

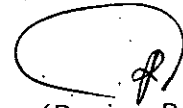
06.10.2022

Appellant in person present.

Riaz Khan Paindakhel, learned Assistant Advocate General present.

Reply not submitted. Vide previous order sheet dated 04.07.2022, office was directed to issue notices to respondents but the same were not served, therefore, appellant is directed to submit envelops and tickets for notice to respondents. To come up for reply/comments on 10.11.2022 before S.B at Camp

SCANNED Court, Swat.
KPST
Peshawar



(Rozina Rehman)
Member (J)
Camp Court Swat

10.11.2022

Appellant in person present. None present on behalf of the respondents.

Vide previous order sheet dated 06.10.2022, the appellant was directed to submit envelops and tickets for issuance of notices to the respondents but he did not submit the same, therefore, last chance is given to the appellant to submit the same within 03 workings days from today in office. After submission of envelops and tickets by the appellant, fresh notices be issued to the respondents for submission of reply/comments on 08.12.2022 before the S.B at Camp Court Swat.



(Salah-Ud-Din)
Member (J)
Camp Court Swat

04-07-2022

19.07.2022

Appellant present through counsel.

Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for reply/comments on 03.08.2022 before S.B at Camp Court, Swat.

Rs-600/-
Appellant Deposited
Security & Process Fee

A. Hussain
18/7/22

(Rozina Rehman)
Member (J)
Camp Court, Swat

3.8.22

Due to summer vacation the case is
adjourned to 7.9.22 for the same.

07.09.2022

Mr. Asghar Ali, Advocate present and submitted Wakalatnama in favour of the appellant which is placed on file. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Assistant Advocate General seeks time to contact the respondents for submission of reply/comments. Adjourned. To come up for reply/comments on 06.10.2022 before S.B at Camp Court Swat.




(Mian Muhammad)
Member (E)
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 820/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/05/2022	<p>The appeal of Mr. Abdul Sattar presented today by Shahzada Irfan Zia Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR,</p>
2-	25-05-2022	<p>This case is entrusted to touring Single Bench at Swat for preliminary hearing to be put there on <u>09.06.2022</u>. Notices be issued to appellants and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
9 th June, 2022		<p>None for the appellants present.</p> <p>Counsel are on strike. To come up for preliminary hearing on 04.07.2022 before the S.B at camp court Swat.</p> <p> (Kalim Arshad Khan) Chairman Camp Court Swat</p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Abdul Sittar vs Province of KPK etc.

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Shahzada Irfan Zia</u>	✓	
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?		
4.	Whether the enactment under which the appeal is filed mentioned?		✓
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?		✓
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?	✓	
17.	Whether list of books has been provided at the end of the appeal?		✓
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? on _____	✓	
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on _____	✓	
26.	Whether copies of comments/reply/rejoinder submitted? on _____		✓
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on _____		✓

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Shahzada Irfan Zia

Signature: Irfan Zia

Dated: 23/5/2022

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 820 /2022

SCANNED
KPST
Peshawar

Abdul Sittar APPELLANT

VERSUS

Province of KPK etc. RESPONDENTS

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES
1.	Body of Service Appeal		1-3
2.	Application for condonation		4
3.	Affidavit		5
4.	Copy of FIR	A	6
5.	Impugned Order dated 22-01-2010	B	7
6.	Order of Judge ATC-1, Swat	C	8-9
7.	Departmental Appeal	D	10
8.	Vakalat Nama		

Abdul Sittar

APPELLANT

THROUGH:

Shahzada Irfan Zia

SHAHZADA IRFAN ZIA
ADVOCATE, PESHAWAR

21-B, Nirmala centre, Faqir Abad, Peshawar.

CELL. 0300-9345297

DATED.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. /2022

Abdul Sittar, Ex- Forest Guard, R/O Lailoni, Mohallah Naway Kalay, Tehsil Alpuri,
District Shangla.

..... APPELLANT

V E R S U S

1. Province of KPK through Secretary Environment Department, Civil Secretariat, Peshawar.
2. Divisional Forest Officer, Kohistan Watershed Division, Besham.
3. Chief Conservator of Forests, KPK, Shami Road, Peshawar.
4. Conservator of Forests/ Project Director Watershed Management Project, Abbottabad.

..... RESPONDENTS

**APPEAL U/S 4, READ WITH SECTION-7 OF KPK SERVICE TRIBUNAL ACT 1974
AGAINST IMPUGNED ORDER DATED 22-01-2010, PASSED BY RESPONDENT NO-2,
WHEREBY THE COMPETENT AUTHORITY TERMINATED THE SERVICES OF THE
APPELLANT AND HIS DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
ELICITED NO RESPONSE.**

RESPECTFULLY SHEWETH:

FACTS OF THE CASE

1. That the appellant while holding the post of Forest Guard under the administrative control of respondent No-2, an FIR dated 29-11-2007 was lodged against him in Police Station Alpuri, District Shangla, under sections 120-A, 121, 124-A, 364, 448, 148, 149, 17 (3) Haraba, PPC and 7 ATA. **(ANNEX. A)**
2. That the respondent No-2, on 22-01-2010, passed the impugned order and terminated the services of the appellant under section-3 of Removal From Service (Special Power) Ordinance 2000, on the ground that the appellant was involved in anti state activities. **(Annex-B)**
3. That after registration of FIR the appellant remained absconder as his life was at risk due to false implication in ibid FIR, however he was arrested in the instant case on 07-02-2021.

4. That the appellant was tried by the Anti-Terrorism Court-1, Swat, on the charges of terrorist activities in the area, looting the District Head Quarter Hospital, Courts, offices of DCO, DPO and destroying the same. During trial the prosecution requested for the discharge of the accused/ appellant, having no solid evidence against him. As a result the appellant was discharged from the charges/FIR by the court vide order dated 17-06-2021. (ANNEX-C)
5. That after getting acquittal/ discharge order from the competent court the appellant filed his departmental appeal before the respondent No- 4, for release of his pension and other benefits as he was discharged from the charges by the court, but his appeal went unheeded and elicited no response. (ANNEX-D) Hence the present appeal is being filed inter alia on the following grounds:

GROUNDS

- A. That as the appellant has been discharged from the charges by the court of competent jurisdiction due to lack of evidence of alleged charges, therefore, in such eventuality no misconduct is left warranting termination of the appellant from service and it is in the best interest of justice that his termination from service be converted into compulsory retirement by modifying the impugned order dated 22-01-2010 in the above terms.
- B. That an ex- parte action has been taken by the department against the appellant and he has been condemned unheard. No charge sheet and show cause notice was served/ communicated to the appellant, therefore, the impugned order is illegal and unsustainable under the law.
- C. That the impugned order dated 22-01-2010, is illegal and void ab initio as no penalty of TERMINATION FROM SERVICE is provided under RSO-2000, therefore, the order is misconceived and misapplication of law, therefore, unsustainable under the law.
- D. That the appellant had rendered a long meritorious service in the department and after his discharge from the criminal case which is the sole ground of his termination, his previous service is need to be counted for purpose of pension, and other retirement benefits and this tribunal has ample jurisdiction under section 7 of KPK Service Tribunal Act, 1974, to modify or vary the order appealed against.

It is therefore humbly prayed that the impugned order dated 22-01-2010 may graciously be modified and the penalty of Termination from service may graciously be converted/ modified into Compulsory Retirement and the appellant may

kindly be given/allowed pension with all consequential retirement benefits.

Any other relief deemed appropriate in the circumstances of the case may also be granted in favour of appellant.

سید
APPELLANT

THROUGH *IRFAN ZIA*

SHAHZADA IRFAN ZIA

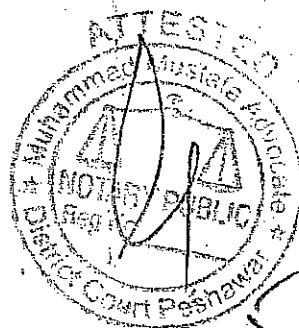
ADVOCATE, PESHAWAR.

CELL. 0300-9345297

AFFIDAVIT

I, ABDUL SITTAH, EX- FOREST GUARD, R/O LAILONY, NAWAY KALAY, SHANGLA, DO HEREBY DECLARE ON OATH THAT THE CONTENTS OF THIS APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED FROM THE TRIBUNAL.

سید
DEPONENT



23/5/2021

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. /2022

Abdul Sittar APPELLANT/APPLICANT

VERSUS

Province of KPK, etc. RESPONDENTS

APPLICATION FOR CONDONATION OF DELAY IN THE INTEREST OF JUSTICE

RESPECTFULLY SHEWETH:

1. That the above cited appeal has been filed before this Honourable Tribunal in which no date has yet been fixed.
2. That after getting discharge order from the competent court the appellant filed his departmental appeal within time, but failed to approach the Tribunal within the prescribed period, due to lack of knowledge of the waiting period which is 90 days.
3. That the delay is not intentional or deliberate but due to financial compulsions/ crises and hardships which the appellant faced after his termination from services and false implication in the criminal case.
4. That the law and verdicts of superior courts always favors the decisions of cases on merit instead of nonsuited the litigants on technical grounds including limitation.
5. That as the appellant rendered long meritorious service in the department therefore it is in the interest of justice that the delay be condoned and the penalty be converted into compulsory retirement so that his previous service be counted for pension in order to save the appellant and his family from starvation.

It is therefore humbly prayed that the delay in filing the appeal may kindly be condoned in the interest of justice.

APPELLANT/ APPLICANT

THROUGH

SHAHZADA IRFAN ZIA

ADVOCATE, PESHAWAR

CELL. 0300-9345297

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

IN RE:

Appeal No. /2022

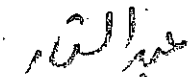
Abdul Sittar..... APPLICANT

VERSUS

Province of KPK etc..... RESPONDENTS

AFFIDAVIT

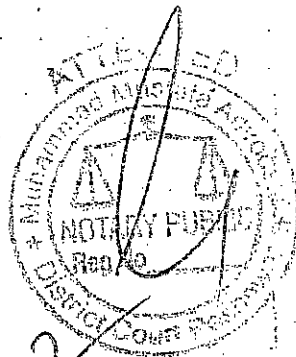
I, Abdul Sittar, Ex.Forest Guard, r/o Lailony, naway kalay, Alpuri, District Shangla, do hereby solemnly affirm and declare that the contents of the application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Deponent

N.I.C # 15501-1141283-5

Cell # 0341-1500059



23/5/2022

مستحقین اپنے نقصانات اور لوٹے ہوئے اشیاء کی تفصیلات خود پیش

کرتے ہیں۔ زریعہ اشیاء کو لوٹیں مقامی بنے جو کچھ سرگزردہ پیش کر دیا گیا اور رپاٹ آرمی کے

پیشگی میں آئے ساتھ ساتھ حملہ اور زور کے خلاف کاروائی شروع کی۔ اس دن دریاں جملہ اور بن کے
49 شہر قبضہ کر لیا۔ تمام آبادی کو مقامی کوٹوں میں بند کر دیا۔ جو طالبان کے قبضہ میں آئے ان کو
سرتوں سے لے کر قبضہ کر لیا۔ زیادہ تر پانڈے، بھائیوں اور چھوٹی اور چھوٹی لوگوں سے مشتمل

کے ساتھ ڈیرہ پور سے لے کر پورے ہندوستان تک پھیلے ہوئے ہیں۔ اور بن کے قبضہ میں آئے
شروع کی تاریخ مورخہ 1999 کو رپاٹ آرمی کے قبضوں نے ہندوستان کو بچھڑے ہوئے بنا لیا۔

ظاہر ہے کہ یہ سب کچھ ہندوستان کے لوگوں کے لئے ہے۔ انہیں یہ اسی سے فارغ ہو کر وہیں قبضہ کر لیا
آ کر دیکھا تو، آبادیات، تنظیمات، سرکاری، نیم سرکاری، خاص سب سے لے کر سراسر لے کر

تمامی سب سے ارسال تمام ہے۔ پورے ہندوستان کے قبضہ میں آئے۔ اور بن کے قبضہ میں
گنتیوں بنا گئے۔ ضروری طور پر پیش رویت گزاروں سے لے کر انہیں

خانہ بھار خانہ 50000 تمام ایسے سورتوں کے ساتھ ساتھ تمام آئندہ سراسر
صرف صرف اور صرف سرتوں پر ہندوستان کے تمام مال اور زمین قبضہ کر لیا گیا۔ لہذا ہندوستان
وہاں سب سے گناہ مند بن گیا۔ شائع شدہ پورے ہندوستان سے نقل ہوا۔ اور بن کے قبضہ
سے سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔

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میں کوئی اور سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔ سب سے گناہ مند بن گیا۔

(Annex: B) 7

OFFICE ORDER No. 19 DATED 22/01/10 ISSUED BY MR. SHER HASSAN KHAN DIVISIONAL FOREST OFFICER KOHISTAN WATERSHED DIVISION BESHAM

As informed by District Magistrate/District Coordination Officer Shangla vide his letter No. 335-339/DCO/SH dated 13/1/2010 and as is evident from the record supplied by Govt. of NWFP, Home & TA's Department Peshawar letter No. 1/7-SO(L&O)/HD/09 dated 15.12.2009 along with minutes of the meeting held on 11.12.2009 and relevant portion of the list of Govt. Servants involved in anti state activities, also called the DCO Shangla to the undersigned for meeting in his office dated 16/01/2010 and telephonically directive by the DCO Shangla dated 21.01.2010, the following officials of Kohistan Watershed Division Besham are hereby terminated from Government Service with immediate effect in the best interest of State under the Provision of Section-3 NWFP Removal from Service (Special Power) Ordinance 2000.

1. Mr. Nisar Ahmed Forest Guard S/O Qazi R/O Lailoni Kuzkalay, as per list S. # 59
2. Mr. Abdul Sittar Forest Guard R/O Lailoni, as per list S.# 65

Sd/-
(MR. SHER HASSAN KHAN)
DIVISIONAL FOREST OFFICER
KOHISTAN WATERSHED DIVISION
BESHAM

Copy to:

1. PS to Secretary Govt. of NWFP Home and Tribal Affairs Department, Peshawar for favour of information with reference to his letter No. 1/7-SO(L&O)/HD/09 dated 15.12.2009, please.
2. PS to Secretary Govt. of NWFP Environment Department, Peshawar for favour of information please.
3. Chief Conservator of Forests NWFP, Peshawar for favour of information, please
4. District Magistrate/DCO Shangla at Alpuri for favour of information with reference to his letter No. 335-39/DCO/SH dated 13/1/2010
5. The Project Director/CF Watershed Management Project Abbottabad for favour of information, please
6. District Nazim Shangla at Alpuri for favour of information, please
7. The Range Forest Officer Kohistan Watershed Range for information.
8. The Range Forest Officer Pura Watershed Range for information.
9. Mr. Nisar Ahmed S/O Qazi Village Lailoni Kuzkalay, P.O Alpuri Tehsil Alpuri District Shangla for information
10. Mr. Abdul Sittar Forest Guard Village Lailoni P.O and Tehsil Alpuri District Shangla for information.
11. Head Clerk/Accountant of Kohistan Watershed Division Besham
12. Office Order File

DIVISIONAL FOREST OFFICER
KOHISTAN WATERSHED DIVISION
BESHAM

IN THE COURT OF AFTAB AFRIDI SPECIAL JUDGE, ANTI-TERRORISM
COURT-I MALAKAND DIVISION AT SWAT

Case No: 20/8-OF-2021

The State

Versus

Abdul Sattar

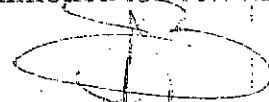
Case EIR No: 49, Dated: 13.01.2007

U/Ss 17 (3) Haraba, 120A, 121, 124A, 364, 448, 148, 149 PPC,

7 ATA P.S Alparai Dist: Shangla


1:-
27.03.2021:-

Supplementary challan in the subject case received from prosecution against the accused Abdul Sattar. Be entered in the relevant register and PP for the state be also noticed. Accused be summoned for 06.04.2021.


JUDGE ATC-I MALAKAND
DIVISION AT SWAT
Anti Terrorism Court

Note Reader:-
06.04.2021:-

Accused Abdul Sattar present. Due to brutal murder of judge ATC-I and his family at Ambaar interchange Swabai, case in hand is adjourned to the next date for further proceedings on 15.04.2021.


READER ATC-I


Note Reader:-
15.04.2021:-

Accused Abdul Sattar present. Due to the death of judge ATC-I, the court is lying vacant, hence case in hand is adjourned to the next date for further proceedings on 28.04.2021.


READER ATC-I

Note Reader:-
28.04.2021:-

Accused Abdul Sattar present. Due to the death of judge ATC-I, the court is lying vacant, hence case in hand is adjourned to the next date for further proceedings on 18.05.2021.


READER ATC-I

Reader:-
05.2021:-

Accused Abdul Sattar present. Due to the death of judge ATC-I, the court is still lying vacant, hence case in hand is adjourned to the next date for further proceedings on 03.06.2021.

[Signature]

READER ATC-I

Reader:-
06.2021:-

Due to the death of judge ATC-I, the court is lying vacant, hence adjourned to the next date for further proceedings on 17.06.2021.

[Signature]

READER ATC-I

ORDER:-
07.06.2021:-

Vide notification dated 04th June, 2021; the case is hereby transferred from the court of ATC-I Swat to this court. Be entered in the relevant register.

Senior PP for the state present. The prosecution requested for the discharge of accused, namely, Abdul Sattar having no solid evidence against him. In this regard proforma B duly signed by the prosecution and I.O of the case, is annexed with the supplementary Challan.

In the light of request of the prosecution, I have perused the record. Accused Abdul Sattar was charged for terrorist activities in the area, looting the District Headquarter Hospital, Courts, Offices of DCO, DPO, Bar Room, NGO's and for destroying the same and had also taken valuable items including vehicles with them.

Accused Abdul Sattar was arrested in the instant case on 07.02.2021. He was granted two (02) days police custody for the purpose of investigation but no connecting evidence could be brought on record



[Handwritten signature]
16/21

against him by the I.O. The prosecution has clearly mentioned in proforma B at serial No: 08, that the case is not fit for trial due to lack of evidence. In such like circumstances, when the prosecution itself is not hopeful regarding success of its case against the accused, proceeding further with the case shall be a futile exercise. Therefore, request of the prosecution for discharge of the accused is accepted and accused, namely, Abdul Sattar is hereby discharged in case FIR No: 226 Dated: 10.09.2008 under Sec. 17 (3) Haraba, 120A, 121, 124A, 364, 448, 148, 149 PPC, 7 ATA P.S Alpurai Dist: Shangla. Sureties of the accused if any; are relieved from the liabilities of bail bonds.

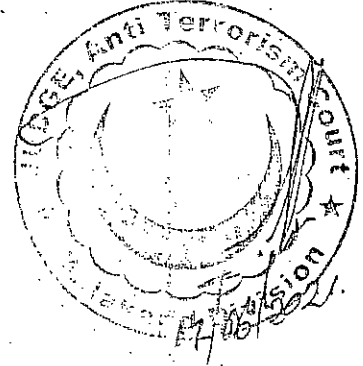
File be consigned to record room after necessary completion and compilation.

ANNOUNCED
17.06.2021



[Signature]
(FARID KHAN ALIZAI)
JUDGE ATC-II MALAKAND
DIVISION AT SWAT
Judge,
Anti Terrorism Court,
Malakand Division.

ATTESTED



"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

TR Swat

No.

APPEAL No. *820* of 20 *22*

Abdul Saitar

Appellant/Petitioner

Versus

Province Through Secy, Indirment

RESPONDENT(S)

P-sh

Notice to Appellant/Petitioner

Counsel

Shahzada Irfan Zia

Adv.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *9-6-22* at *8:15 AM*

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

*at Camp Court
Swat*

9

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

*Received
at court
25/5/22*