Form- A

FORM OF ORDER SHEET

| Court of | |
|-----------------------|----------|
| | |
| Execution Petition No | 563/2022 |

| S ₁ No. | Date of order proceedings | Order or other proceedings with signature of judge | | | | |
|--------------------|----------------------------|---|--|--|--|--|
| 1 | 2 | 3 | | | | |
| 1 | 21.09.2022 | The execution petition of Mr. Mehram Shah resubmitted today by Miss Ansa Gandapur Advocate. It is fixed for implementation report before touring | | | | |
| S | Canned Kpst Kpshawar | Single Bench at D.I.Khan on Original file be requisition AAG has noted the next date. The respondents be issued notices to succompliance/implementation report on the date filed. By the order of Chairman | | | | |
| | | REGISTRAR | | | | |
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. واجب القدر خیبر یختون خواه ـسروس ٹری بیونل۔پشاور

ورخواست اجراء تحت دفعه نمبر 7_____ سروس ٹری بیونل ایکٹ سال 1974 Kharber Pontatenkhwa

عند الم شاه (ولد شير محمد) معلى المسلك كار دُمعرفت سب دُوييژنل فارست آفيسر ـ ثا نك رينج ـ ثا نك ـ ـ ـ ـ ـ المسلك كار دُمعرفت سب دُوييژنل فارست آفيسر ـ ثا نك رينج ـ ثا نك ـ ـ ـ ـ المسلك اجراء طلبكار ـ سائل

٧/٥فلاف

- 1 کومت خیبر پختون خواه بذریعه سیرٹری فارسٹری ماحولیات اور جنگلی حیات ۔ پشاور
 - 2_ چیف کنزویٹرسنٹرل ۱۱ ،سدرن ریجن بیثاور
 - 3 كنزوير آف فارسك -جنوبي سركل پشاور
- 4۔ دُوییژنل فارسٹ آفیسر۔ ڈریرہ اساعیل خان فارسٹ ڈوییژن۔ ڈریرہ اساعیل خان کینٹ مسئول الیہان۔ مدیونان

جناب عالى! سائل حسب ذيل عرضى داشت Petition بمرادايفاء اجراء علم مورخه 24 سمبر 2020 مصدره ازال واجب القدرسروس فرى بيونل بمقام دريره اساعيل خان

- پیش کرنا جا ہتا ہے۔
- 1- بيكهروس البيل نمبر <u>421</u> سال 2019
- 2_ پیک فریقین اپیل مهرام شاه ندکوره بالا برخلاف حکومت وغیره مذکوره بالا
- 3 میرکتیم لائق ایفاء وایصال مورخه 24 ستمبر 2020 نقل مورخه لف ہے -
- 4۔ یہ کہ مسئول الیہان مذکورہ بالانے CPSLA بزریعہ میاں سعد اللہ جندولی ایڈووکیٹ سپریم کوٹ ہے ہے۔ یہ مسئول الیہان مذکورہ بالانے CPSLA بزریعہ میاں سعد اللہ جندولی ایڈووکیٹ سپریم کوٹ ہے جاور میری معلومات کے مطابق عارضی حکم امتناعی جاری نہیں ہوا ہے
 - 5۔ فی الحال آج تک کوئی ادائیگی نہیں ہوئی ہے۔
 - 6_ تنخواه ما مانه مع واجبي مراعات Emoluments ازمئي سال 5 100 تا 28.2.2019 واجب الا دا ہيں مگر

مسئول الینمبر 4نے CPSLA کے زیرساعت ہونے کی وجہ سے ادائیگی کرنے سے معذرت ظاہر کی ہے ۔ میں المست

7۔ پیاولین درخواست اجراء ہے جو کہاندر معیاد ہے۔

28۔ مسئول الیہ نمبر 4ہی وہ حاکم ہے جو واجبات کی ادائیگی کے لئے پابندہے۔ جب Drawing And ہے۔ Disbursing Officer ہے اور حاکم ہیں۔ مسئول الیہ نمبر 4 کے نگران حاکم ہیں۔

یہ کہ تا کیدی حکم بنام مسئول الیہ نمبر 4، جو بھی حاضر سروس ہو کہ وہ ڈگریدار کے واجبات یکمشت ادا کر دیں اور بصورت حکم عدولی حاضر سروس مسئول الیہ نمبر 4 کی آ دھی ماہانہ تخواہ کی قرقی Attachment کا حکم جاری کیا جاوے۔ اور اسکوآئندہ کے لئے کسی ترقی کا حقد ارنہ ہی اسکے Scale میں اضافے کا حکم صادر کیا

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مهرام شاه فارست گاردٔ --- اجراء طلبگار mh

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ت**صدیق بمقام ڈیرہ اساعیل خان** بااقر ارصالح تصدیق کی جاتی ہے کہ جملہ مراتب درخواست اجراءمیرے علم ویقین کی مطابق صحیح ودرست ہے۔

> 20-9-2022 PL-01-pl M pm

Mob: 0306-942521-7 CNIC: 12201-3553896-7 p.3 Annexue - I

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

Service Appeal No.421/2019

Date of Institution

21.03.2019

Date of Decision

24.09.2020



Mehram Shah Forest Guard S/O Sher Muhammad Forest Guard.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Environment- Forest Peshawar and three others.

(Respondents)

Mr. Rustam Khan Kundi,

Advocate

... For appellant.

Mr. Muhammad Jan,

Deputy District Attorney

... For respondents.

MRS. ROZINA REHMAN MR. ATIQ-UR-REHMAN WAZIR MEMBER (J)

MEMBER (E)

JUDGMENT

ROZINA REHMAN, MEMBER: This service appeal is directed against the Brider No.52 dated 28th February 2019 whereby appellant was reinstated in service with retrospective effect however the intervening period was treated as leave without pay.

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A brief account of facts of the instant case is that appellant Mehram 2. Shah was appointed as Forest Guard in D.I.Khan Forest Division on 24.04.1985. During August 2014, he was transferred from Kaur Murtaza and Kaur Kot Azam Road and posted as Incharge Dabara Resumed Land, Waran Canal and Tank Kot Azam beat as the jurisdiction of Tank Şub-Division vide DFO D.I.Khan Office order No.92 dated 30.06.2014 and again posted as I/C Dabara Block vide Divisional Forest Officer D.I.Khan office order No.15 dated 07.08.2014. The appellant did not take over the charge of his new place of posting till 23.01.2015, therefore, he was placed under suspension vide order No.74 dated 23.01.2015 and attached with office of Sub-Divisional Forest Officer D.I.Khan Forest Sub-Division. Muhammad Nawab Forest Ranger I/C was appointed as inquiry officer who reported that the appellant failed to report arrival in the office, therefore, he was proceeded under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and his services were terminated. Instead of filing departmental appeal, he filed a writ petition in the august Peshawar High Court and vide order dated 22.03.2017, his writ petition was treated as departmental appeal with direction to approach the proper forum under the law. Instead of filing departmental appeal, he preferred appeal to the Service Tribunal which was accepted and vide order dated 28.11.2018 case was remanded to the respondents to decide his departmental appeal within a period of 90 days and vide order dated 28.02.2019, of Conservator of Forests Southern Circle Peshawar, order of D.F.O D.I.Khan dated 19.05.2015 was set aside. Appellant was reinstated in service with retrospective effect. However, the jatervening period i.e. from 19.05.2015 to 28.02.2019 was treated as leave without pay with the remarks that the same will count towards his seniority

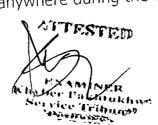
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and pension. Feeling aggrieved from the said order, instant service appeal was filed.

- 3. It was submitted by the learned counsel for appellant that the appellant did not engage in any job during period when he was subjected to departmental proceedings, therefore order in respect of denial of back benefits to the appellant, is against the law and he further contended that in view of the facts and circumstances of the case, the appellant was entitled to all the back benefits for the intervening period.
 - 4. Conversely, learned DDA stated that he remained absent and failed to comply with the directives/orders of his superiors, therefore, was rightly not held entitled to the back benefits and the intervening period i.e. from the date of his termination i.e. 19.05.2015 till the date of his reinstatement was rightly treated as leave without pay. Learned DDA contended that disciplinary action was taken against the appellant in the light of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and all codal formalities were fulfilled. That the appellant did not join his duties as per orders of the D.F.O D.I.Khan and remained absent. He failed to perform his duty, therefore, he was not held entitled to pay & allowances.
 - 5. Perusal of record would reveal that the appellant was appointed as Forest Guard on 24.04.1985, which is evident from the impugned order. Procedural defects in initiating the proceedings against the appellant were admitted. His prolonged service rendered in the department is also not disputed. There is no stigma on the conduct/character of the appellant during this prolonged service. There is nothing on record that the appellant was gainfully employed anywhere during the relevant period.



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6. For the facts, circumstances and reasons stated hereinabove, this appeal is allowed and the intervening period i.e. from 19.05.2015 till 28.02.2019 shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED. 24.09.2020

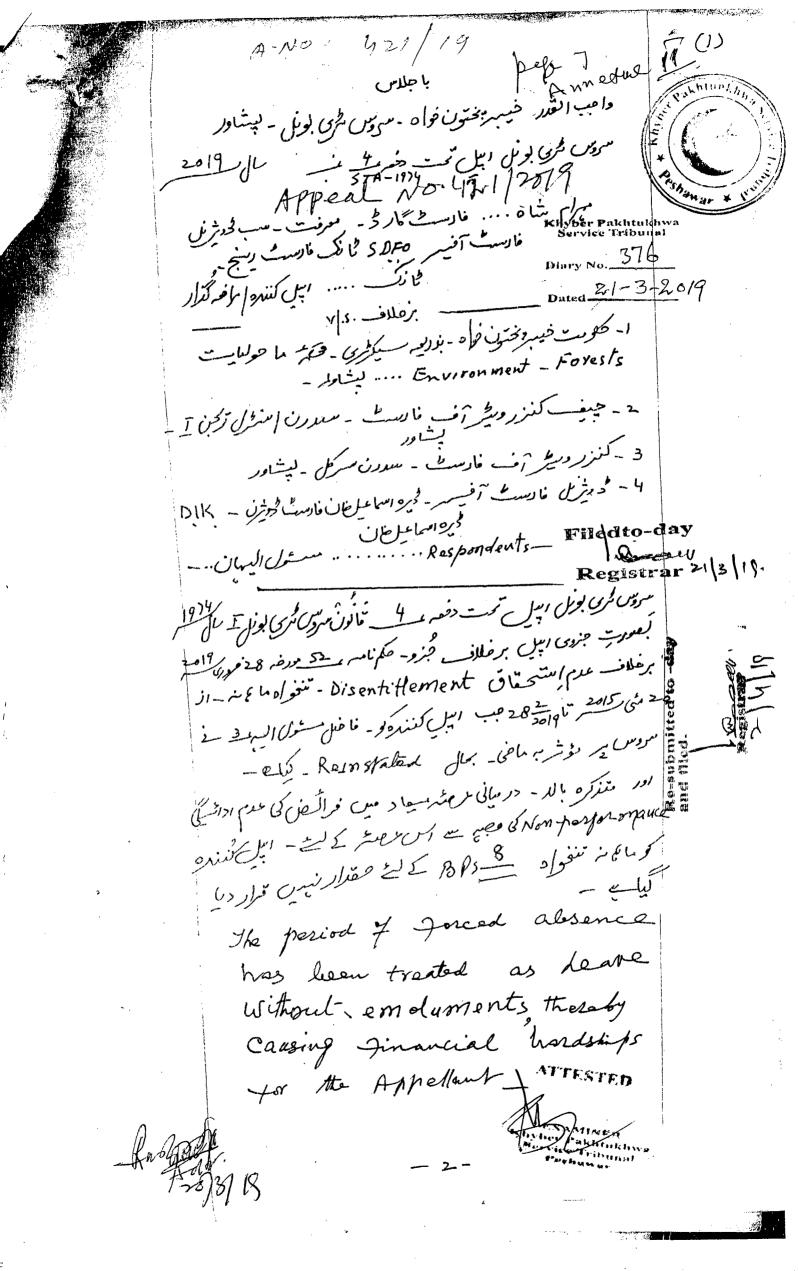
> (Attiq ur Rehman Wazir) Member (E) Camp Court, D.I.Khan

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

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Khybur Lahtunkiawa Service Tribunal

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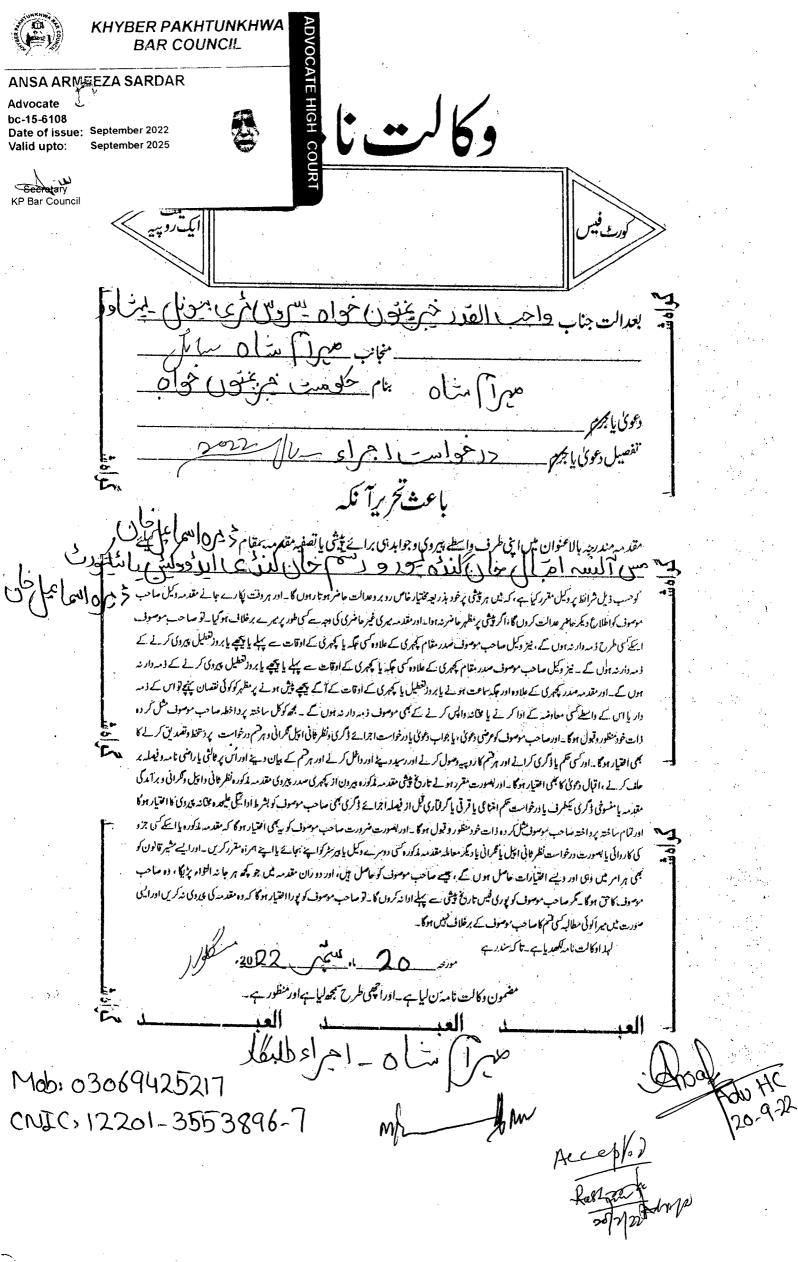


juicale: - - midero modes alle منهدام معنه 28 فرون رق برم کی ماکر بهد متذكره سكي كنينده المرام كزار كو مهم اللول عنفول مع ملك المالت اللول اللا وننره كا فقرار گردان لياجار ا

Glivi E& Dis Notes نُفَلِ حَلَى مَا مِدِ مِنْ الْمِلْكِلِيدِ كُفْ ہے ۔ نُفِل مِلْعَمْ الْمِلْكِلُ صب الملم وا صب الدخترام مرى بونل - نقل اولين زير عُماز عمرنام <u>103</u> ربعة 19 ي 15/6 اذال معول السراك مع جدیر و کالت نامر لف ایس : یه ایس دوم ک سروس فری بون ایک و ما مال را دی کری تند دائر یک عاقلید مِنَابِ مَكْرِم مِمْرَانِ صَاحَبَانِ مِرْى لِونَل ـــ اللي كننده بن اور وجهات كرسائق صب دیل عرض گذار ہے ۔

ا۔ یہ کر ایپل کننرہ نے اِنٹرائی کان سر ن<u>دہ ا</u> ۔ ا ع فلاف چاره محوی کے علاق کوی کارو بارسته مرسی ه یا متردوری نزس کی ۔ اور گھر بھر سی ری ۔ 2- یک منذرو رصم باللد کے دوران عدم ما جنری Were was no wiful Default Jes Ware Was 3- سيكر البيرالنين كى مقر الرسلسل جدمات كو مكسر ليس الداز يا حرف ليط وكفا وكما The Appellant has been unfairly targetted in The form of donial of عب الله المره في المحاكم المفاحية المتقامية المتقامية المتقامية المتعاملة ا

pell - 9 - Amen 4- یہ کہ اعلے عمالت ع نے اور ملک کے سروس ٹری لوا عَصَا يَ قُرَالِ دَمَا عِنْ - كُمْ عَدُمُ مَا صَرَى كَ عُرَصَمْ كَ دُولُانَ alternale Dimico i vince كارمار- يا سبت سنبي لكا يا سنبي رينايا ب تواليي مورت س - اسلي كننده - تنخواه لا حقرار برنا ٥٠- ي كر دوران ساست و بيث - اييل كننده كو بعاني حرور المراكى المادكى مادكى مادي سنا استرعام کر ابیل مذاد منظور فرهاء The Appellant may; graciously; - = 10 3 be allowed all beach benefit well 20.5.2015 -3/6 - olim / m/ /m رُستم خان کُنڈی ریدولین عن تورید می تورید می اسلیمان ر كاستران و كامد باقرارها لح تصرف كى عباتى ب كر جله مراسب ابيل طذاد مرملم ولعين كم مالى عرفی درست س tion lingtal oc mh how in the step ar 11 TPer



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KECHOO E. J. STOR