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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of

Service Appeal No. 7449/2021

Aftab Hussain s/o Fazal Khaliq (Technician) Central Prison Mardan

..... (Appellant)

VERSUS

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

2. Inspector General (Prisons) Government of Khyber Pakhtunkhwa Peshawar.

..... (Respondents)

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Deponent

Inspector General of Prisons
(respondent No.02) for on behalf of
(respondent No.01)

2

Khyber Pakhtunkhwa
Service Tribunal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of
Service Appeal No. 7449/2021
Aftab Hussain s/o Fazal Khaliq (Technician) Central Prison Mardan
.....(Appellant)

Diary No. 14573
Dated 29-07-24

VERSUS

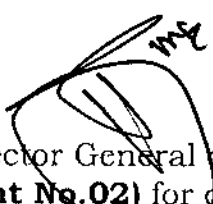
1. Secretary Home & Tribal Affairs Department Government of Khyber Pakhtunkhwa Peshawar.
 2. Inspector General of Prisons Government of Khyber Pakhtunkhwa Peshawar.
-(Respondents)

Subject:- APPLICATION FOR SUBMISSION OF COMPLETE INQUIRY REPORT IN SUBJECT SERVICE APPEAL

1. That the appellant has filed service appeal before this Honourable Service Tribunal against the order dated 17/12/2020 wherein penalty of **"withholding of increment for 01 year"** and the **"period of absence in intervening period"** which was treated by this office vide order referred to above as leave without pay.
2. That the appellant further prayed in the subject service appeal that order ibid may please be set aside and annual increment may be restored in his favour and intervening period w.e.f 13/03/2014 to 08/06/2017 may also please be treated as full pay.
3. That the Prison Department upon Notice submitted their Joint Para-wise comments which are placed on file before this Honourable Tribunal.
4. That this Honourable Tribunal vide order sheet dated 04/03/2024 directed the representative of this office for submission of complete inquiry report on or before 22/05/2024 positively.
5. That on 22/05/2024 the representative of this office produced the requisite record before this Honourable Tribunal, upon such presentation of documents the representative was verbally directed to submit it through proper scanning by the relevant branch of this Honourable Tribunal and adjourned lastly for 30/07/2024 and also imposed heavy cost of Rs.20,000/- upon the respondent department.
6. That the respondent department kindly request and seeks permission of this Honourable Tribunal to allow them to bring on record the complete inquiry proceeding record through Affidavit alongwith this instant application in order to decide the instant case on merit.

Prayer:-

It is therefore most humbly prayed that on acceptance of this instant application on behalf of official respondents, the instant service appeal may please be dismissed being meritless, devoid of merit and law.


Inspector General of Prisons
(respondent No.02) for on behalf of
(respondent No.01)

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In the matter of

Service Appeal No. 7449/2021

Aftab Hussain s/o Fazal Khaliq (Technician) Central Prison Mardan
..... (Appellant)

VERSUS

1. Secretary Home & Tribal Affairs Department Government of Khyber Pakhtunkhwa Peshawar.
2. Inspector General (Prisons) Government of Khyber Pakhtunkhwa Peshawar.
..... (Respondents)

AFFIDAVIT

I, Mr. Muhammad Usman Mehsud being respondent No.02 in the instant case do hereby solemnly affirm and declare that the contents of the instant application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Service Tribunal. I further state that in the instant case the respondents have neither been placed ex-parte nor their defense has been struck off.



Inspector General of Prisons
(respondent No.02) for on behalf of
(respondent No.01)

22 JUL 2024

AUTHORITY LETTER

Mr. Ghulam Mustafa 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**

INSPECTORATE GENERAL OF PRISON
KHYBER PAKHTUNKHWA PESHAWAR

NO. 35075

DATED 05-10-2010

DISCIPLINARY ACTION

I, Masud-ur-Rahman, I.G.Prisons Khyber Pakhtunkhwa, as the competent authority, am of the opinion that **Mr.Aftab Hussain Technician presently attached to District Jail Swat** has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. As reported by Superintendent Sub Jail Dassu vide his letter No.1138 dated 15-10-2010(copy enclosed),Mr.Aftab Hussain upon cancellation of his transfer order from Sub Jail Dassu to Sub Jail Daggar was relieved by Superintendent Sub Jail Daggar on 01-7-2010 with usual days joining time with the direction to report to Superintendent Sub Jail Dassu for further duties there. After expiry of joining time, he absented from duty without intimation, from 1-7-2010 to 25-11-2010.
- ii. He produced Medical Certificates for the period of his willful absence i.e from 1-7-2010 to 25-11-2010 which on verification were found bogus as conveyed vide Medical Superintendent DHQ Hospital Mardan letter No.1823 dated 26-2-2011 (copy enclosed).

2. For the purpose of inquiry proceedings against the afore-said accused with reference to the above allegations, **Mr.Samiullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu** is hereby appointed as Inquiry Officer, under Rule-10(1)(a) of the E&D Rules, 2011.

3. The Inquiry Officer shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to the punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of Sub Jail Dassu Kohistan shall join the proceedings on the date, time and place fixed by the Inquiry Officer.

all
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

ENDST.NO. 35075-144E

Copy of the above is forwarded to:

1. **Mr.Samiullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu** the Inquiry Officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. A copy of charge sheet is enclosed herewith. Photocopies of medical certificates produced by the accused official is also enclosed.
2. The Superintendent, District Jail Swat for information and necessary action. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt.
3. Mr.Aftab Hussain Technician C/O Superintendent District Jail Swat for information.

Submitted by
M

[Signature]
INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

NO. 35072

DATED 05-10-2020

DISCIPLINARY ACTION.

I, **Masud-ur-Rahman**, I.G Prisons Khyber Pakhtunkhwa, as the competent authority, am of the opinion that **Mr.Aftab Hussain Technician** presently attached to **District Jail Swat** has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3. of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011:-

STATEMENT OF ALLEGATIONS

- i. As reported by Superintendent Sub Jail Dassu vide his letter No.1138 dated 15-10-2010(copy enclosed),Mr.Aftab Hussain upon cancellation of his transfer order from Sub Jail Dassu to Sub Jail Daggar was relieved by Superintendent Sub Jail Daggar on 01-7-2010 with usual days joining time with the direction to report to Superintendent Sub Jail Dassu for further duties there. After expiry of joining time, he absented from duty without intimation, from 1-7-2010 to 25-11-2010.
- ii. He produced Medical Certificates for the period of his willful absence i.e from 1-7-2010 to 25-11-2010 which on verification were found bogus as conveyed vide Medical Superintendent DHQ Hospital Mardan letter No.1823 dated 26-2-2011 (copy enclosed).

For the purpose of inquiry proceedings against the afore-said accused with reference to the above allegations, **Mr.Saminullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu** is hereby appointed as Inquiry Officer, under Rule 10(1)(a) of the E&D Rules,2011.

The Inquiry Officer shall, in accordance with the provisions of the Rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to the punishment or other appropriate action against the accused.

The accused and a well conversant representative of Sub Jail Dassu Kohistan shall join the proceedings on the date, time and place fixed by the inquiry Officer.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

ENDST: NO. 35073-75-WE

Copy of the above is forwarded to :-

1. **Mr.Saminullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu** the Inquiry Officer for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011. A copy of charge sheet is enclosed herewith.Photocopies of medical certificates produced by the accused official is also enclosed.
2. The Superintendent, District Jail Swat for information and necessary action. Charge sheet in duplicate is sent herewith. One copy of the same duly signed and dated by the above named official may be returned to this office in token of its receipt.
3. **Mr.Aftab Hussain Technician C/O Superintendent District Jail Swat** for information.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR



Tel& Fax#0928-633327

cpbannu@gmail.com

71
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU

No. _____

Dated: 13-10-2020

To

The Superintendent,
District Jail Swat.

Subject: - DISCIPLINARY ACTION

Dear Sir:

Reference of worthy Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar letter No. 35072/WE dated 05.10.2020

It is submitted that the undersigned is nominated as inquiry officer and will visit to your jail on 16.10.2020 for inquiry against Mr. Aftab Hussain Technician attached to District Jail Swat regarding submitting of bogus Medical Certificates

It, therefore, requested that the concerned official may please be directed to present and produced record on the scheduled date, please.

Sel
SUPERINTENDENT
CENTRAL PRISON BANNU

Endst: No. 55211

Copy of the above is forwarded to the Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar, for information with reference to above, please.



[Signature]
SUPERINTENDENT
CENTRAL PRISON BANNU

Assessed by
[Signature]
M

28-10-20

NFA



8
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
No. _____
Dated: 13-10-2020

To,

The Superintendent,
District Jail Swat.

Subject: **DISCIPLINARY ACTION**

Dear Sir,

Reference of worthy Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar letter No.35072/WE dated 05.10.2020

It is submitted that the undersigned is nominated as inquiry officer and will visit to your jail on 16.10.2020 for inquiry against Mr.Aftab Hussain Technician attached to District Jail Swat regarding submitting of bogus Medical Certificates.

It is therefore, requested that the concerned official may please be directed to present and produced record on the scheduled date, please.

**SUPERINTENDET
CENTRAL PRISON BANNU**

Endst: No.5821/-

Copy of the above is forwarded to the Worthy Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar, for information with reference to above, please.

**SUPERINTENDET
CENTRAL PRISON BANNU**

CHARGE SHEET

I, Masud-ur-Rahman, I.G. Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge you **Mr. Aftab Hussain** as follows:

That you, while posted as **Dispenser/ Technician at Sub Jail Dassu Kohistan** committed the following irregularities:

- i. As reported by Superintendent Sub Jail Dassu vide his letter No.1138 dated 15-10-2010, you upon cancellation of your transfer order from Sub Jail Dassu to Sub Jail Daggar was relieved by Superintendent Sub Jail Daggar on 01-7-2010 with usual days joining time with the direction to report to Superintendent Sub Jail Dassu for further duties there. After expiry of joining time, you absented from duty without intimation, from 1-7-2010 to 25-11-2010.
- ii. You produced Medical Certificates for the period of your willful absence i.e from 1-7-2010 to 25-11-2010 which on verification were found bogus as conveyed vide Medical Superintendent DHQ Hospital Mardan letter No.1823 dated 26-2-2011 (copy enclosed).


2. For the reasons above, you appear to be guilty of inefficiency/misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.


3. You are, therefore required to submit your written defense within seven(07) days of the receipt of this Charge Sheet to the Inquiry Officer, as the case may be.

4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

5. Intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.


INSPECTOR GENERAL OF PRISONS,
KHYBER-PAKHTUNKHWA PESHAWAR.

Attested by


CHARGE SHEET

10

I, **Masud-ur-Rahman**, I.G Prisons Khyber Pakhtunkhwa Peshawar, as competent authority, hereby charge you **Mr.Aftab Hussain** as follows:

That you, while posted as Dispenser/Technician at Sub Jail Dassu Kohistan committed the following irregularities:

- i. As reported by Superintendent Sub Jail Dassu vide his letter No.1138 dated 15-10-2010, you upon cancellation of your transfer order from Sub Jail Dassu to Sub Jail Daggar was relieved by Superintendent Sub Jail Daggar on 01-7-2010 with usual days joining time with the direction to report to Superintendent Sub Jail Dassu for further duties there. After expiry of joining time, you absented from duty without intimation, from 1-7-2010 to 25-11-2010.
- ii. You produced Medical Certificates for the period of your willful absence i.e from 1-7-2010 to 25-11-2010 which on verification were found bogus as conveyed vide Medical Superintendent DHQ Hospital Mardan letter No.1823 dated 26-2-2011 (copy enclosed).

For the reasons above, you appear to be guilty of inefficiency/misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

You are, therefore required to submit your written defense within seven (07) days of the receipt of this **Charge Sheet** to the Inquiry Officer, as the case may be.

Your written defense, if any, should reach the Inquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.

Intimate whether you desire to be heard in person.

A statement of allegations is enclosed.

**INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

جناب انکوائری آفیسر / سیرٹیفکیشن سیکشن جیل بنوں -
عنوان :- درخواست لم اد جواب طلبی برائے چارج شیٹ ڈائسٹر افسران
عین انٹرنیشنل سیرٹیفکیشن سوسائٹی

حوالہ چارج شیٹ نمبر 35072 ، 5¹⁰/₂₀₁₀ انٹرنیشنل جیل خانہ جاتی
جناب عالی! سائل ذیل تشریح کرتے ہیں۔

۱۔ کہ سائل جنوری ۲۰۱۰ء میں بطور سروس کا منتقل اور قاضی باسٹریج ہے جو کہ ملائکہ ڈویژن
میں بوجہ طالبان حالات خرابی سائل بلع ایل و سیال 2011 سے 2012ء تک ضلع سوات
میں حکومت اختیار کیا تھا۔ یہ کہ سائل اس وقت داسو جیل میں 3 سال تدارک
کے بعد سائل کا ٹرانسفر سے جیل داسو کو سیال پور اضلاع 19⁴/₂₀₁₀ سے جیل ڈاکٹر بوٹور
سوات تھا۔ لیکن بد قسمتی سے 30²⁰¹⁰ پر کلنگام قاضی باسٹریج نے مکتوب آرڈر جسٹس ٹریک
دوبارہ سے جیل داسو کو موٹیا۔ اور سیرٹیفکیشن سب جیل ڈاکٹر نے 7²⁰¹⁰ پر خارج
کر دیا۔ لیکن عرصہ دراز سے میرے مگر (Back) میں قیلا جلا رہا ہوں۔ جو نہ ایک طرف
گھنڈا ڈاکٹر نے دور سفر کرنے سے منع کیا تھا۔ اور دوسری طرف قیلا مردان میں ایلا
سب ایک ڈاکٹر کے لیونڈ میں ایلا جیل گاوا کہ کہیں ہوں۔ مگر کی تکلیف سے D.H.L. مردان
رہنیت ٹیسٹ نہ سوزے سر گھومتا فوقتاً رسیٹ دینا دیا اسی دوران 26¹¹/₂₀₁₀ پر سائل کا
تیار دیا۔ دوبارہ سے جیل ڈاکٹر بوٹور کو ہوا۔ اور ڈاکٹر کے جسٹس کے مطابق سائل نے
تکلیف اور مردان سے قیلا ایلا گھوڑا تھا۔ لیکن ایلا گھوڑا تھا۔ لیکن ایلا گھوڑا تھا۔
رسیدیں ایلا ایلا D.H.L. سائل نے verification کے لئے بھیج دی تھی۔ جو
عقربانوں جن کا انکوائری آفیسر ڈاکٹر جیل خانہ جاتی ہے۔ لیکن ایلا گھوڑا تھا۔
باسٹریج جیل نے انکوائری آفیسر کے مگر اور ایلا گھوڑا تھا۔ لیکن ایلا گھوڑا تھا۔
انکوائری آفیسر سے اتفاق نہیں کیا اور دوسری انکوائری آفیسر نے اور دوسری انکوائری
کی انکوائری آفیسر ڈاکٹر سیرٹیفکیشن سوسائٹی آفیسر نے کی۔

اصغر منیر خان کے ساتھ بھی میرا ذاتی اختلافات تھی اور سائیل نے باقاعدگی سے
 ڈیپارٹمنٹ کو انکو امپروو ایسٹمنٹ تبدیل کرنے کا درخواست کی۔ لیکن ڈیپارٹمنٹ نے
 کبھی بھی اصغر منیر خان کو دوبارہ انکو امپروو ایسٹمنٹ فراہم نہیں کیا۔ اصغر منیر خان نے
 انکو امپروو ایسٹمنٹ کی صورت میں ہیرڈ اور منیر صاحب سے مسائل سے جاوا انٹیکریٹ
 شاف کرنے اور منیر صاحب سے ہیرڈ اپ مع آٹھ لاکھ روپے کی سفارش کی۔ لیکن ڈیپارٹمنٹ
 نے دوسری انکو امپروو ایسٹمنٹ سے بھی اتفاق نہ کیا اور سائیل کا Dismissed
 آرڈر نکالا اور سائیل کو سرورس سے نکال دیا۔

کبھی سائیل نے Dismissed آرڈر کے خلاف سرورس ٹریبونل میں اپیل کی۔
 اور سرورس ٹریبونل نے سال کے حق میں فیصلہ دیا اور سال کے 2014 میں
 سال کا آرڈر دیا جو درخواست کے خلاف ہے۔ لیکن اس کے باوجود ڈیپارٹمنٹ
 نے یکے بعد دیگرے 2017 میں سنٹرل جیل مردان میں بحال کیا۔ ایک سال مردان میں گزارنے
 کے بعد سنٹرل جیل مردان سے انٹرنیشنل سنٹر بنا دیا گیا۔ کبھی ایک سال گزارنے کے بعد
 سائیل کا تبادلہ سوات سے ڈسٹریکٹ جیل قحمر تھا جو موٹیا اور کھیت کے بعد قحمر
 سے انٹرنیشنل سنٹر فضائٹ کو موٹیا۔ لیکن سائیل نے مختلف جیلوں میں ڈیوٹی کی اور
 سائیل کے خلاف سفارشات میں لکھ کر سائیل کے کارڈ پر ملاحظہ کیے۔ اور سائیل
 Bachbenefit کے لیے دوبارہ سرورس ٹریبونل میں درخواست داخل کی۔

اور سرورس ٹریبونل نے ڈیپارٹمنٹ کو نوٹس جاری کیا کہ سال کوئی سفارش
 کو ایک وقت Bachbenefit میں ملی ڈیپارٹمنٹ نے جواب میں لکھا کہ میں نے ان
 کے آرڈر کے خلاف اپیل کی اور انکو امپروو ایسٹمنٹ میں داخل کیا ہے۔
 کا فیصلہ بھی آیا درخواست گزار کو نوٹس کیا گیا۔ اس کے بعد سائیل نے سٹیٹ انکو امپروو
 ایسٹمنٹ میں اپیل کی۔

چونکہ اس سفارشات کے دور میں سائیل کا سفارشات سال بند تھی اور وہ
 طرف سائیل کوڑھے ماہ باب اور بیوی بچوں کا وہ کفیل ہے

اور رشتہ دارو وغیرہ قرض داروں کے علاقوں میں کسیوں سے تقریباً
3 لاکھ خرچ کی جس کو ہم سے سائیڈ میں مفروضہ صورت ہے۔

کمپنڈ اسٹریٹجی کے منظور در خواست عذرا سائیڈ کے انکو پٹری
صحیح رائے سائیڈ کی سٹاپ اسٹریٹجی، بقایا اجازت اور غیر مقرر
ہیرو 10 pers اور کمر دردی وہ سے صحیح قرار دے

تقریباً اور سائیڈ کا لوڈ کے ماہ باہر کے پیمائش کے لئے دکاتو
دیں گے۔

العارض
سائیڈ افقیان کمیشن سینیئر ٹیکنیشن مارسی
انٹرن منٹ سنیئر فضائت سفوان

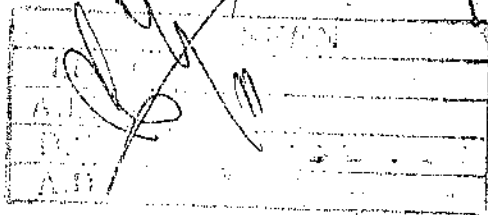
16/10/2020

Dawood
16/10/2020
Dawood Khan
Junior clerk
Sub Jail DASSU

Attested by
M



Tel & Fax: 0928-633327
epbannu@gmail.com



OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON B

No. 7158-we
Dated: 2-11-2020

14/

To

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

Subject:- **INQUIRY REPORT**

R/Sir;

Kindly refer to your letter No.35072/We dated 05.10.2020.

Detail inquiry report regarding absence of Mr. Aftab Hussain Technician from duty at Sub Jail Dassu Kohistan is submitted herewith for further necessary action, please.

Encls as above:



**SUPERINTENDENT
CENTRAL PRISON BANNU**



9
5-11-20

Attested by



15
OFFICE OF THE
SUPERINTENDENT
CENTRAL PRISON BANNU
No. 7158-WE
Dated:2-11-2020

To,

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

Subject: **INQUIRY REPORT**

Sir,

Kindly refer to your letter No.35072/WE dated 05.10.2020.

Detail inquiry report regarding absence of Mr.Aftab Hussain
Technician from duty at Sub Jail Dassu Kohistan is submitted herewith
for further necessary action, please.

Encls as above:

SUPERINTENDET
CENTRAL PRISON BANNU

66



**INQUIRY REPORT REGARDING ABSENCE OF MR. AFTAB HUSSAIN
TECHNICIAN FROM DUTY AT SUB JAIL DASSU KOHISTAN.**

BRIEF FACT: -

The undersigned was nominated as Inquiry Officer under rule-14/6 of the E&D Rules-2011, to conduct inquiry against Mr. Aftab Hussain Technician for his absentia through bogus Medical Certificate vide the Worthy Inspector General of Prisons order No.35072/WE dated 05.10.2020. The undersigned proceeded to District Jail Swat in order to probe into the matter, to examine the case thoroughly and to submit recommendation to the competent authority. The accused official was informed about the date of Inquiry proceedings as well as the Superintendent Sub Jail Dassu Kohistan was also informed to provide record on the date of Inquiry at District Jail Swat under Rule-12 of the E&D Rules-2011. Resultantly, the accused official appeared before the Inquiry Officer on the fixed date while a Junior Clerk from Sub Jail Dasu Kohistan also appeared as representative and provided relevant record. Vast opportunity of hearing was given to the accused official without any stress during the inquiry proceedings about his guilt. The following charges were leveled against him by the competent authority under rule-3 of E&D Rules-201:-

1. *Mr. Aftab Hussain upon cancellation of his transfer order from Sub Jail Dassu to Sub Jail Dagger was relieved by the Superintendent Sub Jail Daggar on 01.07.2010 with usual days joining time with the direction to report to Superintendent Sub Jail Dassu. After expiry of joining time, he remained absent from duty without intimation from 01.07.2010 to 25.11.2010.*
2. *He produced Medical certificates for the period of his willful absence i.e. from 01.07.2010 to 25.11.2010 which on verification were found bogus as conveyed vide Medical Superintendent DHQ Hospital Mardan letter No.1823 dated 26.02.2010.*

As per available record, the accused official was relieved on 01.07.2010 from Sub Jail Daggar at Buner for duty at Sub Jail Dassu Kohistan, but the accused failed to resume his duty within stipulated time and remained absent from his duty at Sub Jail Dassu w.e.f 01.07.2010 to 25.11.2010. After resuming duty, he provided Medical Rest Certificates obtained from District Headquarter Hospital Mardan which were found bogus. Therefore, the competent authority ordered an inquiry and Mr. Akhtar Munir (Late) Ex-Deputy Superintendent Jail conducted Inquiry.

The Inquiry Officer submitted detailed report with recommendation that 04 increments might be stopped and absence period be treated as Leave Without Pay.

However, the competent authority went a step ahead of the recommendations and Dismissed the accused from Services under rules-4 of the E&D rules-2011. Upon dismissal, the accused official approached the Learned Service Tribunal and finally after gap of about 06 years, in the light of Judgment dated 12.03.2014 of the Learned Service Tribunal, (copy attached as **Annexure-A**), the competent authority re-instated him into Government Services vide order No.13078 dated 08.06.2017.

FINDINGS: -

The accused official was inquired through cross examinations as well as recorded his written statement (copy of written statement attached as **Annexure-B**). During cross examinations, the following findings were recorded: -

He was questioned about his appointment and his period of absentia w.e.f. 01.07.2010 to 25.11.2010, to which he replied that he was appointed as pharmacy technician in 2004 and on 01.07.2010, he was relieved from Sub Jail Dagger at Buner for duty at Sub Jail Dassu Kohistan, but he felt Backache and instead of resuming duty, he consulted with a doctor at District Headquarter Hospital, Mardan.

However, here a doubt arises as to why he had submitted Medical Rest Certificates, obtained from DHQ Hospital Mardan instead from a Hospital at Swat as he was permanent resident of District Swat. But he answered accurately that due to Military Operation in District Swat, he migrated alongwith his family to District Mardan as such during the course of Operation various families were migrated from District Swat to other districts.

When he was asked about submission of Bogus Medical Rest Certificates, his reply was not satisfactory as he stated that he was regularly checked by the specialist at DHQ Mardan and advised rest, however, an unfamiliar Class-IV employee provided the rest certificates and he did not know about the fact that the Rest Certificates were fake/bogus.

This sort of answer creates doubt in the mind of Inquiry Officer. However, to that extent if we agree with his statements then as per Law "Ignorantia facit non excusat". But keeping in view of his penalty of dismissal from services and as such

he remained jobless for more than 06 years without any back benefit, so it is to be considered that he has spent more than 06 years of life without any Job.

The accused official was also inquired as how he earned and supported his family during the course of his dismissal from Services to which he answered that he belonged to a poor family and badly suffered during military operation in Swat. In such critical condition he was working as labourer in Mardan, due to which some leniency is required to be extended in his favour. (Cross Questionnaire attached as Annexure-C)

The accused official had been appointed as Junior Technician Pharmacy since 2004 while rendered more than 07 years Services including 03 years services in hard mountainous area Dasu Kohistan and already suffered his sentence.

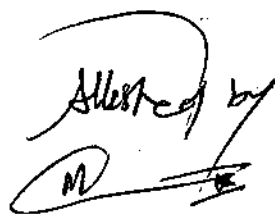
CONCLUSION: -

After thoroughly examining the case and record on ground, the undersigned reached to the conclusion that it would be like flogging a dead horse to penalize him for his past acts. Almost the incumbent remained 06 years jobless which is sufficient punishment for him. To this effect some official were also inquired about his recent conduct, which was found satisfactory.

RECOMMENDATIONS: -

Keeping in view the above submissions, the undersigned reached to the conclusion that in this stage some leniency & benignancy may be afforded in favour of accused official. Therefore, it is recommended: -

1. That absent period may be treated as *Leave without Pay*.
2. That intervening period i.e. from date of Dismissal to date of re-instatement into Services may be treated as *Extra ordinary Leave without Pay*.
3. That he may be strictly *warned* to be careful in future.
4. That he may be transferred from District Jail Swat to District Jail Timergara for all purpose as he is attached with District Jail Timergara for purpose of Pay only.

Attested by


Inquiry Officer



(SAMIULLAH KHAN)
Deputy Superintendent Cum
Superintendent CP Bannu

سوال نمبر 1

1 تم قبیلہ لوئیر فار میس ٹیکنیشن فیکلٹی میں طالبات میں کب سے ڈیوٹی سرانجام دے رہے ہیں؟

جواب - میں 2004/10/10 کو پھرتی ہوئی ہوں۔

سوال نمبر 2 جب تم کو 2010/7/11 کو ڈگری (لوئیر) حاصل سے سب

صیل داسو کو عیسائیاں کہلے فارغ کیا گیا۔ تو اس دوران

کئی 2010/7/11 تا 2012/11/25 تک کیا کر رہے تھے۔ اور وہ

عزیز حاضر ہی کیا تھی؟ اس دوران مجھے کمر کی تکلیف شروع ہوئی اور جب میں

PHQ مردان گیا۔ اور ریسٹ ٹیٹ لیا اور ڈاکٹر کو اس نے

مجھے آرام کا کہا اور اس وجہ سے میں نے میڈیکل سوسائٹی

سنائے۔

سوال نمبر 3

جبکہ تم سوات کے باشندے تھے۔ تو تم نے مردان سے میڈیکل سوسائٹی کبوں بنوائے؟

جواب - سوات میں اس وقت دسٹریکٹ کی صورت سے حالت تھی

جواب تھی۔ لیکن میں نے اس میں کمی کی کیا کہ مردان میں

رائیس ڈیپارٹمنٹ تھا۔ اس لیے میں نے اپنے کمر کا ملنگ

Handwritten signature and scribbles at the bottom of the page.

مردان سے کیا۔

سوال (4) - لکھیں چارج سٹیٹ میں دو سہ ماہی میں لکھا

کہ آپ کے کاغذات / میڈیکل ریکارڈ سسرٹیفکیٹ جعلی ہیں۔
وضاحت کریں؟

اب - میں ریلوے دہلی میں ایک عید اب لکھا تھا اور

اس ہسپتال سے مجھے یہ سسرٹیفکیٹ ملے تھے۔ جو میں
نے فکرمندے ہوا کرتے۔ اور مجھے بعد میں یہ صلہ کرنا
جعلی سسرٹیفکیٹ تھے۔

سوال (5) - تم دورانِ ہر فوائسٹس کیا کام کرتے تھے؟

جواب - میں اس دورانِ خدمت ہر دوری کرتا تھا۔ اور بچوں
کا پیٹ پالنا تھا۔

سوال (6) -

~~Answer~~

Answer
suggested by
M

Q

75

(32)

**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

091-9210334, 9210406

091-9213445

No. 11/2-J-2004 P.D.

38564 1-21

Dated 03-11-2020 1-

Mr. Samiullah Khan,
Deputy Superintendent --cum--Superintendent,
Central Prison Bannu.

Subject: DISCIPLINARY PROCEEDING AGAINST MR. AFTAB HUSSAIN
TECHNICIAN.

Re: I am directed to refer to this office endst; No. 35073-75-WE dated 05-10-2020 on the subject and to ask you to expedite submission of your findings/recommendations in the subject cited case without further delay.

03/11
ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Assd by
M



INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

No. 41-2-J-2004 P(I) 38564 /-

Dated 03-11-2020 /-

To,

Mr. Samiullah Khan,
Deputy Superintendent-cum-Superintendent,
Central Prison Bannu.

Subject: **DISCIPLINARY PROCEEDING AGAINST MR. AFTAB
HUSSAIN TECHNICIAN.**

Memo:

I am directed to refer to this office endst; No. 35073-75-WE dated 05-10-2020 on the subject and to ask you to expedite submission of your findings/recommendations in the subject cited case without further delay.

ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 4112-J-2004-34751-WE

Dated 12-11-20-1-

23
181

REGISTERED / *Arghu*

To

The Superintendent,
District Jail Swat.

Subject:- DISCIPLINARY ACTION AGAINST MR. AFTAB HUSSAIN
TECHNICIAN/SHOW CAUSE NOTICE.

Memorandum

I am directed to refer to this office endst; No.35073-75-WE dated 05-10-2020 on the subject and to forward herewith Show Cause Notice (in duplicate) in respect of Mr. Aftab Hussain Technician for service upon him. Duplicate copy of the Show Cause Notice duly signed and dated by him may be returned to this office as a token of its receipt.

12/11
ASSISTANT DIRECTOR

INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.

Attested by
M

SHOW CAUSE NOTICE

Receipt

29 189

I, Masud-ur-Rahman, I.G. Prisons Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, **Mr. Aftab Hussain Technician** attached to District Jail Swat, as following :-

- i. that consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing;
- ii. that on going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including your defense before the Inquiry Officer;

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:-

Misconduct.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty of "Dismissal from Service" under rule-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 and 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 defense to put in and in that case, ex-parte action shall be taken against you.
5. A copy of the findings of the Inquiry Officer is enclosed.

INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR.

Signature: *Aftab Hussain*

Received on: 17/11/2020

Name: AFTAB HUSSAIN

Designation: S. Pharmacy Technician

Checked by
M

25
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SEARCHED	SERIALIZED
INDEXED	FILED
Registered	

OFFICE OF THE SUPERINTENDENT DISTRICT JAIL SWAT

No. 2301/WE

November 19th, 2020

To,

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

Subject: **DISCIPLINARY ACTION AGAINST MR. AFTAB HUSSAIN
TECHNICIAN/SHOW CAUSE NOTICE.**

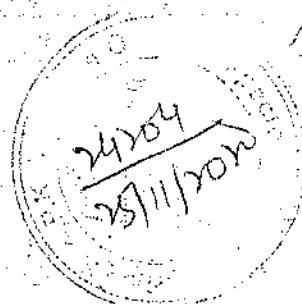
Respected Sir,

P-181

Please refer to yours office No.39751/WE dated 12.11.2020.

Enclosed herewith a copy of show cause notice duly signed and dated by Mr. Aftab Hussain Technician (attached to this jail/Interment Centre Paithom), as token of receipt for your office record.

**SUPERINTENDENT
DISTRICT JAIL SWAT**



A
27-11-20

NFA

Handwritten signature and initials.

Signature: *[Handwritten signature]*

Initials: *[Handwritten initials 'M']*

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RECEIVED
OFFICE OF THE SUPERINTENDENT DISTRICT JAIL SWAT

Registered

OFFICE OF THE SUPERINTENDENT DISTRICT JAIL SWAT

No. 2371/WE

December 1st, 2020

To,

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

Subject: REPLY OF SHOW CAUSE NOTICE SUBMITTED BY AFTAB HUSSAIN TECHNICIAN.

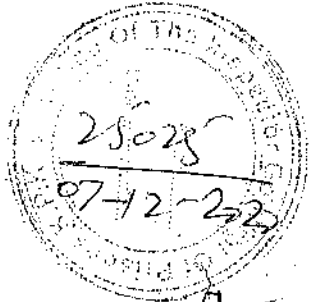
P-181

Respected Sir,

Please refer to yours office No.39751/WE dated 12.11.2020, and in continuation to this office letter No. 2301/WE dated 19.11.2020.

Enclosed herewith a reply to the show cause notice submitted by Mr. Aftab Hussain Technician (attached to Internment Center Paithom) for further necessary action please.

SUPERINTENDENT
DISTRICT JAIL SWAT



8-12-20

Signed by
M

27/11/20

To

The Inspector General of Persons
Khyber Pakhtunkhwa Peshawar.

Subject: APPLICATION AND REPLY TO SHOWCASE NOTICE NO. 41/2-J-2004-39751
DATED :12-11-2020

R/Sir,

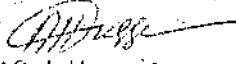
The appellant submit the following:

- i) That the appellant got appointed as Pharmacy Technician in the department of Persons of KPK on 04-11-2004 (copy attached as A).
- ii) That on 19-04-2010 the appellant got transferred from Sub Jail Dassu Kohistan to Sub Jail Daggar Buner. Where the appellant started has duty (order copy attached as B).
- iii) That in 08-06-2010 the transferred order of appellant dated 19-04-2010 was got cancelled by competent authority and the appellant was relieved on 01-04-2010 from Sub Jail Daggar Buner (Copy Transferred order attached as-C)
- iv) That after relieve from Sub Jail Daggar on 01-07-2010 the appellant could not join has duty at Sub Jail Dassu Kohistan due to medical reasons leubago (backache). The appellant was stationed was at Mardan in those days being an IDP's and Militarily Operation in Swat. Therefore the appellant continued treatment from DHQ Hospital Mardan. And the DHQ Hospital Doctros advised to the appellant prohibited from far away travel. Before the relieving from Sub Jail Daggar the appellant was also undergoing treatment from District Jail Daggar Medical Officer and the Medical Officer also give to the appellant a certificate on his personal memo which (copy attached as D).
- v) That on 26-11-2010 the appellant was once again transferred from Sub Jail Dassu to Sub Jail Daggar and the appellant once again started his duty in sub Jail Daggar Buner.
- vi) That on 06-04-2011 on enquiry was initiated against the appellant for the absence period from duty from 01-07-2010 to 26-11-2010 and the enquiry officer was Mr Akhtar Munir deputy Superintendent Jail District Swat in 2011.
- vii) That is per direction of the enquiry officer the appellant submitted has submission explanations to the enquiry officer about the absence period from duty.
- viii) That the enquiry officer given has opinion in last lines of the enquiry report stoppage of 4 increments as well as treating period of absence as extra ordinary leave without pay. Though the enquiry officer did not recommended dismissal from service but the appellant was dismissed from his service on 23-07-2011 dated 23-07-2011 dismissal order (copy attached as E).
- ix) That the appellant go to honourable court service tribunal against the dismissal order and at last the service tribunal Re instead back the appellant to his service dated 30-11-2014. But the appellant was re-instead in central prison Mardan on 07-06-2017.


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- x) That the appellant has not got his back benefits till now.
- xi) When the appellant appealed once against for the back benefits not given to appellant the honourable service tribunal ordered sheet to prison department (order copy attached as -F)
- xii) That after order sheet of service tribunal the department give to the appellant a showcase notice of second enquiry and Mr Sami Ullah Khan deputy superintendent center Prisons Bannu nominated the enquiry officer.
- xiii) That on 16-10-2020 the appellant appeared to the enquiry officer and submitted his submission and explanation to the enquiry officer about absence period from duty.
- xiv) That the enquiry officer given as opinion in last line of enquiry report that the period of absence from dismissal to re-instatement in extra ordinary leave without pay and did not recommended dismissal from service.
- xv) That the appellant as suffering from Lubago (backech) since 2007 and that is the reason during the service period of the appellant a medical board was constituted regarding his ailment which gave its reports on 10-11-2007 that the appellant was suffering from backech which (attached as -G) where upon the IG prisons issue a letter dated 27-03-2009 and 29-11-2008 which suggest that the appellant was having backech which still continued.
- xvi) That about bogas medical certificate the appellant has given his reply to both the enquiry officers.
- xvii) That in both enquiring the enquiry officers did not mentioned of dismissal from service.
- xviii) That the appellant as a sincere devoted and committed employees and that is the reasons that no complaint has ever been made against the appellant by anyone.
- xix) That the appellant belongs to a very humble background and is the sole source of income sole, bread, earner of his family.
- xx) It is my humble requested please close order to the showcase status and give to the appellant all back benefits the appellant will be very thankful to you for his kind favour on me and my family.

Yours Sincerely


Aftab Hussain
Senior Pharmacy
Technician
And Termit Center
Paitham Swat.

Dated: 28-11-2020

checked by




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INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

091-9210334, 9210406 091-9213445

No. 41/2-J-2014-44167-1 29

Dated 17-12-2020

ORDER

WHEREAS, Mr. Aftab Hussain Technician while attached to District Jail Mansehra was awarded major penalty of Dismissal from Service for his willful absence from duty with effect from 01-7-2010 to 25-11-2010 as well as submission of fake medical certificate for the period of his absence vide this office order No.14728 dated 23-7-2011.

AND WHEREAS, upon rejecting of his departmental appeal he preferred service appeal No.1941/2011 for set-asideing the penalty awarded to him. On 12-3-2014 the learned Service Tribunal has decided his appeal and remanded the case to the department for afresh inquiry proceedings against him. The learned Tribunal further ordered that the grant of back benefits to the above named appellant shall be subject to outcome of fresh inquiry proceeding. Accordingly, the case was referred to Law Department for placing the same to the Scrutiny Committee to decide as to whether the case is fit for filing CPLA in the August Supreme Court of Pakistan or otherwise. The Scrutiny Committee concerned declared fit case for filing CPLA which accordingly filed by the department and the Supreme Court of Pakistan dismissed the petition of the department and uphold the decision of the Khyber Pakhtunkhwa Service Tribunal to conduct a de-novo inquiry in the case vide judgement dated 01-09-2020 in C. Petition No.287-P of 2014. Before the decision of August Supreme Court of Pakistan he filed execution Petition No.37/2017 for implementation of Service Tribunal judgement dated 12-03-2014 and learn Service Tribunal asked for implementation of their judgement and accordingly he was re-instated in service vide this office order No.13078 dated 08-06-2017.

AND WHEREAS, Mr.Samiullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu was appointed as Inquiry Officer for conducting de-novo inquiry in the matter vide this office endst; No.35673-75-WE dated 05-10-2020.

AND WHEREAS, the Inquiry Officer concerned submitted its findings according to which charges has been proved against him.

AND WHEREAS, the undersigned being competent authority issued the Show Cause Notice and the accused furnished his reply but failed to justify his innocence.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 15-12-2020 as provided under rules ibid. During the course of personal hearing the accused official again failed to justify his innocence.

NOW THEREFORE, in exercise of powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants(Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, the explanation of the accused official as well as the recommendations of the Inquiry Officer and after affording the opportunity of personal hearing, the undersigned being competent authority is pleased to award the minor penalty of withholding of increment for one year to the accused Mr.Aftab Hussain Technician. In addition,his absence period i.e from 01-07-2010 to 25-11-2010 is treated as leave without pay and his intervening period i.e from the date of dismissal from service (23-07-2011) to the date of re-instatement in service (19-06-2017) is also hereby treated as leave without pay.

INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA , PESHAWAR.

ENDST:NO. 601168-1751,

Copy of the above is forwarded to:-

1. Mr.Samiullah, Deputy Superintendent-cum-Superintendent Central Prison Bannu(Inquiry Officer) for information with reference to his letter No.7158-WE dated 02-11-2020.
2. The Superintendent, District Jail Timergara for information and necessary action. Necessary entry may be made in his Service Book after proper attestation.
3. The District Accounts Officer Timergara for information.

Submitted by

17/12
ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA PESHAWAR.



30

**INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

No. 41/2-J-2004-44167/-
DATED 17-12-2020

ORDER

WHEREAS, Mr.Aftab Hussain Technician while attached to District Jail Mansehra was awarded major penalty of Dismissal from Service for his willful absence from duty with effect from 01-7-2010 to 25-11-2010 as well as submission of fake medical certificate for the period of his absence vide this office order No.14728 dated 23-7-2011.

AND WHEREAS, upon rejecting of his departmental appeal he preferred service appeal No.1941/2011 for set-aside the penalty awarded to him. On 12-3-2014 the learned Service Tribunal has decided his appeal and remanded the case to the department for afresh inquiry proceedings against him. The learned Tribunal further ordered that the grant of back benefits to the above named appellant shall be subject to outcome of fresh inquiry proceeding. Accordingly, the case was referred to Law Department for placing the same to the Scrutiny Committee to decide as to whether the case is fit for filing CPLA in the August Supreme Court of Pakistan or otherwise. The Scrutiny Committee concerned declared fit case for filing CPLA which accordingly filed by the department and the Supreme Court of Pakistan dismissed the petition of the department and uphold the decision of the Khyber Pakhtunkhwa Service Tribunal to conduct a de-novo inquiry in the case vide judgment dated 01-09-2022 in C.Petition No.287-P of 2014. Before the decision of August Supreme Court of Pakistan he filed execution petition No.37/2017 for implementation of Service Tribunal judgment dated 12-03-2014 and learn Service Tribunal asked for implementation of their judgment and accordingly he was re-instated in service vide this office order No.13078 dated 08-06-2017.

AND WHEREAS, Mr.Samiullah Khan Deputy Superintendent-cum-Superintendent Central Prison Bannu was appointed as Inquiry Officer for conducting de-novo inquiry in the matter vide this office order No.35073-75-WE dated 05-10-2020.

AND WHEREAS, the Inquiry Officer concerned submitted its findings according to which charges has been proved against him.

AND WHEREAS, the undersigned being competent authority issued the Show Cause Notice and the accused furnished his reply but failed to justify his innocence.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 15-12-2020 as provided under rules ibid. During the course of personal hearing the accused official again failed to justify his innocence.

NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, the explanation of the accused official as well as the recommendations of the Inquiry Officer and after affording the opportunity of personal hearing, the undersigned being competent authority is pleased to award the minor penalty of withholding of increment for one year to the accused Mr.Aftab Hussain Technician. In addition, his absence period i.e from 01-07-2010 to 25-11-2010 is treated as leave without pay and his intervening period i.e from the date of dismissal from service (**23-07-2011**) to **the date of re-instatement in service (19-06-2017)** is hereby treated as leave without pay.

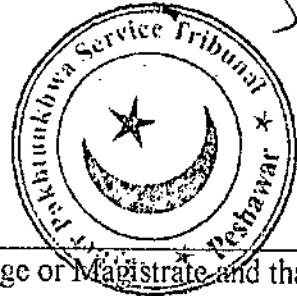
**INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**

ENDST: NO. 44168-170

Copy of the above is forwarded to:-

1. Mr.Samiullah, Deputy Superintendent-cum-Superintendent Central Prison Bannu (Inquiry Officer) for information with reference to his letter No.7158-WE dated 02-11-2020.
2. The Superintendent, District Jail Timergara for information and necessary action. Necessary entry may be made in his Service Book after proper attestation.
3. The District Accounts Officer Timergara for information.

**ASSISTANT DIRECTOR
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**



S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	12.03.2014	<p style="text-align: center;"><u>Appeal No.1941/2011</u> <u>(Aftab Hussain-vs-Secretary Home Department, KPK and another)</u></p> <p>Appellant with counsel and Mr. Sheharyar Khan, Assistant Supdt. Jail on behalf of respondents with AAG present. Representative of the respondents produced copies of the requisite record, which are placed on file. He, however, stated that the second inquiry relating to absence from duty without intimation upto 8.6.2011 and non-compliance with lawful orders of the competent authority against the appellant is still pending because of dismissal from service of the appellant as a result of earlier departmental proceedings against him on the charges of absence from duty without intimation from 1.7.2010 to 25.11.2010 and production of bogus medical certificate. Arguments heard and record perused.</p> <p>Aftab Hussain (appellant) joined Prison Department as Dispenser on 4.11.2004, and on 8.6.2010, within two months of his transfer from Dassu, Kohistan to Sub Jail Daggar, Buner, on 19.4.2010, the transfer order was cancelled and the appellant was relieved from Sub Jail Daggar for joining duty at Dassu, Kohistan. According to the appellant, he could not join his duty at Sub Jail, Dassu because of some medical problem and other problems being faced by the residence of his home District Swat; and on 26.11.2010 a fresh transfer order from Sub Jail Dassu, Kohistan to Sub Jail, Daggar was issued. The appellant accordingly joined his service, but he was served with a show cause notice, followed by inquiry proceedings by the Jail Superintendent, Swat, who recommended stoppage of four increments as well as treating period of absence as extraordinary leave without pay. Though the Inquiry Officer did not recommend dismissal from service in his findings, the appellant was</p>

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the same was also rejected by the appellate authority and, allegedly, received by the appellant on 3.11.2011, hence this appeal on 30.11.2011.

The appeal has been lodged on the grounds that the appellant was frequently transferred from one place to another without any cogent reasons; that no inquiry proceedings as prescribed by the law were conducted; that the Inquiry Officer recommended penalty of stoppage of four increments but the competent authority awarded major penalty of dismissal from service without mentioning any reasons for disagreeing with the recommendations of the Inquiry Officer; that the penalty awarded to the appellant was not commensurate with the gravity of the charge; that the authority did not take into consideration the fact that during the said period the entire family of the appellant migrated from Swat to Mardan as IDPs; that the immediate officer of the appellant was satisfied with his performance; that the appellant was not served with final show cause notice; and that neither reasons for maximum penalty were furnished nor the charge was proved against the appellant.

The appeal was contested by the respondents who filed their joint written reply, wherein, the impugned action was defended on the grounds that the appellant did not join his duty at Sub Jail Dasso, Kohistan, and remained absent from duty for long period from 1.7.2010 to 25.11.2010; and also that fake/bogus medical certificate was furnished by the appellant which was proved as such on verification from the Medical Superintendent, DHQ Hospital, Mardan. The respondents claimed that proper inquiry proceedings were adopted and the appellant was duly served with a show cause notice. The respondents admitted that though the Inquiry Officer recommended stoppage of four annual increments but keeping in view nature of the charge/offence, the competent authority imposed major penalty upon the appellant strictly in accordance with the rules as the charge of bogus medical certificate stood proved against the

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ample opportunity of defence and hearing. The appellant also filed rejoinder to the written reply of the respondents therein reiterating his case.

The arguments of learned counsel for the appellant focused on the point that contrary to the recommendations of the Inquiry Officer for stoppage of four annual increments without future effect and treating the period of absence as extraordinary leave without pay, the competent authority i.e. Inspector General of Prisons, KPK, Peshawar (Respondent No.2) awarded the penalty of dismissal from service, that too, without serving the appellant with final show cause notice therein mentioning the reasons for his disagreement with the recommendations of the Inquiry Officer. Like-wise, according to the learned counsel for the appellant, no reason, let alone cogent reason, was furnished by the appellate authority while rejecting departmental appeal of the appellant vide order conveyed through memo dated 27.10.2011.

The record made available by the respondent-department during the course of arguments would reveal that though the appellant was served with a show cause notice after culmination of inquiry proceedings against him on the charges of wilful absence from duty from 01.7.2010 to 25.11.2010 and production of bogus medical certificate, conveyed to him through charge sheet and statement of allegations dated 22.3.2011; but the show cause notice does not reveal reason of the competent authority for dissenting/disagreeing with the recommendations of the Inquiry Officer. Moreover, through the show cause notice, the competent authority conveyed to the appellant that he has tentatively decided to impose the major penalty of *removal from service*, but in the impugned order dated 23.7.2011, the major penalty of *dismissal from service* was imposed upon the appellant. Needless to say that removal from service and dismissal from service are two different penalties provided for in the NWFP (KPK)

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the appellant was proceeded against.

In the absence of reasons furnished by the competent authority in the show cause notice for disagreement with the findings/recommendations of the Inquiry Officer, the impugned order dated 23.7.2011 of the competent authority has been rendered not sustainable on this score alone in the eyes of law and judgment of the august Supreme Court of Pakistan reported as 2011 PLC(C.S) 1094 (a) (Supreme Court of Pakistan). Likewise, the order of the appellate authority conveyed vide memo dated 27.10.2011 is also not sustainable because of absence of reasons in accordance with the provision of section 24-A(2) of the General Clauses Act, 1897.

Consequently, on the acceptance of the appeal, both the impugned orders of the competent authority dated 23.7.2011 and that of the appellate authority conveyed through memo dated 27.10.2011 are set aside, and the appellant is reinstated in service. The departmental proceedings are accordingly remanded to the competent authority for an order afresh strictly in accordance with law and the observations made above as early as possible within the period prescribed by the law. The grant or otherwise of back benefits to the appellant shall be subject to the outcome of departmental/inquiry proceedings. There shall, however, be no order as to costs.

ANNOUNCED
12.03.2014

MEMBER

CHAIRMAN

Certified to be true copy

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