major penalty in shape of Removal from Service was awarded to him vide Superintendent HQ Prison Mardan No.382-86 PB dated 01/02/2024 (**Annex-H**).

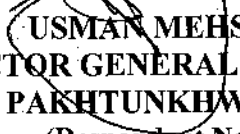
4. Details of this Para is elaborated in Para-03 above.
5. Admitted to the extent that the appellant preferred Departmental Appeal to the Inspector General of Prisons being respondent No.01 in the instant service appeal (**the appellate authority**) feeling aggrieved from the office order of respondent No.02 (**the appellate authority**) after examining all the record/evidence against him took lenient view with the appellant and partially accepted his departmental appeal(**Annex-I**) and converted the Major Penalty of Removal from Service into Minor Penalty "**withholding of increments for 03 years**" and treated intervening period from the date of Removal from Service i.e 01/02/2024 to Reinstatement into Service i.e 26/03/2024 vide IG Prison office order No.15082 dated 26/03/2024 (**Annex-J**).
6. Incorrect, misleading as the appellant has been treated in accordance with the Law and rules.

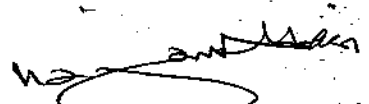
#### **OBJECTION ON GROUNDS.**

- i. Incorrect and misleading, as the order of the Competent Authority and Appellate Authority are in accordance with the Law and Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.
- ii. Incorrect and misleading, as the Appellant has been treated in accordance with the Law and as per procedure laid down in the Khyber Pakhtunkhwa Government Servants (**Efficiency & Discipline**) Rules and articles 4 and 25 of the Constitution of the Islamic Republic of Pakistan 1973 have not been violated by the respondents and are not liable to be set aside.
- iii. Incorrect and not admitted. Detail of this Para is elaborated in Para-03 of facts.
- iv. Incorrect and not admitted. Detail of this Para is elaborated in Para-03 of facts.
- v. Incorrect and not admitted. Detail of this Para is elaborated in Para-03 of facts.
- vi. Incorrect and not admitted, as the mobiles phones were recovered from the appellant inside Jail i.e. (Dewhri) and the statements of Akmam Ullah (Head Warder) and Rustam Shah (Chief Warder) were not recorded as they were not allotted duty at Jail Dewhri.
- vii. Incorrect and not admitted. Detail of this Para is elaborated in Para-03 of facts.
- viii. Minor penalty was recommended to the appellant by the inquiry officer, but even though charges were also proved against him, so it's the jurisdiction of competent authority to impose any major or minor penalty to the defaulter concerned under the E&D Rules, 2011.
- ix. Incorrect and misleading, as appellant was given proper opportunity of hearing on 01-02-2024.
- x. Incorrect and not admitted. Detail of this Para is elaborated in Para-2 of facts.
- xi. That the respondent departments would also seek permission of this Honorable Service Tribunal to raise additional objection at the time of arguments.

**PRAYER.**

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

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

  
**NAJAM HUSSAIN ABBASI**  
**SUPERINTENDENT CIRCLE**  
**HEADQUARTER PRISON MARDAN**  
(Respondent No.2)

**SUPERINTENDENT**  
**CIRCLE HQs PRISON MARDAN**



**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR**

In the matter of

Service appeal No. 599/2024

Muhammad Yaseen, Head Warder attached to Central Prison Mardan

.....(Appellant)

**VERSUS**

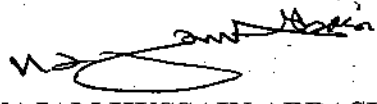
1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
2. Superintendent Circle Headquarters Prison, Mardan

.....(Respondents)

**COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS NO. 1 to 2**

We, the respondents, do hereby solemnly affirm and declare on oath that the contents of the reply/Para wise comments are true and correct to the best of our knowledge and belief and nothing material fact has been concealed and kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal, the respondents have neither been placed ex-parte nor their defense has been struck off/cost.

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

  
**NAJAM HUSSAIN ABBASI**  
**SUPERINTENDENT**  
**CIRCLE HEADQUARTER PRISON MARDAN**  
(Respondent No.2)

**SUPERINTENDENT**  
**CIRCLE HQs PRISON MARDAN**



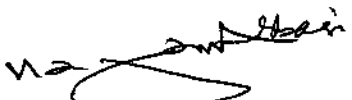



## OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

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### Penalties awarded while posted at different jails in the Province.

1. **Placed under Suspension** in a disciplinary case vide Superintendent HQs Prison Haripur order No. 1078 dated 14.06.2013 and upon completion of inquiry proceedings the concerned official is hereby re-instated into service w.e.f 15.06.2013 with immediate effect with further order that he is hereby awarded the penalty of "**CENSURE**" vide Superintendent HQs Prison Haripur order No. 1408 dated 11.07.2013.
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3. Awarded the minor penalty of "**One increment stopped for one year**". The period of absence w.e.f 03.10.2016 to 03.11.2016 thirty two (32) days is hereby treated as extra ordinary leave without pay vide Superintendent HSP Mardan order No. 3601.04 dated 25.11.2016.
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7. The competent authority Inspector General of Prisons KPK Peshawar vide order No. 10875 dated 18.03.2022, have been guilty of inefficiency and negligence in performance of their official duty of the said warder under suspension with immediate effect, the competent authority is hereby please to "**Exonerate**" him from the charges levelled against him and warn him to be careful in future. He is also re-instated into service with immediate effect vide I.G Prisons office order No. 15798 dated 17.05.2022.
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SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN  
SUPERINTENDENT  
CIRCLE HQS PRISON MARDAN  


690. **List of prohibited articles.**---(1) The articles specified or included in any of the descriptions contained in the list annexed to this rule, shall be deemed to be prohibited articles, within the meaning of section 42 of the Act and sub-section (12) of section 45 of the Act, unless any such article shall be-

- (a) introduced into any prison; or
- (b) removed from any prison; or
- (c) supplied to any prisoner outside the limits of any prison; or
- (d) received, processed or transferred by any prisoner with the permission of the Superintendent or other officer empowered by him in this behalf.

(2) List of prohibited articles include-

- (a) spirituous liquors of every description and intoxicating substances;
- (b) all explosives, intoxicating or poisonous substances and chemicals, whether fluid or solid of whatever description;
- (c) all arms and weapons and articles, which are capable of being used as weapons of whatever description;
- (d) all bullion, metal, coin, jewelry, ornaments, currency notes, except within permissible limit, securities, bonds and articles of value of every description;
- (e) all books, paper, photographs and pictures and printed or written matter and materials superficially prohibited by Government and appliances for printing or writing of whatever description;
- (f) string, ropes, chains, bamboos and all materials which are capable of being converted into string or rope or chain, any article likely to facilitate escape, or implement of any kind;
- (g) wood, bricks, stones and earth of every description;
- (h) mobile phone, PTCL phone, SIM's of any description, laptop, USB, MP3, charger, memory card and any other devices used for communications; and
- (i) all substances used for intoxication including Heroin, Ice, or any other drug / Narcotics of whatever description.





OFFICE OF THE  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN  
Email. [mardanjail@gmail.com](mailto:mardanjail@gmail.com).  
Phone/Fax: 0937-843114  
No. 337 /PB. Dated: 28/11/2023.

**DISCIPLINARY ACTION.**

I, Superintendent, Circle Headquarter Prison Mardan, as competent authority, am of the opinion that **Head Warder (Under Suspension) Muhammad Yaseen S/O Muhammad Mursaleen (BPS-09)** attached to Central Prison Mardan has rendered himself liable to be proceeded against as he committed the following acts/omission within the meaning of rule 3 of the of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

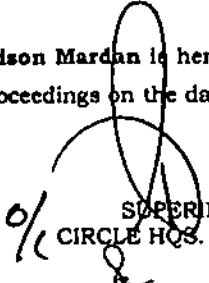
**STATEMENT OF ALLEGATIONS.**

"As per report of Superintendent Central Prison Mardan that Head Warder Muhammad Yaseen S/O Muhammad Mursaleen (BPS-09), allotted duty at Sector No. 05 as sector relief from unlocking to 08:30 AM. During body search in Dewri he handed over one Android mobile phone voluntarily to Warder Usman (Talashi Gate). Another Android mobile/cell phone without sim card was recovered from his possession concealed by him in his front pocket by Warder Usman (Talashi Gate) at about 06:31 AM on 28.11.2023 during body search. The recovery was made in the presence of Warder Shahid Masih (Talashi Shab) and Warder Saleem (Key Mate) at Dewri of the jail."

Mr. Amin Shuaib, Superintendent District Jail Timergara is hereby appointed as Inquiry Officer against the said accused Head Warder with reference to the above allegations, under rule 10(1)(a) of the ibid rules.

The Inquiry Officer shall in accordance with the provision of the ibid rules, provide a reasonable opportunity of hearing to the accused, record his findings and make within sixty days (60) of the receipt of this order, recommendation as to punishment or other appropriate action against the accused official.

Mr. Abdul Mastan, Assistant Superintendent Central Prison Mardan is hereby nominated as Departmental representative. He and the accused official shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

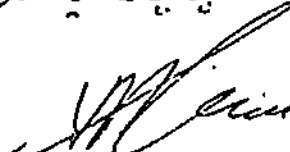
  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Endst No. 3372-76 /- Dated: 28/11/2023.  
Copy of the above is forwarded to:-

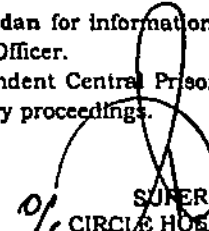
1. The Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information please.
2. The Superintendent Central Prion Mardan for information and necessary action and with the request to provide relevant record of the accused official to the Inquiry officer, please.
3. Mr. Amin Shuaib, Superintendent District Jail Timergara (Inquiry Officer) for initiating proceedings against the above named (Under Suspension) Head Warder under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.
4. Mr. Abdul Mastan, Assistant Superintendent Central Prison Mardan for information. He is directed to produce all relevant record on the date and time fixed by the Inquiry Officer.
5. The above named (Under Suspension) Head Warder C/O Superintendent Central Prison Mardan with the direction to appear before the Inquiry Officer for the purpose of Inquiry proceedings.

بیان ایمپانٹ و سول کیا -

1:26 PM



محمد یاسین ولد محمد مرسلین (مذکورہ)

  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Attested

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

**CHARGE SHEET**

I, Superintendent Circle Headquarter Prison Mardan, as competent authority, hereby charge you Head Warder (Under Suspension) Muhammad Yaseen S/O Muhammad Mursaleen (BPS-09) attached to Central Prison, Mardan as under.

As per report of Superintendent Central Prison Mardan:-

"You were allotted duty at Sector No. 05 as sector relief from unlocking to 08:30 AM. During body search in Dewri you handed over one Android mobile phone voluntarily to Warder Usman (Talashi Gate). Another Android mobile/cell phone without sim card was recovered from your possession concealed by you in your front pocket by Warder Usman (Talashi Gate) at about 06:31 AM on 28.11.2023 during body search. The recovery was made in the presence of Warder Shahid Masih (Talashi Shab) and Warder Saleem (Key Mate) at Dewri of the jail."

By reasons of the above, you appeared to be guilty of misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the rules ibid.

Therefore you are required to submit your written defense if any within ten (10) days of the receipt of this Charge Sheet to the inquiry officer.

- 1- Your written defense, if any, should reach to the inquiry officer within the specified period, failing which it shall be presumed that you have nothing in your defense and in that case Ex-Parte action shall be taken against you.
- 2- Intimate whether you desire to be heard in person.
- 3- A Statement of allegations is enclosed.

o/c  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Attested

HEAD WARDER  
MARDAN  
28/11/2023

*[Signature]*

**CERTIFICATE**

Certified that I Anim Shuaib, Commandant PSTA, Haripur submitted detailed Inquiry Report containing 06 pages (02 pages report & 04 Annexures) into the case of recovery of Mobile Phone from Head Warder Muhammad Yaseen at Central Prison Mardan on 17.01.2024.

DS/PB  
Supdt  
19-01-24

Attested  
[Signature]  
SUPERINTENDENT  
CIRCLE HQ: PRISON MARDAN

[Signature]  
AMIN SHUAIB  
COMMANDANT  
PSTA HARIPUR

One 190

Statement of Allegations



OFFICE OF THE  
COMMANDANT  
PRISONS STAFF TRAINING ACADEMY  
(PSTA) HARIPUR  
Phone & Fax: 0995-920067  
[pstaharipur@gmail.com](mailto:pstaharipur@gmail.com)

No. 194/JulE Dated 17/10/2024

To,

The Superintendent Jail,  
Circle Headquarter Prisons, Mardan.

Subject: - INQUIRY REPORT

Memo;

*Reference to your Office letter No. 3372-76 dated: 28-11-2023.*

After having been appointed as an Inquiry Officer vide letter under reference, the undersigned adopted proper procedure as per rules mentioned in the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules 2011 (amended in 2021) for initiating Inquiry against accused Head Warder Muhammad Yaseen S/O Muhammad Mursaleen attached to Central Prison Mardan for recovery of Android Mobile/ Cell Phone concealed in his front pocket during body search at Main Dewry as specified in the Statement of Allegations.

#### PROCEDURE.

In order to find the factual position of the case, the undersigned fixed a date for inquiry proceeding and summoned the accused to appear for inquiry Proceedings proceeded on the date fixed. In this respect the undersigned proceeded to Central Prison Mardan and a thorough inquiry was conducted in to the matter. The accused official attended the Inquiry proceedings and submitted his written statement which is self-explanatory and attached as Annexure- A. An opportunity of hearing was given to him and he was cross examined. Similarly, other relevant staff were also interrogated and recorded their statements which are enclosed as Annexure-B1, B2, B3... In the light of written statement of the accused and other staff, following facts and findings were discovered: -

#### FACTS & FINDINGS:

As per statement of allegations "during body search in Dewry, the accused handed over one Android Mobile voluntarily to Warder Usman (Talashi Gate) while another Android Mobile Phone was recovered from his possession". In this respect the accused Head Warder admitted that he handed over one mobile phone voluntarily to Talashi Gate

Attested

SUPERINTENDENT  
CIRCLE HQ PRISON MARDAN

while the 2<sup>nd</sup> Mobile Phone was recovered from his possession which he purchased in Peshawar for his wife and forgot in his pocket.

During cross examination, he did not provide receipt/any documentary evidence of the Mobile Phone which he purchased, thus the burden of proof lied on him to defend himself.

During Course of inquiry proceedings and verbal discussion, the undersigned felt that his statement is not based facts as such if he purchased the Mobile Phone then he was required to: -

1. Keep the phone in his Home at Peshawar and hand over the Mobile Phone to his wife.
2. Hand over the Mobile Phone to his colleagues/roommates till his duties timing.
3. Hand over the Mobile Phone to Talashi Gate like he handed over the other one.

Therefore, statements/defense reply of the accused Head Warder is not satisfactory and seems nothing instead plethora of verbose.

Likewise, from the perusal of statements of other staff members i.e. Talashi Gate, Line Muharrar, Line Officer, it is also evident that Mobile Phone without SIM was recovered from his possession. As per statement of Line Muharrar, neither was he granted any leave nor rest/Bachat on the same day then how can it possible that he purchased the mobile in Peshawar, which also generate question mark on his statements. Hence charge proved against him.

Anyhow, the Mobile Phone was recovered from his front pocket of his shirt which create a little bit doubt.

Moreover, previous service record of the accused Head Warder was also checked wherein it was observed that he was never involved in smuggling of Mobile Phone or other contrabands to inside the Jail during his service.

### CONCLUSION:

In view of the above narrated facts and findings, the undersigned concluded that the accused Head Warder did not submit any documentary poof in his defense to justify his innocence. Therefore, the undersigned recommended minor penalty of *Stoppage of Three Annual Increments for the period of Three Years* or any other punishment as the competent authority deemed appropriate, please.

Attested  
SUPERINTENDENT  
CIRCLE NO. PRISONWARDAN

Inquiry Officer  
(AMIN SHUAIB)  
COMMANDANT  
PRISONS STAFF TRAINING ACADEMY  
HARIPUR

No: 91 Dated: 20/01/2024.

**SHOW CAUSE NOTICE**

I, Muhammad Arif Khan (BPS-18), Superintendent Headquarter Prison Mardan, as competent authority, under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve you, Head Warder (Under Suspension) Muhammad Yaseen S/O Muhammad Mursaleem (BPS-09) attached to Central Prison Mardan as follows:-

1- (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing vide this office communication No. 3372-76 dated: 28.11.2023.

(ii) On going through the findings and recommendations and other connected papers including your defence before the said Inquiry Officer, I am satisfied that you have committed the following act/omission specified in section 3 of the said rules:-

"You were allotted duty at Sector No. 05 as sector relief from unlocking to 08:30 AM. During body search in Dewri you handed over one Android mobile phone voluntarily to Warder Usman (Talashi Gate). Another Android mobile/cell phone without sim card was recovered from your possession concealed by you in your front pocket by Warder Usman (Talashi Gate) at about 06:31 AM on 28.11.2023 during body search. The recovery was made in the presence of Warder Shahid Masih (Talashi Shab) and Warder Saleem (Key Mate) at Dewri of the Jail."

2- Thereof, I, as competent Authority have tentatively decided to impose upon you the Major Penalty of "Removal from Service" under section 4 of the said rules.

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

4- If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5- A copy of the findings of the inquiry officer is enclosed.

Endst No. 192-94 / Dated. 20/01/2024.  
Copy of the above is forwarded to:-

1. The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information please.
2. The Superintendent Central Prison Mardan for information and with the request that one copy of the Show Cause Notice duly signed and dated by the accused official as a token of its receipt may be returned to this office for record, please.
3. The above named (Under Suspension) Head Warder C/O Superintendent Central Prison Mardan.

**Attested**  
**SUPERINTENDENT**  
**CIRCLE HQS PRISON MARDAN**

**SUPERINTENDENT**  
**CIRCLE HQS PRISON MARDAN**

**SUPERINTENDENT**  
**CIRCLE HQS PRISON MARDAN**

**SUBJECT: REPLY OF FINAL SHOWCAUSE NOTICE OF (UNDER SUSPENSION) HEAD WARDER MUHAMMAD YASEEN S/O MUHAMMAD MURSALEEN ATTACHED TO CENTRAL PRISON MARDAN**

R/Sir,

"As per report of Superintendent Central Prison Mardan that Head Warder (BPS-09) Muhammad Yaseen S/O Muhammad Mursaleen, while entering inside the jail for his allotted duty at Sector No. 05 as relief from lockout to 08:30 AM. He handed over one Android mobile phone to Warder Usman (Talashi Gate) and another Android mobile/cell phone was recovered from his possession without sim card concealed by him in his front pocket of his Qameez by Warder Usman (Talashi Gate) at about 06:31 AM on 28.11.2023 during routine search at Dewri. The recovery was made in the presence of Warder Shahid Masih (Talashi Shab) and Warder Saleem (Chabi Mute) at Dewri of the jail. The Superintendent Jail requested for the suspension of the accused Warder with immediate effect and necessary disciplinary action may be taken against him under E&D Rules 2011.

The concerned head warder was suspended on the request of Superintendent Central Prison Mardan vide this office order Endst No. 3367-70 dated 28.11.2023 and inquiry was initiated against the accused Head Warder and Mr. Amin Shunib while Superintendent District Jail Timergara and now Commandant Prisons Staff Training Academy Haripur was appointed as inquiry officer vide this office letter Endst No. 3372-76 dated 28.11.2023. Accordingly he furnished the inquiry report and his findings and recommendations vide his office letter No. 194/WE dated 17.01.2024 which are as under:-

**FINDINGS & FACTS:**

As per statement of allegations "during body search in Dewri, the accused handed over one Android Mobile voluntarily to Warder Usman (Talashi Gate) while another Android Mobile Phone was recovered from his possession". In this respect the accused Head Warder admitted that he handed over one mobile phone voluntarily to Talashi Gate while the 2<sup>nd</sup> Mobile Phone was recovered from his possession which he purchased in Peshawar for his wife and forgot in his pocket.

During cross examination, he did not provide receipt/any documentary evidence of the Mobile Phone which he purchased, thus the burden of proof lied on him to defend himself.

During Course of inquiry proceedings and verbal discussion, the undersigned felt that his statement is not based facts as such if he purchased the Mobile Phone then he was required to:-

1. Keep the phone in his Home at Peshawar and hand over the Mobile Phone to his wife.
2. Hand over the Mobile Phone to his colleagues/roommates till his duties timing.
3. Hand over the Mobile Phone to Talashi Gate like he handed over the other one.

Therefore, statements/defense reply of the accused Head Warder is not satisfactory and seems nothing instead plethora of verbose.

Likewise, from the perusal of statements of other staff members i.e. Talashi Gate, Line Muharrar, Line Officer, it is also evident that Mobile Phone without SIM was recovered from his possession. As per statement of Line Muharrar, neither was he granted any leave nor rest/Bachat on the same day then how can it possible that he purchased the mobile in Peshawar, which also generated question mark on his statement. Hence charge **PROVED** against him.

Anyhow, the Mobile Phone was recovered from his front pocket of his shirt which create a little bit doubt. Moreover, previous service record of the accused Head Warder was also checked wherein it was observed that he was never involved in smuggling of Mobile Phone or other contrabands to inside the Jail during his service.

**CONCLUSION:**

In view of the above narrated facts and findings, the undersigned concluded that the accused Head Warder did not submit any documentary proof in his defense to justify his innocence. Therefore, the undersigned recommended minor penalty of *Stoppage of Three Annual Increments for the period of Three Years* or any other punishment as the competent authority deemed appropriate, please.

Final Showcause notice was issued to the concerned (Under Suspension) Head Warder vide this office letter No. 192-94-WE dated. 20.01.2024.

In the reply the Head Warder stated that "On the relevant day he was in possession of two Android cell phones which he handed over to warder namely Usman (Talashi Gate). The Android Cell Phone was available in his front pocket which he voluntarily handed over to the warder. It is incorrect that the same

Attested

SUPERINTENDENT  
CIRCLE HQs PRISON MARDAN

was concealed and record during search. He did not try to enter the cell phone in the prohibitive area of the jail. He has not committed any illegal or unlawful act nor he violated the rules of the jail. At the relevant night Javed Gubedar exchange some harsh words with him hence he lodged the instant complaint against him. The mobile which he handed over at the Tahsil Gata are his personal mobile phone which he have purchase at the day before for family use. That the said mobile phones have been handed over in the presence of Ahmadi Ullah and Rustam Shah who were present at the Tahsil Gata. That after the counting of prisoners Javed Gubedar made the said allegation against him. That Ahmadi Ullah and Rustam Shah are the witnesses of the occurrence and they are also ready to narrate the real story before the concerned authority. He requested the acceptance of instant reply".

Submitted for further orders, please.

U/C PB

Personal hearing on 1-2-24  
 29/1/24  
 Personally heard.

Removal from

service due

to his extremely

unlawful act

of smuggling the

mobile sets in

break daylight

through a window

side of the

Central Prison

whose highly

dangerous

without prior

arrangement

1/2/24

Weak  
 defence  
 please  
 keep  
 it in  
 his  
 pocket.

Arrested

SUPERINTENDENT  
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OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. 381 /PB Dated: 01/02/2024, E-Mail: mardanjail@gmail.com, 0937-843114

OFFICE ORDER.

WHEREAS, accused official/Head Warder (Under Suspension) Muhammad Yaseen S/O Muhammad Mursaleen attached to Central Prison Mardan was charged within the meaning of Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct contained in statement of Allegations/ Disciplinary Action served upon him vide this Headquarter endorsement No. 3372-76 dated. 28-11-2023 wherein Mr. Amin Shuaib while Superintendent District Jail Timergara and now Commandant Prisons Staff Training Academy Haripur was appointed as Inquiry officer.


AND WHEREAS, he furnished his written reply/defence to the Inquiry officer without any documentary proof/evidence and the allegations/charges against him were Proved.

AND WHEREAS, the accused official was proceeded against under Rule-14(4) for the charges of his misconduct/negligence in the performance of duty, as mentioned in the Show Cause Notice No. 192-94 dated. 20-01-2024.

AND WHEREAS, he furnished his written reply/defence without any documentary proof/evidence which was found un-satisfactory.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 01-02-2024 as provided for under rules ibid. The accused official completely failed to defend his case with documentary proof/evidence.

NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, having considered the Inquiry report, charges levelled against him and evidence on record, the undersigned being Competent Authority, after observing all legal procedural formalities, hereby awarded the Major Penalty of "Removal from Services" with immediate effect to accused official/Head Warder (Under Suspension) Muhammad Yaseen S/O Muhammad Mursaleen attached to Central Prison Mardan for his misconduct/unlawful act of smuggling of two android Mobile Phones inside the Jail through Dewry gate of the Jail.

  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN


Endst: No. 382-86 /PB Dated: 01/02/2024.

Copy of the above is forwarded to:-

- 1- The Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar for information, please.
- 2- The Superintendent Central Prison Mardan for information and necessary action with reference to his report dated. 28-11-2023, please.
- 3- Mr. Amin Shuaib (Inquiry Officer), Commandant Prisons Staff Training Academy Haripur for information with reference to his inquiry/ letter No.194/WE dated. 17-01-2024, please.
- 4- The District Accounts Office Mardan for information and necessary action, please.
- 5- The above named Head Warder (Under Suspension) C/O Superintendent Central Prison Mardan.

Attested

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

To,

The I.G Prison, Head Office KPK Peshawar.

APPEAL AGAINST THE IMPUGNED ORDER VIDE DATED 01.02.2024  
PASSED BY THE SUPERINTENDENT HEAD QUARTER PRISON  
MARDAN AND ORDER VIDE DATED 28.11.2023 PASSED BY THE  
INQUIRY OFFICERS WHEREIN THE APPELLANT WAS FIRSTLY  
AWARDED MINOR PENALTY AND LATER ON MAJOR PENALTY WAS  
INFLECTED AND DISMISSED THE APPELLANT FROM SERVICE

Prayer:- ON ACCEPTANCE OF THE INSTANT DEPARTMENTAL APPEAL THE  
IMPUGNED ORDER MAY PLEASE BE SET ASIDE AND REINSTATE THE  
APPELLANT WITH ALL CONSEQUENTIAL BACK BENEFITS.

Respected Sir,

Appellant submits as under:-

1. That the appellant was charge sheet on dated 28.11.2023 and the concerned authority suspended the appellant and a show cause notice was issued.
2. That an inquiry was conducted and the inquiry officer awarded minor penalty of stoppage of three Annual increments for a period of three years. (Copy of order is attached).
3. That the appellant was later on dismissed by the authority concerned (Copy of order is attached).
4. That the appellant feeling aggrieved from the impugned orders approaches to this Hon'ble office on the following grounds inter alia:-

GROUND:

- A. That the orders of the impugned office and superintendent HQs Prison Mardan is against the law facts and circumstances of the case hence not maintainable in the eye of law.
- B. That the orders of both officers are based on malafide. Hence liable to be set aside.
- C. That the penalty awarded which leads to the dismissal is harsh one.
- D. That the appellant was not properly heard.
- E. That the appellant was not previously charged for the same act or omission.

Attested



SUPERINTENDENT  
HEAD QUARTER PRISON MARDAN

F. That no eye witness came forward which could prove the allegation alleged by the authority concerned.

G. That the appellant did not transported the mobile phone beyond the prohibited area and in this regard no evidence is available that the mobile phone was recovered in the prohibited area.

H. That double jeopardy is prohibited in the constitution of Islamic of Pakistan 1973.

*It is therefore most humbly prayed that on acceptance of the instant departmental appeal the impugned order may please be set aside and reinstate the appellant with all consequential back benefits.*

Dated: 22.02.2024

Appellant

Muhammad Yaseen  
S/o Muhammad Mursaleen  
Khyber Pakhtunkhwa  
Prison Police Deptt:  
CNIC: 17301-6539541-5

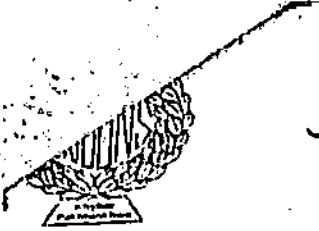
*Y.P.C.*  
*Moh*  
*0346945214*

Attested

*[Signature]*

*4406*  
*22-2-24*

*9*  
*2-6-2-24*



By fax

INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 📠 091-9213445  
<https://www.facebook.com/kpkprisons>  
✉ prisonslg@gmail.com

No. RC - 10737-WE

Dated. 26-02-2024

To,


The Superintendent,  
Circle Headquarters Prison Mardan

Subject: DEPARTMENTAL APPEAL  
Memo:

I am directed to refer to the subject and to forward herewith a copy of application / appeal dated 22-02-2024 (self-explanatory) submitted by Head Warder Muhammad Yaseen S/o Muhammad Mursaleen attached to Central Prison Mardan on the captioned subject.

Please look into the matter and furnish your necessary views / comments alongwith history of his service on the below noted format for further necessary action by this office:

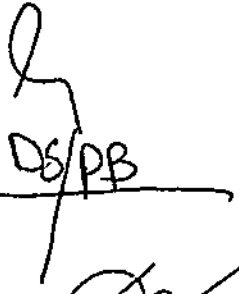
S.No.	Name & Parentage	Rank	Date of Birth	Date of appointment	Detail Of Postings	Penalty if any awarded
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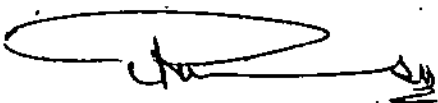
  
ASSISTANT DIRECTOR  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

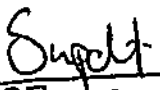
Endst: No. \_\_\_\_\_/

Copy of the above is forwarded to the PS to I.G, Prisons Khyber Pakhtunkhwa Peshawar.

ASSISTANT DIRECTOR  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

  
DS/PB

Attested  
  
SUPERINTENDENT  
CIRCLE HQ - PRISON MARDAN

  
27-02-2024  
Dn 574



OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. 624

-WE/PB

Dated: 28/02/2023.

E-Mail: mardanajall@gmail.com.

Phone and Fax: 0937-813114

To: The Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL.

R/Sir: Reference to your good office letter No. 10737-WE dated. 26-02-2024 on the subject cited above. Information regarding the Departmental appeal of the Head Warder Muhamad Yaseen S/O Muhammad Mursaleen are as under on the prescribed format, please.

1	Name with Parentage	Muhamad Yaseen S/O Muhammad Mursaleen			
2	Rank	Head Warder			
3	Date of Birth	02.01.1985			
4	Date of Appointment	22.04.2006			
5	Detail of postings	S#	Name of Jail	From	To
		01	JL Malakand	22.04.2006	10.04.2007
		02	CP Peshawar	15.04.2007	03.04.2012
		03	SJ Dir	06.04.2012	30.11.2012
		04	CP Haripur	05.12.2012	10.09.2013
		05	SJ Dussu Kohistan	15.09.2013	01.05.2014
		06	DJ Timergara	05.05.2014	30.12.2014
		07	JL Nowshera	01.01.2015	26.10.2015
		08	CP Peshawar	21.11.2015	22.03.2016
		09	SJ Charsadda	11.04.2016	30.09.2016
		10	HSP Mardan	03.10.2016	29.11.2017
		11	CP Peshawar	04.12.2017	13.05.2022
		12	IC Landi Kotal	09.06.2022	17.10.2022
13	CP Mardan	20.10.2022	Till date		
6	Penalty if any awarded	<ol style="list-style-type: none"> <li>Placed under Suspension in a disciplinary case vide Superintendent HQs Prison Haripur order No. 1078 dated 14.06.2013 and upon completion of Inquiry proceedings the concerned official is hereby re-instated into service w.e.f 15.06.2013 with immediate effect with further order that he is hereby awarded the penalty of "CENSURE" vide Superintendent HQs Prison Haripur order No. 1408 dated 11.07.2013.</li> <li>Placed under Suspension with immediate effect in a disciplinary case against him while attached to Central Prison Peshawar vide office order No. 6064 dated 06.01.2016, upon completion of proceedings under KPK Government Servants (Efficiency &amp; Discipline) Rules 2011, initiated vide this HQs endorsement No. 76-78 dated 07.01.2016 is hereby re-instated into service with immediate effect with further order as under:- His period of absence from 28.12.2015 to 03.01.2016 (06 Days) is hereby treated as leave on medical grounds on full average pay while his further absence w.e.f 04.01.2016 to 06.01.2016 (03 days) is hereby treated as extra ordinary leave without pay vide Superintendent HQs Prison Peshawar office order No. 249 dated 15.01.2016.</li> <li>Awarded the minor penalty of "One increment stopped for one year". The period of absence w.e.f 03.10.2016 to 03.11.2016 thirty two (32) days is hereby treated as extra ordinary leave without pay vide Superintendent HSP Mardan order No. 3601.04 dated 25.11.2016.</li> <li>The Absence period w.e.f 31.01.2017 to 08.03.2017 thirty six (36) days is hereby ordered to be treated as leave without pay and is hereby awarded the minor penalty of "CENSURE" vide Superintendent HQs Prison Mardan No. 946-49 dated 18.03.2017.</li> <li>The absence period w.e.f 04.04.2017 to 07.04.2017 three (03) days is hereby treated without pay vide Superintendent HQs Prison Mardan No. 2029-30 dated 03.05.2017.</li> <li>The absence period w.e.f 27.05.2017 to 01.06.2017 five (05) days is hereby treated as leave without pay vide Superintendent HQs Prison Mardan No. 3484-85 dated 02.06.2017.</li> <li>The competent authority Inspector General of Prisons KPK Peshawar vide order No. 10875 dated 18.03.2022, have been guilty of inefficiency and negligence in performance of their official duty of the said warder under suspension with immediate effect, the competent authority is hereby please to "Exonerate" him from the charges levelled against him and warn him to be careful in future. He is also re-instated into service with immediate effect vide I.O Prisons office order No. 15798 dated 17.05.2022.</li> <li>In exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (E&amp;D) Rules 2011, the absence period w.e.f 11.03.2022 to 15.03.2022 five (05) days is hereby treated as leave without pay vide Superintendent HQs Prison Peshawar order No. 5084-87 dated 01.06.2022.</li> </ol>			

9. The appellant was awarded the major penalty of "Removal from Services" for his misconduct/unlawful act of smuggling of two (02) Android phones inside the Jail through Dewry gate of the Jail vide Superintendent Circle Headquarter Prison Mardan Order No. 382-86/PB dated. 01-02-2024, after observing proper procedure and completion of all legal formalities. (Copy attached as Annex-A)

Therefore his appeal may kindly be rejected as proceedings against him were conducted strictly in accordance with rules, please.

Attested

[Signature]

[Signature]  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN



OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
☎ 091-9210334, 9210406 📠 091-9213445  
No. Estb/Ward/Orders/ N.L. 150821-  
Dated 26-03-2024 /

**ORDER:**

WHEREAS, Ex-Head Warder Muhammad Yaseen S/o Muhammad Mursaleen, while attached to Central Prison Mardan was awarded the major penalty of "Removal From Service" by Superintendent HQs Prison Mardan vide order No. 381-86 dated 01-02-2024 due to his misconduct / recovery of mobile phone inside the Jail's main gate.

AND WHEREAS, the said Ex-Head Warder preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement.

AND WHEREAS, he was afforded an opportunity of personal hearing on 14-03-2024. His appeal was examined in light of the available record of the case and it was observed that keeping in view the nature of case, the inquiry officer recommended the minor penalty of withholding of three increments, but the competent authority awarded him the major penalty without recording any cogent reason. During the course of hearing, the appellant produced the cash memo of mobile phone as a proof which showed that the appellant had purchased the mobile phone for himself which recovered from him. Moreover, the cash memo and the recovered mobile has similar IMEI Number which endorsed plea of the appellant. Going through his 18 years service history, it was found that his service record is reasonably clean. Hence, plea of the appellant is partially justified and the penalty is found too harsh.

NOW THEREFORE, having considered the charges, evidences/facts on record as well as the provision of rules in vogue and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, appeal of the appellant is hereby partially accepted and his major penalty of "Removal from Service" is hereby converted into minor penalty "Withholding of Increments for three years". The intervening period i.e. from the date of removal from service" to the date of re-instatement in service is hereby treated as leave without pay.

ADDL: INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR

ENDST: NO. 15083-86 /

Copy of the above is forwarded to the:

1. Superintendent, Headquarters Prison Mardan for information and w/r to his letter No. 624/WE/PB dated 28-02-2023.
2. Superintendent Central Prison Mardan for information and necessary action. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
3. The appellant concerned C/o Superintendent Central Prison Mardan for information.
4. PS to I.G, Prisons Khyber Pakhtunkhwa Peshawar.

- 954  
1/4-29

D.S/P.B

11/4/24

*[Signature]*  
26/3/2024

DEPUTY DIRECTOR  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

Attested

*[Signature]*  
D:\Inbox\2024\03\11\Appl of Warden Appeal.docx order.docx

*[Signature]*



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

No. \_\_\_\_\_

Dated \_\_\_\_\_

## **AUTHORITY LETTER**

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

  
**INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR**