

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

In the matter of

Service Appeal No.684/2024

Saada Ullah S/O Inam-Ud-Din, Ex-Warder attached at Central Prison Mardan

..... (Appellant)

**VERSUS**

1. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.

2. The Superintendent Circle Headquarters Prison, Mardan .....(Respondents)

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**Deponent**

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

In the matter of  
Service Appeal No.684/2024  
Saada Ullah S/O Inam-Ud-Din, Ex-Warder attached at Central Prison Mardan  
..... (Appellant)

**VERSUS**

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

**SUBJECT: JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 &**

**02.**

**RESPECTFULLY SHEWETH**

**PRELIMINARY OBJECTIONS:**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 119031

Dated 12-08-2024

- 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 has estopped by his own conduct to file appeal
- iv. That the appellant has not come to this Honourable Service Tribunal with clean hands.
- v. That the present appeal is bad for mis-joinder and non-joinder of necessary parties.
- v. That the present appeal is badly Time-barred.

**OBJECTION ON FACTS**

1. Pertains to record.
2. Incorrect and not admitted. The appellant soon after his induction into Prisons Department creates hurdle for the administration and remained absent time and again. The appellant left jail premises without prior approval of the competent authority, Jail/Prison being a sensitive force service in which willful absence from official duty is a serious misconduct on the part of appellant as the high profiled criminals are behind the bar.
3. Incorrect and misleading. As per rule 1083 of Khyber Pakhtunkhwa Prison Rules 2018 which provides a proper mechanism for granting leave in case of leave on medical ground but he completely failed to adopt the procedure as laid down in the referred rules **(Annex-A)**. medical rest and medical fitness must be communicated to Superintendent Jail but the appellant did not follow rules and procedure and any kind of medical rest or medical fitness was not communicated to the competent authority. Moreover, the appellant also violated rule 1096 of Khyber Pakhtunkhwa Prison Rules 2018 **(Annex-B)** which provides that leaves other than causal leave to the subordinate staff shall be subject to sanction by the appointing authority and in the present case the appellant did not follow the said procedure as provided in the above referred rules.
4. Incorrect and misleading, the appellant was Removed from Service as per Rule 9 of the Khyber Pakhtunkhwa Government Servant Efficiency & Discipline Rules 2011 which was followed in letter and spirit. As per the aforesaid rule Absence Notice No. 2411/PB dated 08-09-2023 was posted at his home address through registered post **(Annex-C)** with the direction to report to Superintendent Central Prison Mardan for duty but he failed to comply with the above referred Notice. Consequently, absence notice was published in daily Pakhtunkhwa News Mardan on 29-09-2023**(Annex-D)** and daily AAJ Peshawar on 29-09-2023 **(Annex-E)** but appellant failed to report for duty.

Thus, as required under the aforesaid rules ex-parte action was taken against him and major penalty in shape of **Removal from Service** was imposed upon the appellant vide Order No. 2890/PB dated 16-10-2023(**Annex-F**) of the Superintendent Circle Headquarter Prison Mardan which was also communicated to the appellant through registered post on his home address (**Annex-G**).


5. Incorrect & misleading. The appellant preferred departmental appeal to the Inspector General of Prisons Khyber Pakhtunkhwa Peshawar being the appellate authority which was examined in light of the available record and it was observed that the appeal of the appellant is badly time barred, hence rejected his departmental appeal being time barred and without any substance vide Inspector General of Prison office order No.17127 dated 18/04/2024 (**Annex-H**) which was communicated to appellant through Registered AD vide Superintendent Central Prison Mardan office letter No.1039 dated 22/04/2024 (**Annex-I**).
6. Incorrect & misleading, as elaborated in Para-05 above.
7. Incorrect & misleading, as elaborated in Para-05 above.
8. As replied in above Paras.


#### **GROUND**

- A. Incorrect & misleading, the respondents after observing codal formalities awarded him such penalty.
- B. Incorrect and misleading, the appellant was Removed from Service as per Rule 9 of the Khyber Pakhtunkhwa Government Servant Efficiency & Discipline Rules 2011 which was followed in letter and spirit, wherein no charge sheet and statement of allegation is required.
- C. Incorrect & misleading, as elaborated in Para-04 above.
- D. As elaborated in Para-A above.
- E. Incorrect and misleading, as elaborated in Para-03 above.
- F. Incorrect & misleading, the case of appellant was dealt with Rule 9 of the Khyber Pakhtunkhwa Government Servant Efficiency & Discipline Rules 2011.
- G. Incorrect and misleading, as elaborated in para-F above.
- H. Incorrect and misleading, as elaborated in para-F above.
- I. Incorrect and misleading. The appellant was treated as per Law/rules. The respondent department did not commit any discrimination with the appellant and dealt with him according to law and rules.
- J. As elaborated in Para-I.
- K. As elaborated in Para-I.
- L. Incorrect and misleading. The impugned orders are the results of the codal formalities as laid down in the Rule 9 of E&D Rules 2011.
- M. As elaborated in Para-L above.
- N. Subject to proof.
- O. Pertains to court's discretion.

#### **PRAYER**

It is therefore humbly prayed that on acceptance of instant Joint Para-wise comments on behalf of respondents No.01 and 02 the appeal of the appellant may please kindly be dismissed being devoid of merit and Law.

  
**MUHAMMAD USMAN**  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 01)

  
**NAJAM HUSSAIN ABBASI**  
SUPERINTENDENT  
CIRCLE HQS PRISON MARDAN  
(Respondent No. 02)  
SUPERINTENDENT  
CIRCLE HQS PRISON MARDAN

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


In the matter of  
Service Appeal No.684/2024  
Saada Ullah S/O Inam-Ud-Din, Ex-Warder attached at Central Prison Mardan  
..... (Appellant)

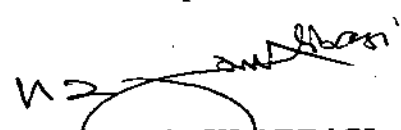
**VERSUS**

3. The Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar.  
4. The Superintendent Circle Headquarters Prison, Mardan .....(Respondents)

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

We the following respondents do hereby solemnly affirm and declare that the contents of Joint Para-wise Comments are true and correct to the best of our Knowledge and belief and nothing have been concealed from this Honorable Service Tribunal. We further states on oath that in the instant case the answering respondents does not place ex-parte nor their defense have been struck off.

  
**MUHAMMAD USMAN**  
INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA PESHAWAR  
(Respondent No. 01)

  
**NAJAM HUSSAIN ABBASI**  
SUPERINTENDENT  
CIRCLE HQS PRISON MARDAN  
(Respondent No. 02)

**SUPERINTENDENT**  
CIRCLE HQs PRISON MARDAN



12 AUG 2024

**1083. Absence caused by illness or other unavoidable cause.**---Whenever any subordinate officer is at any time prevented by sudden illness or other unavoidable cause, from attending the prison or performing his duties he shall forth-with give notice to the Superintendent along with his reasons for absence. The Superintendent shall then make suitable arrangements for the due performance of his duties.

Attested

SUPERINTENDENT  
CIRCLE HQ. PRISON MARDAN

1096. **Grant of leave by whom sanctioned.**---(1) Leave, other than casual leave, to Deputy Superintendents, Senior Assistant Superintendents, Assistant Superintendent, Budget and Accounts Officer, Clerical Staff, Teacher, Instructor, Psychologist, Junior Pharmacy Technician, etc., shall be sanctioned by the Appointing Authority but any officer to whom a certificate of sickness is granted by the Medical Officer, may be allowed to proceed on leave in anticipation of the sanction of the Inspector General.

(2) In the case of others, the grant of all kinds of leave shall rest with the Superintendent.

(3) Application for leave from officers mentioned in sub-rule (1) shall be submitted to the Inspector General one month before the date on which the leave is required.

Attested

SUPERINTENDENT  
CIRCLE HQ: PRISON MARDAN

Registered



OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. 2411 / PB Dated: 08/09/2023, E-Mail: mardanjail@gmail.com, 0937-843114

To

Warder Saada Ullah S/O Inam Ud Din,  
R/O Village Umrail Bala Post Office & Tehsil Warl,  
District Dir Upper.

Subject: ABSENCE NOTICE.

As communicated by the Superintendent Central Prison Mardan dated 07.09.2023, you were granted two (02) Nights Bachat on 14.08.2023 and were required to resume duty on 16.08.2023. But you failed to resume duty on 16.08.2023 and remained absent from 16.08.2023 to 18.08.2023 for three (03) days. On 23.08.2023 medical certificate/rest for eight (08) days receive in this office through registered post issued by "Category "C" Hospital Wari OPD" w.e.f 19.08.2023 to 26.08.2023 without countersigning from Medical Superintendent/Civil Surgeon. Again you failed to resume your duty on 27.08.2023 and you are still absent from duty without any information to this office. You absented yourself from duty as well as jail premises without permission and sanction of leave from the competent authority on 27.08.2023 and is absent up to date thus violating of the Khyber Pakhtunkhwa Prison Rules 2018.

You are therefore directed to report to Superintendent Central Prison Mardan within fifteen (15) days of the receipt of this Notice and explain then reasons of your absence otherwise strict disciplinary action will be taken against you under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rule 2011.

*[Signature]*  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Endst. No: 2412-13 / Dated: 08/09/2023.

Copy of the above is forwarded to:-

- 1 The Inspector General of Prison Khyber Pakhtunkhwa, Peshawar for information please.
- 2 The Superintendent Central Prison Mardan for information with reference to his report dated. 07.09.2023, please.

*[Signature]*  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

No. 1309 RGL116724600-

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no additional postage is due.

Received a registered letter addressed to Ward Saada Ullah Date 08/09/2023

Initials of Receiving Officer [Signature] Initials of Inspecting Officer [Signature]

Insured for Rs. 1000/- Weight 60

Name and address of sender [Signature]

*[Postmark]*

Attested  
*[Signature]*  
SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN





پشاور ایٹ آباد اور اسلام آباد سے بیک وقت شائع ہونے والا کثیر الشاعت قومی روزنامہ

روشنی کی دولت آج کا نمبر ہمیں

کوپ پیڈ ایڈریس  
تگیت شاہین

روزنامہ

پشاور  
پاکستان

بانی  
عبدالواحد یوسفی

جلد 34 ہمد 12 تاریخ الاول 1445ھ 29 ستمبر 2023-15 اسون ہمد 30 ہمد 261

## نوٹس غیر حاضری

آپ سہ ماہی صدام اللہ ولد انعام الدین سکنتہ گاؤں عمرانی بالا، ڈاکخانہ و تحصیل واڑی، ضلع ریرا پور:-

بطور جیل وارڈر آپ کو برطانیہ سپرنٹنڈنٹ سنٹرل جیل مردان کے مورخہ 14.08.2023 کو دورات بچت پر چھوڑا گیا تھا اور آپ کی حاضری مورخہ 16.08.2023 کو بنتی تھی لیکن آپ حاضری نہ ہوئے۔ آپ 16.08.2023 سے 18.08.2023 تک تین دن غیر حاضر رہے۔

23.08.2023 کو آپ کی طرف سے سپرنٹنڈنٹ جیل مردان کو برائے رجسٹرڈ پوسٹ میڈیکل ریٹ موصول ہوا جو کہ 19.08.2023 سے 26.08.2023 تک تھا اور "کیٹگری ڈی"

ہسپتال واڑی اوپی ڈی سے جاری کیا گیا تھا جس پر میڈیکل سپرنٹنڈنٹ / سول سرجن کا کوئی دستخط موجود نہیں تھا۔ آپ کی حاضری 27.08.2023 کو بنتی تھی لیکن آپ حاضر نہیں

ہوئے۔ آپ کو سرکل ہیڈ کوارٹر جیل مردان نوٹس نمبر 2411 مورخہ 08.09.2023 کو بذریعہ رجسٹرڈ ڈاک سروس بک پر دیئے گئے گھر کے پتہ پر ہدایت کی گئی کہ پندرہ (15) ایام کے اندر اندر سنٹرل جیل مردان میں حاضری کریں لیکن آپ پھر بھی حاضر نہ ہوئے۔

لہذا آپ کو بذریعہ نوٹس ہذا آخری بار ہدایت کی جاتی ہے کہ پندرہ (15) ایام کے اندر اندر حاضری کی رپورٹ سنٹرل جیل مردان میں کریں اور اپنی غیر حاضری کی مقبول وجہ بتائیں

بصورت دیگر آپ کے خلاف یکطرفہ قانونی کارروائی عمل میں لائی جائیگی جو کہ ملازمت سے برخاستگی پر منتج ہو سکتی ہے۔

INF(P)2388/23

محمد عارف خان | سپرنٹنڈنٹ | سرکل ہیڈ کوارٹر جیل مردان

Arrested

SUPERINTENDENT  
CIRCLE HQs PRISON MARDAN



OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. 2890 /PB Dated: 16/10/2023, E-Mail: mardanjail@gmail.com, 0937-843114

OFFICE ORDER

WHEREAS, the accused official/ Warder Saada Ullah S/O Inam Ud Din attached to Central Prison Mardan was proceeded against under Rule-3 read with rule 9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his wilful absence w.e.f 27.08.2023, and absence notice was served upon at his home address vide this Headquarters letter No. 2411/PB dated. 08.09.2023.

AND WHEREAS, due to no response from him, another notice was published in the leading newspaper of the Province, Daily "Pakhtunkhwa News" Mardan on 29.09.2023 and Daily "Aaj" Peshawar on 29.09.2023 as provide under the rules ibid.

AND WHEREAS, the accused official / Warder failed to resume duties till date as reported by the Superintendent Central Prison Mardan vide his report dated 16.10.2023.

NOW THEREFORE, in exercise of powers conferred under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the undersigned being competent authority after observing all legal procedural formalities, hereby awarded the Major Penalty of "Removal from Service" with immediate effect to the accused official/ Warder Mr. Saada Ullah S/O Inam Ud Din attached to Central Prison Mardan for his wilful absence w.e.f 27.08.2023, he is not entitled for any remuneration for the absence period under rule 19 of the Khyber Pakhtunkhwa Government Servant Revised Leave Rules 1981.

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Endst: No. 2891-94 / Dated: 16/10/2023

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 07.09.2023, 23.09.2023 and 16.10.2023, please.
3. The District Accounts Officer, Mardan for information and necessary action please.
4. Saada Ullah S/O Inam Ud Din, R/O Village Umrli Bala Post Office & Tehsil Wari, District Dir Upper for information.

471 RGL118742071

For Insurance to be effected, stamps affixed except in case of omnibus letters of not more than the normal weight prescribed in the Post Office Guide or on which no actual payment is due.

600/-

600/-

While here, the insured must be insured with the Post Office for Rs. (in figure) 600/- (in words) Six hundred only.

Name of sender: Saada Ullah S/O Inam Ud Din

Address of sender: R/O Village Umrli Bala Post Office & Tehsil Wari, District Dir Upper

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

Attested

SUPERINTENDENT  
CIRCLE HQS. PRISON MARDAN

(21)

9

بخدمت جناب آئی جی صاحب جیل خانہ جات صوبہ خیبر پختون خوا بمقام پشاور

عنوان: درخواست بمراد بحالی

جناب عالی!

مودبانہ گزارش کی جاتی ہے کہ فدوی مورخہ 05/08/2022 کو بھرتی ہوا تھا۔ اور مردان جیل میں بحیثیت وارڈر اپنی خدمات احسن طریقے سے سرانجام دے رہا تھا۔ فدوی اچانک اعصابی کمزوری اور ذہنی بیماری میں مبتلا ہو کر کئی مہینوں تک خود کو سنبھال نہ سکا اور کافی علاج معالجہ کے بعد سائیکل صحت یاب ہوا۔ (میڈیکل رپورٹ لف ہیں)۔ یہ کہ سائیکل کو بدوران معالجہ ان تمام کاروائیوں سے بے خبر رکھا گیا۔ تاکہ سائیکل مزید کسی پریشانی سے بچایا جاسکے۔ یہ کہ سائیکل نے مورخہ 19/01/2024 کو سپرینڈنٹ سنٹرل جیل مردان کو دوبارہ بحالی کے لئے درخواست دی جو کہ بغیر کسی کاروائی کے واپس کر دیا گیا۔ سائیکل نے دوبارہ مورخہ 15/03/2024 کو سپرینڈنٹ جیل مردان کو درخواست دی تاکہ سائیکل کی درخواست آئی جی صاحب کو فارورڈ کیا جائے۔ لیکن تاحال کوئی جواب موصول نہ ہوا۔ سائیکل انتہائی بیمار تھا جس کی وجہ سے فدوی کو Removal from service کر دیا گیا ہے۔ Removal from service آرڈر لف درخواست ہذا ہے۔

لہذا درخواست کی جاتی ہے کہ سائیکل کے بحالی کے احکامات صادر فرما کر مشکور فرمایا جاویں۔  
سائیکل تاحیات دعا گورے گا۔

المرقوم: 02/04/2024

العارض

آپ کا تابع فرمان:

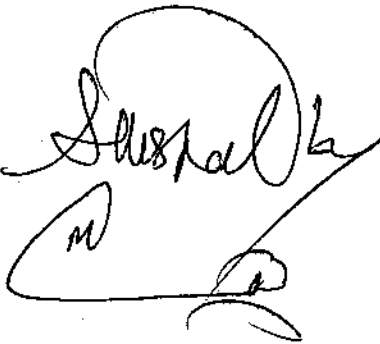


وارڈر صداء اللہ ولد انعام الدین

سکنہ عمرالی بالا تحصیل وڈا کھانہ وار ضلع دیر بالا۔

شناختی کارڈ نمبر: 1-15702-9297184

رابطہ نمبر: 0320-9089885

0342-3166606



OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

001-0210334, 0210400 001-0213445

No. Bath/Ward/Orders/ 17129

Dated 18-04-2024

**ORDER:**

**WHEREAS**, Ex-Warder Saada Ullah S/o Inam Ud Din, attached to Central Prison Mardan was awarded the major penalty of "Removal from Service" by Superintendent HQs Prison Mardan vide order No. 2890-94 dated 16-10-2023 due to his willful absence w.e.f. 27-08-2023 till the date of his removal from service on 16-10-2023.

**AND WHEREAS**, the said Ex-Warder preferred his departmental appeal for setting-aside the penalty awarded to him, which was examined in light of the available record of the case and it was observed that the appeal is time barred and penalty was awarded to him by the competent authority due to his misconduct / willful absence after observing all legal and codal formalities as required under E&D Rules 2011.

**NOW THEREFORE**, keeping in view the facts on record, 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, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being time-barred and without any substance.

**ADDL: INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR.**

ENDST. NO. 17128 - 301  
Copy of the above is forwarded to the:

1. Superintendent, Circle HQs Prison Mardan for information and necessary action w/r to his letter No. 2890-94 dated 16-10-2023. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
2. Mr. Saada Ullah S/o Inam Ud Din (Ex-Warder) C/o Superintendent Circle HQs Prison Mardan for information.
3. PS to I.G, Prisons Khyber Pakhtunkhwa Peshawar for information

*[Signature]*  
**DEPUTY DIRECTOR  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR**

*[Signature]*  
**Attested**

*[Signature]*  
**SUPERINTENDENT**

**CIRCLE HQS PRISON MARDAN**

D-010 - Working Hours: 09:00 AM to 04:00 PM. Working on appeal days. Head order d/s





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**