Junior to counsel for the appellant present. 07.06.2022

> Lawyers are on general strike, therefore, case is adjourned to 28.07.2022 for preliminary hearing before S.B.

> > Member(J)

7-3-2022

TELEGIFO

Due to retirement of the Horrsble Chairman the case is adjourned to come up to the sone is some as peters on 7-6-2022

Form- A

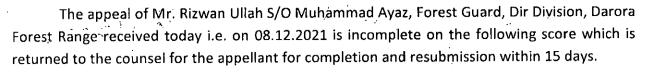
FORM OF ORDER SHEET

Court of_		 	

Case No.-____

69/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/01/2022	The appeal of Mr. Rizwanullah resubmitted today by Mr. Hamza Amir Gulab Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR.
2-		This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>07/03/27</u> . CHARMAN
	7-3-2021	Due to retirement of the Honoble Chair man the case is adjourned to come up for the adjourned before on 7-6-2022 Same as before on Reader



1- Annexures-A and D of the appeal are illegible which may be replaced by legible/better one.

(2-) Rejection order in respect of the appellant annexed as annexure E is not attached with the appeal.

(3-) Attendance sheet in respect of appellant annexed as annexure F is not attached with the appeal.

4- Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.

Dt. 08/12 /2021

SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Hamza Amir Gulab Adv.Peshawar

Respected Sil,
Need time for removed of objections.

24/12/2021

extended up to 10-01-5022

Six, Need time for remed of objetons, Kniddi extend time.

Hamza Armir cedab Adv. Peshawar 10/1/2022

Dodays time frother Extended.

10/1/2022

Sia,

Resubmitted after compliance relevant has as As regard to objection NO2 the 1 order has been attached & objection NO3, the segnature of Appellant is available on the attendance wheel Kindly place the file before Court. The attendance sheet is for court perusal. Appl

1/2022

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BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 69 /2029	
Rizwan Ullah	Appellant

VERSUS

INDEX

S#	Description of Documents	Annex	Pages
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3.	Addresses of parties		7
4.	Copy of Show Cause dated 29.07.2021	A	8
5.	Copy of impugned Order dated 29.07.2021 and application of Appellant	B and C	9-10
6.	Copy of the departmental appeal/representation	D	1(
7.	Copy of impugned Order of Respondent No 1 dated 08.11.2021	E	12
8.	Copy of attendance sheet	F	13-14
9.	Wakalatnama		

Appellant

Through

Hamza Amir Gulab

&

Muhammad Nouman Advocates High Court

Cell: 03005936155

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service	Appeal	No.	/2021

Rizwan Ullah S/O Muhammad Ayaz Forest Guard Dir Division Darora Forest RangeAppellant

VERSUS

- 1. Conservators of Forest, Malakand Forest Circle West Timergara.
- 2. Divisional Forest Officer Upper Dir Forest Division.
- 3. Range Forest Officer, Darora Forest Range

.....Respondents

THE **KHYBER APPEAL** U/S **OF SERVICE** 4 PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORIGINAL ORDER DATED 29.07.2021 PASSED BY RESPONDENT NO.2 WHEREBY APPELLANT WAS DECLARED ABSENT FROM DUTY AND THE SAID PERIOD WAS TREATED AS LEAVE WITHOUT PAY & AGAINST APPELLATE AUTHORITY NO 1) ORDER DATED 08.11.2021 (RESPONDNET **DEPARTMENTAL** APPEAL/ WHEREIN THE **APPELLANT** REPRESENTATION **OF** THE WAS REJECTED.

PRAYER

By accepting this Appeal, the impugned orders of Respondent No 1 dated 08.11.2021 and Respondent No.2 dated 29.07.2021 may graciously be set aside.

Respectfully Sheweth:

- 1. That the Appellant was inducted in Forest Department as Forest Guard in the year 2008, and thus he has more than 12 years of service in his credit.
- 2. That Appellant is a law abiding citizen of Pakistan and having a long carrier of service with the said department, no complaint has ever been reported against him and thus he is having an unblemished service record.
- 3. That all of sudden on 29.07.2021, Respondent No.3 issued a show cause notice to the Appellant and levelled the frivolous allegations against the Appellant regarding the absence from duty.

(Copy of Show Cause Notice dated 29.07.2021 is annexed as annexure "A").

4. That on the same day of show cause notice i.e. dated 29.07.2021 Respondent No 2 imposed penalty and ordered to treat absence of Appellant as leave without pay from the period of 16.07.2021 to 28.07.2021. Appellant submitted appeal to Respondent No 2 on 01.08.2021 but no order was passed on the said Appeal.

(Copy of impugned Order passed by Respondent No 2 dated 29.07.2021 and Appeal is annexed as Annexure B and C)

5. That aggrieved from the Order of Respondent No 2 the Appellant preferred Departmental Appeal/Representation to Respondent No. 1 on 23.08.2021. But the appeal of Appellant was rejected on 08.11.2021

(Copy of the departmental Appeal/Representation, and Order of Respondent No 1 is annexed as annexure D and E)

6. That aggrieved by the said Order the Appellant is constrained to file the instant service appeal before this Hon'ble Tribunal on the following grounds:

GROUNDS:-

A. That the impugned Order of Respondents is illegal, ultra vires, unfounded, void an initio, unlawful and thus ineffective upon the rights of the Appellant.

1 1

- B. That without conducting enquiry and affording an opportunity to Appellant to produce evidence in his favour, the frivolous allegation the penalties vide the impugned order has been passed.
- C. That the very Order is against the norms of justice, exparte and against Article 10-A of the Constitution of Pakistan and against the natural justice.
- D. That issuing show cause notice and impugned Order on the same day clearly suggests that the entire proceedings is an illegality in the eye of law and justice.
- E. That the Appellant performed his duty during the said period but without considering the plea of Appellant and conducting inquiring, the entire proceedings being void ab initio and liable to be set aside on this score alone.

Copy of attendance sheet is annexed as Annexure F

F. That the impugned order has been passed in vacuum without having solid, cogent and convincing evidence and is the result of colorable exercise of powers.

- G. That the impugned order has been passed without any regular inquiry, which is against Khyber Paktunkhwa Government Servants (E & D) Rules 2011, therefore the same has no legal footing to stand upon.
- H. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore most humbly prayed that by accepting this appeal, the impugned orders of Respondent No 1 dated 08.11.2021 and Respondent No.2 dated 29.07.2021 may graciously be set aside **OR** any other relief this Honourable Court may deem just and proper be also passed in favour of Appellant.

Appellant

Through

Hamza Amir Gulab

&

Muhammad Nouman Advocates High Court

Dated 08.12.2021

6

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No._____/2021

Riz	wan Ullah Appellant
	VERSUS
Cor	nservators of Forest, Malakand Forest Circle West Timergara. &
	AFFIDAVIT
Dar that corn	Rizwan Ullah S/O Muhammad Ayaz Forest Guard Dir Division ora Forest Range, do hereby solemnly affirm and declare on oath the contents of the accompanying Service Appeal are true and rect to the best of my knowledge and belief and nothing has been cealed from this Hon'ble Court.
Har	ntified by DEPONENT CNIC#: 15701-3657673-7 mza Amir Gulab vocate
Ces	ititicate: It is certified that as per information of my client no such like service appeal has earlier been filed in the
Cet	of my client no such like service

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. /20	21										
Rizwan Ullah	Appellant										
VER	SUS										
Conservators of Forest, Malakand others	Forest Circle West Timergara. &										
ADDRESSES	OF PARTIES										
APPELLANT:											
Rizwan Ullah S/O Muhamm Darora Forest Range	ad Ayaz Forest Guard Dir Division										
RESPONDENTS											
Conservators of Forest Timergara.	, Malakand Forest Circle West										
2. Divisional Forest Officer	Upper Dir Forest Division.										
3. Range Forest Officer, Dan	ora Forest Range										
	Appellant										
Through											
	Hamza Amir Gulab										
&	Advocate /										
æ	Muhammad Nouman										
	Advocates High Court										

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31-7-021

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از وفتر: ريخ فارست آفيسر دروژه فارست ريخ

1 - سيد محمد فارسر C/ا دروژه فارست چيك يوست

2_ روان الله فارست گار د

مورخه 29/07/2021

ננפלם

ڈیوٹی سے غیرحاضری 11 تا20

عنوان

زیر مخطی نے 29/07/2021 کی رات کو چیک پوسٹ کے چیکنگ کے دوران آپ کو بغیر کسی پیٹنگی اطلاع ا درخواست جو کمپیٹنٹ انھارٹی سے منظور شدہ ہوغیر حاضر پایا اور چیک پوسٹ کوٹمبر سمظرز کے رحم و کرم پر چھوڑ اہے ، جوسروس رولز ڈسلین کے خلاف ہے جو کہ سی بھی طرح نا قابل معافی اور نا قابل مواخذہ جرم ہے۔

آپ دونوں غیر حاضری کی وجدا پوزیش زیر و تخطی کو 3 یوم کے اندر اندر آگاہ کریں ورند آپ کے خلاف E&D رولز کے تحت کارروائی عمل میں لائی جائے گی۔

کا یی ٹو

محترم DFO صاحب برائے اطلاع اور گزارش ہے کہ مدت غیر حاضری 16 یوم دونوں آفیشل سے Without pay کی جائے۔

> _/لحچی کی گیا مهول کیا گیا 21- 7- 021

OFFICE ORDER

y

dated 29/07/2021.

Email: dimporaligi unnit con



ISSUED BY MR. IMAD-UO-DIN DIVISIONAL FOREST OFFICER UPPER DIR FOREST DIVISION

Phone 0944-881715, Fax 0944-881713

As reported by Range Forest Officer, Darorra Forest Range vide letter No. 77/Darona dated 29/07/2021, the following officials of Darona Forest Range were found, absent from Government duty from 16/07/2021 to 28/07/2021 (13-Days).

The absence period from 16/07/2021 to 26/07/2021 (Both Days inclusive) is hereby ordered as leave without pay.

- Said Muhammad I/C Darorra Forest Check Post
- Rizwan Ullah Forest Guard 2

5d/-(Imad-ud-Din) Divisional Forest Officer Upper Dir Forest Division,

No 507-10 /Est.

Copy torwarded to the:-

- Conservators of Forests, Malakend Forest Circle West Timergara for favour of i information pleaso.
- 2 Mango Forest Officer, Datorra Forest Range.
- **Divisional Accountant.** 3.

For information and further necessary action.

4. Officials Concern.

> Divisional Forest Officer, Upper Dir Forest Division, At Dir, W

منون جارب باست واستر المام منون جارب باست واستر المامي المقارفة المعارفة ا

بناسطاني:

خرزارش سيع كرمنده محبت فارسسكارد واردره فارست جيك لومدت برا با ويوتى المانزارى اور دمانت داری سرانام دے رہے جندہ اوہ 13 سے اوہ 18 تک جیک اوس برموراقا مِس كى وا منح بتوست روزنام مِيس مو جودسيط المرة 18 ما المرة على سير فحد فارمر مبك إدمان برمو جود تما جملی رئیارد روزنامجه میں مو بورسے اچھ او تا اچھ عمیری دو دِن مثبنل دُيهِ فَيْ الْعَالَ عُلِيهِ مِنْ وَالسَّمَا عَارِسِنْ عَلَى وَلِعَرِسِينَ اسلام عَارِسِمْ مَارِوْ عِبُ مِن موجِر مَظِيرة وَقَدْ سِي فِيره فَوْدِيدَة عَلَى مِيكَ بُوسِلَ بِر مُوفِرِدَ صَا- لِدَة وَقَدْ سِير فَيْدِ فَارْسِم اللهُ اللهِ تك جلك لوست برموود ها- على واحتي دايارد روز ناجه مين موجر مطامنورون ا جزید بیرکه دبنده چندرون سے بماری میں مبلاتے عبکی ومبرسے دنبرہ نے سناورمیں البني جيا داده مالي واكرم سيادك وريع واكرم سع دو 38 كابر طامل كيا يس مع بيا حبكى دنيادة لف سع اس سي حبره ك ظلف معائم كيا الزمات حتم كياجاً آب ماحیان بر بانی کرے میرہ کے واب بابت وابطلی مظور کرے الحقال من جادر فر ماميش المحالات عادر فر ماميش المحالات عادر فر ماميش المحالات عادر فر ماميش المحالات عادر فر مامين عادر فر مام

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عنوان ۔ اپیل بابت Without pay بحواله آرڈرنمبر 66 مورند 29/07/2021

جناب عالى!

گزارش ہے کہ بندہ بحقیت فارسٹ گلارڈ داروڑہ فارسٹ چیک پراپناڈیوٹی ایمانداری اورنہایت دیات داری سے سرانجام دے رہا ہے بندہ 13/07/2021 سے 18/07/2021 تک چیک پوسٹ پر موجود تھا جس کی واضح ثبوت روزنامچہ میں موجود ہے 18/07/2021 تا 20/07/2021 تک سیدمحمہ فارسٹر چیک پوسٹ پر موجود تھا جس کی ریکارڈ روزنامچہ میں موجود ہے 21/07/2021 تا 21/07/2021 فارسٹر چیک پوسٹ پر موجود تھا جس کی ریکارڈ روزنامچہ میں موجود ہے اورن کی لگائے گئے عباداللہ فارسٹ گارڈ اورسیف اسلام فارسٹ گارڈ چیک پوسٹ پر موجود تھے 23/07/2021 ہیں موجود ہے 25/07/2021 ہیں موجود ہے کہ نوسٹ پر موجود تھا۔ 25/07/2021 ہیں موجود ہے کہ کارڈ سے سیدمحمد فارسٹر 31/07/2021 ہیں چیک پوسٹ پر موجود تھا ،جس کی واضح ثبوت روزنامچہ میں موجود ہے جو کہ سیدمحمد فارسٹر 31/07/2021 ہیں ہے۔

مزیدید کہ بندہ چنددن سے دماغی بیاری میں مبتلا تھے جس کی وجہ سے بندہ نے پیٹاور میں اپنے بچا زاد بھائی کے ذریعے ڈاکٹر سے 28/07/2021 کا نمبر حاصل کیا اس لئے بندہ 27/07/2021 کو اپنے علاج کیلئے پیٹاور گیا اور 28/07/2021 کو ڈاکٹر پر اپنا چیک آپ کیا جس کی ریکارڈ لف ہے اس لئے آپ صاحبان کے خدمت میں عاجز اندعرض کی جاتی ہے کہ بندہ کے خلاف Order Leve without pay ختم کرنے کے احکامات جاری فرمائیں۔

العارض 23- 23- 25 رضوان الله فارسث گار دُ صاحب آباد فارسٹ چیک پوسٹ داروڑ ہریخ دریفارسٹ ڈویژن



CONSERVATOR OF FORESTS MALAKAND WEST FOREST CIRCLE TIMERGARA. /11/2021 ISSUED BY MR. ASGHAR KHAN

- 1.Whereas, Mr.Rizwanullah Forest Guard (appellant) was proceeded under E&D Rules,2011 on the following charges;
 - n. Miscanduct.
 - b. Inefficiency.
- 2.Whereas, the RFO Darrora reported vide his letter No. 77/Darrora dated 29/07/2021,the accused official was found absent from government duty from Darrora Forest Check Post Without any prior permission from the competent authority with effect from 16/07/2021 to
- 3. Whereas, absence period of the accused Official was treated as leave without pay w.e.f. 16/07/2021 to 28/07/2021 (Thirteen) 13 Days by the D.F.O Dir Upper vide Office Order No. 06 dated 29/07/2021.
- 4...Whereas, the appellant being aggrieved from the said order No.06 dated 12/07/2021 issued by DFO Upper Dir, filed departmental appeals to the undersigned (appellate Authority) requesting to set aside the same.
- 5. Whereas, Para wise comments were asked form DFO Upper Dir Forest Division vide this office letter No.539/E, dated 04/08/2021 as well as the accused official was called for personal hearing vide this office letter No.2099-2100/E dated 03/11/2021.
- 6. Whereas, the personal hearing of the accused official was held by the competent authority on 08/11/2021
- 7. Whereas the examination and perusal of record, comments of the D.F.O Dir Upper vide letter No.1372/B&A dated 30/09/2021, personal hearing of the accused official on 08/11/2021 and the facts surface, the absence of the appellant from Govt; duty proved against him & left the Forest Check Post on the mercy of Muhammad Farooq Barrier Man & Timber Smugglers, Furthermore, the appellant could not produce any valid documentary proof or reason in his defense beside the absence period has already been reported and verified by the Barrier Man of the duty on the said Forest Check Post.

ORDER:-

I Mr. Asfghar Khan Conservator of Forests Malakand West Forest Circle Timergara in the capacity of appellate authority, the appeal of the appellant is hereby rejected.

> Sd/-(ASGHAR KHAN) **CONSERVATOR OF FORESTS** MALAKAND FOREST CIRCLE WEST TIMERGARA

2144-46E.

The Chief Conservator of Forests, Malakand Forest Region (Region-III) Saidu Sharif

Swat for favour of information please.

The Divisional Forest Officer Dir Upper for information with reference to his letter No.1372/G dated 30/09/202.

3. The Official concerned C/O DFO Upper Dir.for information & necessary

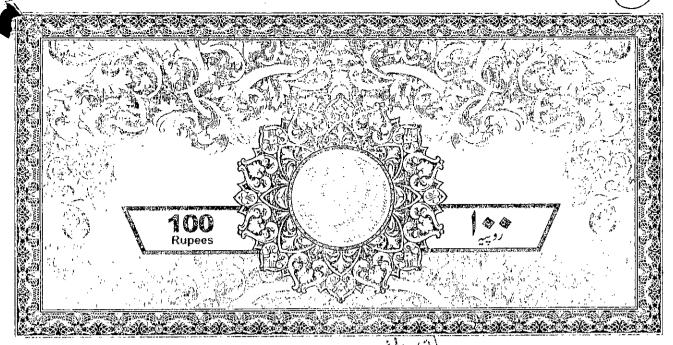
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