


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 1153/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	09.10.2024	<p>The implementation petition of Mr. Haseeb Sardar submitted today by Mr. Hamza Amir Gulab Advocate. It is fixed for implementation report before Single Bench at Peshawar on 15.10.2024. Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the petitioner.</p> <p>By order of the Chairman  REGISTRAR</p>

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Execution Petition No. 1153 /2024

In respect of

Service Appeal No 1044 / 2018

Haseeb Safdar

.....Petitioner

VERSUS

Government of Khyber Pakhtunkhwa Through Home Secretary Government of
Khyber Pakhtunkhwa Peshawar and others Respondents

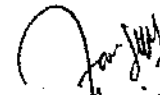
..... Respondents

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Petitioner

Through


Hamza Amir Gulab
&
Sidra Ali Khan
Advocates, Peshawar

BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

Execution Petition No...../2024

In respect of

Service Appeal No 1044 / 2014

Haseeb Safdar S/O Muhammad Safdar Warder Prisons Staff Training Academy
Haripur.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa Through Home Secretary Government of Khyber Pakhtunkhwa Peshawar
2. Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar.
3. Superintendent Circle H.Qs Prison, Haripur
4. Superintendent Central Prison, Haripur.
5. Senior Assistant Superintendent Jail, District Abbottabad.

.....Respondents

EXECUTION PETITION / IMPLEMENTATION OF ORDER DATED
27.10.2021 PASSED BY THIS HONOURABLE COURT

Respectfully Submitted,

1. That the Petitioner was appointed as Warder in Prisons Department and was posted at Central Prison Haripur. He was removed from service on the allegations of involvement in the smuggling of narcotics inside the jail Premises.

2. That against the above said removal order Petitioner approached this Honourable Court whereby vide Judgment and Order dated 27.10.2021 Petitioner was reinstated in service with all back benefits. (Copy of Order dated 27.10.2021 is annexed as Annexure A)
3. That thereafter petitioned filed execution petition before this Hon'ble Tribunal wherein vide Judgment / order dated 30.07.2022, the execution petition was disposed off, but no order regarding back benefit of intervening period. (Copy of execution petition & order dated 30.07.2022 is Annex B)
4. That Petitioner submitted an application to Inspector General of Prison Khyber Pakhtunkhwa which was forwarded to Superintendent Circle H.Q Prison Haripur but the said Official Did not redressed the grievance of Petitioner.
Copy of Application and Letter dated 31.05.2024 is annexed as Annexure C
5. That having no other remedy the Petitioner is constrained to file this second execution petition regarding the payment of salary from period of removal from service till reinstatement order i.e. 26.04.2018 to 27.10.2021

It is therefore requested that for the reasons stated above the Respondents may be directed to release the salary to the Petitioner of the period dated 23.10.2014 to 29.05.2016 by implementing the Order of this Honourable Court in letter and spirit.

Kasib
Petitioner

Through

Hamza Amir Gulab
Hamza Amir Gulab
&
Sidra Ali Khan
Advocates, Peshawar

CERTIFICATE

Certified that earlier Execution Petition had been disposed off upto extent of reinstatement of petitioner into service and execution order of back benefit is still outstanding against the respondents.

Advocate
Advocate

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

Execution Petition No...../2024

In respect of

Service Appeal No 1044 / 2021

Haseeb SafdarPetitioner

VERSUS

Government of Khyber Pakhtunkhwa Through Home Secretary Government of
Khyber Pakhtunkhwa Peshawar and others Respondents

**APPLICATION FOR FIXATION OF INSTANT EXECUTION PETITION
BEFORE THE PRINCIPAL SEAT AT PESHAWAR**


Respectfully Sheweth:

- 1. That the instant execution petition has been filed before this Hon'ble Tribunal.
- 2. That the petitioner presently serving at Haripur whereas all the respondent are residing at Peshawar.
- 3. That it would be more convenient for both the parties if the case is fixed before the principal seat at Peshawar.

It is, therefore, requested that the execution petition may graciously be fixed at principal seat at Peshawar.

Through

Petitioner



Hamza Amir Gulab
&
Sidra Ali Khan
Advocates, Peshawar

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

Execution Petition No...../2024

In respect of

Service Appeal No 1044 / 2021

Haseeb SafdarPetitioner

VERSUS

Government of Khyber Pakhtunkhwa Through Home Secretary Government of
Khyber Pakhtunkhwa Peshawar and others Respondents

ADDRESSES OF PARTIES

Petitioner

Haseeb Safdar S/O Muhammad Safdar Warder Prisons Staff Training Academy
Haripur

Respondents

1. Government of Khyber Pakhtunkhwa Through Home Secretary Government of Khyber Pakhtunkhwa Peshawar
2. Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar.
3. Superintendent Circle H.Qs Prison, Haripur
4. Superintendent Central Prison, Haripur.
5. Senior Assistant Superintendent Jail, District Abbottabad.

Haseeb
Petitioner

Through

Hamza Amir Gulab
Hamza Amir Gulab
&
Sidra Ali Khan
Advocates, Peshawar

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

Execution Petition No...../2024

In respect of

Service Appeal No 1044 / 2021

Haseeb SafdarPetitioner

VERSUS

Government of Khyber Pakhtunkhwa Through Home Secretary Government of
Khyber Pakhtunkhwa Peshawar and others Respondents

AFFIDAVIT

I Haseeb Safdar S/O Muhammad Safdar Warder Prisons Staff Training Academy Haripur, do hereby affirm and declare on oath that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this court.



Haseeb

DEPONENT

(S)

Annexure

A

6



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, D.I. KHAN**

Service Appeal No: 1044/2018

Date of Institution ... 20.08.2018
Date of Decision ... 27.10.2021

Haseeb Safdar S/O Muhammad Safdar (Ex-Warder Central Prison Haripur) resident of Muhallahh Saadabad near Zakria Masjid, Tehsil & District Dera Ismail Khan.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Home Secretary,
Government of Khyber Pakhtunkhwa, Peshawar and five others.

(Respondents)

Haji Shakeel,
Advocate

For appellant.

Asif Masood Ali Shah,
Deputy District Attorney

For respondents.

Rozina Rehman ...
Atiq Ur Rehman Wazir ...

Member (J)
Member (E)

Judgment

Rozina Rehman, Member (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"On acceptance of instant appeal, this Hon'ble Tribunal may be pleased to declare the impugned order dated 04.07.2018 issued by respondent No.3 and the order dated 26.04.2018 issued by respondent No.4 as illegal, without lawful authority, without jurisdiction, void ab-initio and ineffective upon the

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ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
62-10-74

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Handwritten signature and date: 27/10/21

5

rights of the appellant and is liable to be set aside and to reinstate the appellant to the post of Warder.

2. The factual background of the appeal requires disclosure in some detail: The appellant was appointed as Warder in Prisons Department and he was posted at Central Prison Haripur during the days of occurrence. He was removed from service on the allegations of his involvement in the smuggling of narcotics inside the Jail premises. Feeling aggrieved, he filed departmental appeal but fiasco. He then preferred appeal to respondent No.2 which was not responded to, hence, the present service appeal.

3. We have heard Haji Shakeel Advocate learned counsel for appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Haji Shakeel Advocate learned counsel appearing on behalf of appellant, in support of appeal contended with vehemence that the inquiry was not conducted in accordance with law and rules as no opportunity of personal hearing was afforded to the appellant and he was condemned unheard. That the appellant met with a road accident and sustained serious injuries on his person, therefore, repeated requests were made to the authority to extend time for personal hearing but in vain. Learned counsel contended that the impugned findings are not based on proper appreciation of record as no direct recovery had been effected from the person of the present appellant and that in the absence of F.S.L report, the appellant could not be penalized. He further submitted that the case was not handed over to the Law Enforcement Agency in order to inquire the matter properly and that without observing all the codal formalities, major punishment was imposed upon appellant which order is not in accordance with law and rules.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

27/10/21

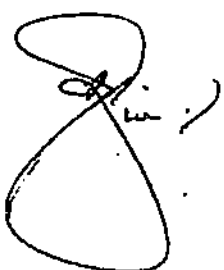
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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

5. Conversely, learned D.D.A submitted that the inquiry against the appellant was conducted according to law and appellant was informed by the Inquiry Officer to attend the proceedings which he attended personally but willfully not submitted reply to the show cause notice. He submitted that material evidence available on record was properly appreciated by the respondents and proper punishment was awarded after observance of all codal formalities.


6. Record shows that appellant was inducted in Prisons Department in the year 2013. He was serving as Warder at Central Prison, Haripur. He was departmentally proceeded against on the complaint of Line Officer, Central Prison Haripur. As per written report of the Line Officer, he alongwith Chief Warder Sajjad Khan, Line Muharrir Ilyas and other Warders recovered narcotics from different places weighing 166 gram Charas and 8 gram of heroin besides cash amount of Rs.14000/- which allegedly had been passed inside the jail by the present appellant. This written complaint was forwarded by Superintendent Central Prison Haripur to the Superintendent Headquarter Prison Haripur on 27.06.2017. The appellant was charge sheeted and Syed Zainul Arifeen Shah, Senior Assistant Superintendent Jail District, Jail Abbottabad was appointed as Inquiry Officer who conducted inquiry and submitted report, where-after, show cause notice was served upon appellant on-23.10.2017. He was directed to appear for personal hearing on 10.04.2018 but he submitted an application seeking extension in the time frame fixed for personal hearing as he had met with an accident and had been advised bed rest for two months by the Medical Officer. Proper medical record had been annexed with the application but his application was not taken into consideration and impugned order was passed, whereby, major penalty of removal from

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 Khyber Pakhtunkhwa
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 27/10/21

ATTESTED


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 Peshawar

(B)

service was awarded on 26.04.2018. From the contents of the complaint initially submitted against the appellant by the Line Officer available on file, it is evident that narcotics were not recovered from direct possession of the appellant. It is astonishing that the appellant who was allegedly involved in the business of narcotics was not handed over to the Law Enforcing Agencies for proper investigation and registration of proper criminal case against the actual culprits. The alleged recovery was not taken into possession through a proper recovery memo and it was not sent to F.S.L for expert opinion as to what was recovered. In the absence of any report from the Forensic Science Laboratory, how the competent authority came to know about the involvement, if any of the appellant in the so called business of smuggling of narcotics and that too inside the jail premises. The learned D.D.A referred to the statement of the appellant recorded by the Inquiry Officer alongwith statement of all other witnesses but record shows that no opportunity of cross-examination was given to the appellant. So far as statement of appellant recorded by the Inquiry Officer is concerned, no doubt, admission could be relevant but not conclusive proof of the fact, which could be proved to be incorrect or to have been erroneously made. In the instant case appellant was pressurized but even then, he denied his sole ownership and there is nothing on record that actually Charas and Heroin were recovered from possession of the appellant or at his pointation. In this regard, we are fortified in our view from the case law of the Hon'ble Supreme Court of Pakistan, titled Manager State Bank of Pakistan etc. Vs. Choudry Muhammad Ikram etc. reported in 1999 PLC (CS) 1558. The inquiry report shows that it was in fact a fact finding inquiry as appellant was not afforded any opportunity of cross-examination. He was not heard in person and despite repeated requests, in view of medical record, no



27/10/2018



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 Peshawar

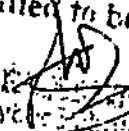
well settled legal proposition duly supported by numerous judgments of the apex court that for imposition of major penalty, regular inquiry is a must. In the instant case, as discussed above, the alleged narcotics were never sent to F.S.L and in the absence of Chemical Analyst's Report, appellant could not be held responsible for smuggling of narcotics inside the Jail

7. In view of what has been discussed above, this appeal is allowed, impugned orders are set aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED.
27.10.2021


(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, D.I.Khan


(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

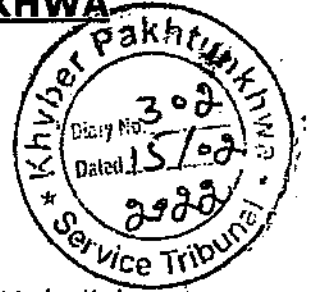
Date of Presentation of Application 12-11-21
Number of Words 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Date of Delivery of Copy 12-11-21
Date of Receipt of Copy 12-11-21

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
02-10-2024

Date of Presentation of Application 02-10-2024
Number of Words 5-P
Copying Fee 25/-
Urgent 5/-
Total 30/-
Date of Delivery of Copy 02-10-2024
Date of Receipt of Copy 02-10-2024

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.

EXECUTION PETITION NO. 114 OF 2022



Haseeb Safdar son of Muhammad Safdar resident of Muhallah Saadabad, near Zakriya Masjid, Tehsil & District Dera Ismail Khan.

(Petitioner)

Versus

1. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar
2. Superintendent Circle H.Qs. Prison, Haripur.
3. Superintendent Central Prison Haripur.
4. Senior Assistant Superintendent Jail, District Jail Abbottabad

(Respondents)



EXECUTION PETITION

That the petitioner hereby applies for execution of the order herein below as follows:

1	Service Appeal No.	1044/2018
2	Name of Parties	Haseeb Safdar son of Muhammad Safdar (Ex-Warder Central Prison Haripur) resident of Muhallah Saadabad near Zakria Masjid, Tehsil & District Dera Ismail Khan. (Appellant) Versus 1. Govt. of Khyber Pakhtunkhwa through Home Secretary, Govt. of K.P.K, Peshawar. 2. Home Secretary, Govt. of K.P.K, Peshawar. 3. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar. 4. Superintendent Circle H.Qs. Prison, Haripur.

ATTESTED

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

02-10-2024

		<p>5. Superintendent Central Prison Haripur.</p> <p>6. Senior Assistant Superintendent Jail, District Jail Abbottabad.</p> <p style="text-align: right;">(Respondents)</p>
2	Date of Judgment / order	27.10.2021
3	Whether any Appeal preferred from decree	Nil
4	Previously execution petition is filled or not	No
5	Relief granted in the judgment	Detail is mentioned in the Judgment dated 27.10.2021
6	Amount of Costs, if any	Nil
7	Against whom to be executed	<p>1. Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.</p> <p>2. Superintendent Circle H.Qs. Prison, Haripur.</p> <p>3. Superintendent Central Prison Haripur.</p> <p>4. Senior Assistant Superintendent Jail, District Jail Abbottabad</p>
8	Mode in which the assistance of the court if required	Through any mode being fit by this Honourable Tribunal to execute the judgment in favour of present petitioner.

Respectfully Sheweth:

1. That the present petitioner filed the service appeal before this Honourable tribunal and prayed for his reinstatement alongwith all back benefits, and the same was allowed vide judgment dated 27.10.2021. Copy of judgment is enclosed herewith.
2. That the petitioner also filed an application to respondent No. 1 for implementation of judgment of this Honourable Tribunal, but till date he paid no heed, hence the instant petition.

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

(13)

3. That this Honourable Tribunal has got vast power to entertain the instant petition.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

Petitioner



Haseeb Safdar

Dated: ___/___/2022

Affidavit:

I, the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.



Deponent

Certified to be true copy

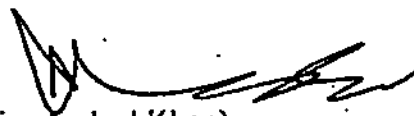
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
02-10-2024



Date of presentation of Application	02-10-2024
No. of Petitions	3-P
No. of Pages	15/-
No. of Exhibits	5/-
No. of Witnesses	20/-
No. of Copies	02-10-2024
Date of Delivery of Copies	02-10-2024

Execution Petition 114/202230th July, 2022

1. None for the petitioner present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Abdul Wahab, Database Administrator for respondents present.
2. Representative of the respondents submitted copy of order No. 5708 dated 30.06.2022 whereby in compliance of the judgment of the Tribunal, the petitioner has been reinstated into service subject to the outcome of the CPLA. Since the order of the Tribunal has been complied with, therefore, the instant execution petition is disposed off in the above terms. Consign.
3. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 30th day of July, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

خدمت جناب عزت مآب الیکٹریسیٹی جنرل جنیل خانہ جات خیر پختہ ٹولہ پشاور

بوساطت: جناب کمانڈنٹ پرنس سٹاف ٹریننگ اکیڈمی ہری پور

موضوع: درخواست برائے عمل درآمد کے جانے سرورس ٹریبونل خیر پختہ ٹولہ لیبٹ (Execution of service tribunal order) 27-10-2021

جناب عالی!

موضوع گزارش ہے کے سائل اس وقت بطور اہلہ پرنس سٹاف ٹریننگ اکیڈمی ہری پور میں نو ٹی سرائیج دے رہا ہے مورخہ 26-04-2018 کو دوران سرورس سٹریٹل جنیل ہری پور میں ایک جوائنٹ لٹریٹ کے کس میں سائل کو سرورس ٹریبونل خیر پختہ ٹولہ لیبٹ سے برطرف کر دیا گیا، سائل نے اس کے خلاف آپ ساتھ سے اپیل کی جو کے 04-07-2018 کو خارج کر دی گئی۔

سائل نے اس کے خلاف سرورس ٹریبونل پشاور میں سرورس اپیل (مورخہ نمبر 1044 سال 2018) داخل کی جو کے 27-10-2021 کو جس کا فیصلہ ہوا اور اس میں سائل کو نو ٹی پر عمل کرنے کا حکم جاری فرمایا، اور دوران برطرفی (مورخہ 26-04-2018 تا 27-10-2021) تک سائل کو تمام تنخواہیں اور الٹو نسیس کے ساتھ (All back benefits) بھی جاری کرنے کا حکم صادر فرمایا (آرڈر کی کاپی منجانب سے)۔

جناب عالی! سرورس ٹریبونل کی روشنی میں سائل کو نو ٹی پر عمل کر دیا گیا لیکن سرورس برطرفی (مورخہ 26-04-2018 تا 27-10-2021) تک کی تنخواہیں اور الٹو نسیس بحال نہ مل سکی جس کا سائل سرورس ٹریبونل کے فیصلے کی روشنی میں مستحق ہے۔

جناب عالی! اس کیس میں بے کلام تھا اور سائل کو تاحق اس کیس میں مزاد کی گئی اور ان 3 سال 406 تقریباً سرورس برخواستگی میں سائل کو کافی زیادہ ضرر ہوا ہے۔ میرے گھر کے تمام تر اخراجات جن میں میرے بیوی بچے والدین اور گھرانے کے کھانے پکانے کی ذمہ داری میرے اوپر ہے، کیس کی وجہ سے میں کسی قسم کی عمل حدودی کرنے سے بھی قاصر تھا اس دوران میں گھر کے اخراجات مزید اضافہ سے قرض لے کر پورے گھر کے تمام چھائیوں اور قرضوں کو ادا کیا ہے اور میرے گھر آکر اور سائل پر مطالب کرتے ہیں۔

لہذا سائل دست بستہ ماکر تانبے سائل کی طلبی اور مندرجہ بالا گزارشات کو مد نظر رکھتے ہوئے سائل کی درخواست پر مدد و غور فرما کر متعلقہ حکام کو آرڈر فرمائیں گے سائل کو سرورس برطرفی تمام تنخواہیں اور الٹو نسیس ادا کی جائیں، تاکہ سرورس ٹریبونل خیر پختہ ٹولہ کے فیصلے پر عمل عمل درآمد کیا جاسکے اور سائل اس سلسلے میں آپ کا بیٹھ سکھو اور دعا کرے گا۔

آپ کی عین نوازش ہوگی۔

مورخہ 23-5-24

العارض

سائل آپکا تاجیدار وارڈر

حسب مندرولہ محمد صفدر

پرنس سٹاف ٹریننگ اکیڈمی ہری پور



OFFICE OF THE SUPERINTENDENT
CIRCLE HQs PRISON HARIPUR

Ph/Fax-0995-920066

centralprisonhr@gmail.com

No. _____ Dated 31-05-2024

To,

The Inspector General of Prisons,
Khyber Pakhtunkhwa, Peshawar.

Subject:- APPLICATION IN RESPECT OF WARDER HASEEB SAFDAR

Respected Sir,

Reference to this office letter No.1055-WE dated 21-03-2024 on the subject.


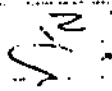
Enclosed please find herewith an application(self explanatory) alongwith its enclosures in respect of warder Haseeb Safdar attached to PSTA Haripur for information and further necessary action.

The above named warder was conditionally reinstated into service vide this office order No.5708 dated 30-06-2022 in the light of Khyber Pakhtunkhwa Service Tribunal Camp Court D.I.Khan Judgement dated 27-10-2021.

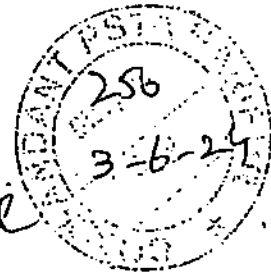
SUPERINTENDENT
CIRCLE H.Q. PRISON HARIPUR

ENDST: NO. 2234 -

Copy of the above is forwarded to the Commandant, Prisons Staff Training Academy Haripur for information with reference to his letter No.836-WE dated 30-05-2024.

	
<p>_____ Asst. Commr</p>	

SUPERINTENDENT
CIRCLE H.Q. PRISON HARIPUR



Handwritten signature

Accepted
Sida Ali Khan
BC-23-6468

Accepted and accepted
Michael Foyaz
BC-23-6661

17301-848204-3
3505936155
Michael Foyaz
Accepted & Accepted

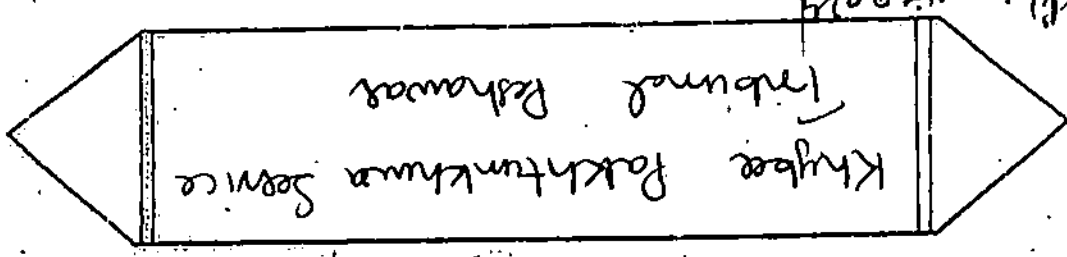
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میں نے اپنے اس مضمون کو پڑھ کر بہت متاثر ہوا اور اس میں لکھی گئی باتوں کو بالکل سچ سمجھا۔ یہ باتیں نہ صرف ایک شخص کی کہانی ہیں بلکہ ایک بڑے طبقے کی آواز ہیں۔ میں نے اس مضمون کو پڑھ کر بہت متاثر ہوا اور اس میں لکھی گئی باتوں کو بالکل سچ سمجھا۔ یہ باتیں نہ صرف ایک شخص کی کہانی ہیں بلکہ ایک بڑے طبقے کی آواز ہیں۔ میں نے اس مضمون کو پڑھ کر بہت متاثر ہوا اور اس میں لکھی گئی باتوں کو بالکل سچ سمجھا۔ یہ باتیں نہ صرف ایک شخص کی کہانی ہیں بلکہ ایک بڑے طبقے کی آواز ہیں۔

کتابیں پڑھ کر

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